

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
April 16, 2007
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

Chairperson: M. Gibson

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

DEM Legal Counsel: G. Powers

DEM Staff: Director W.M. Sullivan

DEM Law
Enforcement: S. Hall

Public: 65 people attended

Chairman M. Gibson called the meeting to order. M. Gibson introduced and welcomed C. Anderson from URI, as being a newly confirmed member of the Council. M. Gibson also stated that they had a full Council this evening all members were present. Gibson stated that there were three items on the agenda that related to aquaculture and that the Council take them in order. He recommended taking 3(a), 4(a), and 5(a) in sequence. This way members can hear the shellfish advisory panel report with recommendations on specific aquaculture applications before the Council. Then members can hear from N. Lazar and D. Alves about meetings that had taken place regarding the comprehensive aquaculture plan. J. McNamee stated that there was one other FYI agenda item that needed to be added to the agenda. 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 March 5, 2007 Rhode Island Marine Fisheries Council (Council or RIMFC) meeting as submitted. **G. Allen made a motion to approve the minutes as submitted. J. King seconded the motion. There were no objections to approving the motion. The minutes were approved as written.**

Shellfish Advisory Panel Report:

Shellfish: J. King read the minutes from the Shellfish Advisory Panel (SAP) that was held on March 13, 2007 in Jamestown at Ft. Wetherill. King stated that the AP was still working to develop whelk regulations. King also stated that the AP reviewed two aquaculture lease applications (Jeff Gardner for an expansion site in Winnapaug Pond, and Robert Krause for an expansion site in Ninigret Pond). King stated that after lengthy discussion there was a vote to recommend approval, as proposed, to the RIMFC on the 3-acre Gardner lease site. King also stated that a motion passed to recommend that the RIMFC support development of a master plan

for aquaculture for the salt ponds and the rest of RI through the CRMC proposed aquaculture working group. King went on to explain that the SAP reviewed R. Krause's lease proposal for Ninigret Pond in Charlestown. After discussion, they voted to approve the lease with the stated conditions set by DFW, and that the SAP approval was contingent upon DFW conducting a site review.

M. Gibson stated that there were three motions for Council action from the SAP report, the first being a **motion from M. McGivney requesting that the Council support, on record, the development of a master plan for aquaculture for the salt ponds and the rest of RI through the CRMC proposed aquaculture working group. J. King made a motion to approve M. McGivney's SAP motion. S. Parente seconded the motion.**

M. Gibson asked for Council discussion. K. Ketcham stated that both he and J. King were involved in the CRMC aquaculture working group. M. Gibson asked for public comments on the motion before the Council to adopt the advisory panels' recommendation to endorse the concept of an aquaculture working group and plan.

J. Low stated that he thought it was very important for all of the public to share the public trust of these ponds. He stated that he knew people were doing very well with these leases, but there were thousands and thousands of people who use these ponds and we need to share them equally. He went on to state that he hated to see any more space get used up in the Great Salt Pond, we all know how many kids from the camps use these same waters because it's a great public trust. Low stated he was in support of the motion.

O. Kelly stated he attended a similar CRMC workshop ten (10) years ago, it was the same concept and most of the stuff that was discussed at the workshop went right out the door. He stated that he was supportive of the motion, but hoped there would be an improvement on the outcome.

There were no other comments. M Gibson asked the Council to vote on the motion. **The motion passed unanimously in favor of recommending support for the development of a master plan for aquaculture for the salt ponds and the rest of RI through the CRMC proposed aquaculture working group.**

M Gibson stated that the next items on the agenda would be the review of the proposed aquaculture applications. He stated that both applicants were present along with D. Alves from CRMC. There are motions from the SAP to recommend approval on both applications with conditions set on the Krause application. M. Gibson asked for Council comments on the first application, the Gardner application. S. Parente stated that he had read the letters from the DFW, that the Division does not support additional aquaculture at this time in Winnapaug Pond, and asked if someone from the Division could elaborate on that.

N. Lazar responded by stating that the Division has expressed the same concerns in the past, that we would like to see a master plan for aquaculture for the state of RI and the plan to address the cumulative impact on multiple leases on the environment, therefore without a plan in place, the Division has some reservations on approving additional leases at this point in time.

D. Preble stated that in the past he has been in favor of these aquaculture leases because he supports small businesses. However, he stated that he is becoming increasingly nervous about it. While he is supportive of aquaculture, he stated that he would have to agree with the reservations

that the Division has and he would like to see these leases tabled until there is a master aquaculture plan in place, particularly for the salt ponds. Preble stated he would not support approval of any further leases until a plan is implemented.

J. King made a motion that there be no ongoing permitting by CRMC until a master plan for aquaculture is in place. D. Preble seconded the motion.

M. Gibson asked for Council discussion on the motion. **D. Preble asked to make a friendly amendment to the motion. Preble asked to table the leases until a plan was in place.** He stated that he did not want to deny them at this time just table them. M. Gibson suggested that the Council may want to postpone taking any action at this time. Gibson reminded the Council that they were an advisory body to CRMC and that they did not have the authority to deny an application. There was further discussion between King and Preble on how to form the motion. M. Gibson assisted to help clarify the motion with the help of King and Preble **by stating that the Council would like to postpone action on all ongoing aquaculture permitting by CRMC.** Gibson responded to the motion by reminding the Council that they do not have authority over the CRMC permitting process, and suggested that they craft advice to the CRMC. **Gibson further assisted to clarify the Council members intentions by repeating King's motion and Preble's friendly amendment that Preble would like to postpone action on advising CRMC with regards to these two lease applications and future applications until the Council sees a master aquaculture plan from CRMC.**

J. King stated that this will hopefully create an incentive to establish a balanced plan and address issues between competing uses.

S. Macinko stated that he was wondering, if King and Preble concur. He wanted to know if the motion was now restricted to postponing the Council's advice as opposed to the direction where he thought Preble was original going with the Council making a statement to the DEM Director. He thought that maybe the Council should send a letter to the Director stating that the Council is supportive of the Division's letters that further development of aquaculture leases be postpone until there is a plan in place. He stated that this is what he thought he heard D. Preble state.

M. Gibson stated that the Council has already gone on record as endorsing the concept of development of an aquaculture master plan. If this motion is crafted in a way that links back into the prior motion, and does not over step authority, that would work. D. Preble stated that there are really two items and there should probably be two motions. Preble restated what he was trying to accomplish, he stated that he would like to withhold the Council's advice on any further leases until there is a plan in place, and he would like to postpone action on the two applications before them and therefore treat them as two separate items. M. Gibson stated that both items could be wrapped in to one motion. Gibson stated to Macinko that he would transmit both items (the specific finding of these motions) to CRMC and the Director. Gibson asked Preble to restate the motion as a single motion. The motion was perfected by Gibson as follows: **To postpone action on these two aquaculture lease applications, as well as, postpone action on any other leases, until such time as a plan has been developed by CRMC which answers the questions that the Marine Fisheries Council has raised.** Council members were in agreement with the perfection of the motion.

