



**Town of Barnstable**  
**Shellfish Committee**  
1189 Phinneys Lane, Centerville MA 02632



**SHELLFISH COMMITTEE**  
**MINUTES OF THE MEETING**  
**DATE: January 10, 2024**  
**TIME: 6:00-8:00 PM**

**Shellfish Committee Members present:** Stuart Rapp, Al Surprenant, Patricia Farinha, Gloriann Hurwitz, Paul Hendricks, Bill Cherepon, Douglas Crook, Jake Angelo

**Shellfish Committee Members absent:** Robert Lancaster

**General Public present:** Paul Hamblin, Mark Begley, Jason Alger, Jen Bunnell, Dave Ryan, Kris Clark

**Town Council Liaison present:** Gordon Starr

**Town Staff present:** Amy Croteau, Senior Natural Resource Officer/Shellfish Constable; Alicia Lauzon, MEA Administrative Assistant

Stuart Rapp called the meeting to order at 6:00 PM, as January 10, 2024 meeting of the Shellfish Committee. Stuart read a notice at the beginning of the meeting:

*NOTICE OF RECORDING "Please note that tonight's meeting is recorded and broadcast on the Town of Barnstable's Government Access Channel 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."*

**TOPICS FOR DISCUSSION**

**1. Approve Meeting Minutes:** December 13, 2023 minutes

**Gloriann moved to approve the December 13, 2023 meeting minutes and Al seconded. There was a unanimous vote in favor of approving minutes as written.**

**2. Chairman's Comments:**

**Chairman Rapp welcomed new Liaison Gordon Starr to the council.**

**3. Natural Resources Report / Correspondence:**

**1. Shellfish Growing Area Updates**

Constable Croteau stated the next areas to open are Mills River and Prince Cove, due to open February 15<sup>th</sup>. The Commercial shellfish lottery is currently ongoing and will be ending on January 31<sup>st</sup>. The drawing will be held on February 1<sup>st</sup>.

Performance standards for determining mooring area classification and status were received and it is possible for Cotuit Oyster Company and Bridge St mooring areas to be conditionally approved areas in open status during open boating seasons. Those mooring areas would need to meet the requirements set by DMF, including but not limited to Pumpout logs available for review.

Army Corps is working on adjusting the SVN form needed for floating gear to make it a fillable form.

The Barnstable Harbor conditionally approved testing areas for year 2 is done. The areas of most interest are looking promising and if next year they are good to go, Natural Resource can work with DMF to redefine, removing conditionally closed status and making them open during the time of year they are normally closed (September 15-December 15).

## 2. Monthly Propagation Report

Natural Resources continued to finish planting the remaining oyster bags at Bridge Street and put in the last order for 2024 with ARC. Natural Resource Division is going to be limiting oysters on the South side, but will continue to plant at Bridge Street. The quahogs being overwintered were checked on and they are all still alive.

## 3. Year-to-date Permit Numbers

<b>January</b>	
<b>Permit Type</b>	<b>2024 YTD</b>
<b>Resident</b>	350
<b>Non-Resident</b>	123
<b>Resident Senior</b>	265
<b>NR Veteran</b>	10
<b>NR Veteran Senior</b>	37
<b>YTD Totals:</b>	785
<b>YTD Income:</b>	\$40,680

#### 4. New Business:

1. Proposed aquaculture regulation changes (§407-50, §407-54, §407-57, §407-60)- possible vote(s)

**1: Proposal:** Section 407-50; Amend the existing regulation by removing the ~~crossed-out~~ wording and adding the wording **highlighted in bold.**

§407-50. Filing and posting of applicants.

A list of applicants for the licenses that have been reverted to or created by the Town in order of date and application shall be kept on file by the Marine Environmental Affairs **Division Department** Office, ~~the Town Manager and an up-to-date copy shall be permanently posted on an official bulletin board in the Town Hall.~~ Those applying to be added to the list at the Marine Environmental Affairs **Division Department** Office shall pay a non-refundable \$5.00 fee. It shall be the responsibility of the applicant to notify the Marine Environmental Affairs **Division Department** Office, in writing, between January 1 and February 15 of each year of his/her desire to remain on the list. The Marine Environmental Affairs **Division Department** Office must receive said notice on forms supplied by the Marine Environmental Affairs ~~Division Department~~ Office by 4:15PM on the deadline date (February 15) along with a \$5.00 fee.

**Rationale:** addresses the shift of the list to an online database used by Marine Environmental Affairs and also address the change from the Marine Environmental Affairs Division becoming a Department in recent years  
**Constable Croteau would like to change the word “division” to “department”. Bill motioned to accept the changes as is and Paul seconded. All in favor.**

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

§407-54. Exclusivity of license; subleasing prohibited; transfer of license; **untimely death of licensee.**

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. If however, the licensee is under any pending investigations for violations the license may not be transferred. **In the event of the untimely death of a licensee, the license shall continue in full force and effect, subject to the same terms, conditions and regulations imposed by the original license, for a term not to exceed five years. This is for the use and benefit of the immediate family of the deceased licensee or a person designated in a will by the deceased licensee. Such recipient shall thereupon file an application under §407-48. Thereafter, the application shall be treated as a new application. For purposes of this section, the term immediate family shall mean spouse, son, daughter, mother, father, brother or sister of the deceased licensee.**

**Rationale:** addresses the conditions of heritability in relation to the untimely death of a licensee. More properly aligns with state statute MGL Ch. 130 Section 57.

**Constable Croteau proposed change to allow license to continue after untimely death. They must have the license for 5 years before they can transfer it. Discussion followed questioning if**

circumstances would allow a transfer to happen within the first 5 years. Chairman Rapp stated this would be put on the next agenda.

**3: Proposal:** Section 407-57; Amend the existing regulation by removing the ~~crossed-out~~ wording **highlighted in bold** and adding the wording **highlighted in bold**.

§407-57. Acreage limitation.

**The maximum total acreage licensed to any new licensee shall not exceed four acres. A new licensee may apply for additional acreage, if applicable, only after the expiration of the original five year license.** The maximum total acreage licensed to any **existing** licensee shall not exceed ~~two~~ **four** acres on the Northside and ~~two~~ **four** acres on the Southside within the Town of Barnstable inner bays. **If a business name is present on an aquaculture license along with the name of the individual licensee(s), the business may not have interest in more than 8 acres on the Northside and 8 acres on the Southside within the Town of Barnstable inner bays. This** These acreage limitations ~~does do~~ not apply to any existing so-called grant (now referred to as a "license") which is in excess of four acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals **or transfers**, provided that said licensee abides by all other applicable regulations set forth herewith. **All previously permitted Northside and Southside inner bay licensed sites will remain as such and cannot be combined into larger permitted sites under one license.**

*Rationale: addresses the want for additional acreage for consolidation of existing aquaculture businesses operating on more than two acres while balancing the want of other stakeholders interested in getting into aquaculture when possible for it to actually be possible (the waitlists).*

There are concerns on a potential cap to acreage in this Regulation. Constable Croteau proposed the maximum for new licensees be 4 acres on the North and 4 acres on the South. Now that business names are allowed to be present on licenses along with the names of an individual, she proposed businesses are not allowed to be connected to more than 8 acres on the North and 8 acres on the South. Discussion followed with Chairman Rapp then suggesting the growers discuss with Constable Croteau and bring back next month a revised Regulation. Put on next agenda.

**4: Proposal:** Section 407-60; Amend the existing regulation by removing the ~~crossed-out~~ wording **highlighted in bold** and adding the wording **highlighted in bold**.

§407-60. Filing of annual reports; **requirements for new licensees.**

Licensees shall file annual reports with Natural Resources in accordance with ~~the a~~ form provided by Natural Resources on or before February 28 of each year and shall produce documents upon the request of Natural Resources 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 Natural Resources which establishes that the licensee reached the reasonable production value. A new licensee is required to submit purchase and sale slips for the source(s) of seed planted on his/her licensed site and/or gear purchase for his/her licensed site for the first three years of his/her original license. **In addition, new licensees are required to provide documentation that the new licensee has taken the Cape Cod Cooperative Extension's Shellfish Farming Course (or equivalent as approved by the Shellfish Constable) within the first two years' annual reports.**

*Rationale: addresses concerns of novice aquaculturists being issued licensed sites potentially without any background in aquaculture while balancing the ability of any person domiciled in the Town of Barnstable being eligible to apply for the aquaculture waitlists.*

Constable Croteau proposed keeping it simple and the only thing required for a new licensee will be proof of having taken the education course or equivalent as approved by the Shellfish Constable. Chairman Rapp proposed changing the wording from including the first two years'

annual reports to just stating “within the first two years of holding the original license”. Jake motioned to approve proposed changes as amended, seconded by Bill. All in favor.

**5. Upcoming (and Old) Renewal & Transfer Hearings:**

1. Hearing for the renewal of aquaculture licensed site sg017, to Robert Ashworth, 455 Cedar Street, West Barnstable, MA 02668 for a period of ten years. Public hearing 01/11/2024 at 10:00AM via Zoom.

**Mr. Ashworth has been licensed since the 90’s, mostly growing oysters and quahogs. He is up to date with compliance and Natural Resource has no issues. Al motioned to recommend approval for the renewal of the aquaculture license and Gloriann seconded. All in favor.**

**6. Upcoming (and old) Proposed Coastal Projects:**

1. Applicant: Jeanne D. Barbieri, Trustee, Jeanne D. Barbieri Trust  
Project Location: 104 Great Bay, Osterville, MA 02655 (map 093 parcel 011)  
Representative: John O’Dea, Sullivan Engineering and Consulting, Inc.  
Proposed Project: To repair or replace the existing timber bulkhead  
Conservation Hearing Date: January 9, 2024 6:30M via Zoom

**Constable Croteau presented this as an engineer was not present. There was an agenda error in regards to the proposed project, they are looking to put in a 100 ft seasonal dock with ramp and float for a non-motorized craft. Natural Resource is not supportive of this proposed project because it’s in a good habitat and has quahogs and softshells. The Conservation Committee approved cutting the length of the dock to 80 ft and the float to 8 x 16 feet and ultimately approved the project, subject to DEP# being submitted.**

**7. Special Presentations:** None

**8. Old Business:**

1. Status of the repair of Scudder Lane town landing

**There are no updates at this time.**

2. Continued discussion of possible changes to Commercial Apprentice Regulation §407-12

Proposal: Section 407-12; Amend the existing regulation by removing the ~~crossed-out~~ wording **highlighted in bold** and adding the wording **highlighted in bold**.

§407-12. Classes of permits and permit conditions.

A. Town of Barnstable commercial shellfishing permits are granted under the authority of the Town Manager for the taking of shellfish for sale or other consideration, issued to persons, ~~other than aliens~~, having attained their 16<sup>th</sup> birthday and who are domiciled in the Town of Barnstable. When the holder of a Town of Barnstable commercial shellfish permit is no longer domiciled in the Town of Barnstable, said Town of Barnstable commercial shellfish permit shall be void.

(1) Limitation of available licenses. Commercial shellfishing licenses shall be issued each year only to commercial shellfish license holders of the preceding year, who apply for license renewal. Commercial shellfish license renewals must be applied for between January 1 and January 31.

(2) Commercial Shellfishing License Procedure:

(a) New commercial shellfishing permits may be issued at the rate of one new permit for every non-renewed permit, or permit that is void as a result of other causes (i.e., forfeiture, death, etc.).

(b) If a commercial permit becomes void as a result of death, the permit may be inherited by one individual next of kin. Within 30 days of the death of the commercial permit holder the individual next of kin must: notify the Town of the death of the commercial permit holder, complete a Town of Barnstable commercial shellfish **permit** application, prove to the satisfaction of the Licensing Authority that they are a bona fide, principally domiciled resident in the Town of Barnstable and have been principally domiciled within the Town for at least 12 consecutive months prior to the date of application for inheritance, pay the appropriate fee in full for the commercial permit as determined in §407-12(2)(d)(1) and procure a Commonwealth of Massachusetts commercial shellfishing permit. Failure to meet these requirements within the thirty days will result in the permit being offered to the lottery under §407-12(2)(d).

(c) To become eligible for a new commercial permit you must apply, pursuant to these regulations, within January 1<sup>st</sup> and January 31<sup>st</sup> and pay the non-refundable \$5 application fee.

Upon the hand delivery of a completed legitimate application, and payment of the fee, the applicant's name will be entered into a lottery. On February 1<sup>st</sup>, the applicant names will be drawn by lottery to determine the sequential chronological order that applicant acquire a permit. On February 1<sup>st</sup>, the Natural Resources Office shall post on the bulletin board outside its building, on Phinney's Lane, a chronological list of applicants as determined by lottery eligible for a commercial permit as determined by vacancy.

(d) If an existing commercial permit becomes void and is not subject to inheritance, during the calendar year (January 1 through December 31) for which the permit was issued, the next eligible applicant as determined by the lottery will be notified, by mail, of the availability of a permit. The applicant shall have ten (10) business days from the date of notification to pay the balance of the permit fee or the permit will be offered to the next eligible applicant as determined by the lottery. The applicant will be notified by Natural Resources when the new permit is available to be picked up. New permits shall be issued for a given commercial shellfishing permit year (April 1 through March 31). The applicant list shall be dissolved each year as of December 31<sup>st</sup>.

Note: If any dates stated in Regulation §407-12A fall on a Saturday, Sunday or Holiday recognized by the Town of Barnstable, the next Marine Environmental Affairs Department business day shall apply.

B. Commonwealth of Massachusetts commercial shellfishing permit. This permit is required by Massachusetts General Law to dig or take shellfish within the Commonwealth of Massachusetts for commercial purposes and required prior to issuance of the Town of Barnstable commercial shellfish permit.

C. Apprentice commercial shellfishing permit. The Town Manager or Shellfish Constable may issue an apprentice commercial shellfishing permit to a resident child who is sponsored by a Town of Barnstable commercial shellfishing permit holder **or Town of Barnstable commercial shellfish permit holders**. Said child must be under the age of **16 18. and said apprentice commercial shellfishing permit shall expire on the child's 18<sup>th</sup> birthday**. The apprentice shall assist only the sponsor(s), and only in the harvest of the sponsor's catch limit(s). The apprentice shall not harvest shellfish without the accompaniment of ~~the a~~ sponsor. **Upon completion and documentation to the satisfaction of the Shellfish Constable of 400 hours of having worked under the tutelage of the sponsor(s) and documentation of successful completion of a Coast Guard boaters safety course, Upon the expiration of the apprentice commercial shellfishing permit the apprentice commercial shellfishing permit holder of said permit may apply for a Town of Barnstable commercial shellfishing permit pursuant to these rules and regulations only if the child had held the apprentice commercial shellfishing permit for two years prior to their 16<sup>th</sup> 18<sup>th</sup> birthday, can demonstrate having worked in the shellfish industry for at least 400 hours, and has successfully completed a Coast Guard boaters safety course.** The allowances to an apprentice permitted under this regulation are distinct and separate from the stipulations that apply to new applicants under Subsection A(2) above. **After five years of holding a Town of Barnstable commercial shellfish permit as a result of having completed the apprenticeship, the commercial permit shall be added to the closed commercial fishery and subject to Subsection A(2) above.**

D. Permit conditions.

(1) Commercial shellfishing permit fees:

- (a) Master: \$550.
- (b) Age 65 or older, Master **Senior**: \$350.

(2) Commercial shellfishing permits expire on March 31 each year.

(3) Unlawful harvest without a commercial shellfishing permit. No person shall take or attempt to take shellfish for sale or other commercial purpose, unless said person is the holder of a valid Town of Barnstable commercial shellfish permit, It shall be prima facie evidence that persons shellfishing on a Town of Barnstable commercial shellfish permit are utilizing said permit for commercial purposes, and are subject to all regulations governing such use. This shall not apply to **aquaculture** license holders while on their licensed site.

(4) Assisting in commercial harvest prohibited. A person shall not assist in the commercial harvest or culling of shellfish unless said person holds a Town of Barnstable commercial shellfish permit, unless otherwise stated.

**Constable Croteau would like to remove the wording “aliens” from the Regulation as well as make the previous proposed changes to the age restriction. Discussion followed. Paul motioned to accept §407-12 as is and Jake seconded. All in favor.**

**9. Matters not reasonably anticipated by the Chair: None**

The Shellfish Committee unanimously voted to approve a motion made by Gloriann and seconded by Paul at 7:29 PM to adjourn.

Respectfully Submitted: Alicia Lauzon – MEA administrative assistant