

**GROTON CONSERVATION COMMISSION**

## Minutes

April 12, 2005

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

7:00 p.m. - Appointment - Anna Eliot

Chairman Clements noted there has previously been a filing for a wetland crossing of Nod Brook that involved the improvement of an existing culvert. Subsequently, there has been clearing of forest for the purpose of creating a hayfield, a restoration to its former use of years ago. He explained no forestry cutting plan is necessary if it is clearing land for cultivation. Mr. Clements pointed out the land has been fallow for over five years so it does not come under maintenance of farm land. He added some kind of filing should be made with the Commission as work has proceeded without benefit of an Order of Conditions.

A. Eliot said she discussed cutting and clearing previously with the Commission at both the hearing and the site visit. C. Auman concurred with Mr. Clements' assessment and expressed concern about erosion occurring at the bridge. Ms. Eliot explained there were several logs on the upstream side of the crossing that extended beyond the culvert. She noted the streambed is sand for most of its length. B. Clements asked what erosion control measures were taken, and Ms. Eliot stated most of the work was done when the ground was frozen, and some haybales have now been put in place.

Member Easom acknowledged he had not visited the site before the logging activities. He noted we need agreement on what is to be done on a project, and it should be part of the written record. Site visits are really a fact-finding exercise, and any discussions should not create any kind of commitment for this Commission and essentially do not count. Mr. Easom questioned what kind of culvert is in place, and A. Eliot answered it is possibly 12" in width, and she thought it was corrugated plastic. She said it was probably installed before 1983 or 1984 and possibly in the 1970's. B. Easom thought it was in much better shape than something installed in the 1970's. He pointed out the cross section of the culvert was too small to handle the flow of the stream. Ms. Eliot stated the overflow visible last Saturday was due to 4" of rain and snowmelt. Mr. Easom felt that the extent of work within the 100 foot buffer zone and 200 foot Riverfront Area was beyond any understanding he had of the proposed project. He recommended two steps: 1) how can we remediate the situation as it exists today, i.e., immediate stabilization and 2) the overflow design defect needs to be addressed.

K. Corwin stated her reading of the Wetlands Protection Act is that this activity is not considered agricultural in nature and either a forestry cutting plan or a Notice of Intent (NOI) should be filed after the fact. She expressed concern about the silt that has been washed downstream, and areas where the driveway is washing out. E. Owen noted he had not been on the previous site walk, but he does remember a conversation about a hay baler. These are unusual circumstances, and he suggested either amending the existing NOI or filing a new NOI. Member M. Giguere said he was at the previous hearing, and there had been some discussion of occasional logging. In his opinion, this portion of the parcel has not been in agricultural use for the past five years however. He sketched out where he had noted materials washing into the stream from the crossing.

Chairman Clements said the original Order of Conditions addressed improvement of the culvert, and subsequently there has been clearing of land. He thought the existing Order should be amended to reflect the additional work as it was not part of the original filing. There is also the question of slash, stumps, and tilling to create a hayfield which could be subject to erosion. He recommended the filing of an amended NOI with a fair amount of detail and sequence of events. A. Eliot said there would be no stumping along the water. She owns 14 acres, and plans to expand beyond her existing hayfield. Commissioners recommended that any work within the 100 foot buffer zone and Riverfront Area

should be reflected on the plan. The limit of the clearing and its relation to wetlands should be apparent. E. Owen questioned whether any other portions of the work are near swampy areas, and A. Eliot said there is a vernal pool at the edge of her property, but she plans no work there. Mr. Owen pointed out the Commission must be even-handed and consistent in the administration of the Wetlands Protection Act.

Ms. Eliot said Shepley Hill would all be housing except for her efforts. Members stated the Commission has a responsibility and duty to administer the Act and Bylaw. A. Eliot added she is very concerned about working within areas that are under the Commission's jurisdiction, and she felt the work had certainly been discussed. B. Clements said there is nothing in the NOI plan that shows an envelope of cutting. A. Eliot said she was not sure what the Commission wants her to do. She asked if she could remove any more trees, and B. Clements advised that all clearing be shown within 200 feet of the stream. Ms. Eliot questioned whether she would be allowed to clear cut up to the edge of the stream. K. Corwin requested a plan that outlines where tree cutting will take place, as well as measures to control erosion. A. Eliot asked if it would be okay to cross the stream with trees that were already cut as this was holding up the logger. She also noted the person who has been cutting firewood for many years will need access. Mr. Clements asked that a vegetated buffer be left next to the stream as it is not in the best interest of the stream to have fertilizers going in. A. Eliot said she needs to know if she can continue bringing logs across the stream. E. Owen recommended haybales be put in on the downstream side, and the plan should show the linear feet of stream that will be affected.

