

City of Shelton, Conservation Commission
Minutes for the Regular Meeting on Wednesday September 2, 2009 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
Jim Tate, Commissioner
Hank Lauriat, Commissioner
Joe Welsh, Commissioner

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

A. Call to Order/Pledge of Allegiance

Chairman Harbinson called the meeting of the Conservation Commission to order at 7:05 p.m. All in attendance recited the Pledge of Allegiance.

B. Approval of Minutes

Commissioner Lauriat MOVED to approve the minutes from the August 5, 2009 Regular meeting. SECONDED by Commissioner Welsh. All were in favor, MOTION PASSED.

C. Public Portion

None

D. Shelton Lakes Recreation Path, upgrade to handicapped-accessible standards. Status

Agent Gallagher reported that the Rec Path grant application was submitted this week. This grant is for improvements on the Rec Path between Lane Street and the fire access road near the Huntington Woods subdivision. We have been successful in obtaining some in the past from the DEP. This grant is a request for \$73,000. We did miss getting the last two grants for some missing items. This time we were very thorough including letters of recommendations from Jason Perillo, Dan Debicella, Larry Miller, Bill Purcell, and Shelton Land Trust. I have asked for letters from HVA and CFPA.

Vice-Chairman Dyer reported that Jim Swift came to the Trails Committee to present his plan and we are in agreement with his plan. We would like to go forward to the Inland Wetlands Commission to request the permit needed. We expect that at their next meeting they would accept the plan for review and be able to act on it at the October meeting.

Jim Swift presented the plan to the Commissioners and detailed the items. The plan is to upgrade a section of the Rec path to handicapped-accessible standards.

Starting at Lane Street is where we will have to do some earthwork.

He pointed out some of the areas that would require fill.

We are staying out of wetlands for the most part and don't expect any problems from the Wetlands Commission.

One of the highlights is by the creek where we will be constructing a small block, pre-manufactured retaining wall. You will not be able to see the wall from the path. It would only be visible to two houses.

A boardwalk will be constructed near the high-tension power lines that will be about 350'.

Mr. Swift pointed out where the wetland filling would be. Vice-Chairman Dyer asked why not do a boardwalk at that area? Mr. Swift explained that it is relatively flat and stable and we can do an envelope of crushed stone type of crossing for a lot less money.

There was discussion of the possibility the Wetlands Commission would require a soil science study.

The Commissioners talked about using the grant money for this but it was pointed out that this plan is for Lane Street down to the meadow. The DEP grant application is from the Lane Street meadow up to the fire access road. This part of the Rec Path is the hardest section to work on.

Vice-Chairman Dyer stated that the plan is to get the necessary wetlands permit and then go out for competitive bids.

The Commissioners thanked Jim Swift for the presentation.

E. Presentation – Friends of Autistic People (FAP) Academy Farm – Brita Darany

Agent Gallagher stated that Ms. Darany has the organization called Friends of Autistic People in Greenwich. They are working on getting a farm for autistic adults. They are looking for creative ways in getting a farm by possibly using open space.

Ms. Darany did not show up for the meeting.

F. Animal Shelter relocation - status

No update available.

G. Trails Committee Report

Vice-Chairman Dyer reported as follows:

1. Shelton Day

We are going to have a booth at the event and we will be looking to add volunteers for trails events. Shelton Day is Sunday, October 4, from 10am-5pm. We expect our booth will be right next to the Land Trust booth.

2. Public Walks

We have a walk scheduled for October 22 at 5:30 P.M. at the bluff walk at Riverview Park and one on Saturday, October 17 at 3 P.M. at Boehm Pond trail.

3. Work Parties

We did a lot of work at the Bluff Walk and still needs a bit more work.

4. Nomination

The Trails Committee was nominated and selected by the Fairfield County Sports Commission as one of the local sports persons of the year, promoting passive recreation. The event is Monday October 19th at the Hyatt Regency in Greenwich. We get two free tickets and if anyone is interested the tickets are \$100 each.

The Land Trust meadow on Lane Street has been designated as a “certified wildlife habitat”.

