

**EAST LYME INLAND WETLANDS AGENCY
SPECIAL MEETING MINUTES
November 19, 2018**

MINUTES

Members Present:

Ann Cicchiello, Vice Chairman
Phyllis Berger, Secretary
Peter DeRosa
Jack Chomicz
Theodore Koch, Alternate (seated)

Members Absent:

Harry Clarke
Gary Upton, Chairman

Also Present:

Paul Dagle, Board of Selectman
Gary Goeschel, Director of Planning/Inland Wetlands Agent

FILED IN EAST LYME
CONNECTICUT
Nov 27, 2018 AT 11:41 AM/PM
Bruce Stewart ATC
EAST LYME TOWN CLERK

CALL TO ORDER:

Vice Chairman Cicchiello called the Inland Wetlands Agency meeting of November 19, 2018 to order at 7:09 p.m.

PLEDGE OF ALLEGIANCE: Observed

Vice Chairman Cicchiello welcomed the audience and agency members to the meeting, and thanked them for attending.

Alternate Ted Koch was seated.

I. **Public Delegations - None**

II. **Public Hearings:**

GDEL Residential B, LLC., and Gateway Development/East Lyme LLC; Application for construction of 120 residential units, including but not limited to road improvements and construction of parking areas at property located at East Society Road, 286 Flanders Road (26.0/2), Flanders Road (31.0/1).

Before we open the public hearing this evening for the GDEL Residential B, LLC and Gateway Development/East Lyme LLC, I would like to inform the audience and the Commission of the Ground Rules we will be following this evening to conduct the public hearing.

The purpose of a public hearing is an opportunity for the Agency to gather evidence and testimony, including public comment, regarding the pending application. The Wetlands Agency encourages all in attendance to offer comments and ask questions. However, a successful public hearing requires some simple rules be followed. These ground rules will ensure that all in attendance are treated in a respectful and courteous manner, and that all who desire to speak will have the opportunity to be heard. As such, the rules are as follows:

1. The applicant or his representative will make a formal presentation to the Agency stating the proposed regulated activities, the wetland and watercourse impacts, and any alternatives which were considered by the applicant. The Agency may, during the presentation, ask questions of the applicant for clarification.
2. After the applicant's presentation is completed, the Chair will ask for members of the public who wish to speak in favor of or in opposition to the application to address their comments to the Agency from the podium.
3. We ask that no one speak unless recognized by the Chair for that purpose. This is necessary to ensure that only one person at a time speaks on any issue, making it easier for everyone to understand as well as for clearer legal transcription. Upon recognition by the Chair, the individual addressing the Agency must identify themselves by clearly stating their name and address for the record. If necessary, an individual may be asked to spell their name for the record.
4. Anyone choosing to speak must address their remarks to the Wetlands Agency and not to other members of the public or the applicant. Any debate between those in favor and those opposed to the proposal must be strictly avoided. Oral comments can generally be delivered in 5-minutes. If there are a large number of individuals who wish to speak, the Chair reserves the right, in its sole discretion, to enforce a 5-minute rule in order that all who wish to speak may have an opportunity to do so. Individuals who wish to be heard multiple times may return to the podium but, only after everyone who wants to speak has spoken. To assist us in reducing lengthy public hearings, please be mindful to avoid repetitive comments. If you are in favor, simply tell us and give us your reasons why; and likewise, if you are opposed.
5. As the Wetlands Agency is here to listen to the public's comments about the subject of the hearing, the Agency is NOT here to express its own views or opinions thereon. The Agency will NOT participate in a debate of the issues. No person has the right to demand an answer to a specific question from a member of the Agency. As noted earlier, questions should seek clarification and information. Questions should not lead to a debate of the issues.
6. All questions are to be directed to the Chair, who may either answer them or refer them to a Commission member, the Town Attorney, Town staff, or the applicant. The answer may be deferred and subject to further review or study and answered at a later date.
7. No member of the public shall engage in any demonstration, booing, handclapping, or otherwise disruptive behavior.
8. The Chair will be responsible for ensuring that these rules are followed. Anyone violating these guidelines will be asked to refrain from doing so, and may, in the sole discretion of the chairperson, be asked to leave the public hearing.
9. The Wetlands Agency has 35-days from the date the public hearing commences to complete the public hearing. During that time, if the commission requires additional information beyond that which has been or will be submitted, the Agency may ask the applicant for an extension of the public hearing period.
10. Upon the close of the public hearing, the Inland Wetlands Agency has 35 days from said date to render its decision. If the Agency requires additional time to render its decision, it may ask the applicant for an extension of the time in which to render a decision.