B. Ganem explained the original Order of Conditions has not been recorded, and Ms. Eliot commented it was expensive and she did not plan to sell the land. In response to her request for a waiver, Commissioners informed her that this was a state law and is required of every applicant by the standard conditions of the Order before work commences. B. Easom said he was disturbed by the tone of the discussion and advised Ms. Eliot to explain what she would like to do, and the Commission will give her conditions under which the activity can take place. In his opinion the Commission should explicitly disallow any work within the Commission's jurisdiction before the amended Order of Conditions is issued. The area of jurisdiction is within 200' of Nod Brook which is considered a perennial stream under the Bylaw because it is shown on the most recent USGS map. Ms. Eliot asked how she could contest this finding. Chairman Clements explained that, under state law, you can overcome a finding of perennial by putting in a stream gauge and using established procedures that identify the size of the watershed and the types of soils. It is an arduous process. If an amendment is requested, a new hearing must be posted and abutters notified. Commissioners agreed to allow work to continue outside of the 200 foot Riverfront Area and okayed hauling as long as there is erosion control.

#### 7:15 p.m. - Academy Hill Notice of Intent continuation

Larry Beals of Beals Associates noted the Commission had found some discrepancies in the wetlands delineation during last Saturday's site visit. It is anticipated the remainder of the wetland boundary will be checked in early May. In a letter dated April 7, 2005, the Commission's question about the size of buffer zone disturbances was addressed. The earlier plan anticipated 10 acres of buffer zone alteration while the new plan proposes 11 acres, mostly due to the proximity of wetlands to the second access way. Mr. Beals noted the letter provides a list of lots in which there is alteration of buffer zone. A revised Sheet G9 was submitted. L. Beals explained a 24" concrete pipe contains flow under Townsend Road at the south access, and Tom Delaney has indicated he feels it is adequate to handle the flow off site. Mr. Delaney also said he prefers a detention basin to the Stormceptor units because the Town does not have equipment to maintain them. Mr. Beals said there is not enough room for a detention basin at this location, and his client has agreed to create a homeowners association that will be responsible for the future maintenance of the structures.

In response to questions about the culverts outletting to wetlands, Mr. Beals said they are designed to allow water to flow back and forth between wetlands. He told the Commission the maximum time in which water will be retained in the detention basins is approximately 9 hours. L. Beals also noted the package contained an Operations and Maintenance Plan and draft conservation restriction which has been submitted to Natural Heritage. He added the restriction to development is a lengthy process which he anticipates can be made part of the Order of Conditions. The next Saturday site visit will, hopefully, finalize the boundary. Mr. Beals anticipates going before the Planning Board to see about reducing the width of the roadway, and he agreed it was a good idea to keep the hearing open to get

## Planning Board input.

Member Auman said he supported reducing the access width. Mr. Beals stated major roads usually have a 50 foot width while collector streets are 24 feet wide. He thought it could be considered a minor street except for the steep slopes. Mr. Beals suggested that working with the existing contours to put in an 18 foot paved road with 2 foot shoulders would help minimize impacts. It is anticipated the conservation restriction will be held by the Conservation Commission. Mr. Auman recommended that the plans be updated to include the 50' and 100' buffer zone, as well as erosion control measures. He also noted the Commission is considering having a peer review done at the applicant's expense. Some of the peer review will involve the engineering and drainage calculations, particularly at the wetland crossing. Natural Heritage must have the approved plan. Judith Nitsch Engineering, Inc. will be hired to review the definitive subdivision plans, and C. Auman expressed concern that they will not look at it from a conservation standpoint.

B. Clements commented the original filing came in before the implementation of the Wetlands Protection Bylaw, but it does become effective for the new filing. He pointed out the work on the new roadway is very close to wetlands. It is anticipated the peer review done for the Planning Board will not overlap with the work done for the Commission. Mr. Beals said they are willing to listen to ways to improve the plan but he did not think a wholesale revision of the subdivision plan was an option since there was an existing Order of Conditions. He noted the applicant could build the crossing today if he wanted.

