

RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Meeting Minutes
October 1, 2012 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: R. Bellavance, K. Booth, D. Monti, J. Grant, R. Hittinger, and W. Mackintosh, III
RIMFC Members Absent: None
Chairperson: B. Ballou
RIDEM DFW Staff: N. Scarduzio, J. McNamee, and M. Gibson
RIDEM Staff: L. Mouradjian and G. Powers,
DEM Law Enforcement: D. White
Public: Five (5) people attended the meeting

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. R. Bellavance requested to add a couple of items under FYI; (1) a notice for an informational meeting for the fishing community regarding the Deepwater Wind Farm project; and (2) new federal regulations for commercial fishermen to obtain a Safety Decal if fishing in the EEZ. J. Gant also requested to add an item under New Business, to schedule a Shellfish AP meeting. B. Ballou asked if there were any objections to approving the agenda as amended. **Hearing no objections, the October 1, 2012 Council agenda was approved as amended.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from September 10, 2012. B. Ballou asked if there were any changes to the minutes. R. Hittinger commented that the vote count under the Shellfish AP meeting (page 2, second paragraph) needed to be corrected to reflect a vote of 5 to 1 not 5 to 0. B. Ballou indicated staff would make that correction. B. Ballou asked if there were any objections to approving the September 10, 2012 minutes as amended. **Hearing no objections, the September 10, 2012, minutes were approved as amended.**

Public Comments

There were no comments from the public.

New Business

Council recommendations on September 12, 2012 Public hearing items:

1) The DEM proposed Management Plans for the shellfish, finfish, and crustacean sectors:
a) Quahog endorsements:

J. Grant made a motion to recommend that the Director remain with the status quo using the current standard of 2:1 exit/entry ratio in the quahog fishery, applied to eligible licenses (MPLs + PELs w/QH) that retired - allowing for 23 new CFLs with quahog endorsements available in 2013. R. Hittinger seconded the motion.

There was no discussion from the Council on the motion.

M. McGivney stated the RI Shellfishermen's Association supported status quo, the 2:1 exit/entry ratio for the quahog fishery.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend the Director remain with the status quo using the current standard of a 2:1 exit/entry ratio in the quahaug fishery, applied to eligible licenses (MPLs + PELs w/QH) that retired - allowing for 23 new CFLs with quahaug endorsements to be made available in 2013. The motion passed 6/0.

b) Soft-shell Clam endorsements:

M. Gibson stated the more recent soft-shell clam surveys in the upper Bay area have turned up with no steamer clams in the adjacent fished areas and unfished areas therefore the Division cannot support status quo even if it was only 11 new licenses.

B. Ballou asked if there was a motion.

J. Grant made a motion to recommend the Director remain with the status quo using the current standard of 5:1 exit/entry ratio in the soft-shell clam fishery, applied to eligible licenses (MPL's, + PELs w/SS + CFLs with a soft-shell clam endorsement) that retired - allowing for 11 new CFLs with soft-shell clam endorsements available in 2013. K. Booth seconded the motion.

B. Ballou asked for a vote. The Council voted in favor to recommend that the Director remain with status quo using the current standard of a 5:1 exit/entry ratio for the soft-shell clam fishery applied to all eligible licenses (MPLs + PELs w/SS + CFLs w/SS) that retired. Allowing for 11 new CFL's with soft-shell clam endorsements to be made available in 2013. In favor: (4) (R. Bellavance, K. Booth, J. Grant, and W. Mackintosh, III); opposed: (2) (R. Hittinger, D. Monti). The motion passed 4/2.

c) Whelk endorsements:

M. Gibson commented the key information here was in 2011 where the average landing per fisher had decreased but the total landings were reaching its highest levels. He indicated this was usually a signal for something bad to happen like the verge of a major stock decline. Gibson stated the Division does not support any new endorsements nor does the Division support the option that would allow any latent pool of effort from CFLs or PELs who did not get in to the fishery in 2012 to be grandfathered in for 2013. He did not think this stock could absorb any more effort than it had already tolerated.

R. Hittinger made a motion to recommend to the Director no new whelk endorsements for 2013. D. Monti Seconded the motion.

