

RHODE ISLAND MARINE FISHERIES COUNCIL
Minutes of Monthly Meeting
November 5, 2007 – 6:00PM
URI Narragansett Bay Campus
Corless Auditorium
South Ferry Road
Narragansett, RI

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

RIMFC Member(s) Absent: C. Anderson

Chairperson: M. Gibson

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

DEM Staff: B. Ballou, Larry Mouradjian

Public: 26 people attended

Chairman M. Gibson called the meeting to order. M. Gibson stated that there were a number of adjustments to make on the agenda. He stated he had a request from Council member S. Parente to add an item related to the process utilized at the last summer flounder advisory panel meeting. Gibson suggested that rather than adding an item under 4(b) he preferred to take the issue up under the existing agenda item 3(c) when D. Preble gives his report.

D. Preble stated that he would like to address the request. Preble stated that the request was obnoxious and demonstrated a complete lack of understanding of the laws, regulations, and procedures that govern fishery management in RI. He asked that the request be declared out of order for the following reasons: (1) the request asked for a discussion and appropriate action taken relative to procedural deviations from proper protocol, which Preble stated, was a request for an inquisition or judgment by the Council against one of its own members. (2) The written request also asked that the summer flounder advisory panel meeting minutes accurately depict what transpired at the meeting, which Preble stated, was a request for an inquisition against DEM staff. Preble stated that this request stated that DEM falsified a document. He stated this to be obnoxious and out of order. Preble stated that if in fact he wanted an inquisition or judgment it is not appropriate for the RIMFC, because it only has an advisory capacity. It is not allowed by law or regulation, therefore it is out of order. (3) If it were an extremely important issue then it should not be on an ad-hoc agenda. If it was that important and involved that, kind of policy then it should be put on the regular agenda and addressed in that fashion. (4) The request asked that option #2 be deleted from consideration from the Public Hearing Summary Document. Preble stated that public hearings are not a function of the RIMFC. To suggest that the Council remove it from a public hearing document is entirely out of order and it is not in keeping with the function of the Council. Preble stated that public hearing items that are put on by DEM could only be removed by DEM; it has nothing to do with the function of this Council. Preble closed by stating that the request was obnoxious, attacked a member of the Council, and was totally out of order and requested that it be ruled so.

M. Gibson asked if S. Parente would like to address the issue since he made the request. Gibson stated that he was looking to the Council for guidance, that he could make a unilateral decision on how to proceed, but would like the Council to work it out.

S. Parente indicated that all he wanted to do was get the facts out as they occurred at the meeting. He stated that he believed there was a violation of Roberts Rules of Order. He indicated that the minutes did not depict what occurred at the meeting.

M. Gibson indicated that he would like to have the Summer Flounder AP report and any discussion about that report and the meeting discussed by the Council under that agenda item 3(c). He did not see the need for a special agenda item that may be outside the notice process. Gibson stated that D. Preble had to give the report on that panel meeting, if there were questions about the meeting or the process that would be the time to raise them and discuss them. Gibson told Parente he would be able to ask questions at that time.

S. Parente stated that he did not have a problem going in that direction; however, he wanted to be able to give a synopsis of what transpired at the meeting. D. Preble stated that would be in his report.

M. Gibson told S. Parente if he felt he needed to add information to that report he would be in a position to do so at that time.

G. Allen wanted to reinforce what M. Gibson stated; he felt that Gibson outlined the correct process; D. Preble should read the report, and if there were comments that anyone wished to add that would be the appropriate time to do so. He indicated that was how the Council had done things in the past and he would like to recommend that the Council proceed in that manner.

M. Gibson asked if there were any other comments from members. Hearing none, he stated that they would proceed as he and the vice-chair, G. Allen, had suggested by taking the issue up under agenda item 3(c).

M. Gibson indicated that he needed to address other agenda items. He stated that he would move item 4(c) up to the beginning of item 4 (New Business) because D. Mendelsohn from Applied Technology & Management, was here to give Council members a presentation about wind power sites. Gibson indicated that the Council had a statutory obligation to advise the Director on matters that could affect marine fishing. Gibson wanted to start the process and hoped that the issue would be deferred to an advisory panel for further review.

M. Gibson stated that he did not see D. Alves from CRMC present to give a report or update the Council on progress of the comprehensive aquaculture plan. He did not think there would be any report so that item would be removed from the agenda. Gibson stated that Alves had not responded to him or staff if he would be coming or not so he did not know what was going on with the progress of the comprehensive plan.

Gibson continued with modifications to the agenda by adding item 4(g) a Public Hearing Summary Document for a November 27, 2007 public hearing, as an FYI item.

Gibson asked if there were any objections by Council members to the changes made to the agenda other than the concerns made by S. Parente. Hearing none, the Council will proceed in that fashion. **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 October 1, 2007 meeting. Gibson asked for a motion to approve the minutes. **S. Medeiros made a motion to approve the minutes. K. Ketcham seconded the motion. M. Gibson asked Council members if there were any objections to approving the October 1, 2007 meeting minutes as written. There were no objections therefore the minutes were approved.**

Advisory Panel Reports:

Scup/Black Sea Bass AP (10/16/07): K. Ketcham gave the report. He stated that there were 12 people present. Of the 12, there were three AP members and two alternate members. They discussed management of the commercial scup quota for 2008 first. He stated that the panel was informed that the commercial quota for scup would be approximately 50 % lower in 2008 than in 2007. There was discussion on the competing quotas between NMFS and ASMFC, which has resulted in closure of the federal commercial fishery this year. The same situation might occur in 2008. There was concern that continued harvest in State waters by those without a federal permit would produce a sizeable overage that would further impact federal permit holders in 2008. There was discussion on how to manage the quota given the uncertainty of the actions that NMFS would take. One suggestion was to open with a high possession limit in order to harvest the quota before the federal fishery is closed. There was concern over the possibility that other states would open with large possession limits and end up with majority of the quota.

