

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
December 9, 2004
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

Chairperson: M. Gibson

RIDEM F&W Staff: J. McNamee, N. Lazar, M. Lapisky

RIDEM Law Enforcement: K. Blanchard

Public: 20 people attended

Chairman M. Gibson called the meeting to order. He asked if there were any changes to the agenda. J. McNamee stated that several other advisory panels (AP) should be added to item 6a, including the lobster AP, the enforcement AP, the commercial fishermen's committee, and the winter flounder AP. Also, under item 6b, the Council may choose to take up the addition of new representative positions on both the winter flounder and the striped bass APs. **The Council had no objections to altering the agenda in this manner.** M. Gibson asked whether there were any objections to accepting the November 1, 2004 meeting minutes as submitted. **G. Allen made a motion to approve the November 1, 2004 minutes as submitted. The motion was seconded by S. Medeiros. The motion was unanimously approved.**

Advisory Panel Reports

Floating Fish Trap: G. Allen gave the report. He stated that there was good attendance at the meeting. G. Allen had gone back in to the regulation book to see if there was a different way to address this (safety zone) problem. He came up with the language which is used for lobster pots and gillnets and adapted this language to the trap regulations. This was presented to the AP. There was ample discussion on the language with some of the focus going to his inclusion of the word willfully. The AP unanimously agreed to accept the language as proposed by G. Allen with the removal of the word willful from the proposed language. The proposed language is as follows: No person except the Director, Enforcement officers, and authorized technical personnel of the Department shall cause any damage to a fish trap of a person licensed under this title. G. Allen concluded by saying that there were some individuals who were commercial divers (not panel members) who requested that the word willfully be left in the regulation language. Their argument was that if they accidentally became caught and had to cut themselves free, they didn't feel they would be protected from prosecution the way the regulations were

written without the word willful included.

K. Ketcham stated that he had spoken to G. Powers (DEM Legal Counsel) and they felt that removing the word willfully was the correct thing to do. If a diver was prosecuted for vandalizing a trap but could prove that he/she was protecting themselves, this would be an adequate defense for them. K. Ketcham stated that he was happy with the deliberations of the AP.

D. Preble asked if there was any way for a fish trap owner to get restitution for damage done to his trap via the regulations. G. Allen stated that they had talked about this with G. Powers and he stated that this would fall under the jurisdiction of a civil court.

D. Preble made a motion to add this new language to the already endorsed body of floating fish trap regulations to go forward to the Director for his consideration for implementation. The motion was seconded by K. Ketcham. The Council voted unanimously to approve the motion.

Shellfish: J. King gave the report. The first order of business was from N. Lazar who gave a briefing on the status of the North Cape restoration project.

The second item discussed was the aquaculture lease from M. Boucher which had come before the Council during the previous months meeting. During the discussion M. Boucher presented an alternative site which moves the footprint of his operation out of the 12 foot contour line. The Shellfish AP unanimously supported the proposal with the alternate site location.

The next order of business was to fill some vacancies which existed on the panel. Two had come forward and were to be taken up during the RIMFC agenda item 6a.

W. Smith had presented a proposal for a seasonal closure on soft shell clams in the vicinity of Conimicut Point. This proposal was tabled by the AP due to much discussion in opposition to this proposal.

M. McGiveney proposed changes to the 2004 shellfish management area schedule during the meeting.

There was also a discussion on starfish predation on clams and the AP discussed some mitigation options.

M. Gibson stated that there was one definite action item regarding the Councils position on the M. Boucher aquaculture operation. He went on to state that he did not think it was procedurally correct for the Council to take action on the proposal brought forward by M. McGiveney on the management area schedule as it was not formally noticed on the RIMFC agenda. M. McGiveney stated that he felt the Council should take action on this because it was presented in the shellfish AP minutes. J. McNamee suggested that the Council take action on this item and pending confirmation from DEM Legal Counsel, the

Director could decide whether or not to make a regulatory change.

