

CITY OF NORWALK
NORWALK HARBOR MANAGEMENT COMMISSION
AUGUST 23, 2023
TELECONFERENCE VIA ZOOM

ATTENDANCE: Alan Kibbe, Chair; Jeff Mangels, Vice-Chair; Matt Gifford; Laurie Jones; John Pinto; Chris MacDonnell; Mike Matthews; Chris White

STAFF: Steve Kleppin

OTHER: Geoffrey Steadman, Consultant; Joseph Schnierlein, Water Quality Commission; Pete Johnson, Shellfish Commissioner; Steve Bartush, Chair of Shellfish Commission; Owen Lee, Deputy Harbormaster; Officer Justin Bisceglie, Norwalk Marine Police; Maritime Aquarium Vets Park Commission; Alexis Cherichetti, Louise Washer, Justin Susarchik; John Hilts

CALL TO ORDER/PLEDGE

Mr. Mangels called the meeting to order at 6:02 P.M. and led the Commission in the Pledge of Allegiance.

ROLL CALL

Mr. Mangels asked those in attendance to state name and affiliation and were acknowledged as listed. There was a quorum present.

PUBLIC COMMENT

Comments are not verbatim and represent summarizations of comments made.

1. Lynnelle Jones expressed her concerns regarding Planning and Zoning's Industrial Waterfront Land Use Plan and stated the importance of public comment.
2. Diane Lauricella asked that her email to the Harbor Management Commission be read aloud by a commissioner since she was having technical difficulties with the call. In her letter, she asked for a public hearing prior to the approval of Planning and Zoning's

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Industrial Waterfront Land Use Study and encouraged the Harbor Management Commission to disapprove of the study as it is currently proposed.

There were no other members of the public present to speak, and Public Participation was closed.

It is noted that Mr. Kibbe was able to correct the technical, microphone issues and was able to chair the remainder of the meeting.

APPROVAL OF MINUTES: JULY 26, 2023

Mr. Schnierlein commented that the July minutes reflecting his report were inaccurate and he will provide new language. Mr. Kibbe noted that approval of the minutes will be tabled until the next meeting agenda.

UPDATE ON MARITIME AQUARIUM'S FEASIBILITY STUDY FOR VETS PARK SHORELINE

Mr. Kibbe introduced members of the Maritime Aquarium Commission: Alexis Cherichetti, Louise Washer, and Justin Susarchik to provide an update on the Maritime Aquarium's Feasibility Study for Vets Park Shoreline. Ms. Cherichetti presented an overview of the grant funded project from Long Island Sound Futures Fund to hire a consulting firm to conduct the feasibility study to assess the process of restoration of the southern part of the shoreline. She noted that they are looking for a member of the Harbor Management and Shellfish Commissions to join their committee.

Maps and photos were shared to show the areas of erosion, coastal jurisdictions and sea view lines. A presentation of project timelines was also shared.

Mr. Steadman provided the historical background of the park with arial photos and he spoke of the significance of the history of the City master plan for Veteran's Park.

There was discussion on the importance of the study and incorporating the Harbor Management to have consistency with approved guidelines. Mr. Kibbe noted that any member interested in joining this Commission should contact any of the members from the Aquarium in attendance.

APPLICATION REVIEW COMMITTEE

Dr. Pinto provided an overview of the item as follows:

- a. **10 Harbor View Avenue:** The applicant is proposing to replace a steel and timber pier, ramp, and piling-anchored floating dock; retain pre-1987 concrete steps and concrete pad.

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Mr. John Hilts representing Mark Hollis, shared a schematic diagram of the area and outlined the scope of the project and fielded questions and comments. Mr. Bartush from the Shellfish Commission indicated that this would qualify for a COP. Mr. Steadman noted that application details should be submitted to the Shellfish Commission for formal review. He then commented on the distance of the water line and asked about the parameters of the placement of the pilings. There was discussion on the conditions of the response and comments of the evaluation.

** MR. PINTO MOVED TO APPROVE THAT THE COMMISSION HAS NO OBJECTION TO THE APPLICATION ON THE CONDITION THAT THE SHELLFISH COMMISSION HAS A COMPLETE REVIEW, THAT THE BARGE LOCATION HAS THE APPROVAL OF THE HARBOR MASTER, AND THE PLACEMENT OF THE LINES ON THE CONDITION THAT NO VESSEL WILL SIT AT THE BOTTOM.

** MR. MACDONNELL SECONDED THE MOTION.

** MOTION TO APPROVE WAS UNANIMOUS.

b. Discussion of the City's Industrial Waterfront Study and Amendment to the POCD; review timeline for response and comment

Dr. Pinto reported that the Application Review Committee held a special meeting on Monday, August 21 and following discussion and comprehensive review, the following amendment was compiled from the points presented. Dr. Pinto read the letter from Planning & Zoning and the proposed amendment:

Subject: Referral from Norwalk Planning & Zoning (P&Z) Commission:
Proposed Amendment to the 2019 Plan of Conservation & Development (POCD)

The following paragraphs represent the Commission's response to P&Z regarding their proposed amendment:

The Norwalk Harbor Management Commission (NHMC) has reviewed the following proposed POCD text amendment, prepared by the P&Z Commission and referred to the NHMC with your letter of July 24, 2023: "Implement the recommendations of the Industrial Zones Study and the Norwalk Industrial Waterfront Land Use Plan. The City will further evaluate, modify as necessary and implement the recommendations within these studies." This amendment would be inserted on page 250 of the POCD as item v.

The NHMC is not able to make a favorable recommendation concerning the proposed POCD amendment for the reasons described in more detail below. However, as a preface, these reasons include the intended significant reduction of the Water Street Marine Commercial Zoning District;

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the lack of consideration of Norwalk's state-approved Municipal Coastal Program; and the intended increase in multi-family residential development in the coastal floodplain contrary to the basic principles of floodplain management and resiliency planning.

As the proposed POCD text change would impact property within the coastal boundary and affects property on, in, or contiguous to the Norwalk Harbor Management Area, it is subject to review by the NHMC to determine its consistency with the Norwalk Harbor Management Plan (Harbor Management Plan). The requirements of this review are specified in Sec. 22a-113p of the Connecticut General Statutes and the Harbor Management Plan. Pursuant to the General Statutes and the Harbor Management Plan, a 2/3 vote of all members of the P&Z Commission is needed to approve a proposal that has not received a favorable recommendation from the NHMC.

This matter was discussed during a Special Meeting of the NHMC's Application Review Committee on August 21, 2023 and during the NHMC meeting on August 23, 2023. Following significant discussion, including consideration of the relevant recommendations and other provisions in both the Norwalk Industrial Waterfront Land Use Plan (Waterfront Plan) and 2019 Citywide Plan (POCD), the NHMC approved a motion during its August 23 meeting to inform the P&Z that the NHMC cannot make a favorable recommendation concerning the proposed POCD amendment for the following reasons:

1. The Waterfront Plan does not acknowledge Norwalk's state-approved Municipal Coastal Program prepared by the city's P&Z Commission in accordance with the CT Coastal Management Act that must be considered when preparing POCD amendments affecting the designated coastal area.
2. The proposed POCD amendment would enact the recommendations outlined in the Waterfront Plan and concurrently stipulates that these recommendations can be modified as necessary, presumably by the P&Z Department and/or by the P&Z Commission. This provision affords the planners significant flexibility to pursue a wide array of actions without requiring them to amend further the POCD and respond to public comments. The logic in this approach appears to be tantamount to circular reasoning.
3. After the NHMC reviewed the Zoning Regulations Update Public Draft March 2023 (Zoning Update), it is evident that the planners intend to remove about half of the Water Street Marine Commercial Zoning District subsequent to revision of the POCD. This action would apparently invalidate the state-approved Municipal Coastal Program.
4. The complex developmental scenarios outlined in the Waterfront Plan referred to as "test fits," support increased development, including multi-family residential development, within the special flood hazard area along Water Street and the Upper Harbor shoreline. Such an approach runs counter to the basic principles of effective floodplain management

and the pursuit of sound objectives for resiliency planning. Furthermore, it should be noted that the Department of Energy and Environmental Protection, responsible for administration of the CT Coastal Management Act, has determined and has issued formal statements in this regard to other municipalities. In brief, these statements cite that increased residential development in the coastal floodplain is inconsistent with goals and policies of the Coastal Management Act.

