

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
September 8, 2008 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: C. Anderson, J. King, S. Medeiros, S. Parente, G. Allen,
K. Ketcham, S. Macinko, R. Hittinger

RIMFC Members Absent: D. Preble

Chairperson: M. Gibson

RIDEM F&W Staff: N. Scarduzio

DEM Staff: R. Ballou, L. Mouradjian, G. Powers

Public: 24 people attended

M. Gibson called the meeting to order. M. Gibson made some modifications to the agenda. He requested that item 3 and item 4 be switched in order. To hear item 4, public comments, before item 3. He moved item 6b to follow after item 4, advisory panel reports, since they were similar topics for discussion. M. Gibson explained that he added a public comment section toward the beginning of the meeting instead of at the end of the meeting. Gibson removed item 5d, marine fisheries staffing issue, since it was discussed at the August Council meeting and the situation had not changed. He indicated the loss of marine fisheries staff would be a topic at the upcoming Director's round table meeting. Item 6e was added as an informational update on a recent New England Fishery Management Council meeting. M. Gibson asked if there were any other adjustment to the agenda. He noted that Councilman S. Parente had handed out correspondence to Council members from R. Mattiucci pertaining to the sector management issue. Gibson asked if there were any objections to amending the agenda as suggested. Hearing no objections, the agenda was approved as amended. **There were no objections to approving the agenda as modified therefore the agenda was approved as modified.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the June 2, 2008 and August 4, 2008, meetings. M. Gibson asked if J. King was satisfied with the amendments to the June 2 minutes. J. King indicated that they were fine. R. Hittinger stated that he was present at the August 4 meeting and asked that the minutes reflect that. Gibson indicated staff would amend the August minutes to reflect that change. He indicated the minutes could be approved with the condition that change would be made to the August minutes. **J. King made a motion to approve the June 2, and the August 4, 2008, meeting minutes. S. Medeiros seconded the motion. M. Gibson asked if anyone was opposed to approving the minutes as adjusted. Hearing no objections, the minutes were approved.**

Public Comments

M. Gibson explained that the public comment slot would give individuals the opportunity to bring up topics that were not on the agenda for the Council to take under consideration for possible action in the future.

B. Mattiucci wanted to know how the recommendations from the IAC meeting would be presented; he was unclear of the procedure of how recommendations go forward. Gibson reviewed the process and indicated that the report from the IAC was on the agenda so this would be discussed at that time. Gibson explained there would be no recommendations from the Council tonight they would not give a recommendation to the Director until after the public hearing.

B. Mattiucci asked if J. Lake could come before the Council at a future meeting to give an overview of SAFIS and have J. Lake indicate how far back he feels confident in the information. He was looking for status of the program and the degree of accuracy of the landings data. M. Gibson indicated J. Lake would be able to provide a very thorough review but he was concerned about when would be the best time for this presentation to take place. He suggested the best time might be when there was a recommendation from an advisory panel to proceed with a sector management alternative then that would be the time for J. Lake to make a presentation to the Council. B. Mattiucci was in agreement with Gibson's course of action.

G. Duckworth asked about the status of the request to change to a 24-hour soak time for gillnets in state waters, which was presented at a past IAC meeting. He wanted to know how to bring the issue back to the table for discussion. K. Ketcham indicated that the gillnet issue had taken a back seat to the urgency of the 2009 licensing items and it should be addressed before the winter. He explained after the licensing issues were completed they could have an IAC meeting.

Advisory Panel Reports

K. Ketcham reviewed the minutes from the Industry Advisory Committee (IAC) meeting held on August 19, 2008. The members agreed to go forward with the following recommendations to the Council:

Shellfish Sector – Quahog: to recommend to continue to apply a 3:1 exit/entry ratio to non-renewed principal effort licenses with quahog endorsements.

Shellfish Sector – Soft-Shelled Clams: to maintain status quo for the licensing of soft-shelled clams.

Restricted Finfish Fishery: to recommend to continue to apply a 5:1 exit/entry ratio to active licenses (MPLs and PELs w/Restricted finfish endorsements) that retired in 2008.

Lobster Fishery – to recommend that the Council request the Director of DEM to ask our State ASMFC delegates to put pressure on the ASMFC to produce a transferability program.

Regarding the non-resident license issue, the IAC members voted to recommend that Rhode Islanders who possess a RI resident commercial fishing license and who have actively fished in the last 2 years and moved out of the State of RI, be allowed to apply for a non-resident PEL w/Restrictive Finfish Endorsement only.

K. Ketcham also indicated that B. Ballou had outlined several licensing issues for 2009 that IAC members gave input on. There were no comments from the Council on the IAC report.

New Business

Draft commercial fishing license regulations – B. Ballou:

B. Ballou gave an overview of the preliminary draft licensing regulations to give the Council an upfront initial exposure to what was being proposed. He explained that the Division provides the Council with a 60-day advance notice so there is plenty of time for Council input if necessary. B. Ballou also addressed the non-resident licensing issue by explaining he had reviewed current regulations and felt that what B. Mattiucci was seeking could be accomplished under current regulations but that the Department may elect to explain it better in the regulations if this is what the Council and the public agree on. In the public hearing documents this will be stated as a proposal for public consideration. There were brief comments made by Council members some in favor of the proposal and others expressed concerns about the proposal.

S. Macinko asked B. Ballou for clarification on the new language in the definition section pertaining to the “actively fishing” definition, that “some” of the 75 days must occur in each of the two years. He wanted to know how the Department would make “some” stand up and how to account for this. With the new language, B. Ballou explained that he was trying to relay what the IAC members had discussed, which was not to have all the fishing activity combined in one year that it should be spread out over two years. K. Ketcham commented that it was harder for some individuals to comply with the old combination so the IAC clarified the intent of the regulation by proposing the new language.

J. King asked about the medical hardship section in the IAC minutes and asked if military should be added as well. B. Ballou stated that the IAC did not have that discussion but he added it to mirror the lobster regulations so there would be consistency throughout the regulations. J. King asked about the next item pertaining to the repeal of the Commercial Fishing Licensing Review Board, he wanted to know where fishermen would go if there was no review board. B. Ballou indicated that individuals would go straight to the administration adjudication division at DEM. King asked about the age of crew members being set at 16. He thought many family members who were currently working on boats were under the age of 16. B. Ballou indicated he had contacted the Department of Labor and there were child labor laws that prevented anyone under the age of 16 from working for someone else. You cannot legally work for someone else if you are under the age of 16. He indicated that all these issue are valid and up for discussion and could be presented at the public hearing.

S. Parent had a question from page 20, item (c), in reference to the proposed licensing regulation document about applicants who possesses a valid Multi-Purpose License. B. Ballou explained that this item gave the individual the option to down-grade a license. This gave license holders a pathway to a difference licensing status.

B. Mattiucci stated that all he was asking for was to allow Rhode Islanders to be granted the same privilege that was granted to non-residents. He just wanted to clarify his position.

Nomination for Vice-Chair – M. Gibson:

M. Gibson outlined that at the August Council meeting he asked Council members to think about who they would like to elect as the new Vice-Chairman. He explained the nomination process and called for nominations.

J. King nominated S. Medeiros for Vice-Chairman. King read a statement outlining that S. Medeiros was the most senior member of the Council and had demonstrated his skills at managing and organizing. He also had a record of accomplishment for considering all sides presented and looking for solutions that were acceptable to all sides. King stated for those reasons and many more he would like to recommend S. Medeiros for the position of Vice-Chairman of the RIMFC.

M. Gibson asked for other nominations. No other nominations were offered. Gibson asked if there were any objections to S. Medeiros being appointed to Vice-Chairman of the RIMFC. Hearing no objections, S. Medeiros was appointed as Vice-Chairman to the RIMFC.

Continued discussion on Council meeting schedule and public hearing schedule – M. Gibson:

M. Gibson reviewed what had taken place at the last Council meeting and explained that staff had prepared draft proposals for possible alternatives for Council review and discussion.

