

**TOWN OF SCITUATE, MASSACHUSETTS
SHELLFISH ADVISORY COMMISSION**



**MEETING MINUTES
Shellfish Advisory Commission
Tuesday, December 14, 2021
7:00 pm
ZOOM/Remote Participation**

Committee Members In Attendance: Chairperson; Susan Harrison, Shellfish Constable; Mike Dimeo, Vice Chairperson; Jeff Palmer, Paula Lind, Adam Bisol. Scott Connelly

Guests: Maxwell Fernald (CSCR), Susan Bryant (CSCR), Owen Gurtz (CSCR), Jack Buckley (CSCR).

Chairperson Harrison made a motion to call the meeting to order at 7:03 p.m.

Roll Call Vote:

Dave Friedman (yes)

Paula Lind (yes)

Jeff Palmer (yes)

Mike Dimeo (yes)

Scott Connelly (yes)

Chairperson Susan Harrison (yes)

Chairperson Harrison asked for a motion to be made to approve the August 24, 2021 meeting minutes. Jeff Palmer made a motion which was seconded by Paula Lind and voted majority in favor (6-0-1) by roll call vote. Dave Friedman abstained as he was not present at the 8/24 meeting.

Roll Call Vote:

Jeff Palmer (yes)

Paula Lind (yes)

Dave Friedman (abstained)

Mike Dimeo (yes)

Scott Connelly (yes)

Susan Harrison (yes)

Update and Discussion of Aquaculture Pilot Program:

Chairperson Harrison began by providing a brief update on the Pilot Program. Ms. Harrison stated that the town approved a pilot program two years ago. A lawsuit was brought against the

town as well as the applicants that applied for it last year. The charge was that it was looked at in uncontested waters and the Shellfish Commission was not involved in the legal proceedings. Recently the group has dropped the lawsuit and the applications were returned to the applicants. Since then the Selectboard has met and made a decision to reach out to the Shellfish Commission to move forward and look at options in undisputed waters. Chairperson Harrison stated that the Selectboard has also made it clear that they are going to continue to press forward on the deed research on the flats that was delayed due to Covid.

Ms. Harrison went on to say that the next steps for the commission are to do what was done before but in a more modified timeline. Saying that they'll have to look at the sites of the environments that would possibly be considered, relook at the application process, and then look through the regulations that would possibly be impacted by the first two steps.

Waterways Liaison; Dave Friedman asked if he was correct in understanding that there currently wasn't a timeline on when the deed research might be resolved. Chairperson Harrison responded stating that that is correct. Going on to say that she knows the Selectboard is pushing forward as a lot of the prior restrictions on doing the research were due to Covid. Mr. Friedman then asked if he was assuming correctly that there was a subset of the currently approved for aquaculture in Scituate waters. Again, Ms. Harrison responded that Mr. Friedman was correct. Mr. Friedman stated that he believes that there was very few already approved areas in Scituate. Ms. Harrison agreed.

Shellfish Constable; Mike Dimeo spoke up saying that after his discussion with Jeff Kennedy he had the thought to possibly reduce the plots to a half-acre, quarter-acre, or even three-quarters of an acre and move out to the mean low water as that is what the final surge is based on.

Constable Dimeo went on to say that doing this would push it out a little further. Also mentioning that they would have to be careful that they're not impacting eelgrass, but this would be an option to consider to get something done out there. Chairperson Harrison responded to Constable Dimeo's thoughts, saying that once they get the sites, they could think through these things.

Next Steps Aquaculture Program:

Chairperson Harrison informed the board that to move forward, the board invited the CSCR to present on some of the research that they've done in that area. Ms. Harrison stated that the board that back before Covid restrictions were put in to place, the commission worked with the CSCR on a SCR Grant. They were awarded a grant at that time to do some project-based learning engagement, community education, based on some of the work and coastal studies that they do in the area. Susan Bryant of the CSCR introduced Max Fernald, one of her students to present CSCR 2021 Eelgrass Findings. Mr. Fernald explained that the program engages in civic studies of the ecosystem, especially ones of aquatic sciences. This allows the students to learn about it as well as help the ecosystem. He then explained what Eelgrass is, stating that it is a soft wavy submerged aquatic vegetation that works to improve water quality, protect us against storms, is good for fish and arthropods, and even prevents climate change. Mr. Fernald went on to explain that some of its roles in the ecosystem include; trapping sediments, converting CO₂ to O₂ through photosynthesis, storing carbon, holding sediments with roots, providing habitat, improving water quality, absorbing greenhouse gasses, mitigating ocean acidification, absorbing wave action, and presenting as a nursery for fish. Mr. Fernald explained that it is especially important that eelgrass mitigates ocean acidification as that has a major impact on the shellfish

quality. He moved on to say that eelgrass is below the low tide line where there is enough sunlight. Mr. Fernald then stated that the Mass DEP is the official source for Eelgrass data and their next flyover is scheduled for May/June 2022.

Chairperson Harrison informed the board that these are preliminary surveys that are done to see what is out there as the town and state go through an approval process. The state biologists at DMF come out to survey the area toward the end of the process and have the last say.

The commission then thanked Mr. Eelgrass and the rest of the CSCR for their time and agreed to stay in touch on the project.

Waterways Liaison; Dave Friedman mentioned that Shellfish Constable; Mike Dimeo and Scituate Harbormaster Mone could possibly guide the commission initially to the areas that have already been approved and then if they have to refer back to the Selectboard to say this is an area we'd like to propose our pilot project, it's a subset of those areas that are pre-approved.

Shellfish Constable; Mike Dimeo responded to this, agreeing and stating that you obviously can't grow oysters on top of eelgrass. He then referred to the discussion that rather than limit the amount of growers, maybe plots get reduced or people get staggered out further to be below the mean low water while not impacting the eelgrass. Constable Dimeo went on to say that it's going to take a number of times going back out there and will probably need to be remapped or re-grid. Marine fisheries will flag it if we're in the impact areas.

Mr. Friedman asked Constable Dimeo if he was thinking of the same area, just further out.

Constable Dimeo replied that he was, to avoid some of the title fights and to eliminate anyone being pushed aside from getting an area. Mr. Friedman then asked if this was the only currently approved shellfishing area in Scituate water, to which Constable Dimeo said it was. Mr.

Friedman then suggested that the board get an engineered surveyed map of the areas that could be used that are undisputed. Chairperson Harrison stated that she agrees with Mr. Friedman and would also suggest that the board requests that the Town Administrator do a survey as there should be a professional survey as to what the mean low is. She also stated that they have the CSCR data to figure out what the in between is. Chairperson Harrison went on to say that Constable Dimeo had a good point of considering how many and what sizes could fit.

Chairperson Harrison also mentioned that she isn't sure if all of the original applicants are interested at this time. She stated that she had reached out to the applicants to inform them of tonight's meeting taking place.

Jeff Palmer spoke, saying that to Mr. Friedman's point, there are most likely some of the preliminary work and mapping included in the areas that are now being considered but weren't concentrated on previously. Chairperson Harrison responded saying that although this is true, a survey should still be requested.

Constable Dimeo spoke up to say that before the mapping was done, they had used the square stamps which were true squares of 212 x 212 and gave a complete square acre. He went on to say that that could possibly be changed to rectangles or something similar to keep it consistent to give everyone equal amount of time with the eco model tide in their farm area.

Chairperson Harrison then opened the meeting up for public questions and comments.

Brad White of Marshfield Hills asked for a recap of what happened as he wanted an understanding of how things happened and if it meant we were giving up. Chairperson Harrison replied to Mr. White's comment stating that she wasn't involved in the lawsuit and said that she

couldn't speak to this. She stated that she can say that she has been assured that the Selectboard is not giving up. Ms. Harrison went on to say that Selectboard is moving forward on the deed research on the Scituate land in question. Also saying that the board is recognizing that there are delays and they want to look at other areas as well as there are uncontested areas outside of the mean low.

Constable Dimeo chimed in to make a correction to what he had referred to in an earlier comment and that the mean-low-low water is the correct term which is further out.