5. The Harbor Management Plan supports the Marine Commercial Zoning District and the application of state coastal management goals and policies to help guide waterfront land use. Reducing the Marine Commercial Zoning District and introducing a new "urban density" multi-use zone in the 100-year floodplain to boost residential density in both the remaining Marine Commercial area and the other waterfront locations would all be inconsistent with the Harbor Management Plan.

In addition, the NHMC agreed to transmit the following comments regarding the Waterfront Plan as discussed during the NHMC's August 23 meeting and relevant to review of the proposed POCD amendment.

- The Waterfront Plan includes the following key recommendations: Safeguard water-dependent activities while promoting inclusion of other uses that enhance the enjoyment of the harbor; ensure the preservation of harbor side communities from unsuitable development; and maintain scenic views and viable access to the harbor.
- Despite the recommendation of the Waterfront Plan to maintain the existing configuration of the Water Street Marine Commercial Zoning District in both its northern and southern sections, the Zoning Update has selectively disregarded this recommendation.
- The Waterfront Plan specifically addresses the waterfront of the west shore of the Upper Harbor extending from King Industries upriver to the Head of Navigation. The Waterfront Plan recommends that this region retain its heavy industrial zoning designation, allowing for continuation and reinvestment of established resilient heavy industrial and marine commercial enterprises on this otherwise underutilized land. This suggestion also has been ignored, as evidenced by the proposed alteration of the zoning here to CD-5W Urban Center district in the Zoning Update. It is noteworthy that a significant portion of this area is within the 100-year floodplain, leading to concerns similar to those raised by the NHMC about future redevelopment in the Water Street floodplain.

Please be advised that the NHMC reserves its right to continue to review and comment on the proposed POCD amendment at such time as it may be modified, additional information may be available, or the proposal is the subject of a public hearing.

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- ** MR. PINTO MOVED TO APPROVE THE AMENDMENT TO THE WATERFRONT STUDY WITH RECOMMENDATION AND CONDITIONS AS PRESENTED.
- ** MS. JONES SECONDED THE MOTION.
- ** MOTION TO APPROVE PASSED WITH SEVEN VOTES IN FAVOR (KIBBE, MANGELS, PINTO, JONES, MACDONNALL, GIFFORD, WHITE) ONE OPPOSED (MATTHEWS) AND NO ABSTENTIONS.

- c. **Standing Action Items:** Open discussion of future Walk Bridge proposals regarding placement of transmission cables by Eversource and DOT, DOT's plans for stationing work barges in Norwalk Harbor; DOT's plans to monitor water quality, and bulkhead construction at proposed South Water Street staging properties.

There was no discussion on the status of the project, and it will remain on the agenda as an open item.

Dr. Pinto asked to discuss the issue of water run-off from Route 7 construction into the harbor. Mr. Kibbe noted that this was not on the agenda, and due to limitations of notification, the item could not be discussed. Mr. Steadman suggested that a special meeting be held for this item as it is a timely matter to be addressed.

CHAIRPERSON'S REPORT

Mr. Kibbe thanked members of the Commission for handling items over the past few weeks while he was away, and he noted that there was no separate report for this meeting.

STAFF REPORTS

- a. Harbor Master

Deputy Harbormaster Owen Lee provided his report:

- Transient moorings have been numbered; received 5-star rating received for harbor locations.
- A 30 ft sailboat in south anchorage was abandoned, mooring paid, waiting for the owner to remove.
- Complaints from United Marine regarding rowers and a chase boat. It was referred to Norwalk Marine Division for action
- Met with City on Amistad visit; reviewed safety plan
- 34 Shorefront Park illegal mooring removed, bill submitted from Norm Edwards Marine; received bill for two moorings placed off Sheffield; two abandoned moorings removed off of Marvin Beach

b. Consultant

Mr. Steadman spoke of the newspaper article in Greenwich Times that described the lawsuit in Greenwich that resulted in a judge's decision to prohibit Harbor Commissions in the State from reviewing applications submitted to the Department of Energy and Environmental Protection unless that municipality's Harbor Management Plan specifically mentions the proposed project within the plan. Harbor Commissions across the State as well as the Connecticut Harbor Management Association will pursue action in the next legislative session to hopefully reverse that decision.

Connecticut Port Authority (CPA) Program Manager, Joseph Salvatore, has been relocated from his assignment at the CPA to a non-maritime position at the CTDOT. This caused concern among harbor commissions representing small and mid-sized harbors in the state. Mr. Salvatore has amassed substantial knowledge and experience concerning Connecticut's maritime programs that include the SHIPP grant program which Norwalk was just awarded. Leaving this position vacant will jeopardize coordination of dredging projects, review of municipal harbor management plans and SHIPP grants, and his relationship with local stakeholders. As such, the continuity and effectiveness of these important state programs, currently managed by the CPA, will be diminished.

SHELLFISH COMMISSION

Mr. Bartush reported that they took no action from last meeting so has no report on resolutions. The commission has received a letter in support of permit conditions on stationing of barges for the Walk Bridge project both at Greens Ledge Lighthouse and within and outside of the Norwalk Harbor. It was resolved that a bond should be posted equal to 50% of Norwalk's annual harvest, or \$8 million.

Fishing permits are still available at Fisherman's World. For closure of Shellfish beds dates and times: 203.838.9307.

COMMITTEE REPORTS

a. Mooring and Harbor Safety

Mr. Mangels reported that the transient mooring balls have been painted and marked. Good success on number of transient boaters coming to Norwalk. Good coordination with Recreation and Parks for docking and dinghy tie-up. 5-star review has been received. Need to separate some moorings in order to accommodate larger vessels.

b. Finance

Mr. MacDonnell reported that second payment from Norwalk Yacht Club was received, and all bills for summer interns and Telesco have been paid. Mr. Steadman's invoice has not been paid but will be done. More receipts to follow for Dockwa and potentially the Oyster Festival, and mooring expenses should be covered through regular Commission budget.

c. Plans and Recommendations

Mr. MacDonnell reported that the Amistad vessel is coming soon (Sept. 5 or 6) before Oyster Festival. Tours included in Oyster Festival ticket price. There will be some additional limited public dates for touring before and perhaps after the Festival. Thanked the Harbor Master and Deputy Harbor Master for helping with logistical issues.

Street Ends Study – Held kick off meeting last week. Surprised to learn there's a parallel effort within the City to look at the harbor (steered by Jessica Vonashek, Chief of Community and Economic Development). City proposed combining forces and incorporate HMC Street Ends Project as discreet task within City's larger project. Both currently in RFP process. Question is whether this proposed structure would jeopardize any state Port Authority grant received by HMC. Geoff Steadman will research answer.

Resiliency SONO Study – Mr. MacDonnell is preparing a draft response on behalf of HMC recommending installation of back flow preventors on outfalls for nuisance flooding on Water Street. He will also prepare a recommendation to extend the proposed egress corridor to include Harbor View and up over Quintard Street.

d. Newsletter/Website

Mr. Matthews reported no Newsletter update. He has recruited Commissioner Chris White to share the Newsletter responsibilities and together they will put a plan in motion for a quarterly newsletter. Mr. Kibbe will share the Newsletters he received during his visit to other harbors around the area and his findings from other harbor management practices. Items to be included will be Oyster Festival events the Seaport Association events, and the visit of the Amistad.

e. Water Quality

- Mr. Schnierlein reported that the water temperature in the harbor is going down and the dissolved oxygen level is slowly increasing (Last month was 1 mg/L. According to the EPA, the danger level is 3 mg/L of dissolved oxygen)
- Water Quality Committee still down three members.

- Suggested HMC ask Eversource to mark east and west positions of the two 115 Kilovolt transmission cables when installed under the visitors dock in Vet's Park.
- Water Quality Committee is concerned about the proposed increase of population density along Water Street and the lack of park and open space in Norwalk.
- State PFAS regulations are available. Mr. Schneirlein will provide to Chairman Kibbe for distribution. Comparisons are in place for sample testing and guidelines for well water testing.
- Any work on Rte 7 and Merritt 7 because they are within the Norwalk River watershed will impact the Norwalk River and ultimately affect Norwalk Harbor.

NEW BUSINESS

There was no New Business.

ADJOURNMENT

- ** MS. JONES MOVED TO ADJOURN.
- ** MR. MACDONNELL SECONDED THE MOTION.
- ** THE MOTION PASSED UNANIMOUSLY.

The meeting was adjourned at 8:09 P.M.

Respectfully submitted,
M. Knox
Telesco Secretarial Services