

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

A meeting of the Harbor Management Commission (HMC) of the Town of Fairfield was held on Tuesday, October 15, 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, Norman Marsilius, Hugh Smith, John Zygmant. **ABSENT:** Benjamin Baker. **ALSO PRESENT:** Geoff Steadman, HMC Consultant; Patrick Carroll, Harbor Master; Joel Kunkel, Pequot Yacht Club; Steven Klemenz, Country Club of Fairfield; **EXIDE REPRESENTATIVES:** Kenneth Money, President of Exide Group Incorporated; Anna M. HERNBERG, E.I.T, Staff Engineer, and Peter M. Heynen, P.E., both of GEI Consultants, Inc., P.C.; Cindy Cook, Exide project facilitator; and several members of the public and press.

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

I. APPROVAL OF MINUTES: September 17, 2013

Hugh Smith *moved* and Louis Schuler *seconded* to approve the meeting minutes of September 17, 2013. ***In Favor:*** Mary von Conta; Nelson North; James Harman; Louis Schueler; Hugh Smith; John Zygmant. ***Opposed:*** None. ***Abstention:*** Norman Marsilius. *Motion carries 6-0-1*

II. CORRESPONDENCE: Chairman von Conta read the following correspondence into the record:

October 2, 2013: From Harbor Master Carroll to Governor Malloy informing the governor that he will not be seeking reappointment as Harbor Master of Southport Harbor.

October 4, 2013: From Harbor Master Carroll to Leif Vik of 1135 Mill Hill Road acknowledging receipt of Mr. Vik's 2013 Mooring Waiting List application and application fee in the amount of \$50.00. Mr. Vik will be # 96 on the 2013 list.

October 14, 2013: From Harbor Master Carroll to Mr. Robert Mayer, Finance Department, a check in the amount of \$50.00 for a 2013 Mooring Waiting List Application fee: # 96, Mr. Leif Vik

September 16, 2013: From Patrick Bowe, Director, CT Department of Energy and Environmental Protection (DEEP) Remediation Division, granting Exide Group Incorporated a schedule extension of 45 days in which to submit the SuppRAP Implementation Report. This request was submitted in conjunction with Consent Order No. SRD-193.

September 24, 2013: From Donald Gonyea, DEEP Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division, to facilitated discussion representatives from the Town of Fairfield and Exide's engineering firm conveying the first round of water testing results from sampling for bacteria done in various locations in the Mill River.

October 3, 2013: From Betsey Wingfield, Bureau Chief, CT DEEP, to HMC Chairman von Conta responding to the HMC's letter dated August 22, 2013 which transmitted the HMC's finding that Exide's proposed Remedial Action Plan for dredging in the Mill River is consistent with the Southport Harbor Management Plan and transmitted the HMC's comments and recommendations. The main body of Bureau Chief Wingfield's letter was devoted to responding to the HMC's recommendations.

October 3, 2013: A copy of DEEP's responses to Public Comments on the Remedial Action Plan for Lead-Impacted Sediments in the Mill River Study Areas I-V.

October 3, 2013: From Patrick Bowe, Director, DEEP Remediation Division to Kenneth L. Money, President, Exide Group Incorporated, conveying the DEEP's approval of the "Remedial Action Plan for Lead Impacted River Sediments, Mill River Study Areas I-V; Former Exide Battery Facility, 2190 Boston Post Road, Fairfield, Consent Order No. SRD-193.

Early in October: A copy of the Fairfield Shellfish Commission's Meeting Agenda for October 9, 2013.

September 19, 2013: Notice of Tentative Determination to Approve a Structures, Dredging and Fill Application submitted by the Town of Fairfield to conduct work in the Access channel off property located at South Benson Marina off Turney Road. (This is not in the HMC's area of jurisdiction.)

Norman Marsilius *moved* and Nelson North *seconded* to change the order of the meeting agenda to review the Exide Certificate of Permission (COP) application regarding work on the Tide Mill Dam, listed under New Business, prior to the Old Business. *Motion passed unanimously.*

NEW BUSINESS:

Presentation by representatives from Exide regarding their pending submission of an application for a DEEP/OLISP Certificate of Permission (COP) to do work on (make repairs to) the Tide Mill Dam and flood gates located in the Mill River, Fairfield, CT: Several Exide representatives were present this evening to discuss Exide's pending submission of an application for a DEEP Office of Long Island Sound Programs (OLISP) COP. Peter M. Heynen, P.E., of GEI Consultants, Inc. advised the HMC that recommendations for repairs were made following a structural assessment/stability analysis of the Tide Mill Dam and tide gate structure by his company. A PowerPoint presentation was provided to outline the repairs needed to the structure, the construction methods proposed, anticipated time-line (November 2013 through February 2014), and current site conditions. Mr. Heynen indicated that Exide is currently reviewing qualified professional contractors prior to submitting the COP application. Repairs to reduce leakage through the existing dam and tidegate structures include: replacement of the existing wooden tidegates with cast iron tidegates; replacement of riprap associated with the dam structure; and installation of concrete grout bags. Following inquiry by Commissioner Schueler, Mr. Heynen indicated that the estimated longevity of the repairs is 10-15 years, and that like any structure, maintenance will be required in the future. In response to further Commissioner inquiry, Mr. Heynen noted that there will not be any changes in the water level; the proposed cast iron flap gates will function in the same manner as wood material; and that the grout mixture which is meant for salt water will turn to concrete and not have an adverse impact on Harbor water quality. Mr. Steadman reported that in a meeting conducted in the morning involving Town and Exide representatives, Conservation Director Thomas Steinke had raised the concern that the proposed repairs would impede the ability for fish passage, and questioned whether a fish ladder would be installed. Mr. Money noted that the current agreement with the dam owner does not include the installation of a fish ladder. Exide is continuing to review this matter, he said, and the proposed repair activities would not preclude the installation of a fish ladder in the future. Mr. Steadman noted that it is the professional opinion of Mr. Heynen, expressed during the meeting conducted in the morning, that the proposed repairs to the Tide Mill Dam are needed in order to safely and properly conduct Exide's proposed project to dredge lead-contaminated sediment from the Mill River. Mr. Steadman expressed his concern regarding the timing of the COP application which Exide indicated would be submitted to the DEEP OLISP within about one week following the HMC's meeting. Mr. Money reported that DEEP OLISP approval is anticipated soon after submittal of the application. Mr. Steadman noted that it is the responsibility of the HMC

to review all proposals affecting Southport Harbor, including applications for DEEP OLISP permits and COPs, to determine their consistency with the Harbor Management Plan. Further, it is the responsibility of all applicants for DEEP OLISP COPs to provide a copy of their applications to the HMC. Currently, the HMC does not have a formal application from Exide for repair of the Tide Mill Dam which it can review this evening. Further, based upon the anticipated time-line for DEEP OLISP approval reported by Exide, there does not appear that the HMC will be able to wait until the HMC's November meeting to conduct its review of Exide's COP application. Following considerable discussion, it was the consensus of the HMC that the HMC must review the Exide COP application in the same manner as it reviews all other COP applications affecting the Harbor and provide comments to the DEEP OLISP prior to any decision by the DEEP OLISP on the application. Upon receipt of the application, which is anticipated to be filed by Exide next week, the HMC will either vote electronically or conduct a Special Meeting, if necessary, in order to formally review the application. Exide representatives agreed to provide an electronic copy of the application to the HMC at the same time as the application is submitted to the DEEP OLISP.

Chairman von Conta thanked the parties for the informative presentation provided this evening.

OLD BUSINESS:

Lower Wharf Report: Mr. Steadman, Mr. Smith: Mr. Steadman reported that he anticipates that the HMC's engineering consultant Roberge Associates Coastal Engineers (RACE) will submit the completed bid documents concerning the HMC's proposed improvement projects this week. Mr. Smith reported that the subcommittee for assisting the Parks and Recreation Commission with improvements to the Town Boat Yard has started getting organized. Mr. Zygmant described some of the issues that should be addressed. Chairman von Conta reported that the Parks and Recreation Commission appears to be grateful for the assistance being provided by the HMC sub-committee.

Sand Management Report: Mr. Steadman: Mr. Steadman reported that the efforts relative to sand management have been stalled due to the presence of habitat for an endangered species, the piping plover. On behalf of the HMC, Mr. Steadman has requested assistance from the U.S. Army Corps of Engineers (USACE) to advance the project. A representative of the USACE has contacted the U.S. Fish and Wildlife Service (FWS) to request that a representative of the FWS visit the site with representatives of the HMC and USACE.

Mooring Report: Harbor Master Carroll and Mr. Marsilius: Mr. Marsilius reported that the Mooring Committee has not met since the last HMC meeting but that he anticipates meeting in November in order to continue review of the proposed amendments to the mooring rules and procedures. Harbor Master Carroll reported that the outer beacon light has been repaired and that a bald eagle has been sighted near the Lower Wharf.

Review of 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: Steven Klemens advised the HMC that the club's consultant John Roberge had recently visited the site and was in communication with Tonia Selmeski of the CT DEEP.

NEW BUSINESS:

Appointment of a nominating committee to propose a list of officers to serve in the positions of Chairman, Vice-Chairman, and Secretary of the Fairfield Harbor Management Commission from December 2013 through November 2014. Chairman von Conta advised the HMC that in addition to her own term, the terms of Commissioners Zygmant and Schueler will also be expiring in November. Chairman von Conta appointed the following nominating committee to recommend a slate of officers for the period December 2013 through November 2014: Norman Marsilius, John Zygmant, and Louis Schueler.

Explanation of the process to be followed to appoint a new Harbor Master: Chairman von Conta advised the HMC that Harbor Master Patrick Carroll will be retiring after 22 years of dedicated service to the Town of Fairfield in this position. Following a meeting with the First Selectman, a formal Press Release was issued by the Selectman's Office announcing the opening and requesting that interested parties contact Chairman von Conta. A resume outlining the applicants' qualifications is required and the deadline for submitting the request for consideration must be post-marked by November 15, 2013. Pursuant to the Connecticut General Statutes, the HMC must present at least three names to the governor, who then provides those individuals with a form that they must complete and submit to the governor's office. The governor ultimately appoints the Harbor Master who serves as a state official. Harbor Master Carroll suggested that a letter be sent to the mooring holders and to those individuals on the mooring waiting list advising that the application notices for the 2014 boating season may be slightly delayed as a result of the upcoming transition.

PUBLIC COMMENT: None.

ADJOURNMENT: There being no further business to come before the HMC, Hugh Smith *moved* and Nelson North *seconded* to adjourn the meeting at 5:56 p.m. *Motion passed unanimously*

*Respectfully submitted,
Betty Gabriel*