

**CITY OF NORWALK
NORWALK HARBOR MANAGEMENT COMMISSION
APPLICATION REVIEW COMMITTEE
SPECIAL MEETING
APRIL 11, 2017**

ATTENDANCE: Dr. John Pinto, Chair; Tony Mobilia, Bill Gardella, John Romano.

OTHER: Geoff Steadman, Consultant; Pete Johnson, Shellfish Commission.
Friends of the Harbor: Tony D'Andrea, Joe Schneirlien.

CALL TO ORDER

Mr. Mobilia called the meeting to order at 7:30 p.m. and led the group in the Pledge of Allegiance. Members were in attendance as listed above and there was a quorum present for Application Review.

Dr. Pinto stated the purpose of the meeting was to review the following:

1. **COP Application in response to DEEP Notice of Violation to City of Norwalk (NOV No. LIS-2017-3854-V).** Work area Norwalk Visitor's Dock (David S. Dunavan Boating Center at Veterans Memorial Park).
The application clarifies the currently existing Certificate of Permission (COP) #201504256-SJ issued on 10 September 2015 as requested by the Connecticut Department of Energy and Environmental Protection (CT-DEEP).

Accordingly, the application provides clarification for:

1) Replacement of material excavated for construction of the authorized ramp;
The proposed work involves reuse of material which was excavated as required to demolish the existing boat ramp as well as install the below grade structural member for the boat ramp. The DEEP has noted that the reuse of the material was not specifically authorized in COP201504256-SJ and therefore this COP Application is submitted to clarify the construction methodology;

2) Improvements to the parking area:
The original COP authorized the contractor to raise the parking area and establish a vegetated slope from the existing tidal wetlands to the newly elevated parking area. The current COP application expands upon the construction methodology;

3) Repairs to outfall pipe:
The original COP authorized improvements to a pre-1995 existing drainage system. During construction of existing elements, it was discovered that the outfall pipe leading

waterward from the catch basin was damaged. The current COP proposes to replace this element during the course of the ongoing work.

Dr. Pinto asked Committee members for comments, and there was discussion of inconsistencies in the information, and the need for prompt correction and for an assigned engineer to oversee compliance with the guidelines and scope of work.

There was a review of the original application comments as was approved and submitted in September 2016.

Mr. Johnson read pages 3-4 of the application document and noted the equipment used for excavating and stock piling of material was unauthorized.

There was further discussion and it was noted that there needs to be oversight and remediation while work remains on track to finish the project.

Mr. Steadman provided an overview as follows:

The over-riding concern is that the consequences of the delay of opening the launch ramps outweigh the violation and mitigation measures for remediation. He outlined the recommendations for best practices to be followed for sediment control and mitigation remediation, and adherence to original recommendation comments, and that he will draft a letter to the DEEP for review by the Norwalk Harbor Management Commission. (Copy of the draft letter is attached on page 3)

There was discussion on the recommendation for a project manager to update the Harbor Management Commission with weekly progress on the project.

It was noted that the key issue is how to manage replacement of excavated material from under the launch ramps and how to avoid destabilized erosion and seepage back into the harbor. It was suggested that it be capped with crushed stone or heavier grain material or to use portions of the material as silt beds in the wetland areas.

It was also noted that potential fines levied on the City project be used to fund environmental protection of the Norwalk Harbor and not submitted back to the state.

Dr. Pinto then asked if there were members of the public in attendance that wished to speak.

Public Comments

Tony D'Andrea, representing the Friends of the Norwalk Harbor, read his statement provided the attached letter to the Committee.

Mr. Joe Schneirlie provided his comments and noted that the launch ramps are on an unstable environment and suggested that the material be put under the asphalt.

Public Comments – Letter submitted from Norwalk Harbor Keeper/Friends of the Harbor

Veteran's Memorial Park - Clarification of Construction Methodology - COP

Below find comments from the Norwalk Harbor Keeper – Friends of the Norwalk Harbor on the COP application for Vets Park launching ramps...

Modification of the original application by Recreation and Parks/City of Norwalk for the launching facility at Veterans Park is a challenging task at best.

The applicant and its contractors are undertaking an in-water structure ramp replacement.

The applicant among other things forgot to mention they were removing 1040 cubic yards of compromised sediment from an intertidal mud flat as part of the evolution of their project. As you all know, the intertidal flat contains benthic resources that are the genesis of Norwalk's thriving shellfish industry.

Let me remind you both that all of Norwalk Harbor is an important shellfish resource... (per John Frank and the shellfish management map of 1888). While some are not overly concerned about the native material being reintroduced, these same folks are hesitant to suggest the fine silt will stay put and not disperse during the natural ebb and flow of our harbor. Once this compromised material disperses the "native" contamination will now be distributed throughout the harbor and shellfish management areas. If the Native material (combine with some type of binding gravel) must be reintroduced I respectfully suggest the following:

- a surface to sea floor silt boom must be deployed around the entire area for the duration of the process.
- runoff and erosion BMP control must be employed immediately.
- all reintroduction activities must occur at slack or incoming tides, never on the outgoing tides.
- All hatcheries on the river and Harbor must be notified in advance to stop pumping harbor water otherwise a catastrophic die off of the juvenile organisms may occur,
- hanging cages of shellfish below and above the project to be sampled by an appropriate organization to determine residual contamination.
- We must also mandate a bathymetric measurement of the Fed Channel in the area surrounding the docks.
- We need to understand who is the construction manager and who is in charge of this project.
- Weekly advisory / status reports must be issued to the NHMC. Comments like "making progress" are not acceptable.
- The applicant must immediately communicate with the boating public and waterfront businesses advising them of the delay with opening the ramps while suggesting alternative launching locations.

If as suspected the fine silt begins to seek its lowest point the channel could be compromised. If so I suspect this material would not be suitable for open water disposal. Who I ask, would be responsible for the cost of dredging and a CAD cell?

I understand the challenges and sense of urgency over re-opening the access for launching and retrieving of vessels in Norwalk Harbor. Further I understand our federal mandate to provide access to the federal project. I ask at what cost?

One could inquire as to who was in charge of this project, and why wasn't the destruction of the intertidal flats and natural shellfish beds reported immediately to the NHMC by the Waterfront Advisory committee? One could ask, but we will never get an answer.

The precedent set by your actions tonight will affect Norwalk Harbor and the permitting process now and in the future.

Respectfully Submitted, *Tony D'Andrea*

Following public comments there was further discussion on the options for relocation of the material and trap rock to be used to be used as a stabilization measure and capping process.

There was discussion on the turbidity limits and acceptable levels of toxicity, effluent damage, silt, plumage that may harm shellfish resources. It was noted that the Bureau of Aquaculture does not have definitive published guidelines on these properties of acceptable levels.

It was agreed to have Mr. Steadman draft a letter to the DEEP (Pages 4-7) for final comment and approval by the Norwalk Harbor Management Commission and these recommendations submitted to the DEEP for action in response to the violation.

- ** DR. PINTO MOVED TO FORWARD THE COMMENTS FOR REMEDIATION ON TO THE FULL HARBOR MANAGEMENT COMMISSION FOR COMPLIANCE OF THE COP APPLICATION FOR VETERAN'S PARK LAUNCHING RAMPS AND TO ISSUE A LETTER TO THE DEEP FROM THE COMMISSION WITH COMMENTS AND RECOMMENDED CONDITIONS.**
- ** MR. ROMANO SECONDED THE MOTION.**
- ** MOTION PASSED UNANIMOUSLY.**

Adjournment

- ** MR. MOBILIA MOVED TO ADJOURN THE MEETING.**
- ** DR. PINTO SECONDED THE MOTION.**
- ** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,
M.Knox;
Telesco Secretarial Services

The following letter was unanimously approved by the Norwalk Harbor Management Commission via email balloting and submitted to Mr. Brian Thompson and copied to Mr. Kevin Zawoy, DEEP officials responsible for COP application, Notice of violation.



