

DELAWARE BAY SECTION OF THE NEW JERSEY SHELLFISHERIES COUNCIL MEETING
MINUTES

Hybrid Meeting, Maurice River Twp. Municipal Building Web
and Conference Call via MS Teams

Tuesday, July 5, 2022

6:00 PM

ROLL CALL: Chairman: Warren Hollinger (Cumberland County)
Vice Chairman: Steven Fleetwood (Cumberland County)
Councilman: Richard Malinowski (Salem County)
Councilman: Scott Sheppard (Cumberland County)
Councilman: Vacant (Cape May/Salem County)

DEP Representatives: Russ Babb, Bureau of Shellfisheries
Jeff Normant, Bureau of Shellfisheries
Craig Tomlin, Bureau of Shellfisheries
Andrew Hassall, Bureau of Shellfisheries
Conor Davis, Bureau of Shellfisheries
Megan Kelly, Bureau of Shellfisheries
Robert Schuster, Bureau of Marine Water Monitoring

Haskin Lab: David Bushek, Director
Jason Morson, Associate Research Scientist
Jennifer Gius, Laboratory Researcher
Iris Burt, Laboratory Technician

In compliance with the Open Public Meetings Act (N.J.S.A. 13:1B-30 et. seq), a notice of this meeting was posted June 22, 2022 with the Secretary of State's Office, State House, Trenton, NJ and this meeting will be recorded.

Mr. Tomlin conducted roll call, reviewed the above compliance statement, and reviewed meeting etiquette and instructions for those attending via web and conference call. He proceeded with the meeting using a presentation to guide the meeting agenda and talking points.

1. 2022 Council minutes for consideration.

Mr. Tomlin informed the Council that the 2022 minutes will be sent to the Council to be reviewed and will be up for consideration and approval at the September 2022 meeting.

2. Delaware Bay Office revenue collected for:

April: \$34,742.00 and is summarized as follows:			
Oyster Tags	\$ 29,400.00	Commercial Crab Pot	\$ 1,900.00
Nets	\$2,018.00	Menhaden	\$ 208.00
DB Crab Dredge	\$300.00	Application Fees	\$106.00
Dredge Boat Renewal	\$ 38.00	Commercial S. F. License	\$52.00
Recreational S.F. License	\$ 20.00	AC Crab Dredge	\$200.00
Tonging Tags	\$ 500.00		

May: \$45,117.00 and is summarized as follows:

Oyster Tags	\$42,432.00	Commercial Crab Pot	\$1,100.00
Nets	\$955.00	Menhaden	\$102.00
DB Crab Dredge	\$300.00	Application Fees	\$48.00
Dredge Boat Renewal	\$180.00		

Councilman Hollinger reviewed the revenue for April and May, followed by the account information below in item 3.

3. Oyster Resource Development Account (*as of 7/05/2022*)

Encumbered:	\$ 5,666.13
Expended:	\$ 307,128.60
Unexpended/Uncommitted:	\$ 581,652.85

4. Old Business

4.1. Red Knot Stakeholder Committee Update - B. Hollinger

Councilman Hollinger reported there were no updates from the Committee.

4.2. Direct Market Fishery Update – C. Tomlin

Mr. Tomlin displayed and reviewed the harvest levels, which totaled 59,036 bushels. Shell Rock had 15,033 bushels harvested, the High Mortality Region had 44,003 bushels harvested with most harvest from Bennies, and the Medium Mortality Region was not yet open for harvest.

