

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
May 14, 2007
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

RIMFC Members: G. Allen, J. King, S. Parente, D. Preble, S. Macinko, C. Anderson, J. King

Chairperson: M. Gibson

RIDEM F&W Staff: J. McNamee, N. Scarduzio, D. Erkan,

DEM Legal Counsel: G. Powers

DEM Staff: B. Ballou, L. Mouradjian, M. Lapisky

DEM Law
Enforcement: S. Hall

Public: 16 people attended

Chairman M. Gibson called the meeting to order. M. Gibson stated that there were two additional items to add to the agenda. Under the FYI, agenda item add 7 (b) a summary of the Director's decisions related to the April 9, 2007 public hearing, and under Other Business add 6 (d) the agenda for the May 16, RIMFC Advisory Panel Workshop. Gibson asked if there were any other changes to the agenda. Hearing none, Gibson asked if there were any objections to approving the agenda as modified. **There were no objections to approving the agenda as modified the agenda was approved.**

M. Gibson asked if there were any objections to approving the minutes of the April 16, 2007 Rhode Island Marine Fisheries Council (Council or RIMFC) meeting as submitted. Gibson stated that he had heard from members of the public that some information had been left out of the minutes. He stated that the policy for changing minutes is that the request had to come from a Council member. Gibson also indicated that J. King would be late for the meeting and suggested that the approval of the minutes be postponed until J. King had an opportunity to weigh in on them. Gibson stated that J. Gardner had commented on the completeness of the minutes and had spoke to King about possible amendments to the minutes. **There were no objections from Council members to postpone approval of the minutes until J. King arrived.**

Enforcement Advisory Panel Report:

G. Allen stated that he had acted as chairperson in place of S. Medeiros who was unable to attend the meeting. He stated that there were seven people present four being panel members. G. Allen explained to the audience the issues regarding the legal interpretation of the "transfer of license issue" (the idea that a non-commercial rod and reel fisherman cannot contribute to a commercially licensed rod and reel fisherman's catch). The members of the AP as well as other people in attendance decided the issue was a legal matter and not something that the panel or the Council had the ability to make a decision about. G. Allen stated that there was a consensus from the panel that a clarification be made from DEM's chief legal counsel on the interpretation of the

transfer of license issue offered by G. Powers. M. Gibson stated that he thought that process was already underway.

Recreational vs. commercial designation of a vessel: G. Allen stated that two panel members present had no opinion on the issue and one panel member had an opinion on this issue. As far as the AP being prepared to make a recommendation, there was not enough input to do so. G. Allen suggested that this issue also be discussed at the Director's level.

M. Gibson stated again that he thought this issue was part of a package of possible measures to be considered for clarification by the Director. Gibson indicated that the issue would come back before the Council at some point, possibly as draft regulations for the Council's consideration. M. Gibson asked Council members if they had any questions.

S. Parente asked to make a comment on the Enforcement meeting. Parente stated that S. Hall gave an example from his enforcement standpoint, which Parente disagreed with, along with disagreeing with G. Powers's opinion on this issue. Parente stated that S. Hall indicated that enforcement had been enforcing this in the shellfish sector. He stated that S. Hall gave an example for clarification; a shore fisherman could claim everyone alongside of him at the jetty was a "deckhand" of his, and his question was where do you draw the line. Parente stated that his answer to that question would be when the deckhand boards a vessel with a commercial declaration and leaves port.

Shellfish Advisory Panel Report:

D. Erkan went through the minutes from the Shellfish Advisory Panel (SAP) meeting that was held on April 25, 2007 in Jamestown at Ft. Wetherill. Erkan stated that the first agenda item was the development of commercial and recreational whelk harvesting regulations. He explained that there were three workshops held and three SAP meetings held for discussions on the development of whelk regulations. Erkan explained the process and the various levels of review that had occurred. Erkan outlined the primary issues that were discussed; the need for bait bags due to the use of horseshoe crabs as bait to aid in the ASMFC efforts, using a length or width measurement due to shell breakage, appropriate penalties for violations, possession and trip limits, elimination of trap tag language, and escape vent sizes. Erkan stated that there was a motion that passed to recommend that the Council take the whelk regulations to public hearing with the following changes: include language requiring the use of trap tags, add a 200 pot limit, and eliminate the requirement for bait bags, pending review by DEM legal staff.

Erkan stated that the next agenda item discussed was the Raso aquaculture lease expansion. He stated that P. Raso currently has a 3.8 acre lease and is asking for an additional 3.1 acres for a total of 6.9 acres combined. Erkan explained that D. Alves noted that the applicant intended not to disturb the bottom, harvest or move cages, from January through March to protect winter flounder. Erkan went on to explain that some SAP members had concerns for the wild harvest fisheries and that the RI Shellfishermen's Association's position on new leases in the salt ponds is to "not support any new lease or expansions until a plan is being worked on". He stated that P. Raso noted aquaculture contributions toward wild bay scallop restoration efforts and oyster stocks. Erkan also indicated that Raso noted impacts to his business. Erkan also stated that there was other discussion about maximum lease size requirements. Erkan stated that the SAP passed a motion to continue the application until an aquaculture plan is implemented by CRMC.

Erkan stated that the last item on the agenda was a discussion about splitting the High Banks Shellfish Management Area to allow for rotational openings. He stated that the request for

modification was initiated by industry to eliminate transplant into the Potowomut Spawner Sanctuary. Industry and DFW were at odds as far as the Potowomut Spawner Sanctuary was concerned. Erkan stated that opinions were mixed on the issue and a motion was passed to leave High Banks as “status quo”; no split/rotation for 2007, but to consider it in the future.

M Gibson asked if there were any questions from Council members regarding the SAP report. There were none.

New Business:

Council recommendation on aquaculture application 2002-05-03: M. Gibson reminded Council members of the actions that were taken at the last council meeting where the Council voted to decline support of the two applications that were before the Council. The Council also took a position, which in fact was a resolution to not support specific applications until a plan was implemented by CRMC. Gibson stated that this action stands, however it does not bind the Council if they have an interest in approving this particular application. He stated that he would need a motion to approve and then that motion would be up for Council discussion. He stated that if there was no motion to approve the application, that would be interpreted as the Council’s actions from the last meeting still being applicable. Gibson asked for Council comments.

G. Allen stated that he thought it would be counter productive to go through the process again based on the actions taken by the Council at the last meeting.

C. Anderson asked Gibson if the Council had any information on the effects of what the Council did at the last meeting. He stated that by looking through the SAP meeting minutes it was his understanding that the SAP was still going to provide information to CRMC absent the Council’s support. He stated that by reviewing the SAP minutes it looked like they are not going to provide advice to CRMC. Anderson stated that he was worried that there was a constituency that was not going to be able to communicate with CRMC because the Council was their voice. Anderson stated that his vote on the motion last time was based on the idea that it was a symbolic gesture without a great deal of practical consequence. Now he is looking at the SAP minutes and wondering if it had consequences that the Council perhaps did not intend.

M. Gibson stated that the Council’s vote clearly has consequences. He stated that this Council has sent a strong message which has been received at CRMC and within the working group. Gibson stated that he did not believe that it legally stops anything, since this Council is an advisory body, which has a statutory obligation to provide advice to CRMC. Gibson asked D. Alves if he would like to comment at this time on what implications the Council’s position has.

D. Alves stated that at the last MFC meeting he did ask for continued input from the SAP and the DEM Director assured him that he would get continued input from the Division. He stated that he had been getting that input. However, he felt that the SAP action was not following through on that and he realizes that the Director has no control over that. He stated that at the SAP meeting he did ask if there were any specific objections to the lease; there were none. It seemed the SAP members were just following up on what the Council did.

Alves stated that as far as the working group, they have had two meetings so far. He wanted to mention that at the last meeting there was only one commercial fisherman present, (M. McGiveney). Alves stated that the RI Shellfishmen’s Association did request that another shellfisherman be added to the working group. He stated that L. Ricciarelli was added to the group; unfortunately he was not able to make the meeting. He wanted to emphasize that the MFC

helped to initiate these meetings and he wanted to encourage people to attend. He was concerned that if the weather were good that fishermen would go fishing and not show up for meetings. Alves asked if this was a moratorium on leases since the CRMC has never been presented with an aquaculture lease from the MFC that the MFC has not supported. He indicated that he did not know what was going to happen at the next Council meeting.

