

MINUTES OF THE MEETING OF THE ATLANTIC COAST SECTION OF THE
NEW JERSEY SHELLFISHERIES COUNCIL

Virtual Meeting
Monday, September 19, 2022

Present were: Chairman: John J. Maxwell (Atlantic County)
 Vice-Chairman: Walter L. Johnson III (Ocean County)
 Councilman: Paul T. Felder (Cape May County)
 Councilman: George Mathis Jr. (Burlington County)
 Councilman: Vacant (Monmouth County)

DEP Representatives: Joseph Cimino, Marine Resources Administration
 Russell Babb, Bureau of Shellfisheries
 Jeffrey Normant, Bureau of Shellfisheries
 Colleen Brust, Marine Resources Administration
 Jenny Tomko, Bureau of Shellfisheries
 Megan Kelly, Bureau of Shellfisheries
 Robert Schuster, Bureau of Marine Water Monitoring

Mr. Normant read the State’s compliance with the Open Public Meetings Act and notice was filed with the Secretary of State Office and sent to the Atlantic City Press and NJ Advanced Media news outlets. He announced that the meeting would be recorded.

1. Total Revenue for August \$ 208.00
 Shellfisheries Law Enforcement Fund \$ 188.00
2. Presentation of August 15, 2022 minutes for approval.

The August 15, 2022 minutes of the meeting were approved on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Johnson abstained because he was not able to review the minutes before the meeting.

3. Applications for Decision

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Joanne Galante-Williams*	409	A	2.00	Jenkins Sound	3
Gary R. Williams*	410	A	2.00	Jenkins Sound	3
Luke Williams*	411	A	2.00	Jenkins Sound	3
Stephen O’Connor*	412	A	2.00	Jenkins Sound	3

*Was in attendance at the August 15, 2022 meeting

Ms. Galante-Williams and Messrs. G. Williams, L. Williams, O'Connor were present at the August 15, 2022 meeting and fulfilled their obligation to attend one of two meetings. Applications for decision were approved on a motion by Mr. Johnson and seconded by Mr. Mathis. Mr. Normant stated that the applicants would have 30 days to sign their lease agreement and pay their lease fees.

4. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Bridgitte Bliss	Graveling Point LLC – J. Maxwell	194	B	2118.77 ft	Mullica River	1A
Graveling Point LLC – J. Maxwell	Walter L. Johnson III	2257.1	B	1.86 ac	Dry Bay	24.2
Graveling Point LLC – J. Maxwell	John J. Maxwell	2265	B	2.15 ac	Dry Bay	24.2

The transfer application from Ms. Bliss to Graveling Point LLC was approved on a motion by Mr. Mathis and seconded by Mr. Johnson. Mr. Maxwell abstained due to his involvement with the transfer.

The transfer application from Graveling Point LLC to Mr. Johnson was approved on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Johnson and Mr. Maxwell abstained due to their involvement with the transfer.

The transfer application from Graveling Point LLC to Mr. Maxwell was approved on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Maxwell abstained due to his involvement with the transfer.

5. Old Business:

Offshore Wind

Ms. Brust provided a brief update on the research and monitoring initiatives in New Jersey regarding offshore wind. This was an initiative that was funded through a second offshore wind initiative. It was being administered by the BPU and the NJDEP working together and the ideas to fund wildlife and fisheries research related to offshore wind. Study projects include gliders, novel surf clam dredge, socioeconomics of recreational fisheries, passive acoustic, acoustic telemetry for fish, monitoring for baleen whales, and turbines as monitoring platforms. Ms. Brust explained that the Marine Resources Administration was sending update to NJ stakeholders by email. This included fishery representatives on ERWG, Marine Fisheries Council's Offshore Wind Committee, and committee advisors. Since there were frequent updates to stakeholders through this process, updates to Council may be less frequent.

Ms. Brust explained to the Council that three recent state comment letters were shared with NJ Fisheries stakeholders which included Ocean Wind DEIS, NOI for NY Bight PEIS, and the draft Fisheries Mitigation Guidance Document from BOEM. NJDEP comments sent on the documents listed were available on the offshore wind webpage: <https://nj.gov/dep/offshorewind/resources.html>.

In addition, NJDEP was reviewing Ocean Wind 1 for permitting. Application was determined to be administratively deficient which resulted in a delay on the statutory review clock. Also, NJDEP was beginning to work with new offshore wind lease holders.

