

**TOWN OF FAIRFIELD  
HARBOR MANAGEMENT COMMISSION  
MEETING MINUTES OF JANUARY 15, 2013**

A meeting of the Harbor Management Commission (HMC) was held on Tuesday January 15, 2013 at 4:30 p.m. in the SECOND FLOOR Conference Room, the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

**MEMBERS PRESENT:** Mary von Conta, Chairman; Benjamin Baker, James Harman, Nelson North, Louis Schueler, Hugh Smith, John Zygmant, and Norman Marsilius. **ABSENT:** Sandye Mann.

**ALSO PRESENT:** Geoff Steadman, HMC Consultant; Patrick Carroll, Harbor Master; Joel Kunkel and Jeffrey Engborg, Pequot Yacht Club; William Reuckert and Steve Klemenz, Country Club of Fairfield; Thomas Steinke, Fairfield Conservation Department.

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

**I. APPROVAL OF MINUTES OF DECEMBER 18, 2012 MEETING:**

James Harman *moved* and John Zygmant *seconded* to approve the Minutes of December 18, 2012, as written. *Motion passed unanimously.*

**II. CORRESPONDENCE:**

Chairman von Conta reported the following correspondence:

From Harbor Master Carroll to Mr. William Mayer, Fairfield Accounting Office checks collected for 2013 mooring permit fees and mooring maintenance charges:

January 6, 2013: Total: \$6275.00; (\$3900.00 for permit fees; \$2375.00 for maintenance charges)

January 14, 2013: Total: \$5660.00; (\$2900.00 for permit fees; \$2760.00 for maintenance charges)

Early in January, 2013: From the Fairfield Shellfish Commission to Chairman von Conta copies of its January 9, 2013 Meeting Agenda and the Minutes of its December 12, 2012 Commission Meeting.

Early in January, 2013: From the Fairfield Conservation Commission to Chairman von Conta a copy of its January 17, 2013 Meeting Agenda.

Today, copy of an email from Mr. Steinke to Shellfish Commission.

**III. OLD BUSINESS:**

**Lower Wharf Report:** Mr. Steadman reported that the U.S. Army Corps of Engineers (USACE) intends to dredge New Haven and Norwalk harbors next fall and winter and the dredged material from these large projects may hopefully serve as the "cap" required for the HMC's planned dredging project near the Lower Wharf. Mr. Steadman also reported that Roberge Associates Coastal Engineers (RACE) has completed the test borings near the Lower Wharf and has found some ledge that will affect the driving of pilings for installation of the community sailing dock and perhaps replacement of the existing elevated pier. RACE will now complete the cost estimates for the entire Lower Wharf project. Mr. Steadman

recommended that a goal for the Lower Wharf project should be to undertake the dredging part of the project next fall and winter.

**Mooring Report:** Mr. Marsilius reported that the Mooring Committee held a meeting last Saturday, January 12, 2013, and discussed the HMC's mooring rules and procedures as well as several requests by mooring permit holders. Mr. Marsilius reported that it was decided to allow a mooring permit holder to moor a chartered vessel at a permitted mooring location instead of a vessel owned by that mooring permit holder, provided there is compliance with all other mooring requirements and the vessel is chartered by the mooring permit holder. Mr. Marsilius also reported that the Harbor Master may allow a mooring permit holder to retain his or her mooring location for a period not to exceed one year without using that location, provided that the mooring permit holder pays the required permit fee and maintenance charge and submits to the Harbor Master an explanation of a hardship that causes the permitted mooring location to be vacant. In addition, Mr. Marsilius reported that the Mooring Committee reviewed the procedures that cover the possible relocation of a moored vessel to or from the North Anchorage. Mr. Marsilius informed the HMC that the Mooring Committee is reviewing the HMC's adopted "Rules and Procedures for Mooring and Anchoring Vessels in Southport Harbor" and this process will take several meetings to complete. Mr. Marsilius informed the HMC that the document will be emailed to all HMC members for their comments.

Dr. Kunkel reported that the North Anchorage dredging project by the Pequot Yacht Club (PYC) is completed and the post-dredge surveys have been reviewed and accepted for the purpose of completing the job. Dr. Kunkel noted that the anchorage was dredged to a depth of about 8 ½ to 9 feet and about 17,000 cubic yards of material were dredged. Dr. Kunkel also stated that the next time this area requires dredging, such dredging can be approved by the CT Department of Energy and Environmental Protection (DEEP) through a Certificate of Permission (COP) instead of a full Permit. Harbor Master Carroll stated that the PYC and Dr. Kunkel should be commended for the successful completion of this project and their excellent supervision and management of the work.

**Sand Management Report:** Chairman von Conta reported that she and Mr. Steadman met with representatives of the Federal Emergency Management Agency (FEMA) and Fairfield Public Works Department to determine if FEMA will provide funds to help cover the cost of: a) excavating sand in the Harbor channel that was washed into the channel by Storm Sandy; and b) then using that sand to help repair Town beaches eroded by the storm. HMC member James Harman participated in part of this meeting. FEMA representatives informed the Town representatives that FEMA may be able to reimburse the Town for up to 75% of the cost of this project, provided all necessary approvals are obtained from the DEEP. Chairman von Conta reported that she has discussed this matter with Ms. Selmeski of the DEEP who said that the DEEP should be able to approve the project with a COP provided that the project does not extend beyond the area that was last dredged and excavated by the USACE and Town in 2005. Mr. Steadman reported that the Town's Engineering Department has now calculated that approximately 4,500 cubic yards of sand have accumulated in the Harbor area as a result of Storm Sandy. Chairman von Conta reported that Public Works Superintendent Bartlett has been working very diligently to help plan and advance this project. In addition, Chairman von Conta reported that the Town's Board of Finance is now considering authorizing over \$5 million that will be used to cover storm clean-up and repair costs with the understanding that those costs will be partially reimbursed by FEMA. This amount will have to be approved by the Representative Town Meeting. There was discussion of the possible time period for conducting the sand excavation project and Chairman von Conta informed the HMC that if all necessary approvals can be obtained quickly, then the project could begin in March of this year. If not, the work could begin next Fall. Mr. Steadman reported that FEMA allows up to 18 months from the date of a

storm to complete work related to the effects of that storm. However, the specific projects for FEMA reimbursement must be filed with FEMA by February 12 of this year.

Mr. Steadman recommended that the HMC must now move forward with preparing a COP application to the DEEP as quickly as possible. He will direct RACE to start this process immediately. Mr. Steadman also said that the Town's Public Works Department and Engineering Division have been of great assistance to the HMC and deserve much credit for their efforts to restore Town resources and facilities damaged by Storm Sandy. In response to a question from HMC member Hugh Smith concerning the build-up of sand on the western side of the Harbor, adjoining the Lower Wharf, Mr. Steadman said that this area of the Harbor is not being proposed for FEMA assistance because the build-up of sand does not constitute a hazardous situation and the HMC cannot justify a claim for damages to any existing facility in this area.

**Review the "Remedial Action Plan For Lead Impacted River Sediments/River Study Areas I-V/The Former Exide Battery Facility Project/2160 Boston Post Road, Fairfield, CT:** Chairman von Conta reviewed the authorities and responsibilities of the HMC with respect to this proposed remediation project, which include reviewing the project for consistency with the Harbor Management Plan and then providing findings and recommendations to the DEEP and other regulatory agencies. Chairman von Conta reported that she, Mr. Harman, and Mr. Steadman represented the HMC in a meeting with representatives of the Shellfish and Conservation Commissions on January 7, 2013 at which time a number of issues and questions were raised with respect to the Exide proposal. Minutes from that meeting are posted on the Town website. In addition, a summary of the issues and comments discussed at the meeting was prepared by Chairman von Conta, Mr. Harman, and Mr. Steadman. That summary, dated January 9, 2013, was provided to Exide's Attorney, the DEEP, and the Shellfish and Conservation Commissions in addition to all members of the HMC.

Chairman von Conta reported that she, along with Mr. Steadman and several HMC members, attended the public meeting convened by the CT DEEP on January 10, 2013 at 7 pm at Fairfield Ludlowe High School to discuss the proposed remediation project.

Mr. Steadman reported that since the January 10 public meeting he has talked with Ms. Fusaro from the DEEP's Remediation Division, and they discussed several of the issues noted in the January 9 summary report. The HMC then reviewed some of those issues. Discussion focused on the following issues: 1) Exide's Remedial Action Plan (RAP) calls for dredging about 21,000 cubic yards from the River while other Exide documents call for dredging about 27,000 cubic yards; 2) the Conservation Director asserts that Exide has not fully investigated the storm drain that passes through railroad property near the former Exide battery plant to determine if there is any lead pollution in that drain; 3) the RAP says that turbidity curtains used to contain re-suspended sediment during dredging operations will not come in contact with the bottom of the River and Harbor, but during the public meeting Exide representatives said those curtains will be extended to the bottom; 4) the RAP calls for dredging to be conducted during shellfish spawning and fish migration periods when such work is usually not permitted by the DEEP, but the DEEP indicated during the public meeting that dredging would be restricted during those periods; 5) Exide has not indicated that any assessment of the structural integrity of the Tide Mill Dam has been conducted for this project, but concerns have been expressed that if the dam's tidegates fail it would not be possible for Exide to conduct its planned remediation project; 6) the RAP and other Exide documents indicate that methods for implementing the proposed project are subject to modification by the selected contractor; 7) it has been suggested that the owners of property adjoining the Mill River may own underwater land and therefore some of Exide's proposed remediation project areas may be located on privately owned land; 8)

there is no indication in the RAP that Exide intends to constantly monitor water quality in Southport Harbor during the duration of the remediation project; 9) the proposed RAP is expected to remove some of the chromium pollution present in the River and Harbor but additional areas of chromium will remain and likely require another disturbance of the River and Harbor in the future; 10) following excavation of the lead-contaminated sediment, Exide does not intend to restore the bottom of the River and Harbor but intends to let those areas restore naturally; and 11) the RAP indicates that the natural environment of the bottom of the River and Harbor will be restored naturally within one to three years, but the RAP includes no detailed description of existing environmental conditions against which to judge future restoration of those conditions.

It was the sense of the HMC that the January 9, 2013 summary document of issues and comments concerning the Exide proposal should be submitted to the DEEP in its entirety, along with additional issues and comments discussed by the HMC.

Mr. Steinke reiterated some of his concerns regarding the proposal, including the concern that the storm drain along the railroad property has not been properly investigated by Exide as a possible source of lead pollution. He stated that, in his opinion, the summary document presents a good summary of the pertinent issues and should not be modified at this time.

Following discussion, James Harman *moved* and Louis Schueler *seconded* to: 1) endorse and submit to the DEEP the January 9, 2013 summary document "Issues and Comments Concerning a Proposal by Exide Group, Inc. to Dredge Lead-Contaminated Sediment from the Mill River and Southport Harbor" as discussed by the HMC; 2) submit to the DEEP additional issues and comments as discussed by the HMC, including issues and comments concerning any significant changes to Exide's proposal as described in the documents reviewed by the HMC, the effects of chromium pollution in the River and Harbor, and the HMC's interest regarding the need for ongoing monitoring of water quality in the Harbor during the proposed remediation project; 3) request that the DEEP and/or Exide respond in writing by January 28, 2013 to the issues and comments described in the summary document and the additional issues and comments discussed by the HMC; and 4) request that the comment period for submitting comments concerning the Exide proposal be extended by the DEEP to February 22, 2013 in order that the HMC may continue to review this matter during the HMC's next regularly scheduled meeting which will take place on February 19, 2013.

*Motion passed unanimously.*

Chairman von Conta noted that if the public comment period is not extended by the DEEP, the HMC will need to call a special meeting before February 11, 2013.

Chairman von Conta informed the HMC that she had received a copy of an email from Mr. Steinke to the Shellfish Commission regarding a special meeting to be called by the Shellfish Commission to discuss the Exide proposal. Mr. Steinke reported that the Special Meeting of the Shellfish Commission will take place on Wednesday, January 23, 2013 at 7:30 pm in the 2<sup>nd</sup> Floor Conference Room of Sullivan Independence Hall. Mr. Steinke informed the HMC that the DEEP will be required to hold a public hearing on Exide's application to the DEEP for a water discharge permit if a petition with at least 25 signatures is submitted to the DEEP. That petition should identify a contact person authorized to withdraw the petition if the concerns of the petitioners are addressed prior to the public hearing. Mr. Steinke reported that he is preparing a list of questions that the Shellfish Commission may wish to consider regarding the Exide proposal. Chairman von Conta requested that Mr. Steinke send the draft questions to her so that she may distribute them to the members of the HMC.

**Review the DEEP Consultation Package related to a proposed application submitted by the Country Club of Fairfield to retain and maintain an existing earth berm and lagoon slope at 936 Sasco Hill Road, Fairfield, CT:** There was no report on this item.

**IV. NEW BUSINESS:** Harbor Master Carroll asked the members of the HMC to review the document *Rules & Procedures for Mooring & Anchoring Vessels in Southport Harbor* and submit any comments to Mr. Marsilius.

**V. PUBLIC COMMENT:** None

**VI. ADJOURNMENT:**

There being no further business to come before the Commission, Hugh Smith *moved* and John Zygmant *seconded* to adjourn the meeting at 6:15 p.m. *Motion passed unanimously.*

Respectfully submitted,  
Deborah J. Garavel  
Recording Secretary