

Aquaculture Advisory Council
July 21, 2023
JCNERR Education Center, Tuckerton
Meeting Minutes

Members Present: Asst. Sec. Joe Atchison, Mr. Joe Cimino (Comm. Shawn LaTourette), Mr. Loel Muetter (Comm. Judith Persichilli), Dr. Dave Bushek, Dr. Douglas Zemeckis, Mr. Barney Hollinger, Mr. Mike De Luca (Dr. Laura Lawson), Ms. Lisa Calvo, Mr. Matt Gregg, Dr. Amanda Wenczel

Members Absent: Ms. Melanie Willoughby (Sec. Tahesha Way), Mr. Maury Sheets, Mr. Bob Rush (Mr. Richard Herb), Mr. Steve Fleetwood (Mr. Frank Virgilio)

Public in Attendance: Alison Stout (USDA), Rebecca Watson (NJ-NRCS), Ned Gaine, Matthew Williams, Dale Parsons, Virginia Wheatley (NJDOH), Mr. Russ Babb (NJDEP)

Asst. Sec. Atchison called the meeting to order; a quorum was present.

Approval of April 21, 2023 meeting minutes- Motion by B. Hollinger seconded by L. Calvo. J. Cimino abstained, all others in favor- so moved.

Public Comment

None.

New Business

Research Updates- D. Bushek

D. Bushek announced the hiring of Mike Acquafredda as the Aquaculture Specialist. He will start on August 15th. Sarah Borsetti has also been hired as the Fisheries Specialist, starting Monday (July 24th).

The RSSBP, Regional Shellfish Seed Biosecurity Program, remains active. The hatchery portion of it has six fully compliant hatcheries. This is starting to be accepted by states. For instance, in Massachusetts, seed from a compliant hatchery is accepted, automatically permitted. That's the goal that we had set- reducing the need for batch certifications every time seed is purchased or transferred.

The database side of RSSBP continues to be filled out. To make it a little more user-friendly, there is now a quick view tool. When a user clicks on it, they can see if an area has higher or lower disease levels relative to their home location.

The Delaware Bay monitoring work that we do, which many of you are familiar with, across the oyster beds for the Shellfish Council is now standardized for the Cape Shore. This is in response to comments from growers. We are collecting AIC seed that is produced there, NIH in particular, to see how they produce relative to a wild line of the same age. Comparison of the produced stock relative to the wild stock to see how it is performing, at least at the Cape Shore. Funding for this

work comes from the State, earmarked for Rutgers. If we were to expand the work outside of Delaware Bay, we would likely need to request additional funding.

There is a NIFA (USDA, National Institute of Food and Agriculture) opportunity out to help support the Clam HUB that some of you may be familiar with. Clam breeding has been developing along the east coast. The NIFA opportunity requires a private hatchery to apply for it right now. If there is a private clam hatchery interested in applying for the funding, they have to partner with a nonprofit or education institute.

M. Gregg- To Mike or Dave, did you get anywhere with the research priorities that came out of the research symposium you had here (at the JCNERR Educational Center)? I think one was clam genetics, and one was birds on gear. I forget the third one. M. DeLuca- The third one was restoration. It all related to available funding opportunities. I know the SARE (Sustainable Agriculture Research and Education) program had some available funding and there were some bird related proposals submitted. I don't know if they were funded. That program took a bit of a hiatus this year to build in some DEJA elements to their funding opportunities. They should be back online soon and have some near-term opportunities to address at least the avian priorities. Also, as Dave mentioned, the Clam HUB has been very active up and down the coast. Once Mike Acquafredda comes on board, he will be diving into that as well.

M. Gregg- Mike's roll is? D. Bushek- Mike's role is essentially what Lisa's was. He is the Aquaculture Specialist with partial funding from New Jersey Sea Grant, so he will focus throughout the state. He will probably attend these meetings regularly once he starts.

L. Calvo- Dave, do you have any updates on disease levels at the Cape Shore this summer? D. Bushek- The disease levels are pretty high at the Cape Shore. The data is posted on our website as it becomes available, after being reported to the Shellfish Council. We are trying to separate the Cape Shore because it is so distinct, making different graphs and reports since it is different from the rest of the Delaware Bay population.

M. DeLuca- Going back to Matt's question, we have discussed the avian priority and the Clam HUB, but the third priority was restoration. There is a lot of funding right now related to resilience of coastal ecosystems and coastal communities. I know the State DEP and Rutgers, as well as others are working through ideas and including shellfish restoration as a component of some of the projects.

Council Committee Reports

Marketing Committee- B. Hollinger

Last Thursday, I led a tour of the ACF farm on the Cape Shore for the Board of Agriculture, for Legislators, Legislative Aides, and attorneys for the Majority and Minority Offices. We had one elected official, Rep. Guardian from Atlantic City. We did have the council for the Assembly Agriculture Committee. I spoke with her about the \$100,000 for marketing to see where it sits and if there is any way to move it forward. I also spoke about the need for another hatchery in New Jersey and discussed funding for something other than Rutgers or expanding Rutgers for more than an oyster hatchery.

I noticed on the way up here on Route 9, the big sign that talked about New Jersey Seafood. It said New Jersey seafood dot gov. J. Cimino- That's been a long time coming but that is from the CARES funding, the second round of funding. They just started rolling out around July 4th and will continue until around this time next year. Hopefully we will be able to put more funding into it to bring us into 2025. D. Parsons- A suggestion for that sign: You have blue mussels on that sign. If it talks about New Jersey seafood, you may want to have seafood that actually comes from Jersey on it. J. Cimino- I know. I met with them weekly to try to cover all of that.

D. Bushek- I saw it on social media, so it's up there too. I would suggest people share it if they see it. J. Cimino- The social media campaign is going to be the easiest one to tweak, if you see issues like that. We are going to get to TV commercials. We cannot change commercials until we do another commercial next year. For the most part they got it right, but you'll see they're walking by with shrimp and mussels. I don't even know how many times I tweaked items, from salmon to tile fish.

Asst. Sec. Atchison- If they ever want to reach out to the Department, we are happy to talk with them as well. I saw the billboards and the social media posts. I saw a big white flakey fish with a nice bed of asparagus, which stopped picking about two to three months ago. We're happy to work with them on all their side dishes as well. But, I appreciate that it's out there promoting the fisherman and the baymen; it's a step in the right direction. J. Cimino- This builds a good foundation for us. They have been very responsive and conducted numerous interviews on the docks and getting good information.

M. Gregg- What's on the website? J. Cimino- They have updated the Seafood Finder on the website. They are also doing that for the for-hire fleet, adding recreational businesses to the site. D. Zemeckis- I saw your updated page recently, and it looks really nice.

L. Calvo- Is there a way to share images? We invested in professional photography this year and have images we would be willing to share. J. Cimino- Yes, start with me and I'll work with the consultants.

D. Zemeckis- Somewhat related, through the CARES funding, the DEP provided funding to a Rutgers team with Thomas Grothues and I as co-PIs. It will also fund a grad student, Carolyn Iwicki. Part of the CARES proposal from New Jersey was to identify the educational and training needs of the recreational and commercial fishing and aquaculture industries here in New Jersey, related to Covid pandemic impacts. We are starting that project now, beginning with focus groups, including representatives from all the segments of industry and DEP to identify training needs. Ultimately, we will develop a report on education needs for the State.

M. Gregg- Barney, the meeting you had was specific to the Marketing Committee, and the Jersey Fresh bill? B. Hollinger- It was the Legislative Committee of the State Board of Ag that decided to put together Legislative tours. The first one was in Southern New Jersey. We went to the Cape Shore, Beach Plum Farm, and Nauti Spirits. The next one is North Jersey, then central Jersey to get in three this year. Asst. Sec. J. Atchison- We will try to squeeze in a fourth but definitely three. We're trying to show them a full slate of agriculture operations in the state.

Legislative Committee- M. Gregg

M. Gregg- We had a meeting scheduled but canceled because there were no agenda items. I was thinking of scheduling a meeting after the season, in late fall. There hasn't been any real push for legislation, as far as I have heard. I was considering bringing up some regulation concerns. We have been talking for years about Water Monitoring regs, so maybe we pick that back up. I don't know when those regs will be reviewed again. B. Hollinger- We were promised years ago when it came up for amendments that we would be able to get in there and make some changes. That's a good idea because there are at least three or four things that need to be changed.

