

Kathy S. King

From: Ken Navarro <kennethnavarro@comcast.net>
Sent: Tuesday, February 11, 2020 8:44 AM
To: Gephard, Steve
Cc: William R Sweeney; Karl Kilduff; Planner; Kathy S. King
Subject: Re: Fish Ladder

Steve
This all sounds good...let's proceed. Re ownership of the upriver ponds, the total parcel is about 35 acres of which about half is wetlands and ponds. We are obligated to deed a small park area (which may include the dam) back to the town but we would be willing to deed all of the water areas if desired. The town still owns the parcel for a few more months, we are the contract buyer.
We would be happy to sign the letter.
Hope this helps.
Ken

PS: The pictures look great, we are looking for ways to connect the development to the shoreline community!

Sent from my iPhone

On 11 Feb 2020, at 8:09 AM, Gephard, Steve <Steve.Gephard@ct.gov> wrote:

Ken,

Thanks for your email. You mention ownership of the upstream ponds. I think a lot of those ponds are owned by CT Water Company, are they not?

Anyway, I agree that a fishway could enhance the property value for any owner of the dam property. The eventual owner would own the fishway and could dictate the conditions of public access but regardless, we would require permission to access the site for fishway operation and maintenance. We might also want to install an electronic fish counter in it to document the number of fish that return year-after-year and that would require daily access, April-June. While the property owner would own the fishway, my program with the DEEP would do most of the operations. When the grant round is announced in the next couple of months, I will assemble a team to apply for a grant to design the fishway. In order to be considered for the grant, we must have a letter of support from the current owner. We can draft that simple letter for a signature and forward it to a representative of whoever owns the dam at the time. If we get the grant, we will take a year or so to hire an engineering firm to design it and plan construction. During that time, all interested parties will have the opportunity to review the draft plans and comment on them. We will ensure that the design will be compatible with future uses and acceptable to the future owner. Even if the future owner has not been decided, we can have representatives from all potential owners sit on an informal review panel to comment. Even with the fishway fully designed, there is no obligation to build it. We would then apply for another grant to pay for construction. We would need a letter of support for that application as well. At that point, hopefully we will know who will own the dam and fishway and we can commit to its construction.

The federal grant requires some non-federal match, which we will need to come up with. We will explore opportunities but I throw that out on the table in case any of the involved parties might want to contribute to that fund. Depending on what we ask for, that match could be \$30,000 - \$50,000. This understanding and the ask for a letter of support is not contingent upon anyone providing money. We will see what we can come up with for match. However, if such a contribution is compatible with your

plans for moving forward with this entire development project or sweetening the pot for eventually transferring the land to the land trust, we can discuss this option. Such match need not be provided until we accept the grant but pledging the match helps compete.

I have attached a couple of photos of local CT fishways just to give you an idea of what a fishway at Upper Pond Dam might look like. Old Saybrook, Guilford, Old Lyme.

Steve

From: KENNETH NAVARRO <kennethnavarro@comcast.net>

Sent: Monday, February 10, 2020 3:36 PM

To: William R Sweeney <wrsweeney@tcors.com>

Cc: Gephard, Steve <Steve.Gephard@ct.gov>; kkilduff@clintonct.org; John Guskowski <jguskowski@cmeengineering.com>

Subject: Fish Ladder

Hi Steve

I am following up re your correspondence with Bill below. The final ownership of the Dam (along with the upstream ponds) will be owned by either the town, land-trust or the developer. In all three cases, the fish ladder would be a great idea so please proceed and let us know what we can do to help?

Thank you!

Ken

Kenneth F. Navarro

860.918.3600

kennethnavarro@comcast.net

33 Cromwell Place

Old Saybrook, CT 06475

On February 10, 2020 at 3:03 PM William R Sweeney <wrsweeney@tcors.com> wrote:

See below to see my conversation with Steve Gephard on the fish ladder. Might be worthwhile to reach out to him to discuss.

William R. Sweeney, Esq. | Partner

Tobin, Carberry, O'Malley, Riley & Selinger, P.C.