B. Ballou asked for a vote. The motion to recommend to the Director no new whelk endorsements for 2013 failed. The vote was (2) in favor: (R. Hittinger, D. Monti); (4) opposed: (R. Bellavance, K. Booth, J. Grant, and W. Mackintosh, III). The motion failed 2/4.

J. Grant made a motion to recommend to the Director no new whelk endorsements, except to allow those "actively fishing"* commercial fishing license (CFL) or principal effort license (PEL) holders with a quahaug and/or a soft-shell clam endorsement as of the immediately preceding year (2012) to obtain a whelk endorsement in 2013. *(Note: With "Active Fishing" meaning fished at least 75 days in the preceding two calendar years). W. Mackintosh, III seconded the motion.

B. Ballou asked for a vote. The Council voted in favor to recommend to the Director, no new whelk endorsements, except to allow those “actively fishing”* commercial fishing license (CFL) or principal effort license (PEL) holders with a quahaug and/or a soft-shell clam endorsement as of the immediately preceding year (2012) to obtain a whelk endorsement in 2013. *(Note: With “Active Fishing” meaning fished at least 75 days in the preceding two calendar years). The vote was (5) in favor: (R. Bellavance, K. Booth, J. Grant, D. Monti and W. Mackintosh, III); opposed: (none); abstained: (1) (R. Hittinger). The motion passed 5/0/1.

B. Ballou asked the Council if there were any objections to recommending to the Director the adoption of the 2013 Management Plan for the Shellfish Fishery Sector. There were not objections from the Council.

d) Finfish Management Plan and licensing

M. Gibson noted he was still comfortable with the proposed 1:1 exit/entry ratio, however should any of these other critical quota species take a further down turn then the Division might reconsider that the next time around.

B. Ballou asked if there was a motion.

D. Monti made a motion to recommend that the Director remain with the status quo of a 1:1 exit-entry ratio applied to active, eligible licenses (MPLs + PELs w/RFF) that retired – allowing for 6 new PELs with restricted finfish endorsements to be made available in 2013. R. Bellavance seconded the motion.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director remain with the status quo of a 1:1 exit-entry ratio applied to active, eligible licenses (MPLs + PELs w/RFF) that retired – allowing for 6 new PELs with restricted finfish endorsements to be made available in 2013. In favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.

B. Ballou asked the Council if there were any objections to recommending to the Director the adoption of the 2013 Management Plan for the Finfish Fishery Sector. There were not objections from the Council.

e) Crustacean Management Plan and licensing - Lobster

M. Gibson commented there were additional trap cuts coming; fishermen with allocations will lose 25% up front. He indicated there was no room for any additional endorsements here. We needed to get Addendum XVIII in place. B. Ballou indicated trap transferability would be the next step for RI.

R. Bellavance made a motion to recommend that the Director remain with status quo for the lobster fishery - no new lobster endorsements for 2013. R. Hittinger seconded the motion.

B. Ballou asked for a vote. The Council voted unanimously to approve the motion to recommend that the Director remain with the status quo for the lobster fishery - no new lobster endorsements for 2013. In favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.

B. Ballou asked the Council if there were any objections to recommending to the Director

the adoption of the 2013 Management Plan for the Crustacean Fishery Sector. There were not objections from the Council.

2) Amendments to the “Commercial Fishing Licensing Regulations”:

a) Amendments to the definitions for: “Actively Fishing” (sections 5.1 and 6.7-11):

B. Ballou explained this pertained to multiple day trips and the two options would provide more flexibility for an applicant who wished to claim that they had been fishing for 75 days although they may not have 75 landing slips. This could be verified by VTR’s only (option #1), or option #2, by VTR’s and/or State logbooks.

K. Booth indicated that option #1 provided a benefit toward one sector of the fishery and questioned if the problem was in the 75 days, not how you count them. His position was to look at a percentage of total fishable days when you combined all the species. He pointed out that he did not know if there was a spot in the state logbook to enter over night fishing such as one might do when fishing for striped bass at Block Island. He noted, if the Department went with option #2 they would have to clarify when the logbooks were mailed out that this was how you would log your overnight or two trips. He reiterated that we should address the 75 days not the different ways to try to get there.

