

**TOWN OF FAIRFIELD  
SHELLFISH COMMISSION  
MEETING MINUTES – August 22, 2012**

The Shellfish Commission of the Town of Fairfield held a SPECIAL meeting on August 22, 2012 at 7:30 PM in the First Floor Conference Room of the Fairfield Sullivan Independence Hall, 725 Old Post Road, Fairfield, Connecticut

**MEMBERS PRESENT:** Sanford J. Wakeman, Chairman; David Thornton, Secretary; Robert Bilek; Sally Harold; Paul Nelson; Cathy Raynor-Catropa

**MEMBERS ABSENT:** Gregory D. Lanute, Vice Chairman

**ALSO PRESENT:** Thomas J. Steinke, Conservation Director; Kristin DeRosia-Banick, Analyst for the CT Dept. Agriculture, Bureau of Aquaculture; Mary von Conta, Harbor Management Commission

**CALL TO ORDER:** Sanford J. Wakeman, Chairman, called the meeting to order at 7:30 PM

**I. BILLS AND COMMUNICATIONS**

A. Meeting Minutes of July 11, 2012

Robert Bilek *moved*, Paul Nelson *seconded* to accept the minutes of July 11, 2012 as corrected [p. 4, para. 3, 1<sup>st</sup> line misspelling of the word “consensus”]. *Motion passed unanimously.*

B. Committee Reports

1. *Clam Relay/Planting:* Bilek, Thornton – David Thornton reported that he and Robert Bilek met with Westport Conservation officials and that Westport has an active shellfishing program. The Pequot Yacht Club will be conducting dredging and it would be ideal to conduct a relay around that time. The Commissioners discussed technical aspects of a relay and the use of town watercraft.
2. *Water and Habitat Quality:* Bilek, Wakeman, Harold, Raynor-Catropa – Robert Bilek joined the Water and Habitat Quality Committee. Sanford J. Wakeman reported that sampling is positive and the recreational shellfish beds are open.
3. *Permits and Access:* Thornton – No report presented this evening
4. *Commercial Shellfish Regulations:* Wakeman, Harold – No report presented this evening
5. *Oyster Bed Development:* Lanute, Thornton, Harold – No report presented this evening

## II. OLD BUSINESS

### A. Shellfish Memorandum of Understanding (MOU DA-BA Status)

Kristin Derosia-Banick of DA/BA gave a general overview of what the bureau's duties are. She reported on the status of shoreline sanitary surveys across the state, and noted that Fairfield's survey is upcoming, possibly beginning in the fall. She presented maps and charts and explained how certain areas are affected by bacteria from different sources.

Specifically, she discussed the Bridgeport West Side sewage treatment plant and how increased volume of sewage directed to the plant due to separation of combined sewers is causing more bypasses. She advised that correcting the problem could take many years, but that DA/BA is gathering data to show the impact of the problem. In light of new data indicating less extensive pollution than previously understood to be the case, DA/BA is in the process of revising standards for closure of shellfish beds such that the beds will not be closed as often. It is proposed that bypasses of up to 20 million gallons of water will cause a closure, the beds may remain open for smaller bypasses.

Thomas J. Steinke inquired how the Commission would go about reopening a prohibited area. Kristin Derosia-Banick responded that reopening takes considerable time and funds and depends on the type shellfish which are to be harvested. Different shellfish respond to pollution differently. She also noted that certain areas would likely not be approved, for example, areas near a marina due to the potential sewage discharge from watercraft. An area like Southport Beach would be impacted by pollutants from the Mill River. The Mill River introduces a great deal of water to the area and the sources of bacteria are harder to find and correct. Sampling stations are in place so that water and shellfish meat samples may be done in advance of possibly reopening Southport Beach to recreational shellfishing.

### B. Review of Town of Fairfield Shellfish Management Plan - through Chapter 1

Thomas J. Steinke reported that there will likely be more constraints on his time as the Conservation Department is reassigned to the Black Rock Realty Third Train Station Inland Wetland Permit in the near future and recommends waiting for a few meetings before officially beginning a review of the Shellfish Management Plan. The Commissioners came to a consensus that they would put this item on hold.

C. Review of the Exide Proposed Mill River Sediment Remedial Action Plan

Thomas J. Steinke reported that Exide has submitted applications to the DEEP and ACOE. Certain applications will not have public review, but that the NPDS application may have public review depending on what the DEEP commissioner requires. No time frame has been set for review, but it will likely be several months.

Thomas J. Steinke recommended waiting until the DEEP has accepted a final proposed Remedial Action Plan and then offer comments in the comment period provided at that time. He described how, during dredging, sediment is removed via hydraulic dredge and how contaminated sediment has a great potential to escape into the water and cause residual contamination. The effects could be far reaching and last for years in shellfish meats. Exide has not made a proposal for mitigation.

D. Harbor Management Commission proposal for dredging and structures

Sanford J. Wakeman reported that the Commission still has not received a response from the First Selectman's office concerning the CTDEEP's rejection of the Shellfish Commission's intervention in the HMC application/permit matter for activities at the Town Boat Yard and Lower Wharf.

The Commissioners discussed the ACOE application and whether previous dredging had previously occurred in certain areas within the project scope.

Robert Bilek *moved*, Sally Harold *seconded* to send a letter to ACOE expressing the Commission's concerns over certain subject areas and requesting them to review the appropriate data. *Sanford J. Wakeman, Robert Bilek, Sally Harold, and Cathy Raynor-Catropa voted in favor, and David Thornton and Paul Nelson voted against.*

**III. NEW BUSINESS**

A. CT DEEP OLISP Application of 1907 Fairfield Beach Road, LLC

Thomas J. Steinke summarized the project. The applicant proposes to replace a bulkhead, pier, ramp and float. The bulkhead is proposed to be built landward by two feet, and constructed to the revised elevation level set by the Flood Erosion Control Board at eight feet. The ramp will be pile-supported, with the old pilings cut off at the mud line. Shellfish habitat, water quality, and shellfish access are generally not affected, except that access may be restricted to commercial shellfish vessels depending on the placement of any docked watercraft.

He recommends that the Commission endorse the proposal reflecting no adverse impact on shellfish habitat or water quality, but requesting more specific information about the typical watercraft that would be tied to the float. If the placement of any vessel encroaches on the 50 foot fairway in Pine Creek, he recommends redesigning the float to maintain the integrity of the fairway. He further recommends removing the pilings completely, rather than cutting the pilings. The pilings, at some point, may be exposed due to scouring of the channel, creating an impediment to full tidal flow when the upstream Pine Creek marshes are restored with an increased tidal prism.

Sally Harold *moved*, Robert Bilek *seconded* to endorse the proposal for the habitat characteristics that are protected, with the requirement of further information about the size of the typical vessel to be docked there, in accordance with the recommendations of Thomas J. Steinke, and removal of the pilings. *Motion passed unanimously.*

B. CT DEEP OLISP Application of David Cohen to remove bulkhead, construct seawall, wetlands planting, construct landing, ramp, and floating dock in Pine Creek at 1921 Fairfield Beach Road

Thomas J. Steinke noted that the proposal is similar in nature to the proposal at 1907 Fairfield Beach Road. He has similar recommendations as that proposal. This bulkhead is even more deteriorated, and the applicant proposes to construct it two feet landward and to the revised elevation level set by the Flood Erosion Control Board at eight feet. The projects at 1921 and 1907 Fairfield Beach Road would be done in a coordinated manner. The same concerns exist about maintaining the width of the fairway, pending information about the size of a vessel to be docked.

Cathy Raynor-Catropa *moved*, David Thornton *seconded* to endorse the proposal for the habitat characteristics that are protected, with the requirement of further information about the size of the typical vessel to be docked there, in accordance with the recommendations of Thomas J. Steinke, and removal of any pilings. *Motion passed unanimously.*

C. CT DEEP OLISP Application of The Country Club of Fairfield to repair earth berm and lagoon slope structures at 936 Sasco Hill Road

Thomas J. Steinke discussed his review for the two different site locations of the project. First, he noted that most of the earth berm storm damage was corrected, and in doing so, the water-eroded soil and stone rip-rap on the berm slopes and seawall and onto the shellfish habitat along the seawall was not eligible to be included in the emergency permit after Hurricane Irene last year. The state did not have a record of any improvements in that area and could not authorize any maintenance there.

Second, the lagoon slope stone rip-rap and footing logs encroached on the shellfish habitat on the intertidal and shallow subtidal shelf along the bottom of the slope where the new construction extended beyond the previously existing footprint of the shore and would adversely affect shellfish habitat. He recommends lowering the coir (jute) toe logs and stone rip-rap to the profile of the old substrate to restore the shellfish habitat.

Robert Bilek *moved*, David Thornton *seconded* to deny the application and recommend that the applicant resubmit the proposal for removal of the material that has been deposited in the subtidal and intertidal shellfish habitats (at the lagoon and at the berm seawall locations). *Motion passed unanimously.*

D. Email from Nancy Glynn regarding reimbursement for shellfish permit

David Thornton believes that a refund should be granted. Several Commissioners expressed concern that all permit holders could theoretically request refunds.

Thomas J. Steinke noted that refund requests have been submitted in years past and the Commission has declined to give refunds on the grounds that permit holders are given full information before they pay for a permit on the conditions shellfish beds may be closed under the state's Shellfish Memorandum of Understanding. The revenue generated from permit fees is necessary for any improvements to the shellfish program, such as relays.

Sally Harold suggested informing the permit holder in question of the ability to apply for a non-resident permit in Westport where the shellfish beds are open more often.

Robert Bilek noted that the shellfish beds in Fairfield are currently open and there is still opportunity this year for recreational shellfishing.

Paul Nelson and Cathy Raynor-Catropa suggested sending a brief response referencing the conditions of the beds being closed per the MOU.

Thomas J. Steinke reviewed the Commissioners' comments and said he will send the letter.

Robert Bilek *moved*, Sally Harold *seconded* to send a letter of response to Nancy Glynn indicating that it is not the policy of the Commission to refund permits because at the time of obtaining the permit, permit holders are made aware of the MOU and the conditions under which the shellfish beds may be closed. *Sanford J. Wakeman, Robert Bilek, Sally Harold, Paul Nelson, and Cathy Raynor-Catropa voted in favor, and David Thornton was opposed.*

#### **IV. INFORMATIONAL**

Thomas J. Steinke discussed the Shellfish Fund and noted that all funds in that account may only be spent in connection with the shellfish program. Revenue for that account comes from recreational and commercial permits, and fees paid by commercial operators. The more the shellfish beds are worked, the healthier they will be. When shellfish beds are worked, a desirable consequence is age and size diversity. Such a higher quality mix of shellfish would tend to increase permit sales. He suggested a shellfishing clinic to raise awareness of the shellfish program and purchasing shellfish to plant the beds. The Commissioners conducted a general discussion of the location of town shellfish beds, logistics of past relays, and bed closure rules when relays occur.

#### **V. OTHER**

None

#### **VI. PUBLIC COMMENT**

None

#### **VII. ADJOURNMENT**

There being no further business to come before the Commission, Sally Harold *moved*, Paul Nelson *seconded* to adjourn at 10:12 PM. *Motion passed unanimously.*

Respectfully submitted,  
Anthony Monelli