

MINUTES OF THE MEETING  
OF THE  
ATLANTIC COAST SECTION OF THE NJ SHELLFISHERIES COUNCIL

Nacote Creek Law Enforcement  
Port Republic, NJ  
March 16, 2009

Present were: Chairman John Maxwell (Atlantic)  
Councilman Walter L. Johnson III (Ocean)

Absent was: Vice Chairman Walter Hughes (Monmouth)

State Representatives: James W. Joseph, Bureau of Shellfisheries  
Jeffrey C. Normant, Bureau of Shellfisheries  
Michael Celestino, Bureau of Shellfisheries  
Robert Connell, Bureau of Marine Water Monitoring

Mr. Maxwell called the meeting to order. Mr. Joseph read the State's compliance with Sunshine Law. He announced that the meeting would be recorded.

1. Total Revenue collected for February 2009: \$1,630.20  
Shellfisheries Law Enforcement Fund: \$1,424.00

2. February 9, 2009 Minutes

The Council decided to postpone approving the February 9, 2009 minutes until the next meeting since Mr. Johnson had not received a copy of the minutes prior to the meeting.

3. Applications for Transfer

<u>LESSEE</u>	<u>APPLICANT</u>	<u>LOT #</u>	<u>SEC</u>	<u>ACRES</u>	<u>LOCATION</u>	<u>MAP</u>
Christopher McCourt	William Avery	2229	B	1.19	Dry Bay	24.2
Robert Lee	William Avery	2722	B	2.10	Shelter Island Channel	28
Robert Lee	William Avery	2725	B	2.01	Shelter Island Channel	28

Without discussion, the lease transfers was approved on a motion by Mr. Johnson and a second by Mr. Maxwell.

4. Old Business

Vibrio Control Measures

Mr. Connell presented the Vibrio parahaemolyticus (Vp) Control Plan to the Council. The control measures were implemented to prevent illnesses associated with Vp in shellfish. He stated that there had previously been some illnesses associated with oysters harvested from the seed beds in Delaware Bay. Studies by the US Food and Drug Administration, the NJ Department of Health and Human Services (NJDHHS) and NJDEP have shown that the primary factor involved was temperature of the product after harvest. The focus of the control plan developed by NJDEP and NJDHHS was to try and keep the shellfish product at a proper temperature prior to and during shipment to consumers. The Delaware Bay Section of the NJ Shellfisheries Council had set up a committee, with industry, state and federal representation, to develop these control measures. These control measures would be required for area DB 1 in Delaware Bay. The control measures included restricted harvest times during the summer, a voluntary harvest suspension from the oyster seed beds from June 15<sup>th</sup> to June 28<sup>th</sup> (since most illness occurred during that time frame) and that the product must be shaded on the boat and the docks. The main component of the plan was that the product must be stored in a forced air cooler overnight prior to shipping. Refrigerated trucks were not

designed to cool product, but only to maintain product temperature. All of the illnesses associated with oyster product harvested from Delaware Bay occurred out of state. Mr. Connell strongly recommended that other harvest areas in New Jersey follow these procedures and that these procedures should also be followed for clam harvest as well. Mr. Maxwell inquired on the rack and bag oyster culture in lower Delaware Bay (area DB 2). Mr. Connell stated that Vp is salinity dependant. Vp was less prevalent in high salinities. Mr. Joseph reiterated that illnesses were attributed to oysters harvested from the seed beds (DB 1). Mr. Joseph inquired if Vp sampling had been done prior to the outbreaks in 2001 and if sampling had been done on the Atlantic coastal bays in NJ. Mr. Connell stated that sampling had been done prior to the outbreak in Delaware Bay since there had been outbreaks reported in other states. He also stated that there had been some samples of clams in Raritan Bay several years ago. Further discussion on the matter ensued.

## 5. New Business

### Shellfish Lease proposal in Cape May County

Mr. Leonard Prickett inquired on the process of establishing a shellfish lease in Stites Sound in Cape May County. Stites Sound has no existing leases. Mr. Joseph stated that Council and the Department have had a long standing policy of only allowing new lease applicants to apply for parcels adjacent to existing leases for reasons of enforcement and user group conflicts. Mr. Joseph suggested several options. One option would be for Mr. Prickett to apply for a lease adjacent to the block of leases in Great Sound. The second option would be that if there were other individuals interested in acquiring a lease in that area, establishing a block of leases would be considered, such as the recent proposal of a new block of leases in Little Egg Harbor Bay. Establishing a block of leases would cut down on survey costs and the block won't be an isolated single lease where there would be enforcement issues. He said that there still might be user group conflicts or that the area might be productive bottom. Mr. Prickett stated that he had tried to get other shellfishermen involved, but they seem to have no interest. Mr. Maxwell stated that there was nothing in the rules that suggests that Mr. Prickett could not make an application, however, he stated that Mr. Joseph was correct in that Mr. Prickett should seek other individuals to try and establish a block of leases. He said that it doesn't make sense for Mr. Prickett to establish an isolated lease. Mr. Joseph suggested that Mr. Prickett contact Mr. Normant to further discuss the issue and to look for a potential lease area adjacent to a block of leases. Further discussion on the matter ensued.

### Structural Shellfish Lease in Barnegat Bay

Mr. John Aubin, an environmental consultant, stated he would like to establish a two-acre oyster aquaculture lease in Barnegat Bay behind Island Beach State Park across from Cedar Creek. He identified a slough area that was not in conflict with submerged aquatic vegetation. He planned on growing approximately 120,000 seed oysters in submerged Taylor Floats strung together on a line with buoys on both ends. After some discussion, Mr. Joseph stated that the same issues encountered by Mr. Prickett in trying to establish an isolated single lease would apply to Mr. Aubin's lease proposal. Mr. Joseph stated that Mr. Aubin should consider looking at existing lease blocks to apply adjacent to. Mr. Joseph also reminded Mr. Aubin that in addition to applying for the lease, he would have to apply for both Federal and State individual permits for the proposed structure. Mr. Johnson inquired if Mr. Aubin picked this area to avoid user group conflicts. Mr. Aubin stated he did. Mr. Normant opined that the area Mr. Aubin picked would have potential conflicts with recreational fishermen.

Mr. Aubin claimed that restoring shellfish would benefit Barnegat Bay by cleaning up the water. Mr. Joseph refuted Mr. Aubin by stating that while shellfish have their role in the ecology of the bay, studies have shown that they do not clean up the waters. He gave the example of the estimated 900 million clams in Raritan Bay, yet these waters are classified as either Prohibited or Special Restricted. He stated that shellfish impacts would be very localized.

Mr. Joseph recommended that Mr. Aubin contact Mr. Normant and come into the Nacote Creek Office to look at lease charts in Barnegat Bay. Mr. Normant stated that there were existing leases near Swan Point that has deeper water and a firm shell bottom. Mr. Joseph stated that the only drawback might be boating

conflicts. Mr. Normant stated that the leases were located south of Swan Point and tucked into a cove so boating traffic should not be much of an issue.

#### US Army Corps of Engineer Permits

Mr. Joseph informed the Council that the Bureau had met with the US Army Corps of Engineers (USACE) and NJDEP Land Use Regulation at a Joint Permit Processing meeting to discuss interpretation issues for Nationwide Permit #48 (NWP 48) and how the rule dealt with vacated lease parcels and the definition of "abandonment". Leases that existed on March 12, 2007 were covered under the NWP #48, but there was a question on whether the lease would still be covered if it was vacated and then re-acquired. Mr. Joseph stated that the Bureau had to get back to the USACE with a justification to establish a finite period of time in which an applicant could apply for the vacated lease and still be covered under NWP #48. Mr. Joseph suspected that the time a lease could be vacant would be around six months. Unlike the USACE permits, the State permit covers all leases within the established leasing sections (A-F), so any new leases established within those sections (which covers all estuarine waters in NJ) would be covered by the State permits. Further discussions on the matter ensued.

There being no further business, the meeting was adjourned on a motion by Mr. Johnson and a second by Mr. Maxwell.

#### 6. Date, time and place of next meeting:

DATE: April 20, 2009  
TIME: 7:00 PM  
LOCATION: Nacote Creek Law Enforcement Office  
360 N. Rt. 9  
Port Republic, NJ 08241