



HARBOR MANAGEMENT COMMISSION

Office of the First Selectman

101 Field Point Road

Greenwich, CT 06836-2540

Phone: 203-622-7713

Bernard Armstrong, Chairman
Mike Van Oss, Vice Chairman
Lile Gibbons, Secretary

DRAFT 1/18/23 MINUTES

Town of Greenwich

Harbor Management Commission Meeting

Meeting via Zoom

Members in attendance:

Bernard Armstrong

Mike Van Oss

Ty Anderson

Skip Parker

Ed Keller

Ex-Officio Members in Attendance:

Sue Baker

Janet McGuigan

Joe Benoit

Paul Cappiali, Harbormaster

Sargent Shockley, Marine Police

Absent:

Beth Forbes

Fridolf Hansen

Bill Ingraham

Lile Gibbons

Others in Attendance:

Geoff Steadman

Laura Estevez

Jenny Larkin

Brian Kerzner

Paul DeBary

Seen in the Zoom logs:

Erik (?)

Johnhiltz (?)

Jan Thalheim (?)

1. Call to Order

The January 18th HMC Meeting was called to order at 6:01 pm by Chairman Bernard Armstrong.

2. Approval of Minutes

Ty Anderson motion, Skip Parker second

3. Chairman's Report

Bernard Armstrong

4. Mooring Chairman Report

Ed Keller

New mooring committee Fridolf (Chair) collaborating with Paul Cappiali. They need to:

- a. Establish best practices and procedures
- b. Monthly number of moorings: paid & not paid, stolen, moved or otherwise.
- c. Formalize MC role in coordinating with the Harbormaster including insuring permit fees are deposited properly. We have 274 moorings and 98 were not paid last year. Laura will help collect money & data. She sends out paper letters to mooring holders, eblasts and social media reminder and a mid-season reminder for unpaid.
- d. Harbormaster will enforce the rules, revoking permits, and removing tackle as a last resort. State opinion on liability for removal is Harbormasters are state officers, so are protected. HM must follow the HMC plan.
- e. Try to determine pricing. Paul has done research. CT Towns are more or less the same as Greenwich, but two charge for docks. Westchester is more expensive, some as much as \$250.
- f. Chairman Armstrong asked the committee to hold two Mooring Committee meeting a year (maybe spring and fall) and post meeting minutes.

5. Harbor Master Report

Paul Cappiali (see attached) report includes

- a. Update on docks & traps under I95 bridge
- b. The Harbormaster joined CT Harbor Management Association
- c. Met with Skip Parker before this meeting at 2:30pm on January 18, 2023
- d. Collaborating with Ed Keller on Mooring Committee
- e. Harbormaster phone number has changed to 203-832-3961

RE I95 Docks & Traps: Geoff Steadman mentioned that there's a DEEP supplemental program that's funded by fines to take care of abandoned things in the water. Bernie requested a plan by next month.

6. Finance Committee F2023 Budget Report

Ty Anderson

Monthly financial results are unchanged and will not change until we start getting mooring fees in the spring.

7. Applications Review Committee Report

(Beth Forbes absent)

- a. Laura: 20-23 renewal applications are uploaded to the website and due May 1.
- b. Geoff Steadman Dock report: Nothing pending. Beth will send a report.

8. Water Hazards Committee Report

Skip Parker

Hazard report was covered in the Harbormaster report.

9. Old Business

a. Grass Island Dredging Project / ACOE Status (McGuigan)

Informed we were in compliance in December 2022. Next we need to test the dredge material with a cost estimate of \$500k. BET is working with Finance to determine next step. Meeting with BET, Parks & Rec planned on 2/14/2023. HMC should attend. Geoff explained this additional testing cost is not standard and not covered by the ACOE, but they may be able to ask the Federal Government for assistance. The Town may be able to contribute, but it's not clear if the ACOE can accept funds from the Town. Geoff Stedman explained the process for sampling, testing, and burying the material. He also created a background report. We can ask Congressman Heins for help if we don't have a definitive response from ACOE soon.

b. Ethics Committee status (Parker, Van Oss)

Paul De Bary joined the meeting.

Mike Van Oss: We worked with Paul to proactively to develop safeguards & procedures (like regular Mooring Committee meetings and posted minutes) so we wouldn't have concerns and practices to keep us out of harm's way moving forward.

Conflict of Interest Policy Resolution (Ty Anderson)

The draft HMC policy is in addition to the Town's Code of Ethics, covering commissioners and advisors like Geoff Steadman. Since December meeting the disclosure requirement for persons beyond HMC commissioners and requiring members to report on other members was removed. Also omits requirement for reporting on conflicts that don't apply to HMC. Basically, commissioners must voluntarily report a conflict for review. If they recuse, they don't vote or discuss. Paul De Bary discussed safe harbor template specific to HMC. The HMC policy allows commission review before going to Board of Ethics. HMC Chair receives reports to be reviewed by commissioners and make a record.

VOTE: Ty Anderson motion (at 6:59) that we approve the draft policy that was attached to the JANUARY 18 2023 agenda. Ed Keller Seconds. Vote is unanimous.

10. New Business

- a. Sue Baker, Shellfish Commission: Regarding the Dock 619 Steamboat Road. HMC, DEEP & Shellfish signed off in late November. The company (Landtech) came in with barge, pile drivers and tugboat that pushed the barge at low tide with all of the silt and clams and dumped behind 619. It sat there for days with tides coming and going, but there's still a gigantic hole in Smith Cove. 10 days later, still a hole. Landtech must replace the substrait, clams, and oysters that were bulldozed. The approved doc installation has not been completed. Baker said the company did ask for the cost of replacing the big breeder clams and the labor. Steadman will follow up to find out if there is a fine.
- b. Geoff Steadman: Report on Cohen vs DEEP. The Supreme Court denied Cohen vs DEEP and the judicial process has run its course. The Mayor of New London submitted a placeholder bill to clarify the responsibility of Harbor Management. Other towns are now agreeing to support the new legislation. The Association of Harbormasters will be sending out a memo to all HMCs along with the placeholder bill that New London submitted for this legislative session. We should put it on the agenda for the February meeting.

11. Skip Parker made a motion to adjourn at 7:08 PM. Van Oss seconded. Vote was unanimous.

12. Public comment

13. Adjournment

Minutes taken by Jenny Larkin



**Harbor Master
Greenwich, CT**

Harbor Master Report for the January 18, 2023 Harbor Management Commission Meeting

- At the direction of commission member(s), I have continued to work with Kevin Zawoy to develop alternative methods of removing the docks and lobster traps under the I95 bridge in Cos Cob Harbor. I am still confident that Mr. Bertolf's intentions of removing the docks and traps are honorable and I don't anticipate that the alternative methods will be necessary.
 - A contractor has been identified that is capable of doing the job for as low as \$38k.
 - Mr. Zawoy has drafted a demand letter that could be used to demand the removal of the docks and traps. Mr. Zawoy is ready to have the commissioner sign the drafted letter once the Greenwich Harbor Management Commission makes a request to Mr. Zawoy.
 - Mr. Zawoy's intention, as reflected in the current draft of the demand letter, is to make the Harbormaster responsible for the consequences of the demand if the dock and trap owners refuse to comply with the order. Funding could come from the HMC, TOG, volunteered labor, donated funds and/or grant(s); all under the authority of the Harbormaster. The purpose of charging the Harbormaster with this duty seems to be directly related to absolving the HMC and The Town of Greenwich of liability (Harbormaster is indemnified by the State). The other purpose reflects the required appeals option which the state already has developed.
- I joined the Connecticut Harbor Management Association which is an association of Harbor Management Commissions, Harbormasters, Interested Companies, and Individuals.
 - My hope is to organize and work with the other Harbormasters in Connecticut to create mechanisms for us to exercise authorities that Connecticut General Statutes offer us.
- At the time of this report, I have a plan to meet with Skip Parker in Cos Cob at 2:30 on Wednesday January 18, 2023 (today) to look at potential remedies related to an ongoing Harbor obstruction issue.
- I have started to collaborate with Ed Keller on the new mooring committee. Our initial conversation was very rewarding and opened our eyes to the different facets of work ahead.
- The Harbormaster phone number has changed and has been updated on the town website. The new phone number is: 203-832-3961

Paul Cappiali
Greenwich Harbormaster



TOWN OF GREENWICH

Harbor Management Commission

Conflict of Interest Policy

STATEMENT OF POLICY

All members and staff¹ of the Harbor Management Commission are expected to act in an honest and ethical manner, in good faith and in the best interests of the Town of Greenwich (the "Town"). Members and staff are expected to comply with all federal state and local laws, including the Town's Code of Ethics (the "Code"). The purpose of this Policy is to help identify conflicts of interest and related party transactions and provide procedures for reporting, reviewing, and monitoring them.

STANDARD OF CONDUCT

To better identify, review and monitor personal financial interests, the Commission has adopted the following procedures:

1. Whenever a member or staff of the Commission has become aware of a potential or existing personal financial interest greater than \$200 in any Commission action, it is to be reported to the Chairman of the Commission in writing. On terms generally applicable to all residents of the Town, the following are not considered a "transaction" for this purpose: (i) payment of Town taxes and routine assessments, (ii) payment of fees for ordinary Town services, (iii) payment of minor fines and penalties, (iv) obtaining routine memberships, passes permits and licenses to participate in Town activities that are broadly available to the general public or (v) payments to utility and service providers at standard rates and charges.
2. The report should be filed whenever a member or staff person may be considered to have a current or future personal financial interest in:
 - A. any action to be considered or taken by the Commission, or
 - B. any action to be considered or taken by another Town entity that the Commission may have a role in considering, recommending, adopting, or implementing.
3. Any member or staff of the Commission who is aware of a personal financial interest on the part of another member or staff of the Commission that has not been reported within a reasonable period may report the interest.
4. Any member or staff of the Commission may recuse himself from any matter, if done prior to the time that any substantial consideration is given to it by the Commission. In such a case, the report must identify the matter involved, and no

¹ For purposes of this Policy, the term members and staff refer to all members and staff of the Commission, including alternate and ex-officio members, consultants, independent contractors, volunteers, and agents and their financial interests include those of any person who is their relative, employer, subcontractor or business associate. A relative includes any person that, by birth, marriage, adoption, or other arrangement, an individual now or in the future may, have a reasonable expectation to receive material support from or provide material support to, or to provide with shelter or other financial assistance. For this purpose, the existence of a legal obligation should be considered to provide a reasonable expectation, whether it is being or expected to be, enforced.

further inquiry or reporting into the nature of any conflict is required. Once so recused, the process described in the final paragraph of this section shall be in effect.

5. Otherwise, the written report should make a good faith disclosure describing the financial interest of the member or staff in reasonable detail. It should also specify any measures that the reporting person has taken or intends to take to avoid a violation of the Code and such actions, if any, as may be appropriate to remediate the appearance of a conflict of interest. This may include requesting an opinion from the Board of Ethics.
6. Promptly after receipt of any such report pursuant to paragraph 5 above, the Chairman will arrange for a review of the matter by independent members of the Commission who do not have a personal interest in the matter ("Independent Members"). However, where the report indicates that an opinion has been requested from the Board of Ethics, review by Independent Members is not required and, if more than a quorum of the members of the Commission have an interest in the matter, the Chairman should arrange for an independent review of the report by the Board of Ethics in lieu of a review by Independent Members.
7. The review of any such report by Independent Members shall consider the way the reported interest might tend to influence or appear to influence the actions of the Commission or staff or the actions of, or supervision by, Town personnel or Town entities that have continuing contacts with the Commission. A record of the review is to be made and reflect the following
 - i. Where the interest described in the notice relates to a Town transaction that the Commission has or may have involvement with, the record of review by Independent Members is to disclose the existence of the interest, describe how the interest might influence or affect the persons involved and what alternatives may be available to the interested parties to avoid the appearance of a conflict. The report shall recommend such actions, if any, as Independent Members may deem appropriate to avoid the appearance of improper influence and to monitor the transaction to ensure compliance with the Code. This may include recommending that the individual(s) involved seek an advisory opinion from the Board of Ethics.
 - ii. Where the interest described in the notice relates to an interest in one or more future actions to be taken by the Commission, the record of review by Independent Members shall confirm that appropriate steps have been taken to avoid discussions of the matter that might improperly influence the Commission's action and the participation by any interested person in any vote on the matter.

Any member or staff that becomes aware of a financial interest must take steps to ensure that the matter is dealt with in a transparent and impartial manner. This includes making sure that all persons needing to be aware of the conflict are informed of it and instructed not to discuss the matter with the affected person or provide information about the matter to the affected person, except as expressly provided for by this policy. Any person having a financial interest in a matter must, unless otherwise expressly approved by action of a special committee, refrain

from: (1) any discussion of the matter with other members and staff, (2) making any recommendation related to the matter, and (3) voting on the matter. During the period where a reported interest is under review by a special committee, interested persons will only be informed of a final decision and not of the ongoing status of the review, particular members' positions or how they vote. For avoidance of doubt, nothing in this policy shall prevent any person from attending or monitoring a public meeting of the Commission.

FINANCIAL INTERESTS

A financial conflict of interest can arise whenever a person has, or in the future may reasonably expect to have, directly or indirectly, a financial interest in a recommendation, approval or authorization to be voted or otherwise formally acted on by the Commission or with respect to which the Commission provides advice, makes a recommendation or otherwise assists another Town entity in connection with a recommendation, approval or authorization to be voted or otherwise formally acted on by that entity.

The Code identifies personal financial interests as those financial interests that are financial in nature, more than nominal and not common to the other citizens of the Town. They include direct and indirect interests, such as interests of relatives, employers, sub-contractors, and business associates. Without suggesting that the following list is all inclusive, financial interests, when they bear on a potential action by the Commission, may include:

1. A material ownership interest as a principal, general or limited partner or shareholder of an entity or business operation.
2. An interest in a business or other organization (including not-for-profit organizations), as a current, prior, or expected future employee of the business or organization.
3. An interest in the success or survival of a business or other organization as a manager, officer, or director, whether or not such position is compensated for.
4. A success-based compensation or bonus expectation or a reward-based relationship based on the receipt or promise of any gift or thing of value.
5. A grant, scholarship, or subsidy arrangement.
6. A profit sharing, royalty arrangement or other financial compensation arrangement.
7. A arrangement, ownership position or other similar interest in or affiliation with any entity or individual that: (i) sells goods or services to the Town or purchases goods, materials or services from the Town; (ii) competes with the Town for funding or recognition or advocates policies divergent from Town interests; (iii) is applying for an approval, waiver, clearance, authorization or recommendation from the Commission, a staff member of the Commission with regard to the matter in question, or (iv) has, or is contemplating, a business transaction or other financial arrangement with the Town;
8. A financial interest in any property or other rights in which the Town has, or is likely to have, an interest.

9. A financial interest in an opportunity related to the activities of the Town that is available to the Town, unless the Town has made a formal decision that it will not pursue that opportunity; or

10. An indebtedness to a person or entity who has an involvement with the Town.

A financial interest can also arise, when an individual can use the authority, confidential information, or assets under control of the Commission to personal financial advantage or for an improper or illegal purpose or has been offered or accepted any gift, entertainment, or other favor where such gift might create the appearance of influence.

RECORDS

The reports made under this policy shall be documented contemporaneously and maintained as part of the documentation provided for in this policy.

Interested persons may only be informed of the final findings and recommendations. They may not be advised of the ongoing status of the review, or of any member's positions or how they vote.

COMPLIANCE

The Chair of the Commission will provide a copy of this policy to all members and staff of the Commission and will be responsible to provide all new members and staff of the Commission with a copy of this policy at the commencement of their service for the Commission.

If the Commission has reasonable cause to believe that a member or staff has failed to comply with this policy, it may make such further investigation as may be warranted in the circumstances and if it determines that there has been an intentional failure to comply with this Policy, it may submit a complaint to the Board of Ethics.

This policy was adopted by the Commission on _____, 2023_. At such time, a copy of this policy was provided to all members and staff.

In Advisory Opinion 23-__, the Board of Ethics has approved this policy for safe harbor treatment. Members who report interests in accordance with this policy and follow the recommendations of Independent Members in good faith will not be considered to have intentionally violated the Code of Ethics.

