

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

**Hyatt Regency Hotel
Newport, Rhode Island
November 4, 2009**

Approved February 3, 2010

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1. **Approval of Agenda** by consent (Page 1).
2. **Approval of Proceedings of August, 2009** by consent (Page 1).
3. **Move to approve a resolution on the importance of habitat connectivity to commission-managed species** (Page 2). Motion by Louis Daniel; second by Bill Goldsborough. Motion passed (Page 3).
4. **Move to approve the 2009 ASMFC Action Plan** (Page 4). Motion by Robert Boyles; second by Pat White. Motion passed (Page 4).
5. **Adjourn** by consent (Page 6).

ATTENDANCE

Board Members

George Lapointe, ME (Chair) (AA)	Leroy Young, PA, proxy for D. Austen (AA)
Terry Stockwell, ME, Administrative proxy	Eugene Kray, PA, proxy for Rep. Schroder (LA)
Pat White, ME (GA)	Craig Shirey, DE, proxy for P. Emory (AA)
Sen. Dennis Damon, ME (LA)	Roy Miller, DE (GA)
Douglas Grout (AA)	William Goldsborough, MD (GA)
Rep. Dennis Abbott, NH (LA)	Tom O'Connell, MD (AA)
Ritchie White, NH (GA)	Russell Dize, MD, proxy for Sen. Colburn (LA)
Paul Diodati, MA (AA)	Jack Travelstead, VA, proxy for S. Bowman (AA)
William Adler, MA (GA)	Catherine Davenport, VA (GA)
Ben Mertens, MA, proxy for Rep. Peake (LA)	Louis Daniel, NC (AA)
Bob Ballou, RI (AA)	Red Munden, NC, proxy for W. Cole (GA)
Mark Gibson, RI, Administrative proxy	John Frampton, SC (AA)
Kelly Mahoney, RI, proxy for Sen. Sosnowski (LA)	Malcolm Rhodes, SC (GA)
David Simpson, CT (AA)	Robert Boyles, Jr., SC (LA)
James Gilmore, NY (AA)	Spud Woodward, GA (AA)
Pat Augustine, NY (GA)	John Duren, GA (GA)
Brian Culhane, NY, proxy for Sen. Johnson (LA)	Rep. Bob Lane, GA (LA)
Gil Ewing, NJ, proxy for Asm. Albano (LA)	Jessica McCawley, FL (AA)
Tom McCloy, NJ, proxy for D. Chanda (AA)	Bob Ross, NMFS
Tom Fote, NJ (GA)	A.C. Carpenter, PRFC

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

Ex-Officio Members

Staff

Vince O'Shea
Bob Beal

Toni Kerns

Guests

John Ward, NMFS
Sally McGee, Environmental Defense Fund
David Cupka, SAFMC
Derek Orner, NMFS
Peyton Robertson, NOAA
Bob Bowes, PRFC
Harold Mears, NMFS
Dave Gouveia, NMFS

John Pappalardo, NEFMC
Dan McKiernan, MA DMF
Gordon Colvin, NOAA
Chip Lynch, NOAA
Richard Robins, MAFMC
Mike Fogarty, NEFSC, NOAA
Arnold Leo, E. Hampton, NY
Bernie Pankowski, DE

The Business Session of the Atlantic States Marine
Fisheries Commission convened in Brenton Hall of

the Hyatt Regency Newport Hotel, Newport, Rhode Island, November 4, 2009, and was called to order at 2:27 o'clock p.m. by Chairman George D. Lapointe.

CALL TO ORDER

CHAIRMAN GEORGE D. LAPOINTE: This is the Business Session of the Atlantic States Marine Fisheries Commission. There were agendas, I believe, at the back of the room.

APPROVAL OF AGENDA

CHAIRMAN GEORGE D. LAPOINTE: I have two changes to the agenda. One is under other business. Vince is going to discuss a discussion item on voting procedures.

We are trying something new this year. I am going to give my chairman's remarks at the Business Session rather than at the nighttime meeting. I would appreciate people's input on how this works, but at the nighttime meeting it's hard to listen. I will do that right public comment. Are there any other changes to the agenda? Seeing none, we will consider it accepted.

