



Rhode Island Marine Fisheries Council

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MEETING SUMMARY

March 14, 2018

Chairperson: *B. Ballou (DEM)*

RIMFC members present: *D. Monti, T. Barao, J. Grant, A. Dangelo, M. Rice, C. Rein*

Division: *J. McNamee, S. Olszewski, E. Schneider, J. Lake, M. Bucko, N. Andrews, P. Barrett, J. Livermore, P. Duhamel*

DEM Enforcement: *Lt. Joe Poccia*

DEM Legal: *C. Hoefsmit*

Public: Approximately 30-40 persons

1. **Approval of the Agenda:** *B. Ballou* inquired as to modifications to the agenda or objections to adopting the agenda. Hearing none, the agenda was approved by consent.
2. **Approval of minutes from meeting on March 5, 2017:** *B. Ballou* inquired as to any proposed modifications or objections to adopting the minutes. Hearing none, the minutes were approved by consent.
3. **Public comments regarding other matters not on agenda:** No comments were made.
4. **Shellfish Advisory Panel meeting summary:** *J. Grant*, Panel Chair, provided a summary of the meeting; the meeting summary being provided for review by the Council.
5. **Potter Pond/Perry Raso aquaculture lease application review:** *B. Ballou* provided an overview of the process involved in aquaculture lease application review, and the Council's role in the review. *Mr. Ballou* then opened the floor to questions specific to the process, and re-iterated the Council's role pursuant to RI General Laws. *P. Raso*, the lease applicant, then presented an overview of his application. He offered that the configuration proposed was designed to minimize impacts to use of the waters for water skiing. *M. Rice* inquired about access to the area for recreational fishing, to which *Mr. Raso* replied that there is access to the cove from Park, Lake and Washington Streets (off Matunuck Beach Rd.), and also a R.O.W. into Seaweed Cove, but that a boat or kayak is needed to access the portion of the cove where the lease is proposed (i.e., public foot access is not available). *C. Rein* inquired as to the extent of aquaculture on Potter Pond, to which *P. Raso* replied that his proposed lease if approved would comprise 3.1%. *T. Barao* inquired further as to how this site was selected, to which *P. Raso* replied that the site selection was based on the lack of other uses occurring, and due to its greater depth relative to his current site. *C. Rein* inquired as to the extent of the deep muck, if it came up close to the shoreline, to which *P. Raso* replied that it varied. *M. Rice* inquired about the variety of marine species he has observed, to which *P.*

Raso replied that there are a number of species using his current site as habitat, and that eelgrass has returned, possibly due to the lease gear being present and/or improvements to water quality that may be resulting from the lease. *J. Grant* provided additional details of the SAP meeting that took place February 7. He offered that the dissenting votes were due to conflicts with striped fishing during the Spring cinder worm hatch, but that the overall 7-2 vote in support of the proposal was due to the bottom substrate not being conducive to the worms hatching directly in the lease footprint. He offered that none of the YouTube videos of striped fishing in the pond during the worm hatch occurred in this part of the pond. *C. Rein* inquired if any other the SAP members present at the meeting were active shellfish harvesters in the pond; to which *J. Grant* said there were not. *T Barao* inquired if other parts of the pond have higher known shellfish densities thereby being more conducive to shellfishing; to which *P. Raso* answered that he believed that to be the case. *D. Monti* inquired if there were softshell clams present in the pond, to which *D. Beutel* replied that he was aware that harvest for soft-shell clams was known to have occurred in the past, but he didn't know specifics regarding harvest in the proposed lease site.

Public comments:

