

**CITY OF NORWALK
NORWALK HARBOR MANAGEMENT COMMISSION
APPLICATION REVIEW COMMITTEE MEETING
JULY 28, 2021**

ATTENDANCE: John Romano, Commission Chair; Christopher MacDonnell; Matt Gifford; Jeff Mangels; John Crespo (6:12); Dennis Santella (6:12); John Pinto (7:05)

STAFF: Michelle Andrzejewski

OTHER: Geoffrey Steadman; J Bajek; John Casey; Joseph Schnierlein; Atty. Liz Suchy; Robert Spooner; Shawn Konary; Steven Bartush; John Hiltz; Bob Spooner, Regional Environmental Supervisor for Energy; Sean Connery, Environmental Director for Energy; Peter Pellegrino; Gregg Scully, Harbormaster;

CALL TO ORDER

Commissioner MacDonnell called the meeting to order at 6:03 P.M. There was no quorum present.

1.

314 WILSON AVENUE, NORWALK CONNECTICUT. CAM APPLICATION. THE APPLICANT, CRYSTAL LLC, REQUESTS TO RE-ESTABLISH AND RE-OPEN A FARMER'S MARKET AND BEER GARDEN PREVIOUSLY APPROVED IN 2011. THE FARMER'S MARKET AND BEER GARDEN WAS OPERATIONAL FOR ~3 YEARS UNTIL CLOSURE IN 2014. A PREVIOUSLY APPROVED ON-SITE COMMERCIAL KITCHEN ESTABLISHMENT (COMMERCIAL KITCHEN SHARING, LLC) WILL PROVIDE SPACE AND A VENUE FOR ~50 CHEFS, BAKERS, AND CATERERS TO SHOWCASE THEIR CULINARY CREATIONS.

Atty. Suchy came forward to discuss this item. The building is the large, low building that's next to the SoNo IceHouse and appx 1 property away from the City school bus depot is and across the street from commerce packaging and the North Trent Transit District. There are variety of tenants in the building, one of which is a commercial kitchen.

The proposal, is to reestablish and reactivate a farmers' market that was in operation for about two years from 2011 to 2014, is in the same location that was originally approved in 2011 and modified in 2012. It's about 5000' outdoor space area. Tables and chairs for patrons will be provided. Patrons will be able to sample some of the chef's food from inside the building. During the spring, summer, and fall, they will be able to taste and take home some of the farmers market fruits, vegetables and other baked goods and similar products. There's no new construction or new building and there are existing structures on three sides. Atty. Suchy provided photos of the lot for the Commission.

Atty. Suchy highlighted where the beer garden would be. Initially, it's scheduled for Thursday, Friday, Saturday, and Sunday operation with limited hours. It may expand hours in 2022 pending success. The project has been reviewed and approved by all relevant city agencies.

Chairman Romano said he's been there previously, and it was a very clean operation. He thought the Commission was familiar with the property and its adjoining properties because they've gone through

many iterations of cleanup over the years, new buildings, and drainage. He said that they would likely reuse the old deals that they were approved for.

Atty. Suchy confirmed this. She noted that southeast of the property is Village Creek which has recreational shellfish beds but was closed to recreational fishing.

**** CHAIRMAN ROMANO MOTIONED TO MOVE ITEM 1. 314 WILSON AVE. TO THE FULL COMMISSION.
** MR. MANGELS SECONDED THE MOTION.**

Commissioner MacDonnell asked if the property owners had been contacted.

Atty. Suchy confirmed that all property owners whose backyards above Billings Creek were notified by Certificate of mailing of the submission the application on or about July 2, as well as the property the commercial property owners across the street.

Commissioners Santella and Crespo joined at 6:12 P.M. This brought the meeting to quorum.

**** COMMISSIONER GIFFORD MOTIONED TO APPROVE ITEM 1. 314 WILSON AVE. AS SUBMITTED.
** MR. MANGELS SECONDED THE MOTION.
** THE MOTION PASSED UNANIMOUSLY.**

2.

