

RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Meeting Minutes
March 1, 2010 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: C. Anderson, S. Macinko J. King, R. Hittinger, S. Medeiros,
R. Bellavance
RIMFC Members Absent: S. Parente, K Ketcham
Chairperson: B. Ballou
RIDEM F&W Staff: N. Scarduzio, J. McNamee, M. Gibson, N. Lazar
DEM Staff: G. Powers, Larry Mouradjian
DEM Law Enforcement: S. Hall
Public: 45 people attended

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. He noted that he had a couple of items to add; under 5d an application for the Shellfish advisory panel, under 5e he added upcoming openings on the RIMFC, and added item 7, Old Business to give an update on the NEFMC vacancies. He suggested renumber the topics of ASMFC/NEFMC as number 8, and adjourn would be number 9. Ballou asked if there were any objections from the Council to the changes as proposed. There were no objections. **B. Ballou asked if there were any objections to approving the agenda as amended. Hearing none, the amended March 1, 2010 agenda was approved.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the December 7, 2009, Council meeting. B. Ballou asked if there were any objections to approving the minutes. **S. Medeiros made a motion to approve the December 7, Council meeting minutes. J. King seconded the motion. The minutes from the December 7, 2009 Council meeting were approved.**

Public Comments

An audience member asked if he would have an opportunity to speak when the Shellfish AP report was presented.

J. Shelly wanted to bring up the bait net situation. He stated that currently they were allowed to fish a 100 foot bait net and he wanted to request new regulation that would allow licensed gillnetters be able to fish a 600 foot bait net, at 3 1/4 or 3 1/2 inch mesh size, and keep all other requirements the same. B. Ballou suggested this could be an item on the next Council agenda.

Advisory Panel Reports

Tautog AP (12/29/09) – R. Hittinger:

R. Hittinger gave a brief summary of the Tautog AP meeting explaining the panel reviewed data for 2009 for both the recreational and commercial fisheries, reviewed current regional stock status, and entertained proposals for the 2010 recreation and commercial fisheries. Hittinger indicated that after discussions the panel supported remaining at status quo for both the commercial and recreational fisheries in 2010.

B. Ballou asked if there were any objections from the Council to accepting the Tautog AP report. There were no objections. The Tautog report was accepted.

Summer Flounder AP (1/6/2010) – R. Hittinger:

R. Hittinger gave a brief summary of the meeting explaining the panel reviewed 2009 recreational fishery including information on management adjustment requirements for RI in 2010, and entertained proposals for the 2010 recreation fishery. Hittinger stated there were discussions about being cautious, as there could be unforeseen problems associated with states going over their target. Hittinger indicated that after discussions about various options, panel members and audience members voiced support for the 19-inch/6 fish bag limit/May 1 – December 31 season.

B. Ballou asked if there were any objections from the Council to accepting the Summer Flounder AP report. There were no objections. The Summer Flounder report was accepted.

Scup/Black Sea Bass AP (1/6/2010) – R. Hittinger:

R. Hittinger gave the Scup/Black Sea Bass AP report on behalf of K. Ketcham who was unable to attend the Council meeting. Hittinger gave a brief summary of the meeting explaining the panel reviewed current stock status, reviewed the 2009 recreational fishery, and entertained proposals for the 2010 recreation fishery, as well as, a proposal from the RI Floating Fish Trap Association. There was discussion about the regional approach for scup working to the detriment of RI where RI was paying for the overages of other states. The ASMFC had not met at the time of the AP meeting so no guidance was given because things were still in flux at this time. Therefore, the panel was not able to make any consensus statements or recommendations regarding these species.

B. Ballou asked if there were any objections from the Council to accepting the Scup/Black Sea Bass AP report. There were no objections. The Scup/Black Sea Bass AP report was accepted.

Menhaden AP (1/11/2010) – S. Medeiros:

S. Medeiros gave a brief summary of the meeting explaining the panel reviewed the most up to date coastwide stock status, the 2009 Narragansett Bay menhaden monitoring program, current regulations, and complaints in 2009 about violations and enforcement, and entertained proposals for changes to the Narragansett Bay menhaden fishery program. A proposal came forward from the Federated RI Sportsmen's Club, which was not supported by panel members. A second proposal was presented by D. Pesante, which was not supported by panel members because they thought it would lead to more confusion and greater complexity in the program. After panel discussion, they come up with a consensus statement to set a floor, maximum boat size, and capacity of 120,000 pounds.

B. Ballou asked if there were any objections from the Council to accepting the Menhaden AP report. There were no objections. The Menhaden AP report was accepted.

