

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

Haskin Shellfish Research Laboratory
MS Teams Conference Call
Bivalve, NJ
Tuesday, January 10, 2023
6:00 PM

Present were: 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: Joe Cimino, Marine Fisheries Administration
Russ Babb, Bureau of Shellfisheries
Jeff Normant, Bureau of Shellfisheries
Craig Tomlin, Bureau of Shellfisheries
Andrew Hassall, Bureau of Shellfisheries
Megan Kelly, Bureau of Shellfisheries
Conor Davis, Bureau of Shellfisheries
Robert Shuster, Bureau of Marine Water Monitoring
Amanda Wenczel, NJ Dept. of Agriculture

Haskin Lab: David Bushek, Director
Jennifer Gius, Laboratory Researcher IV
Iris Burt, Laboratory Technician

General Public

Compliance with the Open Public Meetings Act

Notice of this meeting was posted January 5, 2023, with the Secretary of State's Office, State House, Trenton, NJ pursuant to N.J.S.A. 13:1B-30 et seq.

Mr. Tomlin welcomed everyone to the meeting, read the above compliance, then performed roll call.

1. Annual Election of Council Chairman and Vice Chairman

Councilman Sheppard nominated Councilman Hollinger for Chairman. Councilman Fleetwood seconded the nomination. A vote was taken with Councilman Hollinger abstaining; all were in favor and the motion passed. Councilman Hollinger nominated Councilman Fleetwood for Vice Chairman. Councilman Sheppard seconded the motion. A vote was taken with Councilman Fleetwood abstaining; all were in favor and the motion passed.

2. The following minutes are for Council's approval: November 1, 2022

Mr. Tomlin stated that because November 2022 Council minutes were delivered at the meeting, the Council would vote on them at the next meeting. Council members were in favor of waiting till the next meeting to vote to approve the minutes.

3. November and December 2022 Revenue

Revenue collected for November totaled \$20,933.00 and is summarized as follows:

| License Type | Total | License Type | Total |
|---------------------|-------------|------------------------|------------|
| Commercial Crab Pot | \$1,300.00 | Menhaden | \$2,60.00 |
| Nets | \$2,3690.00 | Commercial Shellfish | \$350.00 |
| Application Fees | \$94.00 | Recreational Shellfish | \$10.00 |
| AC & DB Dredge | \$2,200.00 | Assigned Fees | \$7,200.00 |
| Tonging Tags | \$800.00 | Lease Fees | \$6,323.00 |

Revenue collected for December totaled \$37,553.60 and is summarized as follows:

| License Type | Total | License Type | Total |
|---------------------|------------|----------------------|-------------|
| Commercial Crab Pot | \$4,500.00 | DB & AC Crab Dredge | \$4,200.00 |
| Nets | \$8,215.00 | Menhaden | \$1,290.00 |
| Application Fees | \$304.00 | Dealer License | \$200.00 |
| Dredge Boat Renewal | \$51.00 | Commercial Shellfish | \$850.00 |
| Tonging Tags | \$500.00 | Assigned Fees | \$10,500.00 |
| Lease Fees | \$6,943.60 | | |

4. Oyster Resource Development Account (082):

(as of 1/05/2023)

| | | |
|------------|---------------------|--|
| Expended | \$186,135.53 | |
| Unexpended | \$495,279.36 | |

5. Lease Ground Application for Consideration

5.1 Application for Charles Cummings to Lease in ADZ-4

| Applicant | Section | Lot | Acreage | Acreage Fee | Application Fee |
|------------------|---------|-----|---------|-------------|-----------------|
| Charles Cummings | ADZ-4 | | 3 | \$300.00 | \$2,000.00 |

Councilman Hollinger reviewed the above application information. He also confirmed that Mr. Cummings was in attendance, which meets the requirement of attending one of two Council meetings. As such, Mr. Hollinger informed Mr. Cummings that a decision would be rendered at the next Council meeting.

6. Old Business

6.1 2023 Lease Extensions

Mr. Davis informed the Council that all leaseholders submitted paperwork and payment to renew their Delaware Bay commercial shellfish lease(s) for the year 2023. This was true for all leases in Sections A-E and Aquaculture Development Zones leases.

Councilman Hollinger made a motion to approve all confirmed submissions of 2023 lease extensions. Councilman Fleetwood seconded the motion. All were in favor and the motion passed.

6.2 Red Knot Stakeholder Committee Update

While no Red Knot Stakeholder Committee meeting had taken place in 2022, Councilman Hollinger was able to update the Council that on April 15th, 2022, the requirement for rack heights, used in rack-and-bag systems on the Cape Shore, changed to ten inches while maintaining eight inches of clearance.

6.3 Dredge Boat License Consolidation Administrative Consent Order (ACO)

Mr. Tomlin stated that approval was given to move forward with the process to construct a two-year ACO that would allow for the consolidation of ten dredge vessel licenses (DVLs) under one designated harvest vessel (DHV). Mr. Tomlin also reminded the Council that the ACO would be a stop-gap-measure until new consolidation rules are proposed and adopted to New Jersey Administrative Code 7:25A. Lastly, while the Commissioners office is supportive of the issuance of the ACO and the adoption of new consolidation rules, there was some concern whether the new ten to one ratio will satisfy the industries needs or would further ACOs be requested following the adoption of a new rule that allows for the consolidation of ten DVLs under one DHV. Mr. Tomlin did say he reviewed the actions of the Consolidation Committee with the Commissioner's office to assure them that the ACO would be a one-time issuance.

6.4 Oyster Tonging Industry Update

Mr. Tomlin gave the update by reporting that 1050 tonging tags have been sold for this season, with 625 bushels of harvest reported so far. Also, most of the harvest has come from the Nantuxent Cove area.

6.4.1 Miscellaneous Tonging

Councilman Hollinger followed the tonging industry updated by stating that he had been contacted by some tonging industry members that led to discussions about enhancement efforts in tonging areas. As a result of these discussions, Councilman Hollinger had a few questions for Staff. First was, "what is the cost per bushel to plant shell?" Mr. Tomlin responded that the cost was dependent on where the planting would take place and how many bushels would be planted. Furthermore, when asked about the shell-purchasing contract, Mr. Tomlin informed the Council that the previous shell-purchasing contract had expired and that there would not be a new contract due to a lack of bids. One reason the State did not receive bids on this contract was due to the variability in cost of shell.

Councilman Sheppard made a motion to approve spending for the purchase of shell for the upcoming 2023 shellplanting project. Councilman Fleetwood seconded the motion. All were in favor and the motion passed.

Councilman Fleetwood asked Mr. Tomlin how many bushels of shell can be expected to be purchased. Mr. Tomlin responded that he hoped to purchase twice the amount of shell that was planted last year, which was approximately 100,000 bushels.

Following the discussion on shellplanting, those in attendance discussed potential enhancement efforts in the tonging areas and other hardships the industry faces. Mr. Tomlin ended by promising that staff would work with the Bureau of Law Enforcement to make coordinates for the beds at the mouth of Back Creek available to the public. Lastly, Mr. Tomlin invited industry members to stop by the Delaware Bay Office if they had any questions about tonging regulations or suggestions to improve the industry.

6.5 Shellfish Council Administrative Guidelines

Mr. Babb recapped that at the November 2022's Council meeting, copies for review of proposed Shellfish Council Administrative Guidelines were given to the Council. Mr. Babb went on to remind the Council that the guidelines were first drafted in 2015 and shared again in 2017. Given that the guidelines were never officially adopted, the guidelines were put on November's Council meeting agenda for both Council sections. As such, it is the Bureau's hope that both sections of the Council will make final comments on the document and vote on whether to officially adopt the guidelines.

6.6 Sunday Harvest Committee Update

Mr. Gainie began the update by stating that the Committee had yet to come up with a unanimous decision on how to allow Sunday harvest of oysters on the Delaware Bay. The Committee did draft potential recommendations shown below:

- 1) The Committee recommends the allowance of Sunday harvest at a specific time within Delaware Bay: Namely Sunrise to Sunset, Trenton time for given day.
- 2) The Committee recommends the allowance of Sunday harvest on leases in specific Areas with in Delaware Bay: Namely Sections A,B,C,D,&E.
- 3) The Committee recommends the allowance of Sunday harvest via a specific method including, contacting the Bureau of Shellfisheries (Delaware Bay office) 48 hours prior to a Sunday harvest with the following information: Lease grounds to be harvested, estimate harvest amount, estimated time of landing, and the location of the landing.
- 4) The Committee recommends a report be presented to the Council annually with the aggregate information collected by the Bureau regarding the use of the Sunday allowance.
- 5) The Committee recommends regulations be established that allow the Council the flexibility to modify or dismiss the Sunday allowance without a regulatory change, should it not be sufficiently used or needed.

It was noted that these recommendations for a Sunday harvest allowance of oysters off leases is within the Council's authority, but the harvest of clams, either wild or cultured, on Sunday is not within the powers of either section of the Council, per New Jersey Statute Title 50:2-11. Following the review of the above recommendations, the discussion moved on to a bill package that included provisions for Sunday harvest, which circumvents and undermines the Council's authority. A lengthy discussion ensued, which was followed with the below motion being made.

Councilman Fleetwood made a motion to send a letter to the sponsors of bill A3847 which exempts shellfish aquaculturists with commercial shellfish aquaculture license from law prohibiting taking of shellfish on Sunday. The letter is to express that bill A3847 should be removed from any bill packages being moved into law. The letter should also state that this

bill unlike other proposed aquaculture bills undermines the Council's authority on Sunday harvest. Councilman Sheppard seconded the motion. All were in favor and the motion passed.

7. New Business

7.1 Upcoming Stock Assessment Workshop (SAW)

Dr. Bushek briefed the Council that the upcoming SAW would be held between February 2nd and 3rd, 2023. Furthermore, due to lingering Covid-19 concerns only SARC members will be able to attend in person. Therefore, all other interested parties must attend virtually.

7.2 Dermo Update

Dr. Bushek gave an update on what had occurred in the Bay during 2022 regarding Dermo disease. During the year 2022, many of the same patterns seen in previous years were observed. 2022 did have less rain than average which cause weighted prevalence of Dermo to be a little higher than usual upbay. 2022 also saw very high of spat set in the upper region of the Bay. Dermo levels were highest down-bay in the Cape Shore region. Rutgers' staff is continuing its work with selective breeding in the Cape Shore region to develop a line of oysters that suffer lower rates of mortality due to Dermo than wild brood stocks.

7.3 2023 Delaware Bay Section of the New Jersey Shellfisheries Council Meeting Schedule

Mr. Tomlin shared tentative dates for upcoming Council meetings throughout 2023. The tentative dates for 2023 are January 10th, March 7th, May 2nd, July 11th, September 5th, and November 14th. No motion was needed to approve the dates, given that the Council can change the date of meetings as needed.

7.4 Delaware Bay Tributary Survey

Mr. Davis gave a brief presentation on the Bureau's new Side-scan Sonar System (SSS) and plans to use it to aid in assessing resources throughout the waterways listed in New Jersey Statue Title 50:3-14. In short, the Bureau of Marine Habitat and Shellfisheries will be implementing a program to map oyster reef habitat within NJ's Delaware Bay tributaries. Staff will be using a Klein 4900 SSS and other sampling techniques to map these habitats. This is the first effort to map these resources and the data will be used to develop management strategies and aid in decision making both harvest programs as well as enhancement activities. These data will be used to advise governmental and nongovernmental agencies on habitat conditions prior to waterfront development projects such as dredging, beach stabilization, and wave attenuation, etc. This technology was recently (successfully) used to inform the US Army Corps of Engineers of habitat areas relative to a planned dredging project.

7.5 Tonger's Committee

Mr. Davis noted that the Bureau had recently become aware of the questions and concerns of the tonging industry, which were addressed earlier in the meeting following the oyster tonging industry update under old business. As such, Mr. Davis asked for the Council's permission to reconvene the Tongers Committee. Mr. Tomlin added that past members were still in good standing and eligible to be on the committee, and that staff would try to contact additional, active industry members to join the Committee and officially add new members to the Committee at the next Council meeting. The Council was in favor reconvening the Tongers Committee.

7.6 Miscellaneous New Business – Oyster Disease Notification Network – Seed Importation

Councilman Hollinger brought to the attention of the rest of the Council that at the latest Aquaculture Advisory Council a resolution was made pertaining to aquaculture industry members notifying the appropriate authorities when a disease is suspected or detected in farm raised aquaculture products. Councilman Hollinger went onto explain that his concern with the resolution was that it allowed for a full month between detection and notification. That is, given the very near proximity of wild stock to structural aquaculture leases, particularly in Section E of the Delaware Bay, notification to governing agencies and neighboring shellfish leases must occur as soon as possible. Furthermore, notification and mitigation efforts must be implemented well before a month's time has passed to keep invasive, non-native diseases from causing the fishery to crash in a similar manner to what occurred following the introduction of MSX disease in the early 1950's and Dermo disease in the 1990's. Moreover, immediate actions will help to ensure the Public's health if a human pathogen, such as an of the various Vibrio species, is detected in farm raised products prior to harvest. A lengthy discussion ensued that covered topics such as penalties for violating the State's shellfish seed importation policy, confidentiality, pathogen testing resources (Histology/PCRs), and the need for an oyster disease notification network. The discussion ended with Mr. Babb promising a short presentation on the State's shellfish seed importation policy, which will be presented to both sections of the Council, and some drafted language on how a notification network could be established and implemented.

8. **Date, time, and place of next meeting: - Council**

DATE: Tuesday, March 7, 2023

TIME: 6:00 PM

LOCATION: T.B.D.

Councilman Hollinger reviewed the date and time of the next meeting and noted the location was to be determined.

Councilman Malinowski motioned to adjourn the meeting. Councilman Fleetwood seconded the motion. All were in favor and the motion passed.

The meeting was adjourned at 8:00 P.M