



Waterford-East Lyme Shellfish Commission
Meeting Minutes
 Thursday, October 19, 2017
 Waterford Town Hall, 7:30 pm



Members present: Peter Harris, Larry Tytla, Paul Spakowski, J. Patrick Kelly, Tom Bowlen and Eric Kanter

Absent: Fred Grimsey and Rich Miller

Guests: Attorney Robert Avena, Abby Piersall, Dan Cunningham, Lou Bull, Tim Londregan and Doug Steers

- 1) The meeting was called to order at 7:30 pm after a quorum established.
- 2) The minutes of the August meeting were reviewed. The minutes were accepted on a motion By Mr. Kelly, seconded by Mr. Spakowski noting one correction under the public input section to change 18 feet to 18 inches; Vote 5 in favor, 1 abstain, motion passed.
- 3) The Treasurer's report for August was presented including the financials and bank reconciliation. The Treasurer's report was accepted on a motion by Mr. Spakowski, seconded by Mr. Tytla; All in favor, motion passed.
- 4) Chief Warden's Report-
 - The Warden's boat recently had an oil change; the lower unit repair is complete. The cost of repair is approximately \$779.00; Chief suggested as the motor has 1500 hours the commission consider purchasing a new motor from a local dealer as there is difficulty finding a Honda service and repair facility.
 - Trailer is in storage at locked/fenced area in Mago Point.
 - The shellfishing areas are currently open; samples were delivered by Joy Toronto this week.
 - The hotline for shellfish areas open/close recording should be changed and the dates be deleted to avoid confusion.
- 5) Old Business-
 - a) Attorney Robert Avena from the Town of Waterford discussed his findings and legal advice on the Public Notice of Application of Niantic Bay Shellfish Farm LLC, the creation of WELSCO area #7 and the 2002 Aquaculture Policy. (Attachment 7A). He noted the Town Planning Department had provided a blown up map of the shellfishing areas 1-6 for the meeting. He stated that Waterford Harbor Management Commission (WHMC) has jurisdiction and they had denied the recent location proposal. He noted there are three shellfish commissions that have concurrent jurisdiction in the same body of water within Waterford and East Lyme. There was a meeting in September with DEEP, DA/BA, Army Corp of Engineers and others from the shellfishing commissions to review procedures. He stated the Niantic Bay Shellfish LLC (NBSF) application is for a commercial structures and dredging permit. The Army Corp of Engineers was concerned with issues on a global level and requested Attorney Avena review the application. Attorney Avena researched WELSCO minutes and spoke with the WELSCO chairs. He found an amendment in 2016 to the 2002 Aquaculture Policy, the creation of WELSCO area #7 and Mr. Londregan's proposal; which stated a one to five year term in the documentation. He has spoken with Mr. Londregan's attorney regarding the significant investment on NBSF LLC's part. He reviewed state statutes and powers of WELSCO; he advised any changes to certain policies and issues should be taken to public notice in a local paper and public notices posted along riverbanks. He stated one public hearing could be held to discuss the shellfishing areas options for the NBSF LLC proposal and an amendment to the 2002 Aquaculture Policy. He reviewed

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 [Signature]
 EAST LYME TOWN CLERK