Striped Bass AP (1/12/2010) – C. Anderson:

C. Anderson gave a brief summary of the meeting explaining the panel reviewed current stock status, development of 2010 fish trap and general category commercial striped bass season and quota, and discussion of the recreational striped bass fishery. The panel consensus option for the commercial general category was to move the starting date from June 1 to June 6. The panel recommended remaining at status quo for the recreational fishery. The RI Fish Trap Association had a proposal requesting for more flexible management practices by repealing the set aside and trip limit regulations.

B. Ballou asked if there were any objections from the Council to accepting the Striped Bass AP report. There were no objections. The Striped Bass AP report was accepted.

Shellfish AP (1/27/2010) –J. King:

J. King gave a brief summary of the meeting explaining the panel reviewed the establishment of oyster harvesting for certain shellfish management areas, establishment of new spawner sanctuaries for certain shellfish management areas, which are necessary to accommodate collaborative oyster restoration efforts. Panel members also discussed the establishment of 2010 Shellfish Management Area openings and harvest periods for Bissel Cove and Bristol Harbor, and the S. Patch aquaculture lease proposal. Panel members voted in support of a moratorium on oyster harvest in Bissel Cove/Fox Island until 2010 with continued monitoring and evaluation. Panel members opposed the proposal for a new spawner sanctuary in Potter Pond and recommended seeking an alternate site. After discussion they tabled the 2010 Shellfish Management Area openings and harvest periods for Bissel Cove and Bristol Harbor for further discussion at a later date. The panel members' primary concern regarding the S. Patch aquaculture lease was the non-resident status of the applicant, and recommended review of the non-resident issue by the Council.

B. Ballou stated that the first two items; oyster harvest moratorium for Bissel Cove/Fox Island, and establishing a spawner sanctuary in Potter Pond would be placed on the next Council agenda for Council discussion and review. He advised audience members the items would be presented for full review, and encouraged people to make comments at that time.

P. Chapel Jr. stated he was opposed to establishing Sycamore Cove as a spawner sanctuary for oysters because of the plentiful steamer population. He felt Whale Cove was more suitable because this was more like their natural habitat.

B. Ballou asked if there were any objections from the Council to accepting the Shellfish AP report. There were no objections. The Shellfish AP report was accepted.

New Business

Council recommendations on the S. Patch aquaculture lease for Ninigret Pond, CRMC #D2009-12-017 –J. King:

D. Beutel explained that he understood that the Council would take up the non-resident issue and give their comments or recommendations on that issue. He noted that if the Council had any questions about the lease, he was available to answer questions and the applicant was present.

S. Medeiros stated his organization was on record as opposing this application because this was a non-resident seeking to use RI territory. He stated he would vote against the application.

There was discussion among Council members about residency requirements and if CRMC had any in place. It was determined that CRMC did not have any residency requirements for aquaculture leases in place at this time. J. King stated he had a concern about leasing to non-residents and wanted the Council to address this concern.

J. King made a motion to recommend that CRMC approve the Patch aquaculture lease application based on its merits. C. Anderson seconded the motion for discussion purposes.

There was further discussion and concerns among Council members and the audience on a residency requirement.

S. Patch, the applicant, stated he currently resided in Maine but was in the process of moving to RI at the end of the school year. He would then become a RI resident.

B. Ballou asked for a vote on the motion to recommend that CRMC approve the Patch aquaculture lease application based on its merits. The motion passed by a vote of (3) in favor (J. King, R. Bellavance, C. Anderson), (1) opposed (S. Medeiros,), and (2) abstentions (S. Macinko, R. Hittinger).

R. Hittinger made a motion that the Council recommend to CRMC that they evaluate a residency requirement for obtaining aquaculture leases especially relating to shellfish. J. King seconded the motion.

R. Hittinger pointed out that to harvest shellfish commercially in RI you must be a RI resident therefore, he thought it was reasonable that the harvesting of shellfish through an aquaculture lease be evaluated relative to the residency requirement.

B. Ballou asked for a vote on the motion. The motion passed, the Council voted unanimously to recommend to CRMC that they evaluate a residency requirement for obtaining aquaculture leases.

Council recommendations on February 23, 2010 Public hearing items:

Proposal to continue/expand/modify the summer flounder sector allocation program in 2010:

C. Anderson made a motion to recommend to the Director to continue the sector pilot program as written for 2009, without the modifications proposed for 2010. S. Macinko seconded the motion for discussion purposes.

