

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
June 5, 2006
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

Chairperson: M. Gibson

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

DEM Staff: R. Ballou

DEM Legal Counsel: G. Powers

DEM Law
Enforcement: S. Hall

Public: 25 people attended

Chairman M. Gibson called the meeting to order. He asked if there were any changes to the agenda. **There were no objections by the Rhode Island Marine Fisheries Council (RIMFC or Council) to approving the agenda as submitted.** M. Gibson asked if there were any objections to approving the minutes of the May 4, 2006 Rhode Island Marine Fisheries Council meeting as submitted. **K. Ketcham made a motion to approve the minutes as submitted and G. Allen seconded the motion. There were no objections from the Council therefore the minutes were approved as submitted.**

Advisory Panel Reports

Shellfish: J. King gave the report. There were three issues that they discussed at this meeting. The first was more discussion on a new Greenwich Bay Management proposal. The RI Shellfishermen's Association had developed language, which was reviewed by the panel. The panel came to a consensus that the language be forwarded to the Council and to the Department of Environmental Management (DEM) for refinement and that the final proposal be forwarded back to the shellfish advisory panel for review. The second order of business was for the Council to authorize the shellfish advisory panel to go through their membership list and begin to replace people with lack of attendance with individuals who are more interested in attending the meetings. The final order of business was to request that the Council authorize a future shellfish advisory panel meeting to continue discussions on whelk regulations.

K. Ketcham suggested they add in some flexibility to the 2 hour opening in case conditions change and it warrants a longer opening. J. King stated that the advisory panel

and the RI Shellfishermen's Association were comfortable with the opening time limit.

M. Gibson stated that the Division of Fish and Wildlife (DFW) had begun working with the industry on the Greenwich Bay proposal. He suggested that because this is a management area and the changes do not have to go out to public hearing, that there be further discussions at the advisory panel level on this topic including input from the DFW and DEM legal counsel. Once a final proposal is developed, he suggested bringing the proposal back to the Council for final approval. **The Council did not object to this course of action.** The panel had also discussed removing non-attending members from the panel. **The Council did not object to moving forward with removing the non-attendees and replacing them through a solicitation process. The Council endorsed the shellfish advisory panel meeting to discuss whelk regulations.**

New Business

Council comments on aquaculture leases: N. Lazar introduced the first of 2 aquaculture lease applications. He turned the discussion over to D. Alves of the Coastal Resource Management Council (CRMC) for details of the D. Roebuck application. N. Lazar stated that this was an existing site that was asking for an expansion. The DFW had done a site visit for the original lease application and did not have any objections with the site. **D. Preble made a motion to approve the lease application.** J. King did not agree and suggested sending the application to the shellfish advisory panel for review. **D. Preble withdrew his motion.** J. McNamee stated that the shellfish advisory panel had been polled via email, per the Council's approved policy, and the DFW did not receive any objections to the applications. The applicants were asked whether delaying a month would be a hardship for them; they stated that one month would not be a problem. S. Medeiros stated that his group reviews these leases ahead of time so he is prepared to respond to the applications when they come before the Council. The Council had developed a process to expedite the process with the email poll and if there are not any responses, it should be interpreted as no objection to the application. K. Ketcham stated that since a meeting was already going to be scheduled and the applicants had not voiced an objection, why not have the panel review the leases. S. Parente and G. Allen supported K. Ketcham's comments. J. King stated that he would poll the panel membership by phone the next day and report back if there were any objections expressed to him. **S. Medeiros made a motion to conditionally approve the Roebuck application pending the outcome of J. King's phone poll. J. King seconded the motion. The Council voted unanimously to approve the motion.** N. Lazar introduced the second lease application, stating again that the DFW had previously surveyed the site and had no objections to the site. The second application was put forward by L. Ricciarelli. D. Alves gave some further information. **K. Ketcham made a motion to conditionally approve the Ricciarelli application pending the outcome of J. King's phone poll. J. King seconded the motion. The Council voted unanimously to approve the motion.**

D. Alves suggested some alternatives for expediting the aquaculture process. J. King requested that D. Alves send him a copy of any pending aquaculture applications so that he could initiate some sort of a poll, either email or phone. D. Alves agreed to do this. S. Medeiros stated that were any flags to be raised about an application, that the shellfish

advisory panel be automatically convened to discuss the lease rather than coming to the Council for authorization.

