

**Harbor and Shellfish Advisory Board
Tuesday, Jan. 18, 2022 at 5:00 p.m.
Via Zoom
*HSAB meeting are video-recorded**

Members present: Andy Lowell, Dave Bossi, Dave Fronzuto,
Ginger Andrews, Peter Brace,

Members Absent: Dan Pronk, Tom Szydlowski

Marine Dept:

Natural Resources Dept: Jeff Carlson, Tara Riley

Others: Kona Hosier, Lee Gam, Jamie Connolly

CALL TO ORDER

5:02 p.m.

APPROVAL OF AGENDA

Unanimously approved, 5-0

APPROVAL OF MINUTES

Draft minutes of Jan. 4, 2022

Unanimously approved, 4-0, with Ms. Andrews abstaining.

CHAIRMAN'S REPORT

No report.

MARINE DEPARTMENT REPORT:

General Marine Department report – Sheila Lucey

No report.

NATURAL RESOURCES REPORT

General Natural Resources Department report – NRD staff

Ms. Riley reported that as a result of recent strong winds, she and her staff walked Nantucket Harbor beaches to search for possible bay scallop seed strandings. She reported no strandings. She added that later in the week, she would be doing some test tows in Madaket Harbor to see if the large area of seed in this harbor has shifted into the main harbor channel.

Ms. Riley reported she continued to work on the report and letter she intends to send to the state's Division of Marine Fisheries (DMF) in an attempt to convince the DMF that Nantucket Harbor is clean enough for shellfishing year-round.

Ms. Riley reported that water quality specialist Thais Fornier is working on a project on the north side of Sesachacha Pond putting light-blocking sheets over widgeon grass to kill it and to avoid having to use herbicides. She is also collecting plankton samples to get a sense of the plankton communities in this pond.

Ms. Riley reiterated that the Coastal Resilience Plan was adopted by the Select Board.

Ms. Riley reported that she and her hatchery crew has started growing algae for the 2022 shellfish spawning season and that they've already done one quahog spawn.

Mr. Fronzuto offered to help Ms. Riley with her DMF report and letter.

PUBLIC COMMENT ON MARINE DEPARTMENT / NATURAL RESOURCES REPORT

OLD BUSINESS

Ted Lambrecht's oyster lease – Discussion

Mr. Lowell said that at its Jan. 5, 2022 meeting, the Select Board had remanded this issue back to the HSAB for further consideration. He asked the HSAB members for their comments on this issue.

Mr. Fronzuto asked that Mr. Carlson lay out the HSAB's options on how to move forward on this issue. Mr. Lowell agreed and also

asked for clarification on the Natural Resources Department's (NRD) position on Mr. Lambrecht removing cages from the harbor bottom as instructed to do so by the NRD, but then cleaning off, filling them with oyster seed and putting these same cages back into the harbor.

Mr. Carlson said he was aware of Mr. Lambrecht deviating from what the NRD had directed him to do to come back into compliance with his oyster lease with the Town.

Mr. Carlson said it would be helpful to allow all HSAB members to comment before he responded.

Mr. Brace stated that since the HSAB began working with Mr. Lambrecht back in September 2020, it was his impression that the goal of the NRD and the HSAB was that for Mr. Lambrecht to return his oyster lease to compliance with the Town's regulations, he had to remove all of his oyster cages from the harbor for inspection by the NRD. Further, Mr. Brace stated that the agreement the Select Board grant Mr. Lambrecht 90 more days from Sept. 8, 2021 to Dec. 8, 2021 to get all of his gear out of the harbor, having removed roughly 30 percent as of Sept. 8, 2021, was contingent on Mr. Lambrecht only removing all of his gear by Dec. 8, 2022. Mr. Brace recalled from the Sept. 8, 2021 meeting that the Select Board made a point of stating that if just one cage remained in the harbor after Dec. 8, 2021, the Select Board would revoke his licenses. Mr. Brace added that he felt betrayed by Mr. Lambrecht because he was unaware of any permission granted by the NRD and or the Select Board to allow Mr. Lambrecht to put oyster seed in these cages and return to the harbor.

Mr. Fronzuto agreed with Mr. Brace. Mr. Fronzuto said the Town would not have been in this situation had Mr. Lambrecht not put his cages back in the water. He added that the fate of the oyster seed now in Mr. Lambrecht's cages was another matter all together.

Mr. Bossi agreed with Mr. Brace and Mr. Fronzuto. He said he felt that the matter is being "intentionally stretched out" and that it

keeps being continued and is now put back on the HSAB review it once again.

Ms. Andrews added that Mr. Lambrecht's repeated requests for more time to get his boat ready and his gear off of the bottom of the harbor didn't convince her that he was committed to the task. Mr. Carlson reiterated that the NRD's requirement of working the oyster lease at least one out of every three years was not met by Mr. Lambrecht. He then ran through the timeline of trying to aid Mr. Lambrecht in complying with his oyster licenses, starting by telling him to cease all work on his lease. He said how the NRD confirmed that Mr. Lambrecht had purchased oyster seed in June 2020 from Aquaculture Research Corporation (A.R.C.) of Dennis, Mass. after being told not to work his lease. Mr. Carlson reminded the board that he brought the revocation recommendation to the HSAB during September 2020. He reported that a lot of the cages were in bad condition on the bottom of the harbor. Mr. Carlson said the NRD feels they've granted Mr. Lambrecht ample time to bring his lease into compliance and given him the appropriate guidance on how to do so. He added that the NRD continued to recommend revocation of Mr. Lambrecht's license.

Mr. Carlson also clarified comments made by Mr. Lambrecht at the Jan. 5, 2022 Select Board meeting, which informed that he could possibly sell his current oysters in his cages through a state program. Actually, Mr. Lambrecht would be selling his oysters to A.R.C. wholesale, said Mr. Carlson.

Mr. Bossi asked if the NRD had come up with a plan for Mr. Lambrecht to move forward.

Mr. Carlson indicated that the Town's lease language allows for a timeframe to be created for removal of the oyster gear once the license has been revoked.

Mr. Bossi asked if another person could take over Mr. Lambrecht's plot. Mr. Carlson said the permitting process for the new person would likely take at least six months, putting the opening season for this person at Spring 2023.

Mr. Fronzuto asked what the permitting process is like, timewise, for transferring one's license.

Mr. Carlson said the process is much faster because a current lease holder can amend his lease, go through an HSAB and Select Board hearing process, and then sell his business as is to another person.

Mr. Brace recalled that Mr. Lambrecht mentioned at the Jan. 5, 2022 Select Board meeting that he knew of someone he could potentially transfer his lease and business to.

Mr. Lowell asked if there's any new space in the harbor to lease to the people now on the waiting list for an aquaculture lease. Mr. Carlson explained that it's roughly a two-year process of the Town and the DMF surveying harbor bottom to determine if bottom isn't viable enough to support wild populations of shellfish.

Mr. Lowell reminded the HSAB that while Mr. Szydlowski voted against revoking Mr. Lambrecht's lease, he did so because he felt the lease should've been revoked immediately.

Mr. Lambrecht stated he had no intentions of disrespecting the HSAB, the NRD and the Select Board. He added he wasn't under the impression that he couldn't put his seed into his cages he was instructed to remove by the NRD. He said he put the oyster seed in cages he removed from the harbor and into new cages. Mr.

Lambrecht said he does have a person who is working with to take over his lease.

Mr. Lambrecht said that in June 2020, he got the notice that he was out of compliance with the Town on his oyster lease and that he would stop working on his lease. He detailed how difficult it was bringing his boat back to working order. Mr. Lambrecht described how he had to have shoulder surgery in October of 2020 and how this set him back in working on his boat. He added that in October 2021, his engine broke down, which set him back more time. Mr. Lambrecht repeated that meant no disrespect to anyone.

Mr. Lowell asked for help from Mr. Carlson on helping Mr. Lambrecht move toward transferring his lease.

Mr. Carlson reiterated that he felt the NRD had followed its policy for revocation as it could.

Mr. Brace explained that he didn't feel Mr. Lambrecht intentionally disrespected the HSAB, the NRD or the Select Board. However, him not adhering to the NRD's and the Select Board's order that he remove his cages from the harbor caused members of the HSAB to feel disrespected, intentional or not.

Mr. Bossi made a motion to recommend to the Select Board to order that Mr. Lambrecht remove his oysters and gear, and transfer his lease to another fisherman within 90 days.

Mr. Brace seconded Mr. Bossi's motion for discussion., stating that the HSAB needed to be clear how much time the transfer would realistically take. Mr. Brace asked if the transfer is the option for Mr. Lambrecht to take, does the Town still have to revoke his licenses?

Mr. Carlson said the license would not be revoked if the lease is transferred to another person.

Mr. Bossi said he wanted to modify his motion so that the 90 would apply to either revocation or transfer of the license and lease.

Mr. Fronzuto asked Mr. Carlson that if this transfer happens within the 90-day transfer period with an approved production business plan, could the two four-acre lease parcels be released to the new fisherman as conditions of the transfer are met. Mr. Carlson said the entire lease acreage must be transferred all at once. And then a sort of probationary period could be established for the new lease holder to meet conditions of the transfer.

Mr. Brace asked Mr. Carlson if Mr. Lambrecht was required to transfer his lease to the person at the top of the waiting list. Mr. Carlson indicated that Mr. Lambrecht could transfer his lease to whomever he chose to.

Ms. Andrews said since she didn't want to proceed with the revocation for the sake of doing it and said she was in favor of the transfer if the board felt that it would work. She added that Mr. Carlson should inform the HSAB on how long the transfer would take. Mr. Carlson said a public hearing is required after the HSAB

reviews it and makes a recommendation to the Select Board, a process that would take around 60 days.

Mr. Lowell said a transfer of the lease to another person sounded like the right way to solve this issue.

Mr. Fronzuto encouraged Mr. Lambrecht and the person he wants to transfer his lease to to meet with Mr. Carlson and Ms. Riley to outline a production plan, a financing plan, insurance, monthly check-ins with the NRD and create a series of “milestones” that if all met, would prompt the release of Mr. Lambrecht’s two four-acre parcels to the new fisherman.

Mr. Bossi said the HSAB should remain focused on dealing with Mr. Lambrecht’s situation and not whomever gets the lease, and how do deal with that person once they get Mr. Lambrecht’s lease.

Mr. Bossi rescinded his original motion and Mr. Brace rescinded his original second. Mr. Bossi then made a motion that Mr.

Lambrecht must file his application to transfer his lease to a year-round Nantucket resident of his choosing within 90 days of approval of the HSAB’s recommendation by the Select Board and if this does not happen within 90 days of Select Board approval of this process or if the transfer does not meet the conditions of the NRD and the Select Board, the latter would then revoke Mr.

Lambrecht’s license. Ms. Andrews seconded this motion.

Mr. Bossi moved to amend his motion to include the application language above. Ms. Andrews seconded this motion. The HSAB voted 5-0 to approve this motion.

Mr. Bossi left the meeting at 6:38 p.m.

Mr. Lambrecht thanked the HSAB for all of its patience.

Excessive sand in scallops/Dredging plan – Discussion

Mr. Carlson said he expects to have a draft dredging plan for the HSAB to see in July of 2022.

HEALTH OF THE HARBORS

Excessive lawn fertilizer use: Update – Discussion – New information

Mr. Lowell said he got a request from a Nantucket resident worried about how much fertilizer is being used on the large lawn of the new park at head of the Creeks owned by the Nantucket Islands Land Bank. Ms. Andrews said native vegetation will eventually replace the lawn grass.

FDA shellfish taking prohibition in mooring fields

Ms. Riley covered this issue in her NRD report.

Water quality testing

No discussion.

NEW BUSINESS

Fertilizer-ban articles – Discussion

Mr. Brace detailed the Jan. 12, 2022 Finance Committee meeting in regards to Joe Minella's proposed fertilizer ban citizen article. Mr. Brace said that Mr. Minella was ill-prepared for the questions the Finance Committee had for him on the science behind his article. Fortunately for Mr. Minella, fisherman Bobby DeCosta, Emily Molden, executive director of the Nantucket Land Council and Thais Fournier were at the meeting and helped to answer these questions on Mr. Minella's behalf, said Mr. Brace.

Mr. Lowell agreed that Mr. Minella should come better prepared to upcoming meetings concerning his article.

Ms. Andrews agreed.

Chris Fuller's video showing lyngbia algae in the harbor - Discussion

No discussion.

Coastal Resilience Advisory Board – Update

Mr. Brace reported that the Coastal Resilience Advisory Committee will now be working on near-future coastal resilience project and reporting to the Select Board quarterly.

PUBLIC QUESTIONS AND COMMENT

RECAP and ITEMS FOR NEXT MEETING

ADJOURN

Unanimously approved, 5-0, at 6:59 p.m.

YOUTUBE LINK

https://www.youtube.com/watch?v=Nj_rqCHlfDw&list=PL49sKqpy7VAj6nJnAlrlKlxWm6VQTfuXg&index=1

Future Meetings

Feb. 1 and Feb. 15

Respectfully Submitted,
Peter B. Brace, Secretary