M Gibson asked for comments from the public. J. Gardner stated that he was one of the applicants and also a member of the Shellfish AP. He wanted the Council to know that they are reviewed by more than just this Council, and the process is pretty thorough. He had to go

through a preliminary determination meeting and everyone was okay with the proposal except DFW. He stated that he had yet to hear of the biological reasoning behind the objections to his application. He said he can not address the free and common issue and he said he did not know if this Council was charged with addressing that issue, but there is state law that states they endorse aquaculture. He has gradually increased his size over time, and this will create an economic hardship for him by preventing and putting him on hold. He stated that he had formally requested data used by DFW to declare that he was harming the native winter flounder fisheries and has not been provided with any scientific data used by DFW for their statements. He continued to state that shellfish aquaculture is considered to be self sustaining, environmentally sound, and compatible with other uses. The RIMFC is charged with managing the fisheries of this state and Gardner did not think the Council was able to determine constitutional issues, he felt this should be done at the state house. He stated that he was also a member on the committee that was supposed to work this all out. He wanted to know how DEM was going to come up with the funding to do all of the mapping needed, etc., due to budget constraints. J. Gardner went on to justify the purpose for his aquaculture application.

M. Gibson asked J. Gardner about not receiving the Division's response to his request for information from DFW. Gibson stated that Division staff responded to Gardner's request, which came through the Director's office. Gibson stated he would follow up with the Director to see what happened with the letter staff had prepared per the Director's request, to Gardner's inquiry for information. Gibson stated that staff acted on the request immediately and provided the information to the Director very quickly.

Amendments to the April 16, 2007 RIMFC meeting minutes: J. King requested that the April 16, 2007 meeting minutes include the following statements made by King: **[King stated that he wanted to speak about J. Gardner's aquaculture lease. King stated that Gardner had been one of the longest leaseholders in this state and he had been the picture perfect model for aquaculture. King stated that this was his opinion and his thought; that Gardner had been picture perfect. Gardner has developed the growth of his lease very slowly and he has not asked for 8 or 12 acres at a time. He has grown in very small increments, and he is now growing out of his small 5 acre lease. King stated that he considered this to be what we initially set up, leases not more than 5 acres. King reiterated that Gardner was picture perfect, he has done everything that we (industry) have asked of him without question. King stated again that this was his own personal view of J. Gardner.]**

R. Rheault stated that he had sent the Division a number of scientific references discussing the impact of shellfish aquaculture on winter flounder and how the association between aquaculture and winter flounder generally was accepted to be a positive one. He went on to explain some of the findings in Long Island and CT. He then stated that he thought the Council was abdicating its responsibility under Chapter 20-10 where the Council was directed by general law to review applications and determine if the proposals were or were not likely to cause an adverse effect on marine life in adjacent areas, or impact on vitality on indigenous fish species. He stated that the Council would be putting everything on hold until a plan is approved when we knew this would take some time. He did not understand why the Council would want to hold up any of these individual applications. He went on to state that he had not heard of any scientific evidence; just the possibility of cumulative impact. He has a lot of literature to address that. He stated that he has a 98-page document that he could share that shows the ecological benefits of Shellfish aquaculture.

M. Gibson stated that the Division staff has received information from R. Rheault and has looked at other references on this issue. He stated that the Division is not proceeding blindly, staff is being appropriately precautionary. Gibson responded to Rheault's statement about the Council abdicating its responsibility under Title 20 by stating that the Council is not required to act hastily when the Council thinks there is a reason they should proceed in a more precautionary fashion. Gibson asked D. Alves what were the consequences of the Council's motion, the Council does not have any authority over CRMC. D. Alves stated that the MFC is advisory to their Council. D. Alves then stated that it was his understanding that there were no specific biological objections to these leases and that there are no specific commercial quantities of shellfish present. D. Erkan responded by stating that this was discussed at the SAP meeting and that shellfish were present. The bottom type is not conducive to commercial shellfishing but it is conducive to recreational shellfishing; its shallow, and you can wade out to the area. There are species present but the density is low.

D. Alves continued to state that the SAP voted to approve this, so it seems that there are not biological objections, and no user conflict objections, therefore this would have to be weighed in any decision that CRMC would make. He stated that it was not his decision to make. He also stated that there was a working group meeting next week which will meet once a month. He named the people and organizations who would be involved with these meetings.

M. Gibson asked Alves if the motion before the Council, if approved, would preclude the applications from being processed further. Alves stated that he did not know, they have never gone up against something like this before. The MFC is advisory to the CRMC so he would guess not, but he was not positive on the fact.

R. Krause identified himself as being one of the aquaculture applicants. He stated that he wanted to expand because his current site in August and September of last year had oxygen levels that were so low and there was potential for him to lose the entire crop. He stated that he needed to expand to not only keep his business growing, but to care for his whole crop. It costs him about \$100,000 a year to keep things going. He does not want to lose his initial investment and wants to keep things running.

H. Cataldo from the Narragansett Harbor Management Commission stated that his committee had discussed this issue plenty of times on their agendas; it is always a hot topic. He explained that they are in favor of aquaculture, but feel that there should be some type of plan in place. They keep receiving applications for Point Judith Pond and they all seem to land in the places where the town has already designated, with their management plan, for recreation or anchorage areas, the deepest parts of the pond. He stated that until CRMC can come up with some plan that they could look at, they are in agreement with the motion before the Council, to not approve any more applications until a plan is in place. They attend the preliminary determination meetings that CRMC has with the towns because they are required to have them, but when they leave these meetings it seems that it really does not matter what was said. He stated that they were in support of the motion to put applications on hold until a plan was in place.

S. Parente referred to the letters from the Division about not supporting the aquaculture lease applications based upon likely impacts to natural habitat values, public shellfishing access, and disruptions of wild fish and shellfish populations. He stated that as a Council member he would find it difficult to vote against the motion based on the Division's concerns.

G. Allen stated that having heard from the applicants about their aquaculture expansions, he thinks they need to listen to what the Division has to say and consider their letters, and they also heard from R. Rheault and others who have articulated that there is a need to look at the whole ecology of the ponds, the use of the ponds, recreational, commercial, etc. He agreed that there is a need for a plan. In the meantime, since these two applicants are before the Council, they should consider recommending both sites, which is contradictory to the motion, and then thereafter the advice from the Council should be as it stands, no further applications accepted until a master plan is developed. He stated that he believes this is heading to a point where it will become a gear conflict issue because it puts demands on limited resources.

