GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

ADMINISTRATIVE/BUDGET COMMITTEE

Marriott Plaza

San Antonio, Texas

August 7, 2017

VOTING MEMBERS
Robin Riechers...............................................Texas
Kevin Anson (designee for Chris Blankenship).................Alabama
Doug Boyd.........................................................Texas
Campo Matens.....................................................Louisiana
Paul Mickle (designee for Jamie Miller).........................Mississippi
Ed Swindell.........................................................Louisiana
David Walker......................................................Alabama

NON-VOTING MEMBERS
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Leann Bosarge.....................................................Mississippi
Glenn Constant................................................USFWS
Roy Crabtree....................................................NMFS, SERO, St. Petersburg, Florida
Pamela Dana.........................................................Florida
Dale Diaz............................................................Mississippi
Dave Donaldson..................................................GSMFC
Tom Frazer................................................................Florida
John Greene..........................................................Alaska
Martha Guyas (designee for Nick Wiley)..........................Florida
LCDR Stacy McNeer..............................................USCG
John Sanchez................................................................Florida
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STAFF
Steven Atran.......................................................Senior Fishery Biologist
Assane Diagne......................................................Economist
Matt Freeman.......................................................Economist
John Froeschke.....................................................Fishery Biologist-Statistician
Douglas Gregory..................................................Executive Director
Beth Hager...........................................................Administrative Officer
Karen Hoak.........................................................Administrative & Financial Assistant
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Emily Muehlstein...............................................Public Information Officer
Bernadine Roy......................................................Office Manager
Carrie Simmons...................................................Deputy Director

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PAGE 8: Motion to approve the budget as shown in Tab G, Number 4(a). The motion carried on page 8.

PAGE 27: Motion to modify the SOPPs so that council members must be physically present to participate, motion, or vote. The motion carried on page 29.
The Administrative/Budget Committee of the Gulf of Mexico Fishery Management Council convened at the Marriott Plaza, San Antonio, Texas, Monday morning, August 7, 2017, and was called to order by Chairman Robin Riechers.

ADOPTION OF AGENDA
APPROVAL OF MINUTES
ACTION GUIDE AND NEXT STEPS

CHAIRMAN ROBIN RIECHERS: I would like to open the Administrative/Budget Committee and turn everyone’s attention to Tab G-1, the Adoption of the Agenda. I will note, for the record as well, that all members are present around the table. Does anyone have any additions or deletions or anything to add to the agenda? Mr. Gregory.

EXECUTIVE DIRECTOR DOUGLAS GREGORY: Thank you, Mr. Chair. I would like to add, to Other Business, a discussion about council members participating in the council meeting via webinar or telephone conference call rather than being present. We have some verbiage in our SOPPs, but it’s not complete, and NOAA General Counsel may have some comments on this.

CHAIRMAN RIECHERS: Okay. We will add that to the Other Business. Any other changes? Hearing none, we will adopt the agenda then, as modified. Next, we will turn our attention to Tab G-2. Are there any deletions, additions, or corrections to the minutes? Seeing no hands in the air, I assume then that we will adopt the minutes as written. With that, that takes us to the Action Guide and Next Steps, Mr. Gregory, Tab G-3.

EXECUTIVE DIRECTOR GREGORY: Thank you. Agenda Item IV is going to be a Review of 2017 Expenditures to Date and the budget, based on funding. The council reviewed the draft of the 2017 budget earlier this year, and we were not advised of our final funding until July 6 of this year. Beth is going to go through that, and we need the council to approve the final 2017 budget.

I know it’s a little odd to be approving a budget in the latter half of the year, but that’s the situation we’re in, and Beth will explain that we still haven’t received any funding, but we’ve just been told what we’re going to get, and so we’re still waiting for the second half of our year’s funding. Beth is going to go through that, and we need the council to approve the final 2017 budget.

Agenda Item V is going to be a Review of the SOPPs Guidance on AP Appointments. This is something that came up at the last meeting, and I just wanted to run it by the council, to see if
we want to put some clarifying language in our SOPPs.

There are two aspects of this. One is to specify whether violations associated with reporting requirements are to be considered serious enough to disqualify an AP applicant or to consider that in the applicant’s request. Two is to revisit something that was put into the SOPPs, I think a couple of years ago, to consider violations relative to all marine species or all federally-managed species or only council-managed species.

With all marine species, that would include violations in state waters, which we currently do not include in our consideration. All federally-managed species would be for HMS-type species, and so those are the two items we have for our agenda today.

CHAIRMAN RIECHERS: Okay, and so we’re going to now turn to the budget items and Beth.

FINANCIAL BUDGET REVIEW
2017 EXPENDITURES TO DATE AND APPROVAL OF 2017 BUDGET
PROJECTED BUDGETS THROUGH 2019

MS. BETH HAGER: Looking at Tab G, Number 4(a), during our last 2017 budget review in April of 2017, we conveyed to the council our anticipation of a 1 percent funding increase over 2016 funding, which was $3,611,000. We recently, in July, received information that our funding for 2017 should come in at $3,681,000. That’s approximately a 1.9 percent increase over 2016, and so we have revised the budget reflected in this statement accordingly.

This updated budget and expenditures here are presented -- It’s what we’ve used so far, and we’re comparing the updated budget with our expenditures to date. We can see there are a few line items, such as health insurance and supplies, that do not follow a straight line outlay for monthly expenditures, and there are some things that we can have direct control over, to try and not expend funds, if possible, and so we do see some small variances within the detailed line items, but, overall, we’re about halfway through the year, and we have expended about 52 percent of our budget, which leaves us with 48 percent of our anticipated funds remaining.

By holding the remaining SSC meetings that we have planned and the AP meetings in the Tampa office and being mindful of our spending, we believe that we will be able to complete any necessary activities and end 2017 without a deficit. That is the very bottom line there, in the far right-hand corner, where
you will see the 48 percent.

