

Shellfish Committee Minutes of the Meeting

DATE: April 16, 2008
TIME: 7:30 P.M. to 9:30 P.M.
LOCATION: MEAD Building

Shellfish Committee Members present:

Stuart Rapp, Les Hemmila, Matt Ostrowski, Andre Sampou, Bob Lancaster, Gerard Ganey

General Public present:

Dave Barry, Bob Lewsen, Bill Korkuch

NR Staff present:

Doug Kalweit, Tom Marcotti

Chairman's Report:

Stuart Rapp chaired the April 16, 2008 meeting of the Shellfish Committee. The Shellfish Committee adopted the minutes of the March 19th, 2008 meeting of the committee.

Stuart Rapp informed the Shellfish Committee that the Town Manager announced (at the annual State of the Town address) an initial additional funding of \$50,000 dedicated for shellfish propagation / enhancement purposes. This proposal will be recommended for approval by the Town Council. Stuart said that the Shellfish Committee will work with Natural Resources to plan the appropriate use of the funds.

Stuart Rapp introduced and welcomed new Shellfish Committee member, Mr. Gerard Ganey.

Natural Resources Report

Shellfish Area Closures

- **North Bay Closure:**

North Bay: The waters, flats and all tributaries of that portion of North Bay, northeasterly of a line drawn from Point Isabella to the north tip of Grand Island; north of the Bridge Street Bridge and south of a line drawn across the mouth of the Marstons Mills River (DMF/SC:23.2; classified as conditionally approved; **status: Closed to shellfishing May 1 through October 31, all dates inclusive. The area shall not automatically reopen to shellfishing on November 1 and will remain closed until examined and shellfishing is allowed by DMF.**).

- **Pirate's Cove / Seapuit River (located at Sampson's Island) Closure:**

Pirate's Cove, Seapuit River: The waters and flats and all tributaries thereto of that portion of Seapuit River and Pirates Cove in the Town of Barnstable, west of a line north from the "NO SHELLFISHING" sign at the westerly end of Dead Neck to the "NO SHELLFISHING" sign on Grand Island and east of a line drawn northeasterly from the northeast tip of Sampson's Island to the "NO SHELLFISHING" sign on the southwest end of Grand Island (DMF/SC:21.2; classified as conditionally approved; **status: Closed to shellfishing May 1 through October 31, all dates inclusive. The area shall not automatically reopen to shellfishing on November 1 and will remain closed until examined and shellfishing is allowed by DMF.**).

- **The Cotuit Narrows Closure:**

Cotuit Narrows: The waters, flats and all tributaries of Cotuit Bay in the Town of Barnstable, south of a line drawn from Point Isabella to the north tip of Grand Island and north of a line drawn between the two “NO SHELLFISHING” signs (DMF/SC21.1; classified as conditionally approved; **status: Closed to shellfishing May 1 through October 31, all dates inclusive. The area shall not automatically reopen to shellfishing on November 1 and will remain closed until examined and shellfishing is allowed by DMF.**)

- **Marstons Mill River and Prince Cove Shellfish Area Closure:**

Marstons Mills River: The waters and flats and all tributaries thereto of Marstons Mills River in the Town of Barnstable, south of a line drawn across the mouth of Prince Cove, north of a line drawn across the mouth of the river and westerly of a line drawn northerly from the two “No Shellfishing” signs located at the mouth of Warren’s Cove. (DMF/SC:23.1; classified as conditionally approved; **status: Closed to shellfishing May 1 through February 14, all dates inclusive. The area shall not automatically reopen to shellfishing on February 15 and will remain closed until examined and shellfishing is allowed by DMF.**)

Prince Cove: The waters and flats and all tributaries thereto of Prince Cove in the Town of Barnstable, north of a line drawn across the mouth of Prince Cove (DMF/SC:23.1; classified as conditionally approved; **status: Closed to shellfishing May 1 through February 14, all dates inclusive. The area shall not automatically reopen to shellfishing on February 15 and will remain closed until examined and shellfishing is allowed by DMF.**)

Natural Resources planned participating in the DMF contaminated quahog relay program. Certified contaminated quahogs would be harvested from certified areas of Mount Hope Bay and relayed to Town of Barnstable shellfish relay areas for a period of natural depuration before direct harvesting by the public was allowed. Tom Marcotti explained some of the aspects of the DMF contaminated quahog relay program. Tom informed the committee that the Hyannis Harbor Relay Area (DMF/SC:27.22), the Cotuit Bay Relay Area (DMF/SC:21.22), and the Bay Street Relay Area (DMF/SC23.20) will be closed to all shellfishing as of April 19th, 2008. The Scudder Lane Recreational Shellfishing and Relay Area DMF/CCB31.20 has been closed to all shellfishing since April 1, 2008. Tom announced the four relay areas being used this year are permitted to be planted by June 15, 2008 and will reopen during the Fall of 2008, pending DMF approval.

Piers, Dredging and Shellfish Habitat Issues:

The Shellfish Committee reviewed and discussed the following proposed modifications to existing piers:

Applicant: C. William Carey

Application: Proposed modifications to the existing licensed pier to include realignment of the existing floats and piles, and add four (4) new tie off piles.

