



Rhode Island Marine Fisheries Council

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MEETING MINUTES

September 3, 2014

URI Narragansett Bay Campus, Corless Auditorium
South Ferry Road, Narragansett, RI

Chairperson: *B. Ballou*

RIMFC Members Present: *K. Booth, R. Hittinger, D. Monti, J. Grant, C. Rein, W. Mackintosh, M. Rice, R. Bellavance*

DEM: *L. Mouradjian, G. Powers, J. McNamee, J. Mercer, P. Duhamel, T. Rosa, Andy Manca (Office of Customer and Technical Assistance); Sgt. Dan White (Law Enforcement)*

Public:

1. **Approval of the Agenda:** *B. Ballou* inquired as to recommended modifications to the agenda. *K. Booth* asked to add a discussion of Winter flounder as item 4d. under New Business. *B. Ballou* inquired as to any other recommendations for additions or modifications; hearing none, the agenda was approved as amended.
2. **Approval of RIMFC meeting minutes from July 24, 2014:** *B. Ballou* inquired as to any proposed changes to the minutes or any objections to approving the minutes. Hearing none, the minutes were approved.
3. **Public comments regarding other matters not on agenda:**
 - *S. Parente* inquired as to advances by the Division relative to the Whaletake program, specifically in regard to restrictions on singles in state waters. *B. Ballou* offered that there was intent to request an exemption and *J. McNamee* added that the Division was preparing a letter and proposal to request an exemption. *W. Macintosh* asked as to the locations where this exemption applied, to which *J. Grant* offered that it applied to waters between the Colregs and EEZ.
 - *G. Schey* asked for a meeting to discuss the minimum size of Conch, specifically the increase in length to 3" set to take effect January 1, 2015. He offered that he believed that there was currently insufficient information to support this size increase, that a stock assessment hasn't been completed, and that the potential adverse impacts from larger sized animals to shellfish beds needs to be addressed. He also offered that the 90% spawn figure may be inaccurate. He therefore offered opposition to the adopted size increase set to take effect in 2015. *B. Ballou* offered that the matter would be taken under advisement to be brought before the Council at a future date. *D. Ghigliotty* offered on behalf of the RI Shellfisherman's Assoc., concurrence with *G. Schey* with regard to opposition to the size increase to 3". He offered that he was particularly concerned with

potential damage to shellfish beds if these larger animals were left un-harvested, and that there was insufficient information to support this size increase.

4. New business:

a. Proposed closure of areas in Ninigret Pond Shellfish Management Area (Foster Cove), Charlestown, for Oyster Restoration activities:

- *J. Mercer* provided an overview of the proposal, which involves a wild harvest closure of 2 small areas within Fosters' Cove (Ninigret Pond Shellfish Mgmt. Area) for the purposes of conducting oyster restoration activities as part of the NRCS EQUIP Program. He offered that closure of these areas to wild harvest should have minimal impact to wild harvest due to the minimal amount of legal size oysters found in the area; this being due to substantial commercial harvest from Ninigret Pond over the past 2 years. He offered that the SAP voted unanimously to approve the closures as proposed, with the caveat that a sunset end date be included to provide assurance that the area wouldn't be closed permanently. *J. McNamee* then offered that the inclusion of sunset provisions in regulations aren't necessarily the most effective means to assure that the area is re-opened, due to difficulty with tracking. He offered that there were numerous examples of regulations sunseting, but due to lack of awareness, no actual change occurred on the sunset date. He offered that the best means would be to provide for periodic (e.g., annual) review by the Council and/or SAP of all SMA closures. *J. Grant* offered that the SAP was unanimously in support of the proposal, but that there was concern about the ability to re-open the areas once the project is complete. *J. Mercer* offered that the project would take approximately 5 years to complete. *C. Rein* offered that use of Outlook calendar to set up a reminder could help with tracking. *M. Rice* offered that review of SMA closures should be part of regular routine for SAP. *G. Schey* offered that sunset dates were needed. *J. Carvalho* offered that sunset dates serve as a reminder that issue needs review. For this project, he inquired if the area would be closed to all wild harvest; to which *J. Mercer* said that it would in order to protect the oyster restoration efforts, and that wild harvest for all shellfish species is minimal in these areas. *B. Ballou* inquired as to the process that resulted in the selection of these sites; to which *J. Mercer* replied that it was a lengthy process in which Division staff conducted site inspections with a NRCS geologist, and that these sites were determined to be prime locations based on suitable sediment samples and the presence of a freshwater stream feeding this area. *B. Ballou* offered that the intent of the project was to restore wild oyster populations. *R. Rheault* offered that sunset clauses were necessary to gain support for closures, and that the area needs to be re-opened for wild harvest to remove oysters due to higher probability of disease for older oysters. ***M. Rice* offered a motion to recommend to the Director that these 2 areas be closed to wild harvest as proposed, with the inclusion of a sunset provision of 5 years (from effective date of regulation); and that the SAP be charged with periodic review of the status of all SMA closures; 2nd by R. Hittinger.** *W. Macintosh* offered that the sunset clause should indicate a maximum of 5 years; to which *R. Hittinger* replied that the contract needs to be a minimum of 5 years, the net result being that it should be exactly 5 years. *J. Mercer* offered that that all closed SMA areas (i.e., "spawner sanctuaries") are currently

being reviewed to determine if the intended goals are being met. **The motion passed 8 – 0.**

