

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

Meeting was held at the County of Cape May, Rutgers Cooperative Extension (355 Courthouse-South Dennis Road, Cape May Court House, NJ 08210)
Attendance was in-person or online via Microsoft TEAMS

Monday, June 12, 2023

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

DEP Representatives: Russell Babb, Bureau of Marine Habitat & Shellfisheries
Jeff Normant, Bureau of Marine Habitat & Shellfisheries
Jenny Tomko, Bureau of Marine Habitat & Shellfisheries
Scott Stueber, Bureau of Marine Habitat & Shellfisheries
Richard DiVaccaro, Bureau of Marine Habitat & Shellfisheries
Nina Colagiovanni, Bureau of Marine Habitat & Shellfisheries
Robert Schuster, Bureau of Marine Water Monitoring

Mr. Normant informed the Council and attendees that there were internet connection issues at the meeting and that only one computer was used for broadcasting online.

Note: Portions of this meeting were inaudible due to equipment and internet service challenges as well as multiple conversations occurring at one time.

Mr. Normant read the State's compliance with the Open Public Meetings Act, and notice was filed with the Secretary of State Office and sent to the Atlantic City Press and NJ Advanced Media outlets. He announced that the meeting would be recorded.

1. Total Revenue for May 2023 \$ 202.00
Shellfisheries Law Enforcement Fund \$ 176.00

2. Presentation of May 8, 2023 minutes for approval.

The May 8, 2023 meeting minutes were approved on a motion by Mr. Mathis and seconded by Mr. Felder.

3. Applications for Decision

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Jordan Lopinto*	802	B	2.00	Rose Cove	7
Robert Lee*	2731	B	1.55	Shelter Island	28

*Were in attendance at the May 8, 2023 meeting

The 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.

4. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Gretchen Maxwell	Great Bay Oyster, LLC (Brett Nicklow)	186	B	300.0	Mullica River	1A

Mr. Johnson asked if the lease required a survey. Mr. Normant explained that the Mullica River leases in their entirety needed to be surveyed.

The transfer application was approved on a motion made by Mr. Mathis and seconded by Mr. Felder. Mr. Normant stated that the approved transfer applicant would be required to come into the office to sign their lease agreement and pay fees.

5. Old Business:

Lease Policy Committee - Summary Report

Mr. Normant stated that the Lease Policy Committee Summary Report was provided to the Council and the Lease Policy Committee. The Bureau had not received any comments or feedback on the report. Mr. Johnson asked for clarification that it was the final report and that the current Lease Policy Committee would be disbanded. Mr. Normant confirmed. Mr. Johnson expressed his disappointment in the outcome of the committee and the time committed. Mr. Johnson stated that any future lease policy would be under the new committee process and opened the topic for discussion to the Council and the public.

Mr. Gaine commented, adding that the summary report was well-written and comprehensive. Mr. Johnson clarified that his prior comment was addressed toward the committee's outcome, not the report's compilation or contents. Mr. Johnson expressed that a charge for the committee would be necessary for future attempts. Mr. Gaine concurred. While Mr. Babb agreed with the need for a charge, he did clarify that the Committee was indeed provided with a specific charge (in the form of a lengthy table) in advance of their first meeting and that the first meeting was spent agreeing to the items and order. Discussion ensued on the outcome of the Committee and changes that would be made to the process in future efforts.

The summary report was approved on a motion made by Mr. Mathis and seconded by Mr. Felder.

Mr. Babb recommended that recruitment for Leasing Policy Committee members began over the next few months. A motion was made by Mr. Mathis and seconded by Mr. Felder to allow the Bureau to accept applications for a future Lease Policy Committee. It was determined that the topic would be revisited at the September meeting.

Mr. Avery requested clarification on how the Leasing Policy Committee impacted the development of regulations and how changes would be accounted for when new research became available. Mr. Normant explained the

relationship between the Council and Shellfish Leasing Policy and reiterated that the Council had the exclusive authority to lease, and their role in advising the Commissioner .

Mr. Gaine agreed with Mr. Normant and clarified that the Policy is an agreement between the Council and the Commissioner. Mr. Johnson stated that the Policy was a living document and Mr. Normant concurred.

Discussion ensued on the previously developed Leasing Policy and the process for making changes or updates to the document. Mr. Babb added that the Lease Policy Committee was developed to discuss prominent issues, amongst those industry representatives, and provide recommendations back to the Council for their consideration and for their potential development into formal recommendations to the Commissioner. It was intended to streamline how lease areas were managed.

Structural Aquaculture Committee

Mr. Normant informed the Council that Ms. Swain sent emails with the Committee Member Application to any individuals who noted the use of structure on their 2023 Commercial Shellfish Aquaculture Permit. Two applications were received, and they were provided to the Council for their consideration.

Mr. Johnson stated that the applications received should be considered for approval and requested that the Bureau send another email to those who met the Committee criteria. Mr. Normant recommended that the Council wait until additional applications were received to ensure that the final committee have representatives coastwide and those utilizing different types of structural aquaculture gear. Mr. Johnson expressed that those who had taken the time to apply should be added to the committee. Mr. Normant understood, but clarified that if the Council chose to wait, all applications would be compiled and reviewed at one time. It could then be determined if there was representation throughout the State, and a decision on members could then be made. Mr. Mathis requested that the Bureau also send a copy of the Committee Member Application via the postal service.

It was determined that this would be addressed at the July meeting. Additional emails and hard copy mail were to be sent prior to that meeting. Applications and prospective committee members would be discussed then.

Shellfish Lease Agreement

Mr. Babb informed the Council that the Shellfish Lease Agreement was nearly through legal review and that a copy would be provided to the Council prior to the July meeting. Mr. Babb added that the NJ Fish and Wildlife (NJFW) Regulatory Officer (attorney) was invited to attend the July meeting to take comments from the Council.

Mr. Babb explained that the document contained standard lease language found in other 'state lease agreements.' The Bureau planned to notify leaseholders of the new leaseholder agreement in advance of the 2024 renewal, and the document would be posted on the NJFW website available for their review. Council comments and considerations from both sections of the Council would be taken prior to notification. The Bureau planned to send the notice in August. Discussion ensued on the formation of the lease agreement.

Mr. Johnson stated that in his opinion the document was largely done and approved, and feedback wouldn't change that. Mr. Babb clarified that regardless of what could be changed on the legal end, the Bureau had pushed for Council to have the opportunity to review and if there were significant issues, staff

would take those back to DEP's legal team for their consideration. Mr. Babb added that the document was quite lengthy compared to the current lease agreement, but he added that a number of sections were legal "boilerplate" from other state leases and would not apply to everyone. He added that the document had actually progressed significantly since the earlier versions.

Hard Clam Management Plan

Mr. Mathis asked about the status of the Hard Clam Management Plan. Mr. Babb responded that a shortage of staff had resulted in the plan being delayed again and he hoped to revisit the topic in the fall. Mr. Mathis asked if additional surveys needed to be performed. Mr. Normant added that, in his opinion, additional surveys weren't needed, but someone to administer the overall fishery management plan (FMP) process and framework development. Mr. Babb added that the Bureau had even considered contracting a university to assist with the process. However, at this time, due to staffing constraints, the FMP timeline would be the same.

Public Comment

Mr. Avery asked for the status of the Sunday Harvest Bill. Mr. Babb did not have a detailed update. Mr. Gaine added that the Bill had been posted with changes from the last assembly committee and was headed to the Assembly Environment Committee. Mr. Gaine provided a brief update on the changes made since the Council last saw the Bill and requested that the Council write a letter to the committee members explaining the coastal environment's regionality and that the Council should have been included. Mr. Johnson responded that the Council had sent a letter to the bill sponsors regarding the initial proposal after the Council was not consulted.

Council requested that the Bureau send the new committee members a copy of the original letter. Mr. Gaine requested that the Council send a stronger letter. Mr. Johnson stated that the letter should be forwarded as it was, and at this late stage, the Council concurred.

Mr. Gregg requested clarification if the Council opposed the Bill itself or the "process." Mr. Gregg added that the concept and intent of the Bill was brought to the attention of former chairman Mr. Maxwell prior to its introduction, but it was not brought to the Council.

Mr. Johnson responded that the process was the primary concern, and that the Council and industry would have discussed the substance as a whole. Mr. Gregg expressed that attempts to discuss this issue with the Council had been made to no avail. Mr. Mathis noted that the entire shellfish industry was not in consensus on the issue and that the process that the Bill took circumvented the discussion.

Mr. Carroll added that it was not meant to circumvent the Council and that the concept was brought to the attention of the Council and the Council chose to not discuss it further or address the merits of the issue. Mr. Gregg noted that he would encourage the industry to sign up for the previously discussed Structural Aquaculture Committee and expressed interest in being on it himself.

A lengthy discussion ensued on the process, the substance of the Sunday Harvest Bill, and the next steps.

6. New Business

GP-30 Notification

Mr. Normant informed the Council that the structural aquaculture permit (General Permit 30) contained a condition in the regulation that required a formal notification to the Bureau that disclosed the type of gear actually deployed on an individual lease. In an effort to make this process fairly uncomplicated, the Bureau created a notification form that will be sent to all GP30 permit holders in order to satisfy that regulatory condition.

Mr. Johnson asked for clarification on how often the form would have to be submitted, and if it was just GP30 that required it. Mr. Babb responded that all current GP30- coastal permits require this notification and that it has been in the rules for a decade. That rule language is often written as a condition of the permit. Mr. Babb further explained that the form had ranges and would only have to be resubmitted if it was a significant change in activity, addition, or reduction in gear to what was on a given lease. Mr. Babb added that this was critical to help the DEP understand not what was permitted to be done but what was actually being done in public trust waters and where gear was located.

Mr. Gregg asked for clarification on the notification process and expressed that gear was moved regularly and that the Bureau would receive several notifications. Mr. Normant clarified the process and said that Mr. Gregg would receive a copy of the form. Several other comments were made that this would be chaotic to manage for the Bureau and onerous for the industry.

Mr. Burke asked for clarification on where in the GP30 was the requirement for notification. Mr. Normant explained that it was in the regulations and was likely within the special conditions of their permit.

A lengthy discussion ensued regarding the frequency of notifications, the notification form itself, and the requirements per the GP30.

Public Comment

Mr. Gregg asked about the aerial photos at the end of the presentation. Mr. Normant stated that the photos were from recent flights by the Bureau of Marine Water Monitoring performed to assess harmful algal blooms and the flights were also being used to photograph what gear was deployed in what growing areas.

Mr. Babb added that these images would be used to aide in the compliance issues that the DEP have been contending with in recent years; while the flights were focused on coastal surveillance for harmful algal blooms, they could also be used to assess where structure was. Once again, Mr. Babb encouraged compliance across the industry, and he noted that some of the images of some areas actually demonstrated significant improvements since the fall.

Mr. Burke asked if the aerial photographs could be used to provide the amount of gear on a lease to satisfy the previously discussed GP30 notification. Mr. Burke also asked how the specific photos included in the presentation were chosen and asked for clarification if enforcement or the Division of Land Resource Protection requested this.

Mr. Babb responded that there was no specific reason those photos were chosen. A handful of photos were taken from what the Bureau had received, and they were randomly added to the presentation. Mr. Babb noted that several of the images displayed in the presentation demonstrated increased compliance since last fall (2022).

Mr. Schuster added that enforcement did not request the images. He reiterated that the goal of the flights was to assess algal blooms, but the flights also provided an opportunity to see if compliance improved and that, in some cases, it had indeed. Mr. Burke expressed concern over selective enforcement. Mr. Schuster stated that was not what happened with the flights.

Mr. Avery asked if the flights were done at a specific altitude. Mr. Schuster responded that they were limited in altitude and flight path and could not go below one thousand feet.

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

7. Date, time, and place of next meeting:

DATE: July 10, 2023

TIME: 6:00 PM

LOCATION: Atlantic County Library – Galloway Township Branch with virtual option
306 E Jimmie Leeds Road, Galloway Twp NJ 08205