

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

Nacote Creek Law Enforcement  
Port Republic, NJ  
March 18, 2019

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

DEP Representatives: Jeffrey Normant, Bureau of Shellfisheries  
Kira Dacanay, Bureau of Shellfisheries  
Jenny Tomko, Bureau of Shellfisheries  
Lloyd Lomelino, Bureau of Shellfisheries  
Scott Stueber, Bureau of Shellfisheries  
Robert Schuster, Bureau of Marine Water Monitoring  
Brett Nicklow, Marine Enforcement

Mr. Maxwell informed the audience that Councilman Walter Hughes had passed away. Mr. Hughes was an integral part of the Shellfisheries Council, representing Monmouth County for 32 years. He stated that since there was only two members of the Council, there would be a procedural change when making motions. When Mr. Maxwell or Mr. Johnson make a motion their second would be implied.

Mr. Parsons inquired if there would be any anticipated changes regarding Council appointments now that there were three vacant seats. Specifically, he wanted to know if two members from the same county could be on the Council. Mr. Maxwell informed him that this issue had been discussed prior, but there were concerns in making a change to Title 50 to allow multiple seats to be occupied by multiple representatives from the same county.

Mr. Normant 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 2018	\$4,577.07
	Shellfisheries Law Enforcement Fund	\$1,312.00
	Total Revenue for December 2018	\$872.00
	Shellfisheries Law Enforcement Fund	\$472.00

2. Presentation of January 14, 2019 minutes for approval.

The January 14, 2019 minutes were approved on a motion by Mr. Johnson and seconded by Mr. Maxwell.

3. Election of Chair and Vice-Chair

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

4. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
Jessica Little	Frost Seafood, LLC	811	B	2.00	Rose Cove	7
Steven Frost	Frost Seafood, LLC	121	B	2.29	GB/Graveling Pt	1
Steven Frost	Frost Seafood, LLC	815	B	2.00	Rose Cove	7
Brianna Frost	Frost Seafood, LLC	813	B	2.00	Rose Cove	7
Brianna Frost	Frost Seafood, LLC	118	B	2.02	GB/Graveling Pt	1
Terrance Smith	Frost Seafood, LLC	816	B	2.00	Rose Cove	7
Kurt Pfizenmayer	Frost Seafood, LLC	817	B	2.00	Rose Cove	7
Leroy Frost	Frost Seafood, LLC	818	B	2.00	Rose Cove	7
Leroy Frost	Frost Seafood, LLC	116.1	B	2.01	GB/Graveling Pt	1
John Stroud	Frost Seafood, LLC	821	B	2.00	Rose Cove	7
Rose Millner	Crave Shellfish, LLC	808	B	2.00	Rose Cove	7
Gregory Millner	Crave Shellfish, LLC	812	B	2.00	Rose Cove	7
Raymond Millner	Crave Shellfish, LLC	806	B	2.00	Rose Cove	7
Antonia Castagna	Charles Devaul	211	A	2.09	Ludlam Bay	1
Robert D. Fricke	Michael J. Joannides, Jr.	1422	B	0.86	Middle Island	6.1
Matthew Hender	Rose Cove Leasing, LLC	814	B	1.99	Rose Cove	7
Tracy Hender	Rose Cove Leasing, LLC	819	B	2.24	Rose Cove	7
Susan Hender	Rose Cove Leasing, LLC	820	B	2.12	Rose Cove	7
Peter Hender	Rose Cove Leasing, LLC	823	B	2.00	Rose Cove	7
Scott Hender	Rose Cove Leasing, LLC	824	B	2.00	Rose Cove	7

Without discussion all applications for transfer were approved on a motion by Mr. Johnson and seconded by Mr. Maxwell.

5. Applications for Decision

LESSEE	LOT #	SECTION	ACRES	LOCATION	MAP#
Richard Vansalisbury	30	D	2.00	Swan Point-Barnegat Bay	1

Mr. Vansalisbury was present at the meeting. Mr. Vansalisbury's application was unanimously approved on a motion from Mr. Johnson and a second by Mr. Maxwell. Mr. Normant informed Mr. Vansalisbury he has 30 days to sign his lease agreement and pay the lease fee.

