

East Lyme Inland Wetlands Agency
Regular Meeting
April 13, 2015

Present: Cheryl Lozanov, Chairwomen
Norman Bender
Harold Clarke
Charles Reluga
Phyllis Berger

Absent: Joseph Mingo
Keith Hall
Kimberly Bradley, Alternate

Also Present: Gary Goeschel, II, Wetlands Enforcement Officer
Kevin Seery, Ex officio
Mark Nickerson
John Bialowans, Jr.
Carol Murko
Edward J. Avizinis, Natural Resources Services
Jason Dismukes, Civil Engineer

FILED IN EAST LYME
CONNECTICUT
APR 16 2015 AT 2:40 AM/PM
B. Mingo
EAST LYME TOWN CLERK

CALL TO ORDER. Chairwomen Lozanov called the April 13, 2015 Regular Meeting of the East Lyme Inland Wetlands Agency to order at 7:01 p.m.

PLEDGE OF ALLEGIANCE. The Pledge of Allegiance was observed.

I. ADDITIONS TO THE AGENDA. Mr. Goeschel asked that Application of Roger Dawson of 1314 East Las Olas Boulevard, Fort Lauderdale, Florida for the construction of a single family home at 21 Upper Walnut Hill Road, East Lyme be added to this evening's Agenda, as item VII, under New Business.

MOTION: Mr. Clarke moved to add Mr. Dawson's Application for the construction of a single family home at 21 Upper Walnut Hill Road, East Lyme be added to this evening's Agenda as item VII. New Business, Item A. Seconded by Mr. Reluga. (5-0) Unanimous.

II. PUBLIC DELEGATIONS. John Bialowans, Jr. of 61 Walnut Hill Road stated he is using wood chips as a silt fence to correct erosion on his property. He has a letter from Judy Rondeau, a Natural Resources Specialist for the Eastern Connecticut Conservation District, about the benefits of woodchip berms. He has already used woodchip berms on four locations on his property.

He also has a report from Donald Danila about storm water discharge into our tributary. Mr. Danila and Ms. Rondeau have been monitoring our tributary since May 24, 2013. The tributary has been warmer.

III. ACCEPTANCE OF MINUTES.

A. Show Cause Hearing Minutes of March 9, 2015. Ms. Lozanov asked for additions, deletions or corrections to the March 9, 2015 Show Cause Hearing Minutes.

MOTION: Mr. Bender moved to approve the Show Cause Hearing Minutes of March 9, 2015, as presented. Seconded by Mr. Reluga. (5-0) Unanimous.

B. Regular Meeting Minutes of March 9, 2015. Ms. Lozanov asked for additions, deletions or corrections to the March 9, 2015 Regular Meeting Minutes.

MOTION: Ms. Berger moved to approve the Regular Meeting Minutes of March 9, 2015, as presented. Seconded by Mr. Clarke. (5-0) Unanimous.

IV. EX OFFICIO REPORT. Mr. Seery reported for Mr. Salerno that there will be no Board of Selectmen Meeting on this Wednesday, because several Board of Selectmen will be out of Town. There will be a Public Hearing on Wednesday night at 7 p.m. for an Amendment for the Building Official. If he goes out to a site multiple times and no one shows up or the problem has not been corrected, he can levy a \$50 fine.

There will be a Board of Finance Public Hearing next Monday at 7 p.m. at the High School. The Board of Finance has cut the Board of Education budget by \$450,000 and the General Government budget by \$150,000.

We had a presentation on purchasing Open Space in the Golden Spur area. We have a lot more questions. A proposal has been given to a third party overseeing it.

This summer Hole-in-the-Wall will be closed Monday through Friday. It will be open on Saturday and Sunday. Beach passes are now on sale.

Ms. Lozanov asked if the Town purchases property at the Golden Spur who will take care of it? Mr. Seery replied there will be administration involved. There is indication of a \$500,000 grant to be awarded. Mr. Seery stated no Public Hearing has been scheduled on the purchase of the property.

V. PENDING APPLICATIONS.

A. 20 Woodland Drive, Niantic Bay Group Owner, Jodie Chase Applicant. Application to construct a single family dwelling at property located at 20 Woodland Drive, Assessor's Map #05.9, Lot #12, East Lyme, Connecticut. (Date of Receipt 3/9/15, Date to render Decision by 4/15/15).

Ms. Chase informed the Commission she and her husband have an option to purchase 20 Woodland Drive. The frontage is on Park Court and Woodland Drive. There are no wetlands on the property. She stated when we originally presented the application we

planned to enter on Park Court crossing the drainage ditch to the property. We are now entering from Woodland Drive. No wetlands will be impacted. We are proposing a vegetation buffer. We have public water and sewer. We met with Bill Mulholland and Brad Kargl. She felt it meets zoning requirements. Ms. Lozanov asked if the home will be the same size as originally planned? Ms. Chase replied it is a two bedroom house but the footprint is slightly larger. The lot is 9,000 square feet.

Mr. Goeschel reported the revised plan proposes a swale adding rip rap to it. It pushes the driveway further east. There is less impact than the previous proposal. Ms. Lozanov asked is there no basement? Ms. Chase replied there is no basement. Mr. Benni saw the changes. Ms. Lozanov stated we have until April 15 to render a decision. Mr. Reluga asked will you be rip rapping the entire length of the property? Ms. Chase replied we will from the front culvert to the west. Mr. Reluga asked will you be taking down many trees? Ms. Chase replied as many as needed. Mr. Goeschel stated with changes, the storm pipe is no longer provided. Ms. Berger asked have abutting property owners been notified? Mr. Goeschel replied there is no need to unless there is a Public Hearing.

MOTION: Mr. Clarke moved to accept the application of Jodi Chase at 20 Woodland Drive, Niantic Bay Group Owner to construct a single family dwelling, Assessor's Map #05.9, Lot #12, East Lyme, CT as complete. Seconded by Mr. Reluga. (5-0) Unanimous.

MOTION: Mr. Clarke moved that after considering relevant factors, the Applicant has successfully demonstrated that there will be no environmental adverse affect on the wetlands. This activity is a one time activity of limited duration with no long term impact to the wetlands or watercourse. Impacts are mitigated by the use of proper environmental controls. No change in the size of the footprint or location of the footprint would decrease the impact. The approved plan is titled property survey showing proposed house at 20 Woodland Drive, Niantic, CT prepared for Niantic Group, LLC, sheet #1, dated April 2, 2015 and also property survey showing proposed house at 20 Woodland Drive, Niantic, CT, prepared by Niantic Bay Group, LLC, sheet #2, dated February 23, 2015. This approval is with the following conditions: Notify the Conservation Agent at least two days prior to construction to inspect environmental controls; notify Conservation Agent upon completion to sign off on permit; changes to the plan shall require additional approval; a new plan will be submitted prior to construction; additional work beyond the permitted activity shall require approval from the Commission or its Agent; provide name and contact number of person responsible for compliance; limits of clearing shall be staked by a licensed surveyor; a \$75 silt fence inspection fee is required before clearing

construction activities. Note on the plan that additional activity in the wetlands or approved review area requires approval by the Inland/Wetland Agency. Seconded by Mr. Reluga. (5-0) Unanimous.

VI. OLD BUSINESS

A. Cease, Desist and Correct Order - 20 Farm Meadow Road, East Lyme, Ct - Centerplan Construction Company and GRE 314 East Lyme, LLC, Owner; Antares Solar Field on property located at 20 Farm Meadow Road, East Lyme, CT, Assessor's Map #52.0, Lot #126, East Lyme, Connecticut.

Mr. Goeschel informed the Commission we will have a Site Walk next month. He met with the property owners to discuss a resolution regarding the impact to other properties. He walked the parcel with Mr. Fortunato and Mr. Kline. Five to six areas were identified where work can be done. Between now and our next meeting we will get reports from them as to the best way to proceed.

Mr. Goeschel contacted DEEP regarding Sec. 22 a.-44 of the Statutes. Under Sec. a. an Agency or representative may issue a written order to cease subject activity. The Agency can issue an order. Mr. Goeschel will document it by photos. The next goal on the solar site is to see how the vegetation is taking hold.

Mr. Reluga asked if there are other owners? Mr. Bialowans replied his nieces.

Ms. Lozanov asked how far downstream is the sediment? Mr. Goeschel replied it is evident material moved from the solar site to Latimer Brook. He is looking for guidance from DEEP.

Mr. Clarke asked how do we determine the impact? Shouldn't someone with credentials determine the result? Any other course will allow the contractor to damage other properties. Mr. Goeschel stated Jim Cowan was asked to review it and provide us with guidance. Mr. Goeschel reported the opinion of Mr. Cowan is that removing sediment would do more harm than good. On September 30 remediation will be conducted and completed by September 30. A neighbor hired a consultant. Centerplan indicated they would have no problem doing the work. Mr. Goeschel felt next month we will have photos of the exact locations and add it to the Site Plan.

Ms. Lozanov asked if a violation is occurring? She was informed there is a violation. Mr. Goeschel agreed to obtain permission from abutting property owners to allow for a Site Walk.

Mr. Clarke asked if this Commission will have a report prior to a Site Walk. Mr. Goeschel hopes it will. This will be on the next Site Walk.

B. Cease, Desist and Correct Order - 286 Flanders Road, East Lyme, CT - Gateway Development, East Lyme, LLC, Owner; Gateway Development located at 286 Flanders Road, East Lyme, Ct., Assessor's Map #26.0, Lot #2, East Lyme, CT.

Edward J. Avizinis and Wetland Biologist/Soil Scientist conducted wetlands at the project site. They held up ok through a rain event last week. He visited it twice a week. Corrective action was needed. The construction company has been helpful and supportive. There were no major events. He conducted stream sampling. The purpose of this was to find out whether sediment made it into the Pattagansett River. He established control sites where sediment would have entered the stream. Brian Murphy of DEEP had recommendations also. Mr. Avizinis was concerned with macro invertebrate habitat and changed the protocol. For the most part it was free of sediment. South of I-95 is fairly wide. South of there it forks and weaves. He saw pockets of siltation. It was grainy core sand. Skunk cabbage is coming up. Ms. Lozanov asked will it work its way out? Mr. Avizinis it would be into organic material. For the most part it fanned out into the marsh with organic material. Each of the sampling locations marked fresh water snail. Mr. Murphy was concerned that those areas would be covered and silted. They are not covered up. Most of the material was left in the pool and did not make it into the channel and should be removed.

Ms. Lozanov discussed the placement of turbidity nets that can catch some of the material for the protection of Gorton Pond. Mr. Avizinis felt they would provide an obstruction to the fish stream. Mr. Goeschel asked NRS to provide a letter. Mr. Goeschel advised them not to install the curtains. Based on this Report the downstream impact was minimal. Mr. Avizinis stated he has been doing research and exploring options upstream. He would like to get Brian Murphy's input on this. Mr. Goeschel stated Todd Nobely of NRCS suggests placing boulder as an option. Mr. Goeschel observed an area of the pool that was impacted, and material was removed. We have evidence of egg masses.

We discussed a CL&P easement area that in the future they will remove all of the material pushing out to the sites. In spring we will bring that access way down to grade. It was evaluated more than the initial grid. CL&P replaced the culverts. Mr. Goeschel felt they should have a plan for their work. Mr. Goeschel stated there is a different Environmental Company representing COSTCO. Ms. Lozanov asked if there is an estimate on the length of time it will take to review it. Mr. Avizinis felt it should at least be monitored while erosion control is needed. He estimated next spring.

Mr. Clarke asked if the control points are located within the area of construction? Mr. Avizinis stated at least 150' of vegetated buffer. Mr. Clarke asked if there was no evidence of construction impacting the stream and crossing? Mr. Avizinis felt there is a substantial amount of erosion. Mr. Goeschel stated we have not had a major breach. Mr. Reluga felt hay bales are doing its job. Mr. Avizinis felt the contractors are doing a good job. Mr. Avizinis stated it will be monitored as long as this Commission wishes it to be monitored. Ms. Lozanov stated until everything is satisfactory. Mr. Goeschel stated next week plantings will be available around the pool.

VII. NEW BUSINESS

A. Construction of a Single Family Home at 21 Upper Walnut Hill Road, Roger Dawson, Applicant.

Jason Dismukes, Civil Engineer, of 241 Torrington Road, Goshen reported we have a four area parcel proposal to subdivide two acres. We have wetlands on the property. The proposal is for a building lot served by its own driveway. When we began this project it had been surveyed and we met with Town staff to look at the best way to subdivide it. We put the proposed front yard on an angle closer to the contours of the land. We moved it out of the wetland area. Ms. Lozanov asked is this a four acre lot? Mr. Dismukes stated we are creating a two acre lot. Ms. Lozanov asked is the existing house remaining there? Mr. Dismukes replied it is. They are working on renovating the existing home. He reported the lay of the land is gentle sloping. Ms. Lozanov asked if the driveway comes up to the house and has a turn around? Mr. Dismukes stated it was suggested as a better way to construct the driveway. The majority is flat. Ms. Lozanov asked if there was any change in the run off of the water once the house is placed? Mr. Dismukes stated when water comes down it will continue to the wetlands. We proposed to put a conservation area around it, and have it as part of the deed. The feeling is if you have an easement it needs to be in favor of somebody. Commissioners change. Mr. Bender didn't feel it has any stand. Mr. Goeschel stated if there is a conservation easement it would require the Town to enforce that easement. Mr. Dismukes your agent would be able to. Mr. Clarke stated it sounds as though the landowner will have to enforce the easement. He did not see any problem with the Town enforcing it. Mr. Bender felt if there is a conservation easement, the people would have to understand what the requirements are. Mr. Dismukes stated other towns have accepted it. It would be filed in the Town records that it is a conservation area. Mr. Clarke stated he did not like the language and felt it needed Zoning Regulations to define it. He asked how would you enforce something that is not in our regulations? Mr. Bender agreed. Mr. Goeschel stated the concern is with enforcement.

Ms. Lozanov stated with subdivisions 10% is put aside. Mr. Dismukes stated we are requesting a waiver. Mr. Goeschel felt by definition it is a re-subdivision. The existing house was part of a larger subdivision. Mr. Goeschel felt a Public Hearing is needed. Mr. Clarke asked how do we allow the public to petition for a Public Hearing? Mr. Goeschel stated Planning is required to have a Public Hearing on this application.

This Commission is next scheduled to meet on May 11, but because of the Town Meeting we need to move it to May 4. Mr. Clarke asked is it possible to have the Public Hearing at this Commission's next meeting? Ms. Lozanov felt if it involves wetlands, its necessary to come before this Commission. Abutting neighbors will be notified by certified letter. Mr. Bender was not sure we need a Public Hearing. Ms. Berger stated Planning is requiring it. Mr. Goeschel stated a Report is all that is needed. You are not required to have a Public Hearing. Mr. Dismukes felt a detailed site Plan of the construction of the home is required. He stated when an individual buys a house, they

have to demonstrate their house matches the subdivision plan. Mr. Goeschel referred to Sec. 9 of the regulations. Ms. Lozanov felt this Commission normally requires a week to review the plan. By East Lyme regulations, it can be resubdivided. Mr. Goeschel stated they are seeking approval so they can obtain a permit to do this work for a house, driveway and septic system. He is proposing to subdivide this lot. Mr. Dismukes stated when the builder comes in to build they will need to show a site plan. It would have to show they are not encroaching. From a wetlands perspective the owner has to come before this Commission. Mr. Clarke stated you cannot subdivide a lot unless it is buildable. If this is approved it is an approved house lot. Ms. Lozanov would like Town Attorney's input on the wording of a conservation easement.

Ms. Berger asked what percentage of your conservation areas is in your proposed conservation easement? Mr. Dismukes replied 30%. When we start this project we will have a Soil Scientist establish the wetlands.

**MOTION: Mr. Clarke moved to hold a Public Hearing on this application.
Seconded by Mr. Reluga. (5-0) Unanimous.**

A Public Hearing will be held on May 4 at 7 p.m.

IX. REPORTS

A. Chairwomen's Report. Ms. Lozanov had nothing new to report.

B. Inland Wetlands Agent Report

Ms. Lozanov asked Mr. Goeschel to report on Indian Pond, the farm stand at Upper Pattagansett and garbage at the Midway Mall. Mr. Goeschel reported the trash at the Midway Mall has been partially removed. The farm stand is closed for the season. They built a retaining wall at Indian Pond at Crescent Beach.

C. Correspondence

1. Letter dated April 10, 2015 from John Bialowans, Jr.

Mr. Goeschel reported wood chip berm provides a water quality function. He has a house and he wants to build out. That area is disturbed. There is no lawn.

Ms. Berger asked is it accepted practice to use wood chips instead of a silt fence? Ms. Lozanov stated the state came in when surveying for the breech and it wanted to use the area between Society Road and I-95 dumping of their soils while they were working. Ms. Lozanov stated no one has taken out the old tires. Why can't the state clean up? Mr. Goeschel agreed to contact the contractor.

Mr. Goeschel approached the Town regarding the depositing of material on the old portion of Society Road abandoned by the Town. Zoning informed him they need a

Special Permit to deposit more than 100 yards of material. Ms. Lozanov stated they revamped water discharged in that area. Mr. Goeschel stated there is an outlet at the intersection of Dean and East Society Road. There is a new outlet structure. The state put it in the summer picnic area. They had a silt fence. Mr. Goeschel will follow up to be sure they have a permit. Mr. Goeschel is not opposed to wood chips. He did visit the site.

The Zoning Commission has received Application 841 for units at the north end of Oswegatchie Hills. The Zoning Commission had to revise its regulations. He is applying for preliminary approval. All the proposed area is outside the upper area. Ms. Lozanov stated it does not mean it is impacted. Mr. Bender asked what is the total area? Mr. Goeschel replied approximately 135 acres. It goes to Public Hearing on May 21. The plan is for 1 and 2 bedrooms per acre. Ms. Berger asked if these are apartments? Mr. Goeschel stated they are, and he is allowing for open space. Mr. Goeschel stated it does not require CAM review. The plan is proposing a traffic lane and widening the road. Traffic is already impacted. It is proposing one entrance and exit. Mr. Bender asked what is the demand for apartments? Mr. Goeschel stated there will be 270 apartments for Gateway. Hope Street has 100 units complete. The Gary Smith development will have 26 units. Norton's Garage has 10 units. Ten were approved at the Methodist condos. The Orchards has 160 lots. We have an aging population. Couples are waiting later to get married and have children. We are second lowest in the nation's job market. Mr. Clarke felt the density is less because its affordable. Mr. Goeschel stated Deerfield Village is not counted in affordable housing. Mr. Clarke stated he is thinking about the impact on our schools.

MOTION : Ms. Berger moved to adjourn the April 13, 2015 Inland Wetlands Agency Meeting at 9:50 p.m. Seconded by Mr. Reluga. (5-0)

Respectfully submitted,

Frances Gherisi, Recording Secretary