B. Easom commented the applicant is planning to preserve open space through the restriction. He asked how lawn creep will be prevented and noted this should be documented in a plan that would survive for posterity. Mr. Beals said the turtle barrier will be partially buried, but it is likely this will not be right on the property line. He commented large rocks, iron pipes, or drill holes could be used. Mr. Easom requested the construction details for the turtle barrier and how it will be maintained for the long term. Mr. Beals indicated it would become the responsibility of the homeowners association and probably established with an escrow account provided by the developer. Other open space boundaries will be marked. The details of the turtle barrier will be added to the drawings. It is 3' high with parts buried. A finer mesh will be used at the bottom, and there will be arc shaped openings every 400' to allow turtles coming from the development to exit. Mr. Beals said Natural Heritage has said they would like to be the fee holder of the open space portion of the land.

K. Corwin said she preferred to see the south access not diverge from the existing paved driveway. L. Beals stated the proponent is filing for the 401 Water Quality Certificate now. He agreed to check on whether Lots 10, 11, and 34 should be added to the list of lots with buffer zone. Ms. Corwin recommended a construction sequence be prepared for the entire site, including the new NOI filing. Mr. Beals said the Planning Board has made suggestions for phasing of the development, and he will get a sense of direction from them. She also suggested the wetlands across the street should be located on the plans. In the NOI submittal, the Stormwater Management Plan and Drainage Calculations have not been signed. Ms. Corwin said all existing buildings that are to be razed should be identified on Sheet G1.

Member Owen pointed out the reduction in the width of the south access from 22' to 18' is not much of a change. Mr. Giguere commented the water line is shown going through wetlands on Sheet U4, and Mr. Beals said this is being coordinated with the W. Groton Water Department. Erosion control measures should be added to the plan. The management plan should show how snow removal and storage will be handled, and none should be stockpiled within 100' of the resource areas. Salt use is likely to be limited on the access roads. L. Beals anticipates normal roadway maintenance will be necessary, and the Stormceptor will handle sand but not salt.

C. Auman asked whether public access is to be allowed and where parking is proposed. L. Beals noted no parking is proposed, but there is a trail network throughout the area to be subject to a conservation restriction. The open space area adjoins Rockwood where there is parking. C. Auman noted he has reservations about public access due to the sensitivity of the area, but he suggested this should be planned upfront to avoid any misunderstandings with Natural Heritage or the Groton Trails Committee. Commissioners commented the draft conservation restriction is contradictory on this point. Old County Road has been a traditional access point. B. Easom said the Trails Committee will be most interested in providing access from the road to Turnpike or Old County Road.

Chairman Clements said there is a conflict in the conservation restriction between statements on Page 3 and then on Page 7. While conceding other members may not share his views, he said he was very concerned that this plan is in serious conflict with the Wetlands Bylaw. Clearing land within 100 feet of wetlands is covered in the Bylaw. E. Owen said he did not see how the project as a whole did not have redeeming qualities. C. Auman suggested the wetland delineation should be finished first before the Commission can determine what amount of land is appropriate mitigation - with 94 housing units proposed, is 216 acres sufficient mitigation? L. Beals said, if you look at the eight interests of the Act, this project protects the interests. He also pointed out the state has recently approved the site for 200 housing units, and the Commission should look at those possible wetland impacts. He asserted a peer review was done three years ago. Members pointed out Mark West had verified the wetland delineation and boundary at that time, not the potential for impacts to wetlands.

Resident Mona Vogel (3 Kemp Street) asked where this project is located, and Commissioners explained the work is proposed in The Throne section of W. Groton off Townsend Road. She urged Commissioners to consider preserving the small town feel of the community. Danielle Mottram (63 Kemp Street) said Kemp Street becomes a cut through for people to reach Townsend Road. Chris Petroff (227 Riverbend Road) said Partridgeberry Woods has 88 houses, and people frequently dump in wooded areas. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to continue the hearing for Academy Hill, DEP #169-783 Amendment and  
DEP #169-917 to May 10, 2005.

#### 8:35 p.m. - Appointment Tom Delaney

In the interest of saving paperwork and time, Mr. Delaney explained he was looking for a way to provide the Commission with details for culvert repairs and replacements, cleaning outlets, digging ditches, and other routine road maintenance activities. He said that for anything out of the ordinary that involved something new in a wetland area, he would do an NOI filing. In general he thought this would involve the standard plastic culvert replacements with compaction and riprap. K. Corwin advised the culvert bottom should be partially buried in the streambed, and Mr. Delaney said this typically happens quickly. For cleaning out brooks, T. Delaney said he understood he would need to file, but cleaning out drainage ditches and adding riprap should be another matter.

C. Auman summarized the request as the need to develop standards that are acceptable to the Highway Surveyor and to the Commission. T. Delaney pointed out that one of the standards might be to do the work when it's dry. Once the standards are developed, the Highway Department will work within the parameters agreed to by the Commission. C. Auman cautioned that those projects which cause disruption or which may impact abutters may still need a separate filing. Mr. Delaney indicated he would be operating within the roadway right of way. K. Corwin advised that the inlet and outlet elevations are critical. T. Delaney said for a major pipe job, it may be necessary to do a drain with a discharge, but most of the work is fix and repair.

In response to members' questions about the Squannacook Sportsmen's Club, Mr. Delaney indicated he had served on their Board of Directors a long time ago. At that time, it was a stream and screens were used in the dam to keep trout in the pond. Commissioners told him of concerns expressed by Natural Heritage about the fluctuating water levels and particularly when they were occurring. In Mr. Delaney's opinion, if all the boards come out, the pond level will be reduced but the pond will still exist. T. Delaney estimated the pond has been flooded by beavers for between 5 and 6 years. C. Auman remarked that established habitat is in place. He said he was aware of the beaver issues at the dam, but did not want to get involved in handling beaver problems on private lands as this would set a poor precedent. Delaney said he does occasionally pick up the beaver debris that Mr. Underwood removes from the vicinity of the dam. He stated he did not know where the property line is, but it was not in his purview to take over the management of someone's dam. K. Corwin commented the 3' culvert under Rt. 225 appeared to be handling all the water it could as the outlet was under water. Mr. Delaney said there is another beaver dam further downstream which could raise the water level, and there may be a blockage in that culvert. Ms. Corwin asked that Natural Heritage be consulted to determine the appropriate elevations for the pond. Mr. Delaney mentioned he is currently cleaning up six active beaver dams throughout the Town on a daily basis.

Concerning the installation of turtle signs, K. Corwin indicated she would be willing to purchase them if the Highway

Department could install them before June 1. Lost Lake Drive is one location of particular concern. In response to the Commission's question about the status of the docks at Sargisson Beach, Mr. Delaney indicated the condition of the docks has not changed. He has been hauling them for at least 18 years. He agreed to get the highway repair standards to the Commission as soon as possible.

#### 8:00 p.m. - 235 Riverbend Drive Request for Determination of Applicability

The applicant, Dan Sheehy, explained they were planning to install a fence near the boundary of their property. It will be a combination of privacy fencing and split rail fencing. He acknowledged they currently have no plans for landscaping with shrubbery adjacent to the fencing. The existing soil stockpile will be re-graded into the site, probably with the addition of loam, and the bare areas will be re-seeded for lawn. Members urged the use of organic fertilizers.

Abutter Chris Petroff (227 Riverbend Drive) explained he had planted pine trees on the property line. He said the fence will be going through the middle of his backyard. He asked if the fencing could be moved back off the grass. Mr. Sheehy stated there seems to be some confusion about the property line, and the surveyed line has been specifically designated. B. Clements commented the solid fence will provide additional screening. Mr. Petroff said some of the confusion is due to the placement of a shed 5' from the property line and the fact that utilities to Mr. Sheehy's house go across his property. He said he had moved his pool to accommodate the Sheehy's request, but he continued to have aesthetic concerns about the fencing.

Member Corwin pointed out aesthetics are not within the jurisdiction of the Conservation Commission. In addition, E. Owen commented a split rail fence is considered wildlife-friendly. Mr. Petroff requested that Mr. Sheehy reconsider where he is planning to place the fence. Ms. Corwin suggested the conversation be continued outside of the hearing. Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to issue a negative #3 Determination providing only organic fertilizers are utilized, herbicides and pesticides are prohibited, and plantings consist only of native, non-invasive species.

Commissioners agreed that lawn grasses were acceptable.

