

GROTON CONSERVATION COMMISSION

Minutes

September 14, 2004

Chairman Bruce Clements called the meeting to order at 7:00 p.m. Members Craig Auman, Kris Corwin, Bruce Easom, and Evan Owen were present. Peter Morrison arrived at 7:10 p.m. Conservation Assistant Barbara Ganem was also present.

7:00 p.m. – 178 Townsend Road Notice of Intent continuation

Attorney Ray Lyons stated he had no new information to put in the public record at this point, but flagging for the wetland and culvert was added on site. He noted that the applicants, the Hoopers, are planning one house for the foreseeable future but there are uses they want to do in the upland. Several Commissioners questioned the placement of wetland flags. Mrs. Hooper said that they were able to find remnants of all but two wetland flags and to pace off the distance between flags shown on the plans. Because of the change in the slope and vegetation at the edge of the driveway Mr. Lyons felt that the edge of wetland is very clear.

B. Easom pointed out that the wetland line runs on the south side of the driveway so it appears that a lot of filling is to occur because of the driveway. R. Lyons maintained that the only change is the excavation of a trench for the water line.

(P. Morrison arrived at 7:10 p.m.)

Members agreed that the flagging in the field should be accurately reflected on the plan. R. Lyons proposed providing a detail of the driveway with the correct delineation. K. Corwin added that the elevations of the culvert pipes should also be provided. Mr. Lyons commented that the wetland on the right (south) side of the driveway is actually on land owned by the abutter. (NB – The flagging for 160 Townsend Road shows wetlands up to and including the property line.) R. Lyons said the applicant is essentially asking the Commission to review and approve the flagging that was done in the 1998 filing. He asked that the Commission consider closing the hearing pending the receipt of the additional plans and information. K. Corwin pointed out that the Commission cannot accept additional information once a hearing is closed. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the hearing for 178 Townsend Road to September 28 2004.

C. made a motion to approve the minutes of August 24, 2004, seconded by B. Easom. In discussion on the minutes, E. Owen commented that he believed a statement from B. Ganem had been omitted in the paragraph on Groton Center Farms. He made a motion to amend the minutes to read “B. Ganem said she received no response when she asked how recently the Half Moon Swamp area had been in agricultural use.” The motion was seconded by B. Easom, and it was

VOTED: to approve the change in wording.

E. Owen, B. Easom, and B. Clements voted in favor of the motion while P. Morrison and C. Auman voted in the negative. K. Corwin abstained from the vote.

Returning to the main motion, it was

VOTED: to approve the minutes of August 24, 2004 as amended.

E. Owen, B. Easom, B. Clements, and C. Auman voted in favor while P. Morrison voted in the negative, and K. Corwin abstained from the vote.

7:30 p.m. – Lost Lake/Knops Pond drawdown NOI continuation

Dr. Bill Eger explained that the group still would like to know if the drawdown would work. Issues such as providing water in the event wells run dry must be re-addressed with the Fire Department. He noted that the Commission will receive a map showing the seining sites for the bridle shiner, an endangered fish species previously reported in the Lake.

Regarding the Lakes Association filing for hand pulling problem weeds, he noted that growth is already too extensive in both the upper and lower ponds, Red Water Cove, and Knops Pond. While Cabomba was not visible in July, more than 20 sites have been recently located in Springy Cove alone. He noted that they still intend to install the benthic barriers as the group needs to learn how to do this. This project will be undertaken in the next week as water craft are generally removed from the Lake before the drawdown commences on October 10th. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to continue the hearing for the drawdown to March 2005.

Botanist Dennis McGee has agreed to help the Lakes Association confirm the identity of the Cabomba and Small Bur-reed sites. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to authorize Dennis McGee to assist in the identification of Cabomba and Small Bur-reed prior to the placement of benthic barriers in Springy Cove.

Dr. Eger stated that the Weed Advisory Committee will be meeting tomorrow evening at 7:30 p.m.

Residents John and Susan McElroy were present to discuss their application for a Certificate of Compliance for 114 Hollis Street. Members expressed concern with the extent of clearing in the area abutting the newly planted blueberry bushes. Commissioners commented that mowing has occurred almost 24' into the wetland area that was not to be disturbed. The McElroys were asked to limit mowing the area in question to one or two times per year with no extension of the lawn area. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to issue a Certificate of Compliance for DEP File #169-816 for 114 Hollis St.

K. Corwin recommended to the McElroys that they file a Request for Determination of Applicability form if they wish to develop a plan for the control of invasive species in the wetland or 100 foot buffer.

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

VOTED: to issue an Extension to November 16, 2007 for Hollingsworth & Vose for the annual removal and replacement of boards in their dam, under DEP File #169-641.

After review of the Order of Conditions for the Groton School boat house addition and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve the significance, regular, and special conditions for the Groton School boat house, DEP File #169-894.

In discussion on land management issues and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to authorize B. Ganem to arrange with Bruce Dubey for the mowing of McLains Woods, Whistlepost, and Spencer Circle.

C. Auman abstained from the vote, noting that Mr. Dubey is a neighbor. E. Owen asked about the advertisement for

haying Ames Meadow, and B. Ganem reported she had not prepared the ad as yet.

8:00 p.m. – Appointment Kristen McEvoy

Ms. McEvoy reported that she has appealed the Commission's decision on Oak Ridge Manor on the basis of a butter notification and what she felt was an inadequate peer review. She noted that they plan to submit their own review of the project. The review shows potentially dramatic impacts from a drainage system designed prior to the proponent's acknowledgement that the wetland was a vernal pool. She indicated that she would like to see the Commission hire its own peer reviewer. In addition, she requested that the Commission contact town counsel for guidance on Ch. 40B applications.

K. McEvoy asserted that the ZBA seems very confused about what to do with Conservation issues. Facilitator Mark Bubrowsky has concurred with neighborhood concerns and recommended that a list of waivers be developed, and Conservation issues do not appear. Ms. McEvoy asked the Commission to get something in writing from town counsel Kopelman & Page. In a July 1 memo to the ZBA, the remaining concerns of the Conservation Commission were laid out. The issue is where do these items get applied. Ms. McEvoy indicated that the Housing Appeals Committee will look only at the record, the minutes, etc., and will not accept anything new. She asked the Commission to request a separate meeting with the ZBA on Conservation issues. She felt that it would be better to design the project correctly in the first place rather than try to repair after the fact problems. B. Easom said he understood that the effort is to prevent damage to the vernal pool.

K. McEvoy stated that the biggest thing is that surface runoff is going from sheet flow to interception by two detention basins which outlet at either end of the vernal pool. The applicant has no idea what effect this will have on the entire center section of the vernal pool. In changing patterns, velocity, and rate of water flow, there could be impacts to the vernal pool. P. Morrison pointed out that the benefit of biofiltration is also eliminated. Ms. McEvoy maintained that the only factor Judith Nitsch Engineering, Inc. looked at was whether there is the same amount of water before and after the construction. To duplicate the effect of sheet runoff, a series of detention basins would be necessary. According to K. McEvoy, no groundwater recharge analysis was prepared. Because of the depth of the cuts necessary for utilities, these trenches may act to intercept groundwater and direct it away from the vernal pool.

Chairman Clements noted that Ms. McEvoy's comments appear to be aimed at seeing the local bylaw upheld by the ZBA. B. Ganem has prepared a draft memo regarding the waivers from the wetlands bylaw for Commission review. C. Auman suggested that an educational session, framed to explain the difference between the local bylaw and the Wetlands Protection Act, might be helpful. Members suggested seeing when the next available hearing is to be held and sending the memo. The ZBA has to consider waivers in such areas as safety, environmental, open space, and health. K. Corwin expressed reservations about telling the ZBA how to do their job. P. Morrison said it is our job to inform them of the differences, how this particular jurisdiction should be approached. The Commission can request they enforce our Bylaw. K. Corwin said she is uncomfortable telling the ZBA how to do their job. B. Easom said if we recommend strict adherence to the Bylaw and the applicant is denied the requested waivers, they can appeal to the Housing Appeals Committee. C. Auman asked if she felt strongly about this. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to authorize B. Ganem to contact Town Counsel for an opinion.

B. Easom opposed the motion.

K. McEvoy said it will help to get a legal perspective. It is anticipated that the next ZBA meeting will be held on September 22nd.

8:15 p.m. – Appointment Terry Gensel/Ross Associates

T. Gensel explained that Vanasse Hangen Brustlin, Inc. (VHB) had prepared the as-built survey for work at Rivercourt, DEP File #169-668 and 739. Two Orders were issued, one for the brick house at the entrance and the

second for Rivercourt itself. Mr. Gensel explained that he had walked the site with David Hamilton, the architect, and checked that all areas were stabilized. C. Auman pointed out that some silt fencing was still in place. K. Corwin requested the compensatory floodplain storage calculations for work within the floodplain. Mr. Gensel explained that VHB performed surveys of the site so they should be able to provide the calculations. K. Corwin clarified the need for volumes and elevations under pre and post-construction conditions. B. Easom recommended that the tree debris left along the Squannicook River be removed from the Riverfront Area. The Commission will review the request again once the above items are addressed.

Regarding the Norris property on Pepperell Road, B. Ganem reported that Article 97 would be invoked for this parcel if a portion of the property is removed from conservation. It is possible that a conservation use could fall under an amendment to the Conservation Restriction (CR), but the Commission would have to make a very strong case for a caretaker. There are also fiscal issues with regard to funding the repair of the facility. Members agreed that the inquiry should be taken to the next step to examine the possibility of an amendment to the CR.

In discussion on whether to include an article on the Conservation Fund in the fall Town meeting warrant for October 25, members pointed out that even if the Community Preservation Act is approved on the November 2nd ballot, no funds will be allocated for conservation for some time. The tax assessors will not begin to collect the tax until the July 2005 tax bill. The state will not match the funds until October 15, 2006. Members agreed to ask for \$150,000 to make up the difference between the \$200,000 requested and \$50,000 actually allocated at the 2004 annual town meeting. Additional funds will be requested for the 2005 annual town meeting as well.

B. Ganem reported that Martha Morgan from the NRWA has contacted the conservation office with concerns about the spread of water chestnut in the Nashua River. They are exploring the possibility of using a harvester to cut back on the plant. Members agreed that a Request for Determination of Applicability would be appropriate for this project.

B. Ganem reported that she met with MaryAnn DiPinto of DEP and Frank Mavilia of 101 Boathouse Road to discuss resolution of the erosion problem at Sargisson Beach. There is a difference of opinion over what kinds of stone, rounded boulders or angular stones, would be appropriate for this work, and B. Ganem will discuss this with Bob Pine who originally drew up the plan. There is about \$9,000 remaining in the account for control of beach erosion which could cover the costs of materials while Mr. Mavilia's labor and equipment would offset the estimated \$6,000 fine he would incur for altering land under water on his own property.

In discussion on correspondence from Groton Center Farms, members agreed that the purpose of the on-site meeting was to gather information to help the Commission understand the nature of the project. It was not a public hearing, and the Commission was within its rights to conduct the meeting in that manner. Commissioners agreed to send out the August 24th minutes. While other farms have not submitted a conservation farm plan, they have been requested to file or have filed under the Wetlands Protection Act. Owen commented that Wilkins has been asked to file for drawing irrigation water from the Nashua River and Carl Flowers was also requested to file for changing from forestry to agricultural activities.

C. Auman noted that Marshall Giguere has been extremely faithful about attending Commission meetings and site visits. Mr. Giguere assured the Commission that he would continue this practice. Upon a motion by P. Morrison, seconded C. Auman, it was

VOTED: to recommend to the Board of Selectmen the appointment of Marshall Giguere to fill the vacancy created by the resignation of Stacey Laudenslager.

Commissioners visited two of the sites identified in the state Wetlands Change Project on Saturday. It was not apparent that either of these areas were disturbed or filled. The wetlands may have naturally succeeded to different vegetation because of changes in hydrology. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to authorize B. Ganem to send a letter to the state outlining the Commission's findings on the Wetlands Change Project.

In other business, Commissioners confirmed that a deck is shown on the plans submitted for the Gibbet Hill Restaurant. Members also reviewed the alternative roadway location proposed for access from Townsend Road to Academy Hill. The Commission discussed the survey work done at Williams Barn Sorhaug Woods, and both K. Corwin and E. Owen recollected that only the east side of the lot line was surveyed, not the Cemetery side.

Warning letters should go out to residents Bradbury, Silva, and Rosenberger requesting that they file or face fees.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted

Barbara V. Ganem
Conservation Assistant

Approved as amended 9/28/04