



**Town of Barnstable**  
Community Services Department  
**Marine and Environmental Affairs Division**  
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## **Shellfish Committee Minutes of the Meeting**

**DATE: August 17, 2016**

**TIME: 7:35 P.M. to 8:35 P.M.**

**LOCATION: Senior Center, 825 Falmouth Road, Hyannis**

**Shellfish Committee Members present:** Chairman: Stuart Rapp, Robert Lancaster, Richard Haskell, Andre Sampou, Ron Glanz, Linda Romano, and Gerard Ganey

**Shellfish Committee Members absent:** Al Surprenant, William Shumway

**General Public present:** Christopher Freeman, Scott Laurie, Nick Laurie

**Town Council Liaison (not present):** Phil Wallace

**Town Staff present:** Tom Marcotti, Liz Lewis, Amy Croteau, Devon Harrington

Stuart Rapp chaired the August 17, 2016 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."*

### **1.) Meeting minutes:**

The Shellfish Committee unanimously approved a Motion made by Ron Glantz and seconded by Andre Sampou to approve the Meeting Minutes from June 15, 2016. The July 17, 2016 was not held due to lack of quorum there was no Meeting.

### **2.) Chairman's comments:**

New water problem in Three Bays, which will be further discussed.

### **3.) Natural Resource Propagation Report:**

Tom Marcotti gave the Natural Resource Propagation Report. He stated that it has been a great growing year due to the hot weather and that the Natural Resource Staff has been working very hard digging up the stock and replanting.

There is a new algae bloom in the Three Bays Area, different than the green algae we are use to dealing with. The Bay is out of balance, there is an abundance of nitrogen in the water, we are seeing what it this does to the water quality. Lindsey Counsell, of Three Bays Preservation, Rick York, Town of Mashpee's Acting Director of Natural Resources, and Jeff Turner, Chancellor Professor Department of Biology/Department of Fisheries Oceanography School for Marine Science and Technology University of Massachusetts Dartmouth are taking waters samples and evaluating the situation.

Rust tide or dinoflagellate *Cochlodinium polykrikoides* is known world wide, it has been seen in the past in the Buzzards Bay area. Dinoflagellate *Cochlodinium polykrikoides* affects the amount of oxygen in the water but is not harmful to humans, different than the Red Tide. Because of the amounts of algae there could be a fish die off. The north side has had good growth and healthy food is available as it is not currently affected by this bloom.

The area looks better than last week as far as the bloom goes; the concentrations seemed most dense at Bay Street, in North Bay Osterville. The shellfish stock at Prince Cove does not seem to be harmed by the bloom.

The Barnstable County based Cape Cooperative Extension and Woods Hole Oceanographic have a water quality meter in the Three Bay area. Data is being gathered to find out more about this bloom. There was a small fish kill in North Bay, and soft-shell clam kill in Eel River and West Bay.

#### **4.) Status of pending pier applications before the Conservation Committee**

None.

#### **5.) Old Business**

Discussion and possible vote on the issue of lack of reasonable notice regarding the Conservation Commission's Notices of Intent. - *Continued until next meeting.*

Discussion and possible vote on Aquaculture Rules and Regulation changes as presented by the Aquaculture Subcommittee.

Rich Haskell, Chairman of the Aquaculture Subcommittee stated that the Subcommittee met twice and approved the following regulations and Shellfish Committee voted on the following:

1. The Shellfish Committee unanimously approved a Motion made by Robert Lancaster and seconded by Linda Romano to recommend the approval of the following changes to **§ 407-50. Filing and posting of applicants.**

Section 407-50; Amend the regulation by adding the wording highlighted in **bold**.

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

A list of applicants for licenses **that have been reverted to the Town** in order of date and 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. **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 list. The Town Manager's office must receive said notice on forms supplied by the Town Manager's office by 4:15PM on the deadline date (February 15) along with a \$15.00 fee.**

2. The Shellfish Committee unanimously approved a Motion made by Robert Lancaster and seconded by Andre Sampou to recommend the approval of the following changes to **§ 407-59. Reasonable production value.**

Section 407-59; Amend the regulation by deleting the crossed out wording and adding the wording highlighted in **bold**.

**§ 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~~ **\$4,000** per acre per year based upon market value. **This amount is subject to change with inflation rates.** Failure of the licensed shellfish product 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.

3. The Shellfish Committee unanimously approved a Motion made by Gerard Ganey and seconded by Andre Sampou to recommend the approval of the following changes to **§ 407-60. Filing of annual reports.**

Section 407-60; Amend the regulation by adding the wording highlighted in **bold**.

**§407-60. Filing of annual reports.**

Licensees shall file annual reports with NR in accordance with the form provided by NR on or before February 28 of each year and shall produce documents upon the request of NR showing purchase and sale slips stating the total amount of each kind of shellfish planted, produced or marketed during the preceding year (January 1 through December 31) upon or from the licensed area, and an estimate of the total number of each kind remaining. The report shall disclose all necessary information as required by these regulations and NR which establishes that the licensee reached the reasonable production value. **A new licensee is required to submit purchase and sale slips for source(s) of seed planted on his/her license site and/or gear purchased for his/her licensed site for the first three years of his/her original license.**

4. The Shellfish Committee unanimously approved a Motion by Robert Lancaster and seconded by Linda Romano to recommend the approval of the following changes to **§ 407-64. Removal of gear upon termination of license.**

Section 407-64; Amend the regulation by adding the wording highlighted in **bold**.

**§ 407-64. Removal of gear upon termination of license.**

When a license is discontinued or terminated for any reason, the license holder shall be required to remove all gear from the waters and substrate within 60 days of the license termination date. Any and all equipment not removed within 60 days **may be removed by a third party, contracted** by the Town, at the expense of the licensee.