Looking to Tab G, Number 4(b), this is the projected funding and expenditures for 2017, with estimates for 2018 and 2019. We have revised the projection for the 2017 year-end expenditures and anticipated funding for 2018 and 2019 in this slide, and our projections for 2018 and 2019 were originally based on the guidance that we would receive a 10 percent increase, and then it was drawn down to 3 percent.

Since then, we have learned that the funding will likely be much lower, and so we have revised these projections to reflect a 1.9 percent increase in 2017 and a possible 1 percent increase in 2018 and 2019.

A significant factor in this projection is the unanticipated cost increase for our office space, beginning in June of 2018, because we need to relocate the council office. Our building has sold, and the new owners plan to increase our rent from about $88,000 to $133,000 annually. That’s above what we’re currently paying in rent.

Other options in the Tampa area are being explored, but a recent market analysis indicates at this time that suitable locations may cost between $80,000 to $90,000 more than our current space if we maintain the same usage.

Given our original five-year projections were based on the guidance of a 10 percent increase, overall, our total funding projections show that, based off of the initial five-year award, we will be receiving $2.4 million less than we originally anticipated.

Some assumptions in these projections for 2018 and 2019 include no impact for possible staff turnover. In 2018 and 2019, we removed one position from our proposed budget, and we anticipate receiving funding to move one more biologist to the coral award at 100 percent.

At this time, we believe our health insurance plan will no longer be offered by the provider, due to the extreme uncertainty in the market and legislation, and we have budgeted a conservative 10 percent increase for 2018 and 2019.

We have decreased our planned 2018 and 2019 meeting activity to more accurately reflect the current issues that were being addressed, which were not available at 2015, when the original budget was projected, and hosting as many meetings as possible
in our Tampa office.

Several areas of the budget will be affected by our impending office space relocation. Due to this, we have increased costs and contractual services relating to the physical move. We will need to reroute cables, and we will need to add phones, and we will also need to replace printed materials with the new address, and a possible increase in the office rental costs.

Our hope is that we’ll have a space suitable that will allow us to continue to host meetings in the office. That will depend on what we find available and what we can afford. If we can maintain it in the office, it should help us to offset some of the costs. Staff will, as usual, always continue to look for areas to reduce costs, wherever possible, and that’s all we have.

CHAIRMAN RIECHERS: Okay. Any questions of Beth? We really have two items on the table here, just so that we’re clear. We have to approve the most recent 2017 budget, which was the first tab, and then we can have any discussion that we want to have about these projected budgets as well or any of that, and so, for the first one, let’s just deal with 2017 first, and hopefully we’ll have a motion to approve that. Committee members, please.

MR. CAMPO MATENS: I make a motion.

CHAIRMAN RIECHERS: There’s been a motion to approve, and that would be Tab G-4(a), for 2017. It’s seconded by Mr. Boyd. All those in favor of the motion, say aye; all those opposed same sign. The motion passes.

Now we will deal with Tab G-4(b), if there is any questions or concerns or more in-depth questioning that wants to go on surrounding that. I guess I only have one, and that is, Doug, given some of the numbers here, the variances that we’re seeing here, I am assuming that you’re working either with the Chair or with the Chair and Administrative/Budget to really fine-tune these, so that we don’t reach a point at this time next year where we’re looking at approving budgets that are in the red.

EXECUTIVE DIRECTOR GREGORY: Most certainly, and we’re also going to try to -- Well, given that we sometimes do not receive our full funding until July or August or September in the year, we try not to go over our budgets, or even to meet our budgets.

We try to come a little under our budget, because we never know.
We just don’t have stable funding timelines, and so we’re clearly going to be looking for savings, and the one thing, the monkey-wrench, that we have this year is the having to move our council office.

We were not anticipating that. It’s typical when new owners buy an office building that they remodel it and invest a lot of money and raise the rents, and that’s what they’re proceeding to do, and, even though we’re long-term tenants, there’s like little regard for that, and so we know we have to move, and we’re going to look for space that is equal in cost, and even lower in cost, if we can.

We know that’s below market, and so I’m sure that we will not have an eleventh-floor office with a view of the Tampa Bay in the future, and so we’re just looking around. We just started our research this past month, and there are a number of options, and we’re going to try to do it with minimal impact on the staff as well as minimal impact on the budget, and so, yes, definitely. We’re going to try to come in with a budget without projected negative components.

CHAIRMAN RIECHERS: Well, and maybe we could even get more at the next council meeting, if you all are further along in that looking for other leased properties, et cetera, just so that we can have some assurances of that, because obviously what you’re looking at here is not coins under the couch cushion here. It’s fairly significant variances there, and so you’re going to have to plan for that, and even though you may end up getting more, you kind of have to plan for the worst-case scenario here.

EXECUTIVE DIRECTOR GREGORY: Yes, and this particular budget, to be conservative, we factored in increasing our square footage rate from nineteen-dollars to twenty-five dollars a square foot and increasing our office space from 8,500 to 10,000 square feet, and so that’s in this budget that you’re seeing now, and so we do not consider this to be -- This may be the worst-case scenario, and the square footage change is not that we’re trying to expand our space, but it’s that the office building -- The new owners are telling us that even though we’re paying for 8,500 square feet that we’re really using 11,000 square feet, and so we figured 10,000 is probably more realistic than 11,000, and we’re surprised by that.

Not only were they increasing our rent by 25 percent, but they were increasing our space by 25 percent without us changing our space, and so we’re really not happy or pleased with the current owners, and we’re definitely looking elsewhere, and we have
options.

MS. LEANN BOSARGE: I think, around this table too, it would be wise of us to be very cognizant of what we’re looking at 2018 and 2019, and, as we take things out for scoping or for public comment, if it’s something that’s very technical -- If it’s something that we really don’t feel we’re going to garner a lot of in-person public feedback, see if we can’t do some things by webinar and keep our costs down, and so we just need to be very cognizant of that as we move forward and we’re picking locations, and try and be as efficient as possible with our funds as we move forward. Obviously we don’t want to hinder the public from coming in, but we have to weigh all of this and make sure that we do it in the most streamlined and efficient financial way that we can.

MR. ED SWINDELL: I am not on your committee, Mr. Chairman, but do you have an idea of the timing that you have left to find a location and be able to move out?

EXECUTIVE DIRECTOR GREGORY: Our current lease ends at the end of June of next year.

CHAIRMAN RIECHERS: Dale.

MR. DALE DIAZ: Robin, I’m not on your committee, but, while all of this discussion is going on, it seems like, at Gulf States, and Dave maybe can help out here, but, at some point in time, I mean I don’t know if looking at purchasing a building is a viable option for us or not, and the numbers may not work for that, but that’s something I am thinking about as this discussion is going on, and I figured that I would throw it out there. Thank you, Robin, for entertaining me, even though I’m not on your committee.

CHAIRMAN RIECHERS: Dave, do you want to respond to that?

MR. DAVE DONALDSON: My only response is the property value and cost in Ocean Springs, Mississippi versus Tampa, Florida might be a little different, but, at the time, it was more fiscally viable for us to purchase it, but you might not be able to get such a good deal as we did.

MS. HAGER: At this point, all considerations are on the table. We are also exploring options with GSA to consider their resources and what might be available in GSA inventory, and so some things are much more time-intensive than others, such as
the GSA process. That takes two to three years to possibly get in with a lease there. We are not dropping that option, even though we need to be out by next June. We’re continuing to keep that on the table. If we find a short-term space or do a short-term lease -- Really, anything is open at this point, just so we can see what’s out there and what will work.

CHAIRMAN RIECHERS:  Doug.

MR. DOUG BOYD: Thank you, Mr. Chairman. Ed was going towards my question. What are the lease terms that we are currently under? If the landlord changes those terms, do we have an automatic out or any recourse?

MS. HAGER: At this point, our lease ends in June, and they are happy to have it end, and that’s it. They plan on making the increase effective at that time. If we choose to stay, it’s going to probably be cost-prohibitive in our space, and so we’re looking at having to move somewhere next June, most likely, unless we can do something really dramatic with our budget.

MR. BOYD: Do they have the right, under the current lease, to increase this $50,000 this year?

MS. HAGER: The current lease, no. The current lease is currently where it is. We are locked in until June, but, at that point, they can do whatever they would like to.

MR. BOYD: We’re anticipating about a $50,000 increase next year if we stay?

MS. HAGER: Actually, I think it’s a little higher than that.

MR. BOYD: Okay.

CHAIRMAN RIECHERS: All right. Any other questions? Hearing none, I will we will turn our attention then to our next item, which is Tab G-5. Doug, are you going to lead us through that?

REVIEW OF SOPPS GUIDANCE ON ADVISORY PANEL APPOINTMENTS

EXECUTIVE DIRECTOR GREGORY: Yes, sir. On Tab G-5, the Review of SOPPs Guidance on AP Appointments, I have, at the very beginning, the quote from our current SOPPs, as we amended them two years ago, and I will read that: “The presence of a fishing violation is an important aspect in consideration of an AP appointment. The council has determined: 1)Applicable fishing violations include only violations of federally-managed species
in either state or federal waters; 2) Individuals are ineligible to serve on an AP within three years of the finding of liability through adjudication, settlement, or default; and, 3) Vessel owners shall not automatically be held responsible for violations by a crew member when the owner is not present.”

Now, I wanted to just bring to your attention some things that we might add to this or change. The first one is to specify in the SOPPs whether reporting requirements are considered sufficient to disqualify an AP applicant. We had some discussion in the council about that, and I just wanted to get clarification is that’s something that we are to add to the SOPPs.

I know that sometimes reporting requirements are difficult, or a lot of a fishermen have difficulty keeping up with them, particularly paper logbooks that are in the mail, and sometimes they get lost in the mail, and the fisherman doesn’t know that they’re lost in the mail until the end of the year, when they’re told that they can’t get their permit renewed because they haven’t reported all their monthly reports. In that sense, it can happen fairly easily, in some circumstances.

On the other circumstance, I know the South Atlantic Fishery Management Council is coming out very strongly to make reporting requirements something that is a serious violation, and so there is arguments on either side, and I just wanted to get clarification if we wanted to -- The only reason to put it in the SOPPs would be to put it out there for the public, so that they understand that this is a factor.

Then the second aspect of this is, when we revised the SOPPs two years ago, we said that federally-managed species were the only species we would consider in appointing AP members, and I just wanted to, again, clarify if that meant just council-managed species or all federally-managed species, such as HMS species, or if we wanted to revisit including state species that aren’t managed by the council or the federal government, natural resource violations at the state level. I would like to get a council motion on both of those separately, if we could, either up or down.

CHAIRMAN RIECHERS: If we don’t want to do anything with them, we don’t need to vote them down. We just need to discuss it and decide whether we want to go forward with that. Really, let’s turn our attention to number one first, which is whether or not you want reporting requirements to be included as a, quote, unquote, fishing violation here.
I guess my question would be the scenario that you described would have been someone found out and then they had an opportunity to then, hopefully, find their logbook and turn it in, et cetera. Would they have been cited and then gone to some sort of either court or judge or what have you?

EXECUTIVE DIRECTOR GREGORY: Well, that’s what surprised me this year, was, in the past, as a Sea Grant agent, I helped a lot of people, when they first came out with federal permits and the logbook program. I helped a lot of people with compliance, and, a lot of times, with the commercial logbook system, and now it may have changed, and I welcome input on that, but paper logbooks would get lost in the mail, and the fisherman wouldn’t know that until he got denied getting a permit.

At that time, there was no violation. It was simply a paper exercise to turn in the monthly reports that were missing. Apparently now things are changing, and sometimes they are considered violations, and I am not clear on that. It certainly was the case with HMS dealer species. They were considered a violation.

