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STUART SOBEL
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MICHAEL PENSIERO, ALTERNATE
ART RUFFLES, ALTERNATE

**CITY OF STAMFORD, CONNECTICUT
HARBOR MANAGEMENT COMMISSION**

Minutes of the September 17, 2013 Meeting

DRAFT

A regular meeting of the Stamford Harbor Commission was held on Tuesday, September 17, 2013 at the Stamford Government Center – Operations Room – Tenth Floor.

Roll Call

In attendance were:

Commissioners: Paul Adelberg; Jack Condlin; Dr. Damian Ortelli; Michael Pensiero, Alternate; Ray Redniss; Stuart Sobel; Jeffery Saunder; Robert J. Strada; Art Ruffles, Alternate;

Staff: Frank Fedeli, Customer Service Supervisor; Geoff Steadman, Consultant; Sgt. Bob Monck, SHC Stamford Police Dept.; Mike Taylor, Harbor Master

Identification of Guests

Laure Aubuchon, COS; Melissa Bontemps, resident; Bill Buckley, Harbor Point; Carolyn Goldenberg, Save Our Boatyard; Dawn Rogers, Save Our Boatyard; Kevin Dailey, taxpayer; Cynthia Reeder, resident; Laure Aubuchon, COS; Atera Cat, resident; Kieran Ryan, Shippan Point Association; Martin Cassidy, Stamford Advocate; G. Trow; M.D. Uva; Penney Burnett, Randy Dinter, Save Our Boatyard; Michael Handler, COS; Joseph Capalbo, COS; David Martin; Maureen Boylan, Save Our Boatyard.

Call to Order

Chairman Redniss called the scheduled meeting to order at 6:31 p.m. Chairman Redniss asked if anyone objected to taking things out of order to first review unfinished business: Corporation Counsel presentation on recent legal opinion. There were no objections.

Old Business

1) Review of unfinished business: Corporation Counsel recent legal opinion of Lease Agreement-205 Magee Avenue. Chairman Redniss stated SHMC asked for an opinion from Corporation Counsel regarding the SHMC jurisdiction or non-jurisdiction with respect to the Lease Agreement being reviewed by the Planning Board. Joseph Capalbo, City of Stamford-Law Department, described his opinion and the rationale for it. His presentation included references to Connecticut General Statutes, specifically 22A-113p, (Attachment I), the City Code, Article XII (Attachment II): Harbor Management Commission, and the various sections within the Code which define the SHMC duties, responsibilities, and jurisdiction. He also referred to portions of the Stamford Harbor Management Plan and cited the language within each as why he came to his conclusion. Attorney Capalbo then addressed the request of the SHMC to seek an independent legal opinion. Attorney Capalbo referred to and read City Code Sec. C5-20-3 Legal Functions (Attachment III) and commented that in this particular instance there is not a conflict of interest and cited the case Ghent verses Waterbury (Attachment IV). Attorney Capalbo commented that had the concerns been raised prior to the opinion, he may have looked into it being a possible conflict of interest allowed outside counsel to opine.

Attorney Capalbo commented that as members of a city commission, the Law Dept. has an obligation to defend each board member while they are acting in their appointed capacity. If, after the issuance of an opinion that the commission does not have jurisdiction, the commission sought outside counsel for another opinion which ends up being in disagreement with Corporation Counsel's opinion, the Legal Department would not be in a position to defend the Commission or the Commissioners in the event of a subsequent appeal or law suit. Chairman Redniss asked about the specific request received from the Board of Finance for the SHMC to offer comments. Attorney Capalbo's recommendation is to be very careful on how to respond.

Chairman Redniss and Commissioner Saunders recused themselves from any discussion and voting with respect to the License Agreement.

Discussion continued on the subject with Commissioner Pensiero recommending seeking an independent legal opinion to review the license agreement and the possible SHMC jurisdiction. Commissioner Condlin pointed out and read from Stamford Code, Sec. C5-20-3 Legal Functions (Attachment III) citing that engaging outside counsel would be in direct opposition to the Stamford Code.

**Pensiero made a motion to seek an independent legal opinion on the license agreement.
Seconded by Strada.**

Alternate Commissioners Pensiero and Ruffles voting:

Motion Approved 4 to 3:

<u>In Favor</u>	<u>Opposed</u>
Pensiero	Adelberg
Strada	Dr. Ortelli
Ruffles	Condlin
Sobel	

Discussion was held about forming a committee to begin the process of finding an attorney, the time line and financial aspect. Chairman Redniss appointed Strada, Ruffles and Pensiero as that committee. The commissioners discussed how to respond to the BOF request for the pros and cons on the License Agreement. Geoff Steadman will write up bullet points which will be given to all Commissioners for review and comment.

A Special Meeting has been scheduled for Tuesday, September 24, 2013, at 6:00 p.m.

Chairman Redniss is unable to attend the Special meeting and appointed Secretary Ortelli to serve as temporary chair.

2) Review and Approval of July 16, 2013 Minutes and August 28, 2013 Minutes.

Adelberg moved to approve the minutes of July 16, 2013 and August 28, 2013.

Seconded by Strada Unanimously Approved

New Business

1) Correspondence: Letter from Save Our Boatyard requesting that Jack Condlin recuse himself from any future votes or deliberations regarding all the applications pertaining to Bridgewater (BLT). Chairman Redniss read the correspondence (Attachment V). Commissioner Condlin submitted a letter in response to the Save Our Boatyard correspondence. Commissioner Ortelli read the correspondence (Attachment VI). Chairman Redniss read the Code of Ethics: Sec. 19-5 Prohibited Interests (Attachment VII).

Adelberg moved to not request Commissioner Condlin to recuse himself and to continue functioning as a voting member on the commission.

Seconded by Ruffles

Motion Approved

In Favor

Adelberg

Ruffles

Sobel

Dr. Ortelli

Opposed

Pensiero

Abstained

Saunders

Strada

Condlin

2) Staff Reports: Discussion on HarborMaster's invoices and fuel.

3) Committee Reports: Applications: Commissioner Condlin discussed there were four (4) applications. Two of them were COP for repair work granted by DEEP under the Emergency Repair Act of Hurricane Sandy. The work has been completed. First application: Replenishment of a beach off allacks Point; and Second application: Re-construction of a seawall off Ocean Drive North. Commissioner Condlin stated Consultant Steadman drafted two letters with the standard language that the work was consistent and that the commission understands the work was done under emergency conditions.

**Dr. Ortelli moved to send out both letters as drafted by Consultant Steadman.
Seconded by Condlin Unanimously approved**

Third application: 298 Ocean Drive East - Repair to shoreline embankment wall upland of the Coastal Jurisdiction Line. Damage was as a result of Hurricane Sandy (CAM Application).

**Dr. Ortelli moved to approve.
Seconded by Adelberg Unanimously approved**

Fourth application: COP – Maintenance dredge project, Strand BRC Site, at the foot of Bateman Way. In July 2013, the commission approved to the replacement of the docks along the west side of the peninsula. The Harbor Management Commission again recommends that the Office of Long Island Sound Programs (OLISP) require that applicant's long range plans be submitted and reviewed as a single comprehensive application. To be included in a response letter is a request that should it be decided to not follow this recommendation, that OLISP inform us the reason for your decision.

**Adelberg moved to approve.
Seconded by Dr. Ortelli Unanimously approved**

The next scheduled meeting has been scheduled for Tuesday, October 15, 2013 at 6:30 p.m. in the Operations Room, Tenth Floor.

**Condlin moved to adjourn.
Seconded by Strada Unanimously approved**

The meeting adjourned at 10:01 p.m.

Respectfully submitted
Maria Vazquez-Goncalves
September 19, 2013

Cc: Commissioners; Michael A. Pavia, Mayor; Ernie Orgera, Director of Operations;
Board of Representatives; Town Clerks Office