

EAST LYME COMMISSION FOR THE CONSERVATION OF NATURAL RESOURCES
REGULAR MEETING MINUTES
OCTOBER 11, 2023

Present: Don Danila
Laura Ashburn
Harvey Beeman
Mark Christensen
Steve Dinsmore

Absent: Marjorie Meekhoff, Alternate
Penny Heller

RECEIVED FOR RECORD
EAST LYME, CT
2023 OCT 16 P 3:39
Caulfield
TOWN CLERK

I. CALL TO ORDER. Mr. Danila, Acting Commission Chair, called the East Lyme Commission for the Conservation of Natural Resources of October 11, 2023 to order at 7:00 p.m.

II. SEATING ALTERNATES (IF NECESSARY)

MOTION (1): Mr. Danila moved to seat Steve Dinsmore for Penny Heller.
Seconded by Mr. Beeman. (3-0) Unanimous.

III. CALL FOR ADDITIONS TO THE AGENDA. There were no additions to the Agenda.

IV. CALL FOR PUBLIC DELEGATIONS. There were no guests.

V. REVIEW OF MINUTES OF SEPTEMBER 13, 2023. Mr. Danila asked for additions, deletions or corrections to the September 13, 2023 Minutes.

Commission member Mark Christensen joined the meeting.

The following corrections were noted. The date of the meeting should be changed throughout to September 13.

On page 3 the third paragraph to be revised as follows: "Meganna Gogart, a volunteer summer intern for the Planning Commission spoke with Mr. Beeman about completing an update of the cultural assets map that Mr. Beeman developed last year."

MOTION (2): Mr. Christensen moved to approve the September 13, 2023 Commission for the Conservation of Natural Resources Regular Meeting Minutes, as amended.
Seconded by Mr. Beeman. Mr. Dinsmore abstained from voting. (3-0-1)
Motion carried.

Commission member Laura Ashburn joined the meeting.

VI. NEW BUSINESS

a. 2024 Meeting Schedule. (See attached)

MOTION (3): Mr. Christensen moved to approve the Commission for the Conservation of Natural Resources meeting dates for 2024 to be held on the second Wednesday of every month at 7 p.m. Seconded by Mr. Beeman. (5-0) Unanimous.

VII. OLD BUSINESS

- a. **Update on citizens' complaints** A citizen of East Lyme, Mr. Michael McCormack, was at our September meeting to speak about his complaints with respect to wetlands and other environmental issues occurring on an adjacent property to his. Mr. Danila received an additional complaint from another citizen. Mr. Peter Cherrick, having a home on Pattagansett Lake. Both residents felt they are not being heard by town staff. Mr. Danila drafted a memo that was approved at the September meeting. On September 28 Ms. Heller delivered the memo to First Selectmen Kevin Seery. Mr. Seery directed staff members to review the issues and try to resolve them. Mr. Danila contacted both individuals. He received an email that the wetlands area was flagged next to the McCormack property. He received a response from Mr. Cherrick and it appears the town may have come in and stopped some of the actions undertaken by his neighbor. He felt this Commission helped these citizens. (See the attached Memo of September 28).

Mr. Christensen asked if there were any comments from the Inland Wetlands Agency regarding Mr. McCormack's memo? Mr. Danila replied he knew of none and that the Agency did not hold its October meeting.

- b. **Condition of the Hole-In-the Wall Stormwater Project.** Mr. Danila reported emails were sent from Ms. Meekhoff and Ms. Heller regarding native plantings. The Niantic River Watershed Committee is considering a grant request that would help pay for the native plantings.
- c. **2023 RBV Sampling.** Mr. Danila checked on Latimer Brook and felt it looks good for sampling this year. He plans to go to Latimer Brook with Ms. Ashburn's High School class on Friday. He also plans to get together with Mr. and Mrs. Heller to check on the three stations they have checked on in the past.

VIII. REPORTS AND COMMUNICATIONS

- a. **Communications.** There was no correspondence received.
- b. **Agribusiness Subcommittee.** Mr. Christensen reported the End of the Year Harvest will be held at the Samuel Smith Farmstead on Saturday. They will have a cider press and homemade applesauce. Mrs. Christensen will bring her horse. Mr. Londregen will attend. The house may be toured by volunteers.

The Agribusiness Committee members are working on an educational plan to make youngsters aware and possibly be interested in working at agriculture. Ms. Ashburn informed him that UCONN has an independent study research project.

- c. **SustainableCT Subcommittee.** Mr. Beeman reported that he has not heard back from UCONN Professor Amy Thompson regarding progress entering the energy account information which was provided in May 2023. He will continue to follow up and contact SustainableCT if further assistance is needed.

Mr. Beeman reminded the Commission that last year the Commission for the Conservation of Natural Resources had taken a commitment to review and update the Tourism & Cultural Asset Map which was placed on the Town website as part of the Fall 2022 certification submittal on an annual basis. Mr. Beeman reported that a review has been completed and the website has been updated. Approximately 14 changes (1 update, 3 deletions and 10 additions) were made.

The subcommittee plans to meet with Ms. Heller when she returns from vacation.

- d. **Pollinator Pathway East Lyme (PPEL).** Mr. Christensen reported Ms. Meekhoff met with DOT regarding our exit ramp and was informed our First Selectman has to contact DOT. She has spoken to Mr. Seery.
- e. **Chairman's Report.** Ms. Heller is on vacation and there was no report.
- f. **Ex-Officio Report.** Ms. Hardy reported we will be able to vote on each item that the Charter Revision Commission recommends.

High School students will interview all individuals who are running for re-election.

A Referendum on the purchase of open space will be held on October 17, 2023 at the Community Center from 8 a.m. to 8 p.m. There are three properties: the Hathaway property, Brainerd Road and Oswegatchie Hills. She asked the Commission to let any shut-ins know they are able to receive an absentee ballot.

The Niantic Theatre has a new play.

Indigenous People's Day was held at McCook's.

The Historical Society will have a Potluck Supper at the Yacht Club on October 24.

Mr. Danila informed the Commission that our next meeting date will be held on November 8.

V.ADJOURNMENT

MOTION (3): Mr. Dinsmore moved to adjourn the October 11, 2023 East Lyme Commission for the Conservation of Natural Resources at 7:35 p.m. Seconded by Mr. Christensen. (5-0) Unanimous.

Respectfully submitted,

Frances Ghersi, Recording Secretary

TOWN OF EAST LYME
COMMISSION for the CONSERVATION of NATURAL RESOURCES

2024 Meeting Schedule

(Second Wednesday of each month)

East Lyme Town Hall Upper Conference Room 1

7 p.m.

January 10, 2024

February 14, 2024

March 13, 2024

April 10, 2024

May 8, 2024

June 12, 2024

July 10, 2024

August 14, 2024

September 11, 2024

October 9, 2024

November 13, 2024

December 11, 2024

MEMORANDUM

TO: East Lyme Inland Wetlands Agency and Inland Wetlands Agent
East Lyme Building Inspector
East Lyme First Selectman Kevin Seery

FROM: East Lyme Commission for the Conservation of Natural Resources

DATE: September 18, 2023

RE: ELCCNR Comments on Citizen Complaints Regarding Environmental Matters

At its meeting on September 13, 2023, The East Lyme Commission for the Conservation of Natural Resources approved a motion to provide comments to the above addressees with respect to environmental issues brought to the attention of Donald Danila, a member of the Commission. The underlying issue is the frustration that two citizens of East Lyme have experienced in dealing with town personnel. There seems to have been a lack of timely and sufficient responses or actions required to resolve what these citizens believe are violations of Inland Wetlands and other environmental regulations. There are also other issues rightfully pertaining to other town functions (e.g., Zoning), which our Commission has declined to comment on, but some details of these may be found in some of the attached materials. These issues may be subject to additional actions if deemed necessary.

First, Mr. Michael McCormack of 10 Brookfield Drive appeared and spoke about his issues concerning his neighboring 8 Brookfield Drive property under Public Delegations at both the September 5, 2023 Inland Wetlands Agency meeting and the September 13, 2023 Commission for the Conservation of Natural Resources meeting (see Attachment 1 below). At the latter meeting, Mr. Danila also read a statement about Mr. McCormack's issue as well as another one concerning a second town resident (see Attachment 2). At the time, Mr. Danila kept the identity of the second person anonymous and was told about this person's issues in a personal conversation and several follow-up email communications. This person subsequently gave Mr. Danila permission to use his name and address in this memorandum. He is Peter Cherrick of 19 Heritage Road. Note that the materials attached to this memorandum have been included in our Commission's September 13 meeting minutes posted on the town website.

Our Commission has concluded the problem is that these two East Lyme residents, and perhaps others unknown to us, have become frustrated by apparent inaction or limited actions to resolve matters they and we believe are legitimate environmental issues, particularly with respect to inland water courses and water bodies. We believe these two citizens of East Lyme have been entirely truthful in their allegations in coming forward to Commission members due to their concerns. In particular, Mr. Danila personally observed the issues brought forth by Mr. McCormack and he also has no doubt about the veracity of Mr. Cherrick, with whom he sits on the Board of Directors of the Pattagansett Lake Association. As a purely advisory body, the Commission for the Conservation of Natural Resources lacks any power to resolve such issues, but only to bring them forward to those who do. We hope that the Town of East Lyme can provide better and more timely responses to any environmental and regulatory issues brought forth by its citizens and urge the responsible parties to make better efforts in resolving such issues.

Thank you for your consideration of these matters.

Penny Heller, Chairman
Donald Danila, Secretary
Laura Ashburn
Harvey Beeman
Mark Christensen
Stephen Dinsmore (alternate)
Marjorie Meekhoff (alternate)

cc: Rose Ann Hardy, Board of Selectmen *ex officio* to the ELCCNR

[Attachment 1: declaration of Michael McCormack presented under Public Delegations at the September 13, 2023 meeting of the East Lyme Commission for the Conservation of Natural Resources]:

My name is Michael McCormack, I live at 10 Brookfield Dr. here in East Lyme. I purchased my home in December 2020. The lot to our north, 8 Brookfield Dr., is owned by Andia and Pellumb Likolari who sold us our home.

Background:

- 8 Brookfield Dr. is a legal lot of record, as part of the Hillbrook Farms Subdivision Section 2, owned (at time of development) by Irvingdell Land Co in 1969, as Lot #51
- Maddie's Brook, which runs down the middle of the lot is 8+ ft' across during heavy rains, is an inland watercourse that directly feeds Latimer Brook via culvert under Brookfield Dr. and is well within the town's 300 ft review area.
- The lot is narrow, 100 ft across and has several steep slopes that drop ~10 ft towards the brook.
- My home is 8 ft from the property line. The home at 6 Brookfield drive is also in close proximity, the rear of his lot has a retaining wall several feet from property line to prevent erosion.
- The lot was mostly wooded when we purchased our home, but large trees had been removed as evidenced by the stumps throughout the property at the time.
- A significant amount of construction debris (Brick, old chimney cap, old floor tiles, plastic pots for plants) had been piled 8 ft high, ~5 ft from the brook and remain to this day.
- From a quick google satellite image search, it is apparent that significant clearing took place between March 2016 and March 2017, when the previous owners occupied our home. To the best of my knowledge, this activity took place without a permit, I have not been able to see permits with this lot even though they were requested.
- From these images, it appears efforts to fill along the property line had taken place, and a large 2 ft wide sinkhole has appeared recently.

Timeline of Events:

April 21st 2022: Our realtor told us the previous owners, a close friend of hers, would like to sell us the adjacent 0.5 acre lot for \$75k. Shortly thereafter a handwritten "For Sale" sign showed up on the property.

- The town tax assessor had assessed the lot at \$8k at the time and the land use code for the lot is 1320 (Residential Land Undevelopable)
- A similar 0.5 acre lot directly across the street had sold for \$2k in 2015.
- I communicated an offer of \$10k to my realtor, but never heard back.

Jul 29, 2023: While away on vacation, I received messages from several neighbors that the owners were cutting down large trees on the 8 Brookfield Dr. property.

- I called Inland Wetlands on Monday morning (July 31st) to report the lot was being significantly altered, was within the review area and I suspected no permits were issued.

- Speaking with an admin I recommended an immediate cease and desist be issued and wished to discuss site remediation plans but the enforcement officer was unavailable.
- I spoke with Peter Gilliberto, a town hall engineer and told him I was concerned with the work being done and the waste that was deposited. He told me that that there was no concern with the construction debris as the materials did not present a danger, even though this is clearly a violation of town regulations. Mr. Gilliberto also informed me that work being done in areas like this require hay bales or fencing at the minimum to prevent debris from going into the brook and potentially clogging the culvert under Brookfield. I did not see any fencing or bales of hay on site.
- I reported the incidents on the CT State DEEP reporting website, but did not hear back.

Aug 12th, 2023: While out of town, I received messages that more trees were being cleared from the lot.

- When I returned home that evening, I found the property had been 50% clear cut of trees with significant debris lying in the brook itself.

Aug 13th, 2023: Awoken by a chainsaw on 8 Brookfield Dr. so I went over to speak to them

- The owner of the property, Altin Gjonaj introduced himself to me
- I asked him if he had permits to remove trees this close to the brook. He said that he had permission from Inland Wetlands to remove the trees and he continued cutting.
- He said, "If you want me to stop cutting, give me \$80,000."

Aug 14th, 2023: I visited town hall to voice my concerns, but the Inland Wetlands the enforcement officer was on vacation. I spoke briefly with William Mulholland and showed him photos.

- He sent town hall officials to the property and photos of the damage were taken.
- Mr. Mulholland called and told me that the owner had been advised against tree removal and he issued a cease and desist order that day.
- A small blue "Zoning cease and desist" blue tag was placed on a log pile on the property.

Sept 1st, 2023: After no word from town hall with regards to remediation plans, I stopped in to ask if anything had been done, and was told by an official, permit applications had been submitted to continue clearing trees.

- Several neighbors put together a petition and submitted them to Inland Wetlands in order to bring the matter to public hearing.

Sept 5th, 2023: After not seeing the cease and desist order in the planned Inland Wetlands Commission meeting agenda after three weeks, I decided to present my issue to the them at the meeting. The minutes of that meeting document the discussion.

Concerns Moving Forward:

From the discussion I had with Altin, he told me he planned to "Reroute the brook through a pipe and fill the lot with several dump trucks of soil." This alarmed me for several reasons:

1. This is a flood prone area, any restriction to water flow via pipe would likely result in water accumulation at the pipes entrance and flooding and erosion in the low-lying neighboring lots. My neighbors and I rely on the watercourse as a water runoff "sink" for our properties.
2. Any attempt to build on this property would require a septic system as no public sewer is available. However, Health Code restrictions require that any septic be no closer than 50 ft to a

watercourse and 25 ft to any house. Even if the brook were contained by a pipe, the entrance and exit to the pipe would fall within proximity to any leaching field.

3. I have well water and I am extremely concerned that a leaching field will impact water quality.
4. Only a verbal cease and desist has been issued, but no fines or remediation have been sent.
5. After being told by town hall that he was not permitted to remove trees on the lot without a permit, he continued to do so. He has demonstrated that he will likely proceed as he wishes with complete disregard for town regulations.
6. No soil or percolation testing should proceed without returning the vegetation to its state prior to 2016 as the results of such tests will likely significantly impacted by this tree removal.

I believe that everyone in our neighborhood values this resource and will join me in fighting to preserve it.

As an advisory committee to the Inland Wetlands Committee, I believe you are well qualified to suggest potential remediation strategies to return the area to it's previous condition prior to significant clearing of trees and waste disposal near the brook.

Thank you for your time.

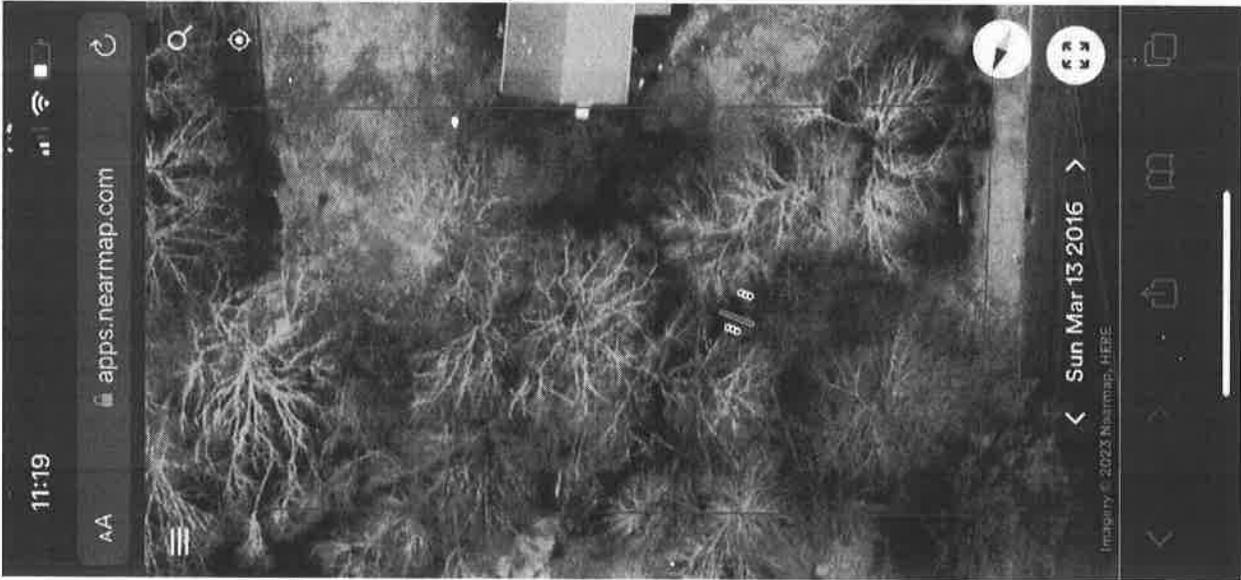
Michael McCormack

[The following are photographs of 8 Brookfield Drive that were used by Michael McCormack in his presentation under Public Delegations at the September 13, 2023 meeting of the East Lyme Commission for the Conservation of Natural Resources]:









BROOK FIELD DRIVE AFTER HEAVY RAINS



[Attachment 2: statement submitted by Commissioner Danila at the September 13, 2023 meeting of the East Lyme Commission for the Conservation of Natural Resources]:

I recently received the following information from the complainant, an EL resident living on the shore of Pattagansett Lake. He has a neighbor whose house was purchased about a year and a half ago by an LLC holding company. This house was turned into an Air BnB and a Real Estate office. Over time, the neighbor tried dredging the area in front of his property using a heavy machine, the bucket of which eventually got stuck in the bottom muck for a while before being removed. The neighbor followed this up by hand-removing sediments and piles of muck can now be seen on his property. He has also hand cut water lilies and other aquatic weeds, which isn't so bad, but then just threw all the materials back into the lake to decompose. He has been observed placing some sort of chemicals into the lake, presumably for aquatic weed control. As of last week, he installed a fountain within the lake off his property. The complainant has made inquiries about these activities with various town staff and, aside from an electric service change, he found that his neighbor has not filed for any permits for rest of the work and activities being performed. Heavy machinery performing dredging and chemical use would require both Inland Wetlands and CT DEEP permitting. It is unlikely the neighbor would qualify as a licensed herbicide applicator under DEEP rules. Besides, the Pattagansett Lake Association has been recognized as the only entity that can be permitted to dredge or engage in herbicide use in the lake. Other work done on this property included a full gut of the house and running of electricity to the lakeside area. He is operating a commercial real estate office as well as an Air BnB in an area the complainant believes is not zoned for these activities, so would be illegal. After reporting all these actions to East Lyme Zoning Commission, the town's building inspector, East Lyme Inland Wetlands Agency, and CT DEEP, NO actions or negative consequences have occurred to date to the best of the complainant's knowledge. The neighbor continues to just do whatever it is he wants. The complainant believes that the neighbor is now preparing to place a large dock into the lake at a property that has never had one before. This might also require IWA approval. The complainant just wants to see the Town of East Lyme and/or the state hold his neighbor responsible for ignoring so many regulations and the authoritative bodies governing them.

I bring up this example to go along with Mr. McCormack's statements made earlier this evening under Public Delegations. I'd like to suggest that we have a current problem in this town concerning the failure of our town government and its employees to deal satisfactorily with legitimate citizen complaints, which results in considerable frustration and anxiety. I admit I have not sought any information from

the opposing sides to refute any of these allegations. Or from the town bodies or their employees which were mentioned. However, I recently visited Mr. McCormack's house and can verify that what he said is true as I have seen it. Fortuitously, I was there during a heavy rainstorm. I witnessed the small stream greatly increase in flow volume with the downed tree blocking some flow. The stream became heavily silt-laden, although without further inspections I cannot say for sure if this silt erosion solely resulted from the actions undertaken at 8 Brookfield Drive [Note: this street name has been corrected in this version from the incorrectly used Brookside Drive as is found in the original appended to the Commission's September meeting minutes]. For many reasons I cannot believe this heretofore undeveloped lot can have a home built on it. I cannot believe the landowner would be allowed re-route this small stream into a buried pipe. If it weren't for recent inclement weather and other demands on my time, I would have also visited the Pattagansett Lake site. However, I have no doubts that the situation there has been honestly conveyed to me by the complainant. The question going forward is what can we do to ensure that citizen complaints, particularly in the environmental area under which this commission has purview, albeit advisory, be addressed by the town bodies having the delegated regulatory authority?