

**EAST LYME INLAND WETLANDS AGENCY
SPECIAL MEETING OF MONDAY 28 AUGUST 2017**

PRESENT

Members: Cheryl Lozanov, Chairwoman, Phyllis Berger, Secretary, Kim Kalajainen, and Jack Chomicz

Absent: David Pazzaglia, Harold Clarke, Vice Chairman, and Jesse Baldwin

Staff: Gary Goeschel II, Director of Planning/Inland Wetlands Agent,
Mary Jane Gaudio, Recording Secretary, Ex-officio – Paul Dagle

CALL TO ORDER: C. Lozanov called the East Lyme Inland Wetlands Agency Special Meeting of August 28, 2017, to order at 7:08 p.m.

PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was observed.

C. Lozanov introduced the members of the Commission, Recording Secretary, and Staff.

I. PENDING APPLICATIONS.

- A. Twin Valley 25-Lot CDD Re-subdivision at Green Valley Roads & Spring Rock Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc. c/o Bob Fusari Jr. Applicant.** Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a proposed subdivision road. *(Date of Receipt: 4/17/17; Public Hearing Closed 7/24/17; Decision by 8/29/17)*

M. Zamarka said we will reach a final decision tonight. In going through the two denials there are two additional findings that the Agency is required to make because of the petition to intervene that was filed under Connecticut Environmental Protection Act (CEPA). When the petition to intervene was filed it then obligated this Agency to take part in a two-step finding. The two steps are:

1. Determination on whether or not the Commission finds that activity resulting from the approval of the application is reasonably likely to have the effect of unreasonably polluting and pairing or destroying the air, water, or other natural resources of the state. This is a finding that is required by statute. This is a demanding standard according to our public court and as with all your findings, it must be supported by substantial evidence of the record. There is no need for any additional evidence now it's just your finding as to whether or not the evidence in the record shows that it is reasonably likely that if this application is approved unreasonable pollution will result.
2. The reason G. Goeschel put together two draft denial resolutions was that the last time we met H. Clarke read some findings that he is proposing that he wanted to be included in the resolution. Those findings are in conflict with the findings of the Ledge Light Health District. What you have before you are Versions 3 and 4. Version 3 contains a denial resolution which H. Clarke wants in there and Version 4 has a denial resolution without that in there. The Agency needs to determine whether you are going to adopt the findings of H. Clarke or not. There needs to be substantial evidence to support your findings either way. As to the specifics between Version 3 and 4, I would refer to G. Goeschel on the count. M. Zamarka

FILED
Sept 6 2017 AT 12:10 AM/PM
Kawen Balbo, CLERK
EAST LYME TOWN CLERK

said the Commission has already decided that there will be a significant impact. At the bottom of page 6, M. Zamarka said the Agency should base their decision on the wording of the last two paragraphs (shown below).

- WHEREAS, the filing of the Petition to Intervene requires the Agency to make findings, in addition to the decision on the Application, whether or not the activity resulting from approval of the Application is reasonably likely to unreasonably adversely affect the public trust in air, water or other natural resources of the state pursuant to General Statutes section 221-19; and
- WHEREAS, based on the foregoing, the activity resulting from approval of the Application is not reasonably likely to unreasonably adversely affect the public trust in the air, water or other natural resources of the state.

G. Goeschel read the definition per the wetlands regulations of the word pollution. Pollution means harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity.

G. Goeschel addressed the Agency and said the information and findings are in front of you now. If you make a finding and deny the application based on the last two paragraphs on page 6 as stated above by M. Zamarka, you can deny and say there is reasonable level of pollution under CEPA.

G. Goeschel said he thinks that the documentation provided by Ledge Light about the septic systems indicates the systems meet the standards and if engineered and installed properly under the health code, will work for 20 years or more until it has to be replaced. He thinks the proposed activity does not create an unreasonable adverse impact.

C. Lozanov brought up the current issues with the beaches closings because of pollutants. Four Mile River goes into the sound, should we as a Commission be concerned about town sanitarians approval.

G. Goeschel said it is unlikely that 25 septic systems will fail at the same time. He indicated that one of the natural function of wetlands is to act as a nitrogen sump. So if a system failed it would not create a massive bolus of pollution but rather effluent would slowly flow overland to the wetland.

M. Zamarka said it seems like we have a better understanding of this so it may be time to go back to the second issue with the proposed findings from H. Clarke that may circle back to the finding of whether it may have an unreasonable likelihood of reasonable pollution.

It was mentioned that J. Wren had talked about the connection to public health. He leaned on what Kim White of Ledge Light says and her approval. It was asked if it was on the record. G. Goeschel remembers it being discussed but does not recall if any specific document being entered into the record. G. Goeschel pointed out that

there is a reference to it on page 3, paragraph 5. Revision 4 speaks to it more than Revision 3, page 3, paragraph 5. G. Goeschel suggested removing the paragraph on Page 4, paragraph 1.

K. Kalajainen said that at last meeting talked about specifics to the vernal pool (Exhibits BB and TT). In going over the information G. Goeschel pointed out that the information is provided in Version 4, page 5, paragraph 2.

C. Lozanov asked if the Town Attorney, Enforcement Officer, or Ex-Officio had any further questions or concerns. Everyone answered that they did not.

MOTION (1): K. Kalajainen moved to deny the application using Version #4 as amended. Seconded by J. Chomicz. Motion passed (4-0-0) unanimous.

Version 4 Amended changes

Page 3, paragraph 7 – added professional engineer is required.

Page 3, paragraph 6 – typo RR should be RRR.

Page 3, paragraph 9 – typo in the last sentence, change word “the” to “an.

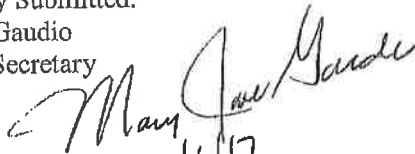
Page 4, paragraph 1 – remove the first paragraph in its entirety.

Page 6, paragraph 5 – last 4 lines - changes highlighted in yellow.

ADJOURNMENT

MOTION (2): K. Kalajainen moved to adjourn the meeting at 8:06 pm. Seconded by P. Berger. Motion passed (4-0-0) unanimous.

Respectfully Submitted:
Mary Jane Gaudio
Recording Secretary


9/16/17