

Gary Upton  
Chairman – East Lyme Inland Wetlands

June 5<sup>th</sup> 2020

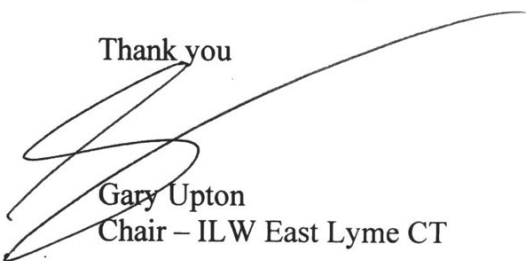
Dear Fellow Commission Members,

Regretfully in response to the letter from our first selectman dated June 4 2020 in which the selectman makes a variety of accusations regarding his interactions with me. I must unfortunately enter into the record the chain of communication that came before that letter. Also be it clear that I have not met with Mr Nickerson or spoken to him on the phone. All correspondence has been in writing. As for meeting with him and/or staff I asked to do so by zoom.

Please find attached to this letter our email chain. I thank every one for your service and apologize in advance for having to deal with issues like this.

I will let the record speak for itself.

Thank you



Gary Upton  
Chair – ILW East Lyme CT

From: Gary Upton gary@uptonbass.com  
Subject: Re: Your meeting request  
Date: Jun 3, 2020 at 9:26:49 AM  
To: Mark Nickerson MNickerson@eltownhall.com  
Cc: Gary Goeschel GGoeschel@eltownhall.com, Marc Salerno marcsalerno@sbcglobal.net, Kevin Seery kseery@sbcglobal.net, Roseann Hardy rannhardy@yahoo.com, Dan Cunningham drclawllc@aol.com, Paul Dagle ptd33@aol.com, Mark S. Zamarka mszamarka@wallersmithpalmer.com, Kristen Chantrell kristenkeen@hotmail.com, M.biekert@theday.com

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Mark, that's more than extreme and sadly what I expected. You have spent more time conjuring these emails than needed to have a zoom meeting.

I hope as you make these accusations others will review all of the emails back and forth from the start, and our meeting records. Including records with you not allowing our agency to meet against the direct order from the governor. Hopefully I don't have to show your massively rude and condescending text messages. Hopefully they will learn about the history of the commission prior to me and the last chair of the commission.

It's sad to see people pushed around this way. But it aligns with what I have experienced from the start. Your way or the highway.

I'm sorry you see non-compliance with your agenda as "rouge" "disrespect" and "hostility". Certainly flashy words to get others attention. No Mark, I'm just not a yes man. Maybe you didn't know that when you appointed me, and asked me to register as an R to do so. I did say yes to that, my mistake. I got involved for my interest to help people and help the town, just like my work on non profits and both my

business.

Please feel free to outline the comments on the record that were problematic. As for disregard for legal counsel; we are a voting commission and I always weigh the legal advice, always. Please do clarify when legal advice was given to me that I disregarded? I certainly vote with my own mind if that's what you're referring to? Other than recent email comments from the town's attorney that align with the continued stalling of updating our regulations, I have had no contact with attorney Zamarka since the twin valley lakes application much more than a year ago. No phone calls, emails, meetings etc.

As for the town being sued...yes that's what developers do as they re-apply, I myself have done the same in my commercial work. It's 101 operations to use a little money to apply pressure to get the desired outcome.

Again I'll remind you our agency has been working very cohesively with healthy discourse. We continue to learn and understand the regulations and CGS in more and more detail. Your internal resistance is creating this very situation and it's unfortunate to put it back on me. I hope those

you cc to build your case will watch our full meeting. **I'd be happy to meet with the full board of selectmen.**

Mark, as I have said, I have no agenda other than transparency and I feel uncomfortable with back room discussions and badgering commission members in private. I'm a volunteer on a simple commission in town.

I have not copied my attorneys at Robinson & Cole and I hope this matter can die out. But please know, I am not the guy who will roll over and be pushed around. I'd hate to have to use my own resources to stand up for what's right, but know I will.

And as for me "personally" I think it's best for all that our personal private matters are not mixed into things like this...don't you?

I'm sorry mark you're going too far with this one.

CC Mark Beikert The Day Newspaper

Regretfully,  
Gary Upton

Chair - East Lyme Inland Wetlands

[www.uptonbass.com](http://www.uptonbass.com)

On Jun 3, 2020, at 6:26 AM, Mark Nickerson  
<[MNickerson@eltownhall.com](mailto:MNickerson@eltownhall.com)> wrote:

Gary,

There are no "restrictions" that would prohibit us to meet. We've been meeting with people at the town hall "by appointment" for 2 weeks.

I am extremely concerned with the direction your commission has taken. I am more concern with your disregard of the advice staff and our legal counsel has given the commission. You have put the town in a position of being sued for actions by your commission that are not defensible.

I'm not sure what is going on with you personally. In my 21 years serving the town, I have never witnessed this disrespect, rogue attitude, and

hostility with anyone. We take an oath to serve our town. Recent actions by you, comments on the record, disregard of the town's legal counsel, and your refusal to meet with me suggests that You are not putting the town's interests ahead of your own agenda.

You are making EVERYTHING difficult. With all that is going on in this world and it's effects on the citizens and businesses of our town, you continue to be my biggest problem. I have been asking you for a meeting for two weeks and you have refused. In addition, I am requesting that you meet with the town attorney before any public meeting is scheduled. This can happen at the same time as our meeting.

I have copied members of the Board of Selectmen and our town attorney.

Lastly, when would you like to meet?

Mark C. Nickerson  
First Selectman  
Town of East Lyme, CT

On Jun 2, 2020, at 4:07 PM, Gary Upton <[gary@uptonbass.com](mailto:gary@uptonbass.com)> wrote:

Mark, due to the current restrictions I think it's best if we have a zoom meeting or even easier communicate as we have been, here by email. Sorry but I don't want to meet in person as we are in a pandemic. Keeping in mind our town meetings are on zoom.

Also you could attend the agency zoom meeting on the 8th and I can call executive session where we can meet just with the commission, you and Gary.

Stopping our meeting and creating a quid-pro-quo situation seems just wrong. I hope you'll consider the alternate suggestions.

Again I am unclear to the exact purpose of our meeting that seems it cannot be discussed by email.

Thank you,

Gary Upton

<http://www.uptonbass.com>

On Jun 2, 2020, at 1:06 PM, Mark Nickerson  
<[MNickerson@eltownhall.com](mailto:MNickerson@eltownhall.com)> wrote:

Gary Upton,  
Again, when would you like to meet. I have instructed staff and IT to  
not schedule your next Zoom meeting until we sit down and talk.

Mark C. Nickerson  
First Selectman  
Town of East Lyme, CT

On Jun 2, 2020, at 12:13 PM, Gary Upton <[gary@uptonbass.com](mailto:gary@uptonbass.com)>  
wrote:

Mark,



This message is in response to your texts requesting that you and I meet with Gary Goeschel.

Your message; *"Please work with the staff. I'm watching emails fly back and forth. You are a commission of the town monitored and advised by the staff. He/they cannot be positioned as "the enemy" or an agent for a developer. "*

Mark,

Respectfully, I think you need to talk to your staff and I am not comfortable with the back room discussions that continue to go on. Please watch the meeting, I think you'll see for yourself. Further I would request that the next zoom meeting; staff, with the exception of the recording secretary are muted like our commission. So they are not speaking out of order, interrupting members and railroading conversation.

If you watch our videos and come to a meeting you'll see that our commission is very cohesive, with healthy discourse. Any strange

disagreement and upset on staffs end is created entirely unto their own and quite apparent. "The enemy" or "agent for the developer" is clearly not the commissions doing. I'm not putting words in Gary's mouth. It's upsetting to both the public and fellow commission members and has been a theme since I came on board and certainly echos the sentiments of the Twin Valley Lakes application...as to your comments on lawsuits; *"Dangerous positions being played out here. Definitely headed for lawsuit. Time for me and the two Gary's to sit down. Citizens are not being well served if we wind up in court. Avail next week?"*

Twin valley has cost what \$100,000 in legal etc at this point? Another application I know many people felt Gary Goeschel was working with the developer. With my new study and understanding of the regs and law, I'm sorry to say I do see exactly what people are talking about. Lots of fancy footwork...

It got so bad from Gary Goeschel in our past meeting I had to say something about it. even just for the fact that as his friend I was embarrassed for him.

As the chair and per our bylaws I have called a special meeting for the 24th, more than a week ago. We meet all the statutory requirements to a T, all the commission members have confirmed. I have spoken with DEEP and confirmed. This seems on repeat; like the meetings I asked to have in April (in adherence with the governors order) which you would not allow. Once again myself, and our commission have been completely ignored by Gary and Jenn in that request. And I can only assume at your direction.... This stalling must end Mark.

Please work with your staff regarding their own personal bias so that we can do our (volunteer) job.

**If the special meeting for the public hearing on our regs for June 24th is not posted on or before EOB Friday June 5th 2020 I will have no choice other than to go public with this matter. Please allow our agency to act with its own anonymity.**

For further understanding of the matter please listen to Gary Goeschel's comments about financial impacts to his own property on the 500 upland review area. I think an understanding of the CGS Chapter 10 sec 1-85 is in order. Clearly just like his own friends

application (Pazzaglia) the regulation changes are a direct conflict of interest.

I don't feel it's appropriate for me to come and meet in private about these sensitive public matters and if you do wish to speak to our commission, you can do so at our public hearing. Further I feel the back channel discussion and asking members of the commission to recuse themselves etc. when they are working to the letter of the law is unethical.

Clearly as you can see from the link below the 500 foot matter is an important topic to many residents and as such we demand our public hearing.

<https://www.change.org/p/east-lyme-inland-wetlands-agency-support-the-preservation-of-east-lyme-s-wetlands>

Gary Upton

Chair - East Lyme Inland Wetlands Agency