K. Ketcham made a motion to approve the M. Boucher aquaculture lease with the alternate site. J. King seconded the motion. The Council voted unanimously to approve the motion.

S. Medeiros and G. Allen stated that they felt they could make a motion on the proposal from M. McGiveney and allow DEM Legal Counsel to make the final decision on this. S. Medeiros went on to say that he felt this was an issue that was going to come up each year and wondered if it was possible to include a new section which would allow them to change the day indefinitely. M. Gibson stated that the DFW had attempted to do this two years ago but it did not seem to be adequate seeing as how the issue has come back up.

J. King made a motion to approve the shellfish AP recommendation for a Monday, Wednesday, Thursday opening the week immediately proceeding Christmas and New Years conditioned on legal review by DEM legal counsel. This was for all shellfish management areas. D. Preble seconded the motion. J. McNamee stated that the regulations take 20 days to take effect and therefore would have to be filed as an emergency. This would give DEM legal counsel 2 items to weigh in their decision. K. Blanchard stated that these decisions needed to be timelier for the sake of enforcement. J. King asked if J. McNamee could put this item on next September (2005) agenda in order to make sure it gets done in time. **The Council approved the motion unanimously.**

J. McNamee asked how the Council wanted to proceed with the soft shell clam item that the shellfish AP tabled. J. King stated that the shellfish AP had wanted it tabled indefinitely. The Council declined to take action on this item.

New Business

Council action on December 9, 2004 public hearing item: N. Lazar briefed the Council on the public hearing which had occurred earlier in the evening. The one item which was discussed was the harvest level for the new restricted finfish endorsement on the commercial fishing license.

S. Medeiros asked M. Gibson if going for a full harvest level was off the table. He went on to suggest that they should go with a full harvest level and if the Director wanted to be conservative, he could cut the number of endorsements to be issued in half, therefore only give out 6 (instead of 13) new endorsements at full harvest level (instead of ½ full harvest). M. Gibson stated that the Council could offer any comments or proposals they wanted.

S. Parente commented that the original intent of the Council was to recommend no new license for 2005. He felt from what he read that the Director was compelled to allow individuals in at some level so this reduced limit was a compromise. He also felt that these individuals who do receive the reduced endorsements would eventually be upgraded to full harvest level based on advice from the Commercial Fishermen's

Committee. S. Parente felt that going from nothing to ½ was better than going from nothing to nothing. He supported this because it was a vehicle for an individual to go from an entry level and eventually to full harvest level.

D. Preble felt that the arguments that he had listened to along with the written proposals which had been handed in were compelling to him.

K. Ketcham was aware that further deliberations had taken place and wanted clarification on how the new licenses would be chosen. It was still unclear to him because he had heard different answers from different people. M. Gibson stated that a meeting between the Director and representatives of the commercial fishing industry this topic was discussed and his understanding was that there were three pools of individuals who would be drawn from which include individuals who have worked on a commercial fishing vessel, individuals that hold the basic commercial fishing license without restricted finfish endorsements, and individuals who hold a principle effort license in another fishery sector. An equal number from each pool (one pool will have five individuals drawn as there are 13 endorsements to be issued) will be drawn. If more people apply from each pool than there are endorsements available, it will go to a lottery system to choose individuals. This is one of the main areas that the Director wants the Commercial Fishermen's Committee (CFC) to tackle in 2005.

M. McGiveney stated that he had hoped to get the harvest level of the shellfish licenses on the current agenda (he was unable to do this due to a late request) because they wanted to discuss harvest levels for the shellfish sector. His point was that he felt the ½ possession limit was not economically viable for a shellfisherman, most notably in the management areas. M. Gibson stated that under item 6a, he would request that the Council authorize a shellfish AP meeting and the CFC to discuss this topic.

