

Harbor and Shellfish Advisory Board
Tuesday, June 4, 2024 at 5:00 p.m.
Via Zoom
***HSAB meeting are video-recorded**

Members present: Andy Lowell, Dave Fronzuto, Dave Bossi, Scott Anderson, Bobby DeCosta, Jim Sjolund, Peter Brace

Members Absent:

Marine Dept: Tara Riley, Jeff Carlson, JC Johnson

Natural Resources Dept: Tara Riley, Jeff Carlson, JC Johnsen

Others: Simon Edwards, John Logan, Matt Herr, Carl Bendickson, Mac Raith

CALL TO ORDER

Mr. Lowell called the meeting to order at 5 p.m.

APPROVAL OF AGENDA

Mr. Lowell called for a motion to approve the agenda. Mr. Anderson made a motion to approve the agenda. Mr. Bossi seconded that motion. The HSAB voted 7-0 to approve the agenda.

APPROVAL OF MINUTES

Draft minutes of May 21, 2024

Mr. Lowell called for a motion to approve the minutes. Mr. Anderson made a motion to approve the minutes. Mr. Bossi seconded that motion. The HSAB voted 5-0 with Mr. DeCosta abstaining and Mr. Sjolund not present.

CHAIRMAN'S REPORT

Election of Officers

Mr. Anderson nominated Mr. Lowell to serve as chairman. Mr. Bossi nominated the existing officers; Mr. Lowell as chair, Mr. Anderson as vice chair and Mr. Brace as secretary. Mr. DeCosta seconded that motion. Mr. Sjolund was not present. The HSAB voted 6-0 to approve the motion.

Mr. Lowell announced that Samantha Denette has stepped down from the Nantucket Shellfish Association (NSA) and that Kenneth Corn replaced her as executive director.

MARINE DEPARTMENT REPORT:

General Marine Department report – Sheila Lucey

No report. Ms. Lucey not present.

NATURAL RESOURCES REPORT

General Natural Resources Department report – NRD staff

Ms. Riley reported that her hatchery interns started this week. She added that she is preparing for their first scallop spawn on Friday, June 7. Mr. Riley reported that presently, she has quahogs in the hatchery that will soon be released into the harbors, around five million that can now eat on their own. She added she also has ponderous arks growing in the hatchery, a project in collaboration with the Barnstable Extension Service on the Cape. Ms. Riley reported that she recently deployed SONDES in Nantucket and Polpis harbors to gather water quality data. Ms. Riley reported that she is collaborating with the Great Harbor Yacht Club (GHYC) creating a report card for Nantucket Harbor water quality, shellfish and eelgrass, dividing the harbor into lower, middle, upper and Polpis Harbor. Mr. Riley reported that staff from the Massachusetts Division of Marine Fisheries (DMF) is on Nantucket today taking water quality samples. She added that the Town's water quality specialist has started the shellfish hatchery's water quality sampling program for the 2024 season. Mr. Lowell asked if quahogs are naturally spawning on their own in the

harbors. Ms. Riley indicated that they are. Mr. Logan asked if there's a way to check to see if the seasonally closed shellfish beds are open or closed. Ms. Riley said she can post this information weekly as she gets it from DMF.

Mr. Lowell recognized the HSAB's newest member, Bobby DeCosta.

PUBLIC COMMENT ON MARINE DEPARTMENT / NATURAL RESOURCES REPORT

OLD BUSINESS

Continued review and update of shellfish regulations - Broken scallop box definitions and scalloper compensation for seed relocation – Jim Sjolund

Mr. Riley recapped this meeting's topics for review within the Town's shellfish regulations concerning fines.

Mr. DeCosta said the fines seem reasonable to him, but he said he can't support these fines unless the Town supplies fishermen with scallop bushel boxes and tags. He added that the fishermen shouldn't get fined for not having tags on their boxes because the Town didn't provide them.

Mr. Fronzuto said that because it says in the regulations the use of Town-provided tags, the Town needs to provide the tags. Mr. Johnson said this is a state law and that fishermen need to buy the tags themselves. Ms. Riley asked if Mr. Johnsen and Mr. Carlson had discussed the Town supplying scallopers with bushel boxes. Mr. Fronzuto said when he was harbormaster, he got the boxes from a supplier on Martha's Vineyard and always had a supply on Nantucket for scallopers to access. Mr. Carlson said he would explore restarting this program and finding a new source for the bushel boxes.

