

## GROTON CONSERVATION COMMISSION

## Minutes

October 26, 2004

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

Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to approve the minutes of October 12, 2004 as amended.

Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to approve the minutes of September 28, 2004 as drafted.

Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve the significance, regular conditions, and special conditions as amended and issue the Order of Conditions for DEP #169-898 at 235 Riverbend Dr.

K. Corwin recommended the Commission consider adding a boilerplate condition to its Orders requiring the removal of any invasive species that become established as a result of project activity in disturbed areas.

B. Ganem explained that she had a call from an abutter to the Gilson Conservation Area between Gay Road and Boston Road complaining about gunshots within the Area. It appears that a target has been set up very close to the boundary. Highway Surveyor Tom Delaney said it was his understanding that target practice must be done on one's own land or on a recognized target range unless you have the landowner's permission. State law mandates that guns not be discharged closer than 500 feet to a residence (without permission) or 150 feet from a road. Commissioners questioned whether this activity could be considered passive recreation. It was agreed to send a letter to the owner of the land which abuts the area where target practice is occurring. The letter will ask that he comply with applicable regulations and be sure that all target practice occurs on his own land.

Regarding the on-going encroachment issues on the Hidden Valley/Duck Pond portion of Grotonwoods, Commissioners agreed that negotiating on site allowed a give and take with neighbors at Battenwoods. Abutters on both sides of the trailheads, as well as the owner of the fenced in portion of the trail, and members of the Trails Committee will be invited to attend a posted on site Commission meeting. E. Owen pointed out that in the recent MACC enforcement workshop he attended, it was mentioned that Commissions can issue fines for encroachment.

Commissioners agreed that it would be unnecessary for the resident at 313 Hill Road to file an RDA for a temporary shed, especially since she will be filing an NOI for the workshop addition in the near future.

B. Ganem indicated she will follow up with the builder on the Orion Way trail and demarcation required under the Order of Conditions.

Members questioned whether the list of waivers for the Mattbob Comprehensive Permit originated with the applicant or with the ZBA. A letter will be sent to the ZBA requesting 1) that they require the applicant to do a wildlife study, 2) keep the hearing open until all issues are resolved, and 3) that the ZBA inform the Commission of all upcoming meetings pertaining to this issue.

Commissioners visited Rivercourt on Saturday, October 23<sup>rd</sup> to review the issue of compensatory flood storage at the site. Filling was allowed when this project was constructed with the understanding that compensatory storage would be done in another area of the property. P. Morrison indicated that he thought some compensation had been done in the area of the aerators. While there is a lot of junk, tanks, etc., he did not think there was anything hazardous in the area. B. Clements agreed that it was certainly not a pristine habitat. P. Morrison commented that there are a lot of critters who call it home even though it may be the equivalent of a slum. He noted that he would be interested in knowing what percentage of flood storage

is missing. C. Auman pointed out that the plan called for compensation, and they should follow their plan unless they can present a cogent reason for not doing so. B. Easom noted that the Commission usually makes sure that people do not fill floodplain. He did not feel that it mattered where the compensation is done. Commissioners suggested that it may be an economic decision, but the developer should come up with a proposal for how he intends to remedy the situation. E. Owen noted that the Commission requires replication when wetlands are altered, and K. Corwin commented that there is trash as well as invasive species in the area proposed for compensatory storage. She felt that the NH&ESP should review the project. If the proponent files a new NOI for the work, they will be required to submit their filing to NH&ESP. M. Giguere felt that some action was necessary as this sets a precedent and erodes the Commission's authority. The applicant will be advised to file an NOI.

7:30 p.m. – James Brook culvert maintenance/Groton Highway Department

Highway Superintendent Tom Delaney was present to explain the proposed work. He noted that he had a request from the upstream landowner to clean out the culvert outlet area to improve the drainage. The culvert, which carries James Brook, is currently half-filled with debris and siltation which will be scooped out by a small bobcat, and the headwall will be straightened. He considers this routine maintenance. A one ton 6-wheeler dump truck will be used to take the materials off site. Mr. Delaney explained that the work will be done under low flow conditions by putting a board in front of the upstream culvert inlet off Mayfield Drive. He stated that this culvert typically flows during rain events, so he believes the water can be safely backed up without causing upstream flooding. The culvert inverts will stay the same. He anticipates making the Brook slightly deeper at the end of the culvert and removing a plume of silt about 18 inches deep at the culvert tapering to 4 – 6 inches about 40 feet downstream. A backhoe with rubber tracks will be used, and it is possible that this could straddle the Brook. To prevent downstream siltation he will put haybales across the stream while work is being done, and no excavated materials will be left on site.

