

<b>NEW JERSEY SHELLFISHERIES COUNCIL</b>		Delaware Bay Section
<i>Meeting Minutes</i>		

<b>Meeting Name</b>	Monthly Meeting of NJ Shellfisheries Council - Delaware Bay Section		
<b>Meeting Date</b>	Tuesday, July 5, 2016		
<b>Meeting Time</b>	6:00 PM		
<b>Venue</b>	Haskin Shellfish Research Laboratory	<b>City</b>	Bivalve, NJ
<b>Attendees</b>	General Public		

<b>Council</b>	<b>State/Fed Representatives</b>	<b>Haskin Research Lab</b>
Scott Bailey, Cumberland Co.	Russ Babb, Shellfisheries	David Bushek, Director
Steven Fleetwood, Cumberland Co.	Craig Tomlin, Shellfisheries	
Warren Hollinger, Cumberland Co.	Andrew Hassall, Shellfisheries	
Richard Malinowski, Salem Co.	Brandon Muffley, MFA - Administrator	
Cape May / Salem Co. – Vacant	Robert Shuster, Marine Water - Chief	

*Compliance with the Sunshine Law*

Notice of this meeting was posted June 15, 2016 with the Secretary of State's Office, State House, Trenton, NJ and the Bridgeton Evening News, and Daily Journal pursuant to L. 1975 c. 231.

Meeting minutes considered for approval: March 2016 (*previously mailed – see minor updates/revisions*)

Councilman Hollinger motioned to approve the revised minutes. Councilman Bailey seconded the motion.

**Revenue collected for March totaled \$28,655.00 and is summarized as follows:**

<b>License Type</b>	<b>Total</b>	<b>License Type</b>	<b>Total</b>
Commercial Crab Pot	\$2,100.00	Commercial Shellfish	\$350.00
Nets	\$3,545.00	Recreational Shellfish	\$222.00
Application Fees	\$276.00	Oyster Tags	\$19,520.00
AC Crab Dredge	\$300.00	Dredge Boat	\$60.00
DB Crab Dredge	\$200.00	Tonging	\$1,100.00
Menhaden	\$982.00		

**Revenue collected for April totaled \$30,553.00 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$4,100.00	Commercial Shellfish	\$150.00
Nets	\$4,367.00	Recreational Shellfish	\$40.00
Application Fees	\$308.00	Juvenile Shellfish	\$6.00
AC Crab Dredge	\$400.00	Oyster Tags	\$19,016.00
DB Crab Dredge	\$400.00	Dredge Boat	\$340.00
Menhaden	\$726.00	Tonging	\$700.00

**Revenue collected for May totaled \$57,764.50 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$1,400.00	Commercial Shellfish	\$100.00
Nets	\$2,288.00	Recreational Shellfish	\$170.00
Application Fees	\$186.00	Juvenile Shellfish	\$4.00
AC Crab Dredge	\$200.00	Oyster Tags	\$52,210.00
DB Crab Dredge	\$300.00	Dredge Boat	\$284.00
Menhaden	\$564.00	Lease Fees	\$58.50

**Revenue collected for June totaled \$45,698.00 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$1,000.00	Commercial Shellfish	\$500.00
Nets	\$968.00	Recreational Shellfish	\$152.00
Application Fees	\$116.00	Juvenile Shellfish	\$12.00
Otter Trawl	\$102.00	Oyster Tags	\$40,668.00
Menhaden	\$154.00	Dredge Boat	\$10.00
Misc (Stamps)	\$4.00	Lease Fees	\$12.00
Survey Fees	\$2,000.00		

**Oyster Resource Development Account (082):**

<i>As of July 5 '16</i>		
<b>Unexpended</b>	\$749,314.96	Budget authority less expenditures <i>(total spendable dollars currently in account)</i>

