

TOWN OF FAIRFIELD
HARBOR MANAGEMENT COMMISSION
MEETING MINUTES OF FEBRUARY 21, 2023

A Meeting of the Harbor Management Commission (HMC) of the Town of Fairfield was held on Tuesday, February 21, 2023 at 4:30 p.m. in the First Floor Conference Room of Sullivan Independence Hall, 611 Old Post Road, Fairfield, CT, and via teleconference.

MEMBERS PRESENT: Kim Taylor, Chairwoman; Jacob Herschler; Don Hyman; Sam Cargill; Eric Sundman; and Dave Henry. **ABSENT:** Doug Metchick; Jeff Warren and Bill Perugini **ALSO PRESENT:** Geoff Steadman, HMC Consultant; Jeff Engborg, Pequot Yacht Club (PYC) Manager; Bryan LeClerc, Harbor Master; Attorney Chris Russo; Thomas Steinke; and Kathy Steinke.

CALL TO ORDER: The meeting was called to order at 4:30 p.m. by Chairwoman Taylor.

SALUTE TO THE FLAG

APPROVAL OF MINUTES: Approval of the draft December 20, 2022 meeting minutes: Jac Herschler *moved*, and Sam Cargill *seconded* to approve the draft meeting minutes of December 20, 2022 as presented. *Motion passed unanimously.* Approval of the draft January 17, 2023 meeting minutes: Jac Herschler *moved*, and Sam Cargill *seconded* to approve the draft meeting minutes of January 17, 2023 as presented. **In Favor:** Kim Taylor; Jacob Herschler; Sam Cargill; Eric Sundman. **Opposed:** None. Abstention: Don Hyman. *Motion passed 4-0-1*

Chairwoman Taylor introduced newly appointed Commissioner Dave Henry.

CHAIRWOMAN'S REPORT: Chairwoman Taylor reported the following communications:

1. January 18, 2023 email to Colin Clark (DEEP) in response to DEEP's Tentative Determination of Approval for the structures at 1143 Sasco Hill Road expressing: (1) The need to protect free and unobstructed public access along the shoreline between Sasco and South Pine Creek beaches; (2) agreement with the Harbor Master that the term "motorized" be expanded and changed to that used by the Coast Guard; and (3) the FHMC's continuing concern that additional water access structures in this area will negatively impact public access along the shoreline between Sasco and South Pine Creek beaches and to request that that DEEP and HMC review and approve the required land record notices prohibiting the future owners of the properties created here from building additional shoreline structures.
2. January 19, 2023 email response from Colin Clark: (1) The pier at 1143 Sasco Hill Road will be built high enough so that the public will continue to have unobstructed access between South Pine Creek Beach and Sasco Beach; (2) DEEP's legal staff is confident that the condition of approval prohibiting the construction of other water-access structures here will prevent future owners from building any additional piers; and (3) it is standard practice for DEEP to draft the Land Record Filing form and provide copies to applicants for them to file; separate land record forms will be filed for each of the new waterfront lots, and those forms all will refer to the prohibition on constructing additional docks in this area.

3. January 25, 2023 email from John Pinto, President of CT Harbor Management Association, forwarding materials related to the Association's effort to promote legislation that would clarify well established and recognized harbor management practices that appear to be diminished by the CT court decision in the case Cohen v. DEEP.
4. February 2, 2023 email from Jill Vergara RTM District 7 asking if the HMC had and would consider expanding its jurisdiction to include Ash Creek.
5. February 3, 2023 email the transmittal form to RACE in connection with the COP application to DEEP for work at the Lower Wharf.
6. February 4, 2023 email exchange with Jennifer Groves of Ash Creek Association seeking collaboration with appropriate agencies for oversight and protection of Ash Creek.
7. February 6, 2023 email to Senator Hwang and to Representatives McCarthy Vehey, Leeper, and Keitt asking for their support to advance Bill 5615 with copies of the Cohen v. DEEP decisions and background materials.
8. February 6, 2023 email from DEEP with the approval of the application for the pier at 1143 Sasco Hill Road.

HARBOR MASTER REPORT: Harbor Master Bryan LeClerc: Mr. LeClerc reported that he had revised the automatic messages that were sent through OnLine Mooring to mooring permit holders concerning the due dates of their renewal paperwork to avoid any misunderstandings. Mr. LeClerc discussed the status of the renewals for the 2023 boating season. A depth sounder has been purchased pursuant to the HMC approval; wraps have been ordered for the speed buoys. Signs will be ordered and posted to alert people that the Lower Wharf fishing pier is not usable due to safety concerns. Mr. LeClerc reported that he recently had a conversation with Marina Manager Justin Cathcart regarding the use of cameras at the marina and will be obtaining information to determine whether it is feasible to have similar cameras installed at Ye Yacht Yard. He will hold a monthly "Coffee with the Harbor Master" starting this spring to encourage discussion with the boaters and allow for hand-delivery of the 2023 mooring stickers. A "Flare Day" is also being planned to provide boaters with an opportunity to shoot off flares; dispose of their outdated flares; and demonstrate newer models. The Police Department, Coast Guard Auxiliary, and South Benson Marina boaters will also be invited to participate. Mr. LeClerc also reported that he had been contacted by Devin Santa of RACE about the definition of vessels used by DEEP in its approval of the pier structures at 1143-1155 Sasco Hill Road, a definition that he (Mr. LeClerc) had recommended and which was supported by the HMC.

NEW APPLICATIONS:

1. HMC Application to DEEP for a COP for work at Lower Wharf: The HMC reviewed the draft COP application; Geoff Steadman suggested that the document be revised to clearly state that the HMC is seeking approval to restore both the northern and southern piers. The HMC may wish to restore the northern pier at a later date depending on the availability of funds and other considerations. Mr. Steadman further suggested that DEEP be made aware that the activities proposed in the COP application are consistent with the Harbor Management Plan. Following discussion, it was the consensus of the HMC to request that RACE revise the COP as discussed herein, and to send a letter to DEEP advising that the COP application is consistent with the Harbor Management Plan.

OLD BUSINESS:

LOWER WHARF RISK ASSESSMENT: Mr. Cargill and Mr. Sundman: Commissioner Cargill reported that he had met with the Town's insurance broker and risk manager Peter Ritchie at the pier last week. Among other things, they found extensive storm damage, an open electrical box, and an irrigation system. Their priority is to keep the property safe for the residents. They hope that the fishing pier will be fenced off and signs installed to inform the public of the potentially hazardous conditions there. A final report will be issued in the next few weeks. Chairwoman Taylor noted that the COP includes a request to rearrange a few stones along the beach that had become displaced; but all others will remain in their current state.

LOWER WHARF: Geoff Steadman: Mr. Steadman reported that according to the property deed it appears that the HMC has jurisdiction over the beach area acquired in the land swap. He further reported that following a request by the Engineering Department for a 20% cost share for the HMC's Lower Wharf projects (based on the total cost estimate provided by RACE for a possible SHIPP grant from the CT Port Authority), the BOF and BOS both approved this request. The full RTM will vote on the Town's 20% cost share on February 27th.

1143 SASCO HILL ROAD, LLC DEEP APPLICATION: Attorney Chris Russo was present this evening to request that the HMC consider the Applicant's request to DEEP to revise the definition of "vessel" in condition 5 in DEEP's approval of the dock application. He believes the definition is overly restrictive. Harbor Master LeClerc had proposed that definition be included in the permit condition. Mr. Steadman noted that he is not aware of the process that DEEP would follow to modify permit language once the approval was issued, and noted that revision of the permit condition may require additional comments by the HMC and Shellfish Commission. Chairwoman Taylor noted that the HMC will need to see the proposed revisions before being able to provide any comment, and further noted that the Shellfish Commission has considerable concerns for the shellfish habitat at this location and that the HMC had strongly supported the Shellfish Commission's position. Attorney Russo advised the HMC that he will provide the proposed revised language. Commissioner Herschler noted that mooring of vessels in the area offshore of the approved dock is not permitted according to the Mooring Rules and Procedures.

SAND MANAGEMENT: Geoff Steadman: Mr. Steadman reported that the ACOE planning work continues for placing the dredged sand offshore; such placement will be a pilot project supported by the Bureau of Aquaculture to enhance oyster habitat. Issues concerning ownership of the sand area to be dredged are being addressed by the ACOE; a meeting with Country Club of Fairfield representatives will be coordinated to discuss the project.

MOORING COMMITTEE: Jac Herschler: Mr. Herschler reported that the Mooring Committee met on February 14th; in addition to the items discussed in the Harbor Master's report, the Committee also discussed the process for selecting the Deputy Harbor Master: all applicants interviewed will be afforded the same amount of time and asked the same questions.

DEPUTY HARBOR MASTER SEARCH: Bill Perugini: see Mooring Committee discussion above.

COHEN V. DEEP UPDATE: Mr. Steadman reported on the effect of this Court decision to diminish municipal harbor management authority, including the Court's conclusion that if a recommendation by the HMC is to be considered by DEEP it must be a recommendation spelled out ahead of time (an impossible task) in the Harbor Management Plan.

He also reported on the legislative initiative to achieve amendments to the CT Harbor Management Act to clarify and uphold harbor management authority in response to the CT decision. A proposed bill has been drafted by the CT Legislature's Environment Committee to uphold harbor management authority and a Public Hearing on this Bill will be held on February 27. All State Harbor Commissions are being contacted and encouraged to submit comments in support of this Bill. Mr. Steadman, Commissioner Herschler, and Chairwoman Taylor are drafting a submittal.

NEW BUSINESS: Request to Consider Expanding HMC Jurisdiction to include Ash Creek: Chairwoman Taylor advised the HMC that RTM Representative Jill Vergara had asked that this matter be tabled until a future meeting when she could be in attendance. As noted above in the Chairwoman's Report, Jill Vergara RTM District 7 had sent an e-mail requesting if the HMC had and would consider expanding its jurisdiction to include Ash Creek. Chairwoman Taylor noted that this request was due to concern for protection of the natural habitat in Ash Creek. Commissioner Herschler noted that the HMC's jurisdiction is defined in the Town Code. Mr. Steadman noted that if the Town Code is changed to include Ash Creek as part of the Harbor Management Area, then it also would be logical to include Pine Creek, and it would be necessary to amend the Harbor Management Plan accordingly.

ADJOURNMENT: There being no further business to come before the Commission, Jac Herschler *moved*, and Don Hyman *seconded* a motion to adjourn at 6:14 p.m. *Motion passed unanimously.*

The audio recording can be found here: [Harbor Management Commission 02/21/23 - YouTube](#)

Respectfully submitted,
Betty Gabriel