

**TOWN OF FAIRFIELD  
HARBOR MANAGEMENT COMMISSION  
MEETING MINUTES OF DECEMBER 20, 2011**

A meeting of the Harbor Management Commission (HMC) was held on December 20, 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; Hugh Smith; Louis Schueler; Nelson North; Norman Marsilius; James Harman; Sandye Mann (Alternate Member); and Benjamin Baker (Alternate Member). **ALSO PRESENT:** Patrick Carroll, Harbor Master; Geoff Steadman, HMC Consultant; David Drabaski; James P. Bradley; Thomas Steinke, Conservation Director; Joel Kunkel, Pequot Yacht Club; Michael Tetreau, First Selectman; Sanford Wakeman, Jr., Chairman of the Fairfield Shellfish Commission; Edward Crowley, former Chair, Fairfield Shellfish Commission; Paul Nelson, Fairfield Shellfish Commission; John Koren; George Russell, President of the Sasquanaug Association for Improvement of Southport, Inc.; and Members of the Carroll family, including: Harbor Master Patrick Carroll, his son, The Honorable Patrick L. Carroll, III, his Great-grandchildren Molly McLaughlin and Aidan McLaughlin, and his Granddaughter, Jennifer McLaughlin.

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

**I. APPROVAL OF MINUTES OF NOVEMBER 15, 2011 MEETING:**

Hugh Smith *moved* and John Zygmant *seconded* to approve the meeting minutes of November 15, 2011: **In Favor:** Mary von Conta; John Zygmant; Hugh Smith; Louis Schueler, and Nelson North. **Opposed:** None. **Abstention:** Norman Marsilius, James Harman. *Motion carries 5-0-2.*

Chairman von Conta introduced newly appointed Commissioners Norman Marsilius, James Harman, and Benjamin Baker. Chairman von Conta also congratulated Nelson North on his appointment as a full Commissioner.

At the request of Chairman von Conta, Hugh Smith *moved*, and John Zygmant *seconded* to change the order of the agenda to have "New Business" addressed at this point in the meeting. *Motion passed unanimously.*

**II. NEW BUSINESS:**

1. Report on the Connecticut Harbor Management Association (CHMA) Annual Dinner Meeting: Chairman von Conta reported that she and Commissioner North were present at the December 6, 2011 annual meeting of the CHMA when Harbor Master Patrick L. Carroll, life-long Fairfield resident, was honored with the CHMA's 2011 Ron D. Aliano Harbor Management Leadership award, in recognition of his significant efforts and contributions to advancing the cause of managing Connecticut's harbors in the public interest. Harbor Master Carroll introduced his family members who were in attendance, including his Great-grandchildren Molly McLaughlin and Aidan McLaughlin, and his Granddaughter, Jennifer McLaughlin. Chairman von Conta reported that she and Commissioner North accepted the plaque on behalf of Harbor Master Carroll, who was unable to attend the December 6<sup>th</sup> annual meeting, and wished to present the plaque to Mr. Carroll this evening. Geoff Steadman then read from the award presentation

letter from John Thomas Pinto, CHMA President, which described the numerous volunteer activities, military career, Fairfield Police Department career, and significant accomplishments of Harbor Master Carroll, and recognized his dedication to Southport Harbor. Mr. Pinto's letter noted Harbor Master Carroll's 1992 appointment as Harbor Master by Governor Lowell Weicker, and his reappointment by Governor M. Jodi Rell. A copy of Mr. Pinto's letter is attached hereto. First Selectman Michael Tetreau was present this evening to thank Harbor Master Carroll for his outstanding achievements and significant efforts on behalf of the Town of Fairfield and its citizens. Harbor Master Carroll thanked everyone, and acknowledged the assistance he has received from Joel Kunkel and Jeff Engborg, as well as from his fellow Mooring Committee Members James Bradley and John Zygmant. Harbor Master Carroll further acknowledged the significant efforts of Chairman von Conta and Mr. Steadman.

2. Recognition of Retiring HMC Members: Chairman von Conta noted that Commissioners James Bradley, David Drabaski and E. Hewitt Gaynor have recently completed their eight year terms on the HMC. The HMC acknowledged the significant efforts of these Commissioners and presented Mr. Bradley and Mr. Drabaski with aerial photographs of Southport Harbor with an engraved dedication in appreciation of their time and efforts on behalf of the HMC. Commissioner E. Hewitt Gaynor was unable to be in attendance this evening; Mr. Steadman and Chairman von Conta will coordinate presentation of his aerial photograph of the harbor to him.

### **III. CORRESPONDENCE:**

Chairman von Conta reported the following correspondence:

December 14, 2011: From Harbor Master Carroll to Mr. Taride DeCalice, 100 Cherry Lane, Fairfield, CT 06824 acknowledging receipt of his 2011 Southport Harbor Mooring list application and the \$50.00 filing fee and informing Mr. DeCalice that he is No. 118 on the list.

December 16, 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. (DeCalice, No.118).

December 19, 2011: From Harbor Master Carroll to Mr. Ronald Kaye advising Mr. Kaye that his mooring permit for Southport Harbor has been revoked for failure to: (1) place his vessel on his assigned mooring by July 15<sup>th</sup> of the 2011 boating season; and (2) use his assigned mooring over a sustained and reasonable period during the 2011 boating season.

November 18, 2011: From Town Clerk Elizabeth P. Browne to Chairman von Conta a letter describing the regulations pertaining to the election of Town commission officers and FOI requirements for noticing and otherwise informing the public about the work of the commission (i.e. posting meeting agendas, meeting minutes for the regularly scheduled and the special meetings of the commission.) Attached for distribution to all Commissioners was a copy of Article XI of the Town Charter entitled "STANDARDS OF CONDUCT".

November 21, 2011: From Chairman von Conta to DEEP/OLISP analyst, Ms. Tonia Selmeski, a letter regarding the COP Application by Southport Realty Corporation for work in Southport Harbor at 789 Harbor Road and informing Ms. Selmeski that during the HMC's meeting on November 15, 2011 the HMC approved a motion: (a) to find the proposal consistent with the Southport Harbor Management Plan; and (b) to transmit 10 recommendations and comments regarding the proposal to the OLISP.

November 15, 2011: A copy of a letter from Brian P. Thompson, Director of OLISP to Mr. Thomas Steinke informing him that OLISP will grant him an extension of the comment period from December 12, 2011 to December 30, 2011 regarding the OLISP's tentative determination to approve the HMC's "Lower Wharf Project" application. This will allow time for the HMC and the Shellfish Commission to appoint a "working group" to coordinate and prepare comments on this application for presentation and consideration at their respective December Commission meetings. However, the deadline for submitting a request for a public hearing will remain December 12, 2011.

November 17, 2011: A copy of a report regarding the "Lower Wharf Project" application prepared by Mr. Steinke for the Shellfish and Conservation Commissions.

November 18, 2011: A copy of a letter from Director Gerald A. Lombardo, Fairfield Parks and Recreation Department, to Ms. Tonia Selmeski DEEP/OLISP analyst, conveying a motion passed at the Parks and Recreation Commission's November 16, 2011 meeting which cites that Commission's support of the HMC's application.

End of November: A copy of the Special Meeting Agenda of the Fairfield Conservation Commission to be held on December 1, 2011 which contained, under new business, consideration of the proposed activities to be conducted by the HMC at the Lower Wharf and the Town Boat Yard.

Early December: Copies of agendas for two meetings of the Working Groups of the Fairfield HMC, the Shellfish Commission, and the Conservation Commission on Friday, December 9, 2011 and Tuesday, December 13, 2011.

December 18, 2011: Copies of DRAFT Meeting Minutes for the December 9<sup>th</sup> and 13<sup>th</sup>, 2011 meetings of the Working Group of the Fairfield HMC, the Shellfish Commission and the Conservation Commission.

Early December: A copy of the Meeting Agenda for the December 14, 2011 Shellfish Commission Meeting. The proposed activities to be conducted at the Lower Wharf and the Town Boat Yard were listed as an agenda item under Old Business.

November 21, 2011: Letters from Chairman von Conta explaining the HMC's application to the DEEP/OLISP for approval to conduct work at the Town Boat Yard and the Lower Wharf which were sent to residents of Harbor Road beginning at the intersection of Westway Road and continuing to the end of Harbor Road at the Lower Wharf. Similar letters were sent to individuals or their heirs who were mentioned in the Quit Claim Deed for the Lower Wharf property filed November 1, 1999 (enclosed in all of these letters was an eight page summary report of the HMC's proposed activities). These letters also informed the residents that additional materials pertaining to the proposed project had been placed in the Pequot Library and that representatives from the HMC would discuss the plans at a meeting of the Sasquanaug Association on December 5, 2011.

December 8, 2011: Copies of letters from First Selectman Tetreau congratulating new appointees to HMC Norman Marsilius, James Harman, Benjamin Baker (Alternate Member), and Nelson North, moving from his position as Alternate Member to Full Member. In addition, First Selectman Tetreau congratulated both Sandye Mann (Alternate Member) and Hugh Smith on their reappointments to the Commission.

December 9, 2011: From First Selectman Tetreau to David Drabaski, E. Hewitt Gaynor, and James Bradley, letters thanking them on behalf of the residents of the Town of Fairfield for their service to the community.

December 15, 2011: An e-mail from Thomas Steinke, Director of the Conservation Department to Chairman von Conta informing her that the Conservation Commission will be providing an opportunity for the Exide Group Incorporated to present its proposed plans and schedules for sediment remediation in Mill River and Southport Harbor at its next meeting. The meeting will be held on January 19, 2012 at 7:30 p.m. in the All Purpose Room of the Osborn Hill Elementary School, 760 Stillson Road, Fairfield.

November 23, 2011: A copy of a COP Application Form for work to be done at 2155 Fairfield Beach Road, Fairfield, CT sent by John C. Kucej to Chairman von Conta. (This is out of the HMC's jurisdiction.)

December 9, 2011: From DEEP/OLISP a notice of tentative determination to approve an application for activities to be conducted by applicants Paul and Patti Zecchi at 1773 Fairfield Beach Road, Fairfield, CT 06824 (this is out of the HMC's jurisdiction).

December 20, 2011: From DEEP/OLISP a notice of tentative determination to approve an application submitted by the Pequot Yacht Club for a permit to conduct dredging waterward of the high tide line in tidal, coastal or navigable waters (specifically in the North Anchorage of Southport Harbor) for marine commercial use.

December 20, 2011: E-mail from Kenneth Collette, Hearing Officer, CT DEEP, Environmental Office of Adjudications, beginning the public hearing process regarding Application #200400010-TS related to Town of Fairfield Lower Wharf and Ye Yacht Yard and requested by petition of George Russell, President of the Sasquanaug Association for Improvement of Southport, Inc., and by 30 individual

petitioners. The first step in the process will be a status/scheduling conference for the parties and the petitioner(s). (Mr. Collette is polling the group for acceptable dates for this conference.) Attached to the e-mail is a copy of the petition and a list of the petitioners.

**IV. ELECTION OF OFFICERS:** Chairman von Conta noted that in the absence of the appointment of a nomination committee at the previous meeting, nominations for officers would be taken from the floor. John Zygmant *moved* and Nelson North *seconded* to nominate Mary von Conta as Chairman. *Motion passed unanimously.* Louis Schueler *moved* and John Zygmant *seconded* to nominate Nelson North as Vice Chairman. *Motion passed unanimously.* Hugh Smith *moved* and Nelson North *seconded* to nominate James Harman as Secretary. *Motion passed unanimously.* There being no further nominations made from the floor, the HMC voted on the following slate of officers: Mary von Conta, Chairman; Nelson North, Vice Chairman; James Harman, Secretary. *Motion passed unanimously.*

**V. APPROVAL OF 2012 MEETING SCHEDULE:** Following review of the proposed 2012 meeting schedule, Hugh Smith *moved*, and Nelson North *seconded* to approve the proposed meeting schedule with an amendment to change the September meeting to be held on Wednesday, September 19, 2012. *Motion passed unanimously.*

**VI. BUDGET:** Chairman von Conta indicated that at the request of the Town Budget Director, Linda Gardiner, it was necessary to reduce the proposed 2012-2013 budget of the HMC to reflect no increase from the current fiscal budget. The budget message was revised accordingly.

#### **VI. OLD BUSINESS**

**Lower Wharf Report:** Mr. Steadman provided a summary presentation of the HMC's proposed project for maintenance and improvement of the Lower Wharf and Town Boat Yard, including a brief history of the development of the project plans, in order to bring the new commissioners up to date. Mr. Steadman noted that the project includes: dredging; repair of the Lower Wharf seawall; repair and extension of the boat launching ramp; installation of a new floating dock to support use of the launching ramp; installation of a community sailing dock at the Lower Wharf; and repair of the existing elevated pier at the Lower Wharf. The DEEP/OLISP has issued a public notice of its tentative determination to approve the application, and a petition for a public hearing on the application has been received by the DEEP/OLISP. Chairman von Conta noted that she and Geoff Steadman accompanied on different occasions by Commissioners North, Smith or Schueler, have attended meetings of the Shellfish Commission, the Conservation Commission, the Sasquanaug Association, the Historic District Commission, and the Parks and Recreation Commission to discuss the HMC's plans. A Working Group has been established to review any concerns and/or outstanding issues of the Shellfish Commission and Conservation Commission regarding the HMC's plans. Mr. Steadman reported that the principal concern expressed by the Sasquanaug Association seems to be related to the effect that the proposed project may have to increase traffic to the Town Boat Yard and otherwise increase use of the Town Boat Yard. Mr. Steadman

said that residents of Harbor Road and other members of the Sasquanaug Association have expressed concern that the existing parking area at the Town Boat Yard is not properly managed and controlled by the Town, and that increased use of the facility would be problematic. In addition, some members of the Sasquanaug Association, he said, have expressed the opinion that the HMC's proposed new launching ramp float is not needed and will not provide a public safety benefit.

Mr. Steadman also reported that it was his impression that members of the Historic District Commission may be concerned about the installation of new pilings at the Town Boat Yard as proposed by the HMC to anchor the planned launching ramp float because such installation would represent a change to the existing conditions in an historic area. Commissioner Benjamin Baker noted that there are existing pilings in the harbor at the Town Boat Yard now so he would disagree that the installation of new pilings should be considered a change.

Mr. Steadman noted that the Shellfish Commission has expressed concerns that the HMC's proposed dredging project could have an adverse impact on shellfish resources, and that the installation of new pilings could interfere with small boat access along the shoreline to harvest shellfish. Mr. Steadman said he has reviewed this matter with the Director of the Connecticut Department of Agriculture's Bureau of Aquaculture who believes the HMC's project can be conducted in a manner so that adverse impacts on shellfish resources and shellfishing opportunities will be acceptable. Mr. Steadman said, in response to Mr. Steinke's suggestion that other, previously dredged areas of the Harbor should be dedicated for shellfish habitat, that all other previously dredged areas of the Harbor are dedicated for recreational boating purposes. Mr. Steadman said he discussed with the Director of the Bureau of Aquaculture the possibility of seeding the post-dredge area with shell to facilitate the growth of seed oysters and that the area could be subsequently cultivated to grow seed oysters. He also said that it may be possible to anchor the proposed community sailing float with anchors instead of pilings to eliminate the obstructions that pilings may present to small boats harvesting shellfish. Following inquiry by Commissioner Marsilius, Mr. Steadman said that he will check on the proposed width and slope of the boat launching ramp, but he said the slope was designed by the Town's Engineering Department in accordance with accepted design standards.

Following considerable HMC discussion, Chairman von Conta welcomed public comments on the HMC's proposed plans. Mr. Koren spoke on behalf of the Sasquanaug Association, and expressed a number of concerns of the Association, including the concerns described by Mr. Steadman. Mr. Koren said the HMC's proposal will affect an historic district and the Association is concerned about esthetic impacts; the cost of the proposed project; the potential traffic-generating impacts of the proposed project; the lack of three-dimensional drawings to enable better understanding of the way the project will look; and the lack of advance notice to the neighbors. He said the property deed lists the Sasquanaug Association as an entity with standing to respond to proposals affecting the Lower Wharf and that the deed provides for installation of a community sailing dock. Mr. Koren also said that it was never expected by the Sasquanaug Association that a new floating dock would be installed on the boat launching ramp and that the proposed pilings for that float would be obtrusive and obstruct kayaking and shellfishing access.

Mr. Koren reported that at the suggestion of the HMC he had previously expressed his concern to the Fairfield Police Department regarding the lack of monitoring of parking and overall use of the Town Boat Yard but his concerns have never been addressed.

Paul Nelson spoke on behalf of the Shellfish Commission, noting that Mr. Steadman had summarized the Shellfish Commission's concerns. He said the Shellfish Commission is concerned about the impact of the proposed new pilings on shellfishing access and recommends: 1) that the proposed floating dock at the boat launching ramp be removed from the project plans; 2) that consideration should be given to reconstructing the existing elevated pier at the Lower Wharf to be closer to the shore; and 3) that consideration should be given to anchoring the proposed community sailing float with anchors instead of pilings.

Mr. Bradley stated that it is not clear to him that the Historic District Commission has jurisdiction over structures in the Harbor and he was not certain if shellfishing would be significantly impacted by the project as proposed. Mr. Bradley said that the Town Boat Yard and the boat launching ramp is a public facility available for public access to the Harbor and can not be operated as an exclusive park that serves only nearby residents. This matter was addressed during the preparation of the Harbor Management Plan and it was determined that the Town can not unreasonably restrict access to navigable public waters through Town property. Without public access to the Harbor, the Corps of Engineers would not have consented to dredge the Harbor several years ago. Mr. Bradley reminded the HMC that the HMC had a significant role in acquiring the Lower Wharf property and in preserving it. He also said that it is the responsibility of the Parks and Recreation Commission to properly manage the Town Boat Yard and this includes management of the parking and ensuring that the capacity of the site is not exceeded. Mr. Bradley encouraged all parties to work together to address the identified concerns.

Commissioners Louis Schueler and Hugh Smith, responding to Mr. Koren, reported that they had met with the Sasquanaug Association as well as the Southport Conservancy approximately three years ago to discuss the Lower Wharf proposal, and noted that the proposal at that time did not include the proposed launching ramp float. Chairman von Conta said that the minutes and agendas of the HMC are posted on the Town's website, and are also available for public review at the Town Clerk's office and that all discussions of the HMC's proposed project have been duly noticed and public comments have always been welcomed.

Following considerable discussion in response to the concerns expressed by the Shellfish Commission and Sasquanaug Association and by other interested parties, it was the consensus of the HMC to: (1) eliminate from the proposed project the proposed 80' floating dock along the boat launching ramp; (2) investigate the feasibility of anchoring the proposed community sailing float with anchors and/or other means instead of pilings; (3) investigate the feasibility of slightly relocating the existing elevated pier at the Lower Wharf closer to the shore, with consideration of the presence of ledge rock in this area which could preclude such relocation; and (4) investigate the feasibility of establishing a post-dredging shellfish mitigation project such as a project that would consist of placement of shells (cultch) to facilitate the

growth of seed oysters in the area to be dredged. Mr. Steadman reported that he has confirmed with the DEEP/OLISP that the investigation/implementation of these modifications to the proposal would not rise to the level of requiring a revised DEEP/OLISP permit application and new public notice. Hugh Smith *moved*, and Norman Marsilius *seconded* to amend the proposal in accordance with the consensus stated above. *Motion passed unanimously.*

**Mooring Report:** Harbor Master Carroll reported that all materials regarding mooring permit renewals and the mooring waiting list for 2012 have been distributed. A letter was also provided with those materials notifying the applicants that any submittals that are incomplete or illegible will be returned. At the suggestion of Mr. Bradley, a copy of this letter will also be provided to all HMC Members so that they are aware of its contents should they be contacted regarding the same. Harbor Master Carroll also noted that he anticipates that the Illuzzi dredging project will be undertaken in 2012 and completed in the Spring of 2012.

**Sand Management Plan:** Chairman von Conta reported that Roberge Associates had conducted a hydrographic survey of the Harbor channel approximately two weeks before Tropical Storm Irene. The Corps of Engineers has just completed a hydrographic survey of the entire Harbor to determine the effects of the Tropical Storm. Upon receipt of the final Corps of Engineers data, Roberge Associates will be able to provide the HMC with a comparison analysis, and otherwise move forward with development of the HMC's sand management plan.

### III. PUBLIC COMMENT:

1. Chairman von Conta encouraged Commissioners to attend the January 19, 2012 meeting of the Conservation Commission concerning the Exide Group's proposed remediation plans for dredging lead-contaminated sediment from the Mill River and Southport Harbor.

### IV. ADJOURNMENT:

There being no further business to come before the HMC, Hugh Smith *moved*, and John Zygmant *seconded* to adjourn at 6:37 p.m. *Motion passed unanimously.*

Respectfully submitted,  
Betty Gabriel