

# Minutes





**Marine Fisheries Commission Business Meeting Minutes**  
**Hilton Garden Inn**  
**Kitty Hawk, North Carolina**  
**Nov. 14-16, 2018**

The commission held a business meeting Nov. 14-16 at the Hilton Garden Inn in Raleigh, North Carolina.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/11-2018-briefing-book>.

Actions and motions from the meeting are listed in **bolded** type.

**BUSINESS MEETING - MOTIONS AND ACTIONS**

On Nov. 14, a public comment session was held beginning at 6 p.m. Chairman Rob Bizzell called the meeting to order. The following individuals spoke:

**Glenn Skinner**, Executive Director of the N.C. Fisheries Association, asked the commission chair to reconsider his decision to not having meetings in the northern and southern areas of the coast. He said it was difficult for some fishermen to travel to the central area. Skinner also felt that the policy on scientific uncertainty put forward at the August commission meeting was arbitrary and would lead to more lawsuits, saying there must be a basis for regulations adopted and the Fisheries Reform Act sets out a clear process to follow.

**Jerry Schill**, Legislative Affairs Director for the N.C. Fisheries Association, said it serves stakeholders better to rotate commission meetings between coastal regions, rather than just having them in the central part of the coast. Schill also reported his board unanimously endorsed the reappointment of Tim Griner to North Carolina's Obligatory Seat on the South Atlantic Fishery Management Council, saying Griner is the incumbent and has done a good job representing North Carolina on that council.

**Bill Gorham**, with Bowed Up Lures and speaking for the recreational industry interests in Dare County, said he talked to a lot of stakeholders, tackle shops, piers, etc. and that fair and equitable access to the commission is need and achieved by moving meetings around the state. It is hard for business owners to travel, he said and asked the commission to keep at least one meeting in Dare County. Gorham supported Tim Griner to be reappointed to the South Atlantic Fishery Management Council. He also cautioned that the proposed policy on scientific uncertainty was dangerous and fearful.

**Robert Alderman**, said he was speaking for the recreational fishing industry in Dare County and it breaks his heart that the commission would propose removing the voice of Dare County by not having any meetings there. He said he wants a voice and wants to come to meetings, but as a small business owner he cannot travel to meetings that are all over the state. He asked the commission chair to please reconsider his decision on meeting locations. He also opposed the

proposed policy on scientific uncertainty, saying it was like preparing for a baby before you are sure your wife is pregnant.

**Mike Payment**, a Currituck County commissioner, said he supported local fishermen and shared their concerns about not having future meetings in Dare County or the northern coastal region of the state.

**Perry Wood Beasley**, said Dare County is the top county for commercial landings in the state and that commission meetings should continue to be rotated along the coast. He does not like the way the meetings are conducted, and that public comment should come after the commission's discussion. He also does not like the 3-minute time limit on public comment. He supported Tim Griner for reappointment to the South Atlantic Fishery Management Council. Additionally, he said for striped bass in the Central Southern Management Area, that the plan should be allowed to work through the process. He closed by saying that if water quality improves, so will the stocks and more areas need to be opened to trawling to regenerate growth on the bottom.

**Andrew Berry**, Vice President of N.C. Watermen United, said Dare County was #1 in the state for commercial landings and had a lot of charter and head boats and that meetings should be held in areas where there are a lot of fishermen to enhance participation. He asked the commission chairman to reconsider his decision not to have meetings in the northern region. For striped bass in the Central Southern Management Area, that if the quota is being caught, shows that there are fish in there and that's a good thing. If the quota is not being caught, that would be the problem. Berry said that the proposal to close striped bass harvest is not supported by facts.

The meeting recessed at 6:20 p.m.

Chairman Rob Bizzell convened the Marine Fisheries Commission business meeting at 9 a.m. on Nov. 15 and reminded commissioners of their conflict of interest and ethics requirements.

Doug Cross and Sam Romano were sworn into the commission. Cross serves in the Commercial Industry Seat and Romano serves in a Commercial Seat.

Commission Liaison Nancy Fish reviewed evaluations from the State Board of Elections and Ethics Enforcement for actual and potential conflicts of interest for the new commissioners, as follows:

**For Douglas Cross:**

“We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.”

“Mr. Cross fills the role of a member who is actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. He is the owner and vice-president of Pamlico Packing Co., Inc., a seafood processing company. Because he would serve on the licensing authority for members of his own profession he has the potential for a conflict of interest. Accordingly, Mr. Cross should exercise appropriate caution in the performance of his public duties

should issues involving his business or issues involving any of his colleagues or competitors come before the Commission for official action.”

**For Samuel Romano:**

“We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.”

“Mr. Romano fills the role of a member who is actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. Mr. Romano owns financial interests in YPS LLC, a seafood retail company and Seaview Crab Co., which he co-owns with his brother. Because he would serve on the licensing authority for members of his own profession he has the potential for a conflict of interest. Accordingly, he should exercise appropriate caution in the performance of his public duties should issues involving his businesses or issues involving any of his family members, colleagues or competitors come before the Commission for official action.”

The following commission members were in attendance: Rob Bizzell-Chairman, Mike Blanton, Cameron Boltes, Doug Cross, Tom Hendrickson, Pete Kornegay, Brad Koury, Chuck Laughridge and Sam Romano.

**Motion by Chuck Laughridge to approve agenda. Second by Brad Koury.  
Motion carries with no opposition.**

**Motion by Chuck Laughridge to approve minutes from the August 2018 meeting. Second by Pete Kornegay.  
Motion carries with no opposition.**

**Public Comment Period**

**Chris Elkins**, a former Marine Fisheries Commissioner, expressed concern about dead discards in the striped bass fishery in the Central Southern Management Area. To help more fish reach spawning age, he recommended the recreational fishery mirror the Wildlife Resources Commission’s regulations of a 26-inch minimum size limit/2 fish per day bag limit and for the commercial fishery, he suggested removing gill nets and prohibiting harvest. Elkins said the stocking of striped bass in this area was to enhance recreational harvest, not commercial.

**David Sneed**, Executive Director of the Coastal Conservation Association – N.C., said his organization is not for the extinction of the commercial industry, but they did support the long-term future of the fishery. He said not all problems are from overfishing, that climate change has caused fish to move farther north. He said fisheries managers need to acknowledge this and not keep supporting status quo. Sneed also expressed support for Commissioner Kornegay’s proposed policy on scientific uncertainty, saying conservation had to be given the highest priority. He closed his comments by asking that Tim Griner be reappointed to North Carolina’s Obligatory Seat on the South Atlantic Fishery Management Council.

**Chairman’s Report**

Chairman Bizzell reviewed correspondence that had been sent and received by the commission since the last business meeting.

Commissioners were reminded of the meeting schedule for 2019:

- Feb. 20-22 in Morehead City/New Bern area
- May 15-17 in Morehead City/New Bern area
- Aug. 21-23 in Raleigh area
- Nov. 13-15 in Morehead City/New Bern area

Several commissioners expressed concern about not rotating business meetings among the three coastal regions of the state and that this could disenfranchise fishermen. Chairman Bizzell explained the commission is required to hold three of the four quarterly business meetings in the coastal region of the state. He reiterated his decision to hold these meetings in the Morehead City/New Bern area, as these towns are more centrally located, and he felt it was a fairer option.

#### **Proposed Policy on Scientific Uncertainty**

At its August meeting, the commission tabled a motion that proposed the commission adopt a policy on scientific uncertainty; the motion was made by Commission Kornegay and seconded by Commissioner Laughridge. Chairman Bizzell made a motion to readdress the tabled motion, and asked the commission's counsel, Shawn Maier, to share concerns he had with the proposed policy. Maier said having a stand-alone policy could have the potential to create an additional standard by which the commission's actions would be judged. There are currently statutes and rules in place and adding a policy like this will generate an additional criteria against which the commission's actions can be judged to the extent that there may be an inconsistency between policy and rule and statute. Then you have an area where there is no way to win, either the commission is consistent with the policy and inconsistent with the rules and statutes, or vice versa, he explained.