1 MANRESA ISLAND AVENUE, SOUTH NORWALK, CT. COP. NORWALK POWER LLC (APPLICANT) ON-GOING WETLAND SEDIMENT REMEDIATION. AS A RESULT OF HISTORIC OPERATIONS, THE SITE AROUND THE NORWALK HARBOR GENERATING STATION IS BEING REMEDIATED AS PART OF A STATE CORRECTIVE ACTION PROGRAM UNDER LICENSED ENVIRONMENTAL PROFESSIONAL (LEP) OVERSIGHT IN COORDINATION WITH THE CTDEEP REMEDIATION DIVISION. THE AREA OF CONCERN (AOC) IS A VEGETATED AREA (~55-ACRES) FORMERLY USED FOR COAL ASH AND OIL ASH DISPOSAL. ANALYSES OF THE AREA INDICATE THE PRESENCE OF SEDIMENT IMPACTED BY METALS ASSOCIATED WITH COAL ASH IN FOUR WETLANDS OF AOC. THE FOUR WETLANDS CONSIST OF TWO FRESHWATER (W-3 AND W-4) AND TWO SALTWATER (TIDAL; W-5 AND W-6) WETLANDS. THE TIDAL WETLANDS (W5 AND W-6) ARE THE SUBJECT OF THIS CURRENT PERMIT APPLICATION PER CTDEEP AND USACE REGULATIONS. HOWEVER, PROPOSED WORK ACTIVITIES IN THE TWO FRESHWATER WETLANDS WILL BE THE SAME AS AND WILL OCCUR CONCURRENTLY WITH THOSE DESCRIBED HEREIN FOR THE TWO TIDAL WETLANDS. THE PROPOSED SEDIMENT REMEDIATION WILL OCCUR IN WETLAND W-5 (3.25 ACRES) AND WETLAND W-6 (5.03 ACRES) WHICH CONSIST OF A MIX OF PALUSTRINE AND ESTUARINE INTERTIDAL WETLANDS. BOTH WETLAND AREAS (W-5 AND W-6) ARE CONNECTED TO TIDAL MARSH ESTUARIES BY A CULVERT OR CULVERT WITH WEIR. [NOTE: PALUSTRINE WETLANDS ARE CHARACTERIZED BY THE PRESENCE OF TREES, SHRUBS, AND EMERGENT VEGETATION (PLANTS ROOTED BELOW WATER BUT GROW ABOVE THE SURFACE). THEY RANGE FROM PERMANENTLY SATURATED OR FLOODED LAND (AS IN MARSHES, SWAMPS, AND LAKE SHORES) TO LAND THAT IS WET ONLY SEASONALLY]. THE PROPOSED ACTIVITIES WILL REMEDIATE SHALLOW SEDIMENT COMPOSED OF SELECT METALS IN THE TWO TIDAL WETLANDS AND INCLUDE THE FOLLOWING COMPONENTS: SEDIMENT REMOVAL: SITE PREPARATION; EXCAVATION OF VEGETATION AND 1' SEDIMENT IN W-5; DREDGING OF SUBMERGED SEDIMENT TO 1' IN OPEN WATER AREA OF W-6; SEDIMENT DEWATERING; CHARACTERIZATION, TRANSPORT, AND OFF-SITE DISPOSAL OF SEDIMENT. WETLAND RESTORATION: RESTORATION OF EXCAVATED AREAS TO PRE-

EXISTING ELEVATIONS WITH CLEAN SAND BACKFILL; PLANTING THE RESTORED AREAS TO ESTABLISH NATIVE WETLAND VEGETATION. WETLAND MONITORING: MONITORING OF THE RESTORED AREAS TO ENSURE THAT THE NATIVE WETLAND VEGETATION BECOMES ESTABLISHED.

Commissioner MacDonnell noted that this item was discussed in the prior meeting. This item was submitted by Norwalk Power LLC for the wetland sediment remediation. There was a letter that was forwarded to D.E.E.P. It included the observation that the culvert head wall had been eroded around and shifted and was no longer attached to the culvert which drains these two wetlands that are part of this application.

Mr. Bob Spooner came forward to discuss this item. He was joined by Mr. Sean Connery. He said they would look into the degraded culvert.

Mr. Steadman provided an aerial photograph of the area he had taken for the Commission.

There are two saltwater wetlands and a freshwater wetlands present. There is no surface high surface transfer between them. They are likely connected by groundwater which requires remediation.

Mr. Steadman asked about a prior a proposal for a pilot project for remediation with the plantings was set up in one of the areas.

Mr. Spooner clarified that that was pilot study for the wetland's remediation and D.E.E.P. wanted to make sure it was going to work before they approved a ramp.

Mr. Steadman asked if this would conflict with the Department of Transportation's restraining efforts to utilize the property during the railroad bridge project.

Mr. Spooner said that they should be able to conduct the wetland remediation simultaneously with any D.O.T. use of the property.

Mr. Steadman asked when the process would begin.

Mr. Spooner said that they were going through the permitting process. The earliest that they will start is next summer. There are time restrictions due to the presence of animals.

Mr. Steadman asked if they were agreeable to looking into the identified outfall.

Mr. Spooner confirmed that the outfall is important to the remediation. They'll use it as a barrier to ensure they do not get loose sediment heading into the Sound. Further discussion followed.

Mr. Steadman asked if, during the remediation work, would they be required to monitor water of the discharge area or harbor.

Mr. Spooner said he wasn't sure but they did dredge remediation at their Devonne station. Further discussion followed on the details of the dredging including the following:

- Historical contamination of the site with coal ash
- Potential future development of the wetlands.
- Removal of contaminated soil.
- Collection of samples outside the remediation area.

Mr. Steadman suggested that they add an additional recommendation to D.E.E.P. that they require appropriate monitoring requirements during the work.

Mr. Spooner said that that this property is subject to the Transfer Act and N.R.T. accepted the environmental liability for the site upon purchase. More remediation work will ensure as time passes. They are still defining the nature and extent of the groundwater contamination on that site.

Mr. Steadman asked if the plant was decommissioned.

Mr. Spooner responded that the plant is decommissioned in that it couldn't be started up tomorrow or in six months, but the equipment is still there. It requires significant infrastructure upgrades to bring that plant online including the following:

- Fuel tanks that need to be cleaned.
- Holes that need fixing.
- Replacement of removed piping.

There are no current redevelopment plans for the plant currently.

Chairman Romano suggested that this item be moved from Commission to Consultant for formulation.

The suggestion of using Geotubes for the dredging and moving of soil was raised by the Commission and discussed.

**** COMMISSIONER MACDONNELL MOTIONED TO APPROVE THE RECOMMENDATION OF ITEM 2. 1 MANRESA ISLAND.**

**** COMMISSIONER GIFFORD SECONDED THE MOTION.**

**** THE MOTION PASSED UNANIMOUSLY.**

3.

20 SHOREHAVEN ROAD, COP, NORWALK CT. MR. ROBERT MITCHELL (APPLICANT) PROPOSES TO RETAIN A 44" BY 40.5' STEEL PIER, 3' BY 28.75' STAINLESS STEEL RAMP, AND 8' - 02" BY 12' ALUMINUM FLOATING DOCK FOR RECREATIONAL BOATING. THE FLOATING DOCK WILL BE SECURED BY AN ANCHOR STRUT. ALSO, RETAIN 28" BY 35' STAINLESS STEEL STEPS. THE ANCHOR STRUT WILL BE FABRICATED OFFSITE AND BROUGHT TO THE SITE BY TRUCK OR WORKBOAT. THE SUPPORTS FOR THE ANCHOR STRUT WILL BE INSTALLED BY WORKERS OPERATING FROM THE UPLAND AT LOW TIDES. REINFORCING BAR WILL BE DRILLED INTO THE EXISTING CONCRETE PIER SUPPORT AND GROUTED IN PLACE USING NO-SHRINK EPOXY. THE STEEL SUPPORTS WILL BE SET ON THE CONCRETE PIER SUPPORT, AND FILLED WITH CONCRETE MIXED ON THE ADJACENT UPLAND. THE ANCHOR

STRUT WILL BE MOUNTED TO THE SUPPORTS AND CONNECTED TO RECEIVERS INSTALLED ON THE EXISTING FLOATING DOCK. ALL FILLING OF CONCRETE WILL BE DONE ON FALLING TIDES TO MINIMIZE SPILLAGE INTO THE WATERWAY.

Commissioner MacDonnell has received a copy of the certificate of permission that issued by D.E.E.P. on July 22nd 2021.

Chairman Romano said that he thought it was because what they had was not permitted since it predated any requirements at the time. They were taking parts and pieces of the ramps and storing it on wetlands.

