

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **SOPPs COMMITTEE**

**Westin Jekyll Island  
Jekyll Island, Georgia**

**March 8, 2018**

## **SUMMARY MINUTES**

### **Committee Members**

Chris Conklin, Chair  
Anna Beckwith  
Dr. Roy Crabtree  
Jessica McCawley

Doug Haymans, Vice-Chair  
Chester Brewer  
Dr. Michelle Duval

### **Council Members**

Charlie Phillips  
Robert Beal  
Zack Bowen  
Ben Hartig

Mark Brown  
Mel Bell  
Tim Griner

### **Council Staff**

Gregg Waugh  
Dr. Brian Chevront  
Kimberly Cole  
Mike Collins  
John Hadley  
Roger Pugliese  
Amber Von Harten

John Carmichael  
Myra Brouwer  
Dr. Chip Collier  
Dr. Mike Errigo  
Kim Iverson  
Cameron Rhodes  
Christina Wiegand

### **Observers & Participants**

LCDR Trish Bennett  
Shep Grimes  
Dr. Erik Williams  
Tony DiLernia  
Rick DeVactor

Monica Smit-Brunello  
Dr. Jack McGovern  
Leann Bosarge  
Erika Burges  
Rob O'Reilly

Other observers & participants attached.

The SOPPs Committee of the South Atlantic Fishery Management Council convened at the Westin Jekyll Island, Jekyll Island, Georgia, Thursday afternoon, March 8, 2018, and was called to order by Chairman Chris Conklin.

MR. CONKLIN: I will call the SOPPs Committee to order. Our first item of business is Approval of the Agenda. The committee members are Chris Conklin, Anna Beckwith, Roy Crabtree, Jessica McCawley, Doug Haymans, Chester Brewer, and Michelle Duval. Our first item of business now is Approval of the Agenda. Does anybody have any changes or modifications to the agenda? Seeing none, the agenda stands approved.

Our next order of business is Approval of the Minutes from the December 2017 meeting in North Carolina. Is there any additions or changes to the minutes? Seeing none, the minutes stand approved. Our next item is to Review Policies for Inclusion in the SOPPs and Handbook, and Gregg is going to walk us through that. That's Attachments 1 through 4 in your briefing book, and so I'm going to turn it over to Gregg.

MR. WAUGH: Thank you, Mr. Chairman. What we'll do is the main item that we're going to be dealing with is the Handbook. Again, the SOPPs is under review in the Regional Office, and that tracks the legal mandates of Magnuson, and certainly, if there are any changes that we need to make to that, we can talk about that, but we haven't really delved into that. We have focused on the Handbook. Your direction, you gave us some changes, approved some changes, at the last meeting, and we have made those changes, and we circulated it back to the SOPPs Committee and got some additional changes, and that is what you have as Attachment 2, and that is the document we'll be working from. After that was sent out, we did have a little more internal staff review, and I've got a few minor editorial changes that I will point out as we go through.

If you will, turn to that Attachment 2, and we'll walk through the document. We tried to put comment boxes by items that were major changes, to call your attention to it. In the future, we can include a track changes, so that people see all the changes, but we thought, to aid moving through the document, it would be a lot easier to work from a semi-cleaned-up document, and we'll stop at each place there is a comment box and make sure you all are comfortable with that wording. If you have additional changes, we can make them here. The intent is we will make any modifications that you all give us here today and clean up the document, and then you will have another shot at it in June as well. Any questions so far? Okay.

If we start through, the first item is on page 1 of that document, where we're talking about the officers and terms of office. There was some older language in here, and we had a suggestion to update it and reflect that the new terms of council members begins on August 11, and so we clarified that the elections are to be held at the first meeting of the council after August 11, and we always do our elections at our September meeting.

We reflect in here that the procedure that the South Atlantic Council operates under is generally the Chair and Vice Chair serve for two years and then the Vice Chair moves up to the Chair, and then we elect a new Vice Chair, and so we're just reflecting that, and we want to see if there is any suggested changes to that wording or if you all are okay with that wording. Everybody is okay with that?