R. Bellavance indicated there needed to be a definition for what a “day” was.

B. Ballou clarified a “day” was a calendar day, a 24-hour period that begins at 12:01 AM and ends at midnight. The Council did not agree with this definition for a multiple day trip.

B. Ballou commented if this were to be adopted the Department may have to modify the logbooks to allow a report to capture multiple day trips.

There was further Council discussion on the issue.

J. Grant made a motion to recommend that the Director adopt (option #1) as an amendment to the definition for “Actively Fishing” which states , “Additionally, actively fished days may be demonstrated via [Option 1] one or more Vessel Trip Reports, which specifically reference the license holder’s name and license number, and correspond to dated transaction records, as verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity.” Along with a request that the Division look into modifying the state logbooks to allow state water fishermen the ability to claim multiple day trips via the state logbook. R. Bellavance seconded the motion.

J. Grant stated they also needed to come up with a definition for “day” as it pertains to VTRs, would it be per a 24-hour period? He also noted if there was a date and time sailed and a date and time returned that would also work.

K. Booth made a point that his concern was that he could be a mate on a boat and not hold a license but try to line himself up to get one and count days at sea, but as a license holder in a state water fishery he could not get the credit to maintain his license. He commented that he preferred option #2 because he felt it could be put together to get a logbook modified for this coming year. Otherwise, we would be two years behind.

J. McNamee stated the Division would need to check to make sure there were no compliance issues with ACCSP with the logbook format.

There was further Council discussion on the issue.

K. Booth asked J. Grant if he would accept a friendly amendment. If the mechanism to change the logbooks is within the Division's authority to modify it then can we put it in effect for this year?

J. Grant stated he would accept the friendly amendment if K. Booth could give a definition for a multiple day trip for a state water license holder.

B. Ballou indicated that the Council could give guidance to the Division for the definition of a multiple day trip for a state water license holder.

There was Council discussion to table or postpone the item until the next Council meeting in November until a definition could be developed.

K. Booth made a motion to table action on the motion until the Division could come up with a definition for the term "day" and bring back to the Council in November so it could be acted upon prior to December 31. W. Mackintosh, III seconded the motion.

M. Gibson cautioned the Council about wanted to modify the state logbooks, indicating there may be a lot of things that we may not have thought through such as adhering to ACCSP standards, and whether we could get a vendor in a timely fashion to modify the logbooks and get them printed in a time for the 2013 season. He also stated we would need to make sure fishermen were aware of the modifications and that they fill the logbooks out correctly.

The Council had a brief discussion about the timeframe in which to make changes to the licensing regulations and once filed could they make further alterations. It was pointed out that once regulations were filed there was a 20-day wait period before any other changes could be made.

J. Grant indicated he would like to work through the issue this evening since there was a short window before these regulations needed to be filed. He offered a definition for a "day" which was any 24-hour period or part thereof.

There was Council discussion about what that definition would mean.

B. Ballou asked for a vote on the motion offered by K. Booth, to table action on the motion until the Division could come up with a definition for the term "day" and bring back to the Council at the next meeting in November. The vote was (2) in favor: (K. Booth and R. Hittinger); (4) opposed: (R. Bellavance, J. Grant, D. Monti and W. Mackintosh, III). The motion failed 2/4.

B. Ballou indicated they were back to the main motion, which was J. Grant's motion.

J. Grant requested to perfect his motion to include his definition for a "day". R. Bellavance agreed to the perfected motion since he had seconded the original motion.

B. Ballou asked for a vote on the perfected motion, which was to recommend that the Director adopt (option #1) as an amendment to the definition for "Actively Fishing" which states , "Additionally, actively fished days may be demonstrated via [Option 1] one or more Vessel Trip Reports, which specifically reference the license holder's name and license number, and correspond to dated transaction records, as verified by dealer reports to the Department; where such reports verifiably reflect two or more calendar days at sea during a single trip, those days may be used to establish fishing activity." Along with a request that the Division look into modifying the state logbook to allow state water fishermen the ability

to claim multiple day trips via the state logbook. Also to include the definition for the term “day” to mean “any 24-hour period or part thereof”.