Mr. DeCosta said he agreed with the proposed fines structure. Mr. Fronzuto said he agreed with it as well, adding that the fines are reasonable in that they're just excessive enough to keep fishermen in line. Mr. Sjolund suggested changing the first offense

to \$50 because the first offense fine shouldn't be harsh. He added that he felt that the fine for fishing for conch during a closed season should be high because with only three people permitted for conch fishing on Nantucket who have all been fishing for conch for many years, they should all know the law by now. Mr. Herr agreed with Mr. Sjolund and suggested that the fisherman should lose their permit if there's a second offense. Mr. Sjolund agreed. Mr. DeCosta suggested the conch traps set in the water in excess of the permitted amount allowed by law should be confiscated. The HSAB and Ms. Riley agreed.

Ms. Riley moved on to aquaculture violations. She indicated that she was happy with the proposed revisions. Ms. Riley listed the three possible offenses and their proposed penalties. Mr. Johnsen said these offenses and their respective fines came from the state. Mr. Edwards and Ms. Riley explained the offenses and their penalties to the HSAB.

Ms. Riley said she is aiming to get the revised regulations finalized by the end of August and in place for the start of the recreational scallop season.

Harbor watershed public information outreach ideas – Report by Scott Anderson (Not on the agenda)

Mr. Anderson and Mr. Lowell reported on their presentation they made to eighth graders at the Nantucket New School. Mr. Anderson explained how he planned to refine the presentation for future events.

Proposed dinghy regulations at Town Pier – Sheila Lucey – Discussion

Ms. Lucey wasn't present. Mr. Fronzuto said Ms. Lucey requested that the HSAB start working on this item in the fall.

Conch harvesting – Continued discussion

Mr. Lowell asked if there was more discussion on this issue.

Letter to Land Bank regarding commercial uses at Petrel Landing – Dave Bossi (Not on the agenda)

Mr. Bossi said the goal of the letter was to get it to the Land Bank Commission to see if the Land Bank will include aquaculture in its agricultural mission and consider incorporating commercial fishing use when it develops its Petrol Land property. Mr. Fronzuto reiterated that this letter needs to be sent the Nantucket & Madaket Harbors Action Plan Update Committee (NMHAPUC) to support this effort being pushed by this committee as well.

Mr. DeCosta questioned the Land Bank's proposal for a recreational dinghy dock and the lack of a commercial component for Petrol Landing. The HSAB discussed finding out what form the current Land Bank plan is for Petrol Landing is right now. Mr. Lowell suggested holding a joint HSAB Land Bank Commission meeting. Mr. Fronzuto suggested sending the letter to Land Bank executive director Jesse Bell to give her a heads up on what the HSAB is thinking. Mr. Sjolund asked how long the Land Bank has owned Petrol Landing. Mr. Fronzuto said he thought it was since the early 1990s. Mr. Bossi said he would revise his letter for final review at the June 18 meeting.

Coastal Resilience Advisory Committee – Update

Mr. Brace reported on the recent activities of the Coastal Resilience Advisory Committee (CRAC), which included the CRAC gearing up to speak to the Select Board about the committee's efforts to create recommendations for the various regulatory boards and commissions on how to incorporate coastal resilience regulations and policies into their regulations.

HEALTH OF THE HARBORS

Pollutants and microplastics – Scott Anderson

Mr. Anderson reported this a problem requiring him to do a lot more reading and research before he can present a course of action for this effort.

NEW BUSINESS

Aquaculture lease – Sean Fitzgibbon – Discussion

Mr. Carlson explained this issue to the HSAB. He explained that Mr. Fitzgibbon was operating his oyster lease on his two-acre portion of a 12-acre overwintering site in the subtidal zone adjacent to the mouth of Coskata Pond. He added that this area would need an order from the Select Board to have it resurveyed for possible use as grow-out area. This would include a discussion with the other five growers in the area. Given this status of the situation, Mr. Carlson recommended that this area remain an overwintering site and that Mr. Fitzgibbon move his oyster gear put his deep-water plot in the Head of the Harbor.

Mr. Brace asked if all the oyster farmers relocated their cages to this area in the winter. Mr. Edwards confirmed this. He added that if this area is opened up to other oyster farmers for grow-out there will be no place to overwinter oysters.

Mr. Carlson further explained that as Mr. Fitzgibbon had taken over former oyster farmer Ted Lambrecht's oyster lease including some of his gear in this subtidal zone near Coskata Pond, Mr. Fitzgibbon assumed, without getting official confirmation from the Natural Resources Department, that he could grow out his oysters at this site. Mr. Fronzuto asked where Mr. Fitzgibbon is. Mr. Carlson said he was not at this meeting. Mr. Lowell then asked all members of the public in attendance to identify themselves for the board and the record. Mr. Fronzuto asked when Mr. Fitzgibbon was told he couldn't use this subtidal area for grow-out. Mr. Carlson said Mr. Fitzgibbon had been given all of the information on where aquaculture lease holders can and cannot grow out their oysters and that this current issue came to a head after Mr. Johnsen and an Environmental Police Officer spoke with Mr. Fitzgibbon. The latter then requested to continue growing out his oysters in the area in question and was told he couldn't. Having heard from Mr. Fitzgibbon that he has been growing out in this area for the last

two years, Mr. DeCosta asked for clarification. Mr. Johnsen reported that Mr. Fitzgibbon spent the first year cleaning out all of Mr. Lambrecht's "derelict" oyster gear from this area. At some point during that year, Mr. Fitzgibbon asked Mr. Johnsen if he could grow out in this area. Mr. Johnsen told him to get his answer from DMF, (Massachusetts Division of Marine Fisheries).

Mr. Fronzuto asked the other oyster farmers at the meeting if Mr. Fitzgibbon has been a "good neighbor" since he's been operating his lease in the Head of the Harbor. Mr. Edwards confirmed that he had. He added that although the oyster cages in this area are exposed at low tide and visible from Pocomo Point, the public generally supports the oyster industry on Nantucket. He added that given this dislike for oyster farms in waters off of mainland towns, Nantucket's oyster farmers are fortunate to have the support of the community.

Mr. Fronzuto asked Mr. Carlson wanted from the HSAB in terms of a recommendation. Mr. Carlson said the best course of action is to maintain the current situation and then have Mr. Fitzgibbon move his gear to his deep water plot by July 1, 2024. Mr. Herr advised against allowing the other oyster farmers to grow out in this subtidal area because it would cost them the public support they enjoy now. Mr. Sjolund asked where he could find the information on all of the leased sites in harbor. Mr. Carlson said he would get this information to Mr. Sjolund. Mr. DeCosta said he felt that all of the oyster farms should apply to grow out oysters in this area and that they shouldn't expect that much push back on this. He added that he wanted to ensure that Mr. Fitzgibbon shouldn't be put out of business in the process of moving his cages into deep water. Mr. Edwards said it would take him at least two years to start up grow out in this area because of market and labor concerns, and is worried about the risking the current atmosphere of public support. Mr. Fronzuto said the HSAB should support the other oyster farmers if they want to add the subtidal area to their grow out acreage. Mr. Herr said he also worried that should the Town pursue opening up this area to year-round grow out for all of the

oysters farmers with the DMF, it could bring renewed scrutiny on this subtidal zone in which viable shellfish habitat could be found and causing the DMF to revoke the area as one for aquaculture grow out. Mr. Logan said the HSAB and Mr. Carlson should be lenient on Mr. Fitzgibbon given that he cleaned out all of Mr. Lambrecht's derelict gear from this area and give him more time to move his gear to deep water. Mr. Carlson reiterated that Mr. Fitzgibbon needed to move his cages out of the subtidal area and into deep water. Mr. Brace asked of the difficulty of moving these cages and where the new overwintering area would be if all the oyster farmers could grow out in the subtidal zone. Mr. Brace stressed that Mr. Fitzgibbon really needed to be part of this discussion and so the HSAB could get answers from him directly. Mr. Fronzuto asked about the process of moving all of Mr. Fitzgibbon's cages to his deep water location. Mr. Edwards said that gear is designed for bottom grow out, so Mr. Fitzgibbon needs to buy floating cages to move his oysters into. Mr. Sjolund asked what the Town's dates are for use of the overwintering site and Mr. Carlson replied Nov. 1 through April 30. This is why, explained Mr. Carlson, that this issue didn't arise until early May this year. Mr. Bossi made a motion to have Mr. Fitzgibbon maintain his current compliance of moving his oysters out of the subtidal area and into his deep water plot, to work on a schedule for this to be completed by and to come back and reconsider possibly allowing all oyster farmers to use the overwintering area as year-round grow out. Mr. Brace seconded that motion. The HSAB voted 7-0 to approve this motion.

Summer meeting schedule

The HSAB decided to meet on July 16 and Aug. 20 with the option to meet twice in those months if the need arises with Mr. Fronzuto making this motion and Mr. Bossi seconding the motion. The HSAB voted 7-0 to approve this motion

PUBLIC QUESTIONS AND COMMENT

RECAP and ITEMS FOR NEXT MEETING

ADJOURN

Mr. Lowell called for a motion to adjourn the meeting. Mr. DeCosta made a motion to adjourn and Mr. Anderson seconded that motion. The HSAB voted 7-0 to adjourn the meeting at 6:54 p.m.

YOUTUBE LINK

<https://www.youtube.com/watch?v=zgJaBo2Bd1g&list=PL49sKqpy7VAj6nJnAlrlKlxWm6VQTfuXg&index=1>

Future Meetings:

June 18 and July 16

Respectfully Submitted,
Peter B. Brace, Secretary