

**GROTON CONSERVATION COMMISSION**

## Minutes

May 11, 2004

Chairman Craig Auman called the meeting to order at 7:00 p.m. Also present were Peter Morrison, Bruce Clements, Bruce Easom, Kris Corwin, and Evan Owen. Stacey Laudenslager was absent. Conservation Assistant Barbara Ganem was also present.

In reviewing the minutes of April 13, 2004 and upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to approve the minutes of April 13, 2004, as amended.

P. Morrison abstained from the vote because he was not present at the meeting.

Upon a motion by B. Easom, seconded by E. Owen, it was

VOTED: to approve the minutes of April 27, 2004, as amended.

P. Morrison abstained from the vote because he was not present at the meeting.

The Executive Session minutes of April 13, 2004 will be reviewed in Executive Session.

B. Ganem noted that reports have come in that work is being continued at 101 Boathouse Road, and she plans to visit the site shortly.

After reviewing the draft Order of Conditions for 285 Reedy Meadow Road and upon a motion by B. Clements, seconded by K. Corwin, it was

VOTED: to issue the Order of Conditions for DEP #169-890 for 285 Reedy Meadow Road.

7:30 p.m. – Appointment – Mason Palmer/Ross Associates

Mr. Palmer explained that he is preparing the paperwork on behalf of the Groton Dunstable Regional School District for work at the new High School site to include the demolition of the structures and removal of debris dumped in the barn cellar hole. The Massachusetts Historical Commission requires that the foundation of the farmhouse remain in place for future documentation. Some debris, including snowmobiles, refrigerator, etc. has been dumped near the cellar hole abutting the ice house and vernal pool. M. Palmer commented that both the abandoned structures and the dump create a safety hazard and a situation in which vandalism could occur. He questioned whether the Commission would prefer to see a new Notice of Intent filed or a request for an amendment to the existing NOI for the emergency access roadway. B. Ganem noted that the existing Order of Conditions is due to expire shortly and should be extended in case additional work is necessary on the replication area or on the modification required to include this project. A legal notice and abutter notification are required under either a new or an amended NOI.

M. Palmer noted that both the archaeological and hazardous materials reviews have been completed for the site. The farmhouse foundation will be protected through the use of construction fencing used as a liner with the foundation filled with clean fill. The bid specifications for the work will not spell out exactly what machinery is to be used. The School Committee will be applying for the Order of Conditions, not the contractor. Mr. Palmer stressed that the public bid will give performance specifications, including the fact that there are rare species in the area and that the foundation is to be left intact. The Conservation Restriction limits work on the site to specific time periods, and Mr. Palmer asked the Commission if it would be possible to adjust the September 15 start date to August 15 because school

administrators would prefer to have the work completed prior to the start of the school year. Commissioners pointed out that the equipment would have operators present any time work was being done so it should not pose a problem for emergency access. M. Palmer was advised to continue trying to reach the Natural Heritage Program to agree on the start date.

No work is proposed in the wetlands, but there would be work within the Buffer Zone of a certified vernal pool. E. Owen asked if 25 feet was adequate to accomplish the work on the farmhouse, and M. Palmer said snow fence could help delineate the work area.

7:45 p.m. – 106 Common Street Request for Determination of Applicability continuation

Chairman Auman read into the record the May 3, 2004 letter from Brian Thorne of GPR. Mr. Thorne specifies that the size of the watershed of the stream on the site is .31 square mile, too small to qualify as a perennial stream under the Wetlands Protection Act. Members noted that structures must be kept outside of the 100-foot Buffer Zone to wetland resource areas under the Groton Wetlands Protection Bylaw. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to issue a positive #2B Determination for 106 Common Street.

Commissioners said the boundary delineation of the BVW is not confirmed by this Determination, but the stream on site is determined to be intermittent by this finding.

In discussion on the Order of Conditions for DEP #169-888, the benthic barriers for Springy Cove in Lost Lake/Knops Pond and upon a motion by E. Owen, seconded by P. Morrison, it was

VOTED: to issue the Order of Conditions for DEP #169-888 for Springy Cove/Shelters Road, as amended.

