

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
August 3, 2009 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: R. Hittinger, C. Anderson, J. King, K Ketcham, S. Parente,
D. Preble, S. Medeiros
RIMFC Member(s) Absent: S. Macinko
Chairperson: R. Ballou
RIDEM F&W Staff: N. Scarduzio, M. Gibson, J. McNamee, D. Erkan, E. Schneider
DEM Staff: G. Powers, L. Mouradjian
DEM Enforcement: Chief S. Hall
Public: 16 people attended

Chairman B. Ballou called the meeting to order. In memoriam of Lou Ricciarelli, J. King offered reflections about L. Ricciarelli, which was followed by a moment of silence in his honor.

B. Ballou asked if any Council member had any changes to the agenda. K. Ketcham requested that while the Council addressed the Industry Advisory Committee (IAC) issues under item 6, they also discuss replacing an IAC member who no longer attended meetings. J. King asked if there were any updates to the EEZ issue. B. Ballou indicated he was not prepared to address that issue tonight since the Director would need to be present to address any updates; therefore, it was not added to the agenda. Ballou indicated this could be an agenda item for the next Council meeting. He asked if there were any other modifications to the agenda. There were no modifications the agenda was approved.

The next agenda item pertained to DEM, Division of Fish and Wildlife (DFW) updates, in particular, new roles and positions. L. Mouradjian, Associate Director of DEM, reviewed some of the issues that had occurred over the last year or so which resulted in a reduced staff for the DFW. He stated that three biologist had been hired in the marine fisheries section to replace some of the staff who had either left or retired. He outlined a number of changes which had been made by the Director including; the appointment of B. Ballou as Acting Chief of DFW. Mouradjian indicated that the Director had visions of making the marine fisheries section into a stand-alone entity at some point, to better address the needs of the Council and industry. He went through some of the consolidations that had occurred throughout DEM to streamline operations. Mouradjian indicated that the Director was committed to strengthening the marine section. He stated that M. Gibson was now chief research scientist to help strengthen the science aspect of the marine section, and B. Ballou would be the Chairman for the Rhode Island Marine Fisheries Council, acting on the Director's behalf. He felt the department was making some progress but still had to overcome anticipated cuts slated for the next fiscal year.

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the May 4, 2009, meeting. B. Ballou asked if there were any objections to approving the minutes. C. Anderson stated that on page ten regarding the

appointment of a new member to the scup/black sea bass AP that J. Grant was appointed to a primary position not an alternate position. B. Ballou requested that the May 4 minutes be amended to reflect the change from “alternate” to “primary”. Ballou asked for any other comments or changes and if none, asked for a motion to approve the minutes as amended. **R. Hittinger made a motion to approve the minutes with the amendment made by C. Anderson. J. King seconded the motion. B. Ballou asked for a vote to approve the minutes. The Council voted unanimously to approve the minutes from the May 4, 2009 Council meeting as amended.**

Public Comments

There were no comments from the public.

Advisory Panel Reports

Industry Advisory Committee (IAC) (7/21/09) – K. Ketcham:

K. Ketcham summarized the minutes from the IAC meeting. The group reviewed commercial licensing measures for 2010. The group developed several proposals, which all went forward for recommendation to the Council. The proposals were as follows; for the restricted finfish fishery – the group recommended status quo to make 3 new CFL w/RFF licensed available for 2010 using the 5:1 exit/entry ratio and making 3 the minimum number based on filling license categories. For the quahog sector – the group recommended a new standard, which was to apply a 3:1 exit/entry ratio to MPLs and PELs with a quahog endorsement that retired to make 16 new CFLs available for 2010. For the soft-shell clam sector - the group recommended a new standard, which was to apply a 5:1 exit/entry ratio to all retired licenses to make 17 new CFLs w/SS clam endorsement available for 2010. The group made no specific recommendations for the lobster fishery.

