

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
May 3, 2004
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: D. Preble, J. King, K. Ketcham, S. Macinko, S. Medeiros

Chairperson: D. Borden

RIDEM F&W Staff: M. Gibson, N. Lazar, T. Angell, J. McNamee

Legal Counsel: G. Powers

Public: approximately 10 people attended

M. Gibson called the meeting to order stating that D. Borden was possibly running a little late, therefore he would chair the meeting until D. Borden arrived. M. Gibson asked if there were any comments from the Rhode Island Marine Fisheries Council (RIMFC or Council). There were none. **J. King made a motion to approve the minutes as written. The motion was seconded by D. Preble. There was no further discussion. The Council members voted to approve the motion with one abstention (member had been absent from previous meeting).** M. Gibson stated that they should back up to approve the agenda. M. Gibson asked J. McNamee if there were any agenda additions. J. McNamee stated that they had received two proposals before the meeting and thought that they should look at these during the advisory panel minutes from which they were associated. He also stated that there was an addition to ask the Council to approve convening the winter flounder advisory panel. M. Gibson stated that this would be added as agenda item 5c. **There were no comments or opposition to altering the agenda as proposed therefore the agenda stood approved as adjusted.**

Advisory Panel Reports

Shellfish: J. King gave the report. The first order of business was to discuss the Potowomut/High Banks management area changes. Some of the shellfish advisory panel (AP) members were unhappy with the outcome of the compromise, in that it did not effect any changes to the Greenwich Bay management area. The recommendation was to reintroduce any changes regarding Greenwich Bay in a formal proposal to the shellfish AP.

The second order of business was to discuss pollution closures in Narragansett Bay with J. Migliore of the Department of Environmental Management (DEM) Office of Water Resources. They discussed sampling protocol and conditional pollution closures with him.

The last order of business was to discuss the transplant program for this upcoming season. A proposal from Shellfisherman R. Vaughn was introduced prior to the Council meeting. J. King suggested they send this back to the AP for review. M. Gibson stated that he agreed that this along with a discussion of the Greenwich Bay Management Area should be taken up at a shellfish AP meeting. **S. Medeiros made a motion to convene the shellfish AP to discuss the afore mentioned items. K. Ketcham seconded the motion. There was no further comment. The Council voted unanimously to approve the motion.** At this point D. Borden took over as chairman.

Striped Bass: D. Preble gave this report. The striped bass AP stated that they felt the Division of Fish and Wildlife (DFW) did a good job with striped bass management in 2003. The AP consensus was to stay at status quo for striped bass management for 2004 for both the all gear category and the floating trap category. There was one issue brought up by T. Hoxsie regarding the floating fish trap plan for striped bass. He proposed a change to go before the Council for approval to bring it to public hearing.

New business which was brought up was a request for the AP to send a letter to the Governor in opposition to G. Popes replacement on the Atlantic States Marine Fisheries Commission.

A proposal was brought forward by the Inshore Fishermen's Association subsequent to the AP meeting but prior to the RIMFC meeting. The Council had the formalized proposal from the Inshore Fishermen's Association before them. K. Ketcham asked M. Gibson whether the trap sector had caught its quota share last year. M. Gibson stated that the trap sector had not caught its quota share by the roll-over date provided in regulation therefore the quota was opened to all sectors and subsequently caught by the rod and reel (all gear type) sector. **K. Ketcham made a motion to allow T. Hoxsie's proposal to go forward to public hearing in June. The motion was seconded by D. Preble.**

B. Mattiucci stated that he did not have a problem with the specifics of the motion but he wanted the Council to realize that they were beginning to get away from the proper procedure of getting AP approval on items before bringing them to public hearing. He felt that this proposal was not commented on properly by the AP and should probably not go to public hearing without some sort of recommendation from the AP.

The Council voted to unanimously approve the motion. The Council also decided to send the Inshore Fishermen's Association proposal back to the AP for comment. G. Carvahlo asked when this proposal would be taken up by the AP. D. Borden stated that the AP would meet in the fall to discuss the next year's management plan, this item would be taken up than.

Floating Fish Trap: This agenda item was removed as there was no meeting to report on.

Lobster: J. King gave the report. This was a lengthy meeting in which they discussed the many changes required by the Atlantic States Marine Fisheries Commission (ASMFC)

Addendum 4 and Addendum 5 to the Lobster Fishery Management Plan (FMP). J. King went through the 11 items discussed by the Lobster AP (please see 4/29/04 Lobster AP minutes for descriptions of items and AP comments). D. Borden asked M. Gibson about the timing of the next public hearing. M. Gibson stated that the RIMFC would approve the issues it wanted sent to public hearing on this evening, the public notice would go out the following week, and the hearing was planned for June 15th. D. Borden asked for comment.

G. Carvahlo stated that at the AP meeting the question was posed to DEM legal counsel as to whether the Director of DEM had the authority to implement the provisions set forth in the ASMFC Addendum 4 and 5. At the meeting the legal counsel present stated that the Director did have that authority. G. Carvahlo wanted this noted for the record. G. Powers, the DEM legal counsel referred to, was present and stated that this was correct.

P. Brodeur stated that they needed to have much more discussion on these issues, these changes were not ready to be implemented at the present time. He suggested reconvening the Lobster AP before the next public hearing to straighten out these unresolved issues.

M. Gibson stated that there was no procedural cause to reconvene any panels as suggested by P. Brodeur or the Lobster AP. These were Addenda which had been passed by ASMFC and were currently being implemented and the State of RI needs to implement them to remain in compliance.

M. Marchetti stated that he felt it was improper to move forward with implementation at this point because the Lobster AP and the RI Lobsterman's Association had not had adequate time to review and respond to the regulation changes which were before the Council that evening.

P. Brodeur stated that the Lobster AP was under the impression that their proposal was going to be brought to ASMFC exactly as they had drafted it. He went on to state that several things which they had not known about or discussed had ended up in the proposal and he reiterated M. Marchetti's comments that they did not have enough time to review the changes which were made.

M. Gibson stated that the Lobster AP, or anyone else, was able to comment on the draft regulations at the upcoming June public hearing. What he did not think was possible was to call another meeting of the Lobster Conservation Management Team (LCMT) as suggested in the Lobster AP minutes, stating that this part of the process was done. He went on to say that the ASMFC portion of the process was over therefore it was not possible to stop any gauge increases or some of the other measures alluded to in the minutes barring an act of Congress. Making language and interpretation changes was possible, however the regulation change suggestions as they were currently written would be included in the public hearing summary document due to time constraints. If changes were to be made they needed to bring these suggestions to the public hearing.

D. Borden asked the Council if there were any objections to the DFW meeting with the Lobster AP to discuss the regulation change language. J. King asked when this meeting needed to take place. D. Borden stated prior to the June 15th public hearing. There were no objections from the Council therefore the Lobster AP was authorized to meet.

An audience member stated that many of the changes which were to be implemented, especially those regarding escape vents, were based on bad scientific evidence and it was not fair to make changes to the lobster industry based on inadequate evidence. He went on to state that this was all being done in the name of conservation but as long as things didn't also change in all of the statistical areas, conservation measures would not work.

M. Marchetti reiterated the concern about bad scientific evidence regarding escape vents. He went on to question who exactly had sovereignty, the State of RI or the ASMFC, because each entity had put forward different proposals. He feels that something should be done to correct the issue, otherwise the industry would have to go and hire lawyers and scientists to go back and refute all of the evidence that Addendum 4 and 5 were based on. He hoped something could be done short of having to take this step.

P. Brodeur wished to talk a little further on escape vents. He stated that he had talked with some RI regulatory persons and they gave him a study which showed that escapement was equal between two different sized escape vents one larger than the other. It was indicated to him that the reason the larger of the two escape vents was chosen was because it let out more legal sized lobsters. He felt that it was wrong to ask lobster fishermen to let legal lobsters go. He stated that they are responsible for many of these lobsters surviving until adulthood and they should be allowed to harvest them when they become legal size.

M. Gibson stated that escapement of legal sized fish and/or lobsters is inherent in many fisheries, it is factored in to the model computations therefore it is all accounted for.

