

GROTON CONSERVATION COMMISSION

Minutes

April 13, 2004

Chairman Auman called the meeting to order at 7:00 p.m. in the first floor conference room. Evan Owen, Kris Corwin, Bruce Easom, and Bruce Clements were present. Stacey Laudenslager arrived at 7:08 p.m. Member Peter Morrison was absent. Conservation Assistant Barbara Ganem was also present.

Upon a motion by E. Owen, seconded by K. Corwin, with a roll call vote of K. Corwin, B. Clements, B. Easom, E. Owens, and C. Auman, it was

VOTED: to go into Executive Session for the purpose of discussing pending litigation to re-convene in Open Session.

The meeting re-convened at 7:30 p.m. Apologizing for the late start, Chairman Auman invited members of the audience back into the conference room.

7:15 (7:30) p.m. 57 Old Ayer Rd NOI continuation

Brian Thorne of GPR noted that he has previously submitted a copy of the Board of Health septic permit and revised plans showing the re-located wetland line, as well as soil logs. He noted that the septic is designed to handle the 3-bedroom home. Commissioners had visited the site on Saturday, and K. Corwin questioned why there were three holes at wetland flag 53. B. Thorne responded that the wetland scientist generally tries to get samples from both the upland and wetland side of the flag. Upon a motion by E. Owen, seconded by K. Corwin, it was

VOTED: to close the hearing for 57 Old Ayer Road.

7:30 p.m – Shelters Rd./Springy Cove Notice of Intent

Dr. William Eger explained that seven separate sites of the invasive aquatic weed, Cabomba or fanwort, were observed in Springy Cove late last summer. An attempt to hand harvest them was made, and perhaps seven or eight garbage bags were collected. It was difficult to assure that the plants were harvested because the water clouded up as roots were pulled. Dr. Eger said they will first re-inspect the areas to verify that the Cabomba has persisted and then place a 10' by 15' tarp over the targeted weeds. The tarp will be weighted down with concrete blocks or possibly PVC pipe filled with an iron rod. Dr. Eger indicated that he thought the Cabomba flowered in July or August, and they intend to get the tarps in place before the end of May. He noted that all materials will be removed from the lake at the conclusion of the project.

Dr. Eger indicated that one or two of the locations are close to the rare plant, the Small Bur-reed. He said Site #1 is the largest area to be treated. E. Owen asked for a description of the hand pulling process, and John Diezeman responded that they had essentially snorkeled in 3 – 4' of water, trying to pull both the root and stem lose. Once the bottom is disturbed, however, visibility is lost. The hand pulling was done in October. Dr. Eger noted that in the recent workshop on lake and pond management, a limited area of pioneer invasives might just have required a Request for Determination of Applicability. S. Laudenslager questioned how the PVC with an iron rod would work, and Dr. Eger replied that the PVC would be capped at both ends to hold the iron rod in. There will also be signs placed in swimming areas. K. Corwin commented that the Commission had observed fishermen using the area on Saturday.

The filing was mailed to Natural Heritage on March 23rd, and they have 30 days in which to respond. K. Corwin expressed concern about the endangered species within the lake, and Dr. Eger assured her that the sites are further from the shore. He noted that the Bridle Shiner spawns in May, but there is no confirmation that this species is still present. The first sighting was documented in the 1970's, and the Bay State Feasibility Study also referred to the Bridle

Shiner. The amount of area that would preclude potential spawning is minute according to Dr. Eger. In addition, extensive milfoil could limit spawning.

B. Clements indicated that in general he does not have a major problem with the project, but his only concern is it not being supervised by someone with experience as he does not want to see another Bur-reed/Diquat problem where something is inadvertently done that we do not anticipate. Dr. Eger assured him that, prior to placing the benthic barrier, the area will be canvassed for Small Bur-reed and these plants will be excluded from the barrier. In general the Small Bur-reed is located closer to shore than the Cabomba plants. The new sites, identified as #6 and #7, are small.

