

RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Meeting Minutes
June 2, 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,
S. Parente, R. Bellavance
RIMFC Members Absent: K Ketcham
Chairperson: B. Ballou
RIDEM F&W Staff: N. Scarduzio, D. Erkan, R. Satchwill, N. Lazar, M. Gibson,
DEM Staff: G. Powers, L. Mouradjian, M. Sullivan
DEM Law Enforcement: S. Hall
Public: Approximately 40 people attended

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. J. King stated he wanted to add an item 4(b), review of the minutes from the Shellfish AP meeting held on 5/27/2010. R Bellavance asked why the charter/party boat issues were not on the agenda and why they had been removed. B. Ballou indicated they had been removed based on legal council's advice. B. Ballou stated that M. Gibson, in his absence, made the decision to withhold the items until the next scheduled Council meeting. M. Gibson confirmed that legal council advised the items should not be on this agenda. B. Ballou stated he had since had a discussion with L. Mouradjian and Chief S. Hall and he was committed to the internal process necessary to get the items on the agenda for the next meeting. Ballou asked if there were any objections from the Council to the proposed change. There were no objections. **B. Ballou asked if there were any objections to approving the agenda as amended. Hearing none, the amended June 2, 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 March 1, 2010, Council meeting. B. Ballou asked if there were any objections to approving the minutes. **J. King made a motion to approve the March 1 2010, Council meeting minutes. S. Medeiros seconded the motion. The minutes from the March 1 2010, Council meeting were approved.**

Public Comments

P. Duckworth asked to have a meeting regarding the gillnet regulations. He noted that in the past, they had approximately three meeting on the topic and hashed out some proposed regulations, however there were not enough voting members at the meetings so no votes were ever taken. He was concerned about the vertical line requirement for state vs. federal requirements.

B. Ballou and M Gibson stated that the Division was waiting on the Whale Take Reduction Team meeting to see what their reaction would be to state vs. federal regulations then the

Division would react at that time.

G. Tremblay wanted to know if any boats had applied to the sector program. B. Ballou indicated that the Division had not received any applications yet.

J. Rainone wanted to know what happen with the proposals regarding the party/charter boats that came from the IAC meetings last summer. He thought everything would be in place for this year so there would not be any problems. He noted that B. Ballou had recently met with their group to have the items brought forward to the Council tonight and now it has been put on the shelf.

Advisory Panel Reports

Shellfish AP (4/28/2010) – J. King:

J. King reviewed the minutes from the April 28, 2010 RIMFC Shellfish Advisory Panel (SAP) meeting indicating there were three items on the agenda that were discussed. He acknowledged and thanked the DEM staff, Dennis Erkan, Najih Lazar, R. Satchwill, Bob Ballou, and Director Sullivan for helping the SAP members conduct a productive meeting.

King explained after lengthy discussion the SAP voted to propose to the RIMFC changing the minimum legal size for soft-shell clams from 1 ½ inches to 1 ¾ inches. For a bushel limit on soft-shell clams there were variations from SAP members from a 3 to 10 bushel limit. The item pertaining to establishing a new spawner sanctuary in Sycamore Cove in Potters Pond for oyster restoration was tabled until the next meeting. DEM Water Resources gave the SAP members a presentation regarding the 2010-2011 Growing Area classifications and presented a new pollution chart for 2010. King noted this showed an area of about 40 acres in Conimicut Point opening up to shellfishing.

J. King then reviewed the minutes from the May 27, 2010 RIMFC Shellfish Advisory Panel (SAP) meeting where the group discussed the Sebring aquaculture lease application and reconsidered the establishment of Sycamore Cove Spawner Sanctuary in Potters Pond.

King noted that the SAP voted to recommend that the RIMFC oppose the Sebring aquaculture lease proposal. The SAP also voted unanimously to recommend that the RIMFC support establishment of the new proposal to reduce the size of the Sycamore Cove spawner sanctuary boundary.

B. Ballou suggested that the Sycamore Cove Spawner Sanctuary item be moved to the July Council agenda to give people more time to respond. Division staff responded by noting that the Division did the due diligence in trying to notify commercial shellfishermen as well as residences in the area. The proposal before the Council had been modified and staff felt people were content with the new changes. B. Ballou asked the Council if they felt this issue had been sufficiently vetted through the AP process to warrant a recommendation to the Director.

J. King felt the issue had been fully vetted, pointing out there had been four meetings regarding the issue and the general public as well as the commercial industry has had an opportunity to comment. S. Parente stated he did not feel the notification process was as robust as it could have been, but did feel the compromise to reduce the area was reasonable. B. Ballou determined that it was not a time sensitive item and could wait until the July Council meeting.

B. Ballou then moved on and asked D. Beutel if he would like the Sebring lease application

brought before the Council for discussion seeing that the SAP were opposed to the lease. D. Beutel stated, based on the procedure that was agreed upon, if the SAP opposed a lease the Council would hear the proposal at the next Council meeting which would be this meeting. D. Beutel explained the 30-day clock had been started with the CRMC public comment period, and the 30-days would be over in two weeks. He would like the lease application to be heard by the CRMC before August, therefore postponing another month would really drag out the process. He felt this was unfair to the applicant. D. Beutel asked if the Council members could weigh in individually then have the Chair submit the comments, noting this was in statute in Title 20 that comments could come from the Chair after conferring with the Council.

B. Ballou looked to the Council on how they wanted to proceed on the issue. **S. Medeiros made a motion, based on the review and recommendation of the SAP, the Council opposes the Sebring aquaculture lease application.**

B. Ballou asked for legal guidance from G. Powers noting the item was not on the agenda as an action item but instead part of the minutes from a SAP meeting. G. Powers stated that notice for the item was not adequately provided and suggested that the July Council meeting would be the more appropriate time for consideration of the motion just offered.

There was further discussion about whether to proceed with the item or not. B. Ballou felt the item should be brought back before the Council with full notice and full discussion at the July Council meeting. There were no objections from Council members to proceed in this manner. There was no second to the motion made by S. Medeiros.

New Business

Council recommendations on June 2, 2010 Public hearing items:

Proposal to amend the soft-shell clam regulations to increase the minimum legal size statewide:

R. Hitting asked what the results were for the recommended action, going from 1 ½ inches to 2 inches, or 1 ¾ to 2 inches, what would this do in terms of reducing harvest. Also, what would the reduction from 12 to 6 bushels do in terms of reducing harvest.

N. Lazar explained the size increase would be beneficial for increasing recruitment. To answer the second question, he reviewed catch frequency data for the Council. M Gibson stated the Division did not have a direct linkage between the bushel limit and the catch reduction at this time, but what we think we needed was a 50% reduction in the mortality rate to stabilize the system. He indicated the Division had more work to do in this area however, 6 bushels would be a good starting point and as we continued to refine the model by adding 2010 data we may need to come back with another possession limit adjustment.

D. Erkan explained that the area, which will open due to changes in the pollution closure line, will be an additional 40 acres, which has very high shellfish densities. The loss of fishing opportunity will be offset by the high-density beds. He explained there were a lot of 2 inch clams in the additional 40 acres and people would get more money per bushel for those clams and hopefully not suffer any financial losses that would be the case if this change was not taking place with this pollution line.

D. Erkan commented that there were other steamer beds north of this area, but they were no way near the size or had the density of steamers as the Conimicut Point area.

S. Macinko asked if the Council had a copy of the Division's presentation in their packets. He indicated he would like to first review the information and data before making any recommendations. B. Ballou explained he would like to have the Council make a decision on the public hearing items tonight.

S. Macinko felt people should have all the information prior to being asked to make a decision. He noted that he was seeing this information for the first time.