5. The Shellfish Committee unanimously approved a Motion by Robert Lancaster and seconded by Linda Romano to recommend the approval of the following changes to **§ 407-47. Proof of residency required.**

Section 407-47; Amend the regulation by adding the wording highlighted in **bold**.

**§ 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. **Annual documentation to verify the licensee is domiciled in the Town of Barnstable is required. This may be current real estate tax bill, mortgage or lease and copy of motor vehicle registration. (A driver’s license is not valid annual proof of domicile). The burden of proof is on the licensee and shall be included with the annual license fee, due by February 28 each year.**

6. The Shellfish Committee unanimously approved a Motion made by Robert Lancaster and seconded by Linda Romano to recommend the approval of the following changes to **§ 407-52. Compliance with all laws required; approval of license.**

Section 407-52; Amend the regulation by deleting the crossed out wording and adding the wording highlighted in **bold**.

**§ 407-52. Compliance with all laws required; approval of license.**

Approval of any aquaculture license shall be subject to all federal, state and local laws, rules and regulations as in force and as amended from time to time. ~~and~~ **The licensee shall comply with all such rules and regulations pertaining to the operation of an aquaculture license in the state of Massachusetts.** Failure to comply with any of the aforementioned laws, rules and regulations shall be cause to revoke the license. The Town Manager’s approval of a shellfish aquaculture license shall become effective upon the expiration of 30 days from the date the Town Council is notified, in writing, of said license approval unless the Town Council votes within said time to disapprove of said license.

7. The Shellfish Committee unanimously approved a Motion made by Linda Romano and seconded by Robert Lancaster to recommend the approval of the following changes to **§ 407-54. Exclusivity of license; subleasing prohibited; transfer of license.**

Section 407-54; Amend the regulation by adding the wording highlighted in **bold**.

**§ 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. **Licenses are transferable only after five years from the original license issuance date, subject to review by the Natural Resource Office for reporting requirements and production standards under §407-59 and §407-60 and subject to 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 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.

8. The Shellfish Committee unanimously approved a Motion made by Linda Romano and seconded by Robert Lancaster to recommend the approval of the following changes to **§ 407-56. New license period; renewal.**

Section 407-56; Amend the regulation by deleting the crossed out wording.

**§ 407-56. New license period; renewal.**

A new license shall be issued for a period not to exceed five years, and for a total maximum 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 license will be forfeited.~~ The licensee may apply for 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.

**6.) New Business**

1. The licensing of a floating upweller system (flupsy) to Albert Surprenant for the purpose of culturing shellfish, located at 262 Bridge Street, Osterville, MA, 02655; a designated portion (0.02 acre) of subtidal area in North Bay.

After discussion the Shellfish Committee unanimously approved a Motion made by Ron Glantz seconded by Robert Lancaster to recommend the approval of the licensing of a floating upweller system (flupsy) to Albert Surprenant for the purpose of culturing shellfish, located at 262 Bridge Street, Osterville, MA, 02655; a designated portion (0.02 acre) of subtidal area in North Bay.

2. The licensing of a floating upweller system (flupsy) to Scott Mullin for the purpose of culturing shellfish located in a designated portion (0.003 acre) of subtidal area in a Millway Marina slip at Barnstable Inner Harbor.

After discussion the Shellfish Committee unanimously approved a Motion made by Robert Lancaster seconded by Linda Romano to recommend the approval of the licensing of a floating upweller system (flupsy) to Scott Mullin for the purpose of culturing shellfish located in a designated portion (0.003 acre) of subtidal area in a Millway Marina slip at Barnstable Inner Harbor.

3. Notification of shellfish aquaculture licensed site transfer application:  
Applications of Charles Lawrence and Nicholas Laurie to transfer two aquaculture sites currently licensed to Charles Lawrence (Lic.# 10-02) and referred to as ng044 -.091 acres and ng049 – 1.15 acres, located in Barnstable Harbor north of Sand and Huckins Islands to Nicholas Laurie and issue a new license to Nicholas Laurie for a period of five years.

After discussion the Shellfish Committee unanimously approved a Motion made by Ron Glantz and seconded by Robert Lancaster to recommend the approval of the Transfer of transfer two aquaculture sites currently licensed to Charels Lawrence (Lic. # 10 - 02) and referred to as ng044 -.091 acres and

ng049 – 1.15 acres, located in Barnstable Harbor north of Sand and Huckins Islands to Nicholas Laurie and issue a new license to Nicholas Laurie for a period of five years.

**7). Matters not anticipated by the Chair.**

Andre Sampou brought up the topic of the new Algae Bloom and requested Tom Marcotti to report back on the issue in the Natural Resource Propagation Report every month at the scheduled meeting.

Chris Freeman questioned the Conservation Commission scheduled hearings with the Shellfish Committee not hearing NOI's. After discussion, it was concluded that if there was no comment from the Shellfish Committee it is assumed that there is no issue. Stuart Rapp advised Chris Freeman to go to Conservation himself to discuss the issue.

Gerard Ganey questioned Liz Lewis about the volunteers. Liz stated she is currently recruiting volunteers to plant the 1.75 million quahogs currently in the flupsies after Labor Day through the end of October. There should be approximately 80 nets planted. She will use volunteers for planting. For safety reasons, volunteers will not be used to remove nets.

The question was asked how many pecks of shellfish have been taken this year. After some discussion Amy Croteau offered to get the numbers for next meeting.

The Shellfish Committee unanimously approved a Motion by Robert Lancaster and seconded by Ron Glantz to adjourn.

Next Meeting will be held at the Senior Center, 825 Falmouth Road, Hyannis on September 21, 2016 at 7:30 p.m.

Respectfully Submitted:

Terri McDonald, Administrative Assistant