APPROVAL OF PROCEEDINGS

We had proceedings from the August 2009 Business Session on our briefing CD. Are there any changes to those proceedings? Seeing none, without objection, we will consider those approved.

PUBLIC COMMENT

Agenda Topic 4 is public comment. Are there any members of the public who want to comment on issues not on the agenda?

CHAIRMAN'S REMARKS

Seeing none, we will to my chairman's remarks. As I complete my third year as chairman, I want to recognize and thank all of you who worked so hard to support our process. I continue to be gratified and awed by our dedicated and talented staff. Under the leadership of Vince, Laura, Bob and Pat, our staff frames the issues for us, prepares analyses, coordinates our scientific advice, collects public input, plans our meetings and carries out our decisions.

They do all of this and more and they make it look easy. I know this is a lot of hard work and so I want to thank staff personally for all of your hard work and

your friendship as well, so thank you very much. I'm also grateful for the efforts and the expertise of state and federal scientists who serve on our technical committees and work so hard to provide us scientific advice that we need to get our jobs done as fisheries managers.

I know most of these folks have a daytime job so they're doing it in addition to what they do at their respective agencies. It should be pretty clear to us all that our issues have become more contentious and the demands for more frequent and detailed scientific analysis increases, adding to the scientists' work as well.

I also want to acknowledge and thank the contributions of our federal partners, both NOAA Fisheries and the Fish and Wildlife Service. They bring critical resources to our process in the areas of science, data collection, fiscal resources, and when they sit on our boards, management expertise as well. We need you and I want to publicly say thanks to our federal partners. Collectively, we're also fortunate to have a broad range of concerned and engaged stakeholders. These are the folks who serve on our advisory panels, who attend our public meetings, and who comment on our proposed actions.

Their participation adds important elements of transparency and accountability toward deliberations and actions. Finally, I want to thank you, my fellow commissioners, for your support and participation. Our LGA commissioners serve without compensation, volunteering your time to study the issues, attend public meetings and to travel to commission meetings.

For all of us, the days we spend away from home attending to commission business are days away from our homes and families, so I want to personally thank all the commissioners as well again for your dedication and your friendship. With regard to our accomplishments this past year, I think a quick glance at our Action Plan Report will indicate to all of you both the volume and the importance of the issues we have dealt with.

In the area of science we saw the completion of major benchmark assessments for lobster, weakfish and red drum. We also have another year of the NEAMAP cruises under our belt, bringing us closer to having a new and important source of fisheries-independent data for species of great importance to our commission.

Gordon's comments were certainly very well timed in terms of showing us the progress that's made that sometimes we miss because we're so close to it. We

should all be encouraged with the progress of our Habitat Program. The Atlantic Coastal Fish Habitat Partnership has been formally recognized under the National Fish Habitat Partnership.

This important designation now opens up opportunities for the partnership to compete for funds to support actual progress for restoring or protecting habitat along our coast. With regard to our mission to manage and restore fisheries, we have taken actions this past year to respond to declining populations of river herring, winter flounder and weakfish.

We have also been able to add bluefish, scup and black sea bass to the inventory of rebuilt stocks. These results should be encouragement to all of us regarding the importance and the value of our work. Looking forward I see a number of challenges before us. We have a new administration in Washington along with new leadership in NOAA that bring new energy and perspectives to fisheries management.

Our ASMFC rebuilding deadline of 2015 is now a year closer, adding urgency to our rebuilding efforts for a number of our species. States governments continue to undergo declining fiscal resources impacting our staffs and reducing our abilities to respond to scientific and management challenges.

The Magnuson-Stevens reauthorization requirements are now making important changes as to how councils do business, changes that directly impact our commission process on joint plans. It goes without saying that allocation issues remain with us and will likely become even more contentious in time. Underlying these issues is the ever-present need for more data and science. While the challenges are daunting, I'm encouraged by our track record of being able to solve problems through the commission.

Our commission is a proven forum for states to come together to air and resolve differences. The commission has earned credibility through its accomplishments and a management process proven to be effective and efficient. We have a dedicated and passionate staff, the envy of many agencies. Thanks to the collective oversight of our Executive Committee and the cost-conscious nature of our staff, our commission continues to enjoy a sound financial status.

Our greatest strength and asset, however, in my view, is our dedicated commissioners. You all bring valuable and diverse expertise and backgrounds to our process. Your states values of stewardship,

integrity, transparency, accountability, and courage and respect have been the hallmarks of our commission.

In closing, I would simply reflect back to 1942 when our states came together with the recognition of what could be accomplished by working together; that through cooperation the states could accomplish more than operating on their own. That principle was true then and it holds true today, and it gives us confidence in our ability to successfully manage the challenges of the future. Thanks very much. (Applause) The next agenda topic is the report of the Resolutions Committee; is that you, Lou.

RESOLUTIONS COMMITTEE REPORT

DR. LOUIS DANIEL: Yes, sir. The Resolution Committee has been hard at work. Laura, thank you very much for your help. We have two resolutions to bring forward to the group today. The first is a resolution on the importance of habitat connectivity to commission-managed species:

WHEREAS, the Atlantic States Marine Fisheries Commission has a vision of healthy, self-sustaining populations for Atlantic coast fish species or successful restoration well in progress by 2015: and

WHEREAS, many diadromous fish stocks are experiencing population declines; and

WHEREAS, populations of diadromous fishes are being blocked from historic habitat by dams, road crossings and thermal barriers; and

WHEREAS, there is a continued need to support habitat connectivity projects that allow migratory fish to reach suitable historic spawning and nursery habitat to foster the restoration of diadromous populations; and

WHEREAS, there is a continued need to fill knowledge gaps in fish passage research;

NOW THEREFORE BE RESOLVED that diadromous fishes should be provided with safe, timely and effective fish passage to suitable historic spawning and nursery habitat: and

BE IT FURTHER RESOLVED that dam removal should be utilized whenever feasible; and

BE IT FURTHER RESOLVED that methods of determining effectiveness should be refined; and

BE IT FURTHER RESOLVES that fish passage projects, including dam removals, should be monitored at least periodically to determine fish passage success; and

BE IT FURTHER RESOLVED that adaptive management should be utilized to address ineffective fish passage projects and changing priorities; and

BE IT FURTHER RESOLVED that sources should be dedicated to research and evaluation to improve fish passage structures for target species; and

BE IT FURTHER RESOLVED that the Atlantic States Marine Fisheries Commission will encourage the development of regional or range-wide conservation plans to identify water bodies and river basins crucial for restoring and maintaining viable populations of diadromous fishes along the Atlantic coast; and

BE IT FURTHER RESOLVED that the Atlantic States Marine Fisheries Commission will work with states to develop and achieve coast-wide fish passage targets by 2012.

On behalf of the committee, I'll make that in the form of a motion that we accept that.

CHAIRMAN LAPOINTE: Thank you, Louis. Questions or comments on the motion? Bill Goldsborough.

MR. WILLIAM GOLDSBOROUGH: Second the motion.

CHAIRMAN LAPOINTE: Thank you. I have a question. Go back to the statement where it talks about dam removal wherever possible. A number of the states, my own included, are trying to balance fish passage needs with renewable energy needs. I'm not entirely comfortable with that particular part of the statement. It strikes me that it should say rather than "wherever possible", "where appropriate; because for those of us who have dual responsibilities, it strikes me that is a better statement to go with.

DR. DANIEL: The actual statement is that dam removals should be utilized whenever feasible. That doesn't help? How would you suggest it be changed?

CHAIRMAN LAPOINTE: I like "where appropriate" better, but again that might be my own bias.

DR. DANIEL: I certainly have no problem with that correction if it's all right with the committee members. Say it one more time.

CHAIRMAN LAPOINTE: Thank you. Just "where appropriate".

DR. DANIEL: "Where appropriate" so we're going change "whenever feasible" to "where appropriate". Does everybody understand that change?

MR. GOLDSBOROUGH: How about you make it "whenever appropriate".

CHAIRMAN LAPOINTE: I'm okay with that.

DR. DANIEL: Without objection? Okay.

CHAIRMAN LAPOINTE: Any other comment on the motion? Seeing none, all those in favor raise your hand; opposed, like sign. **The motion carries.** Lou, do you have another one.

DR. DANIEL: Yes, sir. We needed a little license on this one, but some of the stuff hasn't happened yet. It is in appreciation to the host state:

WHEREAS, the Atlantic States Marine Fisheries Commission conducted its 68th Annual Meeting in Newport, Rhode Island, which provided a spectacular venue for commissioners, commission staff and law enforcement, management and science and habitat committees to deliberate on issues of mutual concern; and

WHEREAS, Goat Island, where in colonial times goats once grazed, now hosts a beautiful and accommodating Hyatt that served as our home away from home for four days and provided us with million dollar sunsets; and

WHEREAS, the weather was lovely, crisp and clear, epitomizing perfect New England fall days with signs of winter fast approaching; and

WHEREAS, commissioners toiled tirelessly through long meetings to restore Atlantic fisheries; and

WHEREAS, our spouses and guests were treated to a personal tour of Newport led by Native Son Chris Powell regaling them with inside stories of the rich, famous and infamous – pirates once roamed here ya know!; and

WHEREAS, the welcome reception was held at Rosecliff, one of the famed mansions of Newport where the rich summered for six weeks out of each year, and some couples were overheard wondering if the real estate prices had fallen enough that they too might buy a summer home here; and

WHEREAS, the 18th Annual Laura Leach Fishing Tournament provided few opportunities for fishing but many for cold noses, why even the intrepid Pat Augustine could not catch a fish but did manage to get frostbite on his hands (sorry, Meg!); and

WHEREAS, the Annual Dinner at Easton's Beach Rotunda offered a gorgeous view overlooking First Beach, and commissioners and guests alike feasted on New England's sumptuous lobsters and local Portuguese chorizo, oh my; and

WHEREAS, the 19th Annual David H. Hart Award was posthumously bestowed to John Nelson for his quiet but effective leadership in working toward restoring Atlantic fisheries, and where a dry eye could not be found for his much too early passing;

NOW, THEREFORE BE IT RESOLVED, that the Atlantic States Marine Fisheries Commission expresses its deep appreciation to the Rhode Island Commissioners, Senator Sosnowski and Bob Ballou, the Rhode Island DEM Fish & Wildlife staff, as well as Chris Powell for their terrific assistance in the planning and execution of this outstanding 6th Annual Meeting.

On behalf of the committee I so move.

CHAIRMAN LAPOINTE: And we will approve by acclamation, if that's all right. Thank you very much. (Standing Applause) Thank you, Lou. Our next, Agenda Topic 6, is consideration of the Action Plan. Robert Boyles.

CONSIDERATION OF THE 2009 ASMFC ACTION PLAN

MR. ROBERT H. BOYLES, JR.: Thank you, Mr. Chairman. Yesterday we had an Action Plan Workshop, which we went through and discussed the plan for the 2010 Action Plan. I believe everyone who is here participated in that workshop. We are submitted that for approval by the commission.

CHAIRMAN LAPOINTE: Thank you; we have an Action Plan for approval. Do we have a motion for approval? **Motion made by Robert Boyles; seconded by Pat White.** Questions or comments on the motion? I don't expect much because you discussed it yesterday. Seeing no questions, all those in favor raise your hand; any opposed; abstentions. **It is approved;** thank you very much. I will turn the meeting over to Vince for the elections.

EXECUTIVE DIRECTOR JOHN V. O'SHEA: Thank you, Mr. Chairman. I'm going to call on Jack Travelstead, who is the chair of the Nominating Committee, and ask him to conduct the election, please.