M. Gibson clarified the Council's present situation concerning the aquaculture issue. He stated the Council took two positions at the last meeting one position toward specific applications and a general action toward all aquaculture. He indicated that his interpretation of that action was a resolution as to the Council's position on these matters. If that still stands, and it is the Council's wish to continue that position, the Council's position will stand and be applied to this particular lease. If the Council would like to change that particular stance relative to this application or applications in general this would need to be stated.

G. Allen stated that C. Anderson's comment was a good one. He went on to interpret the Council's vote from the last meeting, which was not to consider any further aquaculture lease applications. He continued to state that the input from the Division of Fish and Wildlife and the Council should consist of the following: are there spawning areas there, are there recreational fishing areas there, those types of things with regard to habitat, public fishing, shellfishing, fish access, and winter flounder spawning which are referenced in the Division's letter to CRMC. It makes sense for the people who are experts on these issues to continue to provide that advice to the CRMC. He felt that the Council would not be violating what they voted to do at the last meeting in providing this information. It was his opinion that the advisory panel should still meet, have the advice of the Division, and have the commercial and recreational sectors discuss any impacts. He stated that he believed this does not affect what the Council voted to do at the last meeting.

D. Alves stated that a follow-up question would be at what point this Council would be satisfied with the progress and development of an aquaculture plan. The resolution was for a plan to be developed, he stated that they were developing a plan. At what point would this Council say, okay that is good. Alves stated that this plan might take some time. It will take a while to educate all the participants.

M. Gibson asked N. Scarduzio what the status was on this particular lease application. N. Scarduzio responded by stating that the application had gone through the PD meeting, the Division had written a letter in response to the notification of the PD meeting stating that the Division was not in support of the lease at this time, based upon the lack of an aquaculture plan. The application has gone through the SAP process and is ready to come before the MFC and then go before the CRMC.

D. Alves stated that he wanted to emphasize that the Division letter of no support was based on the first letter to Mr. Gardner, there was one specific biological concern, and that was with winter flounder. He wanted to emphasize that it was based on the Divisions original letter and not based on biological concerns.

M. Gibson stated that he did not agree with that interpretation, but would not debate that as Council Chair at this time.

D. Preble stated that he though there were two separate issues and they needed to be separated. One issue is the aquaculture plan itself. The other is the issue of whether the Division should

continue to provide input for the plans that are ongoing. He stated that he thought the Division should continue to provide input. He indicated that there is no reason for DEM to not provide advice to CRMC or to the applicants. He stated that the Council's position should hold for this application and he does not see any reason for the Council to not continue with its position from last meeting. Preble stated that he would have preferred to see the update on the aquaculture plan before considering this application.

M Gibson stated that he could have D. Alves finish his report to the Council on the meetings that have taken place so far and see if that helps the Council in their decision.

D. Preble stated that the concern that he had was made evident by an article in the paper by R. Rheault. Rheault had an interesting graph that makes the point that he was trying to make at the last meeting. In ten years the number of cultured oysters harvested has increased by more than fifteen times. In the next eight years, they are looking to increase that figure by ten times over that, for more than 150 times the productivity. So he did not feel they were talking about an industry that was trying to develop itself, they were talking about a fully developed industry that is being conducted on public trust lands. He stated that he was looking at the 300.11.C prerequisites (on the aquaculture lease application) and the Council would be remiss to continue at this level without having the same kind of general use plan we see in all other fisheries. Preble stated that he is not against aquaculture, but he is nervous about the rapid rate at which it is growing without a cohesive plan. Preble stated that he would like to see this resolved so we can move forward, but he knows this plans take time. He stated that in the five years he has been on the Council he had never voted against an aquaculture application, but a plan needs to be implemented.

M. Gibson suggested that the Council hear from both D. Alves and D. Erkan regarding the progress of the aquaculture workshop. He first recognized R. Rheault from the audience.

R. Rheault stated that there were two very different messages that were being sent to the CRMC from the last MFC meeting. One is the clear message that there needs to be a plan. Everyone now accepts that and is working towards that. The other message pertains to the individual lease applications that have come before this Council. Rheault stated that he heard several Council members say it is not their intent to block these specific operations, so he indicated that it would be very important as a Council to clarify the second message. If it is the Council's intent for CRMC to go ahead without this Council's recommendation then this Council should state that. He asked that this Council not keep the CRMC guessing as to the Council's intent. He went on to state that if it is this Council's intent to put the breaks on and stop any future aquaculture applications from going forward, then this Council should state that. The Council shouldn't make CRMC guess their intent.

D. Preble stated that he was not the one who had made that particular point at the last meeting. He agreed that it was a little confusing and that R. Rheault's point is very well taken. Preble stated that he would not like to see CRMC move forward. If this Council refuses to approve an application then he would hope that the application is on hold. That would be the clear message that he would like to send. He stated that right now he would like to hear what progress it being made on the plan and then go from there.

D. Alves stated that the first meeting was held on April 26, 2007. Alves stated that all this information is online on the CRMC web site. At the first meeting there was discussion about minutes and how minutes would be done. He stated that there was a presentation about the

history of aquaculture in RI by Mike Rice from URI. Alves stated that there was an industry status report, a review of the aquaculture permitting process, there were discussions about Bay resource mapping, and a discussion about the recent increase of applications compared to years past. DEM's position is that they are supportive of aquaculture, but have concerns about future growth and the environmental impacts. It was agreed that everyone thought there was a need to have an aquaculture plan and that they are moving to develop one. He stated that the second meeting was held on May 10, 2007. Group members asked if the meetings would be open to the public. Alves stated that CRMC legal council indicated that it does not have to be open to the public since it is a working group. However, Alves indicated that the group has decided that if the members of the public want to attend they can as spectators. The meeting was light on the commercial fisheries end. Only one commercial fisherman was present at the meeting. Alves stated that there are 26 members on the working group panel, but not all of them show up every week. The Army Corp. of Engineers is on the list, but they have not shown up. Alves read a copy of the minutes from the meeting. He stated that at the next meeting the group will use Winnapaug Pond as a training model. The next meeting will take place on June 21, 2007 at 4:00 PM in the large conference room at the Coastal Institute building at URI.

S. Medeiros had a question on this issue; he asked if CRMC could go forward with these applications with or without the approval of this Council or without an opinion from this Council.

D. Alves stated that he could not speak for CRMC, but explained what would happen with these applications. He stated that these applications would now be kicked up to their Council (CRMC) for consideration. Alves stated that the MFC is advisory as is the Director of DEM. However, the Director of DEM also sits on the CRMC council. He stated that he did not know if this would stop them from considering these or not. It is something that is new, he has not experienced the MFC not approving a lease, further, they were usually able to work out all the problems in the PD process. He stated it would continue and go to the CRMC as the next step.

M. Gibson stated that the Council is back to where they were and R. Rheault's comments have focused the task before the Council. The Council needs to reiterate the previous policy position as voted on at the last meeting and/or formulate a clarification message to CRMC, something along the lines as D. Preble expressed. Alternatively, the Council can modify its position.

C. Anderson stated that he would like to make a motion, but felt that if the Council approves this they would make themselves irrelevant. **He made a motion that the Council recommend that DEM and the Shellfish Advisory Panel (SAP) provide information and support to CRMC and their continued evaluation and processing of aquaculture lease applications on their merits.**

D. Preble asked if the Council needed to do that. M. Gibson clarified that at the last meeting the Council endorsed having a continued application process. Gibson stated that what may be missing is guidance to CRMC. There was some discussion between Council members as to whether the motion was necessary. G. Allen addressed R. Rheault by stating that Mr. Rheault had indicated that there was some lack of clarity with the Council's intent. G. Allen asked Rheault to restate his earlier comments about the lack of clarity with the Council's position.