commercial projects and issues that could arise. He advised these items be noted on the next WELSCO agenda. The attachment B in NBSF experimental agreement dated November 2016 speaks of leasing an area from WELSCO for one year with preferential option for another 5 years. In review of 2002 plan there is no mention of commercial or of leasing. The Town of Waterford ordinance speaks of leases but procedures state the proposed lease be presented to the Board of Selectman and then the RTM for approval. WELSCO has no official leases in the river; he suggested an MOU with Town of Waterford for leasing; most commissions that work on certain projects must refer to Harbor Commission as stated in the statute; the applicant did not refer this to the WHMC. There needs to be anonymity with the commissions'; noting two commissions are at odds with this proposal. The Town statute has two ordinances and created WELSCO. Any commercial shellfishing projects require WELSCO to have an updated Aquaculture Plan. A proposal of up to 6 acres and a term up to 5 years could result in legal issues against the Town. In a public hearing, experts would review different WELSCO areas to use for the commercial NBSF project. Mr. Kanter inquired on an alternative to this plan as an agreement and not a lease. Mr. Tytla noted that WELSCO didn't enter into any contractual obligation or lease. Mr. Kelly stated there wasn't any lease, this was an experimental program that WELSCO could cancel at any time without cause; although this information was discussed, it was not recorded in the minutes. Members could sign an affidavit attesting to these facts. Mr. Kelly noted his surprise Mr. Londregan did not seek approval from the WHMC and follow legal channels for approval. Attorney Avena explained a lease is an interest not just in money and right occupy but exclusivity where liability is an issue. He will check with DEEP and State attorney about an MOU. He noted WELSCO could spend money on seed within river but a commercial operation is not within their purview. Mr. Tytla stated WELSCO maintained unfettered discretion with the NBSF proposal and the five years was not stated. Attorney Avena suggested the public hearing be held to discuss all the issues and to organize a joint meeting with all three commissions to address issues. Mr. Kanter noted new area #7 was based on modification of area #3 and inquired on WELSCO 's next steps to proceed. Attorney Avena stated to first rescind the experimental agreement (put on next agenda); The 2002 Aquaculture plan is abated but move to hold a public hearing to amend the policy to include commercial shellfishing and designate Area #7 or designation of an existing area; to hold a joint meeting of all three commissions and harbor masters to review concerns, risks, policies and structures. Mr. Kelly noted any dock applications must go to the local harbor commissions; perhaps the NBSF proposal should have been sent to the Conservation commission for approval. Attorney Avena stated WELSCO is under state statute but within the Town Charter that created the commission. He asked that all commission members be emailed the information form the meeting and the 2002 Aquaculture Policy; any substantial changes to the river require a public notice and be brought to a public hearing where qualified experts will provide facts, review benefits and risks. Any experimental projects under the current 6 designated areas should be brought to Public Notice if there are any changes. Mr. Kelly noted prior experimental projects need to be reviewed; WELSCO's status as a town agency and it's liability.

6) New Business-

- a) Mr. Neilson of Docko Inc. reviewed the proposed dock application for Mr. Vincenti of 97 Oswegatchie Road; this application was brought before the commission last year; the only change is shortening of the dock. Motion by Mr. Kelly, seconded by Mr. Tytla to approve as there are no adverse effects on shellfishing, Vote 5 to 1 against, motion passed.
- b) Mr. Conigliaro of Gerwick Mereen reviewed the proposed dock application for Ms. Hitchery located at 27 Saunders Drive in Niantic. Motion by Mr. Kelly, seconded by Mr. Harris to approve as there are no adverse effects on shellfishing; Vote 5 to 1 against, motion passed.
- c) The commission agreed there will be no Scallop Season held as there are minimal findings in the river and to avoid over harvesting; Motion by Mr. Kelly, seconded by Mr. Spakowski, all in favor; motion passed. Attorney Avena suggested notifying the public via the Town's websites and PSA to The Day newspaper.

- d) The 2018 meeting schedule will be sent in to both Town Clerks; WELSCO meetings will be held on the third Thursday monthly in alternating Town venue.
- e) Mr. Miller did not seek re appointment to the commission; there is one opening for a Waterford resident. Mr. Harris reminded members to keep up to date on appointment in accordance with Town protocol.

7) Correspondence-

The 38th Annual Gathering of the Milford Aquaculture Seminar is being held in January 8-10th at the Courtyard by Marriott in Shelton CT: If interested in attending, contact Ms. Tinker for registration.

8) Ex Officio Comments-

Town of East Lyme is working on a grant for a Micro cell that would power municipal infrastructure; (i.e.: well pump, septic, water and a school); considerable savings vs electrical rate.

9) Public Input –

Abby Peirsall:

Town Planner of Waterford; here to help, give resources and any support needed; The Town does have a GIS system in house and can download information to assist commissions.

Timothy Londregan:

The WHMC amended to increase structures not exceed 6 Ft above mean low water; the final application process states to notify Harbor Commission; the cultivation of shellfish resources is approved by DA/BA; WELSCO and WHMC should contact Tessa Getchis of Sea Grant for her availability to consult; search of East Lyme historical records and found a lease dated 1908 for the commercial cultivation of shellfishing.

Doug Steers:

The WHMC changed their plan recently of 6 Ft. to be in line with East Lyme 7 Ft. height restriction; seeking a copy of feasibility study & explanation of benefits of the NBSF project; concerned with distress and impacts on river and that the only benefit is to NBSF LLC; issues with aesthetics and public safety; suggested WELSCO buy and plant seed.

Mr. Bull- had many calls on opening for a Scallop Season; complaints on month listed in phone message; questions on status of the Public Notice to report to public

Mr. Kelly noted currently unable to get seed, was done in prior years; benefits to shellfish farming. Eel grass was blasted in the river; but in the 80's eel grass transplanted as it is beneficial.

Mr. Tytla agreed issues with investing in small scale projects need to be addressed; but many of complaints are unfounded.

Mr. Kanter suggested T. Getchis of Sea Grant at Avery Point should be contacted; to educate on her program. The East Lyme Harbor Management/Shellfish commission has different rules.

Mr. Harris stated NBSF plan was reviewed and on Agenda and written in minutes over 10 months; there are many benefits with oyster for shellfish farming.

10) The meeting was adjourned on a motion by Mr. Kelly at 9:30 pm; all in favor.

Respectfully submitted,

Amy Tinker
Secretary

AVENA & KEPPLER, LLC

ATTORNEYS AT LAW

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September 20, 2017

VIA E-MAIL & U.S. MAIL

Ms. Cori M. Rose
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

**RE: Army Corps File No. NAE-2017-00205
Public Notice of Application of Niantic Bay Shellfish Farm, LLC**

Dear Ms. Rose:

I represent the Town of Waterford and its Commission, Boards and Elected Officials. On behalf of Dan Steward, First Selectman of the Town of Waterford, I was asked to review the above application in regard to its consistency with local regulations and state law. At the same time, I also attended a meeting with you in Waterford in which you specifically asked the Town to respond to local jurisdictional issues regarding the siting of such a proposed project in the Niantic River, and to provide a road map of local jurisdictional steps necessary to site such a proposal, if possible, in the Niantic River.

As we discussed at the recent staff meeting, throughout the local processing of the Niantic Bay Shellfish Farm (NBSF) application, no legal oversight or review was requested by the Waterford East Lyme Shellfish Commission (WELSCO) on this particular, unique proposal to dedicate six acres to commercial aquaculture in the waters of the Niantic River. Since learning of the project in August 2017, I have worked to understand what steps were taken in the process without any benefit of legal review or guidance. We have not yet concluded our final legal recommendations to WELSCO regarding the NBSF proposal, but I have listed the legal steps necessary for typical commercial aquaculture projects in the waters of the Town of Waterford.

Waterford has two shellfish commissions and a Harbor Management Commission, all created by local ordinance and state statutes, that have jurisdiction over particular aspects of commercial aquaculture projects, depending upon location, type, and duration:

(1) The Waterford Shellfish Commission by law, see C.G.S. 26-257a and local ordinance. (Exhibits 1 and 1A, attached) controls all shellfish waters, other than the Niantic River, on behalf of the Town of Waterford. This Commission has limited statutory power to recommend leasing acres to private commercial shellfish operations, through Town ordinance and statute. Any recommendation by the Waterford Shellfish Commission for the Town to enter into commercial shellfish leases must be posted for a public hearing and approved by the Town Board of Selectmen and Representative Town Meeting. NBSF has not approached the Waterford Shellfish Commission with any application under its jurisdiction to enter a written lease to conduct shellfish operations in Waterford waters. The Town currently has numerous acres of leased commercial shellfish operations in Waterford waters, under supervision of the Waterford Shellfish Commission, and with written five year leases, excluding the Niantic River Estuary from the Route 156 drawbridge to Route 1 Golden Spur.

(2) The second alternative for conducting any commercial shellfish operations in Waterford town waters is the statutory and ordinance authority of WELSCO in the waters of the Niantic River from the state Route 156 drawbridge to the "Golden Spur" bridge on Route 1. Attached are the two relevant statutory and ordinance sections (Exhibits 2 and 2A) delineating the powers and duties of WELSCO, a joint commission with East Lyme, Connecticut. Currently, there are no written commercial shellfish operations in the Niantic River within the WELSCO jurisdiction. Any such proposal must first conform to the Commission's statutory power as recognized in its 2002 management plan, be limited in duration to one year, and be contained within areas 1-6 of the original plan. (2002 Management Plan attached as Exhibit 3.)

Mr. Londregan's application proposes to utilize a separate area of the river known as area "7", which was created by WELSCO without any legal review. In my opinion as town counsel, three important steps are needed to create "WELSCO 7", none of which were complied with by the Commission:

(a) Pursuant to its authorizing state and local authority (Exhibits 2 & 2a), public notice is to be placed twice in the local newspaper, and posted along the river banks notifying the general public that an additional commercial aquaculture shellfish area was proposed to be created in public waters; it is my understanding neither the public notices, postings or public hearing occurred prior to the revision of the 2002 plan and creation of "WELSCO 7", an area to be the subject of the commercial shellfishing proposal.

(b) Pursuant to state and town ordinances, the creating of a new "WELSCO 7" commercial aquaculture area must be referred to the Waterford Harbor Management Commission for its review and comment thirty (30) days prior to any action being taken on the proposal; no such referral occurred in the creation of WELSCO 7. (See 22a-113p of the Connecticut General Statutes and Section 2.82.090 of the Waterford ordinances, copy attached as Exhibit 4.)

Ms. Cori M. Rose
U.S. Army Corps of Engineers

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(c) Lastly, if any commercial aquaculture "leases" over one year temporary duration were to be considered, the power to do so resides in the Town Board of Selectmen and Representative Town Meeting in Waterford, not solely in WELSCO.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Avena', with a large, stylized flourish extending to the right.

Robert A. Avena
Waterford Town Attorney

RAA/lap
Enclosure

cc: Daniel Steward, Waterford First Selectman
Jane Adams, Harbor Management Commission Chair
Peter Harris, WELSCO Chair
Abby Piersall, Waterford Planning Director

EXHIBIT 1

Sec. 26-257a. Local shellfish commissions. (a) Any town, city or borough, acting by its legislative body or its board of selectmen, if a town, or its mayor, if a city, or its warden, if a borough, may establish a shellfish commission or may join with one or more other towns, cities or boroughs, acting by their respective legislative bodies or boards of selectmen or mayors or wardens, as the case may be, in establishing such a commission. The number of members and their term of office shall be determined by the legislative body or board of selectmen or mayor or warden, as the case may be, or, in the case of such joint action, by agreement of the legislative bodies or boards of selectmen or mayors or wardens, as the case may be.

(b) Such commission shall have charge of all the shellfisheries and shellfish grounds lying in such municipality or municipalities not granted to others and not under the jurisdiction of the Commissioner of Agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds of the municipality or municipalities. The commission may designate suitable places in the navigable waters within its jurisdiction for planting or cultivating oysters, clams or mussels. The commission may issue licenses for the taking of shellfish therefrom and fix the fees therefor, may designate the quantities of such shellfish to be taken, the sizes of such shellfish and the methods of taking. The commission may prohibit the taking of such shellfish from certain designated areas for periods not in excess of one year. All moneys collected by the commission under the provisions of this section shall be paid to the commission and used by it for the protection and propagation of the shellfish under its control. Any person who violates any regulation issued by the commission pursuant to this section shall be fined not more than two hundred fifty dollars.

(c) The commission shall prepare and periodically update a shellfish management plan. The plan shall be submitted to the Commissioner of Agriculture and any appropriate board of selectmen, mayor or warden for review and comment.

(d) All updates to the commission's shellfish management plan made pursuant to subsection (c) of this section and any comments made by the Department of Agriculture regarding such updates shall be in writing and shall be subject to the provisions of chapter 14.

Chapter 2.80

WATERFORD SHELLFISH COMMISSION

Sections:

- 2.80.010 Established.
- 2.80.020 Membership—Appointment—Requirements.
- 2.80.030 Terms of members.
- 2.80.040 Removal for cause—Notice and review.
- 2.80.050 Vacancy filling.
- 2.80.060 Officers—Meetings—Records.
- 2.80.070 Jurisdiction and powers.
- 2.80.080 Annual report.

2.80.010 Established.

The town, recognizing the potential value of its shellfish resource, establishes a shellfish commission, whose purpose will be to protect, manage and enhance that resource. (Prior code § 2-20.1 (a))

2.80.020 Membership—Appointment—Requirements.

Pursuant to Section 26-257a of the Connecticut General Statutes Annotated, as amended, there shall be, and is created in the town, a shellfish commission, the members all of which shall be appointed by the board of selectmen. All members must be electors and residents of the town. The commission shall consist of seven regular and three alternate members. (R.T.M. 2-1-93 (part): prior code § 2-20.1 (b))

2.80.030 Terms of members.

Initially, the board of selectmen shall appoint regular members as follows: two members to serve for two years, three members to serve for three years and two members to serve for four years. Thereafter the terms shall be for four years. Alternates are to serve for a term of two years. Such alternate members shall when seated have all the powers and duties set forth in said general statutes relating to the shellfish commission and its members. Members of the commission shall serve without compensation but shall be entitled to reimbursement for necessary expenses incurred in the performance of official duties. (R.T.M. 2-1-93 (part): prior code § 2-20.1 (c))

2.80.040 Removal for cause—Notice and review.

The board of selectmen shall not remove a member of the commission except for good cause and upon written notice. The removed member has the right to request a public hearing, in writing, within thirty days for a review of that decision. Such hearing shall be held within thirty days after receipt of the request. (Prior code § 2-20.1 (d))

2.80.050 Vacancy filling.

Any vacancy in the membership of the commission shall be filled for the unexpired term of such member by the board of selectmen. (Prior code § 2-20.1 (e))

2.80.060 Officers—Meetings—Records.

The members of the shellfish commission shall designate one of their members to be chairperson and one to be secretary of said commission. Regular meetings of the commission shall be held at such times at the call of

the chairperson. The commission shall hold at least six meetings annually. Three members of the commission shall constitute a quorum for the transaction of business. The commission shall keep accurate minutes and records of its proceedings and official actions, showing the vote of each member upon any question, or the absence or the failure of any such member to vote. (Prior code § 2-20.1 (f))

2.80.070 Jurisdiction and powers.

The shellfish commission of the town shall have charge of all the shellfisheries and shellfish grounds lying within the jurisdiction of the town of Waterford, not already granted to others, not under the jurisdiction of the Waterford-East Lyme shellfish commission, and not under the jurisdiction of the commissioner of agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds of said town. The commission may issue licenses for the taking of such shellfish therefrom and fix the fees therefor, and may designate the quantities of such shellfish to be taken, the sizes of such shellfish and the methods of taking. The commission may prohibit the taking of such shellfish from certain designated areas for periods not in excess of one year. Said commission shall further have the power of creating a shellfish management plan and may issue reasonable rules and regulations in furtherance of the protection and propagation of the shellfish under their control and of the shellfish grounds within its jurisdiction. The commission may recommend to the board of selectmen, but shall not have the authority to lease or grant any town lands under their jurisdiction. All money collected by the commission, and pursuant to the Connecticut General Statutes Annotated, shall be paid to the commission and used by the commission for the protection and propagation of the shellfish grounds. All money provided to the commission by the town through the budgetary process shall be requested from and approved by the board of selectmen.

The commission shall have the power to appoint enforcement officers to supervise the beds and enforce the regulations issued by the commission and authorized by the Connecticut General Statutes Annotated. The commission may further set penalties for violation of its regulations subject to the restrictions therein as provided in Section 26-257a of the Connecticut General Statutes Annotated. The commission shall have the power to adopt, amend and repeal rules and regulations governing its procedures and exercise of its powers and duties. The commission may call upon any other department of the town government for assistance in the performance of its duties and may cooperate with any other department of the town government in projects of mutual interest. (Prior code § 2-20.1 (g))

2.80.080 Annual report.

The commission shall make an annual report to the board of selectmen, detailing its financial records and accomplishments, for inclusion in the town annual report. It shall also submit such other reports as may be requested from time to time by the board of selectmen. (Prior code § 2-20.1 (h))

EXHIBIT 2

Sec. 26-287. Waterford-East Lyme shellfish commission. Taking of shellfish from Niantic River. (a) The Waterford-East Lyme shellfish commission shall consist of four electors of each of said towns appointed by their respective boards of selectmen. Annually such board shall appoint an elector as a member of said commission who shall serve for a term of four years from June first in the year of his appointment. Neither of said towns shall be represented on said commission by more than two members of the same political party. Any vacancies that may from time to time occur shall be filled for the balance of the unexpired term by the board of selectmen of the town which, because of such vacancy, has one less member on said commission. Said commission may prohibit the taking of scallops, clams and oysters from such portions of the Niantic River as it designates, for a period not exceeding one year at a time, designate, from time to time, the manner in which said shellfish may be taken and license such taking and, in connection therewith, adopt reasonable regulations and fix license and permit fees. When said commission designates any place or places in said river from which the taking of scallops, oysters and clams is to be prohibited or designates a new manner in which scallops, clams and oysters may or may not be taken, or adopts, rescinds or amends any regulation or license or permit fee adopted hereunder, it shall cause to be published at least twice, in a newspaper having a circulation in each of said towns, a notice describing the place or places upon which such prohibition is to be operative or the manner in which scallops, oysters or clams may or may not be taken, or the regulation, license or permit fee adopted, rescinded or amended, and shall post copies of such notices upon the shores of the river. No person shall take any scallops, oysters or clams from any grounds from which the taking of the same has been prohibited during the time of such prohibition nor in any manner in violation of any such designation or regulation.

(b) No person shall, at any time, take any scallops which may pass through a two and one-half inch ring or more than three bushels of scallops in any one day, provided said commission may increase or decrease the daily limit at any time after it has been in force for thirty days.

(c) All constables and other informing officers of either of said towns shall inquire after and prosecute for any violation of this section. For the purpose of enforcing the same, all constables in either of said towns shall have supervision and jurisdiction over that part of the waters of the Niantic River from Golden Spur Bridge southerly to the highway bridge at the Rope Ferry Road, so called, and all offenses committed within said limits, in the same manner and to the same extent as though said portion of said river was within the town within which such officials have jurisdiction.

(d) Said commission may designate special officers for the enforcement of this section whose compensation shall be determined by the commission. All moneys

collected by either the town of Waterford or the town of East Lyme under the provisions of this section shall be paid to the commission and used by it for the protection and propagation of scallops, oysters and clams and other shellfish in the waters of the Niantic River.

(e) Any person who violates any provision of this section or any regulation adopted pursuant to this section shall be fined not more than two hundred fifty dollars, and upon conviction the court may order that such person shall not be entitled to a permit or license to take scallops, oysters and clams from the Niantic River until the beginning of the second season the river is opened by the commission following such conviction.

Chapter 2.76

WATERFORD-EAST LYME SHELLFISH COMMISSION

Sections:

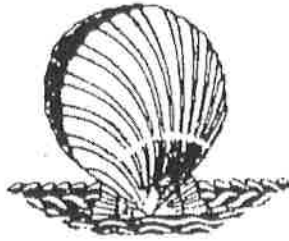
2.76.010 Membership—Powers.

2.76.010 Membership—Powers.

The Waterford-East Lyme shellfish commission shall consist of four electors of each of said towns appointed by their respective boards of selectmen. Annually such board shall appoint an elector as a member of said commission who shall serve for a term of four years from June first in the year of his appointment. Neither of said towns shall be represented on said commission by more than two members of the same political party. Any vacancies that may from time to time occur shall be filled for the balance of the unexpired term by the board of selectmen of the town which, because of such vacancy, has one less member on said commission. Said commission may prohibit the taking of ~~escallops~~, clams and oysters from such portions of the Niantic River as it designates, for a period not exceeding one year at a time, designate, from time to time, the manner in which said shellfish may be taken and license such taking and, in connection therewith, adopt reasonable regulations and fix license and permit fees. When said commission designates any place or places in said river from which the taking of escallops, oysters and clams is to be prohibited or designates a new manner in which escallops, clams and oysters may or may not be taken, or adopts, rescinds or amends any regulation or license or permit fee adopted hereunder, it shall cause to be published at least twice, in a newspaper having a circulation in each of said towns, a notice describing the place or places upon which such prohibition is to be operative or the manner in which escallops, oysters or clams may or may not be taken, or the regulations, license permit fee adopted, rescinded or amended, and shall post copies of such notices upon the shores of the river. No person shall take any escallops, oysters or clams from any grounds from which the taking of the same has been prohibited during the time of such prohibition nor in any manner in violation of any designation or regulation. (Prior code § 2-20)

EXHIBIT 3

WATERFORD-EAST LYME SHELLFISH COMMISSION



Policy Statement – July 18, 2002 On Aquaculture Projects in the Niantic River

The Niantic River is a small shallow estuary with a restricted outlet to Long Island Sound. It is a mostly residential area and is heavily used for a variety of marine recreational activities. The Niantic River has few identified areas open for aquaculture projects, which would not encroach on these activities. One of these activities is shellfishing and it is the mission of the Waterford–East Lyme Shellfish Commission to sustain and enhance recreational shellfishing.

Therefore the Waterford-East Lyme Shellfish Commission has deemed that any aquaculture projects be on an experimental basis only, limited in their size, scope and duration. Due to the restricted area available for aquaculture projects in the Niantic River, the Waterford-East Lyme Shellfish Commission shall favor experiments of a scientific nature with emphasis on restoration of native shellfish. Aquaculture projects shall be defined as any experiment requiring any structure to be placed in the river, such as buoys, floats, nets, cages, lines, anchors, etc.

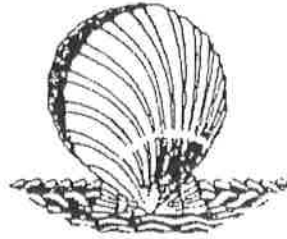
The Waterford-East Lyme Shellfish Commission will review applications for aquaculture projects on a case-by-case basis and approval is based solely on the discretion of the Waterford-East Lyme Shellfish Commission. If approved, it is incumbent on the applicant to adhere to all Federal, State, Harbor Management, Local and other regulations that may be in effect, as to placement, size, construction, etc., so as not to infringe on any navigable water, private property, marine grasses or in any other way to create a hazard or lessen the use of the Niantic River. Projects shall be in areas identified by the Waterford-East Lyme Shellfish Commission so as not to adversely effect areas open to recreational shellfishing, as determined by the Waterford-East Lyme Shellfish Commission. All applications shall show consistency with all applicable laws, including filing of public notice.

Projects must be maintained in good order. If for any reason the project is not maintained to the satisfaction of the Waterford-East Lyme Shellfish Commission, the Waterford-East Lyme Shellfish Commission reserves the right to have the applicant remove the structure prior to the experiment's projected duration.

If aquaculture projects are successful, the applicant understands no ongoing operation will be allowed at the conclusion of the experiment. During the project's life, the Waterford-East Lyme Shellfish Commission reserves the right to ask for a portion of shellfish produced to be distributed in the River in order to enhance the river's recreational shellfishing.

If the applicant fails to abide by this agreement in any way, as determined by the Waterford-East Lyme Shellfish Commission, the Waterford-East Lyme Shellfish Commission reserves the right to terminate the experiment with the onus on the applicant to promptly remove the project from the Niantic River. Any renewals shall be solely at the discretion of the Waterford-East Lyme Shellfish Commission.

WATERFORD-EAST LYME SHELLFISH COMMISSION



Suggested Locations For Aquaculture Projects In The Niantic River

The Waterford-East Lyme Shellfish Commission (WELSCO) created and adopted a Policy Statement addressing aquaculture projects in the Niantic River. Using a nautical chart of the Niantic River suggested areas in the Niantic River where aquaculture project might be carried on are identified as locations 1 through 6 on the attached map. These locations are solely at the discretion of the WELSCO and may be expanded, reduced, deleted or otherwise modified to address any changes in the Niantic River use.

Each location is circumscribed by a set of GPS co-ordinates, as follows.

Location	Direction	Latitude	Longitude	
#1	NW	41° 19.879	72° 10.944	
	SW	41° 19.754	72° 11.038	
	SE	41° 19.754	72° 11.012	
	NE	41° 19.887	72° 10.892	
#2	NW	41° 19.547	72° 11.000	
	SW	41° 19.483	72° 11.000	
	Intermediate	Point	41° 19.550	72° 10.881
		NE	41° 19.512	72° 10.739
		SE	41° 19.450	72° 10.739
#3		41° 19.764	72° 10.666	
Use coordinate as a centerpoint with a 200 yard radius about point				
#4	NW	41° 20.249	72° 10.592	
	Intermediate	Point	41° 20.129	72° 10.610
		SW	41° 20.000	72° 10.600
		SE	41° 20.004	72° 10.590
	Intermediate	Point	41° 20.129	72° 10.560
	NE	41° 20.266	72° 10.565	
#5	NW	41° 20.451	72° 10.687	
		SW	41° 20.374	72° 10.687
		SE	41° 20.374	72° 10.575
		NE	41° 20.430	72° 10.563
#6	NW	41° 21.803	72° 11.567	
		SW	41° 21.654	72° 11.542
		SE	41° 21.654	72° 11.490
		NE	41° 21.803	72° 11.549

A. To recommend ordinances for adoption by the representative town meeting which implement the harbor management plan and which may specify fines for violation of those ordinances, in accordance with Section 22a-113m of the Connecticut General Statutes;

B. To assist the harbor master in the assignment of moorings, the management of mooring and anchorage areas, and the collection of mooring fees after a local mooring fee system is established by ordinance;

C. To prepare an operating budget for the harbor management commission using funds from sources which may include, but are not limited to, local appropriations, mooring fees, violation fines, or a harbor management fund established by town ordinance;

D. To assist in the coordination of all public and private agencies, commissions and other organizations which have interest or jurisdiction within the harbor area;

E. To review and make recommendations on proposed land and water use activities contiguous to the waterfront and within the waters delineated in Section 2.82.060, Jurisdiction, of this chapter that are received for review by other municipal agencies in accordance with the procedure described in Section 2.82.090 of this chapter;

F. To review for consistency with the harbor management plan any public notice of an application for a local, state or federal permit for an activity taking place within the harbor management commission's jurisdiction as described in Section 2.82.060, Jurisdiction, of this chapter, and to respond in a timely fashion with recommendations to the regulating agencies;

G. To conduct or cause to be conducted, studies of the conditions and operations in and adjacent to Town of Waterford waters and to present to the board of selectmen proposals for the harbor's efficient operation; and

H. To request, when appropriate, a general permit from the United States Army Corps of Engineers and/or delegation of state enforcement authority pursuant to Section 22a-2a of the Connecticut General Statutes. (R.T.M. 12-2-91, Attachment D (part))

2.82.090 Referral of proposals submitted to other municipal agencies.

Pursuant to Section 22a-113p of the Connecticut General Statutes, the harbor management commission shall review and make recommendations, consistent with the adopted harbor management plan, on any proposal affecting the real property on, in or contiguous to the harbor submitted to the planning and zoning commission, zoning board of appeals, flood and erosion control board, water pollution control authority and shellfish commission(s). The harbor management commission shall be notified in writing of any such proposal at least thirty-five days prior to the commencement of the hearing thereon or, where no hearing is held, at least thirty-five days prior to the taking of any final action on the proposal. The respective municipal agency shall send a copy of the application/proposal to the harbor management commission upon request.

The primary reviewing agency authorized to act on the proposal shall consider the recommendations of the harbor management commission. A two-thirds vote of all the members of the agency having authority to act on the proposal shall be required to approve a proposal which has not received a favorable recommendation from the harbor management commission, provided that the provisions of this section shall not be deemed to alter the authority of the agency having primary jurisdiction over the proposal to deny, approve or modify and approve the proposal. Failure of the harbor management commission to submit a recommendation on or before the date of the hearing or action on such a proposal shall be deemed an approval. (R.T.M. 12-2-91, Attachment D (part))

2.82.100 Waterways regulations.

A. General Provisions.

1. Applicability. The provisions of the ordinance codified in this section and any rules and regulations adopted pursuant to this section shall be applicable, and shall govern the use of waters and facilities under the