

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

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

RIMFC Members Absent: S. Macinko

Chairperson: M. Gibson

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

DEM Staff: R. Ballou, G. Powers

Public: 19 people attended

M. Gibson called the meeting to order. M. Gibson asked if there were any adjustment to the revised agenda. Hearing no objections, the agenda as revised on October 2, 2008, was approved. **There were no objections to approving the revised agenda therefore the 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 8, 2008, meeting. Gibson asked if there were any objections to approving the minutes. **Hearing no objections, the minutes were approved as written.**

Public Comments

G. Duckworth stated that with regard to the monk and codfish issue, none of the neighboring states such as MA, CT, and NY, had lowered their possession limits as RI had, and he felt this was unfair for RI fishermen. RI fishermen had been out of business for the last two years while neighboring fishermen were able to fish.

M. Gibson indicated T. Mulvey had past out a handout to Council members pertaining to that issue. Gibson intended to bring forward a draft advisory panel (AP) agenda for approval at the November Council meeting and present the AP with updated GARM III results for codfish, and monkfish, so the AP could make recommendations for revisions if needed.

D. Preble added that the entire situation pertaining to both monkfish and codfish had changed since last year. He felt what was currently in place was not appropriate and needed to be reviewed.

T. Mulvey asked if D. Preble's opinion on the topic had changed from last year. D. Preble responded that it had changed due to a change in the situation. D. Preble explained that as fisheries change and more information becomes available he tries to make the best judgments

that he can. He indicated there was more information on monkfish and codfish available now than was available last year.

B. Mattiucci voiced concern about the procedural events that took place at the September Fluke AP meeting. He expressed concerns that members of the panel ethically should not have voted. Additionally, he was concerned about K. Ketcham being able to vote on the Council, who was a member of the proposed sector and a RIMFC member, on the proposed sector allocation proposal. He felt this was a conflict of interest for K. Ketcham. B. Mattiucci asked that DEM Legal Services review the matter. Mattiucci was also concerned about D. Preble Chairing the summer flounder AP and making bias comments in favor of the proposed sector program.

M. Gibson suggested that some of these concerns would be addressed when the summer flounder AP report was given later in the agenda.

G. Duckworth asked if the public comment period would continue in the future. M. Gibson explained it was his intention to continue with this format at future Council meetings.

Advisory Panel Reports

Summer Flounder AP (9/17/08) – D. Preble:

D. Preble reviewed the meeting minutes. Fifty-two people attended with twelve voting members present. Three proposals for the 2009-fishing season were discussed. Two proposals were from the RI Commercial Rod & Reel Angler's Association (RICRRA) and one from the RI Fluke Conservation Cooperative (RIFCC).

The first proposal was to recommend to the Council to eliminate the call-in requirement for summer flounder as it applies to state water fishers not operating with a RI summer flounder exemption certificate. The proposal passed (7) in favor, (4) opposed.

The second proposal was to recommend to the Council to remain at status quo for the 2009 summer flounder season and requested the DFW to continue to closely monitor landings and adjust daily quota limits in order to insure the fishery remain open as long as possible. The proposal also requested the absolute minimum daily catch limit not be lowered to less than 50 pounds per vessel per day. The proposal passed (7) in favor, (5) opposed.

The last proposal was to recommend to the Council to have the sector allocation one year pilot program go forward to public hearing. The proposal passed (8) in favor, (4) opposed.

D. Preble explained that an issue came to his attention after the meeting was held with regard to one of the voting AP members having a violation. Preble indicated he reviewed the Advisory Panel Policy and it did not address that issue. It only addressed the review of applicants and if an applicant had a violation within the last three years, they were ineligible. He indicated that at the very worst this individual's vote would not count. However, there were enough votes in favor of passing the proposals that it would not change the results of the voting. He asked for direction from the Department. M. Gibson explained he would address the issue when the report was completed. D. Preble wanted to make a motion to have the Council recommend that all the proposals go forward to public hearing.

M. Gibson addressed the issue pertaining to one of the summer flounder AP members having a violation. He indicated that the Department had come to a similar conclusion as D. Preble. The

AP Policy is silent on what happens to a member on a panel who acquires a violation. Gibson suggested that at the November Council meeting the Division come forward with language that speaks to what should happen when a violation occurs. At this point, there were enough votes in favor of passing the proposals that it would not change the results of the voting. It is the Departments' opinion that the meeting stands.