N. Scarduzio reviewed the proposed Council meeting schedule, which aimed at streamlining the number of meetings per calendar year. She explained she tried to set meetings to correspond with public hearings and had reviewed the last two years to determine when public hearings would normally take place. It was determined that at least five (5) Council meeting would have to take place in relationship to holding four (4) public hearings per year.

Gibson reiterated that because of loss of marine fisheries staff the Division was trying to streamline things so the remaining staff could better handle the workload. He indicated that the Council did not seem to be interested in shifting to a day format to hold longer meetings but rather stay with evening meetings so staff had prepared these proposals to try to consolidate meetings. He pointed out there may be other issues that come up and the Council may not be able to stay with this schedule and additional meetings may need to occur. Gibson asked for comments from the Council.

J. King thought there should be an August AP meeting for shellfish instead of a September meeting to get things started early enough to line up the winter shellfish openings.

S. Medeiros agreed with what was proposed and willing to try it out as long as all Council members and the Division had the understanding that there may be a need for more meetings to address issues that may arise.

S. Parente thought the Council had a difficult time already trying to conduct Council business and was uncertain that the Council would be able to keep up with a reduced meeting schedule. He felt monthly meeting were best.

J. King wanted to know if the shellfish public hearing could be assigned to October and if that was early enough for things to be promulgated for November. N. Scarduzio pointed out that normally the October public hearing was just for licensing and the sector management plans because of the number of licensing issues, also October would not allow enough time if the regulation had to be set for November. She indicated she had moved the shellfish public hearing to April to start the process earlier.

Gibson noted there seemed to be mixed feelings to changing the schedule and asked for other comments. K. Ketcham was in favor of trying the new schedule and in favor of trying to streamline the number of meetings. However, he felt that the Council would need at least one more meeting to be added to the schedule at some point.

There was further discussion about the meeting and public hearing schedules. M. Gibson summarized that most Council members were in favor of trying out the new schedule with the stipulation that the frequency of meetings may change.

Continued discussion about combining advisory panels – M. Gibson:

M. Gibson outlined the reasons for the need to combine advisory panels (AP), which included reduced staff, and several of the AP's do not meet very often. The proposed streamlining was an attempt to coincide with the fishery sector programs, Finfish, Shellfish, and Crustacean. The proposal reduced the number of AP's from 13 down to 3 to match the three fishery sector programs. Gibson suggested that the IAC and possibly the Enforcement AP should be separated out.

S. Medeiros was not in favor of combining all the separate AP's and grouping them in to one Finfish AP. He proposed grouping some of the AP's but the Council needed to consider the people involved in each AP. He suggested holding AP meetings on the same night. Medeiros wanted to make sure the Council allowed for more flexibility in allowing panels to meet without having to wait for the Council to meet to gain approval before a meeting could be held. If the Council was going to meet less than there needed to be, a way to allow discussion on issues that came up.

M. Gibson asked if there was a counter proposal from the Council. K. Ketcham agreed with S. Medeiros that the AP's should not all be lumped together. The IAC and Enforcement AP should remain separate.

There was a consensus that the IAC and Enforcement AP's remain separate. The Council suggested grouping the tautog, striped bass, menhaden, and bluefish/weakfish AP's. Group groundfish and winter flounder AP's, and keep summer flounder, scup/black sea bass, and floating fish traps separate. Therefore, 13 AP's would be consolidated to 9 AP's. Staff would reconfigure the diagram and present it at the next Council meeting.

Discussion on the EEZ transiting issue – S. Parente

S. Parente wanted to know what the status of the issue was with DEM for the transiting from Block Island to Point Judith through state waters with federally managed species on board. He wanted to know if there was anything being done or planned to be done by DEM.

M. Gibson explained that nothing could be done by DEM directly because it was a Federal issue. Currently there was no provision for transiting through Federal waters with fish taken from the waters of Block Island except for striped bass. The only way to correct that issue was to make a modification to the Magueson Act. Gibson indicated that B. Ballou might have some contact information to the Congressional Delegation where that issue might end up.

B. Ballou had checked with Senator Reed's office and explained Reed's staff was looking in to the issue. They have recognized it as a challenge because it was not easy to reopen the Magueson Act, but they were also looking in to other alternatives to perhaps put a tag on another bill.

Ballou would keep folks updated and as soon as a strategy was outlined he would let people know so they could provide support. It was encouraged to work with Congressional Delegates on the issue. B. Ballou offered that if people had ideas to contact him, he would serve as the point person.

Discussion on Advisory Panel quorum requirements - S. Parente

M. Gibson explained the current Species Advisory Panel Policy operated under Roberts Rules of Order and does not provide specific enough direction on how to handle quorum issues outside of what was established by Roberts Rules of Order and S. Parent had raised concerns about establishing quorums for AP meetings.

S. Parente read the passage from the Species Advisory Panel Policy relative to Roberts Rules of Order, which stated that Roberts Rules of Order would be followed to the extent necessary at the discretion of the AP Chairman. Parente wanted to know if that also included establishing a quorum.

M. Gibson indicated that this would be up to the Council on how the Council wanted to proceed but if there were changes, the Species Advisory Panel Policy would have to reflect those changes. If it is the Council's position, that there needs to be a majority present but the Chair of the AP deems he had sufficient representation then that needs to be stated in the Advisory Panel Policy and adopted by an action from the Council.

G. Powers explained that advisory panels currently operate under Roberts Rules of Order where a majority is required, if the Council would like to have a different rule established for advisory panels it is within the office of the Council to do so. Therefore, a different definition could be set up for establishing a quorum.

K. Ketcham explained from past experience there were times when advisory panels had enough representation to achieve a specific goal and be able to make a conclusion to bring forward to the Council for advice and it may not have required a quorum. However, since the IAC is required by law, the rules should not be changed for this panel and it should operate under Roberts Rules of Order.

S. Medeiros suggested that the Council could set a minimum number of members that needed to be present in order to conduct the meeting such as having 6 members present for example.

M. Gibson asked for guidance so staff could bring back some alternatives for a future discussion and for a formal motion. He suggested staff could prepare some options for Council consideration.

Approval of two Fluke AP Agendas – D. Preble:

Since D. Preble was not present, N. Scarduzio reviewed the agendas. The first meeting was scheduled for September 17, 2008 to discuss and review the summer flounder sector allocation proposal presented by the RI Fluke Conservation Cooperative. The second agenda item was discussion and review of proposals for 2009. The second Fluke AP was scheduled for September 30, 2008 in case a second meeting was needed for continued discussion and review. Scarduzio requested that proposals should be submitted in writing at the first meeting.

M. Gibson asked Council members if they had any changes to make to the proposed summer flounder agendas. Hearing none, both agendas were approved.

Approval of Scup/Black Sea Bass AP Agenda – K. Ketcham:

K. Ketcham reviewed the agenda and requested that any proposals be submitted in writing via panel members for the 2009 season. He gave September 16, 2008 as a tentative date but needed to confirm the date with J. McNamee. He was not sure if J. McNamee was available for that date.

M. Gibson asked Council members if they had any comments on the proposed agenda. He asked if there were any objection to approving the Scup/Black Sea Bass agenda as proposed. Hearing none, the agenda was approved with a date to be determined.

Approval of the Shellfish AP Agenda – J. King:

J. King reviewed the agenda and indicated that he would provide staff with a date as soon as possible.

M. Gibson asked Council members if they had any comments on the proposed agenda. He asked if there were any objection to approving the Shellfish agenda as proposed. Hearing none, the agenda was approved with a date to be determined.

Nomination to the Winter Flounder AP – N. Scarduzio:

G. Allen had applied to be the alternate to S. Trivisano on the Winter Flounder AP. N. Scarduzio explained that the Division of Law Enforcement had reviewed G. Allen's application and he qualified.