- *J. Gardner* offered that he would have voted in support of the proposal as a SAP member had he been at the meeting.
- *Public comment:* Question was asked regarding the difficulties with operation of the current lease, and if these same difficulties are expected with the proposed site, and would the existing site be abandoned if the proposed site becomes viable?
- *Phil Capaldi:* How does the shellfish density survey account for sub-legal quahaugs? Proposed lease site is used recreationally. Believes that proposal is therefore inconsistent with Redbook rules due to conflict with *scenic and recreational value*. Stated that tourism in south shore area is \$1.7 billion in revenue, as compared to \$5.325 million (as taken from 2016 Aquaculture Annual Report). Asked if eelgrass is cyclical and might come back, and how the lease might impact recovery. He will not fish there if lease is there. Offered that the Salt Ponds Coalition, RISAA, and Environmental Council of RI are political and won't object.
- *Roger Tellier (SAP member):* Was contacted by the RISAA Kayak committee that area is used for kayak fishing, particularly during the worm hatch, which was the basis for his objection to the proposal as a SAP member.
- *Michael Marinelli:* Area is used constantly from April to September/October for recreational fishing and shellfishing. Ice floe would drag his gear off site.
- *Gary Ennis:* Commercially shellfishes in the lease area for both steamers and quahaugs. Kayakers fishing all year.
- *Elizabeth Capaldi:* Would like data on impacts to native populations of other invertebrates. Would like to see data beyond the site survey that was conducted as part of the application review. Would like independent data on native bay scallop larvae potentially moving in and out of Pt. Judith and Potters pond. Stated that there is no data available to show impacts of additional leases; concerned that the big ecological picture is not being looked at beyond water quality improvements. Need data showing impacts of leases on the larvae of native shellfish populations. Stated there is a gap in data which promotes aquaculture vs. the food web in the salt ponds.

- *Jim O'Neill*: Inquired as the SAP membership and the roles of each member. Does not believe that Type I waters should be included in the acreage of the pond for the purposes of determining % of aquaculture, as these waters are utilized by tax paying property owners. Inquired as to how marsh lands are included in the overall acreage.
- *Jason Jarvis*: Stated that aquaculture is reason for ecological improvements to Winnapaug pond, namely the presence of juvenile finfish and oysters. Shallow waters leases such as the current lease site in Potters Pond do not support good survival rates in cold Winters. Need to be cognizant of the many stakeholders.
- *Public comment*: Inquired as to use maps and the need to balance uses. Concerned about impacts to docks and uses of docks by homeowners.
- *David Lake*: Grew up on Segar Cove clamming and boating. Inquired as to the process for lease expansion and process for review/approval, and if process is the same as for the initial approval. Stated that total acreage of pond is misleading as many areas unusable for many activities. Inquired as to the criteria for determining the significance of a competing use; specifically, if uses are observed during a single or multiple occasions, or the season in which uses are observed. He asked how shellfish densities were observed, and offered that the area is very dynamic with annual fluctuations in densities of all species. He inquired as to the possibility that shellfish were harvested in the months preceding the application, and if this was being considered. He offered the “feeling” that the survey was potentially self-serving (to the applicant). He offered that water quality improvements in the pond are due to several factors, including the upgrading of septic systems. He offered support for aquaculture but questioned if this location was being properly evaluated. He offered support for aquaculture in ocean waters. He concluded that no other uses would be able to occur simultaneously with the lease, and that the lease presents a conflict with other uses.
- *Chris Roebuck*: Has spent 31 years on Potters Pond, has harvested soft-shell clams and fished for stripers during the worm hatch. The muddy bottom is devoid of shellfish. Expressed support for the lease site as the best location in the pond to minimize use conflicts.
- *Public comment*: Has regularly fished the pond for stripers for 50 years. Gentleman offered that he will not fish the area if a lease is present. Does not support the lease site due to conflicts with other uses.
- *Public comment*: Expressed concern that trash will be generated from the lease operation and impact Segar Cove.
- *Public comment*: Inquired if the lease would alter the circulation patterns in the pond.
- *Jim O'Neill*: Expressed concern regarding the amount of sand filling the pond and narrowing the channel over the years, and that the area for recreational activity is decreasing as a result.
- *B. Ballou (responding to questions from the audience)*:
 - *What difficulties have you been experiencing in the current lease site, and do you expect those same difficulties at the proposed site?* P. Raso responded that there are no plans to abandon the current lease. The difficulty with the current lease is shallow depth, which presents limits for overwintering bay scallops, and is also more susceptible to damage from ice and winter weather.