ADP Recommendation Status Chart- A. Wenczel

See recommendation chart from the meeting- same as the April meeting. Some items were updated in the January meeting, which were reflected in the April chart. No updates after that time.

Shellfish Council Updates

B. Hollinger- We (Delaware Bay Section) had a meeting last Tuesday. The big thing to come out of that is the new Lease Agreements. The Atlantic Coast had their meeting, we had our meeting, both sides gave their comments. There may be another meeting in September to go over changes and then in October the agreement is ready to be used. One of the biggest changes, everyone that has a lease is going to have a license. It'll probably be the Commercial Shellfish License. There are rules in there about not complying with rules and regulations of permits, there is a way for the State to take your lease away. And then there is a lot of boilerplate language that you see in every big lease agreement with the state. I talked to farmers that lease land from the state, and they all said that most of the same stuff is in their leases. Insurance is another thing. If you have the permit-by-rule for clam screen and/or follow GP31 which is shell planting, you don't need to have insurance. If you have structure on the lease, that requires you to get a permit, you need to carry insurance. D. Parsons- \$1million coverage, right? B. Hollinger- \$1 million coverage. R. Babb- Improved indemnification is one of the essential reasons for having that.

D. Bushek- In the discussion of structure, clam beds do not constitute structure, right? B. Hollinger- Clam beds are not structure.

R. Babb- The default language is probably a big change for a leaseholder. There are a lot of references to default. Basically, what we explained to the Councils is that the Bureau is not looking at this new lease agreement as a way to cudgel members of the industry. I will say, frankly, that it is going to be an enhanced tool to deal with outliers, people who are egregiously not responding to NOV's from Coastal Enforcement. The default section in the lease agreement, which I don't mean to focus on but was an area of numerous council questions, will allow the Department to move towards a default for an outlier situation quicker than an NOV process. In that case, what the State is striving for is to see that the leaseholder is attempting to address the issue. We know that there are leases out there with gear and structure on them without permits. This section allows the Department to lean in and help Coastal Enforcement. It's not our attempt to take anyone's leases. And the leaseholder doesn't have to lose their lease, they can just remove the gear if they don't intend to address the violations.

N. Gaine- To clarify, this is not a rule and regulation, it's a lease agreement. There is no public comment period. It's a contract between the lessor and the lessee. It's not NJAC. It's not a rule. B.

Hollinger- Right. It's an agreement but any suggestions will be taken. R. Babb- We presented the lease agreement to both Councils. We gave the language to the Councilmembers a week before the meeting, asking for any substantive comments we can go over during the Council meeting. We think those meetings were very constructive. We had our Fish and Wildlife attorney, Mary Monteschio, at the meeting; she has been our point person with the Attorney General's office on this document. We had pages of comments from both Councils, and they actually mirrored each other pretty closely in their concerns. We made a number of changes based on those items.

J. Cimino- There was a pretty long discussion at the Atlantic Section meeting on signage and posting. R. Babb- There were some concerns from traditional clam growers about having a lease in a certain bay and having poaching problems. Now you have a lease document that I have to sign that says there can literally only be corner markings and tags for gear. That's a problem because some people will put out signs saying, "private stock", "No wild clamming". The problem is you have people come out for the weekend and go into lease areas. We know enforcement is aware of these days and the areas where people will walk out onto a lease. We did take that feedback back and after discussion we came to the conclusion that this may be a good item for the less is more approach. This gives the Department some discretion to stop a big company billboard but allow other signage.

B. Hollinger- One other thing, people in the ADZ are doing now, is that with structure, every piece of gear is going to have to have a tag on it with your CID number. If you lose a piece of gear, someone who finds it can call the Department with the gear ID. Enforcement can also look up whose gear it is too. R. Babb- That's not fully in place, but that would be the approach. We've been having conversations with the Army Corps who has been requiring tagging for every piece of gear but if you read their permits, they have all your contact information (name, address, phone). Craig has been working with them, but Rob Deems left and he was a real asset to the aquaculture industry. Not to disparage the current staff, but there is a disconnect between their expertise and aquaculture; they're based up in the Poconos or Harrisburg. Craig has been working with them and verbally they have said they would be willing to allow us to use the CID number. For us to do that, we need to put that into our reg package. N. Gaine- If we're still under old Army Corps rules or agreement, we still have to follow it. Did Craig express that there should be a minimum square footage requirement for tagging? If it's the bags that's fine, but if it's the straps, the hooks that's a tag bigger than the hook. Could it be over a certain trigger size, say over a square foot before tagging is required? Or for us, could it be one unit that is required to be tagged? Or do I have to label every individual subunit? For example, our cages, do we have to put 36 tags in a box, or can we just do one cage? One rack, or a row of racks? At what point do we trigger the requirement for tagging? For us they said it is all equipment, which I don't think is the implied intent. If it's floats, is it each float? B. Hollinger- For floats, I would say each one because the guy in Delaware Bay, his floats went all over.

D. Parsons- Russ, will we be able to weigh in on the lease agreement at the next meeting, or is that a one and done? R. Babb- I cannot answer that. We took the Councils' comments and met with Mary. Once it's finalized and approved by the AG, which I would expect next week, we're going to send out a letter to leaseholders and post it on the website. We're not soliciting comments, but it will be up for public viewing. We may create an FAQ to head off some big concerns. I've had a lot of clambers calling in a panic about insurance and I have to go through it with them saying it's

not for clam screen. If there is something substantive, we may have missed something. If there is a glaring omission or red flag, we'll take it back. D. Parsons- The only thing I would like to see in that agreement is something about documentation of gear on lease through a transfer or new application with derelict gear. A hundred years ago we didn't worry about gear. Now, for a grower of any kind to substantiate an income, they are going to be using gear of some kind. I think it would be wise to document what gear is on what lease through a transfer, see who has left what behind. R. Babb- We have talked about this at both Council meetings, the GP30 gear notification requirement. Currently, anyone working under a GP30 is required in the regs to notify the Bureau in writing prior to deploying gear. That new form has been presented to the Councils; it will document the history of gear placement. D. Parsons- Will that document cover the lease when the leaseholder is in default or decides he's done? What's to say the gear came off? B. Hollinger- Or he let someone else use the lease. D. Parsons- Who's to say the status of the gear when there is a change in ownership of the lease? R. Babb- I don't know how far in the lease agreement they are going to let us go for permission to work process. We had said that should be in there. D. Parsons- I'm just concerned there are so many new guys getting in, if there is a bad winter or for some reason a market collapse, they're just going to walk. And this stuff is all over the bay. R. Babb- We have some growers who tell us that they have a permission to work through a handshake agreement. We have others who have actual contracts to work on a lease. There is a whole suite of approaches and the State doesn't want to go into trying to manage how a leaseholder agrees to allow use of their lease. D. Parsons- Wouldn't it make more sense for the leaseholder and the permitholder to be the same person? R. Babb- We have talked about that. We are trying to keep some flexibility, especially since it's tough to get new leases right now. There are also old bottom leases now being used with gear, a new use that was never considered when sited. A lot of people cite other states in how they're doing things, but they cherry pick and don't give the whole picture. D. Parsons- I think it would be much easier if the leaseholder and permitholder were the same person. R. Babb- We talked about this at our leasing committee meetings and brought it to Land Resource Protection. They said that someone can have a waterfront property, but their permits are all in the name of the construction company. L. Calvo- Your permit requires you to remove your gear if you end your operation so that's already covered.

D. Parsons- If a farmer just decides he's done, defaults on his lease and leaves his gear, we've seen it happen before. Who's going to chase the guy down and tell him to get his gear? L. Calvo- It's the State. N. Gaine- That's the new lease agreement. In the new lease agreement, it requires that you are financially responsible. If you leave your gear and the DEP has to clean it up, they are coming after you to pay. D. Parsons- In Rhode Island they require you to put up a \$5,000 bond. That's not entirely out of the realm of thinking. One bad winter and you're going to see half a dozen of these guys who started in the past two years up and leave.