Given the uncertainty of NMFS actions, the panel felt that a recommendation would not be prudent. They were interested in waiting to get a better indication of what the federal government was going to do. Specifically they wanted to know if a lower federal quota was going to be adopted for 2008 and if Pat Kurkel had the authority to close state waters when the federal quota was reached. Once these questions are answered a second advisory panel could be held to make recommendations. Postponing recommendations would preclude the topic from being presented at the next public hearing, however, the State commercial quota does not become available until May 1st and another public hearing might be held prior to that date. RIDFW would determine if another public hearing was scheduled for the winter or early spring and report back to the Chair of the advisory panel.

The advisory panel tabled recommendations for management of the commercial scup quota in 2008 until the questions posed by the advisory panel were answered.

K. Ketcham stated that the panel then discussed management of the commercial black sea bass quota for 2008. He stated that the panel was informed that the reduction in the black sea bass quota is approximately 35% for 2008. Review of the 2007 landings revealed that none of the sub-period allocations have been fully harvested. Members of the panel indicated that it is because there are not as many black sea bass available rather than a result of the market. Discussion focused mainly on possession limits and whether they should be adjusted. During the last two sub-periods the possession limits were increased because landings were very slow given

the starting possession limits. It was also pointed out that under the current possession limit regime the 2008 quota would have been caught by the end of September but that was with an increase in possession limit from 100 pounds on May 1 to 200 pounds June 17, 300 pounds August 26, then 500 pounds September 16. It was suggested that starting with a slightly higher possession limit on May 1 would not exhaust the quota prematurely even though it is a lower quota because black sea bass do not seem as abundant as a few years ago and if need be RIDFW could drop the limit. The panel agreed that starting with a higher possession limit and then reducing it as needed to keep the fishery open is a better strategy than continuously increasing the limit to avoid landing short of the quota. They felt a starting possession limit of 200 pounds would be reasonable considering the possession limit in 2007 went up to 500 pounds.

By way of vote, the panel recommended unanimously in favor of increasing the starting possession limit on May 1 from 100 pounds to 200 pounds for the commercial fishery.

M. Gibson asked if Council members had any question for K. Ketcham.

G. Allen asked for clarification on the year used for black sea bass, he thought there might have been a type error. K. Ketcham clarified the year was correct there was no error.

G. Allen asked a second question about the scup quota; he wanted to know if the difference between NMFS and ASMFC on federal and state numbers was a migratory issue. K. Ketcham stated it was a Pat Kurkel issue. She did not file her recommendation on the National Registry until February and RI had based the starting time on ASMFC and the Mid Atlantic information. Ketcham stated that in October Ms. Kurkel shut off all the federal vessels fishing for scup even though RI had plenty of state quota left because she thought the federal vessels would be going over. Ketcham stated that they want to avoid that from happening again if there was going to be such a big drop in the scup quota next year.

M. Gibson asked if there were any other questions. He also indicated that the Council would not have to make any recommendation until after the November 27, 2007 public hearing so there would be some time to get answers for the scup advisory panel. Gibson asked Ketcham if the scup AP needed to meet before the November 27, 2007 public hearing.

Ketcham stated that they did not need to meet before the November 27, 2007 public hearing they wanted to see if they could postpone the scup issue for a public hearing for either late winter or early spring because they do not need a scup decision until May 1, 2008.

J. McNamee added in support of K. Ketcham comments indicating that scup had been removed from the November 27, 2007 public hearing so the hearing would only include black sea bass and summer flounder.

Shellfish Advisory Panel (SAP) (10/22/07): J. King gave the report. He stated that the RI Shellfishermen Association requested to have a SAP meeting to develop harvesting times for the High Banks and Greenwich Bay management areas. The panel made a recommendation to stay at status quo for the remainder of 2007 in the High Banks area, which is four hours (8 am to 12 pm) three days per week. King stated that there would be a public hearing held in January 2008 on the Greenwich Bay and other management areas.

M. Gibson asked if there were any comments or question from the Council. There were none.

Summer Flounder Advisory Panel (10/23/07): D. Preble gave the report and stated that he would like to expedite things by addressing one issue that had already come up. He referenced the Advisory Panel (AP) policy guidelines which stated that the AP would follow Roberts Rules of Order to the extent necessary at the discretion of the AP Chair.

Preble stated that the summer flounder AP met on October 23, 2007 with 22 people in attendance, which included nine members of the AP. The meeting opened with discussion on the commercial quota for 2008. He stated that the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council adopted a TAL of 15.77 million pounds for 2008, which is about an 8% reduction from the 2007 TAL of 17.11 million pounds. Assuming there are no overages in 2007, the RI commercial quota in 2008 would be about 4% lower than what was available in 2007. The panel was also informed that there had been indication that NMFS would adopt a lower quota for federal waters, which would result in an earlier closure for federal permit holders.

D. Preble indicated that there were three written proposals submitted in regards to the commercial fishery in 2008 and went through each proposal. He explained that there was an interruption at the point when the third proposal was presented. At that point, he pointed out another AP policy, which referred to the authority of the Chair in handling disruptive members and that any panel member with a documented history of being disruptive may be removed from the panel on the recommendation of the Chair of the RIMFC.

