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TESTIMONY OF
REPRESENTATIVE ELISSA WRIGHT
STATE REPRESENTATIVE, 41ST DISTRICT

**In Support of Proposed H.B. No. 5264, AN ACT PROTECTING MUNICIPALLY ACQUIRED
OPEN SPACE LAND.**

Environment Committee Public Hearing
February 18, 2009

Senator Meyer, Representative Roy and members of the Environment Committee, thank you for the opportunity to testify in support of Proposed H.B. No. 5264, *An Act Protecting Municipally Acquired Open Space Land*.

The purpose of this bill is to ensure that when the voting public, by direct legislative act at referendum, authorizes and appropriates funds for the acquisition of municipal land, or permanent interests in land, for open space, conservation and recreation uses, there shall be a meaningful record in the deed, or other instrument recorded with the deed, of the purposes for which such lands were acquired, any limitations and restrictions placed on the uses of such lands, and the background surrounding their purchase including the terms of the referendum ordinance, resolution, or other measure.

When voters in good faith approve a referendum question authorizing the acquisition of municipal lands for open space, conservation and recreation purposes, they are entitled to know that lands subsequently purchased in accordance with the referendum vote are protected and will remain dedicated to the purposes specified in the referendum question presented to and endorsed by the voters.

At present, municipal open space lands purchased with the aid of state open space and watershed land acquisition grants enjoy protected status in perpetuity. If state open space grant funds are used toward the purchase of municipal open space lands, a permanent conservation easement, as defined in section 47-42 of the general statutes, is required to be executed in favor of the state as a condition of the grant. General Statutes Section 7-131d (e).

If, however, municipal funds are the sole funding source for the purchase of town-owned open space and conservation lands pursuant to a referendum vote, there is no explicit statutory requirement that a permanent conservation restriction or other limitation be included in the deed, or in an instrument recorded simultaneously with the deed in the chain of title on the land records, to put future generations, including possible future purchasers, on notice of the purposes for which such lands were acquired, the uses to which they are dedicated, and any limitations or restrictions on their future uses.

The operative effect of the referendum vote constitutes a limitation on the legislative authority of future legislative bodies to reduce or divert uses of those lands to other purposes inconsistent with the open space, conservation or recreation purposes set forth in the provisions of the referendum question as approved by the electorate.

To honor and effectuate the expression of voters and prevent municipal open space lands from being developed or used in a manner inconsistent with uses authorized by the voters, the important legal effect of the referendum vote needs to be adequately and thoroughly noticed on the land records.

It is the intent of this bill to require a statement in the deed, or in an instrument recorded along with the deed, of the capacity in which the municipality took and holds such lands subject to their dedication to the uses specified, and the very important context and circumstances surrounding the acquisition including the referendum question and any restrictive language reflecting the open space, conservation and recreation purposes for which the properties were purchased and to which they are dedicated.

In summary, the citizens and taxpayers have the right to have their vote honored and protected when they approve and authorize the acquisition of municipal lands for open space, conservation and recreation purposes by direct legislative act at referendum.

A requirement of formal notice on the land records of the dedication and restriction on the uses of such lands, as proposed in this bill, would safeguard against potential mischief and ensure, to the extent possible, that future uses remain dedicated to their intended purposes into the indefinite future.

A thorough statement of the purpose for which the property was acquired and that it must be placed to that use and no other use would advance important public policies of responsible government, the sanctity of the referendum vote, and precision and clarity in property rights with regard to land titles. It would also further Connecticut's expressed goal of preserving twenty-one percent of the state's total land area as protected open space.

Thank you for your consideration and I urge you to support the concept embodied in Proposed H.B. No. 5264, *An Act Protecting Municipally Acquired Open Space Land*.