

MINUTES OF THE REGULAR MEETING
POTOMAC RIVER FISHERIES COMMISSION
COLONIAL BEACH, VIRGINIA
APRIL 25, 1989

COMMISSIONERS: John Thomas Parran, Chairman; John H. Freeman, Sr., Vice-Chairman; James H. Peck, Secretary; William A. Pruitt and Francis J. Russell. Commissioner R. Wayne Browning was unable to attend this meeting.

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

PRESS: Joe Sedlock, The Enterprise and Isobel Gough, Richmond News Leader.

GUESTS: Paul Perra, Atlantic States Marine Fisheries; Lee Zeni, Interstate Commission on the Potomac River Basin; Ray Tilghman, Accokeek Foundation; Bill Goldsborough, Chesapeake Bay Foundation; Bill Seiling, Maryland Department of Agriculture - Seafood Marketing; Richard Daiger, Virginia Extension Service; Pete Jensen, Marlyn Ford and Ruth Ann Shlagel, Maryland D.N.R.; H. B. Hilling, Edward M. Frere and John Mattingly, MD D.N.R. Police; Jack Travelstead, Virginia Marine Resources; Robert J. Markland, Donald O'Bier, James H. Vanlandingham, Paul D. Newman, Warner Rhodes, James R. Rose, Jennifer Hume, Sidney R. Adams, Victor J. DeBord, Stuart R. Doggett, V.M.R.C. Police; Elgin Dunnington, Chesapeake Biological Laboratory; Robert T. Brown, St. Mary's County Watermen's Association; William L. Rice, Charles County Watermen's Association; Willard Dutton, Bryn N. Jewell, Clarence Jewell, Dewey Chatham, Bill Morgan, Walter Parkinson, Ronald J. Lee, Roy Gather, George Melson, Robert J. Mollar, Gordon C. Simpson, Kenneth Nicker, Jerry Dewees, Joseph H. Gibson, C. D. Lail and several others who did not sign the register.

Chairman Parran called the meeting to order at 9:35 a.m. and welcomed all those in attendance.

APPROVAL OF MINUTES

The following motion was made by Mr. Pruitt and seconded by Mr. Freeman:

"THAT THE MINUTES OF THE MEETING OF FEBRUARY 3, 1989 BE APPROVED AS WRITTEN AND DISTRIBUTED". The motion passed unanimously.

STRIPED BASS SAMPLING PROGRAM - FALL 1988

Mr. Carpenter presented a report on the sampling program. He noted that copies of this report were available to the public.

Mr. Carpenter explained that the reason for the survey last fall was to evaluate the sex and age structure of the fish being taken from the Potomac in order to determine whether or not the Potomac was in compliance with Amendment #3 of the Atlantic States Marine Fisheries Commission's Fishery Management Plan for Striped Bass. The Plan requires that all females of the 1982 and subsequent year classes be protected until 95% of them have had the opportunity to spawn at least once. Mr. Carpenter stated the ASMFC's plan provides three ways to protect the females. First a total closure of the striped bass fishery, the second is to establish a minimum size limit below which 95% has spawned, and the third option is to establish a minimum size limit in combination with a seasonal closure which would protect the females from harvest. It had been this third option the Commission had based its season and size limits.

The sampling program, together with the commercial harvest data, makes it possible to estimate that some 10,000 females and some 6,600 males made up the 115,000 pounds landed in 1988. Therefore, the combination of a six month closure, a 24" minimum size limit and a 34" maximum size limit was ineffective in allowing the harvest of only male striped bass in the Potomac. These regulations do not provide the females of the 1982 and subsequent year classes with the level of protection from harvest mandated by Amendment #3 of the current Striped Bass Management Plan.

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Several watermen, concerned with the number of striped bass and the regulations prohibiting their capture, claimed that the striped bass, being a predator fish, would eventually eat up all other market fish and soon there would be no fishery of any kind in the Potomac. They felt that something must be wrong with the numbers provided in the survey or the way the results were derived. They felt this was too important an issue to rely on the data of one survey. Other concerns were how many more "steps backward" would have to be taken in the future by the commercial fishermen in the Potomac and how long would it be before the entire striped bass fishery was designated recreational only. They stated that ever since the ASMFC Striped Bass Plan was adopted, the Potomac has had to continually implement more restrictive regulations regarding the striped bass fishery. Many of the watermen felt that the Potomac was being targeted for a hatchery for striped bass and were concerned that other states are allowed to catch the fish that migrate from this river. Some fishermen and industry representatives asked the Commission to take no further action on regulating the fishery and let the federal government close the fishery if they saw fit.

