

AGENDA

Wednesday

January 4, 2017

TOWN OF EASTHAM
AGENDA
BOARD OF SELECTMEN
Wednesday, January 4, 2017
3:00 p.m.

Location: Timothy Smith Room

I. DISCUSSION (no votes will be taken)

- A. Proposed Change - Shellfish Regulations – Shana Brogan, Conservation Agent
- B. FY18 Operating and Capital Budget – Review schedule for appointments with staff
- C. Budget Discussions:
 - 1. Fire Department – Chief Kent Farrenkopf
 - 2. Police Department – Chief Ed Kulhawik
 - 3. Health Department – Jane Crowley, Health Agent

II. ADMINISTRATIVE MATTERS

- A. Review & Approve Minutes:
 - November 9, 2016 – Work Meeting
 - November 9, 2016 – Executive Meeting
 - November 21, 2016 – Regular Meeting
 - December 5, 2016 – Regular Meeting
 - December 5, 2016 – Executive Meeting
 - December 7, 2016 – Work Meeting
 - December 14, 2016 – Work Meeting
 - December 19, 2016 – Regular Meeting
 - December 23, 2016 – Regular Meeting
 - December 23, 2016 – Executive Meeting
 - December 28, 2016 – Regular Meeting

Upcoming Meetings

<i>Tuesday, January 17, 2017</i>	<i>5:00 p.m.</i>	<i>Regular Session</i>
<i>Wednesday, January 18, 2017</i>	<i>3:00 p.m.</i>	<i>Work Session</i>
<i>Monday, February 6, 2017</i>	<i>5:00 p.m.</i>	<i>Regular Session</i>
<i>Wednesday, February 8, 2017</i>	<i>3:00 p.m.</i>	<i>Work Session</i>

The listing of matters includes those reasonable anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

This meeting will be recorded and written minutes prepared.

Eastham Natural Resources

555 Old Orchard Road
Eastham, MA 02642



508-240-5972

TO: Board of Selectmen

FROM: Shana Brogan, Conservation Agent
Michael O'Connor, Shellfish Constable

DATE: September 26, 2016

RE: Proposed Shellfish Aquaculture Regulation Revisions

Requests for Shellfish aquaculture grant sites have increased over the past year as the Boat Meadow sites quickly filled resulting in the implementation of a waiting list of currently twelve individuals. The following shellfish grant regulation revisions are proposed as a result of concerns raised by grant holders, increasing protection for grants from shellfish disease and preventing navigational and environmental hazards. These regulation revisions were provided to all grant holders for review and comment.

The most contentious regulation revision is Section 3.7 that would no longer permit residents of Orleans to obtain a grant space at the Boat Meadow grant area. We received feedback from grant holders both in support and against this regulation. Those against are concerned that it could impact their ability to obtain a grant space in Orleans and that this could lead to further separation of the shared commercial shellfishing benefits with Orleans. Those in support believe that the Town should be securing space that offers the most opportunity to Eastham residents and that when towns agreed to share the shellfishing resources, that shellfish aquaculture is not the same as shellfishing. If approved, Orleans residents with commercial shellfish permits could not apply to be on the waiting list for a grant in Boat Meadow however those currently from Orleans on the waiting list would remain. Orleans residents could be on the waiting list for a shellfish grant in Nauset Marsh and they could obtain permission from an upland property owner and go through permitting on their own for a shellfish grant elsewhere in Cape Cod Bay in Eastham.

Upon favorable review and approval by the Board of Selectmen, the proposed regulation revisions would then be sent to the Division of Marine Fisheries for review and would afterwards be in effect, posted and sent to all grant holders.

Town of Eastham Policy Guidelines Aquaculture License Regulations

1.0 AUTHORITY

The Board of Selectmen, through the authority derived under MGL Chapter 130, intends to continue the long standing policy and tradition of protection and enhancement of the shellfish resources of the town.

2.0 PURPOSE

Among the various methods utilized to this end, private aquaculture has been undertaken in the intertidal and subtidal zones since the early 1930's. It is recognized that the shell fishery is enjoyed by all citizens as part of the Commonwealth; however, the specific cultivation of sites which are not productive by reason of nature, is an objective that the town continues to support and encourage. The following regulations are an effort to facilitate such aquaculture projects while maintaining the protection of reasonable rights of the general public to enjoy the shell fishery. The granting of said license to pursue aquacultural activities is limited to the exclusive use of the land and waters above the lease site for purposes of growing shellfish; they are not to be construed as implying or conveying property ownership rights or the interference with private property rights in the adjacent upland areas.

3.0 APPLICABILITY/ELIGIBILITY

- 3.1** No person shall hold and exercise an aquaculture license in the Town of Eastham without first obtaining a commercial shellfish permit from the Town in compliance with the requirements for said permit. Said aquaculture license shall be deemed invalid and forfeited if the holder fails to maintain said commercial permit. Commercial permits can be purchased or renewed between January 1st and April 30th annually.
- 3.2** The minimum age for an Aquaculture license holder shall be eighteen (18) years upon the date of application, notwithstanding the issuance of a commercial permit to persons less than eighteen (18) years of age.
- 3.3** Expansion of an aquaculture lease site may be permitted by the Board of Selectmen after the initial two (2) year period of operation and upon application by the lease holder and favorable review by the Natural Resources Department

with respect to the progress accomplished on the site in compliance with the **Licensee's** management plan.

- 3.4 The maximum acreage permitted to be held by one licensee shall be two (2) acres. If more than one (1) licensee is domiciled at a single household, the maximum acreage per domiciles is two (2) acres.
- 3.5 Aquaculture licenses are issued to an individual and are for the exclusive use of the licensee. The holder of the license may employ others to perform certain necessary activities on the site. Subleasing or rental of the site is prohibited.
- 3.6 The Board may issue licenses for sites for educational or experimental purposes. Said licenses shall be issued to the institution or agency which is conducting the project rather than an individual.
- 3.7 **The Board may issue licenses for aquaculture sites at the Cape Cod Bay (Boat Meadow) Aquaculture Development Area to domiciled residents of the Town of Eastham. Town Cove/Nauset Marsh aquaculture grant sites may be issued to those domiciled residents of Eastham or Orleans. Current Cape Cod Bay (Boat Meadow) Aquaculture Development Area licensees domiciled in Orleans and any subsequent license transfers as described in section 7.0 by the licensee at the time of adoption as well as those on the Cape Cod Bay (Boat Meadow) grant waiting list shall maintain their standing on the list.**

4.0 GENERAL REGULATIONS

- 4.1 The following regulations concerning private aquaculture licenses are adopted as part of the shellfish regulations of the Town pursuant to MGL Chapter 130 sections 52 and 57 as amended. Full compliance with all other state and local regulations is required as a condition to the aquaculture license.
- 4.2 Licenses issued under these sections do not convey any property rights. These licenses do not authorize injury to private property or invasion of private rights. It is the responsibility of the licensee to obtain written permission of an upland property owner before exercising the rights conferred by these licenses to plant and harvest shellfish.
- 4.3 Application for an aquaculture license shall be made on such forms as may be provided by the Natural Resources Department for said purpose and shall include a management plan for the use of the area. **Any information that is found to be falsified may be cause for denial or forfeiture of a license.**
- 4.4 Upon receipt of the application, the Board of Selectmen shall hold a duly advertised public hearing.

- 4.5 Within sixty (60) days of the close of the public hearing for such license, the Board shall approve or deny the license. All such approvals are further subject to approval by the Director of the Division of Marine Fisheries. For sites previously approved and certified by the Director of Marine Fisheries, the Board may directly issue the license. Sites not previously certified and approved will be reviewed by the Division and upon certification by the Director, the Board may issue the license.

5.0 LOCATION OF AQUACULTURE SITES

- 5.1 The town shall designate Aquaculture Development Areas (ADA) in the intertidal area of Cape Cod Bay and Nauset Marsh for the purpose of facilitating the process of certification and approval. Said designation of an Aquaculture Development Area will provide for: surveying, Conservation Commission approval, determination of productivity from Division of Marine Fisheries, Division of Waterway permits, Indian Affairs review and Corps of Engineers permits for the installation of devices for the cultivation of shellfish. Applicants for sites within an Aquaculture Development Area will accept the terms and conditions for each site as determined by the permitting process and may commence aquaculture activity upon issuance of the license by the Board of Selectmen.
- 5.2 The Cape Cod Bay Aquaculture Development Area shall be defined as westerly from the area known as Boat Meadow Creek, beginning at a point 100 feet north of the channel thence northerly to a point 100 feet south of the Bee's River Channel, thence westerly to a point in the waters of Cape Cod Bay, thence southeasterly to the beginning point (*Map #1 attached*). **Cape Cod Bay is defined as Massachusetts Division of Marine Fisheries Growing Area CCB 9.**
- 5.3 The Nauset Marsh/Town Cove Aquaculture Development Area is limited to sites identified and in existence as of January 1, 1997. Town Cove is defined as Massachusetts Division of Marine Fisheries Growing Area Code OC4.
- 5.4 Within the Cape Cod Bay Aquaculture Development Area described above, sites of one half ($\frac{1}{2}$) acre area each shall be designated. Additionally, a half ($\frac{1}{2}$) acre expansion site shall be designated adjacent to each initial site. Said areas and dimensions shall be subject to review by the Board of Selectmen.
- 5.5 Existing active aquaculture sites located in Nauset Marsh and Town Cove shall be continued subject to the provision of these regulations. (*Map #2a; #2b; #2c attached*).
- 5.6 Previously permitted sites in the Nauset Marsh shall be included in the Nauset Aquaculture Development Area designation subject to review and certification by