#### 8:15 p.m. - Request for Amendment to DEP #169-876 Bissell/Kemp St.

The buyer of the property, Todd Niemaszyk, explained that all utilities will be installed beneath the existing 18' culvert using non-invasive techniques that involve boring underneath the culvert. Cross sections of the proposed installations are included with the submittal. Mr. Niemaszyk indicated cable will be 2' deep, gas 2' deep, and water 4' deep. He estimated the culvert was 35 - 50 years old. A wetland delineation was done by Norse and included in a Notice of Intent filing in 2003 according to surveyor Richard Ludwig who was present. K. Corwin asked if any soil testing had been done in the vicinity of the crossing to determine whether the soils would accommodate directional drilling, and Mr. Ludwig responded testing was done for the septic system. T. Niemaszyk assured the Commission that the water level was down, and he did not anticipate encountering water during the boring process. The work is planned for late May, and no equipment will enter the wetlands. Each utility trench will be backfilled. B. Clements asked how large the openings will be, and Mr. Niemaszyk estimated they would be 8' - 10' in length and 2" - 6" in diameter. Three utilities ( cable, electricity, and water) will be installed. B. Ganem asked if they would be sleeved, and Mr. Niemaszyk indicated only if water is encountered.

Abutter Danyelle Mottram (63 Kemp St.) asked why the utilities are to be installed underground, and T. Niemaszyk said it was a personal choice although a more expensive option. Mona Vogel (3 Kemp St.) commented she thought there was a vernal pool on the right side of the driveway. Ms. Corwin volunteered to certify the pool. M. Vogel also asked what the plans were for the lot. Mr. Niemaszyk responded he could build a maximum of two dwellings on the lot if it is a cul-de-sac, but he is only planning one house. Chairman Clements added this filing for an amendment concerns the crossing, and the rest of the project is outside of the 100 foot buffer zone which is under the Commission's jurisdiction. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to close the hearing for the request for an amendment for DEP #169-876 for Kemp Street.

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

With the applicant's consent and upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to continue the hearing for DEP #169-909 to May 10, 2005.

9:00 p.m. - 65 Burntmeadow Road Notice of Intent continuation, DEP #169-913

Attorney Ray Lyons explained he has recently learned more about the filing and read the Special Permit granted by the Planning Board, as well as looked at the property. He noted the Commission has previously granted an Order of Conditions for the property, permitting a 10' wide driveway. He submitted a filing fee and forms requesting an extension of that Order so his client will have that as an option. K. Corwin asked why this is being submitted at this time, and Mr. Lyons said the Order expires in early June and the extension must be requested at least 30 days in advance.

Member M. Giguere noted he recently submitted a disclosure form which he read to the Commission. He said he did not anticipate stepping down from the Commission for the hearing. Upon a motion by E. Owen, seconded by M. Giguere, it was

VOTED: to grant an extension for DEP #169-828 for 65 Burntmeadow Road for three years.

K. Corwin voted in the negative, with the remaining members voting for the extension.

Returning to the issue of this Notice of Intent, Mr. Lyons said it was his understanding that the Commission hearings have covered all pertinent information. Chairman Clements noted the Commission has concerns about the Conservation Restriction. R. Lyons stated the Restriction will be offered to the Town as required under the Special Permit. He maintained it flowed out of the Special Permit process, not from the Conservation Commission, in order to protect the areas associated with the pond. Member Giguere pointed out the whole area pitches toward the wetland. The height of the roadbed has been changed slightly in the February 7<sup>th</sup> plans, and no flow will be impeded. Engineer Dan Wolfe stated the leaching catch basins connect any flow and also will allow water to infiltrate into the ground for any surcharge or overflow, preventing flow over the driveway. Members asked if calculations were prepared for flows for various events, and Mr. Wolfe said "no". The goal is to get the flow to infiltrate faster. B. Easom asked how the diameter of the pipe was determined if no calculations were done, and Mr. Wolfe said they will use a 12" level set pipe, 30' in length to make sure it is more than adequate. He explained the limit of disturbance will be located 36' from the edge of the pond. Mr. Lyons requested the Commission to close the hearing and vote on an Order of Conditions.

