

Legislative History for Connecticut Act

Act Number: PA 06-128
Bill Number: 546
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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS

2006

VOL. 49

PART 9

2616-2934

kmn
Senate

95
April 28, 2006

Total number voting, 35; necessary for passage,
18. Those voting "yea", 35; those voting "nay", 0.
Those absent and not voting, 1.

THE CHAIR:

All items on the Consent Calendar are passed.

Mr. Majority Leader.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President,
there was an item previously marked Pass Temporarily
that we might revisit, change the marking, and mark
Go. That is Calendar Page 14, Calendar 204, Senate
Bill 546.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar Page 14, Calendar 204, File 236, Senate
Bill 546, An Act Authorizing Municipalities to Abate
Taxes on Open Space Land, Favorable Report of the
Committees on Planning and Development and Finance,
Revenue and Bonding. Clerk is in possession of
amendments.

THE CHAIR:

Senator Coleman.

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SEN. COLEMAN:

Thank you, Mr. President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

On acceptance and passage, will you remark?
Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. The bill before us would allow municipalities that choose to do so to establish a program to abate property taxes in exchange for the transfer of open space land to it.

There is an amendment, Mr. President. I ask that the Clerk please call LCO 5039.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5039, which will be designated as Senate Amendment Schedule "A". It is offered by Senator Coleman of the 2nd District et al.

THE CHAIR:

Senator Coleman.

SEN. COLEMAN:

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Mr. President, I move adoption of the amendment and would seek permission to summarize the amendment.

THE CHAIR:

On adoption, will you remark? Senator Coleman.

SEN. COLEMAN:

This amendment, Mr. President, would remove from the definition of open space any public recreation lands or opportunities to create public recreation lands. It would also address what has been referred to as the planned development districts concept.

And with respect to that, shall prohibit the expansion of any preexisting nonconforming use in connection with planned development districts. I urge adoption of the amendment, Mr. President. Thank you.

THE CHAIR:

Will you remark further? Senator Looney.

SEN. LOONEY:

Yes, thank you, Mr. President. Speaking in support of the amendment, thank Senator Coleman very much for bringing it forward. A portion of the amendment, Line 6 and thereafter, deals with a situation in the City of New Haven, reaction to a decision last year and the State Appellate Court

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concerning the issue of planned development districts and the absence of sufficient objective standards for the provision and creation of those kinds of districts.

This, basically, these sections of the amendment from Line 6 and thereafter, to 23, basically follows the outlines of the Appellate Court decision indicating the kinds of standards that would need to be applied, indicates that the municipality may, in act, create planned development districts and so, but that the regulations for doing so should establish standards for the zones and districts and that it must be designed for the betterment of the municipality and the floating and overlay zones, and the neighborhoods in which they're located shall not establish in a residential zone, a zone that's less restrictive with respect to uses than the underlying zone of the flexible zoning district.

So this is to make sure that there is sufficient due process and objective standards in the creation of these kinds of special zones within zones. And I would like to yield to Senator Harp, Mr. President.

THE CHAIR:

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Senator Harp, do you accept the yield?

SEN. HARP:

I do, Sir.

THE CHAIR:

Please proceed, Senator.

SEN. HARP:

Thank you so much. I rise to support this amendment. This has been a big issue in New Haven, and I believe that this amendment clarifies what the City of New Haven can do relative to planned development districts and will settle a lot of the problems that, particularly neighborhood problems that we've had with the City and development within those neighborhoods. So I urge your support of this amendment.

THE CHAIR:

On the amendment, will you remark further? If not, we'll try your minds. All those in favor, please say "aye".

SENATE ASSEMBLY:

Aye.

THE CHAIR:

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Any opposed, "nay". The ayes have it. The amendment is adopted. Will you remark further on the bill as amended? Senator Herlihy.

SEN. HERLIHY:

Thank you, Mr. President. For the purposes of an amendment.

THE CHAIR:

Please proceed, Senator.

SEN. HERLIHY:

Thank you, Mr. President. May the Clerk call LCO 4175.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 4175, which will be designated as Senate Amendment Schedule "B". It is offered by Senator Herlihy of the 8th District.

THE CHAIR:

Senator Herlihy.

SEN. HERLIHY:

Thank you, Mr. President. I move adoption.

THE CHAIR:

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Senate

002649
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On adoption of the amendment, will you remark?

Senator Herlihy.

SEN. HERLIHY:

Thank you, Mr. President. Mr. president, this is a relatively technical fix to Subsection(c) of Section 1. It simply makes the legislation even more permissive and even more enabling, allowing any and every town and city to essentially structure and customize any type of tax abatement of their choice for open space land. Thank you, Mr. President.

THE CHAIR:

Will you remark further on the amendment? Will you remark further? Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. I have had an opportunity to review this amendment. I find it to be consistent with the intent of the underlying bill, and I would support the amendment, Mr. President.

THE CHAIR:

Thank you, Senator Coleman. Will you remark further on the amendment? If not, we'll try your minds. All those in favor, please say "aye".

SENATE ASSEMBLY:

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Aye.

THE CHAIR:

Any opposed, "nay". The ayes have it. The
amendment is adopted. Will you remark further on the
bill as amended? Senator Nickerson.

SEN. NICKERSON:

Thank you very much, Mr. President. If I may,
through you, a question to the proponent?

THE CHAIR:

Please proceed, Senator Nickerson.

SEN. NICKERSON:

Thank you very much. Just wait a second, if I
may. If I may proceed then with my question, it's
rather a brief one. In Line 16 of the bill, it
provides that the triggering event for the abatement
is an exchange for transfer to the municipality of
development rights.

