

Shellfish Committee Minutes of the Meeting

DATE: April 18, 2007
TIME: 7:30 P.M. to 9:30 P.M.
LOCATION: MEAD Building

Shellfish Committee Members present:

Stuart Rapp, Les Hemmila, Andre Sampou, Richard Haskell, Matt Ostrowski, Barbara Enos, Robert Lancaster

General Public present:

Wayne Hayes, William Golden, Richard Ossen, Stan Negus

NR Staff present:

Doug Kalweit, Tom Marcotti, Keith Williams, Kris Clark

Chairman's Report:

Stuart Rapp chaired the April 18, 2007 meeting of the Shellfish Committee.

The minutes of the February 21, 2007 and March 14, 2007 meetings of the Shellfish Committee were unanimously approved by the Shellfish Committee.

Stuart announced the resignation of George Zoto as a member of the Shellfish Committee.

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.**).

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

A portion of the Seapuit River and all of Pirate's Cove shall be closed to shellfishing May 1 through October 31, 2007, all dates inclusive. The areas shall not automatically reopen to shellfishing on November 1 and will remain closed until examined and shellfishing is allowed by DMF (DMF/SC:21.2; classified as conditionally approved).

- **The Cotuit Narrows Closure:**

The Cotuit Narrows shall be closed to shellfishing May 1 through October 31, 2007, 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. (DMF/SC21.1; classified as conditionally approved.)

- **Shoestring Bay Closure:**

The lower portion of Shoestring Bay closed to all shellfishing as of April 1, 2007 per order of DMF.

The lower portion of Shoestring Bay is defined as: The waters, flats and all tributaries of Shoestring Bay in the Towns of Mashpee and Barnstable, easterly of a line drawn south from

the southernmost point of Mashpee Neck to Punkhorn Point; northerly of a line drawn from Punkhorn Point to Ryefield Point and southerly of a line drawn from Simons Narrows Road in the Town of Mashpee to the "Public Way to Water" in the Town of Barnstable. (DMF/SC20.3; classified as conditionally approved; **status: Closed to shellfishing April 1 through December 31, all dates inclusive. The area shall not automatically reopen to shellfishing on January 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 15, 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 15, 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.**).

- **Scudder Lane Recreational Shellfishing Area Seasonal Closure:**

Effective Saturday, April 1, 2007, the Scudder Lane Recreational Shellfishing Area (as defined) in Barnstable Harbor is closed to the harvest of all shellfish. Opening dates for the Scudder Lane Recreational Shellfishing Area will be posted annually.

- **DMF Scallop Season Closure:**

The harvest of scallops shall be closed, (prohibited) effective April 1st annually, MGL CH 130 sec. 71. Open season will be posted annually.

Shellfish Propagation

Tom Marcotti reviewed the Town's shellfish propagation plans for the upcoming season.

The Natural Resources Office is contracting for the removal of contaminated shellfish (i.e., quahogs) from designated portions of the Bumps River and Centerville River. The quahogs are currently being relayed and free planted in the designated relay area as defined below for depuration purposes. Pending testing and certification by DMF, the relay area is scheduled to reopen for harvest during the Fall of 2007. Contractors are being paid \$40 per 40 quart tote basket for harvested quahogs. Contact the Natural Resources Office for further information.

The Town will receive remote set oysters and quahog seed from the DMF / Barnstable County / SEMAC shellfish propagation program which supplies shellfish to the Barnstable County Towns.

Natural Resources proposed 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. Andre Sampou requested more information illustrating that the Town's shellfish relay areas are registered with DMF. A discussion took place regarding the type of

contamination of the quahogs. The Shellfish Committee requested more information regarding the relay program, including the contaminants analyzed by DMF and the DMF permit conditions.

Piers, Dredging and Shellfish Habitat Issues:

The Shellfish Committee discussed the following proposed pier and/or dredging applications with a focus on the deleterious effects of dredging on shellfish resources / habitat:

Applicant: Herbert and Pamela Pheeneey
Application: Construction of a four foot wide timber pile supported pier for recreational boating. Pier to be shared by abutting waterfront properties.
Location: Sand Point Road, Osterville, MA, 02655

Andre Sampou reviewed the Conservation Commission’s public hearing and denial of the H. & P. Pheeneey pier application.

Applicant: Yasmine Realty Limited c/o Boston projects, Inc.
Application: Proposed dredging to regain water depths in and around the existing pier. Proposed temporary float for use until dredging is performed.
Location: 253 Seapuit River Road, Osterville, MA

Applicant: Three Bays Preservation Inc.
Application: Proposed maintenance dredging in the Seapuit River channel in Osterville and placement of the dredge spoil in beneficial re-use area as shown on the plan.
Location: Seapuit River Channel (West)

Applicant: Alice D. Mattison
Application: It is proposed to replace an existing permitted removable pier with a new permanent pier and to place 2 piles.
Location: 501 Eel River Road, Osterville, MA

Fines Schedule for Shellfish Aquaculture License Non-Compliance

The Shellfish Committee undertook a further review of a proposed fine schedule as it pertains to the shellfish aquaculture rules and regulations. At the request of the Shellfish Committee, Tom Marcotti submitted to the committee a draft review (compiled by Natural Resources Officer Keith Williams) of a fine schedule for non-compliance with some shellfish aquaculture rules / regulations (to be implemented before the enforcement measure of license forfeiture is considered). The fine schedule draft is included below. Keith Williams expressed his concept of the fine schedule draft:

SCHEDULE OF FINES

Aquaculture Regulations Amendments

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| <i>s. 407-61 – Transplanting Seed</i> | <i>\$300.00</i> |
| <i>s. 407-62 – Marking Boundaries/Gear</i> | <i>\$300.00</i> |
| <i>s. 407-63 – Gear & Tackle</i> | <i>\$300.00</i> |

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| s. 407-64 – Removal of Gear | \$300.00 |
| s. 407-66 – Inspection | \$300.00 |
| s. 407-66a – Digging, Taking, Prohibited hours | \$300.00 |

(No person shall dig, take or carry away any shellfish or shells between one half hour after sunset and one half hour before sunrise, by any method whatever from any waters, flats or creeks as to which a license for an aquaculture grant has been given by the Town of Barnstable or State of Massachusetts.)

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| s. 407-66b – Taking w/o consent (Grants) | \$300.00 |
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(Whoever works a dredge, oyster tongs, or rakes, or any other implement for the taking of shellfish of any description upon any shellfish grounds or beds covered by a license granted by the Town of Barnstable or State of Massachusetts, or in any way disturbs the growth of shellfish thereon, or whoever discharges any substance which may directly or indirectly injure the shellfish upon any such grounds or beds, without the consent of the licensee or transferee shall be punished by a fine of not more than \$300.00.)

Stuart Rapp suggested a sub-committee of the Shellfish Committee be formed to review and propose a variable fine schedule for numerous items of non-compliance with the shellfish aquaculture regulations based on the Town of Welfleet's shellfish aquaculture regulations. A sub-committee was formed consisting of Robert Lancaster (chair), Richard Haskell and Les Hemmilla to address the issue.

Recreational Shellfish Area and Shellfish Relay Overlay District

The Shellfish Committee discussed the issue of pier proliferation throughout the Town's waters and coastal resource areas. Andre Sampou reviewed a proposal to the Shellfish Committee to create a "Recreational Shellfish Area and Shellfish Relay Overlay District" that would prohibit piers in those areas. The Shellfish Committee unanimously approved a motion for Councilor Rick Barry to submit the proposal for a "Recreational Shellfish Area and Shellfish Relay Overlay District" to the Town Council for review and approval.

Local Comprehensive Plan

The Shellfish Committee reviewed the draft of the revisions to the Town of Barnstable 1997 Local Comprehensive Plan (LCP). Andre was concerned with proposed revisions to the LCP that eliminate sections of the 1997 LCP that protect coastal / shellfish resources. Stuart Rapp informed the committee that he would communicate with Growth Management Department staff regarding the Shellfish Committee's interest in having a meeting with the Growth Management Department to address the proposed revisions to the 1997 LCP.

Shellfish Aquaculture License Renewals

The following shellfish aquaculture license renewal applications were reviewed by the Shellfish Committee.

Town Manager, John C. Klimm, held a public hearing (on April 3, 2007) on the applications of Robert Hayes and Edith Hayes for shellfish grant license renewals to cultivate shellfish in sites #02-06 and #02-07 in Barnstable Harbor. Doug Kalweit informed the Shellfish Committee that a written request was sent to the renewal applicants requesting more detailed information regarding the type of gear

intended for use on the grant. The Shellfish Committee approved a motion to recommend the approval of both shellfish aquaculture license renewal applications providing all information required by the Natural Resources Office is provided by the renewal applicant.

Town Manager, John C. Klimm, will hold a public hearing on the application to transfer a shellfish grant license to cultivate shellfish in site #99-06 in Barnstable Harbor from Karl W. Maki to David J. Maki. Said public hearing will be held on Tuesday, April 24 2007 at 11:00 A.M. in the Barnstable Town Hall, Selectmen's Conference Room, 2nd Floor, 367 Main Street, Hyannis, MA. The Shellfish Committee approved a motion to recommend the approval of the application of Karl W. Maki to transfer his shellfish aquaculture licensed site to David Maki.

Review of Apprentice Commercial Shellfishing Permit Application

The Shellfish Committee reviewed the application of Douglas Hayes for an apprentice commercial shellfishing permit. Stuart Rapp referred to the past recommendations of the shellfish committee similar to the current application. The Shellfish Committee approved a motion to recommend the approval of Douglas Hayes' application with the understanding that the applicant will not have accrued enough time (2 years) to allow him a commercial shellfish permit by his apprenticeship.

One Year Exemption from Commercial Shellfish Permit Fee Due to Hardship

Commercial Shellfish Permittee David Ryan requested the Town Manager to allow him a one year exemption from the commercial shellfish permit fee for the 2007 commercial permit year. Stuart Rapp referred to previous recommendations of the Shellfish Committee regarding "hardship" issues. The Shellfish Committee approved a motion to recommend that David Ryan's commercial shellfishing permit fee be waived for one year as requested by David Ryan.