

GROTON CONSERVATION COMMISSION

Minutes

March 22, 2005

Chairman Bruce Clements called the meeting to order at 6:55 p.m. Members Craig Auman, Kris Corwin, Marshall Giguere, Peter Morrison, and Evan Owen were present, as well as Conservation Assistant Barbara Ganem. Member Bruce Easom was absent.

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

VOTED: to approve the minutes of March 14, 2005, as amended.

E. Owen reported he, B. Easom, and M. Giguere reviewed the boundary demarcation for the Deerhaven conservation area on Saturday and found two drill holes. He noted there is sufficient upland to place a trail without intruding on the private house lot at 28 Deerfield Drive. The trail is marked with orange flagging, and the homeowner will be notified it will not infringe on her land, and there are no alternatives to its current location.

Guidelines for submittals that include proposed replication areas have previously been e-mailed to Commissioners, and K. Corwin encouraged the Commission to consider adding this to the Bylaw Regulations. Copies of a "Functions and Values Checklist" have also been distributed to the Commission. It was suggested this is a good checklist to utilize when reviewing projects in the field. M. Giguere agreed to work with B. Ganem on incorporating the replication guidelines into the Regulations.

M. Giguere expressed concern that residents may not be aware of the need to get a permit before doing work near wetlands. A pamphlet has been prepared for distribution within Town Hall; members suggested seeing if the newspaper is willing to publish a public service announcement.

P. Morrison reviewed the status of the articles proposed for Town Meeting. He noted it may be possible to have \$400,000 allocated next year under the Community Preservation Act if the \$200,000 is not approved at the spring Town Meeting. The Capital Programs Committee, Finance Committee, and Selectmen have reviewed the Commission's request for funding for the replacement of the swim docks. The safety issue is of particular concern to the Commission, and this was fully detailed with all board members. It may be included as a line item in the capital program budget or as a separate article. There may be some funds in the Sargisson Beach improvement fund that could go toward the dock replacement. Resident Cynthia Kollarics agreed this use would be in keeping with Harvey Sargisson's wishes.

7:15 p.m. – 160 Townsend Road Notice of Intent, DEP #169-908

In keeping with the applicant's request and upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to continue the hearing for 160 Townsend Road, DEP #169-908, to
April 26, 2005.

7:15 p.m. – Webber/Martins Pond Road – pond and barn access

(P. Morrison recused himself as his son works at Gibbet Hill Farm.)

Chairman Clements explained the Commission has had an opportunity to review the farm Conservation Plan prepared in cooperation with the Natural Resources Conservation Service. C. Auman thanked Josh Webber for submitting the Plan. Mr. Auman noted that the Plan incorporates the construction of the main farm barn off Martins Pond Road, as well as manure management. He questioned how manure will be kept from flowing into the proposed retention pond

and explained the Commission normally would expect an engineered plan for a pond. Such a plan would outline a timetable and process in which to do the work.

Josh Webber explained his family has until April 29th to get the cows off Angus Hill, and if the barn is not completed by then, the cows will have to be sold or slaughtered. He indicated an engineered plan will take weeks and cost a lot of money to complete. He offered to work with members outside of the room on such issues as erosion control and promised to take the steps necessary to implement the project and also committed to taking any corrective actions necessary if a problem occurs. C. Auman questioned whether he has had experience working in the area where the pond is proposed, and Mr. Webber replied his impression is that it is generally damp, but not flowing.

Member Corwin indicated the proposed work fits in with the requirements for an agricultural exemption but she felt more information on erosion control, depth, and how the outflow pipes are going to be situated should be provided. While she understood why the Webbers want to get the pond and access completed, K. Corwin said she would be more comfortable if these details were known. J. Webber suggested Michelle Collette could provide guidance on erosion control. Ms. Corwin pointed out another concern is that the next farmer would expect the same treatment.

