

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
September 10, 2007
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

RIMFC Members Absent: C. Anderson

Chairperson: M. Gibson

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

DEM Legal Counsel: G. Powers

DEM Staff: B. Ballou

DEM Law Enforcement: F. Ethier

Public: 28 people attended

Chairman M. Gibson called the meeting to order. M. Gibson stated there was one adjustment to make to the agenda, to add item 7(b) correspondence from the DEM Director to CRMC pertaining to the last three aquaculture applications. Under item 3 (b) G. Powers had past out correspondence to the Council that addressed his task from the last meeting. Under item 4 (c) an additional item was handed out, which was the DEM Site Evaluation for the Silkes aquaculture lease expansion. Gibson asked if there were any other changes to the agenda by Council members. Hearing none, he asked if there were any objections to approving the agenda as proposed. **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 August 6, 2007 meeting. Gibson asked for a motion to approve the minutes. **S. Medeiros made a motion to approve the minutes. J. King seconded the motion. Gibson asked Council members if there were any objections to approving the August 6, 2007 meeting minutes. There were no objections therefore the minutes were approved.**

Advisory Panel Reports:

Industry Advisory Committee: K. Ketcham stated that the Industry Advisory Committee (IAC) met on August 20, 2007, with twelve (12) people in attendance. There were five (5) voting members present. The panel met to continue discussions on commercial licensing for the three sectors (shellfish, finfish, and crustacean) for the 2008 licensing season. Ketcham stated that the panel tabled discussions at the last meeting because panel members wanted to review SAFIS information before making any recommendations. Ketcham stated that shellfish licensing was

discussed first and M. McGiveney made a motion to use a 3:1 ratio between non-renewed principal effort licenses with quahaug endorsements and new licenses available for the 49 principal effort licenses. All panel members were in favor. Ketcham read meeting minutes that indicated that B. Ballou commented that based on the number of non-quahaug endorsements issued and landings data that capping effort on soft shell clams might be necessary. There was discussion about creating a soft shell clam endorsement and grandfathering current non-quahog endorsement license holders as a method to curb increased effort. There were also discussions about adopting a control date and those who buy the non-quahaug endorsement after that date would be given notice that soft shell clams might be removed as an available resource if determined to be overexploited. Discussion ensued regarding license fees.

Ketcham stated that B. Mattiucci made a motion to recommend setting a control date for new licenses. However, T. Platz amended the motion to make the control date as close to the present as reasonable. There was discussion on setting 12/31/07 as a control date, which would allow time for notice to those getting licenses on 1/1/08. Two were in favor of the motion and four opposed. Motion failed.

Ketcham stated that B. Ballou suggested that another option to limit landings might be through reducing possession limits. M. McGiveney made a motion to combine the quahaug and non-quahaug endorsements for principal effort licenses. Four were in favor and two opposed. Motion passed. The Committee agreed that the fee could be determined later.

The Committee then addressed lobster licensing. Ketcham stated that B. Ballou indicated that the transferability plan for lobster pots is still being resolved but will be in place at some time in the future. There was much discussion on whether lobster licenses should be open. There was a motion to recommend opening lobster endorsements. Three were in favor while three were opposed.

The Committee then discussed finfish licensing. Based on reductions in commercial quotas for many species next year the Committee agreed that new finfish endorsements should not be made available in 2008. There was discussion on ways to allow those with a CFL with a non-restricted finfish endorsement to upgrade to a restrictive endorsement. One suggestion was to allow those that are actively fishing to upgrade after some specific number of years. The Committee agreed to recommend status quo and not allow new restrictive finfish endorsements in 2008.

New Business:

Update on meetings regarding comprehensive aquaculture plan (8/9): D. Alves asked if everyone was at the last meeting. For the two individuals who were not present at the last meeting D. Alves provided them with a handout, which was an accumulation of letters regarding the Krause aquaculture lease applications, which were solicited and compiled by D. Alves. Alves stated that the last working group meeting was held last month. He indicated that J. King had asked M. Higgins, Roger Williams Law School, to talk to the group about the social side of aquaculture. He stated that the biggest thing was money, which they will be looking into. Alves stated that he would look in to bringing in some other people from within state agencies to talk to the group that would not cost them any money.

D. Alves stated that as an attempt to bring in other stakeholders he invited the Director of the Salt Pond Coalition to the last meeting. He also plans to contact and invite someone from the RI Harbor Master Association. As an update, he mentioned that the Regulation sub-committee had

met and reviewed the regulations and statutes. The sub-committee suggested that the CRMC aquaculture application and instructions be revised for uniformity. They will meet again at a later date after the working group starts to put a plan together. The Biological sub-committee noted the need to focus on the ponds. He stated there were discussions about expanding the bio-security board to advise all natural resource agencies and programs on disease issues. Alves stated that the fisheries interaction sub-committee met in July and had scheduled meetings with all the major stakeholder groups. Alves indicated that after they have met with all groups they would provide written recommendations at the end of this month. He stated that the last meeting they had was at Kettle Pond and no one showed up. D. Alves indicated that the next meeting of the working group is scheduled for Thursday, Sept. 13, 2007 and the biological subcommittee will be presenting information at that time.

K. Ketcham asked D. Alves if he had followed up with the CRMC legal department on his question from last time regarding what conditions could a person's lease be revoked. D. Alves stated that there were a number of provisions stated in the CRMC program but he knew that a lease could be revoked if it was not being used; it has to be actively farmed. He stated that if the lease was in disrepair or a navigation hazard the lease could be rescinded. If it is in the state's best interest the lease could be revoked. Alves indicated those were the cases where a lease could be revoked.

Legal interpretation of Chapter 20-3 regarding aquaculture application:

M. Gibson stated that he asked DEM legal council to provide guidance to the Council as to the Council's responsibility in advising CRMC on aquaculture leases. He stated that G. Powers had provided a response. Gibson indicated that the Council has a narrower scope of review, which might be considered by the Director. Gibson stated that according to G. Powers's findings the Council is to give advice on adverse effects on marine life and impacts to fisheries of the state.

G. Powers stated that pursuant to RI General Laws 20-10-5 the specific statutory instruction is to ensure that CRMC is provided with an opinion so that no application is approved prior to CRMC's consideration of the recommendation of the RIMFC as to whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries. He indicated that this was a very narrow scope of review by the RIMFC. Powers stated that the Director provides a second layer of considerations and recommendations to CRMC.

M. McGiveney asked to clarify his understanding. He asked that if the RIMFC does not vote on an application, for whatever reason, does that mean it can not go forward and be voted on by CRMC or is it CRMC's decision whether they go forward with it or not. G. Powers referred to section (b) of 20-10-5, which provides that no application shall be approved by CRMC or a permit granted prior to the consideration of the recommendations of both the Director and the RIMFC. M. Gibson stated that the Council has an obligation to review applications and make recommendations; the Council cannot be silent on them. Gibson added that the Council's action to deny approval of an application based on lack of a long term comprehensive aquaculture plan meets that test. Gibson indicated that the Council was not silent, the Council made a recommendation in the form of recommending the development of a working group and development of a long term plan.

S. DiPetrillo asked if CRMC had to abide by a negative recommendation from the RIMFC, or could CRMC move forward on an application anyway. M. Gibson indicated that he was not in a

position to give advice on how CRMC would handle an application. D. Alves stated that his program had to consider the advice given by the RIMFC and by the DEM Director.

D. Preble asked a hypothetical question. He asked if CRMC went ahead and approved an application after a negative finding from RIMFC, would that constitute an actionable item for someone who was an affected abutting property owner. G. Powers indicated that CRMC is required to consider the recommendation and in the example given, it would appear that there might be a claim if CRMC failed to adequately consider the recommendation without further investigation. Powers stated that this is just a hypothetical situation and we are not giving any foundation for our opinion, just generalities.

Council recommendations on Silkes aquaculture application 2000-11-058:

M. Gibson stated that Council members had the application proposal in their packets, which included a description of the project, map of the area and location of the site. N. Scarduzio gave a summary of the project outlining that this was an existing lease where the applicant already had 15 acres and was requesting an additional 5 acres. She indicated that enclosed in the packet was a letter of response from the Division of Fish and Wildlife indicating that the Division still has concerns about the impacts of aquaculture expansion with out a long-term plan being in place.

M. Gibson asked Council members if they had any questions. Gibson indicated that this was a new application relative to the bundle of applications submitted at the beginning of the year. S. Medeiros stated that it was unusual that the site evaluation findings indicated that there were potential conflicts, site evaluations are normally more generic.

D. Alves asked what the SAP had to say about the lease. J. King stated that he had spoken with SAP members and solicited their input. They had no position based on the fact that no one shellfished in the area because of the depth of the water. It was too deep for bullraking. The shellfish association had no concerns. M. Gibson stated that it was his understanding that the potential for commercial interaction was not related to shellfish. D. Alves stated that he had sent a notice to R. Wallace a commercial lobsterman in that area. Alves also indicated that when this site was first permitted there was an agreement with the lease owner and the fishermen that they could still fish on the site and set traps (conch traps, lobster traps). They were asked to set single traps not trawls and if a trap was stuck in the aquaculture gear, to let the aquaculture lease owner remove the trap so as not to damage the gear. Alves indicated that he was not aware of any problems. Alves agreed that it was difficult to navigate through the site and the normal boater would probably not attempt to enter the area.

B. Silkes wanted to clarify the map that was submitted with the application. He indicated that the dotted outline of the box on the map was actually the site of the former aquaculture site. He was leasing only a portion of that site and his current lease site was marked by the four x's on the map. The five-acre expansion was marked with squares. Silkes also indicated that there was fishing around his farm and with in the farm.

S. Parente asked the applicant if the proposed expansion for 5 acres was drawn to scale on the map. D. Alves stated that he went out to the site and took coordinates, he had not yet charted it, but he did have the positions of the corners. Alves stated that this map does not look that accurate. D. Preble asked Alves if there had been any specific objections to this expansion. Alves stated there had been none. Alves indicated that there had been some concerns from the

Aquidneck Island Planning Commission. They had attended the PD meeting and conveyed their concerns about boating in the area.

G. Allen stated that he went by the site and there seemed to be some order to the site. He observed them pressure washing cages. He stated that as a recreational fisherman and knowing the closeness of the midway pier and seeing the high-flyers cues him to stay away from the area. He indicated he would not attempt to go between these lines and buoys to go fishing. He expressed concern from what Council members were being told and what was shown on the map. The map seemed to indicate a greater area than 5 acres. He stated that he was in agreement with what the Division has stated in their letter to G. Fugate with the recommendation to give the site a five-year lease agreement conditional upon implementation of a comprehensive aquaculture plan. G. Allen stated that from the stand point of fishing he was concerned about how much of the Bay was going to be given up to private use and the exclusion of other people who want to fish. He agreed with the Division recommendation that there be a limit on the lease to a 5-year lease, pending a plan being in place and then extending to a 15-year lease duration after a plan was approved.

D. Alves stated that this could not be done. Alves explained that this aquaculture lease was granted in 2001 and it would expire in 2010, a lease could not be granted for longer than the original permit duration. Alves stated that leases were granted for only 10 years back then.

G. Allen expressed concern about not having something that ties the renewal of the lease conditional upon the implementation of a comprehensive aquaculture plan. M. Gibson commented that it seems that G. Allen would like to make a recommendation that connects to the evolving comprehensive aquaculture plan. M. Gibson stated that if there was Council consensus this could be part of your standard recommendation as other applications come forward during the development of this plan. Gibson stated that the Council could recommend this, however he was uncertain whether CRMC could do this or not. This meets the test of providing advice on an application. CRMC may or may not use the advice.

D. Preble made a motion to approve the aquaculture site expansion (CRMC File # 2000-11-058) with the recommendation that upon the expiration of the lease (in three years) that the renewal of the lease abides by the parameters of the comprehensive aquaculture plan. J. King seconded the motion.

D. Alves stated that he would hope that all aquaculture lease renewals would have to abide by the comprehensive aquaculture plan.

M. Gibson asked for Council discussion on the motion. G. Allen wanted someone to clarify the submitted map; the map was misleading as to the actual size of the proposed lease expansion. G. Allen stated that the latitude and longitude coordinates do not seem to match up with what is being proposed it looked like he is requesting double the size of the current lease not 5 acres.

M. Gibson asked for audience comments.

M. McGiveney stated that his association is echoing the Council as far as not wanting to endorse any leases until a comprehensive aquaculture plan has been completed. He stated that his group is working toward not allowing lease expansions until a lease has been in operation for several years with demonstrated productivity. McGiveney indicated that B. Silkes had been in operation

since 2001 and McGiveney felt this was important for his group to be able to recommend favorably any lease expansions.

G. Allen asked D. Preble to repeat the motion. **G. Allen requested a friendly amendment to the motion; to add, meet the parameters of the comprehensive aquaculture plan “for the state of RI”. D. Preble accepted the friendly amendment.**

M. Gibson asked the Council to vote on the motion. **The motion to approve the Silkes aquaculture site expansion (CRMC File # 2000-11-058) with the recommendation that upon the expiration of the lease (in three years) that the renewal of the lease abide by the parameters of the comprehensive aquaculture plan for the state of RI, passed unanimously.**

Comprehensive RI fisheries legislation:

B. Ballou wanted to brief the Council on comprehensive fisheries legislation that the Department may propose and wanted to initiate discussion with the Council. B. Ballou stated that the Department was at the beginning stages of formulating a series of proposals for legislation and hoped to make this topic a regular agenda item for the next couple of Council meetings so that a legislative package could be put together for the 2008 legislative session. He stated that last year there were some ideas that surfaced like increased enforcement provisions, and mandatory observer coverage. He stated that this year the Department wanted to give the Council and the community an early heads up that the Department is prepared to pursue some of these issues. There are technical changes, substantive changes, and some changes that may require discussions about policy. He wanted to let the Council know that the Department was looking at a number of issues and if there were other issues that needed to come forward this would be the time to float ideas and discuss proposals. Ballou wanted to work with the Council and the community to put together a package. He stated that he had a short list of items that he wanted to start to develop further. He would report to the Council on a monthly basis as proposals develop.

G. Allen stated that he spoke with B. Ballou about this issue last year, which had to do with placing observers on small mesh dragnets in the Bay to try to get a handle on juvenile by-catch in the Bay in particular winter flounder. He stated that currently if the Division of Fish and Wildlife wanted to put an observer on a vessel the boat does not have to agree to it. G. Allen stated that it was his view that there needed to be some legislation that would give the Division the opportunity to have observers on board vessels to get a handle on the small mesh by-catch issue, if it is an issue. He requested that this be a piece of the legislation to require the dragnets in state waters, if asked, to take aboard an observer when asked to do so to gather data to determine small mesh by-catch kill.

M. Gibson asked B. Ballou if he wanted the Council to come up with a list of items or if he was going to present a list of items to the Council. B. Ballou stated that he had a list that he had been putting together and would come back to the Council with that list at the next meeting. Ballou encouraged Council members to contact him directly if they had any other proposals to discuss with him. M. Gibson suggested that Council members could funnel proposals to him in addition to Ballou's list. Gibson suggested at regular working Council sessions the Council could start to work through the list to come up with an agreed upon list endorsed by the Council that they would recommend to the Department. Gibson also suggested that fishermen in the audience funnel ideas to a Council member who could bring them to the table for the next meeting.

D. Preble stated that this Council is required to provide a package every year of any legislative initiatives that the Council thinks should be pursued. He stated that there was only six months to get these proposals together and some of these items need to be reviewed through an AP so he suggested that things needed to get moving quickly. Preble thought by next month there needed to be a complete list formulated.

M. Gibson stated that the course of action would be for B. Ballou to unveil his short list then for the members of the community to give ideas or proposals to Council members and then Council members to forward proposals to Gibson so a list can be generated and discussed at the next Council meeting. Gibson asked if there were any objections from the Council in proceeding in this manner. There were no objections.

Review licensing recommendations from IAC meeting:

M. Gibson indicated to Council members that the Council did not have to render any recommendations on licensing at this meeting since a public hearing has not been held yet. Gibson asked that the Council give the Department guidance on what the public hearing notice should encompass. The public hearing was slated to take place on October 24, 2007. Gibson asked for Council advice.

G. Allen asked K. Ketcham what he thought should go forward since he was chair of the IAC. K. Ketcham stated that one issue that came up last year and again this year was to combine the quahaug and non-quahaug endorsements for the Principal effort license.

B. Ballou stated that this was a perfect example of being a statutory issue and would need legislative change.

K. Ketcham also mentioned that IAC members discussed the opening of lobster licenses, which depends on if the transferability program was going to be in place. He indicated that this should be included in the public hearing document for public comment. K. Ketcham stated that people were also concern about soft shell clams being exploited. He was not sure if this was a legislative item or just a regulatory change. B. Ballou stated that this could be done through a regulatory change. There was also the menhaden issue and herring pair trawl issue, which may be piggy backed with menhaden.

A member from the audience asked what the issues were with soft shell clams. M. Gibson explained some of the issues and mentioned that public comments would be taken at the public hearing on this issue as well.

M McGiveney asked if the Council would be able to take a position on statute changes. M. Gibson explained what would happen and that this Council would take a vote to endorse a set of regulation changes that would be recommended to the Director. M. McGiveney had some additional questions pertaining to the lobster transferability regulations, which were addressed by B. Ballou, and soft shell clams that were addressed by M. Gibson.

J. King explained who had brought forward the soft shell clam issue. King stated there were two shellfishermen who were concerned about the impacts on soft shell clams. They had asked for an increase in the size limit and a reduction to the possession limit for better management of the soft shell clam fishery.

M. Gibson asked Council members if they had any other comments for the public hearing document. There were no other comments.

Public hearing item: Whelk regulations: M. Gibson summarized the proposal and some of the public comments and indicated that the Council had asked to delay making a decision at the last meeting until further review of the proposal. Gibson indicated that this would be an appropriate time for the Council to formulate recommendations to the Director. Gibson asked Council members how they wanted to proceed.

S. Parente stated that he reviewed the whelk regulation closely and thought there were four items that were extremely important. The first was the elimination of the bait bag requirement. He thought this would be more efficient for the fisherman and would not make an impact in saving the horseshoe crab population. The next item of concern was shellfish closures relative to whelk fishing. Parente wanted to make sure that a shellfish pollution closure would not affect the whelk fishery. The next issue was possession limits vs. pot limits. He felt it should be one or the other. Parente noted that with pot limits the Division would have to issue trap tags and he stated this would be labor intensive for the Division. He stated that possession limits seemed to be less cumbersome, and easier to adjust up or down depending on the resource. The last issue was the seven (7) day tending requirement. Parente noted that some people have a problem with the seven (7) days being too short a period. He stated that he was not a whelk fisherman but did not think there would be any harm in increasing the tending requirement to fifteen (15) days from (7) days. He indicated these were the issues that he thought were apparent from the public hearing with the pollution closure item being the most important to clarify.

M. Gibson asked for other Council comments. There were no other comments. He asked if there was a motion.

S. Parente made a motion to recommend approval of the whelk regulations with the four adjustments to the items he mentioned. To use a possession limit instead of a trap limit, clarification of shellfish pollution closures to ensure that a shellfish closure will not affect the whelk fishery, elimination of the bait bag requirement, and tending requirements be changed from seven (7) to fifteen (15) days. J. King seconded the motion.

M. Gibson asked for Council discussion on the motion. There were no comments. M. Gibson asked for public comments on the motion.

G. Schey commented on the possession limit vs. the pot limit. He was in favor of a pot limit with the use of trap tags. He was in favor of the size limit. He wanted an increase tending requirement to twenty (20) days. Schey wanted to know if DEM Enforcement and Legal Services had weighed in on this regulation.

DEM staff stated that both Enforcement and Legal services had both had an opportunity to review the regulations.

S. Parente asked if F. Ethier was in a position to speak for Enforcement about what the Enforcement Division would like to see in terms of trap tags/ pot limits versus possession limits.

F. Ethier stated that she did not know what the Chief's opinion was on that particular item. She stated that if you were to have a pot limit then you would need to issue trap tags to make it

enforceable. Ethier also stated that she knew that there were issues with the administration of trap tags associated with the lobster program. She indicated that she could understand G. Schey's concerns about having both a possession limit and a pot limit. If for some reason the fishery went down the competition would change and someone with a larger boat could pull in 500 traps and fish that efficiently in a day and out compete a smaller fisher so it becomes an uneven balance between a smaller boat vs. a larger boat. She stated that she could see his position where he would like both if the fishery suddenly gets a lot of pressure.

S. Parente asked M. Gibson if a trap tag program was doable or not. M. Gibson stated that the Division could not manage the lobster tag program right now. The Division currently has issues with the trap tag provider where they do not manufacture tags correctly. Gibson indicated that the Division had repeated issues where people keep getting incorrect orders, i.e. wrong numbers, wrong colors.

M. Gibson asked if there were any further Council discussions before he took more comments from the audience. Seeing none, Gibson asked for audience comments.

S. Parente (gill-netter) asked for clarification from Council member S. Parente about the numbers of days suggested for a pot tending requirement. S. Parente (gill-netter) stated that he understands on one side there are people who would like to limit the number of pots and the number of conchs you can take with a possession limit. On the other hand, by extending the amount of days for tending you are enabling somebody to fish more pots by extending the amount of days they are obligated to fish. He stated that when he pulled conch pots 2 to 3 days was a set. He claimed, if you waited 15 days, you were out of business. He did not understand why someone would want to wait 15 days to pull his pots. He stated that even if your boat sunk you still get to your pots before 15 days. S. Parente (gill-netter) stated that he did not understand the 15 days and did not support it. He indicated that a person did not need that long a time.

B. Macintosh stated that there are some big changes coming between the COLREGS and the three-mile limit when it comes to traps and pots. He was wondering how the state was going to deal with that when you have to inform fishermen who are participating in those areas in the trap/pot fishery as to the types of lines they have to use etc. He indicated that 15 days was mentioned in the large whale plan.

M. Gibson commented that the requirements for fixed gear relative to the whale plan are evolving and will have unforeseen impacts across a wide range of fisheries and we will have to adapt to those as they come in to place.

B. Macintosh stated that it would be helpful to have all this spelled out in the state regulations as well as the federal regulations.

M. Gibson stated that when we know what all the requirements will be we would have to go back into our regulations and make applicable changes. This Council would have to respond with advice to the Director on a number of fixed gear fisheries.

G. Mataronas wanted to know where all these regulations came from. He suggested these regulations should probably go through industry first.

M. Gibson explained that these regulations were brought up from industry, fishermen who fish for whelk requested regulations for the whelk fishery. He explained that this body of regulations went through about two workshops and a series of Shellfish Advisory Panel meetings, with input from enforcement and legal services and a public hearing.

M. Gibson asked if there were any further Council discussions on the motion. Hearing none, he asked the Council to vote. There were six (6) in favor of the motion (S. Parente, S. Medeiros, J. King, S. Macinko, D. Preble, K. Ketcham) no objections and one (1) abstaining (G. Allen). **The motion passed to recommend to the Director to approve the whelk regulations with four adjustments. To use a possession limit instead of a trap limit, clarification of shellfish pollution closures to ensure that a shellfish closure will not affect the whelk fishery, elimination of the bait bag requirement, and tending requirement be changed from seven (7) to fifteen (15) days.**

Industry gillnet regulations proposal:

D. Preble stated this item is separate from the previous gillnet issues that recently went to public hearing. Preble stated that he was asked by T. Platz, D. Macintosh, and B. Macintosh if the Council could revisit some of the gillnet regulations. They were interested in setting a limit on the number of nets, from 50 to 60, a limit on the tie down nets of less than 12-inch mesh, and some tag requirements. Preble suggested that this topic should be referred to the IAC for discussion.

M. Gibson stated that if the Council concurs then a draft agenda would have to be created for an IAC meeting to take place. Gibson suggested that he would consult with D. Preble to put an IAC agenda together for approve at the October Council meeting.

G. Duckworth asked if another item could be added to the list, he asked if changing the set duration from 48 to 72 hours could be discussed.

M. Gibson asked G. Duckworth and any other individual to funnel their requests to D. Preble so Preble could formulate a list and get the list to Gibson.

A member of the audience asked if the federally permitted boats were trying to get less number of nets for state permitted boats. M. Gibson stated that he did not know what anyone wanted at this point. Gibson requested people to funnel proposals to D. Preble so an IAC agenda could be created.

Approval of SAP agenda:

J. King indicated that the SAP needed to meet to discuss the openings for Greenwich Bay. King also indicated that he had a scheduling conflict and asked if another Council member could fill in for him until he arrived. He indicated that he would be about one hour late.

M. Gibson stated that this need for a SAP meeting to discuss the Greenwich Bay openings related back to regulations this Council set in to effect a year ago that required this Council to consult with industry and develop a winter schedule for Greenwich Bay shellfishing. There is a regulatory obligation that the Council put in place, so this is an important meeting.

M. McGiveney stated that this is an important meeting and the timing is critical for Greenwich Bay.

S. Parente agreed to Chair the SAP meeting for J. King. The meeting was scheduled for September 12, 2007 at 4:30 PM at Fort Wetherill, Jamestown.

M. Gibson asked if there were any objections from the Council members in proceeding in that manner relative to the SAP agenda. Hearing none, the SAP agenda was approved.

Old Business:

Nominations for proposed groundfish advisory panel: M. Gibson explained that a slate of candidates had been gathered. The nominees have gone through a background check conducted by DEM Enforcement. N. Scarduzio stated the Division had gone through the solicitation process and that candidates were screened by Enforcement. M. Gibson asked for a motion from the Council.

J. King made a motion to appoint these members to the groundfish advisory panel. D. Preble seconded the motion.

M. Gibson asked for Council discussion on the motion. There was no discussion from the Council. M. Gibson asked for audience comments. There were no comments from the audience.

M. Gibson called a vote to the motion. **The motion to appoint these members to the groundfish advisory panel passed unanimously.**

Discuss adding a slot for dredge/scallop/shellfish to Groundfish AP:

M. Gibson stated that he had received comments from industry that the Council had neglected to create a slot on the Groundfish AP for scallop fishermen, there seems to be a need for a representative for the scallop fishery. Gibson stated that M. Marchetti had made a case that there were scallops in state waters and they will be fished, so we needed to have a representative representing that fishery.

D. Preble stated that he did not have any objections to this sector being added. He mentioned that scallops are one of the biggest dollar value fisheries in New England.

M. Gibson stated that staff would add this sector to the list and the Division would have to re-solicit for this slot. He indicated that the Division would solicit for that particular slot, go through the process again, and bring names forward to this Council for approval. There were no objections from the Council in proceeding in this manner.

Other Business:

Review Revised RIMFC Advisory Panel Application:

N. Scarduzio explained that due to the new process of submitting applicants to DEM Enforcement for background checks, Enforcement indicated that the application did not capture vital information that they needed in order to conduct background checks. Scarduzio stated that she revised the application to meet the Division of Enforcement requests and to make the application more user friendly. Scarduzio explained that she needed feedback from the Council on the content of the application, if Council members had any comments or changes.

K. Ketcham felt uncomfortable with questions 3 and 4, which inquire about previous violation history. M. Gibson stated that at past Council meetings, the Council had expresses interest in

only receiving the names of qualified candidates that had been approved by Enforcement. Gibson suggested only providing the names of approved candidates.

J. McNamee stated that what becomes problematic about just getting a name is if the Council is unfamiliar with the person the Council would need some background as to what the individual is doing. He indicated that the reason these were put together is to give some biographical information.

S. Medeiros stated that the form was excellent and that it provided all the information that Council members would need to look at. He stated that the application does not state what the violation history is, the only thing we would see is the response to the question have you been convicted of a violation in the last three years. He indicated that this was fine and it would be something he would want to see.

J. King stated that he would prefer not to see the responses to questions 3 and 4 also. King indicated that he thought it was going to be up to Enforcement to check the background so that Council members would not have to know about violation history.

S. Medeiros then clarified with Council members that if questions 3 and 4 were removed then that would be acceptable.

M Gibson asked Council members if there was a consensus to strike questions 3 and 4 from the application. There were no objections to eliminating questions 3 and 4 from the application. M. Gibson stated that the application might change again pending a civil rights review. He indicated that the Division's federal funds could be conditional on the Division meeting these standards.

FYI:

Thank you letter to Ed Baker: M. Gibson informed Council members that staff had helped him draft a thank you letter to Ed Baker on the Council's behalf for his efforts on various advisory panels, as well as on advisory panels for the ASMFC. Gibson indicated that staff was in the process of getting replacements for Mr. Baker on the various panels that he sat on. M. Gibson stated that he had sent a letter to ASMFC to elevate Rick Bellevance to Ed Baker's position as the primary representative.

Letters from the Director conveying Council's votes on aquaculture applications: M. Gibson indicated that these letters were copies of the letters from the Director that were sent to CRMC conveying the votes of the Council to CRMC on the last few aquaculture applications.

M Gibson asked if there was any other business to come before the Council.

D. Preble had one additional item that he wanted to acknowledge. He stated that he was recently a subject of an at sea rescue last month. He prefaced his commentary by indicating that we all complain about DEM Enforcement about some of the things, they do or do not do and that he went on to read a letter that he stated he recently sent to Chief S. Hall. D. Preble's letter was a letter of commendation and thanks to Environmental Police Officer Richard Browning for his outstanding performance in a life threatening medical emergency that had saved D. Preble's life. The emergency took place on a fishing vessel over 100 miles off shore where Officer Richard Browning who was off duty on another vessel came to the aid of Preble and took charge of the medical and rescue operation. Officer Browning arranged for a helicopter rescue through the US

Coast Guard, which was instrumental in saving D. Preble's life. Preble thanked Browning for his quick and heroic actions in saving his life, and thanked Enforcement for all that they do.

M. Gibson thanked D. Preble for his comments.

P. Brodeur wanted to bring up the whale issue, which was brought up earlier by B. Macintosh, as far as the comment period ending on September 20, 2007, and as far as the EIS is concerned. He wanted to bring this to the Council's attention because it should be addressed by the Council because there would be a prohibition on any single traps outside the COLREGS lines. Brodeur stated that the COLREGS lines now exist from Pt. Judith on a line straight across to another point of land. He stated that you could fish single traps in that area from Pt. Judith to Block Island and over to Westerly there will be a prohibition on them. Brodeur was concerned about fishermen who fish from Pt. Judith who would be displaced over this. He indicated that he would like to see the Council address this issue to protect these potentially displaced fishermen. He asked if a letter could be sent to the Governor requesting the Governor to give attention to this issue before the Sept. 20 comment period ends.

M. Gibson agreed that this was a rather large issue, which was going to have a wide reaching impact. Gibson stated that he had A. Valliere of the Marine Fisheries staff tracking this issue. Gibson suggested that for the Council he would have A. Valliere prepare a list of the concerns she has already raised and the issues that she thinks will affect RI fixed gear fishermen. He stated that he would have a letter from the Council drafted under his signature go to the Governor and appropriate parties expressing this Council's concerns about the impacts of the whale plan.

J. Holland asked if the Council had considered opening any areas since the water quality in some areas had been better, for example Narrow River. M. Gibson explained that this Council does not have the authority to open areas that are closed. He stated that the Director has that authority. Gibson stated that the Council no longer has regulatory authority they only have advisory capacity. J. Holland asked if the Council could make a recommendation. Gibson indicated that the item would have to be placed on a future agenda to be considered by the Council. He went on to explain that J. Holland would have to bring the issue to one of the Council members to have the item placed on an agenda. Gibson also stated that members of the public have the ability to petition the Director directly. Gibson asked legal council to summarize the process for petitioning the Director.

G. Powers stated that anyone could petition the Director to make a rule it is called a petition for rule making . All one would have to do is to formally petition the Director. Powers stated that the Director does have an open door policy and would give due consideration for any request that is submitted to him.

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.

Nancy E. Scarduzio, Recording Secretary