

**MINUTES OF THE PLANNING AND ZONING COMMISSION SPECIAL MEETING WITH THE CONTINUING LEGISLATIVE COMMITTEE ON STATE PLANNING AND DEVELOPMENT, HELD ON MONDAY, OCTOBER 19, 2009, AT 7:00 P.M. IN COUNCIL CHAMBERS, TOWN HALL, 84 SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Legislative Committee Members - Sen. Eric D. Coleman and Rep. Brendan Sharkey, Co-Chairs; Sen. Leonard Fasano, Rep. William Aman, Sen. Joseph J. Crisco, Rep. Jack F. Hennessy, Rep. Russell A. Morin.

Dan Morley, Office of Policy and Management

Cheshire Planning and Zoning Commission Members – Martin Cobern, Patti Flynn-Harris, Earl Kurtz, M. McPhee, David Velber, John Kardaras and Andy Maye. Town Council Member – Timothy Slocum.

Cheshire Town Planner William Voelker and Assistant Town Planner Rebecca Augur.

Wallingford Mayor William Dickinson, George Adair, Director of Utilities

**I. CALL TO ORDER**

Rep. Sharkey called the meeting to order at 7:03 p.m.

**II. ROLL CALL**

Roll was called.

**III. DETERMINATION OF QUORUM**

Following the roll call a quorum was determined to be present.

**IV. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**V. BUSINESS**

**PROPOSED AMENDMENT TO THE LOCATIONAL GUIDE MAP OF THE CONSERVATION AND DEVELOPMENT POLICIES PLAN FOR CONNECTICUT 2005-2010 BY THE TOWN OF WALLINGFORD.**

Rep. Sharkey informed the meeting that the Continuing Legislative Committee is like the Zoning Board of Appeals, on the State level. Each of the committee members introduced themselves.

Rep. Sharkey informed those present at the hearing that the State has developed a State Plan of Conservation and Development (POCD) which includes written text which describes the goals for the orderly development of the State and a map which coincides with this language. From time to time certain development proposals are supported by towns, but do not necessarily conform to the POCD.

When this occurs, and if the town moved forward with a plan inconsistent with the State plan, they could be penalized in terms of restriction of State grants, such as clean water money and other funds. As a result, developments that are proposed that might conflict with the State plan are brought to this committee to review and determine if, in fact, it is appropriate to change the map or State plan, to allow this development to go forward. This is done about six times a year around the State when circumstances warrant it.

In this case, Rep. Sharkey advised that Cheshire has requested the committee hold this public hearing in the community, and the committee has accommodated that request. This is a public hearing and no decisions will be made.

Rep. Sharkey cited the procedures for the public hearing.

Dan Morley, Office of Policy and Management summarized the application before the committee. Mr. Morley stated that OPM is responsible for development of the State Plan of Conservation and Development on a five year basis. In between those periods there is opportunity for municipalities and private developers to petition for changes to the POCD.

On August 14, 2009, the Town of Wallingford applied to OPM for a wholesale change to the Locational Guide Map component of the POCD. They have a utilities service area for water and sewer, and a small portion would affect an area off Wallingford Road in Cheshire. The purpose of the request is that Wallingford believes that changes in the categories on the Locational Guide Map from their current designation of conservation and preservation to a growth category (Neighborhood Conservation category) would allow them to not be penalized from State funding efforts when they wish to extend utilities to those areas. Wallingford's request is to change wholesale areas of the Town of Cheshire from conservation to the growth categories, and a small portion is in Cheshire.

In response to a question on the acreage involved, Mr. Morley was not able to provide this information. The Cheshire portion might amount to 5% to 10%, and he pointed it out under #3 on the map. Mr. Morley said the purpose of the change is to insure municipal utility service area for Wallingford public water and sewer is consistent with the State POCD, particularly on the Locational Guide Map. This is a unique case for a wholesale utility service area for the town so there is advance, pre-approval for extending utilities in those areas designated in those areas.

Rep. Sharkey noted that usually the committee usually hears a change request is for a specific development proposed in a town. This request is for a change to take place, but not for a specific development.

It is Mr. Morley's understanding that the Public Utilities Commission of Wallingford worked with OPM for about seven months along with DEP and DPH staff, under whose jurisdiction the funding is given. Mr. Morley stated that he feels this type of situation where you have municipally operated water and sewer could serve as a good precedent, and could help the committee moving forward to deal with wholesale understanding where sewer and water can be extended in the future without concern over any State funding. He is looking at it from a proactive standpoint.