C. Anderson had a clarification concern on the motion. He wanted to know if the meaning of the motion was that this Council recommend to CRMC that they delay approval of the applications or that this Council delay giving a response to CRMC. He stated that it seems the big problem is the concern of cumulative impact effects and that is what the master plan would help to address. Having a master plan is great but they take a long time to come up with. He suggested implementing a time line for the master plan. Also, if the master plan is implemented and we find that they have over shot the number of aquaculture sites, then what could be done is to not renew applications upon expiration. Therefore, there would be an opportunity to dial these operations back. This could be a reversible decision after a master plan in place.

D. Preble stated that he had no objection to G. Allen's approach. What is hard is trying to be fair to the people in front them that evening. At the same time, in fisheries work the Council works from management plans. He went on to explain there were plans for shellfish, and finfish but no plan for aquaculture and that makes him increasingly nervous. There needs to be some basis by which to judge these leases. He does not think they will be dialing anything back, aquaculture is a growing industry. He would like to get a grip on things before it gets to a point where it is out of control. He stated that in good faith he could not go any further without seeing some type of plan as the Council has with all of the other fisheries. The Council manages from plans. that is otherwise they would be stumbling around in the dark.

G. Allen made a motion to split the motion on the table in to two separate motions to be voted on separately. D. Preble seconded the motion.

M. Gibson asked for a vote. **The motion to split the vote passed unanimously.** M. Gibson outlined the first part of the motion which is the specific leases; an application from J. Gardner with a SAP endorsement. **D. Preble made a motion to approve the Gardner lease expansion. G. Allen seconded the motion.** M. Gibson asked for discussion from the Council on the motion.

S. Macinko addressed other Council members by asking if this was going to be the grand draw the line in the sand and then no more after this until a comprehensive plan. He asked what happens if the same two individuals came back again next month to ask for more space.

N. Lazar addressed the questions by stating the there are three more aquaculture applications in house right now that are working their way through the system.

M. Gibson asked for comments from the audience. R. Rheault stated that the Division letters used very strong language, and he would like the opportunity to rebut any specific scientific evidence that would suggest that these leases are causing problems. He feels that this is pure speculation. He stated that there is no plan but that they do have a procedure which allows for public comment. M. Gibson asked Rheault to speak to the motion before the Council explaining

that his comments would be more appropriate for the later motion that addressed the general concerns for an aquaculture plan. D. Alves asked if this vote was for Gardner only or for Gardner and Krause. M. Gibson responded that it was a vote on only the Gardner application.

K. Ketcham stated that he concurs with the Division's evaluation, that the salt ponds are a valuable nursery for finfish and shellfish and that he is opposed at this time to endorsing any new applications.

S. Medeiros stated that his association the RI Saltwater Anglers Association is on record as not endorsing any other aquaculture proposals until a plan is in place.

J. King stated that he was representing the Shellfish Association and he explained that M. McGiveney had recently put a letter together indicating that the association is opposing any further expansion or growth of aquaculture in the ponds until there is a plan for the state of RI.

M. Gibson asked for a **vote on the motion to approve the Gardner aquaculture lease expansion application. A vote was taken and the motion failed.**

D. Preble made a motion to withhold support for the Krause aquaculture lease expansion application. S. Medeiros seconded the motion.

M. Gibson asked for Council discussion. S. Macinko asked for clarification on the wording of the motion. There was some discussion from Council members to clarify the intent of the motion, whether the intent was to deny the application. D. Preble explained that the MF Council is withholding support of these applications based upon the lack of a comprehensive aquaculture plan. J. King asked Preble if this was the Council drawing a line in the sand. Preble stated that this was exactly what they were doing. S. Medeiros stated he was responding based on the Divisions recommendations.

M. Gibson asked for audience comments. J. Gardner again stated that he requested data from DEM to support findings and he has not received it. Gibson explained that his question had already been addressed however, Gibson went on to explain that Division staff had drafted a response to questions asked by Gardner, and that Gibson had provided a final draft to the Director's office, for a response to Gardner. Gibson indicated that he would have to follow up with the Director's office to find out why Gardner did not have a response at this time. But the Division did its due diligence on that particular request because the Division was assigned that task by the Director's office.

F. Blount wanted to make a point of clarification for the applicants and members of the Council. He stated that by the Council not supporting these two applications they are not denying them either. The Council is stating they are not supporting them at this time. So when the applicants go before CRMC this Council is not saying they are against them, the MF Council is saying they are withholding their advice at this time. That is a very big difference when you go to CRMC.

J. Jarvis asked who has the final decision if these get approved or not. M. Gibson stated that CRMC has the statutory authority for aquaculture permitting.

M. Gibson asked Council members if there was any further discussion from the Council. D. Preble stated that it is not the intent of anyone on this Council to have a negative effect on any small business in this state. The only issue here is to make sure this is done in a manner that is consistent with the way we manage fisheries in RI. We manage fisheries from plans and at the

present time we do not have an aquaculture plan. It is that simple. Preble stated he was in favor of aquaculture, but what he wanted is for the state to have a plan so we can tell if aquaculture has a positive or negative effect on fisheries. Up to this point, since he has been on this Council, this Council has approved every single plan, every single lease proposal, every single expansion that has come before this Council. He stated that he is starting to get a little nervous about the fact that we have these highly productive salt marshes and we do not have a plan with which to judge whether the fisheries will be positively or negatively impacted by this. That is the only intention here; it is not to put people out of business.

M. Gibson asked members of the Council to vote on the **motion which was to withhold Council support for the Krause aquaculture lease expansion proposal at this time. A vote was taken and the motion passed unanimously.**

M. Gibson asked the Council to address the third piece by asking the Council to make a motion to address the aquaculture lease applications that are in the pipeline and have not reached this Council yet, relative to a long-term plan being developed.

D. Preble made a motion to withhold support for any further aquaculture lease applications until CRMC has a workable plan for the development of aquaculture in the state of RI. J. King seconded the motion.

M. Gibson asked for Council discussion. Seeing none, he opened discussion to the audience.

R. Rheault asked Council members to think about what they thought the plan should look like. He stated we went through this exercise 15 years ago and a lot of people spent a lot of time where 16 meetings were held over several months. He wanted to know what the Council would be willing to except.

A member from the audience stated that he had attended the SAP meeting and the general concern from people at that meeting seemed to be concerns for the salt ponds. He suggested that the plan should focus on the salt ponds.

G. Carvahlo stated that the language used by the Council was lack of support until a master plan comes. It was not opposition to any future proposals. One is very definitive the other is a continuance of tonight's discussion. It seems you could force the issue by having the Council oppose plans until a master plan is completed this would speed up the process and be more definitive in the Council actions.

