

DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL MEETING

MINUTES

Virtual Meeting, Web and Conference Call via GoToMeeting

Tuesday, March 2, 2021

2:00 PM

ROLL CALL: 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)

DEP Representatives: Russ Babb, Bureau of Shellfisheries
Jeff Normant, Bureau of Shellfisheries
Craig Tomlin, Bureau of Shellfisheries
Andrew Hassall, Bureau of Shellfisheries
Conor Davis, Bureau of Shellfisheries
Megan Kelly, Bureau of Shellfisheries

Haskin Lab: David Bushek, Director
Jason Morson, Marine Fisheries Scientist
Lisa Calvo, Aquaculture Marine Scientist
Jennifer Gius, Laboratory Researcher

In compliance with the Open Public Meetings Act, a notice of this meeting was posted February 25, 2021 with the Secretary of State's Office, State House, Trenton, NJ and this meeting will be recorded.

Mr. Tomlin welcomed everyone to the meeting and performed roll call. He read the above compliance and reviewed meeting information for the attendees.

1. Approval of Minutes: January 12, 2021

Councilman Malinowski motioned to approve the January 12, 2021 meeting minutes. Councilman Sheppard seconded the motion. All were in favor and the motion passed.

2. Delaware Bay Office revenue collected for:

January: \$1228.00 and is summarized as follows:

Application Fees	4.00
Commercial Crab Pot	200.00
Commercial Shellfish	100.00
Assignment Fees	200.00
Lease Fees	524.00
Tonging Tags	200.00

February: \$1154.00 and is summarized as follows:

Application Fees	26.00
Menhaden	52.00
Commercial Crab Pot	400.00
Nets	501.00
Map Sales	75.00

Tonging Tags 100.00

- 3. Oyster Resource Development Account (*as of 2/26/2021*)
 - Expended: \$103,795.67
 - Unexpended/Uncommitted: \$559,829.96
 - FY19 Pre-encumbered (Nantuxent): \$ 10,121.70

Mr. Tomlin reviewed the revenue and account information in items 2. and 3. of the agenda.

4. Applications for Consideration

Applicant	Section	Lot	Acreage	Acreage Fee	Application Fee
Ned Gaine	A	277	200	\$100	\$250
Olga Gaine	B	281	200	\$100	\$250

Councilman Hollinger reviewed the leases and applicants for consideration. Both applicants were present at the meeting which fulfilled their meeting attendance requirements as lease applicants.

5. Old Business

5.1. Time Extension for Non-Renewed Lease

Mr. Tomlin updated the Council that the Bureau exhausted all options to contact Mr. Barraclough III and decided to send a certified letter to him. He recommended to wait to see if the certified mail receipt is returned. After some discussion, Councilman Hollinger said if the Bureau and Council did not hear a response after taking all possible means to contact Mr. Barraclough III that the lease would be vacated at the next meeting. The Council agreed to the plan.

5.2. Red Knot Stakeholder Committee Update

Councilman Hollinger informed that the Committee had a meeting in January during which they discussed Conservation Measure 13 (CM) from the Programmatic Biological Opinion that would be presented to the Shellfish Aquaculture Working Group and ultimately the US Fish and Wildlife Service. This CM required that all gear be brought to Aquaculture Development Zone shellfish leases before the red knot season arrives. The Committee asked that rather than keeping gear on the lease, that the growers be allowed to bring gear out on an as need basis. The AWG agreed to amend CM13 to allow for the installation of new gear as long as special trips were not made to specifically transport and set up gear. Councilman Hollinger explained the workings of the CM in more detail.

5.3. Nantuxent Channel Dredging Project Update

Mr. Hassall reported that Stockton University and the Bureau finalized the required permit applications and project plans and submitted them to Div. of Land Use Regulation on 1/21/21 and US Army Corps of Engineers on 1/25/21. The Bureau obtained approval to be a co-applicant with the Council for the permits which avoided the approximate \$30,000 in application costs. The project was under environmental review by Division staff, and the Bureau submitted comments the week of February 15th. An access agreement is being developed to be able to use property of The Nature Conservancy. While the permit applications are being reviewed, Stockton

will be conducting an archaeological survey for a wreck that is within the creek. This survey is needed because the proposed dredging of the shoal inside the creek falls within the buffer zone of the wreck. Mr. Hassall offered to ask for updates about the archaeological survey, to which the Councilman Hollinger requested. If all went as planned, the dredging may occur after September 15th in the fall of 2021 via hydraulic dredging by DOT, and possible mechanical dredging if the sediment requires that method.

5.4. Tonging Industry Update

Mr. Tomlin gave a presentation for items 5.4 to 5.6. He said that 300 tags were purchased so far for the 2020-2021 tonging season with a total of 107 bushels harvested. He said most of the bushels were harvested in 2020 and all came from Nantuxent tonging area.