Preble stated that there were some problems with the proceedings because of a disruptive member. D. Preble stated that Mr. Robert Mattiucci was loud, obnoxious, and would not let anyone else speak, and interrupted people. Preble stated that he loudly asked him to stop it; Mattiucci did not stop and continued. This resulted in confusion at that point of the meeting. D. Preble requested that this behavior be on the record because if it happens again he would not allow it to happen again. Preble stated that if it happens again he would either adjourn the meeting or ask Mr. Mattiucci to leave. D. Preble stated that he wanted this on the record because if it happens again he will ask that Mr. Mattiucci be removed from the advisory panel.

D. Preble indicated that when the confusion occurred he thought a written proposal had been given to J. McNamee and J. McNamee thought it had been given to Preble. Preble stated that he finally received it. Preble then went through the three proposals. There was a vote taken and on two of the proposals, there was no clear consensus therefore both proposals were brought forward.

Preble stated the panel then voted in favor to have a proposal from C. Brown entitled "Sector Allocation Pilot Program" submitted to the RIMFC for consideration and discussion. Preble indicated that C. Brown was in the audience ready to give his presentation and requested that C. Brown be given the opportunity to give a short presentation to the Council on his proposal.

Preble stated that there was also a request from the panel for a legal opinion on the call in requirement for fluke and documentation on the court case concerning the issue.

S. Medeiros interjected by stating that the Fluke AP does not have the right to come to the Council and tell the Council that they have to hear the C. Brown proposal. Medeiros stated that

he did not have anything against the proposal just that the panel can request that it be heard but not demand that it be heard.

M. Gibson asked J. McNamee what was noticed for the November 27 public hearing and if all the proposals had been noticed. J. McNamee stated that the two proposals; status quo and the proposal to re-split the summer sub period had both been noticed. McNamee stated that at the AP meeting C. Brown stated that he did not intend for his sector allocation proposal to go forward at this public hearing. The AP intended to work it through the Council first.

M. Gibson asked D. Preble why it was important for the Council to hear C. Brown's proposal at this meeting. D. Preble responded that it was not critical and it did not need to be heard at this meeting.

G. Allen recommended that the proposal submitted by C. Brown be referred back to the advisory panel for further discussion.

S. Parente stated he wanted to provide a reiteration of what occurred at the Fluke AP meeting. He indicated that the agenda was non-descriptive, it only mentioned discussion of proposals with no mention of voting on proposals and that proposals be in writing. He indicated that only two written proposals were submitted and made available to voting members and the public. Both proposals were for status quo, there were no other proposals submitted at this point. He stated that a vote for status quo was taken and had won by majority vote. Parente stated that in his opinion this should have been the conclusion of voting and only status quo should have gone forward to the hearing.

S. Parente indicated that C. Brown then gave his presentation regarding sector allocation. Then the in-shore AP member brought up the point that status quo of the previously approved proposal, of the combining of the old summer one and two sub periods for 2007, were not to his liking. Parente then stated that the meeting became convoluted and confusing. A new proposal was made by C. Brown to re-fragment the current summer period into two periods back to where it was prior to the 2007 season. He indicated that the Chair reminded C. Brown that all proposals must be submitted in writing. C. Brown wrote down his proposal and handed it to the Chair. Parente claimed that the proposal was not made available to anyone else. The Chair then allowed a vote on C. Brown's proposal. Parente stated that the vote was 5 in favor and 4 against. Then the Chair allowed a re-vote of the original status quo proposal, which had already won, and this time the vote was 4 in favor and 5 against. Parente believed the re-vote to be in violation of Roberts Rules of Order in that the original vote for the proposal of status quo had not been withdrawn.

Parente went on to discuss the Public Hearing Summary Document, which he felt that proposal #2 had been modified from C. Brown's written proposal as submitted at the AP. He stated that was the deletion of the provision in the summer period aggregate landing program, which terminates the program when 80 % of the summer flounder period quota had been landed. He did not understand where this came from and why.

S. Parente also stated that the Fluke AP minutes did not accurately reflect all that transpired at the meeting because of the confusion that occurred at times. He stated he had requested that this item be put on the agenda so he could have the opportunity to make a motion.

M Gibson stated that he could still make a motion. Gibson explained that there was no need to have a separate agenda item when it could be discussed under an already existing agenda item.

S. Parente stated that he would like to make a motion that all options with the exception of the status quo option be deleted from the public hearing summary document for the November 27, 2007 public hearing.

M. Gibson clarified for the Council indicating that the public hearing had already been noticed in the Providence Journal and the document had already been made available to the public even if it were declared out of order he did not think there was anything that could be done about this at this point.

M. Gibson asked if there was a second to the motion.

S. Medeiros asked if the minutes could be amended. He stated this was a very different story from the minutes.

M. Gibson stated that he did not have a problem amending the minutes. He indicated that he did not have a problem with anyone who was present at the AP meeting to bring to the attention of the Chair, D. Preble, a request to modify the minutes. If D. Preble agreed to modify the minutes then the staff would do it. However, this Council has entrusted their panel Chairs to run these meeting and conduct Council business on behalf of the Council, and it is a difficult task at times.

D. Preble stated that there was some selective memory occurring, that the initial proposal came from C. Granquist and it came early on. He also stated that the proposals were requested to be in writing so that there was no confusion at the meeting over what exactly the proposal was, it makes it easier for how we conduct business.

M. Gibson suggested that S. Parente work with D. Preble to provide Preble with modifications to the AP minutes. If Preble concurs with the modifications then staff can make those adjustments. Gibson also addressed the request that the C. Brown proposal be referred to the AP for discussion.

K. Ketcham stated he would like to speak to two items. He stated, regarding the meeting minutes, that he was present and as far as he could recall he thought DFW staff did a fine job of encompassing what took place and entering it correctly. He indicated there was a lot of discrepancies and a lot of things going on at the meeting but as far as a summary of what happened he felt it was accurate. Secondly, the AP made it very clear that they wanted the C. Brown proposal to go to the Council for the Council to hear from C. Brown directly. C. Brown had already given his presentation to the AP. Ketcham stated that the AP wanted to get feedback from the Council on this proposal. Ketcham stated that it would be appropriate to hear from Brown before referring it back to the AP.

M. Gibson stated that he did not have the flexibility with the agenda for tonight but he had no problem having staff place it on the agenda next time with the understanding that the AP needed to deal with it and make formal recommendation to this Council. If there is consensus from the Council for interest in this, it will be on an AP agenda in the future.

K. Ketcham stated he thought the Council should hear the presentation first then decide what they want the AP to do with it before the Council sends it back to them, because they have already heard it and they are waiting to get direction from this Council.

M. Gibson stated he could put it on a future agenda.

D. Preble asked for one last word, he stated that he wanted to make sure that the disruptive behavior at the AP meeting was part of the record. M. Gibson stated that the Council heard him loud and clear and there was no disagreement from the Council. Gibson stated that he had asked that individual to leave a Council meeting before but there was no Sergeant at Arms present so Gibson did not want to force the issue himself. Gibson stated if D. Preble made a report to the Council of a problem with an AP member, this Council was prepared to act.

S. Medeiros stated that he still had a problem with the Fluke AP minutes, if it happened as S. Parente stated. He wanted to know if there was a first proposal that was passed, then later changed, why it was not mentioned in the minutes.

M. Gibson stated that there was an opportunity to rewrite the minutes but the bottom line was that both proposals would go to the public hearing and people would be able to comment on both proposals. The concern is whether one of them gets an asterisk as an AP endorsed option on the power point presentation.

D. Preble gave his final comments about the AP meeting by stating that it made little difference since there was no consensus either way. Both proposals were on the public hearing agenda and getting exact minutes of the meeting was difficult based on the disruption at the meeting. He stated if it were worth the time to hash out what the time sequence was then he would be in favor of it but he did not see the importance of doing that.

S. Parente stated that he would like to have the minutes modified. M. Gibson indicated that Parente would have to provide input directly to Chairmen D. Preble. Gibson stated that if Preble agrees with having those minutes changed staff would draft them in that manner and they would be brought before the Council for review a second time.

S. Parente asked about the public hearing summary document with the 80% cut off being deleted, that was never brought up at the AP. He wanted to know how it got in to the public hearing document.

J. McNamee asked for members to recall the meeting where the advisory panel procedures were discussed and in particular this very item that he explained was a standard operating procedure. All proposals that come forward to the advisory panels whether they are voted on or not, or whether they are approved or not are put in the public hearing summary document. McNamee stated that he followed that criteria in this case. He also stated that he did not indicate if one was preferred over another they were just listed as proposal one, and two.

S. Parente still wanted to know where the 80% deletion had come from. J. McNamee asked the Chair if he wanted him to discuss that further and mentioned it had been an internal decision.

M. Gibson stated that he was not interested in identifying individuals who may have made proposals. He indicated that this is normal procedure; all proposals go forward to the public hearing.

S. Parente stated that he had an issue with that placed in the public document when it had not been discussed at the public hearing.

M. Gibson stated that the preparation of public hearing materials and public hearings are conducted under the authority of the Department and the Department determines what may be relevant to take public comment on.

G. Allen stated that in the future it would be better for an advisory panel to be given specific tasks instead of a general agenda item.

New Business:

Industry /Council input on wind power sites: M. Gibson introduced D. Mendelsohn from Applied Technology & Management who was a consultant to the Governors' Energy Office. Gibson explained that some Council members had already been involved in the process as stakeholders; however, because of statutory requirements to the Director this Council needed to weigh in on the issue and provide comments to the Director. Gibson asked Mr. Mendelsohn to brief the Council on wind power sites and what the impacts might be relative to marine fisheries.

D. Mendelsohn stated that his firm had been working for the Governors' Energy Office to determine the feasibility of developing 15% of the state's aggregate annual electric usage, the load that the state uses from electricity, from wind power. The state has agreed to develop up to 15% of the state's energy usage from renewable resources by the year 2012. This project is a piece of that bigger project where his firm would be looking at wind power. They were asked to look over the whole state to see if it was feasible or not. They found that approximately 98% of the states' wind resources are offshore.

Mendelsohn stated that further screening produced a map of various potential areas, which were based on wind speed. These areas are areas of less than 65 feet in depth. He indicated that they ended up with ten sites. He reviewed a slide referencing energy usage, which corresponded to energy generated at each site. He indicated that he had a more in depth presentation but this was just a short presentation. Mendelsohn stated that by combining two areas there could be enough energy produced to reach the Governors' 15% goal. They have met with various stakeholders to determine what issues are of concern with each site in order to proceed in this process. He stated that there were a number of issues that have been brought to their attention. No areas have been ruled out at this point, everything would be looked at.

There were a few questions and comments from the Council. M. Gibson stated that this Council at some point would have to provide input to the Director. Gibson suggested that this issue be referred to the industry advisory committee. He indicated that Mr. Mendelsohns' group could provide a more detailed presentation to the IAC and the IAC could give this Council feedback from all the fishery sectors.

S. Medeiros made a request to send this to the IAC for consideration provided Applied Technology & Management would give a much more detailed presentation.

M. Gibson asked K. Ketcham when he would like to schedule this for an IAC meeting. K. Ketcham thought it would be appropriate for sometime after the first of the year.

Update on meetings regarding comprehensive aquaculture plan (10/11/07): M. Gibson indicated that D. Alves was not present so there was no report on the progress of the aquaculture plan.

Gibson stated that J. King had some mounting concerns and wanted the Council to have a brief discussion about the status of the comprehensive aquaculture plan and the process.

J. King stated that he and other Council members had hoped that the aquaculture plan process, which had started this past summer, would be completed or near completion before the beginning of the 2008 year. He stated that as far as he could see, as well as others involved in the process, nothing had been done up to last month when M. McGivney stood up at one of the aquaculture meetings and requested they sit down and do some nuts and bolts. King claimed that if McGivney had not stood up and asked for more progress there would still be nothing done on this plan. King pointed out that the Council, in a good faith effort, had reviewed and given input on (7) seven aquaculture lease expansions based on the fact that there would be a plan in place and these expansions would be subject to the new comprehensive aquaculture plan guidelines.

King stated that D. Alves has the responsibility to report to this Council once a month and provide updates. This was now the second month where he had not reported to the Council. J. King indicated that D. Alves was expecting K. Ketcham, King or other Council members to provide updates on his behalf. King indicated that they were not paid for providing this information; however, D. Alves was paid. This is his project as the state aquaculture coordinator and King believed that Alves should be reporting to the Council. King felt that Alves had passed his work on to other people during this process and had not done anything. King reiterated that providing updates was not Council members' responsibility, they were involved, as part of a workshop to help Alves perform his duties but King does not see Alves doing his job. King in closing stated Alves was not present again and he wished he had been here to give his input.

M. Gibson stated that he would relay Council concerns to the Director, also L. Mouradjian, Associate Director, and B. Ballou, who were both in the audience, would inform the Director of the Council's dissatisfaction with the plan progress. Gibson stated that this Council started the process in motion with Council actions and we were all hopeful that a comprehensive aquaculture plan would come out of this process. He explained that the Council even resumed consideration of applications because of the commitment that CRMC had made to produce that plan.

K Ketcham stated that he wanted to concur with what J. King had stated. He also felt that since the (7) aquaculture extensions had been reviewed by this Council which were reviewed based on good faith that we were all moving forward with this process toward creating a comprehensive aquaculture plan. He stated that it seemed that since they got Council approval, and what they wanted, now it is on the back burner and they seem to be putting it off on to this Council. Ketcham did not feel an adequate job had been done. He indicated that CRMC was trying to get everyone else to do the job and that was not right. He stated that D. Alves needed to get this completed.

M. Gibson reiterated that these concerns would be brought to the DEM Director. He mentioned that the Director sits on the CRMC Council and he would be made aware of the RIMFC concerns.

Council comments on October 24, 2007 Public Hearing items: J. McNamee reviewed the power point presentation that was presented at the public hearing. He also made note that a summary of public comments from the public hearing had been included in Council member packets.

McNamee first reviewed the proposed options pertaining to quahaug endorsements for shellfish commercial fishing licenses indicating that option #2 was the option recommended by the IAC.

M. Gibson asked for Council discussion and questions. S. Macinko asked which option represented status quo. J. McMamee indicated that option #2 represented status quo. There was some discussion about the exit/entry ratio.

K Ketcham made a motion to make a recommendation to the Director to adopt option #2, retain 3:1 exit/entry ratio, and apply to eligible PEL's retired in 2007, which is also the recommended option by the IAC. S. Macinko seconded he motion.

There was some discussion on the motion by the Council. There were no comments from the audience.

M. Gibson asked for a vote. **The motion passed unanimously, to recommend to the Director adoption of option #2 pertaining to quahaug endorsements for shellfish commercial fishing licenses, which is to retain the 3:1 exit/entry ratio, and apply to eligible PEL's retired in 2007.**

J. McMamee continued with the shellfish sector and reviewed licensing options pertaining to soft-shelled clams (steamers). He explained that this was currently an open category; a shellfishermen could harvest soft-shelled clams with a non-quahaug shellfish endorsement. He reviewed the three (3) proposed options.

B. Ballou commented that he had passed out a color-coded spreadsheet to Council members that was created using SAFIS data showing the activity level of shellfish license holders as well as the changes from 2006 to 2007.

M. Gibson asked for Council discussion and questions. S. Parente asked if option #2 was inclusive or if the bullet items could be broken down. M. Gibson indicated that the bullet items all worked together to compose option #2. There was some discussion about PEL and MPL licenses.

S. Parente asked if he could make a modification to one of the bullet items. He wanted shellfishermen with a PEL quahaug endorsement to be able to get a soft-shelled clam endorsement. He felt that soft-shelled clams could be managed by adjusting bushel limits to control the effort.

S. Parente made a motion to recommend to the Director to adopt option #2 but to add a provision that current PEL license holders be allowed to obtain the soft-shelled clam endorsement as well as MPL license holders. J. King seconded the motion.