43 Broad Street | P.O. Box 58 | New London, CT 06320

Tel: 860-447-0335 | Fax: 860-442-3469

From: Gephard, Steve [<mailto:Steve.Gephard@ct.gov>]
Sent: Tuesday, February 04, 2020 2:46 PM
To: William R Sweeney <wrsweeney@tcors.com>
Cc: 'kkilduff@clintonct.org' <kkilduff@clintonct.org>
Subject: FW: Clinton Property

Bill,

Thanks for your prompt response. Let me just outline our basic plan here for both the Town and the Developer's information.

- It would be our plan to apply for a grant from the National Fish and Wildlife Foundation (NFWF) to pay for the design of the fishway (and, later, another grant application for construction).
- The applicant would probably be a non-profit conservation group that we routinely work closely with.
- The grant round is typically announced in March or April. The applicant must include a letter of support from the dam owner. At this time, we don't know who will own the dam in the future but we will ask for a letter of support from whoever owns the dam at the time we submit the application. It may be the Town, which is why I copied Karl. The grants awards are announced in the fall and by that time, we should know who will own it. We can then confirm the new owner's support. If the new owner does not support it, we don't have to accept the grant.
- The design phase will take over a year so the fishway construction won't be right away. If the fishway is designed under one owner but the eventual owner does not want the fishway, we are not obligated to build it.
- The fishway will be a steppass style similar to what was built in Darien but much smaller since the dam is much lower. The fishway will be owned by whoever owns the dam and my program with the DEEP will help operate and maintain it.
- The fishway should be a compatible if not complementary feature for whoever owns the dam, as outlined in Bill's email, especially if it is a Town Park or Land Trust preserve. But even if the developer retains it, it could be an interesting feature for watchable wildlife that could add uniqueness to the development.

On one hand, this email may seem a bit premature since ownership decisions are yet to be made. On the other hand, announcing our intentions may help inform the decision making. I will be happy to meet and discuss our ideas with any/all at any

time. In the meantime, please keep me up to date on decisions that are made but you will hear back from me when NFWF announces their 2020 round of grants and we need to determine if we can have a letter of support and from whom.

Thanks,

Steve

Stephen Gephard

Supervising Fisheries Biologist

Diadromous Fisheries *and* Habitat Conservation and Enhancement programs

Fisheries Division

Connecticut Department of Energy and Environmental Protection
P.O. Box 719, Old Lyme, CT 06371

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www.ct.gov/deep

From: William R Sweeney <wrsweeney@tcors.com>

Sent: Tuesday, February 4, 2020 2:25 PM

To: Gephard, Steve <Steve.Gephard@ct.gov>
Subject: RE: Clinton Property

Hey Steve:

That is not determined at this time. The dam is proposed to be part of a parcel that is designated for conservation purposes. Our plan is to offer the parcel to the town with a public park parcel that is being carved out of the development. If the town does not want to accept it, we would then offer it to a local land trust. If that is not an option, we would continue to hold it and likely put it into some type of association or holding company.

Those decisions are likely to be made over the next 60 days or so. If you would like to speak to the developer, his name is Ken Navarro and he can be reached at 860-918-3600.

William R. Sweeney, Esq. | Partner

Tobin, Carberry, O'Malley, Riley & Selinger, P.C.

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Tel: 860-447-0335 | Fax: 860-442-3469

Email: WRSweeney@tcors.com | www.tcors.com

From: Gephard, Steve [<mailto:Steve.Gephard@ct.gov>]
Sent: Tuesday, February 04, 2020 2:20 PM
To: William R Sweeney <wrsweeney@tcors.com>
Subject: Clinton Property

Bill,

I got your name from the folks at the Clinton Town Hall. I am a fish biologist with the State and seek opportunities to restore runs of migratory fish to historic habitat, which has often been blocked by dams. One of the things we do is build

fishways at dams to let the fish get over the dams and continue upstream. There is a small dam behind the old Morgan High School, which your client is proposing to buy and develop. We have been looking at that dam for some time and even discussed it with a former First Selectman of Clinton, but now we're getting serious. So my question involves future ownership. It is my understanding that some of the Town property will be given to the Clinton Land Trust and most of it will go to the new owner for the development. My question is: who gets the dam? Whoever that is, I'd like to work with them to build a fishway at the dam. Whoever that will be can expect a call from me to set up a friendly exploratory meeting.

Steve

Stephen Gephard

Supervising Fisheries Biologist

Diadromous Fisheries *and* Habitat Conservation and Enhancement programs

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