

Edgartown Shellfish Committee
Tuesday, December 6, 2016, 4:30PM
Edgartown Town Hall

Present: Chair – Christian Thornton, Donald Benefit, Coop Gilkes,
Ryan Smith,
Shellfish Dept. Warren Gaines, Rob Morrison,
Others: Maureen Conroy, Kevin Hathaway, Josh Kresel, Julian Pepper,
Recorder – Marni Lipke

The meeting was called to order at 4:30PM.

COMMERCIAL, FAMILY, AQUACULTURE LICENSE APPLICATIONS

- IT WAS THE CONSENSUS OF THE EDGARTOWN SHELLFISH COMMITTEE, TO CONFIRM CHAIR CHRISTIAN THORNTON IN SIGNING COMMERCIAL SHELLFISHING APPLICATIONS FOR: MAUREEN CONROY, KEVIN HATHAWAY, JOSH KRESEL AND JULIAN PEPPER.
 - Chair Christian Thornton raised the issue of his discomfort when, in the course of the previous week, Mark Morris sought him out and got his son's license application signed.
 - IT WAS THE CONSENSUS OF THE EDGARTOWN SHELLFISH COMMITTEE, TO RECONFIRM ITS POLICY THAT ALL COMMERCIAL LICENSE APPLICATIONS HAD TO COME BEFORE THE SHELLFISH COMMITTEE AND SHOULD NOT BE SIGNED UNILATERALLY BY THE CHAIR (see 1/5/10 Minutes p. 1-2).
- Fishermen could be informed before the start of each season of application protocol and meeting times.

DEPUTIES' & CONSTABLE'S REPORT (See documents on file.)

- Scallop Update
- About 23 - 24 boats, not all with two fishermen, were bringing in about 40 limits per day. Scallops were still plentiful but there were a lot of beans (small adults). The Committee discussed closing the Gut but there was only one fisherman there.
- In monitoring scalloping, the Deputies heard scattered comments on Mark Morris taking his boat home everyday (unusual for scallopers) in order take extras. It seemed reasonable to ask to search the boat and in view of the crowds at the Yacht Club Check-In and the possibility that Mr. Morris might not cooperate, the Deputies went to meet him at the Meeting Room, where he usually unloaded and hauled his boat out. They saw him go by the Yacht Club Check-In looking for them before coming over to unload. He had 4 washbaskets visible saying one was for his wife, whom his son was representing—a violation re:
 - a single commercial license and limit covered fisherman, spouse and minor children; and
 - if referring to a family taking was forbidden while commercially fishing scallops.

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- Warren Gaines told him, they'd like to look at his boat today to which Mark Morris agreed. He hauled the scallop drags off the culling board and piled them on the backseat compartment. The culling compartments were empty except for some dried eelgrass and an old scallop. Following previous experience Warren Gaines then asked to see the backseat compartment and Mark Morris said, okay but that Warren should get off the boat first so he could back up. His son had left the boat to bring the truck and trailer around. Warren left the boat, Mark Morris backed up slowly but instead of turning, continued to back around and then gunned the motor and took off out of sight. The Deputies waited 10 minutes for him. They had anticipated some trouble including the possibility that he'd load the boat onto the trailer and take off that way. After 10 minutes he returned—in all probability having stashed or dumped any extra scallops. He backed up onto the trailer and the boat was hauled out of the water at which point he allowed the Deputies on board. The back seat compartment was empty but wet and sandy—there was no equipment in it. The Deputies did not ask where he went. His explanation was, “You guys are fucking with me, so I'm fucking with you.”
- The next day he was extremely unpleasant and disrespectful to the deputies, (as witnessed by conch fisherman Mohawk) saying, fuck you, you peons, liars, I have \$15 million, you'll never look in my boat again, you'll need a search warrant, I'll bet you a million dollars there are 12 others with hidden caches under the culling board, etc. The Deputies checked the backseat compartment again, said they were just doing their job, and delivered two tickets: failure to display, and over the limit. (Mark Morris told them to mail the tickets but on being informed they were already filed at Town Hall took the hand delivery.) The Deputies then walked away.
- The Committee members unanimously and repeatedly thanked the Deputies for a job well done and expressed dismay at their treatment.
- There was a difference between a State and Federally registered boat, and Deputy trainings had included authority to enter boats as part of enforcement duties (see below: Actions).
- There was general agreement that the flight from check-in was the principal violation and that its gravity was increased by Mr. Morris' failure to cooperate and insolence, particularly in view of other fishermen's compliance with penalties and regulations.
- The Regulations as they now stood were examined, especially Section 2 C:
 - “No person shall be granted any such permit or license unless such person agrees (and the acceptance of such permit or license shall constitute such agreement) that they will display any shellfish, seas worms, mussels or conch in their possession at any time to any Shellfish Constable or appointed Deputy. Failure to do so upon request by any Shellfish Constable or appointed Deputy may result in revocation or suspension of shellfish licenses or permit.”
- Season timing and the importance of immediate action were noted.
- The Committee respectfully gave the following background explanation to the Selectmen:
 - Bay scallop prices were now triple what they were previously—allowing fishermen to earn a reasonable living to tide them over the difficult winter months.

