

## GROTON CONSERVATION COMMISSION

## Minutes

December 9, 2003

Chairman Craig Auman called the meeting to order at 7 p.m. C. Auman, Kris Corwin, Bruce Easom, Peter Morrison, and Evan Owen were present. Bruce Clements arrived at 7:15 p.m. Stacey Laudenslager was absent. Associate member Marshall Giguere was present. Also present was Conservation Assistant Barbara Ganem.

Upon review of the November 25<sup>th</sup> minutes and a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve the minutes of November 25, 2003 as drafted.

Members requested that B. Ganem contact MassAudubon to see if they were aware of any private labs that test for mosquitoes carrying West Nile Virus or Eastern Equine Encephalitis. S. Horowitz is also looking for additional information before the boards make a recommendation about joining the Central Massachusetts Mosquito Project.

B. Ganem reported that erosion control has now been removed from 154 Lowell Road, and upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to issue a Certificate of Compliance for DEP #169-850, 154 Lowell Road.

B. Easom noted that he had tried to attend the Growth Management Advisory Committee meeting posted on the Town Clerk's sign board, but the meeting was not held. Commissioners advised him to contact Chairman Chuck McKinney to determine when their next meeting will be held.

The Board of Selectmen has recently formed two new Committees: the Community Preservation Research Committee and the Affordable Housing Task Force. C. Auman volunteered to be the Conservation Commission's representative on the Affordable Housing Task Force, and B. Easom agreed to serve on the Community Preservation Research Committee, providing it does not conflict with Trails Committee meetings.

7:15 p.m. – NOI Continuation – 8 Valley Road/DEP #169-875

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(E. Owen recused himself from the hearing.)

Stan Dillis indicated that he had considered several options for the site, and the most viable appears to be the removal of 50 – 60 cubic yards of material offsite and re-grading of the slope to the right of the house. He estimated that the area where the retaining wall is located is about 1.5 feet deep and that multiplied by the square footage yields 50 – 60 cubic yards of fill. He noted that the elevations in the fill area would be comparable to the removed area and should provide adequate compensatory flood storage.

Commissioners pointed out that the propane tank is a violation of the Bylaw, and Mr. Dillis said that the Fire Chief had told Mr. Logue to bury it. S. Dillis indicated that he was only dealing with the flood storage issue. Members noted that other houses near the Lake have aboveground propane gas tanks. Mr. Dillis suggested the Commission write him a letter that it is a violation of the Bylaw. P. Morrison pointed out that the compensatory flood storage results in additional work in the Buffer Zone, and S. Dillis responded that the slope will be approximately 3:1, and it will look better than it does presently. S. Dillis stated that the slope will be loamed and seeded for stabilization, and C. Auman encouraged him to include this on a revised plan. E. Owen suggested that erosion control mats may be more appropriate, and S. Dillis replied that a 3:1 slope does not usually require that unless it is done out of the growing season. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing for DEP #169-875 to January 13, 2004, pending

receipt of an updated plan.

7:30 p.m. – Appointment/Robert Collins and David Moulton/Deerhaven

Mr. Collins indicated that Mr. Moulton has previously donated Parcels A and B which provide a buffer to the wetlands associated with Cow Pond Brook. Mr. Moulton is nearing completion of the work on Deerhaven Subdivision, and is now ready to put the Conservation Restriction on the property. Mr. Collins submitted a copy of a draft Restriction, noting that this is an important link with land already donated by Mr. Moulton and Mr. Lacombe. The Restriction also provides for the maintenance and repair of a community septic system on land owned by the homeowners association and for a potential extension of the subdivision roadway from Rt. 40 to Hoyts Wharf Road for the Blacks.

R. Collins acknowledged that the Restriction is a requirement of a Special Permit issued by the Planning Board in 1996. Of the 25 lots on the site, 10 homes are serviced by the community septic system, and these homeowners are responsible for its future maintenance. The site could have supported a more intensive development, but it is in the Water Resource Protection District for the Whitney well. There is a large detention basin also on the parcel to be restricted which has been nicely cleaned up according to Mr. Collins. In addition, the plans show a reserve septic area on this land. Before Mr. Moulton bought the property the site had been used as a gravel pit.

Based on site plans distributed to the Commission, Parcel C is the area to be subject to the Conservation Restriction. It will provide a link to Burnt Meadow Road, and B. Clements noted that the Restriction should include language that allows the Trails Committee to put up trail posts and signage. Mr. Collins indicated that the Restriction prohibits motorized vehicles, but horseback riders are allowed. He requested that the Commission review the document and vote on whether it is in the public interest at the December 23<sup>rd</sup> meeting. A copy of the Conservation Restriction Application Form will be faxed to the Commission for review as well.

Mr. Collins noted that they expect to have the drainage system completed in the spring. There is a deposit of loam on the parcel, but it has mostly been used up to reclaim the land. The area has been planted but is not adequately growing at this point. Chairman asked if there were any questions from the audience, and M. Giguere pointed out that erosion is still occurring on portions of the parcel. D. Moulton responded that there are places where the soils have eroded but erosion control measures are now in place. Mr. Giguere also commented that the site supports a lot of bird species, and he is concerned that clearing has eliminated some of their cover. D. Moulton stated that the site will be covered with grasses. B. Clements noted that the Commission may require that it be maintained as open field or nature may be allowed to reclaim it. Nevertheless, the area where the septic system is located must be maintained in an open state to prevent trees from becoming established. This will be the responsibility of the homeowners' association. Mr. Black has previously hayed this area according to Mr. Moulton, and he may wish to continue that practice.

7:55 p.m. – Appointment/Robert Collins – Kiley project/Baddacook Pond – DEP #169-368 (house and septic system) and #169-681 (driveway)

Mr. Collins stated that Mr. Kiley has been working since 1986 to build this house, and the site has a torturous history. What was thought to be a 19 acre site has been determined to be a 15 acre site by survey. The septic system has been installed, and the house constructed. Mr. Kiley has worked with the Groton Water Department which was mandated by DEP to close an access roadway that passes near the Baddacook public well. The driveway that services this house will also provide access for other homes, and the roadway will be permanently closed off. He noted that a final coat of Starpac has recently been applied to the new driveway. The driveway provides access to Rt. 40 for the new house, NEFF, and the Forbes.

Mr. Collins reported that the replication area has been constructed and planted, and everything that was previously disturbed has been re-vegetated. He noted that his client, Mr. Kiley, does not plan to have a lawn and will landscape with mulch and woodland plantings. He commented that he is awaiting a plan that shows the site more fully, but has applied for an Occupancy Permit. The plan will reflect the correct number of acres and identify the land subject to a Conservation Restriction. He anticipates that the Restriction will apply to 11 or 12 acres. E. Owen requested clarification on how this has been coordinated with the Water Department, and Mr. Collins responded that the Water

Department is actually to purchase another Restriction for \$25,000 which was voted at Town Meeting.

B. Easom pointed out that the Commission had walked the site on Saturday, and it appears that the replication area is not at the right elevation to connect with the Bordering Vegetated Wetland. Mr. Collins stated that an engineer will have to certify that the replication area was done in accordance with the submitted plans. K. Corwin asked if the house is being sold, and Mr. Collins replied that the builder, Bob Kiley, intends to use it as his own residence. While it is not necessary that the Commission issue a Certificate of Compliance before an Occupancy Permit is granted, Mr. Collins urged the Commission to sign the Occupancy Permit based on tonight's update. Mr. Morrison commented that the filing for this house came in when he first joined the Commission, in 1989 according to the files.

Members questioned whether there was any incentive for the project to be completed if the Commission signs off on the Occupancy Permit. Mr. Collins indicated that other users of the new driveway, the Forbes and NEFF, are also interested in seeing the project completed. Part of the arrangement for the new driveway calls for the former easement near Baddacook Well to be extinguished. This step is contingent upon having an Occupancy Permit. In addition, Mr. Collins noted that Mr. Kiley proposes the construction of a garage in the near future, and the Commission would not look favorably on an additional filing if the previous Orders of Conditions have not been appropriately resolved. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to authorize Barbara Ganem to sign off on the Occupancy Permit for 601 Lowell Road, providing the Conservation Commission receives acknowledgement of the two outstanding Orders of Conditions which must be satisfied, including the process involved for the Conservation Restriction and deed restriction language limiting the house to three bedrooms.

Mr. Collins agreed to send such a letter to the Commission, and to request a Certificate of Compliance once the snow cover has melted. The engineer's report must also be included. Commissioners noted that as-built plans are not generally reviewed by an outside consultant.

#### 8:30 p.m. – Appointment/Paul Funch – Sawtell Conservation Area Trail

P. Funch reported that this parcel has only recently been deeded to the Town although the subdivision was constructed several years ago. He noted that the trail is currently in existence and used by the neighbors although there are spots which need clearing. Trail head posts are planned at the trail entrance on the cul-de-sac and on Chicopee Row although the boundaries are not clear in the latter area. Because it has been a long time since anyone has "owned" the trail, there are serious encroachment issues. The trail on the cul-de-sac if maintained as lawn by the adjacent homeowners, and there needs to be some designation that it be maintained as a more natural landscape.

The Chicopee Row entrance is beside Grolex, and there is a question about whether their parking lot is partially on conservation land. Members questioned whether Grolex might consider allowing trail users to park on their lot. It appears that snow is cleared from their lot onto the adjacent conservation land. P. Funch commented that it is the Trails Committee's intention to make both entrances attractive to public users. Commissioners thanked Mr. Funch for his and the Trail Committee's diligence in marking trails, and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to authorize the Trails Committee to clear the trail system as they see fit on the Sawtell Conservation Area.

B. Clements asked what properties adjoin Sawtell, and P. Funch said that the trail will link with Kailey's Way on Groton Hills. There are boundary markers at the cul-de-sac, but there is a question about those on Chicopee Row. Based on differential GPS, B. Easom said that it is pretty clear that the Grolex parking lot is on town-owned conservation land. He pointed out that parking would be necessary mostly on weekends when Grolex is not utilizing their parking area. Members indicated that Grolex is a sheet metal shop run by Arthur White. E. Owen agreed to contact him informally about the parking issue and also moving the dumpster. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to authorize Evan Owen to initiate informal discussions with Grolex to see if they would be willing to consider allowing parking for the Chicopee Row trailhead.

P. Morrison abstained from the vote. K. Corwin added that she would like to see something in writing eventually. B. Easom asked if the Commission wishes to address the encroachment issue at Sawtell, and upon a motion by K. Corwin, seconded by B. Easom, a motion was made to send a letter to adjacent homeowners asking them to stop mowing the trail area. B. Clements amended the motion to include removal of hemlock trees from the trail area. This motion was seconded by P. Morrison and approved, and going back to the original motion, it was

VOTED: to send a letter to both abutters requesting that they stop mowing the trail area and that, in the appropriate season, the hemlock trees be removed from the trail area.

Chairman Auman noted that B. Ganem has been the Commission's assistant for almost a year, and an evaluation should be prepared with copies sent to the Selectmen. He indicated that he has the forms, and he will solicit comments from members and then meet with B. Ganem to discuss the results of the evaluation.

K. Corwin expressed concern that newspapers are giving the impression that the Conservation Commission feels that there is developable land suitable for affordable housing proposals. She encouraged members to add the disclaimer that they are not speaking for the Commission in public settings although she acknowledged that newspaper do not always report this accurately. In particular, she noted that the Commission had not visited or discussed the parcel on Nashua Road, and the quote in the newspaper leaves the impression that it has been reviewed and approved by the Commission.

An NOI filing has come in for Oak Ridge Estates which includes a replication area designed by Leah Basbanes. The proposed driveway still shows fill within a certified vernal pool although they attempt to distinguish between vernal pool and vernal pool habitat. The entire Bordering Vegetated Wetland is considered a certified pool. Their representative at the ZBA hearing maintained that the entire area is not a vernal pool since it has an outlet under Rt. 119. He indicated that there is no alternative, and this would be regarded as a taking if the Commission does not allow the crossing. The documentation for certification included the delineation of the BVW which was submitted and approved with their Abbreviated Notice of Resource Area Delineation.

In discussion on the fax submitted by Tracy Eliades, C. Auman pointed out that the Commission has previously asked Mr. Eliades to file for the structure at 91 Culver Road. P. Morrison affirmed that the Commission should require a filing because the copy of the Occupancy Permit signed by Beth Montgomery has nothing to do with Ch. 131, §40 and the structure that is being built is in violation of the Bylaw. K. Corwin asked if the Commission enforces the Bylaw, will this mean we end up in court. P. Morrison said he is unwilling at this point to say the house will not be allowed as it depends on negotiations. C. Auman pointed out that a filing would give the Commission control of the project, but does not necessarily lead to the removal of the house or retaining wall. B. Clements concurred that a filing is necessary. Commissioners agreed that where we stood during the 11/22/03 site visit was clearly wetland under both the Wetlands Protection Act and the Bylaw, and Mr. Eliades' representative agreed with that assessment. P. Morrison asked when the land was split, noting that even if the matter goes to court, Mr. Eliades should be given an opportunity to comply with the Bylaw. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to authorize B. Ganem to write a letter requesting that Mr. Eliades stop work on 91 Culver Road and file with the Commission by December 30, 2004.

Dr. Susan Horowitz, Chairman of the Board of Health, was present and asked if the Commission had made a decision on joining the Central Mass Mosquito Project (CMMP). Members indicated that they wanted additional information from MassAudubon. Dr. Horowitz stated that CMMP would not spray conservation lands if they have a detailed map showing where these parcels are located. She noted that one member, Matt Waterman, did not think the CMMP approach was cost effective, and she conceded that she was now ambivalent. The resident who is pushing it, Mrs. Mandel, may want to sponsor it as a citizen petition at Town Meeting. Testing is necessary to ascertain whether we

even have infected mosquito pools. The \$55,000 would impact our taxes and would go directly to CMMP from the state Cherry Sheets. It does appear that West Nile Virus is spreading in a wave from east to west, and dogs are affected in the Midwest.

The state gets involved very quickly if a problem is identified. It may be possible for the Town to collect mosquito samples in four different locations in the community and have them tested regularly at the Town's expense. K. Corwin asked if there are particular species of mosquitoes that are likely to harbor the virus. Dr. Horowitz noted that Eastern Equine Encephalitis has not been identified in horses or humans north of Boston, but West Nile Virus could be a problem. Members agreed that additional information is necessary before the decision is made. S. Horowitz indicated that the Board of Health will be making their final recommendation in January.

E. Owen asked about the status of the Conservation Commission budget in relation to the Finance Committee's review process. B. Ganem reported that nothing has come in as yet, and Commissioners suggested that our Finance Committee representatives be contacted to see if there are any questions. In response to members' query about the amount in the Conservation Fund, B. Ganem said that it is \$138,000 currently. Commissioners agreed that putting funds into the Conservation Fund this year would be a tough sell. If an APR receives state authorization in 2004, the Town must be ready to contribute the town's portion. Also at issue is whether we push the Conservation Fund to the exclusion of the Community Preservation Act. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve a separate article requesting funding in the amount of \$200,000 for the Conservation Fund.

E. Owen voted in the negative while the remaining members voted in favor of the motion.

There being no further business, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as amended December 23, 2003**