

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

Nacote Creek Law Enforcement
Port Republic, NJ
July 19, 2010

Present were: Chairman: Walter L Johnson III (Ocean County)
 Vice Chairman: Walter Hughes (Monmouth County)
 Councilman: John Maxwell (Atlantic County)

Absent was: Councilman: Oliver Twist III (Cape May County)

State Representatives: James W. Joseph, Bureau of Shellfisheries
 Michael Celestino, Bureau of Shellfisheries
 Robert Connell, Bureau of Marine Water Monitoring

Mr. Johnson called the meeting to order. Mr. Joseph read the State's compliance with Sunshine Law. He announced that the meeting would be recorded.

1. Total Revenue for June 2010: \$ 35,678.00
 Shellfisheries Law Enforcement Fund: \$ 1,300.00

2. Presentation of May 17 and June 21, 2010 minutes.

The minutes of the May 17, 2010 meeting were approved on a motion by Mr. Maxwell seconded by Mr. Hughes. The minutes of the June 21 meeting were held over for approval until the next meeting as chairman Johnson indicated that he had not received the minutes in the mail.

3. Applications for New Ground: Decision

Applicant	Lot #	Section	Acres	Location	Map
Keith Heinrichs	128	B	2.00	GB-Gravelling Point	1
Jaqueline Heinrichs	139	B	2.00	GB-Gravelling Point	1
Stanley Markoski	1419	B	2.00	LEHB-Middle Island	6.1
Raymond T. Seyler	2530	B	2.00	Scull Bay	27
Michael F. Dear	2529	B	2.00	Scull Bay	27
Glen Heuman	2528	B	2.00	Scull Bay	27
Frank Myers	2502	B	2.00	Scull Bay	27
Sean Mc Mahon	2527	B	2.00	Scull Bay	27
Leonard Prickett	300	A	2.00	Stites Sound	

Messrs. Heinrichs, Markoski, Seyler, Dear, Heuman, Myers, Mc Mahon, Prickett and Ms. Heinrichs were present at the June 21, 2010 meeting. Mr. Myers was present at the July 19, 2010 meeting. Mr. Joseph noted that Mr. Prickett's application for a lease in Stites Sound was contrary to the longstanding policy of the Department and the Council of only allowing new leases in areas adjacent to an existing block of leases. Mr. Hughes inquired if Mr. Prickett had been assisted with finding an alternate lease location adjacent to an existing block of leases. Mr. Joseph responded that unlike another applicant for whom a lease was found adjacent to existing leases in Barnegat Bay, Mr. Prickett was not interested in alternate lease locations. Mr. Avery stated that security was an issue to accommodate additional leases in the area of Great Sound. Mr. Maxwell inquired about shellfish productivity. Mr. Joseph stated that the area was potentially productive considering that density of hard clams was fairly low according to routine quantitative sampling whereas higher density was found by treading for a brief time over part of the area. Mr. Joseph stated that 14 year class sizes were represented in the samples, indicating consistent recruitment. For budgetary reasons, Mr.

Joseph stated that the Department was steering applicants away from leasing in areas not adjacent to existing leases because the cost to conduct biological and hydrographic surveys for a single lease in a remote location was approximately \$1,400, whereas the Bureau only collects \$135 for both biological and hydrographic survey fees. Mr. Maxwell explained that the Council and the Department were charged with expanding leases and he questioned the rationale of making decisions solely based on budget constraints. Mr. Maxwell inquired about the status of the request for NJDEP to review the Report of the Shellfish Council Leasing Committee previously submitted to the Department. Mr. Joseph stated that no definitive response was available at this time. Mr. Johnson and Mr. Maxwell expressed dissatisfaction with the lack of a response. Further discussion on this matter ensued. On a motion by Mr. Johnson seconded by Mr. Maxwell the Council approved all the lease applications for new ground listed for decision in the agenda.

4. Old Business

DEP Press Release: Shellfish Gardening

Mr. Joseph informed that Senate Bill No. S2122, allowing for cultivation of commercial shellfish species in contaminated coastal and inner harbor waters for research, educational and restoration purposes, was recently introduced in the legislature presumably in response to the June 7, 2010 press release by NJDEP Commissioner Martin banning research-related shellfish gardening of commercial species in coastal waters not approved for shellfish harvest. Attached are copies of the Senate Bill and the Commissioner's press release. Mr. Joseph explained that the Commissioner had issued the ban on shellfish gardening out of concern over public health, and to protect the economic vitality of the shellfish industry. Mr. Joseph stated that there was a risk that contaminated shellfish poached from gardening projects would be consumed and threatens human health. Mr. Joseph also noted that there were insufficient law enforcement capabilities to meet the FDA patrol frequency requirements. Mr. Connell made a PowerPoint presentation about the shellfish growing water classification process and the issue of shellfish gardening. He was particularly concerned about potential illnesses originating from oyster restoration projects described in the NY/NJ Harbor Estuary Program, because these projects were in less than Approved waters and there were periods of bypass when raw sewage was directly discharged into areas identified for oyster restoration. Mr. Johnson inquired about the authorization process for NY/NJ Baykeeper oyster restoration activities. Mr. Connell explained that the initial authorization was for a very small educational project and that the project expanded over time. Mr. Connell referenced current Harbor Estuary Program goals including 500 acres of oyster beds restored by 2015 and 5000 by 2020. On a motion by Mr. Maxwell seconded by Mr. Hughes, the Council made a resolution to send a letter to the Commissioner supporting his decision to ban shellfish restoration in less than Approved waters (as discussed in the June 7, 2010 press release) and opposing Senate Bill No. 2122 due to public health concerns and potential impacts to the New Jersey shellfish industry. To address the patrol deficiencies noted in the 2009 FDA evaluation, at Mr. Joseph's suggestion, the Council decided to also urge Commissioner Martin to taking steps necessary to ensure that DEP meets the FDA's patrol frequency requirements. Further discussion on this matter ensued.

Aquaculture Advisory Council Meeting, July 16th, 2010

Mr. Myers, Aquaculture Specialist with NJ Department of Agriculture, stated that the DEP press release on shellfish gardening and lack of USDA funding for the proposed census of aquaculture were items discussed at the Aquaculture Advisory Council Meeting on July 16th, 2010. Mr. Maxwell added that the AAC Technical Committee had been charged with addressing the issue of oyster importation into Dry Bay. Further discussion on this matter ensued.

Mr. Raymond Seyler's Vacated Lease 2724 for Non-Payment

Mr. Joseph stated that in response to the request for legal advice that he made in February, NJDEP attorneys replied that Mr. Seyler had no legal recourse to reapply for his former lease because Mr. Seyler failed to plead for an extension of the lease renewal deadline at the January meeting. Mr. Joseph stated that the subsequent applicant had fulfilled the requirements and staked the lease within six months. Mr. Joseph stated that NJDEP attorneys confirmed that according to Atlantic Coast aquaculture leasing regulations, shellfish leases must be renewed each year by December 31st and that if illness or extenuating circumstances prevented a lessee from renewing by the December 31st deadline, the Council could extend

the payment deadline by one month provided the request was made at the January meeting (as per NJAC 7:25-24.8). Further discussion on this matter ensued.

5. New Business

Shellfish article in the July 19, 2010 Press of Atlantic City

Mr. Johnson stated that he was concerned about the article on shellfish published in the July 19, 2010 Press of Atlantic City because it gave the wrong impression that shellfish was not safe to eat in New Jersey following the recent news concerning shellfish gardening. Mr. Joseph explained that recent shellfish gardening issues had prompted a discussion on patrol frequencies and that some groups suggested that provided enough patrol was made available, it was possible to allow shellfish gardening projects in less than Approved waters, for example in Keyport Harbor or the Arthur Kill. Mr. Joseph stated that he was concerned about patrol frequency deficiencies. Mr. Johnson expressed dissatisfaction with P.E.E.R. (Public Employees for Environmental Responsibility) whose press comments could negatively impact the entire shellfish industry in New Jersey. Further discussion on this matter ensued.

The meeting was adjourned on a motion by Mr. Hughes and a second by Mr. Maxwell.

7. Date, time and place of next meeting:

DATE: August 16, 2010
TIME: 7:00 PM
LOCATION: Law Enforcement Office
360 New York Rd. Rte. 9
Port Republic, NJ 08241