Commissioner Russell stated that he felt the Commission had been strained with this problem a long time and had done everything they could to try to keep at least some portion of the striped bass fishery open for the fishermen. He feared that if the ASMFC were allowed to take over the fishery of the Potomac, the local interests would never again be able to have an effect on the fishery policies. Decision making would all be done at the federal level. Mr. Pruitt stated that he concurred with Mr. Russell's point of view.

Commissioner Peck expressed faith in the ASMFC's Fishery Management Plan for the Striped Bass. He informed the audience that the ASMFC is not federal commission, but rather a commission made up of representatives of each Atlantic coast state. The ASMFC has worked together in a cooperative effort to revitalize and maintain the striped bass fishery. He stated that last year the Maryland juvenile index increased and could very well be near a turning point and urged the commercial fishermen to abide by the criteria set forth in the ASMFC's plan so as not to destroy what good had been done.

Mr. Lee Zeni stated that he was pleased with the number of fish which were now in the river and he felt the reason for them being there was a direct result of the ASMFC's Amendment #3. He concurred with Commissioner Russell's logic of not letting go of the control of the fishery in this river.

Chairman Parran thanked everyone for their comments and said the Commission would consider some other agenda items before making a final determination on this matter.

DISBURSEMENTS AND CASH ON HAND

A report of the third quarter (January - March, 1989) disbursements was presented by budget item which totaled \$39,609.27. The Executive Secretary noted the first of three \$5,000 payments for the Spring Striped Bass Spawning Stock Assessment Survey, otherwise there were no unusual expenditures. A statement of cash on hand as of April 21, 1989 was presented as follows:

FIRST VIRGINIA BANK - NORTHERN NECK:	\$ 66,186.05
(Checking - includes \$200.00 petty cash)	
FIRST NATIONAL BANK OF MARYLAND:	11,365.49
(Savings: Maryland Office)	
VIRGINIA LOCAL GOVERNMENT INVESTMENT POOL:	156,280.08
MARYLAND LOCAL GOVERNMENT INVESTMENT POOL:	154,078.61

Grand Total in Banks:	\$387,910.23
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The following motion was made by Mr. Pruitt and seconded by Mr. Russell:

"THAT THE THIRD QUARTER DISBURSEMENTS OF \$39,609.27 BE APPROVED AS PRESENTED". The motion passed unanimously.

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SOFT SHELL CLAM SURVEY PERMIT

Commissioner Russell informed the Commission that the area clammers had requested permission to perform a survey before purchasing a clamming license to see if it would be a worthwhile venture.

The following motion was made by Mr. Russell and seconded by Mr. Pruitt:

"EACH YEAR NO MORE THAN TWO (2) PERMITS MAY BE ISSUED FOR THE PURPOSE OF SURVEYING THE OPEN SOFT SHELL CLAM AREAS OF THE POTOMAC WITHOUT A LICENSE. SUCH PERMIT(S) MAY ONLY BE ISSUED BY THE EXECUTIVE SECRETARY UNDER THE FOLLOWING CONDITIONS:

