



**TOWN OF WESTBROOK
CONSERVATION COMMISSION**

Mulvey Municipal Center
866 Boston Post Rd.
Westbrook, CT 06498
Tel. 399-3046 – FAX 399-2084

**Westbrook Conservation Commission Regular Meeting Minutes
Tuesday, August 16, 2016 7:00 p.m.
Mulvey Municipal Center - South Meeting Room
(Unapproved)**

Members Present

Tom ODell, John Rie, Mike Oryl, Marty Marx, Randy Bell

Call to Order

Chairman Tom ODell called the regular meeting to order at 7:00 p.m.

Minutes- July 19, 2016

MOTION: to approve the Conservation Commission's Meeting Minutes of July 19, 2016 as presented. **MADE:** by J. Rie; **SECONDED:** by M. Marx; **VOTED IN FAVOR:** M. Oryl, J. Rie, M. Marx, R. Bell; **OPPOSED:** None; **ABSTAINED:** None; **APPROVED:** 4-0-0.

MOTION: to approve the July 2016 time sheet from Recording Clerk Kathleen King in the amount of \$143.81. **MADE:** by M. Oryl; **SECONDED:** by J. Rie; **VOTED IN FAVOR:** M. Oryl, J. Rie, M. Marx, R. Bell; **OPPOSED:** None; **ABSTAINED:** None; **APPROVED:** 4-0-0.

Correspondence

The following were received: The 7/26/16 Zoning Commission Regular Meeting Minutes and the May/June/July Inland Wetland Agent's Report.

Chairman's Report

D. Harger has resigned from the Conservation Commission, and T. ODell reported that B. Peterson plans to resign. B. Peterson and T. ODell will be meeting later this week. Commission members talked about filling the two vacancies.

**Open Space Program
Preservation/Acquisition**

- **Sciongay:** The appraisal of the 5-acre property with buildings is on-going by CT DEEP.

Management

- **Chapman Mill Pond:**
>>**Parking area:** Update
T. ODell met with First Selectman Noel Bishop and the Police Chief to discuss the possibility of having the Town Constables lock and unlock the gate. Director of Public Works Tom Riggio supplied the lock and keys. The keys also open the recreation field and West Beach. The Constables have been locking and unlocking the gate since Friday.

The schedule is somewhat inconsistent, but it is working. T. ODell will send the Constables a thank you note.

>>**Signage:** Pole Status:

An Eagle Scout candidate will construct the kiosk for the parking area. He is hoping to have it completed this fall.

>>**Planting:**

Watering continues as needed. Five of the eight Atlantic White Cedars and one of nine Red Cedars planted by the contractor have died. The contractor will replace all of the trees that died with Red Cedars this fall.

- **Toby Hill Woods on Halls Road:** Parking Area

There is no new activity to report.

- **Horse Hill Woods III:**

>>**Parking Area on Breakneck Hill**

There is no new activity to report.

>>**Road Signs**

There is no new activity to report.

- **Trail Management: Status Horse Hill Woods trails:**

The trails will be completed to Breakneck Hill by the end of the week. This includes additional significant site trails. Trail marking is on-going.

- **Salt Island**

>>T. ODell wanted to thank R. DePonte, J. Rie and the interns who began surveying visitors at high tide. The visitor survey will continue next week.

>>To date, 31 visitor day surveys have been recorded. These surveys will be tallied at the end of August to provide guidance for education and enforcement next summer.

>>Judy Preston has conducted 3 vegetation surveys beginning in early June. She will continue through September. She will have a report including a map of the vegetation by the end of October.

>>T. ODell met with Cathie Doane to discuss the format of the sign for the Salt Island Wharf Preservation Area. The sign needs to be laminated and put up.

Friends of Westbrook Barrier Islands J. Rie arranged a meeting with First Selectman Noel Bishop, Resident State Trooper Wayne Buck, Dave Russell, Mindy Gordon and T. ODell. The police would not be able to provide a Town Constable for Salt Island. Resident State Trooper Buck suggested using the \$1,800.00 Audubon Grant funds to hire a security guard for Salt Island. Intern Marty Marx, Jr. thought that could work especially for the western side of Salt Island where the nesting area is. Audubon will have to approve this use of funding.

T. ODell emphasized the importance of educating the public about the bird nesting areas. He would like to have interns in place by May for the summer of 2017.

Old Business

- **Christman Conservation Restriction:**

Commissioners discussed the letter and the landscaping recommendations made to Mr. Christman.

J. Rie said that he felt Mr. Christman understands that he should have asked for permission first and that he did what the Commission asked him to do to mitigate the situation. He suggested Mr. Christman be required to provide status reports to the Commission, and in the future, Mr. Christman and/or his daughter should ask for discretionary consent before doing anything to the property in the CR area. T. ODell agreed to send the Christman's a letter on behalf of the Conservation Commission providing their recommendations.

T. ODell said he wanted to emphasize "discretionary consent" that is mentioned in the Conservation Restriction. He talked about Section 4.5 in the Conservation Restriction: Discretionary Consent which provides required consent communication if the landowner wants to conduct a prohibited activity. In the letter Mr. Christman sent, he provided rationale for conducting prohibited activities, but T. ODell is concerned that Mr. Christman missed the point that he should have asked the Conservation Commission prior to doing so.

<p><u>MOTION:</u> to have T. ODell send a letter to the Christman's stating that the Christman's be required to provide status reports to the Commission as they mitigate their property in the Conservation Restriction area, and in the future, Mr. Christman and/or his daughter should ask for discretionary consent before doing anything in the Conservation Restriction area <u>MADE:</u> J. Rie; <u>SECONDED:</u> by M. Marx; <u>VOTED IN FAVOR:</u> J. Rie, R. Bell, M Marx, M. Oryl. <u>OPPOSED:</u> None; <u>ABSTAINED:</u> None; <u>APPROVED:</u> 4-0-0.</p>
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- **Planning Referral: 2 Westbrook Place & 1224 Boston Post Road-Proposed Municipal Parking Lot (27 Spaces) Owned by the Town of Westbrook Zoning Public Hearing ZC-2016-006**

The Zoning Commission approved the plan on 7/2/2016. T. ODell gave Commissioners a copy of a memo sent to Tony Marino, Chairman of the Zoning Commission stating that "The Conservation Commission recommends that the Town consider providing on-site public education on the Low Impact Development storm water management and street scape plantings."

- **Zoning Referral: ZC2016-009-11 & 13 Meadowbrook Road Extension Proposed Zone Change from Medium Density Residential to Planned Residential Development District. The Zoning Commission’s Public Hearing will be on 8/23/2016.**

T. ODell asked Commissioners to review the plan, and asked them to consider the following: This is an application to change Zoning from ½ acre residential zone to a Planned Residential Development District. The applicant indicates that he can put in 7 half acre lots each with a duplex equaling 14 units total. To keep within the Planning Commission’s requirements for 50% open space, the applicant is requesting a change in Zoning to Planned Residential Development District (PRDD). The applicant is then proposing a total of 14 units in 3 buildings. 4.14 acres will be held for open space of which 2.67 are tidal wetlands proposed to be transferred to the Conservation Commission as a Conservation Restriction. The other 1.47 acres would belong to an Association.

T. ODell wanted Commissioners to discuss whether or not the density was too much for the land. He asked if more detail should be provided before the Zoning Change is considered. There is an existing dock from the proposed CD. Presently no Conservation Restriction document exists. T. ODell asked Commissioners to consider whether or not a CR document should be required before the change in Zoning.

There was discussion about the amount of wetlands on the property and whether open space should be kept as open space or whether open space can be given to the Association.

Commissioners have concerns that this proposed development does not fit in with the character of the neighborhood at all. They feel the open space should be accessible to the public. T. ODell said if the open space is part of the Conservation Restriction, it does not have to be accessible to the public. Open space only has to be accessible by the public if it is owned by the Town.

The Commission would like to see plans showing how the 7 units would fit onto the property and meet the requirements of the Zoning Regulations.

MOTION: MADE: by M. Marx; **SECONDED:** by R. Bell; **VOTED IN FAVOR:** R. Bell, M Marx, M. Oryl. **OPPOSED:** None; **ABSTAINED:** J. Rie; **APPROVED:** 3-0-1
 To recommend to the Zoning Commission that the **11 & 13 Meadowbrook Road Extension Proposed Zone Change from Medium Density Residential to Planned Residential Development District (ZC2016-009) be denied** for the following reasons:

1. It is not clear that on-site storm water management can be addressed without using additional land in the proposed open space area. Need more specifics.
2. As proposed, it appears that a storm water management facility is within the area proposed for open space, e.g. proposed recharge area and level spreader. By definition Open Space cannot include a storm water facility.
3. The Conservation Restriction/Easement should include all dedicated open space; at a minimum the 50’ tidal setback, to ensure an adequate vegetated buffer to
4. protect the tidal wetlands from runoff, erosion and other negative impacts that might result from development or other activities on adjacent uplands.

Reference: Coastal policies and use guides: CCMP Planning Report No. 30, page II-75; and Westbrook Plan of Conservation and Development, 2011, Protect Water Resources, Require the use of vegetated buffers to protect water resources. Consider expanding buffer width, page 28, item 2.39.

5. A Deed of Conservation Restriction (CR) for the open space area is required (Subdivision Regulations Appendix 8). The CR spells out the property values to be protected, prohibited uses, property owner rights and, in this case, the town's rights since the CR would be in favor of the Town of Westbrook. The CR is developed by the Grantor (property owner) and Grantee (town). A Draft CR should be available before a zoning change is granted.
6. A Draft CR should delineate management of pathway and surrounding area leading to the existing dock as a means of protecting the tidal wetlands and the Patchogue River.
7. As presently proposed a homeowner's association will use, (and manage?) the 1.47 acres of the 4.14 open space for recreation that is not tidal wetlands. In the long term a Homeowner's Associations are, notoriously, poor managers of open space. A CR in favor of The Town of Westbrook will protect the water resources, particularly if climate change and tidal rise are considered.

New Business

- **Kirtland Landing Project** This is an Eastern Federal Lands Access Project Grant. FED's are working on a Memorandum of Agreement with a target of Fiscal Year 2017 Design and Permitting=\$47,000 and Fiscal Year 18 Construction=\$80,300: Total=\$127,000. Originally, the grant was for a 4-year project, now it will likely be 2-years. We are not sure who will be administering the grant. Possibly the CT Department of Transportation or the US Fish and Wildlife Service will be administering the grant. The design may possibly start in October.

Reports: Planning, Zoning, Inland Wetlands, Harbor, Town Center, Adopt-A-Spot

The Preserve: Construction of the Route 153 parking area will start mid-October.

Preserve Management will, "formally request from the Town of Westbrook assistance in maintaining the eventual Westbrook trailhead and parking lot"; Assistance to be spelled out.

<p><u>MOTION:</u> to adjourn the meeting at 8:30 p.m. until the next Regularly Scheduled Meeting of the Westbrook Conservation Commission which will be on Tuesday, September 20, 2016 at 7:00 P.M. in the South Meeting Room of the Mulvey Municipal Center, 866 Boston Post Road. <u>MADE by</u> J. Rie; <u>SECONDED:</u> by R. Bell; <u>VOTED IN FAVOR:</u> J. Rie, R. Bell, M Marx, M. Oryl. <u>OPPOSED:</u> None; <u>ABSTAINED:</u> None; <u>APPROVED:</u> 4-0-0.</p>

Respectfully Submitted,

Kathleen King, Recording Clerk

cc: Planning Commission, Zoning Commission, Inland Wetlands & Watercourses Commission