N. Gaine- A point of clarification, the GP30 notification- that is only for people who have a GP30. Those of us under permits-by-rule and those with clam screens, which is a majority of industry, those are not required to provide notification. This is for structural aquaculture, for GP 30 permits.

M. Gregg- It's hard to have a conversation about this. We're an advisory council and we haven't seen the lease agreement. We should be able to see it. The Shellfish Councils have the statutory authority to lease but we are here to offer advisement. When is it going to be on the website? R. Babb- We are hoping by next week. M. Gregg- Do you have a plan to show it to this Council? R.

Babb- Once we post it, we can distribute it to the Council. B. Hollinger- We can hold a special meeting for that specific item. R. Babb- I don't see this document moving much. This isn't a public comment period, but we're posting it. M. Gregg- You took comments from the Councils. R. Babb- My point is we are not going to see substantive movement unless there is something big. B. Hollinger- The reason the Councils got to see it is because the very first sentence says Shellfisheries Council. We're the people in charge of the leasing; we're the lessor. I say we wait for Russ to get it up on the website, send out letters to leaseholders, and then we can hold a special meeting. The Legislative Committee can even review it first. It will be a virtual meeting.

Further discussion on the timing of the availability of the new lease agreement being public. It will be within a week or so of the July AAC meeting. That assuaged some concerns that the new agreement was being sent out along with lease renewals, giving little time to review prior to renewal.

Red Knot- Aquaculture Update

M. De Luca- The Committee has not met in at least a year and a half. I think that signifies that there is better understanding of the Conservation Measures and the efforts of the Committee. I'm not sure we're going to be meeting again.

L. Calvo- It would be nice to get an update on the status of the birds. It's a ten-year plan. How are they doing, are they recovering, getting worse? Did they show up at all this year? B. Hollinger- They never came to the Southern part of the Bay. D. Bushek- They were up at Egg Island. The maps that showed historically they used the upper part of the bay and then more recently the lower part of the bay, they were in the upper part this year. M. De Luca- Perhaps we can get Fish and Wildlife and Endangered and Nongame Species to present at the next meeting. J. Cimino- There's so much media coverage, the US Fish and Wildlife Service, the NJDEP and Delaware DNR have been doing coordinated updates and FAQs. There was a coordinated update to how the survey is done and looking to get an update on the numbers.

B. Hollinger- Now we're just waiting on the critical habitat. That's the next piece that's going to come out. I think it was held up because of North Carolina. N. Gaine- The lawsuit that was settled. There was a lawsuit in North Carolina on the critical habitat. That's been settled, now critical habitat should move forward.

N. Gaine- I believe we are coming to the close of the Programmatic Biological Opinion. I think that should be on the radar. I think that is something that the stakeholders and researchers should absolutely make a priority. We need to focus on what research needs to be done to make an impact to the biological opinion. Also, is the State still going to be the lead in the Programmatic Biological Opinion for say the ADZ, or are we going to be on our own? R. Babb- We did reach out to US Fish and Wildlife service a couple months ago, thinking we need a two-year window for this. There are some discussions that need to happen between the Service and Army Corps before that can happen. N. Gaine- The last time we went through this, we did it because of the listing. My concern is that the critical habitat will stretch this beyond where the Biological Opinion currently is. Will we see it stretching to all areas listed as critical habitat? Now that we have part 2 of the ESA, is the critical habitat in the PBO? Do we know this is going to spread beyond the Cape Shore? J. Cimino- I don't know that. That's a good question. N. Gaine- We're three years down the road.

For those of us not in the Programmatic, you're going to want to get your head around it. J. Cimino- Like Russ said, those are discussions we can have. We've reached out and we can start those discussions. R. Babb- The PBO is a specific action area, so I'm guessing that critical habitat won't affect if they are going to move forward. How the Service, ENSP are going to handle critical habitat on the coast is a different process. N. Gaine- We should also point out where this rule will interact with the industry will most likely be the Army Corps permits.

D. Bushek- I think this was already said, but the aquaculture siting tool that's now online has the critical habitats in there. If you use that tool, you can identify whether or not there is going to be a nexus with your site and critical habitat for red knots. And as Russ said, the PBO does not apply to the Atlantic Coast; it's specific to the Aquaculture Development Zone region. R. Babb- We have no idea what the Corps is going to want to do. They could do a second iteration of the PBO or individual consultations for permits.

R. Babb- A few additional Shellfish Council items since the last meeting in April. The Shellfish Councils have adopted guidelines by which they run their meetings, effectively by-laws. Most important from that is how committees are established. We touched upon the lease agreement and the GP30 notification form already. For that notification form, you can come in and have an operation with 20 leases, and only deploy gear on one of them. Right now, that shows up on a GIS layer as gear on all 20 leases. For enforcement who have to inspect aquaculture gear on leases, their data will show 20 spots, when they only need to go to one. The point of the form is to ID the specific leases with gear, and it's only needed once the gear is deployed. It's just closing the loop for enforcement of where gear is located. Letters for this notification will be going out shortly. There is also a Permission to Work letter sent out to all leaseholders. That is a friendly reminder to leaseholders that they need to fill out our form to ID people I allow to work on my lease. And that permission can be revoked by the leaseholder at any point. B. Hollinger- If you're planting shell, do you need a permission to work? If it's one time a year. R. Babb- I think it's really for the taking or collecting of shellfish. To be safe, if you have someone that is routinely on your ground doing aquaculture, you may want to fill out the form. Some people will send in a form with 15 people listed as working for the leaseholder and now they are all covered to be working the lease.

R. Babb- The Structural Aquaculture Committee (of the Atlantic Coast Section Shellfish Council) was approved at the last meeting. There are seven members and it's still open if anyone else is interested. Kira Dacanay, our principal biologist just left for a job at NOAA and I'm also down two senior biologists. We're a little low with staff until the end of the year. And we're going to be recruiting for a lease committee on the Coast. When we developed the Council guidelines, it essentially cleaned the books of all the Committees so now we're recruiting for that standing committee.

L. Calvo- The GP30 notification, is that going out to permit holders or to leaseholders? R. Babb- I think we are going to send it specifically to GP30 holders. There has been talk of sending it everybody. There may be some people that may not have permits that would get the idea from the letter, but it will probably only go to the GP30 permit holders. Going back to the permission to work forms, people are listing different leases in their CSAP, but they don't own those leases. We have nothing showing them authorized to be on those leases. Trying to head that off before an enforcement officer inspects. L. Calvo- I'm concerned that the people who have proper

permissions are not getting the information they need. It would be informative for me to see the lease agreement so that I understand what my leaseholder is dealing with and if that is going to affect me negatively. I might not be getting that information because I'm not a leaseholder.

M. Gregg- The permission to work is listed under the CSAP. If someone has permission to work a lease, what is the process? We don't have to necessarily fill out the template that you created. That's just a helpful template, not a requirement for allocating permission to work. R. Babb- So you're saying that you are putting who has permission to work a lease on your CSAP, that's satisfying the notice requirement? M. Gregg- Yes, Sarah at Water Monitoring will come back to me to check if someone else has permission to work on my leases. That's what we've done the past few years. The template you're talking about is not required, right? R. Babb- It's the template we've had on the books. B. Hollinger- It's in Title 50. It is a requirement. N. Gaine- You own the shellfish, and the CSAP is for your aquaculture, but you still own the shellfish. You have to have some way to say to the authorities that you give permission for those people to harvest my shellfish. That's a way to change custody so they're not stealing. J. Cimino- So do you want to sift through emails to see that you sent something to Sarah, or do you want the one form to fill out?

