

EAST LYME BOARD OF SELECTMEN  
MEETING OF APRIL 21, 2010  
MINUTES

PRESENT: Paul Formica, Mark Nickerson, John Birmingham, John Hogan, Rob Wilson  
Rose Ann Hardy.

ALSO PRESENT: Town Attorneys Ed O'Connell and Tracy Collins.

Mr. Formica called the meeting to order at 7:39 p.m. and led the Pledge.

1b. Additional Agenda & Consent Calendar Items  
There were none.

1c. Delegations

Bob Gadbois of 358 Boston Post Road said that the \$357,000 health shortfall by the Board of Education was ridiculous and asked how that could happen. He stressed that they always have shortfalls and come to the town to take care of it. He added that they needed to be straightened out.

David Funke of 185 Upper Pattagansett Road said he has been enjoying the downtown Main Street area but said that there does not seem to be any connect with what we are doing there and the Yale Charrette. He said that the Rotary walkway fits in with the report but that the Town missed two chances to implement this report; first by not getting an easement from Rings End Lumber when they secured the railroad spur and did not get an easement to Dodge Pond and the second missed chance was when 38 Hope Street was developed. He added that perhaps it was not too late to secure an easement to Dodge Pond for a walking trail. He added that keeping the three large trees on Main Street does not fit the new landscape and suggested they be taken down. He urged the Board to work with the Planning Commission and capital project planning to bring the Charrette Report out in public view and make it a functional part of the POCD and capital plan.

1d. Approval of Minutes, Meeting of April 7, 2010

MOTION (1)

Mr. Nickerson moved to approve the minutes of the meeting of April 7, 2010 as presented.

Seconded by Mr. Wilson.

Aye: Mr. Nickerson, Ms. Hardy, Mr. Wilson, Mr. Birmingham.

Nay: None.

Abstain: Mr. Formica and Mr. Hogan. Motion passed 4-0-2.

1e. Consent Calendar

MOTION (2)

Mr. Nickerson moved to approve the Consent Calendar for the meeting of April 21, 2010 in the amount of \$1691.31.

Seconded by Mr. Hogan. Motion passed 6-0.

2a. Appointment – Water and Sewer

MOTION (3)

Mr. Nickerson moved to appoint John Jasper of Old Oak Lane, Niantic, CT to serve on the Water and Sewer Commission through January 2, 2012.

Seconded by Mr. Hogan. Motion passed 6-0.

2b. Annual Town Meeting Call and Set Referendum Hours

MOTION (4)

Mr. Wilson moved the following:

### TOWN OF EAST LYME

#### NOTICE OF ANNUAL TOWN MEETING

Notice is hereby given of the Annual Town Meeting to be held on Monday, May 10, 2010 at the East Lyme High School Auditorium at 7:00 p.m. to act on the following:

1. To review and discuss the budget for the fiscal year beginning July 1, 2010 as recommended by the Board of Finance.
2. In accordance with Chapter 7.3 of the Town Charter, the moderator shall adjourn the annual budget meeting to a referendum on the voting machines. The budget resolution will be submitted to the persons qualified to vote in a town meeting by referendum by machine vote, which referendum shall take place on May 20, 2010.
3. To adopt a Five Year Capital Plan
4. To conduct such other business as may properly come before the meeting.

Dated at East Lyme, CT this 21<sup>st</sup> day of April, 2010.

#### EAST LYME BOARD OF SELECTMEN

Seconded by Mr. Nickerson. Motion passed 6-0.

Notice of Referendum

Mr. Formica noted that the Registrars had requested that the referendum start later than 6:00 a.m. and had suggested 8:00 a.m.

Ms. Hardy stated that she would have no problem with the shortened hours if absentee ballots would be available.

Attorney O'Connell noted that if this were an election, election laws would be applicable but since no one is to be elected to public office, the hours could be changed.

MOTION (5)

Mr. Hogan moved the following

TOWN OF EAST LYME  
NOTICE OF REFERENDUM

Pursuant to Section 7-7 of the General Statutes of the State of Connecticut, as amended, and Chapter 7.3 of the Town of East Lyme Charter, notice is hereby given to the electors and citizens qualified to vote in Town Meetings of the Town of East Lyme that a Referendum will be held at the East Lyme Community Center on Society Road on Friday, May 20, 2010, between the hours 8:00 a.m. and 8:00 p.m. for the purpose of voting on the following question:

“Shall the budget for the fiscal year July 1, 2010 to June 30, 2011 as recommended by the Board of Finance be adopted?”

Yes \_\_\_\_\_ No \_\_\_\_\_

Voting will be by optiscan voting machines. Absentee votes may be cast and will be counted at the polling place. Absentee ballots may be applied for, **in person**, at the office of the Town Clerk.

Those persons voting as taxpayers and not registered voters will also vote at the Community Center. Their names must appear on the last completed Grand List of the Town being the October 1, 2009 Grand List with a minimum assessment of \$1,000.

Voting will take place pursuant to the provisions of the General Statutes, as amended. The votes will be cast and canvassed and the results determined and certified as nearly as may be in accordance with the laws governing the election of Town officials.

Dated at East Lyme, CT this 21<sup>st</sup> of April 2010.

East Lyme Board of Selectmen

Seconded by Mr. Wilson. Motion passed 6-0.

2c. Discussion – ELLCC Room Rental

Municipal Agent for the Elderly Cathy Wilson was present to review this item. She said there was no real change in policy proposed, this was mainly driven by a need to provide insurance protection for the town. She said there were two options; the first that the users could purchase an event coverage from their insurance policy. The second option would be to adopt the TULIP Policy where a fee is charged by an insurance carrier calculated by the actual event’s risk.

Mr. Nickerson inquired why the fee for room use was collected 30 days after the use.

Ms. Wilson said that she had never had any problem collecting the fee and added that they are holding a security deposit. She added this could be changed if necessary.

Ms. Hardy said that she had heard complaints that certain groups always use the same time slots and no one else can get them. She added that she believed the fees were low.

Mr. Formica noted that they had been charged to review the room use policy to make sure that the town’s liability was decreased or eliminated.

After some discussion, the Board accepted the report regarding ELLCC Room Use noting that the Town would be protected with the new TULIP Program.

2d. Appropriation \$9900. from General Fund for Acquisition of Open Space

Mr. Formica stated that this appropriation was to pay for two appraisals needed in order to apply for grant dollars to purchase open space. He said that he had been told this morning that we would not be able to meet the timeline and therefore he said this item would be withdrawn from the agenda.

2e. Vote on Resolution to Accept Boardwalk Settlement

Town Attorney Tracy Collins noted that due to the Boardwalk failure, the Town had sued the designer, the builder, the curbing company and the person who installed the gravel along with the insurance carriers. She said that it had cost \$3.8 million dollars to build the entire boardwalk and this suit concerned the area from the Hole in the Wall to the wooden portion that had washed out. She noted that they had been in mediation before Judge Owen Egan and all parties have agreed to pay \$1.6 million dollars. She added that the other option would be a jury trial which would take 2-3 months accruing more legal bills. She recommended that the Board of Selectmen agree to this settlement.

MOTION (6)

Mr. Nickerson moved the following:

RESOLVED, to authorize the First Selectman to execute, in the name and on behalf of the Town of East Lyme, a “Global Settlement Agreement and Release of All Claims” by and among the Town of East Lyme; Consoer Townsend Envirodyne Inc., n/k/a AECOM USA, Inc., f/k/a DMJM Harris, Inc.; Baier Construction Company, Inc.; Weed and Feed, Inc. d/b/a DHT Golf Services; Star Construction Corporation; Hartford Casualty Insurance Company; National Fire Insurance Company of Hartford; and Continental Casualty Company in the form presented to the Board of Selectmen at its meeting of April 21, 2010, whereby the Town will receive \$1,600,000 in full and final settlement of all claims against all parties, and to sign such other documents and take such other actions as may be necessary or desirable to effectuate said settlement agreement.

Seconded by Mr. Hogan. Motion passed 6-0.

2f. Vote on Resolution to Settle Resident Trooper Contract

Mr. Formica noted that there had been a discrepancy in the language of the contract which said that all constables must comply with the A&O Manual. He said that State has made changes on this. He noted one other issue on how payment was made for overtime and fringe benefits of the Resident Trooper and added that the town has been paying 70% of these costs per State Statute. He said he has also suggested to the State to have the four Resident Trooper towns managed by a Lieutenant and to promote Sergeants from within and they are still reviewing this suggestion. He added that now that the language regarding the A&O Manual has been changed, he was requesting authorization from the Board to sign the contract.

MOTION (7)

Mr. Wilson moved the following:

RESOLVED, that the First Selectman be and hereby is authorized to execute, in the name and on behalf of the Town of East Lyme, a contract with the Connecticut Department of Public Safety, Division of State Police, for the services of one Resident State Trooper for the period of time beginning on July 1, 2009 and ending on June 30, 2011.

Seconded by Mr. Hogan. Motion passed 6-0.

3a. Discussion – Proposed Golf Cart Ordinance

After a general discussion the consensus of the Board was to hold a public hearing.

Attorney O'Connell said that before a public hearing is held, we need to know what streets will be appropriate for this use. He suggested letting him do another draft ordinance trying to nail down the street issue and the Selectmen could hold a public informational session, not a formal public hearing to get input.

Ms. Hardy suggested having a session from 6:50 p.m. to 7:20 p.m. before the Board of Selectmen meeting.

The consensus of the Board was to hold a public informational session on May 5<sup>th</sup> and in the interim, Attorney O'Connell would make another draft of the proposed ordinance.

4a. Letter of 4/6/10 John Hajosy – Surrey Lane re: Flooding

Mr. Formica noted that he went out to visit Mr. Hajosy and he would be taking the Director of Public Works out to view the area.

b. Letter of 4/21/10 from Tax Collector John McCulloch

5a. Ex-Officio

Mr. Birmingham had no report.

Mr. Nickerson had no report.

Ms. Hardy had no report.

Mr. Wilson had no report.

Mr. Hogan said that the Planning meeting had been canceled but that he had attended the East Lyme Girls Tract Team Meet.

5b. First Selectman's Report

Mr. Formica said that he has been in contact with Chapman Woods residents regarding a proposed commercial development. He said that they are trying to work out a deal so that the developer and the residents can share the road and the light and make it a safer area.

He complimented the fire departments and the emergency response team for all of their work and assistance during the flood. He said there were 22 roads closed and there was some damage and FEMA had inspected the area. He thanked the fire departments for their long hours of pumping out basements and added that the Public Works department workers did a great job also.

He said he is in the process of setting up a regional water stakeholders meeting.

He said that it looks like 2011 / 2012 will be a bleak budget year according to the State.

He commented that our Board of Finance approved the budget and will be hosting a public hearing on Monday evening.

He attended an Amtrak Bridge closure meeting and he was trying to come to an agreement with the contractor and the marine users.

He attended the Flanders Fire Department banquet.

He said that Niantic Streetscape is moving along and the streetlights that we bought from an energy grant will be coming in shortly.

He commented that many people did not want any of the trees cut on Main Street and some wanted them all cut. He said that the Tree Warden stepped in and declared that those three trees could not be cut down.

## 6. Public Discussion

David Funke noted the recent article in The Day about the alewives. H recommended charging for profit groups more for room use and added that they should be competitive and not subsidized by the Town. He said he hoped the First Selectman would put out a press release addressing the new costs for rebuilding the boardwalk with the proper safety measures. He thanked the fire departments for all of their work during the flood. He noted that regarding the State Trooper contract, the bargaining unit and the Town had received no final ruling regarding the A&O Manual.

## 7. Selectmen's Response

Mr. Formica said that he hopes the Rules and Regulations for the police department will be done in the near future. He added that he had assigned this task to the police two years ago this may.

Mr. Hogan said that the POCD cites the Yale Charrette.

Mr. Nickerson said that the Zoning Commission constantly referred to the Yale Charrette.

MOTION (8)

Ms. Hardy moved to adjourn the April 21, 2010 meeting of the East Lyme Board of Selectmen at 9:02 p.m.

Seconded by Mr. Wilson. Motion passed 6-0.

Respectfully submitted,

Darlene C. Stevens, Recording Secretary