

**PROCEEDINGS OF THE  
ATLANTIC STATES MARINE FISHERIES COMMISSION  
BUSINESS SESSION**

**The Francis Marion Hotel**  
Charleston, South Carolina  
November 10 & 11, 2010

Approved March 23, 2011

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2. **Move for approval of the 2011 ASMFC Action Plan as modified** (Page 2). Motion by Patton White; second by Rep. Abbott. Motion carried (Page 2).
3. **Approval of the Resolution** by consent (Page 5)
4. **Adjourn** by consent (Page 13).

## ATTENDANCE

### Board Members

George Lapointe, ME (Chair) (AA)	Gene Kray, PA, proxy for Rep. Schroder (LA)
Terry Stockwell, ME, Administrative Proxy	Roy Miller, DE (GA)
Sen. Dennis Damon, ME (LA)	Craig Shirey, DE, proxy for P. Emory (AA)
Pat White, ME (GA)	Bernie Pankowski, DE, proxy for Sen. Vanables (LA)
Rep. Dennis Abbott, NH (LA)	William Goldsborough, MD (GA)
Ritchie White, NH (GA)	Tom O'Connell, MD (AA)
Paul Diodati, MA (AA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
David Pierce, MA, Administrative Proxy	Steve Bowman, VA (AA)
William Adler, MA (GA)	Jack Travelstead, VA, Administrative Proxy
Rep. Sarah Peake, MA (LA)	Catherine Davenport, VA (GA)
Mark Gibson, RI, proxy for B. Ballou (AA)	Louis Daniel, NC (AA)
Rep. Peter Martin, RI (LA)	Malcolm Rhodes, SC (GA)
Lance Stewart, CT (GA)	Robert Boyles, Jr., SC (LA)
Rep. Craig Miner, CT (LA)	John Duren, GA (GA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Pat Augustine, NY (GA)	Jessica McCawley, FL (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Sen. Thad Altman, FL (LA)
Tom Fote, NJ (GA)	A.C. Carpenter, PRFC
Gilbert Ewing, NJ, proxy for Asm. Albano (LA)	Jaime Geiger, USFWS
Leroy Young, PA, proxy for J. Arway (AA)	Steve Meyers, NMFS
Loren Lustig, PA (GA)	

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

### Ex-Officio Members

Bob Beal  
Vince O'Shea

Kate Taylor

### Guests

Earl Meredith, NEFSC

The Business Session of the Atlantic States Marine Fisheries Commission convened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, Wednesday, November 10, 2010, and was called to order at 3:50 o'clock p.m. by Chairman Robert H. Boyles, Jr.

### **CALL TO ORDER**

CHAIRMAN ROBERT H. BOYLES, JR.: We're going to convene the business session of the commission.

### **APPROVAL OF AGENDA**

CHAIRMAN: What I would like to do is seek your consent on the agenda. The agenda was sent out on the briefing CD. There are a couple of additions I would like to suggest. I did not deliver the Chairman's Address last night in favor of the more casual crowd, but I would ask for your permission to do that at the end of this agenda.

Any other additions to the agenda? All right, seeing none, any objection to the approval of the agenda as amended. The agenda is approved as amended.

### **PUBLIC COMMENT**

Now is the time on the agenda where we have public comment for those folks who wish to address the commission on items that are not on the agenda. I know we have had a request from a guest, Mr. John Pappalardo from the New England Fishery Management Council. Mr. Chairman, come on up and welcome to Charleston and welcome to the commission.

MR. JOHN PAPPALARDO: Thank you, Mr. Chairman. First off, I understand you're already slightly behind, and I can appreciate how deliberations can drag on, but it is important that everybody has an opportunity to have their say. I appreciate your making time in your agenda for me. I just wanted to make a couple of quick remarks, the first being that I really the hospitality that you all have shown with last night's event and my opportunity here.

I feel like I've really been welcomed and had an opportunity to have sidebars with a lot of you and begin to understand more of what the Atlantic States Marine Fisheries Commission is all about and how it differs from the New England Council but also how it is very similar and how you all are tacking the same problems that we are on the federal waters.

