

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING
Tuesday, SEPTEMBER 8th, 2015
MINUTES**

PRESENT: Cheryl Lozanov, Chairperson, Chuck Reluga, Vice-Chair, Norm Bender, Phyllis Berger, Harry Clarke, Joe Mingo

ALSO PRESENT: Scott Rabideau, Wetland & Soil Scientist, representing Gateway Thomas & Nancy Kalal, Applicants
Gary Goeschel, Inland Wetlands Agent
Karen Zmitruk, Recording Secretary
Marc Salerno, Ex-Officio, Board of Selectmen

ABSENT: Keith Hall, Secretary

Call to Order

Ms. Lozanov called the September 8, 2015 Regular Meeting of the East Lyme Inland Wetlands Agency to order at 7:00 PM.

Pledge of Allegiance

The Pledge was observed.

I. Additions to the Agenda

Ms. Lozanov asked if there were any additions to the agenda.

Mr. Goeschel said that he did not have any additions.

II. Public Delegations

Ms. Lozanov called for Public Delegations.

John Bialowans, 61 Walnut Hill Road said that he wanted to comment on comments that Mr. Mingo had said at the last meeting regarding the Town not receiving any compensation from the solar farm as it is a Siting Council issue. He said that the only reason why the Town had to get involved was because the retention ponds failed. Compensation for all of this should be billed to the developer or property owner that caused the damage. He cited other Towns that have gone against the developer for all expenses to be paid. He continued that issues with regard to his own property remain unresolved and he feels that Centerplan has broken their agreement.

Mr. Mingo said that is a civil matter.

Ms. Lozanov said that his legal representation is better able to guide him and that it is beyond something that they would be involved with.

Mr. Bialowans said that he is looking at other alternatives with another attorney.

Mr. Goeschel clarified that they have approved a scope of work that the developer has agreed to and has absorbed the cost on – anything further is a civil matter between Mr. Bialowans and his attorney and the developer.

Mr. Mingo said that he feels that is it unfair of Mr. Bialowans to be speaking about a developer who is not here to hear or respond. Further, he is speaking with regard to items that are on the agenda.

Mr. Bialowans said that he will be looking into another attorney as his current attorney does not want to go through all of the litigation with this matter.

FILED IN EAST LYME
CONNECTICUT
Sept 10, 2015 AT 1:30 AM (PM)
Caitlyn Salerno
EAST LYME TOWN CLERK

III. Acceptance of Minutes

▪ **Site Walk Minutes of August 8, 2015**

Ms. Lozanov called for any discussion or corrections to the Public Hearing Minutes of August 8, 2015.

****MOTION (1)**

Mr. Reluga moved to accept the IWA Site Walk Minutes of August 8, 2015 as presented.

Ms. Berger seconded the motion.

Vote: 3 – 0 – 3. Motion passed.

Abstained: Mr. Bender, Mr. Clarke, Mr. Mingo

▪ **Regular Meeting Minutes of August 10, 2015**

Ms. Lozanov called for any discussion or corrections to the Regular Meeting Minutes of August 10, 2015.

****MOTION (2)**

Mr. Mingo moved to accept the IWA Regular Meeting Minutes of August 10, 2015 as presented.

Mr. Reluga seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Mr. Bender

IV. Ex-Officio Report

Mr. Salerno reported that they had approved a number of special appropriations at the last Board of Selectmen meeting one of which was for a Grant to add parking areas for the eight Mile River Watershed Trail at Grassy Hill, Whistletown and Darrow Pond. They also approved the Public Works salt shed and tanks for 8 Capitol Drive.

V. Pending Applications

There were none.

VI. Old Business

- **Cease, Desist & 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, CT**

Mr. Goeschel said that they will have a site walk on October 3, 2015 with a complete update on this at their October 5, 2015 meeting.

- **Cease, Desist & Correct Order – 286 Flanders Road, East Lyme, CT – Gateway Development, East Lyme LLC Owner, Assessor's Map 26.0, Lot 2, East Lyme, CT and –**
- **Cease, Desist & Correct Order – Flanders Road – Gateway Development East Lyme LLC Owner, Assessor's Map 31.0, Lot 1, East Lyme, CT**

Mr. Goeschel said that Mr. Rabideau is present this evening to update them.

Scott Rabideau, Soil and Wetland Scientist said that he had walked the restored areas with Mr. Goeschel last week Thursday and that the area is fully vegetated. They checked the CL&P easement and it is back down to grade. This was all completed by the August 30, 2015 deadline. He added that the emergency access road needed some stabilization on the side slopes and that they are in the process of doing this now. It was not on the list but he felt that it needed to be done. He said that he would like to come back to them at their October meeting and ask for the lifting/release of the NOV.

Mr. Mingo recommended that Mr. Goeschel and the Town Engineer look at this as they have the expertise and provide a report.

Mr. Rabideau said that he would walk the site with Mr. Goeschel and Mr. Benni as he would like to get the enforcement actions reviewed and released for the October meeting as they have a limited window at that time to do any plantings if any are necessary. He said that he would not have an issue with also doing a Site Walk with the Commissioners on October 3, 2015.

Mr. Goeschel noted that he had asked for an educational sign to be placed at the vernal pool.

↓ **Application for Determination of Permitted/Non-Regulated Activity – 80 Grassy Hill Road, East Lyme – Thomas and Nancy Kalal, Owner – reinforcement of earthen berm to allow the widening of an existing pathway to allow haying equipment to cross on property located at 80 Grassy Hill Road, East Lyme, Assessor's Map 51.0, Lot 9.**

Mr. Goeschel recapped that this process has gone on for eight years and that the applicants were to look into the possibility of getting access from other property owners. He was to seek clarification on the statute and their charge is to make a determination if the road construction is directly related to the haying operation.

Nancy Kalal, Owner/applicant, 80 Grassy Hill road said that there is no opportunity to have the use of the neighbors property. They have a new baby and are not happy with all of the noise from the haying operation as it is. She asked that they be able to complete the road and fix the berm out there.

Ms. Lozanov asked Mr. Goeschel if he has any reservations.

Mr. Goeschel said that it would be filling in an area and if they went upstream for a crossing that they would have to clear a swath of land.

Ms. Berger noted that currently the land is land-locked so if they were to allow this road to go in – what happened if say in five years from now they want to sell that parcel.

Mr. Goeschel said that it is bifurcated by the stream and is part of a larger piece.

Ms. Berger said if they do decide to permit some sort of road – would it only be a farm road or could they decide to sell it and use the road for access. She said that here concern is what happens once the road is established.

Mr. Goeschel said that the only legal access is through their property.

Mr. Mingo said that they have to ask which is worse – he does not feel that they should be filling in a pond as it is a viable watercourse.

Ms. Kalal said that it has no bearing on the water leaving the pond and that they would have to go across a swamp in the other area and would have to fill that also.

Mr. Goeschel said that it is a 100 sq. ft. area that would be filled.

****MOTION (3)**

Mr. Clarke moved that the reinforcement of an earthen berm to allow the widening of an existing pathway to allow haying equipment to cross at 80 Grassy Hill Road, East Lyme, CT has been found to be a non-regulated activity as this is an active farm.

Mr. Reluga seconded the motion.

Vote: 4 – 2 – 0. Motion passed.

Against: Ms. Berger, Mr. Mingo

Ms. Berger asked if Mr. Goeschel would be reviewing the work that would be done and if they would have to notify him prior to and upon completion of the work.

Mr. Goeschel said that it would be a requirement and stated in the letter that goes to them.

VII. New Business

There was none.

VIII. Reports

♦ **Chairperson's Report**

Ms. Lozanov asked that the dates be put on the enforcement items as they have been around for some time now.

♦ **Inland Wetlands Agent Report**

♦ **Administrative Permits Issued**

Mr. Goeschel said that he had issued a permit for 22 Bittersweet for a small shed.

Mr. Reluga asked about 2 Mohawk Drive, the two car garage and where the wetland is.
Mr. Goeschel said that there is a small one next to it and that he asked for a vegetative buffer to be placed there to further protect it.

Ms. Lozanov said that she had notices that on West Society Road in the unpaved area that they had brought in some gravel.

Mr. Mingo said that he thought that it was for the bridge work.

Mr. Goeschel said that he would check with the Town Engineer to see if they are doing some work there. He said that he had thought that the Town wanted to repair that road.

Ms. Berger noted that it states under Public Delegations that members of the Commission will not directly reply to comments during delegations. She reminded them that they should follow this.

Ms. Lozanov agreed.

- ♦ **Commission Issued Permits: Status Update**
- ♦ **Permit #12-9: 187 W. Main Street – Maine-Hope Enterprises, LLC**

Mr. Goeschel said that he still has to go out to 187 West Main Street to make a report and he would have that for them the next time.

- ♦ **Enforcement – 4 Colton Rd., 15 Colton Rd., and 170 Flanders Rd.**

Mr. Goeschel reported that the above mentioned remain unresolved. 4 Colton Road – debris in the wetlands and filling of the yard; 15 Colton Road – filling – clearing in the wetlands and 170 Flanders Road – the filling of debris adjacent to a watercourse. He noted that someone has started to clean up the area at 170 Flanders Road.

- ♦ **Correspondence**

Mr. Goeschel said that there was none.

ADJOURNMENT

****MOTION (4)**

Mr. Mingo moved to adjourn this Regular Meeting of the East Lyme Inland Wetland Agency at 8:06 PM.

Mr. Bender seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

September 8, 2015

Good Evening Madame Chairwoman and other Wetlands Members,

My name is John Bialowans of 61 Walnut Hill Road.

My first remark is about the comments Joe Mingo said at the last meeting (dated 8-10-15). To start with he mentions the Town has not received any permits or compensation for any of the dealings with the solar farm. Answer – the Towns Wetlands Commission was told not to give any permits out by the previous administration. The Siting Council does only the 1st phase of an application before them – the permits. They have no authority after it is started. The past administration had the Town officials use the excuse “it’s the Siting Councils’ problem and it’s their duty to enforce the regulations”. A big NO..... That’s why no wetlands permits were issued – then it’s not the Towns’ responsibility. The only reason the Town had to get involved is when the retention ponds failed, and caused damage to the Wetlands and Watercourses – all the way down to the sound. Compensation for all this should be billed to the developer or property owner that caused the damage.

Other Towns like:

1. Waterford Wetlands against Kobyluck Construction. (Kobyluck paid for all the expenses that occurred).
2. Haddam Wetlands and Zoning Commission against WFS Earth Materials, LLC. (Earth Materials is paying for all the expenses that occurred).

Submitted IWA, Sept. 8, 2015

This is just to name a few – how other Towns do their job – without politics involved.

Nice article in The Day newspaper (dated 9-1-15). The projects are not even being discussed in full yet, and Norwich is already saying “they need a wetlands permit”.

My last remark is about conditions Centerplan put on us to get a Certificate of Liability Insurance. We have to agree to these conditions, sign, notarize and send back to them before we can get a Certificate of Liability Insurance... THEY have broken our agreement that we had in place so it looks like we have to start the whole process over again. I’m ready for this again!!!

I asked Gary G. for some input on this matter (since he was appointed the mediator – and we objected because of a Conflict of Interest), and his answer was “it’s a civil matter”. A mediators job is that he is the judge, referee and umpire, and he is supposed to answer, resolve a situation or matter when one of the parties doesn’t abide by the agreement. Enough said on this matter for now.....

Thank You,

John Bialowans