H. Cranberry Hill Estates, Armstrong Road – review of tree restoration plan

Chairman Harbinson reported that Agent Gallagher went out to the property and took video where there was some tree cutting that occurred on the property that is slated to be designated as City open space. It is available on You Tube. As of today the City has blocked access to You Tube on any computer connected to their server so he is unable to show it to the Commissioners for this meeting. It was noted that the video was done so that John Cook and Rick Schultz could view it for their respective Commissions as well as for this Commission and was not able to view it because it was blocked.

Chairman Harbinson asked Agent Gallagher to point out for the Commissioner on the open space area where the tree cutting occurred and what is being proposed in the restoration plan.

Agent Gallagher pointed out on the map the area of concern. She noted that about half of the trees cut were in the proposed designated open space. The other issue is whether or not the City should accept the open space. She discussed the proposed planting plan.

Commissioner Lauriat noted that the proposed tree replacements are considerably smaller than what was taken out.

Commissioner Tate asked what is the purpose of this discussion. Agent Gallagher stated that Planning & Zoning asked us to review the planting plan for the open space area.

Commissioner Tate asked about what the area looked like before the tree cutting and she said that it seemed to be pretty open below the tree area but there were some pepperbush that was cut. Chairman Harbinson said he thought the area was a pretty high-forested canopy with minimal underbrush. Agent Gallagher responded that it is kind of forested with a lot of oak trees.

Commissioner Tate noted that there are hundreds of caliper inches of trees removed; 25 mature trees up to 40” in diameter. The only ones we are concerned with are in the open space. If you took those 25 trees with an average of 12” in diameter gives you about 300 inches of caliper damage. Now we are asked what do we do for replacement. The proposed plan (discussion of each specie type) gives us less than 100” of caliper tree.

Chairman Harbinson concluded that there is 200” of caliper to make up in the restoration plan to come near to what was lost in terms of caliper inches.

Commissioner Tate commented that for him this is a problem and when he has been involved in these types of issues in the past typically what he does is to relate it to 200%. 100% replacement caliper inch and then a penalty of 100%. In the scheme of things in this instance you are talking about 600” of mitigation. It

could possibly be offset by shrub planting and smaller trees (i.e. 20-1" caliper trees). 300-1" trees may be more valuable as habitat if they are cared for than bigger trees. I am not determining the penalty end of this. I am just saying as far as a value standpoint I don't see this plan as anywhere close to the value. We are just looking at this with a quick overview based on the value aspect to open space.

Vice-Chairman Dyer pointed out that you couldn't plant that many trees in that area and Commissioner Tate said yes, that is a good point. Typically that leads to a value loss. Then we would go into a fee in lieu of. You add up the value of 20 2" trees and put that in as a fee that could be put towards an open space fund or some other mitigation factor on the property. It may not be appropriate to plant and there is some good supplemental planting in this plan. The second part of it is, no restoration plan is of any value without some type of long-term maintenance, bond, or professional monitoring. There has to be some practice in place that makes sure the plan is implemented correctly and it's insured somehow. It just isn't enough to put them in the ground and hope that it works. Agent Gallagher pointed out that the area that used to be wooded and now opened up, the back yards are going to blend into the open space. What typically happens is the new homeowners come in and they want to mow it and maintain it. Predictably we are going to have delineation. I would like to see some kind of stone wall or fence. The delineation would have been a tree line. Commissioner Tate commented that delineation should go towards mitigation. Chairman Harbinson mentioned that there was great concern from the community about the protection of the cranberry bog and the open space was located in its current location to try and help buffer any offspring of any surface runoff and that sort of thing from the development. The type of species that were removed, do those function well to help accomplish that buffer for filtering from the development to the sensitive bog area?

Commissioner Tate responded that it doesn't really matter, because that was there. That was the natural barrier. I have to look at it from his profession, that you have to get something that would grow in that particular soil type would be better. There are things like a willow that I wouldn't recommend but a cedar might be appropriate.

Chairman Harbinson asked about the black birch that was taken down and there are no plans to put that type back in. Commissioner Tate said that it seeds itself so quickly in a natural state. You could buy it and it's typically done on a much smaller plant scale. I would encourage it but you might be able to get some higher value plant material that might act as food sources. If you had the choice to add some different varieties you might add shelter or food sources for bird habitat or small animal habitat.