CHAIRMAN RIECHERS: Well, it seems, to me then, that it’s a violation at that point, even the way we had it worded before, but the scenario where they’re lost and you have a chance to fix it or you’re just denied a permit, the permit denial is the issue then, but there may not be a violation, quote, unquote. You just don’t get your permit. Leann.

MS. BOSARGE: Thank you, Mr. Riechers, and I think, for me, the discussion is kind of are we going to differentiate between a data violation issue versus your normal fishing violations, what I call a normal fishing violation, where you’re fishing for something during a closed season or you’ve got more than the bag limit on the boat, something that was obviously done purposefully, and I think the thing that I am trying to keep in mind here is that, yes, we -- Normally, we associate this with commercial fishing violations, because they typically have the bulk of the permits which come with data-reporting requirements, but we just implemented something for the for-hire sector that’s going to require them to report on a trip-level basis, and so we’re talking about reporting sometimes more than once a day, and so before you offload any fish.

At this point, we check state violations as well for our private anglers in a lot of the states now, and they have requirements, mandatory reporting requirements, where they are having to
register before they leave the dock, and they have to report
their information when they get back.

At some point, I’m sure the states are going to have enforcement
on the water that are going to start writing tickets for that,
to put some teeth into it for their compliance side of it, and
that’s going to be a violation for our recreational fishermen,
and that’s a data violation, and, to me, there is a little bit
of a difference between going out there and trying to do
something that is skirting the regulations versus, oh yes, I
forgot. I’m fishing over here in Louisiana today instead of
Mississippi, and their system is a little different, and I was
supposed to do this, and vice versa.

I think we need to make that distinction and find out where
we’re going to draw that line in the sand and, for a data
violation, are we going to say, no, you’re not going to be on
our APs anymore, and that’s up to the committee and the council,
but that, to me, is what -- I was looking to the future and
seeing where you can have more and more of these coming in and
more chance for a violation.

CHAIRMAN RIECHERS: Doug.

MR. BOYD: Mr. Gregory, a couple of questions. One, do you know
if the Regional Office reports to a fisherman during the year
that their logbooks or their reporting has not been
accomplished? Do they give them periodic updates, or do they
just look at it once a year?

EXECUTIVE DIRECTOR GREGORY: My understanding is that it’s only
looked at when it’s time for permit renewal, and it’s what it
is. The Fisheries Science Center data people are queried by the
Regional Office to see if all the reports are in, and, if they
are, then the permit is renewed. If they’re not, the person is
notified that the reports are not all in and the permit is not
renewed. Again, that was five years ago, and it may have
changed since then.

CHAIRMAN RIECHERS: Let’s have Roy try to respond or someone
from National Marine Fisheries Service.

DR. ROY CRABTREE: That is essentially correct under normal
practice, and so the guy comes in to renew his permit, and he
would be notified that he has delinquent logbooks, and he would
have to submit those logbooks to us before we would renew his
permit, and that would not be a violation. It would just be
essentially a fix it and correct the situation.
Now, we do have some reporting requirements, more in the South Atlantic with dealer reports, that we’re using to track quotas and things that we’re looking more harshly at, in terms of potential violations for late reporting.

CHAIRMAN RIECHERS: So, as I am understanding it, really, question one, Doug, you were really getting at issues that may have occurred before it went to a fishery violation. I mean, it was a — It wasn’t to the point where they had been written a ticket and went before a judge and had some sort of dispensation regarding that.

EXECUTIVE DIRECTOR GREGORY: If I may, Madam Chairman Leann said it better than me. It’s really a question of is a data reporting, non-reporting problem at the same level of consideration as a natural resource, like too many fish or fishing out of season or undersized fish? Is it something that the council wants to take into consideration on a regular basis?

Now, what I was trying to point out with the commercial logbook is, at some point, that may become a violation, and I think that’s at NMFS’s discretion as to how to treat it, and so that could evolve into being a violation at some point.

I was just trying to point out how easy it is to have misreported information or not misreported, but unreported, information. In this case, when it’s a paper logbook, it can just get lost in the mail, and nobody is the wiser until the end of the year.

CHAIRMAN RIECHERS: Roy.

DR. CRABTREE: I would just make one point. It would be exceptional for anyone to get a violation for a reporting kind of thing, and I don’t have any data in front of me, and so this is just my overall impression, but, generally speaking, with reporting issues, correct them is what we ask for.

To get a violation, I would have to say that it would have to be egregious and a repeated pattern to be charged and actually show up as a violation. Just forgetting to report once, generally speaking, would not probably result in a violation.

CHAIRMAN RIECHERS: Kevin.

MR. KEVIN ANSON: Based on what Dr. Crabtree just said, I think, from my perspective at least, that, if one were to receive a
violation, citation, and it goes through the whole process, the
legal process, and they get a fine or some other thing related
to that, then that is a violation.

I think something where they have the ability, right now, to
turn them in, to get them caught up, so to speak, in the eyes of
the agency, that’s not very egregious, and they will accept the
data, and it’s used and that type of thing, but I think, the way
I’m looking at this, is a violation would be one where you
received -- You went through the judicial process and you were
found guilty and you have to pay a fine to rectify that.
Otherwise, it doesn’t fall within a violation and it’s not
considered for any action that the council would have relative
to AP assignments and such, or that’s my opinion.

CHAIRMAN RIECHERS: Mr. Matens.

MR. MATENS: Thank you, Mr. Chair. This conversation is
revolving around commercial fishermen and their requirement to
report their catch. I am curious. I think, and correct me if I’m
incorrect, but, presently, in Alabama and Mississippi, you
have a requirement for private recreational fishermen to hail in
and hail out. Have there been any citations on that? I mean,
this is a whole different game.

