

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

Nacote Creek Law Enforcement
Port Republic, NJ
February 14, 2011

Present were: Chairman: Walter L Johnson III (Ocean County)
 Vice Chairman: John Maxwell (Atlantic County)
 Councilman: Oliver Twist III (Cape May Count

Absent was: Councilman: Walter Hughes (Monmouth County)

State Representatives: James W. Joseph, Bureau of Shellfisheries
 Jeffrey C. Normant, Bureau of Shellfisheries
 Michael Celestino, Bureau of Shellfisheries
 Gustavo Calvo, Bureau of Shellfisheries

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 December 2010:	\$ 15,949.58
	Shellfisheries Law Enforcement Fund	\$ 11,060.00
	 Total Revenue for January 2011:	 \$ 2,930.08
	Shellfisheries Law Enforcement Fund:	\$ 1,660.00

2. Annual Election of Chair and Vice Chair (NJSA 50:1 – 18D)

Mr. Johnson was elected Chairman on a motion by Mr. Maxwell and a second by Mr. Twist. Mr. Maxwell was elected Vice Chairman on a motion by Mr. Johnson and a second by Mr. Twist.

3. December 20, 2010 Minutes

The minutes of the December 20, 2010 meeting were approved on a motion by Mr. Johnson and a second by Mr. Maxwell.

4. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP #
Gregory Goff Sr	Gregory Goff Jr	2026	B	5.00	Steelmans Bay	3
Gregory Goff Sr	Gregory Goff Jr	2025	B	5.00	Steelmans Bay	3
Gregory Goff Sr	Gregory Goff Jr	2027	B	6.28	Steelmans Bay	3
Gregory Goff Sr	Gregory Goff Jr	2023	B	16.79	Steelmans Bay	3
Gregory Goff Sr	Gregory Goff Jr	2017	B	0.5	Steelmans Bay	3
Gregory Goff Sr	Gregory Goff Jr	2007	B	4.86	Wading Thorofare	2
Gregory Goff Sr	Gregory Goff Jr	2002	B	4.13	Wading Thorofare	2
Gregory Goff Sr	Gregory Goff Jr	2000	B	14.55	Wading Thorofare	2
Gregory Goff Sr	Gregory Goff Jr	2001	B	15.24	Wading Thorofare	2
Gregory Goff Sr	Gregory Goff Jr	2029	B	1.05	Obes Thorofare	3
Gregory Goff Sr	Gregory Goff Jr	2021	B	0.76	Obes Thorofare	3
Gregory Goff Sr	Gregory Goff Jr	2009	B	1.99	Obes Thorofare	3

Donna Hewitt	William Falkinburg	1418	B	1.00	Middle Island Ch.	6.1
John Schriever	William Flockhart & William E. Flockhart	2322	B	1.78	Dry Bay	24.2
John Schriever	William Flockhart & William E. Flockhart	2323	B	1.70	Dry Bay	24.2
John Schriever	William Flockhart & William E. Flockhart	2330	B	2.00	Dry Bay	24.2

Without discussion, the lease transfers were approved on a motion by Mr. Maxwell and a second by Mr. Johnson.

5. Vacated Leases – By Lessee

APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
John Sacco	102	A	2.00	GEHB-Peck Bay	4

Mr. Joseph informed the Council that Mr. Sacco had voluntarily vacated the lease.

6. Terminated Leases – Non-Payment

APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
John Aubin	11	D	2.00	Barnegat Bay- Swan Pt	1
John Bozarth	78	B	1.24	Great Bay-Graveling Pt	1
	62	B	1.24	Great Bay-Graveling Pt	1
	50	B	1.7	Great Bay-Graveling Pt	1
	70	B	11.36	Great Bay-Graveling Pt	1
David Busza	2303	B	0.52	Dry Bay	24.2
	407.1	B	2.74	Great Bay – Big Creek	10
George Leone	46	B	1.97	Great Bay –Graveling .Pt	1
	140	B	0.67	Great Bay –Graveling .Pt	1
	137	B	2.40	Great Bay –Graveling .Pt	1
	897	B	2.00	Parker Cove	7
	878	B	2.56	Parker Cove	7
	416.2	B	2.04	Great Bay – Cape Horn	10
	403.1	B	3.25	Great Bay – Big Creek	10
	2282	B	2.28	Dry Bay	24.2
Andrew Levin	6	D	2.00	Barnegat Bay – Swan Pt	1
Robert Muehleisen	1423	B	2.00	Middle Island Ch.	6.1
Frank Myers	2502	B	2.00	Scull Bay	27
Ralph Pawlowski	116.1	B	2.00	Great Bay –Graveling .Pt	1
	47	B	1.19	Great Bay –Graveling .Pt	1
	129	B	2.28	Great Bay –Graveling .Pt	1
	2345	B	2.00	Dry Bay	24.2
	141	B	0.43	Great Bay –Graveling .Pt	1
	398	B	2.81	Great Bay – Big Creek	10
	404.1	B	2.73	Great Bay – Big Creek	10
Richard Pomasan	261	C	2.00	Barnegat Bay	14
William J Storms Jr	130	B	2.28	Great Bay –Graveling .Pt	1
Floyd West	318	B	1.92	Great Bay – Cape Horn	10
Robert Yovankin	55	B	2.00	Great Bay –Graveling .Pt	1

Mr. Joseph informed the Council of the leases that were vacated for non-payment. Mr. Joseph noted that Mr. Pomasan was deceased. Mr. Bozarth requested an extension in the payment for his lease renewal due to extenuating circumstances. Mr. Joseph reminded the Council that if illness or extenuating circumstances prevented a lessee from renewing by the December 31st deadline, the Council could extend

the payment deadline by 30 days provided the request was made at the subsequent January meeting (as per NJAC 7:25-24.8). Since there was no meeting in January, requests for lease payment extensions were made at this meeting. On a motion by Mr. Maxwell and a second by Mr. Twist, the Council granted an extension to Mr. Bozarth.

Terminated Relay Leases – Non-Payment

James M Harry	L11	D	1.50	Laurel Harbor Relay	14.1
Peter Krasowski	L4	D	1.50	Laurel Harbor Relay	14.1
Richard Pomasan	L12	D	1.50	Laurel Harbor Relay	14.1

Mr. Joseph informed the Council of the relay leases that were vacated for non-payment.

N.J.S.A. 58:24 -3 Violation

William Willem	T320	B	1.50	Little Egg Harbor Bay	6/12
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Mr. Joseph stated that Mr. Willem’s lease T320 was terminated due his shellfish license being suspended due to a conviction for shellfishing in condemned water.

7. Old Business:

Draft ADZ Lease Document

Mr. Joseph stated that he had sent copies of the draft document for leasing of Aquaculture Development Zones (ADZs) to both the Delaware Bay Section and the Atlantic Coast Section of the Shellfisheries Council on January 31, 2011. Mr. Joseph informed the Council that four ADZ areas had been established and permitted for structural aquaculture activities in Delaware Bay. The original permit from NJDEP Division of Land Use Regulation for the ADZs was extended until 2013. The original permit from the US Army Corps of Engineers was in the process of being renewed. Mr. Joseph stated that through guidance from the Office of the Attorney General, the lease document would allow for ADZ leasing to commence while regulations were concurrently being developed. Mr. Joseph sent the draft document to the Council to solicit comments. Messrs. Maxwell and Johnson indicated that the Council would defer comments until the Delaware Bay Section had a chance to review the document. Mr. Johnson inquired on the deadline of the comment period. Mr. Joseph stated that there was no formal comment period or deadline.

Application for Lease 2724

Mr. Joseph stated that Council received a letter from Mr. Raymond Seyler’s attorney regarding Mr. Schultz’s application for lease 2724 in Shelter Island Channel. The letter stated that Mr. Schultz’s application was no longer valid as Mr. Schultz was convicted for shellfishing in condemned waters and that the time period to appeal the conviction had lapsed. The letter stated that Mr. Seyler should be able to apply for the lease. Mr. Joseph summarized the issues regarding Mr. Schultz’s lease application in Shelter Island Channel (Lot # 2724). Mr. Seyler had failed to renew all his leases for 2010, which included lot 2724 by the December 31, 2009 deadline and did not attend the subsequent January meeting to request a one-month extension to renew his leases due to extenuating circumstances, as per the Atlantic Coast Leasing Regulations (NJAC 7:25-24.8). Mr. Schultz applied for the vacated lease 2724 soon after the January 11, 2010 meeting. Upon learning that his leases were vacated, Mr. Seyler attended the February 8, 2010 meeting and requested that the Council pass a resolution to allow him to re-acquire his leases. The Council requested a legal opinion by the NJ Attorney General’s Office (AGO). A legal determination by the AGO confirmed that by operation of the regulation, Mr. Seyler could not renew his former lease. Mr. Seyler had then requested and was granted an adjudicatory hearing to reacquire lease 2724. Mr. Seyler’s lawyer had requested that the Council implement a stay on a final decision on Mr. Schultz’s application for lease 2724 pending the results of the hearing. Mr. Schultz’s application for lease 2724 was on the agenda for final decision at the December 20, 2011 meeting. The AGO recommended that the Council grant the

stay. Council agreed and issued a stay on the final decision for lease application 2724 until the conclusion of Mr. Seyler's adjudicatory hearing.

The Bureau had learned of Mr. Schultz's conviction just prior to the December 20, 2010 meeting, also though a letter from Mr. Seyler's attorney. At the December meeting in which Mr. Schultz was required attended for his pending lease application, Mr. Schultz had stated that he was appealing the conviction. To confirm Mr. Schultz's appeal, the AGO recommended that the Bureau send a letter to Mr. Schultz requesting a copy of his notice of appeal and required Mr. Schultz to provided the Bureau with this information by February 25, 2011.

Mr. Johnson stated that he clearly read Mr. Seyler attorney's letter as questioning the process and disputing the Council's decision to impose a stay. Mr. Johnson stated that Council's decision followed the regulatory process and the AGO advise. Mr. Johnson stated that the only available course of action, as stated in a letter from the AGO, was to impose a stay. Mr. Johnson encouraged Mr. Seyler and his attorney to review the letter that the Council received from the AGO.

Mr. Normant clarified statements in the letter from Mr. Seyler's attorney, which indicated that Mr. Seyler submitted an application for lease 2724 on December 14, 2010. Mr. Normant indicated that Mr. Seyler's application was not accepted because Mr. Schultz was the applicant and at the time there was no knowledge of Mr. Schultz's conviction until just prior to the Council meeting on December 20, 2010.

Mr. Maxwell stated that Council's action followed the regulatory process and the AGO advise. Mr. Maxwell stated that he did not agree with the letter from Mr. Seyler's attorney suggesting otherwise. Mr. Johnson stated that Council had granted the stay on Mr. Seyler's behalf and not on Mr. Schultz's behalf.

Mr. Seyler stated that after the Council meeting on December 20, 2010, Mr. Schultz told him that he was going to withdraw the application with the stipulation that Mr. Seyler would get the lease. Mr. Johnson asked if Mr. Schultz had withdrawn the application. Mr. Joseph stated that the application had not been withdrawn.

8. New Business:

NOAA Aquaculture Policy

Mr. Joseph provided copies of the NOAA Draft National Aquaculture Policy documents released for public comment on February 9, 2011. Mr. Joseph stated that the documents were available online at the NOAA website and that the comment period was 60 days.

Aquaculture Advisory Council (AAC) Meeting

Mr. Joseph summarized the topics of discussion from the January 28, 2011 Aquaculture Advisory Council (AAC) meeting. The most noteworthy item discussed was the Aquaculture Development Plan (ADP) Update. The Aquaculture Development Act requires updates to the ADP every 5 years and the last update was provided in 2002. A Special AAC Meeting held on December 17, 2010 to discuss the ADP Update. Discussions focused on the ADP executive summary to emphasize the positive aspects of aquaculture, such as opportunities to increasing shellfish production, providing ecosystem services and generating employment. Mr. Joseph stated that Mr. Robert Schuster from the Bureau of Marine Water Monitoring delivered a presentation on non-point source pollution studies. Mr. Joseph announced that the next AAC meeting was tentatively scheduled for April 15, 2011 at a location to be determined.

2011 Relay Program

Mr. Johnson inquired on Relay leaseholders not receiving applications for their special permits from the Bureau of Marine Water Monitoring needed to maintain their relay lots. Mr. Joseph stated that he would look into the matter.

Mr. Normant inquired if the Council was going to suspend the relay for 2011. On a motion by Mr. Maxwell seconded by Mr. Twist, the Relay Program was suspended for 2011.

Spring Mullica River Oyster Harvest Season

Mr. Dale S. Parsons inquired on the possibility of obtaining a Scientific Collecting Permit (SCP) to gather oyster broodstock from the Reef Bed at the confluence of the Mullica River and Great Bay. Mr. Joseph stated that SCPs are issued for educational purposes only. Mr. Joseph suggested that if a spring Mullica River oyster harvest season was considered, it would provide Mr. Parsons with an opportunity to collect local oysters.

Mr. Maxwell suggested a spring oyster harvest in April to avoid increasing concerns over *Vibrio*. Mr. Joseph stated that Mr. Normant would look into harvest dates based on tides and conflicts with law enforcement and then present options at the next Council meeting on March 21, 2011. Mr. Joseph stated that the harvest area would be limited to the Fitney Bit and Oyster Bed Point. Mr. Scales inquired on the possibility of opening the Reef Bed. Mr. Joseph stated that per agreement with the FishAmerica Foundation, which required that the Reef remained closed until June 2011, the Reef Bed could not be opened until the fall of 2011.

Biological Investigations for Pending Lease Applications

Mr. Parsons inquired on the status of the biological investigation for his lease application in Middle Island Channel. Mr. Normant stated that the staffer conducting biological investigations was no longer with the Bureau, so there could be delays in completing biological investigations.

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

9. Date, time and place of next meeting:

DATE: March 21, 2011
TIME: 7:00 PM
LOCATION: Law Enforcement Office
360 New York Rd. Rte. 9
Port Republic, NJ 08241

“Shellfish leases must be renewed (in person) by December 31 each year. Bureau offices will begin accepting lease renewals October 15 each year.”