C. Anderson explained why he was not in favor of the proposed modifications for 2010. He stated that from the DEM report and his finding the sector has been good for the participants in the program and pretty darn good for the people not in the sector program. He stated his concerns noting if we have a well-managed sector, we do not want to prevent it from forming and the base period allocation he stated he could go either way on. However, the last new proposed modification he was not clear on the language as to what the intent was to address overages or RSA or for the landings timing which the current sector used this year. He thought if the Council were going to give some direction to the Director, they should try to narrow that language down and be more specific on what they would be preventing.

R. Bellavance made a friendly amendment to the motion by requesting to remove the federal fluke permit and the RI fluke exemption certificate requirements for participation in the sector program. C. Anderson accepted the friendly amendment to his motion. S. Macinko did not accept or seconded the friendly amendment, therefore the friendly amendment became an amendment made by R. Bellavance. J. King seconded the amended motion.

G. Carvalho, referring to the motion to amend, stated that the changes would be so substantial on the entire program that the item should go back to public hearing. He explained this was not a small change or a previously proposed change it was a substantial change that should be reviewed by the public.

K. Booth reiterated the concern of eliminating the RI fluke exemption certificate, which would be devastating to a number of sectors in the summer fishery. He felt this had not been given enough thought and should go back to the drawing board to come up with boundaries.

There were other audience members who were in favor of removing these requirements to open up the sector to other fishermen especially since this was a state quota program.

C. Brown clarified that the requirements would only be removed to allow participation in the sector; the RI fluke exemption certificate program would not be eliminated.

J. Shelly stated he was in favor of removing these requirements to open up the sector to others and felt it did not need to go back to public hearing. He felt the issue had been well reviewed and he was ready to get things going for 2010.

J. Hovanesian stated it would be better to have some information about what the ramification would be if these restrictions were removing. He wanted to know how the Council could make an informed decision without having the information available about the ramification.

S. Arnold wanted to state for the record the list of other vessels who were interested and waiting to join the sector; Black Sheep, Cracker Jack, Oceanna, Johanna Lenore, Heather Lynn, Rebecca Mary, Atlantic Queen, and P. Duckworth. He indicated they needed to get the new boats on board so they could expand and move quota around to accommodate the different needs.

S. Macinko stated it was a sociologic fact that we were hearing opposition and reminded Council members that he cautioned about this when they discussed which parameters to cover in the Division's final report. He remembered cautioning about the distribution issues and paying attention to the social and cultural issues. He pointed out that now we are telling people who feel the impact that they are not feeling the impact from this program and that in fact they have benefited. Macinko felt it would have been better to do effective policymaking and address the issues that have come up. He indicated he would vote against the motion but he was not against the spirit of the issue. He stated it was the Department's responsibility to try to figure out how to do catch-shares in a way that was equitable.

C. Anderson addressed S. Macinkos' concerns explaining that people are wrong about how they have experienced this and gave reasons why. First, fluke prices for everyone were lower this year due to the poor economy and secondly, more fluke were landed. If there is more supply then the prices are normally lower. He explained that the relevant benchmark was not comparing 2008 to

2009 but would have happened to prices when the sector landed their share during the summer opening. He indicated this was why the non-sector boats had experienced benefits.

G. Carvalho had a point of order, stating this would make substantial changes and the Director could not adopt them, even at the recommendation of the Council, without going through a public hearing process again. Therefore, a lengthy discussion on making substantial changes is futile.

B. Ballou asked legal council, G. Powers for guidance. G. Powers indicated that if the item were to be amended in the fashion currently under consideration it would be adequate under the public notice as presented. B. Ballou confirmed this was part of the public hearing notice and these were elements of that program so they were appropriate for consideration or modification.

B. Ballou asked for a vote on the motion to amend the motion made by R. Bellavance and seconded by J. King to remove the federal fluke permit and the RI fluke exemption certificate requirements for participation in the sector. The motion failed by a vote of (2) in favor (R. Bellavance, C. Anderson) and (4) opposed (S. Medeiros, J. King, S. Macinko, R. Hittinger).

B. Ballou stated they were back to the main motion made by C. Anderson to continue the sector pilot program as written for 2009, without the modifications proposed for 2010.

S. Medeiros stated he was leaning toward what he had heard from the audience that they needed to continue the process of get more information and review what the effects would be before any changes were made.