My question is does that apply a permanent
transfer of such development rights or could the
transferor and the municipality agree that the
duration of the transfer was for a limited period
rather than permanent, through you, Mr. President?

THE CHAIR:

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Senate

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If I can just, I just wanted to remind those in the gallery that cell phones are not permitted in use during the session. Thank you very much. Please proceed, Senator Coleman.

SEN. COLEMAN:

Thank you, Mr. President. Through you to Senator Nickerson, the transfer that's contemplated by the bill would be a fee simple transfer. So all rights and interests to the property would be within the municipality that the property is transferred to. So it would be a complete transfer, Mr. President, to Senator Nickerson.

THE CHAIR:

Senator Nickerson.

SEN. NICKERSON:

Thank you for that answer. That clarifies that, Mr. President.

THE CHAIR:

On the bill as amended, will you remark further? Will you remark further on the bill as amended? If not, the Clerk will announce a roll call vote. The machine is open.

THE CLERK:

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An immediate roll call has been ordered in the
Senate. Will all Senators please return to the
Chamber.

An immediate roll call has been ordered in the
Senate. Will all Senators please return to the
Chamber.

THE CHAIR:

Have all Members voted? All Members having
voted, the machine is closed. The Clerk will announce
the result of the vote.

THE CLERK:

Motion is on passage of Senate Bill 546 as
amended.

Total number voting, 34; necessary for passage,
18. Those voting "yea", 34; those voting "nay", 0.
Those absent and not voting, 2.

THE CHAIR:

The bill is passed. Mr. Majority Leader.

SEN. LOONEY:

Yes, thank you, Mr. President. Mr. President, I
would like to change a marking on the Foot of the
Calendar.

THE CHAIR:

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HOUSE

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5486-5780

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House of Representatives

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May 2, 2006

CLERK:

House Bill Number 5493.

Total Number Voting	149
Necessary for Passage	75
Those voting Yea	149
Those voting Nay	0
Those absent and not voting	2

DEPUTY SPEAKER GODFREY:

The Bill is passed. Representative Donovan.

REP. DONOVAN: (84th)

Thank you, Mr. Speaker. Mr. Speaker, I move for the immediate transmittal of all items acted upon today that need further action to the Senate.

DEPUTY SPEAKER GODFREY:

Is there any objection? Hearing none, the items are transmitted. And if the Clerk will please call Calendar Number 487.

CLERK:

On Page 14, Calendar Number 487, Senate Bill Number 546, AN ACT AUTHORIZING MUNICIPALITIES TO ABATE TAXES ON OPEN SPACE LAND, Favorable Report of the Committee on Finance, Revenue and Bonding.

DEPUTY SPEAKER GODFREY:

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The distinguished Vice Chairman of the Energy and Technology Committee, Representative Megna.

REP. MEGNA: (97th)

Thank you, Mr. Speaker. I move the Committee's Joint Favorable Report and passage of the Bill in concurrence with the Senate.

DEPUTY SPEAKER GODFREY:

Question's on acceptance and passage in concurrence. Would you explain the Bill, please, Sir.

REP. MEGNA: (97th)

Thank you, Mr. Speaker. Mr. Speaker, this Bill permits any municipality, at the option of the Legislative Body, the ability to establish a tax abatement program for the transfer to the municipality of development rights, rights of way and conservation easements or any combination thereof.

Mr. Speaker, the Clerk is in possession of LCO Number 5093. I ask that it be called and be permitted to summarize.

DEPUTY SPEAKER GODFREY:

Clerk is in the possession of LCO Number 5093, previously designated as Senate Amendment Schedule "A". Will the Clerk please call.

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CLERK:

LCO Number 5093, Senate Amendment Schedule "A",
offered by Senator Williams, Representative Megna, et
al.

DEPUTY SPEAKER GODFREY:

Gentleman has asked leave of the Chamber to summarize. Is there any objection? Hearing none, please proceed, Sir.

REP. MEGNA: (97th)

Thank you, Mr. Speaker. This Amendment makes some minor changes to the underlying Bill, and it also clarifies the use of overlay zones within the City of New Haven with respect to all zones and seeks to provide greater restrictions to the use of overlay zones within residential zones in the hope of preserving residential neighborhoods. Mr. Speaker, I move its adoption.

DEPUTY SPEAKER GODFREY:

The question is on adoption. Will you remark on Senate Amendment Schedule "A"? Will you remark on Senate Amendment Schedule "A"? Representative Megna.

REP. MEGNA: (97th)

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Yes, Mr. Speaker. I'd like to actually call another amendment which will--

DEPUTY SPEAKER GODFREY:

Well, let's finish this one first.

REP. MEGNA: (97th)

Okay. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Very good. Will you remark further on Senate Amendment Schedule "A"? Will you remark further on Senate Amendment Schedule "A"? If not, let me try your minds. All those in favor, signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment is adopted. Representative Megna.

REP. MEGNA: (97th)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk is in possession of LCO Number 4175. I ask that it be called and I be permitted to summarize.

DEPUTY SPEAKER GODFREY:

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Clerk is in possession of LCO Number 4175,
previously designated Senate Amendment Schedule "B".
Will the Clerk please call.

CLERK:

LCO Number 4175, Senate Amendment Schedule "B",
offered by Senator Herlihy.

DEPUTY SPEAKER GODFREY:

Gentleman has asked leave of the Chamber to
summarize. Is there any objection? Hearing none,
please proceed, Sir.

REP. MEGNA: (97th)

Thank you, Mr. Speaker. This Amendment allows,
at the option of the municipal legislative body once
again, the transferring of the abatement to any other
taxable property within the municipality owned by the
applicant.

