

**TOWN of RIDGEFIELD – BOARD OF SELECTMEN**

**SPECIAL MEETING & PUBLIC HEARING**

**JULY 18, 2018**

**TOWN HALL/LARGE CONFERENCE ROOM – 7:30 P.M.**

**APPROVED MINUTES**

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

In attendance: R. Marconi, B. Hebert, B. Manners, S. Zemo, M. Kozlark

*Notice is hereby given that a Board of Selectmen Public Hearing will be held on July 18<sup>th</sup>, 2018 at 7:30 PM in the Town Hall Large Conference Room, 400 Main Street, Ridgefield, Connecticut to hear comment on the Charter Revision Commission Draft Report. Immediately following the Public Hearing, the Board of Selectmen will meet and vote on recommendations to send to the Charter Revision Commission for their Final Report. A copy of the Draft Report can be found on the Town website and in the Town Clerk's office.*

R. Marconi called the Public Hearing to order at 7:30 pm and explained that the public hearing is to hear comment, as required by state statute, on the Charter Revision Commission Draft Report. A Board of Selectmen discussion will take place immediately following, the purpose of which is to send any recommended changes back to the Charter Revision Commission. If no vote tonight, this would be discussed at the 7/25/18 Board of Selectmen meeting. The Charter Revision Commission will meet to discuss the recommendations and then send their final report to the Board of Selectmen by 8/8/18 at which time the Board of Selectmen will vote to accept or deny each recommendation and then send to the Town Clerk to be voted on by the public at referendum on 11/6/18.

R. Marconi thanked the Charter Revision Commission members for all the efforts and due diligence that took place in order to produce the draft report.

Two commissions will be presenting to the Board of Selectmen—Planning & Zoning/Inland Wetlands Board (P&Z/IWB) and Conservation Commission. R. Marconi explained that a coin was tossed to determine who would present first, and then invited P&Z/IWB Chairperson Rebecca Mucchetti forward to speak with the Board.

Chairperson Rebecca Mucchetti, Vice Chair Joe Fossi and member John Katz (since 1976) came forward to address the Board of Selectmen. Ms. Mucchetti began by stating that P&Z/IWB recognizes water protection is of utmost importance. When comparing Ridgefield to other towns, we surpass the rest.

The peer review consultants, which are paid for by the applicant, provide insightful information from experts. The benefits of a combined review board include comprehensive knowledge;

IWB of wetlands, watercourses, waterbodies; P&Z floodplain, stormwater management, erosion and sedimentation control. Zoning has authority to inspect; IWB has none according to state stature. IWB has achieved best practices through combined applications. We encourage a 2:1 ratio for wetlands mitigation, but data reflects a 5:1.

Commissioner J. Katz mentioned that the three reasons for the separation as stated by the Charter Revision Commission—none of them are the purview of IWB.

R. Mucchetti stated regular meetings with Conservation Commission were initiated five years ago. Recommendations from Conservation are received by P&Z/IWB. The authority of the IWB is within the law. In one case, Conservation proposed riparian buffers—as a result, the IWB was admonished by DEEP and we were told the IWB is not a mini regulatory agency.

We agree that protection of inland wetlands and watercourses are of major importance, but there is not one case that shows that we have been negligent in the protection of wetlands. Checks and balances are already in place for these boards—IWB complies with DEEP or stormwater management. In response to the proposed charter requirement that training be received—we cannot get training—it is not available from DEEP.

There is no benefit to the environment, the Town, the taxpayer. We urge Board of Selectmen to not support separation.

S. Zemo asked about peer review—please explain how the process works. R. Mucchetti responded that when expertise falls outside our supporting experts—Town engineer, inland wetlands agent, etc., we reach out to consultants to respond to questions. This adds exponentially to the amount of information that P&Z board has for applications. S. Zemo asked whether the Charter Revision Commission know about peer review? Chairman J. Seem responded that it did not enter into discussion very much.

B. Manners stated P&Z/IWB has the most intense job in Town; it is very demanding for one set of people. This is why I think it might be a good idea to separate. In addition, all authority rests in one board.

R. Mucchetti responded that development is not as intense as it was several years ago. Projects today are multi-family, such as Toll Bros, Coach Homes. We cancelled two meetings in May because there were no applications. It has been slow. Conservation Commission and Charter Revision Commission also raised the issue of authority. The Town decided through referendum to combine the boards. There are very specific regulations to which each body must adhere.

J. Katz stated that authority is only a problem when it is abused. The people who bear the burden do not complain about the workload.

M. Kozlark asked about the cost to the taxpayer--how would a separate board impact?

R. Mucchetti responded staffing would have to be increased for an independent board (one office administrator, one wetlands agent and administrator of Inland Wetlands Department). Applications would be presented to two separate boards on different nights. We currently have the ability to review applications as combined and then make decisions as separate boards.

P&Z Commissioner Joe Fossi stated in a development application, attorneys and consultants would be an additional cost to the applicant.

M. Kozlark asked for an explanation about joint meetings—R. Mucchetti stated that discussion of joint meetings started after the 2014 Charter Revision Commission. Meetings took place – not usually applications--broader issues, and points of disagreement. When Mr. Coyle became Chair last year, the meetings take place once a month. There is lively exchange and input from both sides. M. Kozlark asked about Conservation presentation picture of the concrete wall installed by Coach Homes on the former Schlumberger property. Why does Conservation consider this a failure? R. Mucchetti explained situation—property on which Coach Homes is built was a parking lot. Drainage system in place with large culverts and the discharge created a low-functioning wetlands environment. The consultant that was hired recommended restoration of the wetlands to make them high functioning and proposed a retaining wall in order to build the second and third buildings, which is allowed in the regulations. Conservation thought the third building should be eliminated or that the wall should not be as close. M. Kozlark asked does anyone ever go and check to be sure wetlands is healthy? Richard Baldelli, Director of P&Z responded yes, both he and Inland Wetlands Agent Beth Peyser follow up with inspections. R. Mucchetti stated usually inspections go on for a number of years afterward.

Bob Hebert asked whether R. Mucchetti sees any benefit from splitting? The answer is no. The history of the board and commission's decisions show that we have done a very good job on behalf of the Town's resources. We have never found ourselves on the receiving end of a DEEP violation.

J. Katz stated we are not environmentally, economically or reasonably in need of change.

R. Mucchetti stated there are many towns that are standalone, elected, combined boards.

R. Marconi requested a copy of the P&Z presentation. Do you find that the remaining parcels are more sensitive and/or marginal in nature? All three commissioners responded yes. Does this make it more difficult to make decisions? The answer is yes. Current regulations do not allow building on lots that would have been acceptable in the past. Would it be beneficial to have an appointed board that has expertise? R. Mucchetti responded that peer review helps with this.

The following Conservation Commission members came forward to address the Board: Jim Coyle, Chairman, Susan Baker, and Jack Kace.

Mr. Coyle began by stating that an independent IWB is proposed. The mission of the Conservation Commission is to act in an advisory capacity to the IWB. The regulations come from the CT Inland Wetlands & Watercourse Act of 1972. In our research we found that 80% of IWB are appointed. CT Association of Conservation & Inland Wetlands Commissions are adamant that P&Z and IWB not be combined. Two issues: deal with alternatives and best practices. Environmental Impact Studies—the reasonable and prudent alternatives concept is important. All our recommendations have embraced best practices. Best practices are not static—they continually evolve. If IWB members had better technical expertise, it would reduce the need for peer review, which would be better for applicants. The adoption of new MS4 regulations will increase P&Z loads.

Commissioner Susan Baker countered the argument that the separation would make more meetings. She attended meetings in neighboring towns. Each of these boards have to have separate records currently. It is not understood why additional staff would be necessary if they are separated. Other towns that have combined P&Z/IWBs are either cities or very small towns. There is no proof that a separate board would be more burdensome.

S. Baker further stated that P&Z and IWB have conflicting responsibilities. Too much power is concentrated in our P&Z and IWB who is also writing our POCD. Agree with B. Manners that appointment makes more sense. The process for applicants would be cleaner. The cost would not change, based on our research of neighboring towns.

B. Hebert asked whether there have been disagreements between Conservation and P&Z/IWB? J. Coyle responded stated that a lot of our comments and recommendations are ignored. They don't answer to Conservation so Conservation feels that inadequate protections are put in place by IWB. B. Hebert asked about the official position of DEEP—they stated that it may be unworkable. Susan Baker stated that there is a lack of proper emphasis on protection of wetlands. B. Hebert asked if there is evidence that Ridgefield is less protective of our wetlands or does not adhere to best practices? Susan Baker responded they are not doing anything illegal; just leaving plenty on the table.

Jack Kace commented on peer review—it is not used on every application. We need in-house expertise to make the IWB decisions. B. Hebert countered that as small business owner, could not afford to keep expertise in house.

M. Kozlark asked for concrete example where IWB dropped the ball. Discussion ensued about the Golf Center on Route 7—a two-foot buffer was installed instead of the 15-foot buffer that was recommended by Conservation.

S. Baker mentioned a recent case in which the upland review area was separated from the wetland by a wall that runs along the area. To us, this is egregious. This is not illegal, but it is not good practice. There should be a feasible and prudent alternative to this.

B. Manners ask what is Beth Peyser's role? S. Baker stated she is the wetlands enforcement officer. She reviews all applications. S. Baker stated her role would be the same if board was separated. B. Manners stated she is concerned with electing such a board. Wonderful people would want to run but no experts. S. Baker stated that the Conservation Commission recommends the board members be appointed.

S. Zemo stated none of the elected boards have professional standards or requirements—Board of Education, Board of Finance, etc. We do the best for our community and we do well. Requested 2-3 reasons why the current combination of boards is not working? S. Baker responded that the wall on the Eppoliti property on Danbury Road by Enchanted Garden; Coach Homes development on Sunset Lane; a number of situations involving walls along lakes and ponds that we argued against. Most recently we have seen a change in attitude among the IWB and this is good; the dredging of ponds is egregious. S. Zemo clarified that these are opinions. S. Baker confirmed none of these decisions are illegal; all are sub-optimal.

S. Zemo asked whether Conservation ever appealed a IWB decision? S. Baker no; we are only an advisory board. S. Zemo ever run for office for P&Z/IWB? J. Coyle did run and served two terms. S. Zemo stated it sounds as though Conservation Commission is feeling short changed and aggrieved. Is there any way to keep the current structure and improve upon it? S. Baker stated progress has been made over past four years. When we discussed it, we decided that there is something incorrect here with the setup. There is a conflict of interest in two boards being one. B. Manners asked is there is more litigation in towns where boards are separate? S. Baker replied stated not in Farmington, surprisingly so.

Jack Kace commented a combined board would work fine if you had a substantial number of builders and water protectors all working within the law.

R. Marconi asked is 8-30g exempt from Inland Wetlands? The answer is no.

The public was then invited to provide feedback.

Jeff Lundberg, 45 Cooper Hill Road, stated last November he was elected to the Board of Assessment Appeals, formerly the Board of Tax Review, and this does not appear in the Charter—would like this to be addressed. R. Marconi stated he received an email from the Charter Revision Commission requesting this change also. Yes, this will be addressed. B. Jewell stated he was Chairman of the 1999 Charter Revision Commission and it was included and voted on at that time.

Barbara Hartmann, 6 Craigmore North, on Lake Mamasasco, concerned about water quality and the decline over the 16 years she has lived here. Upland review area oversight is very important. Suggest independent IWB that would zero in on all issues & require stringent things put in place. Stated she spoke to a candidate for P&Z last election season & they knew nothing about IWB; this is disconcerting.

Cindy Bruno, Democratic Registrar and Bennetts Farm Road resident, commented about the proposed change to Treasurer and Tax Collector—requests reconsideration. This gives a false sense of security that an appointment will guarantee the best candidate for the job. Also mentioned prevention of candidates running for more than one seat. The description of why this happened in last year's election is a misrepresentation of what happened. There was confusion because of the recommendation given by the Secretary of State's office. The Town Clerk recommended this change—to change the Charter because of one situation is unreasonable and a mistake. It is a long-standing document. This language change will not address the problem that took place last election, which was bad advice from the Secretary of State. B. Manners stated it is confusing for voters to have candidates run for more than one seat. B. Hebert asked what is the benefit for you? C. Bruno stated that if one choses to do so, we should not limit the number of seats to run—it goes against our Connecticut open ballot access. If the Board of Selectmen moves forward with a change, it must be written more clearly.

Joseph Savino – Several items are in front of Board of Selectmen—appointed vs elected for the Treasurer and Tax Collector—appointment does not necessarily give us the most qualified candidate. This was brought to the voters before and it was voted down. Raising the bar on number of people necessary to attend the Annual Town Meeting. I think we are setting too high a bar—setting it too high (2% of voters) would have the same effect as eliminating it. I ask the Selectmen to oppose it.

Pat Sesto, Nod Hill Rd resident & Director of Environmental Affairs for Town of Greenwich (previously in Wilton). P. Sesto stated she is clear in her belief that the Town would be better served in separating IWB and P&Z. Served on Conservation Commission previously for many years. Conservation Commission spends much time being the voice for water protection—it is an excess burden. Find it very frustrating that the review boards do not implement protection. A two-foot buffer is the absolute minimal to protect a watercourse—I am offended as resident that this is what my Town decided.

Communities have been able to allow upland review areas/space between development and watercourse has to be protected; a high level of understanding of resources is necessary. During my time on Conservation, pond dredging took place. We could have done better. In a pond application in Eleven Levels—dredging was approved and it should not have happened. Question of elected vs appointed—appointed would be better. IWB implements state statutes, they are not a visionary board. I would encourage the Board of Selectmen to include scientists and those with other specialty interests. The community deserves the option to decide on this matter.

B. Hebert is of the mindset that we should let voters elect the IWB. Couldn't we recruit people with these skills and let them run? P. Sesto responded that as a shared board, the emphasis is on P&Z.

Jeff Hensen, 84 Old South Salem Road, stated voters were confused about the two candidates on ballot last year. Regarding IWB & P&Z—supports separation; protection has to be far greater for future residents.

Dr. Nelson Gelfman, 15 Hessian Drive, stated he served on P&Z 45 yrs. Planning and Zoning were originally separate; both elected. Combined thanks to LWV. In beginning there were two of us who served on P&Z and Conservation Commission. Have always had substantial number of members that were interested in conservation. He referenced Lillian Willis' letter. Successes—Great Pond for one. Combination of IWB & P&Z is effective.

Walter Slavin, Governor Street, is a former P&Z member (served 13 years) and scientist—R. Marconi read his letter. He is against separation of the boards.

R. Marconi read other letters submitted via email and attached to these minutes:

Katherine Daigle, 14-year resident—supports separating P&Z and IWB

Tom Elliott, 163 High Ridge Avenue—supports separating P&Z and IWB

Tizzie Mantione, 218 Ivy Hill Road—supports separating P&Z and IWB

Lillian Willis, former resident Conservation Commission member and P&Z/IWB member—against separating P&Z and IWB

Scott Russell, 225 South Salem Road—supports separating P&Z and IWB

Terry McManus, 321 Florida Hill Road—supports separating P&Z and IWB

Norwalk River Watershed Association—supports separating P&Z and IWB

Robert Jewell, Great Hill Road, served on the 1999 Charter Revision Commission. He discussed the Board of Assessment Appeals name change. It was approved by the voters. Mr. Jewell weighed in separation of P&Z and IWB. He grew up in Town near the Norwalk River. As attorney in town, he represents applicants to P&Z and IWB—IWB and P&Z both recognize and must adhere to same regulations. Appointed boards should not tell a property owner what to do with their property. Sounds like a dangerous idea. Conflicting statement—voters can make decision about whether to split the board, but not make the decision about who should serve on the board. Peer review—the Town hires the peer review consultant; they work for the town.

Most communication takes place between the board and the consultant--not the applicant. The Town hires the consultant, pays the consultant, then the applicant pays for the consultant through the Town application fees. There needs to be shown a bigger burden to increase government.

Ben Oko, Barlow Mountain Road, Conservation Commission member. —yes, experts are paid by the Town. Yes, it is a balancing act and this is where the issue lies: the needs of the applicant vs Inland wetlands. Do you want to balance needs of the water against the applicant? The balance should lie with protecting the resource. P&Z should vote on the side of the Town and protection of resource.

Public hearing was closed at 10:11 pm.

R. Marconi called the Board of Selectmen meeting to order at 10:11 pm.

David Grogins, Town Counsel, came forward to address the Board of Selectmen. R. Marconi asked him to comment on the proposed Board of Ethics language.

D. Grogins stated he would be reluctant to insert this ethics code document. Time is needed for discussion and reflection. By putting it into the Charter, you are limiting yourself with what you can do. B. Manners agreed with D. Grogins.

M. Kozlark agrees with David Grogins. M. Kozlark stated that the Board of Ethics re-write was unnecessary. D. Grogins stated it could be an ordinance. Board of Ethics Chairman Bart van de Weghe stepped forward. Some years we have no complaints; some years we have been asked for an advisory opinion. S. Zemo asked what prompted this change? Charter Revision Commission Chairman J. Seem responded that one of the Charter Revision Commission Commissioners, Les Steinman, looked at area charters and crafted language in collaboration with Mr. Van de Weghe. The Charter Revision Commission initiated the change.

Joe Shapiro, CRC member, stated the letter requesting this change from Mr. Steinman is on file in the Town Clerk's office. Attorney Steinman researched area towns and collaborated with Chairman Van de Weghe to craft proposed language. B. Manners stated this language opens up elected and appointed individuals to liability.

B. Van de Weghe clarified the potential conflict of interest of elected officials or employees of the Town representing someone in another part of the Town government or office. We haven't seen a lot of this in actuality.

R. Marconi asked whether the language would create more conflicts and stimulate more complaints? B. Van de Weghe replied no. Does not see that the language being proposed makes things more of a conflict—just makes it more clear of what is a conflict. R. Marconi asked about unintended consequences—it will be 4 years before it can be changed again. B. Van de



Weghe replied he didn't know whether there will be problems. Cannot say theoretically it is not possible that there may be unintended consequences.

M. Kozlark stated that it seemed like a complete rewrite—would have been helpful to have specific changes highlighted etc. It is re-stated; tough to see line-by-line changes.

D. Grogins stated that this is the kind of thing that should have its own focus and be addressed on its own. Possibly its own ordinance.

B. Hebert would like to see a redline version to compare. R. Marconi asked whether Charter would supercede the ordinance?

B. Manners suggested language be crafted that the provisions in the Charter are effective until x date. D. Grogins agreed that this could be stated in the Charter. It is too important to make such a substantive change at this late a time without great discussion.

R. Marconi stated that he took a personal issue to the Board of Ethics about a potential conflict of interest and got an opinion from them. This is available to anyone.

S. Zemo stated that we need more time to consider this recommendation until at least next week. J. Seem stated that Lester Steinman could reformat the previous and proposed versions for review by the Board of Selectmen.

S. Zemo asked D. Grogins for an opinion on the proposal that a person cannot run for more than one office or board/commission seat in a municipal election.

Discussion ensued on item #2 from the proposed changes list—Proposal that Article X, Section 10-1(a), (b) and 9c) be clarified as to the timing and process of budgets. M. Kozlark stated that the 2% for the Annual Town Meeting will ruin our Annual Town Meeting (ATM). I don't think you will ever get 365 voters—this number is too high. Suggested we incorporate other Special Town Meeting items to be addressed at the ATM. R. Marconi does not agree – the Annual Town budget Meeting should be a standalone meeting. The Board of Selectmen would like to send that suggestion back to the Charter Revision Commission for further consideration. Perhaps clarifying language stating "2% of voters not necessary to be present to approve capital items under \$100,000"

Item #3 – If a ballot position remains vacant, the vacancy protocol should follow Section 4-7 for vacancies, subject to minority representation adherence. The Board is in agreement with this change.

Item #4 – Make the office of Town Treasurer appointive rather than elective. The Board is in agreement with this change.

Item #5 – Make the office of Tax Collector appointive rather than elective. The Board is in agreement with this change.

Item #6 – Address inconsistencies in length of terms for all appointive positions in Article IX. The Board is in agreement with this change.

Item #7 – Adopt standard language from other municipalities to Article 11 of the Charter to clarify Standards of Conduct. This will be reviewed further and discussed at the 7/25/18 meeting.

Item #8 – Define in the Charter what is to be done with capital closeout funds, and whether decisions regarding capital closeout funds should be the responsibility of the Board of Selectmen or the Board of Finance. M. Kozlark questioned why the Board of Selectmen would abdicate this responsibility to the Board of Finance? R. Marconi responded the BOF is deeply involved with all financial matters.

It was decided to amend the proposed language in Section 10-2(d) to read “Appropriations or transfers of unexpended capital project balances shall be determined by the Board of Selectmen, in consultation with the Board of Finance.

Item #9 – Separate the Inland Wetlands Board (IWB) from the Planning and Zoning Commission (PZC), and provide that members of the inland Wetlands Board be appointed.

S. Zemo does not think it should be split; B. Hebert does not think it should be split. S. Zemo would like to see concrete reasons why this is broken. Respectfully disagreed with sending to the voters—the Board of Selectmen should decide, as is stated in the Charter. We are elected to make decisions.

R. Marconi stated that he agrees with separation; there is less and less land on which to build and what is remaining is all very marginal. Would like to see a board that is focused on wetlands. We are currently dealing with a problem from work being done without a permit and it is costing thousands of dollars to be fixed. Perhaps we would have had a more active response to this situation it might have been avoided. The system needs to be adjusted. We heard testimony this evening about specific situations—the golf driving range decision is contrary to protecting the Norwalk River. I go back to Steve’s comment—if it ain’t broke, don’t fix it.

D. Grogins stated it is more efficient to have both combined—he discussed the topic with a land use attorney in his office and this was the attorney’s opinion. M. Kozlark stated she is struggling with this.

J. Seem stated that the land use issues are more complex; along with the implementation of MS4, etc.—the future impact of not separating the two boards is a risk.

B. Manners stated in agreement with Ben Oko that it is a matter of balance. Our elected boards have done a great job over the years of bringing us toward our open space goals and minimizing destruction of wetlands. If I could, I would require that every board have various standards/skills in order to run (lawyer, botanist, accountant etc.). Only way I see to change this would be to make it an appointed board where you could set standards and define the necessary skills needed for board members.

B. Hebert stated he sees the value of having people with different backgrounds and having a skill set on the board, but we must leave it up to the people and the parties to put them forward. Shame on the board if they are not letting candidates know what the job entails. He stated he likes the value and efficiency of the combined entities; keep it as is. Encourage town committees to find people that are qualified for all boards.

M. Kozlark suggested sending back to Charter Revision Commission. Leaning more toward keeping them together. This warrants another discussion.

Chuck Hancock, CRC member, stated he voted in favor of keeping P&Z/IWB as is; R. Baldelli informed the CRC that we would be looking at \$150,000 incremental increase, should we separate.

Ellen Burns, CRC member, stated that this issue has come before the Charter Revision Commission four times. Asked the Board of Selectmen to send this to the voters.

B. Manners stated she would be more open to separating the P&Z/IWB if it were appointed.

Item #10 — Revise Town's Code and Charter to change the name of the "Economic Development Commission" to the "Economic & Community Development Commission". The Board is in agreement with this change.

Item #11 — Amend Sections 5-1 and 5-7 of Charter to change name of "Commission for the Disabled" to "Commission for Accessibility" and to change text in Section 5-7 from "the disabled" to "people with disabilities". The Board is in agreement with this change.

Item #12 — Amend Section 4-11 of the Charter by changing "plan of development" to Plan of Conservation and Development". The Board is in agreement with this change.

The final vote will appear on the 7/25/18 meeting agenda.

**B. Hebert moved, S. Zemo seconded a motion to adjourn the Board of Selectmen special meeting at 11:46 pm. Motion carried.**

Respectfully submitted,  
Wendy Gannon Lionetti