S. Macinko stated he would like this to go back to the Director and have the Director address why there are restrictions on RI fishermen who have been fishing in state waters for a good number of years. He did not know why this would not have been addressed earlier. He stated he would like to be voting on a program that had features that addressed problems that were unearthed in the first year of the program and that were trying to make it better. Macinko stated he was going to vote against the motion and hoped the Council would see something new from the Department.

R. Hittinger echoed what S. Macinko had stated. He felt it was a very complex issue and he was unsure as to how to make modifications without knowing what the effects would be. He pointed out this was a program that the Director had decided to go forward with on a pilot basis. If the Director wanted to go forward with it again then he was going to do that no matter what the Council said. Hittinger stated he was going to vote against the motion as well.

S. Medeiros stated he did not know what the Councils' options were and was lost as to what to recommend. He felt if the Council voted not to go forward with the program it would go forward anyway. He pointed out that making changes on the fly would not work, so what could they do.

R. Bellavance pointed out that the proposal was to continue, expand or modify the program and he thought that was what the roundtable meeting and the public hearing was for to solicit comments on the program. He felt the Council had an opportunity to modify the program.

C. Anderson stated this was an opportunity to collect a little more data. He gave an example of what would happen if they admitted some state boats, or what would happen if they drop the RI fluke exemption certificate requirement. He pointed out these were options they could try for a year. He encouraged the Council by stating they had the option to suggest to the Director that data be gathered on some particular question.

G. Carvalho stated he felt the economic report submitted by C. Anderson seemed to be carrying more weight, and the report had not been subjected to a peer review. He stated there was strong opposition to the conclusions that were being presented, and he did not agree with the initial summary. He stated he was lead to believe, at the roundtable meeting, that this was a preliminary report, a draft, and now it was being submitted in support of the program. He suggested the report be withdrawn and definitive conclusions also be withdrawn by C. Anderson until it had been subjected to a peer review. Carvalho felt the report was misleading, and requested the Council take action to have it withdrawn until it was a formal document or had been subjected to a peer review.

J. Shelly spoke about the RI fluke exemption certificate program and suggested it be terminated, and instead be replaced with an aggregate program.

R. Fuka wanted the record to reflect that at the public hearing when he opposed the continuation of the sector program he was speaking on behalf of the RI Fishermen's Alliance and its' membership.

C. Brown stated they needed to address the heart of the issue, which was the determination of property rights vs. use rights. He suggested there be a discussion at the state level as to what use rights would imply. He also mentioned a simplified tiered system of allocation for people to be able to participate at various levels, and throw the years out.

J. Hovanesian stated that a year ago they were in the same room voicing their opposition because they did not know what they were getting in to and the same could be said today. He stated that we did not know what we are getting ourselves in to, explaining that the program still needed to be worked out. If we wanted to separate out rod & reel, gillnetters, etc., he explained they all needed to know what they would have in terms of quota. Hovanesian stated that to ask them to accept something based on anything other than knowing what the final out come would be, is unacceptable. He explained he did not know what this would turn in to, so how could he support it.

K. Booth agreed with C. Brown but added if we keep changing the variables how do we determine if we are successful or not. He felt the roundtable meetings were productive and there should be more of those meeting to iron things out.

S. Macinko stated if the Council voted this down the Council should consider a motion of some of the issues they would like to see the Department address. He referred to the Division report referencing "pending analysis" and C. Andersons' draft report as being troublesome and stated this was not the way policy measures in the big leagues was conducted. Macinko pointed out that the Department was playing with some heavy-duty distributional stuff and the pilot program was configuring the future. He wanted more discussion back from the Department when they present things like this to the Council.

M. Gibson explained the Department was simply proposing the continuation of the sector plan they were not proposing nor were we prepared to propose a fully sectorized fishery. Therefore, we are not identifying all of the factors that we might need to consider. We were simply looking at the continuation of the pilot program. The Department was considering adding at least one, possibly two, other sectors depending on the number of applications received.

M. Gibson answered some questions from Council members to clarify the Departments' intend to continue the program.

B. Ballou called for a vote on the motion to recommend to the Director to continue the sector pilot program as written for 2009, without the modifications proposed for 2010. The motion failed on a tied vote of (3) in favor (R. Bellavance, C. Anderson, J. King) and (3) opposed (S. Medeiros, S. Macinko, and R. Hittinger). B. Ballou opted not to vote to break the tie.

B. Ballou addressed a concern that H. Loftes had about the control date indicating that the control date was for the entire summer flounder fishery not just for the sector program. The control date that was established in regulation was December 31, 2009, which was an existing provision. Ballou asked the Council if they needed to discuss this or if they would like to move on. The consensus from the Council was to move on to the next item.

Proposed changes to the Recreational Summer Flounder Management Plan:

R. Hittinger made a motion to recommend to the Director to adopt option 3, which was 19.5 inch/May 1-December 31/6 fish bag limit for the 2010 recreational summer flounder management plan. J. King seconded the motion.

S. Medeiros stated that everyone he had spoken with was in favor of 19.5 inches, option #3.

There were no other comments made by the Council. F. Blount stated that individually he was in favor of option #3, however if he were a Council member he would vote for option #4. He also noted at the public hearing it was over whelming that people were opposed to option #6.

There was no opposition from the audience on the motion.

The Council voted unanimously to recommend to the Director to adopt option 3, which was 19.5 inch/May 1-December 31/6 fish bag limit for the 2010 recreational summer flounder management plan.

Proposed changes to the Recreational Scup Management Plan:

S. Medeiros made a motion to recommend to the Director to adopt option 2, which was 10.5 inches/ 10 fish bag limit /May 24 – September 26, and a reduced bonus season for party & charter from August 23 – September 26 with an 11 inch minimum size limit and a 40 fish bag limit for the 2010 Recreational Scup Management Plan. J. King seconded the motion.

R. Hittinger asked if S. Medeiros would accept a friendly amendment to have the Department explore all possible options for extending the bonus season from September 15 to as far as possible in to October, if possible to October 15th or 17th.

B. Ballou clarified that the Department would pursue option 2 and to try to get an extended bonus season starting on September 15 extending in to October as far as possible. If this was not acceptable to ASMFC then the Department would stay with option #2 with the bonus season as stated.

F. Blount stated he supported the motion with the extended bonus season in to October. He stated that Massachusetts caused the overages and that RI should push hard to get the extended bonus season. He also stated that the party and charter boats had been going down hill ever since RI joined the regional approach.

K. Court stated if the Department was unsuccessful in getting the extended bonus season as proposed, then an 80-foot head boat would be going out of business. He stated that he was in support of the motion with the extended bonus season in to October.

The Council voted unanimously to recommend to the Director to adopt option 2, which was 10.5 inches/ 10 fish bag limit /May 24 – September 26, and to have the Department explore all possible options of extending the party/charter bonus season from September 15 to as far as possible in to October, if possible to October 15th or 17th for the 2010 Recreational Scup Management Plan.

Proposed changes to the Commercial Floating Fish Trap Scup Management Plan:

R. Hittinger made a motion to recommend to the Director to adopt option 2, which was to change regulation to allow for flexible management practices for the 2010 commercial floating fish trap scup management plan. J. King seconded the motion. The Council voted unanimously to approve the motion.

R. Hittinger stated it was his understanding that the allocation would remain the same; this was just a means for the floating fish trap companies to fish more efficiently and to try to reduce mortality through better fishing practices.

It was noted that all fish trap companies were on board with the proposal. There were no comments from the audience. There was no further Council discussion.

Proposed changes to the Commercial Tautog Management Plan:

M. Gibson stated if the Division started to notice higher mortality rates, we would probably want to act. He indicated that the Division would be watching this fishery closely and may make modifications as necessary.

S. Medeiros made a motion to recommend that the Director remain at status quo, option #1, for the 2010 commercial tautog management plan. J. King seconded the motion.

There were no comments from the Council.
J. Shelly asked for a 50 fish aggregate possession limit.

The Council voted unanimously to approve the motion to recommend that the Director remain at status quo, option #1, for the 2010 commercial tautog management plan.

Proposed changes to the Recreational Tautog Management Plan:

S. Medeiros made a motion to recommend that the Director remain at status quo, option #1, for the 2010 recreational tautog management plan. J. King seconded the motion. The Council voted unanimously to approve the motion.

There were no comments from the Council.
There were no comments from the audience.

Proposed changes to the Recreational Black Sea Bass Management Plan:

J. McNamee stated that the Division had received different guidance from the Mid Atlantic Council than what was proposed by the ASMFC, which was option #2. The Mid Atlantic option was for 12.5 inches/25 fish bag limit/May 22 – August 28 and September 4 – October 4, which would be a split season. He explained these were coast wide federal recreational management measures. J. McNamee indicated that at this point the Division was not sure whether the Mid Atlantic Council option or the ASMFC option would stand.

M. Gibson stated that the ASMFC has asked for feedback to see which option had the most support. He felt the Mid Atlantic Council option, with a split season extending further in to fall, might be more attractive to the Mid Atlantic states relative to the timing of sea bass migrations. He did not have a sense whether this option would be attractive to RI or not. He asked the Council to give him feedback so he could pass this information along to the ASMFC.

R. Hittinger made a motion to recommend that the Director adopt option 2, which was 12.5 inches/ 25 fish bag limit /May 22 – September 12, for the 2010 Recreational Black Sea Bass Management Plan. S. Medeiros seconded the motion.

R. Hittinger stated that all the feedback he had received from the recreational user group was that they had difficulty managing split seasons and they did not want to have a season open and close. However, he recognized there was a good sea bass fishery in the fall and we were missing that season. He stated he would be in support of an option that did not contain a split season.

S. Hall stated he did not think it was fair for the recreational person to be given a split season. A recreational person could be in violation and he may not even know he was in violation. He agreed with R. Hittinger, a split season would be too difficult on a recreational user. He was in support of keeping things the way they were.

F. Blount stated that for any federally permitted party and charter boat they would have a closed season with either option, because they would have to close down on August 4. They could open up again on September 4 and fish to the 12th. He suggested that the RIMFC make a recommendation to the Regional Administrator during the open comment period to let them know what RI would like to see happen.

The Council voted unanimously to approve the motion to recommend that the Director adopt option 2, which was 12.5 inches/ 25 fish bag limit /May 22 – September 12, for the 2010 Recreational Black Sea Bass Management Plan.

R. Hittinger wanted to make a motion in response to M. Gibson's' request for feedback to the Commission. M. Gibson indicated a motion was not necessary, he would relay the information.

The Council members agreed they would not want a split season; they were in support of a continuous season for the recreational black sea bass fishery. They were in support of regulations that would avoid closures in the middle of the season and would avoid putting state permitted fishermen in conflict with federally permitted fishermen relative to measures that were jointly in place.

F. Blount added that we should convey the boats that were penalized this year should not be penalized again in this coming year.

Proposed changes to the Narragansett Bay Menhaden Management Plan:

M. Gibson stated that the Division was in support of establishing a floor, and would continue to evaluate the 50 % trigger for closure. He felt the estimated 1 -1.5 million pound floor was a small amount of menhaden and expressed concerns about our monitoring ability to detect this amount of menhaden in the bay. He indicated the Division would continue to develop the assessment model and make improvements as necessary to refine the numbers.

S. Medeiros made a motion to recommend that the Director adopt option #1, which was to set a floor, maximum boat size, and maximum capacity of 120,000 pounds, but use a starting floor/threshold of 3 million pounds. J. King seconded the motion for discussion purposes.

G. Souza stated that the 3 to 4 million pounds of menhaden in the bay was not their trigger mechanism. He stated when there was at least one million pounds they went fishing. It was always within that framework. He stated that 3 million pounds was high.

An unidentified audience member also agreed that 3 million pounds was high.

J. McNamee clarified that he did not mean to imply that the 2-3 million was what triggered them to fish; he was referring to the amount that came in from the spotter plane for those two years.

S. Medeiros made a friendly amendment to his motion, which would be option #1, as proposed, but with a 2 million pound floor/threshold.

C. Anderson wanted clarification if by raising the threshold from 1.5 million pounds to 2 million pounds how much would this help in the ability to spot that amount of fish.

M. Gibson explained to be able to spot the fish they have to be in large enough schools and visible. J. McNamee stated he did not think the spotter plane would have any trouble spotting one million pounds or even 500,000 pounds. He gave an example that last year the water quality was terrible in the upper bay therefore there was difficulty seeing the schools all year. J. McNamee stated he was confident that the spotter plane would be able to spot 1.5 million pounds.

G. Souza stated he would like to see the threshold put back to the 1 to 1.5 million-pound floor.

The Council voted unanimously to approve the motion to recommend that the Director adopt option #1, with a floor set at 2 million pounds, maximum boat size, and maximum capacity of 120,000 pounds.

Proposed changes to the General Category Commercial Striped Bass Management Plan:

R. Hittinger made a motion to recommend that the Director adopt option 2, which was to modify the general category commercial striped bass management plan starting date to June 6. S. Medeiros seconded the motion.

J. King questioned if the regulations could be changes to allow gillnetters to keep three striped bass. M. Gibson responded that there was a prohibition set by legislation. Gibson also suggested that when the Department formulated a legislative agenda perhaps this could be added.

There were audience comments in support of moving the start date to June 6.

