

MINUTES OF THE MEETING  
OF THE  
DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL

Haskin Shellfish Research Laboratory  
Bivalve, NJ  
Tuesday, March 5, 2019  
6:00 PM

Present were: Chairman: Warren Hollinger (Cumberland County)  
Vice Chairman: Steven Fleetwood (Cumberland County)  
Councilman: Richard Malinowski (Salem County)  
Councilman: Vacant (Cumberland County)  
Councilman: Vacant (Cape May/Salem County)

State/Fed Reps: Craig Tomlin, Bureau of Shellfisheries  
Andrew Hassall, Bureau of Shellfisheries  
Bob Shuster, Bureau of Marine Water Monitoring  
Gary Wolf, U.S. Food and Drug Administration

Haskin Lab: David Bushek, Director

General Public

*Compliance with the Sunshine Law*

Notice of this meeting was posted Feb 6, 2019 with the Secretary of State's Office, State House, Trenton, NJ and the Bridgeton Evening News, and Daily Journal pursuant to L. 1975 c. 231.

Mr. Tomlin did roll call and read the above compliance. He notified the Council that the meeting was being recorded.

**1. The following minutes are for Council's approval:** December 11, 2018 and January 8, 2019

**Councilman Fleetwood motioned to approve the minutes. Councilman Hollinger seconded the motion. All were in favor.**

**2. Councilman Hollinger reviewed the following revenue collected and the account information under agenda item two.**

**Revenue collected for January totaled \$5,549.50 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$600.00	Commercial Shellfish	\$550.00
Nets	\$2,003.00	Recreational Shellfish	\$50.00
Application Fees	\$100.00	Dealer/Shucker/Planter	\$100.00
Menhaden	\$280.00	Assign Fees	\$300.00
AC & DB Dredge	\$1,200.00	Lease Fees	\$282.50
Area 1, 2 & 3	\$84.00		

**Revenue collected for February totaled \$3,530.00 and is summarized as follows:**

License Type	Total	License Type	Total
Commercial Crab Pot	\$500.00	Commercial Shellfish	\$150.00
Nets	\$1,445.00	Recreational Shellfish	\$90.00
Application Fees	\$116.00	Tonging Tags	\$200.00
Menhaden	\$670.00	Hunting Licenses	\$59.00
AC & DB Dredge	\$300.00		

**Oyster Resource Development Account (082):**

Unexpended	\$ 566,439.46	Budget authority less expenditures ( <i>total spendable dollars currently in account</i> )
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**3. Lease Ground Transactions:**

*3.1 Applications for Council's Consideration:*

Applicant	Section	Lot #	Acreage	Acreage Fee	Application Fee
Bivalve Packing Co.	E	298	200	\$100	\$250

The Council reviewed the application for consideration. The Council noted that Councilman Fleetwood was present, which fulfilled his requirement to be present at one of two meetings when the application was up for consideration or decision.

*3.2 Applications for Council's Decision:*

Applicant	Section	Lot #	Acreage	Acreage Fee	Application Fee
Joseph Haase	D	53	200	\$100	\$250

Mr. Tomlin reminded the Council that Mr. Haase was present at the previous meeting when his application was up for consideration, thus fulfilling the attendance requirement. The Council reviewed the application. **Councilman Hollinger motioned to approve the application. Councilman Malinowski seconded the motion. All were in favor. The lease was approved.**

**4. Old Business**

**4.1 Red Knot/Aquaculture Update**

Councilman Hollinger reported that there was no new information he could provide, and that the next [Agency Working Group (AWG)] meeting would be April 2, 2019. Mr. Tomlin informed the Council that the AWG had been working and provided an outline that compliments the recommendations from the Stakeholder Committee. The outline allowed driving on the beach and ADZ leases from May 1-6 unless the Bureau was notified that red knots appear early in the season. Mr. Tomlin reported that most of the changes the Council suggested were put into a document, which the AWG was planning to send out [to the stakeholders] next week.

Councilman Hollinger asked if there were any updates regarding the ADZ leases. Mr. Tomlin replied that there had been no updates since the last Council meeting, but added that the permitting process for the shed lots and fencing around the shed lots was still underway. He added that they may be able to offer a few shed lots in the coming spring, and that the permits for the ADZ leases themselves were already completed. Mr. Tomlin explained to the Council that the shed lots required a Waterfront Development Permit since structures would be put in place, and the Bureau was trying to have the 90-day review period waived.

#### 4.2 Dredging of the Nantuxent Creek and Channel

After Mr. Shuster and Mr. Wolf discussed the Vibrio Plan and cases in item 5.5, Councilman Hollinger brought up an item from prior meetings regarding the Council and industry wanting the Nantuxent Channel dredged. He said he received approval three to four weeks ago to use the cultch account for funds to move forward with the project. Councilman Hollinger said he then contacted Steve Hafner from Stockton University who had done a lot of work on Delaware Bay, and would have some information on the project since he had done a bathymetric survey of Nantuxent Creek after Hurricane Sandy. He noted that the project would not be cheap. A proposal from Stockton was received to conduct the first part of the project, and since they were a state university the project did not have to go out to bid. The first portion of the project under the proposal included a bathymetric survey, data processing and analysis, collection of core samples, grain size analysis, letter of findings, permits, and meetings. The total cost would be \$24,693.79 and would include from the point into the mouth, and then up the creek to take out any bars. Councilman Hollinger explained that if that part of the project were completed, the dredging would be done by the Department of Transportation (DOT). Councilman Fleetwood clarified that Stockton would not charge for the work that was already done, but just the additional surveying and analysis on the proposal.

Councilman Hollinger then explained that the second part of the project involved dredging and finding a place to put the dredged material. Another obstacle he informed on was that the industry may have to put up more money for dredging and the cost to dispose of the materials. The permit to dredge can be as much as, but not more than, \$30,000. He said the Bureau of Land Management or The Nature Conservancy may be interested in using the dredged material. Mr. Tomlin explained to the Council that the Bureau was aware that the cultch account was not supposed to be used for anything other than enhancement, but the Bureau feels that the dredging was something the industry needed. He continued explaining that when the project plan was first put forward, only \$4,000 was approved to be used from the cultch account. The expense of the Stockton proposal or any other fees were not put forth or approved at the time. Mr. Tomlin suggested that instead of trying to use only the cultch account to cover the cost of the project, that the Council ask to put up the money for Stockton to perform their part, and to look to partner with some of the surrounding townships to help cover the rest of the cost. Mr. Tomlin also noted that the benefit of having the DOT dredge the channel was that once they dredge the channel it becomes their channel to maintain. Councilman Fleetwood asked if it were possible to have the fee waived for the permitting since Nantuxent Creek was not owned by the industry and was essential for the industry to operate. He also asked if it could be waived if the dredged materials could be used for a beneficial use project. Mr. Tomlin said he doesn't know, but that he would investigate it. **Councilman Fleetwood made a motion that the Council would start the application process to get the Nantuxent channel and creek dredged, and to solicit partners to help cover part of the project cost. Councilman Hollinger seconded the motion. Councilman Malinowski voiced his concern of spending the money from the cultch account without knowing how everyone in the industry felt, but ultimately all were in favor.**

### 5. New Business

#### 5.1 Annual Election of Council Chairman and Vice Chairman

The Council decided to hold the election before the other agenda items. Mr. Tomlin reminded the Council that this agenda item was carried over from the last meeting since Councilman Fleetwood was not in attendance and

there was no quorum. **Councilman Malinowski made a motion that the Chairman [Councilman Hollinger] and Vice Chairman [Councilman Fleetwood] remain the same. Councilman Fleetwood seconded the motion for Councilman Hollinger to remain in the Chairman seat. Councilman Hollinger seconded the motion for Councilman Fleetwood to remain in the Vice Chairman seat. All were in favor.**

### 5.2 2019 Oyster Stock Assessment Workshop (SAW) Update (held February 12 & 13<sup>th</sup>)

Dr. Bushek gave a presentation that reviewed the status of the Delaware Bay oyster stock based off 2018 sampling and data. He highlighted that there was a large amount of water discharge from the Delaware River shown by the Trenton USGS water flow station due to a lot of rainfall in 2018. The fresh water influx resulted in an increased mortality in the upper portions of the Bay, mainly in the Very Low Mortality region (VLM). In addition, he explained that the lower salinities over the course of the year pushed Dermo disease down the bay which lowered disease prevalence in the rest of the regions. He reported that the rest of the regions had lower mortality than last year due to reduced Dermo, but there was little recruitment over all the regions. All regions had total abundances around the target abundance, except for the High Mortality Region which was around or below the threshold abundance. However, all the regions had market size oyster abundance around or above the target abundance, except for the Very Low Mortality region most likely due to the increased mortality from low salinities.

Dr. Bushek reviewed the Stock Assessment Review Committee's (SARC) recommendations made at the SAW with the Council. The VLM region was recommended to be closed for 2019 because of the increased mortality and low abundance in 2018. The Low Mortality (LM) and the Medium Mortality Transplant region (MMT) the SARC recommended to be fished at the maximum exploitation rates since they were in good condition. Dr. Bushek noted that the additional bushels that could be added to the quota from an intermediate transplant were typically lower than what could be added and have potential to be higher bushel amounts. For the harvest beds, Dr. Bushek explained that the Medium Mortality Market (MMM) and Shell Rock (SR) regions were recommended to be harvested at their maximum exploitation rates. The High Mortality (HM) region was recommended to start harvest at 6.5% exploitation, but if an intermediate transplant was conducted then an increased exploitation of 8.9% was recommended.

Dr. Bushek acknowledged Jason Morson for putting the presentation together, who unfortunately could not attend the meeting to give the presentation.

### 5.3 Direct Market Harvest Program (DMHP) Update

Councilman Hollinger reviewed the SARC recommendations. **Councilman Hollinger motioned to follow the SARC recommendations which were as follows: the MMM region was recommended at the maximum exploitation rate of 0.037 to harvest 35,217 bushels (bu.); Shell Rock was recommended the maximum rate of 0.0488 to harvest 26,734 bu.; and the High Mortality region was recommended the rate of 0.065 to harvest 24,342 bu., prior to transplant operations with the potential to be increased to the rate of 0.0899 to harvest 33,667 bu. after an intermediate transplant.**

Having set the DMHP quota, the initial industry allocation would be **86,293 bu.**, which allowed each currently licensed boat to harvest 1,078 bu. The potential industry allocation if a transplant occurred would be **107,443 bu.** which would allow each currently licensed boat to harvest 1,343 bu.

Mr. Tomlin and the Council reviewed and set the dates for actions to take place regarding the program. Mr. Tomlin informed the Council of the following information: sign-up for the program was from March 11 – 21; sign-up to participate in transplant operations was from March 11 – 21; bushel and cage tags would be available March 25; beds would be open for the program from April 1 to November 22. The Council decided to schedule the intermediate transplant to start April 22, and to keep the transplant fee at \$2.75 per transplanted bushel.

**Councilman Hollinger made a motion to approve the dates and price per bushel. Councilman Malinowski seconded the motion. All were in favor.** Mr. Tomlin asked if everyone could call ahead to order tags, preferably in batches of 200. [After the meeting, it was discussed and decided that all market beds would be open throughout the entire season, unless a potential regional closure had to be made for a site receiving an intermediate transplant.]

#### 5.4 Intermediate Transplant Program (ITP)

While reviewing the DMHP recommendations, Councilman Hollinger reviewed the ITP recommendations. The recommendations for the transplant regions were as follows: the VLM region was recommended to be closed for 2019; the LM region was recommended the maximum exploitation rate of 0.0226 to transplant 19,826 bu. with the potential quota increase of 3,569 bu. post-transplant; and the MMT region was recommended the maximum exploitation rate of 0.0246 to transplant 37,526 bu. with the potential quota increase of 8,256 bu. post-transplant.

***Note that all proceeding intermediate transplant bushel amounts are approximate/estimated values. Councilman Hollinger motioned to close the VLM region for 2019, to transplant 19,826 bu. from the LM region with an exploitation rate of 0.0226 with a potential quota increase of 3,569 bu., and to transplant 37,526 bu. from the MMT region with an exploitation rate of 0.0246 with a potential quota increase of 8,256 bu. Councilman Fleetwood seconded the motion. All were in favor.***

#### 5.5 2018 Vibrio Cases

Bob Schuster informed the Council of a meeting that was held with the Bureau of Marine Water Monitoring, Mr. Wolf, and the Dept. of Health (DOH). The BMWM wanted to circulate the 2019 *Vibrio parahaemolyticus* (Vp) Plan to the industry as soon as possible, but they had to address two *Vibrio vulnificus* (Vv) cases that were attributed to NJ last summer. He explained that it appeared there would be some changes to the plan, but they were most likely limited to the DOH side of the plan. The plan was still under evaluation from the information they received from that meeting. Mr. Shuster asked if Mr. Wolf had anything to add.

Mr. Wolf stated that the harvest season started off good in relation to Vibrio, and that the DOH got reports later in the season regarding sporadic and multiple source cases. He said the two Vv cases from Delaware Bay were reported very late in the season, and that there were some single source aquaculture cases. Mr. Wolf gave some suggestions and advice on handling practices the industry could use to provide a safe product. He advised using caution when transporting product from the dock to the dealers' trucks. He provided two anecdotes to show some things to look out for. One case had aquaculture product going to market that was being put onto the same truck as husbandry product during which the truck door was open for extended periods of time. This did not allow the truck to remain cool for the product going to market. His second anecdote was that a facility had outgrown their cooling system with too much volume of product, and the system couldn't maintain an appropriate product temperature. Mr. Wolf also suggested to use ice slurries to cool product before it went onto a truck, to check the temperature of the truck before loading product, and to check that the truck's cooling systems are working properly to ensure the product was maintained at a proper temperature. Another issue Mr. Wolf outlined was that some restaurants used common carriers that could potentially travel far distances to pick up multiple products instead of shipping one product from point A to B. This could have a product in a truck for hours, which would decrease product quality if temperature is not maintained properly. Mr. Schuster pointed out that both Vv cases had the same transportation path to the Midwest. This indicated that temperature control was most likely the contributing factor to the Vv case since the Vv levels tested in NJ waters were no different than the previous few years. *Further discussion ensued.*

#### 5.6 Vibrio Control Plan

After discussing item 4.2, dredging Nantuxent Creek, Councilman Hollinger reported that he attended a meeting at the Mays Landing library two weeks prior regarding a rule proposal that the BMWWM was putting together for changes to water quality classifications and to the Vp Plan. The BMWWM was proposing to change the Vp Plan to the Vibrio Plan to encompass *Vibrio vulnificus*, and not limit the rule to *Vibrio parahaemolyticus*. Councilman Hollinger expressed that he, among other industry members, were upset because they were told that the next time N.J.A.C. 7:12 opened that the industry could make changes, but that they were told the rule was not going to be opened to allow industry to make changes. Councilman Hollinger said he wanted to write a letter to the Commissioner expressing their displeasure in the rule not being opened, so they can make changes as the industry were promised the last time the rule was rushed through the process. He explained that the Council had written a letter in 2016 expressing four items the Council was concerned with that were going into to rule at the time, and that the Atlantic Coast Section also voiced their own concerns. Councilman Hollinger made a motion to send a letter to the Commissioner asking that the rule be opened to allow a discussion on changes to the rule that could benefit aquaculture, depuration plants, and the relay program.

Mr. Shuster responded to the Council there was a quick opening of the rule and were asked to provide any upgrades or downgrades the BMWWM had available. The BMWWM had a list of pending water quality changes and sent those up with the Vibrio Plan changes. Mr. Shuster said the Council could send a letter expressing their concerns but doesn't know how it would affect the rule changing process. He further explained that the BMWWM used to be able to put through upgrades and downgrades quickly once a year, but under the last administration that changed to prioritizing which rules to change. He was hoping that in the future they may be able to modify the rule to allow changes to water classifications every year. The Council expressed that they did not want to hold up the BMWWM classification changes but wanted to be able to discuss changes to the rules. *Further discussion ensued.* Mr. Tomlin suggested to the Council that they write a letter supporting the water classification changes but make it aware that the industry wanted to make rule changes and voice their concerns. After brief discussion, **Councilman Fleetwood made a motion for the Council to write a letter of support to allow the changes to the water classifications from the BMWWM to move forward but allow the industry to open and discuss changes to the other rules. Councilman Hollinger seconded the motion. All were in favor.** Councilman Hollinger withdrew his previous motion.

6. While discussing the next meeting date, Councilman Fleetwood said he may be away the week of May 7 and will have to let everyone know once he checked his schedule to know if there would be a quorum or to cancel or change the date of the meeting. **Councilman Malinowski motioned to adjourn the meeting. Councilman Hollinger seconded the motion. All were in favor.**

The NJ Shellfisheries Council, Delaware Bay Section meeting adjourned at 7:41 PM.

The tentative date, time and place of the next Council meeting will be:

Date: May 7, 2019  
Time: 6:00 PM  
Place: Haskin Shellfish Research Laboratory  
6959 Miller Ave, Port Norris, NJ 08349