- 1) ONLY ONE (1) SURVEY, USING NO MORE THAN TWO (2) VESSELS, PER CALENDAR YEAR SHALL BE PERMITTED.
- 2) THE PRESIDENT OF THE ST. MARY'S CLAMMERS ASSOCIATION, OR IN THE EVENT SUCH ASSOCIATION DOES NOT EXIST OR IS INACTIVE, THE PRESIDENT OF THE ST. MARY'S COUNTY WATERMEN'S ASSOCIATION, SHALL NOMINATE TWO (2) PERSONS IN WRITING AT LEAST TWO (2) WEEKS PRIOR TO THE DESIRED STARTING DATE OF THE SURVEY. SUCH NOMINATION SHALL INCLUDE: 1) THE INDIVIDUALS NAME, ADDRESS AND TELEPHONE NUMBER; 2) THE VESSEL'S NAME, DESCRIPTION AND HOME PORT; AND 3) THE DESIRED STARTING DATE OF THE SURVEY.
- 3) THE CAPTAIN OF EACH VESSEL SHALL COMPLETE A SOFT SHELL CLAM SURVEY FORM FOR EACH AREA SURVEYED. THE SURVEY FORMS AND ENVELOPES WILL BE PROVIDED BY THE COMMISSION. THE FORMS MUST BE COMPLETED AND MAILED TO THE POTOMAC RIVER FISHERIES COMMISSION AT THE END OF EACH DAY'S SAMPLING. THE INFORMATION RESULTING FROM THE SURVEY WILL BE MADE AVAILABLE TO ALL OTHER CLAMMERS AND THE PUBLIC AT LARGE UPON REQUEST.
- 4) THE PERMIT(S) SHALL ONLY BE VALID FOR A ONE (1) WEEK, MONDAY THROUGH SATURDAY PERIOD.
- 5) THE PERMIT(S) SHALL ONLY BE VALID FOR AREAS AND TIMES OTHERWISE LEGAL FOR ANY LICENSED HYDRAULIC OR MECHANICAL SOFT SHELL CLAM RIG.
- 6) THE CAPTAIN SHALL ALLOW THE COMMISSION, AT ITS OWN EXPENSE, TO PLACE AN OBSERVER ABOARD HIS VESSEL AT ANY TIME THE SURVEY IS BEING CONDUCTED.
- 7) ANY SOFT SHELL CLAMS OF LEGAL SIZE AND UP TO THE LEGAL BUSHEL LIMIT, FOUND DURING THE SURVEY MAY BE RETAINED AND SOLD BY THE PERMITTEE TO OFFSET HIS OPERATIONAL COST. THE COMMISSION SHALL NOT BE RESPONSIBLE FOR ANY COST, EXCEPT AS NOTED IN ITEM #6, INCURRED BY THE USE OF THIS PERMIT.
- 8) FAILURE TO ABIDE BY ANY PROVISION OF THE PERMIT SHALL BE CAUSE FOR IMMEDIATE REVOCATION OF THE PERMIT BY THE EXECUTIVE SECRETARY.

THIS POLICY SHALL IN NO WAY BE CONSTRUED TO PERMIT OR PROHIBIT, HAMPER OR INTERFERE WITH ANY INDIVIDUAL'S RIGHT TO PURCHASE A CLAM LICENSE AND OPERATE LEGALLY THEREUNDER." The motion passed unanimously.

EXECUTIVE SESSION

It was moved by Mr. Pruitt and seconded by Mr. Russell to go into executive session at 11:05 a.m. to discuss legal matters. The motion passed unanimously.

The Commission reconvened its regular meeting at 11:35 a.m.

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ORDER #89-2 - MORATORIUM ON STRIPED BASS FISHERY

Mr. Freemand moved the adoption of Commission Order #89-2 as follows. Mr. Peck seconded the motion.

ORDER #89-2

THE POTOMAC RIVER FISHERIES COMMISSION, HAVING FOUND IT NECESSARY FOR THE PRESERVATION OF THE ROCKFISH POPULATION IN THE POTOMAC RIVER AND TO MEET THE REQUIREMENTS OF THE ATLANTIC STATES MARINE FISHERIES COMMISSION'S STRIPED BASS MANAGEMENT PLAN, AS AMENDED, AND PURSUANT TO ITS AUTHORITY UNDER REGULATION III, SECTION 13(B), HEREBY DECLARES AND ORDERS:

ANYTHING TO THE CONTRARY NOTWITHSTANDING, IT SHALL BE UNLAWFUL TO TAKE OR KILL, SELL, OFFER TO BUY OR SELL, OR EXPOSE FOR SALE, OR HAVE IN POSSESSION ANY STRIPED BASS OR HYBRID OF STRIPED BASS, OTHERWISE KNOWN AS ROCKFISH, WITHIN THE CONFINES OF THE POTOMAC RIVER. ANY STRIPED BASS, HYBRID OF STRIPED BASS OR ROCKFISH WHICH MAY BE CAUGHT OR ENTRAPPED AS AN INCIDENT TO OTHER LAWFUL FISHING ACTIVITIES SHALL BE IMMEDIATELY RELEASED AND RETURNED TO THE WATERS WHERE FOUND.