M. Gregg- I have two categories here. I have people that I give permission to work that are not affiliated with me aside from them working on a lease of mine and I buy their shellfish. N. Gaine- That's your shellfish. M. Gregg- Is that true Russ? R. Babb- It's a slippery slope when talking about product on a lease. Technically, it's your lease, it's your shellfish. M. Gregg- The other category is people that are on my payroll running the farm when I'm not there. R. Babb- Most people will fill a form out for all their leases and all their employees. Those are all people that could be on any of the leases at some point throughout the year. Enforcement will call the front office and check out the form during an inspection. M. Gregg- Does every person on my payroll need to be on the permission to work? R. Babb- If they are on the lease without you, it is meant to protect the leaseholder. M. Gregg- Now do they all need to have a Commercial Shellfish License? R. Babb- If they are harvesting from the lease, yes. N. Gaine- You can put the vessel on the permission to work. B. Hollinger- I think that's just for dredging. R. Babb- We have licensed vessels in Delaware Bay. Again, this is something that has been in place for decades, and this is just a reminder to provide us with the information. To your point about the CSAP, we will consider this as we start to redo our regs and try to capture what works best. M. Gregg- There are just so many forms and different layers that if you put everything in your CSAP, it forces me to go through the whole process. Give me a permit and this is what I'm allowed to do. R. Babb- We want to know what works for the industry. I know our enforcement needs to know who is allowed to be out on the leases. M. Gregg- I understand that. B. Hollinger- That's in Title 50, so if you want it in the CSAP that's something to put in Title 50. R. Babb- A consolidation process. Build it into the CSAP-AFL process.

N. Gaine- A comment on the leaseholder notification versus the entity that has the permission to work the lease. I believe in the new lease agreement that is coming out, or at least what I have heard in Council meeting comments, it is the leaseholder that is ultimately responsible for those permits. R. Babb- Not the permits. It talks about the leaseholder and the authorized entity- so the permission to work- are treated as responsible parties. It doesn't allow the permitholder to just walk away and have the leaseholder responsible for the clean-up. N. Gaine- I thought we were saying that if the person doing the activity is not permitted, the leaseholder shares responsibility.

J. Cimino- Yes, it's shared responsibility. R. Babb- If I give you permission to work my lease and you go out and break every law, I'm also going to be paying the fee.

L. Calvo- In a situation where you have hundreds of acres of unused bottom that leaseholders don't want to give up, for whatever reason, that kind of policy does not promote allowing someone to come and work on your lease. Now you're taking a substantial risk. If you don't know me, and you don't know how I operate, you're going to be hesitant to give permission to work on your lease. I feel like that's counterintuitive to growth of the industry. We have to make it easier to say let someone work your lease if you're not using, rather than putting up walls. R. Babb- I agree with you that unused leases made this permission to work more critical than it should. Respectfully, I don't think a leaseholder should be ok with a permission to work person flaunting rules. N. Gaine- It's to protect the leaseholder. If I give you permission and then God forbid something happens, and it's out of your control, it keeps you safer. L. Calvo- It should still be buttoned up within the GP30 permit. I'm responsible, if I'm the one that screwed up, you should come after me if I'm the one working the lease. It shouldn't go back to the leaseholder. I'm the one with the permit. You can pull that permit, fine me, whatever. M. Williams- If you have a lease and you're not using it, if you're that worried about people messing up, what's the point. L. Calvo- Well, I'm operating on someone else's lease and if he sees this agreement, he may see that there's too much risk now. I think that should be considered as an issue.

J. Cimino- Coming from the state perspective, I agree with Matt; it's state-owned bottom and we have to recognize that. Lisa's concern is very valid if the lease owners are almost too cautious. I think that's something we can be conscious of. On the flip side, we have people who have no intention of working the lease and just won't let it go. There's really no good way of getting it back to the state even though that's where it should be. I think to some extent we are talking to the two extremes, but, if we are aware of the situations maybe that is something that we can work on in the future. B. Hollinger- Isn't the leaseholder ultimately responsible for who they let use that lease? J. Cimino- That's what we're saying in these new lease agreements, you're sharing that responsibility. B. Hollinger- They shouldn't be completely out of the loop. They gave you the permission to use the lease. J. Cimino- To my knowledge that's how it is in any state. N. Gaine- There's possibility that you're dealing with different legal arrangements as well. You could do an additional step of a hold no harm clause to your leaseholder if you're a permission to work person. Maybe that would work with someone that is hesitant; you say that you will take the full responsibility. B. Hollinger- Or be insured on the policy. R. Babb- The other thing too is, if there is an issue, say a buoy isn't properly marking the lease, the permitholder is going to start making the necessary changes to remedy the issue. The default of the lease is way down the road. Lisa, your point still stands that maybe a leaseholder isn't going to understand that, but there are multiple steps before the State even starts to default on the lease. Even after we get to the default process, there are additional steps. In 15 days, they have to start to make corrective action, and that halts the process. If corrected, there are no issues.

M. Gregg- I know the Bureau of Shellfisheries is working on this but leasing is a total mess. A lot of these things would be rectified if we could reduce the amount of people that are working under a permission to work. In my operation, we had bunch of new people get into the industry with the impression that it may take a few years to get a lease and now we're in a stalemate. I have people stuck on leases I have. It's a hindrance to growth. If I'm not going to let them get a second acre,

they cannot expand their business. R. Babb- Leasing on the coast is at a crossroads. We need to rethink how we do leasing, how we handle transfers, how we deal with utilization criterion. We feel comfortable estimating about 70% to 80% of the leases are not being used. We have to think about how we are going to reimagine the leasing program. From the Bureau, we are not interested in putting out a bunch of leases for float gear until we have a functioning Council lease process that goes Bay by Bay considering current uses. If there is a section of hard clam culture, we don't want to have a farm with float gear right next to it.

Councilmember Comments

D. Zemeckis- Are there any updates on the AMPs from SADC and when they plan to take that up?
A. Wenczel- I have not heard any updates recently. D. Zemeckis- I ask because that was a major accomplishment that we set out January of last year and approved October or November. I know the SADC when they take it up with have another round of public comment, but Barney had a good comment that we edited back in April. I think we started the AMP revisions because we saw the need, not because there was as solicitation from the SADC. If we're now in a holding pattern of when they might take it up, I'm wondering if we revisit it. My inclination is we don't want to do it too often, but maybe every 6 to 9 months while we wait. B. Hollinger- In the State Board of Ag meeting, not last month but the one before that, they started talking about other AMPs and I brought up the AMP from the AAC. I said there are changes, and it needs to be reviewed. Can you put it on your schedule? Chuck said yes. Next Wednesday we'll bring it up. Asst. Sec. Atchison- I have a meeting with the SADC on Monday, so I can also mention it then as well.

N. Gaine- Without the AMP approved by the SADC, and the Right to Farm Act passing into law, only those that fit under the current AMP are protected? And those that have site-specific AMP? The rest of us are not covered, is that correct?
A. Wenczel- No, everyone will be covered so long as you fit the qualifications- that is do you fit a commercial farm status, are you following all state and federal regulations and laws. If your situation falls outside of the current AMP, then typically what happens is at the county level they go through the site-specific AMP process.
N. Gaine- If I'm a farmer who falls outside the AMP, and I had a complaint raised against me, could I go through the mediation process of Right to Farm even if I'm not covered under the current AMP?
A. Wenczel- Yes, that is the site-specific process.
N. Gaine- I can start the site-specific process after a complaint has been made?
A. Wenczel- It's usually after the complaint because prior to that there is really nothing to discuss. The process also begins at the County Board.
N. Gaine- I thought you had to have the AMP approved for you to get the protection.
A. Wenczel- The general ones (AMP) you want to have ahead of time because they are the basic, this is what everyone in the industry does. When it is site-specific, I believe they only develop those AMPs on a case-by-case basis as it comes up. They will not preemptively create a site-specific AMP, at least that is to my knowledge. When a specific nuisance complaint or a municipal ordinance is an issue, that specific situation becomes the site-specific case or AMP. If a site-specific AMP has already been developed for a similar situation, sometimes that can be used in your situation. That may be only in your county, but I'm not aware of how they can be used in different counties.

M. Gregg- Housekeeping question, I forget which meeting this was, but we brought up the topic of sending meeting invites to Shellfish Council members. Are we doing that? I think we agreed that we would be proactive and send them information on these (AAC) meetings.
A. Wenczel- AAC updates are provided at Shellfish Council meetings, and Shellfish Council updates are

provided at AAC meetings. Shellfish Council members, because they are farmers, they are aware of these meetings. Besides the updates at each other's meetings, I'm not remembering additional items. M. Gregg- I think this came after the ADP came out, and someone in the Atlantic Council said they never saw it. A. Wenczel- That is why we have the standing updates at meetings.

Asst. Sec. Atchison- I will note that the State Board opened up the process for the Secretary of Agriculture position. There is an application request online. I believe that deadline is August 2nd. If anyone is interested in applying, you have to reach out to Chris Kleinguenther at the Department and request an application packet, due back on August 2nd. There is no way to tell how long this process will take between the interviews and sending the recommendations to the Governor's office. Maybe I will see you in October, maybe I won't.

Old Business

Sunday Harvest Bill

A. Wenczel- Just a note that the Sunday Harvest Bill has passed both houses of the legislature. Bill is S520. At the meeting time, it was not signed by the Governor.

N. Gaine- I've been given a comment to read for Dale Parsons. "For over 100 years the industry has made a compromise to deny harvest on Sunday in an effort to protect the natural resource. This new Sunday harvest bill has undermined this compromise and has opened up the opportunity for recreational groups to have their own bill to allow for recreational harvest on Sunday. This Legislative squeeze is not worth the juice."

M. Williams- Is this bill still structural? A. Wenczel- To my knowledge, yes. M. Williams- So is the Council happy with that? That it's structural and not just aquaculture like we were presented. M. Gregg- No. I wanted it to be all aquaculture and there was lobbying from the opposition to change it to be specific to structural oyster aquaculture. That, to my understanding, was a compromise. I believe that Lisa and I both advocated for it being all shellfish aquaculture. We didn't win that compromise.

M. Williams- This Council wrote a letter in support of Sunday and it was last summer. The only issue discussed then was its Sunday harvest. It wasn't Sunday harvest for oysters, it wasn't Sunday harvest for clams, it was Sunday harvest. The only issue was the wild caught. And now its changed to half of the industry is left out, and I would say a vast majority of the money has been left out. The industry got split in half. I was for it but never involved in it. No one ever asked me anything about it. I'm in the opposition that wouldn't say just put structural. I think this bill is crap. This should not check off the ADP recommendation because it's not aquaculture, its just a slim portion of the industry. I don't know how to go back now. Those of us weren't for it when those bills passed like ten years ago and DEP said we don't have to listen to that. There goes your political capital for ten years and here we are again pushing something that literally splits the industry. I don't see how that's good for anybody. I think the Council would have a response that this is not what we intended.

B. Hollinger- Delaware Bay is going to do our own process and push that forward. M. Williams- So all the guys on the Bay that do traditional on-bottom stuff were left out of this as well. The only way that's getting changed is because of what we're doing on Delaware Bay. I just don't get how

this all went down. It left out half the industry in terms of clams and at least half of the industry in terms of value with oysters. I don't see this as a win for anybody, let alone this Council. The bill was never actually explained here; I've never actually seen the bill until late in. All I heard was it's allowing Sunday harvest. I'm all for it, its my shellfish, I own it. The way it shook out is not a win. What do we do now, start a whole new bill just to put clams in? B. Hollinger- They have to do it for the Atlantic Coast, the Council has to take it up. M. Williams- They can't, it has to be oysters. B. Hollinger- Through the regulation process, they do like what we're doing in Delaware Bay. R. Babb- The statute says oysters.

M. Gregg- Those are not changes that I or Lisa made. These were changes that came from Scott Mackey, in Trenton. N. Gaine- That was for wild harvest. M. Gregg- Second, we went to the Atlantic Section of the Shellfish Council and George said to take clams out of it.

L. Calvo- I think it's a start. Its advancement. You can go back, and you can add clams, but there's opposition to it. There were 30 oyster farms wanting to move this forward. We wanted this to be all shellfish. What about people growing scallops, they may want Sunday harvest. M. Williams- You didn't poll the clam industry. I can name dozens of people that had no idea this was going on. L. Calvo- This has been going on forever. M. Gregg- It wasn't a poll it was a petition. M. Williams- In your own email to me you said the clammers, but you just sold the clammers out. L. Calvo- We have presented and discussed at the NJ Aquaculture Association, the bill has been presented here with citation of the bill number where you could have gone and read the document. Nobody was trying to do this behind anyone's back.

M. Williams- You presented it as Sunday harvest, but now you can go harvest on Sunday and clammers can't. L. Calvo- I don't think the clammers want it. N. Gaine- I think to the point, of those here, can someone who grows clams raise their hand? (No one raised hand) There's no clammers here. D. Bushek- (with hand up) I'm not a clammer but you just read a statement from a clammer who is against it. N. Gaine- He's against the recreational harvest. D, Bushek- No he's against the Sunday harvest. That's what you read. N. Gaine- So he was one, and he said he is opposed to it. D. Bushek- That is what Lisa said. N. Gaine- That is one, but how many on this board are representative of clams. What I'm saying is the stakeholding is not there. And how many clammers are there in the state relative to oysterman. There are way more clammers than there are oysterman. They are underrepresented on this Council. What we're saying is when there are rules for shellfish that encompass all of them, the stakeholding is run. The Council here supporting this for oysters makes sense. I think what we're forgetting to include in this discussion is that all shellfish are required to report monthly now. A. Wenczel- I think it's only if you are harvesting on Sunday, that part has changed like eight times since first written. N. Gaine- No it's all. It's for all shellfish, per lease has to report all harvest. It's not just the Sunday harvest. It's a requirement of all of the industry but they didn't get the liberties of structural aquaculture. In the process here, and I don't think it was intentional, we have put an additional requirement on a sector of our industry that is not getting any benefits. To the point of the previous discussion on Bureau of Marine Water Monitoring rules, those are from the ISSC and have to be adopted by the Model Ordinance, but under no statute do we ever have to do any reporting and now we do. Now we are required by statute, so we have to change the law to change the requirement. It's a law now that shellfish has to be reported per lease, which for a lot of clammers or those of us with a lot of leases, that's a big requirement. It has nothing to do with the Model Ordinance because we have to do that

per month in aggregate. This is now in the discussion on other people using leases with permissions to work, that has to be taken into account too. That was part of the rebuttment too, is as it changed, it got out of the authors hands. You guys didn't write the bill, somebody else wrote the bill. M. Gregg- That's what I said before. We didn't make these amendments. N. Gaine- With this getting out of your hands, we got these changes. When we got rid of wild harvest, it didn't go to shellfish it went to structural only. The caveat of the reporting, which got changed is now to all shellfish.

J. Cimino- I don't think it's going to surprise anyone but to confirm Dale's concerns, there is definitely talk about a recreational version. Speaking to the Chair of the Fish and Game Council, it has been brought before them. The Chair of the Fish and Game Council has said that it's something the Shellfish Councils should be talking about. I have no interest in people going around the Shellfish Council.

A. Wenczel- If I may add from this Council, and I will take another look at the letter, but I believe the letter that was sent from the AAC expressly stated the Sunday harvest of farmed shellfish. It was saying aquaculture is agriculture and that is what we support. That is all that was stated. For farmed product it is owned by the farmer and should be allowed to be harvested on Sunday

M. Williams- In the minutes, it says motion from the Council to support this legislation and advance a letter to appropriate Assemblymembers. It's for that specific bill. A. Wenczel- Yes, but the letter specified farmed shellfish. M. Williams- The letter was fine but now the bill is something different. I voted no in Trenton, and I'm fully for Sunday. I don't think we should have any rules on when we can harvest, it's our stuff. It's the way it was changed, and you (addressing Matt & Lisa) testified before the Assembly and could have said you were for it just change this word. You guys didn't do that. M. Gregg- I did. I didn't go to the last testimony; I was out of town. Before that I asked them to change it. Ned was there, I asked them to make that change. M. Williams- This is just a mess. There are plenty of people that don't come to meetings, just put their heads down and work. Now they just got stuck. M. Gregg- They didn't get stuck. They have no change in their life. M. Williams- They had an opportunity to do something and now they don't when you and me can. L. Calvo- I think this is a great issue to bring to the Shellfish Councils. And have another bill or amendment proposed and move that forward. It's one step forward and should make anything behind it that much easier. Now there are legislators that are sensitive to the issue. Let the Councils bring it forward this time because that seems to be a good place for proposed legislation to come from. I'd support it, I'd go to Trenton and support you. Perfection in public policy is really challenging. This is the beginning, it doesn't have to be the last step. I think we need to get all the people involved in clamming in a room and ask what would make sense for them. We should add scallops and surf clams and whatever else is worth growing. But not stop where we're at now, keep moving forward.

N. Gaine- I agree with Lisa's stakeholdering and I think before this Council wrote a letter, they should have stakeholdered it with other clammers. We didn't have that, maybe that would have been a way to go forward. In general, we need to recruit more people here. Or have virtual so that people can come to these things because the people you see here are the same at every meeting no matter where you go. If we went virtual, that may allow more people to call in and have more robust discussions. And, just to clarify, from the bill: "Section 3. A person who holds a Commercial Shellfish Aquaculture Permit shall submit an annual harvest report, on or before December 31st of

each year to the Department of Environmental Protection. Each report shall disclose for the annual reporting period the amount of shellfish harvest by the permittee from each state leased aquaculture lease.” That includes everyone, including clammers. So to reiterate, the process, while it was not perfect, did help one fraction of the industry while putting new requirements on the entire industry. That’s where I think we could have gotten this to the point where we helped those that wanted it, through the Council, and not put any additional burden on those that are not benefiting.

L. Calvo- I think one could argue that having statistics on the value of the industry and the extent of the production is a good thing for all of us. I don’t think that reporting is a negative. I think if the state knows the production levels that can be used in many ways to enhance...N. Gaine- It’s a permit requirement, as it is now to get your CSAP, but that’s for human health safety. I’m not going to argue that data and statistics are bad; I’m arguing that we should not require someone to do something by law when we could do it by policy. Policy and law are very different. We already have to report annual harvest for the CSAP per the Model Ordinance. I have multiple leases, to go through harvest from each one is an additional burden. This is additional reporting, that could all be massaged through policy but now it’s the law. If the ambition was oyster as a steppingstone then it should have been exclusive to oyster. This bill expanded it. Why not include fisheries reporting in this bill. It’s not because they are not part of the bill. Those that wanted it, they got it. Those in Delaware Bay came forward to request it and they got it as a policy put forward as a suggestion to the Bureau. It didn’t require any additional paperwork, which we were just talking about.

M. Williams- Does the Council want to write a letter to the Governor to conditionally veto it to change structural to just aquaculture? It goes with the letter you’ve already written in support. Asst. Sec. Atchison- That’s up to the Council. Obviously, there are a lot of differing opinions here. To that end, I have a question for Ned. Are you against the reporting all together? Against the reporting for clammers because they’re not a part of this bill? If it was conditionally vetoed to say, the reporting is only for oysters because oysters are getting the benefit of Sunday harvest. N. Gaine- That would be the minimum. I don’t see the statutory need for this at all. We already have reporting through CSAP for the Model Ordinance, it’s just aggregated not per lease. I don’t know if we will have to do two different types of reporting now. I certainly hope not, that would be another concern. I don’t think the impetus for this bill ever included reporting. M. Gregg- No. The person that wrote the bill took it to the DEP, and I assume that’s how. N. Gaine- I think what happens is we come with an idea, and then are cut out of it. We didn’t even see the bill until after the testimony was closed. We were working off the previous version. People who were out supporting this bill didn’t know this was part of what they were supporting. Had they known, I think some would have said not to include that. There were people testifying that this was for clams at that meeting, but didn’t have the opportunity to read it (before testifying). M. Gregg- There were a lot of amendments. It was confusing. The problem I see here is that this could have been included with a broader conversation. We only heard from clammers that wanted clams out of it (the bill). The only clammer that signed our petition was your brother (L. Williams) and I feel awful that he got cut out of it after he supported it. You have to admit Ned it was hard to have a conversation with the opposition. You and I logged too many hours trying to come up with a compromise. N. Gaine- We had one, but it’s not what is here. It was out of our hands. M. Gregg- There were a lot of people that just refused to talk about it. N. Gaine- It was sloppy and ugly. As an industry we should learn our lessons here. We have to go forward because there is nothing we can do about it now beyond

a letter to the Governor expressing concerns about it. As I've said, with this Council I'm comfortable dealing with Title 2, Agriculture. When it comes to Title 50, it's a broader group than just the people in this room.

M. Gregg- To move on from this, I think it would be easier to get clam farmers' support and move forward with another bill. I don't think that I, sitting on this Council, would want to make a motion to write a letter conditionally vetoing this. I think it's easier to go the other way.

M. Williams- It took how long to get the bill this far, what's wrong with sending a letter. This Council sent a letter under the assumption it was shellfish, and now it's not. It should just be aquaculture. This has changed since the Council wrote the letter, what's the harm in saying that. Write a letter to the Governor saying this should include all of the industry. The reporting is already out there. I agree with Ned's point that clammers have to report and don't get anything out of it. If you stand for the industry and that's what your seats are for here, it's not a hard thing to write that letter.

Asst. Sec. Atchison- This is the end of my third week taking on the Secretary responsibilities. I would have to check with my legal and ethics people to see if I, as a Cabinet member, can write a letter opposing legislation. M. Williams- I'm not asking for you to send a letter. Last time Sec. Fisher didn't vote, it was the members that vote. (Several people in recording clarified that the Secretary role as Chair signs the letter).

A. Wenczel- The letter was from the Executive Branch to the Legislative Branch. Now Joe is saying he has to clarify how he can move items with essentially his boss. M. Williams- That's a crappy loophole; that's not fair. There's no one else that can sign this letter? A. Wenczel- I think DEP and DOH are going to be in a similar spot since this is our boss, the Governor. It's different to reach out to a different arm of government. B. Hollinger- We can write it from the State Board, that's Wednesday.

M. Gregg- The first time we voted on this it didn't get through. We had to come back and have a special meeting and reword it. M. Williams- No it wasn't, that was Right to Farm. (He then read the meeting minutes motion, with the vote of Joe Cimino abstaining, all others in favor). The majority of the conversation was about the wild harvest issue. I don't understand why you can write another letter saying we support this with this change in it. You wrote a letter supporting it last time, why can't you write a letter now? I'm not against this all together, just take this one word out of this bill. Asst. Sec. Atchison- What is the one word? M. Williams- Structural. It puts everyone back on the same playing field. I saw the bill one time, and structural was there, so it was in before the end vote. By then it was out of the Council's hands for 8-10months.

M. Gregg- Ned, would you support the bill with the one change? N. Gaine- I would have to go back to my members to ask. Me personally or me as a Shellfish Association? What we were pushing for and advocating was to change the word oyster to shellfish. M. Williams- I'm asking the Council. M Gregg- I'm playing devil's advocate. You have an ask here to us. You are one person. M. Williams- You wrote a letter in support of something and that changed. You should want to be saying that you supported the other version instead of saying your still ok with this new version. Not worth arguing what people pushed for it, it has changed. I told my brother about this

the and he didn't see it as I did. You guys just did this on your NJAA, you didn't reach out to all of us, come to the Delaware Bay Council meetings. Most people from the Delaware Bay Council were left out of this. Now, to just say there's no support in this room... There are others who voted yes to this letter sitting on this Council. You have to have an opinion on this not being what you supported. You said you supported it because it said aquaculture, and you're sitting here today saying it changed and yeah, we're ok with that. This is an Aquaculture Advisory Council, why isn't it aquaculture. M. Gregg- My problem I have with this conversation right now is that you're one person. You're the only person that has brought this up. All the other opposition just wants the bill dead. M. Williams- I wasn't even part of the conversation. I only heard from Ned on this. I was in full support of this, but was never asked. That's why I went to the Delaware Bay Council and said I'm not involved in this whatsoever. M. Gregg- It's also not our job to ask every single person. I have a job too.

M. Williams- All I'm saying is can the Council write a letter saying this is not what was supported. It's not the same as what was supported. We're not, not supporting the bill, it's just asking to change one word. This board is in a sense saying their ok with splitting the industry.

N. Gaine- We did oppose the bill, we didn't wholly go against it at all. We were looking for changes to make it better. We made the comments that the Council is not representative of the industry. When the legislature took a vote in the Assembly it was well documented that most coastal communities voted no. It's not that the responses they heard were holistic. Different people had different issues. What we were hoping for was more time to massage these issues. That's what we asked for. I think I can say though, no it's not likely that we would all agree with this one change. Dale has one point of view. I'm personally not in that group. I have issues with the reporting for the whole industry and liberties for one section. Customarily, I wanted this to be changed to shellfish and go through Council regulatory process. To help those that want it and not for those that don't want it. To Russ's comment, do a bay-by-bay programmatic change because there are regions that expressed that they do not want this.

D. Bushek- I don't have a vested interest in Sunday harvest, but in trying to understand this, my understanding right now is that we supported this as shellfish, as Matt said. Now it got changed but has passed everything in the legislature and is on the Governor's desk to sign. If he signs it, it's done and goes through. If we write a letter and say we want this change, does he make the change and sign it, or does it kill it all, or it now has to go back? Asst. Sec. Atchison- If it goes back as a conditional veto, it goes back, they make the change and it goes through approval there, then it comes back to the Governor and he'll sign it. It doesn't need to go through the full process. D. Bushek- But at that point you're risking whether or not they want to make the change. If they don't want to make the change, then it's probably going to be dead. M. Williams- We are talking about a miniscule change. D. Bushek- It sounds like it's much more than a minuscule change the way we are talking, given your enthusiasm for this and your time spent on this. There are differing opinions about it, according to Ned, so I can easily see this whole thing being killed if it goes back and people gather their forces and argue against it, or for it. Right now we're in a position where it sounds like it has a strong chance of being signed and at least part of the industry having a benefit. N. Gaine- And the whole industry having requirements. D. Bushek- Those two issues are separate. It's my understanding that the reporting was going to be pushed through on its own. There is a lot of support, including from this Council, for a lot of different reasons. N. Gaine- So

at no point did this Council support or ever vote to support mandatory reporting per lease. D. Bushek- There has been a lot of support in discussions of having reporting as a whole. At what level it is and whether its through law, I'm not arguing that. I'm saying there is a lot of support and need for reporting. N. Gaine- When we are talking about the bill, we are talking about law. There are three sections to the bill, when you talk about it you are talking about them all. When discussing a conditional veto, you are talking about the whole bill. D. Bushek- What I'm trying to understand for me, as a Councilmember, if I'm going to take a vote on something that is going to go forward is what are the implications, how that is going to affect the industry. I don't have a vested interest in it, but my role as a Councilmember is to support the needs of the industry. Right now the bill has this reporting requirement. Some people view that as a negative, some people view that as a positive. But if this goes back, and none of this happens there are certain implications that I can't tell right now if that is a positive or negative, to have it all be killed. I'm leaning towards a positive to have the Governor sign it as it is. Then follow what Matt has proposed, which is to push forward for others to get on board. Demonstrate that it is working and should be expanded to everybody. That seems like a logical way forward and a much easier path than risking everything and going back to the drawing board.

M. Gregg- Basically what Dave just said is a professional reiteration of what I was trying to say before. I agree with him and I think that we could get some feedback from the sector of the industry that missed out on this liberty that was taken out. B. Hollinger- Do you think you're going to get push back from the sponsor? This close to the Governor signing it and we're looking for changes. M. Gregg- That's not what I suggested doing. We suggest parsing out clammer's needs and that is the next push for this Council. B. Hollinger- As a separate bill? M. Gregg- Yes.

M. Williams- I would ask the individual members of the Council if they are ok with the clammers not getting what the Councilmembers thought they were getting last year. Are you ok with that individually because the clammers need to know the people that didn't say anything. Accountability is something here. B. Hollinger- That's the problem here. I've heard from more clammers that don't want it than do. The other piece is they're scared to death of the recreational piece, which I know is going to happen. There's going to be a really big push for that. Now that's going to be a problem that falls to us (referencing Shellfish Council and BSF) because you're going to open it up and the same amount of clams are still going to be there. They're not going to catch more, and nobody knows the impact. M. Gregg- This legislation is not president setting for that. These are two different things, apples and oranges. B. Hollinger- But they're not going to look at it that way. All the shore towns all up the coast are going to look at it as a way to bring in money. They're going to get it passed. N. Gaine- We've seen that bill in three sessions. It's been brought up on the Atlantic Coast multiple times from the recreational sector. I don't disagree Matt that it is apples and oranges, but this has been put forward in the past. It's a common thing brought up on the coast.

M. Williams- I'm not trying to rehash the entire issue, I'm trying to rehash with this Council what this Council did. This Council sent a letter and it changed. Can this Council send a letter saying we support this now with this change? It's not we don't support this bill, it's we support this bill with this change. We're not changing our opinion, it's reiterating what we support. It's just what's discussed in this room. D. Bushek- That's already a part of the record. We already sent the letter saying what we supported. We can send another letter, but that will send a message that we don't

support the bill, as its written. Recommend that you put it back, try and get this change, and then it opens up this discussion. We have a lot of opposition as we have heard from a number of different people from clammers that do not want this at all. This means you're risking all of the aquaculture industry being recognized as owning their product and harvesting on Sunday. M. Williams- That's not what I said. That's not what this bill said, it says I can harvest shellfish on Sunday. D. Bushek- Right, but the rationale for allowing harvest on a Sunday is because you own the product. My support of this bill is you own the product, you should be able to harvest it when you want to harvest it. It doesn't say that in this bill, I understand that. You're risking that all being gone by asking this Council to put this back and indicate to the Governor that we don't support this as written. His option is to veto it outright or veto it conditionally. Or sign it as it is.

M. Williams- Simple yes or no. Since it's changed, you no longer support the clammers being able to harvest on Sunday? D. Bushek- I support the clammers being on it, it didn't get passed that way. I indicated that I support that and haven't changed that at all. M. Williams- I understand, but this Council has a chance to say we need this to get back to aquaculture. N. Gaine- So to clarify what Dave said, hearing a vast amount of opposition to this, you're still ok with supporting it? D. Bushek- I believe that if you own that product you should be able to harvest it, yes. I'm ok with clammers harvesting the product on Sunday if they own the product. N. Gaine- Even if they are in opposition to it. D. Bushek- If they don't want to do then they should come to this Council to argue before us as to why. N. Gaine- Maybe you should go to Shellfish Council and hear what they say there.

L. Calvo- This risk of requesting a change in language at this stage, I feel is too great. I think the best path forward is to let this go forward and work on an alternate follow-up bill that would permit all shellfish (to be harvested on Sunday) and see how that goes. Or can we amend the current bill to define structural in a way that is more inclusive? M. Gregg- That's dangerous. L. Calvo agreed.

Asst. Sec. Atchison- As an example, completely unrelated, but deer fencing was passed. They put a cap on it at \$200 an acre. That was passed, it was signed, monies were given. Now they're back looking at that same piece of legislation saying maybe the \$200 wasn't enough. There is the possibility that it goes through, it gets signed, and then they go back and readjust to fix those things. I'm not saying that is the way you go, I'm saying that is an opportunity that's out there. I'm not saying one way or another on this. I know there is a request form the floor to write a letter, if anyone on the Council wants to make a motion, I would entertain that. Otherwise, I think we've come full circle with the conversation.

No motion was made by the Council.

M. Gregg noted that he respects the perspective and requests of M. Williams and stated he feels the opposition is using that sentiment to try to open up the bill/discussion again.

Public Comment

N. Gaine- We need to open up this Council to get more of the public here. Moving these meetings from one County or one location to another is not increasing the audience. We need to go virtual. We need to have the virtual option to have others hear what is said in these rooms. It should be a priority of this Council to get more inclusion of the industry and make it as easy as possible to

attend. We don't have anyone here from DEP to discuss their CSAP. If we had the option of remote, maybe they would be able to answer some questions for us. If we can get to a virtual program we could get more inclusion, more voices. J. Cimino- It's a fair point. Is this something for a Committee or the Council to discuss? A. Wenczel- To go remote? It would need to be all or nothing, or we need to have internal discussion on getting additional NJDA staff members at these meetings who are not aquaculture. As you know from Shellfish Council meetings, there are 3-4 staff running the meeting and the IT to make it work. N. Gaine- Mr. Secretary, can you help them out? This is a priority. B. Hollinger- We do it for the State Board. There's no reason we couldn't borrow that equipment. It seems very easy; you already got the equipment. We are using it way up north this Wednesday on a farm. Asst. Sec. Atchison- I'm actually texting about that now to make sure we have a good internet connection. So, yes, we will figure something out. We have the "Owl" and it listens to who is talking and moves around. M. De Luca and D. Bushek noted that JCNERR and HSRL have an owl system too.

Council in agreement to move forward with hybrid style meetings.

N. Gaine- We are halfway through an ADP. We are required by the Act to do these updates and they take years to do. I think the Council should be aware of the statutory requirement of five years. We should start working on the next one. Review what has happened and look forward for the next one. It takes some time and this is the main charge of this Council, is development of this plan. We have two and a half years left, this Council meets quarterly, so it's going to be a quick turn-around. I think it's time to start working towards the one that's coming up. M. Gregg- What was the gap we had for last one. N. Gaine- Eight years, before we started.

M. Gregg- What are our vacancies on this Council? A. Wenczel- A Speaker of the Assembly Appointee, a Governor Appointee, and I think everyone is a holdover at this point. M. Gregg- It would be nice to get more representation, and not just for this Council but all our councils.

N. Gaine- In a previous meeting you had the conversation about proxies. You talked about a form, and that form was only for members that are from the public. I want to point out that the Council has multiple designees. The designees, I don't know if that was the spirit of this Council. I think we were after the Commissioners being here. If you look at the composition of the Council, except for the industry members, everybody is a designee. This is a little odd to put scrutiny on these proxies. I think if Matt's not here, you put anybody you want in that seat, that's a farmer. To say we have to have a specific regimen to get a proxy from the industry, those are the most important people for an advisory group to hear from. That should be the easiest person to get there. We should put more account on those that are the designees. I don't take anything away from Joe, but it would be really nice for a Commissioner to hear our concerns. Maybe the Commissioners need to hear what we are saying from the industry. To put the burden of such a formal process for proxies...let's say Matt's not here, and his proxy is not here, we should still have any aquaculture organization to fill that seat. To make it a rigorous process for a proxy for just the industry seems to be unfair. The same as we hold the industry to account we should be doing the same to the designees. It is that important to have those people noted in the Act present. Maury is not here today and if he picks up the phone and says I have something and Ned cannot be there, I want Matt to be my proxy, that should be fine. It should be just a phone call. A. Wenczel- That's what we agreed to Ned. N. Gaine- Just a phone call, because Steve got a letter. J. Cimino- It's a form. A.

Wenczel- Yes, there is a form they can fill out, but we agreed that as needed, we allowed the flexibility. And Maury did notify me that he was not going to be here and did not designate anyone as his proxy. He is as aware of the full process as anyone else. N. Gaine- My point being that we have proxies for industry but we should have the Dean in their seat (point to D. Bushek). D. Bushek- I am not the Dean and I am not a designee. Haskin has a seat. D. Zemeckis- I am representing the now defunct Aquaculture Technology Center. D. Bushek- And we are under the same requirements, if we want a proxy, to fill out a form.

M. Gregg- Joe (Cimino) you are here representing the Commissioner, and we have Water Monitoring questions. We had the bird meeting, and we still have outstanding questions from that meeting. It would be nice to have either you talk to someone in Water Monitoring or they send someone to the next meeting and advise us on what's going on out there. J. Cimino- Are you asking for that as an AAC agenda item? M. Gregg- Yes. B. Hollinger- And where the rule stands. We've been asking to discuss and change it for years now. M. Gregg- Two years ago they hosted an on-phone stakeholder session and we never heard anything after that. B. Hollinger- That and the one in the library. That was the one we thought would be to make our rule changes we needed and they shut us right down. It was an emergency to put those rules in, and they said that next time we would be able to review it and make changes. M. Gregg- Barney, you and I went into the office, five years ago or so and made recommendations for changes and some clarification on items like husbandry tags. N. Gaine- Model Ordinance. You can take it to them but they can only do so much. That's ISSC you really ought to take these things to. M. Gregg- There's flexibility in the regulations that they don't need to follow so specific. An example is seed size, they just need to define seed size. Ours is 1.5 inches, that's a ridiculously small oyster. N. Gaine- We discuss that in ISSC. M. Gregg- We also have questions from the bird session we can bring back up. How many birds is too many birds? Are some birds worse than other birds? I think all the growers that are using floating gear are pretty nervous about the situation. If we could have a clear understanding of what the authority is actually looking at and some baselines, not just deter all birds, because that is totally impossible. J. Cimino- DEP has a huge nexus for aquaculture, and it's rare for BMW not to have a rep in the audience like Russ is, to help answer questions.

N. Gaine- To follow up with Dave...Ned reads the Aquaculture Act, Section five which outlines the AAC membership...which one is Haskin? That's the Act, that's the law. A. Wenczel- Yes, but some of those do not exist anymore. They were replaced in '05 or '07. N. Gaine- Statutorily? D. Bushek- Through the authority of the Council. There is a two-third majority can change that. N. Gaine- I did not know a Council can override an Act. A. Wenczel- Those organizations don't even exist, so if you'd prefer, we'd have like three people up here. N. Gaine- No, I'm raising the point that Haskin is not a seat. It's a fill in for somebody else. D. Bushek- One of the two, either ATTC or ATIC are the Haskin Lab. Gef Flimilin was the one that put the motion forward to do that. In the Act I believe there is a description of how we can change things, or it's in the by-laws. N. Gaine- I'm pleased to know that we can change law through Council movements. We should really push that in all Councils.

M. Williams- To the ADP stuff, under Leadership, there is a recommendation to review the AAC composition and provide recommendations for how to modify. Can someone explain that one? B. Hollinger- Just like Ned just said, all the membership organizations that are obsolete now we recommended other seats. M. Williams- Are you actually specifying an organization or is it still

informal? A. Wenczel- I have to review notes but I think we had specific seats identified. That does require a change of the statute. I thought it was brought to the Council, but it may not have. M. Williams- Just curious if it was going to name specific seats and saying it will have certain representatives. A. Wenczel- Yes, the recommendations specifically said a Shellfish Council seat.

M. Williams- Under Permitting, a majority of those have no action so maybe start on those. Then going to the Hatchery/Nursery section, none of the physical items have had any action on them- the general permit recommendation, coastal management, and the guidance document. We've had a few meetings where we haven't worked on more items in here because Right to Farm and Sunday harvest have been overarching. What can we do to get proactive on these items? Some items need rules to be revised but we should have a plan so we are ready when the rules are open. It's also not worth a new plan if we have to finish the items in the old plan. The hatchery and nursery systems are a giant constraint to the industry right now trying to get seed. A. Wenczel- I think most of those require a discussion with Land Resources Protection and I need to figure out the best contact to start those discussions. M. Williams- If we keep moving it back a meeting that's months later. It would be good to get things moving before next year. Seed is the biggest issue for the industry. You can't get seed or you get poor seed. R. Babb- Under the hatchery/nursery recommendations, we put a couple of grants in for our Coastal Program two years ago and I've been told that for 2024 that we should be getting some funding to create a white paper to examine the working waterfronts/hatchery capacity issues. Once we find out the money is in place we'll come to the Shellfish Councils and AAC as well as possibly form a committee to drive the work.

Becky Watson, Natural Resource Conservation Service- Working in the Vineland office, representing Cumberland, Salem, and Cape May County. There are some financial assistance sign up deadlines this October. There are items such as biofouling reduction and shell placement for restoration that growers already apply for, and we are currently adapting practices from other states for use in New Jersey, such as shoreline stabilization and retrofitting tanks for restoration purposes. Anyone interested in being on the notification list, go to Gov Delivery and sign up.

Alison Stout, USDA Veterinary Services- APHIS recently had funding for veterinarians to attend aquaculture animal disease training. One of the veterinarians in the state was selected to attend and will be going in about two weeks. So there will be another resources to rely on, locally.

Meeting adjourned.