ELECTION OF COMMISSION CHAIR

MR. JACK TRAVELSTEAD: The Nominating Committee, consisting of Brian Culhane, Spud Woodward and myself, has performed the tasks that are outlined in the document entitled "ASMFC Leadership, Nomination and Election Process". You will note there that we were required to contact all commissioners to solicit recommendations or nominees; follow up on commissioner recommendations to gauge the individual's interest in being included as a nominee and develop separate ballots for chair and vice-chair based on input from commissioners.

I would also note further that process says that a ballot will be prepared even if there is only one nominee in order to provide the opportunity to write in a candidate. For the Office of Chair, the Nominating Committee has nominated Robert Boyles. That is our only candidate and the staff will distribute the ballots at this time. While you're receiving those, the procedures also require the Nominating Committee to pick up the votes and tally them, so I would ask Spud and Brian, as soon as you're done, if you would help us with that.

(Whereupon, the election for chairman was conducted by secret ballot.)

MR. THOMAS FOTE: I was just going to make a comment that when I first came in as commissioner in 1990, this is the only opportunity at the business meeting that the governors' appointees and the legislative appointees and the state directors would actually have to caucus for a vote. It was either on this or fisheries management plans.

It's nice to see that we've come a long way since that day. I remember the first election I participated in, it went for nine ballots on a tied election, if some of you remember that, with Owen Johnson. It was interesting. Mickey Newberger was actually the compromise candidate after listening to my governor's candidate, but it's always interesting to remember where we were and where we're coming from

MR. TRAVELSTEAD: Mr. Chairman, the committee is pleased to announce that Robert Boyles

is elected Chair of the Atlantic States Marine Fisheries Commission. (Applause)

ELECTION OF COMMISSION VICE-CHAIR

Moving on to vice-chair, we have two candidates and the ballots will be distributed momentarily – Paul Diodati and David Simpson.

(Whereupon, the election for vice-chairman was conducted by secret ballot.)

MR. TRAVELSTEAD: Mr. Chairman, Paul Diodati is elected vice-chairman of the Atlantic States Marine Fisheries Commission. (Applause).

EXECUTIVE DIRECTOR O'SHEA: Congratulations to both Robert, our new chairman; and Paul, our new vice-chairman; and I would like to turn the Chair over to Robert and ask him to come up and finish the meeting, please.

(Whereupon, Chairman Boyles assumed the Chair of the Commission.)

CHAIRMAN BOYLES: Thank you, Vince, and thank you, Commissioners, for your vote of confidence. I look forward to it. We've got a lot of work to do. Paul, congratulations as well.

MR. PAUL DIODATI: If I could offer a round of applause for George for three years of service. He deserves it. (Applause)

CHAIRMAN BOYLES: I'm going to turn it over to Vince, who has got a presentation.

EXECUTIVE DIRECTOR O'SHEA: That applause is a great segue for recognizing George; because in addition to the applause I have a presentation for George. It's to recognize, as Paul said, his three years of chairmanship of the commission as well as two years of vice-chairmanship.

This reads: "To George D. Lapointe; in recognition of outstanding leadership; Chair, 2006-2009; Vice-Chair, 2004-2006; in restoring Atlantic Fisheries". I would just comment that George having started as a staffer with ASMFC and to then have led this organization for three years I think it is a remarkable accomplishment and great reflection on his leadership and his talent and ability. It's a pleasure working with you, George, congratulations. (Applause)

MR. LAPOINTE: I'll try to follow my own rules and put brevity close to godliness and cleanliness. It has

been an honor to be the Chair of the commission. As Vince said, I started in 1987 when Irwin called me an audacious young punk. To continue to work with the commission, to develop friendships that have lasted almost three decades now has been a pleasure. I thank you all for that.

CHAIRMAN BOYLES: Thank you, George. The last item of business before we adjourn, recall at the last business session we had a discussion about the voting procedures and a discussion about one vote per commissioner versus one vote per delegation. Vince has done some research into the matter and I would like to turn it back over to Vince.

EXECUTIVE DIRECTOR O'SHEA: At the last business session, we all committed, at your direction, to research the issue regarding what would it take to change the voting procedures on the election of officers for the commission from the current one-state-one vote process to something different.