Cindy Kollarics (39 Indian Hill Road), who has had experience in studying the Bur-reed population in Springy Cove, expressed concern about Plots #1 and #2 due to the presence of Bur-reed in the vicinity of those areas. She noted that it is important to experiment with the barrier method of control, commenting also on the impact the Diquat had on the Bur-reed. She said it may be inappropriate to use benthic barriers near #1 and #2. C. Kollarics also recommended that monitoring continue. She noted that the program set up 10 years ago identified 12 stations where problem aquatics could be established and required a yearly survey. Such a survey could identify problem areas early, such as the area around the public boat launch where there is now extensive growth of Cabomba. Ms. Kollarics commented that some of the aquatic invasives already noted in the south are now adapting to northern climates. Because of all the work that has been done on the Lake thus far, it is important to continue the monitoring.

Dr. Eger noted that Plot #1 is one of the largest and would be difficult to hand harvest. J. Diezeman asked when the Bur-reed flowers, and C. Kollarics indicated she was not sure, but she thought it flowered in August. The plant dies down in the winter, and Ms. Kollarics suggested Paul Somers, the state botanist, would be the best contact for this information. J. Diezeman expressed concern about the rate at which the Cabomba spreads, and noted it is important to get it early. He felt the bigger issue is delaying action.

B. Clements asked what would happen if the Cabomba is not controlled, and C. Kollarics noted that it grows well under the big lilies. She urged the Commission to assure that someone with experience identify the Bur-reed. Don Morrison (Hubbard Lane) asked to see the map of the proposed sites and noted that his dock is 40' long in order to get to water deep enough for his boat. He asked if it would be possible to continue to use his boat. Dr. Eger indicated that the treatment spots would be marked with blue and yellow fish, some of which were already in place. Phil Kane (Hubbard Lane) asked if the project would affect swimming, and Dr. Eger said it would be a four square foot area near his residence. The project can be modified to accommodate residents.

Dr. Eger commented that possible sources of the Cabomba include the north cove where the public boat launch is located. He also said occasionally people launch their boats from Shelters Road. The weed can be carried in on ducks' feet. Only the smallest amounts can be hand harvested. K. Corwin asked when the monitoring started, and C. Kollarics indicated that it was associated with the Notice of Intent filing for the original Lake drawdown in the early 1990's. K. Corwin expressed a preference for getting more information from Paul Sommers about the Bur-reed and stated she was uncomfortable about not having an expert on site to look for the Bur-reed before laying the tarp. She felt that it was important to know the life cycle of the Bur-reed before permitting the work.

C. Auman noted that the next Conservation Commission meeting is on April 27th, and the 30 day period in which Natural Heritage must respond will be up at that time. He commented that he did not think it appropriate for the project to be continued indefinitely. E. Owens said there has to be a balance between habitat improvement and protecting endangered species. B. Easom asked if it would make sense to issue an Order of Conditions for all but Plots #1 and #2, and have them file a Request for Determination of Applicability later. C. Kollarics commented that this really falls within the purview of the Natural Heritage Program, but she felt the experimentation is very important. Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to continue the hearing for the application of benthic barriers in Springy Cove to April 27, 2004.

This information will be added to the Conservation Commission web site

7:45 p.m. - 34 Baby Beach Road Notice of Intent continuation

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No applicant or representative was present, and the Commission agreed to keep the hearing open until later in the meeting.

8:15 p.m. – 39 Ames Road Request for Determination of Applicability

The proponent was unable to be present this evening and has requested a continuation. Upon a motion by B. Clements, seconded by B. Easom, it was

VOTED: to continue the meeting for 39 Ames Road to April 27, 2004.

8:15 p.m. – Culver Road Notice of Intent continuation

Noting that this was the only outstanding item, proponent Tracy Eliades submitted original photographs and a magnifier for reading the dates. He suggested that the hearing be continued if the Board concurred. With the mediation pending, he thought it made sense to leave the hearing open. Upon a motion by B. Clements, seconded by K. Corwin, it was

VOTED: to continue the hearing for Culver Road to April 27, 2004 at a time to be determined.

T. Eliades asked if a mediator has been selected, and Commissioners indicated they did not believe so. Mrs. Eliades questioned whether the mediation will take place during regular Commission meetings.