AND IT FURTHER DECLARES AND ORDERS: THAT THIS ORDER #89-2 SHALL BECOME EFFECTIVE MAY 31, 1989, AT WHICH TIME IT SHALL SUPERSEDE AND REPEAL ORDER #84-1 AND ORDER #86-2 AND THIS ORDER #89-2 WILL REMAIN IN EFFECT UNTIL JUNE 1, 1990.

Mr. Hutt explained that adoption of this Order by an affirmative vote would provide a complete moratorium for striped bass fishing. Order #84-1 established a five fish creel and Order #86-2 established a 24" minimum size limit, both of which needed to be repealed if this Order #89-2 was adopted.

The motion passed unanimously.

SOFT SHELL CLAMS

Mr. Pete Jensen of the Maryland Department of Natural Resources asked the Commission to consider adopting the same regulations as Maryland requiring refrigeration of soft shell clams during the warmer months. He reported that there was a problem last year with the bacterial counts in clams harvested in the Chesapeake Bay. These clams had not been refrigerated. The Maryland regulations require that all soft clams (Mya) be chilled to a temperature of 60° F or below, aboard the harvest vessel. They must be checked at specific docks and tagged by personnel from the Maryland Health Department before they can be delivered to a dealer. If the clams are not chilled as required, they will be destroyed. These regulations will cover all Mya harvested regardless of their intended use, either as food or bait.

The Commission informed Mr. Jensen that such regulation changes would require proper advertisement. This item would be taken under advisement and considered at the next meeting of the Commission.

1988-89 OYSTER SEASON HARVEST REPORT

The Executive Secretary presented the Commission with the 1988-89 Oyster Season Harvest Report. He noted the 80,649 bu. harvest reported for the this year - vs- the 49,195 bu. harvest reported last season. Also, he pointed out that 6,051 bu. of oysters were harvested as a result of the additional hand scrape area opened by the Commission for March 1989.

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SPANNING STOCK ASSESSMENT SURVEY

Mr. Carpenter informed the Commission that he had contacted VIMS as instructed at the last Commission meeting regarding assistance with the 1989 Striped Bass Spanning Stock Assessment Survey. VIMS replied they would be unable to assist in this effort. Mr. Carpenter stated that he had polled each Commissioner, as instructed at the last meeting for approval to allocate PRFC funds for this survey. A contract was executed with the Chesapeake Bay Consortium to perform this survey at a cost of \$14,854, with an additional 5 day contingency budget of \$2,719. Per the telephone poll of Commissioners, this action was approved but Mr. Carpenter requested confirmation at this time.

The following motion was made by Mr. Pruitt and seconded by Mr. Freeman:

"THAT THE EXECUTION OF A CONTRACT FOR A CREW TO PERFORM THE 1989 STRIPED BASS SPANNING STOCK ASSESSMENT SURVEY IN THE POTOMAC RIVER, AT A COST NOT TO EXCEED THAT STIPULATED ABOVE BY THE EXECUTIVE SECRETARY BE APPROVED". The motion passed unanimously.

1989 OYSTER REPLETION PROGRAM

Mr. Carpenter reported that the reef shell portion of the program was well ahead of schedule. In fact, they should finish that portion of the program today. The fresh shell planting would begin on May 1st. He should have a complete report at the next meeting.

FISCAL YEAR 1989-90 BUDGET COMMITTEE REPORT

Mr. Pruitt presented the Budget Committee Report which projected revenues and expenditures for the 1989-90 fiscal year of \$516,200.00, of which \$258,274 was earmarked for oyster repletion expenses. The bulk of the increase from the previous budget came from monies carried forward because no seed was transplanted this Spring. The Budget Committee also recommended the salary/pay scale for the employees of the Commission be re-evaluated for the fiscal year beginning July 1, 1990.

The following motion was made by Mr. Pruitt and seconded by Mr. Freeman:

"THAT THE COMMISSION ADOPT THE FISCAL YEAR 1989-90 BUDGET TOTALING \$516,200 AS PRESENTED, AS FOLLOWS, BY THE BUDGET COMMITTEE. AND FURTHER THAT THE SALARY/PAY SCALE FOR THE POTOMAC RIVER FISHERIES EMPLOYEES BE RE-EVALUATED FOR THE FISCAL YEAR BEGINNING JULY 1, 1990". The motion passed unanimously.

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POTOMAC RIVER FISHERIES COMMISSION
PROPOSED BUDGET JULY 1, 1989 THRU JUNE 30, 1990
EXPENDITURES

	BUDGET <u>1988-89</u>	BUDGET <u>1989-90</u>
<u>PERSONAL SERVICES:</u>		
101-109 Compensation of Commissioners & Salaries	\$106,285.00	\$ 93,926.00
112 Commissions to Clerks	500.00	500.00
199 Other Personal Services	<u>1,800.00</u>	<u>2,000.00</u>
TOTAL	\$108,585.00	\$ 96,426.00
<u>CONTRACTUAL SERVICES:</u>		
201 Advertising	\$ 6,000.00	\$ 6,000.00
204 Postage	2,700.00	2,700.00
205 Telephone	4,400.00	4,400.00
208 Electric Current	1,300.00	1,500.00
209 Freight Expenses	100.00	100.00
212 Lease of Equipment	200.00	200.00
214 Membership Dues & Subscriptions	350.00	300.00
216 Printing Regulations	3,000.00	3,000.00
220 Travel Expenses	13,500.00	15,000.00
221 Water Service	300.00	300.00
224 Photographic Services - Charts	500.00	600.00
270 Repairs to Equipment	1,000.00	1,000.00
275 Building Maintenance	0.00	6,000.00
280 Interest Expense	500.00	500.00
299 Other Contractual Services	5,000.00	40,000.00
301 Automotive Expense	1,000.00	1,000.00
309 Fuel for Heat	1,200.00	1,200.00
313 Office Supplies	1,200.00	1,500.00
330 Household Furnishings & Supplies	200.00	200.00
332 Licenses, Tags, Report Books	<u>8,000.00</u>	<u>8,000.00</u>
TOTAL	\$ 50,450.00	\$ 93,500.00
<u>CURRENT CHARGES & OBLIGATIONS:</u>		
240 Insurance - surety bonds, fire, auto liab., worker's comp.	\$ 6,000.00	\$ 6,000.00
<u>PENSION AND OTHER CONTRIBUTIONS:</u>		
510 Retirement	\$ 11,076.00	\$ 9,600.00
511 Group Life Insurance	275.00	200.00
512 Group Health Insurance	10,000.00	12,000.00
513 Employer's O. A. S. I.	<u>7,170.00</u>	<u>6,220.00</u>
TOTAL	\$ 28,521.00	\$28,000.00
<u>CAPITAL OUTLAYS:</u>		
801 Office & other Equipment	\$ 6,000.00	\$ 3,000.00
802 Furniture & Fixtures	1,000.00	1,000.00
805 Improvements to Building	<u>3,000.00</u>	<u>0.00</u>
TOTAL	\$ 10,000.00	\$ 4,000.00
<u>DEVELOPMENT & REPLETIONS EXPENSES:</u>		
225, 331, 333 & 335 Seed Oysters and/or Shell	\$211,944.00	\$258,274.00
<u>UNEXPENDED CASH BALANCE: (contingency)</u>	<u>\$ 15,000.00</u>	<u>\$ 30,000.00</u>
<u>TOTAL:</u>	\$430,500.00	\$516,200.00

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POTOMAC RIVER FISHERIES COMMISSION
PROPOSED BUDGET JULY 1, 1989 THRU JUNE 30, 1990
RECEIPTS

	BUDGET <u>1988-89</u>	BUDGET <u>1989-90</u>
UNEXPENDED CASH BALANCE BROUGHT FORWARD FROM PRECEEDING YEAR:	\$ 36,000.00	\$115,000.00
SALE OF LICENSES:		
Fish	10,000.00	10,000.00
Oyster	25,000.00	25,000.00
Crab	20,000.00	20,000.00
Clam	500.00	200.00
OYSTER BUSHEL INSPECITON TAX:	20,000.00	25,000.00
APPROPRIATIONS BY STATE:		
Maryland	150,000.00	150,000.00
Virginia	150,000.00	150,000.00
INTEREST ON SAVINGS (C/D's):	18,000.00	20,000.00
MISCELLANEOUS:		
Confiscated Property & Sale of Tags, Etc.	<u>1,000.00</u>	<u>1,000.00</u>
TOTAL	\$430,500.00	\$516,200.00