Council advice to DEM Director on 5/18 public hearing items: M. Gibson introduced the topic. J. McNamee stated that some of the information in the packets that were mailed out was missing. The error was caught and the missing information was emailed out prior to the meeting and the members were phoned to let them know about the error. J. McNamee went through the slideshow that had been given at the public hearing which included information on the DFW/ASMFC proposal as well as three additional proposals that had come forward during the public comment period.

S. Medeiros commented that this was one of the most difficult issues he has had to tackle during his tenure on the Council. He stated that he could support the proposal, however he wanted something done in order to accommodate individuals who were ill during the historical period and he also had some question about not including 2004 in the historical period. M. Gibson stated that the program as developed by the ASMFC does have provisions for military and health hardships but the appeal process looks back in time for performance, not forward. The way the plan is currently written, there are no provisions for 2004 being used however, there are always conservation equivalency alternatives that can be looked at, keeping in mind the end pot allocation has to be the same number. In other words if more individuals are allowed a pot allocation by including 2004 data, the allocations for the other individuals will have to decrease to accommodate this. An estimate of the number of pots this could be, referring to a question about how many individuals began lobstering in 2004, is approximately 5,000 pots. If the Council did decide to do something that would require a conservation equivalency, this would have to occur quickly because the determination would have to be made at the August ASMFC meeting.

G. Allen asked if there was anything happening to the recreational side of the fishery. M. Gibson stated that there were no provisions that would effect the current RI recreational allotment of 5 pots or the recreational diving license for lobsters. G. Allen asked a second question regarding the maximum number of pots allowed to one individual, in other words could they buy more than an 800 pot allocation. M. Gibson stated that an individual could not exceed an 800 pot allocation.

D. Preble stated that this was the most difficult issue he has had to face since he has been on the Council. He went on to state that he had reviewed all of the material and had developed a list of pros and cons regarding the DFW proposal. Briefly the pros were that the stock was in a state of collapse, reduction in fishing mortality through effort control was necessary to recover the stock, full time lobstermen have a threshold of 800 pots to maintain a viable business, if full time lobster businesses are lost these losses are permanent, and finally there is an avenue of entry in to the fishery through the purchase of permits. The cons were that the RI charter and constitution guarantee of free and open fisheries (he stated that this was beyond his area of expertise), the ASMFC was overstepping its bounds (again stated that this was beyond his area of expertise), there are reports that the decline in lobster was not due to overfishing, some fishermen opted out

for conservation reasons during the decline, some of the data used to qualify individuals was based on fraudulent reporting, the current proposal was not sufficient to reduce fishing mortality, and finally that full time lobstermen should be shut out of the finfisheries if they were going to shut others out of the lobster fishery. D. Preble stated that he felt he should vote for the resource and to this point he felt the most compelling arguments were the first two voiced on the pro side of the proposal. He went on to state that he thought in the current state of things in fisheries, the only way to get recovery in fish stocks was to implement dedicated access programs, which is what he felt this lobster plan was. That being stated, he felt transferability needed to be implemented immediately, fraudulent reporting needed to be addressed, and the appeals process should be generous. He stated that the alternate proposals he considered as attempts to maintain open access and he did not feel the resource could recover under plans like these.

S. Parente stated that he was fundamentally opposed to any proposal that turns a public resource in to a private commodity, feeling that it goes against both the state charter and constitution. He felt that this proposal if implemented would lead to the privatization of every fishery in the state.

J. King stated that he felt the appeals process needed to be more flexible. He went on to state that he thought the arguments made by the multipurpose license holders was a valid argument, he knows many individuals who renewed there multipurpose license throughout the years specifically so they could maintain the flexibility allowed by that license.

K. Ketcham stated that he agreed with the comments on the appeal process due to the unique circumstances some people are in which may be valid but are not covered by the current appeals rules. He understood the argument of the multipurpose license holders but felt the state of the lobster resource was also of great importance; therefore he favored the DFW/ASMFC proposal. He wanted to add that he hoped the individuals who maintain their lobster fishing operation understand that they become stewards of the resource and it would be there responsibility to maintain the resource.

D. Preble made a motion to recommend to the Director that he approve the ASMFC/DFW proposal as it was written. K. Ketcham seconded the motion. The motion was perfected by D. Preble to recommend to the Director that he adopt the ASMFC/DFW proposal with the further advice to the Director that he explores flexibility in the appeals process. G. Allen seconded the perfection of the motion. M. Gibson opened the discussion to the public. E. Gerwitz stated that he did not have landings for the historical period but was able to purchase a history, his point being that nobody was being completely shut out, as there were still avenues available to remaining in the lobster fishery. He also did not think that the permits would spike in value due to the economics of fishing. M. Marchetti made a few comments about the proposal and the Council discussion about it. He did not feel the RI Lobstermen's Association would support any relaxing of the appeals process as this was tried in the other states to no avail. He also did not agree with adding additional years, they had looked at all of these options over the several years this had been worked on and could not make these additional

options work. He agreed with E. Gerwitz's comments. The implementation of this program may allow licenses to open up in the future and new entrants could then begin buying pot allocations to start a business. He disagreed with the notion that people left the fishery to "give it a break". These individuals left because they weren't making money on the resource at the time and made a choice to leave and move to another fishery. J. Low stated that this plan is not being fair to the multipurpose license holders who have held their licenses for many years. He stated that if they move forward with this plan he guaranteed that the DEM was opening itself up to a lawsuit. B. Smith stated that he thought another way to allow individuals in to the fishery such as a deckhand would be for lobster industry operators to give pot allocations as incentives to their crew members so that they could eventually gain enough to begin their own business. D. Ingram stated that one avenue that would allow some more flexibility in to the appeals process without taking away too much from the total allocation would be to utilize some of the passive attrition built in to the transferability program. **The Council voted 5 (K. Ketcham, J. King, G. Allen, S. Medeiros, D. Preble) to approve and 1 (S. Parente) to oppose the motion. The motion passed.**

Council approval of Summer Flounder advisory panel and Industry Advisory Committee agendas: N. Lazar stated that a summer flounder advisory panel agenda had been circulated to the Council. He stated that the date should be June 20, not July 20 as indicated on the agenda. D. Preble, chairman of the fluke advisory panel stated that he had to check on the date but approved the agenda topic. **The Council had no objections to authorizing the fluke advisory panel meeting.**

N. Lazar stated that there was no agenda ready for the IAC meeting but they wanted to make the Council aware that this group would need to be convened in the near future to begin discussions on licensing.

Briefing on sector allocation process: M. Gibson stated that this agenda topic was added to make sure the Council maintained a connection to the sector allocation process. A document is under development by Sea Grant to bring before the Council, however it was not ready for the current meeting. This document would be brought forward as soon as it was received.

Other Business

Director's decisions on 5/4 hearing: M. Gibson stated that no written decisions had been received from the Director as yet. J. McNamee gave an update of what had been filed stating that all of the Council's recommendations had been approved by the Director and filed with the exception of a possible change to the fall tautog bag limit. The Director was still looking at this, which is why no written statement had come forward at this time. K. Ketcham asked about the Massachusetts scup regulations. M. Gibson stated that the regulations that MA had filed complied with the regional management program.

Post agenda discussion

G. Allen stated that he had three topics he would like brought forward at the next Council meeting. The first was a report from DEM Law Enforcement on the sighting of the

floating fish traps. The second was to have a chart showing the locations of the floating fish traps brought forward to the Council. Both of these were required by regulation. The third issue was a statement from the DFW about the observers they had planned on putting on bay fishing vessels in order to quantify winter flounder discards. He also wanted a statement from the DFW on the observer program for the menhaden industry. M. Gibson stated that these would be addressed.

K. Ketcham stated that it had been discussed during the leadership workshop that they had attended that they make some improvements to the advisory panels and also to the Council. He would like to see some action taken on this as things slow down for the summer.

M. Bucko asked if there was some way to add a web page where individuals could view the agendas and minutes from the advisory panel meetings. J. McNamee stated that these are posted to the Secretary of States website, but stated that he would also like to include a page on the DEM website.

J. Low asked about the status of the enforcement advisory panel meeting. S. Hall stated that the panel was authorized to meet, they were waiting for DEM Enforcement to come forward with information on the topics to be discussed. He went on to state that this information would be forthcoming.

R. Ballou stated that at the Council's pleasure he could give them a briefing on the new no discharge policy that he had been involved with developing. There were no objections from the Council on this.

The chairman adjourned the meeting.

Jason E. McNamee, Recording Secretary