D. Borden stated that further discussion would be kept to a minimum because they were getting away from the agenda issue, this was not the proper place to have the discussion that was beginning to take place. He went on to ask the lobster fishermen present to bring forward to the DFW any of the studies which they have referenced so that they could be examined by the DFW staff. Following this a discussion could be conducted at a lobster AP meeting.

New Business

Council approval of public hearing items: M. Gibson stated that the Council had a memo included in the packet which outlined the public hearing items which were currently on the docket. They included a change to the recreational black sea bass fishery season so that the season would be open over Labor Day weekend, a proposal to change to the floating fish trap regulations regarding striped bass, and the lobster issues which were discussed earlier that evening.

D. Borden stated that the floating fish trap item had been approved earlier in the evening and the lobster issues were approved during the March RIMFC meeting. **D. Borden asked if there were any objections to taking the black sea bass issue to public hearing. There were no objections therefore all of the items were approved for the public hearing.**

Request for 2005 IWP Atlantic Herring Quota: D. Borden asked N. Lazar if there had been any requests for IWPs for this year. N. Lazar stated that there were none. M. Gibson stated that this was added to the agenda so the Council could state their support for an IWP if an application were to be submitted. This would speed the process up. The Council did not give a position on this request.

Other Business

Director's decisions on March 2nd public hearing items: M. Gibson stated that the Council had been given a memo with the Director's decisions on the March 2, 2004 public hearing. The regulation changes stemming from the public hearing were filed on April 2nd and became effective on April 22nd. The Director concurred with the Council on all of the items except for two. The first was the commercial tautog fishery. The Council had several proposals before it and they decided to go with the tautog advisory panel preferred option. The DFW ended up advising the Director to stay at status quo for several reasons including the inability to address recreational changes, updated data which showed stock improvement, and the fact that the DFW would be developing an updated assessment for 2005 which may change the management plan in the future. The Director decided to go with the DFW recommendation therefore the tautog management plan remained at status quo. The second item was the spiny dogfish permit program. The Council and one industry representative recommended keeping this program. The Director decided to let this program expire due to upcoming federal regulations which would trump the existing regulations.

K. Ketcham asked for clarification on where the summer flounder recreational regulations ended up. M. Gibson stated it was what the Council had recommended, a 17.5 inch minimum size and a 7 fish bag limit.

B. Mattiucci asked a question about fluke aggregate landings. He was concerned that his organization was being left out of the loop somehow. M. Gibson stated that Mr. Mattiucci had been to the first meeting of the aggregate landings workshop and he would get a notice regarding the second aggregate landings workshop which had not taken place yet. Subsequent to any consensus plan which comes out of this workshop, a summer flounder AP meeting would be held to discuss the workshop findings or proposal. B. Mattiucci stated that he had not heard M. Gibson correctly; he thought M. Gibson stated that there had been a second meeting already.

Council approval of tentative agenda for inaugural meeting of the commercial fishermen's committee: D. Borden stated that the Council had a draft agenda before them.

The Council had two questions before it, consensus on the date and agreement on the proposed agenda before them. D. Borden stated that the task before the committee over the next few months was to work on licensing issues.

M. Gibson asked D. Borden whether he had a sense of when licensing would have all of their data compiled. It was a concern mainly because the renewal period had been extended. D. Borden stated that all of the data would be compiled by the first week in June.

K. Ketcham asked whether the licensing extension was going to be an annual occurrence. D. Borden stated that it would be. This year it was a 90 day extension and next year it would be a 60 day extension.

The Council agreed on June 16 or 17th as the meeting date (it will be the 17th) and there were no objections to the agenda items presented to them.

Added agenda items

Council approval to convene Winter Flounder advisory panel: M. Gibson asked whether the Council wished to convene the winter flounder advisory panel to discuss winter flounder changes in state waters. There were no objections from the Council.

A post agenda discussion was had on licensing. The beginning of the discussion was on the amount of licenses which were not renewed. K. Ketcham stated that he was unhappy about the change which allows for the extension to renew licenses; the original small window for renewal was set up after much deliberation. M. Marchetti defended the decision of the licensing board to extend the renewal period. Many licenses were not renewed for very legitimate reasons. This is what led them to allow for a longer renewal window of time. D. Borden supported this statement.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary