

GROTON CONSERVATION COMMISSION

Minutes

June 8, 2004

Chairman Bruce Clements called the meeting to order at 7 p.m. Members Peter Morrison, Bruce Easom, Evan Owen, and Craig Auman were present. Kris Corwin and Stacey Laudenslager were absent. Associate Member Marshall Giguere arrived at 7:18 p.m. Conservation Assistant Barbara Ganem was also present.

Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to approve the minutes of May 25, 2004 as drafted.

B. Ganem explained that a request for an extension has been submitted by the Groton Community School. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to extend the Order of Conditions for DEP File #169-793 for three years.

Having visited the MacMillan property on Jenkins Road on Saturday, members agreed that it was a nice parcel but the purchase and sale price puts it out of the Town's reach. Much larger and more significant parcels have been purchased for less money. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to recommend to the Board of Selectmen that the MacMillan parcels not be purchased.

B. Easom voted in the negative, stating that a 40B project is likely, and the Commission probably will not be able to fully protect the resource areas.

Members refused to issue a Certificate of Compliance for CVS and the Emerson Medical Office Building, DEP File #169-663. During the Saturday site visit it was noted that the limit of disturbance had not been marked with any plantings as required in the Order of Conditions. Also, Commissioners requested clarification of what fertilizers and herbicides are in use near the wetlands.

In discussion on the draft Conservation Restriction for 271 Pepperell Road, and upon a motion by C. Auman, seconded by E. Owen, it was

VOTED: to approve the Conservation Restriction as drafted.

The Restriction will be forwarded to the Division of Conservation Services for review.

7:15 p.m. 2 Shelters Road Notice of Intent – DEP #169-892

(M. Giguere arrived at 7:18 p.m. E. Owen recused himself from the hearing.)

George Dimakarakos of Stamski & McNary explained that the well, foundation, septic system, and the grading associated with the driveway had been completed under an earlier Order of Conditions which had expired. The house is framed at this point. The remaining earthwork involves loaming and seeding the site. Mr. Lacombe plans to install a dry well to handle the roof drainage. Mr. Dimakarakos sketched in the approximate location of the dry well on the submitted plan. Bob Lacombe assured the Commission that there would be no work beyond the tree line, and members asked if he had any problem with a condition similarly restricting future owners. Upon a motion by P. Morrison,

seconded by C. Auman, it was

VOTED: to close the hearing for 2 Shelters Road, DEP File #169-892.

Abutter David Martin (74 Shelters Road) arrived just as the hearing was closed and asked for a brief description of the project. Commissioners explained that the house is partially constructed under an earlier filing, and the developer has improved on the original plan by building a smaller house and moving the driveway grading further from the wetlands. A roof drain has been added, and the builder has agreed to limit the future extension of the lawn. Mr. Martin asked how the Commission will assure that everything is done according to the plan, and members responded that the Commission visits each site to review the completed work and will issue a Certificate of Compliance only if the project complies.

In discussion on the June 5, 2004 letter from Ben DeRuzzo of 519 Longley Road, members recalled that this beaver impoundment is located on the Cronin Conservation Area. P. Morrison observed that this would set a precedent for handling beaver dams on all conservation lands. He also expressed reservations about allowing a private citizen to correct a problem on town land. Members noted that this is a marginal house site as it does not have much elevation.

7:30 p.m. – New England Forestry Foundation (NEFF) for Sabine and Grotonwoods Memorial Forests Request for Determination of Applicability

(As a volunteer for NEFF, P. Morrison recused himself.)

Rick Muehlke, steward for Sabine and Groton Memorial Forests, explained that several trees had upended near the walking path. NEFF would like to fill in the hole with bank washed gravel. Mr. Muehlke indicated there were no plans to remove the trees, and they will come back before the Commission if that becomes necessary. It was noted that the fallen trees do provide habitat. There being no questions from the public, and upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination to New England Forestry Foundation with no conditions.

Attorney Howard Hall asked if it would be possible to move the hearing for Moose Trail up from 8:30 p.m., and Commissioners agreed to do so.

