

**Shellfish Advisory Board Meeting Minutes**  
**May 9, 2023 7:00PM**  
**Hybrid Meeting – Senior Center and Zoom**

Board Attendees: Rebecca Taylor, Ethan Estey, Karen Johnson, Stephen Pickard, Adrien Kmiec, Damian Parkington, John Duane  
(Absent: Tom Siggia, Nick Sirucek)

Others: Diane Brunt, Brad Morris, John Wolf, Evan Bruinooge, Helen Miranda Wilson, Ginny Parker, Mike Devasto, Richard Blakeley, Ralph Bassett, Bob LaPointe, Arlene Estey, Chris Merl, John Wolf, Ryan Curley, Tim Sayer, Justin Dalby, Jude Ahern, Joe Aberdale, Curt Felix, Chris Allgeier, Kathleen Bacon, Gail Ferguson, Joe Aberdale, Denise Lapierre, Lin Allgeier, Barbara Carboni, Kevin Coakley, Hussey, Josh Yeston, Avery, Charter Williams, more (not a complete list).

Meeting called to order at 7:08 PM

**Announcements, Open Session & Public Comments - None**

**Review and Approve Meeting Minutes – April 26**

E. Estey made motion to approve minutes, K. Johnson 2<sup>nd</sup>.

R. Taylor assigned A. Kmiec as alternate member to vote.

All in favor. 6-0.

**NRAB Update**

John Duane provided an update on NRAB activities. They are moving ahead with the harbor survey project, it is currently on Selectboard agenda for next Tuesday and the letter SAB put together will be up for a vote. J. Duane will attend the meeting and he encourages others to attend if they are able. Up for vote is whether the Selectboard would like to send our draft letter to MA DMF requesting they perform a harbor survey. From the NRAB side they've been talking a lot about ponds, the ponds do flow into the ocean, they are hoping to put together the harbor survey for this year or more realistically probably next year.

**Late Public Comment**

M. Devasto requested the ability to make a public comment, R. Taylor allowed. M. Devasto wanted to announce that he is on the shellfish advisory panel for the state, and has been assigned to a subcommittee on aquaculture license site transfers and best management practices related to same. First step was to develop an online

questionnaire of 34 shellfish constables in the state. R. Taylor commented that it could be something to cover in a future agenda perhaps.

### **Dredging / Mitigation Clarification / Preserve Access**

C. Allgeier , Co-Chair of Dredging Task Force provided an update on on-going conversations / progress with Army Core. Key document they are working on is the adaptive management plan (AMP) which governs the process for the first 5 years. Five year timeline of AMP would be dependent on meeting metrics, plan would need to be extended if goals are not met. After completion of AMP the core will issue a certificate of compliance. Long term management would be required after the certificate of compliance is given.

C. Allgeier explained that during the first 5 years the AMP guides us on what we would need to do, for example if there was severe weather or if we are slow to gain oyster seed population density, etc. The long term management plan kicks in after we gain our certificate of compliance. He stated that it's mostly reporting requirements. But if there was for example a severe weather event and it negated the progress we had made and we already have our certificate of compliance, our obligation would be to complete year one of the AMP again. Year One currently calls for ten strips of cultch and we would put down some seed.

There was some discussion about what this meant specifically - re-doing just year one or starting over again from year one and how many times we could be required to re-start the process. There remains concern that there does not seem to be any end date details. The task force deflected the issue by stating these are still a work in progress as part of the ongoing work on the AMP.

E. Estey questioned what the measure of success would be and the model(s) used to determine oyster density, the area surveyed and how many meters would be evaluated.

C. Felix stated that there would be an RFP process to determine the group that would be doing the sampling and evaluation and that the measurements would be driven by whomever is selected to do that work.

E. Estey stated this is a concern and would like more information on how success will be evaluated.

E. Bruinooge questioned whether a study of this size has been completed in other towns or if Wellfleet is the "guinea pig".

D. Parkington, A. Kmiec and John Wolf reiterate the desire for more specific information on a sunset clause and questioned whether there is an opt-out in the proposal for a reduction of fee later on.

C. Allgeier replied that the reduced fee would be based on results, the agreement is performance based and that he wouldn't want to give false hope - the sunset would be based on reporting requirements but yes we could sunset later by paying the money but that cost would fluctuate based on inflation, etc.

C. Merl questioned whether the details on the metrics used would be part of the plan.

C. Felix stated the metrics would be dependent on the group used to implement them but would be based on academic and scientific standards and approaches used over 20 years and managing the resource would be based on best practices.

C. Merl and E. Estey requested more information on the specific measurements to be used.

D. Parkington questioned whether the cultch strips in the plan would be adequate to achieve success and wanted to know if the shellfish department might have information on what could be expected for a strip of cultch.

D. Brunt read the list of dates of meetings on the dredging mitigation topic and stated that all the meetings are just as confusing, the number of acres needed keeps changing, sampling sizes are confusing, unknowns are vast and unyielding.

R. Blakeley stated that this is 28 acres we'll never get back and expressed concern that the shellfish department would likely be requesting more people to meet the demands of the plan and the reporting requirements and that we need to consider the cost of this as well.

H.M.W. questioned whether conservation trust and other interested parties have approved the plan, C. Allgeir said they are reviewing it.

