

Minutes of the East Lyme Zoning Commission January 4, 2024, Regular Meeting

Date and time: 1/4/2024 7:33PM to 8:36PM
Present: Jessica Laroco, Recording Secretary, Members Present: Deb Jett-Harris, Chairman, Nancy Kalal, Secretary, Norman Peck, Michael Foley.
Alternates Present: Marc Peterson, Sarah Susco. Roseanne Hardy, Ex-Officio, William Mulholland, Staff.
Members Absent: Denise Markovitz, Gary Pivo
Location: East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Avenue

1. Call Meeting to Order & Pledge

Chairman Jett-Harris called the January 4, 2024, Regular Meeting of the East Lyme Zoning Commission to order at 7:33PM and led the Pledge of Allegiance. Ms. Jett-Harris welcomed members of the public and commissioners and asked everyone to be aware of their duties and decorum. She reminded everyone of the need to be respectful of opinions and others.

2. Attendance

Ms. Jett-Harris called the roll, noted Members Markovitz and Pivo were not in attendance and sat Alternates Peterson and Susco.

3. Public Delegations

Nick Menapace, 38 Hope St, Niantic, spoke about politics and Roberts Rules. He commended Ms. Jett-Harris for her opening speech.

4. Public Hearing

There was none.

5. Regular Meeting

5-1. Alternate Vacancy

Ms. Jett-Harris asked Ms. Susco to step down as she had not received the applicant's information prior to the meeting.

Ms. Jett-Harris noted that the Commission had failed to fill the Alternate vacancy within 30 days that was created when Mr. Ginsberg stepped down, therefore, per the Town Charter, the vacancy must now be filled by the Board of Selectman.

DECISION MOTION 1

Mr. Foley moved to make a recommendation to the Board of Selectman.

Ms. Kalal seconded the motion.

Motion carried 5-0-0.

Ms. Jett-Harris invited the applicants for the Alternate position to come forward and speak.

Mr. John Vilcheck, 4 Meadow St, Niantic, has been a resident for 48 years, is retired and has available time. He would like to support stability in town. He worked for the Navy, sold real

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estate, he worked disaster recovery for AT&T, and worked on a submarine. He noted his past careers and various positions gave him a broad understanding of how communities work.

Mr. Greg McIntire, 41 Shore Rd, Niantic, has been a permanent resident since 2012. Mr. McIntire ran in the most recent election for the four-year alternate term and received the majority of the votes, but because of the Town Charter's minority government rule, he was not able to be seated. He desires to ensure the growth of the town is handled correctly. He also noted his master's degree in Oceanography, he currently sits on the EL Inland/Wetland Agency.

Anne Thurlow, 80 Smith St, Niantic, has had six (6) years on the Zoning Commission as an alternate, a member and as chairman. She completed two (2) training sessions with the CT Bar Association on Zoning Law. She had previously served on the EL Planning Commission. She ran in the most recent election for zoning member and lost by a narrow margin. She noted no hidden agendas and wishes to do right by the town.

Daniel Glynn, 103 Flanders Rd, Niantic, has been a resident since 1958, he noted his family had been local builders and he had attended school here. He listed his graduate schools and architectural career history. He is interested in the development of the town following the zoning regulations.

The fifth candidate, Cathy Yuhas, was not in attendance.

Mr. Peck asked if the candidates were expected to go to the Board of Selectman meeting.

Ms. Hardy, Ex-Officio, stated that the BOS would invite the candidates to speak at the meeting.

TASK

Staff will forward applications to Ms. Hardy to pass on to the BOS for review.

VOTE

Unanimous vote to nominate Ms. Anne Thurlow for the alternate vacancy.

Ms. Jett-Harris reseated Ms. Susco.

5-2. Approval of Regular Meeting Minutes of November 2, 2023.

DECISION MOTION 2

Mr. Foley moved to accept the Minutes of November 2, 2023, as presented.

Mr. Peterson seconded the motion.

Motion carried 6-0-0.

5-3. Approval of Regular Meeting Minutes of December 7, 2023.

DECISION MOTION 3

Mr. Foley moved to accept the Minutes of December 7, 2023, as presented.

Ms. Kalal seconded the motion.

Motion carried 6-0-0.

