

Marine Fisheries Commission Business Meeting Minutes
New Bern Riverfront Convention Center
New Bern, North Carolina
Feb.19-20, 2020

The commission held a business meeting Feb. 19-20 at the New Bern Riverfront Convention Center, New Bern, NC.

The briefing book, presentations and audio from this meeting can be found at <http://portal.ncdenr.org/web/mf/02-2020-briefing-book>.

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

BUSINESS MEETING - MOTIONS AND ACTIONS

On February 19, a public comment session was held beginning at 6 p.m. Chairman Rob Bizzell called the meeting to order. Chairman Bizzell made a statement regarding the winter storm that was forecast for the area. Chairman Bizzell stated that he was adjusting the agenda so that the meeting could conclude on Thursday evening. The following individuals spoke during the public comment session:

Public Comment Period

Thomas Coltrain, North Carolina Wildlife Federation, stated that while fishing with his father in Bay River, they were forced to move by a net boat. Over 50 years ago, his father told him that due to management, this would be the downfall of fishing and now that day is approaching. He stated that back in 2010, there was a cold stun event that closed trout fishing for recreational, but the season was left open for commercial to sell what didn't die; managing for sale of fish, not sustainability. When a fishery is closed, it should be closed for everyone at the same time.

David Sneed, Executive Director Coastal Conservation Association of North Carolina, stated that CCA supports the small mesh gill net regulation. He stated that the gill net free zone in the Pamlico and Neuse rivers have saved two year classes of stripers. Mild winters and ideal environmental conditions for successful spawns results in a trifecta boom in three species; speckled trout, red drum and striped bass. These net free zones have provided a sanctuary for these fish. Reducing the bag limit and increasing the size limit have played a huge role in the rebound of these stocks. Consideration should be given to expanding the gill net free zone to the mouth of the Pamlico, Neuse and Bay Rivers. He stated that he supports the tarpon rule change as well.

Stuart Creighton, he stated that he supports every single measure that is being proposed for the management of shrimp. He stated that it is past time to get the trawlers out of the sound. With another year ahead, the recovery in 2020 will be even more impressive. The dramatic success during this first season is clear evidence that not only should the net ban be continued in these areas, but it should be expanded to include all the rivers and creeks of NC.

Greg Judy, stated that a document from CCA regarding small mesh gill nets closure above the ferry lines = sanctuary; this is not true. What it has done is provide a private fishing pond for recreational fishing. Recreational sector has harvested more speckled trout and more red drum than the commercial sector. He stated the proposals put forth by the CCA and NCWF scare him, but what scares him more is the Marine Fisheries Commission backs ruinous proposals.

Chris Elkins, CCA, stated that regarding flounder, the original fishery management plan by the Division of Marine Fisheries put forth conservative recommendations. CCA supported it, but recommendations were not followed. Had they been followed; we might still be fishing for flounder. He stated that he had to give credit for tough measures, but it wasn't quite enough to end overfishing. It was a good start with the closure. He recommends a recreational species-specific management; it is possible to train fishermen to tell the difference between a Gulf and summer flounder. Consider moving forward not relating to this FMP and open inside and outside waters to non-southern flounder species.

Tim Hergenrader, He stated that regarding the striper moratorium, he fishes in the Neuse River and thanked the commission for its action because it was successful, big stripers and spawning females. He stated that Lee's Landing is overflowing with boat trailers; more fishermen than he's ever seen. Confirmation that getting rid of nets equals more angler participation. Keep the moratorium and expand it to include tie down lines. Banish nets in inshore waters.

Donald Willis, Custom Marine Fabrication owner for 30 years, it has a large salter water tackle shop and business has been amazing. With the Pamlico/Tar and Neuse river closures, catches have been up; best years he's seen in almost 40 years. He thanked the commission for their foresight and actions. Regarding trawls, more action is needed. Move the trawls farther out.

Ashley King, Charter captain in New Bern, stated that rules won't work if they are not enforced. Marine Patrol and Wildlife Resources Commission officers need to work together and hold people accountable. Give the commercial fishermen a 75 limit and a mirror lure to use. Few fish die, but overall low discards.

Jeff Martin, stated that regarding Bay River, he and his brother launch the boat in Bayboro and witnessed nets on both sides all the way out to and within Trent Creek not being attended. Does not understand why the set nets don't have to be attended?

Ryan Christopherson, stated that it seems as though we are headed in the right direction, but still have more work to do. He stated he is bothered by some of the things that have been done lately: taking the flounder season away from recreational fishermen, but leaving it open for commercial; I can't go catch a flounder for dinner, but I can go buy one. We can only keep 4 trout a day, but most of them are going to end up in a net anyway. We need to start working together to make things better for both sectors. Common sense laws are needed.

Raymond Britton, Spring Tide Guide Service, Small mesh gill nets, he stated that in the past 40 years, he has never seen fishing like he has this year. Normally his business slows down in Dec, but he was still getting booked in December and January. We set a precedent with flounder this year with the closures. He stated it affected his business, but he was glad to see some action to protect the fishery. Regarding rules on small mesh gill nets, look for some out of the box ideas to

minimize conflicts. We need to manage equally. Same for trout, lots of problems with gill nets in creeks. There is a way to do it so that both user groups can fish and have a great season.

Judson Brock, charter captain and recreational fisherman, recounted some of the small mesh gill net issues in the areas that he fishes. The schools of redfish are now waning. He stated that the prior week, he caught 12 and pulled gill net chunks off the redfish; all had been targeted. In New River, the spotted seatrout was strong this fall, but the numbers are dropping off. He witnesses injured fish from nets and dead fish floating. Need to figure out what to do with small mesh gill nets; they are killing too many fish

Wyatt Purcell, avid recreational fisherman, stated there is clearly a problem with how our fisheries are being managed. Gill netters in his area are blocking creeks with their nets. He is only seeing smaller fish with gill net scars on them, some with netting still around their gills. Discards by commercial fishermen. The stress and injuries gill nets cause to these fish actually kill more fish after being released from the net.

Ethan Bilderback, charter captain in Topsail, he stated he sees problems with gill netters in his area blocking creeks. Only seeing smaller fish this year with gill net scars on them. Schools of redfish in good size are no longer easy to find. He stated that he loves the fishery and loves his job and the goal is to have a thriving fishery. Topsail depends on tourism for its local economy. The fishing industry has the potential to bring put money into our local economy. It's a win-win situation.

Glenn Skinner, Executive Director at NCFA, stated that the commission has managed to do what no other state has done – close inside waters to trawling. Now we are here talking about gill nets. Dead discards are phenomenal in recreational fishing. They are almost nonexistent in commercial fisheries when it comes to red drum, speckled trout and southern flounder. Start looking at the numbers and talk some common sense. It doesn't matter how a fish is killed, it only matters if it is killed. If you remove more stock than you replace, no matter what gear you use, you will end up with overfishing. That is all we should focus on.

The meeting recessed at 6:50 p.m.

Feb. 20

Chairman Rob Bizzell convened the Marine Fisheries Commission business meeting at 9 a.m. on Aug. 22 and reminded commissioners of their conflict of interest and ethics requirements.

Catherine Blum swore in new Marine Fisheries Commission member, Tom Roller, who replaced Cameron Boltes in the Recreational Seat.

The following commission members were in attendance: Rob Bizzell-Chairman, Mike Blanton, Doug Cross, Tom Hendrickson, James Kornegay, Robert McNeill, Dr. Martin Posey Tom Roller and Sam Romano.

Chairman Bizzell asked to amend the agenda due to the impending inclement weather. A revised and abbreviated agenda was presented to the commissioners. All agenda items not addressed during this meeting were either cancelled or postponed until the May MFC business meeting.

Motion by Martin Posey to approve the meeting agenda as amended. Seconded by Sam Romano.

Motion carries with no objection.

Motion by Sam Romano to approve the minutes of the November 2019 meeting. Seconded by Doug Cross.

Motion carries with no objection.

Lara Klibansky reviewed evaluations from the State Board of Elections and Ethics Enforcement for actual and potential conflicts of interest for the new commissioners, as follows:

Tom Roller:

Thank you, Mr. Chairman.

I would like to welcome our new commissioner, Tom Roller, who replaces Mr. Cameron Boltes in a recreational seat.

The commission is required by the North Carolina State Ethics Commission to review the evaluation of the Statement of Economic Interest for new commissioners. At this time I will read into the record the evaluation of the Statement of Economic Interest conducted by that commission for Mr. Roller as a prospective appointee to the North Carolina Marine Fisheries Commission.