And, Mr. Speaker, I'd like to point out for
legislative intent that this Amendment or the amount
of the abatement and the market value of the property
it's to be determined by the municipality. And, Mr.
Speaker, I move its adoption.

DEPUTY SPEAKER GODFREY:

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The question is on adoption of Senate Amendment Schedule "B". Will you remark further on Senate Amendment Schedule "B"? Representative Chris Stone.

REP. STONE: (9th)

Thank you, Mr. Speaker. Through you, a question to the proponent of the Amendment.

DEPUTY SPEAKER GODFREY:

Please proceed, Sir.

REP. STONE: (9th)

Thank you, Mr. Speaker. What would be, Representative Megna, what would be the business reason why one would want to transfer an abatement from one taxable piece of property in the same municipality as that which is being abated? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA: (97th)

Through you, Mr. Speaker, I'm told that it could be a benefit in terms of open space to the municipality and would be a greater benefit or a benefit to the property owner. Through you, Mr. Speaker.

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DEPUTY SPEAKER GODFREY:

Representative Stone.

REP. STONE: (9th)

Thank you, Mr. Speaker. Again, through you, well, the amount of the abatement would be the same whether it's applied to the property actually being abated or whether that abatement is applied to another piece of property within the municipality. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Megna.

REP. MEGNA: (97th)

I'm sorry, Mr. Speaker, would I be able to refer that question over to the esteemed Chairman of the Planning and Development Committee?

DEPUTY SPEAKER GODFREY:

Well, since Representative Stone has the floor, Representative Stone, would you opt to redirect your question to Representative Staples?

REP. STONE: (9th)

Sure, and thank you, and I plan on supporting the Amendment. I'm just trying to get an idea of why

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we're doing it. I guess this would be through
Representative Staples?

DEPUTY SPEAKER GODFREY:

Please frame your question, Sir.

REP. STONE: (9th)

Thank you, Mr. Speaker. I guess I'm just
curious, and maybe the good Representative, the
Chairman of the Finance, Revenue and Bonding
Committee, can help me out.

What would be the business purpose for allowing
one to receive an abatement on one piece of property
within a municipality and then apply it to another
piece of property also within that municipality, when
the amount of the abatement doesn't change? Through
you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Staples.

REP. STAPLES: (96th)

Thank you, Mr. Speaker. Mr. Speaker, the reason
I asked to answer the question is this was discussed
and debated in the Finance Committee and the very same
questions were raised.

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And the answer that was received by those who asked the question is that once the development rights are foregone on the property that is the subject of the open space preservation, then the assessed value drops precipitously.

So the abatement may have less value, but if the property owner has contiguous property which they still have property taxes due on, the ability to transfer the abatement to a property that still has value is what really makes the deal worth something to that property owner.

So it was on that basis that they would transfer to a property that is not subject to the provision of development rights they've foregone.

DEPUTY SPEAKER GODFREY:

Representative Stone.

REP. STONE: (9th)

Thank you, and thank you for that explanation. And just for me at least, just to summarize, the amount of the abatement on that parcel, which the owner has conveyed development rights, is something less than the abatement that would be enjoyed by that

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property owner on other property that he or she owns within the municipality.

Making it an economic gain, at the choice of, I think is important, at the choice of the municipality. Is that correct? Through you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Representative Staples.

REP. STAPLES: (96th)

Yes, through you, Mr. Speaker. That is correct.

REP. STONE: (9th)

Thank you very much, Mr. Speaker. Representative Staples, thank you for that explanation. I'm glad that the, you know the benefit of, obviously of a public hearing on an issue like this is that that issue is bedded out.

Unfortunately, I was not a Member of the Committee, but I appreciate the Chamber's indulgence. Thank you, Mr. Speaker.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on Senate Amendment Schedule "B"? Will you remark further on Senate Amendment Schedule "B"? If not, let

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me try your minds. All those in favor, signify by
saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER GODFREY:

Opposed, Nay. The Ayes have it. The Amendment
is adopted. Will you remark on the Bill as amended?

Will you remark on the Bill as amended?

Representative Miller of the 122nd.

REP. MILLER: (122nd)

Thank you, Mr. Speaker. I just noticed that in
the Senate "A" Amendment, I see a preexisting
nonconforming use, shall not authorize the expansion
of, and I seem to recall a meeting in Planning and
Development where about 30 people came up.

And they were bent out of shape because the
restaurant was located in a nonconforming zone, and it
continued to expand into a residential neighborhood,
and I just was perplexed as to how that could happen
and why it could happen.

And that kind of activity really gives zoning
boards a bad opinion from the public, and I think this
is one way to preserve that residential area, the New

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Haven area around the waterway, and I certainly will support it. Thank you.

DEPUTY SPEAKER GODFREY:

Thank you, Sir. Will you remark further on the Bill? Will you remark further on the Bill as amended? If not, staff and guests please come to the Well of the House. Members take your seats. The machine will be opened.

CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber.

DEPUTY SPEAKER GODFREY:

Have all the Members voted? Is your vote properly recorded? Please check the voting machine to make sure that your vote is properly recorded. The machine will be locked. The Clerk will take a tally and the Clerk will announce the tally.

CLERK:

Senate Bill Number 546, as amended by Senate Amendments Schedule "A" and "B", in concurrence with the Senate.

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Necessary for Passage	75
Those voting Yea	147
Those voting Nay	1
Those absent and not voting	3

DEPUTY SPEAKER GODFREY:

The Bill is passed in concurrence with the
Senate. And for the first harbinger of the incipient
end of Session, let's do the conveyance bill. Mr.
Clerk, please call Calendar Number 318.

