

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
August 10, 2020
Remote Participation by ZOOM due to Covid 19
7:00 p.m.**

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

Also Present: Gary Goeschel, Director of Planning/Inland Wetlands Agent, Jennifer Lindo, Administrative Assistant, Paul Dagle, Liaison from BOS, Mark Zamarka, town attorney, Terry Donovan, zoning representative.

FILED

CALL TO ORDER:

The meeting started at 7:04

Aug 12 2020 AT 2:35 AM/PM
Karen Yelton
EAST LYME TOWN CLERK

I. ADDITIONS TO THE AGENDA-none

II. PUBLIC HEARINGS:

A. Application of the Town of East Lyme Inland Wetland Agency for a text amendment to amend section 2.1 of the East Lyme Inland Wetland Regulations to change the Definition of a “Regulated Activity” by enlarging the distance of the boundary for a regulated activity from 100’ from an inland wetlands and/or watercourse to 500’.

G. Upton continued the public hearing at approximately 7:15. He read into the record letters from the public as follows:

HHH	D. Diehl Letter
III	C. Hayes Letter
JJJ	T. Moriarty Letter
KKK	J. Parker Letter
LLL	T. Koch Public Comment Letter
MMM	B. David Letter
NNN	B. Fusari Jr. Letter
OOO	Bialowans and Murko Letter
PPP	Bialowans and Murko Letter

The following agency exhibits were entered into the record

QQQ	CCM Response to Research Request for Aquifer Protection Upland Review Areas
RRR	Wetlands Minutes of 2019 & 2020 with discussions of regulations
SSS	Water Quality Reports 2007, 2010, 2013-2019

TTT	POCD Subcommittee, January 29, 2020 minutes
UUU	USGS 1998 Groundwater and Surface Water
VVV	IPCC 2014 Freshwater Resources
WWW	IPCC 2018 Impacts of 1.5 degrees of global warming on natural eco systems
XXX	EWG 2020 Drinking water standards
YYY	East Lyme Water & Sewer Commission WG 2019 Town of East Lyme
ZZZ	CT GOV Interagency Drought Working Group 06 19 20 Stage 1
AAAA	NOAA 2020 NE Spring
BBBB	Connecticut Water Planning Council 2018 Drought Preparedness Response Plan
CCCC	Drought GOV CT 1 (002)
DDDD	Drought GOV CT 2 (002)
EEEE	Toxicology Profile for Benzene August 2007 US Dept of Health & Human Services
FFFF	Historical Oil Contamination Travel Distances in Ground Water at Sensitive Geological Sites in Maine April 30, 2002
GGGG	Getting Up to Speed Ground Water Contamination
HHHH	Principles and Problems of Environmental Pollution of Groundwater Resources
IIII	Urban Geology 3 Groundwater Contamination Due to Road De-icing January 1993
JJJJ	USGS Water Science School Website Aquifers and groundwater
KKKK	Northport NY Middle School Closes Benzene found in Septic January 2020
LLLL	Effects of Highway related Pollutant on the Groundwater Quality of Turfy Swamps in the Changbai Mountain Area
MMMM	MacBroom IWW Review Areas November 2002
NNNN	Position Statement on Upland Review Areas for CT IWWC by CACIWC July 2006

G. Upton called for public Comment

Henry Amdur, President of the Old Black Point Beach Association, representing the OBPBA is opposed to the regulation change.

Joe Wren, 29 Harvest Glen Rd., P.E. is opposed to the regulation change.

The agency discussed the number of applications which G. Goeschel reviews and the general process of review when a building permit comes in.

D. Schmitt noted a section in the agency's regulations on page 8 that gives the agency the ability to regulate activities beyond the 100' URA.

G. Upton thought the 500' was adequate for now but the agency might want to consider 1500' in the future.

Joe Wren, 29 Harvest Glen Rd., reiterated his opposition in response to the comments and exhibits entered into the record.

Henry Amdur, President of the Old Black Point Beach Association, ., reiterated his opposition in response to the comments and exhibits entered into the record.

MOTION: (Koch/Berger) to close the public hearing. (8:45). Vote: APPROVED unanimously.

MOTION: (Koch/Upton) to take a ten (10) minute break. Vote: APPROVED unanimously. 8:48-8:59.

III. PUBLIC DELEGATIONS-none

IV. ACCEPTANCE OF MINUTES

A. Meeting Minutes of June 13, 2020 Show Cause Hearing

B. Meeting Minutes of June 13, 2020 Regular Meeting

MOTION: (Schmitt/Koch) to approve the June 13, 2020 show cause hearing and the June 13, 2020 regular meeting minutes as presented. Vote: APPROVED unanimously.

V. EX-OFFICIO REPORT

P. Dagle informed the members that the Board of Selectmen have re-endorsed the Public Safety Building and the Board of Finance will be reconsidering the financing request.

VI. PENDING APPLICATIONS

A. **Application of the Town of East Lyme Inland Wetland Agency for a text amendment to amend section 2.1 of the East Lyme Inland Wetland Regulations to change the Definition of a "Regulated Activity" by enlarging the distance of the boundary for a regulated activity from 100' from an inland wetlands and/or watercourse to 500'.**

M. Zamarca, town attorney, suggested that anyone who has not attended the public hearing state for the record that they have familiarized themselves with the exhibits and record. He also suggested that due to the large number of exhibits entered into the record the agency should consider continuing the public hearing until the next regularly scheduled meeting so members can review the material. He reminded the agency that any changes they make to the Upland Review Area (URA) needs to be supported by substantial evidence.

T. Koch informed the members that he has listened to the public and it is clear they would like an increase to the URA but there is some ambivalence to the 500' regulation change. He would like to offer an alternative which would increase the URA to 300' in the following watersheds:

- 4 Mile River Watershed
- Pattagansett Watershed
- Niantic Rive Watershed
- Latimer Brook Watershed
- Bride Brook Watershed

T. Koch said there is evidence in the record that would support this alternative. He would like to leave it at 100' everywhere else to be consistent with the area towns.

M. Zamarca stated the agency could legally lower the proposed URA but could not make it more restrictive without going through a separate public hearing. He suggested asking for a report from the Wetlands Officer as he has expertise in wetlands matters.

G. Goeschel was asked if he was in favor of T. Koch's alternative proposal. He said he was more in favor of the alternative proposal as an effort to protect drinking water and the wetlands that go into the drinking water and the targeted approach of prioritized wetlands. He stated that the 4 Mile River Watershed does not have any municipal water supply at the moment, it is pristine water and has potential for consideration for an increase in the URA.

M. Zamarka reminded the agency that the town has an aquifer protection agency and the purpose of the Inland Wetlands Agency is to supervise regulated activities and is not an environmental protection agency.

D. Schmitt is concerned about the potential litigation if the 500' URA is adopted.

K. Chantrell asked about the 1000' Coastal buffer.

G. Goeschel stated that the Coastal Area Management is reviewed when a building permit is received and then if needed it goes to the Zoning Commission for a permit.

Agent vs. Commission permit fees were discussed.

T. Koch stated that he has reviewed the record and is up to date on the agencies record of the public hearing.

M. Zamarka referenced the DEEP's manual on the 100' URA and the evidence that went into adopting the 100' URA, the agency may want to look at what DEEP used to support the change to 100'.

P. Berger said the 500' is not practical but would be in favor of T. Koch's proposal.

D. Phimister noted that they have never talked about slope in regards to the URA and that the 100' URA is typically what surrounding towns have. He would like more time to review the items entered into the record at the meeting and said the proposed change will affect many residents and the decision should not be rushed.

M. Zamarka reminded the agency that they had to show there is a likely adverse significant impact as a justification to increase the URA. He said that there was a lack of evidence in the first public hearing to support a URA greater than 100'.

G. Upton noted there was exhibits that suggested going up to 1600' for an URA and he would not be opposed to that.

MOTION: (Koch/Schmitt) to ask G. Goeschel to submit a report outlining the impacts of increasing the URA to 300' in the watersheds.

R. Ostfeld stated that all land is in a watershed and asked what the reason are for specifying watersheds instead of a general 300' for the whole town.

T. Koch said there may be watersheds that are more essential to the town and a report from G. Goeschel may show that.

G. Goeschel stated that if the science suggests the URA should be 500' then that is what the agency should do, but the evidence he has seen shows how pollutants can travel up to 1500'. The question is, does extending the regulated area prevent that? He said that no, it does not. But regulating the activity does protect it and there are techniques that protect the wetlands such as vegetative buffers.

Vote: FAILED. In favor-Koch, Schmitt, Phimister. Opposed-Upton, Ostfeld, Chantrell, Berger. Abstaining-none.

MOTION: (Upton/Schmitt) to continue the deliberations until the next regularly scheduled meeting. Vote: APPROVED unanimously.

(D. Phimister leaves at 10:33)

VII. NEW BUSINESS-none

VIII. OLD BUSINESS-none

IX. REPORTS

A. Chairman's Report-none

B. Inland Wetlands Agent Report

I. Administrative Permits

G. Goeschel informed the agency that he has issued several administrative permits

II. Commission Issued Permits

G. Goeschel will reissue the Cease and Desist order so as to time it for the next regularly scheduled meeting

C. Enforcement

1. Cease and Desist: 297 Boston Post Road; Al Smith Owner, Jason Pazzaglia, Other; Outside storage of equipment, construction materials, and the stockpiling of earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil and other woody debris within 100 feet of a watercourse without or in violation of an Inland Wetlands Permit.

X. ADJOURNMENT

MOTION (Berger/Ostfeld) to adjourn at 10:36. Vote: APPROVED unanimously.

Respectfully Submitted

**Sue Spang
Recording Secretary**