

MINUTES — SPECIAL Meeting
CHUCKANUT COMMUNITY FOREST PARK DISTRICT
Tuesday, June 6th, 2023, at 06:00 PM
Online Meeting Through Zoom and
In-Person at 1108 11th St, Ste 303, Bellingham
Mailing Address: PO Box 4283, Bellingham, WA 98227

Official email addresses for Commissioners, where public may send comments (subject to public disclosure):

John Hymas jhymas1331@gmail.com Frank James fjames.ccfpd@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.

This meeting will be recorded. 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: Welcome Commissioners and Citizens. Per Chapter 42.30 RCW (Open Public Meetings Act), CCFPD Board meetings are open to the public. Due to the Covid-19 outbreak and the Governor's "Stay At Home" Order, this meeting of the Chuckanut Community Forest Park District will be conducted online on Zoom.

Roll Call: Frank James (President), Hue Beattie, John Hymas, and Ed Grumbine. John McLaughlin is excused.

Motion by John Hymas and second by Ed Grumbine to approve agenda. Approved 4/0.

Introductions Legal counsel Bob Carmichael, Secretary Robyn Albro, Tip Johnson, John Servais, Bill Geyer, Gerry Wilbour, Barbara Zielstra, Nicole Oliver, Tip Johnson, and Vince Biciunas.

Frank James: The agenda is very simple. We are going to be discussing and taking public comments on the details of an agreement of conservation easement and we're happy to. We did not give what we believed adequate time for people to consider and comment, and we had this special meeting specifically to allow public comment. We'd like to provide three minutes to each person to make their comments, as is traditional and public service, it is. Just to review briefly, the conservation easement is something that we've been working on with the City. We currently have a conservation easement in place and have for a number of years and this is a vote to approve an amended conservation easement that was distributed publicly. I'm happy to open the floor for public comment.

General Public Comments

Gerry Wilbour: Thanks for all your hard work on this. It's great what you're doing. This is kind of the final step that we envisioned when we put this whole concept together. We looked at a lot of different ways to pay off this property. The Park District became the most difficult road to take, but the only one that assured we were going to do it and in the process of putting the proposal together, we met with Rand Jack and others in the Whatcom Land Trust about how we could preserve this place in perpetuity. And the whole concept of where you guys are at this final step you're about to take, was one that was formulated at that time as we are putting together the petition for this. So, thanks for carrying the ball for so long. You guys have Vince too, and of course, Bob. Yes, it has been a long road, in terms of public process. This was part of what was put in front of the voters, the whole notion that we would have a mechanism to secure the permanent protection of the property and that was probably going to be a conservation easement. We had looked at it in detail and I was really interested in what Bob had to say at the last meeting because at the time we were putting the Park District proposal together, we didn't think we could just hand over the money from the Park District to the City, that we were setting up a separate municipal corporation and that money couldn't be simply given to the City. We had to get something in return. So, there was a carrot and stick involved in wanting to do a conservation easement or at least incorporating it into the interlocal agreement. So yeah, this has been in front of the voters. There's nothing more clear and direct than direct democracy. The voters decided to do exactly what you're doing right now, and this is the final step in the process. The other point that I would make is virtually all Greenwood properties that they've purchased in the last 30 some years, or almost all of them, have been purchased

with outside grants, including all the greenways properties around this parcel, and since they were purchased with outside grants, they're protected by the terms of those grants. The City cannot transfer those properties or use them for purposes other than described in the grant. Having this property with the weakest protection would be pretty dangerous, I think. So yeah, you got a good conservation easement. Going any longer with this is just procrastination for the sake of it. So, I hope you approve it tonight. I think it's great. I think it's what we envisioned. I think it's what we told the public we'd do. Thanks.

John Servais: The Statement For written by many of you folks right here to the taxpayers, and I'll read the first sentence. "The singular purpose of this Park District is to repay the loan that enabled the City's purchase of the Chuckanut Community Forest, thereby assuring its preservation as a park forever." And what we have going in my opinion is a promise violated and taxes stolen. This whole thing should be turned over to the City Parks Department, all the money. We've been charging US taxes for two years after you've paid it off. There's nothing in there about doing a conservation easement and sending it all somewhere else. Whatcom Land Trust by Rand Jack's own statements is not the sort of entity that should be safeguarding the governing governments. You give them \$75,000. That's a nice little thing. They never have to spend it. They never have to decide that there's anything wrong. It's totally less than two weeks after the last meeting. We can see here there was no publicity. You didn't inform the public. There was nothing either in the Herald or the Cascadia Daily, which you could have informed. So again, you're trying to run under the radar as you have for all these years. Aspirations made against me at the last meeting. And I want to answer them and I hope you give me more than three minutes because I've got to answer what I was accused of after I couldn't speak anymore. I did attend early meetings. I spoke at the early meetings. I was not wanted. I was treated like I didn't exist. Later you started doing some projects that you didn't want to talk about. I requested the documents. I was told they were not public documents. I wasn't going to go that route. I wasn't wanted. So, I've been following you and you can check there's over 100 emails from the Commission to me and over 35 emails from me to the Commission over the last few years. I've been tracking and following you and few Commissioners had any interest in paying attention. You would have known that. So, this is not an ambush. And this is not a delaying process. This is something that we will be taking to the City Council, which you folks said last time last two weeks ago. Let them talk to the City Council. I'm sorry you're also a democratic process on a democratic government. We should be able to talk to you. Bottom line, there should be a public hearing. This little scenario does not suffice at all. Indeed, you're so cocksure of what you're going to do that on the agenda is for you to sign these easements after you listen to the few of us that want to object to it. You know the core of this whole thing is you've violated a promise to the citizens. You've collected our taxes far beyond and you're trying to promote and conserve and protect for the future your vision of what should be there. That's not your job. That's not why we elected you. That's not why we passed that levy. I'm still paying on it. Your job was to pay it off and return it to the City. And that's what I'll be going to the City Council with and why didn't I comment on earlier? Because you guys kept it secret. Frank James did not know at the end of the last meeting until the last minute how much was going to be given to the Whatcom Land Trust. He thought it was 50,000. He thought it was a verbal agreement. Bob Carmichael had to inform him. No, it's \$75,000. And we put it in now. You did not release what the agreements were. We couldn't comment. I had nothing to comment on. That was substantial over the past several years cause you guys kept everything so quiet, your agendas and your meeting minutes do not tell what all was discussed. They're very vague. They're generalized, they're short. So, you can't accuse us of ambushing you. We've had legitimate complaints and I said some of these things eight years ago to you, but you didn't want to hear them. And if you don't agree with the person, they don't exist. This has not been a democratic process. This has not been a well-done government thing. You guys have violated the public laws on this and now you're going to violate your promises to the citizens.

Bill Geyer: Commissioners, thank you. You know I'm a ratepayer to the district, live in the district. You know, public taxes pay for assets that benefit the public, not private organizations. We all know that past community leaders, Odell Cornwall and many others, donated park property to the City and trusted City stewardship. And City voters agreed. And over a century they've provided the revenue to maintain the public parks system. The Bellingham Public Parks system, which is accountable to our elected Mayor and City Council. Here are the voters we agree to form a parks district to assess themselves, to pay off a loan, a financial obligation. You are now taking the taxpayers' hard-earned money and giving a portion of it to a private nonprofit organization that is not accountable to our elected Mayor and City Council. You can probably counter that by saying, well, we'll have a contract, but ultimately it is the elected officials that control the public assets, the public lands that we, the general public own. And it's the Mayor and the Council that are the stewards of it through their staff. If the proposed conveyance is approved, I concur with some of the comments tonight. I believe you are violating the moral purpose to form the district stated in the original petition. I mean the second whereas, as I'm sure all of you, most of you, probably

signed this, where it says, Whereas the City purchased the acreage and then a loan of 3.2 million, "that requires repayment to ensure that this entire property is permanently protected for the benefit of current and future generations." So, they're ended with a financial transaction that occurred. I believe with this conveyance is approved, not only are you violating that moral purpose of the petition, you're violating the voters trust that created the district. You're violating your integrity to uphold the voters' trust. You're exercising poor judgment as a Commissioner and you're establishing an expensive layer of long-term park management that is adversarial at its core with the City. And I don't believe it is needed. The easement is an asset of a dissolving Parks District, assets that are being conveyed to the City. Do the correct simple task that places the public assets in the hands of the duly elected stewards, the City of Bellingham, through its Mayor and City Council, inclusive of the easement and funds that you've already collected from us, the taxpayers. If you do not trust them, the City, and quite frankly, resign now and allow some adults to come in and close this transaction to complete it in a timely fashion so it does not continue to drag on, nor does it take a path that was not enshrined to by the voters in this district. Thank you for your time.

Christopher Grannis: I too was involved in the petition to put the Park District on the ballot and the campaign to pass it. And the majority of the district folks voted to create the Park District for the purpose of protecting this property in perpetuity. It needs a conservation easement to protect it. We know that eleven years ago, the new Mayor, one of her objectives was to sell enough of the park to pay off the loan. So, no Bill, you can't trust future mayors. I don't have any doubt that Seth and Nicole would protect the property, but I don't know who's going to be Bellingham's mayor in 10/20/30 etcetera years. And in order to protect the property and that's what the voters voted for, to protect it, we have to have a conservation easement that will do that. Without a conservation easement City politicians can change, and Park Department personnel can change and so can master plans and by approving the easement that you have negotiated, you are protecting, which is what the Park District was created to do, and I want to thank all of you for all the work that you've done all this time to accomplish.

Barbara Zielstra: I can't say it better than Christopher just did that it's clear in the language of the petition, the protection of the property was the priority. And in order to protect it in perpetuity, we need a conservation easement. It's already been negotiated. You know the changes have been negotiated to make it more appropriate. I don't understand the disagreement about having a conservation easement. Whereas if you want to protect the wetlands and the forest, you need to have something documented that's going to protect it. And as Gerry pointed out, because so much of the Greenways property, and particularly the Chuckanut Ridge property, was purchased with grants. Those pieces are already protected, but our contribution, the 3.2 million, doesn't have any protection in and of itself. So, I'm really grateful to the work that the Commissioners have all done and to Bob Carmichael for seeing this process through all of these years. And I'm just glad we're coming to an end. Thank you all.

Vince Biciunas: I would like to add my accolades to Bob Carmichael and the Commissioners not including myself, but the people who are not in support of this are forgetting the lawsuit that we won in the state of Washington that confirmed the purpose of the concept of the Metropolitan Park District was not just to collect money, but also to preserve the property and that the conservation easement is the legal way to preserve that property. The other thing is it's rich that you know, yes, we trust our City government. We're part of our City government. We participate in our City government, but we needed a conservation easement and that is what this whole project brings about. The other thing is that the amended conservation easement, that is going to be transferred to the Whatcom Land Trust, is something that was negotiated by the parties involved. It wasn't about whose opinion about what should be in or out. It was by the direction of the Commissioners to our legal attorney and by the direction of the Mayor and Council to their legal attorney and to the Whatcom Land Trust legal team, whoever that was. That's why comments tonight are not going to necessarily change anything because the negotiations were long and arduous and not straightforward, in my understanding. But they were secret. And so, what we have is the final product and I hope everyone is as pleased with it as I am. I've read every word of these four documents, and I'm thrilled with how articulated everything is. I only have one question to ask about the baseline studies. They're going to be a new baseline study. This is the first I've heard of that, and so maybe we can hear some about that later. But my thanks to everybody, especially Bob and the Board who managed to get us to this point.

Tip Johnson: Yeah, don't really have a comment. I have a question for Bob. It's actually a couple questions, but I'm just curious. Why the Whatcom Land Trust 1 and 2 what would happen in the event, in the fullness of time, the Whatcom Land Trust were to fold up its tent and decide that its job was done. What would happen to the conservation easement? 3 We paid off the loan. And we have this nicely negotiated easement with the City. Let the City enforce the easement.

Bob Carmichael: Does the chair want me to answer those questions?

Frank James: I do want you to answer them. But if we could finish any other comments first would.

Bob Carmichael: Yeah, of course. It's your meetings.

Frank James: So, we'll have him answer those as soon as everybody that wants to have a chance to speak. Nicole is here. She's welcome to speak if she likes. And anybody else online is welcome to speak. Just raise your hand and we'll be happy to hear what you have to say.

Frank James: Bob, would you care to answer those questions you've had?

Bob Carmichael: Yes, thank you. I'll answer Vince's first. It's not the level of baseline study that the Park District did, but whenever the Whatcom Land Trust accepts a new property for a conservation easement, they do a very, very rudimentary baseline for it and that's part of their process, I believe internally by their own staff. I don't believe they hire any consultants to review things. So, it's just a routine. Review of the property that the Land Trust calls a baseline study. And then Tip Johnson. And why the Whatcom Land Trust? I guess the first answer is that decision is for the Park District Board of Commissioners, and that's what we have in front of them right now. And I don't know that I want to step in front of them. As far as giving answers, I will say that the Whatcom Land Trust is the most established conservation organization in the area, that holds conservation easements. It's been holding conservation easements for decades, and I haven't looked up how many thousands of acres they hold either fee ownership or land or conservation easements on, it's quite substantial. I don't know that there's any debate, but they're the biggest holder of conservation easements in the area and as far as what if they disband? That's a fair question. OK, so I think that given the substantial presence of the Land Trust locally, they're probably the least likely local organization that has experience significant with holding conservation easements to disband. I'm not aware of any organization that holds conservation easements in Whatcom County that is anywhere close to as established as the Land Trust with staffing and so forth. Without getting into any more detail, I think they were the biggest and probably most established local organization, which is why I think we gravitated towards the Whatcom Land Trust. The last question you asked, Tip, is why not give the conservation easement to the City. That would not be consistent with the purpose of a conservation easement because the City actually owns the property. The conservation easement has to be held legally by some other entity, and that other entity cannot be the City. If it were the City, the conservation easement would merge into the title of the property that the City owns, and in my opinion the conservation easement would be gone. It would merge into title, so there has to be a third party that holds it in order for it to be sustainable and in order for it to be effective going forward.

Tip Johnson: Thank you, Bob. That answered my question very well.

Vince Biciunas: Can I also add? I read somewhere that the City requested Whatcom Land Trust in one of these four documents. It was in there.

Bob Carmichael: That is also true. It's been the consistent position of the City, but I see Nicole's hand is up, so we should let her speak for the City.

Nicole Oliver: The interlocal agreement that was part and parcel with the Metropolitan Park District between the City and the Park District, which was from 2014, the Park District negotiated as part of repaying the loan a conservation easement that exists right now. We've always had it ever since. That was part of the core of the negotiation. Park District said we're going to pay back the loan and in exchange for that, we want a conservation easement, so they created one. It's recorded. It's on the property right now. What we've done now that the loan has been paid off is we've agreed on revisions to that easement so that it's stronger and it's clearer. The other part of the interlocal agreement, is on page four of the interlocal? The Park District shall assign all of its interest in the conservation easement to a qualified organization according to the IRS code. And they need to let the City know 30 days in advance that they're going to assign it. The City is the grantor, so we need a grantee of this easement, and this is what's going to make sure that after we're all gone that this property in perpetuity is secured and protected, and the Park District gets to choose who they assign it to, and they've chosen that the qualified entity should be the Land Trust which we supported. You're right, Vince. And the amount of money that the Land Trust requires to take on this responsibility is up to them, and I thought that would hopefully add to the conversation.

Frank James: With that, I'd like to close the public comment period, seeing no more hands and having a decent discussion of it.

Conservation Easement

Frank James: I'd like to open it to the Commissioners to consider the motion that's before us tonight. I had a couple of short comments and that is that we did look at about a dozen other organizations, national, statewide, and local and have three that we looked at very seriously for a considerable period of time. The Land Trust was favored by the City and all. The things that Bob said were considerations. They have by far the most experience of managing land trusts over the long term. This is a process we negotiate with the City, so the things in the agreement are agreed to by the City already. That's part of the process. So, this is a negotiated agreement that we're seeking tonight, the ability to sign. With that, I'd like to move on to a discussion and it might be best to start with a motion in a second and then we can open up the discussion. Do I hear a motion to approve the current document before us.

Bob Carmichael: I think any motion should be really clearly stated that if the motion, if it is something to go forward, that it would be to approve the conservation easement assignment, the conservation easement assignment to the Land Trust itself and the First Amendment to the conservation easement, and those are stated in the agenda.

Frank James: We've distributed some time ago both the conservation easement, the amendments, conservation easement and those should have been available if anybody would want to look at them and comment on them. In addition, each of our Commissioners should have had an opportunity to track this along over many months as it's been modified. The most recent modifications are fairly minor over the most recent ones over the past few months. And like others, I want to thank Bob for his hard work on this and Nicole, for her hard work as well. I believe this is something that represents both our interests and the City's interests adequately. It isn't something we do unilaterally. We do it jointly. We will propose it to the City after a full negotiation. The City will then have public hearings on it before it's approved. And there will be public meetings for further comments if people would like to make them. But this tonight is for us to approve our part of this agreement, and it would be specifically to invest the President of the Board the ability to sign that document representing the other Park Board members.

Hue Beattie: Move the approval of the amended conservation easement. If I could get a second, I think we should vote on it.

John Hymas: I'll second that.

Frank James: Just a point of clarification gentleman, that would be the conservation easement and the amendment to the conservation easement, both, I think would be required.

Hue Beattie: Yeah, I have it in front of me here, but I can't see it on my screen because I don't even have the screen working.

Frank James: So, I just asked, given that technicality, I'd like Bob to phrase the motion as it has been expressed by Hue and seconded by John Hymas.

Bob Carmichael: I need to know Hue, whether you were moving to simply approve the amended conservation easement or also approve the agreement to the conservation easement assignment and the assignment of the conservation easement, and the first amended conservation easements. There are three documents that need to be approved. I'll say them again. One is the agreement to the conservation easement assignment. That's the umbrella agreement. That's the agreement that's going to be signed by the Park District, the City, and the Land Trust. Then there's the first amended and restated conservation easement which would be between the Park District and the City only and that's also an agreement that if you want to go forward would need to be approved tonight. And then finally you would need to approve the assignment of that first amended conservation easement to the Whatcom Land Trust, so all three of those are separate documents.

Frank James: Separate documents and separate actions.

Bob Carmichael: They can be voted on as one or separately, but I want to make sure we don't forget one.

Hue Beattie: It's not clear to me why it's not called the second amended restated Chuckanut Community Forest conservation easement, because we had one already and we're amending it, and this is called the second amended restated conservation easement.

Bob Carmichael: I can answer that, and you can blame me for how it's titled, but we have the conservation easement, the original, and then the second one is the First Amendment. It's the first time we've amended it, so that's why it's called the first amended conservation easement. And that would be between the City and the Park District. After the Park District dissolves, the 2nd amended conservation easement is going to be entered into between the City and the Whatcom Land Trust. There's no real

change in that, except for the name and also some language about dissolution that doesn't need to be in a permanent document, dissolution of the Park District. So that's why it's the second time it's amended the first time it's amended is the one that you have to vote on, which is the one we're talking about now.

Hue Beattie: OK.

Frank James: That was a complex process that the City Attorney and the Land Trust agreed to. So, it does have us move the conservation easement to the Land Trust through several steps.

Hue Beattie: I would move all three steps then.

Frank James: Well, there's a motion to approve those three documents as written. Do I hear a second to support that now that we've got clarity about the process?

John Hymas: I'll second.

Frank James: John Hymas, seconds. We have time now for some discussion amongst the Commissioners. Is there further discussion that needs to take place?

Bob Carmichael: Just to be clear, before the discussion Frank, because I really want to make this clear. If Hue and John can confirm that this motion is to approve the documents that were transmitted by legal counsel to the Board on May 18th of this year [which are on for consideration at this special meeting and were published on the District website] and authorize the President to sign those documents substantially in the form presented - being the Agreement to the Conservation Easement Assignment, the First Amended and Restated Conservation Easement, and the Assignment of the First Amended and Restated Conservation Easement, together with the inclusion of all the appropriate legal descriptions. That is the motion that you've made Hue? Hue Beattie: Yes.

Bob Carmichael: And is that the motion that you've seconded John? John Hymas: Yes.

Bob Carmichael: And is that accurate Hue? Hue Beattie: Yes.

Frank James: So, I think we have consensus and clarity about the process. Thank you, Bob.

Bob Carmichael: I just wanted the record to be clear.

Frank James: That's perfectly helpful. Thank you very much. So, we have a motion and a second and we haven't really heard from Ed Grumbine. Do you have anything you want to share, Ed beyond that?

Ed Grumbine: No, I have no additions to the discussion. I'm ready to vote.

Frank James: Great as am I. If there's no further discussion, I'd like to call the question. All right, hearing none, let's vote on the motion. Raise your right hand and say aye if you agree. That's a unanimous vote.

FINAL MOTION: Restated motion (see below) made by Hue Beattie, who made the original motion and agreed to the accuracy of the restated motion, and the restated motion was seconded by and agreed to by John Hymas. Motion approved by all Commissioners present, 4/0.

This motion is to approve the documents that were transmitted by legal counsel to the Board on May 18th of this year [which are on for consideration at this special meeting and were published on the District website] and authorize the President to sign those documents substantially in the form presented - being the Agreement to the Conservation Easement Assignment, the First Amended and Restated Conservation Easement, and the Assignment of the First Amended and Restated Conservation Easement, together with the inclusion of all the appropriate legal descriptions.

Frank James Thank you all very much for your time and the diligence of years and years of work to get to this point. I wanted also to thank the former Board members and other community supporters including Bill and John. It's wonderful to have your voice and have that voice be heard. I think it's part of the process. And Tom, you never say anything, but we appreciate you participating as well as Gerry, Christopher, Vince, and our diligent staff, thank you very much. And of course, Bob for your guidance. And Barbara too, of course.

Next regular meeting: Wednesday, June 28th, 2023, at 6 PM. This meeting will be held on Zoom as well as in-person at 1108 11th St. Suite 303 above Fairhaven Bicycle. If the door is locked downstairs, a phone number will be posted on the door for you to call and be let in.

Anyone attending the in-person portion of the meeting is required to wear a well-fitting mask per the Commissioners of the Chuckanut Community Forest Park District as voted at their October 26, 2022, meeting.

Adjourned at 6:47 pm.