CLERK:

On Page 5, Calendar Number 318, Substitute for
House Bill Number 5776, AN ACT CONCERNING THE
CONVEYANCE OF CERTAIN PARCELS OF STATE LAND, Favorable
Report of the Committee on Government, Administration
and Elections.

DEPUTY SPEAKER GODFREY:

My very good friend, the distinguished Deputy
Speaker from Wallingford, Representative Fritz.

REP. FRITZ: (90th)

Thank you, Mr. Speaker. I move acceptance and
passage of the Bill.

DEPUTY SPEAKER GODFREY:

The question is on acceptance and passage.

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Of course, if you wanted to use Cheshire as the pilot program, that would make me very happy.

In conclusion, thank you for listening to me and I know we can make this happen. It's truly a win-win. Tax reduction and jobs.

Do not hesitate to call me with any other suggestions you might have and please vote favorably on this proposal. Thank you.

REP. WALLACE: Thank you. Any questions? Seeing none, thank you for your testimony. Our best to Representative Fritz. Chris Wood followed by First Selectman Baxter. First Selectman Baxter followed by Robert Skolnick.

BILL BAXTER: Senators and Representatives and Members of the Committee on Planning and Development. Thank you for allowing me a few minutes to talk about Raised Senate Bill 546.

I am the First Selectman in the Town of New Hartford.

We were fortunate in this last go round on open space grants to receive two grants which resulted in the acquisition of properties accounting for 280 acres that would have otherwise been developed.

These were prime properties in the Town of New Hartford. We realize that the competition for the state grants for open space will become fierce.

Raised Senate Bill 546 enact authorizing municipalities to abate taxes on open space land should be seriously considered. It does two things.

It eliminates the competition for the grant money and it also turns the responsibility for defining proper use of open space back to the communities and I suggest that the Legislature ought to consider this bill because it does both of those things.

Towns are capable and competent to make decisions with respect to open space lands which are consistent with the town plan for conservation and development and consistent with the recommendations and policy of the Open Space Acquisition Commission which is part of the town boards and commissions.

I think this is a way for the state to transfer accountability back to the towns to be able to make their own decisions and the useful and strategic development of their properties in light of the sprawl that's occurring throughout the state and I urge you to consider Raised Senate Bill 546.

Thank you for the few minutes. I'd be glad to answer any questions as the Executive Officer of the Town of New Hartford for you.

REP. WALLACE: Thank you. Any questions? A question I have First Selectman is on the transfer of the abatement to any other taxable property.

I know from time to time we've had bills here before this Committee allowing for either the transfer of a tax creditor or, in some instances, the transfer of a tax bill.

I'm personally always concerned about either taxing someone because of a different property or, in this instance, as the bill is currently drafted, abating someone because of a different property.

So my question to you is should that or why should that remain in this bill?

BILL BAXTER: I'm not an expert on all the details and I'm sure certain parameters could be defined with respect to how that property transfer would affect the original owner of the property.

Now if Bill and Joan Smith transferred that property or transferred development rights, then Bill and Joan Smith would be eligible for the tax credit.

I don't think it would mean that Bill Smith Enterprises would be eligible in some other category, but if you define the parameters of the people transferring the land, then I think that's fair that you allow them and their heirs to benefit from that abatement over a period of time because the town is, in fact, enjoying the benefit of open space.

REP. WALLACE: Thank you. Any questions? Seeing none, thank you for your testimony.

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PLANNING AND DEVELOPMENT

March 8, 2006

the job creation numbers and everybody knows and have heard it ad nauseam in the State of Connecticut.

We just got to be very, very vigilant this year to make sure everything we do goes in the direction of making this a place where we can create more opportunities for people.

We have go to be very mindful of anything that would increase the cost of doing business in an otherwise expensive state in which to operate.

REP. WALLACE: Thank you. Any other questions? Seeing none, thank you for your testimony.

JOE BRENNAN: Thank you very much.

REP. WALLACE: Bill Michaud followed by Bill Ducci.

BILL MICHAUD: Good afternoon, Chairman Coleman and Chairman Wallace and Members of the Committee.

My name is Bill Michaud. I'm the Chairman of New Hartford's Open Space Preservation Commission and I'm here today to speak in favor of Raised Senate Bill 546, AN ACT AUTHORIZING MUNICIPALITIES TO ABATE TAXES ON OPEN SPACE LAND.

People of this state are demanding that their local governments preserve open space. When surveyed three years ago, 94% of New Hartford residents identified open space preservation as an important priority.

Two years ago, New Hartford residents voted by a three-to-one margin to authorize \$1.5 million in bond funds for open space preservation.

This winter, literally hundreds of citizens came out to town meetings, not to argue over a controversial issue, but to vote a resounding yea in favor of two open space acquisitions.

This level of participation is unprecedented and sends a clear message that open space preservation is a priority.

Open space preservation is important for all of Connecticut's communities. For more rural communities feeling the pressure of growth, like New Hartford, open space preservation is a particularly important tool.

Thanks, in part, to generous matching grants from the state and private donations, New Hartford is pursuing preservation of about 280 acres of open space that will, among other things, protect Hartford's drinking water supply and protect the quality of the Farmington River.

We've voted to cover our share of the acquisition costs with a \$1.5 million bond.

Despite the overwhelming grass roots demand and our success this past year, we have limited tools to preserve open space.

We can only go to the bonding well so many times in this climate of rapidly rising public service costs and tighter budgets.

The proposed legislation in front of you today offers an alternative that will enable towns and cities to stretch their funds farther to meet the demands for open space preservation.

We're not here asking the state for a handout, we're asking you to give us a tool at no cost to the state so we can help ourselves.