5-4 Zoning Commission Budget

Mr. Mulholland went through the budget line items noting that there were not many changes but that he has slated \$2000.00 for consultants and that the Commission could choose that number or ask for another. He also noted that the Zoning Department Budget is one of the leaner budgets in the town. He indicated that due to the volume of work in the office there may be a request for another part-time position in the future.

Mr. Foley asked how the Town bills for legal services.

Mr. Mulholland explained that the Town pools all the legal bills and does not break out per department for legal services. He also explained how and when we would ask for legal advice, opinions or services.

DECISION MOTION 4

Mr. Peck moved to accept the budget as presented and forward it to the Board of Finance.

Ms. Kalal seconded the motion.

Motion carried 6-0-0.

6. Old Business

There was none.

7. New Business

7-1. Application of the Town of East Lyme, Department of Public Works, for a Coastal Area Management (CAM) site plan review for a replacement of a shoreline flood and erosion control structure (seawall), at McCook's Beach, property located at 8 Atlantic Street, CB, Niantic. Assessor Map 11.4 Lot 175.0.

Mr. Mulholland noted that there had been some temporary emergency repairs to ensure more of the parking lot was not lost. He noted that several properties along the beach had been affected and that DEEP has been involved. Staff will be sending referrals to DEEP as required.

Ms. Jett-Harris asked who would pay for repairs and Mr. Mulholland did not have specific information on that yet.

7-2. Application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations to amend Section 24 "Site Plan Review Requirements" by adding subsections 24.6 G-I (outdoor lighting).

Ms. Jett-Harris tabled the item, and formed a subcommittee comprised of Commissioner Peck, Commissioner Kalal, Mr. Mulholland and staff.

Mr. Peck stated that he was not knowledgeable about the lighting and Mr. Mulholland stated that he had a large amount of information to share with Mr. Peck and Ms. Kalal.

It was noted that Ms. Jett-Harris did not require a motion to form a subcommittee.

DECISION MOTION 5

Mr. Foley moved to form a subcommittee regarding the Zoning Regulations Section 24.6 G-I.
Mr. Peck seconded the motion.
Motion carried 6-0-0.

7-3. Any business on the floor, if any, by the majority vote of the Commission.
There was none.

7-4. Zoning Official

Mr. Mulholland stated that there had been some commercial activity.

7-5. Comments from Ex-Officio

Ms. Hardy reported on the following:

- The damage to the seawall at McCook's Beach. At the 1/3/24 BOS meeting she noted that there was some ARPA emergency fund allotted to repair damage of \$25,000. She gave kudos to the Public Works Dept for doing emergency repairs so quickly.
- The Short-Term Rental AD-HOC committee met with the town attorney and is moving forward. The next meeting is 1/16/24 and invited the Zoning Commissioners to attend. There will be a public hearing 1/29/24 at 7PM.
- The Niantic Light Parade had the highest attendance ever and the local police force were able to handle it well and we did not have to call in other towns for support.
- The East Lyme Police Department is the only fully accredited Police Department in the state.
- The exit 74 NB ramp on I-95 is open.
- The town wide water meter replacement program is 96% complete and should help alleviate problems occurring with failing meters and this project has been ongoing for two (2) years.
- The prison is implementing an aerospace machine shop and will begin producing parts for the industry. Prisoners will be paid the prevailing wage and receive recommendation for employment upon release.
- The Parks and Rec Department made a presentation of the development at Darrow's Pond and those plans and pictures are available online.

Mr. Peck wondered that the Zoning Commission was not involved in the Short-Term Rentals and Mr. Foley noted that the Board of Selectmen will either choose to make the Short-Term Rental an Ordinance or choose to have the Zoning Dept take it up as a Regulation.

Mr. Peck asked if there had been any discussion on the erosion of the beach at Crescent Beach McCook's point. He noted the tremendous loss of sand and whether groins or jetties had been considered.

Ms. Hardy stated she did not know if there was an allotment in the budget for a consultant for this.

Mr. Mulholland stated that DEEP and Zoning and others would be involved if needed.

7-6. Comments from Zoning Board Liaison to Planning Commission.

Mr. Foley will attend 1/24/24.

Ms. Susco will attend 2/13/24.

7-7. Correspondence

Ms. Jett-Harris asked that two (2) emails be added to the record (Attachments 1 & 2).

7-8. Comments from Chairman

Ms. Jett-Harris thanked staff and public and members.

8. Adjournment

Ms. Kalal moved to adjourn the Regular Meeting of the East Lyme Zoning Commission at 8:36PM.

Mr. Foley seconded the motion.

Motion carried 6-0-0.

Respectfully submitted,

Jessica Laroco

Recording Secretary

Attachment 1

Jessica Laroco

From: debbie jett-harris <debbieelzoning19@aol.com>
Sent: Wednesday, January 3, 2024 12:28 PM
To: Jessica Laroco
Subject: Fw: ZC Vacancy

You don't often get email from debbieelzoning19@aol.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

----- Forwarded Message -----

From: Pivo, Gary E - (gpivo) <gpivo@arizona.edu>
To: debbie jett-harris <debbieelzoning19@aol.com>; marcpeterson73@gmail.com <marcpeterson73@gmail.com>; markii243@gmail.com <markii243@gmail.com>; mjfoley1956@gmail.com <mjfoley1956@gmail.com>; Nancy (nancykalal8934@gmail.com) <nancykalal8934@gmail.com>; npeck@pequotcommercial.com <npeck@pequotcommercial.com>; sarahsusco <sarahsusco@gmail.com>
Cc: Bill Mulholland <billm@eltownhall.com>
Sent: Wednesday, January 3, 2024 at 01:30:28 AM EST
Subject: ZC Vacancy

Dear Zoning Commissioners,

I apologize but will miss the Jan. 4 zoning meeting. I do, however, wish to share my views on the Alternate applicants and alert you to a charter provision I just read which affects the process. It says the Alternate appointment must now be made by the Board of Selectmen, not the Zoning Commission, because we missed the 30-day deadline.

I think the first choice for the vacancy should be Mr. McIntire. He placed first in the November election for an alternate position with 52.7% of the vote, but couldn't serve per the minority representation rule, which no longer applies after Mr. Stein's resignation. He is well qualified and deserving by virtue of his service on the Inland Wetlands Agency and the short-term rental committee. I strongly support him, as do the voters, and I think we'd be quite wrong to ignore the will of the people.

My second choice would be Mr. Glynn. He's an architect, architectural design is a very important part of our regulations, it is key to good town character, which is cited dozens of times in our regulations and POCD, and no one else on the Commission or staff brings architectural design skills to the table. His insights would elevate and complement our skills and deliberations. I strongly support him as well.

I do not favor Ms. Thurlow. Her membership was clearly at issue in the recent election, she made her case to the voters, and they removed her from office. I feel strongly we should follow the election and I'm sure the voters would agree.

As to the Charter issue, Mr. Stein's resignation was effective December 3rd, per his letter of resignation, which means that as of January 3rd, the zoning commission no longer has the authority to fill the vacancy. Section 2.5.5 of the town charter clearly says that the Zoning Commission has 30 days to appoint a replacement, which ended on January 2nd. After that, it says the decision shall be made by the Board of Selectmen, which is supposed to fill the position within the next 30 days. We swore to follow the law and there should be no doubt about it.

One option could be a motion to recommend a candidate to the BOS, but the charter seems clear that the decision is theirs and the zoning commission no longer has the authority to make the appointment.

Respectfully,

Gary Pivo

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Ms. Deborah Jett-Harris
Zoning Commission Chair
East Lyme Town Hall
108 Pennsylvania Ave.
Niantic, CT 06357
debbieelzoning19@aol.com

December 15, 2023

Re: Village District Consultant

Ms. Jett-Harris,

Are you the person in charge of hiring a Village District Consultant as required by Section 34.11.2.1 of the Zoning Regulations?

Section 34.11.2.1 states, "All applications for new construction and substantial reconstruction with (sic) the district and in view from public roadways and navigable waters shall be subject to review and recommendation by an architect contracted by the commission and designated as the Village District Consultant for such application. The Village District Consultant shall review an application and report to the Commission within thirty-five days of receipt of the application." This requirement for a Village District Consultant has been on the books for the past 4 years (since the January 24, 2020 amendment to the regulations adding Section 34) and the position has been left vacant during all of that time.

I had applied to Mr. Mulholland for the position yesterday and he responded via email, "At this time the Commission will be replacing a Commission alternate position. At this time the Board has is not filling any other position. I will forward your e-mail to the Chair of the board." The fact that Mr. Mulholland copied only you in his response (and not any of the other Zoning Commission members, or the First Selectman, or the Board of Finance Chair, or the Zoning Office Manager, all of whom I had copied with my application) led me to conclude that you were the person in charge of hiring a Village District Consultant.

His response that the Board is not filling any other position was baffling to me because it seems to be at odds with Decision Motion 6 of the December 7, 2023 Zoning Commission Regular Meeting Minutes which states:

"DECISION MOTION 6

Mr. Peck moved to approve the application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations. It is specifically proposed to add Section 34.2.1 "Flanders Village", and to modify the current Section 34.3 "Purpose", and by adding Section 34.6.1.1 "The Flanders Village Design District". Ms. Markovitz seconded the motion.

Motion passed 6-0-0.

Mr. Pivo asked for clarification of content on Section 34 and noted that he would like a consultant for Flanders Design and for Downtown. Mr. Mulholland responded that the Town does not currently employ one and there is not a current line item in the budget and the commission would have an opportunity to suggest that at a later meeting.

TASK Staff will run the legal ad on 12/14/2023, effective 12/15/2023."

I did not see any legal ad for the position of Village District Consultant in the Classified section of the The Day paper this morning, 12/15/2023.

The Zoning Commission and Zoning Official have obviously been in violation of their own regulations for the past 4 years by requiring a Village District Consultant in Section 34.11.2.1, but at the same time, not hiring a Village District Consultant. How long will this continue?

As I see it, the Zoning Commission has 3 options at this time:

Option 1: To comply with Section 34.11.2.1 by working with the First Selectman and Board of Finance to develop a budget and to actually hire a Village District Consultant.

Option 2: To amend the regulations and to strike the language in Section 34.11.2.1 pertaining to "Village District Consultant."

Option 3: To continue to be in violation of its own regulations by requiring a Village District Consultant in Section 34.11.2.1, but at the same time, not hiring a Village District Consultant.

This all leads me back to the main point of my dissertation to the Commission on December 7, 2023: "If you are going to make regulations, please enforce those regulations." This is yet again another example of the current regulations not being enforced.

I also received a phone call from you at 9:19 AM this morning wherein you asked me to revise my 12-14-23 application to Zoning by leaving in the language related to Commission Member Alternate but leaving out the language related to Village District Consultant. I replied that I used the word "either" in my original application so that I should not have to spend time revising an application that pertains to either position. You stated that the position of Village District Consultant is not in the purview of the Zoning Commission (even though it is in the Zoning Regulations that the Commission itself wrote), but rather is a matter for the First Selectman and the Board of Finance to approve. I replied that is exactly why I copied the First Selectman and the Chair of the Board Finance with my application. I do, however, appreciate your assessment that, as you said, I would make fine candidate for the position of Commission Member Alternate.

So who, if not you or the Zoning Official, in this Town Government is going to actually take charge and address the current requirement for Village District Consultant?

With this letter I am again copying the First Selectman, the Board of Finance Chair, the Zoning Official, the Zoning Office Manager, and Zoning Commission member Gary Pivo who deserves credit for, once again, discovering this discrepancy in the regulations, in the hope that someone in East Lyme Town Government will take the reins and actually rectify this issue.

Because town government is a PUBLIC service, I am also copying Ms. Elizabeth Regan at The Day who has been covering the ongoing issue of the lack of enforcement of the Zoning Regulations in East Lyme, as demonstrated in her November 20 article entitled, "Development debate in East Lyme: What kind of town is it?"

<http://theday.pressreader.com/article/281487871087392>

and her December 12 article entitled,

"More zoning oversight approved amid calls for enforcement."

<http://theday.pressreader.com/article/281724094335704>

Please let me be clear that, while I believe it is preferable to have, as required in Section 34.11.2.1, "an architect contracted by the commission and designated as the Village District Consultant," and for East Lyme to benefit by the architect's expertise in realm of architectural design, it is immaterial to me whether I am that person or not. I simply believe it is important for the Town of East Lyme to be consistent with the regulations that are on the books at this time and to enforce those regulations.

Thank you for your attention to this matter.

Respectfully submitted,

Daniel H. Glynn, Architect

cc: First Selectman Daniel R. Cunningham
Board of Finance Chair Denise Hall
Zoning Official William Mulholland
Zoning Office Manager Jessica Laroco
Zoning Commission Member Gary Pivo
The Day Journalist Elizabeth Regan

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