J. Shelly stated he had found two regulations on the books pertaining to gillnetters and striped bass and he wanted clarification as to which was statute and which was regulation. B. Ballou explained which one was a statute, and which one was a regulation. B. Ballou indicated that the issue was not put out to public notice; therefore, the Council could not take any action at this time. However, it was something that could be pursued.

The Council voted unanimously to approve the motion to recommend that the Director adopt option #2, which was to modify the general category commercial striped bass management plan starting date to June 6.

Proposed changes to the Floating Fish Trap Commercial Striped Bass Management Plan:

R. Hittinger made a motion to recommend that the Director adopt option 2, which was to repeal the set aside and trip limit regulations for the 2010 floating fish trap commercial striped bass management plan. S. Medeiros seconded the motion.

R. Hittinger asked for clarification on what this change would mean and if reporting requirements would be altered.

M. Gibson stated this sector was already on a fixed quota so that would not change it would just allow them to manage and fish their quota more efficiently. Additionally, reporting was required per regulation so that would not change.

R. Bellavance asked if all the fish trap companies were on board with the proposal. A. Parascondolo stated that all fish trap companies had discussed the proposal and were all in support.

The Council voted unanimously to approve the motion to recommend that the Director adopt option #2, which was to repeal the set aside and trip limit regulations for the 2010 floating fish trap commercial striped bass management plan.

Proposed changes to the Recreational Striped Bass Management Plan:

S. Medeiros made a motion to recommend to the Director that he remain at status quo (option #1), for the 2010 recreational striped bass management plan. R. Hittinger seconded the motion. The Council voted unanimously to approve the motion.

There were no comments from the Council.

There were no comments from the audience.

Proposed changes to the Winter Flounder Management Plan:

S. Medeiros made a motion to recommend to the Director to adopt the proposed changes to the winter flounder management plan. J. King seconded the motion. The Council voted unanimously to approve the motion.

There were no comments from the Council.
There were no comments from the audience.

Proposed changes to the Weakfish Management Plan:

M. Gibson responded to a comment made at the public hearing in support of an aggregate program for weakfish. He stated he had looked in to the matter and found that the Commission action does not allow for any compounding, it specifically stated in the Commission action 100 pounds per vessel per calendar day or per trip whichever was shorter. They do not allow any compounding beyond the 100 pounds. He also added that landings were very low in RI.

R. Hittinger asked for clarification of the hook and line bycatch language.

M. Gibson responded by stating that the hook and line could only catch 100 pounds during the specified season, and outside of that season they could not have any possession.

R. Hittinger then recommended the statement be modified to read “The commercial hook and line fishery is not permitted a bycatch allowance outside the weakfish season stated above.”

N. Lazar stated he thought the statement was actually irrelevant because it used to be an allowance when the possession limit was in the thousands of pounds.

M. Gibson stated these regulations were configured more for the Mid Atlantic states. He explained the Division went to the Commission and asked if we could just state a 100-pound possession limit and be done with it, but the Commission said it was a compliance issue and RI had to have this language.

There was some discussion by the Council on how ridiculous it was for RI to have all these requirements when we just needed a simple possession limit.

R. Bellavance asked in response to another public hearing comment about how this bycatch requirement would affect other gear types such as gillnets.

B. Ballou stated that the Division would review the proposed language and do what was needed so that it was clear in terms of whom it would cover. However, at this point we were not ready to offer anything more on that point.

M. Gibson stated that the Division would review the language and determine what we could do to clarify it, but still meet the Commission requirements.

S. Medeiros made a motion to recommend to the Director to adopt the proposed changes to the weakfish management plan. J. King seconded the motion. The Council voted unanimously to approve the motion.

B. Ballou stated that the motion passed with the understanding that the Division would do some clean up of the language to make it as clear as possible.

There were no comments from the audience.

Discussion on Advisory Panels & Regulatory Proposals – B. Ballou:

B. Ballou explained that a few issues had been brought up from a few members of various advisory panels as to what the Council policy was regarding AP's and proposals that were offered, whether all proposals go to hearing or whether it was the AP's roll to sift through proposals and vote those which they felt should go to hearing. Ballou explained that the current species advisory panel policy does not address the issue. Secondly, it has been the Departments' policy to bring all proposals, which come through the AP process, forward to public hearing.

B. Ballou asked for Council discussion. S. Medeiros stated he had a problem with just anyone showing up at an AP meeting who was not a member and whose' proposal was not supported by the AP. Then the proposal ends up at public hearing. He felt instead that a person should go to the public hearing and present his own proposal.

B. Ballou explained that we had been through this before and that people needed to present their proposals at the AP meetings so they could be fully reviewed and considered. This was because if a proposal had not been noticed it could not be fully considered when introduced at the public hearing. He wanted Council members to think about these thing and they could come back to the issue at a later date or discuss it now.

R. Hittinger stated he understood the Departments position but pointed out it takes all of the importance out of the AP process. The AP process should be narrowing the topics to bring forward the most broadly supported proposals.

S. Medeiros pointed out that all AP members have to go through a background check and then appointed to a panel. He felt that a recommendation from an AP had a legitimate weight or merit and was worthy of going forward for consideration. As opposed to someone off the street who makes a proposal and then it shows up as an option at the public hearing, whether the AP was in support of it or not.

J. King explained how he had handled proposals on the shellfish AP. If a non-AP member wanted to present a proposal, they needed to find a panel member who supported the proposal so that the panel member presented the proposal at the meeting.

B. Ballou tried to summarize the discussion by indicated that 1) only panel members could introduce regulatory proposals and 2) proposals that are acknowledged as being appropriate by the panel can go forward to the public hearing. There was further discussion. B. Ballou suggested that he could draft some language, for Council consideration, that would reflect the discussion and he would talk about it internally to make sure there were no legal issues to consider.

An advisory panel member stated at the last striped bass AP meeting the room was too small to accommodate all participants. He, as a member of the panel, was not able to sit at the table or even hear what was going on in the room while non-members were allowed to sit at the table and offer proposals. He felt that the striped bass AP had gotten away from the AP policies and it needed to go back and implement those policies. He felt the Council needed to decide how much

input from the general public should be allowed at an AP meeting. We also need to clearly distinguish who was on the panel and who was not.

R. Hittinger stated that Council members should also be more aggressive at replacing people on AP's who do not attend or participate in the AP meetings. On the fluke and tautog AP's some people do not show up so he was going to look for people who were interested and replace the people who never show up.

Applications for position on striped bass advisory panel – N. Scarduzio:

N. Scarduzio indicated that G. Tremblay was applying for an alternate position in the hook & line slot on the striped bass AP. The applicant had been cleared through DEM Law Enforcement.

J. King made a motion to recommend appointment of G. Tremblay to the striped bass AP as an alternate to the hook & line slot. R. Hittinger seconded the motion. There were no objections to the motion. G. Tremblay was appointed.

N. Scarduzio stated the next application was from B. Blank who was applying for the Primary Diver slot on the shellfish AP. He had also been cleared through DEM Law Enforcement.

J. King made a motion to recommend appointment of B. Blank to the shellfish AP to fill the Primary Diver slot. B. Ballou asked if there were any objections to appointing B. Blank. Hearing none, he was appointed.

Old Business

Upcoming Openings on the RIMFC – B. Ballou:

B. Ballou stated there were four current RIMFC members who had terms expiring in April 2010; they were S. Macinko, S. Medeiros, K. Ketcham, and R. Bellavance. Ballou stated in accordance with the law everyone, other than R. Bellavance, had already served two terms and would no longer be eligible to be reappointed. Ballou indicated that it looked like at least the terms for S. Macinko and S. Medeiros would be up. He had spoken with K. Ketcham and Ketcham stated that he had started in 2003 replacing P. Barbarra for the remainder of his three year term. Then Ketcham was reappointed in 2006 and expires this April 2010, but he has only served seven of the eight years. Ballou stated that K. Ketcham was interested in pursuing a statutory change that would give him the opportunity to continue serving. He noted that R. Bellavance would be interested in continuing to serve and could be reappointed.

B. Ballou asked if there was interest from Council members in putting forward another bill. If so, people could work with him to get that going. In the mean time, the Department would move forward with a solicitation to fill at least the two seats, but potentially the third seat. B. Ballou asked Council members if they were interested in trying to put a bill forward to change the term limits. The Council agreed with pursuing the issue.

Update on NEFNC Openings – B. Ballou:

B. Ballou let people know there was a March 15 deadline for the Governor to submit candidates. There were two positions that were up both were at-large positions. He indicated three candidates had come forward; one of the three would be selected as a recommended candidate.

ASMFC-NEFMC Updates – *M. Gibson:*

In the interest of time, M. Gibson briefly summarized the issues relevant to the state and referred Council members to the NEFMC Report and the ASMFC winter meeting summary, which were included in Council packets.

B. Ballou suggested the next Council meeting would be tentatively scheduled for May 3, 2010 to address the shellfish issues from the last Shellfish AP meeting.

The meeting was adjourned.

Nancy E. Scarduzio, Recording Secretary