7:45 p.m. - Moose Trail DEP #169-853 request for an amendment to Order of Conditions

Mr. Hall indicated that the Earth Removal Advisory Committee has approved the plan. He estimated that the retaining wall for the driveway would be about 8 feet high. P. Morrison said this is an improvement over the previous plan. Mr. Hall reported that the septic plan is before the Board of Health. E. Owen commented that the Commission had requested both the 50 foot and 100 foot buffer lines on the revised plan, neither of which have been provided. B. Easom asked about drainage from the driveway and how silt will be handled. Mr. Hall stated the driveway is 135 feet away. E. Owen said this is a half-baked, poorly drawn plan that is hard to read with no indication of the slope on the driveway. He pointed out the Commission has previously had to deal with the effects of poorly designed projects that impact wetlands more than 100 feet away. B. Clements asked if Mr. Hall could offer any clarification of detail. B. Ganem urged the Commission to consider keeping the hearing open, pending Board of Health approval of the septic permit. Mr. Hall did not feel that this would be fair to the applicant. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to close the hearing for an amendment to DEP File #169-853, for Moose Trail.

7:50 p.m. – Conductorlab/430 Main Street Request for Determination of Applicability

David Perry of Parsons met with the Commission at the site on Saturday. He said they are planning an investigation

process that includes soil borings to determine the possible extent of soil contamination. The soils will be stockpiled and analyzed and disposed of off site. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue a negative #2 Determination for Conductorlab.

Commissioners asked what will be done to correct the erosion control problem noted at the discharge pipe on site, and Mr. Perry responded that he anticipates moving the silt fencing upslope above the pipe. Members agreed that the ground was sufficiently stabilized to allow the removal of silt fencing on the sides of the pipe installation as far as the tree line.

8:00 p.m. – Appointment – John Diezemann

Mr. Diezemann distributed a map showing the locations of milfoil in Lost Lake as identified over the weekend and proposed for the follow-up Diquat treatment. He noted that it is growing within 3' or 4' of the surface near the rope that marks the swimming area at Sargisson Beach. He asked the Commission to consider allowing him to identify the milfoil rather than requiring that Lycott do it as that adds to the overall cost of the project. He noted that the Groton Weed Management Committee has agreed to conduct a survey in August just as they did annual monitoring in the late 1990's. Mr. Diezemann indicated he would not be looking at other plants before and after the treatment, just the milfoil. He also questioned whether the Commission would waive the requirement to test for Diquat before the treatment, as well as the second test if none is detected in the first test. Commissioners agreed to that schedule of testing. Previous testing sites were the Town Beach and Grotonwood. Milfoil was not detected near Grotonwood so no treatment will be conducted there.

B. Ganem explained that she had talked with Pat Huckery from Natural Heritage who recommended that areas near Sargisson Beach not be treated due to the proximity of Small Bur-reed. C. Auman asked how significant this treatment will be, and J. Diezemann responded that about 100 acres were treated in 2002, 20 – 25 acres in 2003, and he anticipated 20 – 25 acres in 2004. B. Clements said he was concerned about overstepping Natural Heritage's guidance in this matter. P. Morrison stated he was opposed to limiting treatment at Sargisson's from a public safety viewpoint. He pointed out that Natural Heritage's interest is not public safety, but the Commission's responsibility is to balance public safety with environmental concerns. The Commission manages the Beach but also administers the Wetlands Protection Act and Bylaw. C. Auman asked what the turnaround is on the testing procedures, and J. Diezemann replied that the state allows swimming within one day of the application. Commissioners preferred to have the test results before the Beach is re-opened. J. Diezemann agreed to take the test samples near Sargisson Beach and the Olsen property. He thought that Sargisson Beach was treated in 2002, but not in 2003.

P. Morrison made a motion to allow the Diquat treatment in the vicinity of the Town Beach, seconded by C. Auman. In discussion, Steve Marranzini (28 Redskin Trail) said the Commission's responsibilities appear to be contradictory. P. Morrison pointed out that he wants to reduce the possibility of a drowning occurring due to weeds. C. Auman commented one action is passive while the other is active. Patty Mavilia (101 Boathouse Road) stated the weed problem has improved due to the previous Diquat treatments, and the Lakes Association has done a wonderful job. C. Auman asked if the timing on getting the test results back could be improved. The Beach would be closed for the weekend following the treatment to allow time for testing. Following up on the original motion, it was

VOTED: to allow the Diquat application near the Sargisson Town Beach.

B. Easom and B. Clements voted in the negative, but the motion carried by a majority of those present. B. Easom asked if it would be possible to expedite the testing if the Commission pays the expense. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to allow the Lakes Association to do the testing once, 7 days after the application, and to prepare the before and after surveys of milfoil themselves.

