

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

**June 7, 2012**

**Commissioners Present:** Joseph C. Palmer, Jr. (VA) – Chairman, Dennis C. Fleming (MD) – Vice-Chairman, Ida C. Hall (VA) – Secretary, , William L. Rice, Sr. (MD), Jack G. Travelstead (VA), Robert H. Bowes (MD), Kyle J. Schick (VA), and Thomas J. O’Connell (MD).

**Officers Present:** Kirby A. Carpenter – Executive Secretary, Ellen B. Cosby – Assistant Executive Secretary and Michael C. Mayo – Legal Officer.

**Others Present:** Steve Bowman – Former PRFC Commissioner; Capt. Chip Vernon and Lt. Shawn Garren – MdDNR Law Enforcement; Capt. James Rose and 1<sup>st</sup> Sgt. Adam Friend – VMRC Law Enforcement; Joe Grist – VMRC; Elgin Nininger – Crab Advisory Committee; Robert T. Brown and Kenneth Wicker – Finfish Advisory Committee; Sam Dorough, Geryl Blackwell, Bruce Ely, Janice Ely and several others who did not sign the guest register.

**Press:** Susan Pietras-Smith (Westmoreland News)

Chairman Palmer called the meeting to order at 9:00 a.m. Commissioner Schick provided the invocation and Mr. Mayo led the Pledge of Allegiance.

**Welcome New Commissioner**

Chairman Palmer welcomed new PRFC Commissioner, Jack G. Travelstead. Commissioner Travelstead is appointed to our Commission from the Virginia Marine Resources Commission. Chairman Palmer stated he will be a wonderful addition to our Commission.

Commissioner Travelstead thanked Chairman Palmer for the introduction. Commissioner Travelstead stated it’s been many years since he has attended a PRFC Commission meeting. He is well aware of the good things the Commission is doing and is glad to be a part of the group. He stated he is looking forward to working with the Commission.

**Resolution of Appreciation – Steven G. Bowman**

Chairman Palmer presented a resolution of appreciation to Mr. Bowman in appreciation of his dedication to the PRFC and his years of service. Chairman Palmer read the resolution for the record.

**POTOMAC RIVER FISHERIES COMMISSION**  
**RESOLUTION OF APPRECIATION**  
*June 7, 2012*

***WHEREAS, Mr. Steven G. Bowman** served with distinction and honor representing the Commonwealth of Virginia on the Potomac River Fisheries Commission since his appointment by Governor Timothy M. Kaine in 2006; and*

***WHEREAS, Mr. Steven G. Bowman** served this Commission as its Vice-Chairman and Secretary, as well as a member of the Budget Committee during his tenure; and*

***WHEREAS, Mr. Steven G. Bowman's** experiences as former Chief of Law Enforcement at the Virginia Marine Resources Commission and previous law enforcement positions served him well when dealing with fishery issues and decisions that affected the working watermen from an enforceability perspective; and*

***WHEREAS, Mr. Steven G. Bowman** was instrumental in crafting regulations that were practical, as well as enforceable, and was steadfast in his quest for timely, accurate harvest reporting; and*

***NOW, THEREFORE, BE IT RESOLVED,** that the Potomac River Fisheries Commission and its staff express their heartfelt gratitude to Steven G. Bowman for his service and dedication.*

***BE IT FURTHER RESOLVED,** that this Commission wishes Mr. Bowman the best in his new position as Smithfield Police Chief; and that a copy of this Resolution be spread upon the Minutes of the Potomac River Fisheries Commission for all to see and be reminded of the service of Steven G. Bowman.*

Chairman Palmer stated he has known Mr. Bowman for many years and considers him a personal friend. He explained that Mr. Bowman was a mentor to him when he was appointed to VMRC. Mr. Bowman is a truly intelligent man. He wished Mr. Bowman the best and congratulated him for returning to law enforcement, working for Smithfield Sheriff's Office. He advised Mr. Bowman that VMRC started out as the Virginia Oyster Police and now Mr. Bowman works for the "ham" police. The audience laughed and clapped for Mr. Bowman.

Mr. Bowman thanked everyone and took the opportunity to thank the PRFC, staff especially, for many hours of hard work at his request. He then thanked his constituents that have come here, from time to time, to have their issues heard. The PRFC is a great forum and a classic example of how cooperation can work between states for the benefit of and the good of all. He stated he is very appreciative for all the years he has been associated with the Commission either behind the scenes or enjoying himself as part of the audience. To be associated with the likes of Senator Parran, Clifford Hutt and so many others, he hopes the Commission will remain intact for the benefit of both states. He wished everyone the best and thanked everyone again, especially for their friendships. He ended with "God bless everyone and thank you very much".

Mr. Carpenter presented Mr. Bowman with a copy of "This Was the Potomac", so he could enjoy a little "light reading". Mr. Bowman thanked Mr. Carpenter and said this was a good day and not a good-bye.

**Consideration of Minutes**

*A motion was made by Commissioner Hall, seconded by Commissioner Rice and passed to approve the minutes of March 15, 2012 as presented. Commissioner Travelstead abstained since he was not at that meeting.*

**Crab Harvest Report**

Mrs. Cosby presented the crab harvest report for April and May of 2012. She stated it was a preliminary report since it was so early in the season. She advised that the April harvest of 1,140 bushels of hard crabs is below average. May's harvest of 1,722 bushels of hard crabs is also down, but there may be some outstanding reports that have not been received. The CPUE is low and she advised that it's been a rough spring.

Commissioner Fleming asked for updates from Maryland and Virginia on their spring harvest reports. Commissioner Travelstead stated he did not have any numbers to recite for the Commission, but advised that in Virginia, March and April were very good harvest months. They started off with a bang, but since then have dropped off in most areas. He expects to see low harvest numbers in May and June. Based on the high recruitment numbers that he's heard about, he would expect the harvest to pick back up in the fall.

Commissioner O'Connell stated in Maryland they have only received some preliminary numbers for April. From what he's hearing the harvest has been below average. Crabbing is picking up south of the Eastern Bay area and it's been slow in the upper Bay area. Maryland has experienced some poor water quality that could be attributed to the storms that occurred last summer, which are triggering some algae blooms and poor water quality. As Commissioner Travelstead said, we expect the crab season to also improve in Maryland as the season progresses.

**Winter Crab Dredge Survey Results**

Dr. Tom Miller from the Chesapeake Bay Biological Laboratory (CBL) provided the results of the 2012 Winter Crab Dredge Survey. He stated it was his pleasure to summarize the 2011-2012 winter crab dredge survey results. The survey was conducted cooperatively with scientists from MdDNR and VIMS. There is a lot of positive news in the report this year. The total crab abundance was at 776 million crabs and was at its highest level since 1993. That's really on the back of a record high recruitment level of 589 million crabs estimated to be recruits. That's also the highest in the survey records. There were some issues that should be of concern. The abundance of mature females has declined to 99 million crabs, which is above the threshold level of 75 million mature female crabs, but substantially lower compared to previous years. To be perfectly blunt, he has no idea what caused this drop. He stated they will look very closely at these early season harvest reports to try and determine if the drop in females was in some way an aberration in the dredge catch ability, based upon being such a warm winter last year. The crabs were perhaps not bedding down and being more mobile and therefore avoiding the gear, or does this represent a decline in abundance. Male crabs continued their slow and steady increase in abundance to 86 million crabs. There is no evidence of decline in the male crabs, which would

have been expected had it been a fishery effect. Therefore the lower abundance in females is a real mystery to all of us. The high level of recruits should give us cause for satisfaction and should ensure there is a strong fishery later on this year and a strong reproduction in the following years.