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- Edgartown was one of the few places that still had a Bay scallop crop, which over the years continued to be a dwindling Town and regional resource.
- Edgartown fishermen were already given a break since the Town was the only municipality in the State allowing the 10 gallon washbasket rather than the regular bushel.
- Regulations were crafted to: protect the shellfish, protect the fishermen, and to eke out a good season (instead of a one-week free for all).
- Other fishermen returned hundreds of dollars worth of scallops to the waters, in keeping with the Town Regulations.
- **DONALD BENEFIT MOVED THAT THE EDGARTOWN SHELLFISH COMMITTEE RECOMMEND TO THE SELECTMEN THAT MARK MORRIS' COMMERCIAL SHELLFISH LICENSE BE IMMEDIATELY SUSPENDED BASED ON THE FOLLOWING GRAVE VIOLATIONS:**
 - FAILURE TO DISPLAY;
 - OVER THE LIMIT;
 - FAILURE TO COOPERATE IN LEAVING THE SCENE; AND
 - DISRESPECT AND DENIAL OF SHELLFISH DEPUTY AUTHORITY;**AND FURTHER THAT (PENDING ADVICE OF COUNSEL IF DEEMED NECESSARY) THE SUSPENSION BE EXTENDED FOR THE DURATION OF THE 2016 WINTER-2017 SPRING SEASON; COOP GILKES SECONDED; MOTION PASSED UNANIMOUSLY: 4 AYES, 0 NAYS, 0 ABSTENTIONS.**
- The Committee then discussed two other citations including Mike Hathaway's second offense.
 - There was a debate on the necessity of all violations going before the Selectmen and whether regulations could be drafted to take some pressure off, either by automatic penalties and/or by Shellfish Committee authority.
 - Other fishermen compliance was noted: paying fines, adhering to time constraints, reformed behavior after citations, etc.
- **DONALD BENEFIT MOVED THAT THE EDGARTOWN SHELLFISH COMMITTEE RECOMMEND TO THE SELECTMEN THAT BASED ON A CITATION FOR OVER THE LIMIT SCALLOPS, HIS SECOND OFFENSE WITHIN A THREE YEAR PERIOD, MIKE HATHAWAY'S COMMERCIAL SHELLFISH LICENSE BE IMMEDIATELY SUSPENDED FOR FIVE FISHABLE DAYS BEGINNING TUESDAY DECEMBER 13, 2016; COOP GILKES SECONDED; MOTION PASSED UNANIMOUSLY: 4 AYES, 0 NAYS, 0 ABSTENTIONS.**
- The Regulation forbidding diving was due to safety of divers requiring a 150 yd. no fishing vessel radius. A commercial diving permit could be issued on request for Sengekontacket Pond.

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NEW BUSINESS

• Meeting with Aquaculturists on 12/13/16

- There was trouble with a huge barge being used by one of the growers, off site.
- Working off-site in hazardous weather was likely to be the most controversial issue.
- After canvassing members it became clear that several could not make the December 13th meeting although, Christian Thornton could join the meeting by cellphone or Skype. There was a legal provision allowing remote access in certain circumstances, if so voted, however a quorum of the Committee would still have to be physically present.
- **DONALD BENEFIT MOVED TO ALLOW REMOTE PARTICIPATION IN SHELLFISH COMMITTEE MEETINGS IN CASES OF GREAT GEOGRAPHICAL DISTANCE OR ILLNESS OR MILITARY SERVICE; RYAN SMITH SECONDED; MOTION PASSED UNANIMOUSLY: 4 AYES, 0 NAYS, 0 ABSTENTIONS.**

The Committee asked to postpone the meeting until January 3rd (see below: Actions).

Meetings/Events

- Morris/Hathaway Selectmen Hearing - 4:00PM Wednesday, December 19, 2016 at Town Hall
- Edg. Shellfish - 4:30PM Tuesdays, December 20, 2016 at the Library
- Edg. Shellfish/Aquaculture meeting - 4:30PM Tuesday, January 3, 2017 at the Library

ADJOURNMENT

- **COOP GILKES MOVED TO ADJOURN AT 5:52PM; DONALD BENEFIT SECONDED; MOTION PASSED UNANIMOUSLY.**

Actions To Be Done:

- All - attend Selectmen Morris/ Hathaway penalty hearing Mon. 12/19/16.
- Paul/Christian - contact Selectmen re: 12/19/16 citation hearing
- Paul/Christian - request Selectmen to postpone aquaculture meeting to 1/3/17
- Marni - include boat inspection in Regulation update,
- Update Commercial Shellfish Permit Application.
- Warren/Rob
- research jurisdiction to inspect boat (State and Federal registration distinction?)
- research age of Mark Morris' son,
- draft incident report.
- Agenda - Minutes to be voted: 11/15/16, 12/6/16

Documents on File:

- Agenda 12/6/16 & cover emails 12/2/16
- Bagnall / Constable's Report Citations 12/5/16 and cover email 12/6/16
- Regulations for Taking and Culture of Shellfish Draft #2 11/21/16 (11 p.) & cover email 11/28/16