8:30 p.m. – Appointment Bruce Easom and Bruce Clements on the Community Preservation Act Advisory Task Force

B. Easom said that the committee began its task in December 2003 by contacting other towns that have adopted the Community Preservation Act (CPA) to get a sense of their experience, which, for the most part, has been positive. He noted that the committee has put together a slide show presentation which will be shown at the Senior Center, before the Historical Commission, and the library.

Mr. Easom stated that the original enabling legislation was passed in September 2000. It is the intention of the committee to get various commissions' and boards' positions before the matter is taken up at town meeting on April 26, 2004. He noted that 61 towns have adopted the CPA thus far. This is an opportunity to do something positive in response to sprawl, and in general, it is the communities in the vicinity of Rt. 495 that have experienced the most dramatic sprawl and development which have chosen to adopt the CPA. A surcharge on the real estate tax may be set in any amount up to 3% for affordable housing, for the purchase or protection of land for conservation or recreational purposes, or land or structures for historical purposes. Mr. Easom noted that passing the CPA is a two step process which involves a town meeting vote and a ballot vote. A minimum of 10% of the funds must be spent on each of affordable housing, open space conservation, and historical preservation with the remaining 70% expended according to the vote of a Community Preservation Committee and may include recreational purposes.

Using the median assessed value of a house in Groton of \$350,000 and excluding the first \$100,000, the 3% surcharge would result in an additional \$116 using Groton's current tax rate of \$15.44 per \$1000. Mr. Easom indicated that the Task Force estimates that this would generate as much as \$425,000 which is matched 100% by the state Community Preservation Trust Fund. Once a town chooses to adopt the CPA, it is locked in for five years, although the surcharge can be changed through a town meeting and ballot vote. It is a majority vote, and the Community Preservation Committee is to be composed of at least five members (representatives from the Conservation Commission, Historical Commission, Park Commission, Housing Authority, and Planning "Board) and can be expanded. Funds can be used for purchase of land any where in Massachusetts, including other communities. The funds can augment, but not replace, existing operating budgets. The funds can be banked and do not have to be expended by the end of the year. According to Mr. Easom the most typical uses to which these funds are expended are for the protection of open space

and affordable housing. The funds can be expended for the conversion of abandoned buildings and re-use of existing buildings. Open space criteria include such values as water supply protection, scenic vistas, and active and passive recreational uses. Buildings listed on the state list of historical places are eligible as are municipal buildings.

Mr. Easom said the state portion of the funds comes from fees charged at the Registry of Deeds, and there is currently \$115,000,000 in the Community Preservation Trust Fund. He noted that \$26,000,000 is disbursed annually to participating communities with 100% matching funds returned to the towns. To qualify, a community must first pass the Community Preservation Act and raise the funds. He noted that projects in the past six years in Groton which could have qualified for this funding include the renovation of Town Hall, the addition to the library, landfill capping, and the Conservation Restriction on Angus and Gibbet Hills. These projects cost Groton taxpayers approximately \$2 million per year and were paid for without state assistance. Future projects which would be eligible for Community Preservation Act funding could include the Prescott School, the purchase of open space, the repair of the boat launch, weed management at the lake, the Brown Loaf feasibility study, the restoration of Boutwell, Ch. 40B bid downs, affordable housing, or the conversion of existing housing stock to affordable status.

Mr. Easom recommended that members go to the Massachusetts Community Preservation web site [www.
http://commpres.env.state.ma.us/content/cpa.asp](http://commpres.env.state.ma.us/content/cpa.asp), Trust for Public Land web site www.tpl.org, or <http://www.communitypreservation.com/> to get more information. Bruce Clements stressed that it is important to get the measure passed at Town meeting as this will give members of the Task Force an opportunity and time to do public outreach about the CPA before the ballot vote comes up in November. Mr. Clements pointed out that this measure could help the Conservation Commission, especially during times of tight fiscal constraints such as this year. At least 10% of the funds collected must go to the protection of open space, and this would mean approximately \$80,000. The Town can vote to put it in the Conservation Fund if there are no specific parcels under consideration for purchase.