Member Morrison suggested issuing a negative Determination for normal maintenance of an existing drainage structure in an area protected under the Act, providing materials are removed offsite. K. Corwin said she was okay with a negative finding, but uncomfortable with calling James Brook a drainage structure. P. Morrison observed that clearing out the culvert opening is an act of maintenance, and T. Delaney concurred with the assessment that cleaning and re-building culverts is a normal maintenance activity. With a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue a negative Determination with the following conditions: that the water be stopped before the work takes place, that precautionary measures be taken to prevent downstream siltation, that extra erosion control materials be kept on hand, and that any disturbed areas be loamed and seeded as necessary.

B. Easom voted in the negative, stating that he was not personally convinced the Conservation Commission can make exemptions for highway maintenance. Commissioners advised Mr. Delaney to file a collective Notice of Intent for upcoming culvert work he expects to undertake in resource areas.

7:45 p.m. – Silva/29 Boathouse Road Request for Determination of Applicability

Mr. Silva explained that he had purchased the lot next door which had an old foundation. He filled the cellar hole and graded down the slope and added riprap to hold the slope. K. Corwin commented that the work seems fairly straightforward with the only problem being the need to file ahead of time. C. Auman reiterated the requirement to file before work is done and agreed that the site is probably more stable than it was. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue a negative #3 Determination with the condition that no fertilizers or pesticides be used.

Members explained that the wetland depression on site is likely a vernal pool as the Commission has observed rare turtles in the vicinity of the site.

8:00 p.m. – Eliot/129 Longley Road Notice of Intent – DEP #169-901

Homeowner Anna Eliot submitted the list of abutters, some of whom were contacted directly and some by certified mail. She explained that she wished to widen an existing access way to accommodate a haybaler. In response to how long the pipe has been in place, Ms. Eliot thought 20 years. She could not remember whether water had ever overtopped the access way culvert.

Commissioners asked what kind of fill will be used, and Ms. Eliot said it would be clean. E. Owen asked if this was a pedestrian trail, and A. Eliot explained that occasionally a pick up truck used the access. She anticipates doing firewood cutting on the 14 acre parcel. K. Corwin expressed concern that the wetland was not marked and consequently the Commission could not tell where fill was going. Ms. Eliot noted that the culvert is 20 feet long, and she anticipates putting in a little less than that width. She stated that it was an intermittent stream which does dry up. B. Ganem noted that the most recent USGS topo map shows Nod Brook as a perennial stream. Commissioners asked if the land was used for agriculture, and Ms. Eliot said it is currently taxed under the Ch. 61A program. She indicated that it has been in agriculture for years as the land was her grandmother's.

Chairman Clements observed that the wetland crossing appears to involve some filling on the right side which is likely to be Bordering Vegetated Wetland. Usually when a wetland resource area is filled, it is necessary to compensate. He asked if there was any alternative to get to the land in back or whether a bridge was considered. A. Eliot said she wished to keep the project simple and inexpensive. P. Morrison questioned whether this could be regarded as maintenance of an existing culvert which involves restoration to its original state. K. Corwin noted that the crossing was never 20'; the proposed project is to make it wider. The crossing was constructed with no headwall, and there has been some slumping. B. Easom noted that it is filed as a limited project. Ms. Eliot asserted that she was not doing a road, and the footprint of fill is there now. She did not feel it would be possible to do a headwall without changing the pipe. P. Morrison suggested it could be considered exempt as a restoration of agricultural use with hay as the commodity raised on site. Ms. Eliot indicated that her neighbor uses the hay for horses.

K. Corwin noted that an existing crossing is being filled and made larger. Commissioners asked how wide the access needs to be to accommodate the baler, and A. Eliot thought it was between 10' and 12' wide. Members felt that 16 feet should be the maximum width. E. Owen indicated that a headwall would help prevent future slumping. Members suggested that a flat rock could be added at the outfall to assure continuity in the streambed between the upstream and downstream sides. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the hearing for DEP #169-901.

The Order of Conditions could allow the use of something to simulate a headwall, such as tree trunks. Also the improvement in the culvert outfall would allow amphibians and reptiles to travel within the stream.

#### 8:15 p.m. – McElroy/114 Hollis Street Request for Determination of Applicability

Mr. McElroy explained that they had filed an RDA, as recommended by the Commission, for the removal of invasive plants at the rear of their lot. The method for removal is outlined in the letter included in the RDA and includes cutting as the next door neighbor, Bob Pine, has done on his property. He noted that there are similar species as on the Pine property, including common reed, loosestrife, and buckthorn. K. Corwin expressed concern that bushwhacking the whole area would harm the native species that are present. She questioned whether the Commission would consider the use of chemicals on cut stumps and whether handpulling or cutting is feasible. Mrs. McElroy indicated that some of the buckthorn is 4 inches thick. E. Owen pointed out that one must be persistent about cutting buckthorn. Mr. McElroy said they would use a brush hog to grind the stumps down. B. Easom commended the McElroys for taking on this perpetual task, noting that the population can be controlled but is unlikely to be eradicated. He recommended that the removed invasive vegetation be incinerated rather than dumped in a landfill.