The Commission had no questions for Dr. Miller.

### **Oyster Harvest Report**

Mrs. Cosby presented the oyster harvest report for the 2011-2012 season. She noted that there were 339 bushels of oysters reported from the harvesters and 344 bushels reported from the buyers. There were eleven personal Hand Scrape licenses sold during the season and an additional nine licenses sold after the season for a total of twenty licenses. The additional nine licenses were sold because of the deadline extension for the Oyster Management Reserve Program. In addition, there were six Hand Scrape vessel licenses sold. The oyster bars that produced the most harvest this season were Cornfield, Kitts Point, Piney Point and St. Georges.

### **Blue Ribbon Oyster Panel Report**

Mrs. Cosby stated the Blue Ribbon Oyster Panel reconvened on May 24 and reviewed the level of participation in the Oyster Management Reserve Program. With only twenty individuals signed up for the program, the panel recommended going forward with a reduced program and have a four-acre planting on Ragged Point Bar instead of the planned two five-acre plantings. With four acres and twenty participants, the objective of economic sustainability can still be obtained. In the future, the amount of acres planted may be increased depending on the number of participants each year. The Commission should consider investing \$40,000 as seed money (\$10,000 per acre) this year from the oyster reserve money. There is \$100,000 set aside to fund this program. If five additional people sign up for the program next year, the Commission could consider increasing from a four to a five-acre seed planting and an investment of up to \$50,000 of oyster reserve money. The panel suggested capping the program at 25 participants until after the first harvest has occurred. It was also suggested by the panel that the participants should meet and decide “the when and how” to harvest the oysters, as well as the details and conditions for allowing transfers. The participants may need to develop formal criteria/guidelines to arrive at a decision. When another group of 20 to 25 people are ready to participate, a second program can be started with the use of the other \$100,000 that the Commission has set aside to seed that program for two years. There was a lot of discussion at the meeting and there were a couple of items that were recommended to be discussed by the Oyster/Clam Advisory Committee. They include the consideration of opening Jones Shore to hand scrapes and how to proceed with the natural oyster seed (diploid) repletion program, which is the second phase of the Blue Ribbon Oyster Panel’s revitalization plan.

Chairman Palmer asked in regard to the oyster management area, are they going to allow sampling to determine marketability of the oysters prior to harvesting. Mrs. Cosby stated she felt the Commission would try to evaluate how far the oysters are in their growth and size by taking sub-samples. She deferred to Mr. Carpenter for additional information. Mr. Carpenter stated he would expect that the fall oyster survey would examine this area once seed is planted and it

would become part of the survey each year. If the seed is planted in June, the survey would take a look at the area around October and each year thereafter to determine survival, growth and marketability.

Commissioner O'Connell stated he is a member of the Blue Ribbon Oyster Panel and he appreciated Mrs. Cosby's involvement with the group. He felt this is a good group of people representing fisheries managers, scientists, stakeholders and watermen who have really come to the table recognizing that changes are needed and understanding what the objectives are and working together to get there. He is really supportive of moving this program forward at a reduced level. If the Commission approves moving forward with the program, he feels more watermen will join the program. He commented in regard to the opening of Jones Shore to hand scrapes, stating that the Blue Ribbon Oyster Panel felt this would be something the Oyster/Clam Advisory Committee could review and make recommendations to the Commission. However, during the panel discussions there were concerns if hand scraping would be a sustainable gear type on that oyster bar, recognizing that it's in a lower river area that hasn't seen good recruitment in recent years. This is something that the Commission should pay close attention to, while we hear the industry making this request, we also want to hear from the scientists and what their viewpoints are in the sustainability of this oyster bar on a long-term basis.

Commissioner Travelstead questioned why 35 people did not come forward and sign up for the program. Mrs. Cosby replied that money may have been an issue. There is interest in the program and there may be more people who sign up later down the road. The deadline was extended twice to May 23, 2012. The opportunity to sign up again will start in September. This is the first year and the first group that signed up this year will be the only ones to have an opportunity to work on the management reserve's first harvest.

Commissioner Schick stated as a member of the panel he felt there were additions to the process that need to be considered. There are some concerns with long-term investments by individuals without knowing who may work with them in the future. All of these things combined contributed to a slow start to the program. As we've seen in the past, when there are oysters in the Potomac River, they come from far and wide for them. He's confident that the program will work, it's just a matter of fine tuning it so we can get the people to invest in the program.

Commissioner Hall questioned what type of triploid seed was going to be used in the initial planting. Mrs. Cosby responded it would be spat on shell and the panel recommended using this type of seed. She explained that MdDNR staff brought the Miss Kay down to survey an area on Ragged Point and they located a site with very good shell bottom. MdDNR staff was very helpful in going over the bar and locating good ground. We are ready to proceed with the Commission's approval to plant a four-acre area as soon as possible. Commissioner Hall advised at previous meetings there was concern about the availability of seed, so she asked if that was still a concern. Mrs. Cosby stated she has been in contact with three hatcheries in Virginia. To plant four acres, the Commission needs to purchase about 60 million triploid eyed larvae. The plan would be to purchase about 20 million oyster larvae from each hatchery and this will establish a business relationship with the hatcheries. We can learn how strong the eyed larvae are from each hatchery and which hatcheries are better than the others. We will be able to get eyed larvae delivered to Piney Point Aquaculture Center for setting on bagged oyster shell. We

would like to get the spat on shell planted before July 1<sup>st</sup>. We are going to try and get the watermen who have signed up for the program to participate with the planting. There would be some monies available to compensate for fuel for the three boats that would be needed for the planting. Mrs. Cosby stated she is excited and ready to get the program going.

Commissioner O'Connell reiterated as Mrs. Cosby said, this program is based upon the modeling of the cost and returns and is economically viable. That is very unique in regards to public fisheries for oysters in the Chesapeake Bay. This could really serve as a marketing advantage for this product. With the flexibility to harvest these oysters, perhaps any time during the year or around holidays, it's an opportunity to get a good value for this product. The modeling analysis used \$35 per bushel price and he thinks there is opportunity to increase that in the future. Increasing that by \$5 or \$10 a bushel can double the profits to the industry participants. There is an opportunity to look at the marketing of this program and really try to make some money. This is a new type of program and could potentially become beneficial for everyone.

