

**MEETING OF THE MARINE RECREATIONAL  
FISHERIES DEVELOPMENT PANEL**

**November 13, 2015**

**Conference Call**

***Attendance:***

*Panel Members:* Chuck Casella (chair), Mark Amorello, Mike Moss, Patrick Paquette, Bill Smith

*Division of Marine Fisheries:* Deputy Director Dan McKiernan, Assistant Director Mike Armstrong, Senior Biologist Greg Skomal, Biologists Mark Rousseau and Matt Ayer, Policy Analyst Nichola Meserve, Public Access Coordinator Ross Kessler, Chief Fiscal Officer Kevin Creighton

*Office of Fishing and Boating Access:* Director Jack Sheppard, Assistant Director Doug Cameron

**Call to Order, Approval of Agenda and Minutes**

Chuck Casella called the meeting to order at 10:05 AM. Attendance was reviewed. The Marine Recreational Fisheries Development Panel (Panel) approved the agenda with two additions: 1) Nichola Meserve added a discussion of the 2016 Free Fishing Days; and 2) Mike Armstrong added an update on the FY2016 Small Grants Program. Patrick Paquette also indicated he would have a matter to raise under Other Business.

The Panel approved the draft minutes from its June 24, 2015 meeting with one addition: Patrick noted that, as part of the river herring discussion (p5–6), Chuck had requested that the Division develop and present to the Panel a timeline or plan for re-opening river herring to recreational harvest. The final minutes will be provided to the Panel and posted to the Division’s webpage.

**FY16 Public Access Project**

Mike Armstrong reminded the Panel that the West Island Fishing Pier in Fairhaven was planned to be the big Public Access Project investment for FY16, at a cost of about \$250,000. Permitting had been completed in FY15 and a land use agreement had been signed between the state and town. However, the town had removed its support for the project this fall.

Ross Kessler provided more detail on the town’s reversal, which appeared to be driven by public opposition to the project. A petition with over 150 signatures was filed. Despite several follow-up meetings with the Board of Selectmen, they removed their support.

Chuck asked if legal action to recoup the money spent on permitting and design was a possibility. Ross replied that the letter removing support had just been received, so the discussion had yet to take place, but he would consult Department legal staff on the matter. He noted that the expenses had totaled \$27,000. Chuck asked that the Panel receive any future updates on this topic.

Patrick sought clarification on the letter and if the Office of the Attorney General (AG) would be involved regarding breaking of the contract and reimbursement. Ross indicated that the letter was addressed to the Department of Environmental Protection with regards to the waterways license

application and that he didn't expect the Division of Marine Fisheries (DMF) or the Office of Fishing and Boating Access (OFB) to receive any other letter. He expected that Department counsel would advise on how to proceed regarding the AG. Patrick suspected the Town might change its mind if the AG was involved.

Mike Armstrong asked Doug Cameron and Jack Sheppard if there were any other instances of towns backing out of a project after expenditures were made, and if so, what the result was. Doug knew only of cases in which OFB had been asked to withdraw a project prior to initiating activities. Jack had come across a file several decades old indicating design work on a never-completed project, for which funds were not recouped. He also thought there was an example in North Adams for a proposed pier on Windsor Lake that had been terminated after some expenditures and without reimbursement.

Mike Armstrong asked about the terms of the contract and its severability. Jack stated that it had to be "mutually dissolved" and was to be "in perpetuity." Mike indicated that DMF and OFB would continue to work towards a resolution.

Mike Moss noted concern about setting a precedent in terms of not getting reimbursement. He did not consider \$27,000 to be an insignificant amount, noting that it was half of what was spent on the Scusset Pier. He hoped the end result would either be a refund or construction of the pier.

Mark Amorello sought clarity on whether the full \$27,000 was from the Fund. It was. He said he'd heard that recent turnover in the membership of the Board of Selectmen was part of the reason for the change in support. Ross wasn't sure it was a factor, but that it was certainly the citizen petition that had put the project on the Selectmen's radar.

Mike Armstrong provided the options for moving forward with the Public Access funds that had been allocated to the stalled-out West Island Pier. The money could be left to roll over in the Fund for future use, although this would require an increase to the annual appropriation, no certain feat. Alternatively, the Division was proposing to use the funds for a shovel-ready artificial reef project 1.5 miles off Harwich. The Panel had discussed the project as being on the fringe of "public access" at its last meeting, but Mike asked the Panel to reconsider, given the situation. He argued that the reef will aggregate fish and increase access for small boat fishermen. The project has a high level of support from the Town of Harwich, which Mike noted is also applying for \$75,000 in grant monies and is carrying out local fundraising activities to help finance the project.

Mark Amorello asked for the proposed reef's distance to the nearest boat ramp. Mark Rousseau replied that the site is about two miles from the mouth of Saquatucket Harbor in Harwich. Ross Kessler added that it would be easily accessible to small boats from five or six locations. He personally would feel comfortable getting to the reef in his 18' vessel.

Mark Amorello stated his support for the reef project, given that it would be improved public access for boat-based anglers. He suggested that the reef could also have research value that would benefit recreational anglers in the long-term. Mike Armstrong agreed, noting that the Division would be required to monitor the reef, and would consider additional research, most

likely involving black sea bass, such as spawning ratios and other life history characteristics. Mark said this would dovetail well with state efforts to increase its black sea bass quota such as by reducing scientific uncertainty in the stock assessment.

Mike Armstrong informed the Panel that the Division could also try to classify the reef as a Wallop-Breaux project, which would require banning trap gear on the reef to avoid gear conflicts (e.g., between anglers and commercial black sea bass potters in the fall). This would make the reef a real recreational opportunity. Mark Amorello asked if this would mean a 75% reimbursement of expenses. Mike confirmed it would.

Bill Smith asked for the project's anticipated cost. Mike Armstrong said it hadn't gone out to bid yet but a preliminary estimate was \$250,000 to deploy the materials from the shore and carefully position them in the reef zone by barge. The Town might be able to offset this cost some. The amount does not include the Town's cost of moving the material from its current location to the shore-side. Mike explained that the resulting footprint of the reef would be 10 acres, with lots of empty spaces to create spatial heterogeneity. Mark asked about the water depth; Mike indicated about 35 feet.

Jack reminded the Panel of the other infrastructure projects for which the groundwork was being laid and would have total costs of \$750,000 or more (e.g., Deer Island, Salem Willows). He suggested it was time to start saving money in the Fund for those now. His position was that building a reef was not "public access", and that sportsmen expected direct access to water. He worried about opening Pandora's Box, but committed OFB's assistance regardless of his opinion.

Patrick spoke to his concern that the Division may be acting too hastily, given that legal discussions with the Town about reimbursement had not yet happened. He knew of numerous examples where access won out despite initial opposition from residents. Ross said there was no possible way that the pier could be build in FY16, even with Town support, because the causeway needed refurbishing first, a multi-year project that DMF and OFB were only recently made aware of. Chuck agreed. Mike Armstrong reminded the Panel that additional funds would be available on July 1, 2016 in FY17 should the situation in Fairhaven somehow change drastically. In response to Jack's comments, he noted the difficulty of getting a higher appropriation from the Fund and that there were ways to finance higher cost projects through Wallop-Breaux without having the lump sum immediately available.

Mike Moss expressed deep concern that changing the use of the 1/3 dedicated to public access could jeopardize future access funds. He and Patrick asked if there was a way to finance the project with the other 2/3<sup>rd</sup> of the Fund appropriation. Mike Armstrong stated that there isn't another \$250,000 in the Fund's appropriation available for the project, and that only the Public Access Project has discretionary funding at this point.

Mike Moss asked for more details on the material for the reef. Mark Rousseau replied that the material was debris set-aside from the demolition of the Harwich High School. There is currently 100 cubic yards at the Harwich Transfer Station that has been designated as clean. The material

is large blocks of poured concrete that when placed would create lots of highly-structured habitat. Mike Armstrong said it's considered the premier material for building reefs.

Patrick asked for more details about the fishing regulations that would be set for the reef, for instance, whether commercial hook and line would be allowed. Mike Armstrong replied that Wallop-Breaux is specific to not allowing fixed gear, but that the Division could go out to public hearing with both options. He noted the difficulty in distinguishing commercial and recreational rod and reel fishing. Patrick commented that there was no guarantee on prohibiting commercial fishing on the reef if it's subject to the public hearing process, noting the strong and active commercial pot fishery in the area. Mike Moss seconded this concern.

Mike Moss asked that if public access funds were used to build the reef, an equal part of the Wallop-Breaux reimbursement be returned to the Fund and flagged for future public access spending. Mike Armstrong and Kevin Creighton thought the flagging possible, whether the reimbursement go into the Fund or not.

Bill stated his hesitation to define reef building as public access, as it doesn't provide direct access to water. Mike Armstrong noted that "public access" is not defined in the statute, so DMF and the Panel have the opportunity to say what is "public access," so long as it's defensible.

Chuck pointed out that a good number of MA Recreational Saltwater Fishing Permit holders are small boat owners, so the reef would be a direct benefit to this component of the recreational sector that pays into the Fund. He thought that any conflict between commercial and recreational hook and liners would be minimal and moreover would be outweighed by the new recreational access created. Overall, he thought the reef project a benefit to the stakeholders.

Patrick voiced a philosophical concern about the Panel being asked to reconsider a decision made at the last meeting about whether a reef constitutes public access, and asked if others felt that way. Mike Moss said yes. Chuck said no, and went on to say that the reef would create a destination where access to fish is improved. Mark agreed with Chuck and said he supported the project fully, for reasons including that many permit holders are boat owners, building the reef is analogous to building a boat ramp, and research centered on reef-aggregating species has the potential to benefit recreational (and commercial) fishermen. He didn't oppose DMF bringing the reef forward again this time because the situation had changed.

Chuck asked for final comments before polling the Panel for consensus on the reef. Mike Moss said he would be more supportive if an equal part of the Wallop-Breaux reimbursement would be dedicated to public access in order to show good faith in maintaining the purpose of access funds. Chuck suggested another alternative to shift part of the other 2/3<sup>rd</sup> of Fund monies into public access over several years.

Bill said he was leaning towards supporting the reef project. Although he had some concern about setting precedent for public access expenditures, he noted the strong history of projects supporting shore-based fishermen.

In response to Chuck's earlier comment about boat-owning permit holders, Patrick Paquette argued that the state's recreational fishing public is dominated by shore-based anglers. However, he agreed with Bill that the Panel had done its part to support traditional access with the piers already build and the additional piers in the works that could each be a million dollars.

Mike Moss said he could, with reluctance, go along with the proposal given the overall sentiment from the other Panel members, although he still wished to see a return equal to the investment into public access.

Chuck summarized the Panel's position: consensus was reached to support using Public Access Project funding to build the fishing reef off Harwich, despite some concern, and with the understanding that DMF will propose a regulation to ban commercial fixed gear on the reef. Mike Armstrong clarified that there would likely be three options for public comment: banning all commercial activity; banning all fixed gear; and status quo (open access).

As Chairman of the Marine Fisheries Advisory Commission, Mark Amorello committed support for putting the proposal out to public hearing and eventual implementation, in order to obtain the Wallop-Breaux reimbursement. Mike Armstrong thought it should go to hearing at the next opportunity in order to show the USFWS good faith effort. Patrick indicated his support for the public's involvement through the hearing process, and the three options expressed by Mike in particular.

Dan McKiernan pointed out two things: first, because of the seasonal nature of the commercial pot fisheries, potential commercial activity would be limited regardless; and second, that it would not be an unprecedented action in MA to set aside an area for one kind of fishing, noting the state's fish weir buffer zone rules. Upon questioning, he clarified that there are no weirs on the future reef site.

### **FY16 Small Grants Program Update**

Mike Armstrong reminded the Panel that \$50,000 of the FY16 Public Access Project's funds was apportioned to continuing the Small Grants Program, at up to \$15,000 per project. If the reef project is cheaper than budgeted, more money could be moved to Small Grants. The Division had made a concerted effort to increase knowledge of the Program, so as to garner more proposals. Eight proposals were received this year.

Ross summarized the proposals: several municipalities including Dennis proposed to replace ramp floats; Plymouth proposed to add a fillet station and weather station/camera; Marshfield proposed to add signage and resurface a boat ramp in Green Harbor; Fall River proposed to expand a boat ramp due to congestion; Manchester-by-the-Sea proposed to improve a site with designated lanes for launching car-top and trailered boats; and Rockport proposed to re-clear the Atlantic Path used by anglers. He expected that three or four of the proposed projects would be selected for funding.

Mike Armstrong added that a meeting to discuss the proposals and select grant recipients would be scheduled soon. Patrick asked for more details on that process. Ross replied that it's an

internal process, with OFB input where applicable. Patrick asked that all funded projects provide open access to all people in a reasonable way.

### **Free Fishing Days**

Nichola recapped the history of the free fishing days. For the first four years, DMF had mirrored the freshwater days of the first Saturday and Sunday in June, but last year, at the prompting of the Panel, DMF had switched to the Saturday and Sunday of the 4<sup>th</sup> of July holiday. This seemed to work well, and DMF proposed to stick with the same weekend for 2016, which would be Saturday, July 2 and Sunday, July 3. The Panel agreed with the Division's plan.

### **Other Business/Adjourn**

Patrick informed DMF and the Panel that he'd come across some brilliant fishing publications while recently on the Pacific North Coast. These publications provided readers with information on local fishing sites within so-many miles of popular destination cities (e.g., "50 Places to Go Fishing Within 60 Miles of Portland"), and included gear suggestions, species availability, etc. They were available in bait shops and tourist information stands, and seemed to follow a template. He'd found them very helpful as an angler on vacation and suggested that DMF develop similar publications. Patrick said he'd supply DMF with the examples he'd kept.

Mike Armstrong thanked Patrick for the suggestion and thought Elaine Brewer could make some similar publications for Massachusetts. Bill requested such informational materials be made available both in print and electronically. Mike also indicated that DMF could work better with the MA Office of Travel and Tourism to get such information into the hands of visitors. Patrick commented that DMF could also stand to communicate better with the non-hardcore fishing public. Mike agreed that this segment of the fishing public is harder to reach. Patrick suggested that DMF identify a method for improving our contact with casual anglers, and suggested that bait and tackle shops could be a good resource as they cater to a wide clientele.

As there was no other business, the meeting was adjourned at roughly 11:30 AM.

### Meeting Documents

- ❖ November 13, 2015 Draft Meeting Agenda
- ❖ June 24, 2015 Draft Meeting Minutes