D. Alves stated that the plan is to work on the salt ponds first, but then address a plan for all of RI.

P. Brodeur stated that the last time D. Alves came before the Council when he referred to coming up with a plan, he used wording that indicated that they had already identified people who were fishing, lobstering, dragging, shellfishing, etc. He stated that if a plan could come out of that to reflect that wording and work with people in these industries that could be the framework of the plan.

D. Alves addressed the comment by stating that he did not think they had every bit of bottom identified. They have worked with the bottom fishing industry, and recreational industry to try to

identify all those issues. Alves stated that they have a process where they include various agencies and groups and they try to be inclusive, that has been their fallback for lack of a plan.

Alves stated that he understood the motion before the Council, but wanted clarification if he would still receive input from the SAP and the Division on new applications. M Gibson indicated that this motion only relates to the Council position. Gibson stated that that process continues.

M. Gibson asked the Council to vote on the motion. **The motion passed unanimously, to withhold support for any further aquaculture lease applications until CRMC has a workable plan for the development of aquaculture in the state of RI.**

Old Business:

Update on meetings regarding comprehensive aquaculture plan: N. Lazar stated that the Division had been in touch with CRMC, and D. Alves had put together some suggested meeting dates that had been circulated. Four meeting dates have been identified. He indicated that the first meeting would take place on April 26, then on May 10, June 21, and July 12, 2007. This is a working group that will hash out ideas to put a comprehensive aquaculture plan together. M. Gibson stated that the Council will be represented by J. King, K. Ketcham, and S. Medeiros. D. Alves stated that he would like to get everyone's input, and come up with a plan, if we decide a plan is necessary. When this was done back in 1999 - 2001, the thoughts were that the process was sufficient, but that was several years ago. Alves stated there were 20-25 participants, ranging from fishermen, academics, and regulatory people. The plan is to first identify the issues and work on those. The first meeting will be the history of aquaculture in RI and will then move on to the present process, statutes, and permitting of aquaculture. J. King will give a presentation on the MFC position. Either N. Lazar or D. Erkan will speak about the DEM position. Then the aquaculture industry will give a presentation on their position. CRMC has planned to have these meetings once per month. He stated the last working group went on for 1 ½ to 2 years.

M. Gibson asked Alves if it would be all right if Gibson provided a continuing Council agenda item for updates on that process. M. Gibson also asked if there would be any proceedings from these meeting. Alves stated there would be no proceedings, when they ran the last workshop there were no minutes. M. Gibson stated that just as long as someone can update this Council.

M. Gibson asked Council members if they had any questions regarding this process. Members had no questions.

IAC Advisory Panel Report:

Industry Advisory Committee: K Ketcham gave the report. He stated that the meeting was held on March 20, 2007 in Jamestown. There were (28) people present, (6) were members of the committee. They discussed and voted on recommendations for gillnet proposals. The RICRRA modified proposal for marking requirements was passed by members of the IAC which was; 3 inch letters, adding an extra buoy on the offshore end, bright orange 9 x 16 buoys with the letters GN (gillnet) marked on the buoy, RI license number, and last name of the owner. Ketcham stated that J. Sheely's proposal regarding qualifications for fluke was referred to the summer flounder advisory panel. K. Ketcham indicated that the way the IAC minutes were written does not correctly reflect what was voted for approval by the IAC members.

Ketcham stated the next item on the agenda was the discussion of the Sale of Business Regulations and License Requirements of Buyers. He stated that B. Ballou reviewed the current regulations. Ketcham indicated that there was discussion and the overall sentiment was that it did

not make sense to limit an individual's ability to sell their business and that the requirement should be eliminated. A motion was passed by IAC members to eliminate the eligibility requirements to receive a license that was surrendered to DEM upon sale of a business.

K. Ketcham stated the next item on the agenda was a discussion on requiring federally documented vessels to have a state registration. Ketcham stated that B. Ballou reviewed the law for the committee members indicating that any vessel in RI waters for more than 90 days must register with the State regardless of whether the vessel is registered with the Coast Guard. This was required in statute.

M. Gibson asked if Council members had any questions regarding the IAC report. S. Parente asked for clarification on what part of the sale of business proposal the committee wanted to eliminate. Gibson stated this would broaden the pool of potential buyers for a commercial business.

K. Ketcham stated the committee would like the Council to take action on the marking requirements for the gillnets; the 3 inch letters, two buoys on the offshore end, bright orange 9 x 16 buoys with the letters GN (for gillnet) marked on the buoy, RI license number, and last name of the owner.

M. Gibson asked for a motion from the Council to recommend to the Director that this element of the gillnet proposal be taken out to public hearing at the appropriate time.

G. Allen stated that the current regulations already require the 9 x 16 fluorescent mark with the letter GN on the buoy. Ketcham indicated that current regulations require one buoy this proposal would require two buoys. G. Allen clarified that the only thing going to public hearing would be the addition of another buoy, all the other requirements are all ready in current regulation.

K. Ketcham made a motion to recommend to the Director to take the following proposal to hearing; the 3 inch letters, two buoys on the offshore end, bright orange 9 x 16 buoys with the letters GN (for gillnet) marked on the buoy, RI license number, and last name of the owner. S. Medeiros seconded the motion.

There was no further Council discussion. Gibson asked for comments from the audience. An audience member stated that he thought what had been decided at the IAC meeting was just the GN and the license number on the buoy, not the last name of the owner. Gibson stated he would have to check with B. Murphy to determine what had been included with that motion at the meeting.

Gibson suggested the motion before the Council be conditional on what was actually included in the motion made by the IAC. Gibson stated he would then get back to the Council. S. Medeiros stated it would be going to public hearing, so testimony could be taken at that time to change it.

K. Ketcham asked an IAC member what they remembered, if the owner's last name was included or not. The individual stated he remembered the owner's last name being included in the approved motion. Ketcham agreed that was what he remembered and stated he would like to make the proposal to include the owner's last name.

B. Macintosh stated he though the requirements currently required the owner's last name.

The motion passed unanimously, to recommend to the Director to take these the gillnet marking requirements to public hearing; the 3 inch letters, two buoys on the offshore end, bright orange 9 x 16 buoys with the letters GN (for gillnet) marked on the buoy, RI license number, and last name of the owner.

M. Gibson addressed the next IAC recommendation to the Council, which was to eliminate the eligibility requirements to receive a license that was surrendered to DEM upon sale of a business. Gibson stated that based on advice from the Division to the Director, the Director wanted to make sure that the IAC had another opportunity to discuss this issue.

Council members did not make any recommendations or give advice to the Director on this issue at this time.

