

EAST LYME BOARD OF SELECTMEN
MEETING OF JUNE 2, 2010
MINUTES

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

ALSO PRESENT: Town Attorney Tracy Collins, Finance Director Anna Johnson.

Mr. Formica called the meeting to order at 7:46 p.m.

Jillian Wilson led the Pledge.

Mr. Formica noted that the Board was to be treated to a presentation by the Grade 8 Middle School Computer Project. Science Teacher Linda Nastri and Robin McKenney introduced students Jillian Wilson and Tyler Andrews and the Board viewed their video pod casts.

1b. Additional Agenda & Consent Calendar Items

There were none

1c. Delegations

John Bialowans of 61 Walnut Hill Road read Attachment A regarding needed repairs for Walnut Hill Road into the record.

Ms. Carol Murcko of 61 Walnut Hill Road read Attachment B into the record regarding the state of the road.

Barbara Johnston of 35 Seacrest Avenue said to inform the middle school students that we have a Mt. Tabor in Oswegatchie Hills. She said she hoped the Board will approve the golf cart regulation and she was at the meeting since the volume did not work on the live broadcast at the last Selectmen meeting.

1d. Approval of Minutes, Meeting of May 19, 2010

MOTION (1)

Mr. Nickerson moved to approve the minutes of the meeting of May 19, 2010 as submitted.

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

1e. Consent Calendar

(There is none).

2a. Appointments – Special Constables

MOTION (2)

Mr. Nickerson moved to appoint Robert Cutillo of 7 Grand Street, Niantic, CT and Paul Holmes of 9R Center Road, Waterford, CT to serve as special constables for the Town of East Lyme through December 31, 2010.

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

2b. Appointment – Smith Harris Commission

MOTION (3)

Mr. Wilson moved to appoint Georgia Lee Littlefield of 84 Smith Street, Niantic, CT to serve on the Smith Harris Commission through 1/2/2012.

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

2c. Authorize First Selectman to Sign Lobsterfest Lease

MOTION (4)

Mr. Nickerson moved to authorize First Selectman Paul M. Formica to execute a lease with the Lions Club for use of the Town Hall premises for Lobsterfest 2010.

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

2d. Special Appropriation for Nuclear Safety Equipment

MOTION (5)

Mr. Hogan moved to approve a special appropriation of \$2600 for exterior lighting for the Public Safety trailer and forward to the Board of Finance for their approval; said appropriation is reimbursed by a grant award.

Seconded by Mr. Nickerson.

Mr. Wilson said that the trailer was great and commended Chris Taylor and Pearl Rathbun for all their hard work.

2e. Fiscal Year Transfers made within Departmental Budgets

Mr. Birmingham noted the transfer for boat duty – third from the bottom showed the same number and should be corrected.

Ms. Johnson noted the error and said the account should be 01-25-216-100-515.

MOTION (6)

Mr. Nickerson moved to ratify departmental transfers in the amount of \$56,307 processed for fiscal year end June 30, 2010 as attached and amended and to forward to the Board of Finance for their approval.

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

2f. Budget Transfer - \$6000 for payroll shortfall – Flanders Fire Department
MOTION (7)

Mr. Wilson moved to approve a transfer in the amount of \$6000 from account 0-01-01-120-100-500 (Town Payroll Pending PR Change) to account 0-01-25-218-100-612 (Part time Fire Fighters) and forward to the Board of Finance for their approval.

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

2g. Special appropriation \$6250 –Youth Services - Reimbursable from Grant
MOTION (8)

Mr. Wilson moved to approve a special appropriation in the amount of \$6250 to be expended as follows:

\$2050 to Program Payroll account 0-01-45-422-100-415;
\$4200 to Program Coordinator account 0-01-45-422-100-311 and forward to the Board of Finance for their approval.

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

3a. Golf Cart Regulation

Mr. Formica said that he had inquired of Town Attorney if the town's liability would increase or decrease if the Board passed this regulation. He said that Attorney O'Connell had responded with the letter he then passed out to the Board (Attachment C).

Attorney Collins read the letter into the record.

Mr. Hogan noted the suggestions received from Arthur Saunders. He recommended adding to section 2.2, "at least one foot above any installed roof"; on section 7, he recommended adding the following after the word "infraction" in the last sentence, "and will be subject to the same fine structure for motor vehicles as defined in the CT State Statutes".

Mr. Formica said that he has now gone full circle on this matter. He said he originally brought this to the Board thinking it was a good idea. He said now he is not sure if it makes sense to go with this regulation because of liability reasons. He added that without all of the discussions and input, he would not have come to this conclusion and thanked Mr. Hogan for doing a great job in drafting the regulation.

Ms. Hardy said that the Board had just received this letter this evening and they would need more time to consider the liability factor. She added the Board does not want to willingly put the Town into a position of liability.

Mr. Nickerson said that he has always been concerned with the liability and extremely concerned about the hills in Giants Neck.

Mr. Wilson said that the alternative would be to not pass anything and people will continue as they are now.. He said he is still in favor of the regulation and that Attorney

O'Connell was looking out for the worst case scenario. He said that he would find it hard to disregard the whole beach area based on a hill.

Ms. Hardy said there are two very steep hills in Giants Neck and inquired if there was any other way to get to the beach without using them. She said we have spent a lot of time on this and it is very rare to not follow the Town Attorney's advice. She said this regulation would benefit a minority of people. She asked do we take the minority and put the majority at risk.

Mr. Hogan stressed that if the Board does not pass this regulation, enforcement of golf carts all over town would need to take place. He likened the Town Attorney's letter to "chicken little asking what if the sky falls". He said he was surprised by the Attorney's statement and added we could be sued with or without the regulation and at least with a regulation, golf carts would be kept in certain areas. He said that all of Sgt. Blanchette's points are reflected in the regulation.

