

**CITY OF NORWALK
SHELLFISH COMMISSION
REGULAR MEETING
SEPTEMBER 2, 2021**

The meeting was held via Zoom teleconference

ATTENDANCE: Pete Johnson, Chair; Steve Bartush, Joe Madaffaori

OTHERS: William Mooney, Health Department; Joseph Schnierlien, Water Quality Chair; John Romano, Harbor Management Commission Chair; Geoffrey Steadman, Harbor Commission Consultant; Jason Fiore; Tyeisha Cole

CALL TO ORDER

Mr. Johnson called the meeting at 7:15 p.m. A quorum was present.

PUBLIC COMMENT

Ms. Lauricella said that she wanted to thank the Commission for keeping the shellfish [inaudible].

Ms. Lauricella said that the minutes from the May 6th meeting did not include a link to Ms. Jones' PowerPoint presentation. She would like access to Ms. Jones' PowerPoint presentation from May 6th.

Ms. Lauricella said that she noticed that the 26 Shorefront Park application was on the agenda for approval.

Mr. Romano said that the Harbor Commission had voted to allow the application to move forward, but that was not a tacit approval.

Ms. Lauricella said that she was concerned about this application setting a precedent and a potential conflict of interest due to some of the Commissioners being involved in other marine organizations.

Mr. Jason Fiore said that he had just moved to Norwalk and was looking forward to participating with the Commission.

APPROVAL OF MINUTES

• **August 5, 2021**

**** MR. MADDAFARI MOVED TO APPROVE THE AUGUST 5, 2021 MINUTES.**

**** MR. BARTUSH SECONDED.**

**** THE MOTION TO APPROVE THE AUGUST 5, 2021 MINUTES AS SUBMITTED PASSED UNANIMOUSLY.**

Treasurer's Report – No report.

Secretary's Report – No report.

COMMITTEE REPORTS

A) **Health Department** - Mr. Mooney said that they had just replaced the rain gauge and hope that the system would be on line soon,

B) **Wastewater Treatment Plant** – No report.

C) **Water Quality** – Mr. Schnierlien said that they had been working on recommendations for the City and had set a deadline for releasing it after October meeting. The monitoring stations have been set up at the Aquarium and Cove Marina. They now have access to real time data via a website. This will provide a more accurate representation of the status of the water quality at any given time.

D) **Permits** – No report.

E) **Police** – No report.

F) **Advisory** – No report. Mr. Schnierlien said that the temperature at the marina was 73 degrees on September. The surface temperature was 72 degrees.

G) **Harbor Management** – Mr. Romano said that he had corrected Ms. Lauricella regarding her comments.

Mr. Steadman said that there had not been any additional information from the DOT or Eversource. He added that there was a joint meeting scheduled for October 6th. Mr. Romano said that he felt they should have a joint strategy meeting before the October 6th meeting.

**** MR. MADDAFARI MOVED TO ACCEPT THE COMMITTEE REPORTS AS PRESENTED.**

**** MR. BARTUSH SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.
OLD BUSINESS**

Mr. Johnson said that the Shellfish boat has been tuned up and the bill will be coming to the Shellfish Commission to split with Harbor Management. Mr. Mooney said that

**** MR. BARTUSH MOVED TO PAY THE 50% OF THE BILL FOR THE SHELLFISH BOAT TUNE UP.**

**** MR. MADDAFARI SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

Mr. Romano said that it was very important for to have a copy of the bill because in the past they had paid half of a bill for a map but never receive a copy of the bill or a copy of the document.

- **Walk Bridge – DOT – No report.**
- **Eversource – No report.**
- **Fees – No report.**
- **5 Decker Street pier/ramp/dock COP – No discussion.**
- **26 Shorefront Park –**

Mr. Bartush said that he had distributed an email with the Shorefront Park comments to the Commissioners.

**** MR. MADDAFARI MOVED TO INCLUDE THE FOLLOWING ELECTRONIC DOCUMENT AS PART OF THE RECORD:**

IN ADDITION TO OUR CONSULTATION FORM, AS AN ADDENDUM, THE NSC HEREWITH TRANSMITS THE FOLLOWING COMMENTS TO THE APPLICANT AND CT DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION (DEEP):

COMMENTS:

1. THE NORWALK HARBOR MANAGEMENT PLAN (NHMP) INCLUDES A NUMBER OF POLICIES AND OTHER PROVISIONS TO PROTECT AND ENHANCE SHELLFISH RESOURCES, INCLUDING

SHELLFISH POPULATIONS AND THE HABITAT NEEDED FOR THOSE POPULATIONS TO SURVIVE AND FLOURISH. THESE PROVISIONS WERE DEVELOPED IN COORDINATION WITH OUR NORWALK SHELLFISH COMMISSION (NSC), DEEP, AND CT BUREAU OF AQUACULTURE (BA). OUR ADDITIONAL COMMENTS ARE BASED ON THIS HISTORIC COLLABORATION.

2. THE APPLICANT’S PROPOSED PROJECT WOULD AFFECT A NATURAL SHELLFISH BED DESIGNATED BY THE SUPERIOR COURT, IDENTIFIED IN THE PLAN, AND RECOGNIZED AS A SIGNIFICANT SHELLFISH RESOURCE AREA IN THE NHMP AND BY THE NSC, BA, AND DEEP.

3. THE NHMP RECOGNIZES THE ENVIRONMENTAL SIGNIFICANCE OF THE INTERTIDAL RESOURCES ADJOINING THE SHOREFRONT PARK SHORELINE AND CALLS FOR “PRESERVATION” TO BE THE PRIORITY USE OF THESE RESOURCES.

4. THE NHMP ESTABLISHES POLICIES RECOGNIZING AND CALLING FOR PROTECTION OF LITTORAL RIGHTS FOR ACCESS TO THE PUBLIC TRUST AREA OF NORWALK HARBOR. FOR PURPOSES OF THE NHMP AND CONNECTICUT’S COASTAL REGULATORY PROGRAM, LITTORAL RIGHTS ARE CONSIDERED TO BE RIGHTS OF REASONABLE ACCESS TO THE PUBLIC TRUST AREA. AS SUCH, LITTORAL RIGHTS ARE NOT UNQUALIFIED OR ABSOLUTE RIGHTS TO BE EXERCISED AT THE SOLE DISCRETION OF THE PROPERTY OWNER; THEY ARE SUBJECT TO CERTAIN LEGALLY IMPOSED RESTRICTIONS TO PROTECT PUBLIC RIGHTS AND INTERESTS. THE MEANS OF ACCESS FROM EACH LITTORAL PROPERTY IS DEPENDENT ON THE CONDITIONS OF THE PARTICULAR PROPERTY AND OF THE HARBOR AT THAT LOCATION AND ON OTHER PERTINENT CONSIDERATIONS.

5. THE NSC DOES NOT ACCEPT THE APPLICANT’S ASSERTIONS THAT LITTORAL RIGHTS FOR RESIDENTIAL PROPERTY OWNERS GUARANTEE 24-HOUR ACCESS TO NAVIGABLE WATER DURING ALL STAGES OF THE TIDE AND INCLUDE THE RIGHT TO DREDGE TO ACHIEVE THAT ACCESS.

6. THE NSC DOES NOT ACCEPT THE APPLICANT'S ARGUMENT THAT, FOR PURPOSES OF THE NHMP AND THE STATE OF CT COASTAL REGULATORY PROGRAM, PROPOSALS FOR DREDGING TO IMPROVE PRIVATE, RESIDENTIAL WATER-ACCESS FACILITIES SHOULD BE CONSIDERED IN THE SAME MANNER AS PROPOSALS FOR DREDGING TO ENHANCE RECREATIONAL MARINAS, BOAT CLUBS, AND COMMERCIAL PORT FACILITIES SPECIFICALLY IDENTIFIED AS WATER-DEPENDENT USES IN THE CT COASTAL MANAGEMENT ACT (CCMA). THE NHMP AND CCMA CALL FOR HIGHEST PRIORITY AND PREFERENCE TO BE GIVEN TO SUCH WATER-DEPENDENT USES.

7. THE NSC DOES NOT ACCEPT THE APPLICANT'S ARGUMENT THAT, FOR PURPOSES OF THE NHMP AND THE STATE OF CT COASTAL REGULATORY PROGRAM, PROPOSALS FOR NEW DREDGING SHOULD BE CONSIDERED IN THE SAME MANNER AS PROPOSALS FOR MAINTENANCE DREDGING.

8. THE NHMP INCLUDES A NUMBER OF POLICIES CONCERNING THE NEED TO CONSIDER AND AVOID CUMULATIVE ADVERSE IMPACTS ON COASTAL RESOURCES, INCLUDING SHELLFISH RESOURCES. THE NSC IS CONCERNED THAT THE APPLICANT'S ARGUMENTS, MADE IN SUPPORT OF THIS PROPOSAL, IF ACCEPTED, WOULD ESTABLISH AN UNDESIRABLE PRECEDENT LEADING TO SIMILAR PROPOSALS AND SIGNIFICANT ADVERSE CUMULATIVE IMPACTS ON SHELLFISH RESOURCES AND OTHER COASTAL RESOURCES, IN NORWALK AND THROUGHOUT COASTAL CONNECTICUT.

**** MR. BARTUSH SECONDED.**

Mr. Bartush said that he would like to entertain the Harbor Commission's comments.

Mr. Steadman said that the proposal was in a pre-application stage. The Harbor commission makes comments to DEEP. Both the Harbor Commission and the Shellfish Commission received comments from Aquaculture and various shellfish industries regarding their concerns. The applicant submitted a document from their consultant stating that the dredging would not have a significant impact. The Commission discussed this along with littoral right during its meeting.

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He said that they have not been able to locate the court approved map of the shellfish bed. However, there is a description of the shellfish beds. The first motion was to find the application was not consistent with the Harbor Management Plan, but that motion did not pass. The Commission did pass a motion stating that it had no objection to the pre-application plans with the comments discussed during the meeting. The motion passed with a split vote. Mr. Steadman said that he had sent a copy of the letter to the DEEP to Mr. Johnson. Discussion followed about the fact that there was no map that substantiated the actual location of the natural shellfish beds.

Mr. Bartush said that he disagreed with Harbor Commission's decision.

Discussion continued about the original 1882 natural shellfish beds and the availability of other maps, littoral rights and reasonable access.

**** THE MOTION TO INCLUDE THE ELECTRONIC DOCUMENT AS PART OF THE RECORD PASSED UNANIMOUSLY.**

NEW BUSINESS

Mr. Bartush said that he would like to have a site inspection at [inaudible] and said that Mr. Hilts was going to check back with his application. Mr. Steadman said that Mr. Hilts had agreed to redesign the dock so that the dock was more centered and not as close to the property line or the channel.

**** MR. BARTUSH MOVED TO TABLE 11 TONETTA CIRCLE APPLICATION.**

**** MR. MADDAFARI SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

Mr. Romano said that there was a COP for Rowayton Yacht Club, but they did not mention removing any of the tackle outside of the shellfish beds and leaving those in place year round.

Mr. Steadman said that Ms. Cole would be speaking before the Stamford Harbor Management. He asked if she would like to address the Commission. Ms. Cole said that she had not heard back from anyone about participating in the Oyster Festival that she emailed. She said that she had hoped to participate in the Oyster Festival and to gather the shells from the event to locate them on a temporary site.

Mr. Maddafari said that he would like to have meetings in person. Mr. Johnson said that he would like to have hybrid meetings for those who might not be able to attend.

**** MR. MADDAFARI MOVED TO HAVE EVERY ONE INTRODUCE THEMSELVES IN ZOOM MEETINGS.**

**** MR. BARTUSH SECONDED.
** THE MOTION PASSED UNANIMOUSLY.**

Next Meeting –October 7, 2021 @ 7:15pm (Zoom)

ADJOURNMENT

**** MR. MADDAFARI MOVED TO ADJOURN.
** MR. BARTUSH SECONDED
** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 8:03 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services