

**TOWN OF FAIRFIELD  
SHELLFISH COMMISSION  
MEETING MINUTES – May 11, 2011**

The Shellfish Commission of the Town of Fairfield held a meeting on May 11, 2011 at 7:30 PM in the Second Floor Conference Room of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, Connecticut

**MEMBERS PRESENT:** Edward Crowley, Chairman; Sanford J. Wakeman, Vice Chairman;; Sally Harold; Paul Nelson; Cathy Raynor-Catropa; David Thornton

**MEMBERS ABSENT:** Gregory D. Lanute, Secretary

**ALSO PRESENT:** Thomas J. Steinke, Conservation Director

**CALL TO ORDER:** Edward Crowley, Chairman, called the meeting to order at 7:30 PM

## **I. BILLS AND COMMUNICATIONS**

### A. Meeting Minutes of April 13, 2010

Sanford J. Wakeman *moved*, Sally Harold *seconded* to accept the minutes of April 13, 2010. *Motion passed unanimously.*

### B. Committee Reports

1. *Clam Relay/Planting:* Crowley – Edward Crowley spoke with and gave maps to Gary Salce regarding delivering clams to Sasco Beach. The delivery would depend on bed closures state-wide.
2. *Water and Habitat Quality:* Wakeman, Harold, Raynor-Catropa – No report presented this evening
3. *Permits and Access:* Thornton – No report presented this evening
4. *Commercial Shellfish Regulations:* Crowley, Wakeman, Harold – No report presented this evening
5. *Oyster Bed Development:* Lanute, Thornton, Harold – No report presented this evening

## **II. OLD BUSINESS**

### A. Sanitary Survey of Shoreline

Thomas J. Steinke reported that no substantive responses were received by the publication of the RFP.

B. 2011-2012 Budget Request - Status

Edward Crowley reported that the budget was approved by the RTM.

C. CT DEP-OLISP - Application of Pequot Yacht Club, Inc. for Maintenance Dredging in Southport Harbor

No discussion. Edward Crowley reported that the applicants requested this item be rescheduled and that he would forward any of the Commissioners' questions to the applicant. Thomas J. Steinke reported that the application has recently been submitted to DEP and he would review it when the DEP publishes its decision.

D. CT DEP-OLISP COP Application of Country Club of Fairfield for Seawall Repair

Thomas J. Steinke recommends approval with the condition that revised plans be submitted describing the existing wall and how it would be integrated with the proposed wall.

*(Cathy Raynor-Catropa entered meeting)*

Sanford J. Wakeman *moved*, Sally Harold *seconded* to endorse the application with the condition that the applicant submit revised plans describing the existing wall and how it would be integrated with the proposed wall. *Motion passed unanimously.*

E. Management Plan and Memorandum of Understanding (MOU) for the Operation of the Conditionally Approved Area A in Fairfield (revised 4/28/11)

Thomas J. Steinke presented maps showing redefined prohibited zone around the sewage outfall area. DA/BA has expanded the prohibited zone for commercial shellfishing.

F. CT DEP-OLISP Coastal Permit Application #200802577-TS - Application of Paul Zecchi to Repair Existing Timber Bulkhead and Place Fill in Tidal Wetlands along Pine Creek at 1774 Fairfield Beach Road, Fairfield

Thomas J. Steinke described the area as one conducive to wetlands since previous owners did not maintain the integrity of the bulkhead. In 2008, the DEP suggested three options for mitigation to the applicant; two options in Fairfield and one at a undetermined location in Connecticut. The DEP has declined to encourage the applicant to continue its pursuit in filling the marsh.

Tim DeBartolomeo of Roberge Engineers, representing the applicant, noted that the application was submitted to DEP before the requirement of LEAN process. DEP requested and the applicant agreed to comply with LEAN standards. DA/BA has assented to the applicant and not asked for mitigation. DeBartolomeo further noted that the DEP's policy has been to not allow off-site mitigation for residential applications. It is not cost effective to develop an off-site mitigation plan without the DEP even agreeing to consider such mitigation. The Flood Erosion Control Board has recently changed it's policy requiring higher bulkheads to less strict standards.

DeBartolomeo added that sediment behind the bulkhead is leaching into the creek, necessitating repair of the bulkhead and re-grading of the land to its original grade.

John Casey, Esq., of Robinson & Cole, representing the applicant, informed the Commission that a previous report showed the wetland area is not a functional wetland. He noted the small area in question and that the proposed off-site mitigation is in the same vicinity. Moreover, the off-site mitigation in the Pine Creek area would be in keeping with the town's goal of preserving the larger tidal wetland area of 40-50 acres. Casey reiterated concerns over sedimentation and the applicant's preference for tidal wetland mitigation in Fairfield as opposed to other parts of Connecticut.

Patti Zecchi, applicant, discussed the sedimentation issue and its adverse impact on the upper part of the creek. At low tide, the creek is virtually impassible. She reviewed previous issues of dumping on the property and on-site mitigation at that time.

Paul Zecchi, applicant, noted that he has no intention of building any structures on the property. The silting of the creek is preventing the creek and Daniels Pond from cleaning themselves. The shellfish are being silted in as well.

Thomas J. Steinke discussed reclamation of tidal wetlands around the town. He presented maps of the sediment. While sediment may be filling the creek, it is a normal process and the material itself is fine and light which does not pose a threat because it moves.

Thomas J. Steinke recommends including specific mitigation in the proposal. He noted that generally, he would endorse a proposal including the Fairfield-centered mitigation.

DeBartolomeo expressed concerns over the loss of land to sedimentation and compared the area to Pisa, Italy which once used to be on the waterfront. Paul Zecchi requested that the commission condition approval on mitigation only to take place in Fairfield.

Edward Crowley suggested that the Conservation Commission choose the most appropriate mitigation plan in Fairfield. It would be better for the Shellfish Commission to go on record with a Fairfield-centered mitigation choice.

Sally Harold *moved*, Paul Nelson *seconded* to endorse the application as proposed with a recommendation that mitigation funds be dedicated to a project in Fairfield, with a preference to for mitigation in the Pine Creek Estuary. *Motion passed unanimously.*

G. CT DEP Notice of Tentative Determination - Section 401 Water Quality Certification - Application of US Army Corps of Engineers, Reissuance of General Permit

Thomas J. Steinke reviewed the procedural history of the application and the steps required for water quality certification. He also reviewed the status of another application where an applicant changed the construction of a float by using an exception to a general permit.

Commercial activities are impacted by increasing impingement on natural beds. The recreational shellfish program, in turn, depends on a viable commercial operations in order to move shellfish out of restricted areas.

Thomas J. Steinke explained that the application is inconsistent with the coastal review process and Cam program. His recommendation is that the 401 water quality certification is satisfactory and that the coastal consistency review is inconsistent with the objectives of the Cam program and should be modified.

Sanford Wakeman *moved*, Paul Nelson *seconded* to write to DEP to express concerns with the coastal consistency review in accordance with Thomas J. Steinke's recommendations. *Motion passed unanimously.*

### III. NEW BUSINESS

A. CT DEP-OLISP - Application of Scott and Jennifer Mallek to Demolish Existing Garage and Build New Two Car Garage with Pile Foundation at 355 Pine Creek Avenue, Fairfield

Thomas J. Steinke discussed the proposal and that the existing structure is constructed on fill. He recommended approval provided that the proposed structure stay within the footprint of the existing structure. The area is state tidal wetlands and not a natural bed. The existing structure predates state tidal wetlands laws.

Sally Harold *moved*, Paul Nelson *seconded* to indicate to the applicant that the Commission perceives no adverse impact on the shellfish resource as a result of the proposal. *Motion passed unanimously.*

B. Application of Fairfield Beach Road Real Estate Holdings, LLC (Ruscito) to Construct New Timber Bulkhead, Add Timber Cap to Existing Seawall, Remove Existing Unauthorized 10x10 Float; and Construct Gangway and Floating Dock at 1754 & 1748 Fairfield Beach Road, Fairfield

Thomas J. Steinke discussed the location and that it is just to the east of the Zecchi property. He described the layout of the walls, dock and bulkhead. He recommends the bulkhead aspect of the project be approved, but that the extension of the float not be approved as presented. His recommendation is that the float be held up against the bulkhead as much as it can be without encroaching on the tidal wetlands.

Sally Harold discussed access to the bulkhead and dock at high tide versus low tide. Thomas J. Steinke stressed that commercial boats must be able to navigate through the channel.

Tim DeBartolomeo noted that a stone wall along the creek was completed by a previous owner without a permit. There is a pending notice of violation as a result. The bulkhead height had been increased according to flood control concerns. Currently, an old float affixed by a latter is in position. For safety reasons, the applicant would like a gangway and no fixed peer. DeBartolomeo noted that the float would not rest on the bottom and have little impact on navigation.

The properties are independent and owned by different corporations, the corporations being owned by the same individuals. The application encompasses both properties.

Edward Crowley recommended acting in accordance with Thomas J. Steinke's recommendations. DeBartolomeo and Thomas J. Steinke discussed DEP requirements of pilings versus skids and how they would be located.

Sally Harold *moved*, Paul Nelson *seconded* to endorse the proposal with respect to repairing the bulkhead and recommend that the dock be approved with skids and no pilings, and if pilings are necessary, reconfiguring the ramp so that the dock is closer to the bulkhead. *Motion passed unanimously.*

#### **IV. INFORMATIONAL**

A. 2010-2011 Budget Status – Informational

B. Shellfish Fund Balance – Informational

- C. License Permits issued through March 31, 2011 – Informational
- D. Town of Fairfield Harbor Management Commission Draft Special Meeting Minutes of April 20, 2011 – Informational
- E. City of Norwalk Shellfish Commission Meeting Minutes of April 7, 2011 – Informational
- F. Town of Westport Shellfish Commission Meeting Minutes of April 5, 2011 – Informational
- G. Phone Calls for status of open or closed for April 2011 – Informational

**V. OTHER**

None

**VI. PUBLIC COMMENT**

None

**VII. ADJOURNMENT**

There being no further business to come before the Commission, Sally Harold *moved*, Sanford J. Wakeman *seconded* to adjourn at approximately 9:32 PM. *Motion passed unanimously.*

Respectfully submitted,  
Anthony Monelli