

**TOWN OF FAIRFIELD
HARBOR MANAGEMENT COMMISSION
MEETING MINUTES OF JANUARY 17, 2012**

A meeting of the Harbor Management Commission (HMC) was held on January 17, 2012 at 4:30 p.m. in the First 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; and Benjamin Baker (Alternate Member). **ABSENT:** 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, Pequot Yacht Club; and Eileen Ciampini, Ocean and Coastal Consultants, on behalf of Bradley Jack; Devin Santa, Roberge Associates, on behalf of the Pequot Yacht Club.

The meeting was called to order at 4:37 p.m. by Chairman von Conta.

I. APPROVAL OF MINUTES OF DECEMBER 20, 2011 MEETING:

Hugh Smith *moved* and Louis Schueler *seconded* to approve the meeting minutes of December 20, 2011, with the following corrections: The meeting minutes are revised to reflect that Nelson North was absent on December 20, 2011. Paragraph I is revised to omit the reference to Nelson North's name as a voting member. Paragraph III, first subparagraph is revised to correct the spelling of Mr. DeCalice's first name to "Paride"; Paragraph V. is revised to reflect that Louis Schueler seconded the motion to approve the proposed meeting schedule (as amended); Public Comment is revised to include the notation that Conservation Director Thomas Steinke indicated that the location of the January 19, 2012 Conservation Commission meeting during which representatives from Exide will be providing a presentation on a proposed remediation plan to remove lead-contaminated sediment from the Mill River will be held at Roger Ludlowe; and Paragraph IV is revised to read:

“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 Norman Marsilius *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 Louis Schueler *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.*”

Motion passed unanimously.

II. CORRESPONDENCE:

Chairman von Conta reported the following correspondence:

January 3, 2012: From Harbor Master Carroll to Mr. Paul Hiller, Town of Fairfield CFO, enclosing checks in the amount of \$4,470.00, fees collected for the renewal of 2012 mooring permits in Southport Harbor (permits = \$2,650.00; mooring maintenance = \$1,820.00).

January 8, 2012: From Harbor Master Carroll to Mr. Paul Hiller enclosing checks in the amount of \$3,770.00, fees collected for the renewal of mooring permits in Southport Harbor for boating season 2012 (permits = \$2,200.00, mooring maintenance = \$1,570.00).

January 17, 2012: From Harbor Master Carroll to Mr. Paul Hiller enclosing checks in the amount of \$3,460.00, fees collected for the renewal of mooring permits in Southport Harbor for boating season 2012 (permits = \$2,300.00; mooring maintenance = \$1,160.00).

January 2, 2012: From Harbor Master Carroll to Dr. John Pinto, Chairman of the Connecticut Harbor Management Association, a thank you letter for the Ronald D. Aliano Award.

December 28, 2011: From Thomas Steinke, representing the Fairfield Shellfish Commission, to Ms Tonia Selmeski, DEEP analyst, reporting that the Shellfish Commission had unanimously voted at its December 14th 2011 meeting to endorse the application filed by the HMC to conduct regulated activities at the Lower Wharf and the Town Boatyard at Harbor Road, Southport. The endorsement was accompanied by three recommendations: eliminate the proposed float and pilings at the boat launch ramp; redesign the float for the Community Sailing dock using anchors in place of pile supports; and redesign the timber TEE Pier so that is located closer to the wharf contingent upon the presence of bedrock or ledge.

December 28, 2011: From DEEP Hearing Officer, Kenneth M. Collette to parties involved in a proposed public hearing regarding the HMC's application to conduct regulated activities at the Lower Wharf and Town of Fairfield Boat Yard, Harbor Rd., Southport and establishing January 17, 2012, at 10:00 a.m. at DEEP offices in Hartford as the time and place to hold a pre-hearing process conference.

December 30, 2011: From HMC Chairman von Conta to CT DEEP analyst, Ms Tonia Selmeski in response to DEEP's notice of tentative determination to approve the HMC's application to conduct regulated activities at the Lower Wharf and the Town Boat Yard at Harbor Rd, Southport. The letter contained background information regarding processes involved in arriving at an application that was approvable by DEEP and also the activities undertaken by representatives of the HMC post issuance of the tentative determination, including visits to interested town commissions and the formation of a working group to review concerns expressed by the Shellfish Commission. In addition the HMC provided information to nearby residents, the Sasquanaug Association for Southport Improvement, and the Southport Conservancy. Information concerning the application was also provided for public review in Pequot Library in Southport. The letter also includes the modifications to the application that were unanimously adopted by the HMC at its December 20, 2011 meeting: eliminate the proposed floating dock and pilings adjacent to the boat launching ramp; investigate the feasibility of anchoring the proposed community sailing dock with anchors rather than pilings; investigate the feasibility of relocating the rebuilt timber pier to a location closer to the face of the Lower Wharf; investigate the feasibility of a post-dredge mitigation project, including a project that would involve using cultch to facilitate the growth of seed oysters in the area to be dredged.

Early in January: A copy of the Agenda for a Special Meeting of the Fairfield Conservation Commission on January 5, 2012.

Early in January: A copy of the Agenda for the Shellfish Commission meeting on January 11, 2012.

Discussion on Budget:

Chairman von Conta advised the HMC that although the HMC's Fiscal Year 2012-2013 budget request had initially been reduced to the 2011-2012 levels at the request of the Budget Director, following the Chairman's meeting with First Selectman Michael Tetreau, a ten percent increase has been reinstated. This reinstatement followed the Chairman's explanation of the efforts to be undertaken by the HMC and the associated costs for harbor-area improvements, including implementation of the HMC's Lower Wharf and sand management plans, which provide a benefit to Town of Fairfield residents.

Chairman von Conta noted that the agenda would be taken out of order this evening so that items under "New Business" would be reviewed prior to matters under "Old Business".

III. NEW BUSINESS:

1. Review and Application for A Certificate of Permission Submitted by Mr. Bradley Jack, 1155 Sasco Hill Road, Fairfield, CT 06824 for Repair of Riprap Revetment, Retaining Wall, Seawall and Seawall and Terrace Area at 1155 Sasco Hill Road, Fairfield: Eileen Ciampini of Ocean and Coastal Consultants provided the HMC with a description of the proposed activities. Ms. Ciampini noted that although certain improvements at the site had been previously approved by the Connecticut Department of Environmental Protection's Office of Long Island Sound Programs (DEEP OLISP), storm activity had resulted in changes to site conditions, including a breach in the seawall. This resulted in tidal wetlands developing behind the wall, and thus the requirement for a new DEEP OLISP approval. William Kenny Associates is handling the processing of the inland wetland permit requirements with the Town of Fairfield Conservation Department. Following inquiry by Conservation Director Thomas Steinke as to whether a wave analysis study had been conducted relative to determining the potential impact the proposed improvements could have on Sasco Beach, Ms. Ciampini indicated that no such study had been done. Mr. Steadman reviewed the comments and recommendations provided to the DEEP OLISP with respect to the applicant's previous proposal which was not implemented. Mr. Steadman said that some of those comments and recommendations remain relevant to the applicant's current proposal. Following discussion, Nelson North *moved*, and John Zygmant *seconded* to find that the proposal is consistent with the Harbor Management Plan and to submit comments to the DEEP-OLISP, as follows:
 1. Any DEEP OLISP approval should include detailed conditions, including conditions for construction monitoring and quality control on site at all times, intended to ensure that the project does not result in any significant introduction of sediment or other materials into Southport Outer Harbor.

2. Best available technology and management practices should be required and employed during the construction process to ensure that there will be no significant adverse impacts on the environmental quality of Southport Outer Harbor.
3. The risk of erosion resulting from construction should be appropriately managed and mitigated on a daily basis.
4. The Commission assumes, based on the representations of the applicant's engineering consultant, that the proposed project has been designed in accordance with appropriate engineering standards and practices for this location and marine environment.
5. The Commission understands that a conservation restriction administered by the Aspetuck Land Trust affects the applicant's property. The Commission assumes that the proposed project is consistent with the requirements of the conservation restriction and that the Land Trust will provide a determination of that consistency in writing.
6. The Commission understands that an Inland Wetlands Permit has been issued to the applicant for the purpose of conducting the proposed project. The Commission assumes and expects that the applicant has obtained or will obtain all other necessary Town approvals, including Coastal Site Plan approval from the Town Plan and Zoning Commission.
7. Prior to making any decision concerning the applicant's proposal, the DEEP OLISP should require that the applicant describe and address potential impacts of the proposed shore protection structures on littoral sand transport processes in Southport Outer Harbor, including any impacts that may affect Town facilities and areas at Sasco Hill Beach adjoining the applicant's property.
8. The Commission reserves its right to review the proposal at such time as it may be modified, when additional information regarding the proposal may be provided to the Commission, or when it may be submitted to any other Town agency for additional review.

Motion passed unanimously.

IV. OLD BUSINESS

Chairman von Conta, James Harman, Norman Marsilius, and Hugh Smith recused themselves on the following matter; Nelson North chaired the meeting at this time.

Review and Comment on Application #201102573-TS, Application by the Pequot Yacht Club for a Permit to Dredge the North Anchorage to a Depth of 9 Feet With an Over-Dredge of One Foot. DEEP OLISP has sent out a Notice of Tentative Determination to approve this application:

Devin Santa of Roberge Associates Coastal Engineers (consultant for the applicant) noted that there had not been any revisions to the applicant's plans since they were first reviewed by the HMC. Mr. Santa provided a brief description, noting that the dredging footprint would be identical to the footprints of past dredging activities, but the applicant is seeking approval to dredge an additional three feet of depth, for a total depth of nine feet (with an allowable over-dredge of one foot). No additional mooring spaces would be created. In response to inquiry by Mr. Steadman, Mr. Santa indicated that he did not anticipate that the dredging activities would have an adverse impact on water quality, nor would there be any adverse impacts on the existing operation of the Harbor. Commissioner Schueler inquired whether the additional dredging activities could potentially stir up any contaminated sediments, such as those related to the former Exide Battery Company operations. Mr. Santa replied that the sediments to be dredged have been tested and do not contain any contaminated sediments such as those related to the Exide Battery Company operations. Following inquiry by Mr. Steadman regarding whether the applicant has considered offering any post-dredge mitigation to compensate for any adverse impacts on shellfish resources, Mr. Santa indicated that a benthic study has been conducted of the anchorage bottom; that the application has been reviewed by the Shellfish Commission; and that no post-dredge mitigation is planned.

Harbor Master Carroll advised the HMC that he endorses the dredging project of the Pequot Yacht Club, and further indicated that the additional dredge depth is required for the deeper draft boats that are now moored in the anchorage. Mr. Steadman reviewed the comments provided by the HMC to the applicant and DEEP OLISP when the HMC first reviewed the applicant's plans. Mr. Steadman also reminded the HMC of the agreement between the Town and Pequot Yacht Club concerning the 1996 de-federalization of the North Anchorage. That agreement, specified in the Harbor Management Plan and a memorandum between the Town and Pequot Yacht Club, requires provision of boating services to the public by the club for as long as the club makes use of the de-federalized anchorage for boat mooring purposes. It was the sense of the HMC when the applicant's plans were first presented to the HMC, that the proposed deepening of the anchorage should not affect the existing agreement. Mr. Steadman further noted that the boating services currently provided by the Pequot Yacht Club are actually more extensive than the services provided when the anchorage was de-federalized. Mr. Steadman recommended that in addition to the previous HMC comments and findings regarding the applicant's plans, that the HMC transmit a comment regarding the continued applicability of the above-noted agreement.

Following considerable discussion, John Zygmant *moved*, and Louis Schueler *seconded* to find that the application by the Pequot Yacht Club is consistent with the Harbor Management Plan and submit comments to the DEEP OLISP, as follows:

1. Pursuant to the Harbor Management Plan, the applicant should be responsible for all costs required for maintenance of the North Anchorage, for as long as the anchorage is used as a mooring area by the applicant.

2. It is a requirement of the Harbor Management Plan that the applicant should provide continuing boating services that contribute to the ongoing management of Southport Harbor in the public interest, and that those services should be provided for as long as the applicant uses the North Anchorage as a mooring area. Services provided should be reasonable in terms of the applicant's financial obligation, consistent with the scale and capacity of the applicant's facilities and operations, provided to the satisfaction of the Commission, and specified in a written agreement entered into by the Town of Fairfield and the applicant.
3. It is the understanding of the Commission that the OLISP has determined that deepening of the anchorage as proposed by the applicant will not cause any significant adverse impacts on the environmental quality, including water quality, of Southport Harbor.

Motion passed unanimously.

Mr. Santa thanked the HMC for its consideration of the applicant's proposal.

Chairman von Conta chaired the remainder of the meeting.

Lower Wharf Report: Chairman von Conta reported on a meeting that she and Mr. Steadman had recently attended with DEEP OLISP representatives in Hartford to discuss matters concerning a public hearing to be held by the DEEP OLISP to review the HMC's Lower Wharf improvement plan. That hearing must be held because the DEEP OLISP received a petition with at least 25 signatures requesting such a hearing. George Russell, President of the Sasquanaug Association and representing the petitioners, was also present at that meeting. During that meeting, the DEEP OLISP representatives were informed by Chairman von Conta and Mr. Steadman that subsequent to submittal of the petition, the HMC has agreed to revise certain aspects of the Lower Wharf improvement plan and to evaluate the feasibility of revising other aspects of the plan. Chairman von Conta said that Mr. Russell informed the DEEP OLISP representatives that, as a result of the HMC's agreed upon revisions, it was the desire of the Sasquanaug Association that the petition for the public hearing on this project be withdrawn. However, the DEEP OLISP representatives said that the petition form submitted by the Sasquanaug Association did not provide for withdrawal of the petition. Chairman von Conta reported that the DEEP OLISP representatives said that it would not be necessary to hold a public hearing if the HMC withdrew the previously submitted plan and then submitted a revised plan that included the agreed-upon removal of the previously proposed pilings and floating dock along the boat launching ramp. Such removal would eliminate any encroachment into tidal wetlands and therefore, according to DEEP OLISP requirements, the new, revised plan would not have to be subject to a public hearing. The new, revised plan would be subject to another public notice and comment period but there would be no requirement for a public hearing. Mr. Steadman reported that a meeting was held involving himself, Chairman von Conta, Director of Parks and Recreation Lombardo, Marina Manager Bimmel, Harbor Master Carroll, Public Works Director White, and a representative of the Fairfield Police Department to discuss issues

concerning management of traffic and parking at the Town Boat Yard. During that meeting it was agreed that additional Town efforts would be directed toward managing traffic and parking at the Town Boat Yard. Following discussion, Louis Schueler *moved*, and John Zygmant *seconded* to approve the preparation of a revised Lower Wharf improvement plan for review and consideration by the HMC during the HMC's February meeting at which time the HMC would determine if a revised plan should be submitted to the DEEP OLISP for issuance of a second public notice on this project, without the provision for a public hearing. *Motion passed unanimously.*

Following Mr. Steadman's report that there would be additional costs by Roberge Associates to draft the revised plan, James Harman *moved*, and Nelson North *seconded* to approve the expenditure not to exceed \$2,000.00 for Roberge Associates to prepare revised plans. *Motion passed unanimously.*

Mooring Report: Harbor Master Carroll requested that the Mooring Committee meet prior to the February HMC meeting. Chairman von Conta appointed Norman Marsilius as Chair of the Mooring Committee, and noted that John Zygmant would also continue to serve as a member of this Committee.

Sand Management Plan: Nothing new to report this evening.

IV. 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. This meeting will be held at the Roger Ludlowe Middle School Auditorium, 689 Unquowa Rd, Fairfield, CT.

V. ADJOURNMENT:

There being no further business to come before the HMC, the meeting was adjourned at 6:25 p.m.

Respectfully submitted,
Betty Gabriel