

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

Nacote Creek Law Enforcement  
Port Republic, NJ  
January 9, 2017

Present were: Chairman: John J. Maxwell (Atlantic County)  
Vice Chairman: Walter L. Johnson III (Ocean County)  
Councilman: Walter Hughes (Monmouth County)  
Councilman: Vacant (Cape May County)  
Councilman: Vacant (Burlington County)

DEP Representatives: Russell Babb, Bureau of Shellfisheries  
Kira Dacanay, Bureau of Shellfisheries  
Jenny Tomko, Bureau of Shellfisheries  
Lloyd Lomelino, Bureau of Shellfisheries  
Brett Nicklow, Marine Law Enforcement  
Robert Schuster, Bureau of Marine Water Monitoring

Mr. Babb read the State's compliance with the Sunshine Law and announced that the meeting would be recorded. Notice was filed with the Secretary of State Office and newspapers designated by the Department.

1. Total Revenue for November 2016:  
Shellfisheries Law Enforcement Fund \$ 4,041.60  
\$ 2,469.00

Total Revenue for December 2016:  
Shellfisheries Law Enforcement Fund \$ 9,867.05  
\$ 5,650.00

2. The presentation of November 14, 2016 minutes

The November 14, 2016 minutes were presented for consideration and approved on a motion by Mr. Johnson, which was seconded by Mr. Hughes.

3. Annual Election of Chair and Vice-Chair

Mr. Maxwell was re-elected as Council Chair on a motion by Mr. Johnson, which was seconded by Mr. Hughes. Mr. Johnson was re-elected as Vice-Chair on a motion by Mr. Maxwell, which was seconded by Mr. Hughes.

4. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
Charles Giovanelli Jr. & Charles Giovanelli Sr.	Charles Giovanelli Jr.	2753	B	2.00	GB- Great Thorofare	25
Charles Giovanelli Jr. & Charles Giovanelli Sr.	Charles Giovanelli Jr.	2757	B	2.00	GB- Great Thorofare	25
Paul P. Steinhauer Sr.	Paul P. Steinhauer Jr.	348	B	1.95	GB-Cape Horn	10

Paul P. Steinhauer Sr.	Paul P. Steinhauer Jr.	409	B	0.83	Little Thorofare	15
Paul P. Steinhauer Sr.	Paul P. Steinhauer Jr.	594	B	4.36	LEH Bay	6

Without discussion the lease transfers were unanimously approved on a motion by Mr. Johnson, which was seconded by Mr. Hughes.

5. Vacated Leases – Non-Payment:

LESSEE	LOT #	SECTION	ACRES	LOCATION	MAP#
Ray Bonar	2578	B	2.00	Scull Bay	27
Brent Buzby	1436	B	2.00	Middle Island	6.1
Gary Courtney	1435	B	2.00	Middle Island	6.1
Richard Derrickson	2019	B	2.00	Widgeon Bay	3.2
Harry Emmel Jr	78	B	1.24	GB-Graveling Pt.	1
Harry Emmel Jr	50	B	1.7	GB-Graveling Pt	1
Harry Emmel Jr	62	B	1.24	GB-Graveling Pt	1
Harry Emmel Jr	70	B	11.36	GB-Graveling Pt	1
Evans Robinson	219	A	2.00	Ludlam Bay	1

As per the leasing regulations, N.J.A.C. 7:25-24.8, shellfish leases must be renewed annually by December 31st for the following year. If illness or extenuating circumstances had prevented a lessee from renewing their lease(s) by December 31st, the Council may extend the payment deadline by one month provided the request was made at the January meeting. Mr. Babb informed Council that the Bureau of Shellfisheries had distributed a letter (certified) immediately after the December 31<sup>st</sup> deadline to all the preceding lessees that failed to renew their leases and informing them that they could request a 30-day extension to renew at this meeting. Being that none of the holders of the leases vacant for non-payment were present, the above leases would now be open public bottom at the conclusion of the meeting.

6. Old Business:

Leasing Committee:

The Leasing Committee held a meeting on December 14, 2016 at the Nacote Creek Law Enforcement Office to review the proposals for the new revised leasing policy and regulatory recommendations.

Policy Recommendation

Upon review of the “Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section of the New Jersey Shellfisheries Council”, Mr. Johnson requested clarification from Ms. Tomko in regards to the investigation of possible leases in Manahawkin Bay. Mr. Johnson stated that the draft policy only indicated that the area would be used for structural aquaculture, but thought the Leasing Committee had recommended that both structural and non-structural aquaculture could be permitted in the area. Mr. Johnson stated the only area recommended by the Committee to be investigated for structural aquaculture was in the Beasley’s Point area. Ms. Tomko mentioned she would revise the document for Manahawkin Bay to include both structural and non-structural aquaculture. Mr. Johnson made a motion to accept the policy recommendations of the Leasing Committee notwithstanding the pending change within Manahawkin Bay. The motion was seconded by Mr. Hughes.

## Regulatory Recommendation

Mr. Babb stated that the goal of the regulatory subcommittee was to provide recommendations regarding the new revised leasing regulations. Proposed revision included establishing a Delaware Bay leasing subsection that mimics regulations on the Atlantic Coast, adding and updating definitions within the regulations, and changing the biological fee to an increased application fee. DEP legal affairs also advised the Bureau of review and update all shellfish regulations along with amendments to the leasing regulations. The Council's recommendation would be included in a rule proposal when put forward to NJDEP Office of Legal Affairs within the next few months. Any additional significant changes would also be presented back to the Council for their consideration. Mr. Maxwell asked what was the expected timeframe for adoption of the rule package. Mr. Babb stated that once approved internally, the rule proposal would be submitted into the Department's rule priority queue. He opined that there was potential for an adoption in early spring 2018. A motion was made by Mr. Hughes to accept the recommendations, which was seconded by Mr. Johnson.

Mr. Ned Gaine requested clarification on which rules were to be changed in the upcoming year. Mr. Babb informed Mr. Gaine that the rule changes pertained to N.J.A.C. 7:25 and included several additional subchapters related to miscellaneous shellfish rules and licenses.

Messrs. Gaine and Tom Glenn asked when the revised leasing policy would be posted to NJ Fish and Wildlife's website. Ms. Tomko stated the policy would be posted after she added the final changes.

Mr. Glenn asked the Council when proposals for new shellfish lease areas could be established. Mr. Maxwell informed Mr. Glenn that the Council's was most likely awaiting the adoption of the revised leasing rules, and namely the revised fee structures, before any "new" lease area proposals were considered.

## Council Letter to NJDA

A letter was sent out from the Council to Monique Purcell with the New Jersey Department of Agriculture (NJDA) thanking Amanda Wenzel (NJDA) for her efforts in assisting shellfish aquaculture growers with completing the Aquatic Farmer License Application and other application forms required for various shellfish aquaculture permits.

## 7. New Business:

### Suspension of 2017 Hard Clam Relay Program

A motion was made by Mr. Hughes to suspend the 2017 Hard Clam Relay Program, which was seconded by Mr. Johnson.

### Marine Fisheries Administration Clerical Staffing

Mr. Babb updated the Council on some upcoming clerical and staffing issues that they may be facing at the Nacote Creek Office. He stated that the Marine Fisheries Administration were exploring several options to deal with increased demand placed on clerical staff with the recent retirement of Kathy Smallwood and the pending departure of Milissa Dunn (hourly part-time clerical). Potential options include the hiring of temporary clerical service, hiring new hourly employees and/or reducing office hours. He added that he envisioned the office reducing its hours (days per week) to allow the lone clerical to catch up on her administrative and staff support duties. Mr. Babb also explained that both licenses offices were looking into converting to a cashless transaction interface for licensing (e.g., debit, credit,

checks and money orders only). He stated that they would update the Council further as this developed. Any significant changes regarding office hours would be disseminated to the public via the Division's website and email listserv systems.

#### Shellfish Growing Water Classification Rules (N.J.A.C. 7:12)

Mr. Johnson inquired if Mr. Schuster from the Bureau of Marine Water Monitoring (BMWM) would be re-visiting the stakeholder process to allow for public comment, and address Council's comments with regards to the recently adopted Shellfish Growing Water Classification Rule (N.J.A.C. 7:12). The Council had previously expressed their concerns over changes to "Permit 6", which allowed "seed" oysters to be transplanted from leases in "Restricted" waters to leases in "Approved" waters. Mr. Schuster stated that although he was unsure of the exact timing, he was optimistic that the stakeholder process would be re-opened for the entire rule package.

Mr. Maxwell asked Mr. Schuster about the status of the permitting process for moving "seed" oysters from leases in "Restricted" waters to leases in "Approved" waters. Under the new rules, there is only a 3% allowance for oysters over the "seed" size, which would be prohibitive in moving oysters from the Restricted waters of the seed bed leases in the Mullica and Great Egg Harbor rivers to leasing in Approved waters. Mr. Schuster stated that the "seed" transplant issue was recently discussed at a meeting between BMWM and Bureau of Shellfisheries staff. A potential option to alleviate the problem may be through use of a relay permit for transfer of "seed" within the Mullica and Great Egg Harbor rivers since the current relay permit as per N.J.A.C. 7:12 includes both oyster and hard clam. Mr. Schuster stated that BMWM and Bureau of Shellfisheries staff plan on meeting again in the near future to discuss additional options to alleviate the "seed" transplant issue.

Mr. Hughes discussed an issue relating to the depuration process and the Shellfish Growing Water Classification Rule Proposal. According to N.J.A.C. 7:12-9.5, the depuration plant shall time and date stamp each Harvester Allocation Tag at the completion of offloading, and enter on the tag the depuration harvester's permit number and the number of clams in that container. The depuration plant shall also provide weekly reports to the Bureau of Shellfisheries that include the total number of containers out and in; and the total number of clams by size harvested from each area(s). Mr. Hughes stated that the additional measure of counting clams on the both incoming and outgoing process of the depuration process presents a major problem in the logistics of operation within the depuration plant. Mr. Hughes claimed that the new rules would extend his work day significantly thus reducing the depuration work week from six days to four days. Mr. Schuster said that the current depuration plant definitions mimic that of the New Jersey Department of Health. Mr. Johnson suggested the Council engage the NJ Department of Health (NJDOH) regarding the depuration plant requirements, and to communicate the problems and ramifications it would have to the industry. Mr. Hughes stated he would reach out to the NJDOH about the issue, and if he does not receive feedback, the Council would draft a letter to voice its concerns. Mr. Maxwell requested Bureau of Shellfisheries staff also contact the NJDOH to have a representative attend the February Council Meeting to discuss the matter.

#### Green Bank School

Mr. Maxwell stated that there has been lots of discussion regarding the movement of Marine Fisheries Administrative staff from Nacote Creek to Green Bank Elementary School. Mr. Maxwell explained that the proposed move was discussed at a recent meeting with Assistant Commissioner Boornazian and at several Marine Fisheries Council meetings. He asked Mr. Babb for a status update regarding the proposed move to the Green Bank School. Mr. Babb stated that the Department has had a long interest in either acquiring the property at Nacote Creek from the US Fish and Wildlife Service or relocating Division staff from the Nacote Creek Research Station onto a new site. Mr. Maxwell asked Mr. Babb

what would happen to the buildings at Nacote Creek which were purchased by Division funds, like the shellfish office. Mr. Babb stated that it was unclear. He added that if a move was to occur, he hoped that the Bureau would be able to maintain a presence at Nacote Creek for access to dock space for the *Zephyrus* and for equipment storage. He added that the majority of the details and logistics of an actual relocation had not yet been determined.

Mr. Maxwell questioned the sense in the move and asked why anyone would think it made sense to move a marine unit that much farther inland. He stated that there would be an obvious expense in staff time and money driving back and forth to the boats from the office. Mr. Johnson added he believed the move would also present a financial issue for the Department by increasing the time it takes staff to complete daily work tasks due to diminished access to research vessels in the water for maintenance and operation. After a lengthy discussion, a motion was made by Mr. Johnson to send a letter to the Commissioner's Office, on behalf of the Council, stating that they have significant concerns with the relocation of the Nacote Creek staff – specifically, the water dependent staff - and to warn of the detrimental impacts that such a move will have on both the logistical and field components of the Bureau's operations. The letter should also cite the increased burden it would place on the Department's stakeholders. While it may only be 15 miles inland, Green Bank was in the middle of nowhere and it was not at all conveniently located for license holders. The motion was seconded by Mr. Hughes.

#### Lease Expansion

Mr. Matt Hender, who works with lessee Matt Gregg on his two lease areas in Rose Point, inquired if it were possible to expand Mr. Gregg's lease areas directly adjacent to grounds he already occupied. Mr. Hender stated that although he was aware of the hold on establishing new lease areas, expanding a lease would not alter the envisioned block lease layout and the shellfish growers would be able to congruently increase production in areas with optimal water depth. Mr. Johnson stated that when a number of specific cases were presented, the Policy Subcommittee had planned to assemble in the spring and discuss the lease expansion process on a full scale as oppose to a case-by-case basis. The Policy Subcommittee would then make recommendations on moving forward and present them to the Council for approval.

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

8. Date, time and place of next meeting:

DATE: February 13, 2017  
TIME: 7 PM  
LOCATIONS: Law Enforcement Office  
360 New York Rd. Rte. Port Republic, NJ 08241