



# Town of Barnstable

## Shellfish Committee

1189 Phinneys Lane, Centerville MA 02632



### SHELLFISH COMMITTEE MINUTES OF THE MEETING DATE: June 14, 2023 TIME: 6:30-8:30 PM

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

**Shellfish Committee Members absent:**

**General Public present:** Mark Begley, Jill Nawoichik, Jared Hemmila, Aaron Hemmila, Les Hemmila, Jack Bacigalupo, Jack Bacigalupo Sr, Jimmy Bright, Corey Hendricks, David Ryan

**Town Council Liaison present:** Paul Cusack

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

Stuart Rapp called the meeting to order at 6:30 PM, as June 14, 2023 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 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."*

### TOPICS FOR DISCUSSION

- 1. Approve Meeting Minutes:** Patricia Farinha moved to approve the April 12, 2023 meeting minutes and Bill Cherepon seconded. There was a unanimous vote in favor of approving minutes as written.
- 2. Chairman's Comments:** Chairman Stuart Rapp announced that he would like to welcome two new members to the Shellfish Committee, Paul Hendricks and Gloriann Hurwitz.
- 3. Natural Resources Report / Correspondence:**

#### 1. Shellfish Growing Area Updates

Effective June 1<sup>st</sup>, there was a conditionally approved closure in Lewis Bay. Mooring areas will not be closed until there are at least 20 boats within that mooring field, which is why the Cotuit Oyster Mooring field is currently still open. Effective June 15<sup>th</sup> the area in Cotuit Narrows from

**North Bay to flat across from Cotuit Oyster will be closed. It has failed enough times to warrant change from being open year round.**

**A letter of authorization was posted on the town’s website from the Division of Marine Fisheries that allows wholesale transactions to occur at what is known as Grassy Knoll, 110 Freezer Rd. Shellfish permit sales are up, still just sharing the year to date numbers instead of comparing to last year due to the change of expiration date.**

Permit Type	2023 YTD
Resident	1162
Non-Resident	398
Resident Senior	883
NR Veteran	37
NR Veteran Senior	73
<b>YTD Totals:</b>	<b>2,553</b>
<b>YTD Income:</b>	<b>\$121,114</b>

**4. New Business:**

1. Proposed Changes to recreational shellfish fines for discussion

**Constable Croteau stated they would like to make the following changes to recreational shellfish fines: change the fines for shellfishing without a permit to \$200, \$100 for taking shellfish during the closed season or a closed day, increase the fine for taking of shellfish from a grant area to \$300 from the current \$100, change the wording for herring by removing closed day so you can’t harvest any day, getting rid of the fine for taking over the limit of scallops, make the fine for taking scallops without well-defined growth ring \$75 instead of \$25, and decrease the seed violation from \$300 to \$100. This is just for discussion at this time and Constable Croteau would like to put it to a vote next month.**

2. Proposed changes to shellfish regulations-address razor clam scientific name change for discussion

**Constable Croteau stated they would like to change anywhere that has the Latin name for Razor Clam in the regulations to make it compliant.**

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

1. Hearing for the renewal of aquaculture licensed siteng010 in Barnstable Harbor for Florence Lowell, 78 Meadow Lane, West Barnstable, MA 02668 for a period of 10 years. Public hearing to be held via Zoom, 05/11/2023 at 9:00AM via Zoom

**It was mentioned at the hearing for renewal that there was no quorum for the Shellfish Committee meeting prior, but ultimately the Natural Resource Division had no issues with the renewal.**

2. Hearing for the renewal of aquaculture licensed siteng041 in Barnstable Harbor for Hyon Hayes, 37 Anthony Drive, Hyannis, MA 02601 for a period of 10 years. Public hearing to be held via Zoom, 05/11/2023 at 9:30AM via Zoom

**Natural Resource had no issues with this renewal.**

3. Hearing for the transfer of aquaculture licensed site ng007 from James Bright, 227 Bumps River Rd, Osterville, MA 02655 to Jack Bacigalupo, 747 Cedar St, West Barnstable, MA 02668 and issuance of a new license to Jack Bacigalupo for a period of five years. Public hearing 07/05/2023 at 1:30PM via Zoom

**James Bright was transferred this grant from Eric Hildreth in 2017. Jack Bacigalupo came on working with him before he got this particular grant, and had worked for Steven in Chatham before that. Jack plans to grow quality oysters with this grant. No issues from Natural Resource Division. Al motioned to recommend the Town of Barnstable's approval for the transfer and Doug seconded. All in favor.**

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

1. Applicant: Robert C Hower Trustee, 129 Salten Point Rd Realty Trust  
Project Location: 129 Salten Point Rd, Barnstable, MA 02630 (map 280 parcel 22)  
Representative: Robert Perry, Cape Cod Engineering, Inc.  
Proposed Project: Limited repair to an existing stone revetment (this work was completed in November 2022 under an emergency order)  
Conservation Hearing Date: May 2, 2023 3:00PM via Zoom

**Work was done in November of 2022 under emergency order.**

2. Applicant: Babcock Holdings, LLC & Cape Beach House, LLC  
Project Location: 11 Marchant Avenue (map 298 parcel 026) and 27 Marchant Avenue (map 286 parcel 025) Hyannis, MA 02601  
Representative: Sullivan Engineering and Consulting, Inc.  
Proposed Project: Proposed revetment connection between existing adjacent structures, and to replace stairway and platform  
Conservation Hearing Date: June 6, 2023 6:30PM via Zoom

**There were no concerns from Natural Resource and no shellfish survey was needed because all work will be conducted above the mean high water line.**

3. Applicant: Cowan Family Revocable Trust, David and Cynthia Cowan  
Project Location: 79 7<sup>th</sup> Avenue, Hyannisport, MA 02601 (map 246 parcel 150)  
Representative: Mark Burgess, Shorefront Consulting  
Proposed Project: Proposed permanent elevated walkway and at-grade access steps  
Conservation Hearing Date: June 6, 2023 6:30PM via Zoom

**Natural Resource Division had no concerns because the proposed walkway only went through the Marsh and wasn't going to have an effect on shellfish habitats.**

4. Applicant: John A. & Colleen J. Boselli  
Project Location: 183 Bay St, Osterville, MA 02655 (map 117 parcel 152)

Representative: Charles Rowland, Sullivan Engineering & Consulting, Inc.  
Proposed Project: To permit and maintain the expansion of the existing float  
Conservation Hearing Date: June 20, 2023 6:30PM via Zoom

**Natural Resource Division had no concerns or any foreseen adverse impacts on the shellfish habitat since the proposed applicant only plans on putting in a larger float where a float already exists.**

## **7. Old Business:**

### **1. Status of the repair of Scudder Lane Town Landing**

**There was a meeting held by DPW with MEA management staff with revised plans reviewed. DPW was planning on having a public comment meeting sometime this spring, but a date has not been set yet.**

### **2. Corporate Leasing of Aquaculture Licenses- originally brought to Committee by Al Surprenant continued discussion**

**Constable Croteau had reached out for comments to the following topics posted on the town's website and promised to read them into the record.**

*“Discussions for aquaculture regulatory changes the DNR sees as more suited to benefit the stakeholders at large:*

- 1. Engage in discussion allowing for the name of the business, LLC, etc. and their position within that business, LLC, etc. to be added to the aquaculture license issued to the individual.*
- 2. Engage in discussion around a modest increase in maximum acreage issued to any individual on the Northside of Town.*
- 3. Engage in discussion around experience and/or education requirements for those who enter the industry potentially as novices. Example: Orleans regulation- The applicant is required to have a minimum of one year prior experience working in the aquaculture field or must complete the Cape Cod Cooperative Extension Shellfish Farming Course (or equivalent as approved by the Shellfish Constable) within 2 years of issuance.*
- 4. Engage in discussion to address untimely death situations. Example: Nantucket regulation- Any license issued under the provisions of MGL Chapter 130, Section 57 shall, upon the death of the sole licensee, continue in full force and effect, subject to the same terms, conditions and regulations imposed by the original license, for the balance of the unexpired term or one year, whichever is longer. This is for the use and benefit of the immediate family of the deceased licensee. For purposes of this section the term immediate family shall mean spouse, son, daughter, mother, father, brother and sister of deceased licensee.*
- 5. Engage in discussion around the annual fee of \$25/acre/year. Currently, the aquaculture industry pays forward less than 3% of the costs of service provided to the industry by the Town of Barnstable.*
- 6. Engage in discussion regarding changes to annual reports. We plan on removing the notary requirement as it is unnecessary and burdensome to the growers and welcome suggestions for changes to the annual reports for those growers operating more than one site to streamline annual reporting while still showing compliance with minimum production requirements.*

*You are encouraged to submit any additional items you would like to discuss to your Shellfish Constable directly: [amy.croteau@town.barnstable.ma.us](mailto:amy.croteau@town.barnstable.ma.us) or are welcome to bring them forth at the May 10, 2023 Shellfish Committee Meeting.”*

“Hi Amy,

I was thinking item 4 is specifically written address members of a family. I’m pretty sure you and I discussed how the regs indicate the grants are heritable. I’ve made provisions in my will to leave my grant to someone. I think I may have even provided you with a copy of that for your use should I die. I did the same leaving my gear, and product to a few people.

That being said I’d ask that the language be written so that anyone inheriting a grant have the same rights.

This is a rather personal and private matter so I’d rather remain anonymous if possible.”

“Hello Amy, My name is Pam Howard and I am a resident of the Town of Barnstable. I am on the waitlist for an aquaculture lease and have been following the Shellfish Committee Meetings and discussions. Your participation and oversight of the entire process is most appreciated. I am confident that expertise, passion, and commitment to shellfish farming is within our resident population and share your goal of ensuring that regulations are equitable and in the best interest of the Town of Barnstable. As I stated when I submitted my application at the Marine and Environmental Affairs Office, I am saddened by the length of the aquaculture waitlist and would like to see increased opportunities for participation. We all share the goal of integrity in the process that will ensure the inclusion of residents managing and working leases within the limited available coastline. Thank you for your email, ongoing communications, and support of our community.”

“Thank you for taking a public comment on the recent shellfish committee meeting topic. My brother Jared and I have attended several meetings talking about aquaculture licenses. I’m sure you would understand that the most important issue for me and my family is to allow any Barnstable aquaculture license to be held by a Barnstable business entity. My dad started this business a long time ago. He was very involved in helping to pave this new industry. I’ll say it’s a little confusing at times because our business operates using three sites. Each one held under one of our names. For many reasons including the continuity of the business, financing, and personal risk, these licenses should be able to be held by a local business entity. A large percentage of the town’s aquaculture sites are already held by local corporations. I’m concerned about the future of my business and my livelihood. I think that allowing this would be the right step to help us and to protect my family’s business. The way our operation works, we don’t have any interest in gaining any more acreage and would be open to instilling a cap on the allowed amount. Our business works well with the space we have, and that’s why we want to protect it. And we’d be out of business if we lost it. We just want the licenses under our business name, Barnstable Seafarms

Thank you,

Aaron and Jared Hemmila”

**Stuart Rapp pointed out a common point of having the Business name of the Aquaculture license. Constable Croteau stated the Natural Resource Division has no problems with having a business entity’s name on the license but would still like an actual person’s name to remain on it to be held responsible for any violations, etc.**

“Dear Amy,

First, thank you for your email of April 18 on "Topics of Discussion the DNR is Open to Further Discussion" and the email's attached list of topics. Below are our comments following your list format. On your first listed topic "Engage in discussion allowing for the name of the business, LLC, etc. and their position within that business, LLC, etc. to be added to the aquaculture license issued to the individual," While adding the licensed individual's position within a company to the license is a significant step in the right direction, we suggest it is too early to give up on the possibility of finding a mutually agreeable way to find wording that the Town would feel comfortable without the license ultimately still being issued to only an individual.

On the second listed topic "Engage in discussion around a modest increase in maximum acreage issued to any individual on the Northside of Town." Clearly productive discussions around a reasonable increase in maximum acreage issued by the Town is of utmost importance to many of the shellfish farmers working in Barnstable.

On the third point, we believe discussion around experience and/or education requirements for new shellfish farmers is appropriate.

On the fourth point, engaging in discussions to address untimely death situations, as in the Nantucket regulation example, makes sense too.

On the fifth point, we suggest the fees discussion include not placing the shellfish farmers in Barnstable at an economic disadvantage to other Massachusetts shellfish farming communities while exploring better ways to support essential DNR oversight services.

On the sixth point, streamlining some of the reporting requirements should be an easy discussion. We wish we could have said all of the above points would be an easy discussion, but clearly they will not be quick nor easy.

DNR needs to continue to protect the resources. Shellfish farmers also have to protect the resources as well as minimize unnecessary liability and the associated insurance costs to stay in business in Barnstable. Shellfish farms/business provide jobs and support the blue economy in Barnstable. Last year, Beach Point Shellfish, LLC had five employees, all five were residents of Barnstable.

Peer reviewed research has shown aquaculture is good for the environment. Oysters are considered one of the most sustainable forms of protein in the world. Oysters from Barnstable are considered one of the best on the east coast, they taste great and they are good for you.

These are just some of the reasons we need to have prioritized and detailed discussions ultimately on all of the listed points. As always, the devil will be in the details that need to be worked out. It has been too long since these hard issues have been jointly discussed with an aim of trying to reach a consensus.

Bottom line, portions of the aquaculture regulations need to be updated, it is long overdue. Thanks again Amy for your willingness to listen to local business needs and your continued participation in these discussion that should lead to a more sustainable shellfish farming community in Barnstable.

Sincerely,

Mark Begley, Manager, Beach Point Shellfish, LLC

Linda Begley, Manager, Beach Point Shellfish, LLC”

“I am aware of the discussions taking place about rule changes to the aquaculture regulations.

As you are aware, my license site is managed by Dave and Cape Cod Oyster Co. Dave Ryan and Cape Cod Oyster Co. are listed on my Mass DMF permit. Dave prepares and submits all paperwork related to my permit.

I visit the site once or twice a year if Dave is giving a tour as part of a fundraising effort. Dave and Al Surprenant are generous in their support of local groups including but not limited to Cape Cod Hospital VNA and the Barnstable Land Trust. Dave chose this career many years ago. It is an extremely challenging business. Our family struggled with unsteady income for many years. As the business has grown, Cape Cod Oyster Co has created year round employment for 14 people with a generous benefits package. I can assure you Dave gets paid only after all the employees are paid. Cape Cod Oyster Co has built a state of the art facility that supports other area farmers by assisting them in processing and selling market oysters and supplying them with oyster seed.

Cape Cod Oyster Co is still a very small business. I believe it is in the best interest of the Town of Barnstable that Cape Cod Oyster Co. continues after Dave and Al Surprenant are no longer part of the business. Transferring existing Ryan family aquaculture licenses to Cape Cod Oyster Co. is crucial in the continuity of the business. I believe rule changes should be made to allow an aquaculture license to be held by a business entity. All other discussion points in your email from April 23 are secondary to this important change.

Thank you .

Cheryl Ryan”

“Hi Amy,

Sorry for the last minute response. Here are my comments on the regulatory changes based on your 6 topics. I will be happy to read them at the meeting if that is easier for you.

1. I am totally against a business holding the licences. Many licenses are held by people who let a larger company manage them as is. This change would be detrimental to not only the price of oysters but to the natural resource as outside companies may be able to move in that do not have the town's best interest in mind. This would add another unwanted stakeholder which would be big business.

2. I would suggest an increase to 4 acres. This is reasonable considering many licenses are held by multiple family ties. This would now allow a husband and wife to acquire 8 acres which could earn up to 600k+ dollars a year off. I believe this is plenty of land and profit. A family with 3 members could potentially run 12 acres. Any more than this is unfair to any list holders. (i also believe new farms should be open to only list holders who do not currently hold a license in their name)

5. I believe the 250 increase should only apply to people who have had a license for 25 years or licenses that larger companies manage. It is unfair to a small farm like myself to add more cost to the daunting task of acquiring seed gear and paying Massachusetts fees on an LLC(500 per year). After 25 year or if a business is large enough to manage other areas they should be the ones to pay an increased fee. These large companies only have to pay for llc once but have multiple farms. As far as I know those large companies do not have individual LLC for each license which is a requirement in your first 5 years of acquiring a lease.(I may be unclear on my understanding of that rule)

6. The paperwork should be able to be filled out by companies managing multiple licenses. But these companies should have to declare which licenses they manage and pay an extra fee for acreage not in households name. Many Largest companies are not utilizing the farm space they manage and the licence holders have little to nothing to do with said plots. These farms should be public knowledge of who is actually working farms considering there is a lengthy wait list of taxpayers looking to get into this industry.

Thank you for listening to my suggestions and i am in full support of whatever DNR believes is fair. I just believe there should be more transparency on the larger farms who are constantly exchanging farms and managing other leases that are not seeded or do not have gear. Lack of business preparation or lack of knowledge to change gear to avoid erosion should not be the town's issue. Many people would solve these problems if they had to utilize farm space they already lease.

Respectfully,

Corey Hendricks

Duck Island Shellfish Co.”

“Hi Amy,

Thank you for inviting comments on recently proposed aquaculture regulation changes. I am aware of all the discussions that have taken place by the Shellfish Committee since January 2023. I have attended or watched all Shellfish Committee meetings this year.

#1. In my opinion, the single most important issue that needs to be addressed and updated is to allow a Barnstable aquaculture license to be held by a Barnstable business entity. As part of the local Blue Economy, I have invested almost 30 years in building an aquaculture business. At this time, our business supports year round employment for 14 young people., with the equivalent of 4 additional full time positions in part time employment. We pay excellent benefits, and a good percentage of our employees are homeowners. Other small family businesses in town have done the same. According to landings data from the Mass Division of Marine Fisheries, Barnstable has become the leading oyster producing town in Massachusetts in 4 out of the 5 past years. I firmly believe it's in the best long-term interest of the town to allow a business entity to hold an aquaculture license. As you know, the majority of acreage that we work on is licensed to Cape Cod Oyster Co., Inc. There should be a mechanism in place that enables the 4 Ryan sites and 2 Surprenant sites at Barnstable Harbor be transferred to Cape Cod Oyster Co.. Cape Cod Oyster Company would never try to acquire additional acreage to the sites that we currently

work. We would agree to put this limitation in place with binding language in our permits upon transfer of the existing Ryan and Surprenant family sites.

For many reasons, including but not limited to the continuity of the business, financing, and personal risk, these licenses should be able to be held by a local business entity. The town of Barnstable already has a large percentage of its aquaculture sites held by local corporations. Opening this business format to additional licensed domiciled residents of Barnstable will support their businesses and ultimately the local economy.

**All other discussion points are secondary to this important change.**

#2 I understand the concern of DNR and others of a few businesses controlling the majority of the aquaculture sites in Barnstable Harbor. Limitations can be put in place to prevent this from happening by limiting total acreage held by one business.

#3 and #4 both are valid issues that can be addressed but of much lesser importance than the licensing change addressed in #1.

#5 I don't understand how you came up with 3% cost of service and don't have any comment on it. People in the aquaculture industry have offered to have a rate increase when licensed as a business. I would support a rate increase if I was able to have my business licensed as such. The \$25 per acre rate is set by the Commonwealth of Massachusetts as they recognize the myriad of benefits of having an active and productive aquaculture industry.

#6 I am glad you see the need to make the annual reporting more efficient and remove the notary requirement. Cost of service from #3 would go down, as you would improve efficiency both on your end and the producers end compared to using the current forms. Aquaculture farms working on multiple sites should report the activity for the entire farm.

In summary, The most important issue is allowing aquaculture licenses to be issued to a business if the license holder chooses to. Language in the rule change can include residency requirements related to the business being located in the town of Barnstable with a manager or executive being a domiciled resident. I should be able to transfer my license to Cape Cod Oyster Co. if I so choose. Respectfully submitted,

Dave Ryan

Director of Operations

179 Old Falmouth Rd Marstons Mills, MA 02648”

“TO AMY CROTEAU,

Thank you for inviting comments on recently proposed aquaculture regulation changes. I am aware of all the discussions that have taken place by the Shellfish Committee since January 2023.

#1. I think the most important issue is allowing Barnstable aquaculture licenses to be held by a Barnstable business. I've spent over \$200,000 and almost 15 years building my oyster farm (it's 2 sites, for a total of 3 acres). Not being able to have the licenses held by a business has significant repercussions. It has limited my options for growth, opened me up to personal financial risk (because my liability risk can't be firewalled, and I could lose all my assets), and makes my business less attractive to a potential buyer. But it has repercussions for the entire community, too. We happen to have conditions to grow world-class oysters, and for that business to thrive- and buy services, and pay taxes here in Barnstable- it shouldn't be hamstrung by this regulation. Given that many aquaculture licenses are already held by local corporations, it seems viable to make the change.

#2 I know the issue of increasing consolidation, resulting in a just a few businesses controlling most of the sites, is an issue. I think it would be perfectly appropriate to have limits on total acreage to prevent this.

#3 and #4 both are valid issues that can be addressed but of much lesser importance than licensing changes.

#5 I don't understand how you came up with 3% cost of service and don't have any comment on it. People in the aquaculture industry have offered to have a rate increase when licensed as a business. I would support a rate increase if I was able to have my business licensed as such. The \$25 per acre rate is set by the Commonwealth of Massachusetts as they recognize the myriad of benefits of having an active and productive aquaculture industry.

#6 I am glad you see the need to make the annual reporting more efficient and remove the notary requirement. Aquaculture farms working on multiple sites should report the activity for the entire farm. In summary, The most important issue is allowing aquaculture licenses to be issued to a business if the license holder chooses to. Language in the rule change can include residency requirements related to the business being located in the town of Barnstable with a manager or business representative being a domiciled resident.

Regards,  
Kevin Flaherty”

**The rest of the letters with comments will be read at the next Shellfish Committee meeting on July 12.**

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

The Shellfish Committee unanimously voted to approve a motion made by Patricia and seconded by Al at 8:06 PM to adjourn.

Respectfully Submitted: Alicia Lauzon – MEA administrative assistant