

East Hampton Planning and Zoning Commission
Regular Meeting'
April 1, 2009
Town Hall Meeting Room

Unapproved Minutes

1. **Call to Order and Seating of Alternates:** Chairman Zatorski called the meeting to order at 7:00 p.m.

Present: Chairman Ray Zatorski, Vice-Chairman Rowland Rux, Members Peter Aarrestad, Richard Gosselin, Roy Gauthier, and James Sennett were present. Planning, Zoning, and Building Administrator, James Carey was also present.

Absent: Member Mark Philhower, Alternate Members Michael Brogan, and Darin Hurne were absent.

2. **Approval of Minutes:**
 - A. **March 4, 2009 Regular Meeting.**

Mr. Aarrestad moved, and Mr. Sennett seconded, to approve the minutes of the March 4, 2009 regular meeting with the following amendments: Page 1, Item 3, first paragraph, second line, March 31, 2009 is a Tuesday, not a Thursday; and Page 7, Item 8.A, second paragraph, second line, should read "...he has been asked to put forth ideas...". The motion carried unanimously.

3. **Communications, Liaison Reports, and Public Comments:**

Communications: Mr. Carey explained that previously Commissioner Philhower had been re-appointed to represent East Hampton at the Midstate Regional Planning Agency. Midstate has now been formally notified and Mr. Philhower will be attending the Agency meetings beginning next Tuesday.

Mr. Carey reported on the receipt of a preliminary summary report on Planimetrics findings regarding the HOMEConnecticut Incentive Housing Opportunity Grant. This report will be made available to the Commission before the next meeting. It includes an executive summary of the work they would like to perform, including the progression, finishing up with at least a couple of public meetings. Mr. Carey will be providing more information as he receives it.

Mr. Carey presented Commissioner Aarrestad with a Length of Service Award from the Connecticut Federation of Planning & Zoning Agencies. Mr. Carey explained that Mr. Aarrestad was invited to a banquet in honor of this year's recipients. Although he was unable to attend, the Federation did forward his certificate. Mr. Carey, and all those who were present, thanked Mr. Aarrestad for 14 years of service to the Town.

Chairman Zatorski reported on the annual Connecticut Bar Association Seminar held this year on Saturday, March 28, 2009. He reported that the meeting was very beneficial and suggested that everyone should attend at least once.

Liaison Reports: Mr. Gauthier reported that he had been attended the recent meeting of the EDC. The EDC has again expressed their desire to work closely with the PZC at workshops and to work collaboratively in other ways as well. Two items they have on their priority list are a blight ordinance and home based business initiative. They will be contacting the Chairman directly to plan these workshops. Those minutes may be viewed online and in the Town Clerk's Office.

Mr. Sennett reported that the recent meeting of the ZBA was cancelled.

Mr. Aarrestad reported that there was a meeting of the Water Development Task. Those minutes may be viewed on line and in the Town Clerk's Office. He did report on the recent meeting of Shelley Green of the Nature Conservancy and Horsely Whitten, with Mr. Carey. They are moving forward with the land use audit.

Mr. Carey further detailed the meeting and reported that they discussed the progress that the Town of East Hampton is making toward the goals for the watershed area. They also discussed direction for the future. The information will be compiled from all the basin towns and shared upon completion.

Mr. Rux discussed on the Motherboard meeting held last evening. He requested Mr. Carey to give an overview and reported that the next Motherboard meeting would be held on June 30th.

Mr. Carey reported that all the Chairmen of landuse boards were given the opportunity to provide a synopsis of their Commission and their focus at this point in time, including their priorities, problems, and/or impediments they might be facing. The issues that were discussed that will affect this Commission were potential revisions to the sewer map, including the amendments that need to be made to the eastern part of town and the western R3 area. Mr. Susco will be in attendance at the next PZC meeting to explain the steps the WPCA is taking to amend the sewer map. Affordable housing was also discussed, the HOMEConnecticut program and the 8-30g suit that was recently encountered. Mr. Carey explained that he discussed the ideas that the PZC has regarding pro-active solutions to increasing the percentage of existing affordable housing in town, including the possibility of utilizing accessory apartments. They also discussed the idea of expanding the non-residential zoning along the Route 66 corridor in the west and the need for real long-range planning for infrastructure. Water was a big issue regarding density and the potential for affordable housing. They also covered home businesses.