Vice-Chairman Dyer asked about the stumps; are they going to be ground out? Commissioner Tate suggesting leaving them. The damage has been done; you stay out of the area and you re-forest where you can.

Agent Gallagher commented that there are piles of limbs that would be good to have removed or chipped on site. Commissioner Tate said that if left alone they could also become a shelter for small animals. They would also prevent people from clearing if you had a brush pile. In essence, I am not reacting to the development; I am reacting to the plan.

Vice-Chairman Dyer brought up the thought of issues down the line of oils and other things that aren't there now but will be. Chairman Harbinson added that he only brought this up so we are cognizant of it and if there are species that would be a better biofilter.

Commissioner Lauriat asked noting Agent Gallagher's comments about the future homeowners treating this area as their own, were the trees removed for the same reason the trees were removed along the Housatonic, for a better view? Chairman Harbinson answered that he has no idea and this is not an issue for this Commission to ask why or why not.

Chairman Harbinson did comment on past tree cuttings in different locations, the restoration of those areas went poorly over time. To Jim's earlier comment about having some sort of assurance or monitoring program to add some surety to the community that what was lost on that open space will sustain itself.

Commissioner Tate added that typically there is a 100% bond required. The bond is usually released after a year or two of successful restoration. It's not done by the P&Z administration; someone who's not knowledgeable in the growth of planting does not do it. A 3rd party should do it.

Commissioner Lauriat asked what are we tasked to do? Chairman Harbinson answered that we are going to compile these comments in letterform to give to P&Z. Before we do that I know the developer is here and some people from the community interested in this.

Attorney Steve Bellis, representing the developer

Mr. Bellis stated that he is here tonight to hear what you have in mind. I think you may have heard things and read about it in the press. This case is a little different from some of the other restoration plans you may have seen whereby the developer had some ulterior motives for going into the proposed open space. Here, there was 3rd party; it was not the developer who did this. Although we came up with a restoration plan I wanted you to be cognizant that it is somewhat of a compromise because it's not as egregious as if the developer came in and did this, in which case I think you have the right to use some of the formulas or calculations that you were alluding to earlier. In reference to the plan, there was an old house that was taken down and there was a driveway and he was trying to clean that up and put some plantings in as well. To your second question about the bond, I believe Rick is going to put an increased amount on the bond. We were hoping to see what the Commission thought on whether they would accept this area as City open space or Land Trust or private open space where the homeowners association would take it. I think that is also what P&Z is looking for your comment.

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Commissioner Lauriat commented that even though a 3rd party did the tree cutting they aren't any less dead. That is our concern, and what are we going to do.

Mr. Bellis said also to take into consideration, if there were a forest fire, what would you do?

Vice-Chairman Dyer asked Mr. Bellis if they would consider a split-rail fence and Mr. Bellis said he would consider it.

Commissioner Tate added that it depends on how we determine how this property should be deeded or designated, which may balance that off a little bit. Chairman Harbinson asked for any other comments from the audience.

Mr. John Trautman, Ecological Consultant for Irving and Nancy Steiner.

Mr. Trautman handed out his statement of qualifications to the Commissioners noting that it is not only important of the information he is giving them but also for them to evaluate the source of who is giving that information.

He commented that contrary to Mr. Bellis' comments there was a violation here. It was a very deliberate man-made act that resulted in this violation. It wasn't an act of nature.

Mr. Trautman read a letter of introduction to the Commissioners.

Mr. Trautman explained that he wants to get things in the right order and slow things down.

He said it is not about trees, canopy and isn't measured in inches. He mentioned the types of mature trees that were removed and that it was an undisturbed woodland buffer.

Tape 1, Side B

Mr. Trautman distributed copies of the intervention filed on behalf of the Steiner's.

He said he would focus on two pages that go through the verified allegations and the verified complaint as to what the ecological damage was. The first page read to the Commissioners is on page 4, item 9. Page 5, item 10 was read and detailed as well.

Mr. Trautman explained what an intervention is, which allows a party to intercede into a matter such as this to give a voice to natural resources that does not possess a voice of their own.