DR. PAUL MICKLE: We have been writing citations for two full
seasons now, and we just thought that we would lead in with a
voluntary year the first year, which was three years ago, and
then our marine patrol and our agency -- We align very well, and
we decided to write citations, and so we have written multiple
citations, and that is on a federal species for red snapper, and
so a state violation on a federal species.

MR. MATENS: To that point, Alabama?

MR. ANSON: I believe we’ve also -- Our enforcement staff have
written several. I don’t know what their status is relative to
going to the court.

MR. MATENS: Again to that point. I certainly don’t want to
interfere with the states’ ability to write whatever citations
they want to write, but does this council want to cause that to
be an impediment to being on an AP or not, and I really would
like to hear somebody discuss that.

CHAIRMAN RIECHERS: Leann.

MS. BOSARGE: Camp, that was exactly the point that I was trying
to make, that, yes, these are becoming more and more common that these are mandatory reporting, and, yes, the reporting is important, obviously, or it wouldn’t be mandatory, but, at the same time, we’re talking about garnering input and feedback from a group that will help us guide our management process, and, to me, there is a difference between a data violation and a natural resource violation, especially as it becomes more and more common and we have recreational fishermen that are going to fish possibly off of three states in the normal course of a year and trying to remember what each -- Yes, you have to do that, but I can see where you would have a glitch and you might get a violation, and I do think it’s a little different than a natural resource violation.

MR. MATENS: Again to that point. I am all for -- What I would be concerned about, one of the things I would be concerned about, is the public losing their appetite for a program that’s getting good data, by having some of these violations come back and bite them. I really haven’t made up my mind about this, but I agree, Leann, that I think that’s significant.

CHAIRMAN RIECHERS: It doesn’t seem -- Ed, do you have something?

MR. DAVID WALKER: I was just going to add -- I think I added this the last meeting, was about the -- When it’s time for renewal of permits, which requires a lot of data, your trip data and so forth, you’re not allowed to renew your permit until you get the data up to date, and so that might be one thing to consider. Some things were mentioned about maybe someone is having data violations at a state level, and maybe don’t renew their license until they turn in their data.

CHAIRMAN RIECHERS: It doesn’t sound as if at least committee members are really in favor of trying to differentiate this at this point. I mean, I think what we can do, maybe, is think about it some before Full Council. This is a problem that is going to be coming forth, as you’re describing it, possibly, and so maybe we want to think about it, and obviously we can deal with this at any time, if we see the need to, and so it’s probably worth some thought and then, either at Full Council or a subsequent meeting, maybe trying to differentiate those.

I will say that this is kind of along the same lines of conversations we’ve had in the past. When we try to differentiate these penalties, based on circumstances surrounding, and say, well, that one is not as big or that one is not as much, that’s where we end up tying ourselves in knots,
trying to figure out which ones to use and which ones not to use, penalty-wise, and so it’s kind of the same conversation we’ve had regarding this same issue for many years.

Let’s switch to the second item, which is, right now, it’s federally-managed species in either state or federal waters, and, when we say “federally-managed species”, I would have assumed that HMS was included already, and so, if there’s any notion to switch away from that and either include what you have listed here as Sub-Bullet a or Sub-Bullet c, I would entertain that from a committee member.

EXECUTIVE DIRECTOR GREGORY: If I may, when the wording “all federally-managed species” was put into the SOPPs, there was no discussion about whether it was just regional council or HMS species, but, when we applied it, we interpreted it as including HMS species, because it says, “all federally”, and I just wanted to get clarification on that and revisit the whole concept of which species violations would be pertinent.

CHAIRMAN RIECHERS: Does anybody have thoughts on that? Camp.

MR. MATENS: I will skip into the fray early here. I was under the impression that this would include all federally-managed species, whether the violation was in state waters or not, and that certainly would include HMS species. It looks like, to me, the real question here is do we include state-managed fish. Again, I really, right now, don’t know what to say, but I certainly would like to hear some discussion about that.

CHAIRMAN RIECHERS: Doug.

MR. BOYD: Well, I am like Camp. I thought that the original motions were for all federally-managed species, including HMS. I need to think about it a little more, but I really don’t think that state-managed fish ought to be involved. We’re a federal management system, and so I think we ought to say out of the states’ business.

CHAIRMAN RIECHERS: Kevin.

MR. ANSON: Just to pick up on Doug’s comment, in my mind, we’re not getting involved with state business, per se. It’s we’re trying to determine the judgment of the individuals that we are considering for appointment under our various bodies, and so I might be a little bit on the harsh side here, but my tendency is that, if they violate in one area, they can violate in another.
They just may not have been caught yet, and so that’s kind of where I am leaning to, in that it’s not necessarily a getting into what the state regulates or not or how it regulates, but it’s that the person was found to be in violation of a state fishery regulation, and so I’m not going to comment much more than that at this time.

I am not really -- I mean, if it’s an issue that starts to creep up, that’s something -- Going back to the comment that Mr. Matens had made, is that, you know, it’s perception here of the public and the confidence and the trust that public has in us as a body and utilizing the folks that we appoint to our various committees and advisory panels. That’s where we might need to really be considering it if becomes a major problem.

CHAIRMAN RIECHERS: Camp.

MR. MATENS: Real quickly, and I don’t want to cause this whole -- Because I want to think about this, but I think one of the other points to think about is will we consider inland fisheries, marine fisheries, or both in state waters.

CHAIRMAN RIECHERS: Dr. Crabtree.

DR. CRABTREE: Just something to think about. Just because of the nature of the way joint enforcement agreements with the states and the way things work out, a lot of recreational bag limit and size limit and recreational violations tend to be state-level violations, and so, if you’re not going to take those into account, that may be a problem for you.

Then, in terms of federally-managed species, remember that doesn’t just mean council rules. That would mean turtles and things like that, because a TED violation would not be a violation of a council rule. It’s a violation of a federal rule, and it could well take place in state waters, and I don’t think you want someone with TED violations on your Shrimp AP, and so those are things that you’re going to need to take into account, but, generally speaking, there are certain types of violations that tend to be prosecuted at the state level and not at the federal level.

CHAIRMAN RIECHERS: Any other discussion? Mr. Boyd.

MR. BOYD: Roy, to your comment, would a violation that’s prosecuted in the state that is a federal violation be considered to be just a state violation, even though it was a federal offense?
DR. CRABTREE: If it’s done at the state level, then it would be prosecuted as a state violation. If it’s a federal violation, then it would have to be at the federal level.

MR. BOYD: So a TED violation would be prosecuted at the federal level and not the state level?

DR. CRABTREE: Yes, the vast majority of the time, but a bag limit violation by a recreational fisherman or something like that would generally be taken care of at the state level.

MR. BOYD: What if it was a violation of a charter/for-hire or a commercial? Would it be prosecuted at the state level?

DR. CRABTREE: If it was a federally-permitted vessel and if the violation was a violation of federal regulations, that, I think, and Shepherd can correct me if I’m wrong, that would generally, I think, be prosecuted at the federal level.

MR. BOYD: Okay. Thank you.

CHAIRMAN RIECHERS: Martha.

MS. MARTHA guyas: I’m not on your committee, and so thanks for recognizing me, but, just to unwind some of this confusion that’s happening right now, the way that we are operating now is federally-managed species, and so, when we are vetting AP members, we’re not only pulling federal violations, but we’re also going to the states and asking them to pull federally-managed species where there’s been tickets at the state level, and so I think what Roy is describing, where we’re missing people in state waters, is not happening, at least with these federally-managed species. I guess the question is whether you want to include state-managed species, like trout, and so just to clarify that.

CHAIRMAN RIECHERS: I think you’re correct, Martha. Any other discussion on this topic? It doesn’t sound like committee members are ready to make a motion, if they would need to, and so, Doug, we’ve had some conversation. Everyone, at least, seems to believe that it was HMS-included species, but then the other language basically says federally-managed species, whether it was in either state or federal waters.

EXECUTIVE DIRECTOR GREGORY: I understand that, yes. That will be reflected in the report, and we’ll have an opportunity to revisit it at the council.
CHAIRMAN RIECHERS: All right. Let’s move on to the Other Business item that you asked to have added, which was attendance of council meetings via webinar, and, since I don’t think we have that language in the book, are you going to get it up on the board for us?

OTHER BUSINESS
DISCUSSION OF COUNCIL MEMBER OFFSITE ATTENDANCE VIA TELEPHONE OR WEBINAR

EXECUTIVE DIRECTOR GREGORY: Well, we don’t have explicit language for it, but, on the beginning of page 12 and the top of page 13 in our SOPPs, there is a sentence that says: “Decisions of the council are by majority of the voting members present and voting.” That is all it says.

We had a situation two years ago where a council member had a medical problem at the last minute and couldn’t attend the meeting, and, by discussion among the council, and that was in June of 2015, we allowed the individual to participate by webinar.

I have gotten inquiries, an inquiry, from a council member if we could still allow that, and so I think we need clarification as can anybody just do that or should it be some extenuating circumstances, and the council decided, two years ago, that the person could participate, but they couldn’t vote, and I have asked NOAA General Counsel to look into this and provide some clarification to us. Clearly, if we’re having a webinar meeting, everybody is participating by webinar and everybody can vote, and so we need something explicit in our SOPPs to clarify this.

CHAIRMAN RIECHERS: Okay, and so you asked General Counsel to provide some guidance here, or whether they had any, and so we’ll turn to Shep.

MR. SHEPHERD GRIMES: Thank you, Mr. Chairman. Generally, this has been interpreted as present and voting. If it’s an in-person meeting, you need to be physically present to vote and participate. Right now, as I understand it, in the one time it’s been used, we kind of split the difference. We have allowed some participation, but just no voting on it.

At least from my understanding, GC is comfortable, at least in discussions thus far, if you wanted to say -- If it’s an in-person meeting, you’re either here, present and voting and a
full participant, or you’re not and we’re not going to allow --
You’re not there to participate, but you could allow some
flexibility if you have some extreme extenuating circumstances,
like you just had heart surgery or you just had whatever, and
you wanted to accommodate that level of participation, and that
would probably be fine.

CHAIRMAN RIECHERS: You’re looking for some sort of language to
put in the SOPPs to make that clarification? Is that what
you’re really looking for here, Doug?

EXECUTIVE DIRECTOR GREGORY: Correct, and it’s my understanding
that we could allow somebody to participate by webinar and to
vote, and we could put that in the SOPPs, or we could just
disallow the whole thing. There is some issues that have always
been problematic with webinars, and one is you can put on the
webinar and then just go do something else. The other issue --
There is no way to track whether somebody is on the webinar or
not unless they are actively talking and participating.
The other problem with trying to track webinar participation is,
if you’re reviewing a document that’s in our briefing book and
you switch from the webinar to the document, the webinar system
shows you as not present, and that’s not necessarily true.
You’re just scanning another document, reading ahead of whoever
is talking, because we talk slower than we can read and scan,
and so there is really no way to track the presence or absence
of somebody who is participating by webinar.

CHAIRMAN RIECHERS: So that sort of discussion, depending on how
the committee would like to go, but that sort of discussion
leads you towards the notion that it’s difficult to track.
Obviously it’s difficult for the person on the phone to be
engaged, and so, in some respects, that would lead you to the
notion of either disallowing or allowing only in special
circumstances, which is what Shep indicated.

I will entertain a motion that either combines those two
thoughts or takes -- Really, it would be the first one and says
that we’re just not going to allow this at all, because that’s
really the two pieces you have here. Leann.

MS. BOSARGE: I think that sums it up fairly well. I do like
the idea where you said allows it in special circumstances. If
the committee does decide that they want to allow this, I agree
with you that it -- Because I don’t think it’s something that we
necessarily want to encourage, and so, if we’re going to allow
it, we need to be very careful about it, and it would probably
need to be something that maybe is pre-approved.

