

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Minutes of Monthly Meeting**  
**January 7, 2008 – 6:00PM**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road**  
**Narragansett, RI**

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

RIMFC Member(s) Absent: S. Macinko

Chairperson: M. Gibson

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

DEM Staff: Director Sullivan, L. Mouradjian, R. Ballou

DEM Legal Counsel: G. Powers

Law Enforcement: Chief Hall

Public: 30 people attended

Chairman M. Gibson called the meeting to order. M. Gibson stated there were some adjustments to make on the agenda. Gibson stated that K. Ketcham wanted to talk about the February 11, 2008 Council meeting whether there would be a quorum or if that meeting was necessary, that item was added to the agenda under FYI (c). Gibson added an additional item under 3(g), which was a letter of resignation from J. Low notifying the Council that he would be moving and would not be able to serve on the various advisory panels any longer. Gibson asked if there were any objections to amending the agenda as described. Hearing no objections, he stated they would proceed with the agenda as amended. **There were no objections to approving the agenda as modified therefore the agenda was approved as modified.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the December 3, 2007 meeting. M. Gibson asked if there were any discussions or modifications to the minutes or was there a motion to approve the minutes. **J. King made a motion to approve the minutes. G. Allen seconded the motion. M. Gibson asked Council members if there were any objections to approving the December 3, 2007 meeting minutes as written. There were no objections therefore the minutes were approved as written.**

**New Business:**

*Council recommendations on January 3, 2008 Public Hearing:*

In a power point presentation to Council members, J. McNamee summarized the public hearing item: Proposed alternative plans for the opening schedules of the RI Shellfish Management Areas

1) *Proposed alternative plans for the opening schedules of the RI Shellfish Management Areas:*

**J. King made a motion to recommend to the Director to adopt the status quo for all shellfish management areas other than Greenwich Bay. G. Allen seconded the motion.**

**Gibson called a vote on the motion to recommend to the Director to adopt the status quo for all shellfish management areas other than Greenwich Bay. The motion passed unanimously.**

**J. King made a motion to recommend to the Director to adopt the May opening (week before Memorial Day weekend) for Greenwich Bay. D. Preble seconded the motion.**

**Gibson called a vote on the motion to recommend to the Director to adopt the May opening (week before Memorial Day weekend) for Greenwich Bay. The motion passed unanimously.**

**J. King made a motion to recommend to the Director to adopt option 3 as presented at public hearing (first six openings at 2 hours and second six openings at 3 hours, to be followed by normal schedule of 4 hour openings) for Greenwich Bay. S. Parente seconded the motion.** K. Ketcham offered a friendly amendment to move the opening time from 9:00 AM as indicated in the proposal to 8:00 AM, but maintain the opening duration as indicated in the proposal. The reason for doing this was to ease enforcement and to help out fishermen because all of the management areas would be opening at a similar time. J. King accepted the friendly amendment.

**Gibson called a vote on the motion to recommend to the Director to adopt option 3 as presented at public hearing (first six openings at 2 hours and second six openings at 3 hours, to be followed by normal schedule of 4 hour openings) for Greenwich Bay with the friendly amendment to open Greenwich Bay at 8:00 AM while keeping the opening duration as indicated in option 3. The motion passed unanimously.**

*Approval of Scup/Black Sea Bass AP Agenda – K. Ketcham:*

Gibson asked K. Ketcham if he had determined a date for the meeting. Ketcham indicated the meeting would be held on January 17, 2008. M. Gibson asked if there were any other items for the agenda. Ketcham stated there were no other items brought to his attention. M. Gibson stated this issue would be on the February public hearing and then taken up by the Council at their March meeting. M. Gibson asked if there were any comments from the Council. Hearing none the agenda was approved.

*Approval of Menhaden AP Agenda – S. Medeiros:*

S. Medeiros stated that the agenda and the date had been set. The date was set for January 14, 2008. G. Allen asked what the status was for the menhaden regulations.

J. McNamee explained that the regulation was originally filed as an emergency regulation, which terminated after 120 days. The plan was to let that happen instead of extending the emergency and to come forward early in the year with the actual regulation to go to public hearing. This issue will be on the February public hearing and should be promulgated before the fishery begins.

M. Gibson asked for other comments from the Council. Hearing none the agenda was approved.

*Approval of Groundfish AP Agenda – D. Preble:*

M. Gibson stated that he had put the agenda together for D. Preble since Preble was out of town on New England Council business. Preble explained this would be the initial meeting that would develop in to an important advisory panel. He outlined a list of topics he would like to address at the meeting. Preble also requested the meeting be moved to the Government Center ground floor courtroom.

M. Gibson wanted to mention that the Director has on his desk a request for emergency action on adjustment to the monkfish fish limits. Gibson asked Preble if it was his intention to take the monkfish issue up at the groundfish AP and bring recommendations from that AP back to the Council an then to public hearing.

D. Preble stated that this was his intended course of action and he was against using emergency actions as a way of managing fish. He felt that he could move this issue with in an aggressive timeframe before the fishery takes off in the middle of April – May. He hoped to have regulations in place by then.

J. McNamee commented that there was a February 26, 2008 public hearing and that this item should be on that schedule to meet the aggressive timeframe Preble outlined. McNamee indicated that the groundfish AP meeting would have to be held before January 26, 2008 to meet the 30 days notice requirement.

D. Preble suggested that he could hold the groundfish AP meeting on January 22, 2008 to meet the notice period requirement.

M. Gibson asked for other comments from the Council. Hearing none the agenda was approved.

Director Sullivan commented on emergency regulations for the menhaden fishery. He indicated that to exercise emergency regulations would require that he not have the input from the advisory panel or from the Council. He indicated that moving forward with regulations absent their input would be less desirable. He asked Preble and the Council to put the issue on an aggressive timeline and bring it back to him with recommendations.

D. Preble asked for clarification in meeting the timeline. He wanted to know if the Council took action on the menhaden issue at the March meeting where would that leave them in terms of the action needed by the Director in implementing the regulations.

J. McNamee explained that he would turn the information around as quick as possible and try to get the package up to the Director's office the next day so the Director would have a week to review the information. J. McNamee stated that the regulation would go into effect in 20 days after the filing date.

Director Sullivan indicated that if they could meet this challenge he would try to turn it around in 72 hours.

M. Gibson asked for other comments from the Council. Hearing none the agenda was approved.

*Discussion to add a bait & tackle slot to the Summer Flounder AP – D. Preble:*

D. Preble stated that he had a request from M. Bucko to add a bait shop person to the summer flounder AP. Preble stated that he thought it was a reasonable request. He recommended moving forward with the request. **D. Preble made a motion to add a bait and tackle slot to the summer flounder AP. J. King seconded the motion.**

M. Gibson stated that he had received a telephone call from I. Parente urging the Council not to adding this slot because Parente felt that every fishery had an associated provider of gear and once people go down this road you would need to have every provider represented on all the advisory panels. Gibson stated he was passing this on to Council members per I. Parente.

M. Gibson asked for Council discussion on the motion. There was no discussion from the Council. He then opened up discussion to the audience.

S. Parente (gillnetter) stated that he wanted to reiterate what his son I. Parente had stated. Both felt that once we go down this road where would it stop. He was concerned that this would tip the balance of the AP and feared different user groups would stack the panels in their favor.

M. Bucko pointed out that some of the other advisory panels already had a bait and tackle slot such as the scup/black sea bass AP, tautog AP, and winter flounder AP and felt that this sector was a good source of information.

D. Preble explained that the advisory panels serve the Council by providing advice. The AP's do not make any decisions themselves and therefore the Council relies on input from the various sectors. He stated he was in favor of obtaining as much information from as many sources as possible.

S. Medeiros stated he did not have a problem with adding a bait and tackle slot. He indicated that bait and tackle interests would not do anything to hurt any recreational issue.

M. Gibson asked if the Council wanted to consider this issue tonight or if they would like to postpone the issue until members had more time to look in to the situation.

Council member S. Medeiros suggested the Council deal with the issue now because the Council already had a number of advisory panels with a bait & tackle slot.

K. Ketcham stated he would like to postpone the discussion until he had an opportunity to discuss the issue with others from the commercial fishing industry.

M. Gibson indicated that only one person wanted to postpone and there was more of a consensus to move forward unless K. Ketcham wanted to make a motion to postpone this topic until the next meeting.

**K. Ketcham made a motion to postpone action on adding a bait & tackle slot to the summer flounder AP until the next meeting. There was no second to the motion, therefore the motion failed.**

**M. Gibson called a vote to add a bait and tackle position to the summer flounder advisory panel. The motion passed; six (6) in favor (D. Preble, J. King, S. Medeiros, C. Anderson, S. Parente, and G. Allen) and one (1) opposed (K. Ketcham).**

*Discussion whether to add a Scientific Advisor slot to the IAC – M. Gibson:*

M. Gibson explained that J. Gates had expressed an interest in serving on the IAC and currently there was no slot for a scientific advisor. Gibson stated he had Attorney G. Powers review the statute to give an opinion as to whether a scientific advisor was precluded since it is not specifically mentioned.

Attorney G. Powers explained there were no restrictions that would preclude the Council from permitting a scientific advisor from being added to that committee. He indicated that the IAC serves at the Council's pleasure, therefore if the Council was of a mind to add this position it could do so.

D. Preble commented that he would like to hear justification for a scientific advisor to serve on the IAC, but had not heard any justification. He felt that it was an "industry" advisory panel.

M. Gibson asked if J. Gates would like to address the Council.

J. Gates stated that he did not intend to break new regulatory grounds but he had served on the New England Council Industry Committee so he assumed it would be similar.

K. Ketcham stated that he was in agreement with D. Preble that this was an industry based committee.

G. Allen asked what the charter was for the IAC.

Attorney Powers read the statute to the Council outlining the role of the IAC.

M. Gibson polled the Council as to how they would like to proceed.

D. Preble stated the structure of the state advisory panels was different from the New England Council's advisory panels. Preble indicated that he was against adding a scientific advisor to the IAC.

G. Allan agreed with D. Preble and commented that he did not think the IAC needed a scientific advisor position.

M. Gibson asked if there was a motion in favor of adding a scientific advisor position to the IAC. There were no motions made in favor, therefore the Council declined to add a scientific advisor position to the IAC.

*Review of applications for Advisory Panel positions – N. Scarduzio:*

N. Scarduzio stated that Council members had four applications in their packets from candidates interested in open advisory panel positions. She indicated that three applications were for the gillnet-inshore (state permitted only) slots on the groundfish AP. She indicated that DEM Law Enforcement had reviewed all applications and all were eligible to participate. Of the three applications, two would need to be selected to fill the primary and alternate positions.

M. Gibson asked Council members to select a candidate to fill the primary position first. He asked for a Council nomination.

**S. Parente made a motion to nominated R. Fuka for the primary gillnet-inshore (state-only) slot on the groundfish AP. J. King seconded the motion.**

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

M. Gibson asked for audience comments. There were no comments from the audience.

**M. Gibson asked Council members to vote on the motion to nominate R. Fuka for the primary gillnet-inshore (state-only) slot on the groundfish AP. The Council voted unanimously to approve the motion.**

M. Gibson asked for nominations for the alternate gillnet-inshore slot.

S. Medeiros offered a suggestion since S. Parente (gillnetter) had checked off several other advisory panels that he was interested in serving on that the Council place P. Duckworth in the alternate slot and place S. Parente on one of the other panels where there were openings.

Council member S. Parente indicated that he thought the policy was for the primary person to select his own alternate.

There was some discussion between Council members as to how the alternate position should be filled. K. Ketcham stated that he wanted Council members to select the alternate position.

**S. Medeiros made a motion to nominate P. Duckworth as the alternate for the gillnet-inshore slot. J. King seconded the motion.**

D. Preble stated that he had the species advisory panel policy with him and wanted to get a legal opinion before the Council proceeded. He read the policy outlining that the AP members could nominate individuals but that only the Council could appoint a person.

G. Powers stated that to nominate a person was as D. Preble indicated, a suggestion, which would then be acted upon by the Council. It would not be a decision that would be exclusive to the Primary seat holder.

M. Gibson stated that the Council has not given the primary candidate, R. Fuka, the opportunity to make a suggestion for a nomination. Therefore, Gibson suggested the Council put off action until R. Fuka had an opportunity to bring forward a nomination for the next Council meeting.

N. Scarduzio went on to review the next application from R. Redinger for the hook and line recreational alternate slot on the winter flounder advisory panel.

M. Gibson asked if there were any objection from Council members to appointing R. Redinger to the winter flounder AP. There were no objections, therefore he was appointed.

M. Gibson asked staff to create a list of AP openings for Council consideration at the next meeting.

M. Gibson addressed one other AP issues, which was whether to combine the winter flounder AP with the groundfish AP. Gibson had discussions with both G. Allen and D. Preble and Gibson felt the winter flounder AP should remain available to the Council given there might be important state water issues that come up. He also recognized there may be issues that come from the New England Council that may be channeled to the groundfish AP. He opened the floor for Council discussion.

G. Allen stated he concurred with M. Gibson. He felt there were significant winter flounder issues in state waters that warrant a winter flounder AP. There were clearly enough separate issue to keep both advisory panels separate. G. Allen asked K. Ketcham to weigh in since he was the co-chair of the winter flounder AP.

K. Ketcham voiced similar concerns as G. Allan and felt the two advisory panels should be kept separate.

D. Preble also agreed the two should remain separate.

M. Gibson stated since there was a consensus with Council members the two advisory panels would remain separate. There was no interest in combining the two advisory panels.

### **Old Business:**

#### *Marine Fisheries legislation – B. Ballou:*

B. Ballou commented that since the last Council meeting he and the Director had met with the Governor's staff for a preliminary review. He had relayed to the Governor's staff that the Council had reviewed and endorsed the legislative proposals. Ballou indicated that the Governor's staff suggested they continue development of the proposals. The next step would be to put these proposals in to draft legislative form for a legislative bill or bills, which would then go back to the Governor's office for review. He anticipated by the next Council meeting he might have a better sense if this would be ready to go forward as an actual bill. Ballou stated that he was still open for suggestions and input and that audience member S. Parente (gillnetter) was the only individual that had contacted him so far.

K. Ketcham asked B. Ballou if dealers would be incorporated in the mix pertaining to penalties and fines imposed. B. Ballou acknowledged that was true, they would be included.

There was some brief discussion between Council members and the Director about licensing and observers on vessels.

M. McGiveney wanted clarification from B. Ballou about when licensing restructuring might occur if it would start this year (2008), or if we are just going to discuss restructuring for now.

Director M. Sullivan responded to the question stating that the items listed on the last page, Proposed 2008 Policy Initiatives Relating to Marine Fisheries, would not be initiated at the department level this year. He indicated that it was the department's intention to get people together to talk about some of these issues the coming year and the following year.

**Other Business:**

*Discussion on winter flounder – G. Allen:*

G. Allen wanted to advise Council members on the status of winter flounder in Narragansett Bay and some of the issues he had noticed. He spoke about the Narragansett juvenile finfish survey and some of the other surveys conducted by the Division of Fish and Wildlife and that the surveys for the winter flounder population continue to remain at a low biomass. He explained that the winter flounder population in the Bay has been in a collapsed condition for some years. He reviewed some additional information about the stock assessment of winter flounder

He indicated that this was a quick review and that the state of winter flounder was not good. He reviewed some handouts that he had passed out to Council members regarding Brayton Point.

G. Allen indicated that the cooling water withdrawal, which is the drawing of cooling water in to the plant, the intake for that water has had a tremendous impact on winter flounder and many other fish species.

G. Allen outlined a number of other issues affecting the winter flounder population. He reminded Council members that there was an unregulated bag limit on winter flounder in stated waters. Boats fishing in state waters had to use a six-inch mesh but there were no bag limits or quotas and the same goes for the gillnetters. He felt the unregulated no bag limits needed to be addressed. He commented he just wanted to bring these items to the attention of the Council again to keep them updated.

M. Gibson asked for comments from Council members and asked G. Allen where he would like to go with this issue.

There was some discussion from Council members about learning about gear technology, etc.

M. Gibson asked if there were any objections from Council members to having staff contact URI fisheries staff, possibly D. Beutel, to give a presentation on gear technology and come up with a line up of informational presentations for members to review for the next meeting. There were no objections in proceeding in that direction.

**FYI:**

*Correspondence from Sheldon Whitehouse to USCG – M. Gibson:*

M. Gibson commented that this article and letter was courtesy of G. Duckworth and was included in Council packets. He stated that G. Duckworth had passed this information out to Council members at the last Council meeting and asked Council members to be aware that there was an investigation underway of the U.S. Coast Guard's administrative law system. There were allegation that the Coast Guard administrative law judges had been pressured by the agency's chief judge to rule in favor of the Coast Guard in court proceedings.

M. Gibson stated that he did not feel that the Council needed to take action at this time. He also indicated that he had made the DEM legal staff aware of the issue. Gibson would keep Council members updated based on the outcome of findings. He asked if the Council had any questions or comments. There were no comments. Gibson asked G. Duckworth if he would like to address the Council on the matter.

G. Duckworth stated that he had first heard about this issue from his attorney. He stated that anyone who had been brought up on federal charges had their case hear by an administrative

judge. He indicated that he had read an article from the Baltimore Sun and summarized the article for the Council.

*Notice of newly developed Marine Fisheries Listserve – N. Scarduzio:*

N. Scarduzio explained that both she and J. McNamee had been working on the development of a listserv for RI marine fisheries meeting notices and it was now operational. She indicated that notices to sign up for the listserv were mailed out with the last Council meeting notice. She explained that the notice outlined how to sign up for the listserv service. She also encouraged audience members to sign up for the listserv and had instructions on how to sign up available on tables located in the entrance hall. She explained that the intent for the listserv was to reduce the number of large mailings and expedite the meeting notice process. The listserv would be used for distributing RI Marine Fisheries related meeting notices.

M. Gibson had one other item related to advisory panels that he had not addressed earlier. Staff had received a letter from J. Low stating that he was moving away from the area and had to resign from serving on the various advisory panels. Gibson asked the Council to give the Division guidance in replacing J. Low's positions on all the various AP's.

M. Gibson asked the Council if they wanted staff to go ahead with the process of filling his positions.

Council member S. Parente stated that he had been taking over many of the responsibilities for J. Low concerning the RI Commercial Rod and Reel Association. He indicated that he would be out of state for a couple of months and would be at a disadvantage to try to get rod and reel people to replace J. Low's various AP positions. He stated he would do his best but did not want to rush any nominations.

S. Medeiros suggested that in the cases where J. Low was a primary seat holder, contact the alternate to see if the alternate would want to move to the primary position.

M. Gibson stated staff would go forward with that guidance and contact the alternates for J. Low to see if they would like to move up to the primary slot. For those slots not filled by an alternate, staff would advertise to fill any remaining positions.

M. Gibson addressed the last item of the evening, which was whether there would be a quorum for the February Council meeting, or not. K. Ketcham indicated that he would be in Florida at that time, and S. Parente would not be available. Ketcham stated that in the past the Council has not had a quorum so he wanted to know the availability of other members. D. Preble stated that he would be attending New England Council meetings that week and would not be available.

M. Gibson suggested that staff would have to go through the schedule to see what timely matters there were such as public hearing items that needed to be addressed. He indicated that staff would contact Council members to let them know if there would be a meeting or not.

M. Gibson asked if there were any other matters to come before the Council.

G. Duckworth commented that this year the licensing renewal process seemed rather confusing with the regulation changes for the submission of federal logbooks to the state, the state recording requirements, and people not being up to date with logbooks and trying to renew their

licenses. He stated that he had noticed that the state penalties were as drastic as being thrown in jail. He wanted to know if the state was going to enforce this and start throwing people in jail. He explained that he knew how tough the federal government was and wanted to know if the state would do the same. He stated that he would like to see something written in to the state system that before someone goes to jail they would be notified that they were not in compliance.

M. Gibson responded by informing G. Duckworth that the state is very serious about collecting logbook data because it is essential to the fishery management process. He stated that the state has had lobster logbooks for some time and are requiring logbooks for other species. Gibson indicated he would look in to the issue but felt that not too much would change the requirements for individuals having to submit that information.

M. Gibson pointed out that the state system is a little different from the federal system since license renewal is on an annual basis. If fishermen do not meet the requirements they are not eligible to renew their license, so they know if they are out of compliance or not.

M Gibson asked if there was any other business to come before the Council. Hearing none, the meeting was adjourned.

The Chairman adjourned the meeting.

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Nancy E. Scarduzio, Recording Secretary