8:00 p.m. – Appointment/Tricia Upton – Sawtell Conservation Area trailhead

Ms. Upton noted that she had sent a letter to the Commission to express her interest in the project and she feels fortunate to live next to such an attractive area. She indicated she wanted to find out from the Commission if it would be okay to continue maintaining property on either side of the wooden posts by mowing. She noted that she has re-located to her backyard the three hemlocks that were planted on the conservation land and has re-seeded the disturbed areas. While she understands that the conservation land will not be built upon, she is concerned that the whole frontage area will go back to seed. She and her neighbor to the left of the trail would like to continue mowing. They have no plans for additional plantings or anything else for the area. Ms. Upton was not aware if there were any boundary markers or permanent markers demarcating property lines. Members were concerned about using herbicides to treat dandelions, and Ms. Upton assured them that only organic fertilizers would be used adjacent to the first 20' of the trail.

Commissioners thanked Ms. Upton for writing her letter and coming in to meet with them. Several members pointed out that, while sympathetic, they felt the broader issue is that the Commission must be consistent in its treatment of abutters who encroach on conservation land with structures, sprinkler systems, etc. It is always necessary to distinguish between privately owned and town-owned land. B. Easom requested that neighbors not mow the area any lower than 5 inches.

Ms. Upton indicated that she did not feel it would add to the trail experience although she understands that it could be an example for other conservation areas. Members cautioned that town-owned land is open to the public and should not be managed in a way that suits neighbors. K. Corwin pointed out that the public has a hard time distinguishing town-owned land if it is not visually distinct from adjoining private land. Ms. Upton indicated that she would be willing to remove sod and replace it with wood chips to clearly mark the trail, but she did not feel it was necessary to clearly mark the full 75 foot wide property boundaries. Members were appreciative of her efforts, but noted it should be clearly different from the surrounding private land. E. Owen suggested the boundary could be marked with logs, a post and rail fence, or blueberry bushes.

T. Upton said she has no intention of doing anything else on the property or claiming ownership. B. Clements commented that he is something of a purist and suggested that the area be allowed to grow back into its natural state with the trail through the center maintained by the Trails Committee. Paul Funch, a member of the Trails Committee, commented that there would be a long transition period, perhaps 10 – 15 years, before this could be accomplished. It is likely that the wood chips would have to be maintained every year, and Ms. Upton said she anticipated doing this in the 8 foot wide trail. Members agreed that the Commission has a responsibility to get it back as it was intended although it may be unpleasant to disrupt the current state.

The reality is that the area is likely to be used mostly by the neighbors in the subdivision. P. Morrison commented that benign neglect is not always the best management tool. Ms. Upton maintained that the first 20-30 feet of the trail is not necessarily appropriate for a natural trail experience. Chairman Auman noted that Ms. Upton has offered a positive approach of putting down wood chips to identify the trail. In addition, mowing higher or mowing alternate weeks could more clearly define the extent of the town-owned land. Members suggested that she contact the Groton Electric Light Company about the wood chips. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to allow the removal of sod and replacement with wood chips of an approximately 8 foot by 20 foot section at the beginning of the trail on the the Sawtell Conservation Area. Mowing of the remaining area adjacent to the trailhead will be a maximum height of 4 inches or will be done on alternate weeks.

The motion passed, with B. Easom and B. Clements voting in opposition. Members noted that this issue could be revisited at a later time and requested that Ms. Upton notify the Commission after the work is done.

8:15 p.m. – Appointment/John Diezemann – follow up Diquat treatment under DEP #169-824

Mr. Diezemann noted that he was asked to come before the Conservation Commission to discuss the proposed third Diquat treatment of Lost Lake/Knops Pond. He commented that the Order of Conditions was issued to the Board of Selectmen and is good for three years. To treat the milfoil in the Lake, they are planning to steer clear of Springy Cove, one of the locations where the Small Bur-reed has been reported. Noting that it is very difficult to identify the exact areas on days with any wind, J. Diezemann reported that only those areas where milfoil persists will be spot treated. He plans to continue identifying the milfoil areas but showed a map giving approximate locations. It will not be necessary to treat several previously treated areas.