Mr. John Hilts came forwards to discuss this item. He confirmed that this was an accurate assessment but it was an old notice of violation that was issued to the former owner that had not been enforced. The ramp had been stored on a small land split nearby. There is also a floating dock on the property. It is held in place by six anchors. They proposed a stress system that would be wed to the existing concrete footing there. Further discussion followed regarding the floating dock.

Mr. Steadman recommended that on the drawings that the total property lines be extended to show the distance between the dock and rural property line.

An image of the property lines was provided for the Commission for discussion. Discussion followed about the property lines for the property.

It was decided that, since the item had already been approved, there was no need for approval from the Commission.

4.

26 SHOREFRONT PARK, PRE-APPLICATION, SOUTH NORWALK, CT. MR. ANDREW VIGNEAULT (APPLICANT) PROPOSES TO DREDGE A 5,826 SQ FT AREA TO -8 FT BELOW MEAN LOW WATER WITH 0.5 FT OF ALLOWABLE OVERDREDGING. A PORTION OF THE PROPOSED DREDGE AREA HAS BEEN DREDGED UNDER COP-2003-024-SJ. NO DOCUMENTATION EXISTS THAT DEMONSTRATES THAT THE REST OF THE PROPOSED DREDGE AREA WAS EVER DREDGED ALTHOUGH IT HAS BEEN USED FOR PRIVATE DOCKAGE FOR SEVERAL DECADES. DREDGING WILL BE CONDUCTED BY CLAMSHELL METHOD USING A CRANE ON A WORK BARGE TO REMOVE APPROXIMATELY 1,173 CY OF SEDIMENT. DREDGED MATERIAL WILL REQUIRE TESTING TO DETERMINE SUITABILITY FOR DISPOSAL IN LONG ISLAND SOUND. THE APPLICANT HAD A COASTAL RESOURCE ANALYST (PETER PELLEGRINO) CONDUCT A MACROBENTHIC COMMUNITY STRUCTURE OF THE HABITAT AROUND 26 SHOREFRONT PARK. THIS STUDY CHARACTERIZED THE EXISTING BENTHIC COMMUNITY AS A STAGE II STRUCTURE, WHICH ACCORDING TO PUBLISHED CRITERIA IS CONDUCTIVE TO RAPID BENTHIC RECOLONIZATION AFTER DREDGING. STUDY RESULTS CONCLUDED THAT THE PROPOSED DREDGED AREA SHOULD RECOLONIZE TO THE SAME CURRENT LEVEL WITHIN 12-18 MONTHS FOLLOWING DREDGING.

A 5-minute recess was called at 7:00 P.M.

The recess ended at 7:05 P.M.

City of Norwalk
Norwalk Harbor Management Commission
Application Review Committee Meeting
July 28, 2021

Commissioner Pinto joined the meeting at 7:05 P.M.

Mr. Bajek came forward to discuss this item. They have done an initial pre-application meeting and conference with the D.E.A. They have also sent consultations to the Army Corps, Shellfish Commission, Harbor Management Commission, the Bureau of Aquaculture, and Division of Fisheries. They have received comments from the Division of Fisheries and Bureau of Aquaculture. They also have a study that Atty. Casey put together and the study that Dr. Pellegrino did to evaluate the benthic environment in the proposed dredging area and an area in the nearby South Norfolk Boat Club which was last dredged in 2014.

Mr. Casey came forward to speak. He said it was a misconception that a residential property owner can't dredge their own property. He said this misconception was based off of a number of letters sent out by the D.E.E.P. that claimed there was a policy. As a result, he wanted the Commission to judge the project on its merits.

Commissioner Pinto said he was concerned since the Norwalk area was reserved for shellfish shelters. These require a certain amount of nutrients. Norwalk has green water and is not pristine which is important in the feeding of shellfish which is what they are present to protect. Even though there is no shellfish in that area areas adjacent to shellfish beds are needed to provide nutrients for beds.

Mr. Casey said he would introduce Dr. Pellegrino but, prior to that, he pointed out any activity would have impacts. It was important to remember that these needed to be balanced with the rights of the applicant and he didn't want to be held to a different standard than the Boating Club or any other project.

Mr. Peter Pellegrino came forward to discuss this item. He began studying Norwalk Harbor back in 1975 as a volunteer with the Health Department under Dr. Kalman. The last time he looked at the original stations was 2016 and he had resampled them 2 weeks prior. He said the reason for the dredging didn't matter, only that it was dredged and there were unavoidable impacts.

Mr. Schnierlein came forward to discuss this item. He recalled a project in Norwalk called Windward, way back in 1971-72. In one of the studies, it was mentioned that in one cubic meter, there's 1000's of micron invertebrates in that sediment that will be displaced. Dredging will also make the area deeper, keep the water cooler, and help oxygen levels build up into the summer. Dredging will also be moderated by future storms that can move up to 4' of sediment on top of shellfish beds.

Mr. Pellegrino said his role in this process was just to document what was there currently and what the projected recolonization time will be. He pointed out that organisms will die from dredging regardless of the purpose of the dredging.

Mr. Steadman said that they had received letters from the Bureau of Aquaculture that said this project will have an unacceptable level of impact on the shellfish resources.

Mr. Pellegrino asked why they didn't have any objection to the dredging of the South Norwalk Boat Club.

Mr. Steadman said that the Boat Club was a different water user under the Coastal Management Act. Under the act residential assets are treated differently than that of water dependent use, such as a commercial marina or a boat yard.

Commissioner MacDonnell provided aerial images of the area for the Commission. The dredging will be happening on the edge of the shelf of the mudflat in the image.

Mr. Steadman said that the argument being made is that the property owner has a right of 24-hour access to use the dock and therefore the other property owner has the right to dredge on the floor and it is not going to have an adverse significant adverse impact on shellfish resources. The harbor management plan has a specific policy to protect the intertidal resources of significance, including important shellfish resource areas. There is a letter from the from at least one of the authorities on shellfish in in Connecticut that this is going to have an unacceptable adverse impact as well as implications throughout the state.

Mr. Casey said that this should be reviewed on its merits which is what the Commissioner of the D.E.E.P. said. If the littoral property owner didn't have a right to dredge, then the owner of South Norwalk Boat Yard wouldn't have the right to dredge either. Even when the recovery time was 24 to 36 month or closer to actual lease shellfish beds D.E.E.P. found that it was acceptable.

Chairman Romano said it was like going for a variance when there is no hardship. They have not been denied the right to have a boat. The rebuilding of that dock in kind the same way is not an issue or a problem.

Mr. Steadman said that they were also discussing the property as if it was private property when this was public property. He asked if water-front property with a dock was considered a water dependent use.

Mr. Casey said that the prior Commissioners found it wasn't a water-dependent use and that had not been challenged.

Mr. Steadman said that the Harbor Management Plan calls for protection of the total rights of access, but it doesn't specify that it is a total of 24-hour access or the right to dredge a channel. It's right to reasonable access, it would be determined on a case-by-case basis, at least from their recommendations, and they have a policy to protect significant coastal resources including significant shellfish resources.

Mr. Casey said that the determination of rights was outside the purview of any administrative agency. The Zoning Commission can't determine what the scope of an easement is. It's only up to a court what the scope of one's rights are. He quoted a case from 1994 that recognized the right and privilege to date channels and wharf out from the owner's land in a manner that does not interfere with free navigation.

An image of the plans for the proposed area of dredging was presented. Further discussion followed utilizing the provided plans. The dredging area will be 5826 feet. Based on visual observation they characterized the sediment type as 'silty sand'. They did not determine grain size.

Commissioner Pinto said that they need to maintain consistency in regard to their rulings. He reviewed the various letters and other pieces of information provided.

Mr. Casey said that the Shellfish Commission didn't make a decision and tabled the decision instead.

Commissioner Pinto said that, right now, all they had is the recommendation of the Department of Aquaculture and their decision with regard to new dredging in that particular area

Chairman Romano said that he would like to hear what the Shellfish Commission's opinion was and then he'd like to see a motion get put forward.

- ** COMMISSIONER MACDONNELL MOTIONED TO TABLE ITEM 4. 26 SHOREFRONT PARK.**
- ** CHAIRMAN ROMANO SECONDED THE MOTION.**
- ** THE MOTION PASSED UNANIMOUSLY.**

CHAIRMAN'S REPORT

Chairman Romano said that he was in constant contact with Ms. Andrzejewski regarding having live meetings. They have not gotten the go-ahead from the City; however, he requested that they handle harbor fees next.