all appropriate agencies. (MAP - Include)

- 5.7 Additional sites for aquaculture licenses may be considered for licensing by the Board of Selectmen on an individual basis. In such cases, the applicant must obtain all relevant **state** permits prior to the Board of Selectmen hearing to consider the matter.

6.0 OPERATION

- 6.1 **Compliance with Management Plan:** All activities of an aquaculture lease site shall be in compliance with the **licensee's** management plan and application filed by the applicant or as amended in consultation with the Natural Resources Department. Management plans shall be completed on forms provided by the Department of Natural Resources. (*Copy - Form A attached*). **The application/management plan shall be submitted by the person requesting a grant site. Any information that is found to be falsified may be cause for denial or forfeiture of a license.**
- 6.2 **Annual Reporting:** Annual reports of the activity and sale of shellfish from the site shall be filed on forms provided by the Natural Resources Department on or before 31 December of each year. (*Copy - Form B attached*).
- 6.3 **Seed Permits:** Seed permits are required for the purchase or transport of seed shellfish stock to the lease site. Such permits may be obtained through the Division of Marine Fisheries.
- 6.4 **Corner Marking:** **Grant corner boundaries shall be marked by the licensee with the installation and maintenance of yellow buoys bearing the grant site number in the color black. Said buoys shall be no less than 20" (twenty inches) in circumference.**
- 6.5 **Grant Spacing:** All lease site cultivation shall be at least five feet (5') within the site boundary. This will facilitate the passage and movement of materials around adjacent lease sites.
- 6.6 **Sediment Separation:** Structures placed upon an individual lease site may not extend more than eighteen (18) inches above the surrounding sediment. All structures placed on sites shall be clearly marked with the name of the owner and the lease site number for identification in the event of removal by storm damage.
- 6.7 **No Wild Seed/Stock:** No wild seed may be transplanted onto a lease site by any means. However, recruitment of juvenile shellfish suspended in the overlying water column by means of cultch, nets or trays is permitted, subject to the other provisions of these regulations.

- 6.8 Access:** Access to aquaculture sites shall be by vessel, on foot or by special permission of the Board of Selectmen. Such permission may be requested annually, and if approved for designated vehicle type and limited time of applicability.
- 6.9 Hydraulic Dredging:** Hydraulic dredging of grant areas is prohibited.
- 6.10 Seed Purchase Receipts:** The licensee shall submit seed purchase receipts from Massachusetts Division of Marine Fisheries approved hatcheries to the Natural Resources Department with their annual lease report. New licensees shall submit their seed purchase receipts and pathology reporting if applicable, prior to initial placement of seed on the grant site.
- 6.11 Seed Pathology and Documentation:** Except for seed purchased from Division of Marine Fisheries approved hatcheries, all seed purchased, or intended to be purchased or placed onto the licensee's grant site, from other Designated Shellfish Growing Areas as defined by the Division of Marine Fisheries, or other outside growing areas, shall be submitted to a qualified facility for pathology testing and shall be found by the pathology reporting to be acceptable for placement on the grant site prior to such placement. Seed origin and documentation shall also be submitted to the Shellfish Constable for review prior to placement or planting.
- 6.12 Hours of Operation:** In accordance with MGL Chapter 130 Section 68; Operation is prohibited during the nighttime. Grant operations shall be conducted between one half hour before sunrise to one half hour after sunset.
- 6.13 Debris Management:** All grant sites shall be maintained and cleaned of debris. Debris is defined as aquaculture gear not in active use. Debris shall include but is not limited to: rebar, piping, racks, cages, ropes and buoys.
- 6.14 Labeling of Gear:** All aquaculture bags, cages and buoys shall be labeled by the licensee with the owner's name town and/or grant number so that any loose gear may be returned to the owner.
- 6.15 Active Use:** Due to high demand for aquaculture grant sites, licenses may be revoked by the Board of Selectmen for lack of productive use.
- 6.16 Vibrio Compliance:** Licensees shall comply with all vibrio regulations as updated annually.

7.0 TERMS OF LEASES

- 7.1 Initial lease agreements shall be for a period of two (2) years for a maximum of one half (½) acre. Following the second year and upon favorable evaluation by the Natural Resources Department, the license will be recommended for renewal by the Board of Selectmen for a period of ten years. Licensees may elect to increase to one (1) acre.
- 7.2 Shellfish aquaculture licenses may not be transferred in whole or in part to any party other than an immediate family member without the approval of the Board of Selectmen. No licenses may be sold. After a public hearing, the Board of Selectmen may approve the *transfer* of a license from one family member to another. Said licenses shall be subject to all conditions and restrictions contained herein. In the event of the death of a license holder, the Selectmen may permit the transfer of said license to an immediate family member in accordance with the above conditions.
- 7.3 A licensee may elect to forfeit a license. He/she shall notify the Natural Resources Department of their intention in writing stating the reason and effective date. The licensee may obtain a seed sales permit from the Division of Marine Fisheries for the purpose of removing seed stock from the licensed site. If a licensee forfeits a license or has a license revoked for any reason, said licensee shall have sixty (60) days to remove all equipment from the site. If after sixty (60) days all equipment is not removed, the Town may remove it at the owner's expense.
- 7.4 An aquaculture license, in accordance with MGL Chapter 130 Section 57, may be suspended or revoked by the Board of Selectmen for just cause including, but not limited to, lack of substantial use of the licensed area, failure to comply with applicable regulations, statutes, procedures or directives of the town, or compliance with the approved management plan for the site.
- 7.5 The annual fees for the aquaculture licenses based in part on area under cultivation, shall be established by the Board of Selectmen, and shall be based on applicable sections of MGL Ch. 130.
- 7.6 Nothing in these regulations shall relieve the licensee from complying with all applicable bylaws, regulations and statutes either local, state or federal. The Town shall not be held liable for damages to the lease site or cultivated shellfish as a result of use or management of the navigable waterways of the Town.
- 7.7 Any person receiving an Aquaculture Grant in the Town of Eastham shall be required to obtain a commercial shellfish license prior to starting activities on the grant area. Said license must remain current throughout the period of holding such aquaculture grant. Such licenses shall not be renewed if the grant holder fails to provide the annual activity report.

8.0 ASSIGNMENT OF VACANT GRANTS

8.1 As grant sites become available, they shall be assigned by the following process:

8.1.1 Grants may be transferred in whole or part to an immediate family member after approval of the Board of Selectmen at a public hearing - Section 7.2 current regulations.

8.1.2 If the grant is not transferred as above, an available grant will be offered to the individuals on the waiting list starting with the first individual on the list. A person on the list may pass on the offered site and maintain their status on the list.

9.0 ENFORCING PERSONS

These regulations shall be enforced by the Shellfish Constable and his/her designees and non-compliance with the above regulations may be brought forth to the Board of Selectmen for their review and action(s) taken including but not limited to revocation or forfeiture of shellfish grants.

These regulations adopted by the Board of Selectmen at a public meeting held on: Monday, December 21, 2009, Revised:

IV D

Calendar for November 2016–May 2017 (United States)

Nov 9 - wally out

Nov 21 - Linda Out
Nov 23 - No Meeting

November 2016							December 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5					1	2	3
6	7	8	9	10	11	12	4	5	6	7	8	9	10
13	14	15	16	17	18	19	11	12	13	14	15	16	17
20	21	22	23	24	25	26	18	19	20	21	22	23	24
27	28	29	30				25	26	27	28	29	30	31

Dec 21 - No Meeting

Jan 3 & 4 - Eliz. Out

January 2017							February 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7			1	2	3	4	
8	9	10	11	12	13	14	5	6	7	8	9	10	11
15	16	17	18	19	20	21	12	13	14	15	16	17	18
22	23	24	25	26	27	28	19	20	21	22	23	24	25
29	30	31					26	27	28				

March 2017							April 2017						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4							1
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29
							30						

May 2017						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Holidays:

Nov 11, 2016 Veterans Day
 Nov 24, 2016 Thanksgiving Day
 Dec 25, 2016 Christmas Day
 Dec 26, 2016 'Christmas Day' observed
 Jan 1, 2017 New Year's Day
 Jan 2, 2017 'New Year's Day' observed
 Jan 16, 2017 Martin Luther King Day
 Feb 20, 2017 Presidents' Day
 May 29, 2017 Memorial Day

Calendar generated on www.timeanddate.com/calendar