J. Low stated again that the RI Commercial Rod and Reel Anglers Association would like the new restricted finfish endorsements to be at full harvest level, even if it meant cutting the number of endorsements to be issued in half.

S. Riley stated that he felt there was not adequate reason to drop the number of endorsements down from 13 and he also felt the new endorsements should be at full harvest level. He felt that from the standpoint of the DEM and Enforcement that this would be a cumbersome and confusing system to have it in two tiers. He felt the best thing to do would be to keep things simple and keep everyone at full harvest level.

S. Macinko wanted to state for the record that this whole process needed to be more transparent. He felt that there is no clear pathway for how the new endorsements would be distributed or how an individual would go from the entry level to the full level. He felt that this licensing issue was very serious business and the DEM needed to make a decision as to whether this process was going to become more transparent or not. He felt that it currently was not and just wanted to say so on the record. M. McGiveney stated that he agreed with S. Macinko. He felt that perhaps workshops would be helpful so that everyone knows and understands the process better for next year.

D. Preble reiterated S. Macinko's comments by stating that this looked like an apprenticeship path, but in an apprenticeship system, there is a pathway to become a journeyman. He did not see this in the current set of regulation. M. McGiveney stated that this was exactly the reason why they felt that student shellfishermen should have already been considered apprentices and should therefore be entitled to full harvest levels.

M. Marchetti stated that the process was rushed and that this was an incomplete work. He agreed with S. Macinko and stated that it was not proper to do the licensing regulations in this fashion.

K. Ketcham stated that one of the biggest reasons that this had occurred was because a lot of people had worked long and hard to come up with a licensing restructuring program that was simple and would work. After all of the meetings and workshops a system was drafted but by the time the people in the state house had finished with it, the system that the fishermen had come up with was completely changed and now we were seeing the results of this. He wanted this stated for the record.

S. Riley commented that he had been trying to get back in to commercial fishing since 2002 and felt he had exhausted the process as set up by DEM. He took issue with this being referred to as a journeyman license; he felt that if he was lucky enough to win one of these new endorsements, he should be entitled to full harvest level. He also supported S. Macinko's comments.

G. Allen stated that understanding the Council did not support any new entry in to the restricted finfish category, the Director felt it was necessary via the statute to allow some entrance in to this category. He made an effort to go in conservatively so G. Allen stated that the Council ought to support this and go ahead and support the ½ possession limit level on the new restricted finfish endorsements. He felt that everyone understood that the next progression from entry level to full harvest level should be addressed in the next year's deliberations.

S. Parente stated that he supported G. Allen's comments.

D. Preble stated that upon reading the memos from both the DFW and the Director it states explicitly that "replacement licenses" would be issued at the 5:1 ratio. A replacement license should be at full harvest level.

G. Allen made a motion to adopt proposal 2 (the proposed language minus the word gear) with the understanding that the commercial licensing process would continue to evolve through the CFC such that individuals receiving the new endorsements will have some procedure by which to upgrade. J. King seconded the motion. S. Medeiros stated that he felt the new licenses should be full harvest. He wanted to state that so when he voted against the motion people would know why. J. Low stated that if the Director moves forward with the ½ possession limit endorsement, the individuals receiving those licenses should only be charged ½ price. The Council voted 5 to

approve (S. Macinko, S. Parente, J. King, D. Preble, G. Allen), 1 to oppose (S. Medeiros), and 1 abstention (K. Ketcham). The motion passed.

Briefing on Nov. 8-11 ASMFC annual meeting: M. Gibson gave the report, highlighting the issues which he felt were of interest to the Council. He made them aware that addendum XV passed and will move forward. RI opposed this addendum because it reallocates fluke amongst the states.

The lobster board approved continuing to work on an effort control plan. M. Gibson stated for the record at this meeting that RI would not be opposed to suspending gauge increases if a viable effort control plan was put in place.

The winter flounder board discussed both recreational and commercial measures. The recreational measures were not of much consequence to RI but the commercial measures may require an increase in mesh size in state waters. This is the issue which has the greatest impact to the state and is being discussed.

The striped bass board discussed the most recent stock assessment. The most recent assessment shows that striped bass are overfished and overfishing is occurring. The Technical Committee is still discussing the results of this because it does not correspond with tagging results. There will not be any requirement to reduce fishing mortality for 2005, but there may be in the future.

An audience member asked a question about RI's involvement or lack thereof with the Mid Atlantic Council. He suggested that the RIMFC in the future may want to make a recommendation to the Governor to request representation on that Council because they are involved in the management of scup, summer flounder, and black sea bass which are commercially important species to the state. M. Gibson stated that the deliberations over this latest issue with summer flounder was still ongoing at this point and he would hold off on doing anything until a decision is reached, but at that point, M. Gibson stated that the Council should weigh in.

Old Business

Council comments on 804 account spending proposals: N. Lazar gave the report. This topic was brought up at the last Council meeting and the Council members were presented a list of the DFW's 804 account expenditures. A question came up regarding the salaries and benefits section of the list due to the fact that the dollar amount jumped up for 2005 compared to 2004 and 2006. The reason for this was that the DFW gives an estimate or a threshold amount that they are not allowed to exceed. The DFW will usually give an elevated estimate to make sure they have enough money to cover expenses. Some of the other expenses were payments on the new research vessel and the new building in Jamestown.

M. Lapisky, the acting chief of the DFW, stated that the elevated level in 2005 was put in there based on a projected increase in license revenue, therefore because they thought

there was going to be more revenue, they increased the spending goal to potentially hire more individuals, ect. with the extra money. This did not end up being the case and the licensing projections have now come back down, therefore the spending proposals for 2006 drop back down.

M. Gibson stated that he would attempt to give the 804 account spending information in a more useful fashion for next year; he did not feel the way the DFW was presenting this at the current time was particularly useful to the Council.

K. Ketcham stated that he would like to see the federal match funding as well as the 804 account spending.

Other Business

Council authorization to convene striped bass, shellfish, tautog, lobster, enforcement, winter flounder, and commercial fishermen's committee: N. Lazar asked the Council to authorize convening a number of their advisory bodies. The striped bass AP will be convened to discuss management measures for 2005, the shellfish AP will meet to discuss shellfish licensing issues, the lobster AP will meet for a briefing on ASMFC activities, the winter flounder AP will meet to discuss potential management changes stemming from the ASMFC process, the tautog AP will meet to discuss management measures for 2005 as well as a stock assessment update, the enforcement AP will meet to discuss the previous fishing year, and the commercial fishermen's committee will meet to begin discussions on the licensing regulations for 2006. **M. Gibson asked if there were any Council objections to authorizing the convening of these panels. There were no objections therefore the DFW was authorized to work with the respective chairpersons of the different panels to set up meeting dates.**

Additions/deletions to advisory panel membership lists: J. McNamee suggested that the Council take up the AP representative changes first and then he would go through the various new AP member nominations. M. Bucko had requested an additional representative be added to the winter flounder AP, for bait and tackle shop owners. The two nominees were M. Bucko as the primary and R. Mouchon as the alternate. **G. Allen made a motion to accept the new bait and tackle position on the winter flounder AP with M. Bucko as the primary and R. Mouchon as the alternate. S. Medeiros seconded the motion. The Council approved the motion unanimously.**

The second request was to add three separate positions to the striped bass AP. They would consist of three commercial rod and reel positions; one for the Bay, one for the RI shoreline, and one for Block Island. There were currently no nominees for the positions. After discussion amongst the Council members they decided that three positions was too many and would unbalance the panel. They did approve adding one more to the one which already existed. **D. Preble made a motion to eliminate the pot representative position from the striped bass AP and add an additional commercial hook and line representative. G. Allen seconded the motion. The Council unanimously approved the motion.**

J. McNamee then went through the list of nominees by panel. For the summer flounder AP J. Low would replace R. Hartman as the rod and reel commercial principle position and J. Dougherty was nominated for the inshore trawl alternate position. S. Medeiros stated that D. MacPherson was still on the list as a recreational representative and he wishes to resign his position. **M. Gibson asked if there were any objections to the changes to the summer flounder AP. There were none therefore the nominations stood approved.**

K. Ketcham asked to have D. Peasante stricken from the striped bass AP pot position nominee, as the Council had just eliminated that position.

