

City of Shelton, Conservation Commission
 Minutes for the Special Meeting on Wednesday July 9, 2008 at 7:00 P.M.
 Minutes should be considered a draft version until approved by CC at their next meeting.

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Call to Order

- Present: Tom Harbinson, Chairman
 Bill Dyer, Vice-Chairman
 Hank Lauriat, Commissioner
 Joe Welsh, Commissioner
 Ed McCreery, Commissioner
 Jim Tate, Commissioner

The Commission currently has 6 active members.

Also Present: Teresa Gallagher, Conservation Agent
Marianne Chaya, Clerk

A. Pledge of Allegiance

Chairman Harbinson called the meeting of the Conservation Commission to order at 7:00 p.m. All in attendance recited the Pledge of Allegiance.

B. Approval of Minutes

Commissioner McCreery MOVED to approve the minutes from the June 4, 2008 Regular meeting. SECONDED by Commissioner Lauriat. All were in favor, MOTION PASSED.

The Commissioners and the clerk had a discussion of whether the minutes should be sent on to the Commissioners as a draft before posting to the clerk's office. The minutes have to be posted to the city clerk's office within 7 days and the tape is turned into the city clerk's office. The Commissioners have to approve or modify the minutes at the next Commission meeting.

C. Public Portion

Residents from Fran's Way came to discuss item #J – Open Space Encroachments. The Commissioners agreed to take this item out of order.

D. Open Space Encroachments – Fran's Way

Note: This was item J on the agenda.

Chairman Harbinson introduced Teresa Gallagher to the residents of Fran's Way stating that she is the Conservation Agent for the Commission, who is the Commission's eyes and ears as she goes out and marks open space and reviews the open space property that the City owns in case there is any need for proper posting or encroachments or violations that need to be addressed. Agent Gallagher reported that this is the one where she received an anonymous call that there were lawn and structures possibly in open space. I took the Tax Assessor's map and did an overlay on Google Earth (satellite photo). There are in fact lawns and play structures in open space and conservation easement areas (photos passed around to the Commissioners). At the last meeting I was instructed to send letters to the various homes where it appeared there were encroachments. It is a fairly new development and the developer may have cleared certain areas and seeded it.

Chairman Harbinson asked if Agent Gallagher knew what the intent of the open space was.

Mark Romano, 6 Fran's Way.

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Mr. Romano commented that he developed the properties after purchasing the property from Jim Botti.

Mr. Romano showed and explained the area where it was a cleared and mowed field at the beginning. He showed the photos from before the development and his house is located where the Quonset hut was. It was an area where there was an existing and maintained lawn. There was a driveway that he ripped up and planted grass. He detailed what type of work he did to the area. He did admit that there are areas they mow. The swing sets that were on open space have been moved.

Commissioner McCreery commented that they do not want the open space mowed.

Mr. Romano commented that he did not clear the area to create a lawn it was always a lawn.

There was discussion of what type of zoning the development is under and Agent Gallagher said she thinks it might have been a CRD.

Mr. Romano stated that the open space was never disturbed except to remove the Quonset hut and the removal of the driveway and seeding of the area.

Commissioner Tate asked if the property lines were marked and Mr. Romano responded that they were but over time the lines have come out.

There was discussion of permanent property marking, such as monuments.

The Commissioners discussed the possible intent of the open space and Commissioner Tate talked about what a CRD is. He also talked about the issue of the property owners using the open space as theirs such as having a play structure located on the open space.

Mr. Romano also talked about the fact that now the owners have received the letters and feel that they have been put on notice that the open space is there.

Commissioner Lauriat said that he seemed to recall that the reason for this open space area was that it was supposed to link to a piece of Land Trust property and for a buffer to the stream corridor, plus Terry Jones and Harriet Wilbur was looking into acquiring property between there and Rte. 110 for connectivity.

Commissioner McCreery said he recalled the need for a buffer to the stream corridor. Having a mowed lawn in the area does defeat the purpose of filtering some of the runoff. He also talked about having a mowed area does give the impression of it being someone's back yard.

