



S H E L L F I S H  
C O N S E R V A T I O N  
C O M M I S S I O N

**Meeting Minutes**  
**Thursday, October 20, 2011**  
**6:00 PM – East Conference Room, Town Hall**

**MEMBERS PRESENT:** Charles Adams, Harland Storey, Mike Brown, Daniel Holt, Jessica Joyce, Bob Maloney, and Bill Kenny

**OTHERS PRESENT:** Town Manager Shane and Councilor Gruber

**I. Roll Call & Welcome**

Chairman Brown welcomed committee members and took roll call. All members were present.

**II. Approval of August 21, 2011 minutes**

Motion by Mr. Storey, seconded by Mr. Adams to accept the minutes with one correction.

VOTE: 7-0 UNANIMOUS

**III. Update on closure/letter from DMR re: Shellfish Task Group**

Lt. Calder checked with Glen Nutting of DMR regarding the reopening of the clam flats. Mr. Nutting said that based on what he is seeing we can reopen our beds beginning November 1st. The water quality overall is still not going to allow us to open them year round for the foreseeable future because the P90 scores just don't allow it.

DMR has assembled a task group whose goal will be to evaluate closure classification, closure size, and where appropriate, increase harvestable acreage. Communities are asked to submit their issues and priorities to DMR. Priority will be assigned first on the commercial potential of particular harvest areas.

Chairman Brown polled the committee to see if this should be pursued, since it appears that they are focusing on commercial harvesting.

Jessica Joyce wondered if we should, given our limited commercial licenses.

Town Manager Shane said he would send Michelle Mason of DMR an e-mail and ask her opinion if we should submit a letter or not, depending what their criteria for the program is.

**IV. Ordinance review and input for updates/amendments**

The committee reviewed the ordinance and made the following amendments:

Chairman Brown reminded the committee that the matter of the \$10 Conservation Fee that is added to all licenses, except the free senior license, has been brought up at previous meetings and this is the time to address it.

Mr. Storey said that in the fee section (§109) it clearly states that each license includes a \$10 conservation fee and this should include the senior license.

Mr. Adams said that the license fee is a license to dig clams and the conservation fee is something separate and should be paid by every license holder.

Motion by Ms. Joyce, seconded by Mr. Kenny to amend section 109 as follows:

**SECTION 109. FEES\***

- |           |   |  |
|-----------|---|--|
| 1.        | Resident Commercial Shellfish License:            | <b>\$110.00</b>  |
| 2.        | Non-Resident Commercial Shellfish License:        | <b>\$210.00</b>  |
| 3.        | Resident Recreational Shellfish License:          | <b>\$35.00</b><br><del>Over age 62 is free.</del>  |
| 4.        | Non-Resident Recreational Shellfish License:      | <b>\$60.00</b><br><del>Over age 62 is free.</del>  |
| 5.        | Monthly Recreational Shellfish License:           | Resident <b>\$25.00</b><br>Non-Resident <b>\$40.00</b><br><del>Over age 62 is free</del> |
| 6.        | Junior License                                    | <b>\$25.00</b>   |
| <b>7.</b> | <b>Resident &amp; Non-Resident Senior License</b> | <b>\$10.00*</b>  |

*\*each license includes a \$10.00 Conservation Fee*

VOTE: 7-0 UNANIMOUS

Motion by Mr. Storey, seconded by Mr. Adams to increase the age for a senior license from 62 to 70 to be consistent with the age for state hunting and fishing senior licenses.

**Senior License:** Resident and non-resident licenses shall be issued ~~at no cost~~ to persons at least ~~62~~ **70** years of age.

**Annual Senior Recreational Shellfish License:** Resident and non-resident recreational shellfish license shall be issued ~~at no cost~~ to persons at least ~~62~~ **70** years of age.

VOTE: 6-1 (Brown opposed) MOTION PASSES

Mr. Adams said that the word adjacent in section 107 should be more specific (*...shellfish harvesting is prohibited in or adjacent to areas of eelgrass*). Staff will check with DMR for clarification on this.

\*since the meeting Lt. Calder asked DMR for clarification.

*I have spoken to both Glenn and two other DMR reps at Boothbay. It appears that nobody in the State has any type of measurement in their ordinance as it obtains to this. Glenn says we can put in some sort of measurement i.e. 2 feet or whatever we think is necessary to protect the roots of the shoreline grasses.*

Mr. Storey explained that the use of a spading fork, shovel, or garden spade type tools is not permitted. This should be stricken.

Harvesting of shellfish is only permitted with tools that have equally spaced tines such as a clam hoe ~~or spading fork~~. Using shovels and garden spades is not permitted since they result in many broken clams.

Motion by Mr. Storey, seconded by Mr. Adams to delete “or spading fork” from section 107.

VOTE: 7-0 UNANIMOUS

Harvesting of shellfish is only permitted with tools that have equally spaced tines such as a clam hoe ~~or spading fork~~. Using shovels and garden spades is not permitted since they result in many broken clams.

Chairman Brown said that an amendment was needed in section 108. Since commercial licenses were not allocated for a few years previously, there is language in that section that no longer applies and should be stricken.

**1. COMMERCIAL LICENSES:**

**a. Annual Resident Commercial Shellfish License:**

This license is available to residents and/or taxpayers of the Town of Cumberland and entitles the holder to dig and take two (2) bushels of shellfish per day from the shores and flats of this municipality and reciprocating municipalities in the areas to be designated pursuant to Section 107 of this ordinance.