The State Ethics Commission has received Mr. Thomas N. Roller's 2020 Statement of Economic Interest as a prospective appointee to the North Carolina Marine Fisheries Commission. They have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes, also known as the State Government Ethics Act.

They 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.

The state ethics commission found Mr. Roller fills the role of a member who is actively engaged in the sports fishing industry as demonstrated by deriving at least fifty percent (50%) of annual earned income from selling goods or services in this State. Mr. Roller owns WaterDog Guide Service, a recreational fishing guide charter boat company. In addition, he serves as a board member of the Coastal Conservation Association of North Carolina and the American Saltwater Guides Association. Because he would serve on the authority for members of his own profession, he has the potential for a conflict of interest. Accordingly, Mr. Roller should exercise appropriate caution in the performance of his public duties should issues involving any of these entities come before the Commission for official action. The evaluation of statement of economic interest for each appointee to the commission is kept on record at the Division of Marine Fisheries. And that completes this item.

Public Comment Period:

Danny Rodgers, stated he is originally from southern Louisiana where there is a world class fishery. There were struggles in the 80's due to netting, but in the mid-90's gill nets were removed, and the fishery blossomed. The fishery brings in a lot of revenue to the state of LA. When he and his family moved to NC in 2006, the first thing that caught him off guard was that the limits were lower, didn't catch as many fish, not as plentiful. This past year, for the first time since 2006, nets have been banned, the fishing has been incredible. Stated that his son works at a tackle shop and sees more and more customers, dad's with sons fishing. Speaking for his son who could not attend the meeting, he would say that he just wants his future children enjoy the resource the way that he does. Please remove the nets from the water.

Greg Ludlum, fishing pier owner, stated that the tarpon fishery is a big fishery for his business. They have taken all the cuts they can. A state record tarpon of 193 lbs. was caught on his pier; the fish was donated to research. Few tarpon get gut hooked, but overall not killing them. Many piers fish for tarpon; the pier fishing is a forgotten thing with the MFC and other councils. Tarpon to him is like the blue marlin. Another hit for the piers is no southern flounder fishing now and a 50 spot limit will be coming soon. He sees over 400,000 pier customers that come to fish. We need a true voice for pier owners.

Bill Gorham, owner of a lure company, stated that when reading through the documents for public comment, he didn't see the tarpon fishery mentioned. Add it and then vote on it. circle hooks are a good thing, but is it measurable? If we do move forward, give the industry notice; manufacturers, educate anglers, etc.

Ron McCoy, a surf, inshore and nearshore fisherman, Has been attending MFC meeting since 2012. To change the result, you must change the process. The Fishery Management Plan process has not changed. It ignores stock status trends until it is too late. The fishery is tainted with politics. Since 2012, membership has changed, but process has not. Remove the politics.

Dave Timpy, charter company owner, has a degree in oceanography. Supports the tarpon rule. Another fellow charter captain, Jot Owens, also supports the rule. Hopes the public comments that were submitted are reviewed. Ban gear for part-time commercial fishermen. Recreational license fees are supposed to enhance fisheries, but have low bag limits. Fish belong to the people; a public trust resource. There have been an alarming number of proclamations since 2000, overwhelmingly due to gill nets. It would reduce work and improve fisheries to ban gill nets.

Jerry Schill, Director of PR NCFA, attended MFC meetings since 1987. Last night and a little bit here this morning during public comment, can hear the wedge being driven deeper the recreational and commercial industries. Regarding today's meeting, he is interested in the presentation on rulemaking. In 1997 the Fisheries Reform Act was passed for a specific process. Keep that in mind when it comes to rulemaking.

Thomas Newman III, commercial fisherman, mostly targets Spanish mackerel in the small mesh gill net fishery. Stated that he was attending today's meeting specifically for Director Murphey's presentation on small mesh gill nets. Small mesh gill net fishery is very important to the north east part of the state. There is a lot of federal observer data to be used. They have a 20-25% observed trip target. They collect data such as discards, mesh size, gill net length, etc. Please use that data.

Bud Abbott, a concerned citizen who has been attending MFC meetings for 17 years, He agrees with Mr. Skinner, it is a time to come together, both sectors, and not fight over the remains of declining stocks. The Neuse and Pam/Tar basins are not a result of closures, but are improved by them. Nursery areas should be left as they are. Regarding the southern flounder problems, the FRA focuses on maximum yield, the MFC failed to act for years, the lawsuit by NCFA to overturn 2015 supplement. Let recreational harvest Gulf and summer flounder.