I think in talking with Chairman Robins, he has more experience with the Atlantic States than the New England Council does by the very nature of joint management with you on many species. New England doesn't have a similar experience, but at the same time as I sat through many of your meetings over the past few days, a common theme has emerged, which is a declining resource base from which to advance fisheries management, a tightening of the belt at the state level and at the federal level.

I think it is incumbent upon this body and the federal councils to find a way to formalize relationships and partnerships to deal with these difficult times. That's basically what I wanted to get across to you today. I intend to write a letter with the help of my executive committee to the Atlantic States and to the Mid-Atlantic Council and the South Atlantic Council with some ideas that I have concerning the creation of a fund from which we can draw upon to mitigate some of the declining financial resources that we're dealing with. As I put more thought into that, I'll transmit that letter to you and to the other bodies. I appreciated your time and thank you very much for your hospitality.

CHAIRMAN BOYLES: John, thank you and welcome again. I appreciate those comments. Any other member of the public wishing to make comments at this time?

### **2011 ASMFC ACTION PLAN**

CHAIRMAN BOYLES: Seeing none, we will move right into Item Number 5, which is review and consideration and approval of the 2011 ASMFC Action Plan. Recall we had the Action Plan Workshop in this room yesterday morning. There was some discussion and some changes made. Bob, do you want to go over some of the modifications.

MR. ROBERT E. BEAL: In my notes I have five of those from yesterday. They're up on the board right now. The bulk of them just amount to wording changes to reflect actions that took place earlier in the week or last week in the case with Northern Shrimp. We're going to add wording the Northern Shrimp Section initiated an amendment that will be started next year in 2011.

For Atlantic herring we're going to take off Addendum II and the current draft because that was actually completed yesterday. We're going to include or add Addendum IV for the workload for the Herring Section. For Atlantic striped bass we're going to add the assessment update that was agreed to by the management board yesterday.

For Atlantic menhaden we're going to add the technical committee charge to evaluate what it would take to meet the current biological reference points that are included in the fishery management plan. Finally, for horseshoe crab, the cost of the benthic survey was listed at \$300,000, but we have an updated proposal and it is just over \$201,000. Those are the changes that I got down as we went through the Action Plan from yesterday.

CHAIRMAN BOYLES: Pat White.

MR. PATTEN D. WHITE: **I would move for approval of the 2011 ASMFC Action Plan as modified.**

CHAIRMAN BOYLES: All right, motion by Pat White; seconded by Representative Abbott. Any discussion on the motion? Seeing none, all in favor of the motion please signify by raising your right hand; all opposed raise your right hand; null votes; abstentions. **The motion carries 15 in favor, zero opposed, zero abstentions and zero null votes.** The next item on the agenda, Item 6, elections, I'm going to relinquish the chair to our executive director.

#### **ELECTION OF COMMISSION CHAIR AND COMMISSION VICE-CHAIR**

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman, good afternoon. Recall that last fall the commission adopted a procedure to elect officers, and I'm going to review that process very quickly for you. Ballots will be distributed to state delegations at the commission business session when the election is held. Each state delegation will receive one ballot and cast one vote based on the result of the caucus of the commissioners from that state. State delegations will be provided the opportunity to support a write-in candidate.

A state should verify the interest of a write-in candidate before submitting their names on a ballot. In the event that more than two candidates receive votes for either chair or vice-chair, a runoff will be conducted between the two candidates that received the most votes. In the event of a tie, a vote will be retaken until there is a majority winner.

The nominations committee will tally the votes and report results to the commission after each vote. That is the process that was adopted by the commission last year. I'm going to call on the chair of the nominating committee, Jack Travelstead.

MR. JACK TRAVELSTEAD: In keeping with that new policy the nominating committee, which consisted of Brian Culhane, Spud Woodward and me, contacted over the last several weeks all of the commissioners to, one, determine their interest in being listed as a nominee; two, their interest in seeing that another commissioner be nominated; and, three, whether or not that person would in fact be willing to serve. **We've completed that process and wish to place in nomination Robert H. Boyles, Jr., for the position of chair and Paul Diodati for the position of vice-chair.**

EXECUTIVE DIRECTOR O'SHEA: Thank you, Mr. Travelstead. I think since we only have one ballot, there is also room for a write-in, but I would ask that the commissioners vote on that ballot and Mike Howard would pick them up. Mr. Travelstead.

MR. TRAVELSTEAD: Mr. Chairman, **I am pleased to announce the election of Robert Boyles as chair and Paul Diodati as vice-chair.**

EXECUTIVE DIRECTOR O'SHEA: Okay, Chairman Boyles, I would ask you to assume the chair. Thank you very much, commissioners.

#### **CHAIRMAN'S REMARKS**

CHAIRMAN BOYLES: Thank you, again, I appreciate this. This has been a delightful and very much a learning experience. To our vice-chair, Paul Diodati, congratulations as well. It has been a great year and I look forward to another great year. The next item on the agenda is other business. Again, what I would like to do is use this opportunity to provide you with some comments that I guess typically have been delivered at the annual meeting, but we thought that perhaps today may be a more appropriate venue in an effort to allow folks to just let their hair down a little bit last night, which I hope a few of you were able to do at least.

I want to start by thanking you all for your confidence in me, and I look forward to working with all of you in the next year to address the various challenges that our commission faces. In preparing my chairman's report, I was struck by the reality that a year has gone by since our last annual meeting in Rhode Island, and it has brought us one year closer to our self-selected deadline of 2015 for restoring the stocks under our stewardship.

The Action Plan Report presented to you, and which we have just recently approved, describes our activities over the past year, and I think we need to be equally attentive to our results. I would like to

describe four things to you that I would like to see us as commissioners accomplish in the coming year. Those four things would be, number one, I would like for us to collectively have a clear understanding and agreement on what our job is. Secondly, I would like to take action that will result in moving some of our yellow and red stocks towards green status. Thirdly, I would like us to operate as a group where everyone buys into the mission. And, finally, I would like and challenge us to be consciously building a cadre of leaders who will be prepared to take our place.

Most folks around this table are proud of our collective decision to purchase new office space this year, and I think that reflects the fact that commissioners had a vision of where they wanted us to be ten years into the future. They acted this year to make that happen, and I think that is something for which we should all be proud.

This project had originated with considerable uncertainty, certainly a degree of risk, a burden to the staff, and quite frankly opposition from some of us. In the end, however, the majority came to the conclusion that this action would be in the long-term interest and benefit of our commission. It was not an easy decision to make or an easy action to execute.

Compared to the value of the fisheries under our cognizance, I think this was a relatively minor decision. However, it contains an important lesson, and that lesson is that actions and our decisions or our lack thereof would determine where we end up five or ten years from now. We face risks from our inaction in fisheries.

Besides public criticism voiced at our meetings about this perceived trend, our stakeholders are evolving. They are prepared to use litigation when we fail to meet their expectations regarding our responsibility to protect and restore fisheries. In the case of our river herring suit, we will argue that there is no basis in law for such challenges, and we will expect to prevail.

But in so doing we run the risk of reinforcing the notion that we are an entity unwilling to act and immune to legal direction to do so. I'm concerned that this will leave stakeholders to choose between accepting the status quo or changing the fundamental federal law by which we operate. In addition, for each stock that moves from yellow to red, each time a board defers action and each time an ineffective measure is adopted, I believe we lose credibility.

This casts doubt on our abilities as fisheries managers and our commitment to our public trust

responsibilities. We now have stocks that are at such low levels that many of us believe that they are not capable of recovering. In most cases these levels have resulted from decisions made by others not to act, but today we have stocks that are important to our commission and to our states that are trending down, and our actions over the next year will determine where those stocks will be in ten years.

I think we all agree that we have a great staff at the commission, and with the ACCSP online we've got better data than our predecessors had. We also have a proven governance and compliance process as well as various stakeholder groups who are willing to support us. The tools are all in place if we choose to use them, but all of these things, including the new office, won't mean a thing if we fail to act.

I believe that we have a duty to collectively work together to make the difficult decisions that will enable us to hand off to our successors healthy and abundant stocks, not a longer list of depleted species. If we are not, as a commission, committed to doing that, then I wonder what it is that we should tell the public, our congressional overseers and what we should tell my children and your children when they ask what happened to the fish?

As Chair I would ask that you all reflect on these words and in the remaining time that we're here in Charleston together, please talk among yourselves about how you can help me and our Administrative Oversight Committee leadership team move forward to address these important challenges. Thank you. Any other business to come before the business session? Mr. Travelstead.

MR. TRAVELSTEAD: Well, I just want to reflect on your comments, Mr. Chairman. I thought your comments were right on target, needed to be said, and I hope that will be a rallying point for all of us around the table. Every one of the states around this table can point to tough decisions that we have had to make and have made to help recover a stock.

At the same time we can all also hold up decisions that we didn't make or didn't want to make, and it is in those cases that we need the rest of us around the table to bolster us to make those tough decisions. I think your comments to us tonight should be the beginning of that bolstering process. I just wanted you to know I appreciate it. Thank you.

MR. P. WHITE: Mr. Chairman, I really appreciate your comments, too, and I would like very much to have a copy of that, if I could, please, and it might do

well for all us to have a copy as a reminder as we go through the next year.

CHAIRMAN BOYLES: Thank you, Pat. Any other business? Paul.

MR. PAUL DIODATI: Thanks for that, Pat, I agree and I would like a copy of that as well. This is an important association and associations are about partnerships, friendships, and when we leave these meetings we're thinking about managing these fisheries, although it is a struggle, but we all as agency heads have other problems to deal with on a day-to-day basis. If I can do anything to encourage us to stay in contact to help solve even those other problems that we deal with as agency leaders, I think that would make our commission stronger in the long run. I appreciate what you said and look forward to the next year.

CHAIRMAN BOYLES: Thanks, Paul. Any other business to come before the business session? We will stand in recess until tomorrow.

(Whereupon, the meeting was recessed at 4:10 o'clock p.m., November 10, 2010.)

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NOVEMBER 11, 2010

THURSDAY SESSION  
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The Business Session of the Atlantic States Marine Fisheries Commission reconvened in the Carolina Ballroom of the Francis Marion Hotel, Charleston, South Carolina, Thursday, November 11, 2010, and was called to order at 2:00 o'clock p.m. by Chairman Robert H. Boyles, Jr.

CHAIRMAN BOYLES: I would like to reconvene the business session for the Atlantic States Marine Fisheries Commission. I would like to convene an appreciation for and recognition of the years of service for the following staff, Brad Spear, Nichola Meserve, Linda Schwab, and Mike Howard, who have left or will be leaving soon. I also ask us to convene in honor of those who have served in our Armed Services for this nation in recognition of Veterans Day.

With that, are there any additions to the agenda? Seeing none, any objections to approval of the agenda? Seeing none, Tom.

MR. THOMAS FOTE: Did I miss something; did we ever do a resolution for South Carolina thanking them for hosting the annual meeting?

CHAIRMAN BOYLES: You're right in front of me; it is coming next. Any additions to the agenda? All right, seeing none, anyone wishing to make public comments before the commission at this time? Seeing none, there are no non-compliance recommendations, so we're going to have a report from the Resolutions Committee, Jim Gilmore.

## RESOLUTIONS COMMITTEE REPORT

MR. JAMES GILMORE: Mr. Chairman, I have one resolution that I would like to present, and I would also like to thank Laura Leach and Representative Peake for their assistance on this. I'm going to read this. You will have to bear with me because I am challenged with my northern accent, so I hope I can do this justice.

WHEREAS, the Atlantic States Marine Fisheries Commission conducted its 69<sup>th</sup> Annual Meeting in the historic city of Charleston, South Carolina, which provided a magnificent venue for the commissioners, commission staff, and Law Enforcement, Management and Science, Habitat, and ACFHP Committee members to deliberate on issues of mutual concern, and;

WHEREAS, the weather was spectacularly gorgeous with a crisp and blustery start of the week followed by warm and glorious southern autumn days with incredible sunsets, and;

WHEREAS, the meeting began with the southern hospitality of the South Carolina contingent at the McBee House at Ashley Hall, including the previously hidden spouse of Malcolm Rhodes, and provided the perfect venue to renew old friendships and start many new ones, and;

WHEREAS, the Atlantic States Marine Fisheries Commission Family contributed significantly to the economy by frequently and tenaciously exploring the local cuisine, waterfront, market streets, historic sites and purchase of the very reasonably priced sweetgrass baskets, and;

WHEREAS, the spousal tour was greatly enjoyed and many of the northern spouses finally learned how to speak proper English, including such obvious words as "far wood (what you burn in a fireplace), a far (when your house is burning down), supper (southern version of dinner), raffle (a long-barreled firearm), clone (what women put on to smell nice),

retard (when you stop working at the end of your career), and, of course, the plural form of y'all... "all y'all.;

WHEREAS, the 19<sup>th</sup> Annual Laura Leach Fishing Tournament produced some of the most elusive target fish species but would not thwart the best of the commission anglers in posting winning catches, and;

WHEREAS, the Annual Dinner at Fort Johnson provided a magnificent cruise, phenomenal sunset, outstanding southern cuisine, exceptional musical entertainment and an extremely healthy and recently rebuilt population of no see 'ums, and;

WHEREAS, Robert "Thunder Fingers" Boyles (TF to his friends) musically entertained the commission and is now considering abdicating his positions as ASMFC Chair and DNR Deputy Director to pursue a life on the road as the new bass player for the band Butterbeans and Fatback, and;

WHEREAS, the 20<sup>th</sup> Annual David H. Hart Award recognized John Frampton for his tremendous contributions to the successful management of marine fisheries along the Atlantic coast, and;

WHEREAS, the commissioners' annual photo was yet again another exercise akin to herding cats but masterfully accomplished through the exemplary professional and combined talents of Laura Leach and Tina Berger, and;

WHEREAS, on November 9, 2010, Charleston, South Carolina, was named the friendliest city in America on NBC national television obviously from the presence of the ASMFC Family but especially the northern representatives, and;

NOW, THEREFORE, BE IT RESOLVED, that the Atlantic States Marine Fisheries Commission expresses its deep appreciation to the South Carolina commissioners, John Frampton, Robert Boyles, Malcolm Rhodes; and their better halves, Liz Boyles, Caroline Rhodes and all the staff of the Department of Natural Resources, especially Maia Ingle, for their terrific assistance in the planning and execution of this outstanding 69<sup>th</sup> Annual Meeting and showing all of us the true meaning of southern grace and hospitality. A good time was had by all y'all. (Applause)

CHAIRMAN BOYLES: **Is there a motion to accept that resolution? So moved; is there a second? Any opposition? Thank you.** Any other business to come before the business session? Vince.

EXECUTIVE DIRECTOR O'SHEA: Just one issue; there had been some question about, Mr. Chairman, why the South Atlantic Board was put on the very end of our agenda. Being as we're in the south and it looks like they were put toward the end, but it was a conscious decision made realizing that if we did put them last, it would increase the probability of folks from the northern states being able to start traveling and get home tonight and thinking that the last meeting to end, if it was the southern members, travel-wise it would work out a little better. It was a conscientious decision based on travel concerns, Mr. Chairman.

CHAIRMAN BOYLES: Vince, thank you for the record; and just so the rest of you know, Paul and I review these draft schedules. The chair and the vice-chair shared this so I thought that was good. Representative Peake.

REPRESENTATIVE SARAH K. PEAKE: I guess a question first and that is has the report been given yet from the legislators and governors appointees luncheon and meeting that we had?

CHAIRMAN BOYLES: Yes, ma'am.

REPRESENTATIVE PEAKE: Okay, I'm a day late and a dollar short, but thank you.

## ADJOURNMENT

CHAIRMAN BOYLES: Terrific! Any other business to come before the commission? All right, the commission will stand adjourned and thank all y'all for a great time down this way. It has been a real delight! Dr. Rhodes.

DR. MALCOLM RHODES: Well, I just want a point of clarification for you non-English speakers, "youse guys", "y'all" is the plural of "you". In the south we still enjoy to you but I enjoy speaking to y'all. We still recognize the difference between singular and plural, which most of the English language has chosen to forget. Thank you.

CHAIRMAN BOYLES: All right, y'all; see y'all in March.

(Whereupon, the meeting was adjourned at 2:07 o'clock p.m., November 11, 2011.)