

## WPCA Minutes- 1/13/2015

Members present: Chairman Kurt Zemba, Vice Chair Tom Risom, Secretary Doug Wilkinson, Dmitri Tolchinski, Ernest Lorda, Frank Chan, Donna Bednar, Rob McCarthy, Rich Prendergast, Alternate Andrea Lombard (arrived at 8:55pm).

Also present: First Selectwoman Bonnie Reemsnyder, Selectwoman Mary Jo Nosal, WPCA Attorney Andrew Lord, Woodard & Curran Consultants

- **Meeting called to order at 7:32pm by Chairman Zemba**
- **Approval of Meeting Minutes from 11/20/14**
  - Motion to approve made by Tom Risom, seconded by Rich Prendergast
  - Motion passed unanimously
- **Annual Election of Officers**
  - Chairman Zemba called for nominations for Chairman of the WPCA
    - Tom Risom nominated Kurt Zemba, seconded by Rich Prendergast
    - Kurt Zemba was unanimously elected to be WPCA Chairman
  - Chairman Zemba called for nominations for Vice Chairman of the WPCA
    - Frank Chan nominated Rich Prendergast, seconded by Dmitri Tolchinski
    - Rich Prendergast was unanimously elected to be WPCA Vice Chairman
- **Chairman's Report (see attached addendum)**
  - Chairman Zemba appointed Secretary Doug Wilkinson to lead a budget committee for the WPCA
  - Wastewater Management Project Proposal and Submitted Facilities Plan
    - Chairman Zemba discussed his position to hit the "pause button" on the wastewater management project due to recent concerns:
      - Miscommunication and inconsistency with the Department of Energy & Environmental Protection (DEEP)
      - Additional information required by DEEP from engineering consultants Woodard & Curran (W&C) that led to increased costs to the WPCA, causing WPCA budget to go over
      - No timeline for Inter-Municipal Agreements (IMAs) with East Lyme & New London for transport of wastewater
      - Are the pollution and density issues in Soundview, Hawks Nest and White Sands beach so severe that sewers must be implemented immediately?
    - Chairman Zemba wanted to evaluate finances of project and discuss with Board of Selectman and Board of Finance before WPCA votes to implement any facilities plan from W&C
  - Tom Risom called for a motion (see Attachment #1): "MOTION TO WITHDRAW THE OLD LYME WASTEWATER MANAGEMENT PLAN"

SUBMITTED TO THE DEEP IN JANUARY 2015 AND TO CEASE COMPLIANCE OF AN IMPLIED ORDER; IN OTHER WORDS, TO TABLE THE DISCUSSION ON DEVELOPING A REGIONAL SEWAGE COLLECTION SYSTEM SERVING THE BEACH ASSOCIATIONS ALONG ROUTE 156 IN OLD LYME”, motion seconded by Frank Chan

- Discussion of motion
  - WPCA members discussed if motion should pass, what process and discussions will take place at next meeting
  - Chairman Zemba read a letter from W&C regarding Clean Water Fund (CWF) study funding of wastewater project study (see Attachment #2), which followed discussion from W&C consultants
  - Chairman Zemba read into the record a letter sent by WPCA Attorney Lord to DEEP (see Attachment #3) to withdraw and cease the wastewater project as well as DEEP’s response letter (see Attachment #4)
  - Dmitri Tolchinski had Chairman Zemba read into the record (see Attachment #5) his opinion on the wastewater project
  - Members discussed motion further:
    - Possible actions DEEP may take regarding pending motion
    - CWF study reimbursement
    - CEPA process with DEEP
    - IMA process with East Lyme & New London
    - Overall financing of the wastewater project
    - Impact increased costs have on WPCA budget
    - What happens to the private chartered beaches (Old Lyme Shores, Old Colony, Miami) that have consent orders to begin their wastewater projects?
    - Logistics of project with W&C, WPCA, Town of Old Lyme
  - After discussion, Chairman called for a vote on motion
  - Motion passed unanimously
- **Budget Update**
  - Approximately \$32,000 left in the budget
  - Discussion of storm water compliance, DEEP requests for additional information for wastewater facilities plan leading to increased costs from W&C, contract with septic haulers in town, other budget items.
- **Update on Town Sanitarian Position from First Selectwoman Reemsnyder**
  - First Selectwoman Reemsnyder stated that previous Town Sanitarian, Sonia Marino is still the official sanitarian and has been coming in once a week to sign off on official business and assist in the transition