E. Owen questioned whether the pipe outflow would cause erosion on the downstream side without some type of riprap protection. He noted the flow will be concentrated through the pipes. It is difficult to gauge from the sketch presented whether the outflow will be at the toe of the slope where the fence lies. J. Webber acknowledged he had not been to the site to look, but he was willing to keep as much of a buffer as possible.

M. Giguere asked whether the outflow would be directed into the existing culvert under Martins Pond Road, and Mr. Webber said he did not know. In response to Mr. Giguere's question about how wide and large the proposed dam will be, Mr. Webber replied it would have to serve as an access for farm equipment. B. Clements questioned whether it would be necessary to excavate the pond or whether it would simply impound water over time. Mr. Webber said he thought the dam would provide access and serve as a barrier to allow water to collect. Members asked the extent of the pond, and J. Webber said some excavation would be necessary to create the boundaries of the pond. He said, although they are trying to avoid engineering, he would be willing to engineer the project on the fly.

Cynthia Kollarics (39 Indian Hill Road) noted no figures are presented about how much flow will be going across the road. She commented adding to or cutting the water supply will change the wetland on the other side of the road. Ms. Kollarics also questioned where the spoils of excavation will be placed. She felt that very few facts were being presented to the Commission, and she was concerned because she is serving in an advisory capacity on a committee appointed by the Board of Selectmen to look at the resource area contributing to Martins Pond. She added this project could contribute to habitat changes around the Pond.

Member Corwin advised this is an allowed activity under the Wetland Protection Act Regulations, and it is immaterial if they are changing wetlands or not as it is an allowed agricultural improvement. C. Auman said they need a way to get the cows to the barn which is part of an agricultural endeavor. E. Owen disagreed, stating it may be allowable, but how you accomplish it is still basic information the Commission needs, and best management practices (BMPs) would warrant information about such things as elevations. J. Webber acknowledged this, and stated he realized he was requesting the Commission to take unusual steps. E. Owen urged that some kind of sketch be prepared that would show dimensions and location of the pond relative to the property line. In response to B. Clements' inquiry about whether the project could be considered on an emergency basis, K. Corwin replied those projects usually involve public health or safety. C. Kollarics asked about the possibility of the project flooding the Pietras land, and K. Corwin indicated the Webbers have previously said there would probably be less flow than is currently there. Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to issue a negative Determination providing 1) a scaled drawing is submitted;
2) the proponent notifies the Commission when the dredging pipe is to be opened; 3) erosion control measures be taken as appropriate; and 4) a construction sequence plan is developed.

The “findings” section should identify the desire to maintain cattle on the farm. The motion passed with five yeas, and E. Owen voting in the negative.

Regarding the Commission’s inquiry to the Selectmen about a possible appeal of the Matbob decision, B. Ganem reported that an earlier court case found that the Hingham Planning Board did not have standing to appeal a ZBA decision.

7:45 p.m. – 77 Boathouse Road Request for Determination of Applicability

Homeowner Mike Provost explained that his site has several retaining walls, some of which are dry stacked. One of them had started to bulge during construction so a concrete slab was poured to keep it in place. The slab was located over the old septic tank which is no longer in use. This concrete pad joined to the two front decks. He noted he plans to use the concrete slab as the foundation for a new three season addition. The slab is pitched down and to the left so runoff will flow into the 40 tons of stone behind the retaining wall near the edge of the Lake. Builder Philip DeFreitas commented this is a very difficult site because of the steep slopes.

E. Owen pointed out this deck was not shown on the original plans submitted for the new foundation and renovation of the house. He noted this is a 20 – 30% increase in living space, and he was not comfortable hearing it as a Determination rather than a Notice of Intent. P. DeFreitas said the addition will be accessed via sliders to the existing decks at the front of the house and will have a wood stove to provide heat. There is a 3000 gallon tight tank to serve as the sewage disposal system. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue a positive #4 Determination, requiring the filing of a Notice of Intent for the project.