- *Does the sampling technique for the shellfish density survey capture juvenile shellfish?* D. Beutel responded that the sampling technique is a random sample, not a direct sample. Using tongs, a total of 30 samples were taken randomly throughout the proposed lease area. Because of the soft mud, the tongs collect every shellfish, including juveniles. J. Lake offered that he was part of the survey for this site, and utilized both a suction sampler and bullrake and sampled throughout the lease site, working methodically from north to south. He offered that juvenile shellfish were observed at very low densities, and the substrate was muddy mayonnaise.
- *When was the last time the CRMC aquaculture process has been reviewed?* D. Beutel answered that the 2-year Shellfish Management Plan process resulted in several meetings and addressed mapping of areas for recreational wild harvest shellfish, completed in 2014.
- *There appears to be a discrepancy in the size of the lease as expanded over the last few years – is the current lease site 6.9 acres or 9.6 acres?* P. Raso responded that his current site received approvals for two expansions, for a total of 6.9 acres. He acknowledged that he has inadvertently expanded beyond the approved site, and offered that he is currently working on reducing operations beyond his approved footprint in the southern area of the lease. D. Beutel offered that this inadvertent expansion was due to inaccurate gps coordinates at the time of application, and that he is working with Mr. Raso to reduce the scope back to 6.9 acres. B. Ballou offered that any expansion application is reviewed in the same manner as a new application.
- *How is pond acreage determined?* D. Beutel responded that the total acreage was determined from CRMC's Salt Pond SAMP, and is based on low mean water and does therefore not include salt marshes. He offered that he is working with the town of Charlestown to update the acreage. He offered that water type (CRMC classification) does not factor into the acreage.
- *Are shellfish samples relative to density taken repeatedly to determine status and trends or is it a single sampling event?* D. Beutel responded that CRMC's sampling is part of a site assessment and is a single event.
- *Why aren't more suitable sites with less/non-existent user conflicts being considered and promoted?* B. Ballou asked if the mapping process was looking at this. D. Beutel responded that on-going mapping efforts are only looking at mapping existing uses. He offered that use maps being developed are not intended to determine where aquaculture is suitable or not, but only to determine uses and the least contentious sites where aquaculture might be suitable.
- *Has anyone looked at how leases might affect currents in the pond?* D. Beutel answered that he suspected this matter would be addressed through peer reviewed scientific literature.

T. Barao asked P. Raso about anticipated impacts to gear at the proposed site. P. Raso offered that he would be using lantern nets to grow bay scallops, and that the depth offered at the proposed site is needed for this gear type. He answered that helix anchors would be used to prevent ice from dislodging the gear. C. Rein inquired about kayak access to the shore in the vicinity of the lease, to which P. Raso replied that kayakers can travel directly through

the lease to access the shore. He offered that rod and reel fishermen could cast into the site when the gear is submerged, to which *D. Monti* replied that he would not fish there and not take customers due to the presence of gear and lines. *D. Monti* stated that soft-shell clams are dynamic in the sense that sometimes they are present and other times not, and that this must be considered when determining if suitable for aquaculture. *J. Grant* asked *J. Jarvis* if he fished, or observed people fishing in Segar Cove. He replied that he has fished all coves in Potters Pond, and that good size stripers can be caught in many locations. **Motion made by *M. Rice* to recommend to the CRMC that the activities posed by the application are consistent with competing uses engaged in the utilization of marine species; 2nd by *C. Rein*.** *D. Monti* offered that he would not support the motion for the following reasons: That the Council's sole charge in this matter is to determine whether or not this lease is in conflict with wild harvest, and that it has been determined by the South Kingstown Waterfront Advisory Committee that such conflict exists. He offered that the RISAA has also objected due to such conflicts, and objections were heard tonight from both recreational and commercial users of the area. As a charter captain that has fished numerous worm hatches, in 8 – 12 feet of water and worms have been present. He concluded that he could not understand how this Council could say that the proposal did not represent a conflict with wild harvest fishing and shellfishing, in context with the testimony and comments heard against the proposal. *C. Rein* offered that he understood that these other uses were occurring but that other uses could still occur with the lease present. *D. Monti* re-iterated that finfishing would not occur in the lease area due to the presence of gear and lines. *M. Rice* offered that aquaculture is helping improve water quality in the coastal ponds. He offered that the 5% rule is a social carrying capacity that limits aquaculture, with 95% of the pond still available for other uses. *J. Grant* offered that he is trying to balance current known uses with potential uses when considering his recommendation. **The motion failed 3-3** (*T. Barao*, *D. Monti*, *A. Dangelo* not supporting the motion). *B. Ballou* inquired if another member would like to make an alternate motion, to which none as made. *C. Rein* asked that the Council review the recommendation letter before being sent to CRMC.

6. **Discussion re: mandatory reporting for state-permitted P/C vessels:** *B. Ballou* provided an introduction of the matter. *J. McNamee* offered that all federally permitted P/C vessels must report their catch, so most RI P/C vessels are currently reporting. He offered support for the concept of electronic reporting to improve data quality. He offered that if regulations were to be developed, then workshops and training would be conducted before regulations implemented. He asked the Council for a recommendation to move forward or not, and that the earliest to implement would be 2019. *A. Dangelo* offered support; that the data is better and the tablet app is easier to use than paper logbooks. *C. Rein* offered support as a means to improve data quality. *D. Monti* offered support, and that he has been recording his catch and effort data electronically for several years. If required state-wide, the data quality would be improved. He offered caution that some fishermen are still not interested in computers and on-line reporting. *J. Lake* offered that paper VTR's would still be allowed, and that the data would be entered after submission of a paper logbook. **Upon conclusion of the discussion, the Council recommended that the Division move forward and develop a process and regulations and to bring the matter to hearing.**

7. **Discussion re: transiting from Block Is. to mainland with federally regulated species:** *B. Ballou* offered that *R. Bellavance* is requesting that the Council draft a letter of support to the MAMFC regarding the matter of transiting from Block Island to the mainland with federally regulated species. He offered that the MAMFC is planning on addressing the matter through a framework action in May, and that any such letter should be sent as part of this framework process. *J. McNamee* offered that such a letter would be an alternate incremental approach (as opposed to revisions to the MSA) that could work to accomplish the matter. He offered that he has had staff develop maps to determine where the transit area(s) would be located, and now needs to construct guidelines concerning allowable/restricted activities in the transit area, and would provide such information when prepared. *D. Monti* offered that establishing this transit areas was one of seven key recommendations of the 2018 SNE Recreational Fishing Symposium report (included in tonight's meeting materials). *A. Dangelo* offered that a transit zone exists for striped bass, but is needed for black sea bass. *J. McNamee* offered that the approach would address several species. **Upon conclusion of the discussion, the Council recommended that the Division move forward and develop the process, and bring an update back to the Council next meeting.**
8. **RI Saltwater Recreational Fishing License Program Report:** *J. Lake* presented a powerpoint highlighting the important aspects and accomplishments that occurred in FY2017, and plans for expenditures for FY2018 (full report in tonight's meeting materials). *T. Barao* noted two potential math errors, to which *J. Lake* offered to review and correct. **Upon conclusion of the discussion, motion was made by *D. Monti* that the Licensing program continues to meet its intended objective pursuant to statute; 2nd by *T. Barao*. The motion passed 6 – 0.**
9. **RIMFC Annual Report:** *B. Ballou* provided an overview of the draft report, and noted one correction needed. *P. Duhamel* offered to make the correction and provide back to *B. Ballou* for submittal to the GA. **Upon conclusion of the discussion, *B. Ballou* inquired as to any objections to making the necessary correction and submitting the report to the GA; hearing none, the matter was concluded.**
10. **Discussion re: federal legislation proposing to amend the Magnuson-Stevens Act:** *J. Grant* provided an overview of the proposed legislation (i.e., *Modern Fish Act*). He offered that he is on the board of CFRF, which does work researching and developing technologies and resource assessments designed to minimize discards. He offered that the proposed amendments may hamper their ability to do this work and may unnecessarily alter how fisheries research is conducted; including the issuance of Exemption Fishing permits (EFP's), which are required to develop and test various fishing/gear methods. He offered that the proposed amendments will result in greater difficulty with obtaining these permits. He offered that there are other elements that he doesn't support and doesn't believe RI should support, including allowing the Sec. of Commerce to declare stock status and to remove annual catch limits for certain sectors. He concluded that CFRF would be meeting with Sen. Reed next week to discuss their concerns. *D. Monti* offered that he had met with Sen. Whitehouse and communicated the symposium recommendations and a more conservation minded set of amendments. Upon conclusion of the discussion, it was determined that the

matter would be closely monitored and brought back to the Council at a later date for possible recommendations to the Director and/or RI delegation.

11. Meeting adjournment: Upon conclusion of deliberating all agenda items, *B. Ballou* inquired as to any objection to adjourning the meeting; hearing none, the meeting was adjourned by consent at approximately 8:45pm.