Chairman Palmer asked how the area was going to be marked and was it going to be enforced by MdDNR or VMRC marine police. Mrs. Cosby explained that VMRC's repletion team is going to come out and mark the corners with flags. The flags will only be out there while planting is taking place and will be removed once that's finished. Then it will be up to the fishermen who are enlisted in the program to watch out for it and marine police will be on the lookout when they are in that area. Chairman Palmer questioned if self policing is taking place, will there be no trespassing and/or no harvesting signs posted. Mrs. Cosby stated Ragged Point bar is closed to public oystering and there are Orders in place for that.

Commissioner O'Connell felt that as plantings occur and the program is in effect for a few years and people are aware there is a high quality product out there, there may be the potential for poaching. He suggested the Commission carefully review the penalties that are in place right now for that type of activity and if there should be some additional penalties for consideration for poaching in this reserve type program. There may need to be a strong deterrent for people's temptation. Chairman Palmer stated he had those concerns as well.

Mr. Carpenter stated if the Commission is going to review penalties, the Compact has a maximum limit of \$1,000 on fines. It will require legislative change on the part of both states to alter that. Consider that \$1,000 was a lot of money in 1958, but not quite as much money today and this may be something the states may want to add to their agenda for the next legislative session.

Commissioner Schick felt as far as other commercial activity, we could look at that area as possible penalties also. Mr. Carpenter advised that in some instances, violators don't hold other licenses and that would not work from a penalty standpoint.

Robert T. Brown stated he was speaking on behalf of his brother John F. Tucker Brown who could not make it to the meeting today. He stated that everyone worked so hard on this program and he would like to see it move forward. Robert T. Brown, speaking for himself, stated he has signed up for the program and felt if the Commission planted seed, it will take a few years but it will work. He felt it was a good step for the Commission to make.

Chairman Palmer agreed and said once Virginia started aquaculture, it opened up the flood gates and leased every piece of bottom they could. It seems to be working very well in Virginia.

Mr. Carpenter advised the Commission, if it wishes, it should now make a motion to proceed with the program so that we can issue purchase orders this afternoon for the eyed larvae and get the program started.

Commissioner Bowes asked if the models had been tested with only 20 participants and a smaller program. Mrs. Cosby stated yes, we have done that and running the program with four acres and twenty people it is still economically sustainable.

***A motion was made by Commissioner Schick, seconded by Commissioner Travelstead and unanimously passed to approve the program and authorize staff to purchase seed for planting.***

Mr. Carpenter stated there have been several mentions to the model. We have the model author here, Dr. Tom Miller, and we would like to thank him because without his modeling efforts to demonstrate that this could actually work, we would all be flying by the seat of our pants. We thank Dr. Miller for all of his efforts and there will be some tweaks made to the program that may produce a better picture for the future.

Commissioner Bowes questioned if the Commission should send someone out to check and see if there is anything growing on the artificial fishing reef. Mr. Carpenter stated the Oyster Recovery Partnership Program wanted to come down last fall and survey the area but were unable to do so. This is still in the works to have somebody on site with a diver and camera to evaluate the reef to see what is there. The timing did not allow for the survey last year. Commissioner Bowes stated oyster spat love concrete and since we have all that concrete out there, it may be worth taking a look.

### **Oyster Management Reserve License**

Mrs. Cosby stated this is a proposal for changing our system to accommodate the oyster management reserve program. This would be an all inclusive license that would replace the hand scrape licenses, individual and boat licenses and the surcharge fee that's now in place to participate in the oyster management reserve program. At the Blue Ribbon Oyster Panel Meeting someone suggested using shares instead of licenses, because the program is unique. In addition, there were questions that needed to be answered concerning licensing with this program. Mrs. Cosby listed some of the criteria to be considered for the new license structure.

- The Oyster Management Reserve License would cost \$550 plus \$50 for the Commercial License Registration Fee (if needed) and only be valid for working on the Oyster Management Reserve; no other license would be required.
- A participant could purchase this license for himself, as well as for his crew and simply write in the name of the crewman/agent on the license. If the crewman changed, then the name on the license could be changed.
- There would be a maximum of three Oyster Management Reserve Licenses allowed to be purchased per person.
- Each person on the boat working on the reserve would be required to have a license.
- This would be a delayed entry program, where the license and commercial registration fee have to be paid for

three consecutive years, prior to harvest. Current participants would convert to this type of license next year, and it would be counted as year two in the program.

- This program would have the flexibility to allow investors to purchase these licenses and name their crew to use them
- When a cap on the number of licenses is recommended by participants and approved by the Commission, then it becomes a limited entry program and the licenses should be allowed to be transferred through the Commission, with a transfer fee of \$50 - \$100.
- The program may need to have a completely new PRFC Regulation VII drafted for it, as other parts of the program are developed.

Mr. Carpenter advised that these guidelines were not presented to the Blue Ribbon Oyster Panel. They were developed after reviewing where we were in the program. We have looked at this and our Regulation Book and how it needed to be constructed. There are so many things that are different about this program than what we currently have in the Regulation Book that deal with a wild oyster fishery. It began to make sense that a new section in the Regulation Book should be created to deal with the Oyster Management Reserve Program specifically and have all the requirements in one place and not try to refit the existing regulations to this new system. These are bullets of concepts that staff feels belongs in this program and would fit within the new Regulation VIII. This is a new program and it makes sense to create a new Regulation for it. We could establish this reserve program as its own entity, have a license for it that covers the costs it needs to cover, but then allows the tongs to purchase their license without paying additional fees for the program. We are asking today for direction, to allow staff the ability to add these concepts to the public hearing for September and to draft a new Regulation VIII that will be presented at that meeting for consideration.

Commissioner Rice stated he has spoken with Mr. Carpenter about this and fully endorses this program. It makes sense and trying to mix the traditional oyster fishery with this program just doesn't work. In order for it to work it has to be separated for the oyster fishery and it's also not fair for someone who wants to hand tong, to have to support a program that he doesn't want to be involved in.

***A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to direct staff to move forward with advertising these concepts for public hearing.***

Commissioner Schick stated the Blue Ribbon Oyster Panel (BROP) is familiar with this concept and was concerned with implementing it. He felt it was time to bring in these concepts now that there is a group of people involved. He feels this would generate more people to sign up for the program.

Commissioner O'Connell stated he also supports the program and had a couple of questions that don't necessarily need to be answered today. His concerns are the assignment of penalties/violations. If the Commission allows someone to purchase up to three licenses and assign them to crew members, who is ultimately responsible for the penalty? We want to have accountability for this program. Another question is has staff examined how the \$2 per tag cost would affect profitability of the industry members participating in the program? Mr. Carpenter stated the model was run with a \$2 oyster tax and it definitely increased the revenue available, but did not substantially affect the profitability. He stated that can be further tested with the



model. Commissioner O'Connell stated if the Commission goes forward with the program, is there a sense of how many of the 20 people may drop out of the program? Mr. Carpenter responded two, the two that did not want to be a part of the program in the first place. Commissioner O'Connell stated lastly, with everyone required to have a license, should this be reviewed to consider that a license would involve a daily limit instead of purchasing another license for a crew member and follow them based on the restrictions established. Mr. Carpenter explained our way of thinking about this was to either require everyone to have a license that was paying into the program to have it be self-supporting or, if you want a license with a crew member, then you have to have a different price structure for that. You have to collect the money in order for the program to run. He is not sure how the people who have signed up for the program want to run it. He would leave that up to the participants to work that out. Allowing one owner to own three licenses, would allow someone the opportunity to change the crew members name, if need be, and the owner of the three licenses would be held accountable and responsible for those licenses. All of these ideas have not been flushed out and Mr. Carpenter apologized for that. The questions that have been raised here will provide some guidance as to how it should be formally presented in September.

