

ADVISORY COMMISSION ON COASTAL WATERS TOWN OF DARIEN

JOHN McDONALD, CHAIRMAN
C. LINCOLN JEWETT, VICE CHAIRMAN
WALTER RALEIGH, SHELLFISH
FRANK KEMP, CLERK
FLIP HUFFARD
ROBERT MONRO
JON SCHOUEL
J. PALMER SPARKMAN
ROBERT VILTER



Green's Ledge Light

EX-OFFICIO MEMBERS
JANE BRANIGAN, PARK & REC COMM.
TOM BELL, HARBOR MASTER
CAPT. GARY PAVIA, POLICE DEPT.

Minutes of the February 6, 2013 Meeting

Present: Chairman McDonald, Vice Chairman Jewett, Commissioners Huffard, Monro, Raleigh, Schoudele, Sparkman, Vilter and Harbor Master Bell.

Absent: Commissioners Huffard and Kemp.

Also present was Glen R. Osberg, Vice Commodore of the Darien Boat Club.

The meeting was called to order at 7:35pm by Chairman McDonald.

The minutes for the meeting of December 5, 2012 were reviewed and approved.

Chairman's Report

Chairman McDonald noted that the Commission's roster consists of nine members appointed by the Selectmen, plus, ex-officio, the Harbor Master. Currently there are two vacancies, positions previously held by Bill Cavers and Mike Wallace. Cavers has resigned and Wallace has been dropped from the Commission by the Board of Selectmen due to his failure to communicate with them and a lack of attendance.

Future meetings of interest are: the Fairfield County Commodore's Association (2/12 at Indian Harbor Yacht Club), SoundWaters luncheon (2/14), CT Environmental Meeting (2/7), CAC Meeting (3/14, New York), and the Stamford Boat Yard DEEP hearing (this evening in Stamford).

The NOAA description of their Booklet Chart was distributed, as well as the booklet – "Sound Health 2012 – Status and Trends in the Health of Long Island Sound," published by the Long Island Sound Study.

It was noted that FEMA had sent First Selectman Stevenson a letter concerning the need for Darien to conform to new FEMA regulations, or else lose eligibility for Flood Insurance.

Harbor Master Report

Harbor Master Bell noted that Connecticut Harbormasters now report through the DEEP rather than through the CT Transportation Department. There will be a Harbor Master meeting on Wednesday, February 27.

There is now a 3-year wait for moorings, except those further out towards the Sound.

Due to the disruption of Hurricane Sandy last fall, a new harbor-depth study may be necessary.

Shellfish Report

Commissioner Raleigh's report is attached.

Election of Officers for 2013

The present officers were re-elected: Chairman – John McDonald, Vice Chairman – C. Lincoln Jewett, Clerk – Frank Kemp.

Darien Boat Club – expansion and permit application

Glen Osberg, Vice Commodore of the Darien Boat Club, reported that Hurricane Sandy had caused extensive damage to the clubhouse, particularly to the decking and the front face. The gas pump is intact, however the pumpout station was washed away. The clubhouse has been “moth-balled” until spring, thereby preventing further deterioration. Structurally, the clubhouse is in satisfactory condition, and will be repaired to be essentially as it was previously. The clubhouse is expected to be in operation in May, depending on the weather conditions between now and then.

The Darien Boat Club is providing information to the Army Corps of Engineers in addressing the issues raised by its neighbors in the Public Meeting of October 10th in regard to expansion plans. Chairman McDonald has requested a copy of this letter.

Report of the Citizens Advisory Committee/ Long Island Sound Study

Chairman McDonald reported on the Citizens Advisory Committee meeting of December 13, 2012, and distributed a letter presented at that meeting concerning dredged material disposal sites (attached).

Other Business

Vice Chairman Jewett reviewed a draft memo concerning the degrees of jurisdiction the Town of Darien has over “Darien Waters” (attached).

There being no further business, the meeting was adjourned at 9:15pm.

The next meeting of the Commission is scheduled for Wednesday, March 6, 2013, at 7:30pm in Room 213, Town Hall.

Respectfully submitted, with thanks to Vice-Chairman Jewett for providing assistance in drafting notes from the meeting, due to the Clerk's absence,

Frank B. Kemp, Clerk

ATTACHMENTS:

Shellfish Report - Walter Raleigh - February 6, 2013

Draft Memo: Darien's “Coastal Waters;” Control and Jurisdiction - C. Lincoln Jewett - December 5, 2012

Comments re Dredged Material Disposal Sites – Timothy C. Visel – January 30, 2013

NOTE – the meeting of the Commission originally scheduled for Wednesday, March 6, 2013 was canceled on the advice of Vice Chairman Jewett. The next meeting of the Commission will be Wednesday, April 3, 2013

Shellfish Report February 6, 2013

Permit for Roger Frate to Take Shellfish from Scott Cove

On December 20, I received a call from the Selectmen's Office to review applications submitted by Roger Frate, to transplant shellfish from Darien Harbor and Scott Cove. Four days later, I submitted a draft permit to the First Selectman, partially based on one that the Town used several years ago. The new permit allows Mr. Frate to take shellfish from the Restricted Relay Area of Scott Cove only, (not Darien Harbor), is valid from signing through April 30, 2013, and requires a report to the Town Administrator of the quantities he transfers from the Cove. Town Counsel added a paragraph to the permit, requiring Mr. Frate to add the Town as an additional insured. The final permit was sent to Mr. Frate on January 15, and has yet to be signed. CT Aquaculture will issue a license for Scott Cove when they receive the permit from the Town.

Aquaculture Bureau Approval of Darien's Shellfish Areas

The Town's major recreational shellfish areas, Great Island Bed and Contentment Island Bed, have been approved by CT Aquaculture for continued shellfishing, so long as rain events don't require closure (3 inches of rain in a 24-hour period).

***Vibrio vulnificus* bacterium Report from Gathering of Shellfish Commissions meeting, 1/26/2013**

Increasing levels of the bacterium *V. vulnificus* in Long Island Sound waters and shellfish have forced extensive closures of shellfish beds since July 2013. *V. vulnificus* typically causes vomiting, diarrhea and/or abdominal pain 24 to 48 hours after ingestion of infected shellfish, and has been known to cause death. Long Island Sound's warmer water is believed to be the major cause for the increase. Aquaculture does not have the ability to routinely measure levels of the bacterium in shellfish, relying on Federal laboratories instead. Connecticut had 8 cases of sickness from *V. vulnificus* in 2012.

CT Aquaculture has recommended that materials concerning *V. vulnificus* be distributed along with recreational shellfishing permits. I have passed the materials to Dave Knauf of our Health Department, who believes they will be included when a recreational permit is sold.

Bud Raleigh

MEMO **Preliminary Draft**

To: Darien Advisory Commission on Coastal Waters

From: C. Lincoln Jewett, Vice Chairman

Date: December 5, 2012

Re: Darien's "Coastal Waters": Control and Jurisdiction ?

Chairman McDonald and I pondered over what is the degree of jurisdiction the Town of Darien has over what we all casually refer to as "Darien Waters"?

For the answer, here are three pertinent excerpts from a search of Federal Regulations, and related documents:

- "Under U.S. law, bodies of water are distinguished according to their use. The distinction is particularly important in the case of so-called navigable waters, which are used for business or transportation. Jurisdiction over navigable waters belongs to the Federal government rather than states or municipalities. The federal government can determine how the waters are used, by whom, and under what conditions. It also has the power to alter the waters such as dredging or building dams. Generally a state or private property owner who is inconvenienced by such work has no remedy against the federal government unless state or private property itself is taken; if such property is taken, the laws of Eminent Domain would apply, which may lead to compensation for the land owner."
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- "Navigable waters of the United States are those waters that are subject to the ebb and flow of the tide and/or presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity."
- "It shall be the duty of the Secretary of the Army [via Corps of Engineers] to prescribe such regulations for the use, and navigation of the navigable waters of the United States as in his judgment the public necessity may require for the protection of life and property, or of operations of the United States in channel improvement, covering all matters not specifically delegated by law to some other executive department."

Sources: Wetland Regulations CFR 33 Part 329 Definition of Navigable Waters of the United States.

<http://legal-dictionary.thefreedictionary.com/Navigable+Waters>.

United States Environmental Protection Agency Notice of Intent Public Meeting

Scoping Comments for Public Record Due January 30, 2013

Dredged Material Disposal Sites in Long Island Sound

November 14- University of Connecticut at Avery Point, Groton, CT

Timothy C. Visel
10 Blake Street
Ivoryton, CT 06442

EPA FRL-9741-9 Notice of Intent Designation of an Ocean Dredge Material Disposal Site

Good Evening,

We have heard much about dredge material disposal tonight but it is important that we know what it is. Not all dredged material is the same and it is important to classify it beyond just a term.

My first experience with dredged material offshore was with a DAMOS project in 1978 for New Haven harbor. Knowing what the material was, it made sense to cap it. In 1983 at Osterville, Cape Cod, an upland dewatered site with organic material also worked very well. It was mostly a sticky gelatin like material and clean, mostly leaf litter, a good option for this material. In Massachusetts, especially on the Cape, creeks and rivers filled each summer with organic matter mostly leaves and dead sea grasses. Dredging projects were removing accumulated composting leaves and were mostly small maintenance projects. It is my understanding that several Cape Cod towns today share a community dredge to keep small creeks, coves and rivers clear of organics. Such dredging can help restore tidal flows reduce oxygen debts and recycle banked natural nitrogen compounds from organic composts, which can also help shore fisheries as it is basically a fish food.

We also need to examine site conditions as well to current climate and energy patterns. In the 1950s and 1960s dredged leaf and organics were disposed offshore in high energy zones in relatively shallow water. Immediately after dumping (old term) reports from fishermen often included fish increases feeding upon shrimp species. In fact, conversations with fishers and marina owners told me that with colder temperatures combined with much more coastal energy after a few months it was difficult to find the disposed material at all; it was gone. This was also when winter flounder fishers would head to the "disposal" sites to catch fish that was because that was 'where the flounder were". A similar disposal site fishing association occurred in eastern CT over organic material disposed by Pfizer Corp in the 1980s. Eventually this material Mycelium was recycled for

a local mushroom grower. Organic matter quickly becomes part of the marine food chain, such as the breakdown of acidic leaf compost is a natural process and attracts marine species that feed on it.

When creeks, coves and tidal rivers are dredged especially along the Connecticut shore they tend to collect leaves, which rot in high heat and low energy conditions. Several Connecticut coves have deep accumulations of leaves, such as Hamburg Cove in Lyme, Connecticut. In certain areas here over 10 feet of leaves have rotted producing an acidic sticky material rich in nitrogen, a marine compost that when disturbed has a sulfide odor. This compost once it is dredged and placed in oxygen containing waters it becomes fish food and is quickly consumed by plant grazers and shrimp.

In many cases navigational dredging has become a leaf removal activity, after the prohibition on the fall burning of leaves, leaf material substantially increased on Cape Cod and other watersheds. Today navigation interests are in the leaf removal business, no different than land. Because of the huge amounts of terrestrial organic debris dredged material is often just clean aquatic compost. Dredged channels have better tidal flows and can at times restore habitats buried by this acidic compost. Therefore it is critical to know what the material is, is it leaves and organic compost, clays silts or sand or cobblestones. Is the material clean or contaminated, can it be reused or recycled. Dredged material may soon become a key component of reducing flooding and shoreline protection. We can use it to create buffer islands and marshes, clean dredged material is therefore of value to use now with future shoreline protection programs to mitigate sea level rise.

Our forests have returned the mature tree canopy and is now dense with leaves, and spring leaf runoff fills our coves and bays with them each spring. In periods of high heat and low energy huge deposits accumulate and produce a black jelly like material, which is basically food for many species. Dredging is an expensive way to remove these leaves from bay bottoms and we now have a lot of them.

I hope that the issues surrounding habitat restoration, mitigation, creation and enhancement can be applied to the disposal of dredged material. In the future dredging may not be looked at as a problem but in fact an opportunity.

Please include these suggestions as the Supplemental Environmental Impact Statement for Dredged Material Disposal Sites in Eastern Long Island Sound is developed.

Thank you for the opportunity to comment this evening.

Tim Visel