M. Gibson asked for Council discussion. S. Macinko asked what was the problem, if there was a problem statement what would it be. B. Ballou indicated that between 2006 and 2007 there had been a doubling of effort in one year. There had been a surge of effort and landings in the soft-shelled fishery. J. McNamee stated that in the shellfish management plan it was indicated that the other troublesome trend in that fishery was a decrease in CPUE.

S. Macinko stated that the motion would then add more people than in any other category. There was additional Council discussion.

J. King stated that it is actually too late, we all waited to long to do anything and the steamers are now gone. He stated that two shellfishermen came forward the beginning of the summer and asked that the bushel limit be reduced and that the size limit be increased and nothing was done because too many shellfishermen got greedy. He claimed there was nothing there now it was irrelevant.

M Gibson stated that the Council still needed to make a recommendation to provide some structure for management in the future.

M Gibson asked for audience comments on the motion.

An audience member stated he was for capping the effort noting the effort had already double in the last year. He was concerned about what would happen next year. He stated that a lot of these people who can not get another endorsement would be getting this clam endorsement and focusing on clams. He stated he was worried there would not be any clams after 2008 especially if it doubles in effort again. He indicated that the state got involved with this to late.

K Ketcham stated that at the IAC meeting members were also in favor of incorporating a control date.

There was further discussion by the Council.

D. Preble asked to make a modification of the motion made by S. Parente to add option #3 to option #2, which would establish a contrail date of December 31, 2007.

S. Parente rejected the modification, he was not in favor of a control date.

M. Gibson stated that since S. Parente did not concur there would need to be a formal motion to amend the motion to add option #3 to the modified option #2 proposed by S. Parente. Gibson asked if there was a seconded. G. Allen seconded the motion for discussion purposes.

M. Gibson clarified that what the Council would be doing is recommending to the Director that there be a companion measure with this control date, which would allow the department to address escalating effort post 2007.

B. Ballou offered his interpretation, he stated that this simply provides bases for coming back to another regulatory proposal at some time in the future that could be tied to the December 31, 2007 effort as of December 31, 2007, but it would still need to go before a public hearing and full consideration. The Director could not just single handedly make this change.

M. Gibson responded to a comment made by S. Macinko stating that it was not likely that the Division was going to be able to add necessary funding or human resources to extend the shellfish surveys to cover steamer clams.

S. Macinko stated he was uncomfortable doing resource management on the bases of no information on the resource so he indicated that he would abstain from a vote and stay out of this one.

D. Preble stated that the control date option would be another tool in the toolbox for the Director to use at some time in the future. He stated he did not have strong feelings on it.

G. Allen felt that adding option # 3 was an important step in the process of slowing down the depletion of steamer clams so that when the time comes something could be done about it.

A member from the audience asked what was meant by capping effort, was it capping the number of bushels or capping the number of licenses he felt that needed to be clarified.

C. Brown stated that if you can not count it, you can not manage it. He pointed out that if the state had enough funds to conduct a wind power project and drill hole all over, one would think there would be enough money to conduct a simple soft-shelled clam study. He was not happy to hear that we did not have a handle on a species that was completely indigenous to RI and a very valuable resource to a lot of people.

M. Gibson ask the Council for a vote on the motion which included the modified option #2 as modified by S. Parente with option #3 the control date. The motion failed; one in favor (G. Allen), five opposed (K. Ketcham, J. King, S. Medeiros, S. Parente, D. Preble), one abstained (S. Macinko).

M. Gibson asked for a vote on the original motion, which was option #2 as modified by S. Parente to include a provision that current PEL license holders be allowed to obtain the soft-shelled clam endorsement as well as MPL license holders. Five (5) in favor (K. Ketcham, J. King, S. Medeiros, S. Parente, D. Preble), 2 abstained (S. Macinko, G. Allen), none opposed, the motion passed.

J. McNamee continued with the next sector, which was the finfish sector. He reviewed the highlights of the proposed finfish management plan. He then explained that for the finfish there were two finfish endorsements; restricted finfish endorsements, and non-restricted finfish endorsements. Currently there are no new restricted finfish endorsements and non-restricted finfish endorsements are currently open. The proposal was to remain at status quo, which were no new restricted finfish endorsements. This was the IAC favored option as stated by K. Ketcham.

There was Council discussion lead by S. Macinko. S. Medeiros agreed with S. Macinko that at some point we should be able to let someone in to the fishery.

J. McNamee added some additional information by stating that under the current effort this year there were closures in the summer flounder fishery, closures in the striped bass fishery, and we hit triggers in the scup fishery, under current effort. M Gibson indicated that we could expect those to be exacerbated if quotas were reduced.

S. Macinko stated that this was more restricted than what the Council just did with shellfish. He stated that at 3:1 you let five in and you are still declining effort. He commented that he realized that it was a balancing act.

K. Ketcham wanted to point out that there was a difference between shellfish and finfish. He stated that finfish are impacted by federal regulation with set quotas however with shellfish there are no state quotas and there is no problem with the shellfish fishery at this time that is why the Council voted to let it open up to a smaller number of new applicants. The reason for not opening up the finfish fishery was because of the shirking quotas applied by the federal government. He indicated that he could not see how it could be opened to new licenses.

S. Parente made a motion to recommend to the Director to stay at status quo; no new restricted finfish endorsements. The motion was seconded by K. Ketcham

M. Gibson asked if there was any other discussion from the Council. There were no comments from the Council. Gibson then opened up discussion to the audience.

L. Dellinger stated that he was in agreement with S. Macinko that there are other way to do things but as far a licensing goes with finfish we really do not know what these retired licenses were doing with them, they had some landings. He stated that there is no cap on effort and until we have all the numbers, he felt it was crucial to be cautious.

C. Brown stated that we all would like to see younger people get in to the business, but how can you let someone get involved in something that does not have any legs to it and that was all messed up. He stated that he was in agreement with K. Ketcham. He stated it was unfortunate but much of the management we have now is keeping people from getting into the fishery.

S. Macinko made a comment that now we have crack, unsafe sex, and commercial fishing; keep your kids away from all of them. He apologized for the comment and stated that this goes on every year. He stated they would have to be more creative with an argument not to open restrictive finfish licensing.

J. Grant stated that he wanted to parallel what L. Dellinger had stated. He indicated the best way to review a retired license would be to go through the SAFI system.

M. Gibson asked if there was any other Council discussion before he called for the vote. There was none.

Gibson asked Council members to vote on the motion to recommend to the Director to stay at status quo; no new restricted finfish endorsements. Five (5) in favor (K. Ketcham, J. King, G. Allen, S. Parente, D. Preble), two (2) opposed (S. Macinko, S. Medeiros), the motion passed.

J. McNamee continued with explaining the next public hearing item, which were gear endorsements for purse seining and mid water/pair trawling. He indicated that currently these were open categories, which could be harvested under the non-restricted finfish endorsement. He explained that the proposal was to establish means for controlling purse seine and mid water/pair trawling activities and read the bullet items of the proposal.

M Gibson gave some background for this proposal and stated this was the Councils' opportunity to stake out a position and give some meaningful recommendations to the Direct on this issue.

D. Preble made a motion to recommend that the Director adopt the proposal, which would establish means for controlling purse seine and mid water/pair trawling activities. S. Medeiros seconded the motion.

K. Ketcham stated that he would like to make a friendly amendment to the motion. He stated that he would like to delete the control date requirement.

S. Medeiros stated that he thought there should be a control date. D. Preble concurred with S. Medeiros that there should be a control date.

M. Gibson stated that the two members would not agree to the friendly amendment therefore, Ketcham would have to make a formal amendment. Ketcham stated that he was not in favor of the proposal as it stood. He did not feel it achieve the goal they wanted.

D. Preble spoke to the control date and the importance.

Gibson asked if there were any further comments from the Council. There was none. Gibson opened the floor for comments from the audience.

R. Fuka stated that he encourage the Council to consider K. Ketchams' amendment to the proposal pertaining to the control date.

C. Brown stated that he thought this looked like more of a revenue opportunity for the state than for a regulatory opportunity for fishermen. Everything has to be based on science if the fishery can support more people then it should. If it can not then it can not. He indicated that he had a pair trawl permit for almost thirty years but he does not have a lot of landings. He did not feel this was hitting at the essence of the problem, which was that out-of-state pair trawlers were whacking the ends off lobster gear set by RI fishermen. This proposal dose not address the problem but penalizes the RI fishermen who work well with the lobstermen.

B. Westcott stated that this proposal should target the out-of-state boats in these fisheries but not persecute state boats. S. Medeiros stated that you can not target just the out-of-state boats.

M. Bucko asked a question for clarification of the control date that if anyone who was licensed before that date would be unaffected by any changes.

B. Ballou clarified by stating that a control date in itself means nothing the applicability is if in the future there was ever a proposal based on the concerns of a given resource that might suggest a need to ratchet back in either the amount of effort or the number of participants the control date would allow this to occur. If this never happens then the control date would just sit on the books and not mean anything.

K. Ketcham emphasized the fact that if this went through with the control date it was potentially eliminating anyone from the state of RI from ever being able to catch menhaden to sell for lobster bait and it would be a disservice to everyone in the state for the Council to go forward and approve this with a control date. He does not see how anyone would benefit from this.

D. Preble stated that these arguments do carry some weight. He stated that he would like to modify the language to state: Establish a December 31, 2007 control date for NEW ENTRIES in the purse seine and mid water/pair trawl fisheries.

S. Medeiros stated he concurred with the modification to the proposal.

G. Allen asked how would this change relate to out-of-state vs. state fishermen.

D. Preble stated that the idea is to be able to control new entries after December 31, 2007 and this would apply to out-of-state boats as well.

After further discussions, D. Preble stated that he wanted to retract his modification to the motion and instead delete the control date option in the proposal all together. S. Medeiros withdrew his second.

The motion made by D. Preble to recommend to the Director to adopt the purse seining and mid water/pair trawling proposal without the control date option was seconded by S. Parente.

M. Gibson asked the Council to vote on the motion. G. Allen asked for further discussion first.

L. Dellinger stated that he sat in on the IAC meeting where this proposal was discussed and he did not see some of the key points they spoke about. He explained that one of the items they talked about was licensing these vessels because the problem was the out-of-state boats hire a local licensed fishermen and have that person sit on their boat while they destroy all the lobster gear.

M. Gibson stated that it was not listed here because it required statutory change and it was something that B. Ballou would be addressing with his list.

M. Gibson asked the Council to vote on the motion to recommend to the Director to adopt the purse seining and mid water/pair trawling proposal without the control date option. Four (4) in favor (K. Ketcham, J. King, S. Parente, D. Preble), one (1) opposed G. Allen, two (2) abstained (S. Macinko, S. Medeiros), the motion passed.

J. McNamee continued with the last sector, which was the crustacean sector. He reviewed the crustacean management plan highlights then reviewed the body of proposed licensing regulations. He indicated that currently there were no new lobster endorsements available then reviewed the proposal.

M. Gibson stated that he had spoken with B. Ballou after reviewing comments from the public hearing and they both thought they would be able to streamline the proposal to meet the goal which was to ensure that anyone who obtained a trap allocation through the pending transfer program would be able to fish those traps. However, the law currently on the books stated no new lobster endorsements, which was in conflict and needed to be addressed to accomplish this goal.

S. Parente then stated for clarification that the proposal would then essentially just be bullet item number four to allow anyone who obtained a trap allocation through the pending allocation transfer program to get a lobster trap endorsement - for residents only.

There was Council discussion and questions asked of B. Ballou.

K. Ketcham made a motion to recommend to the Director to issue a PEL with a lobster endorsement to people who have trap allocation transfers in place. J. King seconded the motion.

M. Gibson asked about the option pertaining to the repeal of 100-pot basic gear and harvest level. B. Ballou stated that provision should also be added to the motion so the books can be cleaned-up.

K. Ketcham agreed to add this to the motion so the motion would be to recommend to the Director to issue a PEL with a lobster endorsement to people who have trap allocation transfers in place, and to repeal the 100-pot basic gear and harvest level.

M. Gibson asked for Council discussion. There was no discussion, so Gibson opened the floor to audience comments.

L. Dellinger stated that he would like to see a PEL with a lobster trap gear endorsement attached to it because if someone buys an allocation then decided they do not like lobster fishing and sells their allocation we do not want to see that license turn in to a mobile gear therefore adding more effort in to the industry. He stated that if you are not fishing with traps then you should not be fishing at all. He explained that the key with traps is the effort control.

K. Ketcham asked if the motion could be amended to state to issue a PEL with a lobster trap endorsement. Then it would not affect anyone else, this particular license would be only for lobster traps. J. King was in agreement with the modification to the motion.

An audience members asked for clarification on when a person sells his allocation how this effects it.

M. Gibson asked for a vote on the modified motion, which was to recommend to the Director to issue a PEL with a lobster trap endorsement to people who are residents, have obtained trap allocation transfers through the pending allocation transfer program, and can show proof of purchase. In addition, repeal 100-pot basic gear and harvest level.

M. Gibson asked for a vote. There were six (6) in favor (K. Ketcham, S. Medeiros, J. King, D. Preble, S. Macinko, G. Allen), none opposed, one (1) abstained (S. Parente) the motion passed.

J. McNamee stated that there was one last item; he stated that this piece of the licensing regulation did not fit in to the licensing sectors as they were broken out in to the three management sectors. He asked Council members to recall that last year there was a proposal to amend the sale of a business section to remove the requirements of the buyer. The Council requested further deliberation on that issue so this year the IAC met again and deliberated and the Director eventually acted on that item and removed the fishing activity requirements for the

buyer. McNamee explained that one thing that was inadvertently removed with that section was the requirement that the sale transaction take place amongst residents so one technical amendment to the licensing regulations would be to reinsert the residency requirement to that section.

Approval of IAC Agenda -K. Ketcham: M. Gibson asked if the agenda reflected the items that D. Preble had put together and if K. Ketcham was all right with this. Ketcham indicated that he was fine with the agenda. S. Parente had some questions for clarification of items on the agenda.

M. Gibson asked if there was consensus from the Council to go forward with this agenda and asked if Ketcham had a date in mind. Ketcham indicated that November 13, 2007 was a good date for him. There were no objections to approving the agenda. The agenda was approved.

Approval of Lobster AP Agenda – J. King: M. Gibson read the agenda items and noted that the meeting was scheduled for November 14, 2007 at Fort Wetherill in Jamestown.

L. Dellinger asked if there could be an additional agenda item added to the agenda. He asked if there could be a discussion about the trap tag effective dates between federal and state regulations. J. King had no objection to adding this item.

There were no objections to approving the agenda; the agenda was approved as modified.

Council review of 2008 schedule: N. Scarduzio stated that this was a tentative 2008 schedule for Council review and for feedback at the December Council meeting. She indicated that Council meetings were scheduled for the first Monday of every month except for two months where there were conflicts with ASMFC meetings such as February and May. She asked Council members to review the calendar and give feedback at the December meeting.

Old Business

Comprehensive RI fisheries legislation – B. Ballou: B. Ballou stated that he had nothing new to report since the last Council meeting. He indicated that he had met with the Director that morning and he was looking at December to bring a package to the Council of draft legislative proposals. The list that the Council was provided was the list he would be working from.

FYI

Second letter of the solicitation for Groundfish AP: N. Scarduzio stated that the second solicitation letter was mailed out on October 12, 2007, and the deadline for applications was November 9, 2007. She explained that once the deadline was over, the applications that have been received would be submitted to the Division of Law Enforcement for background checks. Pending the completion of the background check approved applicants may be ready for the December Council meeting for Council review.

Public Hearing Summary document for November 27, 2007 public hearing: N. Scarduzio stated this was an FYI item for the Council. The document indicated what items would be heard at the November public hearing.

Post Agenda Discussion:

D. Preble asked for clarification if C. Brown would be able to address the Council with his proposal at the December Council meeting. Gibson indicated that he would be given a time slot.

L. Dellinger asked the Council if they could come up with some type of vision statement. Just to have an idea of what our commercial fisheries might look like in three years, five years, and ten years.

M. Gibson stated that it was interesting that he had brought that topic up since they were recently speaking about that with the Director.

B. Ballou stated the Director was interested in having some kind of stakeholder, round table process to look at some of the issues at both state and federal levels.

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