C. Auman asked what the goal for the removal of invasives is, and Mr. McElroy indicated that they wished to replace scrubby growth with low growing grasses such as Club head cut grass or Long-spiked silver bluestem. C. Auman also observed that cutting vegetation will stimulate it to grow more prolifically in subsequent years. He noted that the Red-twigged Dogwood, Cattails, and Red Maple should remain, and it might be a good idea to have someone to identify the native species to be left alone.

B. Clements agreed that clear cutting is not the best solution as the native material should remain in place. He also noted that this is priority habitat according to the most recent Natural Heritage map. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) To the extent practical, native species such as Red Maple, Dogwood (sp.), Cattails, Boneset, Goldenrod (sp.), and Soft Rush shall not be removed; 2) invasive species

shall be selectively cut; and 3) The Commission would like to review species marked for removal before cutting takes place.

E. Owen mentioned that the MACC workshop on enforcement recommended the filing of a Notice of Intent for the removal of invasives.

8:30 p.m. – Silva/44 Maplewood Notice of Intent continuation – DEP #169-899

Engineer Brian Milisci submitted revised copies of the plan showing the details of the retaining wall and stairs. In addition, he submitted a Request for a Certificate of Compliance for the earlier filing, DEP #169-501, for an addition to the house. He verified that the site is stabilized and in compliance with the Order of Conditions. The retaining wall will be reinforced with a geogrid tieback. The stairs are to be constructed of the same material as the retaining wall. Members asked about the construction sequence, and Mr. Milisci said compacted crushed stone will be used as the base for the wall and erosion and sedimentation control procedures are outlined in the Notice of Intent. He noted that he, as the geotechnical engineer, would inspect the wall construction. Proper installation of the bottom row is especially important. The Silvas expect to start construction before winter. Mrs. Silva said Birchwood Ave. is graded away from the slope so it is not anticipated that water will be draining from the roadway onto the work area. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the hearing for DEP #169-899.

8:55 p.m. – Reedy Meadow Estates Notice of Intent continuation

The proponent has requested a continuation. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing for DEP #169-893 to December 14, 2004.

The Commission recently received a Superceding Order of Conditions for DEP #169-889 at 101 Boathouse Road in response to the neighbor's appeal. DEP has essentially affirmed the Commission's Order of Conditions with the added requirement that Mr. Mavilia repair about 400 feet of retaining wall at Sargisson Beach in lieu of paying a fine. The Commission will have to pay for supplies while Mr. Mavilia will provide the equipment and labor for this work. Possible sources of stone for the project include the Highway Department and Peter Morrison. Members agreed that a central person is needed to manage this project, including ordering materials on a timely basis. B. Easom agreed to be the point person, and B. Clements offered to assist. The draft Notice of Intent for the retaining wall at Sargisson Beach was reviewed and appears satisfactory.

In response to the Commission's visit to 28 Boathouse Road on October 23<sup>rd</sup>, members noted that one of the problems with the site is that the back foundation wall does not appear to be deep enough to serve as a frost wall. The Building Department requires four feet of fill against the frost wall, and this is impossible to accomplish with the wetlands directly behind the house foundation. This would be a major change in the plan. In addition, the Commission observed areas where fill has overtopped the erosion control measures and entered the wetland. Some of the silt fencing is hanging in the air, and the wetland flagging is not in place. Upon a motion by P. Morrison, seconded by E. Owen, it was

VOTED: to issue an Enforcement Order to Mark Enwright requiring immediate mitigation of wetland violations at 28 Boathouse Road, including the following requirements:  
1) restore wetlands where filling has occurred; 2) provide adequate siltation control, i.e., haybales and silt fencing to prevent any erosion or sedimentation from reaching the wetland; 3) maintain erosion and sedimentation controls until the project is complete or 100% stabilized; and 4) there shall be no future filling of wetlands.

The Enforcement Order will cite the conditions in the Order of Conditions which Mr. Enwright has violated. It was noted the Groton Wetlands Bylaw allows fines to be issued, with the first offence punishable by a \$50 fine and each day constituting a separate offence. The Commission agreed to levy a \$50 fine with the Enforcement Order with the understanding that a \$100 fine will be issued if the measures in the Enforcement Order have not been addressed within seven days of issuance.

Upon a motion by P. Morrison, seconded by B. Easom, and a roll call vote of C. Auman, P. Morrison, B. Easom, E. Owen, K. Corwin, and M. Giguere, it was

VOTED: to enter Executive Session for the purpose of discussing a land purchase

at 9:30 p.m. to return to Open Session upon adjournment.

The Commission returned to Open Session at 10:00 p.m., and signed paperwork until adjournment at 10:10 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as drafted 11/9/04**