

Town of Ridgefield
Charter Revision Commission Regular Meeting
Monday, March 12, 2018 – 7:00 p.m.
Town Hall Large Conference Room
400 Main Street, Ridgefield, Connecticut
APPROVED MEETING MINUTES

*These minutes are a general summary of the meeting and are not intended to be a verbatim transcription.

Members Present:

E. Burns, J. Egan, E. Geisinger, C. Hancock, J. Seem, J. Shapiro, L. Steinman, P. Walsh

Member Absent:

W. Davidson

Agenda

1. Open for Public Comment.
2. Approve the Minutes from Charter Revision Commission Regular Meeting on February 26, 2018.
3. Ridgefield Conservation Commission.
4. Board of Police Commissioners and Chief of Police.
5. Any other business.
6. Adjournment.

The meeting was called to order by CRC Chair Jon Seem at 7:00 p.m.

1. Open for Public Comment.

Mr. Seem explained that the CRC would take public comment on the proposal by the Ridgefield Conservation Commission (RCC) after the RCC gave its presentation and would take public comment on the proposal to change the reporting relationship of the Chief of Police after the Board of Police Commissioners (BPC) and Chief John Roche made their presentation. Other than that, Mr. Seem invited public comment. There was none.

2. Approval of Minutes of February 26, 2018 Regular Meeting.

Mr. Steinman proposed a modification to one paragraph of the unrevised/unapproved minutes of the Regular Meeting relating to a research memorandum prepared by town counsel.

Mr. Walsh moved and Ms. Burns seconded a motion to approve the unrevised/unapproved minutes of the February 26, 2018 CRC Regular Meeting, as modified. Motion carried 8-0.

3. Ridgefield Conservation Commission.

Four members of the RCC made a presentation in support of their proposal that the Inland Wetlands Board (IWB) be separated from the Planning and Zoning Commission (PZC) and become a separate appointed board, not part of the PZC or the RCC. The presenters were James Coyle, Chairman of the RCC; Jack Kase, Vice Chairman of the RCC; RCC member Susan Baker; and RCC member Kitsey Snow.

The RCC presenters distributed a 17-page presentation to the CRC and each presenter took the lead in presenting the RCC's position and arguments for several of those pages. They also distributed to the CRC members a back-up handout related to the topic. That additional handout consists of a statement of the position of the Connecticut Association of Conservation and Inland Wetlands Commissions (CACIWC); a January 2, 2018 letter from the Connecticut Department of Energy and Environmental Protection (DEEP); a February 14, 2018 letter from Patricia Sesto; information on inland wetlands boards in nearby communities; a copy of Ridgefield's November 7, 2017 ballot; a 2017 campaign advertisement for a group of incumbent candidates running for reelection to the PZC and IWB; an August 17, 2017 article in the *Ridgefield Press* on water quality; the transcript of a February 7, 2017 interview by the members of the PZC and IWB of a candidate for filling a vacancy on the PZC and IWB; a March 2017 Best Management Practices Schedule from a stormwater management plan; notes on riparian buffers from the H2H (Hudson to Housatonic) regional planning organization; and Appendix B, MS4, best management practices guidance relating to MS4 general stormwater permitting.

Mr. Coyle began by explaining that the position of the RCC is that the Charter should be revised to create a truly independent IWB that is not part of the PZC or the RCC. He explained that the goals of the RCC at this CRC meeting were to recap where Ridgefield is with respect to inland wetlands review, to identify issues and problems with the current process, and to convince the CRC to let the citizens of Ridgefield decide by a vote whether to separate the IWB from the PZC.

Mr. Coyle explained the role of the RCC and its membership. He discussed what has changed since the 2013-2014 Charter Revision Commission, in particular more storm events and wetlands issues, the implementation of the MS4 storm water regulations, and issues of water and water quality in Ridgefield.

Ms. Snow then presented maps of watersheds and sub-watersheds in Ridgefield, indicating that the entire town lies within watersheds. She also presented a map of the town showing wetlands soils, showing that there are wetlands all over town, which means that properties in all parts of the town are affected by wetlands. She also explained that there are more intense storm events, which requires that the town deal with increased water runoff. She stated that she agrees with a statement made by First Selectman Rudy Marconi and quoted in the *Ridgefield Press* on August 17, 2017 that “we need to think now, and act now, to protect the quality of our water.”

Ms. Baker then noted that the Inland Wetlands and Watercourses Act (IWWA) was enacted in Connecticut in 1972. Ridgefield responded in 1974 by assigning responsibility for the IWB to the PZC in Section 4-11 of the Charter. She stated that of the 169 municipalities in Connecticut, there are only eight in which the inland wetlands and planning and zoning functions are combined. She then explained the position of CACIWC on separation of inland wetlands from planning and zoning, which she stated is that “a municipal commission established to carry out the regulatory and administrative functions and responsibilities of CT’s IWWA should not be combined with a planning and zoning commission.” She also quoted DEEP saying that “it may be unworkable to authorize an existing P&Z to act as an IWA” and that “a municipality needs to weigh its options and decide the best course of action.” She advocated that in deciding on the best course of action, the decision needs to go beyond the CRC and beyond the Board of Selectmen and be decided by the voters.

Ms. Baker noted that members of the IWB run for office by also running for PZC, but the ballot does not even mention IWB, so voters do not realize they are voting for IWB members. She showed that an advertisement for multiple incumbent candidates for reelection to seats on the PZC and IWB in 2017 did not even mention that they were candidates for the IWB in addition to serving on the PZC. She said that when interviewing for appointment to vacated seats, wetlands experience is not a priority, but building experience is. And she noted that there is no way to enforce that PZC members obtain wetlands training. Ms. Baker pointed to what she believes is a conflict between Section 4-18 of the Charter that prohibits a person on one elective board or commission from holding another elective board or commission seat, on the one hand, and Section 4-11 of the Charter, which states that the PZC shall serve as the IWB.

Mr. Kase noted that Connecticut statute requires that in certain circumstances a builder is required to note whether there are feasible and prudent alternatives, and

then the IWB is required to make a judgment call, so this requires wetlands knowledge. Another Connecticut statute provides for minimizing disturbance and pollution, maintaining water quality in accordance with the highest standards. This means that IWB members need to understand best practices. He pointed out that an inland wetlands board has a much wider latitude than a planning and zoning commission in deciding on how wetlands should be protected regarding new projects. Mr. Kase said that in the past four years the RCC has recommended to the IWB best practice in protection of wetlands in many specific instances, because any action approving less than best practices for protection of our wetlands represents insufficient protection of the wetlands. Nevertheless, the recommendations of the RCC are sometimes not adopted. Mr. Kase identified several permit situations in which the IWB did not follow the recommendation of the RCC and did not adequately protect wetlands.

Ms. Snow said that state law and regulations are adequate, but Ridgefield regulations adopted in accordance with state law should be reviewed. Mr. Kase said that there is not as much need for more local regulations as much as there is a need for people on the IWB who know what the proper decisions are. He emphasized the importance of training and repeat training by members of the IWB. He noted that John Katz recently took the state's training course and passed the exam that follows, but that Becky Mucchetti had not taken the course in many years. He noted that CRC member Mr. Walsh had also taken that course many years ago and, as Mr. Walsh noted, passed the test.

Mr. Kase stated that he is very knowledgeable in the area of wetlands and if the IWB were appointive he could seek an appointment by the Selectmen, but he is not knowledgeable about or interested in development and therefore does not want to run for election to the PZC. Mr. Coyle observed that some people who would be the right people to appoint to the IWB do not want to run for office.

Mr. Shapiro said that it appeared to him that the IWB has a lot of discretion in how to deal with permissions regarding issues that come before it and that it seemed like the members of the RCC believe that this discretion would be exercised differently if the IWB were appointive. Mr. Kase agreed. Mr. Shapiro then asked who has the authority in the town to adopt local wetlands regulations. Several members of the RCC responded that it is the IWB that has the power to adopt those regulations.

Mr. Seem raised the issue of cost as one issue which, in 2014, was raised as a reason to continue to have the PZC operate as the IWB. Ms. Snow said that four years ago

it was suggested that if the IWB were independent, additional staff would need to be hired, but since then additional staff has been hired, so cost is no longer an issue.

Mr. Shapiro noted that the CRC had just received a March 12, 2018 letter from Thomas W. Beecher, an attorney with the law firm of Collins Hannafin, P.C., which represents the PZC and the IWB. Mr. Shapiro read the final three sentences of the letter, as follows:

I have also represented the Town of New Milford Inland Wetlands Commission in the past. Based on my experience, I can say, without hesitation, that the Ridgefield Planning and Zoning Commissioners, when acting as the Inland Wetlands Board, have done, and do, an excellent job of separating the Planning and Zoning functions. In undertaking their duties as Board members, proper focus is given to the Town of Ridgefield Wetlands Regulations and State Inland Wetlands and Watercourses Statutes during all Wetlands Application Reviews.

Mr. Shapiro gave a copy of the letter to the RCC member and gave them an opportunity to comment. Ms. Baker noted that Mr. Beecher commented four years ago as well. Mr. Coyle noted that the RCC's presentation reflects another point of view. He said that the objectives of the PZC and the IWB, trying to do the best job in their respective areas, do not necessarily jive with one another.

Ms. Burns noted that if the IWB were to become appointive, the RCC would not need to spend so much of its time commenting on matters pending before the IWB, and could therefore focus on its other responsibilities. Mr. Coyle agreed.

Mr. Shapiro noted that the RCC had given a very capable presentation of facts and of analyses from the RCC's point of view, and then explained that the CRC has spent some time discussing which offices and boards or commissions should be elective and which should be appointive. He noted that one factor that Mr. Steinman proposed in his January 29, 2018 memorandum is that offices and boards that make policy perhaps should be elective while those which perform administrative functions and discharge duties that are more ministerial should be appointive, but Mr. Shapiro said that that is just one point of view. He asked the RCC representatives for their view of the advantages and disadvantages of the IWB, as a separate body, be appointive versus elective.

Mr. Coyle said that he has been on elective boards and appointive ones and he does not like running for election. He also said that the kind of people we should want on the IWB, like scientists, may not be the kind of people who like to run for elective

office. Ms. Snow said that she did not know of an IWB that was elective rather than appointive.

Mr. Seem asked whether the IWB will be in some way less effective or slower if it is separated from the PZC. Ms. Snow noted that applicants would need to go to two separate meetings, but that is the way other towns do it. Ms. Baker noted that it works in those other towns.

Mr. Coyle concluded the RCC presentation by saying that this issue should be passed onto the voters. He said there should be a smaller IWB with five (or more) members, a smaller board of that size, and there should be a transition period. He noted that the RCC has invited to the meeting Jeff Hogan, the former Chairman of the Town Council of Farmington, to present to the CRC the experience in Farmington.

Next, Michael Autuori spoke. He noted that he was a member of the PZC for 20 years and was also a member of the RCC. He said that every time the members effect a balance between conservation and development, it means that the mindset of very capable, committed and dedicated people who serve on the PZC and IWB is to see if the regulations permit development to occur, and if they permit development to occur there is a view that favors development. He said that when one considers the wetlands regulatory function as handled in Ridgefield, there is a problem with the fact that Beth Peyser, the Inland Wetlands Agent, who is well qualified to perform her job regarding wetlands, reports to Richard Baldelli, the Director of Planning and Zoning, who is responsible for zoning and planning. He said that members of the PZC and IWB have a mindset of the primacy of development, with protecting the environment being an extra thought. He noted that he would prefer an elective IWB. Mr. Autuori noted that he had submitted his comments more fully in his submission of January 8, 2018. He also expressed the view that cost is not a big issue. He closed by advocating that the CRC let the voters decide.

Jeff Hogan, the former Chair of the Town Council of Farmington, spoke next. He explained that he was personally involved in the move to separate his town's inland wetlands function from the town's planning and zoning function, which came into effect in 2011. He referred to the letter dated February 21, 2018 sent to the CRC by Kathleen Eagen, Farmington's Town Manager.

He explained that in 2007, Farmington received criticism from the Connecticut Department of Environmental Protection (DEP) (predecessor agency to the DEEP)

regarding how Farmington handled permitting of a water body by their two agencies, wetlands and zoning, that had the same people performing dual functions. DEP criticized that structure. Mr. Hogan explained that splitting the two functions has not cost the town any money. He said that the change in 2011 was relatively seamless, creating a better finished work product. He said that predictions by some that the separation would slow down the process have not proved to be accurate. Mr. Hogan provided to the CRC a list of the members of the Farmington Conservation Commission and Inland Wetlands and Watercourses Agency, including their qualifications and experience.

Mr. Shapiro asked Mr. Hogan whether he has seen qualitatively different decisions since the separation. Mr. Hogan responded that Farmington now has different types of people on the two bodies and makes different kinds of decisions. He noted that he is a local businessman, and the business people in Farmington believe it is working out well.

Next, Dan Levine, a member of the RCC, explained to the CRC that over the last two years the RCC has greatly expanded its Ranger Program, a program for kids to get involved in Ridgefield's trails and open spaces. He said that a lot of environmentally responsible kids are involved. He introduced four middle school girls to present a skit, Charlotte Ward, Luisa Simon, Sara Hansen, and Silvia Feola.

They presented and acted their skit. The theme of the skit was a history narrative including the adoption of environmental legislation in general, Connecticut's legislation regarding wetlands, and the town of Ridgefield's response to the enactment state wetlands legislation. They noted that the town, as permitted by state law, made its PZC its IWB. They said that only six towns decided to assign the inland wetlands functions to its planning and zoning commission. They then criticized the practice of combining the PZC and IWB as violative of best practice, and criticized the fact that only two PZC members have recently taken the state's course in wetlands regulation.

Next Patricia Sesto spoke. She began by referring to her letter of February 14, 2018 to the CRC. She explained that she served as the director of Wilton's Inland Wetlands Board for 23 years and has served in the same role for Greenwich for the past three years. She said that she considers herself an expert in this field. She said that since Ridgefield already has the staff person, there is no additional cost. She explained that the priority is inland wetlands and watercourses protection, not general environmental protection. It is about the ability to keep our groundwater recharged, which is a wetlands function. She said that the decisions upstream from

her affect her, and it is the role of the IWB to steward those decisions. She noted that science regarding wetlands and watercourses is constantly evolving, and that utilizing the science does not go hand in hand with anti-development efforts.

She noted that from her view of Ridgefield's IWB during the 10 years or so when she was a member of the RCC, their work had room for improvement even though the members of the PZC and IWB are very dedicated.

Ms. Burns asked Ms. Sesto whether, in splitting the IWB and the PZC, the town's Aquifer Protection Board would go with the IWB. Ms. Sesto replied by saying probably not, that aquifer protection boards tend to be with planning and zoning. She explained that she believes that is because the functions of such boards more closely associated with setbacks.

In response to a question of elective versus appointive, Ms. Sesto said that appointive seems to work very well for an inland wetlands board.

Randy Liebowitz spoke next. He said that combining the two boards may provide speed, but speed does not mean quality. He stressed the need for experts in science to serve on the IWB.

4. Board of Police Commissioners and Chief of Police.

The four presenters introduced themselves. Joe Savino has been a member of the BPC for five years. George Kain has been a member of the BPC for 18 years. Charlie Knoche, currently Chairman of the BPC, has been a member for 20 plus years. John Roche is the Chief of Police.

Dr. Kain, a Professor at Western Connecticut University and Chair of its Division of Justice and Law Administration, asked whether the Board of Selectman endorsed the proposal to change the reporting relationship of the Chief of Police in the Charter. Ms. Burns explained that such a recommendation had been included in a letter that stated that it was the input from the Board of Selectmen.

The three members of the BPC and Chief Roche explained why, in their view, the current reporting relationship is the best reporting relationship. Among the reasons were confidentiality, insulation from political pressure without regard to present occupants of positions, the view that Ridgefield's current system is regarded as the national model for police governance, the manner in which providing an open line of communication with the First Selectman is satisfactorily included in the Chief of

Police's employment contract, and the proper performance of that provision of the contract.

John McNichols, who was Chairman of the 2009-2010 Charter Revision Commission, spoke next. He said that in 2010 the commission that he chaired found that there was no legitimate reason to change the current system. The system works.

Lynn Marie Wieland spoke next. She provided her notes to the CRC. She explained that she was the Vice Chair of an earlier Charter Revision Commission. She discussed her experience with wanting a separate fire commission and the First Selectman disagreeing with her. She explained that a reason for keeping the current reporting system regarding the Chief of Police in place is that the police have a lot of private, confidential information, which needs to remain with the Police Department.

(Note that a vote on this issue was taken during the "Any Other Business" portion of the meeting; see below.)

5. Any Other Business.

Mr. Seem noted that he would not be able to attend the scheduled regular meeting of the CRC on March 26, 2018, and that two or three other CRC commissioners will be unable to attend that evening.

Mr. Hancock moved and Mr. Walsh seconded a motion to cancel the regular meeting of the CRC scheduled for March 26, 2018. Motion carried 8-0.

Mr. Seem proposed that he send a schedule to CRC members of possible Saturdays in April after April 9th on which to have a strictly work session as a special meeting.

Mr. Steinman noted that he will be sending out a proposal regarding ethics that fleshes out the issues raised regarding ethics and the Charter raised in his earlier memorandum. He said that he had looked at a number of ethics codes and tried to put together best practices and to re-write the standards as presently contained in Ridgefield's Charter. He explained that this would make them more consistent with common practice and clearer as to what can and cannot be done. He said that he would try to circulate that to CRC members before next week. In response to a comment from Mr. Walsh regarding the limitation of state statutes to state officials, Mr. Steinman explained that his draft would make it much clearer and much more objective than the present text of the Charter which spreads the language over

several sections. Mr. Walsh distributed to CRC members several documents about regulation and legislation concerning ethics.

Returning to the issue of the proper reporting relationship of the Chief of Police, which had been the subject of the prior agenda item, Mr. Walsh moved and Mr. Hancock seconded a motion to decline to recommend amendment of the Charter as proposed by the Board of Selectmen to change the reporting relationship of the Police Chief.

Ms. Burns noted that what the BPC and the Chief had just presented is a very strong argument as to why we should continue to have what is essentially a civilian review board. Mr. Seem noted that the Board of Selectmen recommendation also encompasses the Director of Planning and Zoning.

Mr. Walsh amended his motion. Accordingly, **Mr. Walsh moved and Mr. Hancock seconded a motion to decline to recommend amendment of the Charter as proposed by the Board of Selectmen to change the reporting relationship of the Police Chief and the Director of Planning and Zoning. Motion carried 8-0.**

6. Adjournment.

Mr. Walsh moved and Mr. Steinman seconded the motion to adjourn at 9:54 p.m. Motion carried 8-0.

Respectfully submitted,
Joe Shapiro, Recording Secretary