Then we'll go on to the bottom of the next page, page 2, and this carries over to the top of -- The page numbers are the actual page numbers in the document that I am talking about, and we clarified what "detailed government employees" means. In some cases, we can have a position filled by a detailed government employee, and that is someone on loan from either the state or federal government, and, once that term of work ends, then they would go back to their original job. Any questions on that one?

Next, over on page 4, Work Schedule, Item D, we edited this section to clean up and clarify the language. Are there any questions on that section? Okay. Next, on page 5, Salary Increases and Awards, the way this was worded before, it was inconsistent with Number 5 that talks about how cash awards are given, and so we clarified this. In Item 1, we're talking about the overall policy, and it says cash awards may be given at any time deemed appropriate by the Executive Director within budget constraints after consultation with the Council Chair.

You all set the budget at the start of the year, and then it's up to the Executive Director, after consulting with the Council Chair, to determine when those cash awards are given. Any questions here? In general, these would be very minor cash awards that we would give during the year. We do annual performance reviews in December, and that's when we would be determining cash awards, for the most part.

MS. MCCAWLEY: I am not sure why this sentence was added, because there is a separate section, a little further down, called Cash Awards, and the same information seems to be in there.

MR. WAUGH: The thought was that, in Item 1, we're talking about the overall policy. Then you get into a little more specifics in the other items, but it doesn't have to be in both places.

MR. HAYMANS: Gregg, I don't see the reason or the need to give a cash award at any time. It seems to me that a cash award or a bonus would be only given at annual review, and I don't understand the reasoning for just any time and providing that. Can you help me?

MR. WAUGH: What we've done is if someone, during the year, comes up with a good way to save the council money, that may be something we want to give them a small cash award to recognize that extra effort.

MR. HAYMANS: Couldn't that be done at one time of year, at the annual performance review?

MR. WAUGH: It certainly could. There may be instances where you want to reward the employee closer to when the event occurs is the thought process. The next item is under Employee Benefits on page 6.

DR. DUVAL: Gregg, can you scroll back up to the Performance Review section on page 5? The last sentence in there, it says, in certain limited circumstances, a merit increase during the course of the year, for example additional responsibilities to job description, and it just seems like there is some words missing there that might need to be cleaned up. It doesn't appear to be a complete sentence, I guess is what I'm saying. Like a merit increase during the course of the year may be provided, for example if there are additional responsibilities added to the job description.

MS. MCCAWLEY: Also, could merit increase be a sub-section by itself, like we have cash awards as a sub-section? I am trying to track more of what we were talking about in Personnel, about how there is three different possible types of add-ons here, and to have a breakout section for each one of those.

MR. WAUGH: Yes, we can do that.

MR. CONKLIN: Any more discussion? Then we'll move on.

MR. WAUGH: Okay. On page 6, Employee Benefits, there was a question about what full-time employee means, and so we've added thirty-plus hours per week, to clarify eligible or qualifying employees.

MR. PHILLIPS: Mr. Chairman, I am not on your committee, but, Gregg, is that for an average length of time, because you may have some people that don't get thirty hours one week, but they get thirty-five for the next four weeks, and is that just average, or is that just planned hourly?

MR. WAUGH: This is in the case of -- Well, our employees work forty hours a week. You maybe would have special circumstances where an individual, for health reasons or some other, would work under forty hours a week, and so this is actually indicating that they work at least thirty hours each week.

MR. PHILLIPS: Wouldn't most of the employees, except for maybe a possibly new employee, have sick leave and comp leave and stuff like that that would move them up toward their forty hours a week?

MR. WAUGH: Yes, but we may, in some instances, want to retain an employee at a lower pay, and they would only work thirty hours a week, and that's what this is trying to get to, and, Mike, feel free to come up and offer any additional clarification, as necessary.