The motion was withdrawn and there was discussion about examining scientific uncertainty in with fishery management plans, on a case-by-case basis.

**Motion by Rob Bizzell to readdress tabled motion on Marine Fisheries Commission policy that was tabled at the August 2018 meeting.**

**Pete Kornegay withdrew his original motion and Chuck Laughridge withdrew his second.**

#### **Fishery Management Council Nominations**

Division staff reported that the commission's Nominating Committee voted to forward the names of Robert (Tim) Griner, Brian (Scott) Buff, Samuel (Sammy) Corbett and Jack Cox to the commission for consideration as nominees to North Carolina's obligatory seat on the South Atlantic Fishery Management Council. The commission is required to submit to the governor a minimum of three candidates for consideration for each seat. Bios were reviewed for each of the potential nominees.

The commission voted to forward the names recommended by the Nominating Committee to the Governor's Office for consideration as nominees for North Carolina's South Atlantic Fishery Management Council obligatory seat.

**Motion by Chuck Laughridge to approve the following nominees for the North Carolina Obligatory Seat on the South Atlantic Fishery Management Council:**

- **Robert (Tim) Griner**
- **Brian (Scott) Buff**
- **Samuel (Sammy) Corbett**
- **Jack Cox**

**Second by Doug Cross.**

**Motion carries with no opposition.**

**Director's Report**

Division of Marine Fisheries Director Steve Murphey welcomed the new commissioners and then updated the commission on division activities occurring since the August 2018 business meeting, including:

- An update on the impacts of Hurricane Florence, and state and federal responses to the disaster. To view a slideshow of hurricane recovery images, go to:  
[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=32426618&name=DLFE-139473.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=32426618&name=DLFE-139473.pdf)
- The appointment of Jerry Mannen of Wilmington to the Atlantic States Marine Fisheries Commission by Gov. Roy Cooper.
- The submission of the draft fiscal note to the Office of State Management and Budget for the rules associated with the N.C. Wildlife Federation's petition for rulemaking by July 1. OSBM reviewed the document and had about 80-90 edits, comments, questions that the division addressed. The final draft fiscal note was then resubmitted.
- Continuing work on the Shrimp Bycatch Reduction study combining the Year 1, Year 2 and Year 3 studies into one manuscript for peer review. Edits and reviews are occurring internally between the division, Sea Grant and NOAA co-authors.

**Central Southern Striped Bass**

The division recommended the commission ask the Secretary of the Department of Environmental Quality for approval to develop temporary management measures to supplement the Estuarine Striped Bass Fishery Management Plan with a no possession limit in the Central Southern Management Area to protect important year classes while the next plan amendment is being developed.

Division biologist Charlton Godwin gave the commission a presentation on temporary management measures to reduce striped bass mortality.

To view this presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?uuid=e2d46f4f-a24b-405a-8f5b-9d1635acf20c&groupId=38337](http://portal.ncdenr.org/c/document_library/get_file?uuid=e2d46f4f-a24b-405a-8f5b-9d1635acf20c&groupId=38337)

The commission approved the recommendation. The division noted if the necessary approvals are received, it intended to hold one public meeting on the issue in the Washington area. The supplement would be brought back to the commission for adoption in February, and the regulations would be implemented by the division director through his proclamation authority.