8:00 p.m. – 841 Lowell Road Request for Determination of Applicability

Homeowner Jackson McAdam summarized the project as the installation of fencing at the top of the slope to insure the safety of their two dogs. The slope drops off into wetlands adjacent to Cow Pond Brook. He explained the post holes will be hand dug, and the existing shrubs will be outside the fence. Any future landscaping will be done within the fence boundary. It was estimated the before and after lawn area will be similar. Members urged that pesticide and herbicide use be restricted at the site and that nothing be dumped within the resource area.

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

VOTED: to issue a negative #3 Determination providing any spoils are moved to an upland portion of the lot or removed from the site.

The Conductorlab Oversight Committee will meet on Wednesday, March 23, 2005 at 7 p.m., and several members indicated their intention to attend.

P. Morrison questioned what kind of success the Commission has had on some of the major and minor lawn encroachments on conservation lands which we have observed during the past year. E. Owen thought an Enforcement Order could be issued and said he would check on that option.

Member Morrison also noted the Commission will be responsible for installing the Eliades monument, probably at the completion of the two duplexes. This item will have to be included in the Conservation budget at some point.

8:15 p.m. – PGI Notice of Intent continuation – DEP #169-915

Mike Howard, wetland scientist from Epsilon, introduced the owner, Paul Palmer, and engineer, Kevin Leverone. He noted he has had an opportunity to assess the wetland and observe the level of siltation. The Water Department will participate in a joint mitigation to restore the wetlands. He submitted photographs of the site, showing the depth of silt in the wetlands. He did not feel there had been any siltation in the wetland on the downstream side of Rt. 119. Mr. Howard indicated the work would best be done under dry conditions with the materials hauled away.

Members suggested the fastest and best method be utilized as long as the resource area is protected. The Water

Department has agreed to share the costs of the cleanup as some of the siltation came from the Water department expansion. Mr. Palmer indicated he has replaced the underground pipe even though his project did not disturb the pipe. He noted he has provided the engineer to help manage the project.

K. Corwin commented it is great that both parties are working together to resolve the issue. She noted the Certificate of Compliance is likely to require that the clean up has been accomplished, and Mr. Roberts said they were awaiting the Order of Conditions to allow them to go into the wetland to remove the siltation. Upon a motion by P. Morrison, seconded by K. Corwin, it was

VOTED: to close the hearing for DEP #169-915.

K. Corwin indicated the Order will include conditions that the cost of the work be negotiated with the Water Superintendent and will give the consultant with appropriate professional skills latitude in deciding when the clean up will occur.

8:30 p.m. – Whippoorwill Lane Notice of Intent continuation – DEP #169-909

Upon the request of the applicant and the motion of K. Corwin, seconded by C. Auman, it was

VOTED: to continue the hearing for DEP #169-909 to April 12, 2005.

8:30 p.m. – 65 Burntmeadow Road Notice of Intent continuation – DEP #169-913

(P. Morrison recused himself from the hearing.)

Attorney Ray Lyons indicated they do not have final drawings from Ross Associates, but they do not intend to put in a proposed building envelope for the barn on the lot. It is their feeling this could change over time, particularly since the Conservation Restriction is in perpetuity.

Member Auman commented the Commission is to be either the holder or co-holder of the Restriction as part of the special permit issued by the Planning Board and to assure that no violations occur. Mr. Lyons said the Commission is a co-holder, pointing out the section that mentions the Commission will be a back up grantee.

Ben Black said he has had a long term relationship with the Groton Conservation Trust and has a comfort level in being under their direction. Mr. Auman said that part of the deal in allowing the crossing to be built, under the Wetlands Protection Bylaw, is that this compensation (the Restriction) makes it more palatable. He suggested also reviewing the language in the special permit. Mr. Lyons maintained the purpose of the Restriction is to assure that this area not be developed in the future. He did not feel the Commission's role was to oversee where barns or accessory structures are built or whether hay fields or other horticultural activities, such as Christmas trees, were located. Mr. Lyons commented these items are included for informational purposes so that it will not be necessary to amend the Restriction later. C. Auman disagreed with this assertion.

K. Corwin said part of the mitigation for allowing alteration of upland resource areas is the proposed Restriction. Whether work is even allowed is directly dependent on the Restriction. She noted the Commission has previously agreed to allow haying, but it was not acceptable to allow pasturing of animals, fencing, or planting of nursery stock in the open, hayed area. Ms. Corwin indicated she was not in favor of allowing a barn since this is only a 6.6 acre parcel; nevertheless, she felt it necessary to clearly identify on the plan exactly where it is proposed to be located. Mr. Lyons protested the accessory uses could include such items as a water trough or hay bin which may also be necessary to farming activities. Members asked how the "dog leg" at the back of the houses is to be maintained. R. Lyons said it will provide a buffer from the stone wall at the rear of the property to the individual lot lines, and it is likely to be hayed since it is 75' wide. Commissioners also commented this draft Restriction allows utilities to be placed anywhere on site. Mr. Lyons said they would be underground.

E. Owen suggested accessory structures should come before the grantee. Mr. Lyons indicated the Trust has received a

copy of the Management Plan but have not had time to okay it. Mr. Owen thought the management objectives and practices outlined on Page 6 of the Plan seem appropriate and asked if greenhouses are proposed. On Page 5, he requested clarification on the classification of Ben Black Sr.'s land; it is in Ch. 61 and 61A, not 61B as stated in the Plan.

M. Giguere stated he, too, assumed the Commission would be the grantee as this was a quid pro quo for allowing the work to go forward. He noted the building envelope was specifically requested during the Commission's last hearing on this matter. No Order of Conditions has been issued for the project as yet. R. Lyon said the draft Restriction provides flexibility and will allow items to be negotiated with the Groton Conservation Trust. He stated the Commission is assuming the restricted area will be kept open and only hayed. Mr. Lyons suggested the Commission think about what the Groton landscape was like 100 years ago. He indicated it has changed dramatically as what was farmed in the past is now 80% to 90% forested, and his client needs some flexibility for dealing with the future.

C. Auman said the problem is the inclusion of Christmas trees and raising cattle and what is to prevent these uses by the current owner. Mr. Lyons said the Restriction has to provide for changes in the way people live. Chairman Clements said he completely agrees with the comments by other Commissioners that something must be put place, and the Commission should be at minimum a co-holder with the Trust. B. Clements questioned whether the work outlined in the Management Plan is all that's planned or is there another document which will limit what is done with the land. Also, Commissioners wanted to know how the 30% value for the Restriction was established. Members pointed out the form of the Restriction must be acceptable to the Division of Conservation Services.

P. Morrison noted his name was omitted as an abutter in Section III on Page 5 of the 3/18/05 draft of the Restriction. R. Lyons expressed reservations about having the Commission be a co-holder of the Restriction as that will add another layer of review, and he feels the Trust has the capacity to provide ample oversight. Chairman Clements pointed out the Commission is making all the concessions, and members are not satisfied with the current terms of the Restriction. K. Corwin noted the Trust may have different priorities than those of the Town. Mr. Lyons said there may be different philosophical styles, but he did not see why the Commission could not respect the Trust's ability to enforce the Conservation Restriction. He pointed out this is a private organization working with landowners, not subject to open meeting laws, but nothing is done behind closed doors.

Mr. Morrison commented the Trust has previously told the Commission that it is better to have multiple, rather than single, holders of a restriction as it affords the land double protection. He suggested this is applicable in this instance. Mr. Lyons said it is good if one entity is unable to act to have a back-up organization. The Restriction was also offered to NEFF, but they felt their expertise was more in forestry, not fields. Member Auman commented this draft Restriction differs considerably from what was discussed by the applicant and the Commission. The Natural Heritage program was told this was to be maintained as a field, and they were okay with that. The Commission's job is to protect the habitat, and it may be necessary to check with them on these alternative uses. Certain birds need larger areas for nesting. S. Yeager commented turtles are not likely to utilize hayfields because of the dense grass. Upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to continue the hearing to April 12, 2005 for DEP #169-913.

There being no further business, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted 4/12/05