Melissa Engel, Liaison from the Town Council explained that the Motherboard is seeking input from the landuse boards on their vision for the Town of East Hampton in 20 years, including priorities. This information will be combined and used to create a Master Plan for the Town. This will include such issues as water, facilities, sewer, and watershed.

Public Comments: The Chairman opened the meeting to the public for comments at this time. There being no comments the Chairman closed this portion of the meeting.

4. Set Public Hearing for May 6, 2009: None.

5. Old Business:

A. Discussion - Home Occupation Regulation: Chairman Zatorski discussed the various models for a regulation that have been made available for consideration.

Mr. Carey explained that during the past month he has done some further research and has compiled a recommendation sent to the Commission in the form of a Memo on March 17th. This is modeled very closely to the Simsbury regulation. Mr. Carey discussed his recommendation in detail with the Commission. He explained that this proposal would eliminate most of the concerns that the Commission has had about the intrusive inspections required to enforce a more regulated proposal. *(Attachment 1)*

Mr. Aarrestad discussed the desire of the people who have been requesting this regulation for some way to legitimize this business use in their home.

Mr. Carey explained that the regulation he is proposing would provide for business use of private residences as of right provided that the requirements of the regulation were met. In addition filing trade names with the Town Clerk and listing personal property with the Assessor further legitimizes the homeowners' right to conduct business from their private residence. Additionally, Mr. Carey explained that in no part of the enabling statutes for this Commission is any authority granted to affect taxation in the Town of East Hampton. This Commission is not to be used as a tool to raise taxes, lower taxes, assess taxes or find additional sources of revenue. He believes that any regulations formulated with that in mind is at risk for being stricken. The Town has opportunities to regulate businesses through the Town Clerk's Office or the Assessor's and Collector's Office. The Zoning Enforcement Officer only has one path to take if a zoning violation is present. That being the violation process which begins with a cease and desist order, an appeal to the ZBA, and concludes in court. The fastest and clearest way to resolve zoning complaints is not to have a middle ground that requires in depth investigation.

Mr. Gauthier agrees with Mr. Carey and specifically addressed the tax issue. Mr. Sennett agrees with the "as of right" aspect of the proposal and specifically likes the fact that it formalizes the current policy by putting it in writing in a clear and understandable manner. Mr. Rux clarified that any complaints that were made would be handled administratively unless the parties refused to resolve the problem. In this case the complaint would go before ZBA, and if that did not produce a resolution, then on to court. It would not be brought before the PZC for resolution.

Chairman Zatorski requested that the Commission schedule a workshop with EDC before the next regularly scheduled meeting on May 6th at 6:00 p.m. for one hour.

B. Discussion - POCD: Chairman Zatorski discussed the goal for yearly revisions to the POCD and asked for discussion.

Mr. Carey suggested establishing another sub-committee for the purposes of future revisions.

Messrs. Gosselin and Sennett both volunteered to serve on the sub-committee again this year. Chairman Zatorski requested that those members not in attendance this evening be polled about volunteering on this sub-committee. If, after that polling, another volunteer is needed, he would like to volunteer.

The Commission discussed how to target the next set of revisions and suggested that housing, transportation, and water are all issues that would be appropriate to have priority. Chairman Zatorski requested that the appropriate parties be contacted with a letter about the revisions and an explanation of their responsibility as dictated in the implementation tables.

Mr. Gosselin thanked Cathy Sirois for all the work she did in preparing the current issue of the POCD. He further discussed the methodology for revising the POCD.

6. **Read Legal Notice:** None.

7. **Public Hearing for April 1, 2009:**

A. **Application of Melissa H. Engel**, Markham Meadows Campground, 2-Lot Resubdivision – M 27/B 91/L 2-2A: Mr. Aarrestad disclosed at this point that he is a member of the Belltown Sportsmen Club, which is an abutting neighbor to this parcel. He does not believe that it will affect his ability to review the application in any manner but he will recuse himself if anyone has any concerns. No one stated any concerns.

Melissa Engel, 9 Markham Road, was present to discuss her application. The entire parcel is 63.89 acres.

Joel Fuller, Land Surveyor, was also present. Mr. Fuller gave an overview of the location of the property.

Ms. Engel described the lot to be created where the caretakers house is located. She has owned the campground since 1997. She would like to take out the house parcel which is 100,000 sq ft. It is in the R4 Zone and in the Salmon River Watershed. It meets all the requirements of both the zone and the protection area.

Mr. Carey reported that this resubdivision meets the Town's regulations. There is no development or septic system being proposed. All the improvements to the lot have already been made. The reason for the application is to create a separate, definable parcel from the campground.

The Chairman opened the public hearing at this time.

Alan Clark, 17 Markham Road, wants to be assured that nothing else will be built on this property when it is subdivided. The road is very congested now and is not well maintained. Any more development on the road would make it more impassible that it is now.

Ms. Engel agrees with Mr. Clark on the condition of the road and explained that the lot being created cannot have more than the one house that is already present.

The Commission clarified for Mr. Clark that if the campground were to be sold and subdivided the Commission would need to review an application just for that

subdivision and a public hearing would be held for that purpose. As of right now that is not the application before them.

There being no further applications the Chairman entertained a motion to close the public hearing.

Mr. Rux moved to close the public hearing. Mr. Gosselin seconded the motion. The motion carried unanimously.

Mr. Rux moved to approve the Application of Melissa H. Engel, Markham Meadows Campground, 2-Lot Resubdivision, M 27/B 91/L 2-2A, for the reason that it meets our Regulations. Mr. Sennett seconded the motion. The motion carried unanimously.

B. Application of Hubert E. Butler Construction Co., LLC, Excavation Plan – Butler Construction Co., LLC, Special Permit, Section 26, Excavation Permit Renewal – M 12/B 33/L 7A: Chairman Zatorski explained that this application for the Excavation Plan Renewal comes before the Commission every year.

Mr. Carey reported that he is in receipt of a letter dated March 25, 2009 from the East Hampton Fire Marshal indicating that all requirements for the blasting events have been met. The Fire Marshal has received no complaints from the activities and no damage was reported. Mr. Carey is also in receipt of a letter dated April 1, 2009 from Tom Cummings of CLA Engineers indicating that all his previous comments have been satisfactorily addressed by the applicant with one exception. This information was provided to the applicant.

Gregg Fedus of Fedus Engineering, LLC was present to represent the applicant. Mr. Fedus indicated that the one exception was a reasonable request and would be accommodated. He presented a color rendering of Sheet 2 of 8 of the plans that are before the Commission. He indicated the areas of Phases 1 through 3 of the excavation. They are currently working in Phase 2 and have been for the past year. Some of the areas have been reestablished, including the sloped areas. The floor of the excavation has not yet been established. He indicated the location of the top soil stockpile. That stockpile will be worked to the south to further establish vegetation. The silt fencing has been reestablished along the entrance, as well as the entrance tracking pad.

Mr. Carey gave a brief history of this property. The project goes back probably 15 or 16 years. The previous owners started the project and proposed that the property would serve as a good industrial site. They began to excavate the property to create a more amenable area for the construction of an industrial site. Butler Construction Company took over the project about 5 years ago.

Brian Gombotz, General Manager, Butler Construction, believes the project is about 40% complete. The current economy has made it more difficult to judge; however, it is anticipated that the end date for the project is 2012.

The Chairman opened the public hearing at this time.

Judy Birnley, 18 Old Coach Road, is concerned about the noise she hears from the trucks on the site before 6:00 a.m.

Mr. Gombotz explained that his drivers punch in at 6:45 a.m. in Portland and don't usually pull out of the Portland site before 7:00 a.m. He suggested that perhaps it is DOT trucks or someone else parking over night.

Mr. Fedus indicated that the plans call for hours of operation to be from 7 a.m. to 5 p.m. Monday through Friday and 7 a.m. to 12 p.m. on Saturday.

Mr. Carey suggested that Ms. Birnley call the Planning & Zoning Office when this happens again and an attempt will be made to identify where the noise is coming from.

Ken Birnley, 18 Old Coach Road, is also concerned about the noise coming from the trucks early in the morning.

Mr. Rux suggested that perhaps they are hearing the trucks leaving Suburban Sanitation on Middletown Avenue.

Ms. Birnley would also like a warning call before blasting on the site.

Mr. Gombotz took their contact information.

Mr. Aarrestad requested that next year it would be useful to have a site walk on the property. All parties agreed.

There being no further comments the Chairman requested a motion to close the public hearing.

Mr. Aarrestad moved to close the public hearing. Mr. Rux seconded the motion. The motion carried unanimously.

Mr. Rux moved to approve the Application of Hubert E. Butler Construction Co., LLC, Excavation Plan, Butler Construction Co., LLC, Special Permit, Section 26, Excavation Permit Renewal, M 12/B 33/L 7A, with the following conditions:

- *The comments of CLA's letter of April 1, 2009 be implemented;*
- *Notification of Town Staff when the implementation of those comments are completed; and*
- *The plan last revised on March 27, 2009 must have the current abutters names updated.*

Mr. Sennett seconded the motion. The motion carried unanimously.

8. New Business:

A. Release E&S Bond, Belltown Square, 50 – 54 East High Street: Mr. Carey reported that he is in receipt of an email from Tom Cummings of CLA Engineering indicating that they have reviewed the site and recommend release of the E&S Bond. The site is complete and stable.

Mr. Carey explained that there is also a separate \$3,000 cash bond being held in perpetuity for the purpose of maintenance of the underground retention system.

Mr. Rux moved that the E&S Bond, Belltown Square, 50 -54 East High Street, be released for the reasons that the site is complete and Town Staff has recommended the release. Mr. Sennett seconded the motion. The motion carried unanimously.

- B. Development Review Checklist:** Mr. Carey explained that the Conservation Commission has created a Development Review Checklist to be included as part of the permit process. Their intent is that the checklist be completed before an applicant comes before any commission. There is at least one other checklist in the works at this time. It is appropriate for the Conservation Commission to require this specific checklist for applications referred to them. Mr. Carey suggested that a comprehensive development checklist to be used in the permitting process will require additional information and perhaps not everything required in this checklist.

The Commission discussed the mechanism behind requiring the use of the checklist. It could be utilized as part of the administrative permitting process. The concerns of the PZC should, by definition, include the concerns of the Conservation Commission, Lake Commission, and IWWA. The Commission also discussed the references to the POCD and the Plan of Open Space and Conservation.

Mr. Carey discussed the Conservation Commission's intention to finalize and maintain an open space inventory. A Plan of Open Space and Conservation is something that the Conservation Commission should be working towards now that the inventory is nearing completion. That plan will be presented to this Commission for inclusion in the POCD and ultimately into the Planning & Zoning Regulations.

Mr. Aarrestad discussed his expectations for commentary from the Conservation Commission as guidance to the PZC for the true conservation or open space priorities. He expressed his interest in seeing more of that type of guidance from the Conservation Commission.

Mr. Carey discussed the current revamping of the Conservation Commission and the Lake Pocotopaug Commission. Going forward they will be supported by Kerry Nielson, Director of Community and Environmental Planning.

Chairman Zatorski asked that Ms. Nielson be advised that the PZC appreciates the work that the Conservation Commission has done on this checklist and the PZC would like to obtain additional checklist items from other Town boards and interested stake holders, which will then be incorporated into a master checklist for applications.

- C. Anatomy of a Motion:** Chairman Zatorski explained that he requested Mr. Carey to provide the Commissioners with insight into a well constructed motion. He would like the Commissioners to review the memo from Mr. Carey and be prepared to speak about it at the next regularly scheduled meeting. Mr. Zatorski would also like an outline on how to construct a motion available for review at that meeting as well.

9. **Adjournment:** *Mr. Arrestad moved to adjourn the meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 8:40 p.m.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary