

**Suffolk County Aquaculture Lease Program Advisory Committee
Public Meeting**

**MEETING SUMMARY
March 5, 2009
Meeting Number 19**

Location: Cornell Cooperative Extension, Kermit W. Graf Building,
423 Griffing Avenue, Riverhead, New York – First Floor Conference Room

Start/End: 4:00 p.m. / 6:30 p.m.

Attending: *Members/Alternates*
Thomas Isles, DeWitt Davies, Jay Schneiderman, Martin Trent, Camilo Salazar,
Debra Barnes, Gregg Rivara, James McMahon, John Aldred, William Wise, Karen
Rivara, Wayne Grothe, David Lessard

County Officials and Staff
Patrick Heaney, Jennifer Kohn, Anthony Abruzzo, Laretta Fischer, Michael Mulé,
Susan Filipowich, Barbara DelGiudice

Others
Gregory Greene, Keith Brewer, Michael Ostrow, Alexandra J. Donargo, Kevin
McAllister, Ann C. McVey, John Gallagher, Martin Byrnes, Dean Yaxa, Nathan
Andruski, Stephen Gauger, Wade Carden, Matthew J. Ketcham, David Relyea,
Gary Crowther, Philip Curcio, Angelo Piccozzi, Michael Craig, Floyd Carrington,
Peter Wenczel, Sean Bennett

Materials

Distributed: Meeting Agenda; December 11, 2008 ALPAC Meeting Summary; Lease
Application Process/Requirements/Procedures - Draft 2/20/09; Random Selection
Process - Draft 3/5/09; Revisions Page - *Administrative Guidance* Sixth Draft
March 5, 2009; *Administrative Guidance* Sixth Draft March 5, 2009 document;
Tentative Program Completion and Implementation Schedule (3/5/09).

Note: copies of above materials are available and can be obtained by request from
Ms. Barbara DelGiudice (Barbara.Delgiudice@suffolkcountyny.gov/631-853-
5111).

Welcome and Introductions

Chairman Thomas Isles began the meeting by giving a quick overview of the agenda, to include project updates, comments received by ALPAC members on the revised *Administrative Guidance* (Fifth Draft - March 5, 2009), the status of the Lease Program Management Plan, and the revised Lease Program schedule. The need to complete the Program Plan as soon as possible was stressed.

Review of December 11, 2008 ALPAC Meeting Summary

T. Isles asked the committee for comments regarding the December 11, 2008 ALPAC Meeting Summary.

Debra Barnes had an issue with the statement on page 8, fourth paragraph, last sentence. D. Barnes said that she did not say that all leases would be placed on navigation charts. Hence, this sentence is modified to read as follows:

D. Barnes replied that leases with off-bottom culture are placed on navigation charts to alert boaters as to where structures are placed in the water.

T. Isles informed D. Barnes that the change will be noted and the minutes accepted.

Correspondence & Communications

DeWitt Davies gave a brief summary of the correspondence and communications the County has received regarding the Lease Program since the last ALPAC meeting on December 11, 2008. John Aldred inquired how the Shelter Island Tidal Energy Project relates to the Lease Program and the Shellfish Cultivation Zone. D. Davies stated that the Federal Energy Regulatory Commission was notified by NYSDEC via letter from Kevin Kispert (1/27/09) that the project sponsor should contact Suffolk County to determine if there are any concerns that the Lease Program may have, given that the location of proposed generating units may be in or near areas subject to shellfish cultivation leasing.

Susan Filipowich reviewed with the group a map of the area where the two proposed project areas would be located, and gave a brief description of the proposal for each of the two locations. She also stated, the proposed locations are mostly located within the 1,000 ft. mean high tide buffer, and that there is a minimal overlap of the proposed project boundaries into the Shellfish Cultivation Zone.

William Wise had a question as to how the Shellfish Cultivation Zone will affect or be coordinated with other future uses of the estuary, and whether the presence of the Shellfish Cultivation Zone will affect the siting of other uses. W. Wise also questioned what the role of the Aquaculture Lease Board would be. T. Isles stated the County was given these underwater lands for the purpose of shellfish cultivation and was not sure what legal rights, if any, the County had for other uses.

Peter Wenczel contacted the staff and was concerned that the Shellfish Cultivation Zone included certain underwater lands in the Mattituck to New Suffolk area that were subject to commercial bay scallop harvest activity during the 2008-2009 season. He was invited to express his concerns at the meeting, where he stated that about eight boats were still working the area into early March, and that the presence of bay scallops could mean that the bay scallop fishery is coming back. A list of grid cells and map were provided, with the request to remove this area from potential leasing. When pointed out on the current zone map, some portions of the area were already removed because of navigational reasons.

T. Isles responded by saying that the aquaculture program was set up to account for changes in the bay system and production by having periodic review and updates to the shellfish cultivation zone boundary, and through the use of an expanded public review process of proposed lease sites.

The staff circulated a copy of the *East Hampton Town Shellfish Hatchery 2008 Annual Report of Operations*, as provided by J. Aldred.

Lease Program Inquiries, Presentations, and Meetings

S. Filipowich stated the S.C. Department of Planning has set up a database where all aquaculture program inquiries are entered. She informed the group that there have been eleven inquiries received since January, a handful of which were passed along from Legislator Schneiderman's office. She stated that all individuals requesting information were sent a letter from the S.C. Department of Planning informing them that the program is still in development, and they will be notified once the program is adopted and implementation begins.

The staff indicated that presentations on the status of the County Lease Program were given at the 1/7/09 meeting of the Suffolk County Planning Commission, and at the 29th Milford Aquaculture Seminar held on 2/24/09.