- Search committee was created to look for a new Town Sanitarian
- Town is close to hiring a new Town Sanitarian, who will be appointed by Board of Selectman
- **Old Business**
  - None
- **New Business**
  - Dmitri Tolchinski & Rich Prendergast are leading task force looking into town septic ordinance and transfer station agreement.
- **Public Comment**
  - Frank Pappalardo, Swan Avenue
    - Ask two questions to WPCA
      - What is the position and process for replacement of septic systems and costs associated for residents in the beach communities?
      - Has the WPCA considered alternative septic systems for the beach communities?
  - WPCA answered Mr. Pappalardo's questions that there will need to be future discussion on how to deal with septic systems down in the beach communities pending decisions on the wastewater project and the effectiveness of alternative septic systems.
- **Announcement by Vice Chair Tom Risom**
  - Vice Chair Tom Risom tendered his resignation immediately to the WPCA. Mr. Risom was recently elected Fire Chief and that his new duties would conflict with WPCA responsibilities. The WPCA and First Selectwoman Bonnie Reemsnyder thanked Mr. Risom for his service to the town and WPCA and wished him luck in his new position.
- **Adjournment**
  - Motion made to adjourn by Ernest Lorda, seconded by Tom Risom
  - Motioned passed unanimously
- **Meeting adjourned at 9:09pm.**

Submitted by,

Chris Seery, WPCA clerk

# Attachment #1

Dec. 2014  
MOTION TO WITHDRAW THE OLD LYME WASTEWATER MANAGEMENT PLAN SUBMITTED TO THE DEEP IN ~~JANUARY 2015~~ AND TO CEASE COMPLIANCE OF AN IMPLIED ORDER; IN OTHER WORDS, TO TABLE THE DISCUSSION ON DEVELOPING A REGIONAL SEWAGE COLLECTION SYSTEM SERVING THE BEACH ASSOCIATIONS ALONG ROUTE 156 IN OLD LYME

Whereas the OLWPCA set forth in 2013 to engineer the most appropriate sewage collection and treatment system for the Old Lyme shoreline communities considering cost, groundwater retention and seasonal fluctuations with the CT DEEP's ongoing support, only to be thwarted in the end by the DEEP itself, and,

Whereas the DEEP continued to imply that an order to sewer Miami Beach Association was forthcoming, but in fact never was, and,

Whereas the DEEP continued to imply that an order to sewer other communities was forthcoming based on a proposal from the OLWPCA, but when that proposal was submitted no such order appeared, and,

Whereas the increased flow of sewage to the New London treatment facility would be accepted by New London as directed by the DEEP, but never was, and,

Whereas the DEEP requirement to form an inter-municipal agreement between the Town of Old Lyme and the Town of East Lyme to use its reserve capacity for Old Lyme (when there were communities in East Lyme that then would not be able to sewer and thus make such an agreement unattractive to East Lyme taxpayers) was never enforced, and,

Whereas the DEEP required further unaffordable studies costing hundreds of thousands of dollars to move the former (and thus abandoned) "local" sewer plan, and are even now requiring yet more unaffordable studies for a "regional" solution also costing hundreds of thousands of dollars, knowing that the funds available for such studies have been exhausted and exceeded, without any suggestion of sharing the cost of such studies, and,

Whereas the DEEP initially directed that the OLWPCA require sewers for all the beach communities and then started waffling on that requirement as homeowners and whole associations protested, revealing that the "pending" DEEP orders were based on unsubstantiated definitions of pollution such as "density", and,

Whereas the DEEP appears to be unwilling to effect any order(s) beyond the consent orders already placed with Old Colony Beach and Old Lyme Shores,

That the Old Lyme Water Pollution Control Authority withdraw its proposal to design and construct a sewer collection system serving certain beach communities along Route 156 in Old Lyme and transporting their sewage through the towns of East Lyme and Waterford to the New London sewage treatment plant. That the OLWPCA cease compliance with any implied orders and table the discussion of sewerage the Sound View community (Swan, Hartford and Portland Avenues) for the present, or until funds for additional studies become available or until the DEEP steps up to assist in the process.

So moved by Tom Risom, OLWPCA vice chair, during the regular OLWPCA meeting on Tuesday, January 13, 2015.

Attachment #2

### CWF Status

The Town has a grant Agreement with CT-DEEP to prepare the Coastal Wastewater Management Plan. CT-DEEP committed a 55% grant for the original Agreement. The total cost of the original Agreement was approximately \$185K, and the Town has been reimbursed for 90% of the grants (all but \$10K +/-).

CT-DEEP approved Amendment #1, which is also eligible for a 55% grant. CT-DEEP has not yet reimbursed the Town for the grants, pending some CWF questions and clarification.

CT-DEEP did not express verbal support for Amendment #2, and thus it was not submitted to CT-DEEP in writing for approval yet. CT-DEEP's letter of January 12, 2015 suggests that the Town submit these costs for consideration.

In order to receive grant reimbursement for the planning phase costs (namely the retainage from the original Agreement and the two Amendments), CT-DEEP will likely require the Town to complete the Report process. CT-DEEP's consideration of revisions/changes to the current Report, as they relate to future grant reimbursement, are unknown.

The Town's eligibility for future construction grants (25%) related to sewer projects is likely predicated on completing the planning phase report.

Whether the Town intends to pursue CWF funds for future construction or not, the Town should reconcile all outstanding planning phase costs and submit them to CT-DEEP with the hope/expectation of receiving a 55% grant for these costs. W&C/DPC are in the process of summarizing these costs. Even in the Town doesn't implement the recommendations of the most recent Report submitted to CT-DEEP, seeking these grants could reduce the net costs to the Town associated with the planning phase.

Attachment #3

ANDREW W. LORD <sup>LLC</sup>  
ATTORNEY AT LAW

andrew@lordlawllc.com  
860.608.3922

January 6, 2014

Mr. Carlos Esguerra  
State of Connecticut  
Department of Energy and Environmental Protection  
79 Elm Street  
Hartford, CT 06106-5127

Re: Old Lyme Coastal Wastewater Management Plan

Dear Mr. Esguerra:

I write on behalf of the Town of Old Lyme Water Pollution Control Authority ("OLWPCA") to inform you that the OLWPCA is withdrawing the Old Lyme Coastal Waster Management Plan, dated December 19, 2014 (the "WMP"). The OLWPCA has had the opportunity to review the report and has received the invoices for the work that was completed to provide additional information that the Department of Energy and Environmental Protection ("DEEP") requested. The costs were substantial and unanticipated when the OLWPCA originally agreed to initiate this process. The OLWPCA believes that DEEP's information requests were unnecessary for its decision making process. To date, the DEEP has not been willing to share in the costs of the additional work that has been performed to address its information requests.

In addition, the OLWPCA has had numerous discussions with other project stakeholders, within and outside of the Town of Old Lyme. The OLWPCA understands that there are several unanswered issues at this time that will need to be addressed before this project can move forward. Answering these outstanding questions will most certainly require significant efforts at great cost to the Town of Old Lyme and the OLWPCA. At this time, there are no local funds allocated for the anticipated level of effort and the associated costs. Accordingly, the OLWPCA has no choice but to withdraw the WMP, regroup and determine an appropriate strategy.

The OLWPCA will take up this matter at its meeting on January 13, 2015. There is no need for the DEEP to attend this meeting. We will inform you of the results of that meeting. In the meantime, I am available to discuss this with you in greater detail.

Sincerely,

  
Andrew W. Lord, LLC



Attachment #1/

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January 12, 2015

Town of Old Lyme  
Water Pollution Control Authority  
Attn: Mr. Kurt Zemba, Chairman  
52 Lyme Street  
Old Lyme, CT 06371

RE: Old Lyme Coastal Wastewater Management Plan. December 19, 2014.

Dear Mr. Zemba,

The Department of Energy and Environmental Protection ("DEEP") is in receipt of a letter submitted by Attorney Andrew Lord on behalf of the Town of Old Lyme WPCA ("OLWPCA") dated January 6, 201[4]5, requesting to withdraw the referenced Coastal Wastewater Management Plan ("the CWM Plan") which is currently under review by staff.

Thank you for the spirit of cooperation, and significant amount of time and effort invested by the town and the OLWPCA on this project. The great level of effort invested throughout this process puts the town at a more advantageous position to address the long standing community pollution concerns documented in the referenced report. DEEP hopes that the town will opt to continue to remain fully engaged on this project, as the implementation of a joint and holistic wastewater management solution will provide the town and chartered beach associations with a long term, cost effective solution to address the identified wastewater management needs in the project area.

DEEP stands ready to assist the town in moving the project forward and remains fully supportive of the project, which when completed in a manner consistent with Connecticut Environmental Policy Act ("CEPA") requirements and associated public review process, will result in one or more projects that can be approved and qualify for financial assistance under the Clean Water Fund ("CWF") program.

Please be aware that the CWM Plan and any associated documents that have been submitted to DEEP thus far constitute public records and cannot be withdrawn. With the anticipation that the town will at some point move forward, DEEP will continue to review the CWM Plan and provide comments to the OLWPCA to provide a path to a final, approvable document. DEEP is willing to continue to engage and work with downstream communities on a cooperative basis and as expeditiously as possible, to address any concerns these communities may have relative to the resulting projects.

From a financial point of view, DEEP approved a scope of work and level of effort with a value of \$166,563.00 on April 3, 2013. DEEP approved modification of the scope on August 21, 2014 with an additional value of \$77,450.80. To date, a funding application for the modification has not been submitted for our action. The scope of work in these approvals was to develop the CWM Plan in accordance with State CWF regulatory requirements. DEEP comments provided to Woodard & Curran during the development of the CWM Plan were aimed at meeting these requirements and refining wastewater management needs within the project area.

The CWM Plan clearly documents the existence of a community pollution problem resulting from high density residential development which must be abated in order to protect public health and the environment. In the absence of any substantive effort on the town's part to maintain progress towards a solution, DEEP may find it necessary to use other methods to insure the public health and environmental issues are addressed.

In closing, please understand that DEEP stands ready to assist the town in completing the development and implementation of the CWM Plan. Please forward any questions or comments relative to this matter to Mr. Carlos Esguerra of my staff at 860-424-3756 or at [carlos.esguerra@ct.gov](mailto:carlos.esguerra@ct.gov). Thank you.

Sincerely,



Denise Ruzicka, P.E.  
Director  
Planning and Standards Division

BW/djg/cae

cc (via email only):

Bonnie Reemsnyder, Town of Old Lyme, First Selectwoman

Jay Sheehan, P.E., Woodard & Curran

David Prickett, P.E. Old Lyme consultant

Andrew Lord, Esq., OLWPCA, Legal Counsel



Attachment #5

1. OLWPCA and the Selectmen's Office have provided State DEEP the Completed Waste Water Report, and Old Lyme Costal Waste Water Management Plan, including all the beaches from Old Lyme Shores on the East, to White Sands Beach on the West of the Shore.
  
2. State DEEP rejected "Local Solution", and Offered the Town to use New London Waste Water Treatment Plan.  
The Town of Old Lyme accepted DEEP recommendation, and OLWPCA was ready to receive "CONCENT ORDER" from the State.
  
3. After many months the State DEEP instead of issuing the "ORDER", started "DRAGING" the town in to long process of getting "CONCENT" from every "Beach Association".  
This bureaucratic approach have created opposition from White Sands Beach Association Leaders, and by the "PRESSURE" from State DEEP, our Engineering Firm Woodard & Curran made "RECOMMENDATION" to OLWPCA  
"TO REMOVE" White Sands Beach from the Costal Waste Water Management Plan.  
The original document was revised and "unfortunately" was Approved by OLWPCA.
  
4. After removal of White Sands Beach from the plan, one more, The Hawks Nest Beach also did not like to be a part of the plan, which will solve "THE EXISTING POLLUTION PROBLEM"
  
5. When the leaders of State DEEP didn't get agreement from these beaches, they started "GETTING SCARED", and they started to delay giving OLWPCA order to go with the plan.

Instead they were asking our engineers to provide additional information, originally not included in this process, and it .was unnecessary for the decision process.

6. Because of that, the additional provided engineering work has created substantial and unanticipated cost when the OLWPCA originally agreed to initiate this process.

There are no local funds allocated for the anticipated level of effort and the associated costs.

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ALL LISTED ABOVE ARE THE FACTS!!!!!!!!!!!!!!!!!!!!

My opinion:

1. OLWPCA and The Town of Old Lyme will not be released from the State DEEP radar, we might become involved in the long, and very costly fight with the State, and after all the town will not prevail, exactly as Old Saybrook did.
2. Expected result of that might be:
  - a) The Town will loose State money support.
  - b) The 3 beaches OLS, OCB and MB would be stopped until the argument between the Town and DEEP will be solved.
  - c) The pollution will continue to be present.
  - d) The town residents will be very upset with OLWPCA and the administration of the Town.
3. We should "leave the ball in DEEP COURT". Let them know that the town does not have secured funds to pay Woodard & Curran for more work they will do by DEEP request, and we will not release any more beaches from the plan presented to State DEEP, unless DEEP will take any beach from the plan on their own.

Dimitri Tolchinski, OLWPCA member

# Addendum

## Chairmans's Report

**DEEP actions, misdirection, and lack of committment.  
Failure to effect East Lyme and New London Agreements  
Compliance costs not in the scope discussed and agreed to:**

**Question of Pollution  
or DEEP CYA based on protests received.**

### Costs Thus Far:

**Engineering Costs Paid \$34,432  
Additional Engineering Costs: \$65,060.00  
Additional Engineering Costs Absorbed by W&C \$50,000  
Additional Engineering Costs Saved by Chris Seery and Sonia Marino  
Compliance to requests - our Manhours \$30,000**

**Total thus far with more to come: \$179,492.00**

**I have has withdrawn the Old Lyme Coastal Wastewater  
Management Plan that was submitted to the DEEP on December 19,  
2014. Essentially, I hit the Pause Button**

**The plan was withdrawn due to the incurrence of unanticipated  
additional unallocated costs incurred to address the DEEP's requests  
for additional information and the potential unknown additional  
costs that could be incurred to address other project uncertainties.**

**The withdrawal does not constitute a termination of the project, but  
will allow you all, the WPCA additional time to further evaluate the  
potential fiscal implications of the project going forward.**

**I will call for a motion to uphold my actions to withdraw the plan as  
indicated until we can further evaluate the direction we want to go  
in.**

**I will call for a motion to table any action on this WWM Project until  
such time that the economics of the project can be fully evaluated by  
the WPCA and other municipal stakeholders**

**(Such as the Board of Selectmen and Board of Finance but not  
exclusively).**