

EAST LYME BOARD OF SELECTMEN  
REGULAR MEETING OF NOVEMBER 3, 2021  
MINUTES

PRESENT: Mark Nickerson, Kevin Seery, Marc Salerno, Rose Ann Hardy, Paul Dagle and Dan Cunningham

ALSO PRESENT: Finance Director Anna Johnson and Town Attorney Mark Zamarka

Mr. Nickerson called the meeting to order at 7:31 p.m. and Mr. Seery led the Pledge of Allegiance.

1b. Additional Agenda & Consent Items

There were none.

1c. Delegations

Mr. Michael Stepski, Captain/Owner Tartan II, Lease #2 at Cini Park Fishing Docks, spoke regarding his lease, which is not on the agenda tonight but is up for renewal at the end of the year. He explained that he is the former lessee of Lease #1 which was restricted from use during the bridge work being done by the State of Connecticut Department of Transportation. When the fourth dock was restricted, before the DOT utilized that area for their bridgework, that dock was being utilized as a transient dock by all the fishermen. Now that the bridge work has ended, Mr. Stepski stated that he is the only one using it for his second fishing vessel, and that he has spoken to the other fishermen and no one else needs the dock or has a problem if he uses it exclusively. He asked that the Board of Selectmen contemplate allowing him to lease both his current dock, Lease #2, as well as this fourth dock, Lease #1. He stated that his original boat is smaller and was actually the first boat docked in that space, and that he constructed the dock to fit that vessel. Mr. Stepski stated that he currently utilizes that "transient" dock to unload catch and gear from that smaller boat, and that their plan is for his daughter to take that boat over as Captain and continue the family business while keeping local seafood in our community.

1d. Approval of Minutes

There were no minutes to approve at this meeting.

1e. Consent Calendar

**MOTION (1)**

Mr. Seery MOVED to approve the Consent Calendar for the meeting of November 3, 2021, in the amount of \$2,128.25.

Seconded by Mr. Cunningham. Motion passed 6-0.

Mr. Nickerson explained that they would be taking agenda items out of order tonight based on who was present to speak on said items.

3c. Accessory Dwelling Units

DISCUSSION: Town Attorney Mark Zamarka of Waller, Smith and Palmer, addressed the Board and stated that earlier this year the State Legislature passed Public Act 21-29, which in part allows Accessory Dwelling Units, ADUs, as of right on any single dwelling in the town. This act requires that the Town either adopt or amend the Zoning Regulations to allow ADUs, or that the Town opt out by January 1, 2023; the law goes into effect on January 1, 2022. If the town decides not to opt out by January 1, 2023, the ACT requires that the town adopt Zoning regulations in conformance with the act that among other things allow one ADU as of

FILED

Nov 18 2021 AT 3:20 AM/PM  
*Anna Johnson*  
EAST LYME TOWN CLERK

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right on each lot that contains a single-family dwelling and to designate other areas where ADUs are allowed. The opt out process is a two-step process. Step one involves the Zoning Commission holding a public hearing, which is properly noticed as per 8-7D as with any land use public hearing. They must decide affirmatively to opt out by 2/3 vote and the decision must be rendered within 65 days of public hearing. The Commission must state the reasons for the decision on the record and must publish that decision within 15 days. The second step involves the Board of Selectmen. If the Zoning Commission decides to opt out, the Board of Selectmen may complete the process of opting out by a 2/3 vote. On October 14<sup>th</sup>, the Zoning Commission held a public hearing to consider the ADU provisions of Public Act 21-29. At its meeting on October 28<sup>th</sup>, the Commission voted to affirmatively opt out by a 4-2 margin, or the 2/3 vote required by the Act to opt out of the ADU provisions. The Zoning Commission followed all the opt out guidelines, and the Zoning Commission Chairman sent a letter to the Board of Selectmen notifying them of their decision and asking them to consider this matter at their earliest convenience. The Board of Selectmen must now decide either way by a 2/3 vote to either opt in or opt out; they do not have to hold a public hearing, they do not have to state reasons on the record, nor do they have to give notice of such decision. If the Board does nothing, accessory units will be allowed as of January 1, 2022; if the Board opts out, ADUs will not be allowed. Mr. Nickerson inquired if the Board's decision could be reserved either way at some point in the future, and Attorney Zamarka stated that the Act does not speak to that one way or the other and he does not see why they could not reverse the decision sometime in the future. Mr. Salerno inquired as to the reasons a town might opt out, and Attorney Zamarka stated that there are many reasons including non-conformance with the Town's POCD, privacy issues, it will be difficult to enforce, there could be an increase in vacation rentals, increased burden on the Board of Education and Water and Sewer infrastructure, just to name a few. Mr. Nickerson inquired if the location of ADUs can be limited to certain portions of town, and Attorney Zamarka responded that current research says that a town cannot limit the location of such units. All existing zoning regulations such as setbacks, etc., must be followed. Attorney Zamarka clarified that the Act becomes effective on January 1, 2022, but the Town has until January 1, 2023 to opt out. If the town does not opt out now but decides to do so after January 1, 2022 but before January 1, 2023, any ADUs that are allowed before the opt out date will be allowed. Ms. Hardy stated that she attended the Zoning public hearing, and it was a very well attended with a healthy discussion had. She stated one of the main reasons that the Commission decided to opt out is because the Act is vague on usage; can be for a family member but there is no requirement that there is a familial or business relationship between the owner and the tenant. Ms. Hardy is in favor of honoring the Zoning Commission's decision to opt out. Mr. Dagle inquired if the Zoning regulations will need to be updated if the town decides to no opt out, and Attorney Zamarka stated that they would indeed need to be updated and the ADUs will be allowed on January 1, 2022 whether or not new Zoning regulation are in place. Mr. Nickerson stated that there will be very minimal tax revenue increase for the town, but we will see an increase in parking, and increase in the schools, extra toll on septic systems and the water and sewer infrastructure, and we stand the risk of filling our downtown area with Airbnb's and similar hosting sites. He explained that this has been done by the State Legislature in the name of affordable housing, but cannot be applied to the Town's 10%, so it is possible we will be always chasing that 10%. Mr. Seery stated that the beach communities have their own Zoning regulations and can make decisions for each of their own quasi municipalities. The Board Members decided that they will postpone this matter to give all Board Members an opportunity to review everything in detail and revisit this matter at a future meeting.

### 3d. Blackhawk Fishing Dock Lease

#### **MOTION (2)**

DISCUSSION: Mr. Nickerson explained that the town owns four fishing docks at Cini Memorial Park and currently leases three of the docks, with the fourth dock currently being used as a transient dock only. Of the three current leases, the Blackhawk, aka Lease #4, is a separate lease from the others and has separate terms.

Capt. Greg Dubrule was in attendance at tonight's meeting, and Mr. Nickerson stated that Capt. Dubrule has invested a lot into the docks, the building, the infrastructure, etc., as well as in his own business. Mr. Nickerson acknowledged that the other fishermen also invest time and money into the upkeep and betterment of that dock area, one of which is in attendance tonight. He stated that all of the leases are up for renewal at the end of this year, but the Blackhawk is a more involved, multiyear agreement that is different from the other leases and should be addressed first; the Blackhawk has an extended three-year lease with two (2) three year options to renew; this allows Capt. Dubrule to make long term business investments and will allow the town the opportunity to revisit this lease after three years to determine if the rent should be increased. The only thing that has changed from the previous leases is the terms, which will automatically raise the rent 5% each year that the lease is in force. Mr. Nickerson stated that the purpose of renting out these docks to local fishermen is not to make money for the town, but to support local businesses and aquaculture; these businesses bring substantial value to our town and will be supported.

Mr. Seery RESOLVED that the First Selectman is authorized to execute a lease between the TOWN OF EAST LYME as Lessor and BLACKHAWK FISHING ENTERPRISES, INC. as Lessee for a portion of the dock and related area known as "Lease #4" in the "Cini Park Lease Areas" for a term of three years and two (2) three (3) year options to renew.  
Seconded by Mr. Salerno. Motion passed 6-0.

### 3b. Pension Plan Asset Manager Contract

#### **MOTION (3)**

DISCUSSION: Mr. Nickerson stated that the Town has a Pension Committee to oversee such and has served the Town and its employees very well. It was time for this Committee was to choose a new Pension Asset Manager company, which they have done. Ms. Anna Johnson, Finance Director, stated that the Pension Committee has gone through a lengthy review and interview process to get to this decision to retain this firm. Ms. Johnson reviewed a brief history of the Pension Committee, its purpose, as well as the process that it undertook to review and interview the firms that applied. She stated that twelve bids were received, and that group was reduced to the top four firms to be interviewed; from that short list, Fiducient Advisors was the firm selected. She stated that all their references were checked, and the Town Attorney approved the contract as to form. She gave a summary of some of the positive feedback that was received by checking the references and stated that the Pension Committee this firm is a very good choice and they come with glowing recommendations.

Mr. Seery MOVED to approve retaining the services of Fiducient Advisors for financial advisory services and the third-party administration of the plan to US bank and authorize the First Selectman to execute a contract with Fiducient Advisors pending the Town Attorney approve the contract as to form.  
Seconded by Mr. Salerno. Motion passed 6-0.

### Executive Session

#### **MOTION (4)**

Mr. Seery MOVED to enter into executive session for the purpose of discussing personnel matters and to include Finance Director Anna Johnson.  
Seconded by Mr. Salerno. Motion passed 6-0.

The Board entered into executive session at 8:27 p.m. They returned at 8:45 p.m. and Mr. Nickerson stated that no formal action was taken.

### 3a. Assessor's Office

#### **MOTION (5)**

DISCUSSION: Mr. Nickerson explained that due to unforeseen circumstances, the town will need to hire a temporary, contracted person to fill the Assessor's job while she is out of the office on leave. The Assistant Assessor has been elected Tax Collector and will assume job role as of December 6<sup>th</sup>. The office assistant position is also unstaffed at the moment. The Human Resources Coordinator is working to fill both assistant positions as soon as we can, but in the meantime the town needs to employ a certified Tax Assessor to run that office in the interim. With the Board's approval, we will move forward with this temporary person and get a consulting agreement in place.

Mr. Seery RESOLVED to authorize the First Selectman to execute in the name of and on behalf of the Town, a Consulting Agreement between the Town and Paige S. Walton for temporary tax assessment services.

Seconded by Mr. Salerno. Motion passed 6-0.

Ms. Hardy left the meeting at 8:47 p.m.

### 3e. Dominion Building Transfer of Ownership

DISCUSSION: Mr. Nickerson stated that we are close to moving the Police out of the building on Main Street and into their new home at the Public Safety Complex, and the plan all along has been to find an appropriate use for the Dominion property on Main Street. There are different ways that we could proceed with this, but both the Town and Dominion agree that this is a perfect property to enhance the economic development of our downtown, we just need to decide what the best course of action is. Options include Dominion donating the property to the Town as a tax write-off or selling the property outright. Either way there needs to be further studies done to determine if the property is indeed contaminated; the Phase 1 study showed no contamination, but that did not go so far as to dig test pits. In order for the town to apply for a Brownfield Grant, which would cover the cost of both the study and the remediation, we would have to be the legal owner of the property. It was agreed that the current First Selectman will work with the incoming First Selectman, Dominion and consult with the town attorney and that this item will be on a future Board of Selectmen agenda.

### 4a. Ex-Officio Reports

Mr. Dagle and Mr. Salerno congratulated and thanked all the newly elected officials, and a special welcome back to Ms. Hardy and Mr. Cunningham.

Mr. Cunningham reported that the Historical Society is hold a fundraiser to take your own holiday photos at the Samuel Smith Farmstead on Saturday, November 20<sup>th</sup> noon-3pm, Sunday November 21<sup>st</sup> noon-3pm, Saturday, December 4<sup>th</sup> noon-3pm and Sunday, December 5<sup>th</sup> noon-3pm. The suggested donation for this event is \$25.00; bring your family and utilize the beautiful backdrop of the Samuel Smith Farmstead.

4b. First Selectman's Report

Mr. Nickerson congratulated everyone for being elected, and a special congratulations to Ms. Hardy and Mr. Cunningham for continuing as a Board of Selectmen member. He stated that the December 1<sup>st</sup> meeting will be the last meeting for him, Mr. Salerno and Mr. Dagle, so we still have at least one more meeting as this sitting Board. He reported that there has been a development in the matter of the Historical Society in that the Library is also interested in using this building as an annex, as we all know they are running out of space in the main building on Society Road. The discussion is that instead of leasing the building to the Historical Society, which is technically not a town building, we would create a library annex for historical archives. He asked that the Board start thinking about this and that they will revisit it at an upcoming meeting. The Holiday Stroll is scheduled for Saturday, November 27<sup>th</sup>, and the Niantic Light Parade as well as the Jingle Bell 5K will be held on Saturday, December 11<sup>th</sup>.

5. Communications

There was none.

6. Public Comment

7. Selectman's Response

**MOTION (6)**

Mr. Seery MOVED to adjourn the November 3, 2021, regular meeting of the East Lyme Board of Selectmen at 9:14 p.m.

Seconded by Mr. Cunningham. Motion passed 5-0.

Respectfully Submitted By:



Sandra Anderson  
Recording Secretary