

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
February 24, 2020
East Lyme Town Hall, 108 Pennsylvania Avenue,
East Lyme, Connecticut
Upper Meeting Room
6:30 p.m.**

Present: Phyllis Berger, Rosemary Ostfeld, Theodore Koch, Don Phimister, Kristin Chantrell, David Schmitt, Sandy Gignac, Alt., Doreen Rhein, Alt. Jason Deeble, Alt.

Absent: Gary Upton, Chairman,

Also Present: Gary Goeschel, Director of Planning/Inland Wetlands Agent, Selectman Paul Dagle

Call to Order:

K. Chantrell called the meeting to order at 6:36

J. Deeble was seated for G. Upton.

Pledge of Allegiance: The Pledge of Allegiance was recited.

Feb 24 2020 AT 2:00 AM/PM

EAST LYME TOWN CLERK

I. REVIEW WITH TOWN ATTORNEY PROCESS AND PROCEDURES FOR WETLANDS APPLICATIONS AND RESPONSIBILITIES OF WETLANDS AGENCY.

Attorney Mark Zamarka presented the roles and responsibilities of an inland wetlands agency. He stated the agency is a statutory agency and their authority comes from state statutes and the inland wetlands regulations. The purpose of the inland wetlands agency is to supervise regulated activity. The agency serves five functions:

- Passes and amends wetlands regulations for the town
- Determines wetlands boundaries and watercourses, Maintains and amends the maps
- Pass permits for regulated activities
- Enforces wetlands regulations
- Makes advisory reports to other agencies.

The agency's jurisdiction is limited to regulated activities in wetlands and watercourses and operations which affects them. The agency has the authority to regulate the upland review area if the activity is likely to effect the wetlands or watercourses, just effecting the upland review area is not enough to invoke the jurisdiction of the agency. The agency's regulations do not extend to protection of wildlife unless it also effects a wetlands or watercourse.

M. Zamarka explained the time frames for public hearings.

- Public hearings have to be held within 65 days of receipt of the application which is the first regular meeting upon submitting the application.
- After the close of public hearing the agency has 35 days to make a decision.
- The applicant can submit a request for an extension of 65 days.

If there is no public hearing the agency has 65 days to make a decision. If the agency does not make a decision within the timelines there is no inferred approval. It is recommended the agency make a decision within the guidelines.

The agency may have a public hearing if the application meets certain criteria such as:

- Finds the proposed activity has significant impact on the wetlands (Section 2.1 of regulations)
- Petition is signed by 25 people who live in East Lyme and are 18 years old and the petition is filed within 14 days of receipt of the application.
- The application is of public interest.

At a public hearing, the applicant presents testimony, facts and evidence by professionals. The agency can ask questions of the presenters. M. Zamarka stated it is important to keep track of exhibits.

If a member of the commission misses a session of a public hearing, in order to participate at a following meeting for the same issue, they have to state on the record they have familiarized themselves with the exhibits and presentations of the public hearing they were not present for.

Members can be disqualified if they have stated a predetermined bias or a financial conflict of interest, a personal relationship with the applicant or another party associated with the application. He suggested the members err on the side of caution.

M. Zamarka stated that any finding the agency makes has to be based on substantial evidence. Expert testimony can only be rebutted by other expert testimony. Substantial evidence is defined as, "evidence that affords a substantial basis of fact from which the fact at issue can be reasonably inferred." A general concern is not enough to make a decision. An impact must be likely and adverse to deny an application. An impact of the upland review area is not sufficient to deny an application.

When the agency makes a decision they have to state the reason(s) on the record.

There are six factors when considering an application:

- The environmental impact
- Is there a feasible and prudent alternative?
- The relationship between short and long term effects of an activity
- Irreversible or irretrievable loss of wetlands or watercourse due to the proposed activity
- The character and degree of injury caused by the proposed activity
- The impact on proposed activity on any future activities associated with the activity that is inevitable.

Feasible and prudent alternatives must be sound from an engineering and financial stand point. It is the applicants burden to prove they have presented the most feasible and prudent alternative.

The agency and its members are subject to the Freedom of Information Act (FOIA) and all their communications can be requested. M. Zamarka advised the members not get in group chats or emails that discuss issues before the agency as they are subject to a FOIA request.

II. Adjournment

MOTION: (Phimister/Ostfeld) to adjourn at 7:02. Vote: Approved Unanimously.

Respectfully Submitted

**Sue Spang
Recording Secretary**