Dave Sincoski of 29 Fox Vine Lane mentioned that he thinks the Shellfish Commission is right but would like everyone to understand why the Selectboard cannot advertise their position in a legal situation. Mr. Sincoski then asked if the slide that the students presented could be shared. Chairperson Harrison stated that she would post on this on the Shellfish page on the town's Jamie Davenport – spoke to Mr. White's points, saying that as one of the people that was being sued in the mentioned lawsuit, he was privy on some of the information that was being passed back and forth. He stated that they haven't been able to get as far back in the deed research as they'd have liked to because they haven't been able to locate the deeds that go all the way back to the 1600's. He mentioned that in discovery done in November of last year, both lawyers got back to about 1805. Jamie stated that he saw no evidence as far back as 1805 personally, and that there weren't any riparian rights associated with any of the surrounding deeds. He stated that all of the language spoke to along the high watermark, along the beach, there was no below the watermark saved for the April 2020 deed that was recorded when Friends of Bastion Beach purchased two one-acre parcels that would project over where they intended to put the farms. Jamie then mentioned that there was a sentence added to the deed, he believes feloniously, - he didn't see any repairing rights so thinks the chances are still good once the town can uncover those ancient deeds that will prove that its in the public trust and up for us to be able to design a pilot program. Jamie stated that this is his opinion.

Jamie then said that he would also like to confirm that there were nine applicants for the original pilot program.

Jamie also mentioned that if he recalls correctly, back when Tony was the Chairperson for the Selectboard, he didn't say that he definitely wanted seven farms. Jamie stated that Tony did say that he wanted the Shellfish Advisory Commission to draw up a plan that would include five to seven farms, keeping in mind that being smaller would probably be better than larger with the respect to the surrounding access, resources, and impact. He stated the he isn't sure that the commission should assume that they're going to want to put seven to nine farmers out there and mentioned that it may pair down the acreage. Jamie went on to say that he hopes a way is found to have one-acre parcels below the mean sideline

Constable Dimeo informed Jamie that they are going to all they can to find people equal fair shares. He went on to ask Jamie if shrinking to three-quarter sizes initially for the pilot program would impact him and asked him what his feedback would be on a smaller lot being offered. Jamie responded that he wouldn't pass anything up, saying that he thinks this is plenty to start. He also stated that he thinks having a portion of one's farm in the water at all times is very beneficial and may even allow farmers no to have to take them out all year. Constable Dimeo stated that he agrees with Jamie. He went on to say that this is not the area for the occasional oysterman as the logistics out there are very tough.

It was then discussed that emailing the nine applicants to get their responses on moving forward. Constable Dimeo stated that he doesn't think the applicants who already did their research and submitted their information on time should have to compete against other applicants and should be in the first pool/tier and any new applicants coming forward would be in a lower tier.

Scituate Resident, Craig Rosenquist, of 17 Acorn Street mentioned that he thinks it necessary to know what the area is going to be prior to deciding so mapping it out before reaching out to the applicants sounds best. Chairperson Harrison responded that she finds that fair. Resident Jamie then spoke regarding the survey, saying that he understands that we're going to need to have a survey done for this specific area from the mean low side and beyond but asked in regards to an overall survey where do we stand with the survey that was asked for with regards to the case. He went on to say that a year ago the Town of Scituate was supposed to hire a surveyor to survey that area – asked where that stands and if it's still supposed to happen. Chairperson Harrison stated that she thinks that they should request that the surveyor somehow get the CSCR data of the eelgrass on the survey where the mean low would be. Chairperson Harrison said the past surveys weren't done as far out. Ms. Bryant spoke up as she was wondering how much the topography changes out there from year to year. Constable Dimeo responded saying that there are most likely others on the call that could answer more accurately, but he wouldn't expect it to change all that much. He also stated that this can be captured with a lidar and survey and he doesn't think there are any hydrographic one for that area. Constable Dimeo relayed that the shoulder areas that he has seen over the years hadn't seemed to change much, going on to say that the eelgrass probably comes and goes, growing and dying off. He said that if they can try to avoid that it would be in their best interest. Chairperson Harrison asked Ms. Bryant if this is something she and her class can do. Ms. Bryant responded saying they can conduct the process but can't do it with an engineered stamp on it. Chairperson Harrison agreed and stated that the board should get an engineered stamped survey of mean low check on the area and then overlay Ms. Bryant's work. Ms. Bryant added that she could give the commission an idea of the tidelines that they've walked. She mentioned that they try to walk them on a 0.0 tide with canwei pingers. Chairperson Harrison then asked if anyone could think of anything else that they should be doing. Scituate Resident, Jamie mentioned that they should be pressuring the DMF and the FDA to get on the computer model as none of this will be possible until they deem that the sewage treatment outfall will not adversely affect an aquaculture program. Chairperson Harrison agreed and stated that she has an update on the recreational side that she'll speak on at the next agenda item. She went on to say that that the last process in the whole agriculture application is DMF certifying it, going on to say that they wouldn't certify it until the hydrographic studies were done. Chairperson Harrison stated that all of the tests have been very good. Scituate Resident, Brad White spoke up adding that he would like to see a quarterly meeting published. Chairperson Harrison responded saying that she would like to meet more than once a quarter now that they're caught up on the lawsuit, which was an extremely difficult situation for the commission to be in.

Scituate Resident Craig Rosenquist asked Ms. Harrison if she was speaking about Basin Beach or the North River when she mentioned testing earlier. She responded that she was speaking about both places. Mr. Rosenquist then asked if it were the sewer treatment plant in Cohasset is

an issue? Many attendees responded yet to this. Chairperson Harrison went on further saying that it is a very small plant but that it is involved and will be tested.

Update Recreational Shellfish Closure:

Constable Dimeo updated the board on the Recreational Shellfish Closure, starting by saying that he's aware there are a lot of banks within the rivers being closed still. He went on to share some bullet points that were sent to him by Jeff Kelly. Constable Dimeo shared that they're looking to test twelve wastewater treatment plants in Massachusetts and that this is underway. He relayed that Scituate/Marshfield got to pick first. Constable Dimeo also mentioned that they are taking the high resolution, 300-meter grid down to a ten-meter grid which can assist in getting an accurate depiction of effluent dilution. It was said that DMS anticipates model results this winter.

Scituate Resident, Brad White asked if Constable Dimeo has done any dilution testing on the side? He also asked if the South River opens, will there be public access to the area. Constable Dimeo answered Brad's questions saying that the testing that is being done this Thursday is for fecal coliform, which are the typical samples that are done for the water quality in the rivers. He went on to say that North River Watershed does this same type of testing, which are coming back clean, but it's not approved by DMF as it's not their lab. Constable Dimeo said lets just see what happens from this test.

Next, Scituate Resident, Jeff Gordon stated that his understanding that the dilution studies are intended for untreated sewage as opposed to fully treated sewage. He asked Constable Dimeo if Jeff Kennedy happened to speak about this at all. Constable Dimeo responded that Mr. Kennedy did not.

Constable Dimeo then mentioned that the Scituate Selectboard wrote a letter to Dan McCarron, the Director, asking the Shellfish Advisory Commission to endorse it. Chairperson Harrison stated that she has posted them to the Commission's page on the Town's website. Constable Dimeo requested that any residents that feel that they aren't getting information to please reach out to him in either Scituate or Marshfield. He then said that anyone wanting to do a water sample run was welcome as long as they had the appropriate PPE, including the students from CSCR.

Ms. Lind asked if the overabundance of clams out there from not being able to dig for so long could possibly cause contamination. Constable Dimeo responded saying that there's a disease called neoplasia, going on to say that there are things that can be done to get it back to its best state.

Resident, Brad White asked if the residents could possibly get an extension on their 2021 permits that they weren't able to use. Constable Dimeo responded that this could be asked of the Selectboard.

Chairperson Harrison made a motion summarizing the next steps, she would like to formally request getting a stamped survey from the appropriate person/board for an early January meeting and overlay some of the CSCR data. From there the board will invite the applicants to converse further with the new map. This was seconded by Paula Linda and voted unanimously in favor (7-0).

Roll Call Vote:

Dave Friedman (yes)
Paula Lind (yes)
Jeff Palmer (yes)
Constable Mike Dimeo (yes)
Scott Connelly(yes)
Chairperson Susan Harrison (yes)
Adam Bisol (yes)

Chairperson Harrison made a motion to adjourn the meeting at 8:31 p.m., which was seconded by Adam Bisol and voted unanimously in favor (7-0) by roll call vote.

Roll Call Vote:
Dave Friedman (yes)
Paula Lind (yes)
Jeff Palmer (yes)
Constable Mike Dimeo (yes)
Scott (yes)
Chairperson Susan Harrison (yes)
Adam Bisol (yes)

Respectfully submitted. Alicia Anthony