- **SAP verbal report:** *J. Grant* provided a verbal report of the 8/27 meeting; namely the review of the oyster restoration sites in Foster Cove, four aquaculture lease applications, and the winter harvest schedule in selected Shellfish Management Area; details of which will be reflected in the SAP meeting minutes that will be prepared and submitted to Council for review and discussion at the October meeting.

b. Spiny Dogfish Conservation Equivalency (C/E) Proposal:

K. Booth provided an overview of the Groundfish AP meeting, namely a discussion of the potential of proposing a Spiny dogfish Conservation Equivalency proposal to the ASMFC in October. He offered that roughly 15 million pounds were un-harvested in the Northeast sector, and that a proposed CE program would entail opening an aggregate program of 28,500 pounds/week, which is approximately 80% of daily quota for that period, with an August closure. This would allow fishermen to harvest dogfish when fishing for Cod, with fewer discards, and also to target dogfish during slower fishing periods for other species. He offered that Maine and New Hampshire were interested in a similar program, and that a RI Program should be consistent with those state's programs. He offered that the aggregate program would end when 80% of the quota is harvested, but the daily limit would still be available for harvest, which would allow for the harvest of the 15 million un-harvested pounds. He offered that if desired to proceed with a proposal, the Division would need to draft the proposal and submit to the ASMFC in October. *B. Ballou* offered that once a draft proposal is submitted for approval to ASMFC, and subsequently receives approval, that the Division would then need to draft regulations to proceed through the normal public notice/hearing process. *B. Ballou* offered that at such time if the proposal was to move forward there would be greater detail and an action item for vote at subsequent Council meetings. This discussion was for preliminary conceptual and informational purposes only; no action or decisions were necessary at this time. *J. McNamee* offered that data is presently coming in, which will then be used to form the proposal. *B. Ballou* inquired if the proposal would be for state waters only; to which *J. McNamee* confirmed. *J. Grant* offered that the disparity between federal and state waters should be reviewed.

c. Director's LEAN initiative – continued discussion from last meeting and proposed meeting re-structuring:

J. McNamee provided a summary of the proposal, with more emphasis (from last meeting) as to specifics of how the new structure would look like for the November public hearing. He offered that "gaps" identified in the LEAN process showed a need for improvement in the RIMFC/DEM regulatory process in terms of number of meetings and methodology for presenting information and soliciting feedback from the public and Council. He offered that the current process has shown to be inefficient in terms of soliciting input, mainly due to number of meetings. He offered that the most significant change being proposed was to suspend the current AP meetings that normally occur within weeks of the hearing, and move to a workshop format that would take place immediately prior to the hearing; the goal being more concise and current information presented in a single meeting, thus

hopefully generating better attendance, and thus better discussion. He offered that the workshop presentations would be provided several days in advance as possible; and also that the public comment period will be extended beyond the hearing date to allow for time to formulate and submit comments and proposals. He offered a proposed additional benefit of the new structure in terms of AP structure; in that attendance and membership would no longer be necessary, which would solve on-going attendance problems, and would also provide for equal input, the feeling by some non-members that their voice is not equally heard. He added that the same information normally presented at the AP meetings will be presented at the workshop, though in a more standardized and concise format. He offered that the proposed new structure should also help to alleviate the current problem of re-discussing the same topic several times at different meetings, thus adding efficiency; and also that as the Council members would be present at the workshop/hearing (rather than the AP meetings), they would be hearing the discussion first hand, rather than a summarized report. He ended by offering that both the IAC and Shellfish AP would need to remain intact, and there are no changes proposed for these two panels at this time. *L. Mouradjian* offered a brief statement for the Director, as she was unable to attend, that summarized the LEAN initiative as a means to provide clear, predictable, and reliable processes, and to re-focus staff time and expertise on important technical work rather than administration of programs, which should ultimately result in more timely and better informed decisions. *J. McNamee* offered that the IAC, while currently utilized mainly for Licensing matters, could be used for any matters deemed appropriate by the Council. *B. Ballou* concurred that the IAC can be utilized as a discussion panel for any topic. *W. Macintosh* recommended that this trial should also be tried for recreational matters, in order to understand fully how the structure would work for both commercial and recreational issues; to which *J. McNamee* concurred and offered that the hearing for recreational regulations is normally held in February. *S. Parente* offered that he was concerned about possible contentious issues, and how it may be difficult to adequately address all public hearing matters if a particular issue were to dominate a meeting. *J. McNamee* answered that this would hopefully be alleviated by both the notification of the presentations in advance of the workshop/hearing, thus allowing for better preparation by interested persons, and by extending the public comment period beyond the date of the hearing, thus allowing for time to further discuss the topic with staff and allow for submittal of comments and proposals. He also noted that the new procedure for noticing the Council agendas and information (i.e., the “ePacket”), which was previously unavailable to the general public, would help to better inform the public and thereby allowing for ample time for the public to digest a particular matter. *R. Rheault* and *D. Ghigliotty* both expressed concern about contentious issues dominating a meeting. *B. Ballou* offered that it was hoped this at the new structure would help with avoiding this problem by disseminating information better, and by structuring meetings efficiently. *P. Brodeur* offered that he was concerned that the Lobster AP was a good means to involve lobster fishermen with proposed regulations. *W. Macintosh* offered that the new structure would not preclude an advisory/focus meeting from taking place. *K. Booth* offered concern that it could be difficult to address all hearing matters if a particular matter required a lengthy discussion. *J. McNamee* answered that good time management will be critical. *C. Rein* offered that focus groups, fishermen groups, could also meet on their own in order to vet a particular issue and prepare for the workshop/hearing. *J. Grant* offered that it will need to be determined as issues arise and regulations are proposed, what the most appropriate means is in order to best reach out to the affected parties and solicit the best input, and that an advisory panel could still be used if determined