8:30 p.m. – Appointment/Bob Collins – MacMillan/32 Jenkins Road

Commissioners explained they had previously voted to recommend the Town not exercise its option to purchase the MacMillan parcels. Mr. Collins commented he plans to work with Mr. Hicks to preserve the wetland resources. C. Auman noted that price is the issue on the MacMillan parcel.

Chairman Clements asked Mr. Collins to update the Commission on The American Baptist Church of Massachusetts (TABCOM) Conservation Restriction. R. Collins indicated that this has been in the works for almost 15 years, and he has just recently become involved in drafting the document. The Restriction was proposed as part of the permitting process for the subdivision known as Ridgewood on Prescott and Gay Roads and Whitaker Lane. The parcels are somewhat contiguous, and Mr. Collins reported that the total land area is 39 acres. Portions of the parcels abut the Brown Loaf property owned by the Town. The property would continue to be owned by TABCOM with the Commission holding the Restriction. Mr. Collins indicated that the land provides a public benefit in that the power line serves as a wildlife corridor. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to authorize B. Ganem to prepare a letter to the Division of Conservation Services in support of the donation of a Conservation Restriction to be held by the Commission on the TABCOM property.

Concerning Torrey Woods, Commissioners informed Mr. Collins that they were very much in favor of some sort of marker commemorating this gift but were concerned about the lack of frontage on a public way. Markers placed in isolated sites tend to be vandalized. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to authorize B. Ganem to look into possible resolutions to placing an appropriate marker on Torrey Woods.

8:43 pm. – 101 Boathouse Road Notice of Intent continuation

Chairman Clements requested that the discussion be limited to the application at hand. Patty Mavilia explained that they wish to recap the portion of the wall facing the island and re-build the 100 foot portion of the wall on the other side. P. Morrison noted that only 40' of the wall on the island side will be re-capped according to the submitted plans; Ms. Mavilia said they would only do those portions that are prone to wave action. B. Easom reported that his study of the aerial photographs was inconclusive. As you look at the site, the new retaining wall appears to be in line with that of the neighbor's. It was noted that the original retaining wall foundation was not visible at the site visit the previous evening. P. Mavilia assured the Commission that no trees would be removed for the re-construction of the retaining wall within the existing footprint.

B. Clements noted that the Commission customarily requires a wildlife study for retaining wall work beyond 49 feet in length. He explained that a biologist would prepare the study at the applicant's expense. E. Owen, noting that the existing wall was stone and eroded mortar, asked how the wall would be re-built. Ms. Mavilia responded it would be a dry laid wall. B. Easom thought this would improve wildlife habitat. C. Auman asked how the wall will be constructed in the area of the deck which is right on the water. The Mavilias stated the re-built retaining wall would not be moved any further out into the Lake than the existing wall, and there was room in the vicinity of the deck. Upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to not require a wildlife study for the disturbance of 100 feet of the retaining wall on the bank.

Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to close the hearing for DEP #169-889, 101 Boathouse Road.

8:45 p.m. – Eliades Notice of Intent continuation

Attorney Tim Ervin submitted revised plans showing two separate garage structures and explained that he had come in to discuss things on the plan. Members indicated that they would withhold comments until they had reviewed it in

Executive Session. Mr. Ervin pointed out that the structures were outside the 200' buffer zone and will not impact the area of the Conservation Restriction. He noted that this was done to accommodate the design as a garage under made the house too high under Groton's height restrictions. Mr. Ervin stated that the conservation restricted land is outlined on the plan and language will be incorporated into the deed. Tracy Eliades stated that the plan is identical to the one he submitted at the May 25th meeting. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to continue the hearing to June 22, 2004.

Mrs. Eliades requested that they be put into an earlier time slot on the agenda. Members explained that they needed information ahead of time.

9:00 p.m. – Mattbob, Inc. Notice of Intent continuation

Chairman B. Clements explained that the revised plans had just arrived today, and the Commission is not in a position to comment on them. Attorney Douglas Deschenes said the proponent was able to pull the access roadway away from the vernal pool, thereby decreasing impacts to wildlife. He noted that there is a 50 foot wide no-disturb buffer, and work within the 100 foot buffer zone has been minimized with only stormwater management devices and some grading for the buildings occurring in this area. He stated that 350 SF of sidewalk occurs within the 100-foot buffer. The sidewalk is separated from the wetlands by a small knoll. Mr. Deschenes asserted that this plan is a major improvement because of the reduction in potential impacts to the wetlands. He noted that the revised drainage calculations were submitted to Judith Nitsch Engineering, Inc. today.