4.3. Dermo Monitoring Update

After item 5.4 and opening the floor up to the public for general inquiries, Dr. Bushek gave a report on the Dermo monitoring. He reported that the dermo levels were low in the seed beds, but that dermo was taking off in samples taken from the Cape Shore leases and the Rutgers Aquaculture Innovation Center (AIC). He informed that it was difficult to relate the samples from the seed beds which were naturally occurring samples versus the Cape Shore and AIC samples that were all the same age and size. Ned Gaines commented that the Rutgers racks were in higher elevation than everyone else's so they may not have been submerged as long and or purging as much as the other farms' oysters and the growing conditions were not the same. Dr. Bushek responded that they had discussed a different sampling pattern among the farms, but the Lab lacked the resources to conduct the sampling. He continued reporting that they added tasks for up the bay to monitor spring MSX disease. Councilman Hollinger asked if the Lab had the resources to monitor areas further down the Bay, and through discussion, Dr. Bushek said the Lab did not have the resources to add on further sampling. *Further discussion ensued.*

5. New Business

5.1. Direct Market Program – Upcoming Shell Planting – C. Tomlin

Mr. Tomlin informed the Council that the 2022 Stock Assessment Review Committee recommended planting shell in the two areas of Shell Rock and the High Mortality beds, which had the most harvest, and on sites that had the potential for spat recruitment. Mr. Tomlin reported the Bureau was looking to plant five to six barges on Shell Rock and the High Mortality

beds, or 100-120,000 bushels of shell. He added that was all the shell the Bureau and industry could obtain from the vendor. He also informed that the Bureau planned to begin plantings later that week.

Councilman Hollinger asked what was being done to get more barges of shell for 2023. Mr. Tomlin said the Bureau was in contact with the shell provider as well as other potential sources. He attended many meetings regarding the issue, and the provider was to try to start stocking earlier, as was previously done, and Mr. Tomlin said their supply of shell had fallen behind due to the COVID pandemic. Mr. Tomlin said the supplier was aware the industry wanted to buy more shell but could not guarantee any amount of shell because they still had business partnerships with other customers. Mr. Tomlin said the Bureau was working on other ideas to incentivize keeping the shell resources within the State because the Bureau was aware of the resources' value.

5.2. Barge Incidents – C. Tomlin

Mr. Tomlin reported that two barge incidents occurred in the Delaware Bay and Maurice River. He first informed that on May 23, 2022, 14.4 million pounds of scrap caught on fire while transiting via barge on Delaware Bay while going from Newark to Camden, and burned overnight. Mr. Tomlin displayed a picture of the barge fire, and then a map depicting the lower Delaware Bay, shellfish leased grounds, the barge's anchor location, the buoy markers for the Maurice River channel entrance, and the designated white sector stemming from East Point Lighthouse southwest towards the main channel. He explained that the company had to find a site to anchor the barge before it could be moved up bay. The map was used by the Bureau to provide information to the company to advise an area of safe passage through the leased grounds. He also reported that the Bureau was in constant contact to ensure they would not cross leased grounds or damage any gear, and to ensure no additional environmental impacts. Mr. Tomlin said their tracks showed the barge did not go across any active leased grounds going into the area, and the Bureau ensured they did not cross leased grounds leaving the area.

Through a lengthy discussion, Councilman Hollinger said that in the past, the Army Corps of Engineers (ACE) was not aware of the aquaculture gear within the white sector. The Councilman said he would like the Council to be more proactive with keeping the various entities involved in the barge incidents to be apprised of what activities occur in the white sector. Mr. Tomlin agreed and said the white sector details were part of past discussions for the Council's leasing policy, and asked if the Council would want to limit the leasing policy to traditional bottom aquaculture in the white sector, or to try to limit bottom aquaculture activities to be allowed up to the required channel depth. *Further discussion ensued.*

Mr. Tomlin continued reporting that the barge company had to transfer the scrap from the first barge to a second, 200-foot barge, and displayed a picture of the process. He continued that on its way out to conduct the scrap transfer, the 200-foot barge floated uncontrolled down the Maurice River on the morning of June 1. The barge damaged several properties and vessels, of which three vessel held Oyster Dredge Boat Licenses. Mr. Tomlin informed that the first vessel was immediately hauled out for repair, and the second vessel was able to be repaired for harvesting during the remainder of the 2022 harvest season. He further informed that the third vessel was damaged and was not able to be fixed until the end of the year at the earliest. Due to the third vessel's circumstances and the rules governing license consolidation, the third vessel would not be able to harvest its remaining 2022 quotas.

