

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **ADVISORY PANEL SELECTION COMMITTEE**

**Charleston Marriott Hotel  
Charleston, SC**

**September 19, 2013**

### **SUMMARY MINUTES**

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#### **Observers/Participants:**

Monica Smit-Brunello  
Dr. Bonnie Ponwith  
Dr. Marcel Reichert  
Doug Boyd

Dr. Jack McGovern  
Phil Steele  
Pres Pate

Additional Observers Attached

\*Appointed but non-voting or sworn-in until October 25, 2013

The Advisory Panel Selection Committee of the South Atlantic Fishery Management Council convened in the Blue Topaz Room of the Charleston Marriott Hotel, Charleston, South Carolina, September 19, 2013, and was called to order at 8:30 o'clock a.m. by Chairman Doug Haymans.

MR. HAYMANS: Good morning, everybody! We just have a couple of points to cover this morning. First will be the approval of the agenda. Does anybody have anything to add to the agenda this morning, any additional discussions? Seeing none; the agenda will stand approved. You have a copy of the minutes. I'm sure that was the first thing you turned to in your briefing book and read them thoroughly and made sure they were exactly like you thought they were supposed to be. Are there any changes to the minutes? Seeing none; those minutes stand approved. We have a small little hitch with the Mackerel Advisory Panel from the last meeting. Kim.

MS. IVERSON: In the June meeting we went through several motions and there was some discussion and motions made for appointments and reappointments. In your meeting minutes I alluded to the discussion and the motion made by Mel Bell to reappoint Tom Ogle and Ed Holder to the Mackerel Advisory Panel.

Unfortunately, we failed to capture that motion in the committee report so it did not go forward to the full council. Joe was the one that caught that in the meeting minutes and so I'm going to defer to Joe. I'm not sure what the parliamentary procedure as far as should we make another motion.

I just wanted to bring it up so that this motion be approved during full council. Okay, we will bring that motion forward to full council with the understanding that the committee supported that back in June. I apologize for missing that motion during the committee report. I think we will move on to the second agenda item, which is the review of the advisory panel policy and term limits.

MR. HAYMANS: If you will remember at our June meeting we had a short discussion about the termination or term limits, rather, for members. You should have received in your packet – do you know which appendix that is, Kim, the advisory panel policy?

MS. IVERSON: It is not an attachment. It is a PDF because these were all e-mailed over to you. There is a copy of Administrative Handbook and the current Advisory Panel Policies within your briefing book material. It is not labeled as an attachment. It says, "SAFMC, underscore AP, underscore Policy Approved"; 6/20/11.

MR. HAYMANS: So that is really the primary guiding documents of our AP. On Page 2 of that document there is a paragraph there that talks about terms of members. Another thing that was included in your – was that e-mailed as well, this little paragraph?

MS. IVERSON: Yes, in your second briefing book, Doug had sent some language regarding term limits, some draft language, and that was included in your second briefing book e-mail.

MR. HAYMANS: So what is pulled out of the AP, then, is that term of members' paragraph with some strike-through and underline that I have been working on. Do you have it where you can project that language, Kim? So, just briefly open the discussion, I don't know, this has been I guess three years that I've chaired this committee, and each time we get to – there are a few committees that we get to where there is a long list of people waiting to get on the committee.

But, the person whose term is up has been an excellent serving member, and we just have a short discussion and put them right back on. That's fine, but at the same time rarely are we able to make room for new blood to come on the APs. What I drafted or was trying to draft there was some simple language that would give us – it is set up the same way that we're set up as a council in that you can serve three consecutive – and all APs serve at the pleasure of the council – that's the first thing – and the council can do what it wants when it gets to appointments.

What the language would do is have a person serve a maximum of three terms and then they have to sit off a term before they're eligible for reappointment. What it also would be is that if we get to the end of three terms and there is nobody that is eligible or nobody that fits that spot and we need that spot, then the council could choose to reappoint that person; but that fourth term that they're reappointed to counts basically as a third term.

When they end the fourth, their term is up; or if they to a fifth, then their term is up. Believe it or not, we've got people who have served on these APs for 20-plus years. Kim is going to try to capture it, but I will read it here real quick. Well, she is going to get it; go ahead.

MS. IVERSON: I apologize; this was the language that was brought forward in the briefing book, so let me just type this. I believe this is the language that you're referencing with the strike-through?

