

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

Meeting was held at the Galloway Twp Library (306 E Jimmie Leeds Road, Galloway Twp NJ 08205)
Attendance was in-person and online via Microsoft TEAMS

Monday, January 9, 2023

Present were: Acting Chairman: Walter L. Johnson III (Ocean County)
Councilman: Paul T. Felder (Cape May County)
Councilman: George Mathis Jr. (Burlington County)
Councilman: Vacant (Monmouth County)
Councilman: Vacant (Atlantic County)

DEP Representatives: Joseph Cimino, Marine Resources Administration
Russell Babb, Bureau of Shellfisheries
Jeff Normant, Bureau of Shellfisheries
Kira Dacanay, Bureau of Shellfisheries
Jenny Tomko, Bureau of Shellfisheries
Megan Kelly, Bureau of Shellfisheries
Scott Stueber, Bureau of Shellfisheries
Nina Colagiovanni, Bureau of Shellfisheries
Robert Schuster, Bureau of Marine Water Monitoring

Mr. Normant read the State's compliance with the Open Public Meetings Act and notice was filed with the Secretary of State Office. He announced that the meeting would be recorded.

1. Total Revenue for November 2022	\$ 12,321.27
Shellfisheries Law Enforcement Fund	\$ 3,520.00
Total Revenue for December 2022	\$ N/A
Shellfisheries Law Enforcement Fund	\$ N/A

2. Annual Election of Chair and Vice-Chair

Mr. Johnson was appointed Chair of the Atlantic Coast Section of the Shellfisheries Council on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Mathis was appointed Vice-Chair on a motion by Mr. Johnson and seconded by Mr. Felder.

3. Presentation of November 21, 2022 minutes for approval.

The November 21, 2022 minutes of the meeting were approved on a motion by Mr. Mathis and seconded by Mr. Felder.

4. Leases Vacated for Non-Payment

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Richard J. Collins	2534	B	2.15	Scull Bay	27
Richard J. Collins	2731	B	1.55	Shelter Is. Channel	28
Erik Lubaczewski	1107	A	2.08	Great Sound	5
Barbara Matthews	1114	A	2.11	Great Sound	5
Northern Cape Sea Farms - Marc Zitter	802	B	2.00	Rose Cove	7

Mr. Normant informed the Council that the Nacote Creek Shellfish Office did not receive lease renewals for Messrs. Collins, Lubaczewski, Zitter (Northern Cape Sea Farms) and Ms. Matthews. All lessees were required to renew their leases and pay lease fees for the following calendar year by December 31, 2022. However, if illness or extenuating circumstances prevent a lessee from renewing by December 31 deadline, the Council may extend the payment deadline by one month at the January meeting (as per N.J.A.C. 7:25-24.8). If a lessee does not renew the lease by the payment deadline or receive an extension of the payment deadline from the Council, the lease shall be terminated at the January Council meeting and revert to the public bottom.

Messrs. Collins and Zitter (Northern Cape Sea Farms) and Ms. Matthews were not present at the meeting. Mr. Lubaczewski was present and addressed the Council on his inability to renew due to extenuating circumstances. A motion was made by Mr. Mathis and seconded by Mr. Felder to grant a one-month extension for Mr. Lubaczewski to submit his renewal package and pay his lease fees.

Ms. Kelly informed the Council that the Bureau sent all required lease renewal paperwork to each leaseholder in the mail prior to October 15, 2022. On November 16, 2022 and December 6, 2022 the Bureau sent an email reminder of the deadline to all leaseholders. On December 28, 2022, the Bureau sent an email to all remaining leaseholders who had not yet renewed reminding them of the renewal deadline and followed up with phone calls on December 29, 2022, leaving a voicemail if able to. On January 3, 2023, the Bureau sent a letter to leaseholders who did not renew by the deadline and explained they needed to attend the January meeting to request an extension. The Bureau had given the leaseholders the option to either mail in the packets or submit them in person at the Nacote Creek Office. Discussion ensued regarding the Bureau’s efforts to reach leaseholders regarding the lease renewal deadline and the staff time involved. Mr. Babb noted that the Bureau cannot continue to chase leaseholders to submit their lease renewals on time, as it is the personal responsibility of the leaseholders to renew their leases on time. Mr. Johnson agreed that it was unnecessary to constantly send reminders once the packets were mailed out, but to continue to send the final notice that the deadline had been missed.

5. Leases Vacated by Lessee – Research

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Dr. Douglas Zemeckis – Rutgers University	2R	C	1.38	Barnegat Bay	6
Dr. Douglas Zemeckis – Rutgers University	3R	C	0.46	Barnegat Bay	6

Mr. Normant explained that Dr. Zemeckis with Rutgers University was vacating their research leases in Barnegat Bay, however, Rutgers planned to propose a new research area in Tuckerton for their program. A proposal has not been submitted at this time.

6. Applications for Decision

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Matthew Genna	2033	B	2.00	Widgeon Bay	3
William Mayer IV*	2034	B	2.00	Widgeon Bay	3

*Was in attendance at the November 21, 2022 meeting

Mr. Genna was in attendance at this meeting. Mr. Mayer was present at the November 21, 2022 meeting and this meeting and fulfilled their obligation to attend one of two meetings. Pursuant to N.J.A.C. 7:25-24.6, lease applicants shall attend at least one of the two meetings at which the Council reviews their applications. If the applicant fails to attend at least one of the meetings, the lease application would be denied, and the area applied for shall revert to public bottom.

Mr. Normant explained that the Council received a letter from Mr. Doug Brown in opposition to the two proposed lease areas located in Widgeon Bay. Mr. Johnson asked Mr. Brown if he would like to address the Council in regard to his concerns.

Mr. Brown, a commercial crab fisherman, presented a hand drawn depiction of Widgeon Bay to describe his concerns regarding limited space. Mr. Brown expressed concerns regarding access for navigation and explained the need to go through the proposed lots in order to access other areas of the bay. In addition, Mr. Brown opined that the proposed lots would deny access for crabbing and the general public. In addition, Mr. Brown explained he believed adding shellfish lease lots would add strain to the area’s ecosystem. Mr. Johnson noted that there was no opposition brought to the Council at the November 21, 2022 meeting when the lease applications were presented for consideration and that the Council and the Department did not oppose the applications. Mr. Johnson explained that there was a misconception that a shellfish lease would eliminate the public’s ability to hunt, fish, and crab, and as a commercial shellfisherman, he had seen plenty of people fishing and crabbing on his leases with no issue. Discussion ensued regarding common practice of clam growers working with commercial crab fisherman so long as the crab pots did not damage clam screens or inhibit the clamming operation. Mr. Johnson suggested asking the leaseholders as a simple and respectful way to work together, especially since the clam grower would not necessarily be utilizing any deeper water on the lease. Mr. Brown commented that he

believed that once the lease was in place, he would no longer have the ability to crab in that area. Mr. Normant added that as per State Law (N.J.S.A. 50:1-33) the shellfish lease shall not prevent the catching and taking of free-swimming fish, which includes blue crabs, as long as the activity did not damage aquaculture gear and aquatic livestock on the lease. Mr. Normant added that a shellfish lease is solely for the planting and cultivation of shellfish and should not prevent other public use. The Councilmen agreed and clarified that it was common for a crab fisherman to collaborate with a shellfish leaseholder on where to put crab pots that were away from aquaculture gear. Mr. Johnson noted that any expansion of lease areas in Widgeon Bay moving forward would be discussed at the Lease Policy Committee for review. Discussion ensued regarding the Leasing Policy and the term potentially productive area. Mr. Normant explained that the term potentially productive refers to the physical characteristics of an area that could potentially supported the growing of shellfish but may not have had good natural recruitment.

Mr. Mayer IV addressed the Council in response to the public comments made by Mr. Brown. He stated he believed he fulfilled all the requirements set forth from the Department and the Council. A biological survey was conducted by the Bureau and the result was no significant clam productivity. Mr. Mayer IV agreed that there were some portions of the lease that were in deeper water and that Mr. Brown could place his crab pots there. Mr. Mayer IV added that for their business they were running out of viable ground. Mr. Mayer IV stated he was okay with the current layout of the lease even with some areas of deeper water that he was not planning to place clam screens.

Mr. Genna added that there were some areas that would be available for crab pots away from aquaculture gear and was willing to work with Mr. Brown.

The Council agreed that the discussion addressed Mr. Brown’s concerns and clarified that the general public had access to the lease as long as aquaculture gear was not damaged, and livestock not taken. In addition, both lease applicants provided comment that they were willing to work with crab fishermen on their lease, and any new lease applications would be reviewed by the Lease Policy Committee. For the record, Mr. Brown addressed the Council again that even after the discussion, he was still in opposition of the proposed lease areas.

The above applications for decision were approved on a motion made by Mr. Mathis and seconded by Mr. Felder. Applicants will receive a letter informing them that they have 30 days to sign the lease agreement and pay lease fees.

7. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Richard Beckley, Jr.	Dale S. Parsons	66	B	5.73	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	42	B	2.00	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	42.1	B	1.65	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	45	B	1.41	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	78	B	1.24	Graveling Point	1

Ronald Nicklow	Great Bay Oyster, Brett Nicklow	92	B	1.63	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	93	B	0.65	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	94	B	1.88	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	95	B	11.77	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	97	B	3.72	Graveling Point	1
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	235	B	942 FT	Mullica River	1A
Ronald Nicklow	Great Bay Oyster, Brett Nicklow	395	B	5.39	Cape Horn	10

The transfer applications from Mr. Beckley Jr. to Mr. Parsons and Mr. Ronald Nicklow to Mr. Brett Nicklow (Great Bay Oyster) were approved on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Normant stated that the transfer applicants that were approved would be required to come into the office to sign their lease agreements and pay fees.

Mr. Normant explained that due to continued staffing issues in our front office that industry should expect delays in new lease transfer transactions moving forward. Mr. Johnson stated that he understood and that being transparent about potential delays was better than placing a moratorium on all lease transactions.

In addition, discussion ensued regarding the deadline in which lease transfer applications can be submitted prior to the lease renewal period. Mr. Babb explained that it has been an issue when the renewal packets were prepared and sent in October and leaseholders were then requesting transfers during the open renewal process. This made keeping track of lease renewals much more difficult. Mr. Johnson agreed that this could be discussed and asked the Bureau to present to the Council a proposed plan for transfers for the end of the year.

8. Old Business:

Tentative Meeting Plan for 2023 Council Meetings

Mr. Babb presented an overview of the plan for 2023 Council meeting dates, potential locations, and the hybrid meeting option. Mr. Babb added that the Bureau suggested hosting the Council meeting a few times a year in other counties like Ocean and Cape May County and keep the remaining meetings based in Atlantic County. Discussion ensued on the need to travel to other areas and if it would actually result in more public attendance. Mr. Johnson recommended to hold a meeting only if all Council members could be present in person rather than attend online. Council members decided to cancel the February 13, 2023 meeting since a member would not be able to attend. The March 13, 2023 meeting was to be held at the Rutgers Extension Office in Toms River, if available.

Lease Policy Committee Update

Mr. Babb explained that the draft Lease Policy Committee report had been created but was not finalized. A draft copy of the report would be provided to the Committee members for review by the March Council meeting and a follow-up meeting with the Committee for discussion would be scheduled.

Legislative Update

Mr. Babb explained that there were no new updates since the last meeting, but a legislative update was a standing agenda item open for discussion. Mr. Johnson added that there was value in keeping the Council updated with the legislative reports. In relation to the Sunday harvest bill, Mr. Babb reminded the Council that the Delaware Bay Section of the Council created a Sunday Harvest Committee that has met to discuss the topic and create a suite of recommendations for their Council to consider as recommendations to the DEP.

2023 Committee Membership - Administrative Guidelines

Mr. Babb reminded the Council that the Administrative Guidelines that were redistributed at the end of 2022, were originally developed between 2015 and 2017 but were never formally acted on. These guidelines were re-presented at the November 21, 2022 meeting but tabled discussion until this meeting. Mr. Johnson suggested an Executive Committee to discuss the Council Guidelines since changes had the potential to impact future Council members and the Council process. Discussion ensued on quorum issues with holding an Executive Committee with a current Council of only three members. Mr. Babb explained that the goal of the administrative guidelines was to increase transparency, but most of what was described in the guidelines was how the Council already operated. Mr. Babb raised concerns with having only a three-person council as there were quorum issues and compliance with the Sunshine law. If the Council had five members, an Executive Committee would be something to consider. Mr. Babb confirmed with the DEP Fish & Wildlife attorney that two people were an effective quorum. Council agreed to meet prior to the March meeting separately, and Mr. Normant added that if any Council members had comments to send them to the Bureau.

9. New Business:

Suspension of 2023 Hard Clam Relay Program

The continued suspension of the 2023 Hard Clam Relay Program with Mr. Jenks as Relay Coordinator was approved on a motion made by Mr. Mathis and seconded by Mr. Felder.

2022 Mullica Seed Bed Condition Monitoring

Ms. Dacanay presented a summary of data collected on December 5, 2022 at French Point and Moss Point beds as well as trends analysis. Ms. Dacanay reminded the Council that the data presented was a qualitative evaluation of bed health, and the Bureau hoped to eventually get to a quantitative assessment of population dynamics of the beds. In summers of 2021 and 2022, the Bureau planted recycled shell on the down river portion of the Moss Point bed and an annual report of that program was going to be available in the future. Disease screening report from Rutgers would be provided upon receipt.

	December 2022		December 2021	
	French Point	Moss Point	French Point	Moss Point
Bed Condition (% oyster)	78	58	57	45
Recent Mortality (%)	0	1	1	1
Total Mortality (%)	15	24	14	29
Spat per 37 qt bu.	789	40	606	327
Mean Length (mm)	65	70	52	67

	2022		2021	
	French Point	Moss Point	French Point	Moss Point
Salinity (ppt)	22.66	21.78	21.4	21.78
Dissolved Oxygen (mg/l)	9.66	9.48	10.42	9.73
Temperature (°C)	7.0	7.1	7.3	7.2
pH	7.42	7.25	8.03	7.97

Lease Policy Committee Subcommittee – Oyster Culture/Structural Aquaculture

Mr. Johnson opined that there was a disconnect between the Council and the structural oyster aquaculture industry. Specifically, what that sector of the industry needs, but also expressed concern that there were other topics that were taking a backseat due to Council having to address structural oyster aquaculture issues. Mr. Johnson proposed to create a committee comprised of oyster aquaculturists to inform the Council of their needs and how to better support the structural aquaculture industry. Mr. Normant suggested when the Lease Policy Committee reconvenes to re-evaluate membership so that the structural aquaculture industry was adequately represented. Mr. Gaine provided public comment and opined that the main subject was leasing issues in general, including issues with other regulatory agencies. Mr. Gaine agreed that ensuring representation at the Lease Policy Committee was an appropriate path forward. Mr. Johnson explained that the Lease Policy Committee could provide additional representation, but a separate committee was necessary. A motion was made by Mr. Mathis that create a sub-committee of the Lease Policy Committee for structural aquaculture after the Council Administrative Guidelines were in place the Council. The motion was seconded by Mr. Felder and approved by Council.

Former Chairman John Maxwell’s Retirement

Mr. Mathis expressed that Mr. John Maxwell served on the Council for many years and deserved recognition for the work he did as Chairman and as a member of the Council. Mr. Mathis suggested giving Mr. Maxwell a plaque and a letter of commendation for the work he had done. The Bureau agreed and were able to provide a plaque or some other keepsake for the Council. Mr. Johnson suggested to ask the Marine Fisheries Council to do the same.

Public Comment

Mr. Rich Vansalisbury addressed the Council to consider opening more lease areas in Swan Point in order to support and expand their business. Mr. Vansalisbury stated that he had three leases in the Swan Point area and opined there were lessees holding onto leases and not actually using them. Mr. Normant stated that the Swan Point lots were actually old relay lots. Mr. Normant clarified that there were concerns with expansion of leases in that area due to navigation concerns and possible water quality closures/suspensions. He also agreed that there were many leases that were not being used not only in the Swan Point lease area but also in the other lease areas throughout the State. Mr. Vansalisbury and Mr. Arthur Gant asked about potential leases at Cattus Island in Barnegat Bay. The Council stated that there have not been any requests for this area and any requests would need to be presented to the Lease Policy Committee for review. Mr. Normant noted there was potential issues with leases in this area due to water quality.

Mr. Vansalisbury asked about information on crop insurance in New Jersey for shellfish. Ms. Wenczel added that crop insurance was reviewed through USDA and to contact her for information on crop insurance.

Discussion ensued on carbon capture financial incentive programs and Maryland's program, which included a carbon calculator. Mr. Babb added that the New Jersey had a Natural Working Lands Program that had been discussing the idea of blue carbon and green carbon initiatives.

Mr. Avery stated that the Milford Shellfish Conference was this week and registration was still available. In addition, he encouraged membership for the East Coast Shellfish Growers Association. Mr. Avery also asked about oyster harvest from the Mullica River. Mr. Normant explained there would need to be appropriate bed conditions for seed transplant from the Mullica River to the Graveling Beds. The Bureau was cautious in doing an intermediate transplant from the Mullica River seed beds due to risk of depleting the beds. Mr. Babb added that the Bureau has gotten some equipment to better survey bottom conditions to better support these decisions. Discussion ensued.

Ms. Wenczel noted that there was an Aquaculture Advisory Council Meeting Friday at 10:00am in Trenton at the Department of Agriculture Building.

Mr. Gregg opined that some members of the structural aquaculture industry had been forthcoming with their attempts to interact with the Council regarding legislative initiatives, which included the harvest of shellfish on Sundays on aquaculture leases. He added that he had sent a letter to the Council regarding legislation asking for input from the Council. Mr. Gregg requested that the letter be redistributed regarding legislative bills to create a dialogue. Mr. Johnson noted he received the letter but since the bills were already in the legislature, he was unsure how the Council could weigh in on a Bill already being reviewed by the legislature. Mr. Gregg noted he asked the Council in January 2022 to hold a special meeting or create a committee to go over these legislative initiatives. Discussion ensued regarding the status of the pending bills regarding right to farm and Sunday harvest. Mr. Normant clarified that traditionally, the Council would be consulted on any changes to Title 50 (N.J.S.A. 50) through committee and Council discussion and added that the Bureau would redistribute the letter to reinitiate conversations with the Council. Mr. Gregg noted he was in support of a subcommittee for the structural oyster aquaculture industry. Council agreed that a subcommittee might have prevented miscommunication regarding the legislative bills.

A motion to adjourn the meeting was made by Mr. Mathis and seconded by Mr. Felder.

10. Date time and place of next meeting:

DATE: March 13, 2023
TIME: 6:00 PM
LOCATION: Hybrid In-Person and Virtual
Rutgers Extension – Toms River