Location: 986 Sea View Avenue, Osterville, MA 02655

Applicant: G. Wade & Mary C. Staniar

Application: (R.D.A.) Proposed modifications to the existing licensed pier to include: replace an existing permitted 2 ft. X 12 ft. ramp and 5 ft. X 20 ft. float with a 3 ft. X 4 ft. cantilevered platform, 3 ft. X 12 ft. ramp, and 8 ft. X 16 ft. float.

Location: 236 Smoke Valley Road, Osterville, MA

Applicant: (N.O.I.) Elinor E. Svenson
Application: (N.O.I.) To construct and maintain a boardwalk, pier, ramp and float.
Location: 265 Baxter's Neck Road, Marstons Mills, MA 02648

Applicant: Indian Point, Inc.
Application: (N.O.I.) Proposed maintenance dredging and placement of dredge material on a beneficial reuse area on the coastal beach.
Location: 8 Indian Trail, Osterville, MA 02655

Applicant: Edward M. Crosby, Jr.
Application: (R.D.A.) Proposed modifications to the existing licensed float configuration to include replacement of an existing 13' X 20' float with a proposed 8' X 20' float and a 4.5' X 22' float, relocate 2 piles and add 3 piles. There is no proposed increase in float area.
Location: 14 Indian Trail, Osterville, MA 02655

Ways to Water

Andre Sampou updated the committee about ways to water. The Clausson way to water at Cotuit Bay is still in litigation with the Town. The town is working to clarify types of ways to water (as not all designated ways to water are public) for a comprehensive publication.

Shellfish Overlay District

The Shellfish Committee discussed various aspects of the approved Shellfish Overlay District that seeks to protect shellfish habitat in defined Shellfish Relay Areas and Recreational Shellfish Areas. The Shellfish Overlay District, which prohibits piers and development in selected shellfish relay areas and recreational shellfishing areas, has a sunset clause of 18 months (with an extension allowance if needed) for the purpose of developing a "Harbor Management Plan" (HMP) for the Three Bays Area. Selected user group participants will be involved in any study procedure to address the multi-user group conflicts/issues that are integral to the HMP. Growth Management Dept. will coordinate proceedings and reference the Camp, Dresser, Mckee Coastal Resources Management Plan report completed in the early 1990's.

Commercial Shellfish Licenses

During the February 2008 meeting of the Shellfish Committee, Dave Barry and Bob Lewsen presented a proposal to create a new class of commercial shellfishing permit for town residents 62 years of age or older. The Shellfish Committee took up a review and discussion of the proposal at the March 2008 and April 2008 committee meetings. The proposal is included below:

To Whom It May Concern:

I am requesting that there be an additional class of license for Commercial permits, said change would be to Article III, Commercial Shellfishing, paragraph 407-12, a new subparagraph "D" inserted between the present "C" and "D". This paragraph would be for senior persons who have reached an age of 62 [Social Security first age] or older as of the date of application. The rationale for said license is to allow seniors to supplement their incomes. This category of license would be an experimental license for a period not to exceed three (3) years to allow for the fisheries personnel to evaluate the impact upon the overall shell fishing industry and health of the shellfish. At the end of 3 years, if there is a proven adverse affect to the shellfish population, this class of license could be revoked or amended depending on the analysis of impact on various types of shellfish populations. A suggested language would be:

- D. *Senior Commercial Shellfishing Permit. The Town Manager or Shellfish Constable may issue a senior commercial shellfishing permit to a resident senior. Said senior must be considered mentally competent and be at least 62 years of age. The senior shellfish permit holder would have the same authorizations as a basic permit holder with the exception that this category of permit would be subject to review at the end of the initial three year period and every two years thereafter due to possible deteriorating shellfish populations. The senior applicant must have successfully completed a Coast Guard boaters safety course prior to applying for the senior permit. All other provisions of the 407-12 Classes of permits and permit conditions." Shall apply.*

*I respectfully submit this for consideration, thank you,
Robert F. Lewsen*

Matt Ostrowski and Andre Sampou noted that the committee has reviewed hardship cases before, and would have to consider numerous hardship categories and discrimination issues in any circumstance. Matt suggested the idea of having a separate senior citizen commercial shellfish permit lottery, of a limited number of permits, in addition to the existing commercial shellfish permit lottery. Stuart Rapp noted that resource sustainability is a significant factor in the issue. Bob Lancaster commented that the existing commercial shellfish permit management is working well. Dave Barry expressed his concern that he doesn't see any young people digging clams commercially and the industry permittees are getting older.

Stuart Rapp made a list of the committee's considerations regarding Bob Lewsen's proposal that he will present to the Town Attorney(s) for legal review:

Change the proposed senior commercial shellfish permit requirement age from 62 to 65.

Eliminate the determination of mentally competent for proposed senior commercial shellfishing permit applicants.

Eliminate the need for the proposed senior applicant to have successfully completed a Coast Guard boaters safety course prior to applying for the senior commercial shellfish permit.

Consider a cap on the number of proposed senior commercial shellfishing permits,

a reduced fee for a proposed senior commercial shellfishing permit,

a potential lottery for proposed senior commercial shellfishing permits.

Stuart put the continuing proposed senior commercial license shellfishery topic on the agenda of a future meeting of the Shellfish Committee.