New Business:

Council recommendations on the April 9, 2007 public hearing items:

1) Proposal for a lobster trap transferability plan - J. McNamee stated that the first item to be discussed was the proposal for a Lobster trap transferability plan. He pointed out that in the summary document there was a body of proposed regulations as well as Massachusetts's regulations, which were currently in place in Massachusetts, for reference. He stated that there were several public comments on this proposal and that he had handed out a summary of all public comments to each Council member. McNamee stated that there were comments about the trap transfer units, all were opposed to the 50 pot transfer unit, also comments about not being allowed to end up with less than 50 pots. There were a couple of other comments about the transfer period of time with some opposition to the period of time being spelled out in the regulation. There was one comment completely opposed to the trap transferability plan.

M. Gibson asked the Council for their comments; he explained that this plan is a companion to the effort control plan, which we are in the process of implementing. He added that this would allow some flexibility to industry, this would allow them to downsize their operations or increase their operations.

C. Anderson stated that after listening to public hearing comments that he thought it would be a good idea to consider reducing the pot units that are required. He suggested a couple of ways to accomplish this. He proposed a uniform minimum amount, then allow increments of whole number of traps beyond that.

M Gibson was in agreement, that there did not seem to be a need to restrict perspective transfers and that suggestion was well taken. The 10% conservation tax is an element of the Commission plan and the Council can not deviate from that.

S. Parente wanted to state that he is opposed to any proposal that deals with the privatization of any fishery and this proposal is tantamount to individual transferable quota. However, being realistic, the only redeeming value that came out of the public hearing on this issue was the proposal to lower the minimum allowable traps from 50 to 10. He believes in the short term this may offer some relief to the small in-shore fisher.

S. Macinko asked if these transfer provisions were only between existing lobsterman under ASMFC rules. M. Gibson responded by stating that the Commission has not spelled out a transferability program at this time. The plan currently states no new entrants.

S. Macinko suggested a discussion about maintaining that clause. The Council has gone toward this individual trap program, developing transferability, why would we want to restrict purchases to only people that are already in the program given the concern for small boat fishers, and new entrants, it is the same discussion that took place at the IAC meeting. It seems counter productive to the whole philosophy of going towards a transferable program in the first place. To then lock it up among existing participants.

M Gibson stated that it was a point well taken. He also stated that it is well with in the Council's authority to recommend to the Director a variant of the transferability plan that eliminates the new permit prohibition recognizing that the overall effort control measures are now the number of pots, not the number of people that are deploying those pots.

K. Ketcham wanted to concur with what S. Macinko had stated, and added that the Lobstermen's Association had also discussed that issue. They felt that once the transferability plan is up and running they would like to see this issue discussed by the Council in the fall when licensing is discussed and possibly reopen lobster licenses. He stated that we have already set the limit of pots therefore, we should not restrict who should be able to buy them if they are willing to pay the price. The second comment Ketcham had was for M. Gibson and the Division. The one difference he noticed between the RI plan and Massachusetts's plan was that RI was going to limit when they can apply for transferability (January 1 to September 30) where Massachusetts runs it through the end of November (November 30). He wanted to know what was the reasoning for the difference.

M. Gibson responded that initially it was to provide the Division with a window of time to reconcile all of the transfers that had taken place for purposes of documenting to the tag producing company what we were doing for the upcoming fishing year. He stated that he was not as concerned about that now because we have other actions that are putting us well beyond that window in terms of being able to identify to Stoffel tags and the appropriate number of tags for an individual. He stated he would be more flexible to a longer window of time that the transfers could take place and be registered and certified with the Department. The company is doing a better job of distributing tags to fishermen.

K. Ketcham made a recommendation to extend the transfer application period from September 30th to November 30th which would put RI with the same dates as Massachusetts.

C. Anderson made a motion to amend section (d), page 2, of the Public Hearing Summary Document to read as follows: For transfer of lobster trap allocation by Area 2 trap allocation holders trap allocation transfers shall me made at a minimum of 10 traps in whole trap units. Fractional trap allocations generated by application of a conservation tax shall be rounded in the standard way based on a per transfer bases.

G. Allen also stated that he noted that there were about two people that spoke at the public hearing that stated they did not like the Jan. 1- Sept. 30 registration period. He was in agreement with K. Ketcham's recommendation to change the date to Nov. 30, to be consistent with Massachusetts.

M. Gibson requested a motion from a Council member to either summarize the suggested changes made by Council members or act on them individually. He summarized the suggested changes discussed by members: C. Anderson's recommendation for currency of trap transfers, S. Macinko's observation that there need not be a ban on permits anymore since we are dealing with pot currency, and K. Ketcham's concern about the extension of the registration period.

G. Allen seconded the motion made by C. Anderson.

K. Ketcham asked to make a friendly amendment to Anderson's motion, a motion to include changing the time frame under section (c), page 2 of the Public Hearing Summary Document from January 1 – September 30 annually, to January 1 – November 30 annually. Also, in part (k) Prohibitions, page 3, of the Public Hearing Summary Document; in (k)(1) strike the wording which states "a trap allocation less than 50 traps after they have transferred part of their allocation to another license/permit holder".

M. Gibson explained to Council members that there is no language in this document that pertains to S. Macinko's concern about the prohibition on Area 2 permits and this can be taken up separately. He then asked for public comments.

I. Parente stated that the Council has proposed to reduced the number of traps transferred by blocks of 10, and also stated they wanted to open up the number of licenses to anyone who doesn't have one. This would drastically increasing effort by doing these two things. He stated he was for the smaller increments of 10, but not in favor of opening up licenses to anyone who wants one.

T. Sutton commented on S. Macinko's suggestion to open up licenses, stating this was put in so that the other lobstermen who got shut out would not have to compete with other guys. That is why it was put in and has been there through the whole process. It was to benefit the fishermen that were in the fishery and to get them back to whole so they were not competing with someone who was just buying a smaller amount of traps.

G. Duckworth asked what the conservation tax was and how it would work.

M. Gibson explained the conservation tax.

P. Brodeur asked if this new proposal would be in conflict with regulations already on the books, and asked that it be checked to make sure there were no conflicts. He also asked for clarification about the IAC meeting recommendation where an individual buying the business would have to prove they have made at least 75 transactions during the previous two years. He wanted to know if this would be in conflict with existing regulation. M. Gibson explained that the IAC took a position on that, however the Council has declined to generate advice to the Director on that issue. If the Council gives a recommendation to the Director it is the Department's obligation to reconcile all regulations relative to business sales and relative to license eligibility requirements.

M. Gibson asked Council members for a vote on the motion, (7) in favor - (G. Allen, K. Ketcham, J. King, D. Preble, S. Macinko, S. Medeiros, C. Anderson, (1) abstained - (S. Parente), the motion passed.