K. Ketcham also stated there was lengthy discussion about rod & reel issues and listed each topic discussed. Charter/party boat operations fishing commercial when not engaged in charter operations, daily and trip limits for charter/party boat operations, limits on number of rods and reels employed during commercial rod and reel operations, limits on number of fishermen engaged during commercial rod and reel operations. He indicated that the group wanted to continue discussion on the rod & reel issues therefore, a meeting was scheduled for August 5, 2009.

B. Ballou stated that the department would now take in to consideration the licensing proposals generated from the IAC and prepare options for a public hearing in October.

B. Ballou addressed K. Ketcham’s earlier request to replace an IAC member who no longer attended meetings. He indicated that the Council could discuss the matter but no action could be taken since it was not an agenda item. It could be put on the agenda for the next Council meeting and the Council could take action at that time. K. Ketcham indicated that P. Westcott has not been fishing for about a year and he was an inactive member on the IAC and would like to have his seat filled for even representation. K. Ketcham wanted to recommend S. Arnold to take his place.

B. Ballou suggested that the Council advertise the position by having staff send a notice out to solicit interested individuals. This would allow the Council to review candidates and make a selection. There were no objections from Council members on this course of action.

New Business

Updated Policy on Shellfish Aquaculture Lease Review Process – J. King:

B. Ballou introduced D. Beutel who was the new Aquaculture Coordinator for CRMC, replacing D. Alves. J. King indicated that he would like to shorten the review process for shellfish aquaculture leases. He had been working with B. Ballou and D. Beutel on a draft proposal for streamlining the review process, and asked Council members to review the policy and give comments.

D. Beutel commented that he would like to assist in expediting the review process because it is fair for an applicant to want to know sooner than a 4 to 6 month process.

B. Ballou explained that the draft policy contained much of what was already practiced with one notable exception, that the provision would provide an avenue for a Shellfish AP (SAP) recommendation to go directly to the CRMC as the Council's recommendation if the Council were comfortable with that. This process would be applied to straightforward applications. He explained the details of how the process would work. He asked for Council comments.

S. Medeiros stated that he thought it was a good idea and was in support of the policy. He just wanted to know how Council members would be notified if the SAP's met and what they had decided. He wanted to know what the mechanism was for the Council to have the opportunity for the application to come before the Council for review if the Council wanted to give comments.

B. Ballou explained that the policy addressed that concern. Minutes from the SAP meetings would be submitted to the Council so the Council would have full knowledge of what was being considered.

S. Parente had the same concerns of how the Council members would be notified of what the SAP would be considering. He wanted to know if Council members would be provided an email indicating what was going to be considered by the SAP's.

B. Ballou stated that we would provide whatever materials the Council wanted. S. Parente also wanted to receive the opinions of DEM staff included in the packet.

D. Beutel reviewed the 70-day timeline. There was discussion about the timeline.

K. Ketcham had concerns about not having access to charts and materials that showed a proposed lease site. He felt more comfortable if under the new scenario Council members received a packet with all the applicable material rather than an email. He wanted to receive a complete packet so Council members could see what was being proposed.

B. Ballou summarized the Council's concerns by stating that in order for this to work Council members want to be fully informed of all the relevant information including any charts or maps that may be limited through electronic communication.

D. Beutel suggested the simplest way to accommodate that request would be at a step before the preliminary determination (PD) process that was where they usually sent out the bigger packet of information. He stated that the 30-day notice was really a notice to invite you to come in to review the packet on file. He pointed out that CRMC had a two-step notification process.

K. Ketcham indicated it did not matter at what point he got the information in the process he just wanted to make sure he was given all the necessary material so he could review a complete packet and had an opportunity to respond. He wanted assurance that he was able to review the application before it had been decided on by the SAP's, on the Council's behalf.

D. Beutel stated that the PD process is not exactly the full application materials.

B. Ballou stated that he would work with D. Beutel to come up with what the Council was looking for. He suggested they would work to fine tune the policy and bring it back to the Council for review at the next meeting, or the Council can work through it now and get the policy adopted.

Conceptually the Council was on board with the policy. Ballou asked if the Council was ready to make a motion. **J. King made a motion to adopt the policy on the shellfish aquaculture lease review process with the minor details as discussed by the Council being worked out by B. Ballou and D. Beutel. S. Medeiros seconded the motion.**

C. Anderson wanted to make sure that in the event that the Council decided to review the proposal we do not slow it down. Based on the timeline presented, it sounded as though there was a Council meeting where the Council would decide they wanted to review the application and that would then take place at the next Council meeting. Whereas under the current policy, the Council would deal with it right away.

B. Ballou stated that if any member of the Council felt the lease application needed to be reviewed and discussed by the Council it would then be placed on the next Council meeting agenda.

There were some brief comments from the public regarding the clarity of the review process, for instance, if the SAP's gave a negative review on the proposal and it did not go to the Council could the applicant request that it be reviewed by the Council.

B. Ballou stated he would take the comment in to consideration to accommodate a due process procedure. If the SAP's reject the application the applicant can request that the application go before the Council.

J. King agreed to amend his motion to also incorporate the last suggestion, and adopt the policy on the shellfish aquaculture lease review process as amended. A vote was taken, and the Council voted unanimously in favor, the motion passed.

Council issues – AP Chair positions: winter flounder (to replace G. Allen); summer flounder (to replace D. Preble) –B. Ballou:

B. Ballou summarized that there was a need to fill these positions because of scheduled advisory panel meetings coming up in September.

J. King made a motion to appoint R. Hittinger as chair to the summer flounder advisory panel to replace D. Preble. S. Medeiros seconded the motion. The Council voted unanimously to appoint R. Hittinger as chair to the summer flounder advisory panel.

B. Ballou explained that G. Allen and K. Ketcham had been co-chairs of the winter flounder

advisory panel so if K. Ketcham wanted to continue as the chair and the Council was comfortable with that he would entertain a motion.

J. King made a motion to appoint K. Ketcham as chair to the winter flounder advisory panel. S. Medeiros seconded the motion. The Council voted unanimously to appoint K. Ketcham as chair to the winter flounder advisory panel.

B. Ballou suggested that the Council could revisit whether co-chairs were necessary on various AP's or not, at another time. Additionally, if the Council was still interested in consolidating advisory panels like groundfish AP and winter flounder AP as an example. There was some brief discussion about whether there was a need for co-chairs. B. Ballou suggested reviewing the remaining vacant chair positions and any further opportunities for consolidating AP's at the next meeting. G. Allen suggested referring to the AP policy for guidance.

Appointing a recreational representative to the IAC – S. Medeiros:

S. Medeiros explained that he had since looked into the statutes regarding the Industry Advisory Committee (IAC) and understood this was a committee created by legislation that was geared toward commercial interests and not recreational interest. Therefore, he felt the Council would not be able to appoint a recreational representative. He expressed concern and disappointment about having recreational issues discussed by the IAC without having any recreational representation.

B. Ballou indicated that it may take a legislative change and wanted to know if there was any interest from Council members in trying to accomplish this task. K. Ketcham stated that in the past all proposals from the IAC have been presented to the Council and all individuals were welcome to attend, so recreational people could attend these meetings. There was brief discussion on the topic.

S. Hall stated that whatever comes forward from the IAC is presented to the Council so recreational people have an opportunity to attend IAC meetings to give advice and make proposals for Council review.

The Council seemed to be satisfied with this avenue, no further action was taken.

Approval of Shellfish AP Agenda – J. King:

A revised shellfish AP agenda was handed out to Council members. This agenda included the addition of four aquaculture lease applications that were up for review with recommendations to CRMC. Other agenda items included the following: discussions about 2009-2010 Shellfish Management Area openings and harvest periods, and DEM Marine Fisheries proposal to modify bay scallop season upon North Cape Restoration Program research. The meeting was scheduled for August 26, 2009.

J. King requested that the aquaculture lease applicants and D. Buettel attend the SAP meeting for review of the aquaculture lease applications. **There were no other comments, the agenda was approved.**

Approval of Summer Flounder AP Agenda – B. Ballou:

B. Ballou asked if there were any question from the Council or any changes to the agenda. **Hearing none, the agenda was approved.**

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

K. Ketcham reviewed the agenda items; review of current stock status, 2009 commercial fishery, proposed changes for the 2010 commercial fishing season, and AP proposals for 2010. The meeting date had not been set yet but would be held in September. **There were no other comments the agenda was approved.**

Approval of Winter Flounder AP Agenda – K. Ketcham:

K. Ketcham reviewed the agenda items; summary of GARM III findings, commercial and recreational measures required by ASMFC, additional state measures, and research recommendations. The meeting date had not been set yet but would be held in September. **There were no other comments the agenda was approved.**

Old Business

Whelk regulations – B. Ballou:

M. Gibson updated the Council on the status of the whelk regulations that were drafted in 2007. He explained that industry had brought concerns to the department a couple of years ago about the unregulated whelk fishery. DFW did some investigations and measured samples from the commercial fishery and agreed there needed to be a regulatory package put in place. Regulations were developed with input from the SAP's that included a size limit, possession limit and other parameters. They went to public hearing, and both the Council and the DFW recommended that the regulations be adopted. The package of regulations went to the Director with caveats from the DFW that the regulations be streamlined where possible. They were not adopted and sit pending additional information. With the turn over in staff, there was no one available to conduct further studies on the whelk fishery. He indicated there have now been additional concerns raised from industry and we have been try to bring on new staff in order to conduct some studies on commercial vessels and at dealers to obtain measurements.

K. Ketcham suggested implementing a minimum size limit for the time being without all the other parameters. He suggested putting something in place now until the Division was able to make additional recommendations. M. Gibson indicated that was a strong possibility. His only concern was that after looking into the research he found that whelks change sex at a certain maturity so the minimum size needed to strike a balance to protect the species until it was able to spawn. He indicated we needed to come up with an acceptable size limit for industry and the animal.

There were some comments from the audience regarding the smaller sizes that were currently being harvested. There was support for the Department to set at least a minimum size limit for now. Fishermen were noticing that currently there was more effort on whelks due to the need for newer fishermen to show landings for licensing requirements.

R. Hopkins stated he thought the 4 ½ “ minimum size that was the proposed regulation size was a pretty small whelk and he would not normally keep one at that size. Nevertheless, it would be acceptable just to get something on the books. He felt the size could always be changed at a later date. He was also in agreement to adopt something now instead of waiting for further studies to be completed. Hopkins indicated he did not have a problem with the full package of whelk regulations that had gone through the public hearing process.

B. Ballou explained that the Council had already taken action on this issue so they did not need to do anything further. DEM had this issue at the top of the list in terms of priorities. He indicated that the Department would review what would be acceptable regulations to put in place. He could not give a specific timeframe for when the regulations would go into place without first consulting with Legal Services.

Final comments from the Council included R. Hittinger urging DEM to move forward as soon as possible in terms of setting at least a minimum size limit. Other Council members agreed.

FYI

Review items and timeline for October Public Hearing – N. Scarduzio:

N. Scarduzio reviewed the proposed October and November public hearing items and timeline. Proposed items for the October public hearing included; Proposed Management Plans for the Shellfish, Finfish, and Crustacean sectors; and amendments to the 2010 commercial fishing licensing regulations; proposed adoption of the Atlantic Coastal Sharks regulations; proposed amendments to the winter flounder management plan.

Proposed items for the November public hearing included; proposed amendments to the commercial summer flounder management plan; proposed amendments to the commercial scup management plan; and proposed amendments to the commercial black sea bass management plan.

Status of appointments for the RIMFC, NEFMC, and ASMFC – B. Ballou:

B. Ballou indicated D. Preble had submitted a letter of resignation from the RIMFC but has agreed to stay on until an appointment to replace him was made. He stated there had been a nominee made by the Director but the Governor has yet to make the appointment. If the appointment was made by the Governor over the next month that appointment may be able to go before the Senate in September. If it does not happen in that way, we would be looking at next January until we could deal with the issue.

Ballou indicated that D. Preble was reappointed for a second term on the NEFMC. He also stated that E. Petronio had submitted a letter of resignation from the ASMFC, therefore the solicitation process to find a replacement for him would begin. This is a Governor appointed position and would be subject to Senate approval. He stated that the Division would put out a solicitation letter as soon as possible.

Legislative Summary - B. Ballou

B. Ballou stated there were three issues before the General Assembly this year regarding marine fisheries. The recreational saltwater fishing license bill passed through the House and Senate, and was waiting final action hopefully in September. He thought the prospects looked good. The next bill was a Marine Fisheries Council bill that was passed by the Senate but no action taken on the House side and Ballou was not sure if it would come up again in September. The last bill was a proposal introduced by the Department that had three parts to it; the annual report, repealing the commercial fishing licensing review board, and the use of landing data for enforcement purposes. This bill never made it out of committee on the House side.

Update on Fluke Sector Allocation Pilot Program – B. Ballou

B. Ballou explained this was the first update on the sector allocation pilot program, which would be presented by J. McNamee. In a power point presentation, J. McNamee explained that this was

a little more in depth presentation than what was being placed on the website. He gave the background that one group of eight vessels had applied to form a sector. The allocation was 11.5%, in pounds that was approximately 176, 000 lbs. He went through a series of slides and graphs showing landings data. He spoke about observer coverage reports and discards and the data was matching up very well. He explained that other data they looked at included SAFIS, VTR's and other observer information. McNamee explained that other research studies were being conducted in connection with the sector as well.

Council member C. Anderson elaborated on the studies he has been involved in regarding the sector program. He stated that he and his colleagues were looking at the effects the sector had on the prices that people were receiving dockside. The effect of differences in the way that members of the sector and non-sector members are fishing, and the number of trips they are taking to try and get a sense of the economic impact of the sector program on both sector member and people who are not in the sector.

There were some brief questions and comments from the Council and audience members.

ASMFC & NEFMC meeting updates – M. Gibson:

M. Gibson reviewed highlights from the recent meetings. At the June NEFMC meeting, they adopted Amendment 16 for groundfish, which will go on to the service for final consideration and implementation for May 1, 2010. They approved 17 new sectors in addition to the two existing sectors. He indicated that Amendment 5 was being developed for monkfish to bring monkfish in to compliance. He referenced Amendment 4 for Herring, as being under developed and the Council splitting up the Amendment.

Gibson moved on to the highlight of the May ASMFC meeting. The winter flounder board met and responded to the GARM stock assessments and finding that the stock of Southern New England begin in a very difficult situation. There was extensive discussion and discussion about whether to close down the winter flounder fishery in the Southern New England stock area. He indicated that the board declined to take that action at this time. Instead, they went with a 50 pound possession limit, and 2 fish recreational bag limit. The striped bass board met and there was an interest in increasing the quota on a coast-wide base but that initiative failed. They did agree to initiate an addendum to deal with underage, and have a certain amount rolled over. However, no commercial quota increases at this time. The horseshoe crab management board heard a very innovative modeling program called ARM, which linked the dynamics of a species of migratory bird that relies on the horseshoe crab eggs with the horseshoe crab resource. He indicated that the minutes from these meetings could be found online if individuals wanted more information.

There were some brief questions and comments from the Council and audience members.

B. Ballou asked if there was any other business to come before the Council. G. Powers suggested that the minutes from this meeting be prepared and circulated among Council members so that they could be approved prior to the next Council meeting so that the Council's actions regarding the comments on the Shellfish Aquaculture Lease Review Policy could be put in to place. There were no other comments. Chairman B. Ballou adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary