

MINUTES OF THE MEETING  
OF THE  
DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL

Virtual Meeting, Web and Conference Call  
Thursday, October 22, 2020  
3:00 PM

Present were: Council: Chairman: Warren Hollinger (Cumberland County)  
Vice Chairman: Steven Fleetwood (Cumberland County)  
Councilman: Richard Malinowski (Salem County)  
Councilman: Scott Sheppard (Cumberland County)  
Councilman: Vacant (Cape May/Salem County)

State/Fed Reps: Russ Babb, Bureau of Shellfisheries  
Craig Tomlin, Bureau of Shellfisheries  
Conor Davis, Bureau of Shellfisheries  
Kelly O'Neill, Bureau of Marine Fisheries  
Bob Schuster, Bureau of Marine Water Monitoring  
Amanda Wenczel, NJ Department of Agriculture

Haskin Lab: David Bushek, Director  
Lisa Calvo, Aquaculture Marine Scientist

General Public

*Compliance with the Sunshine Law*

Notice of this meeting was posted October 19, 2020 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.

Mr. Tomlin welcomed everyone to the meeting, conducted roll call, and read the compliance with the Sunshine Law.

1. General

1.1. July 28, 2020 Minutes

Mr. Tomlin informed the Council that the minutes were mailed out and would have to be approved at the next meeting.

1.2. Oyster Resource Development Account

Mr. Tomlin reported there were \$530,839 of unexpended funds and \$530,839 of uncommitted funds in the ORDA. He noted that the budget included all of the 2020 shell planting costs and the funds reimbursed from the 2020 COVID-19 budget that was set aside in reserve. He then informed that the budget did not include the reimbursement from the mitigation account for the 2019 shell planting costs, but that they should be reimbursed soon. Mr. Babb reminded everyone that the State Treasury put 50 percent of the account's funds into reserve. He clarified that was different than reverting the funds which did not occur, and which meant pulling the money into the general treasury. He explained that reserve meant the funds were put aside and frozen so they could not be spent. Mr. Babb informed the Council that a colleague in the Office of Management and Budget named Carolyne Shaw did all of the work to free up the funds from reserve. Mr. Babb spoke with the Council and thought it may be best to send a thank you letter for her efforts. **Councilman Hollinger motioned to send a thank you letter to Ms. Shaw. Councilman Fleetwood seconded the motion. All were in favor and the motion passed.**

## 2. Old Business

### 2.1. Direct Market Update

Mr. Tomlin reported that only the Medium Mortality Market beds remain open with a regional quota of 16,216 bushels. As of Wednesday, 10/21, the oyster fishery harvested approximately 7,000 bushels from the Medium Mortality Market beds with approximately 9,000 bushels left to harvest. Ship John has a CPUE of 76 and Cohansey has a CPUE of 105 bushels per boat per day, with a CPUE of 100 for the entire Medium Mortality region.

Mr. Tomlin recapped that at the last meeting, Councilman Hollinger asked him to look into the difference between the 2019 and 2020 harvest with respect to the effects from COVID-19 and having no Intermediate Transplant Program (ITP) in 2020. Mr. Tomlin asked if the Council would like to discuss those numbers. Councilman Hollinger asked if Mr. Tomlin could report the numbers, but also send the information out in an email after the meeting to which Mr. Tomlin agreed. Mr. Tomlin reported that 2020 was an odd harvest year with over 10 percent of the harvest having been planted. He said that made it more difficult to compare to years that had an ITP. He said the industry lost about six to seven percent of the *predicted* harvest due to having no ITP, which potentially gave a hit of about \$340,000 to industry. He informed that amount did not meet the criteria of a 35 percent revenue loss alone for the CAREs Act for the industry as a whole. However, he added that comparing the amount of harvest planted onto leased grounds instead of going to market may meet the criteria on an individual basis. *Further discussion ensued.*

### 2.2. 2021 Lease Renewals

Mr. Tomlin reminded everyone that the leases renewals were distributed through the mail, and asked for all lease holders to return them as soon as possible. Mr. Babb added that an topic was brought up at the Atlantic Coast Section meeting which was that the Bureau effectively had a moratorium in place for new leases since applications for new leases were not being accepted. He said the Bureau should present back to the industry through the Councils what the Bureau planned to do to address this. He informed that as of January 1, 2021 the plan was to allow people to email the office of the respective coast if they were interested in meeting with staff at the office to discuss lease applications on a designated day each week with assigned time slots. He said the Bureau can send out the information which would provide the necessary details. This way the Bureau and industry can come back to some semblance of normalcy. Councilman Sheppard said he received his renewal letters for his Atlantic coast leases, but not for his Delaware Bay leases. Mr. Davis said they were mailed on the October 15<sup>th</sup> and that he should receive them soon.

### 2.3. Red Knot Stakeholder Committee update

Councilman Hollinger asked Matt Williams if he could provide the update as he missed the last meeting. Mr. Williams reported that at the last meeting the Committee discussed being able to bring gear out during the restricted season instead of having to have it out by the April 15<sup>th</sup> as required under one of the Conservation Measures. He said the Committee was hung up with some people believing the installation of new gear meant physically putting gear in place on the farm and not transporting it to and from the farm. He said he just got an email with clarification that they were more concerned with the transportation of gear than installation, so he was going to email everyone to continue the discussion. He said the Committee was trying to schedule the annual meeting, but schedules were not lining up. They will try to set a date within the next few weeks. Councilman Hollinger asked if there were any other change requests to the Conservation

Measures submitted. Mr. Williams replied there was not. He added that he was putting a list together of all changes the industry would ever want going forward to present to the Aquaculture Working Group to get an idea of what they wanted to see and what certainty was needed to support those requested changes. The Committee also wanted to send the ideas out to the science community to get studies to look into the wanted changes. He said the Committee was making the list a long-term plan going forward. He sent some emails to get ideas for what the industry wanted to change, and only heard from Councilman Hollinger, Betsy Haskin, and Ned Gaine. The plan was to put together the list and go forward from there. *Further discussion ensued.*

#### 2.4. Aquaculture Development Plan (ADP)

Mr. Tomlin said comments on the ADP were due October 30<sup>th</sup>. He said the Bureau would consolidate the comments from the Council for a response to the ADP. Councilman Fleetwood said he attended meetings where the ADP was discussed and had not seen any changes. He had not written down any comments to submit with the Council since he had not seen any changes from discussions during the meetings. Councilman Hollinger said he reviewed his copies of the ADP which had some words removed and moved around through the different drafts, and agreed with Councilman Fleetwood that there were not many changes made from the comments made by the Council. He said he would go back through and write down comments he had on the beginning drafts to see if they could be put back in the ADP. Councilman Fleetwood said the ADP should concentrate on the marketing and promotional aspects. Mr. Babb said the Bureau would package up the collective comments from the Council, and reminded that everyone has the ability to submit their own comments.

Mr. Gaine commented that there were action items specifically addressing the Shellfisheries Council and suggested that the Council should opine on those specific action items whether they agree or disagree with them. Councilman Fleetwood commented there was a part in the ADP about representation on the Council for aquaculture, but everyone on the Delaware Bay Shellfisheries Council was involved in aquaculture currently or in the past. He said this made the Council appear as if they were not doing their job or not representing the people they were supposed to. Councilman Hollinger commented that the ADP said there were no leases available when in fact there was about 8,000 acres that could be leased. Councilman Sheppard said that it also says there were leases that were not being utilized, but that everyone that had leased bottom was using it in some kind of way. Councilman Hollinger said they would leave that for the Leasing Committee. Mr. Tomlin asked if Councilman Hollinger would get him comments to put on Council letterhead. Councilman Hollinger said he would get comments to Mr. Tomlin, and if anyone else had comments to send them to either Mr. Tomlin or himself. Mr. Babb asked that the comments be compiled by the following Wednesday to give Ms. Wenczel time to review them before the Aquaculture Advisory Council meeting. Ms. Wenczel added that the AAC meeting information to call in was not yet distributed, but was expected to be distributed soon.

#### 2.5. Nantuxent Channel Dredging Project Update

Councilman Hollinger said there would be a meeting the following Monday at 10 AM to discuss the project. Mr. Tomlin agreed and said that the discussion would entail alternate channel routes and project plans. He reported that the money being used was from the Oyster Resource Development Account, which had a remaining balance of about \$10,000 in the contract with Stockton.

He said that Stockton resurveyed the bathymetry and took two more core samples on September 17<sup>th</sup> to assess the alternate channel. The two cores were sent to a lab on September 21<sup>st</sup> for analysis,

and the final report came back October 20<sup>th</sup>. He reported that the sand was less than 90 percent on both cores for the alternate channel path, but that the fine materials were below the planned dredging depth which meant the material would be usable. Councilman Hollinger said the money was available from NJ DOT to do the dredging. He reviewed the reports and the middle channel going straight into the creek looked like that was the one the project would use. Councilman Hollinger asked how much was set aside and was left over for the project. Mr. Tomlin said that just under \$25,000 was set aside and about \$10,000 remained in the contract. He reminded the Council that Stockton was contracted to help with the dredging permit applications which would use up a large portion of the remaining funds. Councilman Hollinger said to let the Council know if they need to do a resolution, but Mr. Tomlin replied that there were most likely enough funds for the project. Councilman Hollinger said the project planned to make the channel a little wider than proposed on the shoal to delay the channel from being filled by the migrating sand. Councilman Hollinger said the dredging would not be done before Fall of 2021, to which Councilman Malinowski asked why. Councilman Hollinger replied that issues came up with the original channel path and the sediment cores which made the project plans change and pushed back the timeline, and that it was always going to be a fall project. Mr. Tomlin added that NJ DOT had to get on a schedule and that it costs so much to mobilize the equipment that they tried to do more than one project within the same area. Robert Malinowski asked what the volume of material was to be dredged from the channel. Mr. Tomlin said that at the time it was estimated to be about 20,000 cubic yards.

## 2.6. Fishery Disaster Relief Update

### 2.6.1. CARES Act – Coronavirus Aid, Relief, and Economic Security Act

Mr. Babb reminded the attendees that NJ was awarded \$11.2 million of \$300 million through the CARES Act which was made available from the Dept. of Commerce for fisheries assistance. He explained that once administrative fees and such were taken out of the funds that there was about \$10.8 million available for the commercial aquaculture sector, recreational fisheries sector, and processors and dealers sector. He said the commercial sector involved the aquaculture and direct market industries. Mr. Babb displayed the Division's CARES Act website with the Governor's press release and explained the different links including the full CARES Act, the notice of funding and spending plan, the NJ e-grants website called NJSAGE, and the FAQ's. After Ms. Wenczel explained agenda item 2.6.2, Mr. Babb informed everyone that the application process was open for the CARES Act, and that it closes Wednesday November 18<sup>th</sup>.

### 2.6.2. CAF2 – Coronavirus Food Assistance Program 2

Ms. Wenczel said this was a USDA program and noted that there was a Program 1 and Program 2, and that the industry would want to look at the Program 2. She explained the first Program included just a few aquaculture items but did not include shellfish. Shellfish was included in the second program. Any other assistance or funding received did not impact eligibility for this program, but that was not to say that this program would not impact eligibility for the CARES Act funding. She said she would try to assist anyone with questions about the program. The program was based on sales from 2019, a percentage of which would be the amount of funding received. She said the program was a grant to stabilize the industry and was not a loan. She explained to go to USDA main page, [www.farmers.gov](http://www.farmers.gov) for information, but said to reach out if anyone needed help finding the information. The closing for application was December 11<sup>th</sup>, but she recommended not waiting until the last minute since it took time to process applications. Mr. Tomlin said the

program had an online and manual application that he reviewed which did not seem too difficult, but offered his assistance if anyone required it. Bob Rheault with the East Coast Growers Association agreed that the application was fairly simple, and added that if anyone had already applied for a Noninsured Crop Disaster Assistance Program then their information would self-populate. The program was to give the applicant close to ten percent of their 2019 sales revenue. He explained that hatcheries were eligible if they were selling for food but were not eligible if they were selling for restoration.

#### 2.6.3. New Jersey Shellfish Aquaculture Exchange

Mr. Tomlin reported there were seven participants that participated in the program. He said they each sold back an average of approximately 4,200 oysters with an average size of 3.7 inches, and that staff planted about 110 bushels of oysters from that program in the Delaware Bay. Councilman Hollinger asked if they were put on the tongers bed in Maurice River Cove, to which Mr. Tomlin said that was correct. Mr. Babb reported that for the entire program there was approximately 76,000 oysters planted on both the Atlantic coast and Delaware Bay, and the balance would be planted in conjunction with the SOAR program.

#### 2.6.4. SOAR – Supporting Oyster Aquaculture and Restoration

Mr. Tomlin made the segue into the SOAR program and introduced Zack Greenberg from the Pew Charitable Trust (Pew), who was the NJ representative for the program. Mr. Greenberg thanked the Council for giving him the opportunity to speak about the program. He explained that the SOAR program was a partnership between The Nature Conservancy (TNC) and Pew, and also recognized that TNC NJ's Bill Shadel and Bob Rheault with the ECGA were also present at the meeting. He said this would sound similar to the Sea Grant project, but that at its core the SOAR initiative was looking to extend around \$2 million in payments to oyster farmers across seven states over the next two years. The program was to be focused across Maine, New Hampshire, Massachusetts, New York, New Jersey, Maryland, and Washington state. The program was to support industry during the COVID-19 pandemic by purchasing surplus product to get it off the market and use it for restoration or ecosystem services. The project was a two-year period which was frontloaded with the initial buyback program, but also had \$1 million set aside for funding year two which was to put together a Shellfish Growers Resiliency Grant program. This grant program details were still being put together but was to be open to other states that were not part of the initial SOAR program. He informed the program officially launched on Wednesday.

Bob Rheault said that soon after March 13, 2020 when the markets froze he had reached out to Pew and TNC because he was hopeful to get product off the market to go into sanctuaries to avoid a price collapse. He knew that setting up restoration sites in every state up and down the coast was beyond his abilities and thought Pew and TNC may be able to help since they had experience in this field. He was not able to attract enough funding as he had hoped but nonetheless received funding from a private donor, and added that Sea Grant did have small programs in some states. He said it was unlikely the pandemic would end next year. The shellfish market was projected to be suppressed by 30 percent through 2021, and he was going to keep pushing for additional funds for these types of projects. He explained that he was brought in as a conduit to the growers and help figure out a fair price for oysters for the buyback program. He contacted growers up and down the coast to come up with a fair price. He said they reviewed pre-COVID, 2019 average wholesale prices, and used 80 percent of the wholesale price for the program. He explained that was a fair

price since the program was expected to have oysters that were overgrown or unfavorable for the market. He said the price would be based on volume, and the program was looking for an average size of four inches and would be counted to study survival.

Mr. Greenberg said the program was looking to get a sense of the NJ growers interested in participating, and what size volume and how much product was to be available. He informed that the best way to provide interest was by completing a form through [www.nature.org/soar](http://www.nature.org/soar) to which he provided a link in the chat. Mr. Rheault added that biosecurity concerns were paramount. The program had to find sites where oysters could be planted that had good enforcement, and where the oysters could not be harvested and put back in the market. He also said they did not want to move diseases around so the growers had to be close to the site. He did not want only one big grower to be involved and preferred a lot of small growers participating. Councilman Hollinger asked if they would take a bushel of oysters to count and average those to get their counts. Mr. Rheault said they would put the, preferably, four-inch oysters in a bushel to get the count and would determine the price per oyster. *Further discussion ensued.*

Councilman Hollinger said NJ's problem with the program was that there were no sanctuaries in Delaware Bay. Mr. Greenberg said that was one of their concerns, and they would work with NJDEP to determine what site everyone would be comfortable with. He said details were a little fluid since certain information was still needed, but they were planning to plant a few sites. One site was to be up north by the naval weapons station, at least one on the east coast with Stockton at their Tuckerton Reef, and one site possibly in the Maurice River in the Delaware Bay. He reminded that they would want to mind the biosecurity and avoid moving oysters throughout the state. Mr. Greenberg offered to provide his contact information if anyone wanted to reach out to ask questions.

Councilman Fleetwood said they mentioned a sanctuary and restoration, but he had not heard anything about triploids and diploids having been mentioned. He asked for the status on those topics. He said the industry did not necessarily believe in sanctuaries because the industry tried to manage their bottom to keep it active. He believed sanctuaries were not a good word to him because he did not believe in letting bottom go stagnant by not working it. He said restoration was different because they worked and managed those sites and asked whether a sanctuary or restoration site was to be used. He further asked that if the program had planned to make a sanctuary if they were planning to buy or reject triploid oysters that could not reproduce and help the ecosystem. Mr. Rheault said the whole point of the program was to get excess product off the marketplace, so as long as the product could be kept from being harvested for two years then it did not matter what name site was designated under. If the product came back on the market within the next two years, then the program would be self-defeating. He said he was able to convince Pew and TNC that there were significant ecosystem services being produced by triploids. He added that they did not spawn, but they did help with water quality and habitat function that they provided. He said the program would purchase triploids, but would prefer diploids.

Councilman Hollinger recommended putting the oysters on a tongers bed, one at the mouth of Maurice River and one in Nantuxent off of Money Island. He added that there were areas in those beds that were closed to harvest, and the Council could go back in two years to move the oysters to harvestable waters using the \$2 per bushel self-tax from the tonging industry. Councilman Sheppard said he did not like that idea because the oysters that were to be four inches would be much bigger after two years and did not think that was

economically feasible. Further discussion ensued, including selling to the shucking houses versus participating in this program and site locations for Delaware Bay.

### 3. New Business

#### 3.1. Dermo Update

Dr. Bushek reported that the Dermo was following the typical pattern. The growers on the Cape Shore were reporting high levels of mortality over the summer, and Rutgers found higher levels in the oysters. He noted that it was not fair to compare those oysters to the seed beds because they are all the same cohort of the same age and grown intertidally in bags. Rutgers reviewed data back to 2016 and it appeared there was an increase in Dermo disease in the oysters being grown in the Cape Shore area. He said there was good news which was that the work Dr. Ximing Guo was doing with the breeding program seemed to show relatively lower levels of mortality but they did not know if that meant lower levels of disease as well. He also reported that they were seeing some areas with levels of MSX because some people were purchasing stocks for growing from non-MSX resistant genetic lines. He cautioned that if growers did purchase from the nonresistant lines that MSX had always occurred and would attack the oysters.

#### 3.2. Spat Set and OISSC Discussion

Councilman Hollinger reported that industry members working on the deep-water aquaculture leases saw at least three different sets that had taken off and asked if that set was what Dr. Bushek was referring to on the Ledge seedbed. Dr. Bushek said that was likely if it showed up on the gear. He said the only information he knew was that he heard the fall survey saw a lot of nice set, and that in the past they would usually bring up a dredge full of mud with some shell in it. The survey saw a lot of set, some of which was two to three years old. *Further discussion ensued.* Dr. Bushek said the survey had been going well. They had a couple days canceled the week before and were out three days that week. He also noted that the Oyster Industry Science Steering Committee meeting had to be moved.

After agenda item 3.4, Councilman Sheppard asked some questions about the Rutgers fall sampling and spat set. Nobody was present that had been on the survey so they could not report if they saw any more spat than the anecdote about Ledge. Mr. Tomlin reported that Conor Davis and Andrew Hassall sampled for Dermo with Rutgers, and saw set on almost all sites except for the northern most sites. Some set was also observed on the 2020 shell plant site. *Further discussion ensued.*

#### 3.3. Executive Order for Promoting American Seafood Competitiveness and Economic Growth

Mr. Babb informed that NOAA sent a public notice that day in which they were looking for input on the creation of aquaculture opportunity areas. This was part of the Executive Order signed in May, with a sole focus in the Gulf of Mexico and federal waters off the coast of southern California. He said this did not apply to NJ's industries, but they were asking for stakeholder comments for other future aquaculture opportunity areas if anyone wanted to provide input.

#### 3.4. Vibrio

Councilman Hollinger asked Mr. Schuster if there was anything to report. Mr. Schuster said it stayed fairly quiet the rest of the season without anything significant. He said if you did get a

case it was a normal source with nothing out of the ordinary, and they did not see *Vibrio vulnificus*. Councilman Hollinger said he received an email from the National Institute of Health who had a contractor with a machine that was to be able to detect amnesic shellfish poisoning (ASP) and paralytic shellfish poisoning (PSP). He told him that he did not believe it had ever shown up in Delaware Bay and asked if that would be a correct assumption. Mr. Schuster said that was a correct assumption. He said that the capability for that to happen in NJ did exist. The species that caused those poisonings are found normally in the Atlantic Ocean along the entire east coast. He said that with the ASP, one of the biggest concerns was that the species *Pseudo-nitzschia australis* had been showing up more frequently from Cape Hatteras all the way through Maine. It seemed to be on increase and was toxin producing. He explained an incident on the Atlantic Coast in Cape May, but they did not find the toxin when they ran the tests. It could also increase some of the phytoplankton species that were occurring, and it had the capability to come into the bay. Councilman Hollinger said the machine was about \$1,500 and the test would take about 15 minutes. Mr. Schuster said he would like to see that as a rapid test because their test took a little longer. He said if they would like them to start using that as a rapid test then it would have to go through the ISSC, to which Councilman Hollinger said that they got his name from the ISSC. Councilman Hollinger said he would forward Mr. Schuster the email for them to get in touch. *Further discussion ensued.*

### 3.5. Leasing Committee

Mr. Gaine asked if the Leasing Committee would be meeting again soon. Mr. Tomlin said he would like to have one soon. Mr. Gaine commented that since there was a new Council member that three of four Council members would be on the Committee. Councilman Hollinger informed that the last meeting was February 25, and the next meeting was scheduled for March 24 but was cancelled due to the pandemic. Through discussion, the Council decided to keep the three Councilmen on the Committee. Councilman Hollinger asked to send a poll out to schedule the next meeting.

### 4. **Councilman Sheppard made a motion to adjourn the meeting. Councilman Malinowski seconded the motion. All were in favor and the meeting was adjourned.**

The NJ Shellfisheries Council, Delaware Bay Section meeting adjourned at 4:27 PM. The next meeting date was not scheduled.