Lease Policy Committee Update

Ms. Kelly informed the Council that it was the Bureau's intent to complete the draft committee reports for the Council. A draft copy of the report was delayed due to other projects, but the goal was to provide the Committee a draft for review by the end of the year and then schedule a follow up meeting with the Committee for discussion. Discussion ensued on scheduling meetings and if the meetings would be virtual or in-person.

Legislative Update

Mr. Babb explained that the legislative report that was shared with the Marine Fisheries Council was sent to all Shellfisheries Council members as well as an update on the various pending legislation. Mr. Babb presented to the two most pertinent pieces of legislation that was related to shellfish aquaculture were Sunday Harvest and Right to Farm. There have been no significant changes to the status of either Bill which were being held in Committee. Mr. Maxwell agreed that sharing the document was helpful to keep the Council informed. No other comments from Council or the public.

Correspondence Sent – Bureau Letter to Leaseholders on Permit Compliance

Mr. Babb informed the Council that a letter from the Bureau of Shellfisheries was sent to all existing leaseholders on August 23, 2022 that strongly encouraging leaseholders to get all required permits for aquaculture activities if they have not done so already. This letter was in addition to the letters sent by both the Atlantic Coast and Delaware Bay sections of the Council a year ago which focused on permit compliance for structural shellfish aquaculture. Mr. Babb added that the letters all included language to reach out to the Bureau if a leaseholder was unsure of permitting status and noted that all leaseholders were reminded to adhere to all special conditions listed within the Division of Land Resource Protection Permits. If conditions were not met, then the permit may not be valid.

This letter directed all leaseholders to the new shellfish aquaculture website which had all the permitting processes explained as well as contact information for the various agencies involved if they had any questions.

Mr. Babb noted that he had received only a couple of responses from the letter, with one grower questioning whether the Department had the authority to require permits. Mr. Babb explained that the Army Corps and State permits have been in place for over 10 years, so there was no excuse not to have permits to be a validly operating a shellfish aquaculture operation, particularly for structural aquaculture. The main goal was to get the shellfish aquaculture industry compliant and operating in a safe and environmentally sensitive manner.

Discussion ensued on the implications if someone did not have all required permits and the potential consequences. This included enforcement action, notice of violation, and fines.

6. New Business:

Floating Gear/Bird Deterrents

Mr. Schuster with the Bureau of Marine Water Monitoring (BMWM) explained that during annual evaluations and inspections with the FDA and marine law enforcement there has been issues regarding inadequate or no bird deterrents on floating aquaculture gear. The BMWM had met with some growers to remedy the situation. Mr. Schuster explained in some cases there were hundreds of birds observed on the floating gear with a lot of bird waste covering the gear. This was an immediate issue for public health, so the BMWM met with the growers that were implicated and requested that they submerge the product in an area away from that gear in Approved waters for 21 days to reduce the risk of any immediate public health threat. Mr. Schuster explained this was currently done routinely by regulation in the State of Delaware.

Mr. Schuster added that besides the immediate public health issue, there was the long-term impact that would need to be addressed. There have been suspensions in areas on the coast due to water quality, which included Ludlam Bay, which was an area with floating gear. In response to the Ludlam Bay water quality degrade, additional sampling stations were added with some near floating aquaculture gear. Mr. Schuster explained that numbers were looking good in June and July, but in August there were a lot of birds reported during sampling and the bacteria count that was next to the gear was high. Concerns were raised about the impact these bird populations had on the overall water quality and additional suspensions of water around lease areas.

Discussion ensued regarding the process of responding to a short duration pollution event which included submerging gear in approved waters for 21 days. Mr. Normant asked how far away the product needed to be moved from a lease to be submerged to the next available approved area waters. Mr. Schuster added that a few 100 yards should be acceptable if there was no other floating gear. Further discussion ensued regarding having oyster and clam culture in the same area and the potential implications. Mr. Maxwell suggested that this topic be discussed in a committee to start the conversation on how to address this issue and potential policy decisions to remedy the bird deterrent issue.

Mr. Gainé provided public comment which included commending the BMWM for providing additional sampling methods and for completing sampling quickly to mitigate the issue. Mr. Gainé added that in terms of the guidance document from the ISSC, as an industry representative, he had been pushing to not be too prescriptive in allowing the farmers entrepreneurial experimentation to occur to mitigate the situation. It was not up to the State to determine how to use bird deterrents rather to tell farmers when they are not doing it well. Mr. Gainé added that flow dynamics, stocking density, and husbandry methods play different roles in this situation, so there was not a one-size-fits-all scenario. He was hopeful that the Bureau of Marine Water Monitoring would develop a rubric for evaluation to allow for experimentation.

2023 Lease Renewal Process

Ms. Kelly informed the Council that the shellfish lease renewal period was from October 15 to December 31 of this year. Like previous years, all required documents will be mailed to each leaseholder before October 15th. Leaseholders must sign all required documents and pay the lease fees, but they had the option to either submit the application by mail or come in to the Nacote Creek Shellfish Office. Appointments were encouraged.

2022 – 2023 Surf Clam Quota

Mr. Normant noted that the industry proposed a quota of 1,824 total bushels for all 57 shares of the quota. The 2022 – 2023 surf clam quota was approved on a motion made by Mr. Johnson and seconded by Mr. Mathis.

Discussion ensued on the stock assessment and the regulatory process for surf clam license holders. Mr. Normant added that the last stock assessment was in 2019, but the grant was switched to focus on Raritan Bay for the hard clam stock assessment. Mr. Johnson asked if there was any funding available to do additional sampling. Mr. Normant added that there were on going federal stock assessments. The Bureau was not opposed to additional sampling efforts, but there would need to be some indication that stocks could be viable to support a fishery to re-initiate a survey.

2023 Committee Membership

Discussion ensued on Council committee membership which included the number of members, attendance, and industry representation, and was open and fair to the public. Mr. Maxwell suggested that the Council discuss at the next meeting the vetting process for committee membership for 2023 and suggested to follow the model put forward by the Marine Fisheries Council.

Out of State Shellfish

Mr. Mathis stated that it was brought to his attention that oysters were being imported from not only other states but from other countries, which included Canada's Prince Edward Island and Nova Scotia and being planted into the State's waters when not sold. Mr. Mathis requested to notify retailers and wholesalers that are buying out of state oysters to not replant them into state waters. Mr. Babb added that NJ Statute Title 50 states that no shellfish shall be brought directly or indirectly from any foreign country, or any other state shall be lodged or planted in the waters of the state without written permission issued by the Commissioner. Discussion ensued on the current shellfish importation review process which generally included small seed rather than large shellfish. Council was notified of every out of state seed importation authorization as well as the size of the product and where it was coming from. Mr. Normant asked Mr. Schuster if he could have discussions with Department of Health to make this known and maybe they could send a letter to certified shellfish shippers in New Jersey to better educate them. It was discussed that the Bureau send an email to all available contacts on shellfish list service in addition to asking Department of Health for help notifying.

Waretown Overwintering Leases

During public comment, Mr. Carroll asked the Council if he would be able to apply for a lease off Waretown for overwintering. Mr. Normant explained to the Council that in 2020 a few growers were interested in finding an area to overwinter gear in the Barnegat Light area. The Bureau reviewed potential areas in Swan Point and Barnegat Light. In 2021 the growers involved proposed a lease area near Waretown, and as a result the proposal was brought the Atlantic Coast Leasing Committee for review and recommendation. The Leasing Committee had concerns but recommended to allow the applications to be submitted conditionally with adherence to seasonal water timing restrictions, the product was to be tied specifically to the leases in Barnegat Light for overwintering only, and the proposed leases would not be transferrable. In February 2021, the Council approved the Leasing Committee's recommendation to allow applications to be submitted for three new leases off Waretown for on-bottom overwintering of product only from the Barnegat Light leases. Mr. Carroll submitted a lease application for one of the lease areas, the other two growers who expressed interest did not apply for one of the leases that

were proposed. Mr. Carroll's lease was cancelled due to non-staking after six months of the lease being applied for. After the lease application was cancelled, Mr. Normant recalled talking to the growers involved and it was explained to him that the leases for overwintering were not needed as the lease they were given permission to use in that area did not work out. Mr. Carroll expressed that he let the application lapse, but it was not because they were not needed. In September 2022, the Bureau was approached again with interest in applying for the proposed overwintering leases in Waretown.

Mr. Maxwell noted that since the one application and interest from the other growers never went forward, that if the growers wanted to apply for the overwintering leases in Waretown again, they would need to follow the vetting process with the Lease Policy Committee. Discussion ensued. Mr. Normant requested that Mr. Carroll provide him with a written proposal to describe the intent of the use of this proposed lease area for Lease Policy Committee review. The Council agreed to review the proposal at the next Lease Policy Committee meeting.

The meeting adjourned on a motion made by Mr. Johnson and seconded by Mr. Mathis.

7. Date time and place of next meeting:

DATE: October 18 , 2022 (Tuesday)
TIME: 6:00 PM
LOCATION: Virtual