In other words, something in writing to the Chair or Vice Chair that I’m not going to be able to be here on such and such a day, but I would like to participate, and these are my circumstances and this is what’s going on, and get some sort of approval for it, so that we understand there is an extenuating circumstance, but, in that situation, if there is, I personally don’t have an issue with that person participating via webinar.

We do it in our SSCs and our APs, and I think we even allow them to vote in a lot of those circumstances, and so I think we can have some flexibility, but, like you said, it’s not something we really want to encourage. We definitely want you to be around this table, if at all possible.

CHAIRMAN RIECHERS: I would note the difference between our SSCs and our APs, is they’re not the final decision-making body, and so there is some difference in that respect. John.

MR. JOHN SANCHEZ: Thank you. I’m not on your committee, but I can’t recall -- I remember this came up once with Harlan at a meeting. I was, I think, post-surgery, and he participated, but here’s what I can’t remember, if the distinction was that he could comment, but could not vote. Is that correct?

CHAIRMAN RIECHERS: That was how it was handled previously. Shep.

MR. GRIMES: Thank you. Just to clarify. I had said allowing them to participate, as you did with Harlan, participate in the discussion, but not necessarily vote. If you’re having an in-person meeting, and, as the agency has always handled it, as this council has always handled it, “present” means physically present. This is the meeting, and, in order to vote, based on the language that’s in the statute, it has been identified that you be physically present for the meeting.

You can allow participation and involvement in it, but not actually get to vote, because you aren’t present, and I think deciding that you’re going to change that and then start to allow people not to be physically present and vote is a more significant change than deciding that you’re just no longer going to allow them to participate unless they are physically present. Do you understand what I am saying there?

CHAIRMAN RIECHERS: Yes, and I might add that our rules regarding quorum also mean that you’re present and not on a
webinar or phone or engaged in some other way. Doug.

MR. BOYD: Shep, participation, is that defined as discussion and input, or is it defined as making motions also?

MR. GRIMES: As far as I know, it isn’t defined anywhere.

MR. BOYD: Because I think that was the issue. When that happened, Harlan was in the discussions, but he made motions, and I think that was the issue. It wasn’t that he voted, but it was that he made motions from on the telephone without being present.

MR. ANSON: Shep, does any motion that we do to change what we currently have kind of go counter to what’s in the statute then, if the statute says that they must be present? I mean, should we not -- That sounds, to me, like they’ve got to be present, and, if they’re not present, then all this phone call stuff doesn’t apply.

MR. GRIMES: Well, I think the easiest thing to do would just be take the hardline approach. If it’s an in-person meeting, in order to participate in that meeting, you must be physically present. If you’re not, you’re not. If you have what I will call a virtual meeting, where you allow remote participation and everybody is participating remotely, then obviously you would be allowed to do that.

CHAIRMAN RIECHERS: So it sounds like we basically made an exception one time that kind of went against how it was written, and whether that was an appropriate exception or not, because of the circumstances, it was made, but it basically now has us questioning whether we need to do more, but we could just follow what is currently written, which says you have to be present. I don’t see any hands jumping up in the air to get into this fray. Shep.

MR. GRIMES: Thank you. I think it would help, and it’s up to your Executive Director here, but some clarification. I mean, you’re not present and you’re not voting, that means you’re not getting salary, and obviously you’re not traveling, and so you don’t have travel compensation to go with it. Those issues are intertwined, I would say.

CHAIRMAN RIECHERS: The other part I worry about is what are the exceptions and how do you define them? Who makes the decision when they are exceptions? There is a lot of issues there that go with any exceptions we start trying to make, and so I would
be inclined to leave the current verbiage the way it is, and, with that, there has been some discussion around the table, and we can certainly have more at Full Council at the committee report, if others want to weigh in who haven’t had that opportunity, but basically say you have to be present. That’s really what it says now, and there really isn’t room for exceptions. Leann, and then we’re going to close this down, so I can be on time.

**MS. BOSARGE:** Thank you for being cognizant of the time. We have made this exception, actually, more than once, because I used this exception one time when I had a child. I gave birth like five days before a council meeting, and I couldn’t help it. I tried to tell that kid, hey, hold on, we’ve got to wait a little longer.

I was participating via webinar, and I don’t know if you all remember that meeting or not, but I didn’t make any motions, and I really didn’t say much, but I was there and I listened in. I wasn’t on the payroll or anything like that. I didn’t ask for any kind of financial remuneration there, but I think it is important that we have there, especially -- It’s something I couldn’t help, and I’m on this council, and I feel like I was put here for a reason and that my input may be important in certain situations, and I would want to have the ability to give that input.

I just wanted to make sure that we are clear that that is allowed. What we’re in question is maybe the voting aspect, and Shep gave us some guidance on that, but that, if there is a council member that needs to participate via webinar, that we are going to entertain that idea, right?

**CHAIRMAN RIECHERS:** Participation, as Shep put it, was either you’re in-person or you’re not. Now, we can always allow -- I mean, I assume there is room for special circumstances to determine, on any given opportunity, to allow people to be -- We do, because we do it for the public as well.

You can be engaged by webinar. You could be engaged in a conference call, a phone kind of situation, but it doesn’t sound like one should be voting, and probably -- I think the question is how engaged.

Like I said, this is a slippery slope, because then we’ve got to define can you make motions and can you -- How much engagement? It’s difficult, and so I will turn to the committee. If the committee has a motion that they want to make, we’ll entertain
it now. If not, we will close the Administrative/Budget Committee down and, if people are prepared at Full Council, they can make a motion. Doug.

MR. BOYD: I will make a motion. I was just writing it down. Let me try this and see if we need to modify it. Motion that council members must be present to motion or vote during a meeting, but may participate in discussion via telephone or webinar. I think that’s what Shep said, was that we could make some decisions like that. Is that right, Shep?

