

**TOWN OF FAIRFIELD  
HARBOR MANAGEMENT COMMISSION  
SPECIAL MEETING MINUTES OF JULY 8, 2013**

A Special meeting of the Harbor Management Commission (HMC) was held on Monday, July 8, 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, Louis Schueler, Benjamin Baker, Norman Marsilius, Hugh Smith, John Zygmant. **ALSO PRESENT:** Geoff Steadman, HMC Consultant; Patrick Carroll, Harbor Master; Thomas Steinke, Conservation Director; Joel Kunkel, Jeff Engborg, Pequot Yacht Club; Steven Klemenz, Country Club of Fairfield; First Selectman Michael Tetreau; Stanton Lesser, Town Attorney; Senator John McKinney; State Representative, 132<sup>nd</sup> District, Brenda Kupchick; Jessica Bilyard, CCA Engineers; and several members of the public and press.

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

**I. CORRESPONDENCE:** None noted.

**II. OLD BUSINESS:**

**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 advised the HMC that the purpose of the meeting this evening is to review the status of the proposed Remedial Action Plan (RAP) prepared by Exide Group, Inc. (Exide) and begin to consider whether the RAP is consistent with the Harbor Management Plan. Chairman von Conta further reported that a combined meeting of the HMC, Shellfish Commission, and Conservation Commission is being tentatively scheduled for August 1<sup>st</sup> to consider Exide’s proposal. Following a request by Chairman von Conta for confirmation of her understanding as to the purpose of the combined meeting, Town Attorney Stanton Lesser indicated that the goal of that meeting is to determine whether the three commissions have reached a consensus that their respective issues have been sufficiently addressed by Exide and, if so, that a recommendation be made to First Selectman Michael Tetreau to withdraw the intervention filed by the Town in the Exide matter. Mr. Lesser further indicated that the decision to withdraw the intervention must be made by the First Selectman. It was noted by Conservation Director Steinke that the Shellfish Commission had filed a petition for a public hearing in this matter. Chairman von Conta advised the HMC that to date, she, together with Commissioner Harman and Mr. Steadman, had participated in approximately 40 hours of facilitated meetings with the interested parties, including Exide, the Connecticut Department of Energy and Environmental Protection (DEEP), and the Town agencies, and participated in many more hours of meetings and discussions among themselves, acting on behalf of the HMC as the HMC’s Exide Study Committee.

Mr. Steadman provided the HMC with a brief summary of Exide’s proposed plans and a chronology of the HMC’s involvement with this project. Mr. Steadman noted there are five project areas from which Exide proposes to dredge lead-contaminated sediment and one of these areas is in Southport Harbor. The entire project has the potential to affect the harbor and therefore must be reviewed for consistency with the Harbor Management Plan. A previous remediation effort by Exide was unsuccessful, he said, and the river and harbor were subsequently re-contaminated with lead. The HMC, in a February 22, 2013 letter to the DEEP,

informed the DEEP that there was insufficient information for the HMC to determine the proposal's consistency with the Harbor Management Plan. Further, the HMC requested that the DEEP respond in writing to a list of issues/questions submitted by the HMC to the DEEP. Subsequently, the DEEP informed the HMC that it could not respond in writing but suggested that a series of facilitated meetings be held involving the interested parties, and proposed that the HMC's issues/questions be addressed through those meetings.

Mr. Steadman provided the HMC with an outline of draft Harbor Management findings, understandings, and possible recommendations regarding the Exide proposal for review and consideration. He suggested that any decision by the HMC regarding the proposal's consistency with the Harbor Management Plan should be based on specific understandings reached by the HMC and DEEP during the facilitated meetings. Commissioner Harman provided the HMC with an updated status report regarding the issues/questions raised by the HMC in its February 22, 2013 letter to the DEEP. Commissioner Harman had previously reported on this status during the HMC's June 18 meeting and now some additional information has been developed which he has included in his updated status report. Regarding the Exide proposal, Commissioner Harman reviewed the following topics from his updated report: (1) implementation details; (2) re-suspension of sediment and its impact on anadromous fish and shellfish; (3) project monitoring; (4) sediment volume; (5) potential sources of re-contamination; (6) work schedule; (7) tide Mill Dam; (8) benthic assessment and restoration; (9) neighborhood impacts; (10) impairment classification; (11) underwater land ownership; (12) sequence of dredging; (13) modifications to the proposal; (14) effects of chromium disturbance; and (15) project approvals.

It was the sense of Chairman von Conta, Commissioner Harman, and Mr. Steadman that, as a result of the facilitated meetings, the HMC should now have sufficient information for evaluating the consistency of the Exide proposal with the Harbor Management Plan.

Following Mr. Harman's status update, Chairman von Conta asked the public for any comments and/or questions relative to this matter. The responding members of the public were as follows:

Fairfield resident Linda Snelham-Moore stated that she did not feel that the issue raised by Mr. Steinke concerning investigation of the railroad and Post Road drains has been sufficiently addressed. Mr. Steadman provided his understanding of this issue and noted that although the original Consent Order imposed by the DEEP required further investigation of the railroad drain, Exide was not able to test the drain since it is plugged, and the DEEP feels there is no compelling evidence that there is lead in this drain. Further, Mr. Steadman said, the DEEP believes that the Post Road drain has been sufficiently remediated. In addition, Mr. Steadman said that Town representatives have informed the DEEP that it will be necessary for the Connecticut Department of Transportation (DOT) to provide appropriate documentation to the Town, including documentation that the DOT is responsible for these drains.

State Representative for the 132<sup>nd</sup> District, Brenda Kupchick, stated that she is more comfortable with this project now than she was in January 2013 as a result of the HMC's diligence.

Fairfield resident Joy Shaw expressed her concerns regarding the railroad and Post Road drains and the possibility of future recontamination of the river if there is any lead associated with these drains. Ms. Shaw noted that the site had been re-contaminated after Exide's previous remediation effort and expressed her concern that the Town might have some future liability if there is any future recontamination as a result of these drains.

No other members of the public wished to speak. During discussion by the HMC of the draft document Harbor Management Understandings, Mr. Steadman added that it is also his understanding that all feasible means will be employed by Exide to reduce any nuisance impacts that may result from the project, including impacts that may be associated with lights, noise, and odor.

After considerable discussion of the draft Understandings document, Commissioner North suggested that the HMC must be assured that the DEEP shares these understandings. Commissioner North recommended that the HMC, before determining if the Exide proposal is consistent with the Harbor Management Plan, must obtain written confirmation of the Understandings document from the DEEP. In the event that the DEEP does not concur with one or more of the HMC's understandings, the DEEP should clarify its perspective. It was the consensus of the HMC that the HMC would request that the facilitator retained by Exide, Cindy Cook, coordinate receipt of written confirmation and, if necessary, clarification, from the DEEP regarding the Understandings document. Following further discussion, Hugh Smith moved and Nelson North seconded to submit the Harbor Management Understandings, as prepared by Mr. Steadman, to the DEEP for the purpose of obtaining confirmation from the DEEP and, if necessary, any clarification from the DEEP's perspective.

Commissioner Harmon suggested that the motion be modified to include a revision to the first sentence of Paragraph 8 on page two of the Harbor Management Understandings to read "For project management and environmental quality control purposes, the presence of turbidity associated with Exide's environmental dredging operations will indicate the possible presence of lead, trivalent chromium, and bacterial contamination in the water column."

Commissioners North and Smith accepted the amendment by Commissioner Harman. Motion passed unanimously.

Prior to adjournment, Fairfield resident Joy Shaw stated that she believes there should be a representative from the Town with project oversight responsibilities during Exide's proposed project to ensure that the interests of the Town are being served.

**ADJOURNMENT:** There being no further business to come before the HMC this evening, Hugh Smith moved and Nelson North seconded to adjourn at 6:43 p.m. Motion passed unanimously.