He suggested that maybe as part of the restoration plan this site could become a scientific monitoring site; to see different restoration techniques; for educational groups to see where there has been an impact and actually study and monitor. He discussed the fact that there are a lot more than just trees and canopy and inches. He encourages everybody to think holistically and think outside that box. For this to be a successful restoration plan all the items listed have to be integrated into it.

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Mr. Trautman discussed his thoughts on the restoration plan and brought up some of the points Commissioner Tate made. The plan falls short and he said he wants to be part of the team, part of the collaborative effort.

Another letter was read into the record as follows:

**JOHN R. TRAUTMAN
ECOLOGICAL CONSULTANT
797 EAST BROADWAY
STRATFORD, CT 06615
TEL: (203)581-0901
FAX: (203)319-0430**

02 September 2009

Tom Harbinson, Chairman Shelton Conservation Commission 54 Hill Street Shelton, CT 06484

RE: Cranberry Hill Estates - Armstrong Road
P&Z Permit #07-14 Notice of Violation/Stop Work Order Referral: Proposed City Open Space

Dear Chairman Harbinson and Members of the Commissioner:

On or about 13 August 2009 the Commission received a "Referral Notification" from the Shelton Planning & Zoning Department requesting that the Commission review and respond with a recommendation to a proposed tree restoration plan. The plan was a requirement placed upon the property owners after it was determined that tree cutting and land clearing had taken place within the proposed-to-be-dedicated open space on the subject property. The Notice of Violation and Stop Work Order remain upon the property while a "legitimate" restoration plan is developed.

Herein lies the issue. The plan provided by the property owners, no matter what they call it (a tree restoration plan, tree replanting program) fails to address the adverse ecological impacts as identified by items 9a - 9d, and items 10a - 10e contained in the Verified Pleading filed pursuant to Section 22a-19 of the Connecticut General Statutes. Additionally, the property owners have attempted to have a plan approved without identifying or investigating the actual character and magnitude of the adverse ecological impacts to open space and natural resources resulting from the cutting and clearing activities.

It has been my experience that violations of this nature (tree cutting and clearing within dedicated open space) are best brought to a successful resolution through a clear, orderly, and well-defined regulatory proceeding. The character and magnitude of the ecological damage associated with the violation can only be identified, quantified, and qualified through such a regulatory proceeding.

I formally request that the Conservation Commission recommend to Planning & Zoning that 1) the Stop Work Order remain in place until a legitimate and viable

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ecological restoration plan is approved, and 2) that a Show Cause hearing be convened so that full disclosure, full assessment, and full understanding of the events and circumstances that led to the degradation, despoliation, and destruction of natural resources on the subject property can be ascertained.

Respectfully,
John R. Trautman
Ecological Consultant

Mr. Trautman explained why he is requesting the Commission recommend a show cause hearing that this is in the community's best interest for this to come to full light so we can have a full understanding. He said he is not here about finger-pointing and assigning responsibility. I'm here so that we have a logical progression of events and the outcome is a legitimate restoration plan being approved. He also talked about some of the points Commissioner Tate made regarding a 3rd party monitor as well as a performance bond.

Commissioner Welsh asked if the property owner were willing to work with you and get some of your good ideas to enhance the plan, would you be up to that? Mr. Trautman answered absolutely. I have suggested that from the get-go. He pointed out that the cutting took place in the middle of April and he has been involved since the last week of April.

He said this Commission could agree to be part of and an active participant through your recommendation. This Commission could be an active participant in a legitimate restoration plan or if you decide not to get involved, essentially you are giving your tacit approval just to a sham. To accept this right now would be a sham.

Chairman Harbinson responded that I think you heard from the comments that we made in just briefly looking at it that we didn't think the plan sitting in front of us was up to a caliber.

Mr. Trautman explained that he feels the plan needs work and input.

Chairman Harbinson asked if there were any major suggestions that you have regarding what was presented here that could be improved?

Mr. Trautman said he has a lot of ideas and based on the recommendations from you will be in the regulatory hands. What is falling short are the items he identified from the allegations both 9a-d and 10a-e, that need to be and can be with good thought and talented people. I think people are looking for a quick fix and that's not the solution. There needs to be a good resolution to the violation and a good outcome to what that resolution is going to be.

Vice-Chairman Dyer asked why he feels a show-cause hearing is necessary? Are you looking for someone to come forth and take ownership of the deed? I would think you'd want to work more on a resolution.

Mr. Trautman said he thinks there are people who think one of the outcomes of the show cause hearing is to identify what really happened and who may be responsible. That is not my interest. Through the show cause process all the

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City's technical staff, the owners technical people, the interveners technical people, all have a chance to make a presentation to get us all the information. Because of an intervention, so much more viable accurate information gets part of the record. With this information you get a better outcome. My reason for the show cause hearing is all of the concerns of all parties all come to the surface in a well-organized regulatory setting. I think your advisory input is critical.

Chairman Harbinson explained that the process that is in place where P&Z has asked us to comment; you don't view that as being an orderly process?

Mr. Trautman answered that it's orderly but falls short. He explained why adding that he doesn't care about finger pointing.

Chairman Harbinson said with all due respect I do think that there is a little bit of concern about finger pointing by the way I read in your letter about the purpose of the show cause hearing. From a Conservation Commission perspective we're concerned about the environments being violated. I don't look at the violation as to who violated the property. I don't care how it happened. The land was violated. How can it be somewhat restored? I don't think you will ever reach a restoration to be what it was like before it happened.

Mr. Trautman said he feels his goals are very optimistic and sometimes lofty, but they are doable. Maybe there is one benefit and may be tied into a little bit of the finger pointing. If parties were identified that could be assigned some responsibility, those parties might be required to put a lot more effort, backing and work into the plan.

Chairman Harbinson said I can't talk about "what ifs". We have a property that has open space dedication area that has been impacted and we need to correct those impacts. What are your suggestions to improve on what is being proposed?

Mr. Trautman answered to get it into a full-blown ecological restoration plan.

Chairman Harbinson asked what type of species would he recommend? Mr. Trautman said that we have to get away from just being focused on replacement trees in quantity, quality and species? What about the soils, what about the wildlife habitat? What about the buffer areas in terms of their filtering characteristics?

Chairman Harbinson asked so you are looking for a woodland buffer that would provide a better ecological resource that include a more variety of species, and what species would you suggest?

Mr. Trautman said that you have to start with black oak and the proper under story and explained again why he wants a show cause hearing.

Chairman Harbinson said he's not an attorney but thought that a show cause hearing would be for something at Inland Wetlands and you say that Planning & Zoning can do one?

Mr. Trautman said yes they do, although both Commissions sought professional opinions from Corporation Counsel. Attorney Ray Sous said that for Planning & Zoning show cause hearings are not mandated. He never said they are not prohibited nor forbidden. Rick Schultz asked for another opinion from Atty. Sous

who said it is optional, at the discretion of the hearing. They can have a hearing and you can assist them in making that determination if you were to recommend that along with keeping the stop work order in place.

Attorney Steve Bellis asked to respond.

Mr. Bellis commented that Commissioner Welsh asked the question if we could sit down and have a meeting with them and they refused. I have received no concrete suggestions. I've only heard what you've heard. Second, on the intervention, it has been our position that there have been no proceedings so there is no intervening complaint and Corporation Counsel confirmed that as well. A show cause hearing at Wetlands are in their regulations but they did not want to proceed that way. They made that very clear.

Chairman Harbinson asked why they didn't want one? Mr. Bellis answered that they didn't see it would be beneficial in trying to resolve the situation.

Mr. Trautman interrupted and said that was inaccurate. Mr. Zahornasky said that there was no need for a show cause hearing because of the open nature and participatory nature of wetlands that he thought everybody's concerns were fielded and well-served.

Mr. Bellis commented that Mr. Zahornasky allowed them to speak at every hearing, he didn't shut them out. That is what a show cause hearing does. It wasn't just us speaking. They were given opportunity. I just wanted to answer Commissioner Welsh's question – we tried to sit down and I didn't get any concrete information. We've also have a report from the arborist who did look at the ecological factors. We have another report that will be available Friday from another ecologist that will be provided to Planning & Zoning. As far as a rush to judgment, there is no rush. We've tried to come up with a plan that we think addresses the situation.

Chairman Harbinson commented that he suggested to all the Commissioners to read the minutes from the P&Z and IWC meetings. The arborist's report is included in the minutes. We are aware of this situation and we have tried to avail ourselves to look at the information that other Commissions have looked at in addition to having our field agent go out into the field physically and provided us video. We have tried to become a little bit versed in the property.

The Commissioners discussed some past violations in town and what they have learned from the lack of a good restoration plan and monitoring.

Nancy Steiner, 23 Partridge Lane

Mrs. Steiner said that over the past few years she and her husband have observed tree cuttings that have taken place in various places. Not much was ever restored properly. This time we are standing up for the land. That's it; we have no ax to grind. We're not angry with anybody. We just want the right thing done. Let the City do the right thing by this land. Regarding the meeting that Mr. Bellis said we refused was described to us as a meeting with him. We didn't want to meet with Mr. Bellis; we wanted to meet with experts to talk about the land restoration. That is really our only interest here.

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Commissioner Tate said he has a solution to all of this that seems so obvious to him. Why don't you take the efforts that you are putting forth and provide the Commission, P&Z and Mr. Bellis with a plan? A plan that is implementable. People in our field of responsibility will make opinions on it. At some point whatever responsible regulatory agency would then make a decision. It seems to be that tonight instead of spending an hour and a half, you could have come up with a plan instead. My recommendation would be that I would encourage you to bring forth your implementable ideas and your site-specific recommendations. I think you'll feel much better about what the results will be. By the time you spend with the attorneys and the City it becomes adversarial. Then we're not all working in the same direction to try and do what's best for the land. Let's come up with a solution and move on. We have other things to do.

Mrs. Steiner asked if they could have access to go on the property?

Commissioner Tate said he can't answer that because he doesn't own the property. You certainly are welcome to go on any City property.

Mr. Steiner said that they have not been allowed on the property.

Commissioner Tate said that you certainly seemed to know a lot about the property given the dissertation that we heard. Our direction is to get a successful plan. You prepare the plan; you give us what you need, and then let's get at it.

Mr. Trautman said he is not in disagreement. One of the things he hopes comes out of a formal proceeding would be just that logical next step. An integrated design team put together to come up with this plan. In response to what you said about how much effort we have been expending, at this point, the owners of record, who are violation sort of have an obligation to come up with the plan. I'd like to assist. It's not my job to design their plan.

Commissioner Tate said yes it is. It's going to be. If that's what you're espousing, you are going to design a plan. If you want the best, you are going to have to put forth your best. That's not going to occur in the same procedure you've outlined tonight. I don't think that is going to happen. Trying to get to the end plan; what's best for the land, how? Ask for a better plan. Tell this gentleman, tell who's involved, tell me, or anybody here that is involved with this plan, what specifically would make this a better plan. It is not a legal proceeding.

Mr. Trautman said it may have to be in a more formalized proceeding.

Commissioner Tate said this is a very small area of land compared to properties I deal with, but no less significant. As far as magnitude of effort it's not going to require enormous resources that could get to a good end result. All the thoughts are here already, it just has to be put down into a plan.

Mr. Trautman said we're not there yet but I think we're in route. I think as the progression unfolds in an orderly well defined, well-organized way, we're going to get there.

Commissioner Tate said all we are interested in is the restoration plan and how it gets done properly. If it's weak now, let's make it better. How do we do that?

John obviously has some expertise to add, maybe Nancy or Irv; get it all on there. Then the regulatory authorities will have to say yes or no. We're not there

yet on the plan. I think we're clear on that. Somehow we need to get your input on the plan. We're going to give our input and I think we can get it out of the door. We really don't have time for this because we all are involved on many different projects in town. We can't take this on as our special project to restore this area. We are happy to give our comments. We'll come to some resolve in a letter this week. Certainly Teresa would be available to do site monitoring for you. She is very knowledgeable and about the best you can get in that regard. To go onward; I don't think we need to.

Chairman Harbinson said he agrees. Commissioner Tate made some earlier comments regarding tree count and species and the value. He talked about the percentage penalty, site monitoring, bond, habitat values and the soils. With all of those comments I would entertain a motion to have a letter written to P&Z in regard to this proposal that we find the proposal lacking or weak. It needs more work. In the comments mentioned it would be parts of making that a stronger plan plus recommending demarcation of the open space. We encourage the interveners and their knowledgeable professionals and the applicant to work together to better the plan.

Commissioner Tate said yes, we could come up with a letter that includes all of our thoughts. We are going to go right at it and we are not going to wait around. Hopefully this will move the process along.

Commissioner Welsh commented that the restoration plan is going to dictate whether we want the open space.

Commissioner Tate said he disagrees, I think we want this as open space regardless.

Chairman Harbinson asked Agent Gallagher, on the open space dedication, when this application was approved, what was the intent of the open space? Was it to provide recreation pass through the area or solely as an ecological buffer?

Commissioner Welsh stated that he thinks the focus was on the preservation of the cranberry bog and wetlands.

Chairman Harbinson asked if that could be accomplished if the City owns it or if it's owned by another entity such as an association?

Tape 2, Side A

Commissioner Welsh suggested that whatever the outcome of this area it should be protected with either the orange fencing or hay bales.

Chairman Harbinson said that what he is hearing from the Commissioners is that no matter who owns it, it should be deed-restricted in perpetuity as protected open space. He asked if anyone knows of any reason why the City shouldn't take it as open space?

Commissioner Tate said that the only reason this is coming up now is that someone is claiming that this is damaged property.

Agent Gallagher said that as part of her assessment she found that the former buildings are a potential source of soil contamination and liability to the city. We have no site assessments on record.

Commissioner Tate pointed out that any open space properties could have that same type of thing that we don't know about.

Vice-Chairman Dyer said his issue is that it is in the middle of nowhere – not around any other open space. Often, in those cases we recommend taking a fee in lieu of, but I am not recommending we do that.

Commissioner Tate brought up the fact that earlier we were asked for our opinion on whether to take it as open space and we recommended it. Now we are asked again. I feel that whatever we decided in the first place should hold today. I don't see anything here that changes that. We have tried to be very consistent on how we deal with open space.

Chairman Harbinson concluded this discussion saying that the Commissioners made their comments and the original application showed this area for dedicated open space and we endorsed it and we still feel that way.

I. Review of PZC or IWC Applications for Subdivisions and/or Developments

None

J. Communications

- Jones Family Farms – Pumpkin Seed Hill – the open space that was purchased by the City between their farmland and Hidden Meadow Estates have a couple of trees that are on the property line that they want to cut. They are courtesy notifying us that they are cutting the trees. Agent Gallagher said she copied the tree warden.

K. Dog Park

Vice-Chairman Dyer said there is supposed to be a meeting coming up. Agent Gallagher said she wants to go to the meeting but she can't find out when the meeting is. Vice-Chairman Dyer said he is interested in going as a member and he can't find out. There are no minutes and there is no agenda. Agent Gallagher said there are minutes but they don't put them online.

L. Budget Report

Not available

M. Open Space Trust Account

Not available

N. Open Space Plan of Conservation and Development

The action plan is available for review at the following link:

<http://www.sheltonconservation.org/OS/documents/ActionPlan3.doc>

Chairman Harbinson reported that the members of the Plan Update Advisory committee have met informally with P&Z. We thought we'd touch base with them to insure that the plan is in review. We talked mostly about capital improvement programs. Our goal is to keep it as a living document.

Vice-Chairman Dyer suggested bringing up the 15% open space set aside that was adopted in the plan.

O. Quality of Life – Executive Session

None

P. Comments by members

Commissioner Lauriat asked if we have heard anything about the property on Soundview that the city wants to sell? Chairman Harbinson said that Planning & Zoning gave a negative 8-24 referral as well as Parks & Rec. He has heard through the grapevine that P&Z is going to reconsider the 8-24 referral. This would make the third time they would be making an 8-24 referral on this property. Commissioner Welsh commented that there is a property for sale by Long Hill Elementary school. That would be a good property the city should consider.

Q. Adjournment

The next regular meeting is Wednesday, October 7, 2009

Commissioner Lauriat MOVED to adjourn. SECONDED by Vice-Chairman Dyer. All were in favor; MEETING ADJOURNED at 8:56 pm.

Respectfully submitted,
Marianne Chaya
Clerk, Conservation Commission