

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

Nacote Creek Law Enforcement
Port Republic, NJ
March 21, 2011

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

State Representatives: Jeffrey C. Normant, Bureau of Shellfisheries
 Michael Celestino, Bureau of Shellfisheries
 Gustavo Calvo, Bureau of Shellfisheries
 Russell Babb, Bureau of Shellfisheries

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

1. Total Revenue for February 2011: \$ 1,630.20
 Shellfisheries Law Enforcement Fund \$ 580.00

2. February 14, 2011 Minutes

The minutes of the February 14, 2011 meeting were approved on a motion by Mr. Maxwell and a second by Mr. Twist.

3. Applications for Transfer

LESSEE	APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP #
James Allen	Dale S. Parsons	1409	B	1.54	Middle Is. Channel	6.1

Without discussion, the lease transfer was approved on a motion by Mr. Maxwell and a second by Mr. Twist.

4. Applications for Consideration

APPLICANT	LOT #	SECTION	ACRES	LOCATION	MAP#
John Aubin	11	D	2.00	Swan Point	1
Dale B. Parsons	2282	B	2.28	Dry Bay	24.2

Mr. Normant provided the Council with copies of the applicants' lease applications. As per the leasing regulations, no biological investigation was required for the lease application in Dry Bay. Mr. Aubin was present. Mr. Parsons was not present. Pursuant to leasing regulations, applicants must attend one of two meetings at which the Council would review their applications. Mr. Aubin had inadvertently vacated his lease for non-payment and was re-applying for the parcel. A decision would be rendered at the next meeting.

Mr. Johnson inquired on Mr. Aubin's experience with oyster aquaculture. He stated that his oysters were growing well and he was satisfied with the area. However, he was concerned with boat traffic and potential conflicts with fishermen. Mr. Aubin stated that he has a good working relationship with crabbers tending gear in the area.

5. Old Business:

Application for Lease 2724 – Shelter Island Channel

Mr. Normant informed Council with an update on recent developments regarding Mr. Adrian Schultz's lease application 2724 in Shelter Island Channel (see December 20, 2010 and February 14, 2011 minutes for past summary of issues regarding lease 2724). Mr. Normant stated that the Bureau had sent Mr. Schultz a letter requesting a copy of his Notice of Appeal by February 25, 2011. Mr. Schultz had been convicted of shellfishing in condemned waters and his commercial shellfish license was suspended (note: his conviction was upheld from a previous appeal). He had verbally stated he was going to appeal the conviction further. On February 25, 2011, the Bureau received a hand written note from Mr. Schultz stating that he was still appealing his conviction and requested the Bureau to contact his attorney. In response to Mr. Schultz's letter, the NJ Attorney General's Office (AGO) sent a letter to Mr. Schultz's attorney to provide a final opportunity to submit a copy of a Notice of Appeal to the Bureau of Shellfisheries by March 2, 2011. If this information was not provided to the Bureau by March 2, 2011, the Bureau would be required to cancel the lease application pursuant to its regulations. There was no response from Mr. Schultz or his attorney. Following the recommendation from the AGO, the Bureau canceled Mr. Schultz's lease application. The Leasing of Atlantic Coast Bottom for Aquaculture regulations (N.J.A.C. 7:25-24.5) stipulate "an application for a shellfish lease for new ground may be submitted by any person who meets the statutory requirements for leasing specified at N.J.S.A. 50:1-23 through 50:1-31, who, in the five years prior to making application, has not been convicted of violations of N.J.S.A. 50:4-3 or" (shellfish harvest in condemned waters) or of any administrative rule promulgated pursuant to those statutory provisions" and "holds a valid New Jersey Commercial Shellfish License". Mr. Maxwell inquired if there was any action required by Council. Mr. Normant suggested that Council could pass a motion in support of the Bureau canceling Mr. Schultz's application.

Mr. Maxwell recalled that Mr. Schultz had indicated that he was going to withdraw his lease application after the December 2010 meeting. Mr. Normant stated that Mr. Schultz had verbally indicated to him that he was going to withdraw his application when he had heard Mr. Raymond Seyler had mistakenly vacated the lot for non-payment of his lease fees and was trying to re-acquire the lease. Mr. Normant stated that Mr. Schultz did not follow through to withdraw his application. Mr. Normant said that he had contacted Mr. Schultz in January 2011 to confirm his intentions to withdraw his application and on the status of his appeal. Mr. Schultz re-confirmed he was going to withdraw the application and was appealing his conviction. After several weeks of not hearing from Mr. Schultz, the Bureau had tried to make contact with him by phone, but Mr. Schultz was unresponsive. This prompted the Bureau, on the advice of the AGO, to send the letter to Mr. Schultz on February 14, 2011 requesting documentation of an appeal.

Mr. Johnson inquired on the effective date for termination of Mr. Schultz's lease application. Mr. Normant stated that the cancellation of Mr. Schultz's lease application would become effective after the Council was officially notified. Mr. Normant stated that the Bureau was going to send a letter to Mr. Schultz to inform him that his lease application was canceled.

Mr. Johnson inquired if Mr. Seyler could proceed with an application to re-acquire lease 2724 in Shelter Island Channel. Mr. Normant stated that before Mr. Seyler could apply for lease 2724, Mr. Seyler would have to sign a statement to withdraw his OAL appeal. Once Mr. Seyler withdraws his OAL appeal, the Council's stay on lease application for lot 2724 would be canceled since the OAL appeal would be concluded.

On a motion by Mr. Maxwell and a second by Mr. Twist, the Council unanimously passed a motion that supported the Bureau's decision to cancel Mr. Schultz's application for Lease 2724.

Financial Disclosure Forms

Mr. Maxwell inquired on information regarding the State Ethics Commission's financial disclosure forms. The Shellfisheries Council had been required to complete these forms before May 15th of each year and had not received any information. Mr. Maxwell stated that council members would need that information on or

before the next meeting on April 18, 2011. Mr. Johnson stated that in 2010, the fine for not completing the forms by the deadline of May 15 was \$50.00 per day. Mr. Normant stated that he would look into the matter and get back to the Council.

Hard Clam Management Plan

Mr. Twist stated he was planning to hold a meeting to solicit input from Cape May County shellfishermen as part of developing a comprehensive hard clam management plan for New Jersey. Mr. Twist stated that he had initiated contact with commercial and recreational shellfishermen in Cape May County. Mr. Johnson emphasized the need to hold focus meetings in each county since issues vary in different regions. Mr. Flimlin proposed using the facilities at the Cape May County Rutgers Cooperative Extension office for the Cape May County meeting, and similar facilities in other counties. Mr. Flimlin offered to contact an experienced facilitator to help focus and mediate meetings. Mr. Normant stated that the purpose of county meetings was to help constituencies identify and address issues of interest in their respective counties. Mr. Flimlin offered to start preparing a mailing list to contact commercial and recreational shellfishermen. Mr. Johnson stated that compiling a mailing list would be helpful.

Relay Permits

Mr. Normant stated that he had contacted the Bureau of Marine Water Monitoring (BMWM) in regards mailing out applications for the relay permits (5a and 5b). The BMWM was looking into it as they were unaware permits were needed since the relay program was suspended. Mr. Normant informed the BMWM that some of the relay leases were still being held and permits were required. Mr. Normant stated that he would be sending the list of relay leases to the BMWM.

8. New Business:

Spring Mullica River Oyster Harvest Season

Following Council's proposal for a spring oyster harvest season in April, Mr. Normant presented options for possible harvest dates after consulting law enforcement and referencing tide schedules. Mr. Normant stated that the weeks of April 11th and April 25th were the most favorable options. Mr. Maxwell suggested the week of April 11th to avoid concerns over *Vibrio*.

Mr. Flimlin stated that aside from tide and enforcement, he suggested the harvest could coincide with the Easter market. Mr. Maxwell stated that the Easter market was not a major factor given that most harvesters were from Delaware Bay and the Delaware Bay oyster season opened early in April.

Mr. Maxwell made a motion recommending a harvest season starting on Monday, April 11, 2011 and ending on Saturday, April 16, 2011. Mr. Hughes seconded the motion. The motion passed unanimously.

Survey of 2010 Shellfish License Holders

For Council's information, Mr. Celestino announced that the questionnaire for the 2010 Survey of Shellfish License Holders was ready to be mailed to license holders on March 22, 2011. The objective of the survey was to characterize the fishery as to participants. Mr. Celestino stated that the survey consisted of 12 very broad questions including where and why participants went shellfishing and how much did they catch. The format of the survey was the same as in the last surveys conducted by the Bureau of Shellfisheries in 1981 and 1991. Mr. Celestino said that the survey was anonymous and only required identification of county, gender and general harvest location. Mr. Celestino encouraged participation in the survey. Mr. Maxwell inquired if the survey would be sent to both recreational and commercial license holders. Mr. Celestino stated that the survey was being sent to a total of 1600 license holders, representing 80% of commercial license holders and 20-40% of recreational license holders. Mr. Johnson inquired on the number of questionnaires sent out in the 1991 survey. Mr. Celestino stated approximately 1,500. Mr. Johnson inquired if the past surveys were comparable. Mr. Celestino stated that one of the reasons to keep the same

format was to allow for comparing surveys over time. Mr. Johnson commended Mr. Celestino for the survey work.

Shellfish aquaculture permitting and promotion

Mr. Flimlin announced that NJDEP was having a public hearing on coastal zone management regulations in Trenton on March 29, 2011 at 9:00 am. Mr. Flimlin stated that comments on permitting shellfish aquaculture gear, primarily land-based gear, would be gathered as part of the hearing. Mr. Flimlin stated that under consideration was a general permit and permit by rule for community based shellfish restoration purpose. Mr. Flimlin stated that he would comment on expanding the general permit and permit by rule to include use of shellfish aquaculture gear for commercial purpose.

Mr. Flimlin announced an aquaculture marketing workshop to be held at the Seaview Resort in Galloway on April 12, 2011.

Mr. Flimlin announced that ReClam the Bay was considering making a request to the Commissioner of NJDEP to sponsor free clamming days in Barnegat Bay. Further discussion on the matter ensued.

There being no further business, the meeting was adjourned on a motion by Mr. Hughes and a second by Mr. Twist.

DATE: April 18, 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.”