Commissioner Fleming stated he would like to see how we could make this program more efficient and questioned who officiates all of this in the end. When we are talking about self policing, there could be some tricky situations that may occur.

Commissioner Hall agreed and felt that if a person purchases three licenses then they should be able to harvest three times more than a single owner. There could be a potential problem with that and it needs to be worked out.

Commissioner O'Connell stated that is a problem for this cooperative group of industry members to work out. What the fair way of allowing them to harvest is the question. Everyone contributed to the program and he sees some type of share(s)/bushel limits being in place. It's up to the industry to work that out. Mr. Carpenter advised the Commission that the model is calculated on a 5 day harvest so it's going to be a pretty short program.

Commissioner Bowes felt if this is going to go to public hearing, he suggested the Oyster/Clam Advisory Committee be involved in the process before the public hearing. Mr. Carpenter advised that the members of that committee have been invited to the two last Blue Ribbon Oyster Panel meetings and only the Panel members who are also in the program showed up.

Commissioner O'Connell felt the people that need to meet and discuss these concepts are the 20 people that have signed up for the program. It's important for the Oyster/Clam Advisory Committee to know what they are talking about that may raise any concerns with the public fishery, but the participants need to work out these details.

**Pound Net Sub-Committee Report**

Robert T. Brown, Chairman of the Finfish Advisory Committee also chaired the Pound Net Sub-Committee meeting that met on May 10, 2012. He stated there was a lot of discussion and what was decided was to allow a person to receive their striped bass allocation only if they are actively fishing. During the time of renewal when no striped bass tags are being issued, a pound net transfer can take place. During the open pound net season a transfer can take place, but there are three situations to determine how a new licensee will receive striped bass tags. They are as follows:

- 1.) If the licensee surrendering a license **has not** been issued any SBID tags, the receiving licensee shall be eligible to receive the SBID tag allocation for each new license issued, after at least one of the new licenses is set and fishing, and has been verified by law enforcement.
- 2.) If the licensee surrendering a license **has been** issued SBID tags, the receiving licensee will only be eligible to receive the number of SBID tags returned with the surrendered license. In order for the surrendered SBID tags to be reissued to the receiving licensee, at least one of the new licenses has to be set, fishing and verified by law enforcement.
- 3.) If the receiving licensee already had a pound net license, but did not have any license set, fishing and verified by law enforcement, then in order to receive his/her original allocation of SBID tags, at least one of his/her original licenses has to be set, fishing, and verified by law enforcement.

Mr. Brown stated the committee recommended a hardship provision be allowed for pound netters for serious medical conditions. He suggested that those requests must appear before the Commission before any SBID tags would be issued.

Commissioner Travelstead stated that it sounds like the Commission is forcing people to set gear in order to get their share of the striped bass allocation. Mr. Carpenter stated that was correct. Commissioner Travelstead thought it would be more efficient if fishermen could get together and fish from one pound net even though they each own a share of the quota. Mr. Carpenter explained this was not the Commission's design, this was the will of the industry that came to the Commission and said this is how we want this fishery to work. Yes, it may be more economically efficient to do it that way, but that was not the desire of the pound netters. The Commission regulates striped bass harvest in multiple layers. For the commercial fishery the quota is divided by gear type then by the number of people with the gear and then regulated by a season and size limit. The entire process is designed to keep us from going over the quota and to maintain as many individual, independent watermen as possible. Commissioner Travelstead stated he means no harm to the proposal and supports it going to public hearing, but at some point the industry may want to think about being more efficient and avoiding the expense of setting multiple pieces of gear as long as each person can continue to own their allocation of the resource and fish it from a single net. Mr. Carpenter said he believes that is a situation that the industry would need to decide for themselves, not the Commission.

Commissioner O'Connell raised a valid point and he has seen this happen in Maryland. This is a good point and should be considered by the industry.

Robert. T. Brown stated most of the pound netters are actively fishing and most tend to only set one or two nets during the season. There are about 25 to 30 nets set in the river during the season. He feels the fishery has already been streamlined. We don't want to issue striped bass tags to someone who doesn't put the effort into fishing.

Commissioner Bowes stated he understood the situation with the watermen that could not get poles and had to have a net transferred to him. However, we need to be very careful here because this seems like it has the potential for abuse.

Mr. Carpenter stated this draft regulation, we hope, is designed to help minimize that abuse before it gets completely out of hand.

Commissioner Rice stated we have to treat each fishery on its own merits. The pound net fishery is unique on its own. When a pound netter sets a pound net, their intention is not to target striped bass. It's somewhat considered a by-catch. It would not make sense to encourage a person, who has no intention to set a net, to keep the license and take quota away from a person that needs this quota. The gill net fishery is the exact opposite, where we encourage watermen to fish together because striped bass is the target species from that type of net. He felt the Pound Net Sub-committee had done an excellent job and we should move forward on this issue to a public hearing.

Geryl Blackwell explained this situation is because of him. He sets pound nets every year but was unable to get poles last year for his pound net and had to have a net that was already set transferred into his name, so he could use his striped bass tags. He advised that he was able to get poles this year and has already set his nets.

### **Regulations to Consider For a Public Hearing**

Mr. Carpenter reviewed the draft regulations presented in the packet. He explained some of the various changes that are proposed within the draft regulations.

Reg. I, Sec. 2(d)(6) – Two Crab Pot Licenses on One Boat – This would make an existing Order become a Regulation and provide a placard for the boat instead of issuing decals for the crab pots.

Reg. III, Sec. 11(c) – Return if Incidental Catch – This would allow the Commission to change the amount of by-catch from time to time and by appropriate Order.

Reg. III, Sec. 13(e) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for a Commercial Hook and Line License – This would specify being able to obtain a commercial hook and line license and a striped bass identification tag allocation.

Reg. III, Sec. 13(f) – Individual Striped Bass Identification (SBID) Tag Allocation Transfer for Pound Net License(s) – The would specify being able to obtain a pound net license and a striped bass identification tag allocation.

Reg. VII, Sec. 5(d) – Crab Pot Longlines – This would change the water depth restriction from 20' MLW to 10' MLW.

***A motion was made by Commissioner Schick, seconded by Commissioner O'Connell and unanimously passed to advertise all proposed items for a public hearing.***

Commissioner O'Connell stated Reg. VII, Sec. 5(d) that's just been approved to advertise for public hearing, is stating that it be for a one year trial and review at that time to determine if there needs to be any modifications made to it. Mr. Carpenter explained that was the Crab Advisory Committee's recommendation. If the Commission wants to consider doing it on a one year trial basis, Mr. Carpenter suggested addressing that with an Order as opposed to a Regulation. Reviewing it in a year would require advertising it again for a public hearing and that can be quite costly. Commissioner O'Connell stated this has been changed several times over the years and he questioned if this will create user conflicts in shallow water areas. Mr. Carpenter explained it started out as a 30' MLW depth and has changed a couple of times. His gut feeling is, we will have the same user conflict people standing up arguing that it's too shallow of a water depth and the Commission will be faced with the same decision they thought they decided two years ago. Commissioner O'Connell asked if we do receive that type of public input, can the Commission adopt an Order for a one year trial instead of adopting a regulation? Mr. Carpenter said staff could manage something along that line. Maybe by advertising a Regulation and/or Order, the situation could be resolved.

Commissioner Bowes stated when this was discussed at the Crab Advisory Committee level, it was requested to be for the upper river area and he felt that should be reflected in the advertising.

Commissioner Rice advised that when items are advertised for public hearing we can always be less restrictive and we could address the river area at that time. Mr. Carpenter agreed.

### **ASMFC Issues**

Mr. Carpenter stated the minutes and summary of the ASMFC spring meeting held April 30<sup>th</sup> through May 3<sup>rd</sup> are presented in the packet. He stated he would answer any questions regarding that meeting. He also noted that under the ASMFC issues are a complete set of the 2011 annual compliance reports that are submitted to ASMFC each year. Mr. Carpenter called attention to the American Eel compliance report. The report was developed a couple of weeks ago, therefore this is the first public showing of this report. The 2011 eel landings were only 29,000 pounds. That is the lowest level on record for the Commission. As he reported at the last meeting, American eel is one of the species that has been requested to have an endangered species status review and requested to declare it endangered. Recently there was a request to have it listed on Convention on International Trade in Endangered Species (CITES). If it were to be listed there, international trade would be prohibited. There is a lot of concern around the world right now for American eels. What is troubling to us in addition to the lowest landings in 50 years, is the fact

that while the CPUE's for the *pounds per pot* have remained fairly stable, the CPUE's for the *pounds per day* dropped dramatically in 2011. What staff would request is the authority to add the possibility of a fall closure to the public hearing advertisement, to be effective possibly this year but definitely next year. The reason for the fall closure of the fishery would be preservation of the stock, but it is also the time when the big eels are migrating out of the river system and headed to the Sargasso Sea for reproductive purposes.

Commissioner Hall questioned when the fall closure would take place. Mr. Carpenter explained for this year would it would have to be 30 days after the Commission meeting to the end of the year. For years following, we would consider closing in August to the end of the year. It would essentially cut the season in half.

Commissioner Rice stated if we move forward with some type of restrictions, would this put the Commission in a better place to continue our commercial fishery, showing that we are putting forth an effort to conserve the stock. Mr. Carpenter said it would give us something to reply to the EIS listing that we recognize there is a concern and we have acted to reduce our fishery to help address that and we don't feel that listing is appropriate. If eel is listed as an endangered species, the harvest will go to zero. Commissioner Rice said that's where he was headed with this. He felt that the Commission needed to be careful when dealing with this situation and hopefully handle it in such a manner that it will satisfy our fishermen, as well as satisfy our need for conservation. Mr. Carpenter added this would satisfy our need not to have it listed.

***A motion was made by Commissioner Hall, seconded by Commissioner Travelstead and unanimously passed to include a possible fall closure for American Eel to public hearing.***

Commissioner O'Connell commented in regards to the upcoming ASMFC meeting, noting that the Striped Bass Management Board is going to be looking at taking action on recommendations from law enforcement. There was a public hearing held in Maryland last week and obviously with the implementation of Addendum 3, it is going to put some additional burden on fishermen and even the agencies responsible for managing tags. He encouraged the Commission, as ASMFC looks to moving forward with this Addendum, to recognize that we have some pretty significant problems in the Chesapeake Bay region and many of them have been addressed. Individuals from State and Federal Law Enforcement have come to the Board with some very good recommendations to address these problems from continuing and occurring in other states. He encouraged the Commission to look at the law enforcement recommendations very closely, in spite of some of the burden that will be placed on the watermen, because it's time to put this fishery in a better light publically. He thinks these recommendations from law enforcement will go a long way in doing that.

Commissioner Hall stated she had a few questions on a couple of the reports. In regards to the Shad and River Herring report she questioned what role does the ICPRB have in helping the population of the shad. She thinks they have done a lot of hatchery work and she didn't know if they played an influence in increasing of the population. She knows that Virginia no longer financially supports them. Mrs. Cosby explained that the ICPRB has participated in an American shad brood stock collection program for a number of years. They have been using shad from the Potomac River to stock other river systems. They conduct a restocking program with shad fry to

replace some of the fish they have taken out of the Potomac River. That program has been in place since 1995, and over 22 million shad fry have been stocked in the Potomac. They also have a school program where children raise shad fry in classrooms and then release them. The ICPRB is not trying to be detrimental to the shad stock in the Potomac River, they are trying to restore what they take and educate the public.

Commissioner Bowes commented in regard to Commissioner O'Connell's earlier comments about the Striped Bass Management Board. In the ASMFC board report, it stated the following: "The investigation also found that greater accountability of wholesalers would be difficult to achieve without uniform tags (colors, design) and tagging requirement, valid year and size limits inscribed on tags, and increased dealer compliance education". Commissioner Bowes felt that is exactly what the Commission is doing. Commissioner O'Connell responded that the point to his comment was that the actions the Chesapeake Bay jurisdictions implement are still not actions that are being required along the entire Atlantic coast. While we have addressed a lot of our problems, he thinks if there was a law enforcement investigation, other states could potentially discover similar problems. This is an opportunity to support these coast-wide measures so we can address some of the state and interstate problems. One of the potential impacts is that there is action to standardize the tags, which could potentially require some additional changes here in the Potomac River.

Commissioner Fleming questioned that the recommendations coming from this committee for the new tagging process, does this improve our program or water it down. Mr. Carpenter stated it depends on the final outcome. If the final outcome does require uniform tags up and down the coast, it would probably strengthen the entire process, but may hamper our ability to use different color tags for different fisheries which helps segregate and separate those fisheries. Basically the Potomac River has been doing all the things except the uniform color, therefore he doesn't see this impacting us unless they enact the uniform color.

Commissioner Schick stated the fish don't care what kind of gear they're caught with and neither do the people who buy the fish. This might be something we want to look at again with allowing the tags to be interchangeable to the gears.

### **Financial Reports**

A report of the third quarter disbursements (January through March) for the operational budget was presented, by budget item, totaling \$166,292. A report of the cash-on-hand was presented showing \$524,405.37 as of June 4, 2012. There were no unusual items to note at this time.

***A motion was made by Commissioner Rice, seconded by Commissioner Hall and unanimously passed to adopt the third quarter disbursements and cash-on-hand as presented.***

### **Audit Report Received June 4, 2012**

Mr. Carpenter announced that the audit was completed in May and everyone should have received a copy of the audit report. There were no audit findings this year and the Commission received a good and clean audit report.

**Budget Committee Report**

Commissioner Fleming presented the Budget Committee Report for FY '12 – '13. He noted that the Commission is funded differently between the two states (\$140,000 MD and \$148,750 VA). The disbursements projection shows there is going to be a change to the way retirement is funded. In essence, the 2012 Virginia General Assembly passed legislation that requires the Commission to increase all salaries by at least 5% and then require all employees to contribute 5% of their new salary to the Virginia Retirement System. In order to prevent employees from a reduction in income, the actual salary adjustment needs to be 5.6%. There was a detailed discussion about the ongoing oyster work and the funds will be disbursed during the upcoming year, noting changes in additional items and renaming others. He suggested perhaps that staff should receive a COLA this year. The Commission purchased a new car this year and sold the old one, and the report noted other property what was surplus. There is a request in the budget for pound net lighting. There are technological advances in solar power lighting and these flashing lights are suitable for marine use. This would be an additional marking system to enhance prevention for boating accidents involving pound nets. An amount of \$3,000 is included in the budget to purchase solar lights for testing. This is similar to what the Commission has done with crab cull rings and the pound net cull panels in the past. He reiterated that the Commission audit came up clean, as Mr. Carpenter had previously reported.

Commissioner Travelstead questioned if there was a Coast Guard requirement that has to be met for the pound net lighting. Mr. Carpenter explained that as long as we are not using red, green or white lights, we are able to test it. The plan would be to use an amber or yellow flashing light.

Mr. Carpenter commented that the special note in the report was a suggestion from the VA Auditor who explained the monies in the reserve fund for future retiree's health insurance cost should probably be in a "trust" type of account, as opposed to the currently "dedicated" account. They suggested we study the pros and cons of the different account types, and make an informed decision. This will require funding for an actuarial firm to help determine what the proper amount of money to be put into that account should be.

***A motion was made by Commissioner Rice, seconded by Commissioner O'Connell and unanimously passed to approve the Budget Committee Report and adopt the FY 2012-2013 budget as presented.***

POTOMAC RIVER FISHERIES COMMISSION  
2012-2012 DISBURSEMENTS BUDGET

	<u>2012-2013 BUDGET</u>
<u>PERSONAL SERVICES:</u>	
101-109 Compensation of Commissioners & Salaries	\$282,195
<u>CONTRACTUAL SERVICES</u>	
201 Advertising	9,000
201 Agent Fees	4,000
204 Postage	12,000
205 Telephone	4,800
206 800 Line	800
207 Internet Service	700

208 Electric Current	4,500
209 Freight Expenses	1,000
212 Lease of Equipment	4,500
214 Membership Dues & Subscriptions	300
216 Printing Regulations*	2,500
220 Travel Expenses	17,000
221 Water Expenses	720
224 Photographic Services-Charts	500
230 Computer Support	15,000
235 Sport Lic Registry	1,000
270 Repairs to Equipment	1,500
275 Building Maintenance	4,000
280 Interest Expense	0
281 Bank Charges	500
290 ACFCMA**	96,000
299 Other Contractual Services	<u>17,000</u>
	197,320

MATERIALS & SUPPLIES

301 Automotive Expenses	3,500
313 Office Supplies	13,500
330 Household Furnishings & Supplies	1,600
332 Licenses, Tags, Report Books	40,000
400 Resale Supplies	<u>2,000</u>
	60,600

CURRENT CHARGES & OBLIGATIONS:

240 Insurance - surety bonds, fire auto liability, workmen's comp.	<u>7,000</u>
	7,000

PENSION AND OTHER CONTRIBUTIONS:

510 Retirement	15,897
511 Group Life Insurance	1,263
512 Group Health Insurance	53,647
513 Employer's FICA	16,318
513 Employer's Medicare	3,816
514 Deferred Compensation Match	<u>3,000</u>
	93,941

CAPITAL OUTLAY:

801 Office & Other Equipment	5,000
801 Furniture & Fixtures	2,500
803 Auto	<u>0</u>
	7,500

DEVELOPMENT & REPLETION EXPENSES:

331, 333 & 335 Seed Oysters and/or Shell	0
336 Oyster Management Reserve	50,000
337 Oyster Research	0
338 Crab Research	0
339 Artificial Reef Construction/Transportation	<u>0</u>
	50,000

CAPITAL RESERVES

101 Reserve - future oyster work/hatchery	42,473
102 Reserve - future retiree health insurance	75,000

<u>UNEXPENDED CASH BALANCE: (contingency fund)</u>	<u>31,621</u>
TOTAL	\$847,650

\*Partially supported by ACFCMA (Atlantic Coastal Fisheries Cooperative Management Act) funds

\*\*Fully supported by ACFCMA



POTOMAC RIVER FISHERIES COMMISSION  
2012-2013 BUDGET  
RECEIPTS

	<u>2012-2013</u> <u>BUDGET</u>
UNEXPENDED CASH BALANCE FORWARD: ( AS OF 7/1/12)	60,000
SALE OF LICENSES:	
Fish	74,000
Crab	70,000
Clam	250
Fish - Recreational	135,000
Crab - Recreational	1,000
OYSTER RESERVE:	
CLR – Commercial License Registration	32,000
Oyster Licenses	3,500
OLS – License Surcharge	6,000
Oyster Bushels Inspection Tax	300
APPROPRIATIONS BY STATE:	
Maryland	140,000
Virginia	148,750
SPECIAL GRANTS:	
Atlantic Coastal Fisheries Cooperative Management Act	97,850
DRAWDOWN of Oyster Reserve:	50,000
INTEREST ON SAVINGS (C/D's):	500
RESALE SUPPLIES:	1,500
LICENSE DRAWING:	8,000
SHIPPING & HANDLING (65-58):	2,000
CPID (65-58):	17,000
MISCELLANEOUS: Confiscated Property, Replace Lic./Tag, Etc.	
TOTAL	\$847,650

### **Delinquent Seafood Catch Report Hearing**

Patrick Wayne Goldsmith – Absent – This is Mr. Goldsmith's first offense for failing to file seafood catch reports for his eel pot license. His reports were filed one week prior to the Commission hearing. Staff's recommendation is one year of probation. ***A motion was made by Commissioner Schick, seconded by Commissioner O'Connell and unanimously passed to accept staff's recommendation of one- year probation.***

William Richard Sanders – Absent – This is Mr. Sanders's first offense for failing to file seafood catch reports for his fish trot line license. His reports were filed one week prior to the Commission hearing. Staff's recommendation is one year of probation. ***A motion was made by Commissioner Rice, seconded by Commissioner O'Connell and unanimously passed to accept staff's recommendation of one-year probation.***

Beau Denny Littek – Absent – This is Mr. Littek's first offense for failing to file seafood catch reports for his fyke net license. His reports were not file one week prior to the Commission hearing. Staff's recommendation is a one week suspension on all licenses and one year probation. ***A motion was made by Commissioner Schick, seconded by Commissioner Travelstead and unanimously passed to suspend all licenses until reports are filed. There will be a one-week suspension after reports are filed and one- year probation.***

**Bruce Wayne Ely**

Mr. and Mrs. Bruce Ely came before the Commission to explain why they did not renew his commercial hook and line license on time and to request permission to renew the license now. Mrs. Ely spoke for her husband and explained that she mailed a package that contained his 2011 striped bass tags being returned. She put the application and a check for his license renewal in an envelope and taped it to the front of the package, using it as a label. Staff verified that we received the striped bass tags, but never renewed the license for 2012. The only conclusion staff could provide was that we did not know that the “address label” was actually an envelope that contained the application and check. Once we returned the tags, the packaging was thrown away. Mrs. Ely presented certified receipts to the Commission showing that the package was mailed on time.

*A motion was made by Commissioner Rice, seconded by Commissioner Schick and unanimously passed to allow Mr. Ely the opportunity to renew his 2012 hook and line license without penalty.* Mr. Ely did so directly after the meeting.

**Resolutions – VRS Contributions & Resolutions**

Mr. Carpenter explained that all of the employees for the PRFC are members of the Virginia Retirement System. The Virginia Legislature for 2012 session changed some of the rules as to how the system is funded and how the employees have to contribute. There are three resolutions that we are required to execute in order for the IRS to know who’s paying what money. The first resolution is dealing with the 5% increase plus the holdback that is now required. The second resolution deals with an election the Commission is required to make. The Commission must choose which rate, either certified (6.04%) or alternate (4.23%) that is being offered, because a number of other political subdivisions had already been working on their budget before the Legislature adjourned. The Commission has budgeted for the 6.04% in part because the 4.23% will actually cost more over the next few years. Staff recommends adopting the 6.04%. The third resolution deals with a part-time employee the Commission had that was not eligible for benefits, but once the employee became full-time, that employee was in the position of being able to purchase (buy-back) the equivalent years of service from the part-time status. Staff recommends all three resolutions be approved.

*A motion was made by Commissioner O’Connell, seconded by Commissioner Fleming and unanimously passed to adopt all three resolutions as presented with a 6.04% rate in the second resolution.*

Member Contributions by Salary Reduction for Counties, Cities,  
Towns, and Other Political Subdivisions  
(In accordance with Chapter 822 of the 2012 Acts of Assembly (SB497))

**Resolution**

WHEREAS, the Potomac River Fisheries Commission 55427 employees who are Virginia Retirement System members who commence or recommence employment on or after July 1, 2012 ("FY 2013 Employees" for purposes of this resolution) shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis upon commencing or recommencing employment; and

WHEREAS, the Potomac River Fisheries Commission 55427 employees who are Virginia Retirement System members and in service on June 30, 2012, shall be required to contribute five percent of their creditable compensation by salary reduction pursuant to Internal Revenue Code § 414(h) on a pre-tax basis no later than July 1, 2016; and

WHEREAS, such employees in service June 30, 2012, shall contribute a minimum of an additional one percent of their creditable compensation beginning on each July 1 of 2012, 2013, 2014, 2015, and 2016, or until the employee's contributions equal five percent of a creditable compensation; and

WHEREAS, the Potomac River Fisheries Commission 55427 may elect to require such employees in service on June 30, 2012, to contribute more than an additional one percent each year, in whole percentages, until the employees' contributions equal five percent of creditable compensation; and

WHEREAS, the second enactment clause of Chapter 822 of the 2012 Acts of Assembly (SB497) requires an increase in total creditable compensation, effective July 1, 2012, to each such employee in service on June 30, 2012, to offset the cost of the member contributions, such increase in total creditable compensation to be equal to the difference between five percent of the employee's total creditable compensation and the percentage of the member contribution paid by such employee on January 1, 2012.

BE IT THEREFORE RESOLVED, that the Potomac River Fisheries Commission 55427 does hereby certify to the Virginia Retirement System Board of Trustees that it shall effect the implementation of the member contribution requirements of Chapter 822 of the 2012 Acts of Assembly (SB497) according to the following schedule for the fiscal year beginning July 1, 2012 (i.e., FY 2013):

Type of Employee	Employer Paid Member Contribution	Employee Paid Member Contribution
Plan 1	0%	5%
Plan 2	0%	5%
FY 2013 Employees	0%	5%

**(Note: Each row must add up to 5 percent.); and**

BE IT FURTHER RESOLVED, that such contributions, although designated as member contributions, are to be made by the Potomac River Fisheries Commission in lieu of member contributions; and

BE IT FURTHER RESOLVED, that pick up member contributions shall be paid from the same source of funds as used in paying wages to affected employees; and

BE IT FURTHER RESOLVED, that member contributions made by the Potomac River Fisheries Commission under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and

BE IT FURTHER RESOLVED, that nothing herein shall be constructed so as to permit or extend an option to VRS members to receive the pick up contributions made by the Potomac River Fisheries Commission directly instead of having them paid to VRS; and

BE IT FURTHER RESOLVED, that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of the Potomac River Fisheries Commission shall be reduced by the amount of

member contributions picked up by the Potomac River Fisheries Commission on behalf of such employee pursuant to the forgoing resolutions.

NOW, THEREFORE, the officers of Potomac River Fisheries Commission 55427 are hereby authorized and directed in the name of the Potomac River Fisheries Commission to carry out the provisions of this resolution, and said officers of the Potomac River Fisheries Commission are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Potomac River Fisheries Commission for this purpose.

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Joseph C. Palmer, Jr., Chairman, PRFC

Employer Contribution Rates for Counties, Cities,  
Towns, School Divisions and Other Political Subdivisions  
(In accordance with the 2012 Appropriation Act Item 468(H))

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**Resolution**

BE IT RESOLVED, that the Potomac River Fisheries Commission 55427 does hereby acknowledge that its contribution rates effective July 1, 2012 shall be based on the higher of a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium (the "Alternate Rate") provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code § 51.1-145(I) resulting from the June 30, 2011 actuarial value of assets and liabilities (the "Certified Rate"); and

BE IT ALSO RESOLVED, that the Potomac River Fisheries Commission 55427 does hereby certify to the Virginia Retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2012:

**(Check only one box)**

✓ The Certified Rate of 6.04%                      The Alternate Rate of 4.23%; and

BE IT ALSO RESOLVED, that the Potomac River Fisheries Commission 55427 does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understand the information provided by the Virginia Retirement System outlining the potential future fiscal implications of any election made under the provision of this resolution; and

NOW, THEREFORE, the officers of the Potomac River Fisheries Commission 55427 are hereby authorized and directed in the name of the Potomac River Fisheries Commission to carry out the provisions of this resolution, and said officers of the Potomac River Fisheries Commission are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by Potomac River Fisheries Commission for this purpose.

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Joseph C. Palmer, Jr., Chairman, PRFC

**Authorization to Pickup the Employees Contribution to VRS  
For Past Service Credit under §414(h) of the  
Internal Revenue Code**

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**Resolution**

WHEREAS, the Potomac River Fisheries Commission desires to provide its employees with tax deferral pursuant to § 414(h) Internal Revenue Code with respect to their member contributions to the Virginia Retirement System, the State Police Officers Retirement System and the Judicial Retirement System (collectively referred to as VRS) for the permissible purchase of past service credit by picking up member contributions to the VRS; and

WHEREAS, the pick up is authorized under Virginia Code Sections 51.1-142.2; as such Code has been or may be amended from time to time

WHEREAS, the VRS keeps track of such picked up member contributions, and is prepared to treat such contributions as employee contributions for all purposes of VRS;

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the first pay day on or after the later of June 7, 2012 or the date the member executes a binding and irrevocable salary reduction election relating to the past service permitted to be purchased, the Potomac River Fisheries Commission shall pick up all or a portion of the member contributions of its employees to VRS based on the terms of the salary reduction election, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED, the binding salary reduction election to be executed by the member shall include the following: (1) the beginning and ending date of the election, (2) the amount of the salary reduction on a pay period by pay period basis, (3) the total amount of contribution expected to be involved, (4) a statement that the member may not receive the contributed amounts instead of having them paid by the Potomac River Fisheries Commission to the VRS, and (5) an agreement that the member will not purchase the service credit through a lump sum payment during the period in which the salary reduction election is in effect, and it is further

RESOLVED, the member may revoke the salary reduction election only in the event of an unforeseeable emergency as that phrase is used and defined in IRC Section 457 and Treasury Regulation Section 1.457-2(h) (4) and if such a revocation is made, the member may not make a new salary reduction election during his period of employment, and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the Potomac River Fisheries Commission in lieu of member contributions; and it is further

RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED that member contributions made by the Potomac River Fisheries Commission under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the Potomac River Fisheries Commission directly instead of having them paid to VRS; and it is further

RESOLVED that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of the Potomac River Fisheries Commission shall be reduced by the amount of member contributions picked up by the Potomac River Fisheries Commission on behalf of such employees pursuant to the foregoing resolutions.

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Joseph C. Palmer, Jr., Chairman, PRFC

**New Business**

Elgin Nininger, Vice-chairman of the Crab Advisory Committee, asked the Commission what their intentions were regarding natural seed planning on public oyster bars. He explained the Commission collected a \$50 Commercial License Registration fee (CLR) this year. He noted that those funds were to be earmarked for oyster repletion. The last report he heard, the funds should total around \$30,000. He advised that there are private oyster grounds that have been planted and are thriving in nearby creeks and rivers. He suggested the Commission look into deciding where the oyster seed should get planted and move forward with this.

Chairman Palmer stated he didn't feel this was the time or place to have the Commission address those concerns. He suggested Mr. Nininger follow up with Mr. Carpenter.

Commissioner Schick noted that one of the phases of the Blue Ribbon Oyster Panel (BROP) is to look at diploid oyster repletion and making it a sustainable fishery. He felt that was something the Commission would be looking at in the near future. Mrs. Cosby stated as part of the BROP report, they asked the Oyster/Clam Advisory Committee to discuss a future diploid program.

Mr. Nininger stated he would like to by-pass the discussions and reports because they have been studied and the grounds have been sampled. The more time you take to do the research, the less time there is to plant and grow oysters.

**Date and Place of the Next Meeting**

The next Commission meeting is scheduled for August 30, 2012 at 9:00 a.m. and will include a public hearing.

**Sammie Dean Dorough, Jr. – Complaints and Concerns**

Mr. Dorough asked to address the Commission. He stated he had a lot of problems with the Potomac River Fisheries Commission. He said he had five issues he was concerned with.

1. Two Licenses on One Boat – his family currently owns two crab pot licenses and his son recently turned 14. He wants to transfer the license into his name and obtain the two licenses on one boat permit. Conditions for that permit state that each licensee has to have actively crabbed for 30 days in the last two years. He's frustrated that he and his son will not qualify for this permit right away.
2. Crab Size Limit – He feels having a 5 ¼" and a 5 ½" size limit in the Potomac is ill advised. He says an 8" crab is being produced in the Potomac River for nothing. When September comes the 8" crab is not marketable. What's the sense of producing an 8" crab when it's useless. He doesn't understand what the purpose is for producing a big crab that large with no market.
3. Crab Pot ID Tags/Decals – He doesn't like this idea at all. The pressure washers cut off the decals and the water and sun fade the tags so that they are unreadable. He is at a disadvantage without being able to switch out crab pots for cleaning with a limited amount of decals/tags issued.
4. Crab Pot Transfers – He feels that crab pot transfers should be transferred for the original

number of pots allowed and not automatically reduced to a 300 pot license.

5. Time Limit – He supported the current time limit for crabbing stating it allowed kids who were still in school to work later in the evenings if needed. He said children don't want to work as it is.

Chairman Palmer stated he appreciated Mr. Dorough's comments and stated he was not the first watermen to come before the Commission and disagree with the Regulations in place. He suggested the Mr. Dorough attend the advisory committee meetings and voice his concerns there in effort to influence the various committees to recommend making changes.

### **Kenneth William Wicker – Request to Extend the Gill Net Season**

Mr. Wicker asked the Commission to consider extending the gill net season by opening the season earlier than November 14<sup>th</sup>. He said there have been poor results and he would like the season to open on November 1<sup>st</sup> as it traditionally used to. He stated Virginia has an open year round season and only closes for 15 days. He's curious why the Potomac River is so restrictive in comparison to other user groups.

Mr. Carpenter stated the Commission does not sell very many licenses in the beginning of November because there are not that many people fishing. This past year there were complaints from a number of other user groups that were still fishing at that time. The Commission agreed that the middle of November was early enough to start the season. This is an issue that Mr. Wicker brings up at every meeting.

Mr. Wicker stated that since the moratorium was lifted, the season used to open the 1<sup>st</sup> of November. In reference to other user groups, he has fishermen trolling around his nets in January. The gill nets are required to be marked and should not interfere with navigation.

Commissioner Travelstead explained that the Virginia gill net season is currently open for 11 months and there is a proposal to extend that time frame an additional two weeks in January. The reality is, in the lower Chesapeake Bay and Virginia Ocean we face a number of federal regulations dealing with protecting marine mammals and porpoises that require certain gill net mesh sizes. That literally prevents our fishermen from fishing during a large part of the season, when it's technically open but they are not actually able to fish for quite a few months of the year. As a result of that loss of fishing time, Virginia is proposing to add those two additional weeks onto the season in January as an accommodation. It's nowhere near 11 ½ months of gill net fishing in Virginia, although that is how it appears on paper.

### **Executive Session – 11:30 a.m.**

*Chairman Palmer announced the Commission would break to discuss legal matters.*

### **Reconvene – 11:45 a.m.**

*Chairman Palmer took a roll call vote to show that only legal matters were discussed during the executive session. All Commissioners agreed.*

**Artwork**

Mr. Carpenter announced the artwork displayed in the hearing room is by Dr. Pete Farney. He is a local artist from the area who photographs local watermen from time to time.

**Adjourn**

The meeting adjourned at 11:50 a.m.

Respectfully submitted,

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Joseph C. Palmer, Jr., Chairman

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Ida C. Hall, Secretary