

**Minutes of the Regular Meeting
Potomac River Fisheries Commission
Colonial Beach, Virginia**

September 17, 2004

Commissioners Present: Gordon M. Birkett (VA) – Chairman, Kenny Keen (MD) – Vice-chairman, Ida C. Hall (VA) – Secretary, John T. Parran (MD), William A. Pruitt (VA), William L. Rice, Sr. (MD), J.T. Holland (VA) and Howard ‘Bip’ Kimball (MD).

Officers Present: Kirby A. Carpenter – Executive Secretary, J. Clifford Hutt and Michael C. Mayo – Legal Counsel.

Others Present: Dr. Herb Austin – VIMS; Ellen Cosby – VMRC; Maj. Mike Sewell, Lt. Chuck Santerre and Acting Capt. William Bates – MdDNR Police; Col. Steve Bowman and Capt. M. Ray Jewell – VMRC Law Enforcement; John Dean – Finfish Advisory Committee; Herman Delvo and George Smith – Crab Advisory Committee; John F. “Tucker” Brown – Oyster/Clam Advisory Committee; Vince O’Shea and Bob Beal – ASMFC; Jeff Deem – CCA; Anne Billingham – VA Department of General Services; Mathilda Egge – Oyster Recovery Partnership; Bill Bartlett, Walter Johnson, Joseph Neale, Bob Markland, Richard Daiger, Bruno Vasta, Dorothy Vasta, Tara Kimball and several others who did not sign the guest register.

Chairman Birkett called the meeting to order at 9:00 a.m. and Mr. Rice provided the invocation.

Approval of Agenda

The Agenda was approved by unanimous consent.

Consideration of Minutes

A motion was made by Commissioner Holland, seconded by Commissioner Rice to approve the minutes of June 17, 2004 as presented today. The motion was approved.

Recognition of Guest

Chairman Birkett recognized and welcomed several distinguished guest at today’s meeting. They were: Dr. C. Ronald Franks, Maryland Secretary of Natural Resources; Mr. Pete Jensen, Deputy Secretary of Natural Resources and former PRFC Commissioner; Mr. Vince O’Shea, Executive Director of the ASMFC and Mr. Bob Beal, Director of ASMFC Fisheries Management Plans.

Crab Harvest Report

A report of the 2004 Potomac crab landings for April through August was presented by the Executive Secretary. It showed a harvest of 29,438 bushels of hard crabs and 26,501 pounds of peelers compared to 21,402 bushels of hard crabs and 29,330 pounds of peelers for the same period as last year. He noted there was a slight improvement compared to last year, however it is well below the long-term average of 71,192 bushels of hard crabs. He also noted the CPUE’s (catch per unit of effort) are better this year compared to the previous two years and feels this is

an encouraging sign. He reported there are good numbers of larger than usual crabs being caught, as few as 38 to 42 to fill a bushel basket. He felt the larger crabs this fall was a direct result of the larger minimum size limit thus giving the crab an opportunity to shed once more before being harvested.

Commissioner Pruitt asked Mr. Carpenter what effect hurricane Isabel had on the crab season. Mr. Carpenter explained there was an increase in catch for about two weeks in the lower river. Commissioner Pruitt noted in Virginia the Croaker and Spot left early and the crab harvest contributed to a glut in the market. He asked if Dr. Herb Austin from Virginia Institute of Marine Science could comment. Dr. Austin stated from work that was performed, they did not see a lot of change in the adult landings. However, what he did see was incredible amounts of juvenile Spot, Croaker and Blue Crabs because of the prolonged southeast winds. In fact, it was the highest recruitment of young of the year Croaker in the fifty-year history of collecting data.

Crab Advisory Committee Vacancy

Mr. Carpenter announced the Crab Advisory Committee has a vacancy for a Maryland lower river peeler potter to serve on that committee. He advised this has been an ongoing effort to fill this position.

Oyster/ Clam Advisory Committee Report

Mr. John F. 'Tucker' Brown, Chairman of the committee, presented the report. He noted the committee had only one issue before them and that was the 2004-2005 oyster season dates, days and time limits. As Chairman, he decided to use a mail ballot format, instead of a meeting, to decide the upcoming oyster season. The Commission received all eight ballots back by mail and it was a unanimous decision to keep the 2004-2005 oyster season dates, days and time limits the same as last year. A sample of the ballot was presented to the Commissioners.

Order 2004-10 – Oyster Season Dates, Days and Time Limits

Mr. Carpenter advised the draft order was presented to the Commissioners in their packets today and if adopted by the Commission, it would establish the 2004-2005 oyster season. He noted there is a slight difference with the hand scrape season. Last year the hand scrape season started on November 1st, however the Commission was awaiting the gubernatorial proclamation declaring the enabling legislation effective, therefore the dredge season did not start until late December. For the 2004-2005 season it is proposed that the dredge season will start the same time the hand scrape season starts, which is November 1st.

A motion was made by Commissioner Rice, seconded by Commissioner Holland and unanimously passed to adopt Order 2004-10 as follows:

O R D E R #2004-10
(replaces #2003-13)

2004 – 2005 OYSTER SEASON DATES, DAYS AND TIME LIMITS

THE POTOMAC RIVER FISHERIES COMMISSION, having considered the protection, promotion, growth and conservation of the oyster resources and pursuant to its authority under Regulation II, Section 2(b) and Regulation I, Section 7(a)(1), **HEREBY DECLARES AND ORDERS:** The 2004-2005 oyster season dates, days and time limits shall be as follows:

<u>Gear</u>	<u>Season</u>	<u>Days</u>	<u>Hours</u>
Hand Tonging	Oct. 1 through Dec. 31, 2004 Jan. 1 through Mar. 31, 2005	Monday through Friday Monday through Friday	Sunrise to 1:00 p.m. Sunrise to 3:00 p.m.
Hand Scraping	Nov. 1, 2004 through Mar. 31, 2005	Monday through Friday	8:00 a.m. to 1:00 p.m.

BE IT FUTHER DECLARED AND ORDERED: Possession of a hand scrape shall be permitted during the aforesaid times and from one hour before and for two hours after such times. The use or possession of any hand scrape at any other time is unlawful.

AND, IT IS FURTHER DECLARED AND ORDERED: That this Order #2004-10 shall become effective September 30, 2004 and remain in effect through March 31, 2005.

Oyster Survey

Mr. Carpenter said that Mr. Robert Brown conducted a limited survey for the Commission on Sheepshead oyster bar. The Commission's annual standard oyster survey will not be conducted until late October or early November. He asked Mr. 'Tucker' Brown, Robert's brother, if he could report on the survey since he was also there and Robert is not hereto day.

Mr. Tucker Brown told the Commission that he was with his brother when they conducted the survey. He said made about 7 licks and averaged about 10 oysters per lick. He said just about everything they caught was of market size and contained a few muscles. Juvenile oysters were very limited, only catching about 2 to 3 to a lick, but the area contained plenty of shells. They counted 70 oysters with only 18 of them under sized.

Mr. Carpenter noted we have not sold any oyster licenses as yet, but the Commission currently has plenty of oyster licenses for sale for anyone who would like to purchase one.

Summer Small Mesh Gill Net Fishery Study

Dr. Herb Austin from VIMS addressed the Commission with an update of the study. He noted the purpose of the study was to determine whether a gill net could be set and fished to target spot and croaker without a significant by-catch of undersized rockfish. They had only set and fished the net once due to conflicting schedules and bad weather. Spot and croaker were mainly caught but with only one sample, no conclusion or report can be prepared. They would like to continue the study into the fall and pick up again next spring when the fish return and hopefully be able to present a report at that time.

Commissioner Keen asked what size mesh is being used for this study. Dr. Austin advised it's a small mesh net that the fisherman use in Virginia waters when targeting spot and croaker.

ASMFC Issues**August Meeting**

Mr. Carpenter noted a summary of the Atlantic States Marine Fisheries Commission's August 2004 meeting was included as part of today's meeting packet. It included all of the actions taken by the Commission at that meeting.

Menhaden

There will be an Atlantic Menhaden workshop held by ASMFC to address menhaden's ecological role from October 12th through the 14th in Alexandria, Virginia.

Croaker

The ASMFC is initiating the development of amendment 1 to the Atlantic Croaker Plan, and we are seeking a volunteer act as the Commission's representative on the advisory panel, which has a meeting scheduled within the next two weeks.

American Eel Advisory Panel Vacancy

Mr. Carpenter announced the Commission had been looking for someone to fill the vacancy on the American Eel Advisory Panel. Mr. Jimmy Trossbach had agreed to serve in that capacity and we have forwarded his name to the ASMFC. Commissioner Pruitt asked what the status was with the amendment to the eel management plan. Mr. Beal explained that ASMFC's staff is currently developing a public information document for the eel management plan. The Eel Management Board at the ASMFC annual meeting in November will review it. They will consider whether or not to approve that and move forward to public comment in early 2005. If the draft schedule is maintained, completion of the amendment is expected by the end of 2005. Also during 2005 there will be a complete stock assessment of eels.

Announcement of ASMFC Annual Meeting

Mr. Carpenter announced the ASMFC annual meeting will be from November 8–11, 2004 in New Castle, New Hampshire. He advised any Commissioner planning to attend the meeting to make his or her own room reservation at the hotel as soon as possible. The ASMRC expects to fill all available rooms.

Fourth Quarter Disbursements

A report of the fourth quarter disbursements (April through June) for the operation budget was presented by budget item, totaling \$108,871. A report of the fourth quarter capital improvement budget disbursements was also presented totaling \$163,410. No unusual disbursements were noted. A statement of cash-on-hand totaling \$180,063.10, as of September 17, 2004 was also presented.

A motion was made by Commissioner Holland, seconded by Commissioner Rice and unanimously passed to approve the fourth quarter disbursements as presented.

Mr. Carpenter advised that the Commission has received its appropriations from Maryland and Virginia and he thanked Commissioners' Pruitt and Keen for getting the appropriations here on time.

FY-2004-2005 Budget Update

Mr. Carpenter explained there was a mathematical error discovered in the proposed 2004-2005 budget that was approved at the last Commission meeting. He presented an updated version of the budget with the errors being corrected. The only changes to the budget that was approved at the last meeting is under the Capital Outlay subtotal which was changed from \$27,000.00 to \$51,000.00 and under the cash brought forward amount which was changed from \$300,000.00 to \$223,700.00 which then adjusted the footings on the budget.

A motion was made by Commissioner Pruitt, seconded by Commissioner Parran and unanimously passed to approve the amendment to the budget as presented.

Building Committee Report

Mr. Carpenter noted the building was substantially complete and we moved to the new building August 6th. Final payments have not been made to the contractor until the minor things are completed and it looks like the final amount will be well within our budget price we had set aside for this project. The Committee report consisted of a slideshow of photos taken during the construction.

Resolutions Committee Report

Commissioner Rice, speaking on behalf of the Resolutions Committee, moved the adoption of the following resolutions. Chairman Birkett explained since the motion was made on behalf of the committee, there was no need for a second and the following resolutions were unanimously adopted.

Mr. Robert M. Norris, Jr.

WHEREAS, Mr. Robert M. Norris, Jr. served with distinction and honor as the first Executive Secretary of the Potomac River Fisheries Commission; and

WHEREAS, Mr. Robert M. Norris, Jr.'s special skills, his understanding and his appreciation of the difficult and delicate task of the Commission in its formative years led to the solid foundation we value and build upon today; and

WHEREAS, Mr. Robert M. Norris, Jr., while always crediting the advise and guidance of Captain Earl Dayton, developed the 'fixed fishing device' charting system that helped maintain peace and brought order to the gill net and pound net fisheries in the River.

NOW, THEREFORE BE IT PROCLAIMED, that henceforth and hereafter, the Potomac River Fisheries Commission Chart Room shall be know to all as the **Robert M. Norris, Jr. Chart Room**.

J. Clifford Hutt

WHEREAS, Mr. J. Clifford Hutt has the singular distinction of serving the Potomac River Fisheries Commission as both a Commissioner and later as the Legal Officer; and

WHEREAS, Mr. J. Clifford Hutt's dedication to the principles of bi-state joint management and equal representation for all users of the fishery resources of the Potomac River have always been his hallmarks; and

WHEREAS, Mr. J. Clifford Hutt has always provided sage advice, dispensed practicable legal guidance and brought common sense to every issue.

NOW, THEREFORE BE IT PROCLAIMED, that henceforth and hereafter, the Potomac River Fisheries Commission Conference Room shall be known to all as the ***J. Clifford Hutt Conference Room***.

John T. Parran

WHEREAS, Mr. John T. Parran was instrumental in bringing about the very formation of the Potomac River Fisheries Commission by his actions as a Maryland State Senator; and

WHEREAS, Mr. John T. Parran's dedication to the principles of both the preservation and the wise utilization of the natural fishery resources of the Potomac River have always been his hallmarks; and

WHEREAS, Mr. John T. Parran has served with distinction and honor as a Maryland representative on the Potomac River Fisheries Commission since 1971.

NOW, THEREFORE BE IT PROCLAIMED, that henceforth and hereafter, the Potomac River Fisheries Commission Hearing Room shall be known to all as the ***John T. Parran Hearing Room***.

New Business

Mr. Carpenter explained the Commission received a letter on August 20, 2004 from Mr. Bill Bartlett with concerns of water quality. At the time he thought Mr. Bartlett had mailed copies to each Commissioner, but learned today he had not. Therefore, Mr. Carpenter presented the Commissioners with copies of the letter and asked Mr. Bartlett if he would like to address the Commission.

Mr. Bartlett then read his letter for the Commission and the audience. He expressed concerns with the water quality of the Potomac River stating the Commission needs to address the situation.

Commissioner Pruitt commented he agreed with Mr. Bartlett in terms of the water quality issue. However, the Commission operates under the Compact to manage and regulate the fisheries of the Potomac River. Currently both states are working together on the water quality situation. The Chesapeake Bay Program was developed, charged with coordination such issues and is actively working on the problems. Both the Virginia and Maryland Secretaries of Natural Resources sit on that board. Each state has a department of Environmental Quality to review water quality issues and Mr. Bartlett's concern should be put before those departments and programs. The Commission has sent several resolutions to both states regarding water quality and both states are aware of the situation. It's a slow process that will take time.

Commissioner Parran agreed that everyone should be concerned about the water quality and the problem seems to be getting bigger. There are a lot of good hardworking people involved from both states in the water quality issue, but unfortunately, it cannot be resolved overnight.

Commissioner Hall empathized with Mr. Bartlett and supported his concerns. She challenged the Commission to find innovative ways to speed up the process and look beyond what is currently being done. She feels strongly about the water quality issue and would like to change the Compact beyond what it is today into a twenty-first century version that would give this Commission more authority over water quality.

Mr. Bartlett said if the water quality is not restored, then there is no need for a Commission because there will be no resources to regulate.

Commissioner Keen reiterated this situation of water quality is going to take time. Commissioner Pruitt noted the cooperation between the two states has never been better than it is right now. He challenged Mr. Bartlett to get involved and support the proposed introduction of the *Ariakensis* oyster at least from a water quality perspective because we all know the value of live oysters as filters feeders and their beneficial effect on water quality.

Mr. Bartlett expressed his concerns with ASMFC and how it handles the Menhaden situation in the Chesapeake Bay. Tucker Brown thanked Mr. Bartlett for his comments and stated if he would like to meet anytime to discuss his issues of concern, he would be more than willing to do so. Mr. Brown stated there is a lot of work being done. Chairman Birkett thanked Mr. Bartlett for his comments and stated they would not be taken lightly.

Artwork Display

Mr. Carpenter noted the Commission is making the hearing room available in six to eight week blocks for the local art community to publicly display their artwork during our regular business hours. The artwork being displayed here today was provided through the Mattawoman Creek Art Center at Smallwood State Park, in Southern Maryland. Ten local Southern Maryland artist works are represented, this exhibit will continue through October 21 and most pieces are for sale.

Cownose Ray

Mr. Tucker Brown expressed his concern over cownose rays and the amount of devastation they have caused to the oyster industry. He would like to discuss these concerns because this species has no harvest restrictions or market, yet has been populating ever since time. He feels the river is overloaded with Cownose Ray's. He asked if the Commission would consider developing a committee to review this situation and possibly develop a solution.

Chairman Birkett agreed with Mr. Brown's comments stating this is not only a problem in the Potomac River but in Virginia waters as well. He is unaware of any plans that Virginia may be taking and asked if Mr. Pruitt would like to comment on behalf of Virginia.

Commissioner Pruitt agreed that a committee should be developed starting with the Potomac River and work on this situation on a state level. Commissioner Keen asked Mr. Brown if he has contacted the Maryland Sea Grant to see if anything is being done in Maryland. Mr. Brown

explained he started this issue here because representatives from both states serve on the Commission and he felt this was the best place to start.

Mr. Carpenter suggested writing a letter to Maryland and Virginia asking them to establish a workgroup and the Commission would offer its facilities to host the meetings on the cownose ray issue. He asked Dr. Herb Austin if the VIMS is doing anything about this issue. Dr. Austin stated there is currently no active program or research, however, in the late '70's Sea Grant funded about 4 years of an extensive study that detailed the life history and biology of the cownose ray and developed recipes for its expanding the commercial fishery. The basis of the study was if you wanted to reduce the population of a species, simply open an unrestricted commercial fishery. However, there is no market here in the states. After the study was over it was determined that the population could not be controlled without harvesting it.

Commissioner Keen stated that Maryland was having a tidal fish and sport fish advisory commission meeting next week and he would place this issue on the agenda and report back to the Commission.

Commissioner Parran

Commissioner Parran took a few minutes to thank all the Commissioners and Staff at the Potomac River Fisheries Commission for many years of dedication and hard work. He is pleased that both states can come together and manage the resources of the river in a professional manner and that he was proud to have served on the Commission for 33 years.

Chairman Birkett stated the Commission would not be what it is today without Commissioner Parran and he should be commended for that as well.

Date and Place of Next Meeting

The next meeting is scheduled for Thursday, December 2, 2004 at 2:00 p.m. in the John T. Parran Hearing Room of the Potomac River Fisheries Commission and will include a public hearing.

Adjourn

The meeting adjourned at 10:10 a.m. and Chairman Birkett invited everyone to say for the building dedication.

Respectfully submitted,

Gordon M. Birkett, Chairman

Ida C. Hall, Secretary