The licensee will maintain an accurate log of the days harvested commercially in his or her required Shellfish Harvesting Log, which is due by June 30<sup>th</sup> each year to the office of the Town Clerk. ~~The commercial license will revert to a recreational license the remaining days of the calendar year.~~

**b. Annual Non-Resident Commercial Shellfish License:**

This license is available to non-residents of this municipality and entitles the holder to dig and take two (2) bushels of shellfish per day from the areas designated pursuant to Section 107. The licensee will maintain an accurate log of the days harvested commercially in his or her required Shellfish Harvesting Log, which is due by June 30<sup>th</sup> of each year to the office of the Town Clerk. ~~The commercial license will revert to a recreational license the remaining days of the year.~~

Motion by Ms. Joyce, seconded by Mr. Kenny, to strike the last sentence of section 108a&b.

VOTE: 7-0 UNANIMOUS

Mr. Storey felt that a definition of exactly what a peck is should be included in the ordinance. He said that a peck is 14 pounds. Mr. Brown said he thought it was more of a cubic measurement, not a weight. Mr. Brown said he would research it in time for the next meeting.

\*since the meeting, Chairman Brown got the following definition of “peck”:

Peck is a measure of volume, not weight "A measure of capacity for dry goods, equal to a quarter of a bushel (8 US quarts = 8.81 liters)" or "a dry measure of 8 quarts; the fourth part of a bushel, equal to 537.6 cubic inches (8.81 liters)".

Chairman Brown said that in section 2 it states “recreational shellfish licenses are not available and not valid for a person who holds a shellfish license issued by the Maine State Commissioner of Marine Resources or a

recreational license issued by any other municipality”. He feels that “or a recreational license issued by any other municipality” should be stricken. Since our flats are closed part of the season, if a Cumberland license holder goes to another municipality to get a license or even a daily license to dig during our closure, that would, according to this language, make the Cumberland license invalid. That is not the intent.

Motion by Ms. Joyce, seconded by Mr. Adams to amend section 2 as follows:

**2. RECREATIONAL SHELLFISH LICENSES.**

A person holding a recreational shellfish license may not engage in the wholesale or retail sale of any shellfish harvested under that license. Recreational shellfish licenses are not available and not valid for a person who holds a shellfish license issued by the Maine State Commissioner of Marine Resources ~~or a recreational license issued by any other municipality.~~ Resident Commercial or Recreational Licenses may be held by a resident of either the Town of Chebeague Island or the Town of Cumberland as per the July 1, 2007 State Legislature Act of Separation. Cumberland and Chebeague Island residents will be eligible for resident licenses in either or both communities.

VOTE: 7-0 UNANIMOUS

Chairman Brown pointed out the in section 114 there is reference to a section that does not apply. It appears that some items got shifted around previously with re-numbering and this line was not removed.

**SECTION 114. LICENSE EXPIRATION DATE**

Each shellfish license issued under the authority of this Ordinance expires at midnight on the 31st day of December next following date of issue, unless otherwise specified in this ordinance. ~~see Section 108(2)(a) & Section 108(3)(c).~~

Motion by Mr. Kenny, seconded by Ms. Joyce, to amend section 114 by deleting the last sentence.

VOTE: 7-0 UNANIMOUS

Chairman Brown noted that Section 7 is in need of an amendment. The numbering reference should be changed from “Section 116 (1)” to (1-4).

**7. ALTERNATIVE LICENSING PROCEDURES**

In the event that the Shellfish Conservation Commission shall establish that no limit on recreational licenses shall be imposed, the following procedure shall govern the issuance of licenses notwithstanding the provisions of Section 116 (1-4).

Motion by Ms. Joyce, seconded by Mr. Holt to amend section 7 as recommended.

VOTE: 7-0 UNANIMOUS

Chairman Brown spoke to Police Chief Charron regarding section 126 Appointment of Shellfish Conservation Warden. This section states that the Town Council shall appoint a Shellfish Conservation yearly... The Town Council appointment has not taken place in quite a long time, and the Police Chief suggested changing the language in Section 126.

**SECTION 126. APPOINTMENT OF SHELLFISH CONSERVATION WARDEN;  
COMPENSATION; REMOVAL**

~~The Town Council shall appoint a Shellfish Conservation Warden yearly, and establish the Shellfish Conservation Warden's compensation and, for cause by them declared in writing, after due notice to the officer and hearing, if requested, remove the Shellfish Conservation Warden and appoint another one.~~

**The Cumberland Police Department shall be the legal enforcement agency for the enforcement of the Shellfish Ordinance. The Chief of Police shall designate an officer or officers certified by the Department of Marine Resources to enforce violations of the ordinance and conduct required water quality sampling.**

Motion by Ms. Joyce, seconded by Mr. Storey to amend section 126 as recommended by the Police Chief.

VOTE: 7-0 UNANIMOUS

**V. License allocation request to Town Council**

Motion by Mr. Storey, seconded by Mr. Kenny, to make the same license allocation request to the Town Council as last year:

**2011 Calendar Year Shellfish Allocation**

- Unlimited resident recreational licenses
- 40 non-resident recreational licenses
- 8 monthly resident licenses
- 2 monthly non-resident licenses
- 5 resident commercial licenses
- 1 non-resident commercial license

VOTE: 7-0 UNANIMOUS

**VI. Update on outreach activities**

Ms. Joyce said that the stenciling of catch basins on Route 88 had to be rescheduled due to weather. This event has been rescheduled to April 20<sup>th</sup>, Earth Day.

**VII. Other Business**

None

**VIII. Adjournment**

Motion by Mr. Holt, seconded by Mr. Storey, to adjourn.

VOTE: 7-0 UNANIMOUS

TIME: 7:47 p.m.

Respectfully submitted by,

Brenda L. Moore  
Committee Secretary