S. Macinko asked for discussion on when trap transfers will go in to effect and why would it not be able to go in to effort for the 2007 year. M. Gibson explained that this proposal locks them in

to trap transfers that would not be effective until May 2008. If the Council wishes to accommodate the businesses that are caught in transition, then the Council should state that for the record.

C. Anderson made a motion that the Division recognize trap transfers for 2007 that are applied for with in 30 days of publication of the regulation. S. Macinko seconded the motion.

M. Gibson asked for a vote on the motion, the motion passed unanimously.

S. Macinko made a motion that the Council recommend to the Director that he advocate for removal of the no new entry restriction currently in the ASMFC plan.

M. Gibson ruled the motion out of order since the item did not appear in the transferability plan before them and was part of the effort control plan. He recognized this as being an important point, but it was not on the agenda for Council action for tonight so he needed to rule the motion as being out of order because it is inconsistent with the agenda and the open meetings rules, in that Council action on an item that was not taken up at public hearing. He suggested putting the item on a future agenda.

G. Allen stated that the Council should defer any more discussion on the issue and put it on an agenda for the May Council meeting. The issue is outside of this meeting tonight.

M. Gibson asked if Council members would like to see this item on a future agenda. The Council had no objections to this item being placed on a future agenda.

2) Proposed changes to the summer flounder recreational management plan – J. McNamee stated that there were five proposals put forward, two were from the advisory panel. The first option was for a split mode and the second option was a single recreational season. The three alternate options were put forward to give the public and the Council to have a range of options that they could look at with various bag limits and seasons.

D. Preble made a motion to adopt the advisory panel approved option (1). S. Medeiros seconded the motion.

M. Gibson opened the floor for Council discussion and asked N. Lazar to comment on the approvability of ASMFC on this option. N. Lazar stated that in the past the Commission has approved this for black sea bass and scup, but not for summer flounder. It requires a precision of less than 20% for a mode split. In the case of summer flounder the option of a mode split has not been approved or voted on by the Commission. If Option 1 is adopted it will have to be run through the Commission and have the Technical Committee and the Summer Flounder Board approve it. M. Gibson stated that since the first season opens on May 18, he would have to go to work immediately to try to get the Commission to convene a conference call with the Technical Committee and he would have to request it to be on the agenda for the Summer Flounder Board at the spring meeting week. There is some legwork that the Division would have to do to get the Commission to sign off. J. McNamee stated that if they had to delay until the spring meeting of the ASMFC, then they would not make the May 18 date. M. Gibson suggested that the Council may want to think about having an alternative option that has already been endorsed by the Council and already approved by the Commission so we have a fall back.

D. Preble would rather not have a fall back option. K. Ketcham wanted to know if this were delayed a week or two would the proponents of the option still want to go forward with this Option (1).

S. Medeiros stated that he would like to withdraw his second to the motion.

G. Allen stated that the people that commented during the public hearing were in favor of Option 1 or Option 2, it did not matter. They seem to be fine with one or the other. He would like to go with Option 2 because it has an earlier start date. **G. Allen made a motion that the Council recommend to the Director Option 2 which has a single season for all user groups and starts May 18 and ends Sept.16 with (7) fish at 19 inches. S. Medeiros seconded the motion.**

M. Gibson asked for Council discussion. Seeing none, he opened it up for public comment on the Council's current motion for Option 2.

G. Carvahlo made a general comment that the larger the fish possession limit then you begin to favor those fortunate enough to have a vessel, and the Council in its' deliberations should always keep that under consideration. The people that have the least fish from the shore and they get the least as we go up in size. M. Bucko stated that the tackle shops would like the longer season so Option 2 would be better for the tackle shops. He recommended Option 2, but encourages the Council to explore the split mode possibility for next year. F. Blount stated he supported the split mode but it was too late in the season for Option 1. We only have the one option currently.

M. Gibson asked the Council to vote on the motion before them. **The motion passed unanimously in favor of recommending Option 2 for the summer flounder recreational management plan.**

3) Proposed changes to the tautog recreational management plan – J. McNamee stated that there were two proposals brought forward to the public hearing. The first was a proposal that come out of the advisory panel, which encompasses a split mode that has an earlier start date for the spring fishery for the general category, and has a lower bag limit for the fall fishery for the general category. Party/Charter mode split would be the status quo season and bag limit. The second option was status quo.

G. Allen stated that the Tautog AP did not have the wave 5 and 6 data early enough for this year so they could not go forward with the April 14 start date for the recreational as contrast to Party/Charter. The AP wanted to go forward with it for next year because they do not expect to have the wave 5 and 6 data any sooner next year. He went on to explain the rational behind the proposal. **G. Allen made a motion that the Council go forward with this proposal, Option (1). K. Ketcham seconded the motion.**

J. McNamee stated that there was time to run this option through the ASMFC to get approval and implement, because he would have the opportunity on April 24 to bring this mode split to the Technical Committee which will then be presented during the May meetings. The actual change will not take place later in the year if you decide to go with the AP option.

S. Medeiros asked if they could change the Dec. 16 date to extend it to December 30 date, as brought up in the public hearing. **G. Allen agreed with the suggestion and modified his motion to say the season would end December 30.**

N. Lazar wanted to remind the Council that the ASMFC did not ask for RI to do any of this for tautog, so we are not under ASMFC obligation to do the December 16 or December 30. M. Gibson stated that we do have an obligation to either conform with the coast wide plan for 2008 or provide our own demonstration of stock status which we are attempting to do which we are hoping will narrow the amount of reduction that we have to make.

M. Gibson asked for public comments on the Council motion.

C. Brown wanted to know if the State knew how many fish were being caught in the fall period by out-of-state recreational fishermen. N. Lazar stated that he thought it was about 60% that was out-of-state effort in that period, but we cannot partition out between tautog and striped bass. C. Brown stated that when you extend the fall period you then invite out-of-state participants. As a state resident, he felt that they do not have that much access to the resource, and our views should be considered more heavily against the needs of Massachusetts and Connecticut.

M. Gibson asked for a vote on the motion. **The motion passed unanimously in favor of recommending Option 1 for the tautog recreational management plan, with the modification of extending the season from December 16 to December 30.**

4) Proposed changes to the tautog commercial management plan – J. McNamee stated that they brought the status quo management plan to public hearing and that no other alternate proposals were received.

M. Gibson stated that the status quo is what is in place for this year lacking any Council advice or Director action. J. King stated that there was one person from the public hearing that had asked to extend beyond the December 15 date to December 30 or until the quota is caught.

G. Allen made a motion to modify the status quo management plan to include extending the third period to December 31 or until the quota is caught. J. King seconded the motion.