Sen. Coleman entered the meeting and thanked Cheshire for hosting the meeting, and said he looks forward to the information which will be provided to the committee.

Sen. Fasano asked how long the State POCD has been around, and believes it has been a long time.

Mr. Morley said it has been 35 years.

Recently the legislature put some teeth into those areas that did not meet the map or text of the State, and Sen. Fasano asked if this was correct.

According to Mr. Morley the teeth date back to 1991, but DEP has used its authority for funding back to 2005.

Sen. Fasano said the State voted on a text and plan to use to determine if a town is in compliance with the POCD, and if not, their funding could be jeopardy.

Mr. Morley said that was correct, in theory.

In this particular sewer and water treatment area developed, Sen. Fasano said it went in, and now with the manner in which DEP and the legislature is focusing on the plan, by not being in compliance with the POCD, even though already in the ground and it exists, this area is not in compliance with the POCD.

In reply, Mr. Morley said that is not true. Where the utilities are already being served they are deemed to be compliant. DEP and DPH have both issued memoranda that state that a large portion of what is requested here is consistent with the POCD.

Sen. Fasano asked about looking at the map of this property it would show an inconsistency. He commented on three agencies agreeing to this, OPM, DEP and DPH, and asked if this was correct.

Mr. Morley said that was correct. OPM does not control the funding source, but helped interpret the policies in those two findings.

By looking at the text and interpreting it on an area of the map, Sen. Fasano asked if this is how OPM came to say, by virtue of a paper trail, is in agreement with the POCD. He asked if this was correct.

Sen. Fasano said the paper trail says the area is compliant with the POCD, and it binds those agencies only, and if someone were to look at a map it would show it is inconsistent.

Mr. Morley said that was correct. Mr. Morley clarified that the map alone cannot state an inconsistency. Where there are sewers does not necessarily comport to where growth is prioritized.

If someone were to look at the map there would still be those inconsistencies, and Sen. Fasano asked if this was correct.

Stating "yes" Mr. Morley said it does not mean it is inconsistent. The map is one component of the overall plan.

Rep. Aman asked three inter-related questions. First, he asked for an explanation as to why Wallingford is asking for a change in Cheshire, and Cheshire is not asking for a change. Second, has Wallingford asked for or received a change in the balance of the property. Third, what area of Wallingford will also need a change, to get the geographic explanation of what the parties are doing and when.

As required by statutory process, Mr. Morley said OPM must make findings and recommendations to the committee within 10 days of this hearing, and the committee has up to 30 days to make a decision. Areas that we do not agree with the application at this time, going back to the July memorandum from DEP and DPH, there were four areas listed, A, B, C, D, and the Cheshire portion was one area deemed not to be consistent. Out of the entire area being requested here, those agencies indicated that any action within the area is consistent with the POCD, except for the four areas cited. Mr. Morley said it looks to be about 90% being deemed consistent for the two agencies purposes.

The committee did not have copies of the map cited by Mr. Morley because it was not referenced in the Wallingford application.

For the record, Rep. Sharkey noted that the paper is not entered into the record, and asked if there are other areas in Cheshire subject to this agreement from the other agencies.

Mr. Morley said this needs to be clarified. When OPM makes its findings it will better identify what was done here working with the Wallingford DPUC. The area that has been agreed to be served is an age restricted development that straddles Cheshire and Wallingford. At the time DEP made its findings it was not aware sewers were already in the ground there and there was an agreement

between the towns. At a minimum, Mr. Morley offered that the DEP determine the particular development be consistent with the POCD.

Rep. Sharkey said the answer to his question is “yes”...there is an area of the property preliminarily determined by DEP as being not suitable for the interim change request. But OPM is withholding its final decision making until the public hearing is held and the public is heard.

According to Mr. Morley the DEP finding was made with incomplete information, and he thinks the ARD was built 4 or 5 years ago, and the State did not have the data that utilities existed there. That will be clarified before findings are made. That is the issue in Cheshire...that there is a small parcel that is served by public utilities from an agreement with Wallingford, and by default it would be deemed to be consistent by its existence.

Rep. Sharkey pointed out that in looking at the map the other three sections in question are relatively small portions all within the Town of Wallingford.

Rep. Hennessy cited a technical question regarding a municipality being in violation of the plan, losing funding for a specific project or all projects. He asked for clarification on the penalties for noncompliance.

In response, Mr. Morley said the statute requires that any State agency actions must be consistent with the State POCD. Because we are dealing with public water and sewer here, we are looking at the two agencies that have the respective funding abilities. With DEP and DPH, for purposes of this utility service area adopted by the town, and the intent was to get the town out from under the cloud of being penalized in the future for development that might occur in an area that might have question as to whether it was able to be served by sewers without penalty. OPM is trying to get Wallingford out from under this threat. As far as other agencies are concerned, any agency sponsored action in an area would have to be consistent, but this is speculation at this point because it is beyond the application.

#### PUBLIC COMMENTS

Cheshire Town Planner William Voelker respectfully invited Mayor Dickinson to speak first.

Mayor William Dickinson stated that Wallingford is requesting an interim change. The goal is not to expand or extend anything, but to have the Locational Guide Map and Plan accurately reflect what is existing in the way of water and sewer service. Wallingford serves an area known as Cheshire Crossing and three properties on Reservoir Road pursuant to an inter-municipal agreement with Cheshire. There are no plans to expand beyond this, and Wallingford wants the map to reflect where there is water and sewer service area.

The work done by OPM, DEP and DPH was recognized by Mayor Dickinson on this issue. There are four areas that have not been resolved, and without resolution, Wallingford is at risk, and not just with these agency grants, but grants from any State agency. The legislation does not speak to either of those agencies, only OPM and its role in this process, and the fact that any variation from the plan can bring about lack of eligibility for State funding. Wallingford's effort was to define an area of water/sewer service that does not expand on where there is capability of currently serving. Wallingford is not trying to move further into Cheshire, incorporate other areas in Wallingford, other than where there are existing lines. Mayor Dickinson cited Bristol Meyers as an example of a large facility on Research Parkway, in the middle of a conservation - preservation area on the State map, which is clearly an inaccuracy. This firm has been there for quite a few years. The town is trying to clearly provide where it has services and where it does not. Wallingford's Public Utility Commission has adopted a position of not being interested in petitioning for, encouraging, down zoning or extension of main lines outside of the areas indicated. This information is in the application on file.

Mayor Dickinson stated that the guidance document of DEP, page 5, references how failure to restrict water and sewer services in areas rural lands and conservation and preservation areas can result in lack of eligibility for grants. Mayor Dickinson said this is what caught the attention of Wallingford. They want to true up what is currently in the ground, is not a future project, with the State Locational Guide Map as well as a small text change in the plan which references where there is a drinking fountain or such facility in a park or an open space area...that this not be held against the town in the future.

Sen. Fasano said it was his understanding that the development, age restricted site in Cheshire is elderly housing, and asked if this was correct.

In reply, Mayor Dickinson said that Wallingford's side is not age restricted, but on the Cheshire side it is age restricted. All the lines are in but he does not believe all the lots in Cheshire are sold.

Sen. Fasano asked if there is an agreement between Wallingford and Cheshire for the age restricted side when the lines went in. He asked if this was accurate.

That is correct, and Mayor Dickinson said Wallingford could not extend its lines outside of its boundaries without an agreement with the neighboring municipality, and in this case it was Cheshire.

When the agreement went in to extend the water lines, both sides agreed, and Sen. Fasano asked about Wallingford's concerns with the language drafted by the legislature. With the language, some agency in the future, could deem this service area not in compliance with the POCD, and Wallingford would be harmed

by not getting money it would, otherwise, be entitled to. Sen. Fasano asked if this is the fear being presented by Wallingford.

In that regard, Sen. Fasano stated that it is Wallingford putting it in, Cheshire wanted it, and now legislature comes up with this crazy C&D Plan as the law, and because of working with Cheshire, Wallingford could be harmed by it. The Town of Wallingford is saying let the map reflect what is in the ground, no more, no less, so the town is not hurt in the future when people change their positions.

Mayor Dickinson said that was correct. He cited two points. Cheshire might be at risk also, given there is an agreement that puts lines in an area where they should not exist under the C& D Plan. There were communications from DEP and DPH, but in neither case was anything received with a commissioner's signature. While great work was done it seemed to lack sign off by commissioners of DEP, OPM or DPH. This is why Wallingford is here, wanting an overall, complete interim change for the Wallingford map, and all can live with the results.

Mr. Morley said the idea of a proactive application in anticipation of problems is to be commended and OPM would like to see more of them. With some applications there is development investment already expended, and for the town to be proactive for future problems not tied with a development is good. The Legislative Committee has been charged by a special act to look at the entire development of how the State POCD is done. On November 5<sup>th</sup> there will be a field meeting of the committee in Wallingford with developers, engineers, municipalities, on how to deal with the State plan. Mr. Morley invited Mayor Dickinson to attend.

William Voelker, Town Planner, Town of Cheshire, submitted exhibits to the committee for the record. He read into the record the letter dated October 15, 2009 from Cheshire Town Council Chairman Matthew Hall on the proposal for an interim change to the POCD, with inclusion of the resolutions, passed unanimously, by the Cheshire Town Council and Planning and Zoning Commission.

### **CHESHIRE TOWN COUNCIL RESOLUTION #101309-3**

WHEREAS, the Town of Wallingford has petitioned the State's Continuing Legislative Committee on Planning and Development to amend the *Conservation and Development Polices Plan for Connecticut, 2005-2010, Locational Guide Map*, including a portion of land located in the Town of Cheshire; and

WHEREAS, the petition proposes to change the map designation of approximately 61 acres to the south of Wallingford Road in Cheshire along the

Wallingford town boundary from Conservation and Preservation areas to Neighborhood Conservation Area, and

WHEREAS, the proposed amendment for land within Cheshire is not supported by the Cheshire Plan of Conservation and Development, the Official Zoning Map, or the stated principles of the *Conservation and Development Policies Plan* to protect public drinking water supply watersheds,

NOW, THEREFORE, BE IT RESOLVED that the Cheshire Town Council opposes the Cheshire portion of the Town of Wallingford's petition to amend the Conservation and Development Policies Plan for Connecticut, 2005-2010, Locational Guide Map, and recommends that the Continuing Legislative Committee on State Planning and Development not approve that portion of the requested changes that lies within Cheshire.

Mr. Voelker read the motion passed unanimously by the Cheshire Planning and Zoning Commission into the record:

WHEREAS, the Town of Wallingford has petitioned the State's Continuing Legislative Committee on Planning and Development to amend the *Conservation and Development Policies Plan for Connecticut, 2005-2010, Locational Guide Map*, including a portion of land located in the Town of Cheshire; and

WHEREAS, the petition proposes to change the map designation of approximately 61 acres to the south of Wallingford Road in Cheshire along the Wallingford town boundary from Conservation and Preservation areas to Neighborhood Conservation Area, and

WHEREAS, The Neighborhood Conservation planning designation is intended to promote infill development and redevelopment in areas that are at least 80% built up and have existing water, sewer and transportation infrastructure to support such development, and

WHEREAS, that land is located in Meriden's Broad Brook Reservoir Watershed as well as in a rural area of Cheshire that is zoned for two-acre single family residential use, and contains approximately 14 acres of wetlands, and

WHEREAS, other lands in Cheshire that are already designated Neighborhood Conservation on the *Locational Guide Map* include the Route 10 Corridor and smaller nodes along state roads, and

WHEREAS, the *Conservation and Development Policies Plan* and the *Cheshire Plan of Conservation and Development* recognize the importance of protecting surface waters in public drinking water supply watersheds, and

WHEREAS, the proposed amendment for land within Cheshire is not supported by the Cheshire Plan of Conservation and Development, the Official Zoning Map, or the stated principles of the *Conservation and Development Policies Plan* to protect public drinking water supply watersheds, and to promote infill development in areas that are already substantially built out and already have the infrastructure, including transportation infrastructure, to support such development,

NOW, THEREFORE, BE IT RESOLVED that the Cheshire Town Council opposes the Cheshire portion of the Town of Wallingford's petition to amend the *Conservation and Development Policies Plan for Connecticut, 2005-2010, Locational Guide Map*, and recommends that the Continuing Legislative Committee on State Planning and Development not approve that portion of the requested changes that lies within Cheshire.

With regard to the statement made by Mayor Dickinson regarding the sewers being put in, Mr. Voelker pointed out that this was primarily for the benefit of the developer, not the Town of Cheshire. The inter-municipal agreement was necessary. And, the Cheshire WPCA has no interest in sewerage this area of town.

Rep. Sharkey asked about Cheshire having public utilities in an area otherwise considered conservation, could they run afoul of the POCD and jeopardize clean water funding or other State grants. He asked if the Cheshire Town Council and Planning and Zoning Commission considered those issues in making the statements offered at this meeting.

If it is assumed this is true, Mr. Voelker the several hundred thousand acres in Connecticut where sewer lines exist in front of properties and show as green on the Statewide plan, they would have the same problem. He does not think this is what the legislature intended when they adopted the State POCD. If this were true then you would apply Neighborhood Conservation to all those areas in the State, but this not what the General Assembly intended on doing.

Sen. Fasano said this is a problem; it is what is being found out as best as OPM tried to do the map; and there have been many hearings where lines exist, and whether or not they violate the plan. That is a realistic problem which Cheshire could face in a few years, particularly with more teeth in the POCD.

Mr. Voelker said this is understood. With the "Neighborhood Conservation Area" designation, he recommended that "conservation" be taken out...it is not a conservation area. It is a neighborhood sustainability, neighborhood preservation. When you use conservation in two different contexts, it is confusing. The problem is within the definition, which suggests commercial/industrial use. This is the core area of the community, and

Cheshire's comments note this is Route 10, downtown Wallingford...these are core areas...not Wallingford Road. Mr.Voelker said the committee is being asked to not put municipalities like Wallingford in a position when they see water and sewer, and where the only choice is Neighborhood Conservation. This is an unfortunate choice which speaks to an area not reflected on Wallingford Road, and that is the trap the Plan puts municipalities in. This is one reason Cheshire is opposed to the application because it suggests land uses that are entirely inappropriate land use, and is asking this definition be changed.

Rep. Sharkey requested that Town Planner Voelker participate in the committee's work and discussion on the development of the POCD and revamping the process.

Virginia Mason, Assistant Director, Council of Governments, Central Naugatuck Valley, advised the committee that COG sent a letter dated October 5, 2009 to OPM and the committee co-chairs with two maps showing Cheshire's prime and important farm land and wetland soils in that general area.

Ms. Mason displayed two maps, pointing out the colored areas showing the I-C area where there is major economic growth, the growth and infill area, and the central downtown Cheshire. The area in question is stemming from the area into Wallingford Road, and Ms. Mason pointed out parcel 80-27 the ARD development, Meriden Water Company property, and open space acquisition areas, Land Trust area. In the COG letter it was stated that the request is not in accordance with the regional plan which is focusing development along the Route 10 corridor and the infill area. Also, it is a rural category, and COG does not see public investment being encouraged. There are other areas in the region where sewers are in the ground. There have been discussions with OPM the designation for these areas, policies have been looked at, and if there are septic failures then sewers have to be involved. For the subject area, COG does not want to encourage additional development which sewer lines tend to do and they are not shown on the plan. According to COG, just because it is not on the map there are penalties involved, but the property is in accordance with the State plan on some of the other gross principles adopted. COG sees the subject area as open space, agriculture, wetlands, water shed, and does not feel it meets the criteria.

George Adair, Director of Utilities, Wallingford CT, stated that the only parcels affected by the request for change are those already developed – Cheshire Crossing and three properties at 1160, 1170, and 1235 Reservoir road, served by sewer only. The inter-municipal agreement dates back to 2003 due to the unavailability of public sewer in Cheshire for those areas, and the preferability of public sewers versus septic systems. This is not a change in use of the property, the development has already occurred, and Wallingford is only truing up with what is. In Wallingford's view of the matter, in terms of other regulations and use of the land, the proposed map change received approval of the

Wallingford Town Council, Planning and Zoning Commission, Wallingford Public Utility Commission and Wallingford Conservation Commission. This is based on the fact that the changes requested are not viewed in Wallingford as weakening any of the regulations, and local, state or federal wetland protections remain in effect.

With respect to Mr. Voelker's comment about the number of categories describing areas for suitable sewer and water is limited, and Mr. Adair agreed with this comment, and he has discussed this with Mr. Morley. Wallingford felt the interim change was appropriate. The four categories are Regional Centers, Growth Centers, Neighborhood Conservation areas and Rural Community Centers. Of the four, Wallingford has proposed Neighborhood Conservation areas, NCA, and it is not Wallingford's issue that it be one that accepts water and sewer as being consistent.

Martin Cobern, 7 Carriage House Way, Cheshire CT, member of the Cheshire Planning and Zoning Commission, submitted his written statement to the committee for the record. Mr. Cobern highlighted his experience and professional credentials for the committee, and stated he was speaking as an individual opposed to the proposed amendment to the POCD. In his statement Mr. Cobern cited the 1998 Town Council approval of acquisition of open space land and the best uses for the land, which made Cheshire well known for its open space acquisition in the State. In 2002 the PZC banned "big box" stores from Cheshire, which was a first in the State. Also, in 2002, the Town adopted a revised Plan of Conservation and Development, which provided more specific guidelines for land use, and the necessity of protection of open space and creation of green belts in the town. Cheshire suffered hardships caused by polluted aquifers and in 2003 adopted a model Aquifer Protection program, leading to significant green development in the aquifer zone. Cheshire has been ahead of other towns in this area, and has cooperated with neighboring towns on regional issues, including improvements at the Meriden Reservoir, adoption of the Interchange Zone Special Development District. As required, Cheshire adopted the State's aquifer protection regulations, even though it felt them to be less effective than its own. Cheshire recently added an area to its aquifer protection to protect an aquifer that serves Southington.

Mr. Cobern commented on the application before the committee as being in direct conflict with the significant efforts Cheshire has made to achieve economic growth while preserving its environment, suburban calm, and safe water supply. When the Cheshire Crossing subdivision application was submitted, the developer knew that age restricted development required public sewers, and that Cheshire's system did not serve this area. He arranged for service via Wallingford, and while this was favorable with the PZC, it was not intended nor expected to open up the adjoining area for more extensive development. The density of the ARD is 51 units on 61 acres, and this is the maximum permitted.

Mr. Cobern strongly urged the committee to reject the current application insofar as it applies to land within the borders of Cheshire. He stated no opinion on the changes proposed for Wallingford, noting that their officials are the best ones to judge such proposals.

In listening to the arguments stated, Mr. Cobern said this area, by no means, meets the criteria for a Neighborhood Conservation Area. NCA usually reflects developed, stable neighborhood communities, contiguous to regional centers (which this is not), 80% built up, and census tracts of population density of 1000 per square mile. It would be mislabeling designating this area as a Neighborhood Conservation zone. Preservation areas avoid support of structural development (new construction, expansion and the like except as directly consistent with the preservation values). Keeping this as a preservation area does not open anyone, because its an existing system, and was reviewed at the time by regional authorities and the State. It is an existing infrastructure, and both towns agree there is no prospect for further development, and it makes no sense to designate it as an area designed for further development and in fill. It is part of an area which we are trying to preserve. The development was laid out to preserve a large amount of green space and for wild life to travel through the development. This is clearly a preservation area; sewers are not permitted in expansion areas; development of sewer services or other infrastructure is to be avoided except where consistent with the primary purpose. Mr. Cobern pointed out that no one here, not Wallingford or Cheshire, is proposing the development of new infrastructure. So, leaving this as a preservation area creates no conflict at all.

Sen. Fasano asked if the Cheshire PZC approved this ARD housing, and the current local zoning for this area.

In reply, Mr. Cobern said it is, technically, in an R-80, 2 acre zone. Cheshire has overlay zones for age restricted housing, which have different regulations. They give the builder a premium and ability to have more density provided it is done in a cluster manner and obeys the ARD restrictions. This area is more dense than it would have been for the development under R-80 zoning. From an environmental point of view, the town was able to arrange the houses to preserve the greenway and passage for the wild life. Mr. Cobern noted that a lot of attention was paid to the layout of the housing units to insure there was a contiguous green patch going through the development.

Noting that some lots have not been sold, Sen. Fasano stated the density is the density.

Under Cheshire's current regulations, Mr. Cobern said nothing further can be developed in this area. This area should remain a preservation determination because one cannot predict the future. At some point, someone could put

additional pressure on future PZC, and Mr. Cobern said the current designation is what the town has been doing for many years.

David Schrumm, 369 Sir Walter Drive, asked about the Pulte home section on the map, and if the change is just on property owned by this development, without any extra acreage around it. We are talking about 61 acres being changed.

Rep. Sharkey said the committee is not expert in where the property lines are.

According to Mr. Schrumm, this would be a very, very important question because if there is some extra land involved, this is allowing expansion of this development in the future, to be swept in under the change for this little area. If just the Pulte development that is one thing. But, if its Pulte plus...that is another thing. The map lines must be right on. Mr. Schrumm cited two reasons. One, if you go to the south, you run into Cheshire's green belt, part of which is Lassen Farm, which was preserved with DEP funds. On the other side where the drive way comes out of the Pulte development, there is an extensive area of open space, and we must insure that none of that is in the area for change. In the future, someone could come forward and want this acreage zone changed. The real problem is ex post facto solution. At one time, 2003-04 the State started putting some teeth into this map, and some municipalities did not pay attention to them or there were no teeth in the maps. The enforcement started biting a little more a few years ago, and the Pulte development was done before there were teeth in the Plan.

Mr. Schrumm said the question is whether the State will forgive Wallingford's breach, and if so, other towns will have to be forgiven as well. This development took place between no enforcement and enforcement. We must look out for expansion of this little area, or exoneration given to Wallingford for its breach of the Plan. Mr. Schrumm is not sure Wallingford should be punished unless other towns in the State area also punished.

In looking at the map, Mr. Schrumm asked for clarification that this is the only parcel on the Cheshire/Wallingford line, plus the 3 houses on Reservoir Road.

Rep. Sharkey stated that the committee would request OPM to clarify the parcels in Cheshire which are affected.

Mr. Schrumm stated that this is a classic example of Cheshire buying land, water company land, etc. He suggested that if the Plan is being reviewed, that there be a requirement of a public hearing in the town by the legislative body or planning commission when an application is made to change the map. The public is not aware of the changes being made to the maps, and if the committee wants public input, then it should be mandated with a hearing. Mr. Schrumm

cited another situation in Cheshire where a meeting should have been held and never was held.

Sen. Sharkey remarked that the committee is looking at how to make the State POCD better. Between now and the next legislative session, a set of regulations must be developed for the changes, and presented to the General Assembly. Sen. Sharkey stated that public input is encouraged and welcomed.

Cheshire Town Planner, Mr. Voelker, informed the committee that Cheshire permits ARD multi-family housing on septic systems. He wanted the committee to know that Cheshire does not practice discrimination by requiring sewer in any way. Wallingford is asking for forgiveness and he understands their request and concerns. Cheshire believes there are a number of issues state wide for the committee to deal with. Planning starts at the top down, and the General Assembly has tried to bring conformity to these documents, starting with the State wide plan. He pointed to the amendments to the local Plan of Conservation and Development in the last five years where specific reference must be made to the State POCD and the Regional Plan therein. He knows the enforcement of this plan is more than the last 4 or 5 years. As for "giving them a break because there is a sewer out there"...Mr. Voelker said that Cheshire objects to this.

The problem is with the State POCD, and Mr. Voelker reminded the committee of the designation which Wallingford is requesting...Neighborhood Conservation Area - NCA. He said Neighborhood Conservation is not a preservation or conservation strategy, and it is important to know the designation of NCA. It invites speculation, long term. There is a development there now, but what happens is a designation on the map which invites commercial/industrial and speaks to a land use scenario which does not exist, other than the fact that there are public utilities. This is a problem because once the designation is given there is no pulling back from that. Mr. Voelker noted that the legislature has given everyone two more years to review the Plan.

Mr. Voelker requested the committee to not grant this designation or make a change in the Plan. Listen to the testimony about the problems and weakness created therein. Avoid making this kind of change in the Town of Cheshire. It is problematic from the land use scenario it speaks to and the future it suggests.

Mr. Cobern suggested that the committee eliminate this whole problem by adding one sentence to the POCD text...*"Nothing in this Plan shall create any penalties for the use of existing utilities or individual connections thereto."* He said this grandfathers in areas; designate preservation areas where there have been sewers for many years. Put in a grandfather clause that no town will lose funding based on existing utilities, and individual homes can connect to them, but not extend them.

Mayor Dickinson reiterated for the committee the fact that the area included is only the Pulte development, and the 3 properties on Reservoir Road. Wallingford is not interested in any other acreage than that which is currently being served, and could not do so without an agreement with Cheshire. Wallingford is not interested in expanding beyond where the current boundaries are.

There were no further comments or questions.

Rep. Sharkey explained that OPM has 10 days to make its recommendation to the Continuing Legislative Committee, and the committee has 30 days to meet and make its decision on the requested change.

Rep. Sharkey closed the public hearing at 8:45 p.m.

Attest:

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Marilyn W. Milton, Clerk