M. Gibson responded by commenting that staff had been working on the presentation right up to the public hearing and that the issues before the Council were time sensitive. If we put off Council recommendations, the new area will open under existing regulations and we would be faced with a Departmental decision to perhaps go forward with an emergency action to put something in place.

J. King made a motion for discussion to recommend to the Director to increase the minimum legal size for soft-shell clams statewide to 1 ¾ inches, second by C. Anderson.

R. Hittinger stated he respected the AP process and this item was considered by the SAP who were more familiar with the issues, therefore he was inclined to agree with the SAP members and support the 1 ¾ inch increase.

D. Zubik felt the Council did not understand the mortality rate associated with the size increase, He stated that everything between a 1 ½ and 2 inches would die. He explained that once the steamers were dug up and sitting on the bottom they would be unable to bury themselves and would die. He noted that soft-shell clams were not like hard shell clams that could bury themselves pretty quickly. His other point was to establish a hinge law. He commented that someone should contact D. Medeiros from RI Shellfishmen's Supply in Tiverton because he had completed research on grading racks to speed up the sorting process of clams.

Some audience members suggested there was not sufficient data being presented to warrant the proposed changes.

M McGivney stated he was in support of a hinge law, commenting that we were probably not in a position to do it now, but it should be looked at. McGivney also proposed changing the penalty for undersized shellfish from a count to a volume of measurement.

B. Ballou asked for a vote on the motion made by J. King, and second by C. Anderson, to recommend to the Director to increase the minimum legal size for soft-shell clams statewide to 1 ¾ inches. The motion passed by a vote of (4) in favor (J. King, R. Bellavance, C. Anderson, and S. Medeiros), (2) opposed (S. Macinko, R. Hittinger), and (1) abstention (S. Parente).

R. Hittinger made a motion to ask the Department to evaluate the possibility of a ¾ inch hinge with a 10% variance, second by S. Medeiros. The motion passes by a vote of (4) in favor (R. Hittinger, R. Bellavance, C. Anderson, and S. Medeiros), (0) opposed, and (3) abstentions (J. King, S. Parente, S. Macinko).

Proposal to establish Conimicut Point Shellfish Management Area:

It was clarified that the Conimicut Point Shellfish Management Area, if established, would have a special condition relevant to soft-shell clams.

S. Parente made a motion to recommend to the Director not to establish a Conimicut Point Shellfish Management Area, and second by R. Hittinger. The motion passed by a vote of (4) in favor (S. Parente, R. Hittinger, R. Bellavance, and S. Medeiros), (2) opposed, (J. King, C. Anderson) and (1) abstention (S. Macinko).

Proposal to establish a daily soft-shell clam possession limit for Conimicut Point Shellfish Management Area:

B. Ballou asked if any Council member wished to make a motion. He stated that since the Council voted not to establish a Conimicut Point Shellfish Management Area this item had no bearing. No motions were made, and there was no Council discussion.

Proposal to amend the soft-shell clam regulations for non-shellfish management areas by reducing daily possession limit statewide:

No motions were made, and there was no Council discussion.

Proposal to extend the duration of the designation of the Shellfish Management Areas and clarification of the authority to modify the duration of such designation:

B. Ballou explained this item was to bring the regulations up to date with regard to the Director's authority of the existing management areas and exist in perpetuity so they would not sunset after five years.

J. King made a motion to recommend to the Director to adopt language to extend the duration of the designation of the Shellfish Management Areas and clarification of the authority to modify the duration of such designation, and second by S. Medeiros. The motion passed by a vote of (6) in favor (J. King, C. Anderson, S. Parente, R. Hittinger, R. Bellavance, and S. Medeiros), and (1) abstention (S. Macinko).

Approval of Shellfish AP Agenda – J. King:

J. King stated they needed to have a meeting to discuss winter area openings for Greenwich Bay, etc. The date had not yet been determined. B. Ballou asked if there were any objections from the Council in approving a SAP meeting. There were no objections from the Council.

Approval of IAC Agenda – B. Ballou:

B. Ballou asked if there were any objections from the Council in approving an IAC meeting for a date to be determined in July to discuss 2011 commercial licensing issues. R. Hittinger asked if the gillnet issue brought up by P. Duckworth could be added to the IAC agenda if there was word back from the Whale Take Reduction Team (WTRT) meeting. B. Ballou indicated that the item could be added if the WTRT meeting takes place before the IAC meeting. There were no objections with this course of action from the Council and the meeting agenda was approved.

Approval of Tautog AP Agenda – R. Hittinger:

R. Hittinger noted that the meeting would be held on August 26, 2010 at 6 PM at the Hazard room in the Bay Campus Coastal Institute. He noted that J. McNamee would be bringing up

some recommended changes from the Division. He asked that all members attend, if people continue to not show up he plans to find replacements that will attend meetings.

B. Ballou asked if there were any objections from the Council in approving the agenda. Hearing none, the agenda was approved.

Approval of Menhaden AP Agenda – S. Medeiros:

S. Medeiros stated that the Menhaden AP wanted to meet earlier to discuss the stock status and see how the season went. The meeting was scheduled for September 7, 2010 at 6 PM at the Hazard room in the Bay Campus Coastal Institute. B. Ballou asked if there were any objections from the Council in approving the agenda. Hearing none, the agenda was approved.

Approval of Lobster AP Agenda – J. King:

J. King stated that the meeting was set for June 8, 2010 at 6:30 PM at Corless Auditorium for an update on ASMFC Lobster Technical Committee activities.

B. Ballou asked if there were any objections from the Council in approving the agenda. Hearing none, the agenda was approved.

Appointment of new member to AP – N. Scarduzio:

N. Scarduzio stated that an application had been received by L. Jordan who was applying for the primary position as the offshore-trawl representative on the Summer Flounder AP. Her application had been reviewed by DEM Law Enforcement. The other alternates would prefer to have L. Jordan as the primary person so she could attend meetings when they were out fishing.

B. Ballou asked if there were any objections from the Council to appointing L. Jordan to the Summer Flounder AP. **J. King made a motion to move for appointment, second by S. Medeiros. The motion passed unanimously to approve the appointment of L. Jordan.**

Old Business

Status of Openings on the RIMFC – B. Ballou:

B. Ballou stated that a solicitation letter had been sent out. There were three members of the Council whose terms had expired, S. Macinko, K. Ketcham, S. Medeiros. Ballou noted that he had received one letter of interest from a candidate so far. Since it would be unlikely that any replacements would be may until next January at the earliest, members whose terms have expired will continue to serve until reappointments are made. He also indicated that he would send out another solicitation letter to fill vacancies.

FYI

ASMFC-NEFMC Updates – M. Gibson:

In the interest of time, M. Gibson stated that the summaries for both these meeting were in Council member packets. The only item he wanted to point out was that the ASMFC Lobster Board had a recommendation from the Technical Committee before them to close the SNE lobster fishery for 5-years. The Board would be holding a special meeting on July 22 in RI. He encouraged people to attend.

R. Bellavance commented that he noticed there was an increase in the black sea bass season and he wondered if the Director had made any decisions to make changes. M. Gibson acknowledged that the Division was aware that there was an opportunity to expand the black sea bass season, and we would catch up with that at the next available public hearing.

Letter of response to CRMC RE: Patch aquaculture lease application – B. Ballou:

B. Ballou just pointed out that the letter was in Council member's packets for their reference.

Regulation Re-write Initiative – B. Ballou:

B. Ballou stated that he had a summer intern who had been given the task of tackling the long over due initiative of taking the Division regulations and breaking them down in to a more organized and readable format. He noted that we were just going to start out on a formatting and organizing exercise. We would do this through an internal process then a stakeholder process and then through the AP process.

B. Ballou asked if there was any other business to come before the Council. Hearing none the meeting was adjourned.

Nancy E. Scarduzio, Recording Secretary