Meetings were also held with NYSDEC Bureau of Marine Resources staff on 12/16/08 and 1/22/09 to discuss coordination between the DEC and County during the lease application process; and to review the draft Lease Sites map, obtain historical cultivation permit data, and discuss state requirements for buoys, respectively.

Staff attended the L.I. Shellfish Growers meeting held on 1/22/09 and presented and explained flow charts for the application process for TMAUAs, private grants and new leases subject to annual acreage cap limits.

Draft Shellfish Cultivation Zone – Aquaculture Lease Sites Map

Michael Mulé summarized recent changes to the draft Aquaculture Lease Sites map that included removal of grids for navigational issues in Southold, and the identification and

designation of active and follow oyster grants from NYSDEC permit data during the period from January 1999 to December 2008. Keith Brewer, Cashin Associates (CA), displayed and reviewed the changes that were made to the draft Aquaculture Lease Sites map. This current version (February 27, 2009) of the map is representative of the lease site map that will become part of the Program Management Plan. The number of grids shown on the map was increased, but the boundary of the zone has remained constant since completion of the SEQR process.

Administrative Guidance (Sixth Draft – 03/05/09)

D. Davies stated that the *Administrative Guidance* document is still a work in progress and more changes have and will be made to the document. He also stated that the *Administrative Guidance* document is currently under additional review by the Suffolk County Department of Law, and that the new form of lease found in the *Administrative Guidance* (Sixth Draft - March 5, 2009) will be subject to additional changes from the Department of Law.

D. Davies briefly reviewed the major changes made to the guidance document. A handout was enclosed in the March 5, 2009 ALPAC information packet that outlined the changes made, such as role of the Aquaculture Lease Board (ALB).

Susan Filipowich presented an overview of the lease application process to the group, based on draft flow charts of the process. This information was also in a handout distributed with the ALPAC information packet.

D. Barnes and J. Aldred had some concerns about when the benthic surveys should be conducted. They pointed out that the flow charts indicate that an applicant could perform a benthic survey and incur that cost before the applicant is selected in the random selection drawing for a particular year. This would appear to pose a unfair burden on the applicant. D. Davies said that the County will review the procedure to see if the benthic survey can take place after the Lease Board renders a decision.

W. Wise had a question about the role of the ALB. D. Davies stated that the ALB could function in a manner analogous to the Suffolk County Planning Commission, which receives staff reports on requests for zoning changes and subdivision approval. The ALB would make a decision from a regional perspective after considering concerns raised on all of the potential lease sites selected by applicants in a given application cycle. The decision would either approve or reject sites for subsequent administrative work on lease preparation.

Another concern expressed during the flow chart overview was whether the applicants that did not make the random selection cut one year would have to resubmit when the next random selection is conducted for the following year, or would they be put onto a carry-over waiting list. It was decided that there would not be a waiting list of unsuccessful applicants for the next year, because that would present a disadvantage to new applicants for that year.

S. Filipowich also reviewed how the County was going to select potential applicants. The County will use a double blind random drawing process similar to the method used by the NYSDEC in issuing commercial licenses and permits subject to limited entry. This process was also included as a handout in the ALPAC meeting packet.

A question was asked about the status of the TMAUA applications that have been submitted to the NYSDEC after the cut off date for inclusion into the Lease Program. D. Barnes stated there are two TMAUAs applications pending. There was a discussion as to how the two pending applications should be addressed. Philip Curcio, one of the applicants (of the two pending), requested information about how his application would be handled. D. Davies requested input from the Committee, and stated that a decision would be forthcoming from the County.

Other topics discussed included the procedure for filing objections to proposed lease sites during the public notice period, and the need to change the term "habitat restoration" to "resource restoration" when referring to type of lease. D. Davies said that the County will make revisions to address these concerns and will distribute the changes to the Committee before the next ALPAC meeting.

Revised Program Schedule

D. Davies gave a brief overview of the Tentative Program Completion and Implementation Schedule (3/5/09). The final draft of the guidance document will be completed in March after addressing the comments submitted by ALPAC members. By April 2009, the draft Lease Program Management Plan will be finalized. Policy review, the final Lease Program Management Plan, and adoption of Required Local Law will be finalized by July. It is anticipated that the County can initiate program implementation by the end of the summer 2009, if all goes well.

K. Rivara requested that reconsideration be given to the limit of two 10-acre leases on follow grants. J. Aldred commented that perhaps the limit could be reviewed at the 5- and 10-year review intervals for the lease program.

Public Portion/Comments

Floyd Carrington stated that the maps CA has developed to date designating potential lease sites were not prepared by a licensed surveyor, and therefore, they do not conform to NYS laws. He stated that he has contacted the local surveyor's organization (Nassau-Suffolk Civil Engineers, Inc.) about a litigation action against the County. T. Isles stated that the Shellfish Cultivation Zone map is a planning document and that all approved lease sites must be surveyed by a NYS licensed surveyor prior to issuance of a lease, and that this procedure is clearly a part of the County's lease program. The County surveyor - Anthony Abruzzo - stated that survey maps for actual lease sites will be prepared by a NYS licensed surveyor under his supervision.

Kevin McAllister, Peconic Baykeeper, stated that the Department and CA have done a good job in preparing the lease program, and made particular reference to the public notice and review process for vetting potential lease sites.

The ALPAC members were requested to send any comments on the draft *Administrative Guidance* document to the staff by March 19, 2009.

The meeting was adjourned at 6:30 p.m.