**Lease Ground Transactions:**

Transfers: *Derek Robinson to Cape May Salt Oyster Co., LLC.*

LOT #	SEC.	ACRE	RATE	FEE
188	D	23		\$5.00
192	D	26		\$1.00
196	D	21		\$1.00

*Harry Barraclough II to Timothy Reeves*

LOT #	SEC.	ACRE	RATE	FEE
135	A	75		\$5.00

Applications for Council's Consideration: *John Lyman*

LOT #	SEC.	ACRE	RATE	FEE
1A	ADZ-2	10	\$25.00	\$250.00

Mr. Tomlin informed the Council that Mr. Lyman attempted on several occasions to make his one required attendance at a Council meeting, but had not been successful due to meeting cancellations. Circumstances prevented his attendance at this meeting. The Council agreed to approve him for consideration upon condition that he attends a future meeting, of which he still had another chance to make the meeting for Council's decision on his lease. **Councilman Hollinger motioned to approve all of the lease ground transfers and Mr. Lyman's application for consideration. Councilman Malinowski seconded the motion and all were in favor.**

Applications for Council's Decision: *None*

**Oyster Dredge Boat Transactions:**

Transfers: Bruce Gardner (Dorothy Ann #9) to Howard Mason /A1 Top of the Line Oyster Co., LLC

**Old Business**

1. Intermediate Transplant Update

Mr. Tomlin informed the Council that the Intermediate Transplant Program was coordinated from the end of April through the beginning of May. Mr. Tomlin stated that the program went better than had been expected. He summarized that two vessels transplanted 15,350 bushels (bu.) from the low mortality beds that resulted in a quota increase of 2,972 bu. (1,758 bu. had been projected). The medium mortality transplant beds quota increase was 7,021 bu. (6,722 bu. had been projected).

2. Direct Market Harvest, Area Management and Shell Planting Updates

Mr. Tomlin provided updates for the Direct Market harvest season and the shell planting program. He reported that the current total harvest was approximately 52,000 bu. and that 31 licenses had caught their entire quotas to date. He stated that the high mortality beds (with a quota of 34,771 bu.) closed on June 6, 2016 with 35,716 bu. harvested and that the catch per unit effort (CPUE) for the high mortality region was 112 bu. per boat per day. Mr. Tomlin reported that 16,583 bu. had been harvested from the Shell Rock seed bed, and added that the CPUE had been 105 bu. per boat per day. He stated that this level of daily harvest equated to 785 bu. per day, which at current rates would leave approximately 19 days left to harvest from Shell Rock prior to closing.

Mr. Tomlin reported that 132,000 bu. of shell were to be planted this season as part of the shellplanting program. He stated that four of the six barges of shell had been planted to date. He added that the three sites were located in the medium mortality market beds, high mortality market beds and on Shell Rock. He stated that the plantings would be completed once the barge was back from their July 4<sup>th</sup> obligations.

### 3. *Vibrio* Management Plan Update

Mr. Shuster informed the Council that the Bureau of Marine Water Monitoring continued to work through the public comments to his Bureau's new rules. He reported that one slight change would be made to the 2016 *Vibrio* Management Plan. In short, it would require that subtidal oyster harvest start at sunrise rather than at the currently prescribed 6:00 AM. Consequently, that would change the harvest time to refrigeration each day, depending on the time of year and time of sunrise. Mr. Shuster wanted to note that the Bureau wanted to come down and make the Council aware before the change was in effect and that they would reach out to the Atlantic Coast Section of the Council over the proceeding days. He added that he would be working with Mr. Babb to send out mass emails to inform those of the coming changes. Mr. Shuster also provided a rule update per a request by Ned Gaine. He informed that all Department and legal responses to the rule's public comments were completed and he stated that it was under legal review. The Bureau is hoping to have the rule adopted between mid-August to early September. He explained that their Bureau was asked by the Interstate Shellfish Sanitation Conference to also get counts of harvested shellfish on a monthly basis to provide accurate data for risk assessment calculations for shellfish servings. He elaborated that they were already receiving good numbers from the direct market program, but he added that the Department does not receive much information from other harvesting methods (hard clams, etc.). Mr. Shuster informed that there were two *Vibrio* related illness cases in New Jersey that were reported about a week prior to the meeting, but at the time of reporting, were not attributed to shellfish from New Jersey. He stated that the source of the illnesses was still under investigation.

### 4. Aquaculture - Red Knot update

Mr. Babb informed the Council and those in attendance that since their last meeting the red knot migration and horseshoe crab season had come and gone. He reported that the dealings with industry were good and that their compliance with the conservation measures from the federal Biological Opinion had seemingly been very good. Mr. Babb provided a handout to the Council that contained an email from the Bureau of Shellfisheries office to the Delaware Bay Oyster Growers. He summarized that the email informed that parts of some conservation measures were lifted once the Division's endangered species program alerted the Bureau that the red knots had left the Delaware Bay area and in concert with the beaches being re-opened for full access to anyone. Mr. Babb opened the floor up for comments on how industry felt the red knot/horseshoe crab season had gone from the industry's perspective. Ned Gaine voiced his concerns with the conservation measures as written. He opened by saying that the aquaculture industry had a good spring without much loss of product. However, he informed the Council that due to the conservation measures the industry lost every weekend for five weeks in addition to losing one hour of working time also lost before and after each low tide for those five weeks. By his calculation, those restrictions resulted in the loss of 100 hours of working time to each grower, which equated to approximately 22 days when they could not work, which sets people in the industry back.

Mr. Babb responded that the biological opinion has an adaptive management process and that the agencies would be discussing the next steps that need to be taken to proceed with the process (i.e., debriefing, what went well, what didn't work?). The agencies would be meeting to look at list of discussion points for things to address for next year. He stated that prior to this season, there had been a request by industry for 2.5 hours instead of 2 hours (+/- LT). For example, Mr. Babb said there is a conservation measure that calls for a review of the conservation measures regarding horseshoe crabs. The agencies would like to have some horseshoe crab experts come in to give input on those conservation measures and to review how those measures aimed at protecting horseshoe crabs were developed and what their utility might be. Councilman Malinowski asked how the horseshoe crab population was doing. Mr. Babb deferred to Administrator Muffley on stock status of horseshoe crabs. Mr. Muffley stated that the female horseshoe crabs have not shown any trends and that the males and juveniles have shown a slight increase within the Delaware Bay. He added that a total population survey has not been conducted in seven or eight years so that makes identifying trends difficult on a coast wide basis. He added that a stock assessment will be conducted in 2017 per region along the east coast, including a Delaware Bay specific assessment.

5. Council Correspondence to DEP Commissioner - Dedicated Accounts and Staffing Issue

Mr. Babb reported that three letters were sent by the Council since the last meeting. Mr. Babb reminded the Council that their first letter had been sent in March 2016 to Commissioner Martin about the staffing issue for the Delaware Bay Office. On April 8, 2016, a response letter was received by Director Chanda. The second letter was sent from Chairman Bailey to Governor Christie and a large number of legislators regarding the Marine Fisheries Administration's \$1.1 million FY16 budget deficit and the use of various shellfish dedicated accounts to cover the deficit was sent dated April 18, 2016. A similar letter had also been sent by Chairman Maxwell of the Atlantic Coast Section of the Council. A related letter from the Marine Fisheries Council was sent regarding marine fisheries staffing issues, long-term funding concerns, and the dedicated shellfish accounts being used for other purposes. The Commissioner's Office replied shortly thereafter with a request to meet with both Chairman Bailey and Chairman Maxwell. The third and final letter from Council had been a letter of support (dated March 20, 2016) for the NOAA/NMFS community based restoration program for a marine habitat restoration grant aimed at ecological restoration at the Maurice River Cove Basket Flats. The restoration program would assess what still exists of the flats and the potential solutions to improve or correct the issues.

Chairman Bailey spoke about his recent meeting with Chairman Maxwell and DEP Commissioner Martin. He said that he had been satisfied with the meeting in Trenton and that the Commissioner seemed more than willing to listen to their thoughts and concerns. The Commissioner also told the two Chairmen that they had an open line to call him if they needed to discuss any issues. The Commissioner informed them that he intended to try to restore \$300,000 of the \$1.1 million utilized for the current fiscal year. The Commissioner also reported that the \$1.1 million that was cut from the 2016 funds would be replaced for this coming fiscal year and for future year as well since once funds are in the budget they tend not to be cut. Chairman Bailey mentioned that the Nacote Creek shellfisheries office was working on getting another staff member at the technician level. He also discussed with the Commissioner about the staffing issue at the Delaware Bay Office. Councilman Hollinger stated that he talked to Senator Van Drew, who also mentioned that this would be the last year the money was expected to be cut from the Marine Fisheries Administration starting budget. Administrator Muffley said that the budget that was passed on Thursday June 30, 2016 had an estimated additional \$1.1 million included in the 2017 fiscal year budget (\$2.2 million in total), which would make the current year whole with funding Marine Fisheries, Shellfisheries, and Law Enforcement. He further mentioned that even if a large portion of dedicated accounts are not needed and if the State appropriation is kept whole, the bottom line was that it had not changed in many years. He added that the Administration has been consistently under-funded since the appropriation has essentially remained flat since the 1980's and has not increased to keep up with inflation and changes in the economy. He stated that there is some history in the Administration's budget that does show it can be cut, regardless of funding level. For example, he highlighted that that six years ago the Administration's \$1.8 million budget was reduced to \$600,000 dollars. This reduction remains and requires the Department to struggle to find \$1.1 million each year to make up for the budget reduction until the FY17 budget.

Chairman Bailey added that Commissioner Martin raised the issue of lease fees being badly outdated. He stated that the Commissioner was curious as to why the fees currently in place haven't changed in over 60 years (currently \$0.50 per acre) and appear to be lower than other states lease fees. Chairman Bailey explained that much of the historical leased grounds were developed for extensive aquaculture practices, the history of transplanting efforts in Delaware Bay, and pointed out that the industry may need those grounds in coming years after the shellfish have had time to grow. Mr. Bailey also pointed out that a few years ago the Council motioned to raise lease fees, but were not allowed to do so, apparently at the Commissioner level. One other major response was raised by Chairman Bailey in that some other states that do have higher lease fees have invested a lot of money and funding into their industries by their respective states. In comparison with New Jersey, they have a lot more return on investment by the state, but less production as an industry as a whole due to the insufficient support.

6. Oyster License Consolidation Adoption Update

Mr. Babb reminded the Council and those in attendance that the industry, via email list serves and direct mailings, were sent a notice of the oyster license consolidation rule proposal back in April. The rule was proposed in the New Jersey Register on April 4, 2016 with the comment period closing June 24, 2016. He explained that that there were two main

commenters on the rule proposal, which mainly dealt with complaints of rampant overfishing and lack of public involvement. Mr. Babb informed the Council that the Bureau was in the process of responding thoughtfully to those comments. He stated that the Department's targeted filing date for the rule proposal was November 16, 2016 in the New Jersey Register, with a December 19, 2016 adoption per the Register. This adoption would allow the Bureau and the industry to convert out of the Administrative Consent Order process that had been in place since 2010, to official regulations. He added that this would give more predictability to the industry with respect to how licenses and consolidation are handled.

#### 7. Shellfish Council Administrative Guidelines Document

Mr. Babb said the Bureau originally sent the first draft of the guidelines to the Council in September 2015. He summarized some major themes of the document and explained that it essentially includes a history and Council composition summary, gives the background of the spirit and intent of what the guiding statute is and the Council's overall authority, how the Bureau records the meetings, minutes and summaries, the Council members' term of appointment, the general code of conduct, attendance rules, how the Council makes motions, how the Bureau and Council sets up agendas, public comment periods, calls for special meetings, how Council committees are established and the terms and membership of committees. He noted that these are largely the practices the Council has been operating under for many years. Mr. Babb suggested that he would like to put this on a future meeting agenda for discussion, possibly in the fall, and to go through the document to receive comments. He requested that this be accomplished by September. Councilman Hollinger said that he read the document and that in his opinion it was straight forward with no real changes to current practices. Councilman Fleetwood agreed and also stated that he saw no real changes from current practices. Mr. Babb commented that the document was originally adopted from the Marine Fisheries Council guidelines, but had been modified to adhere to how the Shellfish Council operates. Administrator Muffley said this document would be a benefit, because often times the Marine Fisheries Council would be criticized by the public regarding how business is conducted by the Council. This document would allow the public to see how things are operated, committees are formed, and show how everything is conducted with full transparency.

#### 8. Ethics Compliance for Board Members – Annual Briefing Reminder

Mr. Babb gave a courtesy reminder for board members regarding the online ethics training to be completed every three years, with an online refresher course every interim year. He provided a packet with a summary of what the ethics training looks like, a website to use for the ethics training, and an attachment with an annual update and its associated web link required for the current year. He informed the Council that the last page in the packet was the receipt that the Bureau had on record showing that they had completed the training. He requested that the Council send a copy of the receipts to the office so that staff could maintain a record as well. He also provided them with a copy of the Outside Employment Questionnaire for special state officers, which is a two-page form to be completed and submitted. Once submitted, they would only need to be resubmitted upon changes to employment.

### **New Business**

#### 1. Marine Fisheries Administration Strategic Plan

Administrator Muffley provided a summary to the Council regarding the Administration's Strategic Plan. He stated that the plan would be sent to the members for review and an opportunity to provide comments. He explained that it is essentially a summary of a prioritization document of everything that the Marine Fisheries Administration was currently working on. He stated that this would allow the Administration to remain focused on the important projects and that low priorities could be dropped due to staffing and funding shortages. This plan also included the Bureau of Shellfisheries and looks at the day to day operations to see where the Bureau would like to be five years from now, and what stakeholders and partnerships the Administration could establish to be able to do their job. The process started two years ago and the Commissioner and Director have granted their approvals for the MFA to move forward officially with a Strategic Plan. The Plan outlines some of the Administration's major initiatives and was currently being reviewed by staff. Administrator Muffley stated that the Plan was being sent out to the Councils now for their input and then would go to a stakeholder meeting process and discussions with the general public. Administrator Muffley stated that he was hoping

to implement the Plan by the end of the year so it could begin to guide and inform 2017 program objectives. Further discussion ensued.

2. Dermo Update

Dr. Bushek reported that water temperatures in the Delaware Bay were depressed early on during this year partly due to the large amount of rain fall and snow melt. This had resulted in Dermo levels being below average up to this point in the season (June/July). He stated that Ship John water temperature recordings reached the “spawning trigger temperature” for oysters, which is about 76°F, during the week of June 27, 2016. He stated that this was a good time to be planting shell. He added that the Lab was noticing large oyster sizes, which seemed to corroborate many of the comments from the industry members. Dr. Bushek said that this was a good thing overall in terms of the shell budget that is existing in the Bay. He informed the Council that this was however an unstable situation and there are a long term and short term management implications. The long term approach would be to leave the large oysters in the Bay to keep habitat for the future oyster population. The short term approach would be to harvest many of the oysters so they do not grow too big for market, which would remove habitat that would have to be replaced by shell planting efforts that are currently maxed out. A number of industry members commented that they would like to be able to harvest more oysters now and inquired if there was any way to increase the current year’s quota. Councilman Hollinger asked Dr. Bushek if the resurvey of Shell Rock was underway, to which Mr. Bushek responded that the field sampling itself was completed, but those samples were expected to be done in the following two weeks. Further discussion ensued.

3. Money Island Road Damage

Councilman Fleetwood mentioned that there is a section of Money Island Road (County Rt. 643) that has been eroded and undercut by the surrounding creeks. He stated that it was getting worse and that the road is an essential part of the oyster industry for landing their product. Mr. Babb and Mr. Tomlin added that it is essential during the Vp season where the product has significant time restrictions to be in refrigeration for public health and safety. Mr. Babb added that given the landings that come into Money Island, the bulk of the money generated by this industry was going through that road and into the local economy. Dr. Bushek added that there are other fisheries that use that road as well. Mr. Fleetwood asked that a letter be drafted and sent to the Cape May, Cumberland, and Salem Counties’ Freeholders offices, the South Jersey Economic District and area legislatures in the aforementioned counties. The Bureau offered to obtain pictures of the road to be sent along with the letter. Further discussion ensued.

4. Artificial Reef Location in Delaware Bay

Councilman Hollinger expressed his surprise and concern that the Artificial Reef Program moved forward with the proposed artificial reef location in Delaware Bay and stated that the Council was never officially notified that this site was moving forward. He added that the site that had been presented at the April 7, 2015 Council meeting received significant opposition by the Council for its potential to interfere with a number of commercial fishing use areas, particularly the crab dredging and conch fisheries. Further discussion ensued. Chairman Bailey requested that a letter go from the Council to the Commissioner, the Director of the Division of Fish and Wildlife and the Marine Fisheries Administrator to express the Council’s continued concern with the proposed site. He added that the letter should provide alternative locations to the Artificial Reef Program for their consideration.

<b>Adjourn</b>	<b>@ 7:40 PM</b>
The next meeting of the Council will be tentatively held on: August 2, 2016	