

**TOWN OF FAIRFIELD
SHELLFISH COMMISSION
SPECIAL MEETING MINUTES – August 1, 2013**

The Shellfish Commission of the Town of Fairfield held a special meeting on August 1, 2013 at 7:00 PM in the Second Floor Conference Room of the Fairfield Board of Education, 501 Kings Highway East, Fairfield, Connecticut

MEMBERS PRESENT: Sanford J. Wakeman, Chairman; Robert Bilek, Vice-Chairman; David Thornton, Secretary; Richard Ferrari; Sally Harold; Paul Nelson; Cathy Raynor-Catropa

MEMBERS ABSENT:

ALSO PRESENT: Michael Tetreau, First Selectman; Thomas J. Steinke, Conservation Director; Annette Jacobson, Conservation Administrator; Edward Jones, Open Space Manager; Members of the Shellfish Commission; Members of the Harbor Management Commission; Cynthia Cook, Exide Project Facilitator; Representatives of CT DEEP; Representatives of the Exide company; Stanton Lesser, Town Counsel; Representatives of FairPLAN; Members of the public and press

CALL TO ORDER: Sanford J. Wakeman, Chairman, called the meeting to order at 7:10 PM

I. OLD BUSINESS

A. Joint meeting and public discussion with the Harbor Management Commission and the Shellfish Commission regarding the proposed Mill River lead remediation at the former Exide Battery site, 2190 Post Road, Fairfield, and to consider and act on a proposed recommendation to the First Selectman to withdraw a notice of intervention and public hearing on the pending NPDES permit.

Sally Harold *moved*, Paul Nelson *seconded* to appoint Michael Tetreau, First Selectman as Chairman of the meeting. *Motion passed unanimously.*

Michael Tetreau thanked the various town, state, Exide and community representatives for their work on the project and educating the public. He gave a special thanks to Senator McKinney and Representatives Fawcett, Kupchick, and Hwang.

Cynthia Cook summarized her role as facilitator and noted that she worked for all involved, and that her fees were paid by Exide. She reviewed the process beginning with the consent order from DEEP and noted the common grounds and significant issues, namely controlling suspended sediment, sediment removal technology, migratory fish protection, shellfish protection, project performance standards, and the railroad and Post Road drains. The last few months of discussions have yielded a consensus and improved project standards than as originally proposed.

Cynthia Cook further summarized the railroad and Post Road drains, noting that DEEP has found no evidence of pollution and would require no additional investigation, moreover, that the drains are not a part of the NPDES permit. The 1989 consent order called for testing of both drains, and excavation in 2006 showed that Exide did not connect to either drain.

Cynthia Cook explained that the town has a choice to proceed with the intervention or withdraw it. If the town proceeds, DEEP will schedule a hearing on the original proposal by Exide which would encompass the NPDES permit only, not the SedRAP or the drains. The NPDES permit only encompasses the dewatering of the sediment. With this option, dredging would not begin until approximately 2015. If the town withdraws its intervention, Exide will revise the cleanup plan per discussions and the project would start earlier than 2015.

Michael Tetreau invited the public to comment:

Kathryn Braun of FairPLAN, and also an RTM member, inquired as to the CT DOT's assumption of liability for any lead contamination associated with the State's Metro-North Railroad drain and the State's Post Road drains and presented copies of her correspondence with DOT. She noted that her correspondence explained how pollution could have gotten to the railroad and Post Road drains from Exide's land and how camera, dye and soil tests of the pipes in and around the drains would resolve the issue. She presented a third option which would be for Exide to proceed with the project and test the pipes so the project would not be delayed, yet the testing would get done. She expressed concern that Fairfield taxpayers would bear ultimate responsibility for future remediation, and encouraged further discussions on the project which should include DOT.

Gaylord Meyer of RTM District One spoke and encouraged the commissions that they should have no doubt about the presence of lead pollution in the state railroad and Post Road drains in order to protect the town and taxpayers.

Linda Snelham-Moore of Bronson Road spoke and encouraged testing of the railroad and Post Road drains, and that DOT should be required to pay. She believed that the cost of testing would be small. Alternatively, she encouraged the town to pursue a release from liability from DOT.

Joy Shaw of 476 Old Mil Road spoke and noted that the project did not have to be delayed by testing of the drains, that testing could be done concurrently. She expressed concern over lead seeping from adjacent properties.

Michael Tetreau invited Patrick Bowe, head of DEEP's remediation division to address the commissions:

Patrick Bowe addressed both the railroad and Post Road drains. With regard to the railroad drain, he stated it is not located on Exide property. He described its material and location. As part of the demolition of the factory, Exide excavated and followed all pipes, and tested soil underneath the pipes and ground water. It found no pipes from Exide to the railroad drain. No groundwater flowed from their property to the railroad drain. In light of those conditions, DEEP had no evidence to substantiate an order to Exide to excavate the railroad drain.

Patrick Bowe further noted that the pipe itself is clogged. It is about 100 years old and likely cracked. To excavate the pipe may loosen support of the railroad tracks. Water samples from the railroad drain effluent tested by DEEP and Exide are far cleaner than drinking water standards from other storm drains in Fairfield.

With regard to the Post Road drain, Patrick Bowe described its material and location. He noted that there are actually two pipes. One pipe exists under the center of the Post Road and was laid over 50 years ago. Another pipe was installed later by Exide on state land slightly north of the first pipe. The Exide pipe is deeper. At some point, the state pipe collapsed and DOT connected the open part of its pipe to the Exide pipe to allow water flow to the river. As part of the demolition of the factory, Exide excavated and tested all pipes. It removed some residual lead from its pipe, then found the DOT pipe connection. DOT gave Exide new pipe to lay from the connection to the river. The trench was filled with new material. Catch basins were tested and were found to be below residential standards. Water flows from the DOT drain to the Exide drain through the connection because the Exide drain is deeper. Patrick Bowe explained that there is no "hook" for Exide to be left off of and that no evidence supports an order for Exide to do any further excavation. Additionally, no evidence exists to force DOT to investigate.

Michael Tetreau reviewed the projects goals and outlined the commission's choice of voting on whether to proceed or withdraw with the intervention.

Robert Bilek *moved*, Richard Ferrari *seconded* to recommend to the First Selectman to withdraw the town's notice of intervention with DEEP on the NPDES permit. *Motion passed unanimously.*

IV. ADJOURNMENT

There being no further business to come before the Commission, Sally Harold *moved*, Cathy Raynor-Catropa *seconded* to adjourn at 8:15 PM. *Motion passed unanimously.*

Respectfully submitted,
Anthony Monelli