After looking at the regulations as well as the Compact, there is a section in voting that says that the commission will operate one-state-one-vote and that meetings of boards and committees of the commission may operate under a different system. Then the next sentence says that the Executive Committee can make changes to this rule.

Some of you saw that wording in our previous discussion. The interpretation of that results in the Executive Committee being able to modify the rules for voting on committees and boards; not the voting procedures for the full commission. The bottom line is that if you wanted to change the voting procedures for the commission, it would require a change to the commission regulations.

That would have to be public noticed to that and scheduled at a subsequent meeting of the commission. I briefed the Executive Committee this morning on this since some people were under the impression that the Executive Committee might have had the power to do this, and I wanted them to hear the conclusion of the regulations. Based on their comments, Mr. Chairman, I think there may be enough interest to continue the discussion. Thank you.

CHAIRMAN BOYLES: Thanks, Vince. Questions or comments? Tom Fote.

MR. FOTE: If I remember right, also if we're going to change something that is in the Compact, it actually has to go out to all the states for their approval, too, besides that because it's a change in

the Compact Rules, as far as the voting procedures. I think that is where that thing is in, the Compact Rules; isn't it, Vince?

EXECUTIVE DIRECTOR O'SHEA: Actually, there are two documents. There is the Compact and then there are the rules and regulations, so the voting procedures are described within the rules and regulations, and the authority to change that is within the full commission.

MR. WILLIAM A. ADLER: So, Vince, in order words, are we talking about – what you just said was that the Executive Committee can change the rules on how a board votes on its species things, but the discussion that was brought up was how the commission votes, like for chair and vice-chair, and that's the one that's not clear.

EXECUTIVE DIRECTOR O'SHEA: Well, I think now it's clear. I mean after looking at it, right now the rule says that – this is from Section 2 of the Rules and Regulations under Voting: "Voting in any meeting of the commission or any of its sessions shall be by states, one vote per state, with the vote of each state being determined by the majority of the state's delegation of commissioners who are present."

MR. ADLER: So, at the very beginning of that, "of any sessions" and that would include the session that elects the chair? That's it? Okay.

CHAIRMAN BOYLES: Comments or questions on this matter? Tom.

MR. FOTE: Yes, as I mentioned earlier, when we wound up with tie votes with about six or seven ballots and we had to work with our delegations and we tried to straighten out where – there were a couple of null votes because people couldn't agree who the state should endorse, but it was a good process because it came out where the states – and I always looked at it as an electoral college. Everybody has the same – the one state, no matter how big or how small or how many delegates are here, has the right to do that.

I don't see where it's necessary to change it after watching it in operation for -- you know, I've figured out 14 years I've been attending commission meetings as a commissioner or a proxy for a legislator over the last 20. I'm happy with that procedure for electing the chair and vice-chair because it should be a consensus of the state. They should be able to work it out among themselves like we just did when basically did the vote here.

MR. PATRICK AUGUSTINE: Mr. Chairman, I don't often agree with Mr. Fote from New Jersey but on this one I do. I think it's a clear-cut situation where it is one-state-one-vote. Because of the complexity or the problem or issue that only one member of a state shows up where in another case all three members show up, it would be very simple to sway a vote. I think that's clear. Thank you.

CHAIRMAN BOYLES: Other comments or questions? Seeing none, this is the third time this matter has come before this body. We've got clarity on the procedure. Barring a motion to change the procedures for voting, which I don't see anyone rushing to make a motion, then we'll put this issue to bed and we'll remain with the one-state-one-vote for the elections as has been the case and as demonstrated today. Thank you, Vince.

OTHER BUSINESS

Any other business to come before the Atlantic States Marine Fisheries Commission? Ritchie.

MR. G. RITCHIE WHITE: I would just like to thank the Nominating Committee. I thought they did an excellent job and I thought the process that we have changed to in the voting worked extremely well. I would like to commend them for doing a good job.

ADJOURNMENT

CHAIRMAN BOYLES: Absolutely! Any other comments or questions; any other business? Seeing none, we will stand adjourned.

(Whereupon, the meeting was adjourned at 3:00 o'clock p.m., November 4, 2009.)