**Motion by Cameron Boltes to authorize staff to develop temporary management measures to supplement the N.C. Estuarine Striped Bass Fishery Management Plan with a no**

**possession limit in the Central Southern Management Area to protect important year classes while the next plan amendment is being developed. Second by Pete Kornegay. Motion carries 6-3.**

### **Status of Rule Development to Clarify Standard Commercial Fishing License Transfers**

The commission had expressed interest in clarifying the circumstances under which standard or Retired Standard Commercial Fishing License transfers are allowed. Concern had been raised about third-party transfers allowing individuals to get a license without going through the eligibility board. Stephanie McInerny, the chief of the division's License and Statistics Section, updated the commission on the status of the rule development to clarify Standard Commercial Fishing License transfers. The commission requested further refinements be brought back at the February 2019 meeting.

### **N.C. Saltwater Fishing Tournament**

Carole Willis, the division's Citation Program coordinator, gave the commission a presentation on the North Carolina Saltwater Fishing Tournament. The program recognizes anglers for outstanding catches for fish common to North Carolina waters.

To view this presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=32426618&name=DLFE-139472.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=32426618&name=DLFE-139472.pdf)

### **Shellfish Sanitation and Recreational Water Quality Program Overview**

Shannon Jenkins, the chief of the division's Shellfish Sanitation and Recreational Water Quality Section and J.D. Potts, the head of the Recreational Water Quality Program, gave an overview on shellfish sanitation and recreational water quality.

To view this presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=32426618&name=DLFE-139476.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=32426618&name=DLFE-139476.pdf)

The division then provided an overview of recent actions from the Atlantic States Marine Fisheries Commission, an update on the Sustainable Fishery Management Plan for American Shad, the Mid- and South Atlantic Fishery Management Councils, and Highly Migratory Species, along with updates on the division's Protected Resources Program.

### **Summer Flounder Commercial Issues Amendment**

At its August meeting, Chris Batsavage, the division's special assistant for councils and commissions, has updated the commission on the Summer Flounder Commercial Issues Amendment being considered by the Mid-Atlantic Fisheries Management Council and the Atlantic States Marine Fisheries Commission. The amendment addresses state commercial quota allocations, permit requalifying criteria and framework provisions for commercial landing flexibility. Public hearings and a comment period on this amendment were held during the fall, with final consideration slated for early December.

The commission voted to recommend that the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission remain at status quo regarding the coastwide commercial allocation of summer flounder.



**Motion by Doug Cross to recommend that the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission remain at status quo pertaining to the coastwide commercial allocation of summer flounder. Second by Sam Romano.  
Motion carries unanimously.**

### **Update on Spotted Seatrout Cold Stun Impacts**

Tracey Bauer, the division's staff lead on spotted seatrout, updated the commission on a cold stun event that occurred in January 2018 that impacted spotted seatrout. The final report on the impacts of this event was not complete as more time was needed to allow for additional tag returns to be reported to the division to reduce uncertainty and increase the accuracy of the natural mortality estimate. The final report will be provided to the commission when it is available.

The meeting recessed at 4:30 p.m.

The meeting reconvened at 9 a.m. on Nov. 16.

### **Rulemaking**

Catherine Blum, the division's rulemaking coordinator, recommended the commission give final approval for readoption of 41 rules per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, that includes:

- Conforming changes to For-Hire License Requirements, 15A NCAC 03O .0112; and
- Readoption of a Portion of Rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03O and 03R.

The commission voted to readopt 41 existing rules under the state-mandated periodic review schedule.

**Motion by Tom Hendrickson to give final approval of readoption of the following rules per G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules:**

- Conforming changes to For-hire License Requirements, 15A NCAC 03O .0112
- Readoption of a Portion of Rules in 15A NCAC 03I, 03J, 03K, 03L, 03M, 03O and 03R including changes since publication in the North Carolina Register to 15A NCAC 03I .0120; 03J .0102, .0203, .0204, .0304, .0306; 03K .0504, as presented

**Second by Doug Cross**

**Motion carries unanimously.**

### **2017 Landings Overview**

Stephanie McNerny, the chief of the division's License and Statistics Section, gave an overview of the 2017 landings and harvest trends for both commercial and recreational sectors.

To view this presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=32426618&name=DLFE-139471.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=32426618&name=DLFE-139471.pdf)

### **Fishery Management Plan Update**

Catherine Blum, the division's Fishery Management Plan Coordinator, gave the commission an update on the status of North Carolina's ongoing fishery management plans.

During this discussion, a motion was brought forward regarding the goals and objectives of the next amendment to the Shrimp Fishery Management Plan. Several commissioners expressed concern with the motion and requested time to review the issue. The commission ultimately voted to delay discussion of the goals and objectives for the next amendment to the Shrimp Fishery Management Plan until the following meeting.

### **Shrimp Fishery Management Plan/Goals and Objectives**

**Motion by Chuck Laughridge that the Marine Fisheries Commission goals and objectives for the Shrimp Fishery Management Plan include the following:**

- **Reduce takes and interactions of non-targeted species and threatened species by curtailing actual effort**
  - **Limit trawling in the Pamlico Sound to 3 days per week**
  - **Reduce tow times to be consistent with improving survival of non-target and endangered species**
  - **Continue to minimize bycatch and enhance the economic value of shrimp**
  - **Change the requirement for a second BRD to a rule instead of proclamation**
  - **Reduce maximum headrope to 110 feet and delay the season until a count of 60 or greater**
  - **Promote habitat enhancement and provide environmental quality necessary to improve the shrimp resource to revisions to NC nursery areas and expansion of existing nursery areas**
  - **Revision of nursery areas with an updated look at secondary nursery areas with expansion of secondary nursery areas based on revised environmental and biological data**
  - **Implement research and education programs to allow a better understanding of the public, industry and consumers of the shrimp bycatch impact on fish population dynamics**
  - **Require shrimp trawl bycatch reduction at the tow level, which is labor saving to industry, but also to address mortality at the population levels of finfish. We must address shrimp trawl bycatch at the population level prior to any additional reliance on mechanical means**
- Second by Pete Kornegay.**

**Motion by Tom Hendrickson to table the previous motion to the next meeting.**

**Second by Doug Cross.**

**Motion carries 5-4.**

**Motion by Chuck Laughridge to discuss his prior motion no later than the February meeting, and if there is a special called meeting, that it be discussed then. Second by Pete Kornegay.**

**Motion carries 5-4.**

### **Blue Crab Fishery Management Plan Amendment 3 Update**

Jason Rock, one of the co-leads for the species lead for the Blue Crab Fishery Management Plan, updated the commission on the status of the plan development and the progress of the advisory committee.

### **Southern Flounder Stock Assessment Update**

Laura Lee, the division's senior stock assessment scientist, provided the commission with an update to the January 2018 Southern Flounder Stock Assessment that incorporated data through 2017 and revised recreational numbers (harvest and discard) from the Marine Recreational Information Program (MRIP) estimates, based on the latest effort estimates. The assessment shows the stock is overfished and overfishing is occurring. There was discussion about the reductions needed to end overfishing within two years and achieve a sustainable harvest within 10 years. The commission was advised those projections would be provided at its February 2019 meeting.

To view this presentation, go to:

[http://portal.ncdenr.org/c/document\\_library/get\\_file?p\\_l\\_id=1169848&folderId=32426618&name=DLFE-139475.pdf](http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=32426618&name=DLFE-139475.pdf)

### **Southern Flounder Fishery Management Plan Amendment 2 Update**

Mike Loffler, one of the co-leads for the species lead for the Southern Flounder Fishery Management Plan, updated the commission on the status of the plan development and the progress of the advisory committee.

### **Rule Suspension Annual Update**

Kathy Rawls, the division's Fisheries Management Section Chief, reviewed previously approved rule suspensions and reported that no new rules suspension had occurred since the August 2018 commission meeting.

Under *Issues from Commissioners*, Commissioner Boltes requested that at the next meeting the commission's counsel provide guidance about distributing motion materials among commissioners in advance of meetings and how that would relate to the Open Meetings Law.

The meeting adjourned at approximately 1 p.m.

