

**TOWN OF FAIRFIELD
HARBOR MANAGEMENT COMMISSION
MEETING MINUTES OF NOVEMBER 15, 2011**

A meeting of the Harbor Management Commission (HMC) was held on November 15, 2011 at 4:30 p.m. in the Second Floor Conference Room of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

MEMBERS PRESENT: Mary von Conta, Chairman; John Zygmant; James P. Bradley; Hugh Smith; Louis Schueler; David Drabaski and Nelson North (Alternate Member). **ABSENT:** E. Hewitt Gaynor and Sandye Mann (Alternate Member) **ALSO PRESENT:** Patrick Carroll, Harbor Master; Geoff Steadman, HMC Consultant; Thomas Steinke, Conservation Director; Joel Kunkel, Pequot Yacht Club; Jeff Engborg, Manager – Pequot Yacht Club; James Harman; and John Hilts, James DeStefano, Mrs. Hall; and David Preusch on behalf of the Southport Realty Corporation.

The meeting was called to order at 4:30 p.m. by Chairman von Conta.

Chairman von Conta appointed Nelson North to sit as a full member.

I. APPROVAL OF MINUTES OF OCTOBER 18, 2011 MEETING:

Hugh Smith *moved* and Nelson North *seconded* to approve the meeting minutes of October 18, 2011. *Motion passed unanimously.*

James Bradley arrived at 4:40 p.m.

II. CORRESPONDENCE:

Chairman von Conta reported the following correspondence:

October 19, 2011: From Harbor Master Carroll to Mr. Oscar W. Janssen, 135 Boggs Hill Road, Newtown, CT 06470 acknowledging receipt of his 2011 Southport Harbor mooring waiting list application and the \$50.00 filing fee and informing Mr. Janssen that he is No. 117 on the list.

October 24, 2011: From Harbor Master Carroll to Paul Hiller enclosing a check in the amount of \$50.00, the fee for the filing of a Southport Harbor mooring waiting list application. (Janssen, No. 117)

October 18, 2011: A copy of a letter from Thomas Steinke, on behalf of the Shellfish Commission, to Tonia Selmeski DEEP/OLISP regarding the COP application of Southport Realty Corporation to conduct work at 789 Harbor Road, Southport, CT. The Shellfish Commission voted to recommend that the COP application be approved with the condition that the proposed pier and float system have no permanent structure waterward of the existing pier-head timber piling. This would make it possible to remove the boat, ramp and dock to allow for activities described in the Fairfield Shellfish Management Plan.

October 21, 2011: From Thomas Steinke, representing the Fairfield Conservation Commission, to Tonia Selmeski, DEEP/OLISP regarding the pending COP application by the Fairfield DPW to do work on an existing 42 inch RCP (reinforced concrete pipe) between Ruane and Thorpe Streets (this is out of the HMC's jurisdiction).

October 24, 2011: An e-mail from Peter Francis DEEP/OLISP to coastal stakeholders to advise them that the CT DEEP has issued a public notice concerning the development of a new general permit for coastal activities regulated through the OLISP. The subject of the general permit concerns in-kind repair and/or replacement of authorized docks-private, commercial or municipal. This would, in most cases, eliminate the need for prior approval of these repairs. Instead, a pre-construction registration form and subsequent submission of as-built plans would be required.

October 24, 2011: From Thomas Steinke, representing the Fairfield Conservation Commission, to Richard White, Director of Public Works and Eileen Kennelly, Assistant Town Attorney, Town of Fairfield, regarding the property claim by the owner of #789 Harbor Road, Southport. The Conservation Commission's recommendation is that "The applicant should provide a formal A2 property survey of existing conditions and a legal opinion on title with respect to the ownership of the Harbor Road improvements of the sidewalk, curb, catch-basin and Horse Tavern Creek culvert."

Early in November: A copy of the November 9, 2011 Shellfish Commission Meeting Agenda. Item D under New Business on this Agenda was consideration of the HMC's permit application to conduct work at the Lower Wharf and the Town Boat Yard.

November 10, 2011: E-mail from Thomas Steinke, on behalf of the Shellfish Commission, to Tonia Selmeski, DEEP/OLISP, requesting an extension of the comment period for the Lower Wharf permit application from December 12, 2011 to December 30, 2011 allowing a working committee of staff and commission representatives to review and coordinate comment on the application followed by final recommendations by each commission at their December meetings. (Shellfish on December 14, 2011; HMC on December 20, 2011.)

November 10, 2011: Reply to above e-mail by Tonia Selmeski, DEEP/OLISP, stating that it is the OLISP's intention to allow the comment period to extend to December 30, 2011. Official approval, in writing, will be sent by mail.

November 7, 2011: A COP application form from John C. Kucej to do work at 2154 Fairfield Beach Rd., Fairfield, CT (this is out of the HMC's jurisdiction).

III. ANNOUNCEMENTS/COMMENTS RELATED TO WORK/INTERESTS OF THE COMMISSION:

1. **CHMA Annual Dinner:** Chairman von Conta advised the HMC that the Connecticut Harbor Management Association will be conducting its annual meeting banquet on December 6, 2011, and circulated the meeting announcement. All members who wish to participate should provide the Chairman with a completed registration form and check (registration fee). Chairman von Conta indicated that Harbor Master Patrick Carroll will be presented with the Association's Ronald Aliano Leadership Award that evening.
2. **HMC Membership Terms:** Chairman von Conta advised the HMC that three members will have completed their terms on the HMC this month. The Chairman further indicated that she was contacted by the First Selectman's office for any recommendations she may have with regard to replacements. The approval process for new members includes review by the Board of Selectman, RTM subcommittee, and RTM before a new member is approved and sworn in. The Town Charter provides that the existing members may continue to serve until a replacement has been appointed and sworn in.

John Zygmant arrived at 4:50 p.m.

IV. OLD BUSINESS:

1. Continuation of deliberations regarding the DEEP/OLISP Certificate of Permission Application filed by Southport Realty Corporation/President Andrew Hall regarding property located at 789 Harbor Road, Southport, CT:

The proposed activities at this site involve the replacement of the timber pier, ramp and floating dock; replacement of the timber decks adjacent to the dwelling and upland; and amendments to curtain walls below the dwelling attendant with proposed elevation of the building: The applicant's consultants, John Hilts, James DeStefano, and David Preusch were in attendance this evening. Geoff Steadman provided the HMC with recommended comments for consideration for submittal to the CT DEEP/OLISP, as follows:

That the HMC make a finding that the application as presented is consistent with the Harbor Management Plan, and that the following comments and recommendations for conditions of approval be submitted to the CT DEEP/OLISP:

1. The OLISP should specify appropriate construction best management practices to ensure that the proposed project does not cause any significant adverse impacts on the environmental quality of Southport Harbor, including water quality. Special attention should be given to best management practices to avoid disturbance of any contaminated harbor sediments in the vicinity of the project.

2. It should be recognized by the applicant and OLISP that approval of the proposed water access structure will not obligate the Harbor Management Commission to make any changes to the Commission's existing mooring location and management plans for the harbor.
3. Lighting of the applicant's dock and property should be designed and maintained in a manner to ensure that the lighting causes no significant adverse impacts on navigation by affecting the vision of boat operators in the harbor.
4. The proposed work should be conducted at the appropriate time of the year to avoid any significant interference with the normal operation of the harbor. The harbor master should be notified at least 30 days prior to the start of any work affecting the harbor.
5. Conditions imposed by the Fairfield Engineering Department to ensure that the proposed project does not cause any adverse impacts on the nearby Town-owned stone walls and Horse Tavern Creek culvert should be included in any OLISP approval and Town building permit issued to the applicant. Those conditions are included in a letter of October 14, 2011 from the Town's Senior Civil Engineer to the HMC Chairman.
6. Property ownership questions raised by the Town Conservation Director in a letter of October 24, 2011 to the Director of Public Works and Assistant Town Attorney should be resolved to the satisfaction of the Director of Public Works and Assistant Town Attorney prior to issuance of any Town building permit to the applicant.
7. It is noted by the HMC that the applicant has not provided a drawing showing approximate locations of the applicant's littoral property boundaries, extended into Southport Harbor, as determined by a licensed professional surveyor.
8. The HMC reserves its right to review and comment on the applicant's proposal at such time as it may be modified, be the subject of a public hearing, or when additional information concerning the proposal may be available.

The applicant's representative, John Hilts, provided the HMC with a survey prepared by the Huntington Company. Mr. Hilts noted that this document evidences the littoral property boundaries as requested by the HMC, and was prepared by the Huntington Company utilizing the "Colonial Method".

The HMC discussed this matter at length. The members noted their concern for length of the vessel utilizing the dock; the applicant's representative noted the intention that this would not be a permanent berth, but merely a "drop-off" "pick-up" location. When the vessel of the applicant is not in use it will be placed at its mooring location. In the course of its deliberation, the HMC

noted concern for appropriate restrictions relative to the size of the vessel and temporary berthing site in order to provide for safe navigation and avoidance of any encroachment into the federal anchorage. Also of concern was that there would be no infringement upon neighboring/adjacent moorings.

Following considerable discussion, the HMC agreed to add the following comments and recommendations to the items recommended by Mr. Steadman and to modify item 7 to make note that the applicant has provided a drawing showing approximate locations of the applicant's littoral property boundaries, extended into Southport Harbor, as determined by a licensed professional surveyor:

9. The applicant's proposed dock should be used by a vessel of a size and type appropriate for operating in Southport Harbor without causing adverse impacts on navigation and normal operation of the harbor. The principal purpose of the dock should be to serve as a landing for loading and unloading passengers from a vessel permanently moored in the harbor.

10. At no time should any vessel using the applicant's dock extend into the federal anchorage.

Hugh Smith then *moved*, and Louis Schueler *seconded* to find that the proposed project, as presented by the applicant's representatives, is consistent with the Harbor Management Commission Plan, and to forward a letter to the DEEP-OLISP recommending approval of the application with the conditions as discussed herein this evening (Items 1 through 10 above) with the discussed modification of item 7. *Motion passed unanimously.*

Mooring Report: Harbor Master Carroll reported that the HMC Mooring Committee met last Saturday. Mr. Bradley noted that there has been concern with regard to the legibility of the mooring applications. Approximately 15% of the applications are found to be incomplete, lack adequate contact information or are otherwise illegible. A new checklist of application requirements is being drafted. The Mooring Committee also discussed enforcement issues and policy regarding unpermitted vessels and vacant moorings. It was the consensus of the HMC to adopt the recommendation of the Harbor Master concerning enforcing adherence to the policy. The Mooring Committee also discussed adherence with the Town Code in that the owners of vessels in the harbor must provide vessel identification information to the Harbor Master. Mr. Bradley advised the HMC that the Mooring Committee is continuing to work with Roberge Associates to come up with a drawing depicting the HMC's comprehensive mooring location plan which provides for the most efficient mooring layout. Once finalized, the drawing will be presented to the HMC for its approval. Harbor Master Carroll advised the HMC that he is in communication with the contractor with regard to the Illuzzi project in the Faille Channel. The Harbor Master will meet with the contractor prior to that work being commenced. Mr. Steadman noted that the permit approval that the Country Club of Fairfield received was repair of the harbor wall on the east side of the harbor covered the wall repairs only, and not removal of any

sediments that may have been discharged into the harbor. Jeff Engborg said the U.S. Army Corps of Engineers survey team said they will include the area near the wall as part of their upcoming survey of the harbor channel and anchorage.

Lower Wharf Report: Mr. Steadman reported that the DEEP OLISP recently published the notice of tentative approval with regard to the HMC's permit application for Lower Wharf and Town Boat Yard improvements. The public comment period expires on December 12, 2011. Following discussion, James Bradley *moved*, and John Zygmant *seconded* to forward a summary letter reaffirming the benefits of this project. *Motion passed unanimously.*

Chairman von Conta indicated that she would like to establish a working committee to meet with members of Shellfish and Conservation Commissions to review any issues that those boards may have relative to the project. Chairman von Conta, Commissioner Schueler and Mr. Steadman will be attending the Parks and Recreation Commission meeting on November 16, 2011 to review the HMC's plans. In addition, commissioners will attend the Sasquanaug Association meeting on December 5, 2011. Mr. Steadman is currently preparing notification letters to be sent to residents nearby the Lower Wharf and to interested parties identified on the property deed. Chairman von Conta has been in communication with the Chairman of the Historic District Commission; the HMC is scheduled to appear at the December 8, 2011 meeting of the Historic District Commission.

Sand Management Report: No report this evening.

III. PUBLIC COMMENT:

1. Upon inquiry by Hugh Smith, Chairman von Conta indicated that all suggestions for new Commission membership be presented through the Chair; a resume and relative information shall also be included.

IV. ADJOURNMENT:

There being no further business to come before the HMC, David Drabaski *moved*, and Louis Schueler *seconded* to adjourn at 6:15 p.m. *Motion passed unanimously.*

Respectfully submitted,
Betty Gabriel