

**TOWN OF FAIRFIELD
HARBOR MANAGEMENT COMMISSION
MEETING MINUTES OF MAY 21, 2013**

A meeting of the Harbor Management Commission (HMC) was held on Tuesday, May 21, 2013 at 4:30 p.m. in Meeting Room II of the Honorable John J. Sullivan Independence Hall, 725 Old Post Road, Fairfield, CT.

MEMBERS PRESENT: Mary von Conta, Chairman; Nelson North, James Harman, Benjamin Baker, Norman Marsilius, Louis Schueler, John Zygmant. **ABSENT:** Hugh Smith.
ALSO PRESENT: Geoff Steadman, Consultant; Patrick Carroll, Harbor Master; Thomas Steinke, Conservation Director; Joel Kunkel, Pequot Yacht Club; and Steven Klemenz, Country Club of Fairfield.

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

I. APPROVAL OF MINUTES OF APRIL 16, 2013 MEETING:

Nelson North *moved* and James Harman *seconded* to approve the Minutes of April 16, 2013. *Motion passed unanimously.*

II. CORRESPONDENCE:

Chairman von Conta reported the following correspondence:

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

April 22, 2013: \$300.00 (Permits: \$300.00))
May 13, 2013: \$200.00 (Permit: \$200.00)
May 15, 2013: \$345.00 (Permit: \$150.00 Maintenance: \$195.00)

April 17, 2013: From Harbor Master Carroll to Mr. Robert Mayer, Fairfield Accounting Office, explaining to Mr. Mayer that the HMC has accepted a recommendation from Harbor Master Carroll to refund permit fees and maintenance fees to two boaters who have vacated their moorings in Southport Harbor prior to placing their vessels on moorings. These boaters are: Mr. Donald Berger, 4536 Congress St., Fairfield, CT 06824 (\$345.00) and Capt. Robert Smith, 76 Alden St., Fairfield, CT 06824 (\$420.00). Harbor Master Carroll requested that the Fairfield Finance Department carry out the payment of these refunds.

End of April, 2013: An invoice for the HMC's dues for the Connecticut Harbor Management Association (CHMA) and an invitation to the CHMA's annual dinner on June 10, 2013. (Copies of the invitation distributed to commissioners at this meeting.) – *Chairman von Conta noted that this item would be discussed later in the evening.*

May 1, 2013: From First Selectman Michael Tetreau: A notice of and an invitation to attend two half day workshops which will discuss community planning and hazard mitigation to reduce risk and improve resilience in our town...i.e. to become more proactive in preparing for severe storms and other threatening natural situations. (Copies of this invitation distributed to commissioners at this meeting.) *Chairman von Conta noted that these workshops will be run by The Nature Conservancy and encouraged Commissioners to attend.*

Correspondence, Continued:

Early in May: A copy of the agenda for the Shellfish Commission's May 8, 2013 Meeting.

April 25, 2013: From Connecticut Department of Energy and Environmental Protection (DEEP) to Mr. and Mrs. Dennis Keresey, 1931 Fairfield Beach Road, Fairfield, CT 06824 issuing a Certificate of Permission to do work at the Keresey's address. (This is not in the HMC's jurisdiction.)

OLD BUSINESS:

Lower Wharf Report: Chairman von Conta reported that she had discussed the issue of security at Ye Yacht Yard with Parks and Recreation Director, Gerald Lombardo, and that Mr. Lombardo will review this issue and plan accordingly for security during the coming boating season. Mr. Lombardo has ordered a small guard shack structure which will resemble the existing buildings.

Mr. Steadman reported that he is continuing to review the draft cost estimates prepared by Roberge Associates (RACE) for the HMC's Lower Wharf projects. Mr. Steadman will meet with RACE to review the assumptions used by RACE in preparing these estimates and then RACE will provide final estimates for review by the HMC. Chairman von Conta then will meet with Joseph Michelangelo, Town of Fairfield Director of Public Works, to review the cost estimates prepared by RACE. Chairman von Conta further indicated that she has contacted Attorney Joel Green regarding his FOI request concerning the HMC's Lower Wharf projects; Mr. Green advised Chairman von Conta that he would be in contact after he has discussed the matter further with his client.

Mooring Report: Mr. Marsilius reported that he anticipates having a report concerning the Mooring Committee's proposed amendments to the HMC's Mooring Rules and Procedures for the July HMC meeting. He anticipates that following the HMC's review, the amendments would be adopted in the fall. Harbor Master Carroll reported that the Fairfield Police Marine Unit has initiated a "zero tolerance program" regarding state boat registration requirements; to date the Marine Unit has issued 15 warnings and a few citations.

Sand Management Report: Mr. Steadman reported he is continuing to work with Bill Hurley and Scott Lehman of the Town Engineering Department to respond to the DEEP's request that the HMC provide a survey of the rooted vegetation in the vicinity of the project areas for excavation and transport of sand. On April 30, William Kenny of William Kenny Associates flagged the areas to be surveyed and the Town engineering department conducted a survey of the boundaries of those areas. This has been submitted to RACE for inclusion in the HMC's application to the DEEP. Mr. Kenny will finalize his identification of the plant species once the growing season is underway. Upon completion of this work, the application will be submitted to the DEEP. Mr. Steadman reported that the goal is to submit the application to the DEP in June and to begin work in the fall of this year. Mr. Steadman noted that approximately 7,100 cubic yards of sand is to be removed, with approximately 4,100 cubic yards being attributable to Storm Sandy, and that he has prepared a report on the status of the HMC's planning for this project and provided that report to the Department of Public Works for transmittal to FEMA.

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 reported that she, along with Mr. Harman and Mr. Steadman, have been attending facilitated meetings with representatives of the Town, DEEP, and Exide to discuss Exide’s proposed project to dredge lead-contaminated sediment from the Mill River and Southport Harbor.. Chairman von Conta distributed a meeting schedule that had been prepared by the facilitator Cindy Cook. Following a brief summary of the meetings to date and consensus by Chairman von Conta, Mr. Harman and Mr. Steadman that the meetings are beneficial and that the Exide representatives appear to be responsive to the Town’s concerns, the HMC discussed the proposed project.

The HMC’s previously transmitted its concerns to the DEEP and Exide along with a list of harbor management issues which the HMC believes must be addressed before any final decisions are made by the DEEP and HMC concerning the proposed project. The HMC’s basic concern is that the work be conducted in a manner to improve environmental conditions in the Mill River and Southport Harbor without causing any significant adverse impacts. Chairman von Conta, Mr. Harman, and Mr. Steadman summarized the discussions to date for the HMC, and emphasized that they have informed the other meeting participants that they are not authorized to make any decisions on behalf of the HMC. Once sufficient information is developed to address the HMC’s submitted list of issues, the HMC will make a determination regarding the proposed project’s consistency with the Harbor Management Plan. Exide and the DEEP have agreed that the Remedial Action Plan (RAP) will be revised to incorporate information and agreements made during the facilitated meetings. Exide has agreed to conduct continuous monitoring (24/7) of the dredging areas. In addition, Exide has agreed that the dewatering method utilizing Geotubes has been selected in order to provide certainty regarding the method to be used.

Downstream of the Tide Mill Dam, the dredging operation will be diver-assisted and utilize a suction dredge without a cutter-head and without a turbidity curtain. This work downstream of the dam will not be conducted during the normal closure periods for dredging projects in order to protect spawning shellfish and migrating finfish.

In the other project areas, Exide is proposing to work during the normal closure periods in order that the work can be completed within an anticipated two-year period. Otherwise, Exide says the work may take five years to complete.

Significant attention is being given to how the turbidity curtains are intended to work. Exide has retained an expert on environmental dredging who has explained how dredging technology and turbidity curtains have advanced significantly since Exide last dredged lead-contaminated sediment from the river 1983.

Chairman von Conta further noted that a sample of the turbidity curtain was provided at a recent meeting with Exide; there are several different sections, each performing its own function, such as a porous section to let water pass through while containing sediment, chains that allow the bottom of the curtain to rest on the bottom of the river, and utilization of a double anchoring system to hold the whole system in place in the river. Following inquiry by Commissioner Schueler regarding who would conduct the final review and what

will be done if there is still contamination in the river after the dredging is completed, Mr. Steadman reported that Conservation Director Steinke had raised this issue during a meeting with the DEEP. Specifically, Mr. Steinke had suggested that the RAP be revised to address this issue and the DEEP agreed. Following inquiry by Commissioner North as to whether the HMC, in relation to its role and obligation to protect the harbor, will receive a formal response to the sixteen issues/questions it had submitted relative to the proposal, Mr. Steadman reported that the DEEP does not intend to address the HMC's questions in writing but that the facilitated meetings have been organized to ensure that all of the HMC's issues/questions will be addressed. Mr. Steadman, Chairman von Conta, and Mr. Harman then will be responsible for bringing the answers to the HMC. Chairman von Conta reported that it is her understanding that a revised RAP will be presented to the HMC that will address the HMC's issues, as well as any others that have been raised throughout the meeting process with the facilitator.

Mr. Steadman noted that there are still a number of issues of concern to the HMC to be discussed in the facilitated meetings, including, but not limited to: the condition of existing benthic resources; project schedule; potential impacts on nearby neighborhoods; chromium issues, dredging sequence; effect on the state water quality classifications for the river and Harbor; and further monitoring details.

Mr. Steadman further reported that if all involved parties are able to reach an agreement, then the intervenors, which include Town of Fairfield agencies such as the HMC, Conservation Commission, and Shellfish Commission, can withdraw their petitions for a public hearing on the NPDES permit for the proposed project. Chairman von Conta noted that former Commissioner James Bradley has significant experience with dredging and remediation projects and is a source of advice and assistance for the HMC for review of the Exide proposal. Chairman von Conta also stated that she anticipates receiving a final RAP document that can be brought to the HMC for its determination as to whether or not the proposal is consistent with the Harbor Management Plan prior to any final action by the DEEP.

At a recent meeting of the parties attended by Chairman von Conta and Mr. Harman, Connecticut Bureau of Aquaculture Director David Carey suggested that a specific phone line be established and available 24/7 to provide for immediate reporting, as necessary. Chairman von Conta strongly agreed that a phone line be made available for emergency reporting.

Chairman von Conta, Commissioner Harman, and Mr. Steadman will continue to keep the HMC apprised of any developments as the facilitated meetings with the interested parties continue.

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: Chairman von Conta noted that this matter would not be discussed this evening.

CHMA Annual Dinner: Chairman von Conta advised the HMC that the CHMA had been established several years ago to facilitate the exchange of information among harbor management commissions and address issues of common interest to the commissions. The annual dinner has always been attended by representatives of the HMC. Chairman von Conta encouraged such attendance at the upcoming annual dinner to be held on June 10. The accomplishments of the late Senator George “Doc Gunther”, who had formulated the state’s harbor management legislation, will be honored at this year’s annual dinner.

PUBLIC COMMENT: None

ADJOURNMENT: John Zygmant moved and Nelson North seconded to adjourn the meeting at 6:05 p.m.
Motion passed unanimously

Respectfully submitted,
Betty Gabriel