MR. COLLINS: We had a long-term employee that had major back surgery and was limited by her doctor not to work more than thirty hours a week, and so this made her eligible for the benefits, but at a reduced level of pay, as Gregg said, and it was a long-term thing. It was six months of that limitation.

MR. WAUGH: Moving on to Post-Retirement Health Insurance, this is a benefit that the council added to provide some -- Well, federal employees can remain within their group health insurance policy, and they pay the premiums, and that's not something we can offer to council employees. All the councils worked on a way to try and address this, and they couldn't, and so what the council did was provide this benefit whereby, if you serve ten years of continuous service and you retire from the council after age-sixty-five, then the council will pay 85 percent of a retiree's cost for Medicare B, F, and D or other federal government insurance, such as Tricare.

We worked with our -- Like everybody else, medical care is an increasing cost, and we have shopped around. One year, we switched policies twice with a company, and we're working with our current insurance company, and, by having employees that meet the Medicare requirement, if we shift them out of our group policy, that lowers the overall age and medical costs of remaining pool of employees. This helps control the increase in cost each year for that pool of employees,

and so that savings is quite significant to the council, and that savings banks and sort of self-funds a portion of this benefit after people retire.

MS. BECKWITH: Amongst the discussions that I think you guys are going to have later in Personnel and looking at different benefits, one thing we might consider as a council is, those people that have come in under this benefit, they should be able to retain it, but I think the council should consider moving new hires over to something more similar to the Gulf plan for the post-retirement health insurance, but that's just a thought.

DR. DUVAL: Gregg, I just had a question. The comment balloon kind of covers up what the remaining text is under the next item of Life Insurance. Can you read that? I can't see all of what the text is under Life Insurance, and I was just curious if you could clarify that.

MR. WAUGH: I will have to pull that up from our previous version, but I will get that wording for you. Maybe, while we're discussing this, Mike could pull up our previous version of the handbook and then we can get you that wording.

MS. SMIT-BRUNELLO: I actually think I have it. I have an old hard copy of that, and it says, under Life Insurance, that fully-paid term life coverage is provided for eligible employees. The amount of insurance is prescribed by the terms of the contract with the insurance company. The contract contains the details of insurance levels and coverage.

MR. WAUGH: Thanks, Monica, and so the two words that are covered up are "the".

DR. DUVAL: Awesome. Thank you.

MR. WAUGH: The next item is on page 7, and it's the Retirement Plan. We are suggesting -- This wasn't quite clear, the wording that's in there now, as to a retirement plan separate from our 401K, and so we're suggesting this new wording. The council sponsors a 401k retirement plan in which employees are eligible to participate. Employees may make pre-tax or after-tax, which are Roth, contributions to the plan, and the council matches employee contributions up to 4 percent of the employee's annual salary subject to funding availability. This amount can change depending on funding. Pre-tax contributions and all council match contributions are taxed upon withdrawal. If an employee chooses the Roth option, taxes are paid upfront through regular payroll tax deductions. Additionally, the council makes a safe harbor contribution in the amount of 3 percent of the employee's annual pay. This contribution is non-discretionary, non-matching, and 100 percent vested. Lastly, the council makes a contribution of 7 percent of eligible compensation to a fixed pension fund. After 5 years of service, an employee will be 100 percent vested.

What that means is the council contributes 10 percent, a portion of which you have to meet this vesting requirement for five years. The council will match an additional 4 percent if the employee contributes that, and that's dependent on funding. What the council did in December is we approved a 10 percent reduction to that, and so it's 3.6 percent is what the council is matching, and a difference between federal and state and council employees is we don't get a pension, even though the wording here says a fixed pension plan. What we have is basically it all goes into a 401K, and, when you leave the council, you get whatever is in that 401K. There is no further obligation from the council, and there is no sort of pension, and so that's the difference. That is pretty consistent across all eight councils.

