

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING
Wednesday, NOVEMBER 9th, 2015
MINUTES**

PRESENT: Cheryl Lozanov, Chairperson, Chuck Reluga, Vice-Chair, Keith Hall,
Secretary, Norm Bender, Phyllis Berger, Harry Clarke

ALSO PRESENT: Ryan McNamara, Centerplan Construction Co.
Michael Lombardi, Centerplan Construction Co.
Gary Goeschel, Inland Wetlands Agent
Karen Zmitruk, Recording Secretary
Marc Salerno, Ex-Officio, Board of Selectmen

ABSENT: Joe Mingo

FILED IN EAST LYME
CONNECTICUT
NOV 17, 2015 AT 1:45 AM/PM
Marc Salerno
EAST LYME TOWN CLERK

Call to Order

Ms. Lozanov called the November 9, 2015 Regular Meeting of the East Lyme Inland Wetlands Agency to order at 7:03 PM.

Pledge of Allegiance

The Pledge was observed.

I. Additions to the Agenda

Ms. Lozanov asked if there were any additions to the agenda.
Mr. Goeschel said that he did not have any additions.

II. Public Delegations

Ms. Lozanov called for Public Delegations.

John Bialowans, 61 Walnut Hill Road asked if there would be any talk about Centerplan or himself at the meeting this evening.

Mr. Goeschel said yes.

Mr. Bialowans asked if he could speak at that time.

Mr. Goeschel said that if it is under the scope of work that he could not.

Mr. Bialowans cited a letter that he received from Centerplan –

Ms. Lozanov noted that she understood that the letter had gone to his attorney and he should discuss it with his attorney.

Mr. Bialowans said that he wanted to give them a copy but his copy machine had broken before the meeting.

Mr. Goeschel said that he could give a copy to the Recording Secretary and she would make some copies for the members.

III. Acceptance of Minutes

▪ **Regular Meeting Minutes of September 8, 2015**

Ms. Lozanov called for any discussion or corrections to the Regular Meeting Minutes of September 8, 2015.

****MOTION (1)**

Mr. Clarke moved to accept the IWA Regular Meeting Minutes of September 8, 2015 as presented.

Mr. Reluga seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Mr. Bender

IV. Ex-Officio Report

Mr. Salerno reported on the following:

- The Board of Selectmen had signed another 10 year lease on the Police building with Dominion
- The Board of Ed is moving along with the school proposals and will be setting up some information sessions soon
- There is a Siting Council hearing on December 15, 2015 for the cell tower near the Orchards on Boston Post Road
- The new ladder truck for Flanders is now in

V. Pending Applications

There were none.

VI. Old Business

- **Cease, Desist & Correct Order – 20 Farm Meadow Road, East Lyme, CT – Centerplan Construction Company and GRE 314 East Lyme, LLC, Owner; Antares Solar Field on property located at 20 Farm Meadow Road, East Lyme, CT, Assessor's Map 52.0, Lot 126, East Lyme, CT**

Mr. Goeschel noted that the Developer is present and recapped that they had walked this site during their Saturday site walk. He said that the site is vegetated and the storm calcs have been provided. They discussed removing the silt fences for level spreader action to be done within the next month. All of the work is just beyond the 100' upland area that they regulate.

Ryan McNamara from Centerplan said that Mr. Goeschel had synopsized this well and that he would answer any questions they might have.

Mr. Goeschel said that he would suggest releasing the Centerplan portion due to the work being located outside of the upland review area. Any work that has not been done is due to Mr. Bialowans not signing the letter allowing them to work on his property.

Mr. Goeschel said that he felt that the stream would mitigate over time and that to disturb is now would probably cause more harm. He noted that no sediment migration has occurred off-site

Ms. Lozanov asked if they could release the Centerplan Solar Farm portion and have the portion with Mr. Bialowans remain.

Mr. Hall asked if Green Sky is responsible for the maintenance plan.

Mr. McNamara said that Green Sky hold the maintenance plan on this and is committed to implementing it and has been doing so.

Mr. Clarke asked if the two soil scientists could take a look at Mr. Bialowans area and present a finding of what they see and if they think that anything should be done at this time due to the lapse of time in getting to the work because Mr. Bialowans has not signed the release to do the work.

Mr. McNamara recapped the history of how they came to where they are from March of 2014 where they had walked the area all the way to Cranberry Brook and had provided a report with all of the information being given to the Commission. After that other issues came up from the adjacent property owner and they had their soil scientist and one of the owners' choice review the area and they agreed on some seven (7) points of work that they would complete in good faith some six (6) months ago. This was an 'extra' to help all parties involved and is actually more of a civil matter than what the Commission would do. Centerplan had an indemnity form created to hold harmless both parties should something happen on the property. That document still has not been executed by the property owner.

Ms. Lozanov said that she would like to hear back from the two soil scientists.

Mr. Hall asked that they let the members speak on this as to what they think.

Mr. Salerno, Ex-Officio suggested that they be mindful that if the event that the soil scientist for the property owner may no longer be under retainer by him and they therefore would only have the one opinion.

Mr. Bender agreed that they should hear from the soil scientist, even if it is only one.
Mr. Hall said that he would reluctantly agree with the rest of the Commissioners.

Mr. Bialowans said that he thinks that he is allowed to speak since Centerplan spoke.
Ms. Lozanov asked that he keep it polite.

Mr. Bialowans said that he had only heard from them and that the USDA had suggested another method of doing the work and he wanted to address their 'song and dance' as he told their attorney some 4 to 5 months ago that they could go on his property.

Mr. Goeschel synopsized that they have approved a scope of work that the developer has agreed to and has absorbed the cost on – anything further is a civil matter between Mr. Bialowans and his attorney and the developer.

Mr. Goeschel further noted that he had spoken with Mr. Bialowans on Friday on how he wanted to proceed and that he had told him that he should seek his own counsel and that if this work is not allowed to be done that he would issue him a cease and desist/correct for standing in the way of having it done and allowing the situation to continue when it could have easily been done by now.

Ms. Lozanov said that the Commission has also said to Mr. Bialowans many times to seek his own counsel and to have them speak with Centerplan. Centerplan has done the work that the Commission has requested of them and we would like to release their work. To Mr. Bialowans she said that he must deal with his end of this.

Mr. Bialowans said that he has three attorneys and the 'song and dance' from Centerplan is all that they listen to –
Mr. Clarke said that was enough and that they have other agenda items to get to this evening.

- **Cease, Desist & Correct Order – 286 Flanders Road, East Lyme, CT – Gateway Development, East Lyme LLC Owner, Assessor's Map 26.0, Lot 2, East Lyme, CT and –**
- **Cease, Desist & Correct Order – Flanders Road – Gateway Development East Lyme LLC Owner, Assessor's Map 31.0, Lot 1, East Lyme, CT**

Mr. Goeschel said that they would take this up at their December meeting. He noted that they have complied with the time deadlines.

VII. New Business

- **Jag Capital Drive LLC – request for extension of wetlands permit for construction of 69 single family townhouse units on 24 acres of land on property identified in the application as between Capitol Drive and Route 156, Assessor's Map 09.0, Lot 19, that was issued February 14, 2011.**

Mr. Goeschel noted that this is coming up for a 5 year extension.

Ms. Lozanov asked if they could review it for current standards and in lieu of what they now know about developments and growth.

Mr. Clarke and Mr. Bender said that they could not just change the permit.

Mr. Goeschel synopsized the items in the permit.

Ms. Lozanov asked that they review the bond amount to see if it is enough.

Mr. Goeschel said that he would check with the Town Engineer and get back to them.

- **East Society Road**

Ms. Lozanov asked Mr. Goeschel if he had heard from the State on the issue at East Society Road that she had asked him about. She noted that there was fill in the wetland area and a truck parked there. Mr. Goeschel said that he had received a voice mail and that he would call them back tomorrow and ask for a delineation of what the State work is.

Ms. Lozanov said that her concerns were the large amount of fill into the wetlands and the truck that is there. Mr. Hall said that he thinks that the fill is adjacent to the wetland and not in it and that the truck has been removed from the area.

▪ **2016 Meeting Calendar**

Ms. Lozanov said that the dates looked okay.

****MOTION (2)**

Mr. Hall moved to approve the Inland Wetland Commission Meeting and Site Walk Calendar for 2016 as presented.

Ms. Berger seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

VIII. Reports

♦ **Chairperson's Report**

Ms. Lozanov said that she did not have anything this evening.

♦ **Inland Wetlands Agent Report**

♦ **Administrative Permits Issued**

Mr. Goeschel said that he had issued a permit for 52 Attawan.

♦ **Commission Issued Permits: Status Update**

Mr. Reluga asked about 20 Woodland and the culvert there.

Mr. Goeschel said that he and the Town Engineer had been out there and that the culvert had been lined with river rock and that he asked Ms. Chase to send a letter stating that they would stand by this as she had said that they never see any water in the swale while the Town Engineer has seen water in it. The swale was moved a bit as they could not get around the back side of the house without walking in it so they moved it two feet so that they could walk there. He has received a letter from Ms. Chase.

♦ **Permit #12-9: 187 W. Main Street – Maine-Hope Enterprises, LLC**

Mr. Goeschel said that he will look into the yard debris.

Ms. Berger said that they have new tenants and also a panel truck in the yard advertising for fall clean-up. She said that she would be concerned about where that fall clean-up goes.

♦ **Enforcement – 4 Colton Rd., 15 Colton Rd., and 170 Flanders Rd.**

Mr. Goeschel reported that the above mentioned remains unresolved. 4 Colton Road – debris in the wetlands and filling of the yard; 15 Colton Road – filling – clearing in the wetlands and 170 Flanders Road – the filling of debris adjacent to a watercourse. He noted that someone has started to clean up the area at 170 Flanders Road. He said that he also sent another letter regarding the debris in the trail in the back of Midway Plaza to have it cleaned up and for people to not put their garbage there. He noted that he was not sure if people had actually put garbage out there or if the dumpster may have been full and not emptied on a regular basis and people put bags near it and they blew into that area and created the unsightly issue. He said that he also sent a letter to 166 Upper Pattagansett for clearing of a small strip and placement of concrete and milled asphalt in it.

♦ **Correspondence**

Mr. Goeschel noted that they had received the fifth and final year report on the AHEPA project and the second annual report on the 249 Old Black Point Road project.

ADJOURNMENT

****MOTION (3)**

Mr. Bender moved to adjourn this Regular Meeting of the East Lyme Inland Wetland Agency at 8:13 PM.

Ms. Berger seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

**Town of East Lyme
Inland Wetlands Agency
Regular Meeting and
Site Walk Schedule
2016**

FILED IN EAST LYME
CONNECTICUT
Nov 10 2015 AT 1:15 AM PM
Calvin Wilmer, Jr.
EAST LYME TOWN CLERK

Meetings are held at the Town Hall, on the following listed **Mondays at 7:00 PM** unless otherwise noted.

Regular Meetings

January 11, 2016
February 8, 2016
March 14, 2016
April 11, 2016
May 9, 2016
June 13, 2016
July 11, 2016
August 8, 2016
September 12, 2016
October 17, 2016
(Third Monday)
November 14, 2016
December 12, 2016

Site Walk Saturdays

January 9, 2016
February 6, 2016
March 12, 2016
April 9, 2016
May 7, 2016
June 11, 2016
July 9, 2016
August 6, 2016
September 10, 2016
October 15, 2016
November 12, 2016
December 10, 2016

****Note: All Site Walks commence at 9 AM
at the East Lyme Town Hall Parking Lot**

Approved at the IWA Regular Meeting of November 9, 2015

Approved IWA meeting 11/9/15

August 21st, 2015

Mr. John Bialowans
61 Walnut Hill Road
East Lyme, CT 06333

RE: Maintenance Work on Bialowans Property

Mr. Bialowans,

Please see the enclosed Indemnity and Permission for Access form that Centerplan Construction Company LLC is requesting be executed in order to perform the work on your property that has been outlined in the attached letter from the Town of East Lyme Department of Planning and Inland Wetlands dated June 11th, 2015. Please sign, notarize and return the form to the following address:

Centerplan Construciton Company LLC
C/O Ryan McNamara
10 Main Street Suite D
Middletown, CT 06457

Please feel free to contact me directly with any questions or concerns via either email at rmcnamara@centerplan.com or on my cell phone at (203) 859-4886.

Sincerely,



Ryan McNamara
Project Executive
Centerplan Construction Company LLC

Submitted by NR IWA 11/9/15

INDEMNITY AND PERMISSION FOR ACCESS

WHEREAS, John Bialowans, Jr. ("Bialowans") is the owner of property known as 61 Walnut Road, East Lyme, Connecticut; and

WHEREAS, said property is in close proximity to premises upon which a Solar Farm was constructed, and

WHEREAS, Centerplan Construction Company ("Company") is the Site Contractor with respect to construction of said Farm; and

WHEREAS, the Company would like to enter upon land of Bialowans for the purpose of making repairs as more specifically described in a certain Amended Order of the Inland Wetlands Agency of the Town of East Lyme dated June 11, 2015.

NOW THEREFORE, the parties agree as follows:

1. Bialowans by these presents hereby gives the Company, its agents and servants permission to enter upon the premises for the specific purposes as outlined in Schedule A hereto.
2. The Company hereby agrees to indemnify and hold Bengston harmless for and claims and/or demands which may arise out of such work including but not limited to claims for injury by any person who may be providing such services and/or claims of third parties resulting from the activities of the Company.
3. Coincident with the execution of this Agreement, the Company shall deliver a Certificate of General Liability and Workers Compensation Insurance showing a policy which covers liability for such activities.
4. Nothing herein shall be construed as an admission of liability by the parties.

OWNER

John Bialowans

CENTERPLAN CONSTRUCTION COMPANY

By: _____

, its

Duly Authorized



9/10/15

John Bialowans
61 Walnut Hill Road
East Lyme, CT 06333

Dear Mr. Bialowans,

On July 14th, 2015, I visited your property located at 61 Walnut Hill Road, at the request of Javier Cruz, NRCS District Conservationist. The purpose of the visit was to assess the condition of a small unnamed stream which transects your property and is a tributary to Cranberry Meadow Brook.

I also reviewed a detailed and comprehensive report, relative to the condition of the stream, prepared by the Eastern Connecticut Conservation District (ECCD). They did an excellent job documenting conditions, providing a chronological order of events, and identifying the process of channel adjustment.

In short, I concur with the assessment conducted by the ECCD. There are clear signs of recent degradation within the channel and immediate floodplain, which are consistent with an episodic event. The degradation is expressed as both vertical and lateral channel migration, with incision (vertical migration of the channel bottom) being the most pronounced. As the process of incision (vertical down cutting) is occurring the stream transports that sediment downstream, until such time that the channel no longer has the capacity to transport the sediment load. As a result, local aggradation of the channel occurs and sediment is often deposited on the floodplain. Accumulations of coarse and fine woody debris can also contribute to the above localized aggradation.

This condition is evident in the stream transecting your property. The upstream reaches are incised, and there has been a net loss of channel and bank material out of the reach, and deposits are evident in the lower reaches of the stream prior to its confluence with Cranberry Meadow Brook. The potential for self-recovery of the channel is very low. Subsequently, the channel will adjust overtime to a new morphology, however, it will not return to its previous morphology. That adjustment process may involve additional areas of localized vertical and lateral channel migration until the channel reaches dynamic equilibrium with the water and sediment generated by its watershed.

Two particular areas that I would like to draw your attention to are immediately downstream of your old stream crossing, and a debris accumulation further downstream which was previously marked (prior to my inspection) with flagging and the number 3. The area immediately downstream of your old stream crossing is significantly over scoured, resulting in vertical stream banks and the potential for a head-cut to migrate upstream and further increase incision. The pool and streambanks should be stabilized with stream armor material. The pool provides excellent habitat for resident fish, and any work within and around the pool should make sure that a normal pool depth of 1.2-1.5 feet is maintained.

Submitted by JB IWA 11/9/15

The downstream debris accumulation, marked with the #3 on a strip of flagging is a debris accumulation of fine woody debris and channel bed/bank material. The accumulated material has aggraded the channel and is forcing normal flows out of the bank. As a result, a small head cut within the floodplain is developing as the water moves down valley and flows back into the main channel. The accumulated debris in this location should be removed to allow normal flows to remain within the channel. Most of the removed material can be transported upstream and be incorporated into the repair of the pool immediately downstream of the road crossing.

It is also critical to ensure that the necessary stormwater management practices are employed on the upstream neighboring property to minimize the potential for another similar event to occur. I would recommend working with your municipal officials and respective agencies relative to this matter.

I am hopeful that my site visit and this letter have been helpful to you in an effort to address the current resource concerns with your stream. Thank you for the opportunity to walk the property with you, and provide input.

Respectfully,



Todd Bobowick
Resource Conservationist – NRCS

cc: Javier Cruz, District Conservationist-NRCS