

DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL MEETING

MINUTES

Virtual Meeting, Web and Conference Call via GoToMeeting

Tuesday, September 7, 2021

6:00 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

State Representatives: Amanda Wenczel, Department of Agriculture

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 (N.J.S.A. 13:1B-30 et. seq), a notice of this meeting was posted August 31, 2021 with the Secretary of State's Office, State House, Trenton, NJ and this meeting will be recorded.

Using presentation slides to guide the meeting, Mr. Tomlin opened the meeting and reviewed the above compliance. He then reviewed the virtual meeting etiquette and instructions and conducted roll call for the Council.

1. Approval of Minutes: May 4, 2021

Councilman Fleetwood motioned to approve the minutes. Councilman Malinowski seconded the motion. All were in favor and the motion passed.

2. Delaware Bay Office revenue collected for:

May 2021: \$48,724.00 and is summarized as follows:

Oyster Tags	\$47,694.00	DB & AC Crab Dredge	\$100.00
Application Fees	\$26.00	Commercial Crab Pot	\$400.00
Nets	\$452.00	Menhaden	\$52.00

June 2021: \$39,266.00 and is summarized as follows:

Oyster Tags	\$46,042.00	DB & AC Crab Dredge	\$200.00
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Dredge Boat Renewal	\$112.00	Application Fees	\$38.00
Nets	\$1,124.00	Menhaden	\$208.00
Commercial Crab Pot	\$2,200.00	Commercial Shellfish	\$50.00

July 2021: \$26,243.00 and is summarized as follows:

Oyster Tags	\$21,672.00	Nets	\$303.00
Assign Fees	\$4,000.00	Menhaden	\$52.00
Commercial Crab Pot	\$200.00	Application Fees	\$16.00

August 2021: \$36,542.00 and is summarized as follows:

Oyster Tags	\$31,072.00	Nets	\$502.00
Assign Fees	\$4,000.00	Menhaden	\$154.00
Commercial Crab Pot	\$400.00	Application Fees	\$14.00
Crab Dredge	\$400.00		

Mr. Tomlin displayed the office revenue outlined above using the presentation.

3. Oyster Resource Development Account *(as of 4/29/2021)*

Expended:	\$ 59,449.89
Unexpended:	\$674,325.74
Encumbered:	\$119,999.97
Uncommitted:	\$554,325.77
FY-19 Pre-encumbered (Nantuxent):	\$ 10,121.70

Councilman Hollinger reviewed the account information which was also displayed. He then asked if the \$100,000 from FY19 shell plant was back in the account. Mr. Tomlin said some progress had been made, but it was not back in the account yet. Councilman Sheppard asked what had been expended, to which Councilman Hollinger replied the money for the 2021 shell plant and intermediate transplant was expended.

4. Applications for Consideration

Applicant	Section	Lot	Acreage	Acreage Fee	Application Fee
Courtney Riebel Randolph Camp	ADZ 2	2	10	\$100	\$250
Edward Gaine	A	278	200	\$100	\$250

Mr. Tomlin reviewed the above leases with the Council. Ms. Riebel and Mr. Gaine were both present at the meeting fulfilling the meeting attendance requirements for lease applicants. Both leases were to be presented at the next Council meeting for decision.

5. Old Business

5.1. Red Knot Update

Councilman Hollinger reported that a virtual meeting was held that discussed the US Fish and Wildlife Service (USFWS) updating designations for critical habitat under the Endangered Species Act (ESA). He explained there were no changes at that time to the Aquaculture Development Zone, but that when the Programmatic Biological Opinion expired it would be updated for critical habitat at that time.

Mr. Tomlin presented that the ESA required the USFWS to identify locations of habitat that were essential to the survival of threatened or endangered species. He explained that any time a project was reviewed, there was a consultation to determine if it would jeopardize the species whether or not it was within critical habitat. Mr. Tomlin noted that the critical habitat document stated:

“We anticipate the most substantially affected economic activities from the critical habitat designation will be coastal engineering (e.g., dredging, flood control, shoreline stabilization) and development. Other economic activities that may be affected to a less substantial degree include agriculture (mainly aquaculture), conservation/restoration, energy development/transport, transportation, and utilities.”

He said that was important because the USFWS realized that designating critical habitat could have some type of effect on aquaculture. He advised that it was really important and timely that the Council commented on the ESA because public comments were due by September 13, 2021. Mr. Tomlin informed that the Bureau had drafts they could provide to the Council, and he presented the designated areas from the ESA which the Council observed and discussed. Mr. Tomlin noted that most of the areas were adjacent to NJ Wildlife Management Areas or state or federal lands without much development on them. *Further discussion ensued*, including concerns that the Council should comment on the economic impact to aquaculture, potential impacts to operations if the ADZ became designated as critical habitat, and the general process of updating the rule.

5.2. Nantuxent Creek Channel Dredging Update

Councilman Hollinger thanked Mr. Hassall for all the work he put into getting the dredging project going. He said Councilman Fleetwood and himself had been to a lot of meetings about the project, but that Mr. Hassall did most of the work behind the scenes that the Council was not able to do.

Mr. Tomlin reported that the project needed additional hazard markers for the Blue Acres portion of the project, but besides that everything for the project was going through. Councilman Hollinger and Councilman Fleetwood explained some details and small changes to the dredging plan, and that they were to start work within the next two weeks. *Further discussion ensued*.

Councilman Hollinger wanted the Council and the industry to send a letter to the Department of Transportation and DEP to thank them for all the work they have done for the industry with the dredging project. Councilman Fleetwood wanted the Council to request that Senator Testa also send a letter to thank them if he had not done so already. Mr. Tomlin informed Councilman Hollinger that they can discuss the letters when they met the next day.

Mr. Hassall responded to the Council's thanks by saying they were very welcome, and he was glad the project was moving forward.

5.3. Council Committee Update

5.3.1. Leasing Committee

Mr. Tomlin informed that there had been no recent meetings since it was decided to wait until the Committee could meet in person. Mr. Tomlin said that was still the case, so the Bureau wanted to schedule a virtual meeting for October. The Council agreed, and Mr. Tomlin said the Bureau would reach out to all the Committee members.

5.3.2. Consolidation Committee

Mr. Tomlin reported that at their last meeting, the Council requested a letter be sent out to the license holders outlining what the Committee was planning to change within the rules so they could provide input. Mr. Tomlin said the letters were sent out recently, and the Bureau was awaiting responses. He also informed the Council that the Bureau would like to hold this Committee meeting in October as well, to which the Council agreed.

5.4. Lease Transfers and Renewals

Mr. Tomlin informed that the Bureau did not know when to expect staff to return to the office in the fall due to the pandemic. He explained that lease renewals would be conducted through the mail as they were last year, and that staff would be sending out renewal packets soon. Mr. Tomlin said that if there were extenuating circumstances preventing renewals through the mail, the lease holders may call the office to make other arrangements if possible.

Mr. Tomlin explained that the Bureau was recently reviewing how lease transactions were conducted, and that they found that lease transfers were not being processed by the current regulations. In the past the Bureau was only informing the Council of the transfers. He displayed Title 50:1-29 and pointed out that lease transfers must be approved by both the Commissioner and the Council. Mr. Tomlin said the Bureau was asking that everyone follow these steps in order to transfer a lease, 1. Transferee go to the Delaware Bay office and apply for transfer 2. Transfer would be presented at the next Council meeting for approval 3. After Council approval, new lease holder would come to the office and pay for their leases 4. once paid for the Bureau will approve lease transfer for the Commissioner and the new lease holder would be able to use the lease. Mr. Tomlin said that it was a little longer of a process, but it gave the Council the chance that was supposed to be given by Title 50 to review any of the transfers. *Further discussion ensued.*

5.5. 2021 Oyster Industry Update

Mr. Tomlin said that there was 94,800 bushels harvested, and furthermore that 37,000 bu. were from the High Mortality beds, 40,500 bu. from Shell Rock, and 17,000 bu. from the Medium Mortality beds. The overall catch per unit effort (CPUE) was 125 bushels per boat per day, and the CPUE was 116 for the Medium Mortality beds.

5.6. 2021 Shell Planting Update

Mr. Tomlin reported that there were 95,609 bushels of shell planted across two sites. One site was on the High Mortality beds, and one site was on Shell Rock. He noted that some set was observed during sampling, but the 2021 shell plant sites would be surveyed later in the season. Mr. Tomlin said that Rutgers had done some surveying to observe oyster larvae in the water column, and that some was observed towards the end of July. He said that larvae would hopefully settle and be observed on shell during future samplings.

5.7. CARES Act Update

Mr. Babb reviewed the CARES Act outline displayed. He reported that the round two of funding was on its way, but that the sectors defined in the first round were removed to give more flexibility for giving out payments. He noted there was about \$1.025 million for a Fisheries Marketing Plan to campaign for the industry in a broader sense. The application was to open August 18, 2021 through October 15, 2021 with just over \$8 million that was available for eligible fisheries related businesses in the form of direct payments. He said the eligibility differed for lost revenue from July 1, 2020 through December 31, 2020. He outlined the eligible business types which included Commercial Fisheries Businesses, for-hire and charter businesses, processors, dealers, and bait and tackle shops. He noted that fisheries related businesses farther down the supply chain were not eligible for the funding. Mr. Babb then reviewed the finer details of the funding and eligibility requirements, and noted that \$58,697 was allocated to develop and implement a training and education plan for NJ's fishing industries. *Further discussion ensued.*

5.8. Council Correspondence

Mr. Tomlin introduced a map of an upcoming subsea fiber optic cable project. Councilman Hollinger reported that Atlantic Coast Councilman Maxwell and himself received an email about a telecommunications cable that would run from Boca Raton, FL to Manasquan, NJ, with three other landings in Jacksonville, FL; Myrtle Beach, SC; and Virginia Beach, VA. He asked the sender if the cable would run through the new wind farm area. He was told the new cable would follow existing undersea communications cables, which far enough offshore that it would not go through the wind farm.

The Councilman said it would likely not affect the Delaware Bay but asked if it would affect the Atlantic coast. Mr. Normant said he was also emailed about the project, and that he was heavily involved with the cables installed in the 1990s when they consolidated the cables. He explained that in the 1990s, there was a committee that had offshore fisherman, associations, and so forth that were to be contacted along with the Shellfisheries Council for any future projects. He said because of the past, he believed they were looking to consolidate the cables, but he would ask for more information at an upcoming meeting he was attending for an environmental review. Councilman Hollinger asked if the cable landing in Manasquan would

interfere with the transmission cables for the offshore wind farms. Mr. Normant and Mr. Babb said that the new cables would run along existing paths and terminals which were outside the wind farm leases and terminals. Mr. Normant said he would ask for more information at the meeting. *Further discussion ensued.*

6. New Business

6.1. Army Corps of Engineers NJ Back Bays Study

Mr. Tomlin reported that the Army Corps of Engineers (ACOE) had been working on the \$16 billion dollar plan since 2016. The study would help mitigate the impacts of storms and stormwater in the NJ coastal back bays. The document was about 500 pages, and comments were due by October 12, 2021. The ACOE called it the tentatively selected plan which would involve storm surge barriers and inlet closures across Manasquan, Barnegat, and Little Egg Harbor Inlets; cross bay barriers at Absecon Blvd and southern Ocean City; elevation and flood proofing of over 18,000 structures; and some other structures including flood walls, levees, sea walls, etc. that could be adjacent to higher ground. Of the \$16 billion, \$10 million would be sourced from federal funds. He told the Council that the Bureau could send them a copy to review. After some further discussion, Mr. Babb said that the Marine Fisheries Administration had several biologists reviewing the document.

6.2. Supporting Oyster Aquaculture and Restoration (SOAR)

Councilman Hollinger opened the floor to the public. Ned Gaine asked if there were any updates from PEW regarding the SOAR program. Councilman Hollinger informed him that the PEW representative had left the meeting, but that he was told there was no upcoming program in 2021. Mr. Gaine said that should have been communicated to the entire industry since that was the first time he heard the program would not be conducted. He claimed that not having the program affected industry members' business plans, so PEW should inform the industry as soon as possible if it would not be conducted. *Further discussion ensued.*

7. Date, time and place of next meeting:

DATE: Tuesday November 9, 2021
TIME: 6:00 P.M.
LOCATION: Virtual

After the meeting was adjourned, the Council set the time for the next meeting for 6:00 P.M.

8. Adjournment

Councilman Fleetwood motioned to adjourn the meeting. Councilman Malinowski seconded the motion. All were in favor and the motion passed. The meeting adjourned at 7:21 P.M.