Mr. Tomlin said that after canvassing the Council, the Council was going to send a letter to

Commissioner LaTourette of NJDEP to allow the third vessel to receive a one-time Administrative Consent Order to allow its quotas to be harvested by another vessel for the 2022 season only since the consolidation rules limited their ability to harvest under those licenses. Councilman Hollinger read the letter to the meeting attendees, which detailed the first barge incident containing the scrap fire, the second barge incident causing damage in the river, and the unpredictable circumstances surrounding the damage to the third vessel that would not be able to harvest.

Councilman Hollinger asked for a motion to approve the letter and to have it sent to the NJDEP Commissioner. Councilman Malinowski made a motion. Councilman Fleetwood seconded the motion. Councilman Hollinger abstained from voting since he had a business relationship with the company that owned the damaged vessel. All other Councilmen were in favor and the motion passed. A lengthy discussion ensued which entailed: confirmation that N.J.A.C 7:25 and 7:25A rules were being reviewed for housekeeping changes, updates for the Atlantic coast, and updates to the license consolidation rules for Delaware Bay Oyster Dredge Boat Licenses; the leasing policy and how the white sector from the East Point Lighthouse should be addressed; and that Councilman Hollinger wanted the Council to be more proactive in letting state and federal entities apprised of what fishery operations were occurring in Delaware Bay, specifically in the white sector and along the Cape Shore.

5.3. Water Downgrades – C. Davis

Mr. Davis reported that on May 4, 2022, there were several closures throughout Delaware Bay, one of which was within Maurice River Cove. The closure covered 302.5 acres, of which 116 acres were within designated tongers areas. The closure also affected 35.1 acres of leased areas. The waters involved with the closure were downgraded to “Suspended” by the Bureau of Marine Water Monitoring until the proposed reclassification of “Restricted” was passed in regulation. Mr. Davis explained the changes using a map of the proposed classification changes.

Mr. Tomlin added that Mr. Davis sent letters informing all affected leaseholders about the downgraded water classification. He continued explaining that the reason they were informing the Council was more for future planning purposes since the reclassification reduced the area in which the tongers were able to harvest. Anything near the line the tongers harvested before was to be downgraded to “Restricted” which would reduce the harvestable tongers area. After some discussion, it was agreed the Bureau would survey the Maurice River Cove tongers areas to prepare to transplant oysters into the harvestable tongers beds before October 1, 2022 to allow one month for the oysters to depurate. These oysters would not include oyster from the PEW Trust planted oysters from October 2020 or the NJ Sea Grant planted oysters from December 2020, which were purchased with a requirement that they could not be moved or removed for two years from the purchase date.

Councilman Fleetwood asked if the Bureau of Marine Water Monitoring could do more water testing to find out why the water quality in the area was being degraded. Mr. Schuster said they would look into more testing, which their Bureau had started doing in other areas. Mr. Schuster said they were in the process of working area by area to work in more testing, but so far nothing resulted in a point source location. He added that the downgrade may have resulted from the high freshwater input years across 2018 and 2019, and they would continue to monitor the water quality. *Further discussion ensued.*

5.4. Regulatory Update, Sunday Harvest – C. Tomlin

Mr. Tomlin reported that the Right to Farm bill passed the NJ State Senate after being reviewed by the Senate Economic Growth Committee. The bill was to extend the Right to Farm Act protections to certain aquaculture activities. The bill was then moving to the NJ State Assembly Agriculture and Food Security Committee to be reviewed and voted on. Councilman Hollinger added that it was to the Assembly Committee on June 29, 2022.

The Sunday Harvest bill passed the full Senate but was sitting with the Assembly and needed to be reviewed by the Assembly Agriculture and Food Security Committee. Mr. Tomlin informed that the Bureau was told that the letters the Council sent regarding the bill may have sat on the legislatures' desks which was why it had not moved forward. *Further discussion ensued.*

Councilman Hollinger reported that there was \$100,000 that was going to the Dept. of Agriculture's Jersey Fresh program for the sole purpose of advertising aquaculture. The program would not be able to operate under the name Jersey Fresh because legislation was required to be introduced for the Dept. of Agriculture to use the name Jersey Fresh. Councilman Hollinger informed that Secretary Douglas Fisher did not have a problem with aquaculture falling under the Jersey Fresh program, but would have to find a legislature that would make that change. The money would still be placed in the Jersey Fresh program and would only be spent on aquaculture through commercial fisheries funds.

Ned Gaine asked if the Delaware Bay Section was making an N.J.A.C 7:25 task for leasing. Mr. Tomlin replied no, and that the idea was more to have the leasing coincide with each other. Mr. Normant clarified that there would be both separate sections for the Delaware Bay and common sections that would cover both coasts since there were similar procedures such as how leases were issued and the Council meeting attendance requirements. Mr. Gaine commented that the Delaware Bay did not have leasing regulations and was operating only under the leasing policy. Mr. Normant said the policy covered what was regulated on the Atlantic coast, which would be incorporated into the rewritten sections for both the common regulations and the regulations unique to Delaware Bay.

Mr. Gaine asked if there was to be an Aquaculture Development Zone section to the rule rewriting. Mr. Tomlin replied yes, and that they were planning to take the leasing policy that was being created by the Leasing Committee and put that into regulation. Mr. Gaine asked if the Leasing Committee was to meet about the regulations. Mr. Tomlin replied that the Bureau would involve the Committee in the process. Mr. Gaine asked if the Leasing Committee or Council would have a look at the new leasing policy before the next renewal period. Mr. Tomlin replied yes.

Mr. Gaine asked that the lease agreement be sent with enough time to review and digest the information before the renewal period. Mr. Normant and Mr. Tomlin advised that the Bureau was working with the State's legal team and making the case that the leased grounds needed to be regulated differently than other State lands such as leasing an area to run a hot dog stand. The legal team had standard language they required since it regarded State land. They added the Bureau did not have full control of those items or the regulation timeline, but were making the case of what changes were needed to tailor the rules to leased grounds. After further discussion, **Councilman Hollinger asked for a motion to receive the new leasing agreement before the September Council meeting, and if not received before October to push the new lease agreement to the next renewal period that was to occur in October 2023.** The motion did not carry as conversation was derailed.

Matt Williams voiced his concerns that he had a shed lot lease agreement and was abiding by the

rules, but that there were many people without a shed lot that were encroaching on the designated parking areas for the shed lots and were leaving gear everywhere, and in places that were not allowed. He also said having the shed lot felt like a financial disadvantage since people were abusing the rules for parking and storage. Mr. Gaine added that having the shed lot lease agreement also bound them to the rules and that they were able to lose their lease if violations occurred. The others without agreements did not have that issue. Through a lengthy discussion, Councilman Hollinger asked for the Bureau to contact the Bureau of Land Management to find out what rules were in place regarding the Special Use Permits for the Wildlife Management Area. Mr. Tomlin replied that they would investigate the matter. *Further discussion ensued.*

Councilman Hollinger opened the floor to the public, and there were no more questions, comments, or concerns. Mr. Tomlin thanked Denise from the Maurice River Twp. for coordinating with the Bureau and opening the building for the Council meetings. He asked the Council to think about how they liked having the hybrid meeting, and that if the audio issues on the Bureau's end were resolved that the Twp. building was a good venue to continue to use. He also informed that the Haskin Lab was open to meetings if the meetings needed to be there, and personally liked the hybrid meetings. Councilman Hollinger said he liked the Haskin Lab setup because they had a camera system that followed who was speaking and that they could try the hybrid meeting out at the Haskin Lab for the next meeting.

6. Date, time, and place of next meeting: - Council

DATE: Tuesday, September 6, 2022
TIME: 6:00 PM
LOCATION: T.B.D.

Councilman Hollinger reviewed the date and time of the next meeting and noted the location was to be determined.

Councilman Fleetwood motioned to adjourn the meeting. Councilman Sheppard seconded the motion. All were in favor and the motion passed.

The meeting was adjourned at 7:42 P.M.