FEES REPORT

Commissioner Mangels said that information was going through the legal department at this time. Questions were raised about the current and past charges and where the money was expected to be used. They are expecting it to go towards the Harbor Management Commission. There has been discussion about the management plan to see if the Commission has the right to do what they're trying to do; and if not, then what changes are needed for that plan to include fee structures, etc. Then go and present that plan to the Common Council and others and have a public hearing on that. There will be a meeting next week to discuss the result from the legal department.

HARBOR MASTERS REPORT

Mr. Scully said that they were checking on a number of boats that don't have any applications in. There are several moorings that were unregistered that were removed so far. Emails have gone out to people that still have not paid but have their boats on the moorings.

HARBOR IMPROVEMENT REPORT

Mr. Steadman said that the Commission give some thought to harbor improvement projects that they can see funding for from the Connecticut Port Authority. The authority is funded for \$25,000,000 for small harbors over the next five years. They also have additional money that wasn't previously allocated. One project that he suggested was a feasibility study for relocating the marine police face. A study was previously proposed but not funded. The possibility of having an off-line meeting to discuss

potential projects was raised. It will take place on August 3rd, 2021 at 1:00 P.M. Chairman Romano offered to provide water, soda, and snacks for those in attendance.

SHELLFISH

Mr. Bartush came forward to discuss this item. At the prior meeting he indicated that they were completing the consultation for 14 Shore Haven and they have submitted that to the agent, Mr. Hilts. They received the presentation on 26 Shorefront Park and tabled it, taking no action. Despite all the rain recreational shell fishing reopen on August 2nd in Norwalk. Permits are on sale at Fisherman's World. Their next meeting is on Thursday evening, August 5th.

MOORING AND HARBOR SAFETY

Commissioner Santella came forward to give the report. The committee continues to review the renewal applications and respond to the issues and concerns. They have 61 approved applications and 56 applications under review. They received the final mooring payments from Norwalk Yacht Club and Sprite Island Yacht Club, and they were deposited into the bank account. And for the Rowayton Yacht Club is expected by the end of this week. They are not aware of any issues or concerns regarding harbor safety at this time.

PLANS AND RECOMMENDATIONS

Commissioner Mangels said there was nothing to report at this time.

WATER QUALITY REPORT

Commissioner Schnierlein said that, in their prior meeting, they took on the task of putting together recommendations that will be put together along with a report for 2021 and passed on to the Commissions as well as on to the City. A copy will be sent to the Commission when it is done.

Chairman Romano asked if there had been any feedback regarding Wilson Point.

Commissioner Schnierlein said he had not gotten feedback from them other than the fact that the health department is involved. The Department of Public Works has been brought into it as there are several pipes that lead into the salt marsh to the north of Wilson point. It was found that that was one of the sources for very high bacteria content. There is a salt pond that is on Wilson point that is surrounded by homes that had the outflow from that also had very high bacteria finds. As far as leaking septic that has not been determined but the fact that the tide pool is high in bacteria might indicate that.

PUBLIC COMMENT

There was no public comment at this time.

APPROVAL OF THE MINUTES

- ** COMMISSIONER PINTO MOTIONED TO ACCEPT THE APPROVAL OF THE MINUTES OF JUNE 23, 2021 AS SUBMITTED.**
- ** CHAIRMAN ROMANO SECONDED THE MOTION.**
- ** THE MOTION PASSED UNANIMOUSLY.**

STANDING ACTION ITEMS

OPEN DISCUSSION OF FUTURE WALK BRIDGE PROPOSALS REGARDING PLACEMENT OF TRANSMISSION CABLES BY EVERSOURCE AND DOT, DOT'S PLANS FOR STATIONING WORK BARGES IN NORWALK HARBOR; DOT'S PLANS TO MONITOR WATER QUALITY, AND BULKHEAD CONSTRUCTION AT PROPOSED SOUTH WATER STREET STAGING PROPERTIES

This item was not discussed.

ADJOURNMENT

- ** COMMISSIONER SANTELLA MOTIONED TO ADJOURN.**
- ** CHAIRMAN ROMANO SECONDED THE MOTION.**
- ** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 8:27 P.M.

Respectfully Submitted,
Ian A. Soltes
Telesco Secretarial Services.