

Shellfish Committee Minutes of the Meeting

DATE: September 17, 2014
TIME: 7:30 P.M. to 9:30 P.M.
LOCATION: MEAD Building

Shellfish Committee Members present: Stuart Rapp, Gerard Ganey, Les Hemmila, Kevin Flaherty, Linda Romano, Robert Lancaster, Albert Suprenant, Andre Sampou

General Public present: Chris Freeman, Lenny Clark, Paul Hamblin, Richard Laurie, Mark Begley

Town Council Liaison: Phil Wallace

Town Staff present: Doug Kalweit, Tom Marcotti

Chairman's Report:

Stuart Rapp chaired the September 17th, 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 to remove the strikethrough in the Shellfish Committee's proposed amendment to 407-63, on page 3, from the August 20th, 2014 minutes of the meeting of the Shellfish Committee. The Shellfish Committee unanimously approved a motion to adopt the minutes of the August 20th, 2014 meeting of the Shellfish Committee as amended.

Stuart Rapp announced a public notice from the Massachusetts Department of Environmental Protection (DEP) and referenced the following:

Public notice is hereby given of the Draft General License by which eligible non-commercial projects can self-certify small-scale docks, piers and similar structures accessory to a residential use in and over flowed tidelands, great ponds, and navigable rivers and streams of the Commonwealth. All eligible projects are determined to be water-dependent. MassDEP is authorized to create this general license, and its self-certification process, pursuant to MGL Chapter 91, Section 18C and the waterways regulations at 310 CMR 9.29.

The Department will consider all comments from the public hearings and written comments received by October 27, 2014. Failure of any aggrieved person or group of ten citizens or more to submit written comments to the Waterways Regulation Program by the Public Comment Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c).

Stuart informed the committee that he will attend the DEP hearing on these matters, that will be held at Barnstable Town Hall on September 30th.

Stuart Rapp announced that he received a request from the Town to submit a "statement and tagline" for the Shellfish Committee for Town annual report purposes.

Tom Marcotti informed the Shellfish Committee of the Town's management of a quahog propagation area located at Handy Point in Cotuit Bay. Tom informed the Shellfish Committee of the status of various Town shellfish propagation projects and informed the committee about the research, development and production work of Shellfish Technician Elizabeth Lewis and NR staff involving volunteers, (i.e. BARS members) to culture and free plant quahog seed and soft shell clams in southside embayments.

The following contaminated quahog relay areas are scheduled to open on Saturday, September 27, 2014:

Cotuit Bay Relay Area DMF/SC 21.22

The Cotuit Bay Relay Area is defined as: the waters, flats and shoreline of that portion of Cotuit Bay between the "No Shellfishing" sign / posts located along the shoreline at 884 Main Street extending to the "NR" sign buoys located offshore.

Cordwood Lane Relay Area (Northern Portion) DMF/SC 21.21

The northern portion of the Cordwood Lane Relay Area is defined as: the waters, flats and shoreline of that portion of Cotuit Bay located within the area defined by the "No Shellfishing" sign/post located on the shore at 721 Old Post Road to the NR "No Shellfishing" sign/buoy located offshore to the green navigational buoy at the southern end of the Cotuit Narrows to the "No Shellfishing" sign/post located on the shore at 797 Old Post Road.

The following contaminated quahog relay area is scheduled to open November 1, 2014 pending DMF approval:

North Bay Relay Area DMF/SC23.22

The North Bay Relay Area is defined as: the waters, flats and shoreline of that portion of North Bay from the pier at 79 Sand Point Road to the pier at 86 Sand Point Road extending to the navigational channel at the northern entrance to Cotuit Bay and to the offshore sign/buoys in North Bay.

Pending approval by authorizing agents the following areas are tentatively scheduled to open on November 1, 2014:

- Oyster Season
- Scallop Season
- Scudder Lane Recreational Shellfishing Area

Pending approval by authorizing agents the following areas are tentatively scheduled to close on November 1, 2014:

- The West Bay Recreational Shellfishing Area

Tom Marcotti informed the committee of the Natural Resources bay scallop propagation project. Bay scallops (2014 year class) procured from Taylor Cultured Seafoods have been planted in four qualitatively distinct shellfish habitats in Town of Barnstable southside embayments. One aspect of the project is to determine survivability of the scallops and suitability of the various habitats.

Doug Kalweit updated the committee about his proposal to install a remote video camera at the Scudder Lane Landing as a tool for surveillance purposes. The Shellfish Committee and Doug discussed the use of surveillance technology for regulatory enforcement and other matters. Doug also met and discussed the issue with abutters in the Scudder Lane neighborhood.

Doug Kalweit informed the Shellfish Committee that the following number of recreational shellfishing licenses have been sold by the Town as of September 17, 2014:

Recreational Recreational Licenses: 2,479 (113 more than last year at this time.)

Doug informed the committee of the status of a pre-trial conference with two Wampanoag members regarding shellfishing regulation infractions.

Piers, Dredging and Shellfish Habitat Issues:

The Shellfish Committee reviewed the following coastal development project proposal and discussed various pertinent shellfish resource and habitat issues:

Applicant: Stuborn, L.L.C.

Project

Location: 153 Freezer Road, Barnstable, MA 02655, Map 301 / Parcel 06

Proposed

Project: The proposed amendment at the site involves extending the approved bulkhead and a minor modification to the approved floats to include a reduction in piles.

Applicant's

Agent: Matthew Creighton, PWS
BSC Group, Inc.
349 Route 28, Unit D
W. Yarmouth, MA 02673
phone: 508-778-8919

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

Old Business

A) The Aquaculture Sub-Committee has completed formulating proposed amendments to the Town of Barnstable Aquaculture License Regulations (Article IX). Les Hemmila informed the Shellfish Committee of the sub-committee's progress. Stuart requested that the Sub-Committee review the state and local transfer regulation for shellfish aquaculture sites and provide clarity, input and recommendations to the Shellfish Committee.

At the August 2014 meeting the Shellfish Committee completed their discussion and review of the Aquaculture Sub-Committee's proposed amendments to Aquaculture License Regulations (Article IX), revised them, and unanimously passed individual motions for each proposal recommending they be approved by the Town Manager.

B) The Shellfish Committee reviewed the committee's Barnstable Harbor shellfish aquaculture site expansion area proposal. Les Hemmila, Kevin Flaherty and Alpert Suprenant informed the other Shellfish Committee members that they have determined a waning of support for the proposal from the general public. Stuart informed the committee that he will put the issue of proposing an expansion of the shellfish aquaculture area in Barnstable Harbor to a discussion and vote, on the agenda of the October 2014 meeting of the Shellfish Committee.

New Business

A. Shellfish Aquaculture License Transfer Application:

The Shellfish Committee reviewed, discussed and unanimously approved a motion recommending that the following shellfish aquaculture license application of Christopher Van Duzer be approved by the Town Manager. Paul Hamblin and Richard S. Laurie were present to answer any questions from the committee regarding the application.

Applicant: Christopher Van Duzer

Application: The transfer of Paul Hamblin's licensed shellfish aquaculture site to Christopher Van Duzer, and the issuance of a new license to Christopher Van Duzer for a period of five years.

Location: Barnstable Harbor, site ng046: A designated portion (1.05 acres) of intertidal flat in the mid-Barnstable Harbor north of Huckins Island as recorded on a map at the G.I.S. Unit.

Public Hearing: Date: September 23, 2014

Time: 9:00 A.M.
Place: Barnstable Town Hall,
367 Main Street, Hyannis MA, Town Council Hearing Room, 2nd floor

B. Shellfish Aquaculture License Transfer Application:

The Shellfish Committee reviewed, discussed and unanimously approved a motion recommending that the following shellfish aquaculture license application of Paul Hamblin be approved by the Town Manager. Paul Hamblin and Richard S. Laurie were present to answer any questions from the committee regarding the application.

Applicant: Paul Hamblin

Application: The transfer of Lynda Bryson's licensed shellfish aquaculture site to Paul Hamblin, and the issuance of a new license to Paul Hamblin for a period of five years.

Location: Barnstable Harbor, site ng016: A designated portion (2.01 acres) of intertidal flat in the mid-Barnstable Harbor north of Sand Island as recorded on a map at the G.I.S. Unit.

Public Hearing: Date: September 23, 2014
Time: 9:00 A.M.
Place: Barnstable Town Hall,
367 Main Street, Hyannis MA
Town Council Hearing Room, 2nd floor

C. Natural Resources submitted the following proposed amendment to the Town of Barnstable Herring regulation 407-10 to the Shellfish Committee for review. The Shellfish Committee approved a motion to recommend that the Town Manager amend herring regulation 407-10 as proposed.

DATE: August 29, 2014

SUBJECT: Changes to the Town of Barnstable Shellfishing, Eel, Herring and Aquaculture rules and regulations as proposed by the Natural Resources Program of the Marine Environmental Affairs Division and submitted for review to the Shellfish Committee.

BACKGROUND: The Town of Barnstable maintains a comprehensive compilation of rules and regulations for the management of town shellfish, eel and herring natural resources as well as town shellfish aquaculture licenses. An annual review of these regulations is conducted by staff to ensure that the regulations meet the current needs of the community. Changes in the regulations are recommended by staff to the Town Manager. The Shellfish Committee is invited to discuss the proposed changes and also to provide recommendation to staff and the Town Manager. The Town Manager holds a public hearing on any proposed revision to the regulations and the public is invited to comment on the proposed changes. The Town Manager's approval of shellfish, eel, herring and aquaculture regulations shall become effective upon the expiration of thirty (30) days from the date the Town Council is notified, in writing, of said regulation approval unless the Town Council votes within said time to disapprove of the said regulation(s).

SHELLFISH COMMITTEE REVIEW: To be added to the agenda for the September 2014 meeting

PUBLIC HEARING: TBD

ANALYSIS: The following list represents the proposed changes and the rationale therefore. The regulations have been reformatted to include the proposed changes. The entire regulation is outlined and insertions, deletions and/or changes are highlighted in **bold** for ease of identification, where applicable.

1: Proposal: Section 407-10; Delete the crossed out wording and regulations and adding the wording highlighted in **bold**

§ 407-10. Herring and alewife rules and regulations. (NOTE: 407-10:K)

- ~~A. Resident and real estate taxpayer requirement. Residents and real estate taxpayers of the Town of Barnstable are required to have a Town of Barnstable Herring Permit, or Resident shellfish permit, to take Herring or Alewives. The fee for said herring permit shall be \$5.00. A Senior Citizen Permit shall be \$3.00. Said permit holders are entitled to one pail containing not more than 15 herring or alewives per calendar week, per household.~~
- ~~B. Nonresident requirement. Residents of the Commonwealth of Massachusetts are required to have a Town of Barnstable herring permit or nonresident shellfish permit, to take herring or alewives. The fee for said herring permit shall be \$25. Said permit holders are entitled to one pail containing no more than 15 herring or alewives per calendar week, per household.~~
- ~~C. Unlawful Harvest. No person shall take or attempt to take herring or alewives from the Town of Barnstable waters unless said person is a Town of Barnstable resident or real estate taxpayer, or holds a Town of Barnstable herring permit or shellfish permit.~~
- ~~D. Harvest Days. Herring and/or alewives may be taken on Mondays, Wednesdays, Fridays and Saturdays. Hours: 6 A.M. to 7 P.M. ONLY.~~
- ~~E. Harvest Method. Herring and alewives shall be taken by dipnet or by hand only.~~
- ~~F. Harvest Containers. All herring and alewives taken from the water shall be placed in a suitable box, pail or basket and removed from the area. Paper and cardboard containers are not considered suitable.~~
- G. B.** Conservation. Throwing objects into the water and/or malicious destruction of the herring and alewives is prohibited.
- ~~H. C.~~ **C.** Unauthorized alteration of herring runs. No person shall tamper with, adjust or destroy any structure provided for the passage of herring and alewives unless authorized by the Supervisor of Natural Resources.
- ~~I. Designated harvest areas. Herring and alewives shall be taken from designated areas only. Herring and alewives shall not be disturbed outside of designated harvest areas.~~
- ~~J. Restricted areas. The Town of Barnstable anadromous fishways, the embankments of said fishways and the area within 100 feet of said embankments shall be considered restricted areas. All persons, with the exception of property owners or legal occupants of the property, are prohibited from entering these restricted areas. The taking of anadromous fish is prohibited within these areas.~~
- K. A.** It shall be unlawful for any person to harvest, possess or sell river herring in the Town of Barnstable or in waters under the jurisdiction of the Commonwealth of Massachusetts.
- (1) ~~Exceptions. The Director of the Massachusetts Division of Marine Fisheries may authorize the harvest and possession of river herring from a particular spawning run for personal use based on documentation that the spawning run from which herring are harvested is not depleted.~~
- (2) ~~Tolerance for bait fisheries. No person shall possess any batch of fish where more than 5% of the total is comprised of river herring species by count.~~
- (3) ~~Expiration. These measures shall expire on January 1, 2015.~~

Rationale: After expiration of the most recent three year river herring fishery moratorium on January 1, 2015, towns will only be able to re-open herring runs to recreational and/or commercial harvest if sustainable fishery management plans are created and approved by both Massachusetts Division of Marine Fisheries and the Atlantic States Marine Fisheries Commission. Town regulations need to be changed in order to reflect these conditions.