5.5. Delaware Bay Leasing Committee Update

Mr. Tomlin reported that Bureau staff hosted a Committee meeting on February 22, 2021 and had not met since February 2020. Staff used the meeting to re-evaluate the Committee structure since multiple Shellfish Council members were on the Committee which resulted in a quorum. The Committee discussed potential meeting topics and made recommendations of language for statements on lease area expansion and permission to work. The Committee was to develop a lease policy document for the Delaware Bay Section as well as reviewing updated language to the State's lease agreement. The next Committee meeting was scheduled for March 23, 2021.

5.5.1. Updated Membership

Mr. Tomlin further reported that the Committee was also interested in adding new members for future meetings. The Bureau solicited interest from lease holders and had received responses from those interested in joining. The people interested who were also in attendance were Bill Riggin, Jacqueline McBride-Jones, Lisa Calvo, and Tony Ni, all of whom were lease holders of Delaware Bay. Councilman Hollinger said they would allow everyone to be part of the Committee but would rotate the Council to only have two members attending at each meeting to avoid a quorum. The Council would rotate among Councilmen Hollinger, Fleetwood, and Sheppard who were all on the Committee. He also suggested to have someone not on the Council hold the Committee Chairman seat. Through some discussion, Ned Gainie was made the Chairman of the Committee. Dr. McBride-Jones thanked the Council for allowing them to join the Committee.

5.6. Consolidation Committee Update

Mr. Tomlin gave a presentation to the Council regarding the last Committee meeting and potential changes that could be made to the N.J.A.C 7:25A regulations governing the oyster dredge boat license and consolidation rules. One main goal of the Committee was to have up to ten quotas to be able to be harvested by one vessel. Mr. Tomlin presented the draft outline of changes that were being looked into by the Committee and Bureau including: license requirements and assignments, tonnage requirements, vessel requirements, and license fees. The new license fee was suggested to be \$150 based on what regulations allowed the minimum to be as they were linked to vessel tonnage. Councilman Hollinger noted that the license fees would go into the Oyster Resource Development Account that goes towards the industry

projects. Mr. Tomlin then provided the draft outline of the specifics involved with consolidating quotas. *Further discussion ensued.*

6. New Business

6.1. Review 23rd Stock Assessment Workshop 2021 Findings

Dr. Morson reported the SAW was held virtually on February 9th and 10th. He then summarized the status of the oyster stock with a presentation. The Haskin Lab surveyed in October and November 2020 and collected samples from 225 grids which covered high and medium quality grids on all managed reefs in addition to grids that had received shell plant or transplant enhancement in recent years. Dr. Morson reviewed each region from north to south including the Very Low Mortality (VLM), Low Mortality (LM), Medium Mortality Transplant (MMT), Medium Mortality Market (MMM), Shell Rock (SR), and High Mortality Market (HMM) regions.

The VLM region was under the threshold in both market (oysters $\geq 2.5''$) and overall abundance and it was recommended to remove some oysters in a transplant to the MMT Middle bed at an exploitation rate of 1.93% which would move 1,480 deck bushels. The LM region was above the target in market abundance and in between the threshold and target for market abundance. Since the survey error overlapped the target market abundance, the Stock Assessment Review Committee (SARC) recommended the minimum transplant harvest from the LM region of 0.76% which was to move 4,963 deck bushels and potentially contribute 845 bushels to the SR region. The MMT region as well above the target abundance on the market abundance, but was between the threshold and target of overall abundance with survey error overlapping with the total abundance threshold. The SARC recommended the maximum exploitation rate for that region of 2.46% which would move 19,140 deck bushels and potentially contribute 10,144 bushels to the regional quotas of SR and HMM. The SARC recommended half of the transplant to go to SR and half to the HMM beds of either Bennies or Bennies Sand.

The MMM region had similar trends as the MMT region. The SARC recommended harvest at median exploitation rate of 3.03% and 27,500 bushels of oysters. The SR region was well above the market abundance target and just above the total abundance. The SARC recommended an initial harvest rate to be the at the median of 3.70% and 34,572 bushels of quota with the potential to be increased to 4.26% and 39,805 bushels of quota if a transplant occurred to the SR region. The HMM region was above the target for market abundance, but was below the threshold for total abundance. The SARC therefore recommended an initial harvest at the medium exploitation rate of 7.49% and 27,744 bushels of quota with the potential to be increased to the maximum exploitation rate of 9.82% and 36,375 bushels of quota if a transplant occurred to the HMM region. Therefore, the SARC recommended an initial quota of 89,816. The SARC also recommended the *potential* increase in quota to 114,669 bushels if an intermediate transplant occurred. That potential quota included the increased exploitation rates as well as the estimated number of bushels that had potential to be added to the quota from the Intermediate Transplant Program.

6.2. Setting of the 2021 Direct Market Harvest Program Quota and Season Dates

After some discussion, **Councilman Fleetwood made a motion for the following direct market harvest scenario and the intermediate transplant scenario in agenda item 6.3:**

- To open all market regions at the beginning of the season.

- To accept the SARC recommendations for the initial quota as were presented;
- To accept the SARC recommendations for the potential quota increase as were presented, with the condition that the SR and HMM regions are closed when their quota from the increased exploitation rate was reached at 39,805 and 36,375 bushels respectively; and
- Once the MMM regional quota of 27,500 bushels was harvested, to reopen the SR and HMM regions to harvest the potential extra quota from the transplants which was estimated to be 10,989 bushels split among the SR and HMM regions.

Councilman Malinowski seconded the motion. All were in favor and the motion passed.

After setting the 2021 direct market and intermediate transplant scenarios, the Council set the dates for the season as follows:

- Direct Market Program Sign-Up Period: March 15, 2021 through March 25, 2021
- Tags Available: March 29, 2021
- Direct Market Program Opens: April 5, 2021
- Direct Market Fishery Closes: November 26, 2021*
- Intermediate Transplant Sign-Up Period: March 15, 2020 through March 25, 2021
- Intermediate Transplant Begins: April 19, 2021

* If water temperature at Ship John Light falls below 50°F (10°C) prior to November 26, 2021 the season will close on November 19, 2021.

Mr. Tomlin discussed the COVID-19 protocols for signing up and purchasing tags, and asked that people buy tags in batches of 200 for single tags. After some discussion, **Councilman Fleetwood made a motion to approve the direct market and intermediate transplant dates outlined above. Councilman Sheppard seconded the motion. All were in favor and the motion passed.**

6.3. Setting of the 2021 Intermediate Transplant Parameters

While making a motion for the 2021 direct market oyster fishery quota, **Councilman Fleetwood also included in the motion to accept the SARC recommendations for the transplant region that were presented. Since this scenario's motion was part of the direct market scenario motioned by Councilman Fleetwood, Councilman Hollinger already seconded the motion and all were in favor. Further discussion ensued.**

After approving the dates under item 6.2 and some discussion, **Councilman Fleetwood made a motion to keep the intermediate transplant fee at \$3.00 per bushel. Councilman Sheppard seconded the motion. All were in favor and the motion passed.**

6.4. Menhaden Multispecies Rule Proposal

Councilman Hollinger informed everyone that the Division advised the public that a Menhaden Multispecies rulemaking proposal with amendments to rules governing Crab and Lobster Management, Marine Fisheries, and Fishery Management in NJ had been published in the March 1, 2021, NJ Register. That began a 60-day comment period that was to end April 30, 2021. Councilman Hollinger noted that the proposal included changes to allow commercial crab pot/trot line licensees and crab dredge licensees to transfer those licenses to any person instead of limiting transfers to immediate family. He also said the number of licenses would be frozen and that no lotteries would be conducted unless the number of licenses fell below a determined

threshold. He also said the rule was expected to go into effect in mid to late summer. Councilman Malinowski asked if there was a limit to how many transfers could be done at one time, to which Councilman Hollinger replied there would not.

6.5. Public Comment: Council Meeting Time Notification

Mr. Gaine said he was not aware the Council meeting was scheduled at 2:00 p.m. until he happened to look at the website. He asked if the meeting time could be posted on the Division website well in advance, so the public had time to see the start time. The Council and Bureau agreed, and Mr. Tomlin said that the Bureau would update the website shortly after the meeting.

6.6. Public Comment: Thank You

On behalf of the McBride family, Dr. Jacqueline McBride-Jones thanked the Council for having her and her sister Dr. Linda McBride attend the meeting. The Council thanked her for attending and being part of the Delaware Bay Leasing Committee.

6.7. Shell Availability for 2021 Shell Planting

Councilman Fleetwood asked Mr. Tomlin if there were any updates on shell availability for the 2021 shell plant program. Mr. Tomlin said he had spoken with Riverside Shell two times within the previous week. Mr. Tomlin had asked them to stockpile shell for the Bureau and Council. He also asked them that whenever they put aside the shell for the industry to send the Bureau the bill. Mr. Tomlin asked if the Council agreed with this and if the Bureau should pay the bill and ask them to continue the stockpile and billing process each time they have a barge load of shell available. The Council agreed and said to pay the bills as they came in, and Councilman Fleetwood added that they were having more competition to obtain shell every year. Councilman Hollinger asked how much shell was planned to be set aside and planted in 2021. Mr. Tomlin said the barges held about 20,000 bushels of shell, and the Bureau had been planting two to three grids at two barges per grid which would be 80,000 – 120,000 bushels of shell. Mr. Tomlin said they would agree to purchase up to six barges of shell and would revisit the topic at the May meeting, to which the Council agreed.

7. Date, time and place of next meeting:

After discussing item 6.5, the Council discussed the next meeting date and **Councilman Malinowski motioned to hold the next meeting at 4:00 p.m. on May 4, 2021. Councilman Sheppard seconded the motion. All were in favor and the motion passed.**

DATE: Tuesday, May 4, 2021

TIME: 4:00 p.m.

LOCATION: Virtual

8. Adjournment

After discussing item 6.7, **Councilman Malinowski motioned to adjourn the meeting. Councilman Fleetwood seconded the motion.** The meeting was adjourned at 3:32 p.m.