

**CONSERVATION COMMISSION  
FAIRFIELD, CONNECTICUT  
MINUTES OF SPECIAL CONSERVATION MEETING**

**February 7, 2013**

The Conservation Commission of the Town of Fairfield held a meeting in Meeting Room II, Second Floor Conference Room, John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT scheduled for 7:35 p.m. on Thursday, February 7, 2013.

**MEMBERS PRESENT:** Kevin Gumper, Chairman; Kate Maxham, Vice-Chairman, Catherine O'Donnell, Secretary; Frank Rice. **ALTERNATES:** Felicia B. Watson, and Sam Boyarsky. Also Present: Annette Jacobson, Conservation Administrator, Edward Jones, Open Space Manager/Wetlands Compliance Officer, and members of the public and press.

**MEMBERS ABSENT:** Elizabeth Jones, Letitia Ferguson and Richard Santalesa.

**CALL TO ORDER:** The meeting was called to order at 8:21 p.m. by Chairman Gumper.

**APPOINTMENT OF ALTERNATES:** Felicia B. Watson, and Sam Boyarsky

**I. OLD BUSINESS**

- A. Proposed Mill River Remediation at the former Exide Battery Site, 2190 Post Road, Fairfield**
1. Railroad Stormwater Drainage System Concerns.
  2. January 10, 2013 Public Forum for the Proposed Mill River Remediation at the former Exide Battery Site, 2190 Post Road, Fairfield, CT--Proposed Exide SedRAP for Mill River and Southport Harbor **Comment Period Ends 2/28/2013.**
  3. CT DEEP Tentative Determination to issue a National Pollutant Discharge Elimination System (NPDES) to the Exide Group, Inc. for the Discharge Into The Waters of the State Of Connecticut at 2190 Post Road Fairfield, CT 06824 **Comment Period Ends 2/20/2013**

Annette Jacobson indicated this Commission did vote to send NPDES comments to DEEP at their last meeting Jan. 17, 2013. Those comments were sent to the DEEP; however, the comment period was extended, and Thomas Steinke has had a bit more time to put additional thoughts together on the matter. Those additional comments and concerns, sent with the agenda packet, relate to fecal coliform bacteria water quality impairment associated with the resuspended sediment and its discharge out of the dredge cell, and the upland sediment treatment where black geotextile bags may increase effluent temperature and there by increase biologic activity in the waste stream to be discharged to the river. Those comments also raised concerns with the water quality monitoring stations being some distance from the discharge points and mixing in the water column may potentially mask contaminants; there is the need to monitor at the instantaneous point of discharge. Resuspended sediments may also increase the nutrient load in the discharge contributing to algae blooms and hypoxia/anoxia from decomposition of their organic matter. Kate Maxham *moved* and Felicia Watson *seconded* to send these additional NPDES comments to DEEP. Motion passed unanimously.

Annette Jacobson indicated there were primarily four general areas of concern on the Exide matter. The need to test the full length of the railroad drain, the NPDES application, proposed SedRAP, and Consent Order #193 procedural concerns.

The SedRAP concerns, summarized from the 12/28/12 Discussion Draft, are that there is no specific river baseline data on habitats, and that no mitigation or river restoration after dredging is proposed. There should not be a one size fits all approach to dredging—that cofferdams are a legitimate alternative to hydraulic dredging, and the cofferdams approach allows for working through the spawning periods as it is isolated from the river flow and thereby protective of spawning species. The resuspension of sediment is not just a silt or sediment issue but should also be concerned with resuspension of co-located hexavalent chromium and lead; much greater care is required when dealing with these heavy metal contaminated sediments. The information provided is just conceptual pending detailed plans from a future contractor when there will be no opportunity for public input and comment.

Tom Steinke has found that the DEEP Consent Order #193 from October 2008, which is the basis for the whole river clean-up, lays out a specific progression to be followed to protect the river. That order requires a logical sequence with the SedRAP approved by the Commissioner required first, before any permit applications can be applied for. That sequence has not been followed by DEEP, and that is a significant procedural flaw in this review process. The details to be determined in a completed SedRAP should be available for all future permit applications such as the NPDES, OLISP, etc. Mr. Steinke believes that the failure to follow the prescribed progression in the Consent Order negates, or invalidates the current NPDES and OLISP permit applications, and that those should be withdrawn by Exide, or declared null and void by DEEP. If the proper procedure was followed, DEEP would then see that the OLISP application should be an Individual Permit, and not a General Permit, which allows for the public to petition for a public hearing and have their concerns addressed.

Since Mr. Steinke was unable to attend this evenings meeting, the Commission asked for more information on this Consent Order and whatever other information Mr. Steinke believes it is appropriate for the Commission to have, so that they can consider this matter at their Feb. 21, 2013 meeting (as SedRAP comments are due by Feb. 28<sup>th</sup>).

Chairman Gumpper then asked for any public comment.

Kathryn Braun, Esq. and RTM member suggested the Commission use political power and perhaps an intervention to pressure the state on the Exide matter, just as they did for the 345Kv power lines a few years ago. She indicated that Exide has been a large polluter for decades and no public hearings are scheduled to make DEEP listen to the Town. She feels that if the Mill River clean-up is not done right, Fairfield taxpayers will pay, so that it is not just an environmental issue, but a financial issue. She urged the Commission to pressure the state delegation to hear the unified concerns from Fairfield Commissions. Also, she cautioned that not enough detail was provided in Exide's submittals to determine if an Inland Wetland permit would be needed.

Joy Shaw indicated that it is a travesty that DEEP is not following its own Consent Order to protect the river, and that the public is being denied the rightful public process. She asks the Commission to

stand up and do what is right for the river-that the river is a beautiful system of life. Please act to protect it.

Gaylord Meyer, RTM member from district 1 indicated she was present on behalf of constituents whose voices were not heard on this matter. They have concerns that their property values could be lowered by inadequate clean-up action, and that the Conservation staff has raised a lot of questions, but that answers are not now available. Hold Exide accountable whatever the cost.

Mary Hogue questioned why the Exide lead clean-up will not be coordinated with the Superior Plating chromium clean-up, and that the clean-ups must be full clean-ups. At this time she believes less than half a clean-up is presented.

Pam Ritter, former Conservation Commission member, indicated it would be tragic if the Exide proposal is allowed to proceed as is, that taxpayers would be responsible to pick-up perhaps millions in clean-up costs. Hold DEEP & Exide feet to the fire.

After discussion, it was the consensus of the Commission to have Tom Steinke prepare a revised write-up of concerns for the Commission to consider at their Feb. 21, 2013 meeting.

**II. ADJOURNMENT:** There being no further business to come before the Commission, Sam Boyarsky *moved* and Felicia Watson *seconded* to adjourn at 9:02 p.m. *Motion passed unanimously.*

Respectfully submitted,

Annette Jacobson  
Conservation Administrator

Edward H. Jones  
OSM/WCO