BOND SCHEDULE

Mr. Carpenter noted that there was a need to adjust the Bond Schedule because of regulation section changes, etc. Also, since the moratorium on the rockfish had been adopted, the Commission would have to make a provision for violation of that Order.

After some discussion, the following motion was made by Mr. Peck and seconded by Mr. Russell:

"THAT THE BOND SCHEDULE DATED 7/1/87 BE AMENDED AS FOLLOWS: OMIT THE SECTION WHICH PROVIDES FOR 'UNDERSIZE/OVERSIZE ROCKFISH' AND INSERT A PROVISION FOR 'POSSESSION OF ROCKFISH' WHICH CARRIES A BOND OF \$250.00 PER FISH WITH A \$500.00 MAXIMUM. SAID BOND SCHEDULE AS HEREIN AMENDED SHALL BECOME EFFECTIVE JUNE 1, 1989".

Upon a roll call vote, Mr. Pruitt voted nay, Mr. Freeman voted nay, Mr. Parran voted aye, Mr. Peck voted aye and Mr. Russell voted aye. The Chairman declared the motion carried by a majority vote.

BOTTLE FISHING

Mr. Carpenter reported that there had been a request from two watermen in the upper portion of the river for permission to "bottle fish". These watermen had tried to purchase a fish trot line license, but after further conversation and a demonstration by the watermen, Mr. Carpenter did not feel that the Commission provided a license for this type of gear and that it was not a fish trot line. Mr. Carpenter demonstrated the piece of equipment for the Commission and requested that they give permission to these two watermen to experiment with the gear. This would allow the Commission time to observe the catch and evaluate the pros and cons of the use of the new gear in determining if a new license section need be adopted. Mr. Carpenter stated that the watermen had explained that this type of gear would be used to catch catfish and that it would be a cold water piece of gear used during the months of October, November, February and March. Mr. Freeman noted that they also use this type of gear in Louisiana.

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The following motion was made by Mr. Russell and seconded by Mr. Freeman:

"THAT THE POTOMAC RIVER FISHERIES COMMISSION AUTHORIZE TWO (2) EXPERIMENTAL USE PERMITS FOR "BOTTLE FISHING". EACH OF THE TWO PERMITTEES WILL BE LIMITED TO 100 BOTTLES EACH, RIGGED AS IS THE MODEL, AND REQUIRED TO SUBMIT THE APPROPRIATE CATCH REPORTS TO THE COMMISSION OFFICE. THE COMMISSION WILL THEN EVALUATE THE USE OF THE GEAR". The motion passed unanimously.

HEARING OFFICER'S REPORT

The Commission reviewed the Hearing Officer's report of 12 persons delinquent in filing seafood catch reports. The Chairman asked each person to come forward as his name was called. The names were read and none of the persons listed were present.

The following motion was made by Mr. Freeman and seconded by Mr. Peck:

"THAT THE COMMISSION APPROVE THE RECOMMENDATIONS MADE BY THE HEARING OFFICER PRESENTED TODAY IN THE HEARING OFFICER'S RECOMMENDATION DATED APRIL 3, 1989". The motion passed unanimously.

DATE AND PLACE OF NEXT MEETING

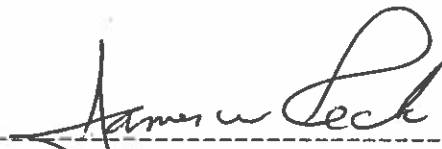
The next regular meeting of the Commission was scheduled for August 11, 1989 at 9:30 a.m. in the Commission Office, Colonial Beach, Virginia.

ADJOURN

It was moved by Mr. Freeman and seconded by Mr. Pruitt to adjourn the meeting at 12:15 p.m. The motion passed unanimously.



John Thomas Parran, Chairman



James H. Peck, Secretary