M. Gibson asked for Council discussion and then public comments. No comments were made. M. Gibson asked the council to vote on the motion. **The motion passed unanimously in favor of recommending the status quo management plan for the tautog commercial fishery with the modification of extending the season from December 15 to December 31 or until the quota is caught.**

5) Proposed changes to the striped bass commercial management plan – J. McNamee stated that there were two proposals; status quo, and a proposal from the advisory panel with two elements. There was a floating fish trap (FFT) change, which drops the minimum size down to 26 inches which creates a small lost of quota for them that is added to the general category and an alteration to the roll over date to make the FFT quota available to the general category fishery. Then the elements of the general category option.

D. Preble made a motion that the Council accepted the advisory panel approved option. G. Allen seconded the motion.

K. Ketcham asked to make a friendly amendment to the motion, to keep the rollover date of October 1/October 15, he would like to keep the rollover dates as they are, (status quo).

D. Preble is not willing to accept the friendly amendment indicating that there were a lot of people who helped craft the proposal and a lot of thought went into selecting the dates.

G. Allen stated that he seconded the motion but that he has a problem with five (5) fish per vessel. There are only so many bass and if you raise the amount from 4 to 5 there is less fish for others. **Therefore, he was opposed to the five (5) fish and would like to make a friendly amendment to the motion that instead of 5 fish it would be 4 fish per vessel.**

D. Preble responded by explaining what the reasoning was behind raising the limit from 4 fish to 5 fish. Also that five fish for (5) days is 25 fish and four fish for (7) days is 28 fish, they thought this was a reasonable trade. Preble stated he would not feel comfortable making that kind of change without going back to the AP who worked very hard to craft this proposal. **Preble does not accept the friendly amendment to the motion.** G. Allen stated that we should not be negotiating to get a regulation that states one license per vessel because every other fishery has one license per vessel except for striped bass. **He did not feel that should be a negotiating factor. Having stated that, G. Allen withdrew his second to the motion.**

M. Gibson asked if there was a second to D. Preble's motion. Having none, we do not have a motion unless someone else wants to seconds it.

K. Ketcham made a new motion to go with the AP approved option, but with the 4 fish per vessel and the October 1, date for the set aside (status quo on the general category rollover date). G. Allen seconded the motion.

S. Parents made a motion to amend the motion to make an increase from (4) fish to (5) fish per vessel. D. Preble seconded the motion.

M. Gibson asked if there was any further Council discussion on the motion amendment. **Gibson asked to vote on the amended motion to increase from (4) fish to (5) fish per vessel and retain the October 1, date for the set aside. The vote on the motion to amend the motion passed with (5) in favor and (3) opposed.** Gibson stated that this now becomes the motion and the Council needs to vote on the motion. Gibson asked for comments from the public on the motion before the Council.

L. Dellinger stated, with reference to the general category, that because of the low limit of fish and the low price, it is not economical for anyone who wants to make a few bucks to be able to.

J. Martini had a comment for G. Allen where he explained the reasoning why the AP selected the 5 fish per vessel. An audience member also stated that the AP put this option together so that they could extend the season.

M. Gibson asked the Council to vote on the motion. **The motion passed, (7) in favor (1) opposed to recommend the AP approved option for the commercial striped bass management plan with the (5) fish per vessel, and the October 1, date for the set aside.**

6) Proposed changes to the weakfish management plan – J. McNamee stated that this is an ASMFC compliance issue, it drops the 300 pond by-catch limit to 150 ponds, and then decreases the recreational bag limit from 10 fish to 6 fish.

M. Gibson asked for Council discussion. D. Preble asked about the language in section 7.18.1-2, the last sentence did not make sense to him. M. Gibson stated that this is ASMFC by-catch

language and it was his understanding the wording could not be changed. This was a requirement.

K. Ketcham made a motion to accept the (150) pound commercial possession limit and season, and the (6) fish recreational possession limit and season. S. Parente seconded the motion.

There was no Council discussion on the motion. M. Gibson asked for public comments.

There was a comment about the reduction in the possession limit and asked if the limit would be adjusted upward if things changed, because it is hard to predict from one year to the next what the fishery will be like.

J. Kourtesis asked for clarification on the wording in the proposal about the season and possession limits.

M. Gibson asked the Council to vote on the motion. **The motion passed unanimously in favor of recommending the proposed changes to the weakfish management plan.**

Council approval of shellfish AP agenda: M. Gibson reviewed the listed items on the agenda and asked J. King if he had any additional items to add to the agenda. J. King requested that the item of splitting High Banks into two management areas be added to the agenda. **There were no objections from Council members to adding this item to the agenda and approving the agenda as modified.**

Old Business:

Council review of updated advisory panel membership lists: J. McNamee stated that he had updated each advisory panel membership list and provided the lists to Council members in their packets. McNamee needed the Council to approve all the lists as updated.

D. Preble made a motion to accept the updated advisory panel membership lists. J. King seconded the motion. There were no objections from Council members to approve these lists.

Other Business:

Council reconsideration of monkfish and codfish advice made to the Director at the 10/18/2006 monthly meeting: M. Gibson reminded Council members that this was a request from R. Fuka of the Commercial Fishermens Alliance. They requested that the Council have additional discussion on this topic and the Council agreed at their last meeting to put the item on the agenda for this meeting. The Council already heard from R. Fuka last month, and the Council received some supplemental information that was passed out by G. Duckworth, which included vessel trip reports and observer information. Additionally, information was also provided by T. Platz. Gibson went on to explain that this is a completed regulatory action where regulations have already been promulgated. To make changes to what has already been done would take a lengthy process.

G. Powers stated that he did not believe that the Council could accurately style this as a motion to reconsider. There is no action that can be reconsidered at this point. The Council would have to initiate a new process, not reconsider their previous action.

M. Gibson suggested that the Council may want to hear from G. Duckworth since he submitted information for this topic at the last meeting. **There were no objections from the Council members to hearing from G. Duckworth.**

G. Duckworth stated that there was a legitimate monkfish fishery in state waters. He thought the decision to shut down this fishery was done too hastily. He would like to revisit this issue. He asked if the Council members had any questions about the observer information he submitted.

S. Parente stated that he had read Duckworth's documentation and the Director's decision paper on the monkfish issue, and he was confused by the 37 pounds of average tail weight that was landed by non-federally permitted vessels over the past 18 months as stated in the Director's response. When he compared this to G. Duckworth's documentation, he shows a much larger amount of fish, he wonder why.

M. Gibson asked J. McNamee to respond to the information in the Director's decision paper. J. McNamee explained that the 18 month data set was used because they had a full set of data for that time period, then took an average of that data. The overall average for that time period was that specified amount.

S. Macinko suggested that there are individuals in that data base that look as if they are directed monkfish fishing in state waters. M. Gibson stated that there were occasional large catches of state permitted vessels but the SAFIS database does not tell the Division where they were caught, it only tells us what the nature of the license was.

K. Ketcham asked Duckworth why he blacked out the TD's. Duckworth responded that he thought it had no bearing and that this is a competitive industry so he did not want anyone to know where he was fishing.

K. Ketcham asked Duckworth if the soak times were accurate for the duration of the net in the water. Duckworth stated he did not know if they were accurate or not accurate. K. Ketcham continued, that if they were, he was in violation of soak times allowed in state waters. G. Duckworth stated he had no comment, he was not sure.

S. Medeiros asked about the number of people who had signed a petition that was included in their Council material, he wanted clarification that they did not want the regulation changed, that they wanted it kept at 50. T. Platz responded that those signatures were from the past motion, they were all monkfishers who possessed federal monkfish permits that wanted the state to move the limit to 50 pounds.

G. Allen wanted to reinforce for the Council members what was stated in the Director's decision letter, which was based on the need to bring the federal and the state regulations for cod and monkfish in line. The Director also stated in his letter that Massachusetts and Connecticut have consistent minimum sizes, which is 22 inches for both commercially and recreationally caught cod. Massachusetts has a 75-pound daily possession limit for all non-federally permitted vessels, thus the action that was taken brings the state cod management program in line with both of RI's neighboring states and the same applies to the monkfish. G. Allen stated that for the Council to go back to this is not the way to do fisheries management. He suggested that this be looked at again next year.

K. Ketcham made a motion to establish a new advisory panel that encompasses species that fall through he cracks that the Council will still have to deal with on an annual review basis, (i.e. cod, monk, etc.). This would enable the Council to go through the review process and establish what it intends to do this fall and gives the Council direction for next years licensing. G. Allen seconded the motion.

D. Preble asked to make a friendly amendment to make this motion cover ground fish species.

M. Gibson, to clarify, stated that this advisory panel would be created with the understanding that it would look at the species where there would be federal consistency issues and that do not fall in the envelope of our other species advisory panels.

There were no further comments from the Council. Gibson asked for comments from the public.

G. Carvahlo had a comment on the motion to set up an advisory panel. He stated that when the Council had regulatory authority there were a number of avenues that took place with actions made by the Council. The Council was also able to reconsider its' action based on testimony from the pervious public hearing and new information that had come forth, and was able to reconsider their action and even change it with out going through the whole process again. Another point he wanted to make was that the Director must take in to consideration the negative impact on small businesses. So, when the Council went so far as to put state water fishermen out of that fishery, it had a negative economic impact on small businesses which raises a question of law. You can initiate a rule making process, but you should eliminate the short comings so you don't have duplication. We are now seeing the results of that short coming and people are being put out of business because of it. Additionally, there is no reason to place a possession limit against a state catch that is less than 1%. People have had their access so restricted, that this is serious enough to put people out of business.

T. Sutton stated that the intent when this went through was not to restrict federally permitted vessels. He had spoken to enforcement and learned that even if he purchased a federal permit, and was in state waters he would still be in violation if he were in possession of over 50 pounds of monkfish tail weight. He encouraged the Council to look back because he did not believe this was the intent.

B. Loftes stated that the Council should have already put an advisory panel together before this was passed. He wanted to know why the Council wants to put an advisory panel together now, it should have been done before. He stated that there is no way to go back and undo the damage that has already been done.

M. Gibson explained that there was an entire process that the Council went through to thoroughly review the issue. It was discussed, public comments were taken, the process ran the course.

J. Kourtesis stated that he was in favor of having a sub committee for monkfish, codfish, and whatever other fish is needed. It went from a gillnet issue to all of Rhode Island issue. He wanted to know if this was a possession limit that could be changed by the Division or if it was set by the Director. He also wanted to know if the possession limit could be more like the federal limit. He was in favor of an advisory panel being created to look in to the issue.

S. Macinko asked what processes were available to the Council if they wanted to make some adjustments to the monkfish/codfish issue. He also wanted to know if this was the only avenue available to the Director.

M. Gibson asked legal council to address S. Macinko's question by summarizing the rule making avenues available for the Director to promulgate a regulatory change on cod and monkfish.

G. Powers stated that as the Chairman (M. Gibson) had stated earlier, a petition for rule making might be the most expeditious manner of proceeding. The Council is an advisory panel to the Director so this avenue that the Council is pursuing might be the most studious way of proceeding, but is not the most expeditious.

S. Macinko stated that it seems that what the Council did was treat an enforcement concern with a regulatory response that punished innocent people. He wanted to know if there was any other way to make changes sooner instead of waiting for the whole process of creating an advisory panel and for the issue to work its way through that process.

M. Gibson asked legal council to respond to Macinko's concerns about the most expeditious manner to proceed.

G. Powers clarified by stating that once a petition for rule making is submitted if indeed the Department were inclined to take the rule making action, it would still have to go through a public hearing, comment period, and then again before the Council. It would not be a quick fix or a quick remedy for this issue. M. Gibson asked Council members to vote on the motion to create an advisory panel. He stated that if this passes, the Division would then solicit membership through the usual means by capturing members from each of the different harvesting components within that particular fishery and present a list of perspective members for the Council to vote on.

M Gibson asked the members to vote on the motion. **The motion passed, (6) in favor (2) opposed to recommend to the Director to create a cod and monkfish advisory panel with other species to be added to the panel at a later date.**

N. Lazar asked the Chairman if the Council members have thought about designating a chair for the cod/monkfish AP. M. Gibson suggested that Council members think about who might want to chair that panel for the next time it comes up.

FYI:

Review letter from Council to ASMFC on summer flounder issues: M Gibson stated that this was a letter that the Council had asked for and that he and D. Preble had collaborated expressing the Councils' concerns about summer flounder. He stated that this was a draft letter and if any Council member had any issues or changes to make to the letter, to contact either him or Preble.

Request by S. Macinko regarding DEM policy on how to conduct public hearing comments in relation to public input and the ability of Council to question members of the audience: M Gibson stated that the letter was from the Director to S. Macinko. He also stated that there was a request to make it available to all Council members. Gibson asked members to read the letter when they had time and if there were any questions to bring them up at the next meeting.

G. Allen requested that an item be placed on the May agenda for an update on the compliance issues for the fish trap industry and the reporting of where they intended to set their traps. Only two of the fish trap operators have submitted the required reports and he would like to have the Division report on the progress of that. **There were no objections from the Council to having a report on the compliance for the floating fish trap site designations at the next meeting.**

The chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary