

## BOARD OF SELECTMEN ACTION REQUEST

No.: 21-60

Date: September 7, 2021

**Topic:** New Business (A)- Easement Release at former subdivision on Platt Hill Road

**From:** Joshua Kelly, Town Manager

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**Background:** The former subdivision on Platt Hill that is currently being developed as a solar farm currently has two easements attached to it:

1. Declaration and Grant of Conservation Easement in favor of Town of Winchester dated August 17, 2006 and recorded August 31, 2006, Volume 366 at Page 1124 of the Winchester Land Records; and
2. Drainage Easement in favor of the Town of Winchester dated August 17, 2006 and recorded in Volume 366, Page 1144 of the Winchester Land Records.

At a meeting of the Planning & Zoning Commission on August 9, 2021, the Commission acknowledged that the subdivision approval at that site expired. Given that the two easements were attached to that property as part of the subdivision and no longer serve a functional purpose, the Planning & Zoning Commission formally recommended, under CGS 8-24, that the easements be released from the property records. The removal of these easements will allow a portion of that land to be donated to the Winchester Land Trust with a title, and it will allow the solar farm to proceed with their already-approved development without obsolete restrictions attached to their property. In order to release the easements, a Special Town Meeting must convene and a majority of the voters at said meeting must vote in favor of releasing the easements.

Given that the Planning & Zoning Commission has already reviewed and issued a recommendation on these easements under CGS 8-24, there is no need for further review by their commission or other town boards or commissions.

The law dictates that, in order to release or sell any land or easement, the Town must schedule a Special Town Meeting to be held not less than thirty (30) days and not more than forty-five (45) days following the Board's action on this item. Thus, the Board could schedule a Special Town Meeting to be held on Monday, October 18, in conjunction with the second regular Board of Selectmen meeting that month.

**Requested Action:** I request that the Board of Selectmen consider scheduling a Special Town Meeting for the purpose of releasing the easements referenced above.

**Recommended Motion:** I move that the Board of Selectmen approve the scheduling of a Special Town Meeting, to be held in conjunction with the regular Board of Selectmen meeting on Monday, October 18, 2021, to authorize the release of the Declaration and Grant of Conservation Easement held by the Town of Winchester on file at Volume 366, Page 1124 of the Winchester Land Records and the release of the Drainage Easement held by the Town of Winchester on file at Volume 366, Page 1144 of the Winchester Land Records, and convey such interests back to Platt Hill Land, LLC.

**Attachments:**

- P&Z minutes from 12/08/2005
- P&Z minutes from 8/09/2021

## **STEPS FOR SALE OF TOWN-OWNED PROPERTY**

1. Upon request to sell, lease, abandon or obtain an easement concerning Town-owned property, the Board of Selectmen reviews the request and determines if it is in the best interest of the Town.
2. If so, the Board of Selectmen refers the request to the Planning & Zoning Commission. In addition to the Planning and Zoning Commission, the Board of Selectmen may refer the proposed sale to any of the following agencies: Assessor, Inland Wetlands and Watercourses Agency, Department of Public Works, Winchester Land Trust, Chief of Police, Economic Development Commission, Winchester Housing Authority, Recreation Department, Community Planning and Development Office. Each Agency shall report back to the Board of Selectmen within thirty-five (35) days of the submission of the proposal. Failure of any agency to report back to the Board within thirty-five (35) days shall be taken as approval of the proposal. A disapproval of the proposal by an Agency shall contain the reasons therefore. The disapproval, however, shall not prevent the Board of Selectmen from continuing with the process to seek approval of the proposed sale.
3. After the agencies render their reports, or after the passage of thirty-five (35) days if no reports are submitted, the Board of Selectmen shall instruct the purchasing agent to place the sale of the property out to bid and shall notify in writing all abutting owners of the proposed sale. If an easement or abandonment, skip to Step 5.
4. In awarding the bid the Town may consider, in addition to price, the following: whether the bidder abuts the proposed parcel, whether the bidder will merge the proposed parcel to make it more conforming to Planning and Zoning Regulations, whether the bidder is current with all taxes and user fees due to the Town of Winchester, whether the proposed property and any other reasons the Board feels best promotes the well being of the Town, including long term use potential for the Town, the economic benefits or loss for the Town, the environmental value and the aesthetic value of the subject premises.
5. If the Board of Selectmen decides to accept the bid, it will schedule a Special Town Meeting to be held not less than thirty (30) days, nor more than forty-five (45) days to act on the proposal. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the real property that is the subject of the hearing is located at least twice, at intervals of not less than two (2) days, the first not more than fifteen (15) days or less than ten (10) days and the last not less than two (2) days before the date set for the hearing. The municipality shall also post a sign conspicuously on the real property land that is the subject of the public hearing.
6. At the Town Meeting, an affirmative vote of a majority of those electors attending the special town meeting shall be sufficient to approve the sale.
7. The buyer must take title to the property within forty-five (45) days of the vote of the Special Town Meeting unless granted an extension by the Board of Selectmen. Should the buyer not take title to the property within forty-five (45) days and the Board of Selectmen not grant an extension, then the Board may accept the next highest competent bidder or may re-bid the property as it deems in the Town's best interest. The buyer must pay all closing costs of the town, including but not limited to attorney's fees and broker commissions.



**TOWN OF WINCHESTER  
PLANNING AND ZONING COMMISSION**

Town of Winchester Town Hall 338 Main Street - 2nd Floor – P. Francis Hicks

**August 9, 2021 – 7:00PM**

**Regular Meeting Minutes**

**1. CALL TO ORDER:**

Chairman George Closson called the meeting to order at 7:00PM.

Mr. Closson noted that the following individuals were present: John Cooney, Peter Marchand, Craig Sanden, and Alternate Will Platt. Mr. LaMere was absent excused. Mr. Platt was seated.

**2. PUBLIC COMMENT:**

None.

**3. AGENDA REVIEW:**

**MOTION:** Mr. Marchand, Mr. Platt second, to amend the agenda to take *Other Business: Discussion with Phil Doyle RE 80 South Main Street* and the review of *210 St. Onge Road* ahead of the Public Hearings; unanimously approved.

**4. OTHER BUSINESS.**

**A. Discussion with Phil Doyle RE 80 South Main Street – Reconciliation of Construction Field Changes (Winsted Medical Associates Building).**

While this discussion was initially deferred, staff later reported that the discussion was intended for the August 23, 2021 regular meeting. It was noted that ownership of the building is likely to be transferred directly to Hartford Healthcare. As part of that, a Certificate of Zoning Compliance was being sought. When the site was reviewed, it was noted that there were a few variations from the last approved site plan. A determination was made that this commission should see the changes.

**B. PZC#20-05 – 210 St. Onge Road - Temporary CO Sought – Bond Discussion**

Tony Mongitore appeared before the Commission regarding this matter. Mr. Mongitore explained that as he was trying to obtain his Certificate of Occupancy, a few items depicted on his approved site plan remained outstanding. He noted that he was seeking to bond those items which included four light poles and a small patch of grass where underground utilities are planned. Mr. Mongitore reminded that there would be no dumpster or any type of outdoor trash receptacles.

Mr. Closson reported having visited the site and noted that it was nicely paved and striped. He recommended that the Commission support a bond being submitted for the outstanding items. It was noted that the light poles are on site and just have not been installed yet.

**MOTION:** Mr. Marchand, Mr. Sanden second, that the Planning and Zoning Commission recommends a Certificate of Occupancy be issued pending a cash bond of \$3600 until the remaining items on site plan are completed; unanimously approved.

It was the consensus of the Commission that while Mr. Mongitore indicated the remaining items should be completed very soon, the light poles and grassy area should be completed by February, 2022.

**5. PUBLIC HEARINGS.**

**A. PZC#21-03 – Special Permit Location: 351 North Main Street Applicant/Owner: Hedgerow Properties, LLC Proposal: Convert Mixed-Use Building to Two-Family.**

**MOTION:** Mr. Marchand, Mr. Sanden second, to reopen the public hearing on Application PZC#21-03 – Special Permit Location: 351 North Main Street Applicant/Owner: Hedgerow Properties, LLC Proposal: Convert Mixed-Use Building to Two-Family; unanimously approved.

No individual was present on behalf of the applicant.

The public hearing was open to the public.

Kim Gilbert of 11 Brook Street reminded the Commission that the applicant had reported that there would be adequate parking for the proposed two-family residence. Ms. Gilbert shared her observations of the current site, characterizing it as a used-car lot. She distributed copies of photographs of the site depicting the current conditions.

Mr. Closson acknowledged receipt of a communication from Bill Lamoin, the owner of Swell's Car Wash, too.

**MOTION:** Mr. Sanden, Mr. Marchand second, to continue the public hearing to the August 23, 2021 regular meeting; unanimously approved.

**B. PZC#21-04 – Special Permit Location: 220 East Lake Street Applicant/Owner: Eric Richard Proposal: Zone Change; Zoning Regulation Change – Text Amendment (Marina Accessory Use).**

The legal ad was read into the record with it reported as having run the requisite two times, July 26, 2021 and August 2, 2021, in the Republican American. Staff confirmed that a copy of the proposal was provided to the Northwest Hills Councils of Governments and to the abutting town clerks.

Eric Richard appeared before the Commission regarding this application.

Mr. Platt noted for the record that he is a property owner on Highland Lake and serves on the Highland Lake Watershed Association. As such, he questioned whether Mr. Richard had any concern with his sitting in on this application. He indicated that he did not.

Mr. Richard explained that he had recently purchased this property with a two-family house and a large garage in the back. He noted that the garage in back that is something that he would like to use as accessory space to the marina. Mr. Richard noted that he found the proposed text from a county in Florida that uses the same.

Mr. Closson questioned what the plan was for the two-family residence. Mr. Richard explained that it would likely remain as it is currently. He questioned how the waterfront might be utilized. Mr. Richard explained that the waterfront goes with the two-family residence. Mr. Closson noted that it is adjacent to the marina and questioned what might be proposed for the marina if the property were to convert to the Highland Lake Business District.

The hearing was open to the public.

Candy Perez, noting that she was sharing her thoughts and concerns as a private resident of 605 West Wakefield Boulevard, spoke about the expectation that buyers have when purchasing property

about what can be built next to them. She questioned whether the direct waterfront was part of the property that was subject to the proposed zone change. Ms. Perez shared concerns with the parcel being used for drydocking and any addition to the number of vessels that were permitted for the marina.

Carol Zacchio of 114 Shore Drive noted that she shared those same concerns in terms of what might be stored in the garage and then launched into the water and whether the waterfront would be used for additional docks. She noted how crowded her cove gets with boats.

Mr. Platt questioned the uses included as part of the proposed text, noting that some were already included under the definition of a marina. He noted that the definition also included boat rentals. Mr. Platt questioned whether the boat storage would be for inside or outside. Mr. Richard indicated that it could be either.

Mr. Marchand shared concerns with spot zoning. Mr. Sanden noted that he had misgivings about the proposal generally. Mr. Cooney questioned how the storage might be accomplished so that it would be aesthetically pleasing. He also shared concerns with fluids.

Mr. Closson explained to Mr. Richard that what is included in marina accessory use is already included in the marina definition. He questioned what Mr. Richard might have planned for this property. Mr. Richard explained that he wasn't quite sure.

Ms. Lavoie noted that there was a property between the marina building and this parcel that was also in the Highland Lake Business District.

**MOTION:** Mr. Marchand, Mr. Cooney second, to close the public hearing; unanimously approved.

**C. PZC#21-05 – Special Permit Location: 28 South Main Street Applicant: FDN Masonry & Construction Owner: Shelley Harms DBA Icebox Investments, LLC Proposal: Convert Mixed Use Building to Multi-Family Use.**

The legal ad was read into the record with it reported as having run the requisite two times, July 29, 2021 and August 3, 2021, in the Republican American. Staff confirmed receipt of the Certificate(s) of Mail, serving as evidence that abutting property owners had been provided with notice of the public hearing.

Shelly Harms, accompanied by her husband David Torrey, appeared before the Commission regarding this application. She noted that this husband is one of a row of houses along South Main Street wherein the others are all residential but for hers being mixed-use. Ms. Harms explained that her house was on the market last year along with the Primo building next door, tenants began to move out. She reported that her husband owns several rental properties in other towns and that they are both receiving many calls from people seeking residential units. She indicated that there is not a demand for commercial property.

The hearing was open to the public.

Linda Groppo, noting that she was sharing her thoughts and concerns as a resident of 18 Cherry Street, urged the Commission to consider the Plan of Conservation and Development when reviewing

this proposal, reminding them that 44% of the housing in Winchester is comprised of multi-family dwelling units. Of those, 55% are located in the downtown area, according to Ms. Groppo.

Mr. Cooney questioned whether the middle floor was vacant. Ms. Harms indicated that someone had already moved in.

Ms. LaVoie questioned whether the property had always been residential. It was noted that it was currently zoned as a mixed-use building. Mr. Platt questioned whether there were any planned changes to the parking area. Ms. Harms indicated that there was not. Mr. Torrey explained that what was the kitchenette in his law office had been moved to next door. Mr. Marchand questioned whether each unit had two exits. Ms. Harms and Mr. Torrey confirmed.

Mr. Torrey reported all of the smoke detectors and CO detectors were functional. He explained that they own several multifamily units. Staff reminded the applicant that a rental inspection should always occur prior to occupancy. A Rental Certificate of Occupancy is required every two years or more frequently when there is a change in tenants, according to staff. It was noted that an annual inspection should also occur by the Fire Marshal for any dwelling that is three units or more. Finally, the applicant was reminded that a building permit should be sought and received prior to any building modifications, according to staff.

**MOTION:** Mr. Marchand, Mr. Cooney second, to close the public hearing; unanimously approved.

**6. OLD BUSINESS:**

**A. PZC#21-03 – Special Permit Location: 351 North Main Street Applicant/Owner: Hedgerow Properties, LLC Proposal: Convert Mixed-Use Building to Two-Family.**

No business discussed as the public hearing was continued.

**B. PZC#21-04 – Special Permit Location: 220 East Lake Street Applicant/Owner: Eric Richard Proposal: Zone Change; Zoning Regulation Change – Text Amendment (Marina Accessory Use).**

Mr. Marchand noted the lakefront portion of this property is already zoned as Highland Lake Business District. The Commission reviewed that area of the lake from the town's GIS. Concerns with adding more traffic on the lake were discussed. Mr. Closson shared concerns with expanding the commercial zone into a residential area. Mr. Marchand agreed. Mr. Sanden recalled there being great care taken to accommodate the three existing businesses up at Highland Lake. Discussion ensued as to which properties on the water side in that area are zoned as Highland Lake Business District. Staff noted that the HLBD properties stretch from the marina to Stew Jones place.

**MOTION:** Mr. Marchand, Mr. Cooney second, to approve Application ; Motion failed with Mr. Closson, Mr. Sanden, Mr. Marchand, Mr. Cooney, and Mr. Platt being opposed.

**C. PZC#21-05 – Special Permit Location: 28 South Main Street Applicant: FDN Masonry & Construction Owner: Shelley Harms DBA Icebox Investments, LLC Proposal: Convert Mixed Use Building to Multi-Family Use.**

**6. NEW BUSINESS:**

**A. PZC#05-03 – Open Space Subdivision Expiration of Platt Hill Road Subdivision.**

Kirt Mayland appeared before the Commission regarding this matter. He explained that he was the owner of this land and would be leasing a portion of this land to a solar company and the remaining portion would be conveyed to the Land Trust. Mr. Mayland reminded the Commission that the site was an approved subdivision which expired years ago. He noted that when it expired, the Town had failed to file a Notice of Termination. He explained that the proposed resolution to terminate the subdivision would void the 26 lots. Mr. Mayland indicated the land should return to its original one lot, which would happen through the filing of a consolidation map.

Mr. Mayland explained that a request will be made of the Board of Selectmen for return of the surety bond that was put up as part of the subdivision, a drainage easement, and a declaration and grant of conservation easement.

Mr. Marchand questioned the three lots along Platt Hill Road. Mr. Mayland reported a very recent purchase of those three lots which would resort back to the original one parcel.

**MOTION:** Mr. Closson, Mr. Marchand second, to approve the following resolution:

RESOLVED, that the Winchester Planning and Zoning Commission hereby approves the request of Platt Hill Land, LLC to void the subdivision approved by the Commission on December 8, 2005 known as "Trade Winds Farm," being Maps #1968 and #1969 in the Town Clerk's Office; and authorize the Chairman or Secretary of the Commission to endorse a perimeter survey of the property with a note indicating that its purpose is to void the said subdivision.

RESOLVED, that the Winchester Planning and Zoning Commission hereby approves the request of Platt Hill Land, LLC to release the Surety Bond Agreement on file at Volume 366, Page 1157 of the Winchester Land Records, and authorize Zoning Enforcement Officer Pam Colombie to implement said release and note such release in the Winchester Land Records.

RESOLVED, that the Winchester Planning and Zoning Commission, in accordance with Connecticut General Statutes Section 8-24, hereby recommends that the Town Meeting take the necessary steps to release the Declaration and Grant of Conservation Easement to the Town of Winchester on file at Volume 366, Page 1124 of the Winchester Land Records and convey such interest back to Platt Hill Land, LLC.

RESOLVED, that the Winchester Planning and Zoning Commission, in accordance with Connecticut General Statutes Section 8-24, hereby recommends that the Town Meeting take the necessary steps to release the Town's interest in a Declaration of Easements, Covenants and Restrictions on file at Volume 366, Page 1146 of the Winchester Land Records.

*unanimously approved*

**7. APPROVAL OF MINUTES: July 12, 2021 and July 26, 2021**

July 12, 2021 minute art Melycher not a motion

**MOTION:** Mr. Marchand, Mr. Platt second, to approve the July 12, 2021 Minutes as amended; unanimously approved.

**MOTION:** Mr. Marchand, Mr. Platt second, to approve the July 26, 2021 Minutes; unanimously approved.

**8. COMMUNICATIONS:**

Staff queried whether the Commission expected the town attorney to put on an active defense in the appeal that was filed on 149 Newfield Road by the neighbor. Ms. Lavoie questioned whether the Town had a stake in

the decision of the court greater than a typical approval. The consensus of the commission was that the town did not.

**9. STAFF REPORT:**

Staff reported a zoning permit having been issued for Paws and Reflect, a pet goods shop occupying space on Main Street. Additionally, it was noted that the Ledgebrook Spirit Shop had transferred ownership. It was also reported that the new owners of the front building at 10 Bridge Street have retained an architect as they explore their development possibilities.

Mr. Closson reminded the Commission that the public hearing on the Plan of Conservation and Development update is scheduled for Monday, August 23, 2021 at 7PM at Town Hall.

Mr. Closson noted the permanent hire of the new enforcement officer, Michael Stankov, charged with enforcement of Inland Wetlands, Blight, and Zoning.

MOTION: Mr. Closson, Mr. Marchand second, to appoint Michael Stankov as a Zoning Enforcement Officer; unanimously approved.

**11. ADJOURNMENT:**

MOTION: Mr. Sanden, Mr. Marchand second, to adjourn; unanimously approved. The Commission adjourned at 8:54PM.

Respectfully submitted,  
Pamela A. Colombie  
Recording Clerk





***Town of Winchester-City of Winsted***  
***Planning and Zoning Commission***  
**Minutes of Regular Meeting**  
**December 8, 2005 – 7:00 p.m.**

The Planning & Zoning Commission met in the P. Francis Hicks Room. The call to order was made by Chairman Anthony Cannavo at 7:01 p.m.

Roll Call as follows:

**Present:**

Anthony Cannavo      Charles Whelan  
Michael Hamm        Robert Passini  
George Closson       Merri-Lynn Marsh  
Raymond Neal

**Absent:**

Raymond Carpentino

Chairman Cannavo calls for any public issue not on the agenda or that may come up for discussion.

**Agenda Review:**

Law Works is requesting a 35 day extension. Motion made by Commissioner Hamm to extend for 35 days, seconded by Commissioner Closson. Unanimous.

Commissioner Hamm notes that Mr. Carpentino made some comments in a memo on the draft submitted by Commissioner Passini regarding By-Laws. Commissioner Hamm is suggesting this be tabled until next meeting in order to question and review the memo submitted by Mr. Carpentino. Commissioner Hamm made a motion to table until next meeting to take some time to review. Chairman Cannavo seconded. Commissioner Closson said that he feels the information presented by Mr. Carpentino and the draft written by Commissioner Passini would be appropriately discussed tonight in an effort to iron it out and move it along. Vote on motion: Yes: Commissioners Hamm and Neal. No: Commissioners: Closson, Cannavo, Marsh, Whelan and Passini. Motion failed.

**Item #4: Approval of Minutes:**

Motion made by Commissioner Closson to approve the minutes of November 14, 2005 meeting. Seconded by Commissioner Neal. Unanimous.

**Item #5: Election of Officers:**

Commissioner Whelan nominates George Closson as Chairman.

Commissioner Hamm states that in looking in the packet and a letter that came forward apparently from a Selectmen's meeting in 1989 points out a part that seems to indicate something about alternates. Discussion on original motion made at that time but no indication what happened to the other motion. In reading through, the first motion was voted on and nothing was decided concerning the second motion. Commissioner Hamm asked Clerk Lukasavage how this information came forward. She said that in following up on a previous request from the Commission, the Town Clerk had additional records in a drawer that she had forgotten about. Information was presently exactly as found. Discussion about whether or not it can be determined if based on this information alternates are allowed to vote.

Commissioner Closson questions what this has to do with this commission. Commissioner Hamm explains that it is important in reference to members and alternates and if alternates are allowed to vote that it would have a lot to do with the Commission. Commissioner Closson says it does have to do with this, but they have published By-Laws that say that they can do that and it was the By-Laws that they were acting upon. Between the By-Laws, the Charter and the Ordinances.

Commissioner Hamm has another issue with Attorney Nelligan's letter. Quotes that an alternate is only made a regular member upon vote of the Board of Selectmen so questions if when the Commission voted to bring Commissioner Passini up to regular member status isn't valid until the Board of Selectmen vote to appoint him a regular member.

Commissioner Closson indicates that this has bearing on almost everyone sitting on the Commission. Going back and tracking everything that took place indicated that this was the normal progression. Merri-Lynn Marsh was seated as a member on the vote by the Board of Selectmen, but nobody else's position could be determined. Commissioner Hamm explains that his point is that an alternate is a regular member until the Board of Selectmen vote to make him a real member. This is what Attorney Nelligan says. Clerk Lukasavage was questioned about the letter that came providing more information and she stated that Mr. Carpentino asked for Attorney Nelligan's opinion on the elections as requested by the Commission and this response came yesterday.

Chairman Cannavo recognizes that two Selectmen are present tonight and maybe they can express their feelings as to whether a new member is appointed as an alternate first. Selectman Barbara Wilkes states that in going back a few years, precedent has shown that many of the alternates that came up were not appointed by the BOS. Her feeling is that the selectmen should assemble themselves and in light of the fact that alternates have not been moved according to or by the selectman that it should hold for tonight that in any new board it should be made sure that when a position opens up that we've got to start doing it by the rules. It would be unfair to impose restrictions on any alternate when in fact, that's what's been happening for the last few years.

Chairman Cannavo reads section of the letter concerning the automatic insertion of an alternate into the seat of a regular member who resigns. It states that an alternate is only made a regular member upon the vote of the BOS. Charter section 607. Chair and Vice chair must be regular members of the board, (not alternate members). P&Z By-Laws article 6 section 4 states the Secretary need not be a regular member. This is Attorney Nelligan's opinion.

Selectmen Cappabianca, who was in the audience, points out that there is inconsistency, practice notwithstanding and he thinks that they are bound by the Charter. Until people are moved from an alternate position to a seated position as the Charter says, they should remain alternates. Selectman Wilkes expresses that in light of that, the history should be gone back through to reconstruct the whole thing for at least the past 5 years to see that with these sitting members, she understands some of them are not permanent members as sitting but are alternates.

Commissioner Passini does not see anywhere in 607 where it says where an alternate can't move to a full member. Commissioner Hamm says that everything the Commission does here is deemed by the Board of Selectmen in whatever they do. The Commission is appointed by them and works by them. If there is a conflict here, he would hate to see them go forward and violate the Charter and have an election. He indicates that a motion for postponement may be in order to investigate and come up with the answers needed. Commissioner Passini says that the By-Laws state that the election has to happen at the first meeting in December. Indicates that regardless, they are in violation of the Charter right now and that they all know that. These issues were brought up last week. Commissioner Hamm understands but says it does not give them the right to violate it a little more. Commissioner Closson says that in reality then, the Commission should not be sitting here tonight.

It is agreed that no one wants to do the improper thing. Attorney Nelligan's letter says that you have to be a full member to serve as an officer with the exception of the Secretary. If tonight Commissioner Passini wanted to be on as Secretary, he could be appointed Secretary but he can not be appointed a Vice Chair tonight anyway, according to this.

Motion made by Commissioner Hamm to postpone elections based on the fact that there are issues from Attorney Nelligan and that if the election is held tonight, it could violate Charter. Seconded by Commissioner Neal. Discussion. Vote as follows: In Favor: Commissioners Cannavo, Neal and Hamm Opposed: Commissioners Marsh, Closson, Passini and Whelan. Motion Fails.

Motion on floor to nominate George Closson as Chairman by Commissioner Whelan and Seconded by Chairman Cannavo. Commissioner Passini asks who is sitting as members right now. Commissioner Cannavo says that everyone will vote on that. Commissioner Passini says that before nomination of officers, it needs to be determined who are sitting members. Everyone can vote but an alternate cannot be voted as a vice chair. Commissioner Hamm says he

knows he is and he knows Chairman Cannavo is. Chairman Closson and Commissioner Marsh are also sitting members. Motion for Chairman voted Unanimous.

Motion made by Commissioner Passini to put in Merri-Lynn Marsh as Vice Chair. Seconded by Commissioner Whelan. Unanimous.

Motion made by Chairman Closson to nominate Bob Passini for secretary. Seconded by Commissioner Marsh. Unanimous.

**Item #6 – Tabled: Extended for 35 days.**

**Item #8: Decision: Application #05-03 Special Permit, Applicant Steven Trinkaus:**

Proposed 26 lot open space subdivision. Public Hearing was closed. Commissioner Passini recuses himself. Commissioner Whelan will be sitting for Commissioner Passini. Chairman Closson wants to add that he took a look at the site from the road and he did not see a location map as to the exact location of the property. An approval block would have to be added to each one of the sheets. Talks about the concept of open space subdivision to permit flexibility in land development and allow a variation in lot sizes without increasing the density that is permitted within that existing zone. Open space conservation and recreation areas active and passive to be provided and to the extent practicable, preserve the natural and scenic qualities of the site and surrounding neighborhood including wetlands, watercourses, ridgetops existing stand of mature vegetation, rock outcrops, scenic and historic sites, protect water quality, natural drainage systems in areas affordable housing in conformance with the policies set forth in the plan of development.

This is right in the Regulations under section 4.3. In addition under 4.1.14 it's in consideration of application submitted for special permit. These are the issues that have to be addressed as indicated and further conditions as read by Chairman Closson. The commission may approve, disapprove, modify and approve or approve with conditions as special permit site plan and subdivision plan for the development of an open space subdivision.

As Mr. Trinkaus has presented, there's the valuation of the area, the amount of the density and so forth is part of the calculations under section 3.2 of the Zoning regulations and 4.7.4 is also part of that. 4.3.7.1 the balance of land not contained in the building lots or utilized by street, driveway or unusable utility rites of way shall be of such condition, location, size and shape as to be open space. In no case shall the dedicated open space be less than 30 percent of the total area.

Chairman Closson says that this has all been presented in the presentation by the applicant. This is only reviewing what we're addressing tonight. 4.3.7.4 says that if a Homeowner's association is to be established, it must be established legally pursuant to the provision of title 47 Chapter 828 of the CT General Statutes revision 1958 as amended. The legal document submission requirements are noted.

Commission Closson says he thinks the concept of open space is forward thinking and explains his position as related to further read definitions. He went through his notes regarding septic and the defined areas of actual useable developable land is much lower than that required to come up with a maximum potential lot count of 34. There is no question in his mind that the 34 count is accurate taking everything into consideration. Looking at the Eastern boundary line toward Highland Lake, that watershed area it is about 2600, 2700 feet. The approximate Westward look at that, how much of that is incorporated with that, it looks like 450 to 500 feet coming up that side. Close to 30 acres. Adding the flagged wetlands, 21.66 acres, CL&P easement land which is 5.12 acres, and then required roads for a conventional subdivision. When all of that is taken out, he thinks the maximum count would be more in line with 23 lots. I think if we eliminate rear lots # 8, 9, & 10 on approximately a 1,000 foot driveway, that would give that density. That driveway has grades up to 12 percent.

Chairman Closson thinks the way it's laid out does not detract or give anyone the impression that this is a cluster type development. Approx. 350 – 400 feet of space to the first house and there is nothing that you can see from Platt Hill to indicate that it's a lower sized lot in my opinion. There is also visual protection. There was suggestion from the Planner that the roads be privately owned. If so, he would suggest the road has to be built to town road standards in the event the road has to be taken over at some future time. Infrastructure items and supervision addressed. Issue of Homeowners

Association and their responsibilities for designated maintenance. Chairman Closson said that Commission should make it clear if this portion of the maintenance is not done, there is a right in the agreement that the Town can lien the lots, not the open space that the association would own for enforcement sake.

Supporting documents for the Homeowner application appeared to be close to a previous application and should be gone over to make sure what we have here is adhered to. The possibility of granting a road width waiver needs to be addressed.

Commissioner Hamm has issue with open space description and amount of lots. It is indicated that these are only the opinions of Chairman Closson and expresses his opinions. Mr. Carpentino's opinions are indicated in a memo regarding elimination of the 3 lots. Open space calculations as delineated by the professional engineer and as the applicant should be considered as being submitted by a professional as opposed to trying to determine specifications as lay people on the commission. The applicant has asked for public roads in his application. He's met the criteria for public roads and has only asked based on our regulations to have the width of the road reduced to 22 feet. Suggests leaving at 24 feet to have two 12 foot lanes. Commissioner Hamm said that he cannot see denying lots 8, 9, and 10. There is no reason to deny them, there are no reasons to deny them and there is nothing in our regulations that say we can deny that. The applicant meets our regulations based on what he's put forward. If some form of the application is to be denied, we need to give a reason why. Commissioner Whelan says that he thinks a reason to deny would be because in winter he thinks first responders would have a tough time getting down and up out of that 12 percent. Commissioner Hamm points out that the Fire Marshal and possibly the Police Chief already stated there would be not problem. Commissioner Hamm says that we need to say exactly what in our regulations says that we can deny those 3 lots.

Chairman Closson says this is a judgment call. It's not like an RU-3. When you're talking about a Special Permit, this is a special deal to permit an open space subdivision, it's not automatic. Perception that this type of a subdivision might not otherwise be reaching this density because of the difficulty of the site. Chairman Closson further said that to eliminate those 3 to keep the density at the level it needs to be maximized at even if it's a conventional subdivision. Commissioner Hamm remembers that the topography in his mind indicated it could be done. The referral letter from the Police Chief was passed around for the Commission to see.

Private roads were never really discussed. Commissioners Closson and Hamm indicated they both asked Mr. Carpentino, but a definitive answer was never given. Chairman Closson believes that in wearing the Town Manager hat, Mr. Carpentino is looking at it from a budget standpoint. Public works may have had a little input on that. Commissioner Whelan states concerns of snow removal and emergency access. Commissioner Cannavo says that if you're collecting taxes from these people that you should give them the service.

Commissioner Hamm said that if the applicant wanted it a gated community, he would have presented as such. It was presented as public roads. Chairman Closson said that because it is a Special Permit the Commission can approve, disapprove, modify approve or approve with conditions if it is to the benefit of the neighborhood. Commissioner Hamm said that he understands that but if it is a substantial change in the application, he does not want to give the applicant a reason to create litigation problems later on down the road. He believes that eliminating 3 lots is a substantial differential in this case. Both issues should have been discussed in public hearing when it was open.

Chairman Closson said that there was a public hearing that was cancelled and he had questions for October 28<sup>th</sup> that he would have loved to ask and there was no public hearing. The applicant was making modifications in response to Wetlands and gave the Commission a written extension at that point. The more public input and discussion that the Commission can have is better. Chairman Closson said that he is getting his packet too late and if he gets a packet with this much involvement two or three days before the hearing, he is not going to address it until he hears the presentation. Commissioner Hamm pointed out that the draft motion with the indication of removing lots 8, 9, & 10 was given to them two weeks ago so that the Commission was aware of it. Further discussion on the public hearing time.

The Commission went over the conditions as set forth on the Draft Motion and made changes as seen fit as reflected on the signed motion form with some discussion:

Chairman Closson took a Commission consensus on whether they should keep lots 8, 9 & 10. No to keeping lots 8, 9 & 10: Whelan, Closson and Marsh. Yes to keeping them Hamm and Cannavo.

Chairman Closson took a Commission consensus on private or public roads. For Public: Hamm, Cannavo, Closson and Whelan. For Private: Marsh.

The Commission was in agreement that the outfall portions being maintained by the Homeowners Association and the roadway itself will be public.

The Commission discussed the liens in reference to the Homeowners Association in the Homeowners Association Agreement. After discussion, it was agreed that Attorney Nelligan will be the counsel to make sure that the Homeowners Association agreement will take into consideration if any maintenance is not done. Further discussion on how it would be possible to lien the Homeowners or Homeowners Association in order to make sure maintenance is done. Commissioner Hamm suggested that each member of the Homeowners Association who is a property in the subdivision is signed personally to belong to the Homeowners Association, hence they can be personally liened if there is an issue with the maintenance of those drainage structures. He further stated that Mr. Carpentino, Attorney Nelligan and the applicant will work out the association agreement and that is where it will be stated and the terminology will be that everyone who buys a lot must be in the Homeowners Association and that will be in the deeds. Commissioner Hamm said that the Commission should make it clear that each individual property owner will know that by belonging to the Homeowners Association that they are signing personally so that if issues arise that they have a responsibility legally and Mr. Carpentino, Attorney Nelligan and the applicant can work this out.

The Commission discussed the outside inspection service condition. The Commission agreed that the outside inspection should be paid for by the applicant and be by a Professional Engineer licensed in the State of Connecticut, which is not the applicant.

The Commission then went back to the issue of eliminating lots 8, 9, and 10. There was further discussion as to the steep slopes, the density, the referral of the Fire Marshal, the high water tables, etc. Chairman Closson feels that the open space subdivision regs shouldn't be used to get more density than could be built with conventional property and that is where he disagrees. He feels that 23 lots is more in line with the density on this site than 26 lots. Commissioner Hamm reiterated that he felt that the density was fine with this project and that the applicant is way over the percentage of open space and that those 3 sites have some of the best soils of the entire site. Commissioner Cannavo also feels that he cut down a lot of lots already. Commissioner Hamm also stated that he feels that bringing out issues such as slopes and things like that is not part of the Commission's regulations and that they are being opened up to litigation. Another consensus was taken and it appeared that the motion would fail if the three lots were kept on the plan.

The Commission looked at the map with the properties in question again and discussed it further. It was decided to eliminate lots 9 and 10 with 8 being subject to the Fire Marshal approval.

After discussion of various road widths, the Commission decided that the 22 foot road width is fine.

**Motion made by Commissioner Hamm and seconded by Commissioner Cannavo To Waive Road width requirement to 22 feet and Approve with conditions, Application #05-03, Platt Hill Road, Special Permit and Subdivision**, request for 26 Lot open space subdivision of 104.5 acres of land, application of Steven Trinkaus, property of Barbara Scovil Laganda, Ann Scovil Cook, Susan Scovil MacDougal, Samuel B. Scovil, Jr. & Samuel B. Scovil, Sr., Map 43, Blk 154, Lot 22-1, Zone RU-3, as shown on plans entitled "Trade Winds Farm An Open Space Subdivision 104.5+ Acres - Platt Hill Road, Winchester - Connecticut" prepared by Trinkaus Engineering, LLC and dated July 26, 2005 with Sheets 3, 4 and 12 Revised to 10/21/05, based on testimony & subject to the following stipulations:

1. That Lots #9 and #10 be eliminated. Lot #8 Contingent upon Fire Marshal Approval;
2. That the Home Owner's Association provide 20 ft. wide easements to the Town for access to repair any portion of the drainage systems/structures which may cause damage to any Town facility or private property AND to place liens against the Home Owner's Association in the event for such repairs. Individual liability of each homeowner be a part of Home Owner Association documentation;
3. That the Home Owner's Association documents provide for all environmental controls, monitoring and maintenance specified in the Inland Wetlands Commission approval;
4. That the Open Space ownership be the Home Owner's Association;
5. That conservation/open space easements shall be submitted to the Town for review by the Planning Director and Town Attorney for form and content;

6. That the Home Owner's Association document provide for the conservation/open space easements and maintenance thereof;
7. That the Home Owner's Association document be reviewed and approved by the Planning Director & Town Attorney for form and content prior to endorsement of the plans;
8. That a performance bond acceptable to the Town of Winchester be provided for road and drainage construction, as well as all erosion & sedimentation controls be submitted to the Town in an amount to cover the costs of such improvements plus 10% prior to endorsement of the plans;
9. That a landscape bond be submitted to the Town prior to endorsement of the plans;
10. That an inspection deposit fee be submitted to the Town prior to start of construction to cover the costs of outside inspection services. Said Fee shall be reviewed to assure that a positive balance is present at all times. Construction shall cease if the balance of this fee is insufficient to cover the costs of outside inspection services which shall be provided by a Professional Engineer-not the applicant;
11. That a pre-construction meeting be held with Town Staff and consultants prior to start of construction;
12. That the Certified Letter of Approval be placed on the plans.

Reasons: 1. The proposal, as modified, satisfies the Special Permit criteria of the Zoning Regulations.

Voted Unanimous.

Break 8:35 to 8:42 p.m.

#### **Item #9: Discussion:**

##### **a) Planning & Zoning Commission By-Laws**

Chairman Closson suggested that since Commissioner Passini did the preparation of the changes, that he make the presentation. The proposed changes before the Commission were handed out at the last meeting for everyone to review for comment. The Commission went through each change as proposed with discussion as follows:

#### **Article VI:**

##### **Section 1:**

Commissioner Whelan said that he was going to bring up that the Commission should remain flexible. Chairman Closson read the recommendation that the days not be specified in the By-Laws. He further stated that when the meeting days were changed, the By-Laws, in error, were not. This will give the Commission the option of changing the days as needed without changing the By-Laws each time. The Commission agreed that the new verbiage will read: "Regular meetings will be held as specified in the Commission's schedule of annual of meetings on file in the Town Clerk's office".

#### **Article III:**

##### **Section 4:**

Commissioner Hamm said that the Selectmen control Section 4, so the Commission cannot based on the letter from Attorney Nelligan. Commissioner Passini said that this was not public knowledge until tonight. Commissioner Passini requested from Clerk Lukasavage that he be provided with a copy of the fax that went to Attorney Nelligan inquiring about alternates on the Commission. Commissioner Passini said that he would challenge Attorney Nelligan to show the Commission in Section 607 of the Town Charter where it says that the Selectmen have to move alternates to permanent positions. Commissioner Hamm said that the Selectmen also have to adopt the By-Laws and these are just suggestions.

Commissioner Hamm feels that since the Selectmen control the issue by Town Charter, that there isn't any reason to put the change in there. According to Attorney Nelligan it is clear in the Charter. Commissioner Closson said that there have been other things that are clear to Attorney Nelligan that were not. Commissioner Closson said that the Commission can propose the By-Laws to the Selectmen and the Selectmen can reject them.

Commissioner Marsh asked what the Selectmen are going to do to keep better records. Commissioner Hamm said that they formed a subcommittee in order to review the Commissions, By-Laws, terms, etc. Commissioner Passini said that what he has found is there are no clean records of the Commissions. What he proposed in the new By-Laws in Article

IV: Section 5: "The Secretary shall also maintain records of Commissioners terms and record all changes with the Town Clerk".

Commissioner Hamm said that this will simplify it, but he was told that with the problem with terms expiring had to do with re-appointments. Commissioner Passini said that if you start out on a five year staggered term then there is no way a re-appointment will get you two members expiring in the same year. He believes it got out of sync by the alternates term moving with him instead of the alternate filling the remainder of the term he is replacing.

Commissioner Hamm said that Selectmen Cappabianca entered the audience and asked if he could shed some light on the records of terms, etc. Selectmen Cappabianca said that it appears that no one has kept track of it. The Selectmen were making the appointments and were assuming that it was followed through by Laurie (Bessette-BOS Clerk) because Laurie was making the lists. They also assumed that the alternate was not keeping their expiration date, but was taking the expiration date of the seat that was filled. This was not the case. The sub-committee, Barbara Wilkes, Mayor Welcome and David Cappabianca, just had a meeting tonight in order to try to sort out the different Commissions and the various problems.

It was asked of Selectman Cappabianca if it would be offensive to the Selectmen if a change in the By-Laws specified that the Secretary of the Commission kept the records of the terms and appointments. Selectmen Cappabianca said that if every Commission did that it would be a wonderful thing.

Commissioner Passini asked Selectman Cappabianca if the Selectmen would take offense if the Commission changed the By-Laws so that the Commission has the option of moving an alternate into a permanent position. Selectman Cappabianca said that he would not take offense but that this conflicts with the Town Charter. Commissioner Passini again said that he would challenge Attorney Nelligan to show him where it says that in the Town Charter. Selectman Cappabianca read the section of the Town Charter and said that it is clear that this is what it says. Chairman Closson also feels that the Commission should get clarification from Attorney Nelligan on this. Selectman Cappabianca said that, although the Commissioners should not contact Attorney Nelligan directly because the Town is charged each time he is contacted, he thinks that if they are challenging the opinion that was read tonight then they should ask through Mr. Carpentino for Attorney Nelligan to clarify this.

Article III:  
Section 5:

Commissioner Passini said that the first meeting in December will be the housekeeping meeting with the election, signing code of ethics and annual review.

Section 5 (second) was misnumbered. It should be Section 6: Commissioner Hamm said that he would add "any appropriate materials". He feels this would cover anything such as the "what's legally required" book.

Article IV:  
Section 2:

Commissioner Passini said that if you look at the Town Charter and State Statute, the Town Planner is not a member of the Commission and does not act as a member of the Commission, it is actually the First Selectmen and the Superintendent of Public Works shall be ex-officio members. This would give the Commission permission to direct Mr. Carpentino.

Section 5:

Commission felt this change was appropriate.

Section 7:

Commissioner Closson said that if they are going to make a term limit, it should only be on the Chairman. Commissioner Passini said that the term limit applies to each position so that a person could serve 5 years as Secretary and also 5 years as Vice Chair and Chair as well. Commission Whelan said that he feels terms limits are a good idea. Commissioner Closson agreed. Commissioner Marsh and Hamm feel that by doing the election every year, the

Commission has the option to elect someone new if they feel there should be a change. Providing the elections are done every year.

Commissioner Closson still feels that it is useful in order to keep the energy level of the Commission up and for the opportunity for other people to lead the Commission. After a brief discussion going back to member terms, alternates and stepping into a member's term, it was decided that the 5 year term limit in an office will be left in.

#### Article V:

This section refers to Election of Officers. The section added refers to if a current officer is not performing their duties that a special election can be held. However, there is an error. It should read "with" advance notice, not "without". Commissioner Marsh asked what criteria would be used to determine this. Commissioner Passini said that he thought it would be the responsibility of whoever presents the item for the agenda to document their findings and their issues. Not performing their duties as set forth in Article IV which is clear.

#### Article VI:

##### Section 3:

Members must be physically present. All Commissioners agreed.

##### Section 5:

This section is in the Ordinance and this reiterates that ordinance in the By-Laws. All Commissioners agreed.

##### Section 7:

Commissioner Hamm said that it should be added "as appropriate by the Chairman". Commissioner Passini pointed out in the case of the Trinkaus application that Commissioner Neal was not at the first meeting. Commissioner Hamm pointed out that he could sit for the remainder of the application if he did his homework and listened to the tapes and read the information and minutes of the meeting that he missed. Commissioner Cannavo asked what would happen if 2 members of the 5 recuse themselves and then for the next item the 2 members are reseated, do the alternates then get bumped back? Commissioner Closson said yes and that is according to Robert's Rules. It should be on the issue that requires the alternate to be seated. The Commission agreed on this section.

##### Section 5:

The Commission went back to Section 5 regarding attendance. Commissioner Cannavo asked if this section also refers to alternates? Since this is dictated by Town Ordinance the Commission agreed that it would not be of harm to add "or alternate" to that. It will follow the Ordinance but will clear up whether it is a seated member or alternate.

Commissioner Passini read Mr. Carpentino's comments regarding a Commissioner unable to attend a meeting. The Commission agreed that notification to Chairman "OR" Planner is fine. Commissioner Closson suggested that such a notification or that much of the paperwork such as agendas could be done by e-mail.

##### Section 6:

In reading Mr. Carpentino's comments that the Commission is complying with State Statutes as long as there are written motions. Clerk Lukasavage explained that the decisions must be reduced to writing within three days which is covered because the motions that are signed are already reduced to writing the night they are signed. The minutes must be reduced to writing within 7 days but don't have to be presented or given to the Town Clerk. Mr. Carpentino's suggestion to Clerk Lukasavage was that minutes are not posted with the Town Clerk until after the Commission approves them so that any changes/corrections can be made to the actual minutes. Any changes cannot be made once the minutes are filed, they can only be noted on the minutes of the next meeting. It was agreed that the minutes would be presented, as feasible, at the next meeting for approval and would be changed/corrected as needed, approved by Commission and then posted.



After further discussion, Commissioner Hamm suggested that it says “reduced to writing per State Statute” and then the By-Laws further states that the Commission have them for their next meeting. Commissioner Passini asked Clerk Lukasavage to let him know the State Statute that Mr. Carpentino took this from.

#### Article VIII:

##### Section 1:

Commission agreed that they have always done “agenda review” so that is acceptable. Commissioner Cannavo suggested “public comment” after roll call. Commissioner Neal asked regarding the order of business. The Commission agreed that it would be: Call to order, Roll call, Public comment, Agenda Review, Approval of Minutes, Old business, New business, Communications & Bills and Adjournment.

The Commission discussed the Zoning Enforcement Report that is in the regulations and should be at the meetings. Commissioner Hamm said that they had trouble getting Marc (Melanson) to come to the meetings. Commissioner Closson suggested that even if it is submitted in writing. Commissioner Closson feels that these reports are important, especially with repeated regulation problems.

##### Section 2:

Commissioner Cannavo asked if an alternate can make a motion to dispense with an item on the agenda. Commissioner Passini said yes, he interprets it that way.

##### Section 3:

Commissioner Cannavo asked if this applied to the addition of agenda items also. He feels that it really means the seated members. Chairman Closson said that a lot of items and discussions include all 8 potential members if it is not to do with applications. For example the By-Laws that they are working on tonight. Commissioner Cannavo said that somewhere there should be a definition of member. It was suggested that early on in the membership section that it be defined.

#### Article IX:

##### Section 3 and Section 4: just corrections.

In Section 4, Commissioner Passini said that it brings up an interesting situation because the Secretary does not have to be a seated member. It was discussed and agreed that the most likely scenario would be the Chair and Vice Chair recusing themselves in which case the Secretary would then be moved to a seated position for the public hearing and would then be able to preside in their position as Secretary.

#### Article XI:

The Commission agreed that this would be a good idea to review the By-Laws annually and then have them reviewed by the Town Attorney and be filed with the Town Clerk. Commissioner Hamm said that he also feels that it should be added since it is the process that the Board of Selectmen must review any change in By-Laws. The Commissioners asked Selectman Cappabianca what his feeling was. He said that they should be reviewed by the Town Attorney. Commissioner Hamm pointed out that the previous adopted By-Laws were approved by the Selectmen. Selectman Cappabianca said that he would check into that. It was agreed that they should be reviewed by the Attorney Nelligan and then take his suggestion as to whether they go to the Selectmen. Selectman Cappabianca said that it could not hurt to submit them to the BOS and let them review them also. The Commission agreed that the wording is fine.

Chairman Closson said that it would be a good idea to get the agendas posted on the website. He asked who physically does that. Clerk Lukasavage said that she physically does it but will not be able to until she is caught up.

Additionally, Chairman Closson said that another issue that came up is cancellation of meetings. There have been a lot of planning meetings that have been cancelled. He feels that if a meeting is scheduled it should not be cancelled unless

there is 1) weather problem; 2) consensus of Commission; or 3) or there will not be a quorum. He feels that the notification of meetings are important and those three items should be in By-Laws as only reasons that meeting can be cancelled. The Commission discussed the various reasons of planning sessions or public hearings being cancelled.

It was decided that under Section 6 there would be an item added for cancellation of meetings.

Commissioner Passini will make the corrections and get to Clerk Lukasavage for the next meeting. It was discussed that there is a 30-day written notice to the Commissioners that the final proposal for the By-Laws will be voted on. Clerk Lukasavage will get that out in the mail tomorrow for notification to the Commission for the January 12<sup>th</sup>, 06 meeting.

#### **Item #9c: 2006 Schedule of Meetings:**

Clerk Lukasavage said that the Commission has an updated schedule that has been handed out tonight that has changes to IWC and ZBA. It is dated 12/7/05. Commissioner Passini asked earlier in the meeting if this year's schedule takes into consideration the various holidays that fall on regularly scheduled meeting nights. Clerk Lukasavage said yes, this had been taken into consideration this year.

Motion made by Commissioner Hamm to adopt the 2006 Schedule of Meetings. Seconded by Commissioner Whelan. Unanimous.

#### **Item #9d: Subdivision Regulations:**

The Commission discussed that they need to get this done soon. It was wondered if Mr. Carpentino has gotten in touch with David Battista to sit on the discussion of these regulations with the Commission. It was discussed the size of the agenda for the December 19<sup>th</sup> meeting. There are two public hearings and possibly the Tort Museum as well. Commissioner Closson will discuss with Mr. Carpentino what is being done with Mr. Battista and he will get back to the Commission. Possibly have a special meeting just for this purpose.

Motion made by Commissioner Hamm to table the Subdivision Regulations. Seconded by Commissioner Cannavo. Unanimous.

#### **Item #9b: Commission Member Terms:**

Commissioner Passini passed out a table that he made showing 3 options to repair the terms of various Commissioners so that they abide by the By-Laws. Selectman Cappabianca remained in the audience and discussed this briefly with the Commissioners. It was agreed that this was a problem that has been going on for various reasons and had not been kept track of. It was further agreed that Commissioner Passini would present his current findings to the Selectmen subcommittee that has been formed to handle the current issues of members and By-Laws of the different Commissions and have them find a solution to fixing the Commissioners terms.

Motion made by Commissioner Hamm to send Commissioner Passini's work to the Board of Selectmen for their correction of the problem. Seconded by Commissioner Cannavo. Commissioner Passini said that only discussion at this point is who is a member of the Commission. Commissioner Closson said that this is for the BOS to work out. Selectman Cappabianca said that there are two things to work out which are the expiration dates and who is seated and who isn't. They should be able to do that in fairly short order. After brief discussion, it was stated by Selectman Cappabianca that the subcommittees findings are that there are 4 full members which are: Marsh, Hamm, Cannavo, and Closson. There is one full member vacancy. Alternates are: Whelan, Neal and Passini. Commissioner Passini will modify his table to reflect known sitting members and will send support data that has researched. Motion voted Unanimous.

Commissioner Cannavo asked Selectman Cappabianca who the Commission's liaison is. He stated that they have not been assigned yet but should be in the next meeting or so.

Communication and Bills: done by Commissioner Cannavo.

Motion made by Commissioner Passini to adjourn meeting at 10:20 p.m. Seconded by Commissioner Neal. Unanimous.

Respectfully submitted:

Anna Lukasavage