

**CONSERVATION COMMISSION
OCTOBER 23, 2001
MINUTES**

7:00 PM The meeting was called to order by Chairman Owen.
Present were Owen, Corwin, Auman, O'Connor, Clements and Morrison.

Public Hearing – Rules and Regulations for Longley Estates II, Cronin Conservation Area and Cold Spring Pond Conservation Land

Chairman Owen opened the hearing for comments by the board members.

Clerk Clements suggested that the Commission consider disallowing motorized vehicles and hunting near neighborhoods.

Member Morrison said he could understand disallowing hunting, but why disallow motorized vehicles?

Vice chairman Corwin said she feels the same as Clerk Clements, no motorized vehicles and no hunting.

Member O'Connor said she had nothing to add.

Member Auman said that motorized vehicles would be intensive recreation, not passive.

Member Morrison suggested taking each parcel individually and making comments.

John Eschle, 12 Saddle Lane, said noise was one reason to disallow motorized vehicles and sometimes there were unsupervised juveniles and it is not an appropriate use of the trails.

Paul Funch, member of the Trails Committee, said the Trails Committee unanimously supported banning hunting and motorized vehicles. He showed a map where it would be legal to hunt.

Alan Striebel, 100 Paquawket Path, said the motor vehicle use has dropped off since the Rail Trail was paved. He would like to see motorized vehicles illegal, but felt bad for the snowmobilers. He gets along with them. They are not destructive and they make it easier to use the trails for snow-shoeing and skiing. He has hunted on the Cronin Land and he would prefer to continue to do so. It is a good area to hunt. It is not near any homes.

John Murphy, 551 Longley Road, said the snowmobilers are cautious and he liked the benefit they provide to make the trails accessible.

John Goodale, 30 Drumlin Hill Road, said he has benefited by the snowmobiles but now with the path going in and it is publicized, they will have road-rage. There is no space for hunting with people skiing. It is too close.

Mark DeBender, 139 Sand Hill Road, said he has hunted on this property. He hunts with a bow and arrow and it is not an aggressive sport, it is safe and he would like to see hunting allowed.

Shawn McCadden, 102 Paquawket Path, said there are laws set up on how to do it safely. He wants to be able to hunt and snowmobile. It won't disturb the neighborhood. He asked the Commission not to take away peoples rights.

Member Morrison said it is illegal to snowmobile under the age of 14 without adult supervision and the police check on that sort of thing.

Joan Callahan, 5 Saddle Lane, asked where the looped trail was.

Mr. Funch explained the location.

Joan Tallent, 409 Longley Road, said that motorized vehicles have gasoline motors that are not good for conservation land.

Paul Duhamel, 92 Paquawket Path, said bikes come from Pepperell on the Rail Trail, what effect will a law have on them.

Member Morrison said that without rules, the police have no power, but by stating "no motorized vehicles" or "snowmobiles only", the police will have power to stop them.

Joel Magid, 47 Drumlin Hill Road, asked that no one be allowed in after dark.

Kevin Boyd, 401 Longley Road, said he would like the option to walk in there after dark, especially on a moonlit night.

Member O'Connor moved to prohibit all hunting on all three properties.

The motion died for lack of a second.

Member Morrison moved to prohibit hunting on Longley Estates II Conservation Land. The motion was seconded and passed unanimously.

Member Morrison moved to prohibit hunting on Cold Spring Pond Conservation Land. The motion was seconded and passed unanimously.

Member Morrison moved to prohibit motorized-wheeled vehicles on Longley Estates II and Cold Spring Pond Conservation Lands. The motion was seconded and passed unanimously.

Vice chairman Corwin moved to ban all motorized vehicles from Longley Estates II and Cold Spring Pond Conservation Lands. The motion was seconded and passed 5-1. Member Morrison voted no.

Member O'Connor moved to ban hunting by firearms on the Cronin Conservation Land. The motion died for lack of a second.

Clerk Clements moved to not allow motorized vehicles of any kind on the Cronin Conservation Land or hunting of any kind on the Cronin Land. The motion was seconded.

Member Morrison said to do this you would be taking away the rights of the abutters who want it. The motion failed 1 yes (Bruce Clements) and 5 no.

Mr. DeBender said by allowing only private entrance to conservation land, he lost his right to hunt.

Clerk Clements moved to disallow motorized wheeled vehicles from the Cronin Conservation Land. The motion passed 5-1, Member Morrison voted no.

Vice chairman Corwin moved to not to allow access to the trails dusk to dawn on Cold Spring Pond, Cronin and Longley Estates II Conservation Lands. The motion was seconded.

Member Clements said he prefers to have people go out after dark on moonlit nights.

Mr. Goodale said that nobody minds people walking there on moonlit nights.

The motion failed 0 yes and 6 no.

Mr. Goodale asked to have the proper signs put up soon.

7:50 PM Public Hearing (con't) – Academy Hill – Landwest

Clerk Clements read the public hearing continuation notice to consider the Notice of Intent submitted by Landwest, Inc. for a subdivision at Townsend Road and Route 119.

Donald Yonika was present and explained to the Commission that the Planning Board denied the open space plan which now allows the applicant to proceed with a plan of right. This allows the lot area and frontage to increase by 50%, creating a concept plan of 56 lots of larger size. They will be submitting a revision to the Notice of Intent. They are not requesting any waivers because of the increased lot size there will not be impacts to any wetlands or buffer zones and will stay outside 100 ft of any certified vernal pool. The units may be duplexes. They will come back before the Commission in December.

Member Morrison asked how many acres were proposed for open space on the previous plan.

Mr. Yonika said 57% of the total acreage. The new plan has no conservation land, no trail connection to Trust land.

Vice chairman Corwin asked about the uncertified vernal pools and if the rare species report done was done?

Mr. Yonika said they will try to keep a 100 ft zone around the vernal pools and the EIR will be submitted with the plan.

Member O'Connor moved to continue the hearing to December 11, 2001. The motion was seconded and passed unanimously.

8:00 PM Public Hearing – Groton Country Club

Clerk Clements read the public hearing notice to consider the Notice of Intent submitted by the Groton Country Club to remove trees within 100 ft of Cady Pond on Assessors' Lot O-271.

Brad Durrin, Manager and Joan Hutchinson from the Country Club Authority were present.

Mr. Durrin wanted to correct the notice that it was not Cady Pond.

Chairman Owen said it is called "Upper Cady Pond".

Mr. Durrin explained that they cut the trees on the 4th tee because it was too shady to grow grass. They would replace the trees with low shrubs.

Member Morrison asked why they didn't come to the Commission before they cut the trees and asked if they were aware that under the new bylaw the project is unallowable and was disappointed with the Country Club.

Member Auman said some of the trees that were removed had been within 15 feet of the pond. It looks devastated.

Mr. Durrin said he didn't think he had to file because the work was on the other side of the road.

Chairman Owen said they should have known, especially after what happened with the houses on Lovers Lane.

Something must be done to mitigate.

Mrs. Hutchinson said there was no malice of intent.

Member Morrison said it was still illegal.

Chairman Owen said they must submit a restoration plan.

Vice chairman Corwin said the slope must be planted before winter to stabilize it and the stumps may not be removed.

Only native species are to be planted.

Member Morrison said he wants an engineer to look at the hill for the best recommendation, especially after what happened to Lovers Lane.

Clerk Clements suggested they consult Robert Morehouse (NRCS) for a restoration plan.

Mr. Durrin said he will put hay bales in place now.

Member O'Connor moved to continue the hearing until November 13, 2001. The motion was seconded and passed unanimously.

8:05 PM Public Hearing (con't) Wiewel, Inc. Skyfields Drive

Clerk Clements read the public hearing continuation notice to consider the Notice of Intent submitted by Wiewel, Inc. for a wetland crossing for a driveway on Assessors' Lot 222/14 Skyfields Drive.