For the enforcement AP, A. Parascondolo, Jr wished to be nominated for the floating fish trap alternate position and M. Neto wished to be nominated for the Party/Charter boat alternate. **M. Gibson asked if there were any objections to the nominees to the enforcement AP. There were none therefore the nominations stood approved.**

For the bluefish/weakfish AP, F. Mattera was nominated for the offshore trawl position, M. Fotiades was nominated as the recreational shore alternate, and E. Cook as the party/charter boat alternate. **M. Gibson asked if there were any objections to the nominees to the bluefish/weakfish AP. There were none therefore the nominations stood approved.**

For the lobster AP, J. O'Grady was nominated as the offshore trawl representative. **M. Gibson asked if there were any objections to the nominee to the lobster AP. There were none therefore the nomination stood approved.**

For the scup/black sea bass AP, J. O'Grady was nominated for the offshore trawl alternate position and M. Lanni was nominated for the recreational boat position. **M. Gibson asked if there were any objections to the nominees to the scup/black sea bass AP. There were none therefore the nominations stood approved.**

J. Low asked K. Ketcham whether he had contacted W. Kowal about his scup/black sea bass position because he had someone who would be interested in that position if the current person was not. K. Ketcham stated that he had not had the chance to but he would and would get back to J. Low. J. Low stated that E. Baker who was present in the audience was interested in the pot position on the scup black sea bass AP.

For the striped bass AP, D. Sanford was nominated to replace D. Zambrotta as a recreational bay representative and J. Stavrakas was nominated as a recreational shore alternate. **M. Gibson asked if there were any objections to the nominees to the striped bass AP. There were none therefore the nominations stood approved.**

For the tautog AP, D. Peasante was nominated for the gillnet bay position. **M. Gibson asked if there were any objections to the nominee to the tautog AP. There were none therefore the nomination stood approved.**

For the winter flounder AP, R. Westcott was nominated for the offshore trawl alternate position. **M. Gibson asked if there were any objections to the nominee to the winter flounder AP. There were none therefore the nominations stood approved.**

For the shellfish AP, R. Blank was nominated as a bullrake alternate and M. McGiveney was nominated as a bullrake representative. **M. Gibson asked if there were any objections to the nominees to the shellfish AP. There were none therefore the nominations stood approved.**

J. McNamee asked the Council if they wished to proceed nominating members themselves or if they wished to have the DFW send out a letter of solicitation. S. Medeiros stated that he could fill the rest of the recreational vacancies but would like to see an updated list. J. McNamee stated that he would do this for the next meeting. The rest of the members stated that the DFW could send out a letter. There was one individual who wished to be appointed as the pot representative on the tautog AP. He was in the audience and had passed in a resume that evening. J. McNamee stated that the Council could move forward with this nomination if they were comfortable doing it on short notice. They stated that they were. E. Baker was nominated for the pot alternate position on the tautog AP. **M. Gibson asked if there were any objections to the nominee to the tautog AP. There were none therefore the nomination stood approved.**

Set up RIMFC meeting schedule for 2005: The Council had been given a calendar with existing meetings and holidays on it. The Council set up there meeting dates for the upcoming year. The dates they chose are as follows:
January 3, February 7, March 7, April 4, May 2, June 6, July 11, August 1, September 12, October 3, November 7, and December 5.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary