

**MINUTES — Regular Meeting**  
**CHUCKANUT COMMUNITY FOREST PARK DISTRICT**  
**Wednesday, April 27, 2022, at 6 PM**  
 Online Meeting Through Zoom  
 Mailing Address: PO Box 4283, Bellingham, WA 98227

Official email addresses for Commissioners, where public may send comments (subject to public disclosure): Frank James [fjames.ccfpd@gmail.com](mailto:fjames.ccfpd@gmail.com) John Hymas [jhymas1331@gmail.com](mailto:jhymas1331@gmail.com)  
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**Our Mission:** The mission of the Chuckanut Community Forest Park District is to ensure the entirety of the property is protected in perpetuity in public ownership, with respect for its ecological, recreational, and educational functions and to serve as a fiscal mechanism through which the district, via a tax levy, will repay the City of Bellingham for the Greenways Endowment Fund loan. **Due to the Covid-19 outbreak and the Governor's "Stay At Home" Order, this meeting of the Chuckanut Community Forest Park Dist. has been conducted online on Zoom.**

A visual and audio recording of this meeting will be posted on the CCFPD website. If your camera is on during the meeting, your voice, likeness, and surroundings, will be publicly available and viewable on the CCFPD website. If you choose to speak with your camera off, or by calling on a telephone, only your voice will be recorded.

**Call to order:** Frank James. Welcome Commissioners and Citizens. Per Chapter 42.30 RCW (Open Public Meetings Act), CCFPD Board meetings are open to the public.

**Roll Call:** Frank James, John Brown, John McLaughlin, and Hue Beattie present. John Hymas was not present.

**General Public Comments:**

John Blethen: I was verbally assaulted by a good friend of mine, who's a biker, about his backyard, but it's the 100-acre woods and the loss of biking and I think that the bikers are going to be organized and they'll make a strong presentation about the biking community. I don't know what's going to happen with the off-leash people. I've been verbally assaulted by them too. I think we should be prepared for that, but people need to see it as an important piece of habitat rather than necessarily their backyard.

Frank James: We need to be open to all things and we are, and we will be happy to listen to people's interests for sure. We also, I think as a group and as a community, are pretty committed to some fundamental principles that are outlined in both the proposed new conservation easement and the master plan which is going forward.

**Motion** by John Brown to approve Agenda for today's meeting. Second by John McLaughlin. Approved 4/0.

**Introductions:** Bob Carmichael, legal counsel, and Robyn Albro, secretary. Other attendees: John Blethen, Vince Biciunas, and Tina Mirabile.

**Motion:** by John Brown to approve March 23, 2022, minutes. John McLaughlin seconded. Corrections from Hue Beattie and John McLaughlin. Minutes approved with corrections, 4/0.

**Park Advisory Board Meeting Report:** No Report.

**Old Business**

**Meeting with Whatcom Land Trust re: Conservation Easement**

Frank James: Bob Carmichael and I met with the two leaders from the Land Trust, and we came to understand their process I think in fair detail. We outlined an approach we'd like to take, and they seem favorable towards that so we're moving in the direction of a mutual agreement with them being the holders of the conservation easement in the long run once we get a final conservation easement. There was some thought of being more creative with it than we have been and involving Rand Jack in that. I reached out to him, and I don't know if you had a chance to do that Bob, but he's willing and interested in supporting the effort to the extent that he's able. Mr. Carmichael's firm is also the attorneys for the Land Trust, so we really needed a separate attorney to look at this stuff and Rand was the name that came up.

Bob Carmichael: I thought the meeting went very well. Our easement will go to the land conservation committee of the Land Trust in the next few months for review and we will get a better gauge on where they stand after that meeting. Rand is on that committee also and so we will be talking to him. I have not had an opportunity to get ahold of Rand yet, but I do plan to do that in the near future, and we'll talk about that.

Frank James: I emailed with him, and he expressed a willingness to participate and an interest in supporting this effort and is very grateful for all the work that everyone in this group has done.

John Brown: Perhaps it's premature to talk about this and I just assume not talking about it if it's something that we shouldn't talk about at this time, but was there any question of money raised?

Frank James: Yes, so what they said before was they had estimated between \$50,000 and \$200,000 as the contribution we need to make towards the legal defense of this conservation easement. That's a wide range, but it's within our bailiwick. They'll just need to do an assessment once we get a final conservation easement, recalling that we don't have one now. We've got an existing one that would be very difficult to defend and be on the high end. We've got one proposed that is kind of baked into the master plan fairly effectively that would be much easier to defend. I think it's going to depend on what we walk away from the city with in agreement about what the conservation easement entails. But I think it's within our financial means to meet their needs.

John Brown: From the beginning of this operation, back in 2012, 2013, when Mr. Carmichael met with James King and Allen Marriner, I happened to be present with Kathy McKenzie, there was never any issue of money being given to anyone in order to transfer the conservation easement. That is fine. I understand the sense to that. Frank James: It's not that money goes to them. It's money that's paid to defend the conservation easement that we create. That's the purpose, not to enrich the Land Trust in any way. It's simply the amount of money they have to pay and that we have to pay in order to defend it. John Brown: Where does that money go? It is held, presumably by us. Is there any sense in which the term of this board is going to be extended for a year or two indefinitely to manage that money?

Frank James: That's not the way it works. The money is paid into a trust fund, which is a risk pool that a bunch of land trusts around the country participate in, and you pay your money, and then you take out what you need at the time that it's needed. That's my understanding of how it works. It would be a one-time payment once they assessed the risk, and it would go to this risk pool group once they anticipate what the cost would be. We would pay the money and it would go through the Land Trust to the risk pool.

Bob Carmichael: The reason we didn't raise that in discussions with the city back in 2013 is because the money doesn't go to the city and it's really none of the city's business whether we pay anybody to take over the conservation easement. That's between us and whoever we assign the conservation easement to. It really wasn't needed for our discussions with the city. It's up to this Board as to how it wants to assign that conservation easement and to whom, and under what terms and that's what we have been talking about. The terms that the Land Trust is going to require as Frank said is going to be payment of a lump sum upfront to go to this risk pool. My impression from our meeting was the cost would be a lot closer to \$50,000 than to \$200,000, but that remains to be seen. We'll see what they come back with, and it really isn't the City of Bellingham's concern what we're doing with that. We want to make sure the conservation easement is defended and monitored appropriately in the future for all time. John Brown: Thank you for explaining that Bob and Frank. I'm satisfied and you've given a clear picture of how it stands.

John McLaughlin: I'm curious, the city is planning on managing both properties, the one the Land Trust currently has an easement on, including the large wetland and the Community Forest, as one unit. And the master planning process would be of interest to the Land Trust because it concerns a property they have an easement on already. I've not noticed any participation from them in the city's public forums or any of that. I'm wondering, have they been involved in providing comment to the Steering Committee or anyone? Have they been involved in this at all?

Frank James: Not that I know of, but I haven't looked at that or asked that question. Bob might be in a better position to answer that. They're going to come to us and we're going to have a meeting with them, and we'll be able to ask all those questions, to the extent to which they've been involved or not involved.

John McLaughlin: I've expressed my concern before, back when the area was being proposed for development. There were impacts that the developer did that violated the easement that the Land Trust held with the city back then and I didn't hear a peep from the Land Trust. That was then and this is now. They have different staff and a different approach. But if we are going to transfer the easement and responsibility to the Land Trust, I would like to see some evidence that they're involved and are going to take responsibility for this place that does have special needs and needs of relationship with the city.

Frank James: I think John the simple answer to your question is that they did not have the economic resources to do that at the time. They were relying on volunteer lawyers and others, and they weren't participating in this risk pool that allows for legal action to defend these easements and that's something they built into all the acquisitions they're taking on now. So, I think there is what I perceive as a due diligence on their part to actually have the resources to do that defense and that's what this money is about, to allow them the access to a legal resource to defend this. I think that's the difference between then and now. They really hadn't planned for that and now they've got a structure where they're much more careful in what they accept and there's a definite process for that acceptance. There's also a financial component that is new and that will allow them to defend it effectively.

John McLaughlin: I get that, and I was on the Board when they were discussing these very issues and the need for resources to defend easement and you know, discussions about how much of a fee or financial resources they would need to accept easements. My concern is the city is planning something that involves one of the properties they have an easement on in ways that may or may not be consistent with the easement they have there. And again, given that they're managing easements different now than they did before, I would have expected some participation from them, at least on the property they have an easement on. You could argue it's premature for them to take an interest in our Forest as they don't have that easement. But they do have an easement on one of the things that the master plan would cover, and I would expect some participation because they're an important stakeholder. I'm puzzled why they haven't, and I'm concerned about transferring an easement to an entity that isn't doing anything different.

Frank James: That's a legitimate concern that I think we need to raise directly with the Land Trust as we move forward. None of this is a done deal. The willingness to have more discussion is the place we're at now. We haven't decided they're the people that will do it and we certainly need to critically evaluate both that option and the other option, like the university or other partners that might be willing to do this. I want to honor your comment and welcome it to that discussion with the Board of the Land Trust and try to find ways to clarify that it may be that part of the answer is internal vigilance on our part is always going to be needed, maybe not as an official Commissioner Board, but as individuals in our community too. That's a legitimate question to ask the Land Trust.

John McLaughlin: Yes. The other concern is that the best predictor of future behavior is past behavior, and you know they've given us promises that these are the reasons why they haven't done things in the past and then they're going to do things in the future, but we want to see some evidence of a change and we're running out of time for that evidence to appear before we have to make a decision about transferring. Even so, I'd like to engage them sooner rather than later.

Frank James: I'd like to welcome you to those discussions with them, especially if you have those well thought out questions. Let's move forward with the Land Trust in the next meeting. If you're willing, I'd love to invite you and they have a public process themselves that they go through that I'm sure we can participate in as well.

### **Master Planning Updates**

Frank James invited Vince Biciunas to comment.

Vince Biciunas: This meeting is a week and a half before our next Steering Committee on Friday, May 6<sup>th</sup> at 8 am. I could bring up the question, John McLaughlin, about the Land Trust participation in the master plan, but I expect that this will be our final or next to final meeting of the Steering Committee where the Parks Department will give us a summary of all the public comments to date and maybe tweaks to the outline of the master plan. We may have to comment on and maybe vote on, although I don't think we can vote on it without going to our next CCFPD meeting and having you guys' vet the final product before it goes to Planning Department and then City Council and Parks Department. We're nearing the end, but I don't really have any results. You guys have probably seen on Next Door and everywhere all the comments about bicycles and dogs off leash and all that. I made a statement saying dogs should not be allowed, period. John McLaughlin, I hope that you could back that up with some scientific facts, when the time comes for that. I went over the meeting minutes of your November meeting and when you were voting on the levee and the guy who lives on the south end of the Forest, I forgot his name right now, but his comment about dogs should be allowed off leash on the secondary trails, and that's not what we want, is it? But we need to prove that. We need to have factual data about that, so same with the bicycles, so I don't know where that's going to end up, but that's a battle I see coming.

John Brown: That's a battle I see coming too and I wonder, it seems to me that Nicole Oliver has taken a position coincidence or parallel to our own on this and that she will be forceful. We have to rely to an extent on her being forceful in backing up what she sees as the consensus of the Steering Committee, us and the City and other people and that consensus is pretty clear. Vince Biciunas: Right, but we need some definitive factual data behind that. We can't have just anecdotal information.

John McLaughlin: Right, so if we consider the three kinds of impacts that I think I mentioned, reported in the minutes from the last meeting, two of them are not going to have a whole lot of evidence, so they're transient, right? If dogs are chasing away, harassing, or otherwise scaring wildlife, it's going to be hard to detect that. What is detectable is waste. So, waste can be a good surrogate for all the other effects. Basically do a walk-through survey of the extent of waste and then put that back on the advocates for dogs of we have evidence that people have cleaned up the acts of the dogs and so we're going to be able to say ok, that responsibility allows us to be more permissive with dogs or no, there has been no change in waste, and it's a problem and so we need to be more restrictive on dogs. If we consider the same thing with all the advocates for bicycles, well, the complaint with the rogue bike trail and jump building that triggered our letter to the Parks Department six or seven years ago, that trail and set of bike jumps is still there. So, the promise that the bike advocates had, we're going to clean up our act and we're going to behave responsibly and all that sort of stuff. Well, they haven't made good on that so until something

like that happens, you have a stronger argument pushing back against bikes use advocacy and so we could do the same thing with dogs regarding waste. That really does basically provide an incentive for those advocates and the users to behave responsibly and then everyone would.

John Brown: We have proposed that to the city.

Vince Biciunas: One of the survey takers last October suggested to me, and I wish I had written down the name of the person who said this to me, but why are we counting the dogs on leash? We should be counting the poop bags coming out and I think that might be a way to go in the future. You know, every dog coming out of that park on a leash should have a poop bag with him.

Frank James: One strategic thing I'd like to consider, and I don't think we need to decide it tonight, but I do want to put it out for consideration. I believe we should have our own hearing on this plan once it's completed and that we hold those public hearings much like we've done in the past. We've had broad participation. We've had a variety of interests represented. We've come to our own conclusions based on public hearings and I think that's our duty. So, I'm hoping that's a course that we can consider having a full discussion of all sides and to create a record that then can go before other elected officials for consideration. Thanks for the thumbs up John Blethen.

John Blethen: I think your idea about this board weighing in as a board rather than as strictly the members of the Steering Committee is a really good idea. I've seen a number of these things unravel before and I'm concerned that the former president or the former chair of the park board lead that bike in at the park not long ago and I am worried about the politics of this. I hate to be that person, but maybe when neighbors, when people that are around the 100-acre wood see it as their neighborhood, rather than its ecological value, that makes me really uncomfortable, particularly if they're pretty enlightened. When I hear the deputy former prosecuting attorney saying, I'm going to run my dogs in there off leash, I don't care what the law is, this could get really warm to say the least. I think you guys should weigh in as a separate group. I don't see any reason that interferes with the process. I'm not sure that the next meeting will be the last meeting. It's billed as the last Steering Committee meeting, but it just depends on how it sails I think. I could see this process continuing on for a while. We'll see how it plays out.

Frank James: Thanks John and thanks for the encouragement. I agree entirely with your comments and appreciate them.

### **Response to Urban Forestry Plan Letter**

No response has been received. Reminder that John McLaughlin and Frank James were going to try and meet with Seth about it. Hue Beattie stated that Seth Fleetwood is currently at home with Covid.

### **Herrera Update**

Frank James: I've seen a copy as has John McLaughlin. I think there is some editing that's still needed. I don't think it's ready for prime time quite yet. I've made some notes of three or four things that I think are fundamentals that need to be evaluated and considered. I hope that we can get that out to the entire group very soon for one or more deep consideration before we release it to the city. John McLaughlin: I don't have a copy because the share point site did not give me access to that site. Frank James: Maybe Tina can ensure that you get a copy that is viewable.

Frank James needed to leave the meeting. He has a surgery scheduled for May 25<sup>th</sup>, but it may get moved up. John Brown will now chair the meeting.

Tina Mirabile: Chris sends his regards, he wishes he were here, but he has a sick child so he's doing his duty in that way. There was a bit of distribution of the stewardship plan before it was finalized to Frank, but then Chris sent a formal distribution to Frank and that had gone through all of our editorial edits and apparently Frank has been looking at it, but John or none of the rest of the group has seen it, so I'm not too sure how it gets to your guys beyond what we already sent. I will send it as an email to everybody. The idea was to get a consolidated set of comments from you as a group. Then we can move forward with trying to address any gaps or revisions or additional information that might be needed. I'd like to try to get an idea of how long that might take. Let me know what you think and when we might expect that.

John Brown: Are you in any contact with the Parks Department on this?

Tina Mirabile: Not as far as the distribution of the plan as it is right now. It's for your eyes only and in fact the figures all say draft not for distribution, so it's not meant as a document that goes beyond your group. However, I do know that Ann Eissinger has looked at it and she's offered to give us comments in a couple of days or so.

Bob Carmichael: Tina, when are you looking to receive consolidated comments from the board?

Tina Mirabile: We're a few days late in meeting our deadline and getting it out to you, but as far as our scheduled date, according to the contact, May 30<sup>th</sup> was supposed to be the final document. I'd have to look to see when our

contract ends, but it doesn't go much beyond. In two weeks would be great so that we can turn it around and finalize it, but I don't know if that's doable at this time with the group.

Discussion was held on how to consolidate the comments on the document to come from each of the Commissioners and Bob Carmichael. Bob Carmichael suggested comments be submitted by Friday, May 6<sup>th</sup> to Robyn. John McLaughlin said he wouldn't be able to start working on his comments until sometime after May 13<sup>th</sup>, as he will be out of town on a two-week course research expedition. Bob Carmichael suggested the comments be in the form of red line track change edits in the margin of a word document. Robyn Albro may not be able to work on the comments due to a health matter with her uncle, so she and John Brown will work on getting the comments to Herrera. Tina Mirabile and Robyn Albro discussed emailing the document to the Commissioners. John Brown will let Frank know that we are trying to get his comments by May 6<sup>th</sup>.

Tina Mirabile: I just hope that the document meets your needs, but we're more than willing to do what we need to do to get it there. We do have the section on wildlife and their alerts to people hiking with and without dogs and biking, but we did not address the issue as we were instructed not to.

### **No New Business**

#### **Monthly expenses and cash flow sheets.**

**Petty Cash:** WECU Bank account balance as of 03/31/2022 was \$2,967.

**Treasurer's Report:** As of March 31, 2022, Whatcom Co. Treasurer's Monthly Report, beginning unencumbered cash balance (03/01) \$242,604, ending unencumbered cash balance (03/31) \$246,093. We received tax revenues of \$8,945. Paid out \$3,181 in operating expenses, and \$2,275 was paid on our loan to the city of Bellingham. Current debt outstanding as of 03/31/2022: \$20,299.

**Motion:** by John McLaughlin to approve District Payroll Input Form, wages for Robyn Albro, 24.75 hours in March 2022, total gross of \$618.75. Second by Hue Beattie. Approved 3/0.

**Consent Agenda: Motion** Hue Beattie to approve following payments. Second by John McLaughlin. Approved 3/0.

- Payment for March 15, 2022, Invoice #97656 from Carmichael Clark PS for \$923.00 for regular professional services.
- Payment for April 5, 2022, Invoice #33751 from Whatcom C. Administrative Services – Finance for \$30.00 for Payroll Service.
- Reimbursement to Robyn Albro for payment on April 5, 2022, to United States Postal Service for PO Box Annual Rental of \$182.
- Payment for April 15, 2022, Invoice from Robyn Albro for mileage for December 2021, and February and March 2022 of \$26.27.

**Reminder:** Robyn Albro will send an email to three board members right after the meeting, John Brown, John McLaughlin, and Hue Beattie. Please respond confirming that you approve the paying of bills as listed in the consent agenda and payroll.

**Next meeting:** Wednesday, May 25, 2022, at 6 PM.

**Adjourn.** Time: 6:53 PM.