C. Auman noted that many surrounding communities have passed the CPA and also commented that it is almost like a tax reduction because the state pays for half of an appropriate project's costs. B. Clements acknowledged that there is some additional work for the assessors but in general they have favored accepting the measure. E. Owen said the half that the state pays comes from fees on real estate transactions and the town could opt to get out of it in five years. K. Corwin questioned how many people will serve on the committee that makes the funding decisions, and B. Clements indicated that this is not specified in the Act, but he felt five would be too few and nine too many. He indicated that the Task Force is recommending the 3% surcharge for Groton, with a senior exemption for low and moderate income residents. Westford estimates that the cost to administer the program runs about \$3,700. The 10% is specifically for open space, historical preservation, and affordable housing. Recreation is considered separately but is not mandated through the Act. Duxbury puts the 10% minimum directly in the Conservation Fund. On a state-wide basis, approximately 30% of the CPA funds goes to open space and 30% to affordable housing, with the remainder expended on recreation and historical projects. Upon a motion by B. Clements, seconded by S. Laudenslager, it was

VOTED: to support the Community Preservation Act article at town meeting.

There was a unanimous vote in favor of the motion.

Resident Beverly Rodrigues was present and stated that the Groton Conservation Trust also voted to support the Act.

8:45 p.m. – Lawrence Academy Request for Determination of Applicability

Landscaper Peter Myette explained that the purpose of the project is to level the playing fields to improve safety. He noted that there is a 12" differential between one end of the field and the other. There are no plans to remove material from the site, but to cut and fill with existing soils. P. Myette maintained that the work is outside of the 100 foot buffer per the zoning map showing the conservancy district. Commissioners cautioned that this map is inaccurate for the purpose of determining wetlands in the field. It is estimated that the work is approximately 75' from the wetlands. B. Easom expressed concern about the materials being dumped behind the fields and so close to the wetlands as it is difficult to know what is underneath all that debris. Linda Deasy, from Lawrence Academy's Building and Grounds Department, explained that only natural materials are dumped there, and this has been going on for over 30 years.

E. Owen questioned whether the work will be done only within the existing footprint and whether any subsurface drainage will be necessary. P. Myette replied that the fields would drain on their own and that hay bales will be placed before the work commences. They expect to begin work after the June graduation. In clarifying the limit of work, Commissioners specified that the hay bales should be placed at the top of the slope. Upon a motion by B. Clements, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination, specifying that 1) excavated and exposed materials shall be stabilized such that no erosion or sedimentation occurs; 2) haybales and silt fencing shall be installed prior to the commencement of work; 3) no work shall occur beyond the top of slope; and 4) the installation of any subsurface drainage will require an additional filing with the Conservation Commission.

In the continued absence of the applicant's representative, Commissioners asked if abutters to 34 Baby Beach Road, had any comments on the proposed project. Beverly Rodrigues explained that the Mountain Lake Club owns the beach at the end of the Road, and there is concern that some of the work occurring on #34 would block emergency access to the beach. She noted that some structures were already located on the shared property line and expressed concern that the process of tearing down and building a new structure would fill the entire .06 acre parcel. She summarized her concerns as maintaining emergency access to the beach, drainage, construction vehicles, and general safety issues. B. Rodrigues requested that no construction vehicles be allowed to block what is identified on the plan as a 10 foot wide access. B. Easom also questioned where excavated soils from the installation of the tight tank will be stored and suggested that a detailed construction sequence should be provided.

B. Clements cautioned that all the work must occur on their own land, including work on the shed and patio. Any machinery should access via the public road and not enter the beach area to do work for safety reasons. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to continue the hearing for 34 Baby Beach Road to April 27, 2004.

After reviewing the minutes, and upon a motion by K. Corwin, seconded by S. Laudenslager, it was

VOTED: to approve the minutes of March 23, 2004, as amended.

Upon a motion by K. Corwin, seconded by B. Clements, it was

VOTED: to approve the minutes of March 29, 2004, as drafted.

E. Owen abstained from the vote.

After review of the draft Order of Conditions for 198 Townsend Road, and upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to approve the Order of Conditions for 198 Townsend Road, DEP File #169-882.

In discussion on the Request for a Certificate of Compliance for Ames Meadow, DEP File #169-597, Commissioners felt that there is a pattern in failing to comply with Orders of Conditions. Upon a motion by K. Corwin, seconded by B. Clements, it was

VOTED: to require the filing of a Notice of Intent for the completion of the work necessary to stabilize the site.

Concerning the request for an Extension for the Order of Conditions #169-611, 101 Boathouse Road, members recommended that the plan be updated to reflect the actual work being done. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to extend the Order by two months with the stipulation that the Commission will consider a longer extension once the plan is submitted and reviewed.

There are upcoming MACC training sessions, and B. Ganem asked if any members were interested in signing up. She noted that those sessions that are in FY 05 frequently sell out before the town can submit and check. Members can be reimbursed for expenses but not until the new fiscal year commences July 1, 2004.

Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to authorize B. Ganem to purchase an auger for the use of the Commission during site visits.

B. Ganem reported that several complaints have come into the Conservation office recently: 1) 65 Gay Road where homeowners are experiencing flooding due to beavers plugging the culvert on or adjacent to the Gilson conservation land. C. Auman and E. Owen agreed to take a look at the site; 2) 152 Gay Road/Brown Loaf Road flooding – the town Highway Department cleared a culvert under Gay Road which released a large portion of a beaver impoundment on the Gilson Estates Conservation Area. The area appears to have now stabilized; and 3) A possible violation on Ben Black Jr.'s property on Burnt Meadow Road was also investigated, but according to B. Ganem, there is a treed buffer, and the owner has put in haybales between fields being cleared for pasture and Burnt Meadow Swamp. The work is between 70' and 100' from the wetlands on land that is in Ch. 61 which he currently leases from New England Forestry Foundation.

B. Ganem explained that she had issued an Emergency Certificate for the repair of the septic system at 21 Moose Trail, with the understanding that they will file for the work on the terrace and dock as soon as possible.

The applicant has submitted revised plans for the septic system and an addition for 68 Hayden Road. B. Ganem noted that the addition was not on the original NOI plans, and Commissioners agreed that the applicant should file for an amended Order of Conditions.

Members noted that there is discussion between the Selectmen and Robert Walker about a reduction in the number of housing units for Groton Residential Gardens, the Ch. 40B project at the intersection of Mill and Main Streets. Commissioners agreed that DEP should be notified of this negotiation as the elimination of the four unit building next to the wetlands would alleviate much of the Commission's concern about the project. Regarding the Superceding Order of Conditions, members thought that a condition requiring professional monitoring reports twice a month during the construction process should be included.

Chairman Auman agreed to contact the Matbob attorney, Douglas Deschenes, to check on the funds for the Commission to hire a consultant for peer review of the proposed project at 993 Boston Road. Members noted that they observed approximately ten spotted salamander egg masses, as well as one wood frog egg mass, during the site visit on April 10th. It is unclear how they are differentiating between edge of BVW and vernal pool for the area to be filled for the roadway. They clearly did not want to focus on work within the buffer, but rather the first 100' of the roadway. B. Clements noted that the area was not identified as priority habitat, but K. Corwin pointed out that there is a strong likelihood that there are rare species present. The applicant(s) are not proposing a wildlife study and are not open to the probability that there are rare species present. Members reviewed and agreed to send the draft response to Matbob, agreeing that the remaining matters should be addressed in the context of a public hearing.

Homeowners at 199 Duck Pond Drive have again approached the Commission about re-locating the sign for the trail next to their land. B. Easom will contact them.

Stacey Chilcoate of the NRWA has written a letter to the Commission expressing concern about the state of the road leading to the boat launch at Petapawag. B. Ganem explained that she contacted the state Public Access Board to see if they could provide gravel which the Town could grade at the site.

K. Corwin reported that she is actively involved in vernal pool investigations within the Town, including the Brown Loaf site. Upon a motion by K. Corwin, seconded by B. Clements, it was

VOTED: to authorize B. Ganem to subscribe to *MassWildlife* on behalf of the Commission at a cost of \$6.00.

There being no further business, the meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended 5/11/04