

Shellfish Advisory Council Meeting Minutes

September 11, 2015

Ellsworth City Hall

Members in Attendance: Jeff McKeen, Daniel Curtis, Lewis Pinkham, Tom Howell, Tom Connolly, Glen Melvin, Ralph Smith, Jim Norris, Jane Disney, Patricia Hinds, Raeleen pert

Members not in Attendance: Andy Rhuel

DMR Staff in Attendance: Angel Ripley, Kohl Kanwit, John Fendl, Hannah Annis, Heidi Leighton, Denis Nault, David Miller, Troy Dow

Others in attendance: Lori Gallo, Si Balch, Etta perkins, Craig Whitcomb, Fiona DeKoning, Robert Byron, Michael Pinkham, Abden Simmons, Daniel Devereaux, Victor Doyle, Chris Peterson, Carol Loehr, George Lowell, Jackie Roux

Meeting began at 10:01am.

Agenda items 1 & 2. Call to order, Roll call, Introductions.

Agenda item 3: Review and Adoption of previous meeting minutes: Lewis Pinkham called for someone to make a motion to adopt minutes from previous meeting- Dan Curtis asked for review of item#4, input provided by Tom Connolly. Dan Curtis asked for update on item #7- Damariscotta Vibrio Plan, Kohl Kanwit stated it has progressed, not voted in yet, it will be voted on at the next meeting, looking towards approval. Implementation not until 2016. It is written in regulation to allow for expansion to other areas. Motion again by Lewis Pinkham to adopt minutes of previous meeting, 2nd by Glen Melvin, unanimous vote to adopt minutes.

Agenda Item 4- Dan Deveraux on Municipal Aquaculture. Dan stated there has been an 800% increase in intertidal aquaculture over the past few years in Maine. His goal is to look to implement local control over municipal aquaculture rather than State control. Craig Whitcomb, a fisherman from Cape Cod spoke in regards to aquaculture he has been a part of for past 30 plus years. He stated he is producing oysters currently at a rate of 5X what he used to from wild harvest. Tom Howell asked the question to Craig about net projects for soft-shell clams- Craig replied that one thing that has happened with instituting aquaculture in Barnstable, MA is natural sets of clams increased under the nets. Stated there are some areas in waters that are conducive to natural sets by using nets, no seed. Unsure of the potential for this in Maine. He went on to say aquaculture is a huge opportunity economically for the state. Dan followed up with local towns have been working with nets to catch natural sets, and it is very hit or miss. He stated to do it right and cover the coastline it would be very costly. Denis Nault weighed in on 6673 on municipality control intertidal and state control and the comparisons. Dan finished up asking for people to contact him with additional questions. It was suggested and agreed by the Council we will add this topic to the next agenda for follow up.

Agenda Item 5- Agenda was changed to substitute Ralph Smith in regards to the Mussel/Permitting issue. He stated they need protection from DMR to protect seed beds from aquaculture removal of natural

seed. Stated we had this same problem in the mid 1980's and it had resolved, but has come up again. This was the reason the Mussel Harvesters Association was formed. It was then agreed not to take seed from wild beds. Stated that Frenchman's Bay has historically had natural seed sets almost annually, making it the most productive area in Maine. He stated because of the seed removal it is not productive this year. On behalf of the wild fishery, Ralph Smith asked that it be recommended to the Commissioner to place emergency rule in place to protect wild seed beds from aquaculture harvest. Lewis called for a 2nd on the motion. Jane Disney 2nd the motion to discuss. Dan Curtis stated Frenchman's Bay has an intertidal Mussel Management program and asked if that takes precedent. Ralph stated yes, but it is made up of mostly clam harvesters who are not familiar with the issue. Kohl responded with the intertidal municipal management plan has to apply and show reason why to close. It is a state controlled permit, and can over ride a town decision/recommendation. Jim Norris added Raccoon Cove resources have diminished since mussel draggers have been allowed in. Kohl added there was a meeting 2 years ago to discuss conservation areas and the usefulness. Possible rotation of closures. There is a resource survey needed that has not yet been completed. We are not actively managing the resource. Fiona DeKoning stated we need to work with management and state to make both wild and aquaculture industries work together to make it better for everyone. Believes we need discussion and science behind it, not an emergency closure by the commissioner. Ralph replied that again, areas that traditionally replenish resources annually are diminished. Fiona countered with she has seen phenomenal sets in same areas, best in 10 years. Lewis asked Kohl is DMR has discussed this recently. Kohl replied she had spoken with Tim Manning regarding Frenchman Bay activity and the permitting process. We will consider this when issuing new permits. Recommend a full meeting of Mussel industry be held. Lewis asked Kohl for timeframe for pushing for emergency regulation. Kohl replied it doesn't fit in the guidelines to get an emergency rule. Lewis called for a vote on Ralph's motion, the vote was 2 in favor, Ralph Smith and Dan Curtis, with remainder of the council opposed. Tom Howell requested to bring both groups together, wild harvesters and aquaculture to start discussions with the assistance of DMR. Motion 2nd by Matt Moretti, vote unanimous in favor. Will ask commissioner to form a committee to start discussions on the issue.

Agenda item #6-Lewis called for a short break at 11:10am.

Meeting reconvened at 11:21am

Agenda Item #7- Tom Howell discussion on MSC in Maine. Tom provided handouts from ISSC that show the proposed changes to allow MSC testing in Maine. Proposal 15-102 explained what the purpose is. Purpose is to be able to use MSC testing to reset areas that are closed using the 1000 to 1 dilution. Tom Connolly commented that for WWTP's to reduce viral output would be expensive and would impact taxpayers. He also noted that WWTP's comply currently with EPA/DEP permits and viruses are not a part of that. Glen Melvin commented that no one who digs open areas is in favor of MSC testing. He cited the Maine clammers Association comments submitted by email. He believes ISSC requirements are already excessive without adding more requirements. Glen Melvin made a motion that DMR stop sponsoring MSC within the ISSC immediately. Ralph Smith 2nd the motion. Tom Howell responded that everything they do is to try to get areas opened sooner. Matt Moretti asked of Kohl does DMR think viral testing is important. Kohl replied she attended a summit last year where science was presented that it could be an effective tool in determining viral impacts. However we do currently use the 1000 to 1 dilution zones. Lewis recommended that the 1000 to 1 be revisited as well as all areas are different, and should be assessed as such. Lewis called for a vote on the motion. 2 members abstained from the vote,

Tom Connolly and Patricia Hinds, 3 Members were opposed to the motion, Jane Disney, Matt Moretti, and Tom Howell, and the remainder of the council, 6 members, were in favor of the motion to recommend DMR stop support for MSC testing in Maine immediately. Kohl reminded the council of the ISSC premeeting coming in October, with more details to follow.

Agenda Item #8:- Bulk Tagging- John Fendl. John spoke in regards to the possibility of eliminating the bulk tagging permit entirely. However he has since talked to Marine Patrol and it was requested to keep in place. It was agreed to keep bulk tagging permits in place. The permits give Marine Patrol a better idea where bulk product is landing.

Agenda Item#9- Prosecution Issue in Hancock/Washington County- Troy Dow from Marine Patrol weighed in that there are no new updates as of now. Still awaiting word from the AG office. There have been verbal conversations regarding training someone specifically to prosecute shellfish cases. Lewis stated If we continue this path, and the DA is not going to prosecute cases, he believes legislation should be changed so that the DMR is not involved in town ordinance approvals, if towns are responsible for prosecuting their own cases, and the expense that comes with it, the fines should be determined by the town. A letter was submitted to the council from the town of Brooklin in these regards. Kohl weighed in that the AG office is in favor of remaining status quo, how we have always done it. However, it comes down to a DA decision, as they are an elected official, not controlled by the AG office. Lori Gallagher asked if the committee has any authority on the issue- Lewis replied that they can only make recommendations. Kohl stated we do have the power to write letters to the DA from the SHAC council- and continue to make concerns known. Kohl stated the more responses sent to the DA's office the better. And asked that the AG office be CC'd on communications. Mike Pinkham noted that at the very least we should have been provided a notice of the impending change so towns could prepare. Dan Curtis made a motion that SHAC create a letter to the DA. Motion 2nd by Raeleen Pert- Unanimous vote in favor, It was requested and agreed that Lewis Pinkham would write the letter. Lewis asked for motion to modify to only send the letter to Hancock/Washington county DA, not statewide. Raeleen pert 2nd, unanimous vote in favor.

Victor Doyle from Swans Island asked about wet storage permits where harvesters can dehydrate their own harvest. John Fendl recommended establishing as a dealer on Swans Island, a harvester alone cannot dehydrate with a wet storage permit.

Utilized remaining meeting time to revisit Agenda item #5- The potential for certification of clams as a sustainable seafood- Jane Disney spoke on the topic she has made several contacts and has found out that Maine already has the highest rating for clam sustainability with the Monterey Bay Aquarium, we just need someone in Maine to collaborate with them to use their logo on product to show as sustainable. There is typically a fee for this, however they have agreed to let us use their logo free. We need to get individual dealers involved. Jane is also working with people from UMaine to see how it would work and benefit us economically, also will follow up with the Maine Clammers Association about being the conduit for the state to interact with the Monterey Bay Aquarium.

Agenda Item #10- Next meeting scheduled for January 12th, 2016 in Augusta DMR room 118 from 10am-1pm.

Meeting adjourned at 1:03pm