MR. HAYMANS: Yes, strike-through and underlines. While she is fixing that, is there some discussion? John Carmichael had some pretty good points on something. Michelle.

DR. DUVAL: I thought the draft policy was pretty good, what you had sent around with the strike-throughs and the underlines. It still allows the council – if no qualified people have applied, it still allows us to keep qualified people in those seats and to allow folks to serve more than three terms if we so choose and if there isn't anyone else.

It is not that we're trying to kick productive members off of advisory panels, but as you indicated there are some folks who have been waiting for years, they resubmit their application materials, and so I think this gives a good balance of making sure that we have qualified people in those seats and also allows for new people to participate in the process.

Personally, I like it. That said, on the flipside, you could also make the point that sometimes having that sort of historical or institutional knowledge; you know, someone who has been on an AP for 12 years, so I think it sort of depends on the AP. I could see SSC members sticking around for a while.

MR. HAYMANS: And that's a good point. I don't think the SSC is affected by this nor the SEDAR or the SEDAR Pool; because there is some expertise there that we probably want to keep in. Now, having said that, we didn't say that in this policy, but it also doesn't address individual panels here. I don't know whether we need to kind of cull out SEDAR or not. John Carmichael, come and tell us why we should cull out SEDAR.

MR. CARMICHAEL: It is somewhat about the discussions we had at the SEDAR Committee about how SEDAR Panels are viewed under the law and under the Magnuson Act. They're considered advisory panels and that is why they're listed in the thing and we have the way for making appointments. They're going to be an advisory panel that is going to have slightly different rules. We should make sure that they're specifically eliminated from this so that their terms don't expire and all that.

MS. McCAWLEY: I just had a question; do we have a mechanism to look at advisory panels and SSC occasionally to look for people that aren't participating and go ahead and replace those people? Do we have mechanism to do that?

MR. HAYMANS: Yes; if they're not participating, that is one of the rules for termination. If they are absent from two consecutive meetings without giving adequate notification or reason to the council executive direction; that is a reason for terminations. The SSC is not an AP, so that wouldn't really count here. It is really the SEDAR.

MR. CARMICHAEL: Yes, the SSC is not an AP; it is a committee under the council. What happens at the SSC – and this is all specified in their rules, too – is we look at a third of the members each year. They serve three-year terms; no limit on their term; so in some ways this is kind of similar.

MR. JOLLEY: Let me ask John are you turning over, though, getting new blood on the SSC with some regularity?

MR. CARMICHAEL: Yes, the changes we did on the SSC have been very good. One thing that we did learn about the SSC is when we didn't have a process of looking at membership regularly and having terms, which is something I think is good about here, having terms and both parties know what they are – when we didn't have that and it was rather open-ended, whenever the council wanted to look at membership, there was always kind of a concern of, okay, who said the wrong thing now.

It became like if the council wants to look at membership, they must be dissatisfied with us versus there is no more concern about that because they know they're up for a term and they know that regularly it is going to be reviewed.

MR. PUGLIESE: What I was wondering is that one of the more unique APs we have is the Habitat AP; and we do have agency positions on there, so hopefully this wouldn't affect where you have positions that the agency organizations, those are slotted positions – we do have some that are rotational, recreational and commercial fishermen and then some at-large seats for scientists that would fall under this type of thing; but those agency positions, hopefully, we

wouldn't be in a position where we would have to ask the agency to change their person over time.

MR. HAYMANS: Well, it is sort of like this council, the agency position doesn't apply. The agency sends the representative that it wants to be on that Habitat Committee, so I wouldn't think it would be affected.

MR. PUGLIESE: I just want to make sure.

MS. IVERSON: The other language that was up here was the discussion that we had in-house following the language that was forwarded to the committee.

MR. HAYMANS: Yes, and it will not appear in the AP. Now we need one more sentence on there, something to the effect of this terms' policy shall not apply to the SEDAR AP. And I guess – well, no, because we have said we're going to take people out of the pool on a regular basis, but we've already said that, right? Isn't there a length of time that people can remain in the pool?

MR. CARMICHAEL: The SEDAR Pool right now, when they're appointed, there is no expiration to it. The idea is that is expertise that is available for you to call on as necessary.

MS. IVERSON: And to that point, before someone is appointed to a particular SEDAR, they have to make sure that their conflict of interest disclosure form is updated. For instance, if someone has been in the pool for three or four years, that disclosure form has to be updated every two years, so it is also an opportunity to get updated information to make sure that their status hasn't changed since they applied.

MR. MAHOOD: One other contingency, John, I'm not sure of – and I don't even know if this is an issue, but some of the people are in the SEDAR Pool because they're on another AP. Now, if they go off of that AP, are they automatically out of the SEDAR Pool?

MR. CARMICHAEL: Yes, the way the SEDAR Pool is set up is it includes all current members of the APs; so if you're not on an AP – you know, maybe you served on a SEDAR two years ago, but now you're not on an AP, if that stock comes up again and someone would like to be considered, they need to then apply for the SEDAR Pool to be counted. It is not anyone who has ever been on an AP. It is those who are currently on an AP.

MR. MAHOOD: John, really then there are two classes of SEDAR Pool people. Those that are specifically voted on by the council to go on the SEDAR AP, they are on there without a term limit, we're saying, or is this going to apply to them?

MR. CARMICHAEL: Well, the people that are in this separate pool, that is a separate AP. The people that you have voted on and said we're said we're going to put these guys in the SEDAR AP, that is the people above and beyond those that are already on existing APs. This last sentence just applies to that AP. The pool is bigger than the SEDAR AP, technically, if that makes sense.

MR. HAYMANS: Technically the SEDAR AP only is standing as long as needed for the assessment and then that particular AP goes away?

MR. CARMICHAEL: No, the SEDAR AP stands all the time. The panel that you appoint only stands for the period of the assessment. There is a pool, which is big; that's all the AP people – that is the employees and designees of the state agencies, people that are in the universities. There are a number of classes that you included in there. Then there is the SEDAR AP, which is a subset of extra people that you have supplemented that you can all on; and then there are all the other people on the APs. That is your full pool. And then from that you create a panel that stands for the period of an assessment.

MR. MAHOOD: Okay, then, John, if this sentence is added, you do have a special class in the SEDAR Pool, those that were appointed by the council as opposed to those that will go off because they're no longer on one of our other APs; is that what we want to do? Is that what you all want to do? I don't have any problem with it, but it just seems like – I guess if we feel they're worthy of being put specifically in the pool, then they can stay forever.

MR. HAYMANS: I could have sworn when I read back through the minutes – I believe it was the minutes – that there was someone who had a discussion about the fact that people were only going to stay in the pool for so long. I can't come up with where that was.

MR. MAHOOD: Well, some people jump in the pool and then they're never appointed to anything.

MR. HAYMANS: And that was the reason. Roy.

DR. CRABTREE: I guess I have a procedural question. We appear to me to be in closed session at the moment; but when I look at the agenda we have activities updates, planning and priorities, and a number of things that should open session. Then the agenda says we go into closed session to discuss SEDAR 38 participants.

I don't believe we should be in closed session and having these discussions. I did look at the door and it does say "closed session" on the door, and I think we told the public we were in closed session this morning. I don't think we ought to have discussion beyond the personnel issues that are appropriate for closed session.

MS. SMIT-BRUNELLO: Historically you have gone into closed session, which the regulations allow, to discuss appointments, because you wanted to talk freely and you're sometimes getting into things that could potentially – well, you don't want the public necessarily to hear about, and then you announce whatever you're doing in closed session in open session. Roy is probably right; these kinds of things could be in open session unless you have some specific individual AP member concerns that you want to discuss or those sorts of things.

MR. HAYMANS: I don't know about the SEDAR appointment; it is not on my agenda.

MS. IVERSON: We didn't have that as an agenda item under this committee meeting.

MR. HAYMANS: So who got us into this mess and why didn't you say it sooner, Roy?

MR. MAHOOD: Why don't we just go ahead and do the closed part and then we will reopen it back up and we can talk about this.

DR. DUVAL: I think originally there was some hope that we would have names to discuss for the SEDAR 38 recreational appointments. I had been talking with some folks and so had Ben. Since we are in closed session, I've spoken with Ron Whitaker and Captain David Wilson. Both were very concerned about the constraints on their time and the commitment to a full SEDAR 38 schedule, you know, kind of as we discussed earlier during the SEDAR Committee, just in general concerns about people's time.

I have not come forward with any names for a recreational appointee for SEDAR 38. Both are very willing to be contacted separately, ala sort of an alternative process that John outlined that we need to explore for having analysts have some direct conversations with some industry experts in terms of any questions that they might have, sort of have an alternate communication protocol, I guess, as an alternative as to the webinars that we do right now, which are very difficult for a lot of fishermen to make it to. They were both very eager to have anybody contact them to provide any knowledge or input when the assessment gets going. That's it.

