

CITY OF SHELTON  
CONSERVATION COMMISSION

Minutes for the Regular Meeting on Wednesday, November 5, 2014 at 7:00 P.M.

Minutes should be considered a draft version until approved by CC at their next meeting.

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Present: Tom Harbinson, Chairman  
 Bill Dyer, Vice-Chairman  
 James Tate, Commissioner  
 Ed McCreery, Commissioner  
 Joe Walsh, Commissioner  
 Sheri Dutkanicz, Commissioner  
 Teresa Gallagher, Conservation Agent

Also Present: Terry Gallagher

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### A. Call to Order/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.

At this time, Chairman Harbinson reported that there has been a request from Planning & Zoning to add an item to the agenda: Pond Meadow Subdivision. **A motion was made by Commissioner Tate, seconded by Vice Chairman Dyer, to add Pond Meadow Subdivision, as requested, to the November 5, 2015 agenda. Vote – All in Favor. MOTION PASSED.**

Discussion of adding Perry Hill Road – 26 unit subdivision to the agenda.

### B. Approval of Minutes

**A motion was made by Vice Chairman Dyer, seconded by Commissioner Dutkanicz, to approve the minutes from the October 1, 2014 meeting. Vote – All in favor. MOTION PASSED.**

### C. Public Portion (Items Not on Agenda)

Guy Beardsley brought in Beardsley Orchards Cider for the Conservation Commission to sample. Guy reported that there was a Farmer's Market meeting held on Monday night. Guy reported that they did not get to discuss the Monahan's and the Stone Gardens Farm entry into the Farmer's Market. Guy reported that a number of things were discussed. One thing that was accomplished was that Shelton Intermediate School and Sara Bretton were added to the Farmer's Market as vendors. Chairman Harbinson explained that Shelton Intermediate School has a program that includes several greenhouses and plots on the campus where they grow and sell their produce in the cafeteria at school and at Common Bond Market in Huntington Center. Discussion.

Guy reported there was a discussion regarding standard exemption markets versus producer only markets. Discussion of expanding the Farmer's Market with more vendors or longer seasons. The Conservation Commission asked Guy if they can help with the Market in any way. Discussion.

Discussion of having a winter market. Guy reported that the current vendors do not have an interest in a winter market. Discussion of the Farmer's Market facility being utilized by other vendors during the winter months.

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Chairman Harbinson introduced Stacia Monahan from Stone Gardens Farm. Stacia reported that she did attend the Farmer's Market meeting and she sent a letter to Guy stating that she and her husband, Fred, were interested in trying to work with Shelton Farmer's Market vendors to expand and grow the market downtown. Stacia would like to be assured that all participants of the Farmer's Market will be on a level playing field. Discussion of all vendors growing their own products and not buying wholesale to resell at the market. Stacia asked the Conservation Commission to recognize the local farmers for the hard work it takes to grow fresh produce. Discussion of this being a state wide issue and that changes are currently being made on a state level. Discussion of how to know if farmers are or are not growing their own produce. Discussion of the new mandatory "Point of Origin" labeling for all vegetables and produce sold as labeled "Connecticut Grown". Stacia has requested forming an unbiased committee or sub-committee of the Conservation Commission to oversee the Farmer's Market year round. The committee would oversee the operations of the market, set up guidelines, assign a Market Master, plan for the market in the future, supply funding from the City to continue to advertise the market, etc. Discussion of municipally run markets. Discussion of the pros and cons of having a city run market as opposed to a farmer run market. Stacia stated that she feels that the current Farmer's Market is run like a club or fraternity and decisions are based on the member's best interests, not the City's.

Discussion of the Farmer's Market licensing agreement. Chairman Harbinson suggested contacting the Mayor and Alderman Anglace to discuss the best possible solution to this matter.

Discussion of the duties involved in running the Farmer's Market. Discussion of what type of people would be needed to accomplish this.

Chairman Harbinson stated that there are many vendors who do not currently participate in the Farmer's Market and would be interested in participating in a winter market and, the fact that the facility is not utilized, it could be beneficial to everyone. Chairman Harbinson recommends forwarding this suggestion to the Mayor and Aldermen for review and possibly set up an Ad-Hoc Committee to explore further. Chairman Harbinson fully supports this idea. Discussion.

A motion was made by Vice-Chairman Dyer, seconded by Commissioner McCreery, to write a memo to the Mayor, with a copy to Alderman Anglace, suggesting that they explore the opportunities to expand activity at the Farmer's Market facility downtown in the winter months. Vote – All in Favor. MOTION PASSED.

**Tape 1 – Side B**

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## D. Approval of 2015 Meeting Schedule

Chairman Harbinson announced the Conservation Commission meeting dates for 2015:

- |                    |                |                   |
|--------------------|----------------|-------------------|
| • January 7, 2015  | May 6, 2015    | September 2, 2015 |
| • February 4, 2015 | June 3, 2015   | October 7, 2015   |
| • March 4, 2015    | July 1, 2015   | November 4, 2015  |
| • April 1, 2015    | August 5, 2015 | December 2, 2015  |

**A motion was made by Commissioner Dutkanicz, seconded by Vice-Chairman Dyer, to approve the 2015 meeting dates. Vote – All in Favor. MOTION PASSED.**

## E. Trails Committee Report

Vice-Chairman Dyer reported on Shelton Day.

Vice-Chairman Dyer reported that a Moonlight Meander Hike was held on Wednesday, October 8<sup>th</sup> and was very well attended.

Vice-Chairman Dyer reported that a Turkey Trot Hike will be held on Saturday, November 29<sup>th</sup> at 1:00 p.m.

Vice-Chairman Dyer reported that the Committee is currently looking into a Snow Shoe Hike to be held in January.

Vice-Chairman Dyer reported that the Committee completed the trail to make a loop around Shelton Intermediate School.

Vice-Chairman Dyer reported that 3 Eagle Scout Projects have been completed:

- Beech Tree Hill Trail/Trash Removal
- Birchbank Trail Improvements
- Buddington Kiosk

Vice-Chairman Dyer submitted expenses to the Conservation Commission for reimbursement. **A motion was made by Chairman Harbinson, seconded by Commissioner McCreery, to approve all expenses submitted by the Trails Committee for reimbursement. Vote – All in Favor. MOTION PASSED.**

Terry Gallagher discussed the Committee/volunteers rerouting the Beardsley Trail on Sunday, November 23<sup>rd</sup>. Guy Beardsley and Commissioner Welsh, Land Trust, both agreed to this date. Discussion.

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## F. Open Space Trust Account Status

No Report.

## G. Budget Status

No Report.

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

### 1. Old Applications/Monitor/Follow-up

i. Water's Edge of Shelton PZC #14-8, 14-unit PDD on 3.1 acres at 500 River Road on the Housatonic River including a marina with 6 slips. PDD #78 MODIFICATION dated October 21, 2014 to allow for 3 additional units along the Housatonic River.

Chairman Harbinson reported that a referral was received on October 21<sup>st</sup> from Water's Edge stating that they are modifying the boundary of the PDD #78 to allow for 3 additional dwelling units and they would like a response by November 28<sup>th</sup>. Discussion of asking Water's Edge to get an environmental review. The Conservation Commission is extremely disgusted and offended that this was presented to them the way it was, which only allows for 3 business days to review and decide on this application, and the way they accelerated this process to the point where drawings received lasted one week before they modified the PDD. Discussion of conservation easement on the approved PDD. It has come to the Commission's attention that when the easement was forwarded from Planning & Zoning to the Board of Aldermen for review and approval, they are inclined to not accept the conservation easement because they do not want a liability to the City. Discussion of writing a letter to Planning & Zoning to include the following:

- The conservation easement was not expanded from the existing PDD to match the frontage along the river to the new boundary area
- Boundary expansion should include a similar conservation easement area which protects the natural vegetation that fronts the shoreline of the Housatonic River and it provides wildlife habitat, shoreline protection and stabilization and substantial specimen trees.

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Discussion. Commissioner Tate suggests using forceful language stating that an easement is definitely needed there and it is not just being recommended. The River needs protection. Discussion of how the Conservation Commission can be successful in doing things, especially when we know that there is a problem, so we can use our position as a Commission and it will actually mean something. Discussion of the standard easement language for the City.

Commissioner McCreery commented on the purpose of PDD's. Commissioner Welsh questioned that since Wetlands and Planning & Zoning don't know how to make the right decisions, would it be possible to hire a third party to do application review of the proposed projects to avoid all of these issues. Discussion.

Discussion of modifications. Chairman Harbinson decided that since the Wetlands minutes did not include the Wetlands Enforcement Officer's commentary, it would be beneficial to review it now. Chairman Harbinson read John Cook's comments regarding this modification to the Commission. This report is attached below.

**WCEO REPORT**

**October 9, 2014**

**PERMIT-APPLICATION #14-17R14-06, WATER'S EDGE OF SHELTON – 500 RIVER ROAD.** Proposal to modify existing development regulated activities to construct an additional building with decks within upland review area of Housatonic River with associated grading and approximately 14' from tidal wetlands along Housatonic River based on the feasibility plan submitted on 9/11/14. Subsequent sheets identify a larger acquisition and improved building shift.

**STATUS: 1. Clock starts October 9, 2014**

**2. 65-day clock to decide action or schedule public hearing expires**

**December 13, 2014**

**PLANS: WATER'S EDGE OF SHELTON**

Feasibility Plan dated Aug. 18, 2014 "Preliminary" 9/11/14 submitted Sept. 11, 2014

Property Survey Sept. 18, 2014 submitted Sept. 19, 2014

Existing Condition & Demolition Units 15-17

Overall Site Development

Site Development & Grading Units 15-17

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**COMMENTS:**

One item that has been mentioned to the design engineer regards the need for: (1) Field topographic data in the location of the proposed building. Unlike the application for the first "phase" of the development this area is rather pristine in the sense of tree canopy whereas earlier was the site of an old manufacturing facility and existing single family dwelling. Substantial excavation is expected here. Attached is a copy of 2013 imagery. Also during the telephone conversation with the design engineer staff indicated the need for: (2) Cross sections for this building's construction and (3) A landscaping plan.

(4) Decks and patios should be labeled; the sheets are not conclusive in this regard.

(5) Significant trees; those 6" in size or larger if the overall stand is relatively small or 12" in size or larger if stand is larger, should be identified in this new area for protection. (6) Several of the sheets refer to and show 4'x4'x4' galleries and next to the existing waterfront deck it appears seven are shown on the river bank, this should be clarified.

(7) A Conservation Restriction is proposed and is beneficial however staff strongly recommends that the City of Shelton Conservation Easement be implemented here as recommended by the Conservation Commission for "Phase One". The City's standard easement as composed by multiple parties reviewed by Corporation Counsel and adopted by the Board of Aldermen should provide better protection than, with all due respect, what occurred immediately downstream. Detailed review shows decks and patios are further from the river as compared to the feasibility plan but it difficult to ascertain overall separation. Tidal wetlands and mean high water should be shown on all sheets. The Commission upland review is considered from mean high water. The sheets are not clear. (8) Provide a profile view to demonstrate the retaining wall, PR walk and construction.

Lastly for discussion and openness: through several channels we understand the applicant was to a degree contending that there should be little concern or regulatory involvement on the part of this Commission. However, the Shelton Inland Wetlands and Watercourses Commission since 1989 established a 100' distance to define construction regulated activity along the Housatonic River. The goal in establishing the distance was to help protect and maximize the riparian condition while providing a fair mechanism to construct and grade. This building will eliminate approximately 30% of the 400' remaining presently undisturbed riverbank between the downstream end of Shelton Cove and Fanny Street, a distance of approximately 2400'. This office prepared some two hundred pages of documents identifying the value to regulated areas during the review of #12-24, Shelton Cove and is referenced for consideration. It is unfortunate that a choice of building design serves to limit protection the riparian condition.

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The Planning & Zoning, Inland Wetlands & Watercourses, and Conservation Commissions are the three municipal land use boards that can evaluate, regulate and recommend areas for protection. If the premise initially was to secure the land for fill material to raise the grade on the first part of Water's Edge, it should be purchased based on that value alone and replanted to re-establish the riparian integrity. If the purchase was always geared towards additional building construction it then is likely to conjecture this may be one of other proposals to eventually extend the two projects together since, the two roadways, Shelton Cove and Water's Edge are both at the same elevation and the additional acquisitions of land from CKB, LLC and Emhart Teknologies. If this were to occur, the Shelton side of the Housatonic River will effectively lose nearly ½ mile of natural riparian corridor.

Other communities across the State secure and/or protect significant riparian corridors along their major rivers and streams. In particular, the contact agent for the applicant in his municipal capacity in Marlborough along the Salmon and Blackledge River and the principal of the applicant in his Litchfield Subdivision provided extensive protection along the Shepaug River.

If Shelton regulations and policies are unable to achieve goal this then efforts should be undertaken to improve once in a lifetime decisions.

Discussion. A motion was made by Vice-Chairman Dyer, seconded by Commissioner Tate, to write a letter, as previously stated, to Planning & Zoning listing what was said earlier. Planning & Zoning should concentrate on the aspects of the application and why the riverfront is important, recognizing that there is a conservation restriction area #3, which should be a conservation easement. Discussion of other items to be put into the letter. Conservation Agent Gallagher will draft a letter for review.

## 2. New Applications

- i. Pond Meadow, 49 Shelton Road, PZC #14-20, PDD Zone Change, Initial Development Concept Plans (20 Unit Multi-Family Complex)

At this time, Commissioner McCreery and Commissioner Welsh recused themselves from this discussion.

Chairman Harbinson reviewed the plans for 39 Shelton Road dated July 28, 2014 with the Conservation Commission. A revision was submitted on September 30, 2014 for the driveway which matches the referral notice. This is a PDD for a zone change for a multi family development of 22 units on a 2 acre parcel that is currently zoned R-1 and bounded on three sides by residential properties. A member of the public, Fred Barmmer, owner of 615 Huntington Street, discussed the wetlands in the area of this property. Mr. Barmmer is concerned that if this zone change is approved, that the R-1 zone could then be changed anywhere in the City. Discussion of this issue and what the Conservation Commission is capable of doing as an advisory commission.

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**Tape 2 – Side A**

Mr. Barmmer is concerned that the corridor of naturalized land is being cut off. Discussion of what the Conservation Commission has been able to accomplish with their recommendations. Commissioner Tate commented that it is troubling that his project has gotten this far considering the traffic issue and it being a spot zone area. Discussion. Commissioner Tate commented that this does not protect zoning integrity of the neighborhood. He also commented that the Land Trust has considerable investment, whether by volunteer or contribution, at an adjacent property and this would negate that effort. This area has 1 acre character which is what Shelton is about. Discussion. Commissioner Tate added that this area is the entryway into our City and he feels this is not the type of project for this area.

Discussion of drawings submitted.

**A motion was made by Commissioner Tate, seconded by Vice-Chairman Dyer, to write a letter to Planning & Zoning stating all of the issues and concerns of the Conservation Commission which were previously discussed at tonight's meeting. Commissioner Tate requests sending a copy to the Mayor, Alderman Anglace, Wetlands and the City Engineer. Commissioner Tate requested that each member of the Conservation Commission signs this letter individually, except for Commissioner McCreery and Commissioner Welsh, who recused themselves earlier. Discussion. Vote – All in Favor. MOTION PASSED.**

Discussion of another new application for Perry Hill Estates - #14-24 – 26 single family homes. This was reviewed by Wetlands. The Conservation Commission reviewed the plans. This property consists of 14 acres. Most of the property is zoned R-1, while only a piece is zoned R-2. Discussion. **A motion was made by Commissioner McCreery, seconded by Vice-Chairman Dyer, to write a letter to Planning & Zoning stating that the Conservation Commission wishes to express its extreme opposition to the perverse use of the PDD process to circumvent the residential regulations of the City of Shelton and destroy the reasonable expectations of existing surrounding residential taxpayers that the R-1 & R-2 zones would be honored. This application does nothing for the City but circumvent its regulations, including the open space contributions that would have been required by a traditional subdivision. It would be beneficial to the community to have been presented with a traditional subdivision map authorized by the regulations to compare what is being requested vs. what would otherwise have been allowed. This is not a transition neighborhood which needs the special treatment of an SDA and PDD. Instead, it is just plopping down a more dense development in a residential zone to maximize profits. The disruption of the wetlands corridor which traverses the property is unnecessary. Discussion. Vote – All in Favor. MOTION PASSED.**

## I. Ad-Hoc Committee Reports – Conservation Agent

### 1. Deer Committee

Conservation Agent Gallagher reported that she wrote an article for Shelton Life regarding the impact to open space.

### 2. Community Gardens Committee

- Eklund Garden
- Dog Park Garden

Conservation Agent Gallagher reported that a double work party was held to clean up the Dog Park & Eklund Garden. Discussion.

### 3. Anti-Litter Committee

No Report.

## J. Communications (Sent or Received)

Chairman Harbinson read a letter from Northeast Utilities regarding the gates that they put up.

Chairman Harbinson received a letter from a Shelton resident who would like to see a connection from the park on Huntington Street over to the Rec Path. Discussion.

Chairman Harbinson reported that the Housatonic Valley Authority is having an auction to benefit the environment which will be held on Sunday, November 23<sup>rd</sup> at Washington Primary School in Washington Depot.

Chairman Harbinson reported that we received the Southwest Conservation District Newsletter.

Chairman Harbinson reported we received a letter from John Cook for the approval for the Water's Edge revision and a copy of the approval from the Inland Wetlands Commission for a permit.

Chairman Harbinson reported we received a letter from John Cook for the approval of Hawks Ridge. Discussion.

## K. Grant Compliance Status for 7 DEEP Open Space Grants and 2 FRPP Agricultural PDR Grants – Conservation Agent

No Report.

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### **L. Quality of Life – Executive Session (Land Acquisition and Security Issues)**

**A motion was made by Chairman Harbinson, seconded by Vice-Chairman Dyer, to go into Executive Session at 9:20 p.m. to discuss land acquisitions and security issues. Vote – All in Favor. MOTION PASSED.**

**A motion was made by Chairman Harbinson, seconded by Vice-Chairman Dyer, to end the Executive Session at 9:45 p.m. Vote – All in Favor. MOTION PASSED.**

Chairman Harbinson reported that no actions or motions occurred during Executive Session.

### **M. Comments By Members**

No Report.

### **N. Adjournment**

Meeting adjourned at 9:45 P.M.

The next regularly scheduled meeting is Wednesday, December 5, 2014.

Respectfully submitted,  
Helen Solotruk  
Clerk, Conservation Commission