

**RHODE ISLAND MARINE FISHERIES COUNCIL**  
**Summary of Minutes from Monthly Meeting**  
**October 4, 2010 – 6:00PM**  
**URI Narragansett Bay Campus**  
**Corless Auditorium**  
**South Ferry Road, Narragansett, RI**

RIMFC Members Present: C. Anderson, R. Bellavance, R. Hittinger, K Ketcham, S. Parente,  
RIMFC Members Absent: S. Macinko, S. Medeiros  
Chairperson: B. Ballou

RIDEM F&W Staff: N. Scarduzio, J. McNamee, D. Erkan, N. Lazar, M. Gibson  
DEM Staff: G. Powers

Public: 17 people attended

B. Ballou called the meeting to order. He had several changes to the order of items listed on the agenda. He recommended deleting 5(a) the review of the Behan aquaculture lease application, since there were no requests made by the Council for further review of the application. He added a new item #3 Council membership. He also suggested moving the Shellfish AP report to follow after the Scup/Black Sea Bass AP report so it would flow into the shellfish items for consideration following on the agenda. He asked if there were any other changes to the agenda. **B. Ballou asked if there were any objections to approving the agenda as amended. Hearing none, the agenda was approved as amended.**

The next agenda item was the approval of the Rhode Island Marine Fisheries Council (Council or RIMFC) meeting minutes from the July 29, 2010, Council meeting. B. Ballou asked if there were any objections to approving the minutes. **C. Anderson made a motion to approve the July 29, 2010, Council meeting minutes. R. Hittinger seconded the motion. The minutes from the July 29, 2010, Council meeting were approved as written.**

**Council Membership**

B. Ballou informed the Council that Councilman J. King had resigned from the Council. He read a portion of J. King's letter of resignation addressed to Governor Carcieri. He noted that the Governor accepted King's resignations with regret and thanked him for his commitment to the Council and his dedication to the citizens of RI. B. Ballou also added that everyone from DEM, the Council, and the fishing community as a whole were grateful for all King's hard work and dedicated service. Ballou praised King for his integrity and passionate commitment and thanked him for everything he had done during his impressive tenure on the Council. The audience gave a warm round of applause for J. King who was present in the audience.

B. Ballou indicated that with J. King's departure coupled with the already expired terms for S. Macinko, S. Medeiros, and K. Ketcham along with S. Parente's term ending in April 2011, this Council was about to experience a huge turnover. He stated that the DEM would be soliciting for candidates to fill these positions.

## **Public Comments**

A student from Brown University asked audience members if they would be willing to fill out a survey pertaining to the spiny dogfish fishery. She explained this was part of her thesis and she need fishermen to complete the survey for information on how often fishermen were running into spiny dogfish.

M. McGiveney stated that the RI Shellfishermen's Association would also like to join the Council and DEM in thanking J. King for all of his hard work. He explained that King spent many nights attending meetings with some meetings being very contentious. He also noted that it was hard to find someone as committed, passionate and caring as J. King. He thanked King who was seated in the audience.

## **Advisory Panel Reports**

*Summer Flounder AP (9/21/2010) – R. Hittinger:*

R. Hittinger summarized the minutes from the meeting noting the meeting covered summer flounder stock status, fishery performance in 2010, preliminary sector analysis, and the Division's recommendations for 2011. The panel was opposed to the reopening of Friday and Saturday closures; could not come to a consensus vote on splitting the summer period and providing equally split allocations into the two periods. He noted the panel was opposed to reallocating the additional 2011 pounds of fluke with a bias toward the summer period; and was opposed to reallocating the quota 1/12 to each month. He stated that panel members did not object to either the logbook language modification or the removal of the dealer language.

The AP supported raising the aggregate trigger to 90% and supported removing the 3-year penalty language from the aggregate program. The final recommendations were regarding the sector pilot program. The recommended program would be status quo with a couple of modifications; re-expansion to a full year program, consideration of the penalty language as discussed in the aggregate program, and the consideration of capping the allocation size that any sector can have. He noted that 2011 would be the final year of the pilot program, and there would be a series of meetings that would be held to delineate how the future of RI Fluke management would look. The Division also proposed modifying the control date by moving it forward to December 31, 2010. The panel was in support of this change. He stated that the panel also recommended continuing the sector pilot program and allowing it to be a full year, they were in support of removing the 3-year penalty language from the sector program, and in support of capping the allocation that a single sector could have.

B. Ballou noted that these items would be going to public hearing on November 10, 2010. J. McNamee stated that all the proposals would be going forward to public hearing for public comment except the one that divided the quota up into 1/12 for each month.

*Scup/Black Sea Bass (9/28/2010) – S. Parente:*

S. Parente reviewed the minutes from the Scup/Black Sea Bass AP meeting, which first covered scup fishery performance and Division recommendations for the 2011 scup season. He noted the first proposal from the Division was to increase the scup starting possession limit for the sub periods to keep up with the increase quota. He stated the panel was not opposed to this proposal. He stated the panel did not object to removing the permitting requirement for the winter scup aggregate program. The AP did not object to changing the sub period language from hard dates to more flexible language to accommodate the aggregate program. He noted the panel did not object to reestablishing the Division's authority to move allocation from the floating fish trap

sector into the general category sector. The final proposal for scup, which the group did not object to as long as it was not a requirement, was to repeal or modify the existing logbook requirement to allow for fishermen to avail themselves to electronic reporting.

S. Parente indicated that the Division did not make any specific recommendations for black sea bass management; however, they suggested considering an aggregate program similar to scup rather than staying with daily limits as a way for fishermen to get a decent possession limit. S. Parente stated that a proposal was made to support an aggregate limit if the Division kept the possession limit at 50 pounds per day. The Division also suggested the panel consider putting an allocation of fish into the September period. However, the commercial rod and reel fishermen's association would not support a reallocation. There was a final recommendation to open at 200-250 pounds and let the fishery close when it was gone. The group had no objections to this proposal.

J. McNamee stated that all the proposals would be going forward to public hearing for public comment.

*Shellfish AP (9/1/2010) and (6/23/2010) – N. Lazar:*

N Lazar reviewed the minutes from the September 1, 2010 Shellfish AP (SAP) meeting first noting the meeting mostly focused on the review of the Behan aquaculture lease application and that the panel did not object to the proposed lease.

Lazar went through the items from the June 23, 2010 Shellfish AP minutes starting with the 2010 winter management area openings. He stated that the following proposed dates; December 15, 17, 20, 21, 22, 27, 28, and 29<sup>th</sup> had been voted unanimously in support by the SAP panel members. Lazar reviewed data that compared the number of days fished last years with the proposed days to be fished.

**K. Ketcham made a motion to recommend that the Director adopt the proposed winter management schedule openings as recommended by the SAP's; December 15, 17, 20, 21, 22, 27, 28, and 29<sup>th</sup>. (A total of eight (8) days, 48 hours; Greenwich Bay 2 hours/day; and High Banks, Bissel Cove, and Bristol 4 hours/day) R. Hittinger seconded the motion. B. Ballou asked for a vote. The Council voted unanimously, (5) in support; (K. Ketcham, S. Parente, R. Bellavance, C. Anderson, R. Hittinger).**

Lazar went on to the next item, which was the proposed spitting of western Greenwich Bay. He noted that the SAP had proposed to divide the western part of Greenwich Bay into two separate sections for 2010. Proposed Area "2" would be closed for the 2010-2011 season in order to give sub-legal hard shell clams an opportunity to grow without disturbance. Area "1" would be open to harvest for 2010-2011 season. The two areas would then be combined again and opened in 2011. Lazar stated that the Division did not have an objection to splitting this area.

**S. Parente made a motion to recommend to the Director to adopt the recommendation from the SAP to divide the western part of Greenwich Bay into two separate sections for 2010 where Area "1" would be open to harvest for 2010-2011 season and Area "2" would be closed for the 2010-2011 season. Then both areas would be combined again and opened in the 2011-2012 season. R. Hittinger seconded the motion.**

A comment was made by a board member from the Shellfishermen's Association stating that

when they voted on the line and the splitting of this area it was an 8 to 7 vote. It only passed by one vote and a lot of guys do not go to these meeting therefore he was acting as their representative and they do not want to be crammed into this small area to try to shellfish. He stated that by splitting the area into two separate areas it would be too crowded in Area "1" and everyone would be banging their boats into each other. He noted they had already agreed to the two hours per day and three days from December 8 through the 15<sup>th</sup> but they were opposed to the split and being crammed into one small area. He explained they were worried about the biomass getting fished out by 500 guys working in that one area. He also noted that other guys were anticipating that this Area "1" would open so they were not going to Florida for the winter they were sticking around until this area opened therefore there would be even more boats fishing in the proposed Area 1. He also noted safety issues and high tensions between guys fishing too close to each other. He stated he was not in support of splitting the area.

J. King, speaking from the audience, stated he was in favor of the split.

M. McGiveney explained that he tried to work out a compromise, which was to make sure that language was put into regulation that would let the split areas revert back to the full area for the next year. He noted that guys were concerned about it being too crowded but also they did not want to get caught in a rotation schedule for these areas where all the biomass was fished out. He stated it was important that if we did the split it would be only for the one year. McGiveney was assuming that participation would be about the same around 200 boats but it could be more. This is an opportunity to give Area "2" a rest. He explained he understood that some guys had concerns about opening this area and he stated that out of all of the proposals this would be the one that could be drop.

J. Grant stated he supported this proposal but agreed with M. McGiveney that it was not a live or die thing, they could live without it. He thought it was a good idea because Area "2" had a lot of undersized clams and it would give them a chance to grow. He felt either way would work to either open both areas or just one.

A second comment was made by the board member from the Shellfishermen's Association stating that if both areas were opened it would be better because there would be more room to fit 500 boats. The down side would be that both areas would get hit but at least there would be more room for all the boats.

S. Parente stated that he had attended the SAP meeting and he is basing his motion on what he heard at the meeting and his motion stands.

K. Ketcham was in support of allowing Area "2" to close for the year and not disturb the smaller sized clams.

M. McGiveney stated that the growth rate is not such that in one year they would grow enough to harvest the following season. He emphasized that he wanted language put into the regulations that would let the split areas go back to the full area for the 2011-2012 season.

M. Gibson stated that the Council cannot bind the hands of a future Council action. The Council can make that motion but there is no binding effect of that. The Council can make a recommendation to the Director next year and maintain the split or draw another line or do whatever they want. Gibson wanted clarification that the only issue on the table is the drawing of

the line and creating a split.

**B. Ballou asked for a vote. The Council voted unanimously, (5) in support; (K. Ketcham, S. Parente, R. Bellavance, C. Anderson, R. Hittinger) to recommend that the Director adopt the recommendation from the SAP to divide the western part of Greenwich Bay into two separate sections for 2010 where Area “1” would be open to harvest for 2010-2011 season and Area “2” would be closed for the 2010-2011 season. Then both areas would be combined again and opened in the 2011-2012 season.**

The next item was the opening schedules for Greenwich Bay, High Banks, Bissel Cove, and Bristol Shellfish Management Areas from January 1 to April 30<sup>th</sup>. Lazar stated that the SAP discussed a schedule for each Area and he would address each area separately. Lazar went through a chart comparing the days fished last year with the proposed schedule of days to be fished for 2011. He explained the proposal for 2011 had a request to expand the days from last year and the Division was still analyzing the potential affects of the increased days. He noted that they had not completed the analysis of the other Shellfish Management Areas and asked that the Council table the item until the November Council meeting. The Division needed to determine if the new schedule would be sustainable or not.

B. Ballou stated that the intent was to develop an analysis and provide it to both the Council and the community in advance of the next Council meeting so people would have time to review the information.

N. Lazar explained that the problem with trying to manage these areas is that we do not have the finer resolution of the data especially on the commercial catch by day or by month in these management areas. We are looking at adding the management areas into our ACCSP system to have reporting of catches per day by fishermen as a requirement. It is difficult for the Division to come up with a standing stock in each of the management areas because the system currently combines a large area of Narragansett Bay and landings are not broken down enough.

N. Lazar addressed the next item, which was a proposal from the SAP to split Potowomut “A” Shellfish Management Area and to modify the scheduled openings for the area from a seasonal access to a year-round access, which he indicated would be almost a 400% increase in access. He noted that through discussions with industry they have agreed to table discussion for 2010 and revisit the proposal next year.

B. Ballou stated that the Potowomut “A” modifications therefore do not need to be taken up by the council at this time.

M. McGiveney stated he wanted the Council to take up the Western Greenwich Bay opening schedule because this schedule started in January. He expressed concern with the promulgation of regulations and the 20-day waiting period if this was not filed with the other changes would it cause a problem. He noted that High Banks, Bissel Cove, and Bristol Shellfish Management Area openings and the Potowomut “A” modifications could be tabled.

G. Powers indicated there was an administrative aspect to it that has to be overcome but we are not prevented from doing so we just have to follow the correct procedure.

B. Ballou state then there was nothing procedurally that would impact the Council’s process and

the Director's process of dealing with these issues in tandem, filing one set of regulations soon and a second set in another month or so.

**C. Anderson made a motion to recommend that the Director adopt the opening schedule for Western Greenwich Bay as supported by the SAP, which was January 2011 – Monday and Wednesday, 2 hours per day (8-10 AM); February 2011 – Mondays, Wednesdays, and Fridays, 3 hours per day (8-11 AM); March 2011 - Mondays, Wednesdays, and Fridays, 3 hours per day (8-11 AM); and close the month of April (April 1 through April 30). K. Ketcham seconded the motion.**

M Gibson stated it was not clear to him that we know how many days are going to be open for this cycle versus last cycle. He asked the Council to make sure they knew how many days they are proposing to open in comparison with the past fishing year. He stated that he would argue that it was not the hours that mattered, but the numbers of days of fishing that would be allowed.

N. Lazar pointed out that it would be an increase in the number of days from last year. The Council discussed the issue and tried to figure out the exact number of days however there were closed days and extended days due to the flooding in the beginning of the year that needed to be figured in

J. Grant stated historically for the last two decades the area was opened December, January, February, March, and April; five months; three days per week; four hours per day. He stated that under that schedule they had some of the best sets they ever had. Industry decided to ratchet back because the market could not handle it. He noted they would want that to be the upper limit, and currently they were well below that. They were looking to increase the number of days just a little because of what happen last year.

N. Lazar explained that the difference was this was a new area that was opening with a high density of clams and the Division was trying to avoid the gold rush type of situation that we had in Conimicut Point.

M. Gibson stated that the Division had hoped that the Council was not going to act on this item tonight, but since there was a motion on the table what you would be doing would increase the amount of days and compression the fishing effort to a smaller area. The fisherman will target the high density patch in Area "1". The policies you have in place for Greenwich Bay are what have resulted in Area "2", which are low densities and a truncated size composition that is what our sampling showed. He stated if that was the objective for Area "1" then they were on the right track to do that. The Council would be giving them more days and compressing the effort. He expressed concerns that we would have a derby on our hands.

K. Ketcham stated this was a one-year trial and it would be addressed next year, if they proved they have not over harvested the area then the Council can take it up next year.

B. Ballou summarized indicating that the Division had some apprehension and was seeking an additional month for further analysis, but you have also heard from the industry that would prefer to have this go forward now.

**B. Ballou asked for a vote. The Council voted unanimously, (5) in support; (K. Ketcham, S. Parente, R. Bellavance, C. Anderson, R. Hittinger) to recommend that the Director adopt**

**the opening schedule for Western Greenwich Bay as supported by the SAP, which was January 2011 – Monday and Wednesday, 2 hours per day (8-10 AM); February 2011 – Mondays, Wednesdays, and Fridays, 3 hours per day (8-11 AM); March 2011 - Mondays, Wednesdays, and Fridays, 3 hours per day (8-11 AM); and close the month of April (April 1 through April 30).**

The Council agreed to table the other opening schedules pertaining to High Banks, Bissel Cove, and Bristol Shellfish Management Areas until the November Council meeting at which time the Division will be able to offer a proposal. B. Ballou reiterated that the Potowomut “A” modifications would be addressed next year.

### **New Business**

*Appointment of a new IAC Chair – B. Ballou:*

**K. Ketcham made a motion to appoint R. Bellavance as the new Industry Advisory Committee (IAC) Chair. R. Hittinger seconded the motion.** There was no Council discussion or objection to the appointment. **Hearing no objections R. Bellavance was appointed as the new IAC Chair.**

*Appointment of new member to Advisory Panel –N. Scarduzio:*

N. Scarduzio stated that an application had been received from R. Tillier who had applied to be the Alternate in the Recreational Bait Rod and Reel slot on the Menhaden Advisory Panel. She noted that his application had been submitted to the Division of Law Enforcement for review however since he was a recreational fisher Enforcement had no record on him.

**R. Hittinger made a motion to appoint R. Tillier to the Menhaden AP. R. Bellavance seconded the motion. B. Ballou asked if there were any objections to appointing R. Tillier to the Menhaden AP. There were no objections, R. Tillier was appointed to the Menhaden AP**

*Approval of Lobster AP Agenda – B. Ballou:*

B. Ballou stated there were two issues to address, the approval of the agenda and a replacement for J. King who was the Chair for this advisory panel. M. Gibson review the Lobster AP agenda stating there would be a meeting to discuss the definition of a lobster pot/trap and other types of pots/traps; and definition of non-lobster trap gear types.

B. Ballou asked if the Council had any objections to approving the Lobster AP agenda. Hearing no objections the agenda was approved.

B. Ballou asked if there were any volunteers from the Council that would be interested in Chairing this AP. S. Parente noted he was the vice-chair for this AP, however he had an interest in this fishery. There was some discussion about who might be interested in chairing the meeting or if someone might be interested in chairing this one meeting until a permanent chair was elected.

R. Bellavance nominated S. Parente to be the interim chair.

S. Parente stated he would volunteer to chair this one meeting.

### **ASMFC-NEFMC Updates**

M. Gibson stated he did not have any comments. He noted that the NEFMC just concluded a

meeting but he did not have the summary minutes yet but they would be in the November Council packet.

B. Ballou noted there was an ASMFC meeting coming up in South Carolina. He mentioned he would hold some round table meetings prior to that meeting for input. He was looking to schedule the meeting in late October.

**FYI**

*October 19, 2010 Proposed Public Hearing items – B. Ballou:*

N. Scarduzio read through the items; amendments to the 2011 commercial fishing licensing regulations; DEM proposed Management Plans for the Shellfish, Finfish, and Crustacean sectors; Amendment to Part III; Proposed amendments to the Fish Trap Regulations.

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

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Nancy E. Scarduzio, Recording Secretary