R. Rheault restated that he heard at least four Council members state that it was not their intent to block these applications. He stated that the Chairman explained to Council members that the MFC is advisory to CRMC and that CRMC is capable of going on and considering these

applications without this Council's input. Since there were no specific objections, the CRMC (Council) may lean that way. Rheault stated that there seems to be mixed messages coming out of this body and that he was confused, and that the Council sounded confused. He had heard very clearly that it was not the intent to block specific applications and now he was hearing that this Council would like to block these applications.

G. Allen responded by stating that this Council cannot block applications, this body is only advisory to CRMC.

R. Rheault stated that the CRMC would consider this Council's actions. He suggested that this Council might want to clarify the message that it is sending, because the message right now is mixed.

M. Gibson asked if there was a second to the motion. **G. Allen seconded the motion made by C. Anderson.**

M. Gibson asked for Council discussion and asked C. Anderson to elaborate on his thinking for proposing the motion. C. Anderson stated that he personally did not want to say that there should be no growth in aquaculture for the next two years while a plan is put in place. He thought that the Council might want to take a position that CRMC could interrupt as this Council urging the development of an aquaculture plan as fast as possible. He stated that this would be something he could get behind and that was what he thought they were doing at the last meeting. He was concerned that seeing how this has played out over the last few weeks, that some people are interrupting the Council's gesture as something more than being symbolic. That was not his intent in voting for that motion at the last meeting. He stated that he wished J. King and K. Ketcham were present so he could to ask them some questions for clarification. Anderson stated that he would like to see CRMC continue to do their work with the support and input of DEM, and the SAP, but with out a formal Council vote pending development of an aquaculture plan.

D. Preble stated that the one thing that is missing here concerning the plan is a timeline. He stated that when they develop a plan at the New England Council they start with a timeline. That is the first thing that needs to be done. Then you need to restrict what you are able to do with in that timeline. He stated that the approach is too broad. It needs to be focused on what you need to do. He also stated that a plan could always be amended and changed after it is in place and in fact, they are. He suggested starting with a list of questions that need to be answered then generate a timeline. He suggested a timeline in the 18 month range. Preble stated that he thought it could be done in this timeframe.

D. Alves stated that the Sea Grant Director did supply them with a draft plan before the meeting and it was about 18 months.

D. Preble stated that if he had some assurance that this plan is on schedule and not like it was 15 years ago when nothing happen, then he would be more comfortable with it.

N. Scarduzio asked if it would help the Council to hear the motion that was voted on at the last meeting. M Gibson asked the motion to be read. Scarduzio stated that at the last meeting the Council wanted to convey to CRMC that they would withhold action on the two leases that were before the Council, the Gardner and Krause lease applications. As well as, withhold support for any further aquaculture lease applications until CRMC has a workable plan for the development of aquaculture for the state of RI.

G. Allen stated that he was concerned that two Council members who are industry representatives, especially J. King who brought this forward, are not present. He stated that Anderson's motion is valid and that CRMC should continue to get input from the Division and so on. He stated that he hoped that this motion would clarify the Council's position.

S. Macinko stated that with all due respect to C. Anderson he finds this motion far more vague and confusing than what we did last meeting. He stated that he did not see what this motion was providing in the way of clarity.

M. Gibson stated that he agreed, and that is why he was searching for individuals to add clarity to the motion.

S. Parente stated that he was very concerned about not having J. King and K. Ketcham present. Without J. King's input he stated he felt very uncomfortable making any decisions at this point.

M Gibson noted that the other person from this Council who attended the working group meeting was not in attendance either.

D. Preble stated that he would like to see something from the June 21, 2007 working group meeting on a timeline. He would like something in writing that clarifies exactly what it is that they are doing. He stated that we heard the report about the meeting, which seems like it is on track at this point, and the timeline seems to be there, but he stated he would like to have something presented as to the timeline and what progress is being made.

M. Lapisky stated that he would consider looking at some mediation or some in between ground; however the biggest problem is as the planning stage goes forward they will still get applications most likely at an increasing rate. The aquaculture plan may cause limitations on future aquaculture leases, which will put more pressure on the Council. He stated that he was concerned about that because on one hand the Council would like to move forward with the beginning stages of a plan, however during that time they may get 25 more applications and they will not know what the total ecological impacts on the fishery will be with the addition of more leases. He stated that this was his opinion and that it was great to have a plan, but what happens to the applications before the plan is completed.

