

**EAST LYME BOARD OF SELECTMEN
REGULAR MEETING
Wednesday, AUGUST 3rd, 2011
MINUTES**

PRESENT: Paul Formica, First Selectman, Mark Nickerson, John Birmingham, Rose Ann Hardy, Rob Wilson

ALSO PRESENT: Darci Schofield, Trust for Public Land
Kristen Wainwright, Attorney with Tobin, Carberry of New London
Art Carlson, Chairman, Natural Resources Commission
Michael Giannattasio, Director, Public Works

EXCUSED: Jack Hogan

Chairman Formica called this Regular Meeting of the East Lyme Board of Selectmen to order at 7:20 PM immediately following the previously scheduled Special Town Meeting He noted that Mr. Hogan was excused as he was out of Town.

▪ **Presentation – Proclamation – TRAKAS – 80 YEARS IN BUSINESS**

Mr. Formica asked Alice, George and Dan Trakas to come forward.

Mr. Formica and Mr. Wilson then presented them with a Proclamation Certificate of Appreciation citing them for their 80 years of successful business in the Town of East Lyme. It was noted that it was not only a place to get gas or a coffee, but also a place to meet and be greeted by some friendly conversation and always a smile.

1.a. Pledge Allegiance to the Flag

The Pledge was previously observed.

1.b. Additional Agenda & Consent Calendar Items

There were none.

1.c. Delegations

Mr. Formica called for Delegations.

John Strafacci, 16 Darrow's Ridge said that he has an issue with the Darrow Pond bonding and purchase of the property for various reasons. First, he is concerned with the speed that this is moving at. He said that the newspaper even said such in a recent article citing it is on a 'Fast Track'. This seems too important of an item to rush into. He said that he understands that the Town just recently hired an engineer to plan this project so it does not make sense to him why the rush as to him, it is a complicated issue to place a water storage tank and they would need plans and he thinks that they should wait for them. He said that conservation is a worthwhile cause and the protection of the aquifer area as they would not want to cause problems for the wells that are already there in the area. Next, he noted that the Trust for Public Land brochure that was passed out the previous evening at a Planning meeting advocates ball fields and the like and that is active recreation that would bring a lot of people and they would also need to have restrooms. Mostoway Road is a dangerous road and it would have to be widened to accommodate the added travel. With \$4M for the property they would also have to spend millions more for public improvements. He said that he thinks that everything should be flushed out now and bonded all at once with a plan. Lastly, he said that he has heard that this is a water project and if that is so – he asked if it is fair to have all the taxpayers pay for a project that will only benefit the water customers.

John Drabik, 18 Drabik Road said that the previous person covered a lot of what he was going to say. He said that he thinks that they are paying far too much for this property and he would like to see a plan. In another matter he said that the word on the street is that the Town gave \$200,000 to Amtrak to put in decorative concrete on the boardwalk.

1.d. Approval of Minutes, Regular Meeting of July 13, 2011

Mr. Formica called for any discussion on the Regular Meeting Minutes of July 13, 2011.

****MOTION (1)**

Mr. Nickerson moved to approve the minutes of the Regular Meeting of the East Lyme Board of Selectmen on July 13, 2011 as submitted.

Mr. Wilson seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

1.e. Consent Calendar

****MOTION (2)**

Mr. Nickerson moved to approve the Consent Calendar for the meeting of August 3, 2011 in the amount of \$2010.03.

Mr. Wilson seconded the motion.

Vote: 5 - 0 – 0. Motion passed.

Mr. Formica noted that he wanted to correct Mr. Drabik regarding the \$200,000 for decorative concrete. He said that it was from a STEAP Grant.

Mr. Drabik (from the back of the room) said that it is STEAP Grant dollars being given to a Federal project.

2. NEW BUSINESS

2a. Authorize the First Selectman to Enter into Contract with the Trust for Public Land

Mr. Formica noted that Kristen Wainwright was present and that she has been working with the Trust for Public Land. He also noted that Ms. Schofield was caught in traffic on I-95 coming from Boston and that she was on her way. He said that the Trust for Public Land is paying for the associated costs as their purpose is to preserve open space.

He then gave an overview stating that this is a 301 acre parcel and they expect that some 250 acres of it will be for conservation and some 50 acres for a tank site to pressurize the system. There are bedrock wells up there that are high in iron and manganese. He said that he thinks that it is prudent to purchase this property as they do not know what will happen even 20 years out and they may very well need the 200,000 gallons that the wells up there produce. Maguire Group did a study for the Water & Sewer Commission and found this site to be the best and most appropriate for this project. He noted that people were concerned with seeing the tank and presented pictures of a 65' high tank barely visible through the trees. He noted that people have said that they would see it when the leaves were off the trees. The tank would be located 4500' away from the nearest house on Darrow's Ridge. He said that pond access is deed restricted however, they are not buying a swimming pool – they are buying property for conservation and the location of a water tank.

The plan is to conserve the land and there is nothing in the capital plan to develop a ball field in the area.

(Note: Ms. Schofield of the Trust for Public Land arrived during Mr. Formica's overview)

Mr. Formica then introduced Art Carlson, Chairman of the Natural Resources Commission to speak about this property in relation to the open space plan.

Art Carlson, Chairman, Natural Resources Commission said that he has been working on an open space plan for the Town since it was started by Meg Parulis some years ago. At that time they had looked at this piece of property as protecting the watershed however, it was not in the original plan as it was under active development at the time. However, when they updated the open space plan some six (6) months ago, they heard that the property was coming on the market and added it. This parcel

increases the larger area of protected land that is adjacent to it and also protects the watershed area. It is ideal in that it is a larger parcel, which is what they like to acquire.

Ms. Schofield, Trust for Public Land apologized for being late noting that there was a significant accident on I-95 that put traffic movement at a halt. She said that she was contacted in October of 2010 by the Town and that since that time they have worked with the bank and entered into a contract with them for this parcel. They have borne the costs of due diligence and have provided information to the public about the property and will be holding a Family Day event on Saturday August 13, 2011 on the property for people to come and walk it and learn about it. She said that they also actively seek out grant funding to try to help offset the cost however the State has said that there will be no grant round this calendar year for the DEP Open Space and Protection Grant. She said that it is unfortunate that they will not be able to bring other money to the table and that they are working hard to educate the public on the value of this land.

Mr. Formica asked the Board members if they had any questions.

Ms. Hardy asked if with the drying up of funds at the Federal level if there is an impact at all on their legal expenses and due diligence.

Ms. Schofield said no, that does not impact them at all as they are a non-profit. She noted that they have expended a considerable sum on this project.

****MOTION (3)**

Mr. Nickerson moved to authorize the First Selectman to enter into a contract with the Trust for Public Land for the purchase of Darrow Pond.

Mr. Wilson seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

2b. Bonding Resolutions – Darrow Pond

Mr. Formica said that this represents the \$4.15M and financing costs.

****MOTION (4)**

Mr. Nickerson moved the following:

RESOLUTION APPROPRIATING \$4,235,000 FOR THE ACQUISITION OF 301.55 ACRES OF LAND ON MOSTOWY ROAD IN THE TOWN OF EAST LYME AND AUTHORIZING THE ISSUANCE OF \$4,235,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE

RESOLVED:

Section 1. The sum of \$4,235,000 is appropriated for the purchase of approximately 301.55 acres, more or less, now or formerly known as the J.C. Penny Property or the Darrow Pond Property located at 16 Mostowy Road in the Town of East Lyme, Connecticut, and for costs related to the property acquisition and for administrative, financing, legal and costs of issuance related thereto, said appropriation to be inclusive of any and all State and Federal grants-in-aid thereof. (and Sections 2 through 7 as listed below)

Section 2. To meet said appropriation \$4,235,000 bonds of the Town or so much thereof as shall be necessary for such purpose, shall be issued, maturing not later than the maximum maturity permitted by the General Statutes of Connecticut, Revision of 1958, as amended from time to time (the "Connecticut General Statutes"). Said bonds may be issued in one or more series as determined by the First Selectman and the Town Treasurer, in the amount necessary to meet the Town's share of the cost of the property acquisition determined after considering the estimated amounts of State and Federal grants-in-aid of the property acquisition, or the actual amounts thereof, if this be ascertainable and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the costs of issuance of such bonds. The bonds shall be in the denomination of \$1,000 or a whole multiple thereof, be issued in fully registered

form, be executed in the name and on behalf of the Town by the facsimile or manual signatures of the First Selectman and the Town Treasurer, bear the Town seal or a facsimile thereof, be certified by a bank or trust company, which bank or trust company may be designated the registrar and transfer agent, be payable at a bank or trust company, and be approved as to their legality by Robinson & Cole LLP, Attorneys-at-Law, of Hartford. The bonds shall be general obligations of the Town and each of the bonds shall recite that every requirement of law relating to its issue has been duly complied with, that such bond is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and interest thereon. The aggregate principal amount of the bonds of each series to be issued, the annual installments of principal, redemption provisions, if any, the certifying, registrar and transfer agent and paying agent, the date, time of issue and sale and other terms, details and particulars of such bonds, including the approval of the rate or rates of interest, shall be determined by the First Selectman and Town Treasurer in accordance with the Connecticut General Statutes.

Section 3. Said bonds shall be sold by the First Selectman in a competitive offering or by negotiation, in his discretion. If sold in a competitive offering, the bonds shall be sold at not less than par and accrued interest on the basis of the lowest net or true interest cost to the Town. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds. If the bonds are sold by negotiation, the purchase agreement shall be approved and signed by the First Selectman and the Town Treasurer.

Section 4. The Town Treasurer is authorized to make temporary borrowings in anticipation of the receipt of the proceeds of said bonds. Notes evidencing such borrowings shall be signed by the First Selectman and the Town Treasurer, have the seal of the Town affixed, be payable at a bank or trust company designated by the First Selectman, be approved as to their legality by Robinson & Cole LLP, Attorneys-at-Law, of Hartford, and be certified by a bank or trust company designated by the First Selectman pursuant to Section 7-373 of the Connecticut General Statutes. They shall be issued with maturity dates which comply with the provisions of the Connecticut General Statutes governing the issuance of such notes, as the same may be amended from time to time. The notes shall be general obligations of the Town and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the Property acquisition. Upon the sale of the bonds, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such notes then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

Section 5. The Town hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and anytime after the date of passage of this resolution in the maximum amount and for the purposes described in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Town. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Town hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The First Selectman or his designee is authorized to approve expenditures in accordance with this resolution pending the issuance of reimbursement Bonds.

Section 6. The First Selectman, Director of Finance and the Town Treasurer are hereby authorized, on behalf of the Town of East Lyme, to enter into agreements or otherwise covenant for the benefit of bondholders to provide information on an annual or other periodic basis to the Municipal Securities Rulemaking Board (the "MSRB") and to provide notices to the MSRB of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this ordinance. Any agreements or representations to provide information to the MSRB made prior hereto are hereby confirmed, ratified and approved.

Section 7. The purchase of the property described in Section 1 is hereby approved subject to the restrictions of record and usual closing adjustments, and the First Selectman is authorized to

execute, in the name and on behalf of the Town, such documents as may be necessary or desirable to effectuate the acquisition of said property by the Town.

Mr. Wilson seconded the motion.

Mr. Formica said that the reason for this is to enable them to upgrade and sustain their tax base. Without the water upgrade they will not be able to sustain the Town. The costs for the tank and wells are included in the regional interconnection project already. The operating cost will be borne by the utility.

Vote: 5 – 0 – 0. Motion passed.

2c. Set Public Hearing re: Darrow Pond – 8/10/11

Mr. Formica said that they should set the Public Hearing for next Wednesday prior to the Board of Finance Meeting as they will be acting on it that evening. He noted that this project has been two (2) years in the making and he thinks that it makes sense for them to hear public input prior to voting on it at their meeting.

Mr. Wilson suggested that the Board of Finance be invited and that they should also post an agenda.

****MOTION (5)**

Mr. Wilson moved the following Public Hearing Call:

TOWN OF EAST LYME
BOARD OF SELECTMEN
NOTICE OF PUBLIC HEARING

The East Lyme Board of Selectmen will hold a public hearing on August 10, 2011 at 6:00 p.m. at the East Lyme Town Hall , 108 Pennsylvania Avenue , Niantic , CT to receive comment on the potential purchase of Darrow Pond.

Mr. Birmingham seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

2d. Sign Call – Special Town Meeting

Mr. Formica explained that if the Board of Finance passes this that it would then go to a Town Meeting and Referendum. He suggested that they hold the Town Meeting on Wednesday, August 24th, 2011 at 7 PM. He also noted that Item 4 of the Sign Call was tabled this evening as it was posted incorrectly in the Day with the wrong amount and that the new amount reflects the cost plus interest costs. He also suggested that they hold the referendum on Thursday, September 1st, 2011.

****MOTION (6)**

Mr. Nickerson moved the following Call:

TOWN OF EAST LYME
NOTICE OF SPECIAL TOWN MEETING

Notice is hereby given of a Special Town Meeting of the Town of East Lyme to be held on Wednesday, August 24th, 2011 at 7 P.M. (E.D.T.) at the East Lyme Town Hall for the following purposes:

1. To receive communications from the Board of Selectmen and the Board of Finance with respect to a resolution entitled "Resolution Appropriating \$4,235,000 For The Acquisition Of 301.55 Acres Of Land On Mostowy Road In The Town Of East Lyme And Authorizing The Issuance Of \$4,235,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose".

2. To consider a resolution entitled "Resolution Appropriating \$4,235,000 For The Acquisition Of 301.55 Acres Of Land On Mostowy Road In The Town Of East Lyme And Authorizing The Issuance Of \$4,235,000 Bonds Of The Town To Meet Said Appropriation And Pending The Issuance Thereof The Making Of Temporary Borrowings For Such Purpose".

At its meeting held on August 3, 2011, the Board of Selectmen voted to submit Item 2 of the call of the Special Town Meeting to a referendum vote at an Adjourned Town Meeting to take place at the East Lyme Community Center on Thursday, September 1st, 2011, at the hours to be determined by the Town Meeting.

3. To set the hours of voting on the above referendum.
4. Special Appropriation \$293,501 for the FY 2011 /2012 Equipment / Vehicle Acquisition Plan
5. To transact any other business proper to come before the meeting.

Copies of the proposed bond resolution and purchase option agreement are on file and open to public inspection at the office of the Town Clerk.

Dated at East Lyme, Connecticut , this 3rd day of August, 2011.

EAST LYME BOARD OF SELECTMEN

Mr. Wilson seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

2e. Discussion / Action – Engwall Land Donation

Mr. Formica explained that Mrs. Engwall came to him about this. They own some seven (7) acres that is contiguous to the Barbaro property. They are being relocated to California and they propose to donate three (3) acres to the Town. The tax difference would be \$159. This would also need Board of Finance approval.

Mr. Wilson said that he has no issues with this as we own the 200 acres that is next to it and this may be some of the more important acres were they to be given it.

****MOTION (7)**

Mr. Nickerson moved to accept the donation of three (3) acres of land located at 547 Boston Post Road subject to Board of Finance approval and satisfactory review of documentation by the Town Attorney.

Mr. Birmingham seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

3. UNFINISHED BUSINESS

There was none.

4. COMMUNICATIONS

There were none.

5. INFORMATION AND REPORTS

5. a. Ex-Officio

Mr. Wilson reported that Parks & Recreation is on their seventh big Triathlon to be held at McCook's this weekend. This event is well worth it and John Babcock is the defending champion from East Lyme.

Mr. Birmingham reported that he attended a Harbor Management meeting and that they are continuing to work on the MOU for shell fishing. They also discussed the location of various rain gauges and who would be responsible for them. They are currently using their own boats on the river and are looking for a possible donation of an 18' – 20' boat just for that purpose so that they will not have to use their own. He also reported that the Smith Harris Commission is looking for a matching funds grant. They had an 1861 Garden Party from 12-4 PM on the grounds the weekend of Celebrate East Lyme. It was a hot day and the turnout was low. They will probably hold it again however they will not hold it on the same weekend as Celebrate East Lyme and will advertise it more. He said that it was a very interesting event all about the Civil War era. On August 19, 2011 they will be holding a play in the Barn on the grounds at

7 PM called Aunt Hattie's House. He lastly reported that he attended the wake of a longtime resident and businessman – James Hunter. He said that it is sad to see a long-time resident pass.

Ms. Hardy said that she recently attended a Commission on Aging meeting and that there has been very low attendance at the meal site and for the meal programs. They have tried a number of things all to no avail. They will wait until the fall to make an assessment on this as some of it may be due to the summer season.

Mr. Nickerson commended all those involved in the Celebrate East Lyme event for all the work that they did to make it such a great day. He also noted that there is a lot of activity downtown which was the aim from many years ago when he was on the Zoning Commission. He said it is nice to see people out and about downtown. He said that they have Cookin' at McCook's on Tuesdays, a bonfire at McCook's on Thursday, the Pro-Tek Music Stage on Fridays and the Town Hall Music Series this Saturday.

5. b. First Selectman's Report

Mr. Formica thanked Heather Calkins the Celebrate East Lyme Coordinator for a great job as well as Parks & Recreation, Public Works and the Fire Marshal among the many who helped to make it such a great event.

He reported on the following:

- For Opsail 2012 the Tall Ships are coming back to New London and they have been asked to host them in Niantic Bay on Friday evening, July 6, 2012. He said that there could also possibly be some gray ships coming and that he would have further information as this unfolds. He said that they would coordinate their Celebrate East Lyme event to coincide with this event and recalled that it was the Tall Ships coming that started the Celebrate East Lyme event.
- The Historical Properties Commission is moving forward.
- There is a Farmers Market coming up for Thursdays, on Methodist Street. This event will start and work with a 'Bargains by the Bay' event.
- He attended a meeting for the Heart walk kick-off. Their goal this year is \$385,000 and the event will be held on October 2, 2011.
- For the Celebrate East Lyme event he and Mr. Wilson jumped into the dinking booth and earned some \$600 for the event.
- He has been working with Mitchell Trust and the STEAP Grant program to gain more public parking. They have taken a tree and building down in order to gain space.
- The Assessor has held an informational meeting for the public with Vision Appraisal on the reval process.
- The Pension Committee is moving along and the program is doing well.
- Parks & Recreation is holding a regional theater August 14 – 16.
- He met with the families at Darrow's Ridge Monday evening to hear their concerns and to try to give them information on the regional interconnection project and land acquisition.
- He lastly presented medallions to each of the Board of Selectmen members.

6. PUBLIC COMMENT

Mr. Formica called for Public Comment.

There were none.

7. SELECTMEN'S RESPONSE

Mr. Formica said that it is unfortunate that the Day chose to use the words 'Fast Track' in the title of the article that ran recently as this is a project that has been a long time in the making.

Mr. Wilson said that regardless of the water, this type of opportunity for open space does not come along each day and if the economy was not like it is now, they would not have this opportunity. Instead, they would have many houses there waving at each other. He thanked the Trust for Public Land for all of their hard work on this.

Mr. Strafaci (speaking from the back of the room) asked when they picked this site as the Darrow Pond site has only been around for a couple of month and not years.

Mr. Formica said that ht has been a couple of years – since 2009 that the regional interconnection project has been under consideration.

Mr. Strafaci said that what he is trying to say is that this property has only been under consideration for a couple of months.

Mr. Wilson said that this site just seems to be where it all came together.

Mr. Strafaci said that his concern is with how quickly this is moving.

Ms. Hardy said that as a member of the Board of Selectmen for many years that this property has been a desire of theirs for a number of years but the cost has been prohibitive and they never thought that they would be able to afford it. This property has been watched for years and this is an exciting opportunity for them especially when considering all the help from the Trust for Public Land.

ADJOURNMENT

****MOTION (8)**

Mr. Nickerson moved to adjourn the August 3, 2011 Regular Meeting of the East Lyme Board of Selectmen at 8:35 PM.

Mr. Wilson seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary, Pro-tem