

Aquaculture Advisory Council
April 11, 2014
Meeting Minutes

Attendees: Ms. Monique Purcell (Secretary Fisher), Mr. Dave Chanda (Commissioner Bob Martin), Ms. Nancy Belonzi (Lt. Governor Guadagno), Dr. Dave Bushek, Mr. Gef Flimlin, Mr. Mike DeLuca (Dr. Robert Goodman), Mr. Ned Gainé, Mr. Steve Carnahan, Mr. George Saridakis, Mr. John Maxwell.

In Absentia: Commissioner Mary O’Dowd, Mr. Paul Waterman, Mr. Robert Munson.

Public in Attendance: Mr. Gustavo Calvo, Ms. Betsy Haskin, Mr. Bill Avery, Ms. Lisa Calvo, Ms. Daphne Munroe, Mr. Gregory DeBrosse, Mr. Richard Cash, Ms. Stephanie Cash, Ms. Heide Gleich, Mr. Bill Riggin, Mr. Barnery Hollinger, Mr. Brian Harman, Mr. Russ Babb, Mr. Jeff Normant.

Ms. Purcell called the meeting to order and performed roll call. There was a quorum present.

Ms. Purcell opened the meeting by discussing the Aquatic Farmer License (AFL) – why it is needed and the process to apply. Ms. Purcell explained that the Aquaculture Development Act mandated the AFL to provide licensure of the possession and ownership of aquacultured organisms. A handout was distributed outlining the AFL review process, the AFL packet, the effective period, required applicants, exemptions and benefits to the industry. She also mentioned the Aquatic Organism Health Management Plan and the Aquaculture Census that will be released in October 2014. It also provides the NJDA with an accounting of the operations that are in the state.

Mr. Flimlin noted that when the AFL was first established the relationship between the NJDA and the NJDEP was not as harmonious as it is today and the AFL’s role in providing direction regarding the permitting process necessary to establish an aquaculture operation in New Jersey. Mr. Flimlin continued regarding a discussion with Mr. Gainé about land farmers not needing a license and perhaps changing the name from “license” to “registration” to reflect its purpose – to identify who is doing this, the benefits, the permitting necessary, industry analysis and to provide a direct line of communication with the industry. Ms. Purcell noted that changing the name was identified as one of the rule changes that will be proposed during the rule amendment process. Mr. Avery added that many AFLs are due for renewal this year. Ms. Purcell said that the renewal notices will be going out in the next month or so and that there is a shorter application for renewals. She also noted that the AFL application on the NJDA website is now a writable pdf document.

Mr. Hollinger suggested that the AFL be maintained and treated as a license and its permissions/privileges expanded and eliminate other licenses that are required to harvest. He also noted the need for each person harvesting to have a license instead of allowing a crew to harvest under his license as an LLC. He continued to explain the other licenses that are required to harvest oysters. It was mentioned that clam tongers only need one license per crew. Mr. Maxwell added that his understanding is that commercial harvesters with a deck crew can harvest under

one license. He asked how many AFLs are needed for an operation. Ms. Purcell replied that only one AFL was needed per operation. Mr. Gaine noted that this issue goes back to the difference between a license to show ownership and a registry, which is what the AFL essentially is. A farmer should not need a harvesting license to harvest his own oysters. He is not dredging, wild tonging or clam fishing. He owns the product. So the AFL should demonstrate ownership and eliminate the need for a harvester license, since the grower is not harvesting a natural resource.

Ms. Purcell clarified that the original intent of the “ownership” purpose of the AFL was during transport. Distinguishing the difference between wild harvest and aquacultured product is the purpose of the AFL. Ms. Betsy Haskin added that the AFL, if utilized as a license, could replace the need for a commercial wild harvester’s license. The question is do you need a shellfish license to harvest your own product? Mr. Avery added that in order to have leased ground you have to have a shellfish license, except in Delaware Bay. Mr. Maxwell asked if a grower owns the shellfish product on his/her lease. Mr. Russ Babb said “yes”. Mr. Flimlin noted the history of the type of licenses needed on a lease back in the 1970s. Discussion continued regarding the different types of licenses required on leases in the Atlantic Coast and Delaware Bay that were established for traditional harvest. Mr. Babb spoke about the need to establish a numbering or marking requirement on leases. Mr. Hollinger stated that the license issue does need to be clarified soon. Ms. Lisa Calvo added that it makes sense to move forward with an aquaculture specific focus instead of trying to retrofit old regulations for current practices. Mr. Flimlin suggested the formation of a subcommittee to discuss licensing issues to identify what is needed on the Atlantic Coast and Delaware Bay and make a recommendation to the Council. Mr. Gaine made a motion that a letter be drafted from the AAC to the NJDA about the need to work with the DEP to resolve the issues regarding enforcement, licensure, etc. Mr. Flimlin seconded the motion. All members voted in favor.

Ms. Purcell began the discussion about the role and purpose of the AAC and handed out a memo outlining the membership and charge of the Council. She then introduced the two new members on the Council – George Saridakis and Ned Gaine. Ms. Betsy Haskin asked about vacancies on the Council. Ms. Purcell reviewed the seating appointments of the six public members. One vacancy does exist for an at large member appointed by the Governor. Mr. Avery noted that he did send his information in to the Department for consideration. Ms. Purcell confirmed that it was received and forwarded through the Department’s legislative liaison.

Ms. Purcell moved to the next agenda item which was Oyster Grower Concerns. Mr. Gustavo Calvo walked the Council through a document outlining grower concerns. The areas of concern centered on key challenges, production and regulation, as well as suggestions for moving forward. Mr. Gaine commented that the concerns outlined illustrate the need to have a strong leader and advocate for the aquaculture industry and to keep that in mind when filling the Aquaculture Specialist position in the NJDA. Ms. Purcell agreed and said that backfilling the position was approved and has been posted. Ms. Purcell complimented the work of Joe Myers. Mr. Steve Carnahan agreed and suggested that the person filling the position have a regulatory background help overcome some of the obstacles that have been identified.

Mr. Mike DeLuca suggested inviting enforcement staff to the AAC meetings on a periodic basis. Ms. Purcell noted the work group formed at the DEP under Russ Babb’s leadership in the Bureau

of Shellfisheries to coordinate the roles of the different divisions of the DEP, the two shellfisheries councils as well as FDA, the Army Corp and the Department of Health and inviting different entities like enforcement to future meetings could be an outcome of that effort.

Mr. Dave Chanda asked for clarification regarding the oyster grower concerns document. He requested a point of reference in terms of who identified the concerns - whether it was one person or the entire industry. Ms. Haskin responded that it was prepared by the oyster growers in the Delaware Bay area. The conversation continued around growing pains that need to be worked out and the significance of vibrio. Mr. Gaine emphasized again the need for regulations clearly defined for aquaculture, which is farming. Mr. Calvo clarified that the grower concerns document was prepared by the Cape May Oyster Cooperative. Mr. Flimlin suggested that the document be forwarded to the East Coast Shellfish Grower's Association, especially since it addresses vibrio, since they are looking for industry input. Discussion ensued about vibrio. Mr. Flimlin followed up with relevant information related to specific issues identified in the oyster grower document.

Mr. Flimlin then emphasized that aquaculture is an economic engine that provides new money into the economy and the agency dealing with economic development does not attend the AAC meetings. Ms. Purcell replied that a representative from the Lt. Governor's office used to attend the meetings. Nancy Belonzi identified herself and noted that she was from the Lt. Governor's Business Advocate office.

Mrs. Stephanie Cash expressed disappointment around business development issues in terms of starting a new business and Draconian enforcement.

Dr. Dave Bushek noted that vibrio is controlled at a national level and having some representation from FDA at the AAC meetings every now and then would be helpful.

Mr. Babb added that one of the efforts of the Bureau of Shellfisheries in addressing transparency and predictability is to get the 9 groups that have a part in regulating shellfish aquaculture together to develop permitting scenarios as if they were growers, to identify how each group would handle the application. The scenarios will then be discussed at a workshop meeting with the growers in June. There will also be a short power point presentation from each group to give a general overview of their role, discussion about specific permitting issues to get feedback directly from the growers and an opportunity for growers to go around the room and speak directly with a staff person from each group. The short term goal is to get the current permitting structure in the most predictable and streamlined format as possible, as soon as possible. The DEP also wants to develop a new aquaculture section on their website and encourages the other agencies involved to do the same. The long term goal is to identify the issues that will need to be incorporated into new rules for aquaculture and have single stream permitting that initiates in the NJDA. Mr. Gaine requested a single page document outlining the permitting process from each group, similar to the one developed by the Bureau of Shellfisheries.

Gef Flimlin mentioned the BMP document development by the East Coast Shellfish Growers Association and efforts in the state of Maryland regarding growing the industry. He suggested that the 9 groups involved in the streamlining effort outlined above review the BMP document

and consider its adoption for shellfish aquaculture in New Jersey. Ms. Purcell noted that the existing Aquaculture AMP document is being updated by a Rutgers intern at the NJDA and how that effort should be coordinated with the review of the BMP document. Mr. Flimlin noted that the original AMP document was an agency driven process as opposed to the industry driven process of the BMP manual. It was agreed that a subcommittee should take a look at both documents and determine the best way forward.

Mr. Avery noted the recently released EPA proposal defining waters of the United States and wanted to know if it included marine waters. Ms. Purcell replied that the rule was just released for public comment a week ago for a 90 day public comment period, it did include marine waters and that it was under review at the NJDA.

Ms. Purcell then moved to the next agenda item – the status of disease resistant oysters. Dr. Dave Bushek introduced the subject by explaining Rutgers' role in rearing and distributing disease resistant oyster seed. He went on to explain the situation that occurred in mid-December 2013 when the FDA and the DEP notified Rutgers that the broodstock would have to be moved from its overwintering location for public health and safety reasons. Mr. Greg DeBrosse explained the specific details of the how the sequence of events unfolded and the dramatic losses that were incurred. Ms. Purcell explained that the all parties are working together to identify a different location to overwinter the broodstock in the future under a specific permit. Council members and some public attendees engaged in a discussion around potential solutions, leasing scenarios and their opinions regarding the various aspects of the enforcement action taken.

Mr. Flimlin noted that the minutes were not adopted earlier in the meeting. Ms. Purcell acknowledged that oversight and asked for a motion to approve the minutes from the July 19, 2013 meeting, which was seconded by Mr. Flimlin. All members voted in favor.

Ms. Purcell asked if there was any public comment. There was none.

Ms. Purcell thanked everyone for attending and adjourned the meeting.