

**TOWN OF FAIRFIELD
SHELLFISH COMMISSION
MEETING MINUTES – July 10, 2013**

The Shellfish Commission of the Town of Fairfield held a regular meeting on July 10, 2013 at 7:30 PM in the Second Floor Conference Room of the Fairfield Sullivan Independence Hall, 725 Old Post Road, Fairfield, Connecticut

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

MEMBERS ABSENT:

ALSO PRESENT: Thomas J. Steinke, Conservation Director; Cynthia Cook, Exide project facilitator (via teleconference); Kathryn Braun, RTM; members of the public and press

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

I. BILLS AND COMMUNICATIONS

A. Meeting Minutes of June 12, 2013

David Thornton *moved*, Robert Bilek *seconded* to accept the minutes of June 12, 2013. *Motion passed unanimously.*

B. Committee Reports

1. *Clam Relay/Planting:* Bilek, Thornton – No report presented this evening
2. *Water and Habitat Quality:* Bilek, Wakeman, Harold, Raynor-Catropa – Robert Bilek reported that shellfish beds are open after having been closed for most of June.
3. *Permits and Access:* Thornton – Robert Bilek discussed the email from the Conservation Department regarding municipalities that have a Connecticut resident and out of state resident fee structure. Fairfield does not have such a structure. It has a town resident, non-resident structure, so this is not an issue for Fairfield.
4. *Commercial Shellfish Regulations:* Wakeman, Harold – No report presented this evening
5. *Oyster Bed Development:* Thornton, Harold – No report presented this evening

C. Letter to Parks and Recreation Commission regarding Commercial Shellfishermen Access to a Town Dock for Off-loading Harvested Shellfish

Robert Bilek reported that this item was added to this agenda because it was not properly added to the agenda at the previous meeting. He also reported that the letter has been redrafted.

He further summarized the letter to the Parks and Recreation Department and stated it is in keeping with the Shellfish Commission's mission. Thomas J. Steinke inquired whether the ability to use the town dock will be restricted to those holding a commercial shellfishing license or to town resident license holders. Robert Bilek quoted the "Marina" section of the town website which authorizes use of a dock and facilities by commercial fishermen upon application to and payment of fees to the town as determined by the Parks and Recreation Commission. It does not mention any restriction regarding town residency.

Sally Harold discussed whether this would restrict dock access to the South Benson Marina. The commissioners arrived at a consensus that the letter should read that the commission endorses commercial shellfishermen off-loading at a town dock. It was felt that sales should not be allowed at the point of off-loading.

Robert Bilek *moved*, Sally Harold *seconded* the draft letter be finalized according to the commissioners' discussion and sent to the Parks and Recreation Commission. *Motion passed unanimously.*

II. OLD BUSINESS

AA. Clam Dig

Robert Bilek *moved*, Sally Harold *seconded* that an item be added to the agenda under Old Business entitled "Clam Dig." *Motion passed unanimously.*

Richard Ferrari reported that the Clam Dig event is scheduled for July 27, 2013 with a rain date on July 28, 2013, an hour before and after low tide, approximately between 9 AM and 11 AM. The event will be held at Sasco Hill Beach and restricted to those with town parking passes. Shellfish permits will not be required. Cathy Raynor-Catropa will provide clam chowder, and Richard Ferrari will prepare information packets and publicity. Sally Harold will contact Edward Jones in the Conservation Department regarding the quantity and availability of clam digging tools.

The commissioners discussed various methods of publicity. Thomas J. Steinke advised that the Clam Dig committee should coordinate this event with the Parks and Recreation Department.

A. Proposed Remediation of the Mill River Estuary associated with the former Exide Battery Site, 2190 Post Road, Fairfield, CT

Cynthia Cook, the facilitator for the Exide project, joined the meeting via teleconference.

Robert Bilek reviewed the issues up to the present, noting that the shellfish commission is concerned about resuspended contaminated sediment since this could cause shellfish beds to be closed. The First Selectman is responsible for withdrawing the town's intervention on the NPDES permit. The First Selectman is looking for the Shellfish Commission's input as to whether to support the SedRAP plan and withdraw the intervention.

Robert Bilek explained the various steps that Exide will take to reduce resuspended sediment, including use of new hydraulic dredging devices and silt curtains. Exide will operate turbidity monitoring stations both upstream and downstream along the Mill River to detect any resuspended sediment, which could carry any lead, chromium, or bacteria.

Paul Nelson inquired about restoration of the bottom of Mill River. The meeting materials specify natural restoration will take one to three years, yet the materials also specify that oysters can grow within one year. He noted that that will be difficult in light of the fact that no cultch will be spread. He advocated placing cultch in the area of the river from the railroad bridge to the dam. Thomas J. Steinke discussed the oyster habitat. David Thornton discussed the scouring of the bottom of the river and the relationship of scouring to the tide gates.

Robert Bilek reported that, in meetings with DEEP and Exide, the topography of the river bottom and the dredging method were discussed at length. When the dredging is done at a sloped, rather than perpendicular to the bottom, the river flow will restore the riverbed to natural conditions over time.

The commissioners discussed whether to pursue a more strict stance on restoration of the riverbed. The commissioners also discussed whether to have a special meeting before August 1, 2013 in order to decide whether or how to deal with the issue of the bottom of the river.

The commissioners then discussed the railroad drain and the Post Road drain. Cynthia Cook summarized DEEP's position that they have no concerns about lead pollution in the drains.

Thomas J. Steinke described the history of the site and the right of way that the railroad has adjacent to the former factory site. Exide originally owned the right of way and constructed the drainage, then later deeded the right of way to the railroad. Cynthia Cook noted that since the state believes no pollution is in the drains, requests to the state to order Exide to remediate the drains will be denied.

Robert Bilek outlined the Shellfish Commission's concerns over liability for any lead left in the drainage pipes, despite the state believing no pollution exists there. It is in the town's best interest to have a release from any liability of pollution.

David Thornton inquired of Cynthia Cook and Thomas J. Steinke regarding the existence of lead in the drains. Thomas J. Steinke recommended that a full investigation of the drain lines be undertaken. Special attention should be paid to the soil under the pipes as acid has degraded the pipe joints and lead has likely penetrated through.

Robert Bilek advocated pursuing a release from liability and moving forward with the project.

The commissioners and Cynthia Cook then generally discussed aquatic life and water temperature and storage of sediment on the banks of the river. Robert Bilek addressed the use of coffer dams, which he stated would not be viable due to many private residences bordering the river. Since Exide can only use one method, hydraulic dredging was chosen as the best technique.

Robert Bilek then addressed possible impact of storms and flooding of areas that are out of water. He indicated that inspections showed that Hurricane Sandy did not move sediment to the river banks. As far as compensatory mitigation if shellfishing areas were not available for an extended period of time, Robert Bilek reported that DEEP was not supportive of any sort of mitigation.

Robert Bilek then described the testing procedures after the dredging is complete. He noted that at least 95% of the lead will be removed.

Kathryn Braun expressed concerns over the lack of testing the railroad drain, and that Exide will be released from liability after the project is complete; any residual pollution being the taxpayers' responsibility. Cynthia Cook responded that Exide's position is that discharge from the pipe is below background level. Even if lead was found in the pipe, there is no documentation that Exide was the source.

Robert Bilek suggested discussing the issue of the railroad drain at a special meeting, perhaps with a representative of DEEP present. Other items to be discussed are the placing of cultch, the storm surge movement of contaminants, and whether DA/BA or DEEP will test for bacteria.

B. Shellfish Commission Management Plan

No discussion

C. Proposed Addendum to the Shellfish Memorandum of Understanding with respect to Reopening of the Recreational Shellfish Beds on Weekends and Holidays

Robert Bilek reported he sent a new draft to Thomas J. Steinke, which will put the burden on the Chairman or the Vice Chairman to change the sign and recording if reopening will be done on a date where the Conservation Department is not open.

III. NEW BUSINESS

A. CT DEEP-OLSIP Application of Susan Page Snow to construct 3' x 4' wide timber steps leading to a 4' x 32' pier with open-grid decking supported by two steel pilings; install 3' x 30' aluminum ramp, 8' x 12/5 timber floating dock, two timber float anchor pilings, two timber float stop pilings, and four 3' x 8' timber float stops at 1722 Fairfield Beach Road, Fairfield, CT

Thomas J. Steinke reviewed the application and reported that it was consistent with the shellfish management plan for the area and the activities proposed.

Robert Bilek *moved*, Cathy Raynor-Catropa *seconded* to endorse the application as presented. *Motion passed unanimously.*

B. CT Sea Grant - Request for Input - Participation in Development of State of Connecticut Shellfish Management Plan

No discussion; the commissioners arrived at a consensus to move this item to the next regular meeting

C. US Fish and Wildlife Service Environmental Assessment on Reducing Bird Damage in Connecticut

No discussion

IV. INFORMATIONAL

None

V. OTHER

None

VI. PUBLIC COMMENT

None

VII. ADJOURNMENT

There being no further business to come before the Commission, Sally Harold *moved*, Cathy Raynor-Catropa *seconded* to adjourn at 9:40 PM. *Motion passed unanimously.*

Respectfully submitted,
Anthony Monelli