Brad Paul from the Trails Committee was present to present a letter to the Commission encouraging it to purchase the property offered by Mr. Hurd.

Mr. Paul was under the impression that the sale was final and Mr. Hurd now owned the property.

Ms. Montgomery said that Stanley Dillis reported to the Commission office that the sale had not been finalized. They were still doing a title search..

Member O'Connor moved to continue the hearing to November 13, 2001. The motion was seconded and passed unanimously.

8:10 PM – Discussion – GDRSD – Access Road and Well Site

Victoria Fletcher, Epsilon Assoc. spoke first concerning the proposed well site for the new high school. The drilling rig cannot navigate the steep slope and it will be necessary to cut a 20 ft section for access. The well is 120-150 feet from the wetland. The waterline will be changed per the Town of Groton Water Department specifications but will be further from the wetland than originally proposed.

Member Morrison moved to accept the change in plan submitted by Victoria Fletcher, Epsilon Associates, as the construction document signed and dated by Ms. Fletcher, for the GDRSD water supply main alignment and temporary cut access.

The motion was seconded and passed unanimously.

Ms. Fletcher explained the second matter concerning the issuance of the Order of Conditions and a request to DEP for a Superceding Order of Conditions.

GDRSD obtained legal counsel. Leigh Gilligan, attorney with the firm of Gadsby Hannah, was present.

Attorney Gilligan reported that she had not heard back from Kopelman and Paige, Town Counsel.

Ms. Montgomery reported that she spoke with Alexandra Dawson, attorney with MACC, whose opinion was that the Commission should issue the OOC since NHESP had not responded within 30 days of receipt of the NOI and that a wetland delineation was good for three years.

There had been some question of re-delineating the area of the access road.

Clerk Clements thought it would be well advised to wait to hear from Town Counsel.

Attorney Gilligan said her letter is clear what the rules are and the Commission should act.

Member Morrison moved to release the Order of Conditions 169-802 for the access road for the GDRSD. The motion was seconded.

Vice chairman Corwin said the Commission held the OOC per advice from MACC until NHESP responded.

Member Morrison said that the response time had expired.

Member O'Connor asked if NHESP finds something or the wetland boundary has moved, does it affect the OOC?

Member Morrison said the boundary is good for three years.

Vice chairman Corwin said Ms. Huckery (NHESP) wrote a letter stating that this was a trail habitat for rare species.

Member Morrison said as of tonight it is not certified as habitat.

Clerk Clements said he didn't know the answer if the project will harm the turtles or if the 30 day period takes precedence.

Vice chairman Corwin said if it is based on misinformation, it can be amended.

Clerk Clements said he was very uncomfortable acting without input from Town Counsel. Why hire them if you don't

wait for a response?

Member Morrison said NHESP has the right of appeal.

The motion passed 5-1. Clerk Clements abstained.

8:40 PM Discussion – John McElroy – 114 Hollis Street

John McElroy was present to explain to the Commission the activity behind the house he recently purchased at 114 Hollis St.

Mr. McElroy explained that he was landscaping and using very large equipment for the process.

Chairman Owen said there may have been wetlands that have been filled.

Norman Buck, 96 Hollis Street, was concerned that the work would impact the wetlands on his property by cutting off the flow.

Mr. and Mrs. Ireland, 136 Hollis Street, were also concerned about the impact to the wetlands on their property.

Mr. McElroy was instructed to hire a wetland scientist to determine if the area recently landscaped had been a wetland. If it was a wetland, it will have to be restored.

The abutters gave permission for the wetland scientist to go on their properties to do the study.

Vacancy

Member O'Connor reported that Alix Chace has expressed interest but she has been taking classes on Tuesday evenings. Those classes will end soon and she would be available on Tuesdays.

Stephanie Janis submitted a volunteer interest form to the Selectmen's office, specifying an interest to serve on the Conservation Commission.

Mrs. Janis and Ms. Chace will be asked to attend the next meeting on November 13, 2001, and be interviewed by the Commission.

Janis - Tree Cutting – and COC -270 Chicopee Row

Daniel Janis was present.

The Commission had inspected the location of some tree cutting at 270 Chicopee Row, at the request of an abutter who observed the activity.

Mrs. Janis sent an email to the Commission office earlier in the day, explaining the reasons for cutting the trees. The email said that the trees had been damaged by high winds. One of the trees had been damaged by lightning and two trees were dead. Some small trees were removed because they had been damaged by the installation of telephone and cable lines.

Mr. Janis reaffirmed the email.

He was told to contact the Commission in the future before any such activity is performed.

Mr. Janis also explained the contents of the seed mix used in the replication area on his property. The list had been submitted earlier by mail.

Member Morrison moved to issue a Certificate of Compliance to Daniel and Stephanie Janis, 270 Chicopee Row, DEP # 169-650.

The motion was seconded and approved 5-1. Chairman Owen voted no.

Desrosiers – Lot 6 Autumn Leaf Drive – Replication Area

Donald Desrosiers was present. The members met Mr. Desrosiers at the site on Saturday, October 6, 2001 to observe the proposed location of a replication area for Lot 6, DEP # 169-774. Mr. Desrosiers had asked the Commission to consider amending the Order of Conditions and not require the 345 sf replication area to replace the alteration of 115 sf of wetland for a driveway.

The Commission voted at its meeting on October 9, 2001 to send a letter to Mr. Desrosiers asking him to suggest some form of compensation for the loss of the wetland.

Mr. Desrosiers was upset with the letter and explained to the Commission that he has donated land to the Commission in the past that was not a requirement for special permits and how he built another subdivision and engineered it so as to not impact any wetlands.

He replicated over 3-1 for the wetlands on Lots 3, 4, and 5.

After much discussion Member Morrison moved to make the replication on Lot 6 optional in consideration of the 3000 sf replication on Lot 3 immediately adjacent to this lot and to eliminate condition # 44 from 169-774. The motion was

seconded and passed unanimously.

COC – Dillon – 92 Kemp St – 169-692

The members inspected the site on Saturday.

Vice chairman Corwin moved to issue a Certificate of Compliance to George Dillon, 92 Kemp Street. The motion was seconded and passed unanimously.

Beaver Dam – 62 Raddin Road

The Board of Health requested that the Commission inspect 62 Raddin Road to determine if the well was impacted by the beaver dam.

Clerk Clements was in the office when the request came in and he immediately went to the site to make the inspection. The Board of Health needed verification from the Commission that the well was impacted so an emergency permit could be issued to the homeowner, Marianne Luppold, to allow the dam to be broken to relieve the flooding of the well.

The members visited the site on Saturday for a follow-up inspection.

Shammas – 616 Old Dunstable Road

The members inspected the site on Saturday in response to a request from Ross Associates to see if a RDA should be filed for the repair of a septic system. The system is outside the 100 ft buffer zone but the line is approximately 70 ft from the wetland.

The members want a RDA filed.

Ross Associates will be notified.

Integrity Way – Replication area

On Saturday, the members inspected the progress of the replication area at the Integrity Way subdivision. There was no problem with it. It will be inspected again in the spring.

Signs for Conservation Properties

Member O'Connor reported that she spoke to her uncle who is a Shop teacher at a school.

He would be willing to have his class help with the signs if the Commission supplies the material and the templates for the lettering.

Vice chairman Corwin suggested purchasing two sets of templates. She will purchase them.

Member Auman will purchase material for twenty signs.

Ms. Montgomery will find out if the Commission can charge the materials at G. V. Moore Co.

Member O'Connor will transport the material to the school.

Writing Order of Conditions

Gibbet Hills Farms LLC – 169-797

Vice chairman Corwin said she had a procedure question. "If hypothetically, if I believe that a stream is to be perennial and the applicant has not met the requirement for riverfront, I assume we can move to deny the project."

In the regulations guidelines for intermittent vs perennial, they are supposed to bring in four consecutive days of evidence of no-flow. That has not been done.

Clerk Clements said he went to the site again and there was a little bit of flow on their side of Martins Pond Road but there was a lot of flow on the other side.

Chairman Owen said we could deny it, but you know how it is going to go, but you should vote your conscience.

Member Morrison said it would be immediately appealed to DEP.

Vice chairman Corwin said the worst that would happen is that they would build the plan as it is now.

Member Morrison said if DEP supercedes us, we lose all control. They do what they want.

Vice chairman Corwin said they would do their own order based on the plan filed with the Commission, then the applicant will build what they want.

Chairman Owen said generally they mirror the OOC of the Commission.

Member Morrison said he prefers not to be overruled by DEP.

Vice chairman Corwin submitted a picture of the stream that she took on Saturday. It is hard to tell if it is flowing or

not flowing. But from the interim criteria draft of 2/27/01, it says “the above criteria may only be overcome by documented observation. Documented observation shall mean a dry observation of four consecutive days by dated photograph or video from the time of observation”. They provided one day.

Member Morrison said the video was one day, he is not sure if the pictures taken were the same day or not.

Vice chairman Corwin said at the best case, two consecutive days.

Vice chairman Corwin moved to deny the project for Webber on Martins Pond Road because she believes the stream to be perennial and the applicant has not proven it to be intermittent. They have not done the required work for riverfront area.

Clerk Clements said you mean they have submitted insufficient evidence.

Member Morrison said “why don’t we second it before we discuss it?”

Vice chairman Corwin said that she believes that if he was trying to prove it is intermittent, it is insufficient evidence and if we rule that it is riverfront, then the house and plans do not fit the riverfront criteria.

The motion was seconded and open for discussion.

Chairman Owen said if we had found this out earlier to give him a chance to respond, it would have been nicer.

Vice chairman Corwin said Mr. Yonika knew from the get-go that she did not consider flow behind a beaver dam to be material to her. There is a flow control structure directly upstream, so flow is not material.

Member Morrison said there are other standards that are not met for riverfront; the drainage area is not big enough to be perennial.

Vice chairman Corwin said on the work sheet there are factors that make it more perennial and factors that make it more intermittent; that is one. Another is USGS topo’s, it is perennial on USGS topo.

The members discussed the letter from Nancy Reed, DEP Circuit Rider, written after her site visit. It gives pros and cons and leaves the decision up to the Commission.

Clerk Clements said what Ms. Reed’s preference would have been, was to not make a declaration one way or the other, but to have the applicant try to work with it as if it were a riverfront area. But the applicant did not want to do that. He wanted to call it an intermittent stream.

Member Morrison said that by declaring it a perennial stream, it is going to have to have the house moved closer to the road a little more.

Vice chairman Corwin said he could have the house moved out of the buffer. If it had been moved out of the buffer, she would have let it go. She asked the applicant to do that and he said no.

Clerk Clements said it would be his preference to work with him.

Chairman Owen questioned if the Commission could condition no structures in the buffer zone.

Vice chairman Corwin said she feels the impacts of this have not been minimal.

Chairman Owen called for a vote of all in favor of denying the project, signify by saying aye.

The motion failed 2 yes and 4 no.

Vice chairman Corwin and Clerk Clements voted yes to deny.

Chairman Owen, Members Morrison, Auman and O’Connor voted no to deny.

The members proceeded to write the Order of Conditions.

Member Morrison moved significance. The motion was seconded and passed unanimously.

Member Morrison moved regular conditions and special conditions.

A condition was added to put a trench along the resource side of the driveway. The motion was seconded and passed 5-1. Vice chairman Corwin abstained.

Order of Conditions Written for Defreitas – 47 Boathouse Rd – 169-814

Member Morrison moved significance, regular and special conditions. The motions were seconded and passed unanimously. The OOC is on file in the Commission office.

10:25 PM With no further business the meeting was adjourned.

Respectfully submitted,

Elizabeth A. Montgomery
Conservation Assistant