M. Gibson asked for comments from the Council. S. Medeiros made a motion to approve G. Allen's appointment as Alternate to the Winter Flounder AP. Seconded by J. King. M. Gibson asked if there were any objection to approving the motion. Hearing none, the motion was approved.

FYI

Public hearing timeline for October and November – N. Scarduzio

N. Scarduzio reviewed two memos regarding the two-upcoming public hearing timelines. The first public hearing was scheduled for October 23, 2008 and the hearing items included proposed licensing regulation changes for 2009, and the 3 sector management plans for finfish, shellfish, and crustacean. The second public hearing was scheduled for November 13, 2008 for proposed finfish management plans with a proposed January 2009 start date.

M. Gibson pointed out this was the Division's suggested timeline which was an aggressive public hearing schedule in order to achieve a January 1st effective date.

Correspondence for G. Duckworth regarding gillnet regulations – M. Gibson:

M. Gibson indicated that G. Duckworth had sent a letter to Director Sullivan regarding the intent to sue for violation of the Endangered Species Act with respect to the effect of RI State mandated gillnet regulations. M. Gibson asked G. Powers to address the issue.

G. Powers explained that the correspondence was currently under review and it would be premature at this time to comment on it. As soon as that review has been completed the

Department's response would be reported to the Council. He suggested, with all due respect, that the matter be tabled until such time when there was a Department response.

Draft Aquaculture Plan from CRMC Working Group – M. Gibson:

The draft plan had been provided to the Council in their Council packets for review. The Council did not need to take any action at this time. M. Gibson explained there were recommendations made for regulation adjustments for both CRMC and DEM. When draft regulations become available they will be brought to public hearing. Gibson was not certain as to when this would occur. Gibson asked if there were any questions or comments from the Council.

K. Ketcham had a hard time agreeing with the total amount of leased area the working group had proposed, especially in Point Judith Pond. He indicated that he had a discussion with D. Alves and does not think anyone can equate all open waters. He wanted them to use the total areas of the pond that were open access to everyone and D. Alves has not done that which makes the percentage of area covered by the leases look a lot smaller than it actually was. This was a point he wanted to make because he felt it was a valid concern.

M. Gibson was hoping that the suggested regulatory changes that both agencies make would lined up with one another. It would be in every ones best interest to make that happen. He encouraged the Council to get involved to try to resolve any issues before the two agencies put regulations together.

K. Ketcham indicated at the time of his discussion with D. Alves, Alves informed Ketcham that there was no way to compute that figure. M. Gibson felt this was information that was able to be determined. M. Gibson indicated he would relay K. Ketcham's concerns to the working group.

New England Fishery Management Council Update – M. Gibson:

M. Gibson referenced the recent NEFMC agenda and draft motions, which were enclosed in Council packets. He noted the main issue at the last meeting was the Groundfish Amendment 16 action and what implications the new groundfish assessment review, the so called GARM III, had on it. All that was available at this time were the draft motions. He commented that when the full Council had endorsed the meeting summary he would provide that information.

He mentioned of interest, was the Southern New England winter flounder in which the scientific advice indicated that it was subject to over-fishing and may not be able to be rebuilt even at an F=0 in the current rebuilding timeline.

The other twist was that the NEFMC had also voted not to meet the May 1, 2009 deadline to implement Amendment 16 and get rebuilding started. The Council had taken a position and a number of members of the Congressional Delegation of various states had approached the Service and told them they needed to respect the NEFMC's position and to wait until they had all the information and it had been vetted by independent reviewers. NOAA representatives indicated that they would not delay, there would be a plan in place by May 1, 2009. It was the law and that was what had to be done. Gibson indicated that the NEFMC anticipated that there would be an interim action by the Secretary through the regional administrator of NMFS, which would put something in place on May 1, 2009 but the Council would continue to develop Amendment 16 and put it in place when they could. That plan would then overwrite and replace the Secretarial action. Gibson indicated that everyone was nervous about what that Secretarial action would be.

Gibson asked for questions or comments. There were no questions from the Council.

The Chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary