

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

Virtual Meeting
Monday, August 15, 2022

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

DEP Representatives: Joseph Cimino, Marine Resources Administration
Russell Babb, Bureau of Shellfisheries
Jeffrey Normant, Bureau of Shellfisheries
Megan Kelly, 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 and sent to the Atlantic City Press and NJ Advanced Media news outlets. He announced that the meeting would be recorded.

1. Total Revenue for May 2022	\$ 254.66
Shellfisheries Law Enforcement Fund	\$ 232.00
 Total Revenue for June 2022	 \$ 16,808.22
Shellfisheries Law Enforcement Fund	\$ 310.00
 Total Revenue for July 2022	 \$ 831.00
Shellfisheries Law Enforcement Fund	\$ 280.00

2. Presentation of May 16, 2022 minutes for approval.

The May 16, 2022 minutes of the meeting were approved on a motion by Mr. Mathis and seconded by Mr. Felder. Mr. Johnson abstained because he was not able to review the minutes before the meeting.

3. Applications for Consideration

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Joanne Galante-Williams	409	A	2.00	Jenkins Sound	3
Gary R. Williams	410	A	2.00	Jenkins Sound	3
Luke Williams	411	A	2.00	Jenkins Sound	3

Stephen O'Connor	412	A	2.00	Jenkins Sound	3
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Ms. Galante-Williams and Messrs. G. Williams, L. Williams, O'Connor were present 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.

4. Applications for Decision

LESSEE	LOT #	SECTION	ACRES/FT	LOCATION	MAP #
Ebb N Flow Seafood – Thomas Ertle*	656	B	2.00	LEH – Jeremy Point	6

*Was in attendance at the May 16, 2022 meeting

Ebb N Flow Seafood (Thomas Ertle) attended the May 16, 2022 meeting. Applications for decision were approved on a motion by Mr. Johnson and seconded by Mr. Mathis.

5. Old Business:

Offshore Wind

Mr. Normant explained that the Marine Fisheries Council had an Offshore Wind Committee and met in August.

Lease Policy Committee Update

Ms. Kelly informed the Council that it was the Bureau's intention to complete the draft committee reports for the Council. A draft copy of the report would hopefully be provided to the Committee for review by the end of September and then schedule a follow up meeting with the Committee for discussion.

Hard Clam Management Plan

Mr. Babb explained that due to staffing issues there was a pause on the Committee but informed the Council the goal was to redirect staff time to this plan by late winter or Spring.

Aquaculture Advisory Council Update

Ms. Wenczel informed the Council that there were several motions made at the last Aquaculture Advisory Council (AAC) meeting in July. This included support of legislation which encompassed the Sunday Harvest Bill for commercial shellfish aquaculture and the \$100,000 annual appropriation for the marketing of seafood products. In addition, there was a requested amendment to allow farmed seafood to be included in the Jersey Fresh Program. The final item of support was for a coalition with the NJ Farm Bureau and the Agriculture Experiment Station as leads that would look at the agriculture economic situation. The AAC was in support of adding an

aquaculture component of this coalition and asked to be a part of the discussion. Ms. Wenczel explained she will provide an update once she has more information on the matter.

Sunday Harvest (Letter from Council)

Mr. Normant explained the Council sent a letter (Attachment 1) regarding the Sunday Harvest Bill S520 & A3847. The letter focused on the Council's authority and the Council's role in weighing in on legislation.

Ludlum Bay Downgrade – Request to Move Lease 237

A recently issued lease that was approved at the September 2021 meeting, was impacted by the water classification downgrade in Ludlum Bay in May. As a result, leases 229 and 226 in Ludlum Bay were modified and slightly reduced to remove impacted portions in the downgraded area. Lease 237 was within the impacted downgrade area and the leaseholder requested to move the lease area to the other side of the lease block.

Mr. Maxwell inquired about the location of lot 211, which was completely in the newly downgraded area. Mr. Normant explained that the Bureau tried to contact the leaseholder but had not heard a response on how the leaseholder would want to move forward with the lease.

Mr. Normant explained that lot 210 which has portion of the lease within the downgraded area would not be adjusted because it was issued prior to September 19, 1989. The leaseholder was contacted since the leaseholder would not be able to grow market sized shellfish within the area that was in the downgraded area.

The relocation of lease 237 was approved on a motion by Mr. Johnson and a second by Mr. Felder.

Mr. Schuster discussed the recent suspension for water quality and the downgrade process.

Ocean Acidification Monitoring Network

Ms. Saba with Rutgers University provided a presentation on ocean acidification and why it was occurring. Ms. Saba explained how ocean acidification could potentially impact Mid-Atlantic species which could impact New Jersey shellfish industry. As a proactive measure, NJDEP's Bureau of Climate Resilience Planning and Bureau of Marine Water Monitoring formed NJ's Ocean Acidification Team and collaborated with Rutgers University. The goal of the collaborative efforts was to learn Ocean Acidification planning from other coastal states, outline elements to use in NJ's Ocean Acidification Action Plan, and fill knowledge gaps in the science. She provided an overview of recommendations for developing a statewide New Jersey Ocean Acidification Monitoring Network. The key takeaway was developing a comprehensive, statewide monitoring network was an essential foundation to a state Ocean Acidification initiative. If an ocean acidification monitoring network was developed for the state (currently was not developed), part of the process included engaging stakeholders in a proposed network. Ms. Saba conveyed to Council that a statewide monitoring network would greatly enhance knowledge on potential risks to specific species and ecosystems in NJ and was asking for feedback on interest and willingness to help optimize and expand the statewide monitoring network.

Mr. Maxwell asked to discuss further with Bureau staff in order to provide comment and suggestions to Ms. Saba. Mr. Mathis added it was important to include hatchery locations within the monitoring network plan. Ms. Saba explained that a monitoring network was not yet developed so that this presentation was an effort to be proactive with the Council and the public if the industry would be willing to provide feedback and participate.

6. New Business:

NWR Issues with Shellfish Aquaculture Gear

Mr. Babb explained that the Bureau was called to meeting with the US Fish & Wildlife Service's Edwin B Forsythe's Wildlife Refuge Manager regarding federally managed lands adjacent to shellfish lease areas. They were in support of aquaculture but had concerns regarding gear either being stored or scattered on Refuge property. The Refuge Manager made it very clear that the US Fish & Wildlife Service was consulted during the permitting and Tidelands review because of upland ownership and that upland consent was given if there was no littering, trespassing, use of federal land, etc.

Mr. Babb stated that both the Atlantic Coast and Delaware Bay sections of the Council sent letters to leaseholders in October 2021 urging leaseholders to ensure they are compliant with all state and federal requirements for their aquaculture operations. The Bureau then received a letter from the US Fish & Wildlife Service dated July 13, 2022 which asked for assistance in the matter of gear on Refuge property. In response, the Bureau sent a letter to all leaseholders within the Rose Cove and Thompsons Creek area on August 10, 2022. Based on available data, it appeared some leaseholders within the Rose Cove and Thompsons Creek area may not hold all valid authorizations or be in compliance with their permits. Mr. Babb clarified that the Bureau was not the permitting authority and therefore could not make the determination on a leaseholder's permitting status. Discussion ensued regarding the risk and liability concerns regarding structural systems. Council agreed this was an important issue and should be added in the consideration process. .

Mr. Hender, a leaseholder in Rose Cove, added that any gear that was his was removed from the beach and he was doing his best to keep the area as clean as possible. Mr. Hender explained that he was losing a lot of floating bags in high winds and was working on finding more secure methods to keep his bags in place.

Mr. Gainé asked the Council if there could be any other implications on other leases or potential lease areas adjacent to federal lands throughout the state as a result of this interaction with US Fish & Wildlife. Mr. Babb noted that if the issue was remedied, that the Service was relatively positive about the industry in general. The Service may be more explicit in their permissions for future permit conditions as a result.

Mr. Normant suggested that if after a storm event and gear was washed onto the Refuge property to reach out to the Refuge Manager as a courtesy and ensure that the gear would be removed immediately.

Discussion ensued regarding the general conditions in permits associated with permit authorizations, expiration of permits, and modifications to a permit. Mr. Maxwell suggested the Council send another letter to leaseholders regarding permitting and license compliance.

Commercial Shellfish Aquaculture Website

Ms. Kelly stated that the Bureau had been working with multiple state and federal agencies and developed a website that provided general information necessary for both a new growers and existing growers looking for information necessary for their operation. The benefit was consolidating information into a single website rather than stakeholders going to separate agency sites to piece the information together. The website is hosted by NJDEP and a link to the website would be available on the NJ Fish & Wildlife website. The draft website was reviewed and tested by multiple shellfish industry representatives for feedback. The website was scheduled to be

made available for public use by the end of August. Ms. Kelly presented the website and explained the various resources available.

Plans for Council Meeting – Short Term/Long Term Options

Mr. Babb presented multiple options for Council meetings from September to December. The Bureau had been asked by this Administration that any advisory body or Council going back to in-person meetings offer a virtual option as well. Options included remain virtual for remainder of 2022 and re-evaluate in 2023, schedule meeting for a different day of the week to accommodate venue scheduling conflicts on third Monday of the month or keep the regularly scheduled Monday evenings and host them at the facility in Batsto.

Mr. Babb presented a proposed 2023 schedule that included a Galloway meeting location as a home base and also schedule meetings a few times a year in Toms River, Cape May County, and Stafford.

Ms. Kelly added that if the Council wanted to host meetings at the Galloway library in 2023, the third week of the month was not available. The Council would have to change the meeting date to the first or second week of the month.

Discussion ensued by Council on potential travel and meeting options. Mr. Maxwell suggested that the Council stay virtual for the remainder of the year and revisit the proposed meeting schedule for 2023 with an in-person and virtual hybrid set up.

The meeting adjourned on a motion made by Mr. Johnson and seconded by Mr. Mathis.

7. Date time and place of next meeting:

DATE: September 19 , 2022
TIME: 6:00 PM
LOCATION: Virtual

(Attachment 1)

**NEW JERSEY SHELLFISHERIES COUNCIL
— ATLANTIC COAST SECTION —
P.O. BOX 418
PORT REPUBLIC, NJ 08241**

**JOHN J. MAXWELL, CHAIRMAN
WALTER L. JOHNSON III, VICE CHAIRMAN
PAUL T. FELDER, COUNCILMAN
GEORGE W. MATHIS, JR, COUNCILMAN**

May 17, 2022

Senator Nilsa I Cruz-Perez
231-L Market Street
Camden, NJ 08102

Assemblyman Clinton Calabrese
613 Bergen Boulevard
Ridgefield, NJ 07657

Re: Sunday Harvest Bill

Dear Senator Cruz-Perez and Assemblyman Calabrese,

The Atlantic Coast Section of the New Jersey Shellfisheries Council is writing you in regard to the latest of a series of bills, namely S520 and A3847, that would allow for the harvest of shellfish on Sundays for commercial shellfish aquaculture producers. We have also become aware that the Senate version of the Bill was replaced with the new Assembly version and passed through the Senate Environment and Energy Committee without any formal request for input from the Council.

The NJ Shellfisheries Council, established in State Statute Title 50, is comprised of licensed and practicing shellfishermen, appointed by Governor, to formulate policies for the preservation of the industry and resources of the state with the approval of the Commissioner of the NJDEP. These powers and duties of the Council include consultation with the Commissioner on all shellfish aquaculture matters and with the exclusive authority to issue leases in the tidal waters for the planting and cultivation of shellfish. These powers have been granted to the Council for over 100 years.

Given this authority, ideally, any amendments to Title 50 should always be vetted through the Council to provide a forum for discussion and to provide a consensus across the industry to ensure that changes benefit the entire industry. We feel that this vetting process did not occur with these bills. It should be noted that there are already provisions written in Title 50 that would allow for the harvest of oysters on Sundays if the Department and the Council were to adopt regulations through the Administrative Procedures Act.

The Shellfish Council takes very seriously its role in the management and improvement of the shellfish resources and industry and strongly suggests that this and future legislative initiatives be properly examined by the Council through its public process to ensure that the resources and industry remain viable. Thank you in advance for your interest in supporting this industry. Please know that I, and our Council members, are always available to discuss any legislative options that your office might be weighing.

If you would like to discuss further, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "John J. Maxwell". The signature is fluid and cursive, with the first name "John" and last name "Maxwell" clearly distinguishable.

John J. Maxwell
Chairman

c. Senator Bob Smith
Senator Linda Greenstein
Senator Edward Durr
Senator Richard Codey
Senator Jean Stanford
Senator Michael Testa
Senator Vincent Polistina
Senator Christopher Connors
Senator James Holzapfel
Senator Vin Gopal
Senator Declan O'Scanlon
Senator Robert Singer
Dave Golden, Assistant Commissioner, NJ Fish and Wildlife
Joe Cimino, Administrator, NJ Marine Resources Administration
Russ Babb, Chief, Bureau of Shellfisheries
Jeff Normant, Supervising Biologist, Bureau of Shellfisheries
Delaware Bay Section of NJ Shellfisheries Council