MR. HAYMANS: Is there anything else about the SEDAR hidden agenda item that none of us knew about up here? Okay, Mr. Chairman, we can open this meeting back up and then finish our – we will open the doors and finish our AP term-limit discussion.

MR. CUPKA: If Monica doesn't have any problem with that. I knew we were going to be talking about a policy, but I didn't know if there were going to be any names coming up or anything. We're just following the agenda that was laid out, which called for a closed session, so that's why we did it. If you don't see any problems, we can open it back up.

MS. SMIT-BRUNELLO: I don't see any problem with you discussing changes in policy in open session. I think that should be open session. Now, do you anticipate talking about specific individuals potentially? Are there reasons that you can think of to have that in closed session?

MR. CUPKA: I can't think of any and I don't believe we're going to use anybody's name as an example for why we want to change this or some of the problems we may have had in the past. I think it is all going to be very general and not specific to individuals. I don't see a problem to opening it back up.

MS. SMIT-BRUNELLO: Then I don't see a problem either.

MR. HAYMANS: So we shall turn on the internet connection and open the doors. Mel.

MR. BELL: I was just going to say I could see where you could be in a situation where examples might need to be offered up; but if that's not the case, fine. I mean, I could see it might set up like that and we think we might need to be in closed session.

MR. HAYMANS: I don't think there was any intent to discuss individuals. Roy.

DR. CRABTREE: I hate to gum it up but I just would hate to have some of our constituents come up to me with this agenda and say, "How can you talk about priorities and planning of assessments in closed session?" We could get nailed on that, and that is not the way the agenda is laid out.

MS. IVERSON: Roy, I think you may be looking at a different agenda. This is for AP Selection. It may be the SEDAR Agenda because we're not discussing policies and priorities.

DR. CRABTREE: Okay, but we're getting beyond some of that stuff, it seems like.

(Whereupon, the closed session went in open session.)

MR. HAYMANS: Are we good to continue now? All right, in continuing our discussion of establishing some term limits, we have some text on the screen, and we have added a sentence to the bottom that talks about term limits that do not apply to the SEDAR AP. I think as a council we can work around the issues of that particular question, appointments to AP, the AP Pool and how long they're appointed for; because, again, these individuals serve at the pleasure of the council.

Is there any other discussion or any other wordsmithing of that paragraph? Again, this is going in the Administrative Handbook as an attachment. It is not part of the SOPPs. Does it require any approval other than this committee and the council? I assume that we will contact with a form letter each of our AP members letting them know about the change; and if possible when their term is due to be up, they would have to reapply at that point and so on and so forth. Is there anybody with anything else? Okay, do I have a motion to accept this language for the Advisory Panel Policy?

MR. JOLLEY: So move.

MR. HAYMANS: John Jolley; seconded by Wilson. The policy will now read: "Terms of Members: Members shall be appointed by the council for three-year terms and may, at the pleasure of the council, be reappointed for two additional terms not to exceed three terms in succession.

"A member may be reappointed to the advisory panel after having been off the AP for at least one year. If no qualified persons have applied, then the council may reappoint the member. In such case each new term shall be viewed as if it were a third term. The vacancy appointment shall be for the remainder of the unexpired term of the vacancy. This term-limit policy shall not apply to the SEDAR AP Pool."

**The motion is to accept the language as modified to the Administrative Handbook regarding term limits for the Advisory Panel members. We have a motion made by John Jolley and seconded by Wilson. Mel.**

MR. BELL: I was just going to say I don't know that it matters but when you read that, I didn't hear you say the word "same advisory panel" when you "to the advisory panel", but the word "same" I think is –

MR. HAYMANS: So you're referring to the sentence that reads "A member may be reappointed to the same advisory panel after having been off of the AP for at least one year".

MR. BELL: Yes, I just didn't hear you say "same".

MR. HAYMANS: Okay. Any additional discussion? Is there any objection? **Seeing none; that motion carries.** When we started about other business; there was none at that point. Has anything come to anybody's mind? Seeing none, Mr. Chairman, that concludes the business of this committee.

(Whereupon, the meeting was adjourned at 8:55 o'clock a.m., September 19, 2013.)

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

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October 24, 2013

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