Greg Sheller, stated he has dealt with gill nets his whole life, they are everywhere. Drag nets all around, pots, too. He stated he works all week and wants to be able to fish on the weekends, but can't. We need to eliminate the problem. The commercial fishermen need to have respect for property and piers. Maybe a 100-200 yard setback from piers.

Chairman's Report

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

Commissioners were reminded they are required to take ethics training within six months of their appointment and every two years thereafter. Commissioners were also reminded of the annual requirement to submit a Statement of Economic Interest form by April 15 to the State Board of Elections and Ethics Enforcement.

Commissioners were reminded of the 2020 meeting schedule:

Feb. 19-21

May 13-15, Beaufort Hotel

Aug. 19-21, Brownstone, Raleigh

Nov. 18-20

The 2020 committee assignments for commissioners was included in the briefing materials and it was noted that Tom Roller will be taking the place of Cameron Boltes on the Finfish and Nominating committees.

Lara Klibansky provided a Shellfish Lease Aquaculture Review Committee update.

Committee Reports

Chairman Bizzell directed the commissioner to their briefing book for the reports from the Habitat and Water Quality Committee and the Joint Meeting of the MFC Commercial Resources Fund Committee and the Funding Committee for the N. C. Commercial Fishing Resource Fund.

Rulemaking Presentation

Commission counsel, Shawn Maier, gave an informational rulemaking refresher presentation.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_l_id=1169848&folderId=33495785&name=DLFE-142450.pdf

Potential Action to Begin Rulemaking for Small-Mesh Gill Nets

Director Steve Murphey

The director described the initiation of a two-phased approach with respect to the gill nets:

- 1) A review of existing MFC small-mesh gill net rules and proclamations to identify potential amendments with respect to minimum mesh size, total yardage and attendance requirements; and
- 2) Issuance of a proclamation during March 2020 to limit yardage for small-mesh gill nets with a reasonable upper limit based on analysis of average, minimum and maximum yardages currently used while evaluation of all potential management strategies can be evaluated. Also, there are hot spot areas that we need to address attendance past the current May – November requirement in some areas.

The director states an anticipated timeline of March 2020 for the issuance of the proclamation and a November 2020 presentation of an issue paper with management options for rulemaking from which the MFC will select its preferred option.

**Motion by Martin Posey that the MFC endorse the DMF initiation of the rulemaking process for small mesh gill nets. Seconded by Doug Cross.
Motion carries unanimously.**

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.

Blue Crab Fishery Management Plan Amendment 3

The MFC gave final approval for the Blue Crab Fishery Management Plan Amendment 3. Jason Rock and Corrin Flora, division staff leads for the Blue Crab FMP reviewed the MFC preferred management options that were selected and send for department and legislative review at the November 2019 MFC business meeting.

Two issues were discussed at length, sustainable harvest issue and terrapin excluder device use criteria, and had non-substantial changes made to the adopted final FMP.

**Motion by Sam Romano to table the vote on the Blue Crab FMP until the stock assessment is updated with 2019 landings. Second by Doug Cross.
Motion fails.**

Motion by Sam Romano to accept the Marine Fisheries Commission recommendation for achieving sustainable harvest and ending overfishing. Seconded by Martin Posey.

**Motion by Doug Cross to amend the previous motion by removing the 6.75-inch maximum size limit on mature female crabs and replacing it with a 5-inch minimum size limit on female crabs statewide. Seconded by Mike Blanton.
Motion carries with one abstention.**

**Motion by Martin Posey to amend the Romano motion to delete the language stating "update stock assessment with 2019 data." Seconded by Mike Blanton.
Motion carries with no opposition.**

Motion by Sam Romano, as amended, to accept the Marine Fisheries Commission recommendation for achieving sustainable harvest and ending overfishing, removing the

**6.75-inch maximum size limit on mature females and adding a 5-inch minimum size limit statewide on mature females and omitting the update of the stock assessment once 2019 data is available. Seconded by Martin Posey.
Motion carries 8-0 with one abstention (Sam Romano).**

**Motion by Sam Romano to accept the Marine Fisheries Commission recommendation to use science on locally specific pot funnel designs to reduce terrapin interaction and identify individual areas with terrapin hotspots that would be closed to potting unless an excluder is used.
Motion ruled out of order by the chairman.**

