

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

Nacote Creek Law Enforcement
Port Republic, NJ
June 20, 2011

Present were: Chairman: Walter L Johnson III (Ocean County)
 Vice Chairman: John Maxwell (Atlantic County)
 Councilman: Walter Hughes (Monmouth County)
 Councilman: Oliver Twist III (Cape May County)

State Representatives: Jeffrey C. Normant, Bureau of Shellfisheries
 Gustavo Calvo, Bureau of Shellfisheries
 Russell Babb, Bureau of Shellfisheries
 Debbie Watkins, Bureau of Marine Water Monitoring

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

1.	Total Revenue for April 2011:	\$ 1,383.60
	Shellfisheries Law Enforcement Fund	\$ 864.00
	 Total Revenue for May 2011:	 \$ 1,945.65
	Shellfisheries Law Enforcement Fund	\$ 1,234.00

2. April 18, 2011 Minutes

The minutes of the April 18, 2011 meeting were unanimously approved on a motion by Mr. Maxwell and a second by Mr. Hughes.

3. Applications for Consideration

APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
Stephen Gorman	2020	B	2.0	Widgeon Bay	3

Mr. Normant provided the Council with copies of the applicant's lease application. Mr. Gorman was present. Pursuant to leasing regulations, applicants must attend one of two meetings at which the Council would review their applications. A decision will be rendered at the next meeting.

4. Applications for Decision

APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
Raymond Seyler	2724	B	1.40	Shelter Island Channel	28

Mr. Seyler was present and had attended the previous Council meeting. Without discussion, Mr. Seyler's application was unanimously approved on a motion by Mr. Twist and a second by Mr. Hughes. Mr. Normant reminded Mr. Seyler that he had to sign the lease agreement within 30 days.

5. Old Business:

Navesink River Hard Clam Mitigation

Mr. Normant reported that the Bureau had completed mitigation work on the Barley Island Flats of the Navesink River near Rumson. Mr. Normant stated that 128,000 clam seed (size 20-25mm) were planted at a similar density that had been found during a shellfish survey conducted in 2001. In December 2009, a US Army Corps of Engineers dredge contractor had grounded their barge on the Barley Island Flats of the Navesink River and was required to mitigate for damage to the shellfish beds. Mr. Johnson and Mr. Normant stated that the area was popular with recreational and commercial clambers. Mr. Johnson commended Mr. Normant and the Bureau for making this project even happen.

Vibrio parahemolyticus Monitoring

Mr. Maxwell inquired about this year's sampling for *Vibrio*. Ms. Watkins stated that the Bureau of Marine Water Monitoring (BMWM) would continue *Vibrio* testing and that she would have a BMWM staff member get back to Mr. Maxwell on this issue. On related matter, Mr. Johnson extended an invitation for BMWM Chief Bruce Friedman to attend one of the next Council meetings at his convenience. Ms. Watkins stated that she would pass the invitation along to Mr. Friedman.

Shellfish License Requirements

Mr. Seyler inquired if a relative visiting from out-of-state would be required to have a commercial shellfish license (CSFL) to harvest from his leased ground. Mr. Johnson stated that the person would be required to have a CSFL. If an individual were to harvest off of a lease without the leaseholder being present, that person would need a permission to work the lease form signed by the leaseholder with a copy filed with the bureaus of shellfisheries and law enforcement. Mr. Normant also stated that if a person on a boat was harvesting shellfish under a commercial license, all other persons on the boat engaged in shellfish harvesting would also need to have a commercial license.

License Requirements for Culling Shellfish

The issue was raised on whether a license was required for individuals engaged in culling oysters. Mr. Babb stated that in Delaware Bay when tonging for oysters, a CSFL holder could have an unlicensed person on-board simply culling the harvested oysters as long as that person did not participate in any harvesting activity. After some discussion, Mr. Normant stated that he would discuss the issue with Enforcement and get back to Council on this matter.

US Army Corps of Engineers Nationwide Permit No. 48

Mr. Seyler inquired on whether he had to apply for a US Army Corps of Engineers (USACE) Individual Permit for his lease. Mr. Normant stated that new leaseholders engaged in aquaculture activities after March 12, 2007, were required to obtain an Individual Permit from the USACE. Leases that existed prior to or on March 12, 2007 were covered under Nationwide Permit 48 (NWP 48). These leases were reported to the USACE by the Bureau on behalf of the leaseholders. However, the USACE had allowed individuals who mistakenly allowed their leases to become vacant and then subsequently re-acquired them to remain covered by NWP 48. Mr. Normant stated that the USACE had recently proposed to re-issue NWP 48. The Bureau submitted comments recommending that vacated leases that were later acquired by another individual or a new lease established within or adjacent to a block of leases not be considered an 'expansion' or 'new lease.' Mr. Normant stated that he would check with the USACE District in Philadelphia and he would get back to Council on this matter, in particular, how it affects Mr. Seyler.

Land Use Aquaculture Permits

Mr. Johnson inquired about aquaculture permitting by NJDEP's Division of Land Use Regulation (DLUR). Mr. Babb stated that DLUR was working on a general permit or a permit by rule process that would

streamline regulation for aquaculture activities. Mr. Babb stated that whereas the Office of the Attorney General determined that the Tidelands Resource Council (TRC) had authority to assess a fee for aquaculture systems occupying tidelands (state lands covered by tidally flowed waters), the TRC would waive the fee for State's Aquaculture Development Zones (ADZs). Mr. Babb stated that for shellfish leases, the TRC was considering applying a fee of \$0.01 per square foot on the actual footprint of aquaculture systems (i.e., the structure itself, not on the total lease area as initially thought). Mr. Maxwell inquired about the permitting process within a private shellfish lease. Mr. Babb stated that the language in the permit by rule and general permit being developed by DLUR was very inclusive and would cover a wide range of aquaculture systems. Mr. Babb stated that someone engaging in structural aquaculture activities right now would need a waterfront development permit from DLUR that would cost around \$600 plus 0.5% of any construction cost over \$10,000. Mr. Babb stated that engineering plans, which were a standard permit requirement in DLUR permits, could add a significant cost to the permit. Mr. Babb suggested discussing the possibility for DLUR to consider alternate plans depicting typical aquaculture systems. Mr. Parsons inquired on the possibility for a single permit to cover multiple leases. Mr. Babb stated that he thought it was possible based on his knowledge of a single permit issued for several leases in Delaware Bay.

8. New Business:

NJDA Information

Mr. Myers, Aquaculture Specialist with NJ Department of Agriculture (NJDA), stated that in lieu of the regular Aquaculture Advisory Council (AAC) meeting, the AAC's Seafood Marketing Committee would meet at a location to be determined on July 18, 2011.

Mosquito Control

Mr. Johnson inquired on alteration of wetlands and coastal habitat by mosquito control work in the area of the Mullica River and Manahawkin Bay. Mr. Normant stated that the Bureau would look into the matter and get back to the Council.

Shellfish Lease Biological Investigations

Mr. Parsons inquired on the status of shellfish lease surveys. Mr. Normant stated the loss of two staff members had impacted the ability of the Bureau to complete pending lease applications in a timely fashion, but he was planning to start completing the biological surveys sometime in July following completion of the surf clam inventory survey.

Barnegat Bay Shellfish Restoration and Enhancement

Mr. Maxwell inquired on Barnegat Bay shellfish restoration efforts. Dr. Calvo stated that 1.5 million clam seed in the size of 20-25 mm had been planted within the Sedge Island Marine Conservation Zone since the fall of 2010. Mr. Maxwell inquired about oyster restoration efforts in Barnegat Bay. Dr. Calvo stated that to enhance historic oyster habitat in Barnegat Bay, 8,000 bushels of surf clam shell were planted within a one-acre site off Good Luck Point at the mouth of Toms River in early June 2011. The site was previously enhanced in 2008 when 8,000 bushels of shell were planted. The additional shellplanting was necessary to further consolidate the planting site. Dr. Calvo stated that oyster seeding activities would follow to further enhance the site.

Bureau of Shellfisheries

Mr. Maxwell inquired about changes in priorities within the Bureau of Shellfisheries without the passage of a saltwater license and the continued burden on Marine Fisheries staff. He asked if the lack of staff within marine fisheries would require the assumption of more duties within the Bureau of Shellfisheries. Mr. Babb stated that over the last three years, the Bureau of Shellfisheries has taken on an active role in six or seven ASMFC committees. Mr. Normant stated that recent reductions in Bureau staff would affect the

Bureau's capacity to balance existing federally mandated and state shellfisheries programs as well as additional marine fisheries work. Mr. Babb stated that he is very concerned about staffing issues within the two bureaus. Further discussion on this issue ensued.

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

9. Date, time and place of next meeting:

DATE: July 18, 2011
TIME: 7:00 PM
LOCATION: Law Enforcement Office
360 New York Rd. Rte. 9
Port Republic, NJ 08241