

MINUTES OF THE MEETING  
POTOMAC RIVER FISHERIES COMMISSION  
COLONIAL BEACH, VIRGINIA  
February 6, 1987

PRESENT: COMMISSIONERS- John T. Parran, William A. Pruitt, Lee E. Zeni,  
R. Wayne Browning, Henry S. Braithwaite  
and Francis J. Russell.

OFFICERS-Kirby A. Carpenter, Executive Secretary and J.  
Clifford Hutt, Legal Officer.

PRESS- Isable Gough, Richmond News Leader, Larry Evans,  
The Free Lance Star and Lawrence Latane, The Richmond  
Times dispatch.

GUESTS- Roger Mann and Dr. Frank O. Perkins, VIMS, Elgin  
Dunnington, CBL, Jack Taylor, Paul C. Wentzell,  
Woody Willing, Gene Marshall and John Mattingly,  
Maryland Natural Resources Police, Robert Markland  
and Donald Z. O'Bier, Virginia Marine Police, Ben  
Daniels, VMRC, Stanley Tomasweski and Janet VanAssel.  
DNR, Lewis T. Dameron, Jr., Enoch C. Bryant, Robert  
Boorman, S.W. Lewis, Jr., Ray W. Prucell, James H.  
Walker, John Burch, John E. Graves, John A. Osakowicz,  
Thomas Swann, William L. Rice, Jim A. Wier, Thomas  
M. Swann, Jr., Robert J. Wells, Russell Holton,  
John R. Butler, Robert Holten, George Chisley,  
Joe Welch, Francis N. Chisley, Joe Hutt, John Barnes,  
Robert T. Brown, Thomas Hosk, Lee Hundley, Maurice  
J. Simms, William Swan, Dallas Goldsmith, Robert  
A. Wilson, Charlie A. Fenton, James Garner, Charlie  
T. Jones, Vincent DiRosario, Vince DiRosario Jr.,  
Nealy Little, Roger Hill, John W. West, George  
E. Marshall, Herman Alton West Jr., Julian Powell,  
Lewis W. Brown, Clyde Stewart, H.A. Haynie, James  
D. Rowe, Kevin Hundley, James Johnson, Robert Reamy  
Jr., Ernie Harding III, James R. Messick, Eldridge  
Smith, M.W. Haynie, Dempsey Roy, Henry C. Parker,  
Jr., Henry C. Parker, Melvin L. Cockrell, Austine  
A. Clark, Eugene Marshall, William Sutton, William  
Squire, Thomas N. Hundley, George Hundley, W. Neal  
Hundley, Alfred Chatham, Ivan G. Evans, George  
Yeatman, Denzal Chatham, James W. Chisley, Frederick  
Buttrum, Eugene Boothe, James Butler, James Clark,  
William Feldman, James Jones. Thomas Shymansky,  
Harry T. Stine, John R. Fowler, Charles Fowler,  
Chris Fowler, Joseph L. Norman, Joseph L. Norris  
Jr., Randy Stine, Billy Kilinske, Willard Dutton,  
Joseph R. Thompson, Richard Holbrook, Charles E.  
Squires, William A. Squires, Albert Z. Standbridge,  
Jr., William Ashby, Leslie Wilson, Chester A. Fowler,  
Charlie T. Jones, John M. Brown, Harry L. Rowe,  
James R. Pilkerton. And several others who did not  
sign the register.

The meeting was called to order at 9:35 a.m. by Vice Chairman  
Zeni. Mr. Zeni said the order of the agenda would be altered due  
to the large turnout regarding the proposal to open the area above  
the bridge for oystering. He then asked Mr. Carpenter to report on  
the upper river survey.

OYSTER SURVEY

Mr. Carpenter reported that on January 6th, a survey of the oyster areas above the route 301 bridge was conducted. This area had been closed to allow for reproduction. Six areas were sampled and all, except one (upper Cedar Point), had some live oysters. On most areas markets, smalls and spat were found which he attributed to natural sets, since only one area (Beacon Bar) was planted in 1981 with one load of seed to act as brood stock.

He also noted that Pascahanna bar, an area just below the bridge which had never been planted, was worked this winter by several boats reporting over 400 bushels harvested. Since this bar and those above the bridge are very similar, and the survey found some market oysters above the bridge, he recommended the area be opened March 1st, for tonging. Mr. Parran asked if the scientific advisors concurred with the recommendation. Dr. Rodger Mann said the area has shown signs of reproduction and he saw no reason for it to remain closed.

Mr. Robert T. Brown said most of the waterman here today were in favor of opening the upper river. He asked that the area be opened. Mr. Willard Dutton spoke in favor of opening the area and leaving it open.

Mr. Parran asked Mr. Hutt when the area could be opened allowing time for proper notice. Mr. Hutt replied February 16th, would be the earliest date possible. Mr. Parran made the following motion which was seconded by Mr. Browning:

"THAT THE AREA UPSTREAM OF THE ROUTE 301 BRIDGE, WHICH IS CURRENTLY CLOSED, BE OPENED TO THE TAKING OF OYSTERS SUBJECT TO ALL OTHER REGULATIONS ON THE 16th OF FEBRUARY 1987." The motion was approved unanimously.

REPLETION COMMITTEE REPORT

Mr. Carpenter presented the proposed 1987 oyster repletion program. In addition to suggesting which bars were to receive seed/shell, the Committee presented several additional items for Commission consideration.

The Committee recognized that the full potential of the oyster resources are not being realized and until such time as more oysters are available for harvest no new or more efficient methods of harvest, namely commercially diving for oysters should be allowed. The Commission determined that although commercial diving is allowed in Maryland, it is not allowed in the Potomac and that until some specific proposals are under consideration, no action is necessary.

The Committee recommended moving no seed from Jones Shore this year because of its low count, the possibility of spreading the disease Dermo and last year the middle and upper river bars received some natural sets. The fresh shell plantings recommended totaled 400,000 bushels on 7 acres in the lower river. They recommended planting 250,000 bushels of reef shells on Jones Shore and 50,000 bushels of reef shells on Piney Point. The total estimated cost would be \$265,000. The following motion was made by Mr. Parran and seconded by Mr. Browning:

"TO ACCEPT THE RECOMMENDATION OF NO SEED PLANTING AND THE SHELL PLANTINGS AS RECOMMENDED AND THAT THE EXECUTIVE SECRETARY BE AUTHORIZED TO IMPLEMENT THE PROGRAM." The motion was approved unanimously.

The Committee recommended the Commission authorize up to \$10,000 of the available repletion funds to study the feasibility of using containers to plant fresh shells on the seed area. The study would try to determine what shape and size container would be best suited for the production of seed. Such a container should improve the recovery of shells planted and possibly better utilize the fresh shells available. Mr. Carpenter said there are a number of unknowns presently, but recommended approval. Dr. Perkins advised the idea has merit and

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ViMS is doing some work in the hatchery along similar lines. He supported the idea and offered to monitor the program. Mr. Billy Feldman said we need to try new methods of producing oysters and supported the idea. Mr. Zeni expressed some reservations and felt a more detailed proposal should be presented.

Mr. Carpenter noted the details had not been developed and he would be able to present more information at the next meeting. However, the scheduling of the next meeting may prevent implementing the study this year if approval is not given until that time. Mr. Parran made the following motion, seconded by Mr. Russell:

"THAT THE EXECUTIVE SECRETARY BE AUTHORIZED TO STUDY THE FEASIBILITY OF CONTAINERIZED SHELL PLANTING PROVIDED NO MORE THAN \$10,000.00 BE USED IN SAID STUDY." The motion was approved unanimously.

The Committee also recommended the Commission review the soft shell clam area boundaries and increase the "buffer zone" around oyster bars. A discussion regarding the current regulations and clam chart ensued. The Chairman felt any evaluation or modification of the current clamming boundaries should have representatives of the clamming industry present. He asked that this item be postponed until the next meeting to allow input from both the oyster and clam industries.

The final Committee recommendations asked that the Commission consider exempting market oysters with spat less than 1" in length attached, found in the hand scrape area, from the cull law as it is presently written. The Committee believed such a change would recognize the success of the shell planting program in the area, the potential losses of market oysters due to disease, and the biological differences between the lower river and other areas. The lower river generally receives a natural set on a regular basis as opposed to the other areas which receive infrequent natural sets. Therefore, harvest of a crop produced from previous shell plantings and then replanting the area may be the best use of the Commission's resources.

Mr. Zeni questioned the trade off of a future crop for this year's. Mr. Dunnington explained that surveys in the area found that although the number of markets with spat attached may be high in some areas, the percentage of total spat in those areas found on the markets was relatively small. Providing the current level of shell plantings in the lower river is continued, the suggested cull law change should have very little impact on future production. Dr. Perkins felt there is a reasonable probability that some market size oysters in the lower river may not survive the summer, especially if it is a dry one.

Mr. Pruitt believed the possible loss of oysters before a regulation change could be effective warrants the adoption of an emergency order for the remainder of this season, and moved the adoption of Order 87-1 as follows, Mr. Russell seconded:

THE POTOMAC RIVER FISHERIES COMMISSION, HAVING CONSIDERED THE PROTECTION, PROMOTION, GROWTH AND CONSERVATION OF THE OYSTER RESOURCES IN LIGHT OF THE RECENT SPAT SET, THE EXISTENCE OF DISEASE AND THE HIGH RATE OF MORTALITY, AND PURSUANT TO ITS AUTHORITY UNDER REG. II, SECTION 3(b), HEREBY DECLARES AND ORDERS THAT:

IN THOSE PORTIONS OF THE POTOMAC RIVER OPEN FOR TAKING OR CATCHING OYSTERS BY THE USE OF HAND SCRAPES AS PERMITTED UNDER REG. II SECTION 2(a)(4), SPAT LESS THAN 1" IN LENGTH, WHEN ATTACHED TO A MARKET OYSTER, SHALL NOT REQUIRE THE CULLING OF THE OYSTERS AS PROVIDED BY REG. II, SEC. 2(f). IN ALL OTHER PORTIONS OF THE POTOMAC RIVER THE CULL LAW (REG. II, SECTION 2(f)) REMAINS UNCHANGED BY THIS ORDER.

AND IT IS FURTHER ORDERED, THAT THIS ORDER #87-1 SHALL BE EFFECTIVE FEBRUARY 16, 1987 AND REMAIN IN EFFECT THROUGH MARCH 31, 1987.

NOMINATING COMMITTEE

Chairman Pruitt called for the report of the Nominating Committee. Mr. Parran reporting for the Committee, nominated Mr. Zeni for Chairman, Mr. Browning for Vice-Chairman and Mr. Russell for Secretary. He then moved acceptance and Mr. Braithwaite seconded:

"THAT THE SLATE OF OFFICERS AS STATED BE APPROVED." The motion was approved.

Mr. Pruitt noted that Mr. Zeni's Chairmanship would be short lived because Mr. Zeni had accepted a position which will require his leaving this Commission. However, he commended Mr. Zeni on his years of dedication and devotion to the work of the Commission. The actions of the Commission in electing him Chairman demonstrated an appreciation of Mr. Zeni's abilities by each member. He then turned the gavel over to Mr. Zeni's who thanked the Commissioners for their kind words, before continuing the meeting.

DIVING FOR OYSTERS

A question from the floor regarding diving for oysters under the household use provisions by commercial oysterman was discussed at length.

Mr. Hutt determined that a person licensed by the Commission to commercially harvest oysters could not remove oysters by diving, and all other persons were subject to the one bushel limit and all other restrictions imposed by the regulation.

MINUTES

Mr. Zeni called for consideration of the minutes of the meeting held November 7, 1986, copies of which had been previously sent to each Commissioner. The following motion was made and seconded:

"THAT THE MINUTES OF THE NOVEMBER 7, 1986 MEETING BE APPROVED AS WRITTEN AND DISTRIBUTED.: The motion was approved.

RANGIA CLAMS

Mr. Carpenter reported that the ten permits authorized at the last meeting, to harvest rangia clams had been issued. The very limited market accounted for only a few of the permits being utilized. Since harvest began in October, 840 bushels have been taken. An attempt to develop a "fresh" market for these clams has been unsuccessful. Due to the lack of any fresh market being available, the weather, and the shell market being satisfied, no additional activity is expected until spring. Mr. Carpenter recommended we continue allowing the harvest of rangia under the permit system until more information can be developed. He noted VIMS and CBL have been requested to provide recommendations on the management and regulation of this fishing.

Mr. Pruitt made the following motion seconded by Mr. Parran:

"THAT THE EXECUTIVE SECRETARY BE AUTHORIZED TO CONTINUE ISSUING HARVEST PERMITS AND THAT HE MON TOR THE SITUATION." The motion was approved.

POTOMAC RIVER CONTAMINANT STUDY

As directed at the last meeting, The Virginia State Water Control Board was requested to investigate the sewage plant discharges into the Potomac in light of the information developed by Dr. Hall during this study. To date the only response has been their acknowledgement

of our request. The matter is being investigated by the Ecological Research Division of the State Water Control Board, and their response is expected shortly. The Chairman asked VIMS and CBL to assist the staff in evaluating the response when it is received.

#### GENERAL PENALTY PROVISIONS

Mr. Hutt provided a draft general penalty provision regulation (Reg. I, Sec. 6). The draft was developed after several meetings with the judges and state/commonwealth attorneys and it should address the needs of both states' judicial systems. Currently, any offense is punishable by a fine not to exceed \$1,000.00 and up to 1 year in jail and confiscation of all gear or equipment used in the violation. The proposal would establish a \$500.00 maximum fine for any first offense, retain the current punishments for any second offense and allow the Commission to publish a schedule of postable fines for certain first offenses.

Mr. Hutt explained that a second offense must be for a violation of the same regulation, section, subsection and of the same violation not the date of court disposition of the first violation.

The following motion was made by Mr. Parran and seconded by Mr. Browning:

"THAT THE DRAFT GENERAL PENALTY PROVISIONS AS PERSENTED BY MR. HUTT, BE ADVERTISED FOR PUBLIC HEARING AT THE NEXT MEETINGS." The motion was approved.

Mr. Zeni noted the provision for a postable fines would require considerable work to develop. Since this schedule would directly impact the waterman, he asked for watermen volunteers to serve on a committee to develop it. There being no volunteers, he then appointed Mr. Parran, Mr. Hutt, Mr. Caprenter, and a representative of each law enforcement department to serve on a committee to develop such a schedule.

#### DISBURSEMENTS AND CASH ON HAND

Disbursements for the second quarter (Oct. - Dec.) were presented by budget item which totaled \$126,502.59. Mr. Carpenter noted that \$82,000 of that amount was for payment of the reef shells planted last summer, but not billed until the second quarter.

A statement of cash balances as of February 4, 1987 were presented as follows:

First Virginia Bank (checking)	\$117,573.43
First National Bank of MD.(Savings MD Office)	2,433.49
Maryland Bank and Trust(c/d)	100,000.00
Peoples Bank of Montross (c/d)	100,000.00
VALGIP (savings)	10,338.24
MDLGIP (savings)	10,270.28
TOTAL.....	<u>\$340,615.44</u>

The following motion was made by Mr. Parran and seconded by Mr. Browning:

"THAT THE FY 86-87 SECOND QUARTER DISBURSEMENTS OF \$126,502.59 BE APPROVED AS PRESENTED." The motion was approved.

#### OYSTER HARVEST

The oyster harvest reported thru February 4th was presented. It showed a reduction in the hand scrape catch as compaired with the previous year but the last tong reports were running some ahead of last seasons. Most of the harvest has occurred in the upper river areas this season. Hand scrape licenses have increased. The oyster inspection tax amounts, thus far, to \$35,567.04. The most productive bars have been Swan Point, Old Farm and Cedar Point this season.

BUDGET COMMITTEE

Mr. Zeni asked Mr. Russell and Mr. Braithwaite to serve on the Budget Committee and asked them to present an 87-88 budget at the next meeting.

PERSONAL

Mr. Carpenter introduced Miss Michele Jett who was hired to fill the vacancy created by Mrs. Daniels retirement. The Commissioners welcomed Miss Jett. The following motion was made, seconded and approved:

"THAT MISS MICHELE JETT BE AUTHORIZED TO VALIDATE LICENSES AND SUCH OTHER DOCUMENTS AS APPROPRIATE."

NEXT MEETING

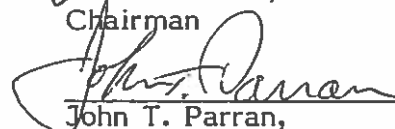
There being no other business to come before the Commission, the next meeting will be held in conjunction with the public hearing authorized today on May 1, 1987 at the Commission Office in Colonial Beach at 9:30 a.m.

ADJOURN

A motion to adjourn was made, seconded and approved at 12:05 p.m.

  
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Jackie Russell,

Chairman

  
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John T. Parran,  
Secretary