**Motion by Pete Kornegay that the MFC adopt the criteria presented by the DMF for identifying diamondback terrapin management areas, adding a step to bring proposed management areas back to the MFC following committee meetings at the next regularly scheduled meeting for approval. Seconded by Tom Roller.
Motion carries with one dissention and one abstention.**

**Motion by Martin Posey that the MFC adopt Blue Crab FMP Amendment 3 as amended. Seconded by Robert McNeill.
Motion carries with one dissention.**

2020 Recreational Flounder Season

Director Murphey discussed and announced the 2020 recreational flounder season which will be a block season of August 16 through September 30.

Southern Flounder Fishery Management Plan Amendment 3

Mike Loeffler and Anne Markwith, division staff leads for the Southern Flounder Fishery Management Plan gave a presentation which included a summary of public comment received during the scoping period, an overview of potential management strategies and plan timeline and the of draft FMP goals and objectives.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=33495785&name=DLEF-142457.pdf

**Motion by Martin Posey to approve the goal and objectives for the Southern Flounder FMP Amendment 3 as presented by DMF. Seconded by Tom Roller.
Motion carries with no objection.**

Shrimp Fishery Management Plan Amendment 2

Chris Stewart, Kimberlee Harding and Jason Rock, the division's staff leads for the Shrimp Fishery Management Plan gave a presentation which included a summary of public comment received during the scoping period, an overview of potential management strategies and plan timeline and the of draft FMP goals and objectives.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=33495785&name=DLEF-142458.pdf

**Motion by Robert McNeill to approve the goal and objectives for the Shrimp FMP Amendment 2 as presented by DMF. Second by Martin Posey.
Motion carries without objection.**

Rulemaking

Catherine Blum, the division's Rulemaking Coordinator, provided the commission with an update on the 2019/2020 rulemaking cycle and an overview of public comments received for two rules up for final approval; Tarpon and License and Commercial Fishing Vessel Registration Transfers.

Motion by Pete Kornegay to approve 15A NCAC 03M .0509 (Tarpon). Seconded by Robert McNeill. Motion carries 5-4.

Motion by Mike Blanton to adopt 03O 0108 (License and Commercial Fishing Vessel Registration Transfers). Seconded by Doug Cross. Motion carries with no objection.

Rulemaking Continued

Chris Stewart, the staff lead for the Shrimp Fishery Management Plan, gave a presentation on Shrimp FMP Amendment 1 Reclassification of Special Secondary Nursery Areas to Permanent Secondary Nursery Areas and an update on the Oyster Sanctuary Rule Change Issue Paper.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=33495785&name=DLFE-142453.pdf

**Motion by Pete Kornegay to select Option 2 as the preferred management option for the Shrimp FMP Amendment 1 Special Secondary Nursery Area Issue Paper. Seconded by Robert McNeill.
Motion carries 6-2 with one abstention.**

Rule Suspension

Due to inclement weather, the Rule Suspension update was postponed until the May 2020 MFC business meeting.

Shellfish Aquaculture Update

The division's Habitat and Enhancement Section Chief, Jacob Boyd and Shellfish Lease Coordinator, Michael Graven, gave a presentation on the shellfish lease program and a User Conflict Study update.

To view the presentation, go to:

http://portal.ncdenr.org/c/document_library/get_file?p_1_id=1169848&folderId=33495785&name=DLFE-142451.pdf

Motion by Tom Hendrickson to approve the recommended language for 15A NCAC 03O .0201, 03O .0202, and 03O .0204 to address user conflicts as required by the Shellfish Aquaculture Bill adding "or a shore based structure" to 15A NCAC 03O .0201(a)(2) following "250 feet to a developed shoreline". Seconded by Mike Blanton.

Motion carries with no opposition.

Issues from Commissioners

Commissioner Cross asked the division's director for a white paper on 18A.0713 amend repackaging to make it unlawful to repack any foreign crab meat in North Carolina in another container.

Commissioner Cross also requested the division examine a possible amendment to the tarpon rule adding an exemption for ocean fishing piers. .

Lara Klibansky reviewed the issues from Commissioners and previewed the May MFC business meeting agenda.

The meeting adjourned at approximately 4:12 p.m.

DRAFT