Members protested there remain unresolved issues. Mr. Lyons said the Commission will have an opportunity to comment on the Restriction when it does the municipal certification. He maintained it was never intended to tie the Restriction to the Notice of Intent. B. Clements said having input into the wording of the Restriction will help insure that it meets the Commission's approval. He did not feel the issues were resolved. C. Auman added the project proposes putting in a driveway within an area that is not considered disturbed under the Wetlands Bylaw. The Commission has not, to his knowledge, granted such an action without some kind of mitigation (*"significant public or environmental benefit"*).

Mr. Lyons asserted this plan is the most sensitive development and has been informally accepted by the Commission. He suggested it would be furthering the public interest to move development to the northwest corner of the lot, rather than sticking with the original plan. He said it was never intended to link the NOI with the Conservation Restriction.

He pointed out the land has been managed for years in this manner, and the species have survived. R. Lyons said the two things should be separated in the mind of the Commission.

C. Auman asked if it is the intention to do a Conservation Restriction anyway. M. Giguere recommended the hearing be left open until we have a Restriction the Commission can accept.

Chairman Clements said an example is the Restriction for Surrenden Farm which is still pending.

Keeping the hearing open will give the Commission an opportunity to nail some specifics down. K. Corwin stated it is very clear in her mind that the Restriction plays a part in work in an Upland Resource Area, and she would not be voting for the project without the Restriction. B. Clements asked if anyone wished to make a motion to close the hearing. With no motion forthcoming, he asked if there were any further points for discussion.

E. Owen said carrying out agricultural activities under the Restriction may be a good thing, but he still has questions. K. Corwin commented the Commission has previously requested several things in the Restriction, and R. Lyons assured her the Commission could still have a say in the Restriction, but there is a need to separate the two. D. Wolfe observed this is a far better plan than other options. K. Corwin pointed out the proponent is asking the Commission to negotiate after the fact, and she would be more comfortable leaving the hearing open to preserve the Commission's ability to negotiate. The Restriction is part of the mitigation for alteration of an Upland Resource Area. R. Lyons maintained Ben Black is trying to develop the property in a sensitive manner, and he asked that the Commission not tie his hands. B. Clements commented closing the hearing is probably not in his client's best interests, but it seems the Commission should not continue the hearing if the applicant declines to provide the additional information requested by the Commission. Members pointed out no new information can be received by the Commission after the hearing is closed. C. Auman added he felt the NOI and the Restriction have to be tied together. B. Clements reiterated all issues have not been resolved, and he thought it was premature to close. Attorney Lyons asserted potential buyers need to have certainty as to what can be done on the parcel. B. Clements stated the applicant is forcing the Commission to write an Order of Conditions when we are not ready. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to close the public hearing for DEP #169-913, 65 Burntmeadow Road.

B. Easom, K. Corwin, C. Auman, B. Clements, and M. Giguere voted in favor, and E. Owen voted in the negative. The Commission will make a decision based on the merits. Mr. Lyons said he would like to be present when the Commission deliberates on the project, and members informed him that Orders are generally taken up at the end of meetings.

#### 9:15 p.m. - 14 Juniper Point Road Request for Determination of Applicability

Resident Gloria Wright explained she is planning to have her studio re-roofed and a sonatube installed to reinforce the foundation. The Commission observed the area where work is proposed at the Saturday site visit. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination with conditions that excavated material be removed or stabilized, gutters/stone trench installed at roof line, and construction debris removed from the site.

B. Easom said it is especially important to have a roof recharge trench on the lake side of the studio.

#### 9:30 p.m. - Appointment - Dr. Eger

Dr. Eger informed the Commission that the conditions imposed for the installation of benthic barriers in Springy Cove are impractical. He noted the protocol recommended by Natural Heritage does not fit local conditions, particularly with respect to obtaining a botanist contractor to inspect the areas where benthic barriers are proposed. Condition #26 essentially negates the original request to allow the work to begin earlier. Dr. Eger explained the project is dependent on volunteers who can work on weekends and are at the mercy of the weather. He noted the number of cabomba colonies has increased from 5 in 2003 to 12 in 2004. The volunteers want to feel they have accomplished something or we may lose the volunteers. The volunteers can start this work when the water is warm enough for divers to go down.

Dr. Eger did not feel mid-June would be early enough, and if the Commission requires a botanist, it is likely nothing will be done.

C. Auman asked what the urgency on the project is, and Dr. Eger explained it took one entire day to install a single benthic barrier last year. The limitations previously stated make it difficult to accomplish the installation of a number of barriers. Chairman Clements said he believed it to be unwise to contradict recommendations from Natural Heritage. B. Easom expressed concern with not going forward because soon we will see a lake completed filled with invasive species. He suggested finding funds to get this done in an expeditious manner.

Dr. Eger acknowledged there is a budget request for next year but he said there are no funds currently available. B. Ganem questioned whether the funds for weed harvesting could be utilized. B. Clements suggested inquiring of Natural Heritage whether they will consider a financial hardship. Dr. Eger said it is difficult to differentiate the small bur-reed except when it is in flower. K. Corwin commented she did not feel the Commission should go against Natural Heritage. Dr. Eger noted they have not had success with hand pulling because the area silts up so quickly. Upon a motion by B. Easom, seconded by E. Owen, a motion to allow the application of benthic barriers as soon as May 15 failed with B. Easom voting in favor, and M. Giguere, B. Clements, C. Auman, K. Corwin, and E. Owen voting in the negative.

#### 9:30 p.m. - Appointment - Mark Enwright

Mr. Enwright submitted new plans showing the location of a retaining wall to the left of the house. He also noted that more concrete was poured in the back to prevent frost heave. The wing wall has been installed to keep materials from eroding into the wetland. C. Auman commented stockpiled materials continue to wash down. E. Owen noted the area is not stable and needs to be secured. K. Corwin added materials are going into the wetland all along the back, and the silt fencing is not attached to the ground and, consequently, is not stopping anything. Haybales are being overflowed, and the site should be stabilized as soon as possible. An erosion mat or blanket may be necessary. B. Clements commented some kind of vegetative growth would help as well. Members noted the footing for the wing wall was poured on top of a haybale. With the understanding that additional fines could be levied under the Enforcement Order, Mr. Enwright agreed to provide adequate erosion control measures by the end of the week.

Upon a motion by E. Owen, seconded by C. Auman, it was

VOTED: to approve the minutes of March 22, 2005 as drafted.

Regarding Conservation warrant articles, B. Ganem reported the Selectmen have withdrawn the Conservation Fund article and the Capitol Programs and Finance Committees have not recommended funding of the dock replacement at Sargisson Beach. The Commission can consider requesting \$250,000 from the Community Preservation funds in the fall. In discussion on whether it is appropriate to consider using the Conservation Fund to purchase new docks, K. Corwin indicated she felt it would be unethical because the Commission always represents the Fund as being strictly for the acquisition of open space. B. Easom explained that some acceptable uses of the Conservation Fund would be inappropriate for CPA funds. Any funds voted for open space protection under the CPA must be segregated from the Conservation Fund.

K. Corwin commented the Commission always operates at Town Meeting on the premise that the funds are designated for land purchases. M. Giguere agreed with K. Corwin's assessment that these funds are to be used to acquire open space. K. Corwin recommended that buying docks or maintaining conservation land should be part of the operating budget. B. Easom pointed out there are special circumstances this year with the tight fiscal budget for the town. A motion by B. Easom, seconded by E. Owen, to allocate \$25,000 from the Conservation Fund for the purpose of purchasing docks failed. B. Clements, C. Auman, K. Corwin, E. Owen, and M. Giguere voted against the motion. B. Easom voted in favor of the motion.

Conservation Assistant B. Ganem explained she has received two complaints about the disposal and storage of horse manure at the barn opposite 155 Indian Hill Road. Several brochures put out by DEP on manure management were sent to Carol Malloy. The Commission will have an opportunity to observe conditions on site during the site visit on April 23, 2005.

The state is planning to do a baseline documentation study of the town-owned Bissell and Norris properties which are subject to conservation restrictions held by the Commission. Chairman Clements volunteered to accompany the consultant on a site visit to these parcels on May 11<sup>th</sup>.

Members requested that a letter go to the Academy Hill representatives outlining the items of concern about the project. It was agreed that estimates from several firms on preparing an analysis of the possible impacts to wetlands from the development would be helpful. Upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to issue an Order of Conditions, as amended, for DEP #169-915 for PGI Realty at 318 Main Street.

Due to the lateness of the hour the proposed changes on replication plans for the Bylaw Regulations will be considered at a later time. There being no further business, the meeting was adjourned at 11:20 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as amended 4/26/05**