K. Booth pointed out that option #1 only pertained to federal VTRs and did not pertain to state logbooks therefore it did not matter what the Department came up with for logbooks since logbooks do not enter in to option #1. He commented that whether you do it or not was irrelevant.

The vote was (4) in favor: (R. Bellavance, J. Grant, D. Monti and W. Mackintosh, III); (1) opposed: (K. Booth); and (1) abstention: (R. Hittinger). The motion passed 4/1/1.

b) “Family Member” (section 5.27):

K. Booth made a motion to recommend that the Director adopt the amended definition for “Family Member”. R. Hittinger seconded the motion.

B. Ballou asked for a vote. The vote was (5) in favor: (R. Bellavance, K. Booth and R. Hittinger, D. Monti and W. Mackintosh, III); (none) opposed. The motion passed 5/0. (Note: J. Grant was out of the room for the vote and therefore did not vote on this item.)

c) Licensed Captain (section 5.43):

R. Hittinger made a motion to recommend that the Director adopt the amended definition for “Licensed Captain”. D. Monti seconded the motion.

B. Ballou asked for a vote. The vote was (5) in favor: (K. Booth, R. Hittinger, D. Monti, J. Grant, and W. Mackintosh, III); (1) opposed: (R. Bellavance). The motion passed 5/1.

d) Provision to allow non-expiration of commercial fishing licenses for Active Duty Military (section 6.7-4(j)): **D. Monti made a motion to recommend that the Director adopt the provision to allow non-expiration of commercial fishing licenses for Active Duty Military. J. Grant seconded the motion. B. Ballou asked for a vote. The Council voted unanimously to recommend that the Director adopt the provision. In favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.**

e) Proposal to create a Research Set Aside (RSA) Endorsement:

M. Gibson explained there were a number of problems with regard to the Research Set Aside (RSA) program such as reporting, and separating the RSA allocations out from state assigned quota. Staff spends a lot of time trying to track and separate out the RSA information. He commented the Division was trying to address cost recovery for the amount of staff time in tracking RSA information, and also create a stronger incentive for individuals to properly report since their endorsement may not be renewed.

J. Grant made a motion to recommend that the Director create a Research Set Aside endorsement. D. Monti seconded the motion. B. Ballou asked for a vote. The Council voted unanimously to recommend that the Director create a Research Set Aside endorsement. The vote was (6) in favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.

3) Proposed Regulations Implementing the RI Recreational Saltwater Fishing License:

B. Ballou stated this was a do over on a set of proposed regulations that went through the full hearing process and Council consideration last year but was not acted on. Too much time had lapsed and therefore the Department needed to re-notice the proposed regulations. Ballou explained it was the same information the Council reviewed last year.

The Division did not offer any comments on these items.

R. Hittinger made a motion to recommend that the Director adopt the proposed regulations implementing the RI Recreational Saltwater Fishing License. D. Monti seconded the motion.

B. Ballou asked for a vote. The Council voted unanimously to recommend that the Director adopt the proposed regulations implementing the RI Recreational Saltwater Fishing License. The vote was (6) in favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.

4) Proposed Vessel-Based Regulations:

B. Ballou stated this was the same scenario that he just described in terms of why it is before the Council. He reviewed a chronology that started back in 2009 of how this issue began per a request from industry to clarify provisions for fishing from a vessel in various modes.

K. Booth stated he was not in favor of producing regulations that were not going to be productive or solve a problem. He felt the goal was to define the problem then see if these regulations address the problem. He noted some of the issues that these regulations needed to address were if illegal fish were getting to the market and if people were catching more than their limits. Booth also noted that unless the Department was going to increase their enforcement capabilities all this would be words on paper. He felt the only people who would be restrictive by this were the people who were following the rules already.

There was Council discussion as to whether these regulations were resolving the issues.

B. Ballou summarized that the intent was to try to come together with something to address some of the concerns that many had for fishing in different modes. He noted that ultimately we all came to a consensus with a set of rules and regulations that would set the foundation for what you could or could not do. He explained this puts in writing what has never been in writing and aims to address some of the confusion with this issue.

R. Bellavance commented that people are going to need to declare when they leave the dock whether they are fishing recreationally or commercially and that's that.

J. Grant agreed with R. Bellavance and noted that MA has the same regulations where you cannot be both (commercial and recreational) in one trip.

D. Monti indicated he liked the fact that you needed to declare how you were fishing.

K. Booth explained that unless the Department allocated resources for enforcement he felt these regulations would not change anything, except for that ability for taking some fish home to eat.

S. Parent suggested three possibilities to rectify these inequities: (1) in section 10.2(d) if we were to insert the language "fee paying" after "the total number of", and delete sub-item (e); or (2) leave 10.2 as it is and add sub-items (g) "a commercially declared vessel fishing in commercial mode may possess two fish of each species that is closed commercially but is open recreationally for their own consumption; or (3) sent this entire proposal back to committee for a fresh look.

M. Gibson pointed out that if the two fish exemption were used it would compromise the recreational and commercial data programs, because if a commercial vessel is allowed a special exemption to take home a recreational catch for his own consumption he would not be interviewed by a MF agent. An agent would not be interviewing a commercial boat. These fish caught recreational would not be subject to an interview, and he felt it would also cause problems for enforcement.

W. Mackintosh, III made a motion to recommend that the Director adopt all four parts of the proposed vessel based regulations in section 10. R. Bellavance seconded the motion. B. Ballou asked for a vote. The Council voted unanimously to recommend that the Director adopt all four parts of the proposed vessel based regulations in section 10. The vote was (6) in favor: (R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, and W. Mackintosh, III). The motion passed 6/0.

Appointment of Advisory Panel member – N. Scarduzio:

Since the primary slot as the Fish Pot representative on the Scup/Black Sea Bass AP was open, T. Baker had requested to move up to the “Primary” slot from the “alternate” slot.

K. Booth made a motion to appoint T. Baker to the Primary slot as the Fish Pot representative on the Scup/Black Sea Bass AP. W. Mackintosh, III seconded the motion.

B. Ballou asked Council members if there were any objections to approving this appointment as indicated. There were no objections to appointing T. Baker, therefore he was appointed.

Discussion about filling (2) vacant RIMFC member seats – R. Hittinger:

R. Hittinger voiced concern for the Council being short two members, which were both from the scientific community. He felt to have both of those seats vacant we needed to reach out to URI, or Roger Williams College, or somebody who had fisheries programs who would be able to recommend someone to step up and serve. B. Ballou stated he had reached out to both URI and Roger Williams College and got absolutely no interest what so ever. He commented he had worked hard to try to find candidates. Ballou indicated that we needed to try to line people up soon so they could be submitted for this coming legislative process. B. Ballou encouraged Council members to reach out to their contacts to try to find candidates.

J. Grant suggested Save the Bay should be contacted. B. Ballou stated he would look in to that and also The Nature Conservancy.

Approval to schedule a Shellfish AP meeting – J. Grant:

J. Grant stated some of the Shellfish AP members have seen what they would consider inconsistencies with water quality closures and openings and wanted to know if they could meet with someone from Water Resources about what the standards are and they thought by having a SAP meeting that might be an appropriate forum. J. Grant wanted to know if they could just have an informal meeting or if it needed to be held as a SAP meeting.

B. Ballou asked Council members if there were any objections to J. Grants idea to have a meeting. There were no objections from the Council to hold a SAP meeting. B. Ballou indicated that staff would contact Water Resources and coordinate with J. Grant on a date and time.

FYI

A notice for an informational meeting for the fishing community regarding the Deepwater Wind farm project – R. Bellavance:

R. Bellavance stated he wanted to remind people there was an informational meeting on Tuesday, October 9, 2012 at 4 PM hosted by Deepwater Wind for the fishing community. He noted an announcement had also been sent our via the DEM/DFW listserve.

New federal regulation for commercial fishermen to obtain a Safety Decal if fishing in the EEZ – R. Bellavance:

R. Bellavance stated there was a new requirement that all commercial vessels fishing in the EEZ must obtain a safety decal. He noted that only a few people conduct the examination so people

should plan accordingly.

B. Ballou asked if there was any other business to come before the Council.

Ballou asked if there were any objections from Council members to adjourn the meeting. Hearing none, the meeting was adjourned.

Meeting was adjourned at approximately 9:25 PM.

Nancy E. Scarduzio, Recording Secretary