The extensions mentioned above are granted by the applicant and can not to exceed a total of 65 days.

Mr. Goeschel entered **Exhibit Q** a Memo to Mr. Goeschel from Victor Benni, P.E., Town Engineer dated October 31, 2018, and **Exhibit R** a Memo to the East Lyme Inland Wetlands Agency from Mr. Goeschel dated November 19, 2018.

Attorney Harris spoke for the applicant, stating a mitigation area had been created, and a site walk was held. He introduced Mr. Scott Rabideau to review the newly created mitigation area.

Scott Rabideau of Natural Resource Services Inc. spoke regarding the mitigation area. He passed out a graphic, **Exhibit S**, showing the mitigation area.

Mr. Rabideau stated that at the last meeting they were asked to consider creating a mitigation area and they have. They found an appropriate mitigation area, the area in orange on the graphic, which he determined is the best location on the site for the mitigations. During the site visit, there was an area with a water quality basin that was full of cat tails, and marsh, this mitigation area is south of that, adjacent to the highway property line, adjacent to the swamp. A stone wall separates them.

He noted he had three criteria in selecting this area for the mitigation area:

1. It has high ground water so it will have hydrology and water table to support wetland.
2. The number of trees to cut to create the wetland replacement area, there are only 9, which are between 8" in diameter to 13" in diameter, all of which are black birch, which don't live as long as other trees, so their life cycle is limited.
3. The understory here is an invasive, Barberry, which is prevalent throughout the area, which they will mechanically remove, and they will remove the Barberry within 100' to 150' around the proposed wetland, this area must have been disturbed at some point for the invasive to be there.

This mitigation area brings the alteration to mitigation ratio to 4:1. If the proposal is approved and the mitigation site is accepted, the applicant will give the agent the details for grading and vegetation.

Vice Chairman Cicchiello asked about the mechanical removal of the Barberry. Mr. Rabideau responded they will literally dig it out. He had two other locations for the mitigation that looked promising but the cut is deeper and there were oak trees. This location provided invasive that needed to be eradicated.

Ms. Berger asked when the trees would be cut down. Mr. Rabideau responded they would prefer to do this when the ground water is low, between June 30 and October 31 of the calendar year. Ms. Berger stated she read some concerns from the Army Corp about the bats and not removing trees at that time of year. Mr. Rabideau responded that the appropriate time is that time of year, with the requirement for the Army Corp it would have to be in the later part of the summer. If the bats are in the area they are

there then. Ms. Berger asked if the bats were found there, and Mr. Rabideau responded no they were not, that that is a general requirement of the Army Corp in the Northeast, as the bats are usually found along the coast. Ms. Berger asked if it is that something the Agency should consider when they make decisions on when trees are cut, Mr. Rabideau noted this is an Army Corp issue and condition, local regulations and organizations may differ, but the bats are transient, they are passing through the area.

Mr. Koch noted that wetlands commissions were started in the 70's. He asked Mr. Rabideau how much of this would have been done before a board like this existed. Mr. Rabideau responded that before the 70's there were federal requirements for rivers and major navigable waterways, that no permit was required, you just filled the wetlands. The design would be much different without wetlands permitting. They are minimizing the impact.

Mr. Goeschel noted he had prepared a memorandum dated today. He indicated that they should add a condition for a bond and he discussed the amount of the bond could be determined administratively. He mentioned Mr. Benni's memo, Exhibit Q, and that he added as a condition some of the items in Mr. Benni's memo.

Attorney Harris stated what has been proposed has been two activities, one is the upland review activities, and with respect to those, Section 10.6 of the regulations applies, they are entitled to use this area unless there is substantial evidence of a likely unreasonable impact on the wetlands. Based on the information submitted there will be no negative impact to wetlands, via storm water manual. The other activity is direct wetland impacts at the crossing of the intermittent stream for the continuation of E Society Road, which falls under Section 10.6, the need for a feasible and prudent alternative.

The need for the crossing has been demonstrated by the Zoning Commission in the master plan for the area, for safety and traffic mitigation to connect between E Society and Flanders Rd, the Army Corp approved this crossing and the Pattagansett Crossing which is not part of this application.

He continued that the East Lyme Planning Commission in its POCD has indicated it was important to make this connection; the need is abundant in the records of the town.

Attorney Harris said they have looked at the narrowest portion of the stream for crossing, this seems the most feasible and prudent area, and allows the connection to continue to a crossing at the Pattagansett River, which will be applied for at a later time. This is the feasible and prudent alternative.

Under Section 10.2 if you look at the criteria, the considerations overlap; it is a necessary activity based on societal need, which is based on the record before the commission. The Wetlands Activity is being mitigated with a 4:1 mitigation as to disturbed areas.

Mr. Goeschel then reviewed pages two and three of his memo, as well as his conditions of the Motion to Approve the proposal.

Ms. Berger asked who the onsite monitor would be. Mr. Goeschel responded that as long as it is a Certified Wetlands Scientist it would be whomever, they work for the Agency, however the cost is born by the developer.

Attorney Harris stated they anticipate having one on site, they will work out one person reporting to the commission. Scott Rabideau could be there for the Town and the Developer. Mr. Yetton stated Mr. Rabideau would be there anyway, as the SWIP are required by Army Corp, which also goes to Gary and DEEP, it is redundant to have three Certified Soil Scientist out there, there will be two out there.

Mr. Goeschel expressed concerns that occurred during Phase I, Haynes had their own person to provide the report, they weren't working for the town, but the developer. There could be a conflict, if Mr. Rabideau has a contract with the developer and us, but it's up to the Agency whom they hire. There are options, Mr. Goeschel's concern is that someone is there to report to commission and hold the applicant/developer accountable.

Peter DeRosa moved to close the public hearing for the Application of GDEL Residential B, LLC, and Gateway Development/East Lyme LLC, for construction of 120 residential units, including but not limited to road improvements and construction of parking areas at property located at East Society Road, 286 Flanders Road (26.0/2), Flanders Road (31.0/1). Second by Mr. Koch, Motion passed 5-0-0.

III. Acceptance of Minutes-

A. Approval of Minutes of October 15, 2018.

Mr. DeRosa moved to approve the Regular Meeting Minutes of October 15, 2018 with the following corrections:

**Page 1, "New Business", Paragraph 2, line 4 and 5, "plays cape" to "playscape";
Page 12, Paragraph 7, line 1 change "as" to "is".**

Jack Chomicz Second. Motion passed 5-0-0.

IV. Ex-Officio Report – Mr. Dagle reported that the Board of Selectman would be discussing the plans to purchase a public safety building, at the Wednesday evening Board of Selectman Meeting which is at 5:00 p.m.

V. Pending Applications –

A. **GDEL Residential B, LLC., and Gateway Development/East Lyme LLC;** Application for construction of 120 residential units, including but not limited to road improvements and construction of parking areas at property located at East Society Road, 286 Flanders Road (26.0/2), Flanders Road (31.0/1).

Vice Chairman Cicchiello called for discussion on the proposal:

Mr. DeRosa likes the application and Vice Chairman Cicchiello likes that they are doing the mitigation. She felt they were giving a lot back. Mr. Koch said it is good, it looks like it was designed around the wetlands, and where the developer does cut in, they are then giving back 4x the amount. Mr. DeRosa noted that the Town said build a road but they have to ask our permission, the effort is evident.

Mr. Goeschel reviewed the forms of bonds that the town accepts.

Mr. DeRosa moved that based on the Findings in a memorandum from Gary a. Goeschel, II, Director of Planning/Inland Wetlands Agent, to the East Lyme Inland Wetlands Agency dated November 19, 2018, the Agency moves to APPROVE the application known as GDEL Residential B, LLC., and Gateway Development/East Lyme LLC; Application for construction of 120 residential units, including but not limited to road improvements and construction of parking areas at property located at East Society Road, 286 Flanders Road (Assessor's Map#26.0, Lot#2), and Flanders Road (Assessor's Map#31.0, Lot#31) and the site development plans entitled "Town of East Lyme Inland Wetlands Agency Submission For Gateway Commons Residential Phase II Project, Flanders Road / E. Society Road, East Lyme, Connecticut, prepared for Gateway Development/East Lyme, LLC in Care of KGI, Flanders Road, East Lyme, CT, dated August 20, 2018" prepared by Michelle M. Carlson, P.E. of BL Companies and Scott P. Rabideau, Principal of Natural Resource Services, Inc.; further subject to the following administrative requirements and required modifications to the site plan and other materials submitted in support of this application:

- 1. Notify conservation officer at least 2 days prior to construction to inspect erosion controls.**
- 2. Wholesale land clearing within uplands should be avoided between the months of March and May.**
- 3. In areas proposed to be loamed and seeded, a low maintenance lawn such as fescue, which requires minimal application of fertilizers and pesticides, shall be planted.**
- 4. Forested cover within the upland review areas shall be maintained to the extent practicable. The propose LOD shall be strictly adhered to though out all phases of construction.**
- 5. As the site is located within and adjacent to an Aquifer Protection Area, the use of calcium chloride for dust control shall not be used.**
- 6. An Erosion and Sedimentation Control Bond in a form satisfactory to the Town of East Lyme and in an amount acceptable to the Inland Wetlands Agency, its Agent, and Town Engineer shall be posted with the Town of East Lyme.**
- 7. An on-site wetlands/environmental compliance monitor, certified as a Professional Wetland Scientist (PWS) shall be required during all phases of construction and shall submit a weekly report to the Inland Wetlands Agent or after any rain event of ½-inch or more.**

8. The applicant shall submit a Complex Application fee in an amount sufficient to cover the cost of a PWS as an on-site compliance monitor who shall provide said services for the Town of East Lyme.
9. As recommended by the Town Engineer, silt fence shall be backed with hay bales where construction activities are adjacent to flagged wetlands, including at the base of steep slopes, roads, buildings, stormwater basins, rain gardens, temporary sediment traps, and non-engineered drainage swales.
10. Prior to the start of any construction, the plans shall be revised to address any outstanding comments to the satisfaction of the Town Engineer as identified in Exhibit "Q", a Memorandum from Victor Benni, Town Engineer dated October 31, 2018 to G. Goeschel II, Wetlands Agent.
11. Any proposed Additional work beyond this permit in the wetlands or watercourse or its 100-foot regulated area will require approval from the Inland Wetlands Agency or its certified Agent.
12. Any changes to the site plan listed on this permit require notification to the Inland Wetlands Agent and may require Agency approval- a new plan incorporating said changes shall be given to the Agent before any work begins.
13. Inland Wetlands Conservation Tags provided by the Wetlands Agency, available in the Land Use Office, Department of Planning & Inland Wetlands, shall be posted along the 100-foot Inland wetlands boundary ideally at 40-50-foot intervals satisfactory to the Inland Wetlands Agent.
14. No site work shall commence until all applicable conditions are satisfied.
15. Notify Inland Wetlands Agent upon completion of all regulated activities for final inspection and sign off.

This approval is specific to the site development plan submitted as the application of GDEL Residential B, LLC., and Gateway Development/East Lyme LLC; Application for construction of 120 residential units, including but not limited to road improvements and construction of parking areas at property located at East Society Road, 286 Flanders Road. Any change in the plan or development plan layout other than those identified herein shall constitute a new application. Any modifications of this approval and other than those identified herein shall constitute a new application unless prior approval from the Agency or its Agent is granted.

The applicant/owner shall be bound by the provisions of this Application and Approval. Second by Jack Chomicz. Motion passed 5-0-0.

VI. Old Business –

- A. Request of Lance Hall and Debra Palladino, 46 Scott Road, for a Bond Release; Request for release of bond in the amount of \$2,726.00 for the construction of a detached garage and installation of a subsurface sewage disposal system including re-vegetating a previously cleared area on property at 46 Scott Road, East Lyme. East Lyme Assessor's Map 29.0, Lot 12-1 and Lot 12-2.

This was previously approved and is just a corrective action by the Agency.

Mr. Koch moved to release the bond in the amount of \$2,726.00 for the construction of a detached garage and installation of a subsurface sewage disposal system, including re-vegetating a previously cleared area on the property at 46 Scott Road, East Lyme. Ms. Berger second. Motion passed 5-0-0.

- B. Application of Thomas and Kristen Chantrell, 13 Green Valley Lake Road, East Lyme, Connecticut;** Request for a dock, platform, stairs/access, play area and beach at 13 Green Valley Lake Road, East Lyme. East Lyme Assessor's Map 14.0, Lot 62.

Mr. Goeschel noted that as the Agency requested at the last meeting there was a site walk at the property. Based on site walk observations the Agency Members should comment. He reminded them this is not a public hearing. The activity before the agency is that requires decision is to approve the dock as proposed.

Ms. Berger asked if DEEP should be involved, or the Army Corp, and if the required burden is on them after this commission acts. She asked if that should be first. Mr. Goeschel noted that the prior app is out of step, the Army Corp and DEEP want assurance the local community has approved it before making their decision. Ms. Berger asked what if someone chose not to do that; Mr. Goeschel responded we wouldn't know unless Mr. Goeschel contacts them. However with the stream itself in that location, he's not sure if they would view it as a navigable waterway, you can't get to open body of water, and you can't take a boat or canoe because of the really shallow areas. The applicant did say they inquired with an engineer they know that they didn't need Army Corp or DEEP. Ms. Berger expressed concern because another neighbor wants to do something also, and we will have all these floating platforms in the water.

Mr. Goeschel stated this is a dock that ends at the edge of the water. If approved, we would ensure the dock is on the landowners property, if approve and it is on someone else's property that is a problem. It is a solid structure, not floating.

Vice Chairman Cicchiello asked are they trying to approve what is there now; the play area was already approved. So it's not part of the application.

Mr. Goeschel responded that the Cease & Desist is still in effect; the issue to resolve it is still there later on in the agenda. The four posts remain.

Mr. DeRosa stated he didn't make the site walk, but he did see pictures; it cannot be on someone else's property. There is an iron pin marking the rear property corner between neighbors. Ms. Berger asked if there was a survey, Mr. Goeschel responded no there is no survey, but moving forward, a survey of the rear property line may verify it is on their property, if it is going to remain. Vice Chairman Cicchiello stated this could be a condition; a survey confirming it is on their property.

The Agency discussed the 5 year validity of a permit and whether 60 or 90 days would be sufficient to provide a survey. The applicant requested asked for 60 days due to the holidays.

She further stated they didn't get a survey because the developer claimed it was 20' over the property line and they removed more than 20'.

Ms. Berger moved to allow applicant 90 days to complete a survey and return before the Agency. Mr. DeRosa second.

Ms. Cicchiello asked if we can approve the permit subject to or conditional of the 90 days survey.

Ms. Berger amended her motion; Ms. Berger moved to approve the application of **Thomas and Kristen Chantrell, 13 Green Valley Lake Road, East Lyme, Connecticut** for a dock, platform, and stairs/access, at 13 Green Valley Lake Road, East Lyme, with the condition that a survey of the rear property line be completed within 90 days. Peter DeRosa second. Motion passed 5-0-0.

- C. Application for Determination of Permitted/Non-Regulated Activity, Elizabeth Farrugia, 24 Green Valley Lake Rd, East Lyme;** Application for vessel that floats inside property owners boundaries but moves with the tide at 24 Green Valley Lake Rd, East Lyme. East Lyme Assessor's Map 14.0, Lot 94.

Jeremy Seidel spoke for the applicant, Elizabeth Farrugia. He noted that per the building official it is not a structure, it is free standing, floating, it is secured but not fastened to the ground. It has been there for two years, a portion does sit on the ground, and it is on the applicant's property. It is tied to a tree with a cable, like a row boat would be. Ms. Berger asked if this would be Harbor Management, Mr. Dagle responded no, it is not in the land, and it's on her property, there is no structure in the water, it floats on the water. It is tethered to the land.

There was a brief discussion about the pole that runs through it, and its removability. Mr. DeRosa noted this does not meet the definition of a boat. If it is approved as structure that doesn't need a permit that's ok, but he does not want to represent it as a boat.

Mr. Goeschel stated the structure is about a foot off the ground, it is a boardwalk type platform, there are no piers or concrete posts, it rests on the ground, it is no different that the Oswegatchie Hills crossing, there are boards, it is low impact. The platform itself floats, there is one pole, if tethered that is in the upland, if you remove the pole you wouldn't need the permit. Mr. Seidel said he can remove the pole.

Ms. Berger asked if it has been there for two years why are they here now, Mr. Seidel responded that there was a complaint filed by the developer.

Mr. Goeschel stated they need a determination of regulated activity from the agency. Mr. Goeschel stated if they remove the pole it is permissible without a permit. He also noted that the developer doesn't abut this property; however the applicant spoke against the developer. He stated the impact is deminimus.

Mr. Seidel noted the structure is made of cedar. Mr. Koch said this was there, the developer comes, you speak against it, he makes a complaint, and now we have to determine if it needs a permit, and regulate it. Mr. Goeschel said he would advise that the resident does not need a permit because it's a floating structure. .

Mr. Koch moved that the application of Elizabeth Farrugia, 24 Green Valley Lake Rd, East Lyme for a vessel that floats inside property owners boundaries but moves with the tide at 24 Green Valley Lake Rd, East Lyme represented a non-regulated activity and did NOT require a permit. Mr. DeRosa second. Motion passed 3-0-2 (Vice Chairman Cicchiello abstained due to personal relationship with the applicant; Ms. Berger abstained as she did not attend the site walk).

VII. New Business

A. 2019 Inland Wetlands Meeting Calendar

Mr. Goeschel noted the moving of a few of the meetings due to the annual town meeting and holidays. Vice Chairman Cicchiello noted this just sets the schedule for the year, they can have special meetings.

Ms. Berger moved to accept the Inland Wetlands Agency 2019 Proposed Meeting Schedule as presented. Mr. Chomicz second. Motion passed 5-0-0.

VIV. Reports

A. Chairman's Report – no report.

B. Inland Wetlands Agent Report

1. Administrative Permits Issued – Mr. Goeschel stated he is reviewing an application for 24 Cottage Lane it is a single family dwelling, the existing wetland was filled, what remained on the neighboring property was a swale, it is not a watercourse or even an intermittent one. The land owner has asked to fill the swale, and the town engineer is involved for any drainage issues. The only runoff is from the house. The swale was put in when the water body was existing on the adjacent property. Ms. Berger asked when, years and years ago. Mr. Goeschel responded sometime maybe in the 80's.
2. Mr. Goeschel received from Don Fortunato Soil Scientist for 249 Old Black Pt Rd, the Kramer/Davies property the 5th annual report of the wetlands enhancement project. They are 100% compliant, and he doesn't anticipate any further reports. There is still some construction activity which will hopefully be done soon.
3. Mr. Goeschel reported that the enforcement action at 301 Chesterfield Road has been restored with plantings, he will monitor it for two growing seasons and they must have an 80% successful growth rate before the bond can be released.
4. Commission Issued Permits – None
5. Ms. Berger asked if the Agency would continue working on the changes to the regulations that were started last year but put on hold due to the large application. Mr. Goeschel stated the Agency would pick that up again.

C. Enforcement

1. **Cease, Desist and Restore Order, Roxbury Road;** for the clearing, grading, removal and deposition of material on land within 100-feet of a wetlands and watercourse at the above referenced address without any permit under the East Lyme Inland Wetlands and Watercourses Regulations authorizing the regulated activities on property located on the southwest side of Roxbury Road across from the entrance of the Town's Municipal Transfer Station, Assessor's Map 16.1, Lot 43, Niantic, Connecticut.

Mr. Goeschel reviewed the issue, stating that he issued an order, plans were submitted, the soil scientist sent a letter and at the last meeting the cease and desist was released. However the meeting did not have a proper quorum.

Mr. Weiss may still be in violation. Over the weekend, several trucks deposited more material on the site. He does not recommend lifting the order.

He has reached out to Mr. Weiss to state his intentions. There are deficiencies in his plan submitted with the building permit and he has not followed through. There are rumors he wants to do a subdivision. There are no E&S controls around the stock pile, which the plan shows 115' from the wetland.

Mr. Goeschel stated that since the order was released and was already filed with the Town Clerk, he would recommend a motion to re-issue the order. Moving forward that would result in a show cause hearing within 10-days for Mr. Weiss to appear and argue he is not in violation. If he is in violation, then he would correct or the Agency would get an injunction.

Mr. Dagle asked what has changed that he is violating. Mr. Goeschel noted he brought in material over the weekend; the smaller stockpile sits 15' above the wetland on the site. He stated the land is cleared to the crest of the slope, he is not immediately concerned with the erosion into the wetland, but it is probably within the wetland. The question is what is he doing there? If he is outside the 100' short of finding reason of adverse impact then they wouldn't have jurisdiction, if the slope is steeper, it may extend outside of the Agencies jurisdiction. It is a large parcel and the area looks to be damp.

Mr. Dagle stated that the intention of the Cease & Desist is the new dirt being brought in, causing potential adverse affects on the wetlands.

Mr. Goeschel noted the next meeting is December 10, so the Cease and Desist would have to leave his office around November 30th.

Mr. DeRosa moved to re-issue the Cease and Desist and Restore order for the clearing, grading, removal and deposition of material on land within 100-feet of a wetlands and watercourse at the above referenced address without any permit under the East Lyme Inland Wetlands and Watercourses Regulations

authorizing the regulated activities on property located on the southwest side of Roxbury Road across from the entrance of the Town's Municipal Transfer Station. Mr. Koch second. Mr. Chomicz stated he wants to walk the property, if he is doing test pits and looking to do a subdivision there is a process to follow. Motion passed 5-0-0.

2. **Cease, Desist and Restore Order; 13 Green Valley Lakes Rd; Thomas & Kristen Chantrell, Owner;** Installation of a dock which encroaches approximately 20-feet into a watercourse located on an abutting property and the clearing, grading, removal and deposition of material on the land within 100 feet of a watercourse without an Inland Wetlands Permit. (Agreement to remove by August 31, 2018).

Mr. Goeschel stated all that remains of this enforcement action are the four posts in the water. The owner notes they will want to pursue this further once the property (water) is owned by a different entity. The question is who would that entity be and whether they would allow such use. If held by another entity they may authorize use. If held by the Town, most likely that would not happen. Mr. Dagle noted that whomever owned it would have a potential liability for the structure, without owning the structure.

Mr. DeRosa asked how much damage would be done to remove the posts. Mr. Goeschel stated you would have to get a machine to the water's edge, with an arm to remove the posts. Mr. DeRosa asked if would damage the area. In the order we asked for a plan for their removal. The posts aren't helping but removing them would or could cause more damage. The posts are on the Marik's property.

Mr. Goeschel noted that while Mr. Fusari complained, the Marik's attorney requested they remove the dock or they would pursue civil action. He doesn't know where they are in that process.

Ms. Berger said there is nothing we can do, Mr. Goeschel suggested the Agency table the matter and ask the respondent to remove the posts or the Agency should move the process forward.

The Agency discussed the best way to remove the posts, whether to saw them off or pull them and the potential damage that might cause. Ms. Chantrell said if they cannot put the dock back then they want them removed as they are eyesores. Any steps for removal would have to come to the agency.

Mr. Goeschel stated that the posts will need to come out. Mr. Chomicz noted to Ms. Chantrell that Mr. Seidel stated he could help get the posts out. He was confident he could pull them without much trouble. He doesn't know what he has in mind, but she may want to reach out to him as a resource.

Ms. Berger asked if she needs a permit to remove the posts, Mr. Goeschel responded she does not if she is working under the order, but it has to be approved by the Commission.

The Agency tabled the matter to the next meeting.

D. Correspondence –

Adjournment

Ms. Berger moved to adjourn the East Lyme Inland Wetlands Agency meeting at 9:09 p.m. Mr. DeRosa second. Motion passed 5-0-0.

Respectfully Submitted

Jennifer Lindo Dashnaw
Recording Secretary

****These minutes are subject to approval at the next monthly meeting**