April 12, 2017

Mr. Brian Thompson, Director
Land and Water Resources Division
Bureau of Water Protection and Land Reuse
CT Department of Energy and Environmental Protection
79 Elm Street
Hartford, Connecticut 06106-5127

Subject: Certificate of Permission application by the Norwalk Dept. of Recreation & Parks for work in Norwalk Harbor pursuant to Notice of Violation No. LIS-2017-3854-V

Dear Mr. Thompson:

The Norwalk Harbor Management Commission (NHMC) has reviewed the March 2017 Certificate of Permission (COP) application submitted by the Norwalk Department of Recreation and Parks (the Applicant) to the Connecticut Department of Energy and Environmental Protection's Land and Water Resources Division (LWRD). The Applicant's proposed project involves work that would be conducted in and adjoining Norwalk Harbor at the Norwalk Visitor's Dock and David S. Dunavan Boating Center at Veteran's Memorial Park.

As required by the LWRD, it is the responsibility of the Applicant to provide a copy of the COP application to the NHMC. It is the responsibility of the NHMC, set forth in the Connecticut General Statutes and Norwalk Harbor Management Plan, to review the application for consistency with the Plan and provide recommendations to the LWRD.

In accordance with Sec. 22a-113n of the Connecticut General Statutes, recommendations of the NHMC pursuant to the Plan shall be binding on any official of the state when making regulatory decisions affecting the area within the NHMC's jurisdiction, unless such official shows cause why a different action should be taken.

The pending COP application has been prepared in response to Notice of Violation No. LIS-2017-3854-V issued to the Applicant by the LWRD on March 13, 2017. That Notice identifies work conducted out of compliance with COP 201504256-SJ issued to the Applicant on September 10, 2015.

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To summarize, the Applicant was found to have: 1) failed to install proper sedimentation and erosion control measures on the project site; 2) damaged tidal wetlands; and 3) excavated and stockpiled on the project site approximately 1,040 cubic yards (cy) of organic material from Norwalk Harbor without authorization.

Letter to CT Department of Energy and Environmental Protection – page 2

Among other things, the Applicant now seeks authorization to use the excavated and stockpiled material to backfill the previously excavated areas under the authorized boat ramp and along the outer edges of the boat ramp.

The NHMC's Application Review Committee considered this matter during a Special Meeting on April 11, 2017. Neither the Applicant nor its representatives attended the meeting. After significant discussion, the Committee approved a motion to recommend that the NHMC express no objection to the application being moved forward for action by the LWRD at this time. It is the sense of the Committee that the consequences of delaying completion of the boat ramp project (and the resulting adverse effect on public access to Norwalk Harbor) may outweigh any benefits that may be gained by delaying action on the application in order to allow for consideration of more detailed information concerning the identified violations. In addition, the Application Review Committee recommended that the NHMC transmit specific comments and recommendations to the LWRD and Applicant.

On April 12, 2017, the NHMC voted to accept the recommendations of the Application Review Committee. The NHMC approved a motion to inform the LWRD and Applicant that the NHMC has no objection to the application being moved forward for action by the LWRD at this time. In addition, the NHMC moved to transmit the following comments and recommendations.

Comments and Recommendations:

1. The Norwalk Harbor Management Plan encourages and supports improvements to the boat launching area at the David S. Dunavan Boating Center. (See Public Access Guidelines and Recommendations for the Water Street—Veteran's Memorial Park Management Unit in Chapter Four of the Plan.)
2. The Plan calls for prompt removal or correction by other means of any unauthorized work in Norwalk Harbor by the offending party. (See policy 1.1 concerning Avoiding and Eliminating Unauthorized Encroachments in Norwalk Harbor in Chapter Three of the Plan.)
3. The Plan encourages and supports all feasible measures to maintain and improve surface water quality in Norwalk Harbor. The Plan encourages and supports suitable best management practices (BMPs) to manage, reduce where feasible, or otherwise control storm water runoff into Norwalk Harbor, including but not limited to establishment and maintenance of (a) buffer zones of vegetation to naturally filter polluted runoff draining into the Norwalk River and Harbor; (b) appropriate buffer/setback distances around tidal wetlands; and (c) other BMPs identified in the CT DEEP Stormwater Manual. (See policy 7.5 concerning Maintaining and Improving Surface Water Quality in Chapter Three of the Plan.)

4. It is a policy of the Plan that enhancement of existing public boating facilities providing access to the Harbor from Veteran's Memorial Park should be carefully planned to avoid any significant adverse impacts on intertidal resources along the shoreline of the Park. (See Coastal Resources and Water Quality Guidelines and Recommendations for the Water Street—Veteran's Memorial Park Management Unit in Chapter Four of the Plan.)
5. The NHMC previously reviewed the Applicant's proposal for boat ramp and other Boating Center improvements subsequently approved by COP 201504256-SJ and provided comments and recommendations to the Applicant and DEEP Office of Long Island Sound Programs in a letter of September 2, 2015. (A copy of that letter is included herein.) Among the NHMC's comments and recommendations at that time, the NHMC expressed its concerns regarding storm water management and recommended that the facility, including the launching ramp, be managed by the Applicant in accordance with CT DEEP Clean Marina Standards. The NHMC hereby reiterates its previous comments and recommendations.
6. Regarding Notice of Violation No. LIS-2017-3854-V, the NHMC is concerned about the lack of construction oversight that allowed the identified noncompliance to occur and recommends that proper oversight of the planned remedial work be provided immediately by the Applicant.
7. It is the understanding of the NHMC that the excavated and stockpiled material now proposed for backfilling the previously excavated areas under the authorized boat ramp and along the outer edges of the boat ramp is not "clean" material but has been determined by the LWRD to be no more contaminated than intertidal sediment still in place in the vicinity of the proposed work. Further, it is the understanding of the NHMC that the LWRD and Connecticut Bureau of Aquaculture are of the opinion that any contamination in the sediment used for backfilling purposes should not have a significant adverse impact on shellfish resources.
8. The NHMC is concerned that the fine-grained material proposed for backfilling will over time erode into the Harbor, thereby increasing future turbidity and sedimentation. The NHMC assumes, however, that the LWRD will require the Applicant to place the fine-grained sediment back into the intertidal area in a manner that will not result in continuous erosion of the shoreline. The NHMC recommends that: 1) the Applicant maintain appropriate turbidity control curtains and other sedimentation and erosion controls during the backfilling operation; 2) backfilling should be performed during periods of slack and incoming tide to minimize downstream dispersal of sediment, including any contaminated sediment; and 3) the owners/operators of the aquaculture facilities in proximity of the project site should be notified by the Applicant of when backfilling is to occur.
9. The Applicant's original proposal calls for placement of approximately 260 cy of crushed stone to minimize voids under the proposed boat ramp. This is not included in the current proposal which calls for backfilling of fine-grained sediment under the boat ramp. The Applicant should clarify whether crushed stone still will be placed under the proposed boat ramp.
10. It is a policy of the Plan that civil penalties assessed by DEEP for unauthorized work in Norwalk Harbor should be used to fund beneficial projects for environmental enhancement

and other improvements for the public in the Harbor, to the maximum extent consistent with State laws and policies, including DEEP's Supplemental Environmental Project policies (See policy 8.7 concerning Obtaining Funds for Harbor Management and Improvements in Chapter Three of the Plan).

The NHMC recommends that any penalties assessed for the unauthorized work identified in Notice of Violation No. LIS-2017-3854V be used to fund a Supplemental Environmental Project in Norwalk Harbor and that consideration be given to recommendations provided by the NHMC, including, but not limited to, recommendations for water quality monitoring equipment and supplies that may be used as part of a program to mitigate the potential water quality impacts of the nearby Walk Bridge reconstruction project.

11. The NHMC recommends that the Applicant monitor on-site conditions and the status of the required remedial work for a reasonable period of time and provide regular status reports to DEEP and the NHMC.

Please be advised that the NHMC reserves its right to re-evaluate the Applicant's proposal at such time as it may be modified or when additional information concerning the proposal may become available.

You may contact me at (203) 820-3840 or anmobilia@yahoo.com if you have any questions or require any additional information.

Sincerely,

Anthony N. Mobilia, Chairman
Norwalk Harbor Management Commission

Enclosures

cc:

Mayor Harry Rilling, City of Norwalk
Pete Johnson, Chairman, Norwalk Shellfish Commission
Brian McCann, Esq., Assistant Corporation Counsel
Michael Mocciaie, Norwalk Director of Recreation and Parks
John T. Pinto, Ph.D., Chairman, NHMC Application Review Committee
Mr. Matthew Rakowski, P.E., RACE Coastal Engineering
Diane Ray, U.S. Army Corps of Engineers
Frank Strauch, Norwalk Planning and Zoning Department
Kevin Zawoy, CT DEEP LWRD