M. Gibson asked Council members what they wanted to do with the motion they had before them.

G. Allen stated that he wanted to withdraw his second to the motion. He stated his reason for doing so was that he needed more information and was concerned that J. King was not present. He recommended that the Council defer any further discussion until the next monthly meeting with J. King present.

M. Gibson asked if any Council member wanted to second the motion. **Hearing no second to the motion, the motion dies.**

S. Macinko stated that some Council members were trying to act in concert with the Department and the Division of Fish and Wildlife and their letters and possibly at some point he would like to hear more from the Division. He asked if the Division had changed its stance from when these letters were written.

M. Gibson responded for the Division stating that the Division had not changed its position. He stated that the Division is in support of having an aquaculture plan developed and the Division has remained concerned about the cumulative impact of leases. In this application since the applicant agrees not to conduct work between January and March, it is only addressing the reproductive time of female winter flounder. It does not address when the larvae are on the bottom or when the juveniles settle to the bottom or any of these issues.

M Gibson asked if there were Council members who wanted to continue the discussion. Hearing no comments the topic would be tabled until the next meeting when J. King and other Council members are present.

D. Alves asked that the SAP continue to provide input on lease applications and not just mirror the Council.

M. Gibson stated that from discussions this evening the Council would like the SAP to give input on applications. The SAP serves the Council; therefore Gibson suggested that the SAP needs to place this aquaculture lease application back on their agenda for review. He stated that the SAP had taken a position, which can not be reversed, but the Council would like the panel to give input about each application other than just state what the Council stated.

D. Erkan stated that he believed the intent and concern the SAP had was a precedent being set especially in the salt ponds in the absence of an aquaculture plan. The absence of an aquaculture plan was the basis for their concerns not that they were withholding input.

M. Gibson stated that there was some unfinished business with regard to the April 16, 2007 Council minutes and since J. King had not shown up he suggested that the Council defer action on the minutes until the next meeting. He stated that J. Gardner had requested changes via J. King and since J. King was not present the Council should postpone action until the next meeting.

Council review and comments on proposed groundfish advisory panel:

J. McNamee stated that at the last Council meeting the members requested the Division develop an advisory body to the Council to cover the species not addressed by their current panels. He stated that he drafted a sample list for the structure of the Groundfish/Federally Managed Species Advisory Panel make-up to include various user groups. McNamee asked for Council comments regarding the draft list. McNamee also pointed out that the bottom of the form he added a slot for a Federal Representative. He stated that he thought the Council might want to select someone who would be fluent in federal regulations to be part of this group, perhaps a NMFS port agent. He also stated that the Council needed to pick a chairperson for this panel.

M. Gibson suggested that Council members think about the set-up of this panel and who will be the chair. In addition, how they want potential applicants to be screened. He stated that this would be on the next agenda to continue discussion. Gibson asked if the Council would like to start the solicitation process.

D. Preble asked that they wait a month so he could have time to review the panel make-up.

G. Allen agreed to wait so Council members could have time to review the structure of the panel.

Other Business:

Changes to advisory panel membership: J. McNamee stated that in the Council packets was a resume for R. Rheault who is nominated to be an alternate to J. Gardner on the Shellfish Advisory Panel.

M. Gibson asked for Council discussion. There was no discussion. He asked if there were any objections to making the appointment. Hearing no objections Gibson stated that Rheault was appointed.

M. Gibson noted for the record that J. King just arrived to the meeting. The actions that the Council was seeking King's input on have passed by and the interested parties from the audience have left so the Council deferred action on item 5(a), *Update on comprehensive aquaculture plan*, the specific aquaculture application that was before the Council, and discussions about the processing of future applications. In addition, the general position regarding aquaculture will come up on the next agenda. The Council wanted to hear from J. King before reformulating their position on aquaculture and aquaculture applications. Gibson also stated that the minutes from the April 16, 2007 meeting were deferred until the June meeting, and at that time, King could adjust the minutes if needed.

Review and recommendation on draft whelk regulations: M. Gibson stated that the SAP members have come up with some whelk regulations and have made a recommendation to the Council that they would like the draft regulations to go to public hearing. Gibson stated that staff indicated that the draft needed some internal review before going to public hearing.

N. Scarduzio stated that the draft regulations would need to go to Legal Council and Enforcement for review.

M. Gibson stated that Legal Council and Enforcement should review the regulations first, then have what the Division thinks is a body of whelk regulations that would be ready for public hearing. They could then put the regulations in front of the Council for their review and for public input possibly for the June meeting.

J. McNamee stated that Council members were provided a copy of the draft regulations and asked if members had any comments at this time.

S. Medeiros had a question about the license requirements for harvesting whelks. He was told that any multipurpose, PEL with a non-quahog shellfish endorsement, and CFL with the non quahog shellfish endorsement could all harvest whelk at this time.

M. Gibson asked if there was any other input from the Council for the Division. He explained that the next time the Council would see this body of regulations it would be a refined version that would reflect any Department input. Gibson stated that he would then ask for a signal from the Council that they agree the regulation should go on to the next appropriate public hearing.

R. Hopkins stated that he had reviewed the draft document and noticed it had been identified under the shellfish regulations. He asked if the whelks would fall in the same category as steamers and quahaugs as far as regulated waters in terms of pollution closures.

M. Gibson asked D. Erkan to address the question. D. Erkan stated that there was some discussion from DOH concerning the metal levels up toward the Providence River but as it stands now the pollution closure lines do not apply.

M. Gibson stated that currently the pollution closure lines do not apply, but in the public hearing process or in our internal review if we saw a need to consult with DOH on other contaminate issues, that might be relevant to whelk the regulations and might include some kind of closure language. However, this would be different from the shellfish closures.

Update on floating fish trap regulation compliance: J. McNamee stated that one of the compliance items in the new regulations is a letter specifying the intent of where a trap will be set. He stated that the Division is now in possession of all of the trap owners letters. McNamee stated that there was one enforcement issue, which was resolved, and one other enforcement action that is pending. There has been some reviewing of these sites by the Division and some action has been taken. He stated lastly that an official inspection with a member of DFW staff, B. Murphy, and staff from Enforcement would take place in the next two weeks. All traps are officially in the water so now is the appropriate time for them to go out and review the locations and specifications of the fish trap sites.

M. Gibson asked Council members if they had any questions. There were no questions.

AP Workshop meeting agenda: M. Gibson stated that the Council was advised to conduct these meetings relative to the Council's operating policies and procedures in public, in accordance to the practices that are used during regular Council meetings. He stated that due to the open meeting rules an agenda was created in order to meet the Wednesday night meeting date and posting requirements. M. Gibson reviewed the agenda.

G. Allen asked C. Anderson if he had a copy of the advisory panel procedures. C. Anderson stated he did not have a copy. G. Allen asked that all Council members be sent a copy prior to the workshop meeting. J. McNamee stated that he could email copies to all members.

G. Allen stated that he would be facilitating the workshop. He stated that he would like to go through the current advisory panel policies and procedures.

M. Gibson stated that the workshop was open to the public.

FYI:

Director's decisions on 11/20/07 and 1/25/07 public hearing recommendations: M. Gibson stated that the Director's office has been working very hard to catch up on all those decisions, and were now caught up on the timeliest decisions like the Summer 1 summer flounder and striped bass fisheries. He stated that those were summarized in the Director's decision letters.

G. Allen state that a correction needed to be made on the Director's letter dated April 24, 2007, second page, third paragraph down, stating "The recommended summer aggregate program..... It states 350 pounds/day it should be 350 pounds/week.

J. McNamee stated that he did catch that error and the regulation was not filed as such, it was corrected to 350 pounds/week.

M. Gibson commented that the only item from the last hearing that has not been decided is the lobster transferability issue.

M. Gibson asked if there were any comments from the Council. No comments were made. M. Gibson asked for audience comments.

Post agenda discussion

J. Low asked if anyone had signed up for the aggregate program. N. Scarduzio responded by stated that none were received yet. J. Low stated that this was an excellent reason to cancel the program next year.

M Gibson asked if there was any other business to come before the Council. He asked for a motion to adjourn. Motion made by all Council members.

The chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary