

MINUTES OF THE MEETING  
OF THE  
ATLANTIC COAST SECTION OF THE NJ SHELLFISHERIES COUNCIL

Nacote Creek Law Enforcement  
Port Republic, NJ  
November 17, 2008

Present were: Chairman John Maxwell (Atlantic)  
Councilman Walter Hughes (Monmouth)  
Councilman Walter L. Johnson III (Ocean)

State Representatives: James W. Joseph, Bureau of Shellfisheries  
Jeffrey C. Normant, Bureau of Shellfisheries  
Michael Celestino, Bureau of Shellfisheries  
Robert Connell, Bureau of Marine Water Monitoring

Mr. Maxwell called the meeting to order. Mr. Joseph read the State's compliance with Sunshine Law. He announced that the meeting would be recorded.

1. Total Revenue collected for September 2008: \$1,443.00  
Shellfisheries Law Enforcement Fund: \$ 560.00  
  
Total Revenue collected for October 2008: \$ 3,389.12  
Shellfisheries Law Enforcement Fund: \$ 1,010.00

2. September 15, 2008 Minutes

The minutes of the September 15, 2008 meeting were approved on a motion by Mr. Johnson and a second by Mr. Hughes.

3. Applications for New Grounds – Decision

<u>APPLICANT</u>	<u>LOT #</u>	<u>SEC.</u>	<u>ACRES</u>	<u>LOCATION</u>	<u>MAP</u>
Madeline Brown-Avery	1083	A	2.00	Great Sound	5
John Burke	1063	A	2.00	Great Sound	5
Timothy Hewitt	616	B	2.00	Little Egg Harbor Bay	12
Joseph Papiez	132	C	2.00	Barnegat Bay	6

Messrs. Burke, Hewitt and Papiez and Ms. Avery were all present at the last meeting. Mr. Normant reminded the Council that submerged aquatic vegetation (SAV), eelgrass, was found during the biological investigation of Mr. Papiez's lease application and that establishing a lease in SAV habitat was contrary to the SAV rule under the Coastal Zone Management (CZM) regulations (NJAC 7:7E-3.6). The lease applications of Messrs. Burke, Hewitt and Ms Avery were approved, while Mr. Papiez's lease was not approved on a motion by Mr. Johnson and a second by Mr. Hughes.

4. Old Business

Middle Island Thorofare Lease Applications

Mr. Joseph provided the Council with a brief summary of the proposed Middle Island leases in Little Egg Harbor Bay. Mr. Joseph stated that Middle Island Thorofare was not mapped as SAV habitat on the 1979 SAV Distribution Charts. However, eelgrass beds were found in adjacent areas and coincidentally, an eelgrass restoration project was being undertaken immediately adjacent to the proposed leases. Since the area could be potential SAV habitat, it would have to be sampled for SAV. Guidelines for sampling SAV require that sampling could only be sampled between June and October. Mr. Joseph stated that the biological survey of the Middle Island lease applications would not be done until next June. Mr. Joseph

then stated that Mr. Maxwell and himself had received a letter from Mr. Walter Johnson III (no relation to Councilman Johnson), suggesting some prudence be exercised with the number of applications in the area. Mr. Johnson inquired on the number applications. Mr. Normant stated that there were 29 applications. Mr. Johnson inquired on the size of the initial block of leases. Mr. Normant stated that there was no specific initial block of leases and that the leases were two acres each. He said that Mr. Dale Parsons proposed and applied for the initial lease and all the other pending leases were built off his lease. Mr. Maxwell inquired if there were any leases that existed in the area before Mr. Parsons's lease application. Mr. Normant stated that there were no previous leases in the area. Mr. Joseph stated that the Council's policy was to review data collected during the biological investigation of the lease, review any existing data for the area and to take into account any user group conflicts. Mr. Maxwell opened the floor for discussion. Mr. John Rutherford stated that he had clammed the area for a number of years and had never seen any eelgrass. Mr. Parsons inquired if there were any regulation or policy written that requires leases to be a certain distance from eelgrass beds. Mr. Joseph stated that there was not. He stated that it was largely whether the area was defined as eelgrass habitat or potential eelgrass habitat (capable of supporting eelgrass). Mr. Joseph stated that Mr. Parsons original lease proposal was in an area mapped as SAV, so he moved it into an area that was not mapped. The concern over SAV increased due to the SAV restoration site in Middle Island Thorofare. Mr. Joseph stated that there were several scenarios that could happen once the biological investigation was completed. Further discussion on the matter ensued.

Mr. William Avery inquired on what prompted the mitigation project. Mr. Normant stated that it was required mitigation from an emergency repair of an electrical power cable in Manahawkin Bay that occurred in existing SAV habitat. The electrical company contracted a researcher from Montclair University and a consultant company to do the work. Mr. Avery inquired on why they did not just restore the area that was disturbed by the cable repair. Mr. Normant stated that the site was already an existing restoration site. Mr. Gef Flimlin opined that establishing shellfish leases would create more productive habitat for other critters than to establish eelgrass beds in the area. He stated that he had seen areas where eelgrass flourished in areas with established shellfish leases. Further discussion the matter ensued.

Mr. Maxwell requested a copy of the SAV rules under the CZM regulations. Mr. Joseph stated that he would get the Council a copy of the regulations as well as SAV guidance documents prepared by the Atlantic States Marine Fisheries Commission that deal with some of these issues.

#### Aquaculture Advisory Council Leasing Committee

Mr. Joseph stated the Aquaculture Advisory Council (AAC) Leasing Committee had met in September, October and November, focusing on Aquaculture Development Zone issues. There was a meeting of the AAC on Friday, November 14, 2008 in which the draft report of the Leasing Committee was discussed. At the November meeting of the Delaware Bay Section of the New Jersey Shellfisheries Council, Chairman Hollinger reiterated the intent of the Council to form its own leasing committee for issues relating to traditional shellfish leases. Mr. Joseph Myers from the NJ Department of Agriculture stated that one of the issues discussed at the last Committee meeting was the transition of the existing ADZs from a pilot program to permanent status. Mr. Myers also stated that at the AAC meeting suggested some changes in the Committee report, such as using the business plan to legitimize the application of the individuals seeking an ADZ and using the business plan as a basis of the utilization inspection requirement. Mr. Myers stated that there would be no more Committee meetings and that Committee members were currently reviewing the final Committee report before it would be presented to the AAC and then to the Council. Mr. Myers stated that the Committee would reconvene if it were necessary to discuss traditional lease issues. Mr. Maxwell stated that he Council would establish a committee to look at traditional lease issues. Mr. Maxwell stated that the committee could use the AAC Leasing Committee report as a template to address some traditional lease issues. He suggested having the meeting around February and involve as many shellfishermen as possible. Mr. Joseph suggested having a broad representation of Atlantic Coast and Delaware Bay shellfishermen and decide on a number of representatives that would be manageable. These representatives should also be fully aware that there would be a series of meetings set up with a certain frequency so that they would know what their obligation would be in attending the meetings. Mr. Myers announced that the next AAC meeting would be January 16, 2009.

### Mullica River Oyster Harvest

Mr. Normant provided Council with a brief summary of the of Fitney Bit oyster harvest season that opened on Monday, November 10, 2008 and ended on Saturday, November 16, 2008. Harvest participants ranged from 1 to 13 individuals per day. Feed back from the harvesters was generally positive. Mr. Maxwell inquired if there could be another harvest next year. Mr. Normant stated that they would have to sample to assess the bed conditions. Mr. Normant stated that they would be doing the annual sampling of the Mullica Beds seed beds in December.

### 5. New Business

#### Relay and Depuration Permits

Mr. Connell stated that the Bureau of Marine Water Monitoring (BMWM) would start sending out applications for relay and depuration permits. Mr. Connell stated that the BMWM had some staff reductions including their only clerical. As a result, harvesters could mail or drop off the applications, but they would be unable to issue the permits the same day. The permits would be mailed to the applicant.

#### Policy on Shellfish Gardening and Shellfish Restoration

Mr. Connell stated that he had sent copies of the draft policy on shellfish gardening and shellfish restoration to all Council members and parties of interest for comments. He said that the Department had been working on this policy for a while and that the purpose of the policy was to establish a consistent policy for all the applications the BMWM receives throughout the state. Mr. Connell stated that there would be a meeting sometime in December regarding comments on this issue.

#### Bureau of Shellfisheries Office Clerical Staff

Mr. Joseph stated that since the only full time clerical at the Delaware Bay Shellfish Office would be out on sick leave for an extended period of time, the office would only be opened Tuesday, Wednesday and Thursday. It was also suggested at last week's Delaware Bay Council meeting that lessees call before they come in to the office to renew their leases. He also stated that at there had not been a full-time clerical on staff since July the Nacote Creek Shellfish Office. Currently, there was only one part-time hourly shellfisheries clerical, who will be done shortly since hourly employees were limited to 900 hours per fiscal year, and one full time Bureau of Marine Fisheries clerk. Mr. Joseph suggested that lessees should call ahead and schedule a time when they would be in to renew their leases. Mr. Joseph stated that the Bureau would be unable to fill full time vacancies.

#### Comments by NJ State Senator Jeff Van Drew

NJ State Senator Jeff Van Drew spoke to the Council and floor to show his support for the development of aquaculture in New Jersey.

There being no further business, the meeting was adjourned on a motion by Mr. Johnson and a second by Mr. Hughes.

### 6. Date, time and place of next meeting:

DATE: December 15, 2008  
TIME: 7:00 PM  
LOCATION: Nacote Creek Law Enforcement Office  
360 N. Rt. 9  
Port Republic, NJ 08241