That said, I would encourage you not to over-legislate but, rather, to give municipalities the flexibility that we need to take advantage of the tax abatement approach outlined in this bill.

I've got specific suggestions for paragraph (2)(c) in the bill and, if it would be okay with the Committee, I'd like to submit written testimony.

I believe these recommendations are similar to those that will be offered by Bill Ducci in his written testimony.

Finally, I understand that there are possible concerns with the provision in paragraph (2)(c) that would allow abatements to be applied to any other taxable property in the municipality owned by the applicant.

This extremely important provision, if disallowed, would essentially put a cap on the size of the open space acquisitions that could be made using this approach and would undercut the very viability of this approach.

I strongly urge that this provision be maintained in the legislation.

In summary, I urge you to support this legislation with the changes selected in my written testimony

Nothing in this bill would require communities to implement its provisions.

For those communities who do choose this path, I urge you to provide us with the ability to offer real incentives and with the latitude and flexibility to take advantage of the benefits of this approach.

Thank you for your consideration.

REP. WALLACE: Questions? Representative Aman.

REP. AMAN: Can you compare the program that you're talking about doing here with the current 490 program for open space that allows the municipality to reduce the property taxes on open space substantially?

BILL MICHAUD: Yes. The Public Act 490 approach has a, it's a temporary preservation of open space.

Essentially, a landowner can put their land in this PA 490 for, I believe, the period is ten years.

After that period, the landowner would be able to take the land out of that designation with no penalty.

If they take it out before then, they would be penalized for that. So there's an incentive for people to leave the land in that designation for at least ten years.

Which is a very important program and it's really helped our municipality a great deal.

This legislation would allow landowners to put permanent protections to preserve their land permanently or allow the municipality to preserve that land permanently.

Is there anything currently stopping a person from leaving their land in 490 indefinitely?

BILL MICHAUD: No, there is not.

REP. AMAN: Other than market forces that might tell them eventually as taxes go up, as the value of land goes up, people are more and more, particularly in our community, seeing the value of selling that land.

UNIDENTIFIED SPEAKER: What would be the advantage to the landowner of going with the program you suggest over keeping it in the 490 program with the idea that someday in the future I may want to develop this?

BILL MICHAUD: We found, in our program thus far, that there are a lot of landowners in town who have lived on the land, they grew up on the land, their grandfather grew upon the land, they just have a real connection to the land.

They really, really want to see it preserved. I've talked to a landowner in town who sold off a small part of her land and had a house go up on it and it tore her heart out.

She really has come to the town and said I really want to preserve this land. How can I do it?

She doesn't have the wherewithal, she doesn't have the funds to just donate it. She would need to get some kind of payment for it, but she's willing to give the town a good bargain on the land.

But she needs to get something out of it. This is an approach that works for this kind of person.

It doesn't work for everybody if you want to sell your land, you're really free to do that.

If you do want to preserve it, this gives the landowner the opportunity to do that.

REP. WALLACE: Thank you. Any other questions?
Sir?

UNIDENTIFIED SPEAKER: A question I have and I'm not familiar with New Hartford. But what I understand is every municipality can identify open space the way it sees fit.

So, for instance, I think when people think of open space, they may think of ten acres of forestland somewhere.

I understand that in some municipalities, for instance, it would be possible for a homeowner who owns five acres to say I'm not going to do anything with the last three, so let's consider those open spaces, and they'd go to the town, and even though their acreage is five, only three of it, under this proposal, could be taxed.

That portion that is open space would not be taxable. My question is wouldn't that raise the mil rate for everyone else because that's taxes that aren't coming in. Wouldn't that make, specifically New Hartford, less affordable to middle income people?

BILL MICHAUD: We did a detailed study recently and what we found is that open space preservation actually makes it more affordable to live, at least in New Hartford, given our conditions.

We see that the costs of community services for new residential development exceed the revenues that we get from that development.

When a 100-acre parcel gets developed and 30, 40 or 50 new homes get put on that parcel, it actually increases our expenditures, the costs of services substantially, and those costs, obviously, get passed along to the taxpayers.

We found that when you preserve open space, you have very minimal services to maintain that open space. The loss in revenue is more than outweighed by the savings in terms of services to be provide.

REP. WALLACE: Thank you. Any other questions?
Senator Coleman.

SEN. COLEMAN: Do you see this bill in any way possibly an effort to thwart affordable housing creation within a municipality.

BILL MICHAUD: I can't speak in broader terms, but in terms of New Hartford, absolutely not.

In our plan of conservation development, we looked at certain areas that would be appropriate for open space conservation and other areas that would be more appropriate for affordable housing.

Due to our geology, we've got very limited areas that are served by water and sewer. The areas that are not sewered are mostly in the watershed of the Newpark Reservoir which is the water supply for Hartford.

We're very concerned about the density of development in the Nepaug Watershed. Those areas where we do have water and sewer, we have the capability of providing that affordably.

Those would be the areas we would target for denser housing development and away from open space preservation.

SEN. COLEMAN: Particularly with respect to a municipality that has not met its minimal commitment of 10%, why would we want to have a municipality not meeting that commitment able to take advantage of this particular legislation?

BILL MICHAUD: I'm not that well versed in the affordable housing area. I'd be afraid that I'd misstate something.

SEN. COLEMAN: Okay, thank you.

REP. WALLACE: Any other questions: Seeing none, thank you for your testimony.

BILL MICHAUD: Thank you.

REP. WALLACE: Bill Ducci followed by Marie Galbraith.

WILLIAM DUCCI: Good afternoon, Senator Coleman, Representative Wallace, Members of the Committee.

I'm here to testify also in favor of Raised Senate Bill 546, the same one that was just testified about.

My name is William Ducci, and I'm here also on behalf of the Open Space Planning Commission.

I've submitted written testimony. I'm in favor of the bill as most of us folks in New Hartford are. Basically, I guess, as you know, this bill would let the town purchase open space with tax abatement in lieu of cash on the barrelhead.

The town sees it as a good potential to take advantage of some potential deals where we have landowners that have some charitable intent.

They'd like to make a partial donation to the town, but need to receive something back in return for their land and tax abatements would suit the bill for a lot of us.

My particular concerns about the bill all have to do with the very last two sentences in the bill, the very last paragraph, which is paragraph (2)(c).

The bill states that the abatement shall be equal to the value of the open space land and it's referring to value as determined by the appraisals.

We would like to see that changed to say that it shall not exceed the value of the land.

We think we have numerous cases where we have landowners with some charitable intent, would like to make a partial donation, and it certainly doesn't make sense to us that the bill would preclude us from accepting a donation from somebody.

With the current wording, it does. We'd like to see the taxpayer protected so we can't exceed the value, but we'd like to see that as a maximum.

Second point in that same paragraph says that the abatement shall be prorated for a period of not more than ten years.

Again, we differ with that. Basically, this is a way for the town to buy this land interest-free, without the expenses of bonding and we

believe it's in the town's best interests, especially in buying land, to be able to spread those payments over 20 or 30 years.

We don't see why we should be restricted to ten years. We're basically paying with cheaper money later, interest-free, and [Gap in testimony. Changing from Tape 2B to 3A.]

--reason why we shouldn't be able to spread those payments out over a longer term.

So that's the second recommended change. Also, the same sentence refers to a pro rata, I'm sorry. I'm looking for the language here. Bear with me one second.

It says that the abatement shall be prorated over the ten-year period. Again, we're not sure why they have to be prorated. What's wrong with a sliding scale?

Somebody's tax bill that we're abating, if we grant them an abatement of \$10,000 a year for 20 years and the taxes are currently only a couple thousand dollars, we might prefer to use a sliding scale where the abatement starts low and ends up high so that will escalate as the taxes escalate.

Especially over a 20 or 30 year period. That could be very meaningful, rather than a straight prorated abatement.

We would like to see some language that allowed a sliding scale that was agreed to by both parties.

(2)(c) also says if the property is sold to the municipality, the abatement may be applied to any other taxable property in the municipality owned by the applicant.

I'm not sure what that language really means. In some cases we might be actually buying the land. In other cases, we might be just preserving the land and buying the development rights.

I don't know if this is intended to apply to both or if it's intended to apply only to an outright sale and fee simple.

Certainly we hope it applies to both. Whether we're buying the development rights or we're buying the land outright, we want to see the abatement be transferable.

The main reason for this is that once land has no development rights left on it, it really isn't worth very much and it doesn't generate any taxes.

It's going to stay in 490. The tax tab is almost nothing and if the abatement can't be transferred to another property, it's virtually worthless and we wouldn't be able to put the deal together.

We would like to see the transferability of the abatements.

Lastly, I know there have been some questions here and there about transferability to the

applicant, even to, let's say, a commercial property.

You might have situation where a property owner, even under a bargain sale basis, donated half of the value and accepted some abatements for the other half of the value for a parcel of land and they're retiring.

They're getting rid of their land. They still own a commercial property in town.

They're heading for the sunny South and if we don't allow them to use that abatement on a commercial property or on any other property that the applicant owned within the town, basically there wouldn't be an abatement and it would have no value.

In general here, I guess I see the bill written to find ways to restrict what the town can and cannot do with the abatements.

What we're asking for is a little more leeway to do what we need to do in our own town. Our own ordinance requires approval of our Board of Selectman, our Board of Finance, our Zoning Board, our Open Space Commission and then the general public.

We can't get any of these deals done without approval by all three bodies and the public, in general.

As we're saying, we have the safeguards in place, so let us do what's best for us and let

us use that judgment. It's not intended that Home Depot is going to get a tax write-off.

But, you know what, if they owned a large piece of land that we wanted and they wanted to donate it to us, maybe we'd like to let them have one.

We just think the abatement absolutely ought to be transferable. It ought to be used on any form of property owned by the original applicant.

That's all I have unless there are any questions.

REP. WALLACE: Any questions? A couple questions. Do you know how many parcels there are in New Hartford? How many are under PA 490 and how many have come off of PA 490?

WILLIAM DUCCI: There are, I'm not positive of this, but when I assembled that list for my work on the committee, I believe we had about 180 landowners who had land in PA 490.

Of course, the problem with PA 490 is it is temporary. Typically, the situation we run into most is the landowner passes on. It's left to heirs.

Many times the heirs don't live in town any more. It ends up sold to a developer where if they had the opportunity to permanently preserve it, it will still stay in PA 490 while they have it.

Once we own it the development rights or the land outright, at least it's a permanent preservation, not a temporary preservation. PA 490 has been great.

It has done a lot for rural towns in particular and it has helped curb development of prime properties.

Eventually, we have to face each one of them and this is something that would certainly lend permanency to the preservation.

REP. WALLACE: Thank you. Any other comments?
Representative Wilber.

REP. WILBER: If, let's say a person has 100 acres of forest land and they want to convey it over to the town.

You're going to do a tax abatement. At the same point in time, now this land is owned by the town of New Hartford, I would think that there should be like a forest management plan that's put into a place so there can be proper harvesting.

In that way, you can pull some revenue back in to do further operations. These are the types of things I see where there could be some more tools in the box for the municipalities in order to do it.

Just to buy the land. To let the land sit there, idle and not meet its full potential, I think you're missing the boat.

WILLIAM DUCCI: We have and are working on a separate stewardship plan for each individual parcel that the town owns and, of course, one of the allowable activities under the supervision of a forester is logging.

Absolutely. We look at a stewardship plan for each individual property.

REP. WALLACE: Any other questions? Senator Coleman.

SEN. COLEMAN: What would you say about restricting the option for creating such a program to those municipalities who have met the obligation for the affordable housing?

WILLIAM DUCCI: My personal opinion would be no, I wouldn't do that because we're meeting and trying to meet the obligation in other ways.

In our plan of development in New Hartford, we have suitable and proper properties set aside specifically for that purpose, where we're trying to encourage that type of development.

There are properties we feel should be preserved, properties that need to stay commercial, properties that it makes sense to do residential development on and properties where it makes sense to do a low cost development and low income housing.

We have clearly set aside areas for each of those and just think that we'd like to go about it in the most organized and professional manner possible.

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PLANNING AND DEVELOPMENT

March 8, 2006

SEN. COLEMAN: What percentage of the units in New Hartford are considered affordable now?

WILLIAM DUCCI: I'm sorry. I don't know that. My work has been strictly on the Open Space Commission.

SEN. COLEMAN: Thank you.

REP. WALLACE: Marie Galbraith followed by Gian-Carl Casa.

MARIE GALBRAITH: Mr. Chairman, there are a number of representatives of the agencies that will be affected by this bill and have been affected by the failure to file the quadrennial reports and they're all coming to the table.

In the interest of time, I will present the testimony on behalf of all of us. Senator Coleman, Representative Wallace, Members of the Planning and Development Committee, I'm Marie Galbraith, Director of the Mattatuck Museum in Waterbury.

I'm speaking in support of Raised Senate Bill 532, AN ACT CONCERNING EXTENDING THE FILING DEADLINE FOR QUADRENNIAL REPORTS BY CERTAIN NONPROFIT AGENCIES IN WATERBURY.

The mission of the Mattatuck Museum is to engage our community in an understanding of the past and to provide vision and leadership for the future through exhibits and programs that interpret the history of the region and the art of Connecticut.

General Assembly Raised Bill No. 546

Written Testimony of William Michaud

Chairman, New Hartford Open Space Preservation Commission

March 8, 2006

Good afternoon. My name is William Michaud, Chairman of the New Hartford, CT Open Space Preservation Commission. Thank you for holding this hearing on this very important bill – SB 546, An Act Authorizing Municipalities to Abate Taxes on Open Space Land.

People of this State are demanding that their local governments preserve open space. When surveyed 3 years ago, 94% of New Hartford residents identified open space preservation as an important priority. Two years ago, New Hartford residents voted by a 3-to-1 margin to authorize \$1.5M in bond funds for open space preservation. This winter, literally hundreds of citizens came out to Town Meetings, not to argue over a controversial issue, but to vote a resounding ye in favor of two open space acquisitions. This level of participation is unprecedented and sends a clear message that open space preservation is a priority.

Open space preservation is important for all Connecticut's communities. For more rural communities feeling the pressure of growth, like New Hartford, open space preservation is a particularly important tool. Thanks in part to generous matching grants from the State and private donations, New Hartford is pursuing preservation of about 280 acres of open space that will, among other things, protect Hartford's drinking water supply and the protect the quality of the Farmington River. We've voted to cover our share of the acquisition costs with a \$1.5M bond.

Despite the overwhelming grass-roots demand and our success this past year, we are limited in our tools to preserve open space. We can only go to the bonding well so many times in this climate of rapidly rising public service costs and tighter budgets. The proposed legislation in front of you today offers an alternative that will enable Towns and Cities to stretch their funds farther to meet the demand for open space preservation. We are not here asking the State for a hand-out. We are asking you to give us a tool, at no cost to the State, so we can help ourselves.

That said, I would encourage you not to over-legislate but, rather, to give municipalities the flexibility that we need to take advantage of the tax abatement approach outlined in this bill. Specifically, I offer the following suggestions:

1. Change the reference in paragraph (2)(c) "The abatement shall be *equal to* the value of the open space land..." to read "The abatement *shall not exceed* the value of the open space land..." Without this change, the proposed bill would apply only when municipalities pay full market value for open space acquisition. It would be far preferable to allow municipalities to negotiate bargain sales that provide better value for the municipality and tax benefits for the donor.
2. Change the reference in paragraph (2)(c) "...for a period of not more than ten years" to read "...for a period of not more than *thirty* years." The shorter timeframe in the

proposed bill would essentially put a cap on the size of the open space acquisitions that could be made using this approach and would constrain its viability. It would also limit municipalities' ability to spread the abatements over longer terms and maximize the benefits of the interest free dollars enabled by this approach.

3. Change the reference in paragraph (2)(c) "If the property is sold to the municipality..." to "If the property *(or the restrictions of use as delineated in paragraph (2) above)* are sold to the municipality..." This provision should apply to all interests acquired using this approach.

Finally, I understand that there are possible concerns with the provision in paragraph (2)(c) that would allow abatements to "...be applied to any other taxable property in the municipality owned by the applicant." This extremely important provision, if disallowed, would again put a cap on the size of the open space acquisitions that could be made using this approach and would undercut the very viability of this approach. I strongly urge that this provision be maintained in the legislation.

In summary, I urge you to support this legislation with the changes suggested above. Nothing in this bill would require communities to implement its provisions. For those communities who do choose this path, I urge you to provide us with the ability to offer real incentives and with the latitude and flexibility to take advantage of the benefits of this approach. Thank you for your consideration.

General Assembly Raised Bill No. 546

Written Testimony of William Ducci, New Hartford Open Space Planning Commission
3/8/06 Home 860 379 0838 Office 860 489 9267 Cell 860 921 6723

1) Reference paragraph (2) (c) "The abatement shall be *equal to* the value of the open space land..." I suggest that this be changed to read "The abatement *shall not exceed* the value of the open space land..."

The bill as drafted prevents the town from taking advantage of any charitable intent on the part of the landowner. I believe that there are landowners who cannot afford to, or are not willing to, donate their land or development rights to a local land trust, but if they could receive *partial* compensation in the form of tax abatements, would be willing to do so. This would leave them at liberty to take any tax write-off available for the donated portion of the value. The legislation as drafted *prevents* the town from offering, and the landowner from accepting a tax abatement in a lesser amount than full market value.

2) Reference paragraph (2) (c) "...prorated for a period of not more than ten years." I suggest that this be changed to read "...prorated for a period of not more than *thirty* years."

The value of the taxes on a given property, especially if the property is taxed under PA490, will be miniscule compared to the value of the property being conveyed. The taxes on a 100 acre parcel, assessed under PA490 at \$500/acre, are only about \$1,500/year. (30 mills X \$50,000 assessment.) If the property were worth \$1,000,000 with development rights intact, and \$200,000 without, the development rights are worth \$800,000. The town cannot possibly compensate the landowner enough to strike a deal if the abatements are limited to ten years.

Further, the town is paying the landowner off over time with no bonding costs, and no interest. The best deal for the town since there is no interest is to make the "payments" over as long a term as possible. The open space land acquired will be to the benefit of the town and its taxpayers in perpetuity, so there is no reason the town should be prevented from spreading the prorated payments over a longer term.

Also, why does it have to be prorated? Why can't the town use a sliding scale that adds up to the same figure? It is to the town's advantage to grant less in the beginning and more later in the term since it is "paying" with interest free dollars that are "cheaper" dollars later in the term. I suggest "prorated" be deleted in favor of language allowing a sliding scale agreed to in advance by all parties.

3) Reference paragraph (2) (c) "If the property is sold to the municipality, the abatement may be applied to any other taxable property in the municipality owned by the applicant."

I would like a clarification on the "If the property is sold.." i.e. does this mean only if it is an outright sale? Or does it also apply to sale of development rights? In my opinion it should apply to either, and should read "If the *property (or the restrictions of use as delineated in paragraph (2) above)* are sold to the municipality...."

Many towns are interested in owning development rights, thereby preserving open space lands, but do not necessarily want to own all of the preserved lands outright. This allows numerous options for stewardship, rather than the town being responsible, and further leaves some open space lands on rather than off the local tax rolls.

4) Probably most important of all, I have heard that there is possible concern with allowing the abatements to "...be applied to any other taxable property in the municipality owned by the applicant." If this is not allowed, the legislation would be worthless and go unused.

The vast majority of large parcel landowners have their land in PA490. Most PA490 land is assessed at \$500/acre, and a 100 acre parcel (assessed at \$50,000 total by statute) only generates about \$1500/year in taxes. Meanwhile, the same landowner owns a home, barns, etc. that generate \$10,000 or \$15,000 a year in taxes. Without transferability, no deal can be struck.

It is necessary and prudent to survey off the portion of a property to be preserved, that contains any structures and improvements. Our own State Department of Agriculture learned this the hard way some years ago. In order to maintain the integrity of the restrictions, they must apply to strictly an unoccupied, unimproved property. That unimproved property generates so little tax revenue that the abatements would be absolutely worthless without transferability. Also, many properties already are looked at as several separate parcels by the local assessor. Some people receive several tax bills even though their property is continuous. In these cases again, the abatements would be useless without transferability.

Probably the most extreme case would be to use the abatement against a commercial property, and I am still strongly in favor. An example would be an owner of 100 acres of vacant PA490 land, assessed at \$50,000 and pays \$1500/year in taxes. It gets appraised at \$1,000,000 full value. The landowner wishes to accept half of that from the town, and write off the other \$500,000 as a donation. He agrees to take that in the form of a tax abatement of \$25,000/year for 20 years. He now wishes to apply the abatement toward his commercial property. Failure of the State to allow this means that the town cannot take advantage of a landowner willing to donate half of the value of the land to the town. We should not be looking for ways to restrict or not use the abatements; we should be looking for ways TO use them.

At a time when the State has fewer funds for open space than it would like, we are trying to find a way for small towns to help themselves. We are not asking the State for any money with this legislation, we are merely asking the State to get out of our way so that we can help ourselves! Thank you for your consideration.

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Written Testimony of

John D. Calandrelli on behalf of the Connecticut Sierra Club

Before the Connecticut General Assembly Planning & Development Committee,

March 8th, 2006 Testimony in Support of bills: R.B. 5704 AAC MUNICIPAL FUNDS FOR OPEN SPACE, AND R.B. 546 AAC MUNICIPALITIES TO ABATE TAXES ON OPEN SPACE LAND

On behalf of over 11,000 CT Sierra Club members, I am writing to encourage the members of the Planning & Development Committee to support the following bills;

R.B. 546 An Act Authorizing Municipalities to Abate Taxes on Open Space Land

In its current form, this bill covers a variety of definitions for "open space land." Section (2)(G) is ambiguous at this point, however, we support the concept of alternative funding sources for municipal acquisition of natural areas.

R.B. 5704 AAC Municipal Funds for Open Space

We support the addition of expenses incurred for the purchase of land and construction of affordable housing to the fund which receives money from fees paid in lieu of open space requirements. There are some municipalities which have very little open space available and are in greater need of affordable housing. However, we feel the definition of affordable housing in Connecticut does need some revising.