

## Shellfish Committee Minutes of the Meeting

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**DATE:** January 15, 2014  
**TIME:** 7:30 P.M. to 9:30 P.M.  
**LOCATION:** MEAD Building

**Shellfish Committee Members present:** Stuart Rapp, Linda Romano, Andre Sampou, Gerard Ganey, Richard Haskell, Kevin Flaherty

**General Public present:** Thomas Daley, David Ryan, Christopher Freeman, Mark Begley, Cliff Whaley, Jared Hemmila, Florence Lowell, Peter Vetterlein

**Town Staff present:** Doug Kalweit, Tom Marcotti

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### Chairman's Report:

Stuart Rapp chaired the January 15th, 2014 meeting of the Shellfish Committee.

Stuart Rapp took a roll call of members present at the meeting.

Stuart Rapp read a notice at the beginning of the meeting:

*NOTICE OF RECORDING*

*"Please note that tonight's meeting is recorded and broadcast on Channel 18 and, in accordance with MGL Chapter 30A, s. 20, I must inquire whether anyone is taping this meeting and to please make their presence known."*

The Shellfish Committee unanimously approved a motion and adopted the minutes of the December 18th, 2013 meeting of the Shellfish Committee.

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### Natural Resources Report

Doug Kalweit informed the Shellfish Committee that the following number of recreational shellfishing licenses have been sold by the Town as of December 18th, 2013:

Residential Recreational Licenses:	2,491
Non-Residential Recreational Licenses	194

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### Piers, Dredging and Shellfish Habitat Issues:

The Shellfish Committee reviewed the following coastal development project proposals:

**Applicant:** Town of Barnstable, Marine and Environmental Affairs Division

**Location:** 110 Freezer Road / Barnstable Inner Harbor, Map 300 / Parcel 021

**Proposed**

**Project:** Project includes authorization of a proposed Reconfiguration Zone and existing Town Marina floats, piles and gangways.

**Public Hearing:** Date: December 17, 2013  
Time: 6:30 P.M.  
Place: Barnstable Town Hall,  
367 Main Street, Hyannis MA  
Town Council Hearing Room, 2nd floor

**Applicant:** Clara Mesonero

**Location:** 464 Starboard Lane, Osterville, MA. 02655, Map 167 Parcel 25-002

**Proposed:**  
**Project:** Modifications to existing dock. Improvements to existing dock on Bumps River (kayak racks, new terminal section, new landward section, lateral access stairs)

**Public Hearing:** Date: February 18, 2014  
Time: 6:30 P.M.  
Place: Barnstable Town Hall,  
367 Main Street, Hyannis MA  
Town Council Hearing Room, 2nd floor

## Old Business

The Aquaculture Sub-Committee is in the process of formulating proposed amendments to the Town of Barnstable Aquaculture License Regulations (Article IX) for submittal to Shellfish Committee for review. David Ryan (sub-committee member) compiled and submitted the sub-committee's proposed amendments to the Aquaculture License Regulations (Article IX) and submitted them to the Shellfish Committee for discussion and review at the Shellfish Committee's January 15, 2014 meeting (the proposals are included below).

### ARTICLE IX Aquaculture License Regulations

#### § 407-47. Proof of residency required. EXISTING REGULATION:

Aquaculture grant licenses, hereinafter referred to as the "license," will be issued to Town of Barnstable residents only who can prove to the satisfaction of the Licensing Authority that they are a bona fide, domiciled resident of the Town of Barnstable and have been domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency is required: tax bills, rent receipts, utility bills, driver's license, car registration, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL C. 40, § 57, which was adopted by Town Meeting 11/86. Any licensed area so licensed subsequent to the adoption of these rules and regulations shall be forfeited if the holder of the license, hereinafter referred to as the "licensee," ceases to be a bona fide domiciled resident of the Town of Barnstable.

CHANGE: Aquaculture grant licenses, hereinafter referred to as the "license," will be issued to Town of Barnstable individual or corporation, as long as individual or the president of a corporation is a majority shareholder and can prove to the satisfaction of the Licensing Authority that they are a bona fide, domiciled resident of the Town of Barnstable and have been domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency is required; tax bills, rent receipts, utility bills, driver's license, car registration, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL C. 40, § 57, which was adopted by Town Meeting 11/86. Any licensed area so licensed subsequent to the adoption of these rules and regulations shall be forfeited if the holder of the license, hereinafter referred to as the "licensee," ceases to be a bona fide domiciled resident of the Town of Barnstable.

Rational: The option for corporate ownership by new or existing aquaculture companies in the town of Barnstable is a recommended business practice.

#### EXISTING REGULATION:

##### § 407-50. Filing and posting of list of applicants.

A list of applicants for licenses in order of date of application shall be kept on file by the Town Manager, and an up-to-date copy shall be permanently posted on an official bulletin board in the Town Hall.

#### Change:

A waiting list of applicants for licenses in order of date of application shall be kept on file by the Town Manager, and an up-to-date copy shall be permanently posted on an official bulletin board in the Town Hall. The waiting list shall be renewable at the beginning of each calendar year. It shall be the responsibility of the applicant to notify the Town Managers office, in writing, between January 1 and February 15 of each year of his/her desire to remain on the waiting list. The Town Managers office must receive said notice on forms approved by the Natural Resource Department by 4:15 on the deadline date along with a \$10.00 fee.

Rational: The existing waiting list is stagnant and outdated. This change is consistent with mooring waiting list policies.

#### EXISTING REGULATION:

##### § 407-54. Exclusivity of license; subleasing prohibited; transfer of license.

Licenses are issued to and for the exclusive use of the licensee who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited. Licenses are renewable, heritable and transferable subject to Town Manager written approval and pursuant to Massachusetts General Laws Chapter 130. A licensee proposing to transfer his or her license shall first notify the Town Manager in writing that he/she no longer wishes to operate the license and requests a transfer of his/her licensed area to a designated recipient. Such recipient shall thereupon file an application under § 407-48. Thereafter, the application shall be treated, insofar as apt, as a new application.

Change:

Licenses are issued to and for the exclusive use of the licensee who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited Licenses are renewable and heritable. Licenses are transferable after three years subject to review by Natural Resource Department for reporting requirements and production standards under 407-59 and 407-60 and subject to Town Manager written approval and pursuant to Massachusetts General Laws Chapter 130. A licensee proposing to transfer his or her license shall first notify the Town Manager in writing to request a transfer of his/her licensed area to a designated recipient Such recipient shall thereupon file an application under § 407-48. Thereafter, the application shall be treated, insofar as apt, as a new application.

Rationale: To encourage new licensees to meet production standards.

**§ 407-56. New license period; renewal. EXISTING REGULATION:**

A new license shall be issued for a period not to exceed five years, and for a maximum total area not to exceed two acres. During the first year, at least 10% of the lease site must be used for the permitted aquaculture activity, during the second year 15% and during the third year 20%, or the lease site will be forfeited. The licensee may apply for the renewal of the license at anytime within two years prior to the expiration date of the license. The Town Manager shall review the licensee's request for renewal within 60 days after receipt of the renewal request. Under the legal discretion of the Town Manager the license holder shall have the option of a renewal period up to 10 years.

Change:

A new license shall be issued for a period not to exceed five years, The licensee may apply for the renewal of the license at anytime within two years prior to the expiration date of the license. The Town Manager shall review the licensee's request for renewal within 60 days after receipt of the renewal request. Under the legal discretion of the Town Manager the license holder shall have the option of a renewal period up to 10 years.

Rationale: This rule change removes production standards from 407-56 and addresses it in 407-59 Removal of acreage limitation reflects the fact that the majority of individuals and companies actively working in the aquaculture industry work on or manage more than 2 acres.

**§ 407-57. Acreage limitation. EXISTING REGULATION:**

The maximum total acreage licensed to any licensee shall not exceed two acres on the Northside and two acres on the Southside within the Town of Barnstable inner bays. This acreage limitation does not apply to any existing so-called grant (now referred to as a "license") which is in excess of four acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals, provided that said licensee abides by all other applicable regulations set forth herewith.

REMOVE Rationale: addressed in 407-56

**§ 407-59. Reasonable production value. EXISTING REGULATION:**

An annual review of each license will be conducted by NR in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year the license may be forfeited. For purposes stated herein reasonable amount of shellfish product shall mean not less than \$2,000 per acre per year based upon market value. Failure of the licensed shellfish project to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value then upon written request to the Town Manager said reasonable production value may be waived at the discretion of the Town Manager for that particular year, provided that the licensee can demonstrate to the Town Manager that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune.

An annual review of each license will be conducted by NR in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year the license may be forfeited. For purposes stated herein reasonable amount of shellfish product shall mean not less than \$10,000 per acre per year based upon market value. Failure of the licensed shellfish project to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value then upon written request to the Town Manager said reasonable production value may be waived at the discretion of the Town Manager for that particular year, provided that the licensee can demonstrate to the Town Manager that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune.

Rationale: \$10,000 per acre production requires minimal investment and effort.

Aquaculture License Regulations (Article IX), revised them, and unanimously passed a motion that approved all the revised proposed amendments as noted by Stuart Rapp. Kevin Flaherty recused himself from the vote. Stuart Rapp noted the Shellfish Committee's revisions of the Aquaculture Sub-Committee's proposed amendments to Aquaculture License Regulations (Article IX) as included below.

## CHAPTER 407

### ARTICLE IX

#### Aquaculture License Regulations

Proposed amendments approved by the Shellfish Committee at its January 15, 2014 meeting

#### **EXISTING REGULATION:**

§ 407-47. Proof of residency required.

Aquaculture grant licenses, hereinafter referred to as the "license," will be issued to Town of Barnstable residents only who can prove to the satisfaction of the Licensing Authority that they are a bona fide, domiciled resident of the Town of Barnstable and have been domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency is required; tax bills, rent receipts, utility bills, driver's license, car registration, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL C. 40, § 57, which was adopted by Town Meeting 11/86. Any licensed area so licensed subsequent to the adoption of these rules and regulations shall be forfeited if the holder of the license, hereinafter referred to as the "licensee," ceases to be a bona fide domiciled resident of the Town of Barnstable.

**CHANGE:** Aquaculture grant licenses, hereinafter referred to as the "license," will be issued to a Town of Barnstable individual or corporation, as long as the individual or the president of a corporation is a majority shareholder and he/she can prove to the satisfaction of the Licensing Authority that they are a bona fide, domiciled resident of the Town of Barnstable and have been domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency is required; tax bills, rent receipts, utility bills, driver's license, car registration, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL C. 40, § 57, which was adopted by Town Meeting 11/86. Any licensed area so licensed subsequent to the adoption of these rules and regulations (4/6/1995) shall be forfeited if the holder of the license, hereinafter referred to as the "licensee," ceases to be a bona fide domiciled resident of the Town of Barnstable.

**Rational:** The option for corporate ownership by new or existing aquaculture companies in the Town of Barnstable is a recommended business practice.

#### **EXISTING REGULATION:**

§ 407-50. Filing and posting of list of applicants.

A list of applicants for licenses in order of date of application shall be kept on file by the Town Manager, and an up-to-date copy shall be permanently posted on an official bulletin board in the Town Hall.

**CHANGE:** A waiting list of applicants for licenses in order of date of application shall be kept on file by the Town Manager, and an up-to-date copy of said list shall be permanently posted on an official bulletin board in the Town Hall. The waiting list shall be renewable at the beginning of each calendar year. It shall be the responsibility of the applicant to notify the Town Manager's office, in writing, between January 1 and February 15 of each year of his/her desire to remain on the waiting list. The Town Managers office must receive said notice on forms approved by the Natural Resource Department by 4:15 PM on the deadline date (February, 15) along with a \$10.00 fee. In order to be on the list and to stay on the list you must be domiciled in the Town of Barnstable.

**Rational:** The existing waiting list is stagnant and outdated. This change is consistent with mooring waiting list policies.

#### **EXISTING REGULATION:**

§ 407-54. Exclusivity of license; subleasing prohibited; transfer of license.

Licenses are issued to and for the exclusive use of the licensee who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited. Licenses are renewable, heritable and transferable subject to Town Manager written approval and pursuant to Massachusetts General Laws Chapter 130. A licensee proposing to transfer his or her license shall first notify the Town Manager in writing that he/she no longer wishes to operate the license and requests a transfer of his/her licensed area to a designated recipient. Such recipient shall thereupon file an application under § 407-48. Thereafter, the application shall be treated, insofar as apt, as a new application.

**CHANGE:** Licenses are issued to and for the exclusive use of the licensee who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited. Licenses are renewable and inheritable. Licenses are transferable only after three years subject to review by the Natural Resource Office for reporting requirements and production standards under §§ 407-59 and 407-60 and subject to the Town Manager's written approval and pursuant to Massachusetts General Laws Chapter 130. A licensee proposing to transfer his or her license shall first notify the Town Manager in writing to request a transfer of his/her licensed area to a designated recipient. Such recipient shall thereupon file an application under § 407-48. Thereafter, the application shall be treated as a new application. If, however, the license is under the scrutiny of the Natural Resources Office for production as well as any other potential regulatory violations then the license may not be transferred.

**Rationale:** To encourage new licensees to meet production standards.

**EXISTING REGULATION:**

§ 407-56. New license period; renewal.

A new license shall be issued for a period not to exceed five years, and for a maximum total area not to exceed two acres. During the first year, at least 10% of the lease site must be used for the permitted aquaculture activity, during the second year 15% and during the third year 20%, or the lease site will be forfeited. The licensee may apply for the renewal of the license at anytime within two years prior to the expiration date of the license. The Town Manager shall review the licensee's request for renewal within 60 days after receipt of the renewal request. Under the legal discretion of the Town Manager the license holder shall have the option of a renewal period up to 10 years.

**CHANGE:** A new license shall be issued for a period not to exceed five years. The licensee may apply for the renewal of the license within two years prior to the expiration date of the license. The Town Manager shall review the licensee's request for renewal within 60 days after receipt of the renewal request. Subject to the discretion of the Town Manager the license holder shall have the option of a renewal period of up to 10 years.

**Rationale:** This rule change removes production standards from §407-56 and addresses them in §407-59. Removal of acreage limitation reflects the fact that the majority of individuals and companies actively, successfully working in the aquaculture industry work on or manage more than 2 acres and this issue is addressed in §407-57.

**EXISTING REGULATION:**

§ 407-57. Acreage limitation.

The maximum total acreage licensed to any licensee shall not exceed two acres on the Northside and two acres on the Southside within the Town of Barnstable inner bays. This acreage limitation does not apply to any existing so-called grant (now referred to as a "license") which is in excess of four acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals, provided that said licensee abides by all other applicable regulations set forth herewith.

**CHANGE:** The maximum total acreage licensed to any licensee shall not exceed ten (10) acres within the Town of Barnstable inner bays. This acreage limitation does not apply to any existing so-called grant (now referred to as a "license") which is in excess of ten (10) acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals, provided that said licensee abides by all other applicable regulations set forth herewith.

**Rationale:** Increase of the acreage limitation reflects the reality that the majority of individuals and companies actively, successfully working in the aquaculture industry work on or manage more than 2 acres.

**EXISTING REGULATION:**

§ 407-59. Reasonable production value.

An annual review of each license will be conducted by NR in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year the license may be forfeited. For purposes stated herein reasonable amount of shellfish product shall mean not less than \$2,000 per acre per year based upon market value. Failure of the licensed shellfish project to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value then upon written request to the Town Manager said reasonable production value may be waived at the discretion of the Town Manager for that particular year, provided that the licensee can demonstrate to the Town Manager that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune.

**CHANGE:**

An annual review of each license will be conducted by the Natural Resources Office in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year the license shall be subject to forfeiture. For purposes stated herein reasonable amount of shellfish product shall mean not less than \$10,000 per acre per year based upon market value. Failure of the licensed shellfish project to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value then upon written request to the Town Manager said

reasonable production value may be waived at the discretion of the Town Manager for that particular year, provided that the licensee can demonstrate to the Town Manager that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune. All new inexperienced applicants may only seek and possibly receive licensed

sites of no more than two (2) acres on the north side of the Town and no more than two (2) acres on the south side of the Town. After the passage of five (5) years and the licensee has worked the licensee's site to the satisfaction of the Natural Resources Office then that licensee shall be considered experienced and thereafter may be eligible to seek and possibly receive licensed sites which are greater than two (2) acres subject to these Regulations. Any new applicant who can prove to the satisfaction of the Natural Resources Office that he/she has worked in the aquaculture industry for more than two (2) years and the Natural Resources Office determines that based upon that experience the applicant understands the best practices to be used on the licensed site then that person shall be deemed to be experienced.

**Rationale:** \$10,000 per acre production requires minimal investment and effort and reflects the reality. Concerns about inexperienced applicants not using best practices which can lead to devastating results all of which effect in entire embayment.

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## Other Business

### Shellfish Aquaculture License Renewal Applications

The Shellfish Committee reviewed, discussed and unanimously approved a motion to recommend that the shellfish aquaculture license renewal application of Chris Gargiulo, President of the Cotuit Oyster Company be approved by the Town Manager. Chris Gargiulo's shellfish aquaculture site is located in Cotuit Bay (licensed area 2: site sg002, area 3: site sg001, area 4: site sg003, area 6: site sg007, area 7: site sg006, totaling 33.83 acres). Peter Vetterlein was available to answer any questions from the Shellfish Committee. A public hearing for the proposed transfer application was held on Monday, January 13th, 2014 at 9:00 A.M. in the Selectman's Conference Room, Town Hall Building, 367 Main Street, Hyannis, MA.