M. Devasto questioned why it needs to be a shellfish area, why not other impaired waterways?

C. Felix responded that mitigation is bottom for bottom and that they have difficulty finding 28 acres to have it work in the harbor and must show ecosystem uplift.

T. Sayer noted that compliance does not mean completion and wanted to share his opinion that dealing with the Army Corps can be a nightmare and that we need to be very careful with our wording.

B. Morse stated that "to mitigate or not mitigate was never the question" and wanted to know why we can't get the money elsewhere.

S. Pickard asked that we move to the next agenda item.

## **Improving Communications**

E. Estey read letter submitted by Diane Brunt requesting improved communications on SAB issues.

Discussion on how to improve communications ensued - D. Parkington recommended posting of what we are actively working on somewhere easily accessible on the WSD website, C. Merl asked that notices be sent out a week before not the day of the meeting. Some discussion about making an effort to improve the timeline of when the agenda and materials are posted would be helpful.

### **Corporations and Other Business Entities Named to Grants**

M. Devasto read aloud his letter to SAB regarding corporations named to grants into the record. His letter expressed concerns about personal liability as the driving factor for his desire to have his grant license be in the name of his company, trying to protect his family's personal assets.

R. Curley responded that there is a difference between a shellfish and a liquor license and that the state will only issue a seller's card to a real person and noted that enforcement is against the seller named on the card not the corporation. He further noted that foodborne illness is addressed under a shellfish HACCP plan, grant issues follow rules of standards of care (buoys designating areas of navigational hazards, etc.) He further noted that domicile requirements were previously assumed to have covered the issue - as all requirements are specific to a person. He stated that the scope of managing corporate overreach is beyond the town's abilities.

H.M.W. questioned whether the town can tell someone how to structure their business and suggested we look into this further.

J. Dalby mentioned his employees all have sellers' cards but they have the Holbrook name on the card.

R. Blakeley stated that he's against licenses being in corporate names and that having licenses and grants in a person's name has served us well over the years.

M. Devasto commented that his seller's cards have his corporation name on them.

D. Parkington noted that there is a grey area as far as liability goes for other fisheries as well and that other permits - like for lobsterman - need to be in a person's name. He noted that the conversation is not just about liability protection and stated that it becomes a money conversation - and there is real concern about bringing investors to the table.

C. Merl requested his letter to SAB be read aloud and talked about the money he is required to pay out for quota when he goes scalloping and cautioned that we don't want to open ourselves up to the same for shellfishing.

E. Estey read C. Merl's letter into the record. Letter expressed concern about corporations being named to grants and shellfish licenses and asked SAB to close up any loopholes.

R. Taylor read e-mail letter from Patick Winslow sent to SAB urging the board to not take a vote until there is more information on liability for shellfish license holders.

R. Taylor read e-mail letter from Jason Lance Weisman to SAB expressing his belief that we need more information and outreach regarding liabilities for the shellfishing community.

E. Estey read a letter from his insurance agency (Benson, Young & Downs) into the record. The letter was provided to him that stated they do not see any decrease in liability if a shellfish grant were to be placed in a corporation name vs in the name of an individual.

J. Duane expressed his belief that we need a longer discussion on this and felt the need to get input from a lawyer. John stated that he thinks it's improper to have this discussion without legal advice.

D. Parkington reiterated his concern about investors getting involved with farming and fishing and that it changes how things are done. He also stated he is going to have to miss a few upcoming meetings.

S. Pickard reminded the group that on 12/20/22 the Town of Wellfleet changed regulation 6.1.4 that required a commercial shellfish permit for grant holders and that getting this permit required the holder be domiciled and provide information on height / weight / eye color. Suggested that doing so resolves the issue.

R. Taylor mentioned that we should run things by town council for their opinion.

E. Estey reminded us that questions to town council need to go through the Selectboard as there is a fee for these consultations.

G. Parker questioned how much we have already spent on this issue and on town council and how much tax payer money has been spent on asking for legal advice on this issue.

### **Next Meeting's Agenda Items**

R. Becca requested that we should get town council input on the corporation question and considered where we should leave it off the agenda until we get that input.

C. Merl requested that SAB ask the shellfish department to post information on our meetings earlier so that people have more time to plan to attend.

R. Curley mentioned that agenda items need to be posted 48 hours in advance and gave a recommendation that we could request that agenda items be provided in the town Shellfish Crier as early as possible.

K. Johnson requested a conversation on the town's propagation plan and the 5 year plan for the town's shellfish grant. Also noted that it will soon be time for the board to reorganize and requested this also be an agenda item.

R. Taylor questioned whether our board needed to reorganize and how that process works.

R. Curley came forward to explain that the town charter requires all boards to reorganize once a year and stated that most boards do that on the first meeting after June 30th as that is when terms expire.

S. Pickard noted that since the next meeting will be our only June meeting then he agrees it would be a good time to bring forth the reorganization discussion.

Next meeting planned for Thursday, June 8th at 7PM (dependent on room availability).

E. Estey made a motion to adjourn. K. Johnson 2nd. All agreed.

Meeting adjourned at 9:34

All documents referenced in this meeting are found in Agenda document of same meeting.