P. Morrison commented that, although town boundaries are not an issue with the Commission, how would the filing work since the access is now in Littleton. He expressed appreciation for the significant improvement to the design, and Mr. Deschenes indicated that the existing cart path could be re-naturalized. B. Clements asked whether they had applied for a waiver of the Groton Wetlands Protection Bylaw in their filing before the Zoning Board of Appeals. E. Owen noted that a detailed construction sequence should be a part of the filing. B. Easom noted that the Commission considers detention basins to be structures, and these remain within the 100 foot buffer.

Engineer Mark Sleger stated that the roadway would be 24 feet wide with a 5-foot wide sidewalk. Because this is an over-55 development, he indicated that the sidewalk would form a loop within the development, but does not extend onto Boston Road. Resident Julie Lisk requested that buildings not be put in the 100 foot buffer. She expressed concern that areas allowed to naturalize would be likely to become choked with invasive plants.

Abutter Kris McEvoy (89 Stonebridge Way) asked if the vernal pool had been fully delineated, particularly since the detention basin is within 100 feet of the edge of wetlands. In order to reduce buffer zone impacts, Mr. Deschenes said the house at 993 Boston Road would not be demolished as originally planned. Ms. McEvoy questioned whether the proponent was filing under the Wetlands Bylaw, and D. Deschenes responded that this was a Comprehensive Permit that did not require filing under local regulations. She also requested the proponent address the Commission's letter in which the issue of blasting was raised. Ms. McEvoy urged the Commission to require a wildlife study as there is still no information on migratory patterns.

Andres Viera (36 Stonebridge Way) questioned whether the wetlands boundary is the same as was originally approved by the Commission, and P. Morrison assured him that the wetland flag numbers must be the same in the field and on the plan. Leslie Lathrop (55 Sunset Road) indicated the Commission should make it clear the proponent is looking for a waiver of the local Bylaw.

Engineer Mark Sleger noted there will be no wells on site, but the exact route of the water line has not been determined. K. McEvoy questioned whether the delineation of the vernal pool is different from the delineation of the wetlands, and Mr. Sleger responded the vernal pool delineation has not been approved yet. Julie Lisk (63 Spencer Circle) asked if a wildlife study has been prepared, and D. Deschenes replied that the proponent does not trigger anything that would require a wildlife study as the circumstances have now changed with the new access. It was noted that only the portion of the wetland that was to be filled was studied for wildlife.

Alinda Zawierucha (713 Great Road, Littleton) asked about the impact on salamander migratory patterns. P. Morrison said that the Commission's jurisdiction is limited to the 100 foot buffer zone, and members cannot ask for anything outside of that jurisdiction. He commented that the new design shows very little intrusion into this area. However, no major decisions will be made until we have a report from the engineers with respect to the possible impacts to the vernal pool. K. McEvoy asked how the vernal pool can be protected if the applicant does not fully delineate the boundary, and Mr. Morrison responded that the Commission will protect the areas that are proposed to be altered by this project. Ms. McEvoy urged the Commission to look at information on a similar Ch. 40B project that is proposed in Hopkinton.

J. Lisk said it is unfortunate that the proponent is unwilling to do a wildlife study as there are very likely to be rare species present. She pointed out that their range can be over 1000 feet around the pool. P. Morrison commented that the Commonwealth of Massachusetts is just beginning to recognize this kind of data. Ms. Lisk and Ms. McEvoy asked if the Commission had received any sort of documentation on the species present in the vernal pool. Members reported that they had observed both spotted salamander and wood frog eggs in the pool when they accompanied Mattbob's wetland scientist on site. D. Deschenes maintained that no work is proposed within the 50 foot buffer, and the proponent did not feel that a full-blown wildlife study was required as the project is not within an ACEC or priority habitat. Members of the audience indicated that the Housing Appeals Committee has required applicants to file under the local Bylaw, and the detention basin is within 100 feet of the resource area. B. Clements said the Commission could make a recommendation to the Zoning Board of Appeals that they take into consideration the local Bylaw. Commissioners pointed out that, in the case of blasting, the Commission can take after the fact jurisdiction if the blasting affects the vernal pool. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to continue the hearing to June 22, 2004.

Commission returned to discussion on the DeRuzzo letter. B. Ganem commented that there is an advantage to wildlife to maintain a stable water level rather than have it fluctuate. P. Morrison warned that it leaves the Commission open to giving them a solution, and there are at least three other people who would want to get on the boat. B. Clements said he would not like to authorize trapping of the beaver. Members noted that the Commission lacks the money required for remediation, and there are liability issues to allowing someone else to work on conservation land. B. Ganem will prepare another letter to send to Mr. DeRuzzo.

After review of the draft Order of Conditions for Enwright on Boathouse Road, and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve the Order of Conditions for DEP File #169-891, as amended.

In discussion on the use of ATVs to access the various monitoring gauges for the Unkety well site explorations, upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to allow the use of ATVs on the cart paths by the personnel performing the well testing activities, only for the period during which well testing occurs.

Concerning the proposed driveway improvements at the Petapawag Boat Launch, members felt that this work could qualify as a minor exempt project. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to not require a filing for the Petapawag improvements providing no work occurs within 50 feet of the Nashua River.

Members discussed a proposal from Paul Funch of the Trails Committee to either repair or replace the fence rails and posts at the McLain Conservation Area. Concerned about maintaining the area as originally landscaped by the developer, Commissioners agreed to the concept of maintaining the fencing. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to authorize Barbara Ganem to contact Ray Lyons to determine if this would qualify as an Eagle Scout project.

Commissioners had reviewed the stewardship plan the Boy Scouts proposed for the Norris land. This parcel is owned by the Town with a Conservation Restriction held by the Conservation Commission and DEM. The driveway that served the former owner of the parcel is Old County Road. P. Morrison thought this was a good use of the land, and members expressed an interest in visiting the parcel on the next site walk.

(P. Morrison left the meeting at 10:15 p.m.)

Comments on the Expanded Environmental Notification Form for Rocky Hill and Stratton Woods are due to MEPA by June 15th. There will be a meeting with MEPA staff and the proponents on June 11th. Commissioners agreed that this was a generally good project, but there are concerns about the proximity of some of the work to wetlands/vernal pools.

Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to reappoint Evan Owen to serve as the Conservation Commission's representative on the Earth Removal Advisory Committee.

E. Owen abstained from the vote.

Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to join the Nashua River Watershed Association at the \$50 level.

Upon a motion by C. Auman, seconded B. Easom, it was

VOTED: to submit the membership fee of \$440 for FY 05 for the Massachusetts Association of Conservation Commissions.

The MACC fee includes all current members, as well as B. Ganem. Members questioned whether S. Laudenslager wishes to continue serving on the Commission, and asked B. Ganem to contact her. Members noted that they value her as a member, but need to know if she feels she can be available to attend meetings on a regular basis. The membership bills will be held until the start of the new fiscal year.

B. Easom plans to attend the Zoning Board of Appeals hearing on June 9th.

In discussion on the Mavilia violation, B. Clements thought that the work that has been done is probably beneficial to the Lake. Mr. Mavilia admitted he has done the work without a permit. C. Auman indicated that he did not support the idea of asking him to remove the wall. It was noted, however, that it is unlikely that the addition of the crushed stone improves habitat. The riprapped embankment is probably located in the middle of the town's right of way. He has basically extended the wall from the Courtemarche property onto his own. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to issue a \$50 fine for work done without a filing.

Failure to pay the fine could result in the imposition of additional fines for each day of the continuing offence.

In discussing possible conditions for the proposed amendment to the Gibbet Hill Restaurant members were concerned about the use of herbicides and pesticides. If invasives become established within the area to the west, it may be necessary to use herbicides. Other conditions which may be applicable include reserving the right to inspect and an annual report on the status of the area. Also, Commissioners were frustrated at the lack of detail on the proposed change in use of the area to the east of the restaurant. Questions were raised about whether there would be lawn right to the edge of the resource area, whether a 10' buffer would be adequate, and the anticipated schedule of mowing and

fertilizing. A condition that requires no change in topography is appropriate for this area. Members agreed that a great deal more information is necessary before issuing an Amended Order of Conditions. The Webbers will be asked to come in to discuss this with the Commission before the wetlands permit is issued.

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

VOTED: to go into Executive Session to discuss pending litigation.

Upon a roll call vote of E. Owen, B. Easom, C. Auman, and B. Clements, it was

VOTED: to enter Executive Session at 11 p.m. to re-convene in Open Session at the conclusion of the meeting.

The meeting re-convened in Open Session at 11:25 p.m. Commissioners signed off on bills and permits. There being no further business, the meeting was adjourned at 11:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted 6/22/04