

**CITY OF NORWALK
SHELLFISH COMMISSION
REGULAR MEETING
APRIL 4, 2024**

ATTENDANCE: Steve Bartush, Chair; Justin Bisceglie, Jonathan Pageler, Nick Sacchinelli
Pete Johnson (7:22 p.m.)

OTHERS: Alan Kibbe, Harbor Commission; Matt Shuler, Geoff Steadman,
Consultant; William Mooney, Health Department; Police Sgt. Justin
Bisceglia, Matt Shuler, RACE; Lynnelle Jones

CALL TO ORDER

Commissioner Bartush called the meeting at 7:20 p.m.

ATTENDANCE

Commissioner Bartush announced that a quorum was present.

APPROVAL OF MINUTES

• March 7, 2024 meeting

**** COMMISSIONER SACCHINELLI MOVED TO APPROVE THE MINUTES OF THE
MARCH 7, 2024 MEETING AS SUBMITTED.**

**** COMMISSIONER SECONDED.**

**** THE MOTION TO PAGELER APPROVE THE MINUTES OF THE MARCH 7, 2024
MEETING AS SUBMITTED PASSED UNANIMOUSLY.**

Commissioner Johnson joined the meeting at 7:22 p.m.

PUBLIC COMMENT

Due to some technical issues, Ms. Lynnelle Jones was not able to directly address the
Committee. She sent her comments to Mr. Bartush via email. Mr. Bartush then read the
comments into the record as follows:

My name is Lynnelle Jones and I've lived at 10 Point Road since the mid-80s. My
husband and I also owned 8 Point Road and 2.5 Nathan Hale Drive during the 90s, giving
me first-hand knowledge of all work reviewed, permitted and completed on Nathan Hale
Drive, a private road in the Wilson Point peninsula.

2 Nathan Hale Drive's application for dredging, about a 30% increase, is on your agenda this evening and will likely be called routine maintenance dredging by the applicant's representative.

Tonight, I ask that you, as a condition to any further review or any approval, require a survey of the two outflow pipes this homeowner added to the plot between his dock & 2.5 Nathan Hale Drive. Please review the conditions from the original 1984 permit for this dock, a Tidal Wetland Permit, which prohibited disturbing intertidal vegetation, adding fill, and limited dredging. DEEP identified multiple violations when they visited 2 NH, the seawall being extended more than approved and the dock being built wider than approved, obvious big things, bold transgressions that only someone not worried about repercussions, someone confident their hired hands could handle this behind the scenes, would do. A survey of the new outflow pipes will show if they should have been reviewed by DEEP. Tonight, I am asking you to require a survey of the two new outflow pipes as a condition for further review or any approval of what is clearly 30% more than previously approved maintenance dredging.

Some of you will remember my May 2021 presentation to this Commission, Request for a Site Plan Review, which questioned the NYC, 10 NHD, and asked why there was no review, at the State, City or Commission level for the drainage work and new outflows on NHD at 2 NHD. Waters tested in Wilson Cove following my presentation found bacteria levels high in Wilson Cove. WP pointed the finger at the City, saying Trolley Lane was the problem. Following disparaging me, in Feb 2023, the Norwalk Yacht Club was issued a serious NOV by DEEP, which, for the second time, identified Wilson Cove waters as impaired. As a result, DEEP now requires the NYC to test twice a year, results that have not been shared. Following the Norm Bloom recall, I and the shellfish thank you for asking many questions about this application, previous violations, and why this new 30% increase in dredging, incorrectly referred to as routine maintenance, is even being considered given the original Tidal Wetland permit.

How many times does it take to realize some people will always do more than what is approved and manipulate data? The answer is blowing in the wind.

Thank you for requiring a survey of the two outflow drains, which appear to be referred to in the application.

Lynnelle Jones

NEW BUSINESS

• Treasurer's Report

Mr. Mooney said that there was an addition item from the January report which was not included in the January report. There was an expenditure for \$70.00 for the Shellfish Committee meeting.

City of Norwalk
Shellfish Commission
Regular Meeting
April 4, 2024

The balance for January 31st \$25,453. Silvermine Press charged \$515.00 for the new Shellfish Permits in March. The balance as of March 31, 2024 was \$24,988.00.

• **Secretary's Report**

There was no report at this time.

COMMITTEE REPORTS

A) Health Department – March's rainfall was 9.45 inches. March 2023 rainfall was recorded at 4.55 and historically the rainfall has been 4.12 inches. There were five closures: March 2nd, March 6th, March 9th, March 23rd and March 28th – all due to excessive rainfall. There were three bypasses recorded on March 6th, March 9th and March 23rd.

B) Wastewater Treatment Plant – No report.

C) Water Quality – No report. Mr. Bartush said that there had been a request to swap time with the Water Quality until that Commission is active again.

**** COMMISSIONER JOHNSON MOVED TO SWITCH THE SHELLFISH MEETING TO 6:00 P.M. UNTIL THE SHELLFISH COMMISSION REACTIVATES.**

**** COMMISSIONER SACCHINELLI SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

D) Permits – No report.

E) Police – Sgt. Bisceglie said that there was nothing really to report. The closure flags were changed in a timely manner as needed. He briefly mentioned the previous evening's storm and flooding that occurred in Norwalk. He said that the last time he checked, the water temperature was between 42 and 43 degrees.

F) Advisory – No report.

G) Harbor Management – Mr. Kibbe said that the Harbor Commission was concerned about the DEEP's approval of the Eversource project to move the transmission lines underneath the river. Mr. Kibbe said that the Harbor Commission felt that it would be more effective to request a hearing on the matter rather than voting to approve or disapprove the project. There were numerous issues of concerns.

He noted that the DOT had changed their usual method of drilling to having concrete tubing that a person could access for future upgrades.

Mr. Steadman said that he had some comments about a variety of items:

- Mr. Steadman would have some comments on the 2 Nathan Hale application.
- Regarding Water Street, the Harbor Master provided some photos of the flooding conditions. These should be considered in light of having high density residential developments in that area.
- Mr. Steadman said he believed that the Veteran's Park Marina has received all of the authorizations needed for the future project and are waiting for approval from the ACOE.
- The Harbor Commission will be applying for a small Harbor Improvement grant from the Port Authority for construction. The estimated cost of the project is \$4 million dollars. The application for the whole amount that is due by July 1st.
- The O&G company may be opening up their facility for receiving shipments of aggregate. He reminded everyone that the Harbor Commission had worked to re-align the Federal channel in the upper channel that so the barges for O&G and Devine Brothers would not be in the Federal channel. There will need to be some coordination in order for the barges at O&G and Devine Brothers not to block the channel and the Norwalk Boat Club. He added that there had been some opposition from others who did not wish to have O&G reopen for a number of reasons including residential development below O&G.
- Mr. Steadman said that there were alternatives to what Eversource was proposing but noted that Eversource was not likely to change their plans. DEEP was requiring Eversource to provide a bond for more than \$700,000 to cover inadvertent spills of the drilling tool. The ACOE will have conditions on this project regarding any future maintenance of the channel but Mr. Steadman was wondering why there was no provision for the City's interest. The Harbor Commission discussed reiterating the previous comments that they had submitted to the Siting Council in the pre-application phase. He suggested that the Shellfish Commission consider having this letter submitted as a joint submittal.
- Mr. Steadman said that the Harbor Commission was fortunate to have the assistance of Mr. Manning regarding the Eversource project. He suggested that both the Shellfish and Harbor Commissions send Mr. Manning a letter of thanks for all the help he provided without compensation.
- Mr. Kibbe said that as soon as Mr. Steadman had drafted the language for a joint letter, he would review it.

**** COMMISSIONER PAGELER MOVED TO ACCEPT THE COMMITTEE REPORTS AS PRESENTED.**

**** COMMISSIONER JOHNSON SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

OLD BUSINESS

• **49 Neptune Ave.**

Commissioner Bartush said that Mr. Shuler had been waiting patiently. Commissioner Bartush said that he along with John and Pete had carried out an inspection there recently. It looked straight forward. Mr. Shuler said that he had spoken with the owner about the Commission's concerns and there were no objections.

Commissioner Bartush outlined the motion and noted that he had spoken to Emily Hertz and Sue Jacobson and this is something that they will be accepting across the State. Pile cutout that go through the peat or bog and disturb the footprint can now be required as a special condition to be transplanted elsewhere on the site.

Commissioner Pageler asked that the Commission insure that the angle coming off of the bulkhead matches the specs that were submitted because there may be potential channel interruption. Mr. Shuler said that he had checked the littoral property lines and they are within the littoral property lines for the dock. The alignment will be located approximately 90 degrees from the wall.

**** COMMISSIONER SACHINELLI MOVED TO APPROVE THE APPLICATION WITH THE STANDARD LANGUAGE WITH THE ADDITION OF CUTTING OUT THE BOG IN ORDER TO TRANSPLANT IT AND STAKED BACK ON SITE BECAUSE IT IS A SIGNIFICANT CARBON CAPTURE AND ANTI-EROSION MATERIAL THAT CONTRIBUTES GREATLY TO SHELLFISH COMMUNITIES, ESPECIALLY THE RIBBED MUSCLE AND THE ANGLE TO BE MAINTAINED AT 90 DEGREES.**

**** COMMISSIONER PAGELER SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

• **130 Water St.** – Commissioner Bartush said that Mr. Bajek was not present at the meeting and that Mr. Bartush heard the presentation at Harbor Commission. He said that he felt that the Shellfish Commission had no comment.

• **2 Nathan Hale Dr.**

Commissioner Bartush said that Ms. Jones had submitted comments to the Commission and Mr. Steadman had already mentioned the item. Commissioner Bartush felt that the tentative approval notice was inappropriate and the process was also inappropriate.

Mr. Steadman said that the pre-submission plan did not include a dredging notice. When the public notice was issued, the dredging was included. When this was brought to DEEP's notice, DEEP replied that it had been previously dredged in 1984 and again in 2001. DEEP decided to include the dredging in the permit and this could set a precedent for residential dredging. He

gave the details of the amount of proposed dredging. Commissioner Pageler said that this new dredging request was the same as the previous two.

Commissioner Bartush said that he noticed that the area involved had been changed and gave the details. He reiterated that this could set a precedence. He added that both the Harbor Commission and Shellfish Commission have not been particularly aggressive once a pre-application is approved.

Commissioner Bartush said that Ms. Jones had expressed concern about the outflow pipes and suggested that they asked for confirmation of the footprint and the square footage of the area to be dredged along with requesting more details about the outflow pipes without bias.

• **Eversource** – During the March meeting, they had requested the Harbor Commission to request specific details of the effect of this project on the Dunavan Boating Center.

**** COMMISSIONER JOHNSON MOVED THE FOLLOWING RESOLUTION RE DEEP COMMS FOR EVERSOURCE WORK WITH A LETTER TO FOLLOW:**

RE: CT DEEP NOTICE OF TENTATIVE DETERMINATION TO APPROVE APPLICATION NO. 202304621-SDFTW BY THE CONNECTICUT LIGHT AND POWER COMPANY D/B/A EVERSOURCE ENERGY (THE APPLICANT)

WE RECONFIRM THE PREVIOUS RECOMMENDATION FROM THE NSC AND HARBOR MANAGEMENT COMMISSION REGARDING THE APPROVAL BY THE CT DEEP OF THE PROPOSED PROJECT, PARTICULARLY CONCERNING ITS IMPACT ON THE DUNAVAN BOATING CENTER AND VETERAN’S MEMORIAL PARK. THIS RECOMMENDATION MUST EMPHASIZE THE NECESSITY FOR A SPECIAL CONDITION ENSURING THAT ANY FUTURE MAINTENANCE, REPAIR, REPLACEMENT, OR ENHANCEMENT OF THE PUBLIC FACILITIES BY THE CITY OF NORWALK WILL NOT BE HINDERED NOR LIMITED IN SCOPE DUE TO THE RELOCATION OF TRANSMISSION LINES. ADDITIONALLY, IN THE EVENT OF ANY INCREASED COST, OVERAGES OR DELAY RESULTING FROM THE RELOCATION OF TRANSMISSION LINES, THE APPLICANT OR ITS SUCCESSORS SHALL BE OBLIGATED TO COVER THESE ADDITIONAL EXPENSES AND COMPENSATE THE CITY ACCORDINGLY.

WE SHALL SUBMIT TO THE CT DEEP AND THE NORWALK COMMON COUNCIL THE MOST RECENT COMMENTS FROM THE NSC, WHICH WERE PROVIDED TO THE CONNECTICUT SITING COUNCIL IN COORDINATION WITH THOSE SUBMITTED BY THE NORWALK HARBOR MANAGEMENT COMMISSION. THESE COMMENTS SHOULD SUMMARIZE THE INTERESTS AND CONCERNS OF BOTH THE NSC AND HARBOR MANAGEMENT COMMISSION REGARDING THE PROPOSED PROJECT.

**WE AGREE TO TRANSMIT THIS MOTION AND COMMENTS TO THE CT
DEEP IN A JOINT STATEMENT WITH THE HARBOR MANAGEMENT
COMMISSION.**

**** COMMISSIONER SACCHINELLI SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

Commissioner Bartush announced that the Next Meeting was scheduled for May 2, 2024 @
7:15pm via Zoom.

ADJOURNMENT

**** COMMISSIONER JOHNSON MOVED TO ADJOURN.**

**** COMMISSIONER SACCHINELLI SECONDED.**

**** THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 8:04 p.m.

Respectfully submitted,

S. L. Soltes
Telesco Secretarial Services