

WASHINGTON CONSERVATION COMMISSION

MINUTES
April 3, 2019

5:15 p.m.

Bryan Memorial Town Hall

MEMBERS PRESENT: Ms. Payne, Ms. Frank, Ms. Branson, Mr. O'Hazo

MEMBERS ABSENT: Ms. Dupuis

ALTERNATES PRESENT: Mr. Sabin, Ms. Rawson

CLERK: Ms. DeLuca

RESIDENTS PRESENT: Ms. Coe
Mr. Conroy
Mr. Cole
Mr. Hollinger
Mr. Matthews

With a quorum of four regular members present, Ms. Payne called the meeting to order at 5:17 p.m. Mr. Sabin arrived several minutes later and was seated for Ms. Dupuis.

Consideration of Minutes: As the March 6, 2019 meeting was cancelled, the minutes from February 6, 2019 meeting were reviewed by members; no corrections were necessary.

A motion was made by Ms. Branson to approve the minutes of the February 6, 2019 meeting as written. Seconded by Ms. Frank and approved 5-0.

Consideration of New Preston as a Designated District: Knowing that the Conservation Commission (Conservation) has a vested interest in protecting areas of New Preston, such as the Open Space and the Falls Project, Mr. Hollinger attended to report recent concerns of the Historic District Commission (HDC) about the area. As a general statement, the HDC takes the protection of many of the town's significant buildings very seriously. Ironically, most of the historically significant buildings do not fall under the purview of the HDC, so commissioners have been working on creating regulations such as a Delay of Demolition Act, increasing

existing historic districts, approaching merchants and residents about creating new historic districts, or designating areas in town, specifically New Preston, as a Village District.

Mr. Hollinger provided conservation members with the CT Trust for Historical Preservation's explanation of a Village District designation. He suggested to Conservation that this designation was much more expeditious than the procedure to create a new historic district. Further, though this designation could be considered more restrictive than a historic district, doing so would preserve the charm that draws visitors to the area. He offered examples of Woodbridge, Essex and Ridgefield as models of the Act.

There was a discussion about the difference between the two designations. Mr. Hollinger explained that, though a public hearing would be required, it was within the jurisdiction of the zoning commission to designate an area as a village district, rather than the lengthy historic designation. He also explained that the HDC does not concern itself with color or landscaping, where a village district would try to maintain the overall aesthetic, which should be of interest to merchants in the area.

Conservation questioned whether the idea was relevant to their mission. Mr. Hollinger suggested that as conservators of the land, preserving the look and nature of Washington is as much a concern as the HDC, and with the potential loss of the old ice houses in the area, or even the potential for the entire feel of New Preston to be irrevocably altered by a lack of regulation, the two commissions might want to align their concerns to become more effective. He felt that there was strength in numbers, and, if joined, might be in a better position to lobby the town to take a more protective stance.

Members agreed to take the matter under advisement, and plan to discuss it in more detail at a future meeting.

Alternate Vacancy: Ms. Payne introduced Mr. Conroy as someone who has expressed interest in filling the current alternate vacancy. Mr. Conroy gave a brief overview of his upbringing in Bantam, educational background, and interests. As a relatively new member of the community, Mr. Conroy would like to become more involved in Washington, and feels that he could be of service. Attending the meeting would allow him to observe Conservation in action, and he hoped it would help him make a decision about whether it would be a good fit.

Spring Hill Farms Zoning Application: Ms. Payne distributed a letter of explanation from Attorney Kelly, along with a copy of the zoning application by Spring Hills Farms, LLC for "several accessory farm/winery structures (fire pit, stairs to bathrooms and presentation platform) which are roughly 350' to 600' outside the easement area." She explained that Attorney Kelly wanted a sign-off from Conservation before formally filing its permit with zoning. Members reviewed the provided site plan, letter and application, agreeing that the conservation easement did not appear to be impacted by these new plans.

After reviewing the site plan and zoning application for Spring Hill Farms, LLC, a motion was made by Ms. Frank to acknowledge that the requested structures noted on the plan, and the proposed activity described in Section 6 of the zoning application, do not violate the terms of the existing conservation easement at 292 Bee Brook Road. Seconded by Ms. Payne and approved 5-0.

Report on CT Land Use Law for Municipal Agencies Conference: Ms. Branson reported that the March 28, 2019 conference at Wesleyan University was well-attended and provided exceptional information. She encouraged members to review the resource binder handed out at the conference, and suggested that she would leave a copy in the Land Use office should anyone care to peruse it. Though she explained that the amount of information presented was vast, her overall takeaway was the importance of carefully choosing language, whether in written or oral form, to ensure that land use intentions are clear.

Ms. Frank noted that the burden of enforcement typically falls to municipal agencies, because of private property owners' rights to make decisions about their land, and there was a discussion about the legalities of trying to prohibit undesirous improvements. Mr. Sabin mentioned the weight of expert witness testimony in these matters, and Ms. Branson agreed that knowing the parameters of who does and does not qualify as an expert witness is an important consideration, as commissioners consider applications and are unsure how to proceed.

New Preston Falls Update: Mr. Sabin met with the First Selectman to discuss the plans and cost analysis for the project, and was informed that Mr. Lyon intends to include the cost of replacing the existing pedestrian footbridge in the next budget. Should this be approved, members agreed it will move the project along nicely, and, members agreed that having the support of Buildings & Properties was greatly appreciated. Mr. Lyon also mentioned that some mowing of the small meadow along Route 202 should also begin soon.

Mr. Sabin also reported that the project has the support of Selectman Hubelbank. He would like to see additional sums be approved so that the planned boardwalk over the wetland areas can also be constructed. Mr. Sabin intends to get him the cost analysis of the project as soon as he is able.

There was a discussion about controlling invasive species, and the consensus was that this needs to happen in a staged process, wherein native plants can also be added. Everyone agreed that the fish habitat also needs to be considered and protected. Ms. Frank pointed out that completing the footbridge will allow residents to more safely cross and fish, which will allow more people to enjoy this resource. Mr. Sabin added that the area is both beautiful and underutilized, and was pleased to think that more people will soon be able to enjoy it.

Eversource Tree Cutting: Ms. Payne has not yet been able to secure dates to meet with Eversource representatives to discuss its tree cutting policies. Conservation would like the opportunity to voice concerns about how trees along Woodbury Road are being trimmed or

removed. Mr. Sabin noted the apparent removal of the impressive Mountain Laurel along this route, and members agreed that a conversation about best practices would be a sound goal.

House Bill HB 5254 Re: Buyer's Conveyance Tax: Ms. Rawson reported that the planned bill did not make it out of committee, and would not be put up for consideration at this time. As outside members were presented, she gave a brief overview of the proposed legislation to allow towns to enact a buyer's conveyance tax that would allow for funding to preserve open space. She explained that the bill was heavily opposed by realtors, and, even though the environmental testimony was extremely positive, the decision was made not to raise it for a vote.

Ms. Rawson encouraged everyone present to pay attention to what is happening with the current Environmental Committee at the state level, since it appears that there is the potential for some strong land trust advocacy at this time.

The discussion continued with Mr. O'Hazo raising the point that higher taxes are always a difficult sell, but even more so at this heavily taxed time. Mr. Sabin noted that realtors on Nantucket were also opposed to similar legislation, until property values began to rise, and then they became advocates of the move. The point was then raised that Martha's Vineyard also has such legislation, and this has proven not to be any type of deterrent. Members are hopeful that the issue will come before legislators again in the future.

Cricket Valley Power Plant Update: Ms. Frank advised members that there would be an article in the spring newsletter about the power plant, and she hoped everyone would take the time to read it. As she explained at the last Conservation meeting, there was a manufacturing delay, so the Air Quality Monitor has still not arrived. When it does, plans remain to install it at Shepaug High School.

Ms. Frank mentioned the data that Kent is currently collecting, and is looking forward to the prospect of Washington being able to gather its own information. She asked commissioners to consider whether they knew people who might be in a position to help decipher the data that is gathered, especially since there would be a bit of a learning curve to determine how to best document what the monitor reads.

A handout from the Western CT Clean Air Action group was distributed to those present, and members discussed the fact that this group is supported by many private schools, trusts and area towns. The planning committee is currently comprised of representatives from Cornwall, Kent, New Milford, Sharon, Sherman, Warren and Washington.

Phragmites Removal by All Habitat: Ms. Frank suggested that Conservation consider the best way to move forward regarding this invasive species at the New Preston Open Space. A recent judgment against Monsanto, relating to health concerns caused by the primary chemical in its Round-Up products, has given her pause, and she asked members whether they should be thinking of alternatives that might be safer and/or more cost effective.

Ms. Rawson welcomed this discussion and the idea that Conservation would be more thoughtful about future considerations of chemical use. She assured members that the worrisome chemical was not the same that was used in New Preston, but that chemical applications still had the potential for unknown risks; it is extremely difficult to know how streams or land might be impacted years from now. She suggested that dilution and application frequencies should always be adequately researched before committing to such methods. Ms. Rawson also asked members to consider the long-term management plan of the space, since they had no way to control the seed source of the plant, since plants exist on private property.

There was a discussion of inhibiting phragmites by using sun-blocking tarps, allowing livestock to feed upon it, burning it, or even manually pulling it out by the roots. As most of these suggestions prove to be a challenge, the discussion opened up to the possibility that there might even be some benefits to the plant that might be considered in the future.

Mr. Sabin reminded members that the improvement to the open space due to the treatment of the phragmites is obvious, with more diverse species habituating the space, as well as the native plants that are once again beginning to thrive. While he agreed that these were good conversations to have, he hopes that Conservation does not wait long enough for much of the good work that has been done to be undone. Members agreed.

Tree Cutting Regulations: Prior to the meeting, Mr. Matthews provided members with the Town of Greenwich's tree cutting regulations. Though Greenwich's regulations relate to town owned property, Mr. Matthews would like the support of Conservation to generate similar language for Washington.

Mr. Matthews expressed concern about all trees in town, and would like to establish a permitting process that would require a site visit and sign off by the town's tree warden for cutting trees on private property, as well as town land. He offered recent examples where a multitude of trees were removed using exemptions for agriculture and silviculture. Mr. Matthews felt that it would be beneficial for residents to have a conversation with the town's tree warden prior to work being done. He felt that such conversations might reduce clear-cutting, and possibly save trees worth saving, because such conversations would enlighten homeowners as to the benefits of having tree stands on their land, saving trees of significance, or even the negative impacts of removal.

There was a brief discussion about the burden this would place on the tree warden, and Mr. Matthews agreed that the warden would need to be both judicious and rigorous in his assessment of granting permits.

Ms. Branson asked what the town process would be to create such an ordinance. Mr. Matthews said that the commission would draft language for the new regulations and obtain the signatures

of 25 residents who support the measure. It would then ask that a public hearing be scheduled. The matter would then be taken up for a vote.

Mr. Sabin mentioned that finding language for similar regulations was difficult, especially since Greenwich was the only other Connecticut town with such regulations. Mr. Matthews felt that he had enough research available to be able to help Conservation draft language. Ms. Rawson made the suggestion that the state statutes be researched prior to work commencing, as it would be a shame to formulate language only to find out that it was in conflict with, or required adherence to, existing statutes.

Members discussed the Forest Practices Act briefly, with Ms. Rawson pointing out that there are certain towns that could claim exemptions under that statute, Washington being one such town. Extending the town's authority under such an act might be a consideration. Members also discussed the need to seek the advice of legal counsel after anything is drafted, to confirm that the letter of the law is followed, before moving forward with the town.

It was decided that an ad hoc committee would be formed to discuss and finalize language for a proposal to implement tree cutting regulations in Washington. Mr. Matthews agreed to work with Ms. Payne, Ms. Branson, Mr. O'Hazo and Mr. Sabin on the matter.

Other Business: Before ending the meeting, Mr. Cole advised members that he would be forwarding a worksheet to them for their review and consideration. There is a town initiative to gather information about the various land use commission to create a list of corresponding actions and expected time frames associated with those actions. He asked members to offer their thoughts or suggestions on what is currently noted for Conservation. Ms. Payne assured Mr. Cole that they would review whatever was necessary, and be sure to add the item to next month's agenda should further discussion be required.

With all matters concluded, Ms. Payne made a motion to adjourn the meeting at 7:08 p.m. Seconded by Mr. Sabin, and approved 5-0.

Respectfully submitted,

Joan DeLuca

Joan DeLuca
Conservation Commission Clerk
April 8, 2019 (Revised 4/9/19)