The Commissioners talked about maintenance of the open space and the letters that went to the residents did mention the Commissioners may allow the residents to cut the open space area once or twice a year to prevent the return of shrubs and trees.

Commissioner McCreery and Tate discussed the issue of needing to survey the area or not.

One of the residents commented that his neighbor at 299 Meadow St. said that they originally owned the whole area and they had always mowed the area. I have been doing the same thing since I moved in. I moved from East Village Rd. where I had 105 acres behind me and I always had to worry about deer ticks. I

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used to spray to keep the ticks away, which was costing me a fortune to keep the deer and ticks off my property. I moved to a smaller lot where I could spray an acre and not worry about it. Now I am being told I may be able to mow my lawn 2-3 times a year and still pay taxes on it.

Chairman Harbinson commented that your property is your property. You can mow your lawn and what you interpret it as being your lawn stops at a certain point. That is the City open space that we are talking about to remain a meadow to be cut a couple of times a year to act as a buffer to the watercourse.

Agent Gallagher pointed out that there is also a conservation easement area. Commissioner McCreery pointed out that the conservation easement is not to be a mowed lawn either.

There was discussion of exactly where the conservation easement is and it was pointed out that if we spend the money to have it surveyed then we would be strictly enforcing it to that line.

Chairman Harbinson suggested looking at the approvals from P&Z and the IWC to see what conditions they put on the conservation easement and open space. Commissioner McCreery commented that a good proposal would be for the residents to take a copy of their subdivision map, which will show the easement and open space area, roughly determine where the line is, and brush hog it 2-3 times a year, but to stop making it a mowed lawn.

Mr. Jose Imery, 15 Fran's Way

Mr. Imery commented that there are different situations for each of the neighbors, but in his case he has a sliver of conservation easement that ends at open space. We did have a swing set in the area and have since moved it out. I was not aware that I wasn't supposed to mow it and I thought it was my responsibility as a resident adjoining the open space to maintain it as a healthy and safe environment for anyone to use the space.

Commissioner Tate said he understands but the Commission has the responsibility to enforce the regulations of the City and we are trying to come up with some type of balance. The reality is we see these types of situations coming up all the time and we'd like to see you police it yourselves and do a better job than what you are doing now. Take some time to understand where the conservation easement is and what it is. If you don't know what a conservation easement is we will send you the information about it. In a year or so our Conservation Agent will go out and take a look at it again. If it isn't any better then we probably have to take another look at it. I think this is a fair way to resolve this issue.

Mr. Romano and Commissioner Tate discussed the entry area and it was determined that was not an area of concern. It is more of the buffer areas. It was determined that for clarification sake these minutes will reflect that the residents came in, gave an adequate explanation, we told them what our wishes and desires are, and that we will revisit this in a year and see how things are progressing.

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The Commissioners discussed the need for pinning the area of open space and Agent Gallagher reminded them that they now have it in place (pins with caps that have Shelton City Open Space printed on it) for new subdivisions.

All the residents of Fran's Way were present except one and the others said they would relay the Commissioner's comments on to that homeowner.

Mr. Bong Yeon, 11 Fran's Way, asked the difference between open space and the conservation easement area?

Commissioner McCreery responded that the City owns the open space area and the conservation easement is where you own the land but the City has an easement over it precluding the theory of cutting the grass or trees.

Mr. Yeon said he felt they are spending the money to mow and he doesn't understand limiting the number of times to mow. He asked about the trees in the easement area. Commissioner McCreery explained that if there were trees in the Conservation easement area that need to be removed for the safety of your house you would contact the Conservation Agent. You may get permission to cut them down at your expense. If they were on City open space area it would be the responsibility of the City.

Mr. Yeon said he asked his attorney what could he do in the conservation easement area.

Commissioner Tate commented that in the conservation easement, which is a legal document that you should read.

Mr. Yeon said he didn't understand why the Commission wants him to only mow the conservation easement area only a few times a year.

Commissioner Tate explained, giving a scenario where the land was on a slope, where it was disturbed and mowed, with a watercourse below it. We are in charge of keeping our water resources as clean as possible. The way it works, typically in lawn care, people are spraying, chemically treating the ground, knowingly or unknowingly. The water comes off the lawn into the water resource and then devalues the water. The reasoning behind conservation easements is to try and give some buffering or cleansing of the runoff from your house and around your house, that they don't get involved in impinging or lowering the quality of the natural water runoff.

The second reason for this conservation easement is when the developer came into a commission like this; they were looking at the highest and best use to plan as many homes on that piece of property as possible. In the history of this subdivision, and I don't know the facts behind this particular subdivision, but probably they made smaller lots so that they could fit more houses and allow more controlled green space around the outside. Instead of having one-acre pieces, they probably said ok, I'm going to give you $\frac{3}{4}$ acre pieces but I want an extra house. I'll put the extra land to buffer the watercourse around the periphery. They are allowed to have more houses in return to squeeze them closer and promise to keep more green space around it (not lawn). The intent is to put that what we consider the natural condition, where the animals can come and the habitat is there and keep the ecosystem alive. When you mow, you strip

the ecosystem away, frankly, in comparison to the value of that ecosystem that is wooded or meadow. Typically what we would be charged with here is to monitor that conservation area as to what that legal agreement of whatever that conservation easement says. It probably says, "no mowing". We are here as fellow residents and we all understand what you are dealing with. We don't want to give up on the idea that this conservation easement means something for the reasons I explained. We are flexible to a degree. The developer did strike this deal to get the approval for this development. By deal, we mean within the subdivision regulations that exist.

Tape 1, Side B

One of the residents asked whom they would talk to if they wanted to buy the open space. Chairman Harbinson responded that they would have to make their presentation to the Board of Aldermen, who would ask this Commission for advice as a commentary on the environmental aspect of such a transaction. Commissioner Tate commented that we try so hard to acquire open space that it is very unlikely that we would give it up. Chairman Harbinson thanked the residents for being so proactive in responding to their letter.

Mr. Jose Imery asked for the Commissioners to hear him regarding his application for a pool that he needs to go onto the open space to be able to construct a wall.

The Commissioners reviewed his plans for the pool and approved the temporary access to the open space for construction of his pool. The Commissioners instructed Agent Gallagher to send a letter to P&Z.

E. Trails Committee Report

Vice-Chairman Dyer reported as follows:

1. **National Trails Day – June 7**

We had about 70 people and it worked out well. We had some very positive comments and the Mayor came.

2. **Planned Projects for 2008**

- A. **Rec Path – Phase I**

Chairman Harbinson and I met with the Mayor and we reviewed the bids and recommended Sound Construction of Easton be awarded the bid for \$153K, which is the base bid – not the top coating. The Mayor commented that he is not prepared to spend \$153K at this time of the fiscal year. He wants to split up the financing. He suggested using the \$60K from the Huntington Woods and he would come up with the

\$90K. This project would qualify under LOCIP. There is a cap as to how much LOCIP funds you can do within a year (\$300K). There are other projects they have scheduled to do. We suggested using the Open Space funds but some of the funds in that account is set aside for the Soundview Ave. purchase. We talked with Rick Schultz about using the \$60K from the Huntington Woods funds and there appears to be no restriction onto the geographic use of the money but it was intended for the Rec path. P&Z has to approve the expense for this project.

The Trails Committee members were not happy using the money for Huntington Woods, which is presumably for the people who live in that area used for another path on the other side of town. They suggested using \$45K and keep \$15K for use in the Lane Street area.

Commissioner McCreery recounted his recollection of the creation of this fund for the Huntington Woods trail.

It was commented that it really doesn't matter where the money comes from because we have someone who is prepared to build this path and we should take advantage of it now.

Vice-Chairman Dyer said he would go to P&Z to get the \$60K released for this effort and then go to the Mayor and discuss the details of how and when the rest of the money will be allocated to do this project.

Commissioner Lauriat MOVED to authorize Vice-Chairman Dyer to make the presentation to P&Z at their next meeting for release of the \$60K from the Huntington Woods bond for purposes of construction of the Phase I Rec Path. SECONDED by Commissioner Tate. A voice vote was taken, all were in favor; MOTION PASSED.

B. Rec Path - Phase 2

There is going to be a lot of millings from the Route 8 project that could be dumped at the White House for use for the Rec Path.

C. Rec Path – Phase 3

1. Lane Street to Boardwalk

Jim Swift did a great job with the drawing for the application for a wetlands permit. It is on the July 10 IWC agenda.

The Commissioners reviewed the drawing and discussed the route of the path.

The Land Trust is record owner of part of the area and needs a signature on the application. Commissioner Welsh signed the application for the Land Trust.

There was discussion of the cost and materials that might become available.

D. 2008-09 Recreation Trails Grant application

Terry Gallagher talked to Lori Gianni who said that they would not issue any new grants to anybody that has outstanding grant money. We have about \$4K unspent. We need to send a letter, or include in our proposal, stating that all the money has been spent and what it was spent on. We need to spend this money between now and the end of August. We have some ideas for equipment for the Trails group.

This application is due September 1. We will have a plan to present at the next Commission meeting.

E. \$2500 State Grant –Logo

I went to Swenson Granite and got a quote for a granite sign, which would be about \$1500. The proposed sign would be about 7' x 3 ½' and would be planned for Pine Lake.

Commissioner Tate spent some time expressing his dislike for the granite signage for the Rec Path. He thinks the example is too commercial and would like something a bit subtler.

The granite posts (way markers) that Commissioner Tate got a quote for would cost \$545 (first one) and everyone after that would be \$320. They discussed possibly buying about 5 or 6 posts (way markers) and maybe at some point down the line think of something for the trail entryway signage.

Commissioner Tate suggested thinking in terms of a design esthetic to the aspect of this Rec Path. He suggested thinking in terms of things that are uniquely Shelton that has some historical character to it.

Chairman Harbinson commented that he feels that at this point in time it might be more appropriate to use the grant money for the way markers rather than an entrance sign. I am not excluding the idea of having some sort of entrance presentation of the gateway to this path.

Vice-Chairman Dyer expressed the desires of the Trails Committee that they wanted to have some gateway sign and posts.

Commissioner Tate suggested having the Trails Committee go back and take a look of the whole design of the signage system.

Agent Gallagher asked Commissioner Tate exactly what he meant by looking at the whole picture.

Tape 2, Side A

Commissioner McCreery suggested that they should come up with a set of guidelines to what the signage would be for the whole trail system.

The Commissioners discussed and viewed the photo of the way sign monument that Commissioner Tate presented.

Commissioner McCreery MOVED to authorize the purchase of 3 granite way markers per the quote received by Commissioner Tate. SECONDED by Commissioner Lauriat. All were in favor; MOTION PASSED.

F. Trail at Old Master's site – Rte. 110 & Far Mill River
It is complete.

G. Reimbursement of expenses for the Trails Grant
The first expense is \$160 for bat houses and \$104.77 for the replacement railings and materials.

Commissioner Lauriat MOVED to approve the expenses presented by Vice-Chairman Dyer for expenses totaling \$264.77 to come out of the Trails Enhancement Grant. SECONDED by Commissioner Tate. All were in favor; MOTION PASSED.

H. Gates – Abbey Wright
The Trails Committee did a great job on the installation of the ballards that had been destroyed by ATV riders and the pick-up trucks. Vice-Chairman Dyer showed the before and after pictures of the area.

D. Potential Work Party
We will be clearing trail vegetation on power lines on both sides of Route 108 this weekend.

F. Review of P&Z Applications for Subdivisions and/or Developments

1. OLD APPLICATIONS

Vistas at White Hills – East Village Road – Status of open space

The open space area is seeded and equipment has been removed. Commissioner Lauriat thinks there may still be a trailer there. He asked about the line of trees along the roadway opposite side of the ones they already planted. Agent Gallagher said she was not sure we would get them but she did push for 4x4 posts to be put between the last house and the open space. The silt fence also has to be removed.

Chairman Harbinson requested that Agent Gallagher follow up with the builder before the bond is released. Commissioner Lauriat commented that there are other open space areas to be reviewed as well.

2. NEW APPLICATIONS

- A. Glen Grove Estates, Re-subdivision of 168 Grove Street from one lot to three, PZC #08-13.

The Commissioners reviewed the drawings presented where the developer is looking for fee simple open space.

Commissioner McCreery MOVED to recommend taking a fee in lieu of open space for Glen Grove Estates (PZC#08-13) because the brook is already protected by wetlands regulations. SECONDED by Commissioner Lauriat. All were in favor; MOTION PASSED.

- B. Marshall Meadows – 151 Nells Rock Rd, 3-lot subdivision, fee-in-lieu of open space requested, PZC#08-11.

The Commissioners reviewed the drawings presented showing the existing house, which is to remain and this will create 2 new lots. The Commissioners feel the fee in lieu of is appropriate.

Commissioner McCreery MOVED stating that the Conservation Commission has no objection to taking a fee in lieu of open space for Marshall Meadows (PZC#08-11). SECONDED by Vice-Chairman Dyer. All were in favor; MOTION PASSED.

G. Open Space Plan and Map Status

Agent Gallagher reported that a couple more changes have been made to the Open Space Plan and there are still more changes that she just received to be added.

Regis has been out for a couple of weeks and he was to print off the maps today but the printer crashed in the Engineering office.

Commissioner Lauriat reported that he would be meeting with Chief Hurliman next week to review the mapping. Agent Gallagher offered more copies of the maps for Commissioner Lauriat to present to the Police Dept. He will be going representing the Land Trust Commission.

At the next meeting the Open Space plan will be fully drafted for comment. Then it can be handed off to Planning & Zoning for commentary.

Commissioner Tate requested that it be placed at the top of the August agenda.

H. Expansion of Long Hill School Ball fields

Commissioner Tate is recusing himself as a Commissioner.

Commissioner Tate gave a presentation to the Commissioners representing the City of Shelton as a paid consultant.

For a long time the fields in the back of Long Hill School had flooding problems. A year ago the Aldermen decided they needed to try to make these fields more usable and to incorporate a bigger multi-purpose somewhere in the area.

Commissioner Tate detailed the project by showing and explaining the proposed drawings for the Commissioners, noting the wetland and open space areas. He explained that the reason he needs to present this project to the Commission is that they have to do some test holes in the open space to find out the quality of the material in the area. This project should begin in spring of 2009 and the site excavation would begin in June (after school is out for the summer).

Chairman Harbinson noted that he asked Agent Gallagher to check the open space deed dedication. There are no restrictions.

Commissioner Lauriat MOVED that a study could occur on the open space property (OS 14.03) for purposes of possible change of character from passive recreation use to an active recreation use. Agent Gallagher will draft the letter to be sent to the Mayor and cc: Board of Ed and Parks of Recreation. SECONDED by Vice-Chairman Dyer. All were in favor; MOTION PASSED.

I. Conservation Agent Report

Agent Teresa Gallagher reported the following:

1 Budget Report (handout).

2. Community Resources Inventory (CRI) Committee

A website of scenic resource is ready for public comments. See www.sheltonconservation.org.

Tape 2, Side B

3. Open Space Trust Account:

Balance is approximately \$175,000 per Sharon Scanlon.

4. CT \$2500 grant for Rec Path:

None of this has been used to date. It may be applied toward the granite trailhead markers or plastic trail markers.

5. Other Encroachments:

A. Soundridge ATV – Letter was sent to Chief Hurliman.

B. #21 Wellington Court (brush piles) – Letter not yet sent, but resident called to say he was moving brush piles off of open space and would like to plant rhododendrons in open space. I suggested the end of the trees might be the best location as they will receive more sun (along the road), so long as there is no impact to sight lines.

- C. #25 Wellington Court (ongoing clearing) – Letter not yet sent, but spoke to John Cook, who is working with the residents to resolve related wetland issues due to the clearing.
- D. Woodchip pile along Constitution Blvd No at Wiacek Open Space: Sent Sandy Nesteriak an email regarding a long term solution, such using boulders and a gate rather than woodchips to block vehicular access.
- E. OS 45 Riverview Ave – Dumping complaint: Sent Sandy Nesteriak an email requesting that the old road be physically blocked and some of the larger items of trash be removed.
- F. Birchbank ATVs – Received information from a resident about ATV users who live along the river and ride in the open space and also drive up the RR tracks to the Oxford quarry. Will forward to Chief Hurliman.

6. Indian Head Rock Open Space:

Received information that open space was signed as private property. Visited the site and spoke to the neighbor who had placed the signs along an access drive that crosses 3 properties including the open space. The signs were prompted by several acts of vandalism and theft. I removed the sign that was on City property and put up open space markers. The neighbor is happy to have people visit the open space (which is rather inaccessible), and is willing to be a land keeper, but requested signs specifying the rules such as no fires. I mailed two of the brown park rule signs for installation.

7. Rec Path at Wesley:

I built a stone wall along the property line at #33 where curious people have been walking along a ledge into private property that overlooks their house, and posted small signs that delineate the end of the open space. I also removed the remnants of a lean-to kids had built, and spoke to the opposite neighbor. She indicated having no problems with the trail, and said that some neighborhood kids did hang out there once in a while but she didn't think they were causing any problems. The homeowner at #33 was asked to record any problems they encounter and also to give me a call at work or at home, and I have patrolled the trail in that location most days. No problems have occurred so far. Lynn Reid from the Trails Committee also stopped in to see the resident.

8. Other:

Pines that were planted earlier this year are in excellent shape and have grown considerably, in part due to the rainy weather we have had so far. There is a proposal for repairs to the fence at Pine Lake.

Commissioner Lauriat MOVED to approve the quote for repairs to the fence at Pine Lake in the amount of \$325.00. The proposal needs to be modified to use construction sealant. The expenditure is to come from 414-60-01. SECONDED by Vice-Chairman Dyer. All were in favor; MOTION PASSED.

Agent Gallagher also reported that she met with John Fitzgerald and they reviewed the scope of work to be done at Pine Lake.

J. Communications

- United Way – Valley Council of Health and Women’s Services. Request for help to recognize the Naugatuck River Valley as a national heritage area. That would allow certain grants to be pursued.
- CACIWC – request for renewal of membership

Commissioner Lauriat MOVED to approve the Conservation Commission as a member of CACIWC. SECONDED by Commissioner Tate. All were in favor, MOTION PASSED.

- Email from Sean McVey from the USDA (where we got the grant for the Jones Family Farm). They are trying to size up what kind of projects are going to be coming up for 2009.
- CT Ag Center – annual plant science day on August 6 at Lockwood Farm in Hamden.

K. Quality of Life - Executive Session

Commissioner Lauriat MOVED to go into Executive Session at 9:40 P.M., to discuss possible land acquisition issues, inviting Agent Gallagher and Ms. Chaya (clerk). SECONDED by Commissioner Tate. All were in favor, MOTION PASSED.

Vice-Chairman Dyer MOVED to return to Regular Session at 9:45 P.M. SECONDED by Commissioner Tate. All were in favor, MOTION PASSED.

Chairman Harbinson noted there was no action taken during Executive Session.

L. Comments By Members

None

M. Adjournment

Next regularly scheduled meeting will be Wednesday, August 6, 2008.

Vice-Chairman Dyer MOVED to adjourn. SECONDED by Commissioner Lauriat. MEETING ADJOURNED at 9:46 PM.

Respectfully submitted,

Marianne Chaya
Clerk, Conservation Commission