J. Diezemann said the appropriate signage will be posted at the time of treatment which will occur in either the first or second week of June. No milfoil has been identified at Sargisson Beach or the entrance to Springy Cove. Mr. Diezemann noted, however, that milfoil was rampant in Springy Cove. Chairman Auman pointed out that the concern is that the Diquat treatment was not properly approved initially according to the letter the Commission received from Natural Heritage. J. Diezemann maintained that the confusion was a result of Natural Heritage's impression that Springy Pond was listed as a separate water body from the Lake, and there are no intentions to include Springy Cove in this treatment.

B. Clements said he did not see an issue with this application if it is part of the existing Order of Conditions. Mr. Diezemann indicated that delaying treatment could result in explosive milfoil growth, and B. Clements suggested that the treatment be allowed to proceed so that the results achieved thus far will not be lost. Mr. Diezemann pointed out that the Small Bur-reed has survived two previous Diquat treatments.

It may be possible to get a quick response from Natural Heritage on the spot treatment; they are generally allowed 30 days under a new NOI. P. Morrison pointed out that time is of the essence here. Mr. Diezemann strongly opposed any type of continuation. P. Morrison indicated that his opinion paralleled that of B. Clements, particularly since it has already been approved with an existing Order of Conditions. He indicated he had no problem with the areas given on the map, particularly when one considers the impact of weed growth in the Lake. K. Corwin indicated she was uncomfortable proceeding without some input from Natural Heritage.

B. Easom asked how the Diquat was applied, and Mr. Diezemann responded that it is in liquid form distributed from a boat. It is not applied when the water is murky as Diquat adheres to whatever particulate matter it first encounters. E. Owen said he is a member of the Weed Advisory Committee and would abstain from commenting or a vote on this issue. Several members questioned the need for something more definitive before making a decision, particularly since this is a controversial issue. Mr. Diezemann objected to not allowing the treatment, since the Lake Association has raised the money and they have never been given a cease and desist on the existing Order of Conditions. He informed the Commission that milfoil was flourishing in the areas that were not previously treated.

B. Ganem commented that the original Notice of Intent for the project specified that certain reports would be submitted prior to follow-up Diquat treatments. Ideally these reports should provide details on what areas were treated, what amounts of Diquat were used, and follow-up monitoring of the effectiveness of treatment. She noted that these monitoring reports are not in the files as was originally proposed and agreed to by the Commission. Some form of documentation should support subjective reports that the treatment was successful. Mr. Diezemann said Lycott treated  $\frac{1}{4}$  of the originally proposed treatment area in 2003. After a motion by P. Morrison, seconded by B. Clements, discussion ensued with respect to the location of treatment areas. J. Diezemann said he could provide a more detailed survey. Following up on the original motion, it was

VOTED: to allow the Diquat treatment to go forward in 2004 providing all applications are done at least 300' from the entrance to Springy Cove.

The motion carried, with K. Corwin and C. Auman voting against and E. Owen abstaining.

B. Easom suggested that a letter go to the applicant requiring the fulfillment of the reporting requirements outlined in the Notice of Intent. Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to authorize B. Ganem to send a letter requiring the applicant to provide the results of monitoring surveys done before and after Diquat treatments of the Lake as per the Notice of Intent.

The motion carried with P. Morrison voting in opposition and E. Owen abstaining.

#### 8:30 p.m. – Fred Nucci/54 Northwoods Road

Mr. Nucci thanked Commissioners for the opportunity to speak about the matter of fencing on town-owned property. He noted that there have been instances of loose dogs and even a car coming down the trail, and these activities, plus privacy concerns, prompted him to put in the fence. He noted that a different placement of the fence would require the removal of trees. Commissioners visited the site on April 24<sup>th</sup> with Mr. Nucci.

Chairman Auman pointed out that the Commission does not have the authority to give people permission to put structures on town-owned conservation land. He commented that this involves a very complicated legal process under Article 97. He noted that Mr. Nucci had also discussed at the site visit the probability of extending the fence the entire length of his property. Acknowledging that the fence is on town-owned land, Mr. Nucci said he would be willing to cede ownership of the fence to the Town. P. Morrison encouraged Mr. Nucci to be sure that any future fence installation is on his own land. Members noted that there are similar encroachment situations at other conservation areas, and the Commission must be consistent.

F. Nucci pointed out that it was not a woodland type trail but more of a connector. He asked if there were any guidelines for the use of this conservation land. He noted that use of the trail was not an issue until trail marking and maintenance began in this area. He did not feel the fence would detract from the appropriate use of the trail, but indicated he understood the principle behind the Commission's objections. B. Clements stated that if the fence had been proposed to the Commission before it was constructed, it would likely have been denied. C. Auman commented that usually a fence company will be very careful about property bounds, and Mr. Nucci acknowledged he had

installed the fence himself.

Paul Funch indicated that the Trails Committee always tries to assure that the public stays on town-owned land by placing trail posts and markers in appropriate locations. If the trails are designed for the benefit of individual landowners, it becomes a problem, just as dumping yard waste on trails or conservation areas becomes a problem. Mr. Nucci suggested the use of some trails while leaving others to nature. If motorized vehicles cut through, it's not a nature trail. K. Corwin made a motion, seconded by P. Morrison, and it was

VOTED: to hold a public hearing to discuss the rules and regulations for the use of the Northwoods Conservation Area.

This would allow discussion on motorized vehicles, appropriate trail uses, and putting in signage.

Upon a motion by B. Easom, seconded by B. Clements, it was

VOTED: to ask the resident, Fred Nucci, at 54 Northwoods Road, to remove the fence from the town-owned conservation land known as the Northwoods Conservation Area.

F. Nucci expressed disappointment with the decision and noted that privacy and security are an issue for residents whose houses abut trails.

P. Morrison said the EMTs have been concerned about making trails wide enough to accommodate emergency vehicles, and this could become a public safety issue. P. Funch commented that there are one or two access roads that might come close to the necessary width.

Mr. Funch explained that a portion of the boundary for the Sawtell Conservation Area is curved so it is difficult to ascertain exactly where the property line is located. He estimates that there may be a two or three foot give and take differential in the trail location behind the Beebe property. A gentleman's agreement has been reached which will be accommodated by a slight intrusion of the trail onto the Beebe property to avoid removing a tree and a small intrusion of temporary invisible fence flagging while the dog is being trained on town property. The dog will not come onto the trail itself.

Commissioners agreed that Mr. DiBona, the owner of the fence encroaching on the Crosswinds Conservation Area (former airfield area) should be contacted a second time. B. Ganem indicated that she would attempt to call him and then send a letter to confirm a meeting with the Commission for further discussion.

Members reviewed the draft Order of Conditions for 34 Baby Beach Road, noting that the applicant's representative maintains that the 100-year floodplain is 1.3 feet below the summer level of Lost Lake. Agreeing to include a Condition that grading outside the building footprint shall remain the same pre- and post-construction, and upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to issue the Order of Conditions for 34 Baby Beach Road, DEP #169-887, as amended.

Chairman Auman, noting the recent adjournment of the Annual Town Meeting, commented that it is the Commission's practice to reorganize at this time of year. He asked if there were any nominations for Chairman, and E. Owen nominated B. Clements. B. Easom seconded the nomination. It was

VOTED: to appoint Bruce Clements as Chairman of the Conservation Commission.

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

VOTED: to appoint Peter Morrison as Vice Chairman of the Conservation Commission.

Upon a motion by K. Corwin, seconded by P. Morrison, it was

VOTED: to appoint Bruce Easom as Clerk of the Conservation Commission.

C. Auman thanked members for being on time and having a quorum for all meetings during his tenure as Chairman.

Conservation Assistant B. Ganem reported that she had visited 39 Court St. in response to the homeowner's request for a Certificate of Compliance. Although the addition and stone trench at the roof drip line have been put in as proposed in the NOI, the applicant has put in an aboveground pool about 25 feet from the edge of James Brook. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to require the filing of a Request for Determination of Applicability for the aboveground pool.

Members reviewed a proposed contract for the Wildlife Habitat Improvement Program (WHIP) funding. Discussion followed on how to engage abutters in the plan to remove trees and encourage meadow grasses with follow up brush hogging. This type of early successional habitat can be beneficial to both reptile and bird species. B. Clements questioned whether the Commission would have time to coordinate the project with neighbors, and B. Ganem responded that the work will not be scheduled until 2005. The timing of the work must be sensitive to the likelihood that the airfield is turtle nesting habitat. B. Easom expressed concern that some of the neighbors would not like this plan. Other Commissioners pointed out that it is conservation land for which the Commission has ultimate responsibility. Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to approve the WHIP contract as presented.

K. Corwin reported that she will be participating in the turtle study adjacent to this parcel.

Commissioners Auman and Clements visited Hillbrook Orchards with Rev. Rosenberger on May 10<sup>th</sup>. They reported that beavers had blocked a culvert under a farm road, and water was backed up along James Brook almost to the farmstand on Old Ayer Road. Rev. Rosenberger was sensitive to preserving the land for agriculture and to working with the Commission. The land is subject to an APR, but breaching a dam is subject to an Emergency Permit from the Board of Health, and an NOI should be filed for a beaver flow-control device or replacing the culvert. Rev. Rosenberger's farm manager dug a sluiceway parallel to James Brook to allow the water to bypass the blocked culvert. K. Corwin pointed out that James Brook seldom stays in its channel, and E. Owen observed that it is likely that the culvert is undersized.

B. Ganem reported that complaints have come in about motorized vehicle use on the Gilson Estates conservation properties. She will send a letter to abutters notifying them that this is not an authorized use of the conservation land. Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to set up a public hearing to discuss the rules and regulations for the use of the Gilson Estates Conservation Area.

Members agreed to include these parcels on the next Saturday site visit.

The Commission has recently been notified that the applicants for Surrenden Farm will be meeting with the Board of Health to discuss the remediation process on May 24, 2004 at 8:30 p.m.

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

VOTED: to go into Executive Session to discuss pending litigation to reconvene in Open

Session at adjournment.

At 10:15 p.m., the meeting was temporarily adjourned. The meeting was re-convened at 10:37 p.m.

Concerning an e-mail from Esther Pearson of 15 Squannacook Drive, members noted that she is an abutter of the 20-foot wide strip of land that weaves between two houses. The Commission visited the site last winter with Vic Burton when there was snow cover. Members suggested a letter to Ms. Pearson outlining the fact that it is town-owned land, and the Commission has an obligation to open public land. Commissioners observed that a trail network was discussed at the time of permitting for this subdivision, with particular concern about providing access to Bertozzi. The Commission has previously approved the implementation and construction of this trail. (*From the 1/27/04 minutes: In discussion on the proposed trail link at Crosswinds, members commented that it would be a shame to remove the tree buffer between the houses. V. Burton assured the Commission that the trail would be kept as narrow as possible. It was noted that trails should be put in place at the outset for subdivisions, and the Planning Board may want to minimize such narrow strips in the future. Mr. Burton noted that it is not the intent of the Trails Committee to make the area ATV accessible. Snowmobiling is apparently allowed at the airfield however. Upon a motion by E. Owen, seconded by B. Easom, it was VOTED: to allow the establishment of a trail between #5 and #15 Squannacook Drive to continue on town-owned property to Spaulding Lane, providing access to said trails is designed for non-motorized use and kept to the narrowest width possible.*)

Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to authorize B. Ganem to send a letter to Ms. Pearson, outlining the Commission's position on the Crosswinds trails.

Members suggested that Ms. Pearson be given an opportunity to respond.

There being no further business, the meeting was adjourned at 10:45 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as drafted 5/25/04**