

MINUTES OF THE MEETING
FOR THE
ATLANTIC COAST LEASING COMMITTEE
A COMMITTEE OF
ATLANTIC COAST SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL

Nacote Creek
Port Republic, NJ
Wednesday, March 4, 2020
1:30 PM

Council Attendees: Chairman: John Maxwell (Atlantic County)
Vice Chairman: Walter Johnson III (Ocean County)

Committee Members: William Avery, Richard Beckley Jr., Raymond Crema, Edward Gaine, Steven Mastro Sr., George Mathis Jr., Peter McCarthy, Dale Parsons Jr., Joseph Rizzo

State/Fed Reps. Attendees: Joseph Cimino, Marine Fisheries Administration
Russell Babb, Bureau of Shellfisheries
Jeffrey Normant, Bureau of Shellfisheries
Lloyd Lomelino, Bureau of Shellfisheries
Megan Kelly, Bureau of Shellfisheries
Amanda Wenczel, Department of Agriculture

New Business:

- Introductions

Messrs., Avery, Crema, Gaine, Mastro, Mathis, McCarthy, Parsons, and Rizzo were present at the meeting and Mr. Beckley was absent.

- Great Egg Harbor Bay Updates

Mr. Normant informed the Committee that Bureau staff anticipates the completion of the Great Egg Harbor Bay (GEHB) shellfish inventory early this summer. The survey was initiated last fall. After completion of the GEHB inventory, the data will be analyzed and used to help determine suitable areas for possible lease expansion.

- Barnegat Light Overwintering Leases

Mr. Normant informed the Committee of a proposal by Mr. Matt Gregg to establish a seasonal (overwintering) deep-water lease adjacent to the Barnegat Light leases in the slough by the dike. The purpose of the proposed deep-water lease area in close proximity to the established shallow water leases was to move the products to protective deep water for the winters to prevent mortality and costs associated with moving the product. As per the Shellfish Leasing Policy, proposals for new lease sites in this area must be discussed by the Leasing Committee, with the Committee recommendation considered by the Council. There was currently a research lease by Rutgers in the same deep-water slough that was being used to overwinter shellfish. Mr. Normant added that the proposed area was a heavily utilized area used by a number of stakeholders, including

recreational boaters, fishermen and shellfisherman. Mr. Normant also stated that if the leases were strictly seasonal (December through February) there should be minimal conflicts. While the proposed leases would not be within mapped submerged aquatic vegetation (SAV), there was mapped SAV habitat in the surrounding areas. Mr. Gregg was currently using an existing “deeper water lease” held by another leaseholder on the western side of Barnegat Bay.

The Committee inquired if Mr. Gregg had any other shellfish leases that could possibly be utilized for overwintering of product. Mr. Normant stated he had leases at Rose Cove, in Little Egg Harbor Bay and Swan Point in upper Barnegat Bay. The Committee stated that the requestor already has a lease that meets their needs for overwintering. Mr. Gregg should use the leases he already has in deeper water instead of trying to create a new lease within an area of known conflicts. The Committee stated that Mr. Gregg could discuss this issue at the next Leasing Committee.

- Jenkins Sound Expansion

Mr. Normant informed the committee that nine new leases were proposed in Jenkins Sound. The Policy states that new leases could only be added in contiguous to the existing leases. In order to reach the area that the applicant was interested in, the applicant, Mr. Luke Williams and another family member applied for two leases to act as a bridge in order to connect the existing leases to a block of seven lease applications that were also applied for by seven other related individuals. Mr. Johnson suggested that Mr. Normant speaks to Mr. Williams to clarify his intentions with the proposed leases. The Committee recommended to eliminate the “bridge leases” and then establish a boundary where new lease applications could be proposed in Jenkins Sound rather than requiring new applications to build contiguous to the existing leases in this area.

- Leasing Committee Issues Prioritization

Mr. Babb gave a presentation about the Bureau’s roll in aquaculture, and new concerns raised regarding leasing, lease expansion, and conflicts on the Atlantic Coast. The Leasing Committee was presented with a list of topics for review, prioritization, and development of an official response to present to the Shellfish Council.

The Leasing Committee ranked the topics within the Issues Prioritization Table that was presented. Mr. Maxwell recommended Bureau staff consolidate the Issues Prioritization Table based on the priority rankings identified at the meeting for the next Leasing Committee Meeting.

List of Committee Tasks and Priority Ratings: *(not presented in any kind of priority order)*

- **Convene Monthly ACLC Meetings**

The Council believed that monthly meetings were important to address the topics presented by the Bureau regarding leasing and to improve transparency. The Committee believed that in order to complete their role and duties as members of the Committee and to address the list of issues it was recommended that monthly Leasing Committee meetings are held 3-4 hours after mean low water. The Committee ranked this item as **high priority**.

- **Discuss Charge Document and Objectives; Timelines**

The Committee agreed to discuss and prioritize each item in the Issues Prioritization Table (see table below). This topic was therefore completed by the Committee. This item was viewed as a **high priority**.

- **Review/Develop Revisions to Leasing Regulations (N.J.A.C. 7:25-24)**

Mr. Babb stated that leasing regulations would be opened for revision in the Fall 2020. The Bureau would provide a draft of revisions to the Leasing Committee for review once a document was drafted. The Committee decided to table this item until the draft was available. Although this issue was of high importance, it was viewed as a **medium priority** because it could not be addressed until the Fall of 2020.

- **Need for Lease Expansion (General Discussion)**

In order to track interest for new lease areas Mr. Parsons suggested the Bureau develop an official proposal document for the public to submit to the Bureau to identify and track areas of interest for lease expansion. After discussion, the Committee believed that the need for lease expansion was addressed through the Leasing Policy Document. A statement of the Leasing Committee's position on lease expansion would be included in a response document that would be presented to the Shellfisheries Council. As a result, the issue was ranked as a **low priority**.

- **Updates to Bureau-Council Leasing Policy Guidance Document**

The Committee ranked the Bureau/Council Leasing Policy Guidance Document as **low priority** due to the fact it was an ongoing task.

- **Lease Utilization Discussion**

The Committee recommended lease utilization be discussed at a separate meeting. The Committee added that many topics would likely be merged under lease utilization, so it was viewed as **high priority**.

- **Annual Lease Fee Structure Review; Impacts from 2018**

Mr. Babb informed the Committee that the Bureau would present data on the impacts of 2018 lease fee restructuring to leasing committee in Spring 2020. This would include the number of transfers, new lessees, and number of leases that were vacated since the new lease fees were implemented. The item was viewed as **medium priority**.

- **Lease Allocation Methods (New and Existing Areas)**

Mr. Maxwell stated he believed that lease allocation was a major issue, but should be merged with lease utilization. The item was viewed as **high priority**.

- **Permission to Work Allowance**

Mr. Babb stated that “Permission to Work Allowances” stems from the question of who was required to hold the corresponding permits for a regulated shellfish aquaculture activity. The committee believed that a shellfish lessee was required to possess and maintain all required permits for specific activities on their shellfish lease, not an individual working under a “Permission to Work” slip. Mr. Gaine asked about how the permission to work would be affected if the lot was owned by an LLC. Mr. Maxwell stated the agent of the lease would be responsible. A statement of the Leasing Committee’s position on permission to work allowance would be included in a response document for the Shellfisheries Council. The item was viewed as **high priority**.

- **Transferability of Leases**

The Committee ranked transferability of leases as **high priority** and recommended this topic be merged with the Lease Utilization discussion.

- **Lease Renewal Criteria**

The Committee ranked lease renewal criteria as **high priority** and recommended this topic be merged with the Lease Utilization discussion.

- **Lease Agreement Language Update**

Mr. Babb stated that the shellfish aquaculture lease agreement language would be revised in 2021. Mr. Babb informed the Committee that one of the major changes would require the lessee to maintain insurance if using structural aquaculture gear. The Committee was concerned upon hearing this addition and requested they review the updated lease agreements. Bureau staff would provide a draft to the Committee to for review and comments. Staff stated that much of the revised language was advised by NJDEP’s legal representatives and the reality was that the language may be difficult to change. The BSF hopes that significant areas of concern, if they exist, could be raised to the legal team for their consideration. This was viewed as a **medium priority** because it could not be addressed until Fall 2020.

- **Public Notice Process for New Lease Areas**

Mr. Babb stated there was interest to improve how the Bureau notifies the public when new leases become available. The Leasing Committee felt that developing a public notice process was a **low priority** because the Council currently adheres to a public process through the Shellfish Council agendas and official minutes which are posted on the Division’s website.

- **Bureau of Tidelands Review**

Mr. Gaine stated that Bureau of Tidelands Review was an old issue and was removed from the list by the Delaware Bay Leasing Committee. The Committee felt it was unnecessary to review this topic at this time and was removed from the priorities list.

- **Structural Use (Permit Requiring) vs. Traditional Use (i.e., Water Column vs. Trad. Bottom Use)**

Mr. Babb stated that the structural use verses traditional use issue could tie into the Rutgers Spatial Planning project in that certain aquaculture techniques would be more appropriate in certain waterbodies or lease areas. He gave a general overview of the proposed Rutgers Project explaining that the output would be a tool that could be used by the Bureau, Leasing Committee, and Shellfisheries Councils to help inform decisions about lease expansion based on the best available data.

Mr. Gaine stated that this topic had previously been addressed by the Leasing Committee and was already within the Leasing Policy. This topic was ranked as **low priority** because the Leasing Committee believes that the language within the *Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section* addressed this topic.

- **BOS/Council Authority re: Policies (Limited?)**

Mr. Babb stated he would further explore the legality of the Department’s and Council’s authority of the leasing policy as written, based on the language as per the State Statute (Title 50) and leasing regulations (N.J.A.C. 7:25-24). The Leasing Committee recommended this topic be merged and discussed with the Leasing Regulations topic. The topic was ranked as **medium priority** and would be addressed at a later meeting.

Issues Prioritization and Status Summary

Task	Timeline / Completion	Priority	Status / Official Response
Convene monthly ACLC meetings	Completed at March 4 Leasing Committee Meeting	High	The Leasing Committee recommended monthly meetings held 3-4 hours after mean low water.
Discuss charge document and objectives; timelines	Completed at March 4 Leasing Committee Meeting	High	Completed at the March 4 Leasing Committee Meeting
Review/develop revisions to leasing regulations (N.J.A.C. 7:25-24)	Fall 2020	Med	Tabled until fall 2020. Leasing Committee will review regulatory revisions document when available.
Need for lease expansion (general discussion)	Completed at March 4 Leasing Committee Meeting	Low	<p>Task: Develop an official proposal form for the public to submit to the Bureau when inquiring about lease areas to identify and track areas of interest for lease expansion.</p> <p>Response Statement: The language within the <i>Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section of the New Jersey Shellfisheries Council</i> satisfies the need for lease expansion. Further, the process for proposed lease expansion specific to each lease area is defined under Council Action. No additional action is deemed necessary by the Committee.</p>

Updates to Bureau-Council Leasing Policy Guidance Document	Completed at March 4 Leasing Committee Meeting	Low	No concern because updating the plan is an ongoing process. Leasing Committee recommended removing task from list.
Lease utilization discussion	Spring 2020	High	Discuss at the next Leasing Committee Meeting on March 31 st .
Annual lease fee structure review; impacts from 2018	Spring 2020	Med	Bureau staff will present data on impacts of 2018 fee restructuring to leasing committee in spring 2020.
Lease allocation methods (new and existing areas)	Spring 2020	High	Merge with Lease Utilization Discussion and discuss at March 31 st meeting.
Permission to Work Allowance	Completed at March 4 Leasing Committee Meeting	High	Task: Bureau staff will present permission to work language to the Leasing Committee to include into the Leasing Policy. The Leasing Committee recommended that the lessee or agent of the LLC should hold all applicable permit authorizations for regulated activities on a lease.
Transferability of leases	Spring 2020	High	Merge with lease allocation and utilization discussion on March 31 st .
Lease renewal criteria	Spring 2020	High	Merge with Lease Utilization Discussion and discuss at March 31 st meeting.
Lease Agreement Language Update	Summer/Fall 2020	Med	Bureau will provide Leasing Committee with updated Lease Agreements for review.
Public Notice Process for new lease areas	Completed at March 4 Leasing Committee Meeting	Low	The Leasing committee recommends that public notice be addressed as a low priority because the Council currently adheres to a public process through the Shellfish Council Agendas and Official Minutes which are posted on the Division's website.
Bureau of Tidelands review	Completed at March 4 Leasing Committee Meeting	Low	No concern. Leasing Committee recommended removing from list.
Structural use (permit requiring) vs. traditional use (i.e., water column vs. trad. bottom use)	Completed at March 4 Leasing Committee Meeting	Med	The Leasing Committee believes that the language within the <i>Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section</i> addressed this topic. This topic will be merged with the regulations discussion.
BOS/Council authority re: policies (limited?)	Fall 2020	Med	Merge with revisions to Leasing Regulations task

The Leasing Committee requested Doug Zemeckis from Rutgers University attend the next Leasing Committee as an ex-officio member.

Atlantic Coast Leasing Committee meeting adjourned at 4:00 PM.

The next meeting of the Leasing Committee is tentatively scheduled for **1:30 PM, March 31, 2020 at the Nacote Creek Research Station Enforcement Building.**