

RHODE ISLAND MARINE FISHERIES COUNCIL
Summary of Meeting Minutes
October 3, 2011 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road, Narragansett, RI

RIMFC Members Present: C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger,
D. Monti, C. Powell, and W. Mackintosh, III

RIMFC Members Absent: None

Chairperson: B. Ballou

RIDEM DFW Staff: N. Scarduzio, D. Erkan, J. McNamee, and M. Gibson

RIDEM Staff: L. Mouradjian and G. Powers,

DEM Law Enforcement: J. Poccia

Public: 14 people attended the meeting.

B. Ballou called the meeting to order. He asked if there were any modifications to the agenda. M. Gibson requested to have item #7 (ASMFC and NEFMC updates) removed from the agenda since the meetings recently occurred and summaries were not available yet. **Ballou asked if there were any objections from the Council to approving the agenda as amended. Hearing no objections, the amended October 3, 2011 agenda was approved.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the September 12, 2011, Council meeting. B. Ballou asked if there were any objections to approving the minutes as written. **Hearing no objections, the minutes from the September 12, 2011 Council meeting were approved as written.**

Public Comments

G. Schey reported concerns pertaining to the whelk fishery by stating undersized whelk shells were being broken to remove the animal from their shells. He stated there was nothing in the regulations that stated you could not possess whelk meat. He indicated people were smashing the shells and harvesting the meat and that was how they were getting around the size limit restrictions. He asked if the Director could put emergency regulations in place to stop what was happening.

M. McGiveney stated he echoed G. Schey's comments and indicated he thought this was already part of the whelk regulations. He felt this was a loophole that was being used to get around the regulations and processing food out on the water was a health concern. He stated if the Division was looking for a reason to implement emergency regulations then processing out on the water should be a health concern. He supported whatever measures the Director took to abate the problem quickly.

B. Ballou stated he would take the issue under advisement, meet with legal counsel and the Director to explore whether emergency action would be appropriate.

Advisory Panel Reports:

Summer Flounder (9/28/2011) – R. Hittinger:

R. Hittinger reviewed the minutes from the meeting and highlighted the proposals that came

forward from the meeting. There was a proposal to increase the starting possession limit for the winter 1 sub period; remove the Friday Saturday closures; opposed to splitting the summer period back in to two sub periods; increase the summer flounder aggregate program to 700 pounds per week contingent upon removing the Friday Saturday closures; and allow use of an electronic logbook. There was discussion about terminating the summer flounder exemption certificate program. **B. Ballou asked if there were any objections to accepting the Summer Flounder minutes. Hearing none, the minutes were accepted.**

Scup/Black Sea Bass (9/14/2011) – W. Mackintosh, III:

W. Mackintosh, III stated it was a poorly attended meeting so it was more of a discussion period with only two members of the AP and a few other participants. W. Mackintosh, III reviewed the minutes from the meeting indicating they did not talk that much about scup since most people were concerned that we would not catch our quota. He reviewed some of the proposals that came forward for black sea bass. Decrease the possession limit to 25 pounds per day during the spring through fall sub periods in an effort to keep the bycatch fishery open longer and reduce discards; if quota increases then increase the possession limit to 100 pounds per day if possible; move some allocation to September-October period for the pot fishery; and create an aggregate program. **B. Ballou asked if there were any objections to accepting the Scup/Black Sea Bass minutes. Hearing none, the minutes were accepted.**

Both S. Parent and G. Allen commented that they did not think it was proper for the panel chair to offer proposals at the scup/black sea bass AP meeting noting that according to the AP policy the role of the panel chair was to facilitate the meeting, remain neutral, and not advocate a position. S. Parent stated that he thought a member of the panel could only present proposals and they had to be in writing.

There was some Council discussion about how to handle AP meetings when there was a low turn out. R. Hittinger suggested they should address the AP policy at a future meeting

New Business

Overview of CRMC Aquaculture program – D. Beutel, CRMC:

D. Beutel, CRMC Aquaculture Coordinator gave a power point presentation to Council members and answered questions for the Council pertaining to the CRMC aquaculture program and the Council's role in the lease review process.

Status of proposed Whelk Management measures & proper venue for addressing the issue – B. Ballou:

D. Erkan explained that the only regulations in place currently were minimum size limits based on shell length and diameter. He indicated the Division was recommending an increase to the minimum size limits based on the maturity of the animal. Industry had discussed pot limits.

B. Ballou indicated there was recent concern that the whelk fishery was being threatened and that a comprehensive management plan should be put in place. Ballou initiated discussion whether the Council wanted to form a whelk advisory panel or keep the issue with the Shellfish AP (SAP). After discussion, the Council decided an adhoc whelk panel would be a better approach where the panel could be made up of some SAP members and whelk fishermen to discuss the issue then collapse the panel back in to the SAP when they completed the task. G. Schey suggested using the people that attended the past whelk working group as possible members. B. Ballou suggested that staff work with industry to come up with a list of members to participate on the whelk panel and an agenda for Council review at the next Council meeting in November.

J. Grant made a motion to have an announcement sent out via the Division listserv to solicit people to participate on the whelk panel that would serve on the panel until regulations were developed. He suggested the panel should include members that represent the following user groups: pot fishery, lobster, shellfish, draggers, and recreational. W. Mackintosh second the motion.

The Council suggested that D. Erkan be the contact person for interested people to contact.

B. Ballou asked for a vote. The Council voted unanimously in favor to approve the motion, in favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, C. Powell, and W. Mackintosh, III). The motion passed 8/0.

R. Hittinger made a motion that the Council recommend that the Director take emergency action to clarify regulations that would make it clear that destroying whelk shells and harvesting whelk meat at sea was illegal. The finding of imminent peril would be the threat to the welfare of the whelk fishery by harvesting sub legal sizes. C. Powell second the motion.

Enforcement stated they had received complaints where the practice of smashing whelk shells had been reported to extract meats while still at sea. Enforcement had boarded boats where this practice was occurring but had not arrested anyone at this point in time.

B. Ballou asked for a vote on the motion. The Council voted unanimously in favor to approve the motion to take emergency action. In favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, C. Powell, and W. Mackintosh, III). The motion passed 8/0.

Old Business

Continued discussion about future review procedures and appropriate advisory panel for aquaculture lease applications – B. Ballou:

Following D. Beutel's presentation the Council discussed how best to handle aquaculture applications that effect a broader range of commercial sectors that may be outside the bay.

M. McGiveney stated that the current lease review process using the SAP had worked well. He wonder how the attendance would be if a separate panel were established. D. Erkan agreed with M. McGiveney but added that the SAP did not have any representation for the coastal salt ponds where many of these leases were held. Erkan was in support of trying to find someone who shellfishes in these areas to add to the SAP.

B. Ballou reminded Council members of the proposal M. Gibson offered which was to expand the IAC with recreational interests. Ballou asked if any Council members had any suggestions to offer for discussion. The Council discussed various options and had a number of questions addressed to D. Beutel. K. Booth commented that he would hate to fix something that was not broken if the process has been working then keep it as it is. J. Grant stated that an expanded SAP meeting would be a good review panel since SAP meetings were so well attended, and send the applications or link out via the listserv. J. McNamee stated that was what currently occurs, the Division posts the application on the website and sends out a link to that webpage via the listserv. C. Anderson suggested having open flex slots on the SAP for other AP members to sit in on if they want to take part in an aquaculture lease review. Other Council members agreed that an expanded SAP to accommodate recreational user groups and other gear types would be

appropriate.

J. Grant made a motion for future review of aquaculture lease applications to be posted to the DEM website with a link to the site sent out via the Division listserv, and have an “expanded” Shellfish AP (SAP) review each lease application. The expanded SAP would include SAP members plus any other member of an AP, along with representation from recreational user groups and other gear types that would have a vote on each specific aquaculture lease application. D. Monti seconded the motion.

C. Anderson offered a friendly amendment, which was accepted by the maker of the motion and D. Monti who second the motion, that provided a quorum exists, for purposes of a vote, the quorum would be based on the membership of the SAP which would be (7).

B. Ballou asked for a vote. The Council voted unanimously in favor to approve the motion, in favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, C. Powell, and W. Mackintosh, III). The motion passed 8/0.

Continued discussion on 2011-2012 Shellfish Winter Management Area Openings (specifically Greenwich Bay & Potowomut “A”) – B. Ballou:

D. Erkan indicated that the Division was not opposed to the regular scheduling being proposed or the regular openings. The Division was not in support of industry’s requests to extend beyond the regular fishing periods.

J. Grant made a motion to recommend that the Director adopt the following winter schedule for Western Greenwich Bay Management Area. Both Area A & Area B opened with the following schedule: For December 2011 – December 14, 16, 19, 20, 21, 26, 27 and 28 from 8:00 AM to 11:00 AM (3 hours). For January 2012 – open January: Monday and Wednesday from 8:00 AM to 12:00 PM. February, March, and April; Monday, Wednesday, and Friday from 8:00 AM to 12:00 PM. R. Hittinger seconded the motion.

D. Erkan indicated that the Division had no opposition to the motion before the Council.

B. Ballou asked for a vote. The Council voted unanimously in favor to approve the motion for the Western Greenwich Bay Management Area winter schedule. In favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, C. Powell, and W. Mackintosh, III). The motion passed 8/0.

J. Grant made a motion to recommend that the Director adopt the following winter schedule for Bissel Cove, Bristol Harbor, and High Banks management areas: December 14, 16, 19, 20, 21, 26, 27 and 28 from 8:00 AM to 12:00 PM (4 hours). For January 2012 – open January: Monday, Wednesday, and Friday from 8:00 AM to 12:00 PM. February 1 through April 30, Monday through Friday from sunrise to noon. R. Hittinger seconded the motion.

D. Erkan indicated that the Division initially had some reservations about sunrise to noon but the Division will not oppose it as it stands now.

B. Ballou asked for a vote. The Council voted unanimously in favor to approve the motion for the winter schedule for Bissel Cove, Bristol Harbor, and High Banks management

areas. In favor: (C. Anderson, R. Bellavance, K. Booth, J. Grant, R. Hittinger, D. Monti, C. Powell, and W. Mackintosh, III). The motion passed 8/0.

J. Grant made a motion to recommend that the Director adopt the following schedule for Potowomut Management Area “A”: maintain the management area status but open daily year round from sunrise to 2:00 PM. K. Booth seconded the motion.

J. Grant explained this area was established for transplanting and seeding and had been the area used for their seeding program. They have since adjusted their seeding program and found out that seed grown from an upweller did not need to be planted in closed areas. So this area was no longer needed for that purpose. In addition, due to pollution closures they have lost a portion of this area. Therefore, they would like to readjust the schedule to allow more access to reopen this management area.

B. Ballou clarified the motion by stating it did not include the reconfiguration of Potowomut “A” since that issue would have to go out to public hearing. J. Grant indicated he was just addressing the schedule.

D. Erkan stated that one of the concerns the Division had with this area was that a spawner sanctuary bordered the area proposed for change on the north and High Banks to the south. The concern was there was a triangle in the middle of two areas closed for the season with liberal possession limits on the other side, which makes it problematic for enforcement. In the management area, there was a 3-bushel possession limit but if you drift out of the area to the east, there was a 12- bushel limit. Therefore, someone could be in a management area and take more than the 3-bushel limit but drift over the line into an area with a 12-bushel limit and be legal. He indicated the Division would suggest remaining at status quo to prolong access and protect the resource from depletion. Erkan noted status quo would be Monday, Wednesday, and Friday 8:00 AM to 12:00 PM. He was not in favor of the area being opened and fished for 365 days.

The Council discussed the different variables associated with this area before voting on the motion. C. Anderson suggested being cautious and to think about a proposal for three days a week year round, instead of opened daily before committing to something that may require an emergency action to change such as what happened in Conimicut Point with soft-shell clams.

M. McGiveney suggested waiting or tabling the issue until the second part of the issue, which was the reconfiguration of Potowomut “A” was addressed at a public hearing.

J. Grant stated based on M. McGiveney’s statement he would like to withdraw his motion and address the item at another time when it was presented to the Council as a public hearing item.

Continued discussion and review of number and types of Advisory Panels and members – B. Ballou:

B. Ballou reminded Council members that they were going to try to do their best to review each of their advisory panel memberships to determine if vacancies needed to be filled or if people who do not attend meetings needed to be replaced. Council members indicated they needed more time to go through their membership lists. Ballou suggested that when they were able to determine vacancies to let staff know so the Division could send out solicitation notice to fill vacancies. He asked if Council members could accomplish this over the next few weeks so staff could send out a notice as soon as possible.

J. McNamee recommended collapsing summer flounder and scup/black sea bass in to one panel the next time this issue was addressed. B. Ballou noted that some Council members had been discussing the consolidation of panels where possible.

B. Ballou also suggested that people might be interested in putting aside two days in September to hold all the advisory panel meetings. Have people commit to two full days of meetings and try to cover as much ground as we can rather than trying to spread meetings out on various days.

N. Scarduzio commented that the past Council had worked on consolidating the advisory panels and she would be able to provide an outline of how they left off with that task.

Recreational Saltwater Fishing License – Accountability and Oversight – B. Ballou:

B. Ballou stated the report must be submitted to the Council and that the Department had to conduct one or more public meetings to solicit input from recreational fishermen and the general public. He asked Council members to review the document and stated it would be posted on the Division website. At the November Council meeting we will conduct a public hearing on this report. Ballou stated at that time he would also look to the Council for any recommendations the Council may have in the form of an addendum that they would like added to the report.

Continued discussion on RI state fisheries with a federal management plan – B. Ballou/M. Gibson:

B. Ballou recapped that at the last Council meeting there was some discussion about the skate fishery and further discussion to categorize all the state fisheries that might not have a state management plan but are federally managed. M. Gibson stated that the Division had not made any progress on this item since last month because of the conflicts with the NEFMC meetings and vacations and so on. He suggested if the Council was still interested, to rotate this item to another meeting but the emphasis should remain on skate.

FYI

October 17, 2011 Proposed Public Hearing items/timeline – B. Ballou:

B. Ballou reviewed the proposed public hearing docket. N. Scarduzio explained that some of the items had been removed from the public hearing docket since the Council packets had been mailed out. She noted the shellfish items had been removed because there was not enough time to prepare some of the regulatory requirements prior to the required 30-day posting date. These items would be moved to another public hearing.

Agenda Items for Next Council Meeting

B. Ballou asked if Council members would benefit from a brief overview of the commercial licensing program since the Council would be deliberating on 2012 licensing issues at the next Council meeting. He offered to give a five-minute presentation prior to the Council taking up the licensing issues at the next meeting. There were no objections from Council members.

B. Ballou noted he would like to bring an item forward for Council consideration at the next Council meeting it would be a proposal to revisit some changes that the Division had sought to make last year via Part III in the Marine Fisheries Regulations, which allows flexibility for the Division to make in season adjustments. He noted the recent scup issue really brought it to light again. He explained there was an effort about a year ago to give the Division the flexibility we would need to extend seasons if necessary. Ballou noted he would like to have it put back on the agenda for the Council to revisit the issue. If the Council was in support then he would like to have the issue go back out to public hearing.

J. Grant asked if the Council could be updated on the status of the lobster transferability program at the next meeting. B. Ballou stated we could add this to the agenda.

R. Hittinger stated a couple of items came up at the last summer flounder AP meeting that he would like the Council to consider. The summer flounder exemption certificate program, which had run its course and should be terminated; and holders of the summer flounder exemption certificate should be able to split the permit off from the federal permit during a transfer. He noted there was also interest in research set asides (RSA), people want to know more about this program. He referred to the fluke AP minutes, which captured these items. B. Ballou stated we could add these items to the agenda.

C. Powell asked to have the Council review the Advisory Panel Policy at the next meeting to see if it needed to be revised. B. Ballou stated we could add this to the agenda.

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

Meeting adjourned.

Nancy E. Scarduzio, Recording Secretary