Mr. Formica said that golf carts are prohibited currently and based on the opinion of the Town Attorney; he is not comfortable in moving forward.

Mr. Nickerson said he did not see how having a regulation would absolve the Town from liability. If there was no regulation and there was a problem, the town gave no one permission to operate golf carts in any area. He said that Giants Neck is not a typical beach community – referring to the way it is laid out. He said if Giants Neck were removed, he could vote yes.

Mr. Birmingham agreed with not using carts on the two roads in Giants Neck.

MOTION (9)

Mr. Wilson moved the following:

Resolved, the Board of Selectmen, acting as the town's Traffic Authority, adopts the regulation entitled "Regulation Concerning the Use of Golf Carts as amended", to be effective on June 15, 2010.

Seconded by Mr. Hogan.

Aye: Mr. Hogan, Mr. Wilson.

Nay: Mr. Formica, Mr. Nickerson, Mr. Birmingham, Ms. Hardy. Motion fails 2-4.

4. Communications

Mr. Formica noted the letter received from Ms. Barron re the tree planted at Town Hall in honor of her MIA brother and his response to her.

Mr. Formica noted a letter he had received from Ms. Gadbois and passed out copies to the Board. He said the letter questions the actions of a Board of Selectman Ex-Officio. He said that the Selectmen have been rotating turns for Ex-Officio for the Board of

Education this year and that Ex-Officio's are permitted to participate in the meetings. Ms. Gadbois' letter is included in these minutes as Attachment D.

5a. Ex-Officio

Mr. Hogan said he had attended Planning last night and they had discussed three zoning referrals:

Five Guys for outdoor dining; White Gate Farm asking for a farm store as an accessory use and hotels with more than 30 rooms to serve alcohol. He said the POCD was dissolved since it had met its objectives and he participated in the Memorial Day Parade.

Mr. Wilson said he filled in for the First Selectman last week honoring the Korean War Vets at the high School. He said that the summer season is in full swing now that we have celebrated Memorial Day and that Parks and Recreation is busy.

Mr. Birmingham had no report.

Ms. Hardy had no report. She said she did not like the boardwalk being replaced with concrete and asked what happened to all of the boards.

Mr. Formica responded that all of the railings are to be reused and are in the trailers at the entrance of Cini Park. He said that the plaques and benches will be reinstalled when the Boardwalk is finished. He will check about the boards and report back at the next meeting.

Ms. Hardy suggested using the boards on the walkway around Peretz Park and also asked him to find out about the support beams.

Mr. Wilson responded that this will be a cinder walkway.

Ms. Hardy said she received the Affordable Housing Report this evening and requested it be placed on the July or August agenda.

Mr. Nickerson said that he had attended the Regional Water Stakeholders meeting and Mr. Formica had done a fabulous job. He added that he had chaired the Water and Sewer Commission.

5b. First Selectman's Report

Mr. Formica said that the budget had passed. He added that he had attended the Council of Government meeting the COG Regional Water meeting and the COG Executive Meeting. He had hosted a Regional Water Stakeholders meeting at Camp Rell and personnel from DEP, DPH, DECD, SCWA, had attended along with members of the Coast Guard, and the National Guard in conjunction with area Mayors and First Selectmen accompanied by their water department staff. Senator Stillman and State Rep Jutila were also in attendance.

He attended a dinner honoring the Police Officer of the Year and this year's recipient was Matt Roland. He did attend the Zoning Commission meeting where he introduced regulations to zoning regarding incentive housing zones which would allow a developer to place affordable housing in two districts. The developer would be allowed to have a higher density for the development and the town would receive \$2000 for each projected unit and an additional \$2000 when it was built.

He is continuing with IAFF negotiations.

He had had meetings with Waterford regarding reval looking to partner with them.

He had attended meetings regarding Mirma and he will be attending more to try and clear up problems from an assessment.

He attended a celebration for Memorial Day at Lillie B. Haynes School and the Memorial Vigil at Town Green along with walking in the parade with Ms. Hardy and Mr. Wilson.

He hosted a department head meeting and attended a Rotary meeting and met the student of the month. He spoke at the Black Point Annual Meeting and had a walk through at Aces High RV Park.

He thanked Anna Johnson and Pearl Rathbun for all the work they were doing on disaster assistance with FEMA.

7. Public Comment

John Drabik reviewed the Water Department budget and said that the Superintendent of Utilities, the Utility Engineer, the Director of Public Works and the Finance Director all received healthy raises. He asked where all the sections of the Boardwalk were. He said the public never voted to give this property up.

Barbara Johnston said that the state has no money, so she doubts that they will give \$4000 for each affordable housing unit. She said to be careful of spot zoning and she added she planned to call the police every time a lawnmower or motorbike went by her house using town roads. She said Attorney O'Connell should have recused himself since he is also the Attorney for Black Point.

Karen Rak of 27 Black Point Road said there was a tremendous increase requested for fuel / oil in the water and sewer budget of 145%. She said she also wanted to know where the boardwalk boards were. She said there are a lot of rumors going around that they are being sold.

8. Selectmen's Response

Mr. Formica said that Walnut Hill Road is on a priority list and we will be putting dollars toward the repair in the next 12 months.

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Ms. Hardy said that the Water and Sewer budget was never presented to this Board and asked for a review at the next meeting.

Mr. Hogan said a streetlight was promised at the corner of Rte 156 and Giants Neck Road years ago. He asked to find out the status.

Mr. Formica said he would report back at the next meeting.

MOTION (10)

Mr. Wilson moved to adjourn the June 2, 2010 meeting of the East Lyme Board of Selectmen at 9:28 p.m.

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

Respectfully submitted,

Darlene C. Stevens, Recording Secretary