The other item is, at retirement time, a one-time allowance is authorized for financial planning not to exceed \$2,000 to assist in an employee's transition to retirement, in terms of restructuring the distribution of retirement accounts, and so we have a group that provides advice to the council staff while you're employed there.

The thought process here is this helps employees that need it and that choose to use it, and not all have, but making that transition from when you're working to then setting up the structure of how your retirement is going to be structured and paid out is quite a big step, and, in some instances, this is a very important benefit to employees to assist them in structuring that. There are similar training and services available, I know, at the federal level, and I'm not sure at the state level, to provide this, and not all of our employees that are retiring make use of this, but I think it's a very important assist to those that need it.

MR. BELL: For us, that's normally our HR folks that set that up, and, once a year, we have a retirement class, and they bring in outside folks, and you can get advice and stuff, and they explain things, and you consider your options. That would be the equivalent, I guess.

MR. PHILLIPS: Again, I am not on your committee. I am guessing -- You say you've got a group or somebody that does this ongoing, up until they are retired?

MR. COLLINS: That's correct.

MR. PHILLIPS: A follow-up. So, it's not part of our human resources group and it's an outside group that we're paying to come in and do this advice? I'm a little unclear on how this is working.

MR. WAUGH: I will let Mike give a little more details on how that's done.

MR. COLLINS: We have an outside agreement with a company called Baxter, and they provide general advice on the retirement plans and the health side of things, and so they're the ones that negotiated where we would put our 401K money with Great-West, which is now Empower, which most of the states have their pension plans with that same company. They negotiated down the fees as low as they could possibly do it based upon the amount of money that's in the 401K plan, and so it's just general advice.

Specific advice to a retiree is an added service, and so they also monitor or administer the FSA plan, the kind of cafeteria plan, and so, the people that defer money for childcare, they monitor that type of thing, and it's a seventy-five-dollar fee per month to do all of that, but the specialized part, upon retirement, is not covered by that.

MR. WAUGH: The next item is on page 9, Compensatory Leave. There was a question raised about the statement about travel on a weekend or holiday which substantially disrupts the employee's schedule will be counted as eight hours, and it is a little open-ended. We feel this provides some limited flexibility for a supervisor to determine how much comp time is allowed, to that eight-hour maximum, for a day.

Then the Family and Medical Leave Act, we had wording in here regarding maternity leave that was removed and replaced with the language used by the Gulf Council to track the Family and

Medical Leave Act. This was some older language that we had, and so what we have done is replace it with all the language from the Gulf, and we've got a question here of this one paragraph that the Gulf has that is not required by the Family and Medical Leave Act and a question of whether this should be retained.

It says that the council may choose not to return highly-compensated employees, the highest 10 percent of employees at a worksite or within seventy-five miles of that workplace, to their former or equivalent positions following a leave if restoration of employment will cause substantial economic injury to the council. If you invoke your rights under the FMLA, the council will notify you if you are determined to be a highly-compensated employee. We are just not sure that we need to have that in there. It's not required by the FMLA, and we wanted to have you all's discussion and guidance.

DR. DUVAL: I guess a couple of things. I would think you would want to notify an employee if they are considered to be a highly-compensated employee before anyone -- When they're being hired on, as opposed to when they might decide to invoke their rights under FMLA. It seems to me like you would want to be just more upfront about that as part of an employee's new orientation, and so that's just a suggestion, if this stays in.

I don't know if the council has ever, in the past, encountered a situation where there was something like this, where someone was out on FMLA and returned to the worksite after an extended absence and something like this was done. I think, if there was going to be any consideration of something like this, then you would probably want to have this clause in here, to protect yourselves, and I don't know. I mean, I would look for input from other members of the committee as well, and those are just two suggestions that I would have. I think you probably would want to notify an employee upfront during their orientation if they are a highly compensated person under the FMLA and then other input as to whether or not this should stay in.

MR. CONKLIN: To me, this opens up kind of like a slippery slope. I would recommend, personally, to remove it from the document.

MR. PHILLIPS: Since it seems like it's almost never used, or has never been used, does it matter if you leave it in? If you don't use it, but there may be some odd -- Something that happens five years down the road, unforeseen stuff, and not that we ever get anything unforeseen, but I think my gut feeling is that -- Again, I'm not on the committee, but, if it doesn't hurt, but we may need it, or the council, at some future point in time, may need it, it's probably better to leave it in.

MS. SMIT-BRUNELLO: Just an observation. I don't know why the Gulf Council put this in there. There may have been a really good reason they put it in there, and you may want to ask them why they put it in, because sometimes you don't always know why certain scenarios that could come up, but this is not legal advice, because I am not familiar with all the ins and outs of the FMLA, but it's just a suggestion that you may want to just talk with them first.

MR. COLLINS: I am guessing that they put this in for a specific incident that occurred in the past. We have some kind of strange things in there dealing with council members flying their personal planes to a meeting and that type of thing, which happened fifteen years ago or something, and it just was -- It necessitated having it added to the Handbook, and so I think something happened down there that they needed to put this in.

MS. BOSARGE: Feel free to reach out to council staff and maybe ask them about that, because I really, on the fly, have not a clue.

MR. WAUGH: We can contact them and get the details for you, if you want, and bring it back in June. Then we can also look at notifying people at the start of employment that they are a highly-compensated person under this provision. We will bring that back.

MR. CONKLIN: Okay. We will move on.

MR. WAUGH: The next item we have is over on page 18, but I don't want to skip anything if anyone has a question before page 18, under Executive Finance Committee. We are clarifying here to indicate that the Executive Finance Committee approves the funding of any contracts. The Executive Finance Committee would also approve staff pursuing any grants for which the council is eligible.

That last sentence, in the past, in the long past, we did involve the Executive Finance Committee in looking at the staff retirement program. We haven't done that for many, many years. Mike and I now, the Administrative Officer and the Executive Director, are charged with the fiduciary responsibility related to the pension plan, and I doubt you all would want to take on that responsibility, and so we're recommending that that last sentence be deleted, and then we clarified that, through the budget process, the committee approves the funding of all contracts entered into by the council.

MR. CONKLIN: You recommend that we remove this, and does anybody have any heartburn with that? All right, and so we'll move on.

MR. WAUGH: When this was done, we didn't have some of the committees we have now, and so the suggestion was to lay out those committees, and so we've added them, and a couple of changes that we're suggesting be made, that you don't have, start with the Advisory Panel. Before, we had both the Advisory Panel and the SSC Selection Committees, both of those committees under one. What our recommendation is, it's let's separate them, and so we're pulling the information about the SSC Selection Committee and putting it down under Item I for the Scientific and Statistical Selection Committee.

For a number of these committees here, we use this old terminology of "steering committees", and we just call them committees now, and so we're suggesting that we remove "steering". In this section, the changes that we're suggesting is to drop the word "steering" and then to move the wording that appears now under E that addresses the SSC Selection Committee and to move that down to replace the language that is under I.

Next is over on page 22, Per Diem Guidance. The language was changed from "we" to "authorized travelers", just cleaning up the language there. The next page is on page 25.

MR. CONKLIN: Gregg, Jessica has a question.

MS. MCCAWLEY: Back on page 23, under Foreign Travel, there is a red dot in the middle of that paragraph. It's after the word "approval", in the next-to-last line.



MR. WAUGH: Got it. We will fix that.

MR. CONKLIN: Excellent observation. Thank you.

MR. WAUGH: Then over to page 25. Just to clarify that an administrative fee may be charged for research and copying records in response to a FOIA. The way this was worded before, it only applied to paper copies, and that tells you how long ago this was done. Now we've gone electronic, and we respond to our FOIAs, and Mike has a system set up that we track this after each meeting, and so it's actually really easy for us to provide FOIA request information to the Region and NOAA GC.

On page 27, this is one item that you asked us to work with NOAA GC on, and we're still in the process of trying to get some clarification on that. This has to do with IPTs and how state employees, state representatives, can participate on IPTs, and I don't know if Monica has anything to update us on at this meeting.

MS. SMIT-BRUNELLO: I don't have an update, but we are working on it, and we're talking with attorneys in other regions too, to see how they handle it with their councils, but, yes, we're looking into it, and so we should have an answer by June.

MR. WAUGH: On page 29, addressing Property Management, this is clarifying that the Administrative Officer is responsible for property management. Then, on page 34, within the appendix for the SSC, this is suggested language to clarify how they vote or when they vote. Our suggestion is to put in language that reads: The SSC generally reaches decisions by consensus but may also vote as needed and as determined by the SSC Chair. We just wanted you all's okay to put that in there. Okay.

On page 35, Public Comment, we're just adding the use of the council's online comment form, and so both the SSC, and it's the same language for the AP, we now make use of the council comment form, and we want to do that same thing in conjunction with SSC and AP meetings.

DR. DUVAL: I will just note that there's a couple of places here where "Council Chair" probably needs to be replaced with "SSC Chair" under those last two paragraphs under Verbal Comment. It says those wishing to comment should indicate such in the manner requested by the Council Chair, and so just replace it with "SSC Chair", and the same in the next paragraph.

MR. WAUGH: Got it. Thank you. On page 37, we just changed the order of this material to pull up the discussion of an inactive advisory panel, to get that farther up into the discussion. Then, under Appointment and Replacement of Members, change from "nominee" to "applicant". Then, on page 40, again, that change for public comment, and we've got the same issue there to fix with "Council Chair" and change that to "AP Chair". Those are all the changes we have suggested for you.

MS. MCCAWLEY: Just to reiterate, we talked about some additional changes in the Personnel Committee, and I think that we want to get those in after the next committee meeting, and then the request, during that committee, to go through and look for additional policies that you might have that you might want to add to the handbook.

MR. WAUGH: Okay. We will get anything else that we have, any existing policies, and we will add them in a draft. I think, since the Gulf has so much more experience with their Handbook, we will take a look at theirs and see if there is anything there that we're missing that perhaps we should add, and we would bring that to you in June, in track changes, so you can see it. We're always willing to learn from other councils. That is everything on the Handbook for right now, and I don't know if anybody has any input at this stage for the SOPPs.

MS. MCCAWLEY: I didn't get a chance to review the SOPPs. I am just hoping that I can review it before the next council meeting. I spent my time on the Handbook, and so I just wanted to -- It's not that I don't have edits, but I just didn't have time to get to it.

MR. CONKLIN: A fine job you've done. Thank you.

MR. WAUGH: In terms of the SOPPs, that version that we have is currently under review in the Region, and so I don't know if there would be any changes from the Region. We don't anticipate any, but, again, the idea with the SOPPs is to have sort of the bare minimum legal requirements that match up with the MSA, and then all the details are in the Handbook.

MR. PHILLIPS: Just to clarify, if I remember correctly, once we send the SOPPs to the Region, we act as if they were passed, even though it may be on the bottom of a pile on somebody's desk, whom I won't name.

MR. WAUGH: That is correct. We have been operating under those SOPPs and the Handbook, and we make changes to -- We control, if you will, the Handbook, and so we can make more changes to that, and we're awaiting the potential for MSA reauthorization, and, if we get changes there, then there may be some items that we do need to address in the SOPPs.

MR. CONKLIN: All right. Is there any more business to come before the SOPPs Committee? I will yield back five minutes, Mr. Chair. Thank you.

(Whereupon, the meeting adjourned on March 8, 2018.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

Transcribed By:  
Amanda Thomas  
March 21, 2018

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL  
2017 COMMITTEES continued

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Chester Brewer  
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March Council Mtg 2018 - Day 4 - 3/8/18

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