

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

Present: Penny Heller
Don Danila
Laura Ashburn
Harvey Beeman
Mark Christensen
Marjorie Meekhoff, Alternate

Absent: Steve Dinsmore



I. CALL TO ORDER. Ms. Heller, Commission Chair, called the East Lyme Commission for the Conservation of Natural Resources of September 11, 2023 to order at 7:02 p.m.

II. SEATING ALTERNATES (IF NECESSARY)

MOTION (1): Mr. Danila moved to seat Marjorie Meekhoff for Laura Ashburn. Seconded by Mr. Beeman. (4-0) Unanimous.

III. CALL FOR ADDITIONS TO THE AGENDA.

MOTION (2): Mr. Beeman moved to add, under New Business, item b. Review and discussion of draft changes to Planning Commission subdivision regulations, Section 4-14. Seconded by Mr. Danila. (5-0) Unanimous.

IV. CALL FOR PUBLIC DELEGATIONS. (See attachment from Michael McCormack), who presented his concerns about environmental issues related to previous and ongoing work at 8 Brookfield Drive).

Commission member Laura Ashburn joined the meeting.

V. REVIEW OF MINUTES OF AUGUST 9, 2023. Ms. Heller asked for additions, deletions or corrections to the August 9, 2023 Minutes.

MOTION (3): Ms. Ashburn moved to approve the August 9, 2023 Commission for the Conservation of Natural Resources Regular Meeting Minutes, as presented. Seconded by Ms. Meekhoff. Mr. Beeman abstained from voting. (4-0-1) Motion carried.

VI. NEW BUSINESS

a. Town responses to local environmental issues and citizen complaints. Mr. Danila read a statement he prepared regarding two East Lyme residents who have issues with adjacent property owners about environmental and other concerns and the apparent inadequate response of town staff. (See attached)

MOTION (4): Mr. Christensen moved that this Commission submit a letter to the Inland Wetlands Agency, Wetlands Agent, Building Inspector,

Ex-officio to this Commission, and First Selectman Seery pertaining to recent citizens' complaints regarding inland wetlands violations. Seconded by Ms. Ashburn. (5-0) Unanimous.

- b. **Mr. Beeman** informed the Commission that the revised subdivision regulations will receive input at the September 19, 2023 Planning Commission September 19, 2023 Public Hearing. This Commission has been designated to perform certain environmental assessments dealing with large sub-division and other developments as the CT DEEP Environmental Review Team is no longer reliably available for use in the town. After considerable discussion, this item will be further discussed under Old Business during the October meeting. (text of the proposed regulation is attached).

VII. OLD BUSINESS

- a. **Update on review of Inland Wetland Agency Regulations.** Mr. Danila presented a summary of Commission comments concerning the IWA regulations revisions at their meeting on September 5, 2023. He thought our comments were well-received and many have been considered for incorporation in the IWA revised regulations.
- b. **Use of CT DEEP NDDB Process.** Mr. Danila reported it appears that the Planning Commission is considering looking into the CT DEEP NDDB Process. To that end, this Commission discussed making the NDDB data for East Lyme more accessible. This Commission has also urged the IWA to add the NDDB in our comments to the Agency's regulations revisions.
- c. **Condition of the Hole-in-the Wall Stormwater Project.** Ms. Heller sent a memo to Jerry Lokken, Director of Parks and Recreation, regarding the condition of the Hole-in-the-Wall stormwater basins. Mr. Lokken is looking into correcting the problem. He has spoken to Bill Sheer who is familiar with the original plan for the basins. Ms. Meekhoff is working with the Public Works Department to pursue remedies for the present condition of this project.
- d. **2023 RBV Sampling.** Mr. Danila suggested performing RBV sampling in October if streamflow's are suitable. The Commission team has been approached by Ashley Hamilton of the National Estuarine Research Reserve, which would like to have 5-6 people accompanying our team for their training.

VIII. REPORTS AND COMMUNICATIONS

- a. **Communications.** Mr. Danila reported that about 60 individuals attended the Niantic River Watershed Committee Summit. Town staffs from Waterford, East Lyme and Montville were among those in attendance. Mr. Danila noted that he finalized his report on 10 years of water quality sampling in Niantic River tributaries and will send the final report as a pdf to anyone who requests it.
- b. **Agribusiness Subcommittee.** Mr. Christensen reported the Subcommittee is sponsoring the following seminars at the East Lyme library:
1. Pollinator Plants
 2. Coyotes
 3. Oysters

The Agribusiness Subcommittee has new members: The Yuhases want to develop programs at the schools to educate youngsters about agriculture.

Annah Perch, Curator of the Brookside Farm Museum, attended the last Agribusiness Subcommittee meeting. She would like to work together with the Agribusiness Subcommittee to have animals at the Brookside Farm Museum.

On September 2 the Giving Garden had an Open House. There were 100 visitors in attendance, including several town officials. There was a raffle table of items donated by town businesses, the proceeds of which will be used to purchase educational materials. The Giving Garden also signed up new volunteers.

c. SustainableCT Subcommittee.

1. Collaboration with the Niantic River Watershed Committee on Actions 3.2 and 3.3

Ms. Heller reported it is now planning actions for the next certification process. Mr. Danila asked how the Niantic River Watershed Committee could help with these two actions as members were unsure. Ms. Heller stated she could give a presentation to the Committee about what is required.

Mr. Beeman is working on an energy audit of all town-owned buildings. This project is being completed with the assistance of UConn Professor Amy Thompson who has told Mr. Beeman he will receive information on energy management by the end of the week.

Meganna Gogart, a volunteer summer intern for the Planning Agency completed an update of the cultural assets map Mr. Beeman developed last year.

d. Pollinator Pathway East Lyme (PPEL). Ms. Meekhoff reported Eric Thomas, Environmental Analyst with DEEP, would like a meeting with Jerry Lokken and his foreman Rob Swan concerning rehabilitating the Hole-in-the-Wall stormwater basins. Ms. Meekhoff spoke with Mr. Lokken and offered to set up a meeting.

During July and August Ms. Meekhoff gave Zoning Commission Chairlady, Anne Thurlow, native plant ordinance information so that the Zoning Commission could learn about positive changes to its regulations.

On September 7th Ms. Thurlow announced at a Zoning Commission meeting that the commission members will be reviewing the documents. At their next meeting they hopefully will pass a motion to adopt these changes. After the motion passes, they will schedule a Public Hearing. The Public Hearing could be held on October 26. After the Public Hearing they will have a vote. Ms. Meekhoff believes they are considering regulations, not only for municipal property but also for commercial development. She will request a copy of the document.

Pollinator Pathways of East Lyme will be seeding and planting before winter. We've had two home assessments for East Lyme residents.

Ms. Meekhoff attended the Niantic River Watershed Summit this past week. She will suggest to the Board of Directors that we add the Healthy Lawns, Healthy River website to the Pollinator Pathways website.

Ms. Meekhoff will follow-up as to Lindsay Rush's suggestion to add the Natural Diversity Data Base for East Lyme to our town website. Prof. Diba Khan-Bureau has some potential students willing to intern. The intern would need to be paid. Ms. Meekhoff will ask Mr. Goeschel if he could help with money.

Ms. Ashburn suggested a Native Plant Sale in May.

- c. **Chairman's Report.** Ms. Heller reported Steve Dinsmore has been appointed and sworn in as an alternate member of this Commission.

Ms. Heller reported that Mr. Seery told her that the Niantic Tribal Burial Ground at McCook's Point Park is being re-established in keeping with an original treaty. Some items in that area that tribal members objected to will need to be removed.

Ms. Ashburn noted that there will be a Beach Clean-up Day to be held on Saturday September 16.

- d. **Ex-Officio Report.** Ms. Hardy was unable to be present, and there was no report.

V.ADJOURNMENT

MOTION (5): Mr. Danila moved to adjourn the September 11, 2023 East Lyme Commission for the Conservation of Natural Resources at 9:10 p.m. Seconded by Mr. Christensen. (5-0) Unanimous.

Respectfully submitted,

Frances Gheri, Recording Secretary

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

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 its 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 Brookside Drive. 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?

4-14 ENVIRONMENTAL REVIEW AND EVALUATION

4-14-1 Review and Evaluation - Subdivisions where the land to be subdivided consist of environmentally sensitive resources such as but not limited to wetlands, steep slopes (>25%), watercourses, flood hazard areas, ridge lines, endangered or species of special concern shall be subject to an environmental review and evaluation by the East Lyme Planning Commission and the East Lyme Commission for the Conservation of Natural Resources. This requirement does not preclude the Commission from requesting an Environmental Review Team (ERT) Evaluation for applications which do not meet the above parameters, but for which concerns about environmental impacts of the development and their proper mitigation exist.