6. Old Business:

Leasing Committee/Policy Update

On January 28, 2019, the Leasing Committee met to discuss changes to the Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section of the New Jersey Shellfisheries Council. The Committee recommended that the Bureau investigate possible expansion in Middle Island Channel, Little Egg Harbor Bay. The Committee also discussed the limitations on the expansion of leases at Swan Point, Barnegat

Bay due to conflicts with other user group including recreation boaters, fisherman, and commercial crabbers. There would be no expansion of leases at Swan Point, but future expansion proposals would be discussed by the Committee.

The Leasing Committee had concerns regarding individuals applying for a lease and then applying for a second lease under a corporate entity in which the individual was the principal or corporate representative/officer at the same time. This raised concerns due to the fact that in the “Leasing of Atlantic Coast Bottom for Aquaculture” regulations (N.J.A.C. 7:25-24.5), only a single new lease application may be pending at one time by an individual. The Committee viewed this as a circumvention of the intent and long-standing purpose of the regulation. The Committee recommended that, in order to clarify, the individual should not have a lease application pending and then apply for a second lease under a corporate entity in which the same individual was either a principal or corporate representative/officer of that corporate entity, and vice versa. This position was further supported by the regulatory requirement that an individual must have a commercial shellfish license to apply for a lease on the Atlantic Coast section of NJ, and that only a natural person can hold a commercial shellfish license (i.e., an LLC cannot hold a commercial shellfish license).

A member of the audience asked if two individuals with separate shellfish licenses under the same LLC could apply as individuals if the LLC doesn't apply for the lease. Mr. Normant confirmed that was correct if the LLC doesn't apply.

A motion to approve the Leasing Committee's recommendations and the changes to the Shellfish Aquaculture Leasing Policy of the Atlantic Coast Section of the New Jersey Shellfisheries Council was made by Mr. Johnson and seconded by Mr. Maxwell.

#### Wild Oyster Harvest

The Leasing Committee was also charged with discussing wild oyster harvest during the *Vibrio* seasons. Mr. Maxwell was concerned with having a *Vibrio* incident from harvest of wild oyster because they don't apply to the same *Vibrio* season restrictions as shellfish aquaculturists. The Committee suggested looking into possible changes in the current regulations. The Committee also suggested all shellfish harvesters should be required to take the Harvester's Training Course.

#### BOEM Update

Bureau staff attended the NJ Board of Public Utilities (BPU) Fisheries and Environmental Stakeholders Round Table Meetings in New Brunswick. The meeting objective was to provide a forum for each stakeholder group to voice their concerns with Offshore Wind Development. Mr. Normant stated that although the turbine arrays would be constructed well offshore and may impact the federal surf clam/ocean quahog industry, they could also impact the local shellfish industry at cable landfall locations and along cable routes within the back bays. Information regarding array layouts, and cable routes won't be made public until an application is submitted to the NJDEP. Ms. Dacanay informed the Council that BPU continues to work on their wind energy master plan.

#### ESA Update

Ms. Tomko informed the Council there was no ESA Update.

## Shellfish Growing Waters Classification Rules Update

Mr. Schuster with the Bureau of Marine Water Monitoring (BMWM) informed the Council that there were several rule changes to the Shellfish Growing Waters Classification rules at N.J.A.C. 7:12. The rule changes primarily consisted of water classification upgrades on the Atlantic Coast in Tuckerton Cove, Shrewsbury River, Jarvis Sound, Sunset Lake, Richardson Sound, and the Atlantic Ocean, as well as a few downgrades.

There were two *Vibrio vulnificus* cases in Delaware Bay last season. As a result, the *Vibrio* Control Plan needed to be updated to include *Vibrio vulnificus* as per the Model Ordinance. He added there would not be any major rule changes for on water harvesting but there may be changes regarding the cooling product and post-harvest handling. Mr. Maxwell asked when the updated plan would be completed. Mr. Schuster anticipated that a draft would be formalized in April.

Mr. Johnson stated he attended the January stakeholders meeting on the Shellfish Growing Waters Classification rule changes and was concerned that prior issues raised by both sections of the Council, such as hard clam relay, recreational shellfish harvester training and shellfish container tagging were not addressed in the rule change. Mr. Johnson stated he supports the water classification updates but stressed the importance of also addressing those specific topics of concern. Mr. Maxwell inquired about the regulatory process for making changes to the water classifications, and how industry could better contribute to the process with recommendations. Mr. Schuster suggested that interested parties could meet with the BMWM early in the process to discuss concerns or specific topics they believe should be addressed by rule change. Mr. Maxwell opined it would be beneficial to develop an internal group to discuss these types of issues. A motion was made by Mr. Johnson to develop an Executive Committee to discuss all things pertinent to shellfisheries business which was seconded by Mr. Johnson. Mr. Gaine asked who would chair the committee. Mr. Johnson informed him that Mr. Maxwell would be chair of executive committee. Mr. Gaine asked when the next opportunity would be to provide input on a rule update. Mr. Schuster hoped the rules would open for change annually each winter. Mr. Normant suggested holding a meeting with the Council, Bureau of Shellfisheries, Marine Water Monitoring, and the Health Department to discuss these topics further.

## Mullica River Oyster Monitoring

The Mullica River oyster survey was completed in fall of 2018. Overall bed condition and spat settlement had improved throughout all the seeds beds. Ms. Dacanay stated she would prepare a short formal summary of the findings for the Council at the next meeting.

## 7. New Business:

### Councilman Walter Hughes Obituary

Mr. Normant read Councilman Walter Hughes' obituary. Mr. Maxwell recommended the Council have a memorial placard to present to the Hughes family in recognition of Councilman Hughes' time served on the Council and his contributions to New Jersey's shellfish industry.

### US Army Corps of Engineers Back Bay Study Report

The US Army Corps of Engineers (USACE), in partnership with the NJDEP, had developed a Coastal Storm Risk Management Interim Feasibility Study and Environmental Scoping Document. The Interim Report presented a range of alternative plans that manage risk and reduce damages from coastal storms as

well as the engineering, economic, social, and environmental analyses that have been conducted to develop the focused array of alternatives outlined in the report. The purpose of the study was to investigate coastal storm risk management strategies and solutions to reduce damages from coastal flooding impacting population, critical infrastructure, critical facilities, property, and ecosystems. The Study would consider the full array of structural, non-structural, and natural and nature-based measures. The report was open to public comment until April 1, 2019.

#### New York State Aquaculture Presentation

Mr. Gary Wolf with the US Food and Drug Administration gave a presentation about combating the impact of birds on floating shellfish gear and discussed some lessons learned in New York State. Shellfish growers in Long Island Sound had been encountering problems with birds using floating aquaculture gear for resting. Concurrently because they birds are resting on the structures they were also defecating onto the structure as well as surrounding water. Coliform counts in these specific areas had increased to unsafe levels and the NJ State was required to close the areas for harvest. As a result, lessees needed to implement bird deterrents on their gear. Mr. Wolf reviewed several specific tactics implemented for bird remediation. The results showed the remediation efforts did succeed and allowed the coliform levels to drop to allowable levels for harvest.

Mr. Gaine asked how this issue would be addressed if it became a problem in New Jersey. Specifically, what would happen if an aquaculture area were to be closed due high coliform counts from birds. Mr. Maxwell stated that the Bureau of Marine Water Monitoring would monitor the water quality in the area and the lease would remain closed until bacteria levels were found within safe limits. He stated that a lessee could potentially move the product to a designated relay area. Mr. Normant clarified that the movement of shellfish from closed waters would not fall under the hard clam relay program and the use of designated relay lots. If a lessee moves shellfish product from leases closed due to a water quality downgrade to a lease in approved waters, the lessee would have to obtain a relay permit from the BMWM and the designated lease were the product was planted would be closed to harvest for a specified period of time until the shellfish are acceptable for market.

Mr. Keith Craffey with the Baymen's Protective Association (BPA) out of Monmouth County asked how the National Shellfish Sanitation Guidelines were implemented from state to state. Mr. Wolf informed him that individual states could develop their own *Vibrio* Plan dependent on the state's risk. New York requirements does not apply to New Jersey shellfishermen and vice versa.

Mr. Craffey added that the BPA support Kevin Kirk for the open seat representing Monmouth County on the Atlantic Coast Section of the New Jersey Shellfish Council.

Mr. Vansalisbury asked when the *Vibrio* season begin. Mr. Maxwell informed him the *Vibrio* season is from June 1 to August 30.

Having no further new business the meeting was adjourned on motion by Mr. Maxwell and seconded by Mr. Johnson.

8. Date, time and place of next meeting:

DATE: April 15, 2019  
TIME: 7 PM  
LOCATION: Law Enforcement Office  
360 New York Rd. Rte. Port Republic, NJ 08241