MR. GRIMES: This is essentially status quo. It’s just clarifying as to making motions and to the extent they can participate, short of actually casting votes.

MR. BOYD: That’s correct, and that’s what I was trying to do, for Mr. Gregory, and this would have covered Leann, when you called in and you were on the webinar, and you listened and you could have been -- You probably were in on discussion, but you didn’t motion and you didn’t vote.

CHAIRMAN RIECHERS: We may want to add “under pre-approval by the Full Council” or something like that, which is what Leann was getting at, as well as something in here about exceptional circumstances, because, right now, you could have a lot of folks wanting to call in.

MR. BOYD: Let’s modify the motion then to -- Can you help me, Robin? Where would you insert that?

CHAIRMAN RIECHERS: With prior approval.

MR. BOYD: With prior approval.

CHAIRMAN RIECHERS: Who do you want it by, the Full Council?

MR. BOYD: It may be at the last minute. I would say with the prior approval of the Chair and Executive Director or just Chair.

CHAIRMAN RIECHERS: With extreme circumstances being considered.

MR. BOYD: With extreme circumstances being considered. I think part of what we’re trying to do is, if somebody decides they don’t want to be in the room, but they want to participate, they could get up and walk out, literally, and stand in the hallway and call in on the telephone and be in a discussion with another group and getting direction or whatever. I mean, there is all
kinds of problems that could happen if you allow people to participate and not be here.

MS. BOSARGE: The only thing I was going to say is maybe an “or” in between “Chair” and -- That’s two people. I mean, I don’t mind, but I just worry if what of one of them is -- Like what if our Executive Director is on vacation? I don’t know. I just want to make sure that we can get it approved.

CHAIRMAN RIECHERS: Well, you have an acting always, and so I think it should be two, both, because the Chair is going to probably make most of the decision, but Doug has to then prepare for it.

EXECUTIVE DIRECTOR GREGORY: Okay. Thank you. I wanted clarification, because our SOPPs currently don’t address this. I think we allowed this on that one-case basis, and now my understanding is that, if someone participates by webinar, even though they can’t make a motion or vote, they are still going to get a full salary.

CHAIRMAN RIECHERS: Why would you do that? Leann didn’t. As she said, she knew that she was not going to be as engaged as she would have been here.

EXECUTIVE DIRECTOR GREGORY: Well, because, if they’re participating in the meeting, then -- I need help from legal counsel here, but it’s my understanding that, if you’re participating in the meeting and not doing your regular job, you’re qualified to get a salary, and that was why I raised this issue to begin with, and anybody can call in.

CHAIRMAN RIECHERS: Let’s handle this issue, because we just went down a whole other issue. All of these issues have been let’s try to find problems with what we have in our SOPPs, and let’s handle this issue first, and then you can work with GC. If it’s clear, and it may not be clear, we’ll go about the payment, because we’ve dealt with this dealing with SSC members too, and so we need to make sure that we’re treating everyone the same, in that respect.

Let’s deal with the motion on the board. Do I have a second for the motion on the board? No? The motion on the board dies for lack of a second.

MR. MATENS: I would like to make a motion utilizing the language in this motion. To modify the SOPPs, and they may not need a modification, so that the council members must be present
to motion or vote. Physically present.

CHAIRMAN RIECHERS: Do I hear a second for that motion?

MR. BOYD: I will second that one.

CHAIRMAN RIECHERS: Doug has seconded that. All right. Any discussion surrounding the motion? Shep.

MR. GRIMES: Thank you, Mr. Chairman. I hate to say this, but I think that leaves the participation question open-ended, and I don’t want to open up another can of worms, but, Doug’s issue with the salary, the statute says that council members shall be compensated at a rate when engaged in the actual performance of duties, and there is some other language about to the extent that it keeps them from being able to conduct their normal business activities, but the question is, once you allow them to participate, what level of participation does it take before that mandatory compensation provision in the statute kicks in, and leaving it open-ended is -- They can’t make motions and they can’t vote, but what else are we going to allow them to do? Can they still participate in the discussions and does that participation in the discussion then trigger some other duty, in terms of compensation?

CHAIRMAN RIECHERS: Camp.

MR. MATENS: I think Shep is right. In that case, let’s modify this motion to modify the SOPPs so that council members must be physically present to participate, motion, or vote. If the seconder will agree with that, let’s move forward.

CHAIRMAN RIECHERS: The seconder agrees. Basically, this is going back to kind of the previous conversation, where we’re not going to allow participation via webinar, is what it does. Any other comments before we vote this up or down? Mr. Walker.

MR. WALKER: I was just going to add that, as an individual -- You know, a state-appointed member on the council can have someone else attend the meeting for them, but, as an individual, a commercial or charter or whatever, if you’re physically unable to attend the meeting, but you’re able to participate in the process, I think it should still be allowed, and so I would kind of speak against this motion, for fairness.

CHAIRMAN RIECHERS: To vote this up or down -- If there is no further conversation, we’re going to vote it up or down. Shep.
MR. GRIMES: Just to clarify, this applies only to in-person meetings. You are still allowed to have your virtual meetings, and then that virtual participation is okay, and I just wanted to reiterate something that Robin said earlier. Any member of the public -- You don’t have to just be a council member.

I can submit you email commentary during the meeting, and I can submit written comments. Those things always go into the written record of the agency decision, and so, just because you’re not here physically present at the meeting, it doesn’t mean that you are totally excluded from being able to get your views on the record and before the council at the table when the decision is being made.

CHAIRMAN RIECHERS: All right. Let’s vote this up or down. All those in favor of the motion, say aye; all those opposed, same sign. The motion passes.

With that, I think that concludes the business of the Administrative/Budget Committee, and I will turn it back to you, Madam Chair.

(Whereupon, the meeting adjourned on August 7, 2017.)

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