

MINUTES OF THE MEETING OF THE ATLANTIC COAST SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL

Virtual Meeting  
Monday, September 20, 2021

Present were: Chairman: John J. Maxwell (Atlantic County)  
Vice Chairman: Walter L. Johnson III (Ocean County)  
Councilman: Paul T. Felder (Cape May County)  
Councilman: George Mathis Jr. (Burlington County)  
Councilman: Vacant (Monmouth County)

DEP Representatives: Joseph Cimino, Marine Fisheries Administration  
Russell Babb, Bureau of Shellfisheries  
Jeffrey Normant, Bureau of Shellfisheries  
Kira Dacanay, Bureau of Shellfisheries  
Colleen Brust, Bureau of Shellfisheries  
Jenny Tomko, Bureau of Shellfisheries  
Megan Kelly, Bureau of Shellfisheries  
Lloyd Lomelino, Bureau of Shellfisheries  
Scott Stueber, Bureau of Shellfisheries

Mr. Normant read the State's compliance with the Open Public Meetings Act and announced that the meeting would be recorded, and notice was filed with the Secretary of State Office.

1. Total Revenue for August 2021 \$ 378.00  
Shellfisheries Law Enforcement Fund \$ 66.00
2. Presentation of August 16, 2021 minutes for approval.

The August 16, 2021 meeting minutes were approved on a motion Mr. Johnson and seconded by Mr. Mathis.

3. Applications for Consideration

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Dale S. Parsons	1441	B	2.00	Middle Island	6.1

Mr. Parsons was not in attendance at the meeting. Pursuant to N.J.A.C. 7:25 24.6, lease applicants shall attend at least one of the two meetings at which the Council reviews their applications. If the applicant fails to attend at least one of the meetings, the lease application would be denied, and the area applied for shall revert to public bottom.

#### 4. Applications for Decision

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
D. Christine Hartnett	1109	A	2.00	Great Sound	5
Donna Whiteside	1110	A	1.94	Great Sound	5
Robert Whiteside	1111	A	2.10	Great Sound	5
Michael Whiteside	1112	A	2.11	Great Sound	5
Fred Hickman, III	230	A	2.00	Ludlam Bay	1
Susan Foose	234	A	2.00	Ludlam Bay	1
Jersey Pearl Oyster Farm, LLC (Donald Otto)	235	A	2.00	Ludlam Bay	1
Lisa Gehman	236	A	2.00	Ludlam Bay	1
Chuck Gehman	237	A	2.00	Ludlam Bay	1
Ronald B. Nicklow	78	B	1.24	Graveling Point	1
Thomas Glenn	2547	B	1.74	Scull Bay	27
Elyssa Glenn	2551	B	1.84	Scull Bay	27
Sky Glenn	2554	B	1.92	Scull Bay	27
Edward W. Gaine	2809	B	2.00	Steelmans Bay (Scullville)	27.1

Messrs. M. Whiteside, R. Whiteside, Hickman, Otto, Gehman, T. Glenn, Gaine and Meses. Whiteside, Foose, Gehman, and Hartnett were present at the August 16 meeting. Mr. Nicklow and Ms. Glenn were present at this meeting. A motion was made by Mr. Johnson and seconded by Mr. Mathis to approve all applications for decision. Mr. Normant informed the applicants that they would receive a letter explaining they have 30 days to pay appropriate lease fees and sign their lease agreement. The applicants would have to setup an appointment within the 30-day window with Bureau of Shellfisheries staff.

#### 5. Old Business:

##### Offshore Wind

Ms. Brust informed the Council that the Environmental Resources Working Group met at the end of August to review the progress on how to spend the funds from the second solicitation for offshore wind development in New Jersey. These funds come from the developer for \$10,000/megawatt equaling \$26 million. The first installment of funds would be distributed fall 2021. The remaining monies would be distributed equally in fall of 2022 and 2023. Research priorities were sent out to partnering agencies for review. Public comment can be submitted through the NJDEP Offshore Wind website. Mr. Maxwell asked when the next Working Group meeting was. She informed him it wasn't scheduled yet but they typical meet every three months.

## Hard Clam Management Plan

Ms. Dacanay informed the Council that the Marine Fisheries Administration (MFA) was beginning to outline the components needed to formulate a Hard Clam Management Plan. Mr. Mathis asked if the framework was available to review. Mr. Normant stated that there was no framework available to review and the MFA plans to work on a statewide management plan to include both fish and shellfish. Mr. Babb stated there was an outline that could be presented at the next council meeting. Mr. Johnson asked if the Bureau of Marine Fisheries would be developing the plan. Mr. Normant stated that the bureaus of Shellfisheries and Marine Fisheries fall under the MFA, but the Hard Clam Management Plan would be from the Bureau of Shellfisheries.

## Aquaculture Advisory Council (AAC) Update

Ms. Wenczel provided an update on the AAC. The next AAC update meeting will be the final quarterly meeting of 2021 held virtually on October 22 at 10:00am. If the Council had any suggestions for agenda items, they could be emailed to her directly. Mr. Maxwell asked what the primary topics for discussion would be. Ms. Wenczel stated it would be related to the approved development plan and the steps forward. She mentioned that marketing was a major topic that would be discussed.

## New Jersey COVID-19 Assistance Program

Mr. Cimino informed the Council that the second application period for CARES Act funding was halfway completed and was set to close on October 15<sup>th</sup>. The Division of Fish and Wildlife had begun working with state contractors to aid in advertising of the program.

Mr. Gaine highlighted an article stating how restaurants were closing at an increased rate this year. He wanted to know if the CARES Act funding would prioritize locally produced seafood specifically, clams and oysters. Mr. Cimino stated that the aquaculture was included as a component of the funding, but it also included other commercial fisheries and recreational fisheries. Mr. Gaine said that some fisheries in NJ sell product out of state and opined that it would be beneficial to ensure that the monies are distributed to individuals that provide the most economic benefit to the state.

Sky Glenn asked if deckhands or workers were able to apply for CARES Act funding. Mr. Cimino said that for the direct payment setup, it was only for vessel owners, and they must show 35% loss compared to the previous five years in total losses.

## Rufa Red Knot Critical Wildlife Habitat Rule Proposal

Mr. Normant stated that both sections of the Shellfisheries Councils had submitted comments on the Red Knot Rule Proposal. Comment period ended September 15<sup>th</sup>. The Councils' comments recommended that the USFWS consider all the economic impacts to the aquaculture industry.

Note: In addition to considering any and all economic concerns of the shellfish aquaculture industry, the letter from the Council also included concerns regarding federal permit requirements which could involve restrictions on aquaculture operations, especially existing operations. In addition, the Council agreed that economic analysis should be included in any subsequent modifications and urged USFWS to verify any citizen science data.

## Herbicide Spraying – Route 9 Ocean County Response Letter

The Council sent a letter to the Department of Transportation about the spraying of herbicide along the route 9 corridor in Southern Ocean County. Mr. Maxwell said that a similar letter was sent out in 2019. Mr. Johnson agreed and added that the Council had submitted these letters to the Commissioner and NJDOT in most prior years, except for 2020. Mr. Normant stated he did receive a response from the legislative District 9 requesting the Commissioner follow up on the issue. Copies of the statement was given to Council members.

## Lease Transfers

Mr. Normant stated that any new lease must meet all statutory and regulatory criteria for leasing. New lessee and current lessee shall apply for transfer in person. Each transaction costs five dollars for the first lease and one dollar for each subsequent lease. After the lease transfer application is signed by the new lessee and current lessee, the lease transfer would be placed on the agenda for decision. If approved, the new lessee must sign their lease agreement and pay the lease fees in person prior to the lease being used by the new lessee. The lessee must reimburse the Department if a hydrographic survey was required, within 30 days of Council approval or the lease will revert to public bottom.

Mr. Normant stated that the procedural change was because with prior lease transfers, the new lease agreements were being signed before they were officially approved by the Council for the transfer and did not align with the regulations.

Mr. Maxwell asked about the transfer process in 2021 due to the COVID-19 restrictions. He added that last year transfers were not being accepted after October. Mr. Normant state that past transfers were not allowed to go forward after the November Council meeting as this would complicate the renewal process, especially now due to limited front office staff availability and the fact that renewals are currently being done by mail again this year due to office restrictions imposed by the COVID-19 pandemic. In addition, the Council did not typically have a December meeting.

Mr. Maxwell asked if changing a LLC's agent would fall under a transfer. Mr. Normant that the change was allowed but the Bureau must be notified of the change.

Mr. Gaine asked if you need CID number to have a lease on the coast. Mr. Normant said a CID number was required to get a commercial shellfish license. Mr. Normant added that if an LLC changes agents the new agent should possess a commercial shellfish license

Mr. Avery asked about the status of his pending transfers. He wanted to make sure there would be time available to complete the transfer before the renewal period begins in October. Mr. Normant said he would have Bureau staff reach out to work with him so he can complete the transfer.

## Lease Policy Committee Update

Mr. Maxwell recommended the Leasing Committee continue discussions on the prioritized issues that have been discussed at past meetings. He hoped that a meeting would be scheduled before the end of 2021, preferably at the end of October or November. Mr. Normant informed him there were several outstanding issues to be discussed and believed that a meeting should

be held at the end of October. Mr. Mathis and Mr. Johnson informed him that the Leasing Committee's were under the impression they would meet at the end of October. Mr. Normant said he would reach out to the Committee to schedule a day and time for the meeting.

Mr. Johnson stated he received a copy of the last Leasing Committee summary and he believed Mr. Avery was not in attendance at the meeting but was listed in the summary. Mr. Normant said he would review the minutes to confirm before making any changes.

6. New Business:

2021-2022 Surf Clam Quota

The Bureau of Shellfisheries last surf clam inventory was completed in 2019. Due to the COVID-19 pandemic and the status of the inshore stocks, the Bureau had not scheduled a survey the last two years. The 2019 standing stock estimate was 30,800 standard bushels (20,328 industry bushels). In September, the Bureau discussed the quota with the Surf Clam Advisory Committee representative. It was again recommended a minimal quota for the 2021-2022 season to be set at 1,824 industry bushels, which was less than 10% the estimated standing stock as per N.J.A.C. 7:25-12. Harvest has been non-existent for well over a decade. It was anticipated that there would be no harvest of the quota during the 2021-2022 season. The minimal quota was set to the industry's place hold in the fishery if stocks were to improve in the future. A motion was made by Mr. Johnson to approve the Committee's recommendation for the surf clam quota and was seconded by Mr. Mathis. The motion was approved by Council.

Barneгат Light Hydrographic Survey

Mr. Lomelino informed the Council that he completed 13 hydrographic surveys at the Barneгат Light lease area. Mr. Johnson asked if there was a request to resurvey the area. Mr. Normant informed him the surveys were the originals from when the lease area was created. There were no changes to any lease acreages. Letters were sent out to the lessees informing them that the survey had been completed and they were required to re-stake their corners.

New Lease Request Update

The Lease Committee had requested quarterly updates on new lease area requests. Mr. Lomelino informed the Council that there were no new lease requests. Mr. Maxwell acknowledged the Bureau's timely response to handling this request and added that it was important information to log.

2022 Lease Renewal Procedure

Mr. Normant stated that the 2022 lease renewal period would begin on October 15, 2021. Mr. Normant stated that the 2022 lease renewal procedure would be the same as that of 2021, and renewal packets would be mailed to each lessee to be completed and returned to the Nacote Creek Office for processing.

Mr. Maxwell asked how the renewal payments need to be made. Mr. Normant informed him payment should be made by check.

Mr. Maxwell stated he would like the Council to draft a letter for inclusion in the renewal packet, reminding all lessees to fill out the shellfish Lease Utilization Report and ensure that they hold the appropriate state and federal permits. He opined that the utilization report form

was required by regulation, and it was important to understand if a lease holder was using their lease. He asked Mr. Normant could discuss this topic further with him before the next meeting. Mr. Normant stated that by regulation, the lessee was required to fill out the Lease Utilization Report prior to renewing their leases. A motion was made by Mr. Johnson to initiate the conversation between Mr. Normant and Chairman Maxwell to update the Shellfish Lease Utilization Report and include a letter from the Council discussing the importance of the Utilization Report to be sent along with the 2022 lease renewal packet. The motion was seconded by Mr. Mathis and unanimously approved by all the Council members.

Mr. Gaine asked if it would be useful to have a more structured utilization form with specific questions to better characterize the industry and define what is occurring on the lease level. Mr. Maxwell agreed and added that was a critical data point to capture.

Ms. Foose stated her lease was just approved at the September meeting and wanted to know if she would receive a renewal packet for 2022. Mr. Normant confirmed that she would receive a renewal packet.

#### US Army Corps of Engineers Back Bay Flood Mitigation Study

Ms. Dacanay informed Council that The U.S. Army Corps of Engineers had released a draft report for the New Jersey Back Bays Coastal Storm Risk Management Study. The report outlines a 'Tentatively Selected Plan' framework, which includes three storm surge barriers, two cross-bay barriers, and the elevation of more than 18,000 structures to reduce the risk of flood damages associated with storm surge. It's important to note that the plan was subject to change. It has not yet been approved by higher authorities, including Congress, and has not been funded for implementation at the federal or state level. Comments on the draft report and Tier 1 Environmental Impact Statement are open through October 12, 2021.

Mr. Johnson opined the proposed project would lead to major changes in New Jersey's estuaries.

#### Confluence-1 Telecommunication Cable

Mr. Normant stated that Confluence-1 was proposing a telecommunication cable from Florida to New Jersey. The proposed route would follow a preexisting cable route in New Jersey. Bureau staff anticipate minimal conflicts based on the proposed route. Mr. Johnson added that there wasn't anything to discuss at this point since the routes have been already negotiated and would not likely change. Mr. Normant agreed.

The meeting was adjourned on a motion by Mr. Johnson and a second by Mr. Mathis.

#### 7. Date time and place of next meeting:

DATE: October 18, 2021  
TIME: 6:00 PM  
LOCATION: Virtual