appropriate by the Council. *M. Rice* offered that contentious issues shouldn't be a regular occurrence and could be properly managed by a Chair/facilitator. *R. Hittinger* offered the example of the fluke sector program and the lengthy discussion that resulted. He offered that a special workshop/meeting could be added at the pleasure of the Council to address such matters. *J. McNamee* offered that issues such as lobster are not part of the regular annual hearing cycle, and can therefore be handled differently in terms of meetings and public input. *B. Ballou* offered that the current process has resulted in issues being discussed and re-hashed multiple times over several meetings, resulting in inefficiencies, and that the new structure is meant to alleviate these inefficiencies and provide for more productive and concise meetings. ***D. Monti* offered a motion to recommend approval for a trial for the new structure, for both commercial issues in November and, if successful, also for recreational issues in February/March; 2nd by *M. Rice*. The motion passed unanimously 8 – 0.**

d. **Winter Flounder:**

K. Booth offered that the issue involves the large disparity in possession limit between state (50 lbs/day) and federal waters (5,000 lbs/day), and how this is a concern for many fishermen. He offered that while the state possession limit was set in an effort to restore the health of the fishery, the federal waters possession limit may be hurting this effort. To address this issue, he would like to approach ASMFC to reduce the federal possession limit. *B. Ballou* noted that this has been attempted in the past unsuccessfully. He offered that it could be tried again and would look into the next ASMFC agenda, and that this matter would be added to the next Council agenda as an action item. *J. Grant* offered that it is the NEFMC that regulates this possession limit, and that body would therefore need to be approached to address this matter. *J. Carvalho* offered that the Winter Flounder fishery was historically a state waters fishery, that Rhode Island has implemented extreme conservation measures over an extended period of time and that there is a great disparity between state and federal possession limits. He offered that this matter should be aggressively pursued in terms of approaching ASMFC to increase the states' fifty pound possession limit and that the state could ill afford the loss of access to this resource. *J. Carvalho* suggested that the Council request from the Director a letter directed to the ASMFC in support of this issue. *J. Grant* offered that the federal fishery is managed by quota and therefore closes once quota reached, as opposed to state waters, which remains open.

5. **FYI items:**

- a. **ASMFC Summer 2014 report:** *B. Ballou* highlighted that a ASMFC hearing on Striped bass will be occurring on September 17th; and that a public information document on Cancer crabs has been developed, which may be a precursor to management plan for this fishery, and that there is a public hearing on September 25th regarding this matter; and MAMFC and ASMFC have jointly moving forward with a comprehensive amendment to the fluke management plan. A hearing has been tentatively scheduled for October 8th on this matter.
- b. **Council letter to CRMC:** Letter from *B. Ballou* as Council Chair to CRMC offering objection to Bazarnick aquaculture lease application.

6. **Other business:** *J. Grant* offered that he had reviewed the new recently adopted Shellfish regulations that found four locations where he thought changes were made that were substantive in nature; i.e., beyond the scope of what was proposed, and inquired as to the most appropriate means by which to address this matter. *B. Ballou* offered that *Mr. Grant* should contact *P. Duhamel* for the specific instances and locations; *P. Duhamel* then offering that correction could be made by technical correction or possibly re-noticing if necessary, depending on the change needed. *B. Ballou* offered that the Council would be informed of any action taken on this matter

7. **Adjournment:** The meeting adjourned at approximately 8:00.

Prepared by *P. Duhamel*