

EAST LYME BOARD OF SELECTMEN
REGULAR MEETING MINUTES
FEBRUARY 21, 2024

RECEIVED FOR RECORD
EAST LYME, CT

2024 FEB 21 PM 4:21

IN ATTENDANCE: Dan Cunningham, Ann Cicchiello, Candice Carlson, Rose Ann Hardy, Don MacKenzie and Jason Deeble.

ALSO IN ATTENDANCE: Finance Director Kevin Gervais

Ann Cicchiello
TOWN CLERK

Mr. Cunningham called the regular meeting of the East Lyme Board of Selectmen to order at 7:10 p.m. and stated that the pledge of allegiance was performed earlier in the evening.

1b. Additional Agenda & Consent Items

MOTION (1)

Ms. Cicchiello MOVED to move agenda item 2c to be heard after 2g.
Seconded by Mr. Cunningham. Motion passed 6-0.

1c. Delegations

There were none.

1d. Approve Minutes

DISCUSSION: Ms. Cicchiello noted that on page 7 in the second bullet, the word should be "conservation" not "conversation".

MOTION (2)

Ms. Cicchiello MOVED to approve the Regular Meeting Minutes of February 7, 2024, as amended.
Seconded by Ms. Carlson. Motion passed 6-0.

1e. Consent Calendar

MOTION (3)

Ms. Cicchiello MOVED to approve the Consent Calendar for February 21, 2024, in the amount of \$32,557.67.

Seconded by Ms. Carlson. Motion passed 6-0.

2a. Grant Fund Ordinance

MOTION (4)

Ms. Cicchiello MOVED the following: NOTICE IS HEREBY GIVEN of a public hearing to be held by the East Lyme Board of Selectmen at 7:00 p.m. on March 6, 2024 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut to consider the adoption of the following ordinance:

Establishment of a Grants Fund

1. There is established within the East Lyme General Fund a "Grants Fund." The Grants Fund shall continue year-to-year without lapsing unless terminated by the Board of Selectmen.
2. The purpose of the Grants Fund is to hold grant funds received by the Town of East Lyme in a central location in order to facilitate efficient and accurate tracking and accounting of said funds, and to enable the Finance Director to more readily and efficiently report on the status and use of grant funds to the sources of those funds when required by law or the terms of a particular grant.

3. The Finance Director, under the supervision and direction of the Board of Finance, shall have custody of the Grants Fund. Further, the Finance Director shall:
 - a. Upon the receipt of grant funds by the Town of East Lyme, deposit or otherwise place said funds into the Grants Fund, unless said funds are required by law or the terms of a particular grant to be deposited elsewhere.
 - b. Disburse funds from the Grants Fund for purposes authorized by law and the terms of the source grant for the funds disbursed.
 - c. Account for the status and use of said funds within the Grants Fund.
 - d. Prepare reports for grant providers, as required by law or the terms of a source grant, concerning the status and use of grant funds. Whenever such reports are prepared, a copy shall be sent to the Board of Finance for information purposes as part of the Board of Finance's supervision and direction of the Finance Director's management of the Grants Fund.
4. Annually on or before September 30, the Finance Director shall submit a report to the Board of Selectmen and Board of Finance providing a summary of the Grants Fund for the fiscal year most recently ending. Such summary shall identify the total amount of grant funds received by the Town of East Lyme, list the sources of those funds, identify the total amount of grant funds carried into the new fiscal year, and any such other information as the Finance Director, in his or her discretion, deems necessary and appropriate.

Copies of the text of this Notice is on file for public inspection at the office of the East Lyme Town Clerk, 108 Pennsylvania Avenue, Niantic, Connecticut and at <http://www.eltownhall.com/> to which reference may be had. Interested persons are invited to attend and be heard. Dated at East Lyme, Connecticut, on this 21st day of February, 2024.

Seconded by Ms. Carlson. Motion passed 6-0.

2b. Community Center Feasibility Study Update

This matter is tabled to the March 20, 2024 Board of Selectman meeting.

2c. Short Term Rental (STR) Committee Update

DISCUSSION: Committee Members Anne Santoro and Gary Cicchiello were present to give an update on this matter. Ms. Santoro stated that they are working on a status report and should have that to present soon; she distributed a couple of things attached hereto as Exhibit #1. They have had two public hearings and received lots of feedback via delegations at meetings and emails. They are waiting the outcome of the pending court case of Wihbey v. ZBA in New Haven as this decision will assist them in making their decisions. Mr. Cicchiello stated that they will begin getting input from the government officials within each beach community that has their own Zoning.

2d. Schedule Town Meeting

MOTION (5)

Ms. Cicchiello MOVED the following:

TOWN OF EAST LYME NOTICE OF SPECIAL TOWN MEETING March 6, 2024 @ 7:00 P.M.

Notice is hereby given of a Special Town Meeting of the Town of East Lyme to be held on Wednesday, March 6, 2024 at 7:00 P.M. (ET) at the East Lyme Town Hall Upper Meeting Room for the following purposes:

1. To approve a special appropriation of American Rescue Plan Act (ARPA) Grant funds from the State of Connecticut Department of Aging and Disability Services Coronavirus Fiscal Local Recovery Fund (CSLFRF) of \$58,540.00 to benefit the East Lyme Senior Center for the following: for programming, including a partially funded social worker through 12/31/2024; purchase and installation/set up of a user registration station; purchase and installation of a clothes washer and dryer and supplies; purchase and installation of new freezer, dishwasher and associated supplies as set forth in the Project Budget identified below:

Project Budget

Cost Item	Programming Total Cost 10/1/23 - 9/30/24	Programming Total Cost 10/1/24 - 9/30/25
Compensation	15356.25	15256.25
Fringe Benefits	5406.5	5406.5
Travel	78.6	78.6
Equipment & Other Capital	13,406.85	
Materials & Supplies	250	250
Contractual Services	2650	
Consultants / Professional Services		
Occupancy (Rent & Utilities)		
Telecommunications	150	150
Training & Education		
Direct Administrative Costs		
Total Direct Costs	\$ 37,298.65	\$ 21,241.35
Indirect Costs*		
		\$ 58,540.00

3. To transact any other business proper to come before the meeting.
 Dated at East Lyme, Connecticut, this 21st day of February, 2024. EAST LYME BOARD OF SELECTMEN

Seconded by Ms. Carlson. Motion passed 6-0.

2e. Departmental Transfers
Tabled to the next regular meeting.

2f. Lion Club Annual Lease

MOTION (6)

Ms. Cicchiello MOVED to approve and to authorize the First Selectman to enter into a lease agreement with the Niantic Lions Club for the purpose of selling food in connection with the art show on July 6th and 7th, 2024, the Town grants to the Lions, for the period of 4:00 p.m. on Friday, July 5th and shall end at 10:00 p.m. on Sunday, July 7th, the right to use the land at the Town Hall on Pennsylvania Avenue, which is to be set aside for that purpose by the Town. Seconded by Ms. Hardy. Motion passed 6-0.

2g. Appointments

MOTION (7)

Ms. Cicchiello MOVED to appoint Kristen Caramanica, Senior Center Director, to serve as the Municipal Agent for the Elderly on behalf of the Town of East Lyme with a term to expire on January 3, 2028. Seconded by Ms. Carlson. Motion passed 6-0.

MOTION (8)

Ms. Cicchiello MOVED to appoint Kevin McGowan, 33 Spinnaker Drive, Niantic, CT, to serve as a Member on the Commission on Aging on behalf of the Town of East Lyme with a term to expire on January 3, 2028. Seconded by Ms. Hardy. Motion passed 6-0.

MOTION (9)

Ms. Cicchiello MOVED to appoint Patricia Kolosowski, 52 Indianola Road, Niantic, CT, to serve as an Alternate Member on the Zoning Board of Appeals on behalf of the Town of East Lyme with a term to expire on January 3, 2028. Seconded by Mr. MacKenzie. Motion passed 6-0.

3a. Police Commission Ordinance

MOTION (10)

Ms. Cicchiello MOVED the following: RESOLVED, to enact the revisions to the ordinance entitled "BOARD OF POLICE COMMISSIONERS" presented at the public hearing before the Board of Selectmen on February 21, 2024. The effective date of the Ordinance shall be ten (10) days after newspaper publication of the notice of its adoption. Seconded by Ms. Hardy. Motion passed 6-0.

3b. Peddling Ordinance

MOTION (11)

Ms. Cicchiello MOVED the following: RESOLVED, to enact the revisions to the ordinance entitled "PEDDLING" presented at the public hearing before the Board of Selectmen on February 21, 2024. The effective date of the Ordinance shall be ten (10) days after newspaper publication of the notice of its adoption. Seconded by Ms. Carlson. Motion passed 6-0.

4a. Ex-Officio Reports

Candice Carlson Reported on the following:

- Youth Family and Human Services meeting on February 8th; they welcomed a new member and the Salem representative.
- Working on Peer-to-Peer presentations
- Parks and Recreation is working on the budget and discussing passes and fees for the upcoming season.
- Revived discussion about a dog park.
- Fundraiser on February 29th 4-8pm at 5 churches.

4b. First Selectman's Report

- Closed on the Hathaway property; thank you to everyone involved. This property is now preserved for open space and conservation.
- New Human Resources Manager, Stacey Konakowitz.
- Creating a new Fire Services department; will be appointing an acting Fire Chief and Deputy Fire Chief. This is in line with the recent Fire Study recommendations. The ordinance is being worked on.

5. Communications

There were none.

6. Public Comments

There were none.

7. Selectman's Response

There was none.

MOTION (12)

Ms. Cicchiello MOVED to adjourn the February 21, 2024, regular meeting of the Board of Selectmen at 8:44 p.m.

Seconded by Ms. Carlson. Motion passed 6-0.

Respectfully Submitted,



Sandra Anderson
Recording Secretary

Exhibit # 1

EAST LYME STR COMMITTEE
POSSIBLE TOPICS TO ADDRESS/SUMMARIZE
FOR STATUS REPORT TO SELECTMEN
2/12/24

1. Selectmen's Charge to Committee
2. Definition of STR and overview of STRs; East Lyme STR market
3. Existing legal framework in Town and in our beach communities relevant to STRs
4. Wihbey and related outstanding legal questions
5. Public opinion in Town to date—2 Hearings, Delegations, Emails
6. Town Department Head information and opinion—Z.O., F.M., Police Chief, B.O.
7. TBD-Info and opinion from government officials/zoning officers from beach communities
8. Committee goals to date; statement of purpose
9. If STRS are specifically regulated-where would they be allowed, what might be regulated, and how would this be accomplished?
10. Assessment issues—filings and taxes as allowed businesses
11. Relevant examples from other (CT) municipalities
12. Committee webpage and key reading materials

**FRANCES WIHBEY v. ZONING BOARD OF APPEALS OF THE PINE ORCHARD
ASSOCIATION, SC 20839**

Judicial District of New Haven

Zoning; Nonconforming Use; Whether Short-Term Rentals of Single-Family Dwelling Constituted Permissible Use under 1994 Pine Orchard Association Zoning Regulations. The plaintiff owns a single-family home (property) in a residential area in Branford to which the zoning regulations of the Pine Orchard Association (Pine Orchard) apply. The zoning regulations in effect at the time the plaintiff purchased the property (1994 regulations) provide for several permitted uses, including use as "[a] single-family dwelling." The 1994 regulations define a "single-family dwelling" as "[a] building designed for and occupied exclusively as a home or residence for not more than one family." The 1994 regulations in turn define "family" as "[o]ne or more persons related by blood, marriage or adoption." The terms "home" and "residence" are not defined. In 2018, Pine Orchard amended its zoning regulations (2018 regulations) to provide that "[a] single-family dwelling may not be used or offered for use as a [s]hort-[t]erm [r]ental [p]roperty," which is defined as "[a] residential dwelling unit that is used and/or advertised for rent for occupancy by guests for consideration for a period of less than thirty (30) continuous days." In 2019, a Pine Orchard zoning enforcement officer issued the plaintiff a letter ordering him to cease and desist from renting his property to short-term overnight guests in violation of the 2018 regulations. The plaintiff appealed to the defendant Pine Orchard Association Zoning Board of Appeals (board), claiming that his use of the property for short-term rentals was a protected nonconforming use under the 1994 regulations. The board upheld the cease and desist order, concluding that short-term rentals were not permitted under the 1994 regulations and that, therefore, the plaintiff's use of the property was not a preexisting nonconforming use. The plaintiff then appealed from the board's decision to the trial court. The court sustained the plaintiff's appeal and reversed the board's decision, concluding that the plaintiff's use of the property was lawful under the 1994 regulations. Pine Orchard and two intervening homeowners appealed to the Appellate Court, arguing that the use of any property in Pine Orchard for short-term rentals has never been permitted and is inconsistent with the use of a property as a "home" or "residence," which terms the defendants argued implied some degree of permanence. The Appellate Court (218 Conn. App. 356) determined that the drafters of the regulations intended that these terms be accorded different meanings and that "residence" is best construed as meaning a place where someone lives for some period of time without the same sense of permanence associated with a home. According to the Appellate Court, so long as one family dwells in the property, any amount of time may constitute "some time" sufficient to make the property the family's residence. Consequently, the Appellate Court concluded that the trial court had properly held that short-term rentals were a lawful, permitted use consistent with the definitions of "single-family dwelling" and "family" in the 1994 regulations. Our Supreme Court thereafter granted the defendants certification to appeal, and it will now decide whether the Appellate Court correctly concluded that such short-term rentals constituted a permissible use of the subject property under the 1994 regulations.