D. Preble stated that public hearings were a function of DEM and not of the Council so he wanted to know if the Council needed to make a motion to recommend that proposals to go forward or not.

M. Gibson suggested there was no need for the Council to send an official signal to the Director that all the proposals would go forward to public hearing, since it had been past practice that all proposals go forward. That had been standard procedure. Gibson indicated if the Council members were comfortable with that then the Department would proceed by bring all proposals to public hearing. There was no objections from the Council.

K. Ketcham stated that he wanted the Council to know that he intended to recuse himself when it came time for a Council vote on the sector allocation issue because his vessel was one of the participating vessels in the sector.

M. Gibson indicated that he understood and that the decision was entirely up to K. Ketcham.

D. Preble asked legal council that since the Council was only advisory in nature would someone need to recuse them self from voting.

G. Powers suggested it might be cutting it too broadly. There was an appearance of impropriety that might be generated by certain actions, and he respectfully suggested that there be action taken on the part of a Council member if indeed he believed there was a conflict.

S. Parente made a procedural comment by explaining he thought it might alleviate conflicts in the future if the Council initiated a roll call vote at advisory panel meetings.

M. Gibson suggested that was covered under Roberts Rules of Order where someone could call for a roll call vote if they wished, however it would be up to the chairperson to implement. He preferred to leave that decision up to the panel chair if there was a request for a roll call vote.

Shellfish AP (9/24/08) – J. King:

J. King reviewed the meeting minutes. Twenty-three people attended with ten voting members present. There was discussion on the establishment of new long-term spawner sanctuaries for Quonochontaug and Ninigret Ponds for oysters. The intent of the closures were to protect broodstock and allow oysters to become established in the sanctuaries and throughout the pond rather than be immediately removed after attaining the 3-inch minimum size. Some members were opposed to long-term closures. The group decided to continue the discussion to a future SAP meeting.

J. King reviewed the next SAP agenda item, which was a discussion on possible scheduling changes for the upcoming Management Area openings for 2008 and 2009. There was a request to change from the current management openings based upon the timing of Christmas and New

Year's Day. J. King requested the item be placed on the November Council agenda for discussion, with a recommendation to the Director to make the necessary date changes.

The last item discussed was on limiting harvest of shellfish within spawner sanctuaries to scallops by dip net only. DEM would be pursuing restrictions for the use of bay scallop dredges in the spawner sanctuaries to protect restoration efforts. This was just an informational item on the agenda. No action was needed by the SAP.

Scup/Black Sea Bass (9/29/08) – K. Ketcham:

K. Ketcham reviewed the minutes from the meeting. Ketcham indicated that there was only one panel member present and five other participants but he felt he should go on with the meeting to develop recommendations for the issues before them in a timely manner. The group would not vote on anything, however all proposals and comments would be forwarded to the Council.

The panel reviewed 2008 scup and black sea bass commercial fishery performance and reviewed proposed commercial quotas for scup and black sea bass. The group discussed a black sea bass proposal that was submitted. After discussions, a final proposal included suggestions to maintain current sub period allocations, create aggregate programs for three of the four sub periods, and closures on Friday, Saturday, and Sunday. An alternate proposal suggested a one-month closure during the month of August. The last proposal was to maintain status quo for 2009.

K. Ketcham indicated the group then discussed proposals for scup. The group as a whole supported status quo for scup management in 2009.

M. Gibson addressed the issue pertaining to lack of a quorum at the meeting. He indicated that the Council was in the process of reviewing the operating policy for conducting AP meetings and needed to revise the language addressing quorum issues. The suggestions from the AP meeting would be presented, but would not have an AP endorsement. Gibson explained the Council would have to make final recommendations to the Director. Council members were in agreement with this course of action.

S. Parente commented that at the last Council meeting he was told that the only person that could submit a proposal at an advisory panel meeting was by one of the voting AP members. He indicated that the only voting member of the AP who was present was G. Tremblay. Therefore, the only legitimate proposal was for status quo.

M. Gibson explained that since it was not an official panel meeting because there was no quorum all we have was a bunch of ideas that the Division would have to sort through and run with. For purposed of openness, the Division would most like present all options.

J. McNamee made a comment in K. Ketcham's defense stating that he had gone to a number of AP meetings over the years and he could not remember ever having a quorum at the Scup/Black Sea Bass AP. He indicated that K. Ketcham had a difficult choice to make.

Other Council members felt there would have been a delay in conducting Council business and at the very least recording what people had to say at the AP meeting was a positive step.

New Business

October 23, 2008 Public Hearing Summary Document – N. Scarduzio:

N. Scarduzio indicated that a few copies had been provided to Council members to refer to for this evening's meeting, but copies had been disturbed to Council members and the public via email, the Secretary of State's website, and on the DEM website a while back.

N. Scarduzio reviewed the contents of the document indicating it contained the public hearing notice which was scheduled for October 23, a summary document outlining the proposed licensing changes, and the three sector management plans (finfish, shellfish, and crustacean). She also indicated that B. Ballou had created an additional discussion paper pertaining to the residency issue, which was also posted on the DEM website if individual wanted to review that information prior to the public hearing.

There was light Council discussion about some of the proposed licensing issues. It was recommended that Council members identify those issues and comment at the appropriate Council meeting when recommendation would go forward to the Director.

November 13, 2008 Public Hearing items – N. Scarduzio:

N. Scarduzio explained the following public hearing would be scheduled for November 13, and Council members had been provided a list of tentative public hearing items along with a timeline. This public hearing would include, commercial scup, summer flounder and black sea bass management proposals for 2009, sector allocation proposal, and possibly some additional items not yet determined.

B. Ballou commented that he was working on some additional issue that would tie in to this hearing so it would be reflected in the public hearing documents. He indicated he would like to revise Part VII of the Marine Fisheries Regulations to make it more user friendly. Additionally, eliminate unnecessary restrictions, such as, eliminating the call-in requirements and the summer flounder exemption certificate program.

Approval of Shellfish AP Agenda – J. King:

J. King indicated that the agenda had been set he just needed to come up with a date for the meeting. He would contact Division staff as soon as he had a date.

The items on the agenda were:

Discussion and vote on possible changes to the Winter Management area openings.

Discussion and vote on possible changes to the Greenwich Bay Management Area.

Continued discussion on recommendations for oyster restoration in Ninigret Pond and Quonochontaug Pond.

Close spawner sanctuaries to the use of bay scallop dredges.

Old Business

Continued discussion about combining advisory panels – M. Gibson:

M. Gibson recapped from the last Council meeting that members had asked for a revised proposal of the consolidation of advisory panels. Council members had decided they wanted to keep the Industry Advisory Panel (IAC) and the Enforcement Panel separate and group some of the other APs. Staff had provided an updated version for Council review.

D. Preble suggested since the scup/black sea bass AP had a difficult time getting a quorum then may be it should be combined with another AP. He suggested combining it with the summer flounder AP.

S. Medeiros had an opposite view. He felt that since it was difficult enough to obtain a quorum, by combining APs he thought it would be even more difficult to get people to attend a meeting for a species they were not interested in. People attend meetings because they are interested in a particular species. He also mentioned that some of the panels only meet once a year so what would be gained by combing them. He also raised concerns about what to do with all the people from each of the panels.

There was Council discussion to enact some of the mandatory meeting requirements. If people do not attend after three meetings, they would be removed. The Council agreed not to make any further changes at this point until they iron out the Species Advisory Panel Policy.

M. Gibson suggested that the Chairs of each panel might need more flexibility to hold meetings.

Correspondence from G. Duckworth to Senator Reed RE: Transiting issue - M. Gibson:

M. Gibson explained this was just an FYI item. Mr. Duckworth had sent a letter to Senator Reed advocating the solution that R. Hittinger had suggested. The Council did not need to take any action on this item. B. Ballou had agreed to be the point person from the Director's office to the Congressional Delegates. If anyone had any other suggestions, they should direct those comments to B. Ballou.

B. Ballou had a general announcement that the Director had established a marine recreational fishing licensing study group. He had invited fifteen people to serve on the committee and both B. Ballou and S. Medeiros would be co-chairs. The process had not yet begun but would begin soon. The group would look at the Federal regulations and assess the state's options. B. Ballou would keep the Council updated.

M. Gibson asked if there were any other issue from the Council. Hearing none the meeting was adjourned.

The Chairman adjourned the meeting.

Nancy E. Scarduzio, Recording Secretary