

GROTON CONSERVATION COMMISSION

Minutes

May 24, 2005

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

M. Giguere made a motion, seconded by P. Morrison, and it was

VOTED: to approve the amended draft Findings and Special Conditions and issue an amended Order of Conditions for DEP #169-901 for 129 Longley Road.

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

VOTED: to approve the draft Findings and Special Conditions and issue an amended Order of Conditions for DEP #169-922 for 213 Whiley Road.

In discussion on the Order of Conditions for Lot 3, Breakneck Road, members agreed to issue separate Orders under the Wetlands Protection Act and the local Bylaw. K. Corwin made a motion to approve the draft Special Conditions under the WPA with the exception of #47 which she recommended be amended to specify boulders 10' apart or fencing, in addition to signs every 50'. This motion was seconded by M. Giguere, and it was

VOTED: to approve and issue the draft amended Special Conditions of the Order of Conditions for DEP #169-919.

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

The applicant has requested an additional continuation, and upon a motion by C. Auman, seconded by K. Corwin, it was

VOTED: to continue the hearing to July 12, 2005 for DEP #169-908.

Returning to the Order of Conditions for Breakneck Road, E. Owen made a motion to approve the draft Bylaw denial with a change in the bylaw interests and modifications of Conditions #5 and #10. K. Corwin seconded the motion, and it was

VOTED: to approve the amended draft and issue a Denial Order of Conditions for DEP #169-908 under the Groton Wetlands Protection Bylaw for Lot 3 Breakneck Road.

To reorganize the Commission, K. Corwin made a motion, seconded by C. Auman, and it was

VOTED: to elect Peter Morrison as Chairman of the Conservation Commission.

P. Morrison abstained from the vote.

E. Owen nominated B. Easom, seconded by K. Corwin, as Vice Chairman of the Commission. P. Morrison nominated C. Auman, seconded by K. Corwin, for the position. With a vote of 4 to 2, it was

VOTED: to elect B. Easom to serve as Vice Chairman of the Conservation Commission.

7:30 p.m. - Malloy/Abbreviated Notice of Resource Area Delineation/Indian Hill Road

Michael Turgeon explained no project is proposed at this time and only a wetland delineation has been prepared. He submitted copies of the revised plan, noting that the Commission reviewed only the B and C series of flagging. Mr. Turgeon reported he has walked the site twice with the Commission, and the boundary was revised based on on-site soil conditions. Member Owen noted that drumlins are strange things, and K. Corwin remarked the Commission did not review flags #1-20 and would make no finding on the stream.

Abutter Ed McNierney (205 Indian Hill Rd.) asked for clarification on the flag placement, and members said the Commission agrees with the most recent flag placement but is making no determination about whether the stream is intermittent or perennial. Bob Lotz (163 Indian Hill Rd.) noted there is water between the pond and wetlands, and Commissioners assured him this area was included within the wetland boundary. In response to Sue Lotz's (163 Indian Hill Rd.) question about what is being decided here, P. Morrison said if the property owner has any plans for the development of the land, this will establish where the agreed-upon edge of wetlands is located. B. Clements noted the applicant specifically requested that the area to the left of the barn not be confirmed for the wetland boundary. B. Lotz confirmed that the record will show no determination of the status of the stream. Kirsta Davey (125 Indian Hill Rd.) questioned whether the barn abuts wetlands, and Commissioners confirmed that it did, based on additional soil samples taken during the site visit. Members noted that wetland boundaries can move over time, and the Commission's finding will be good for three years. Upon a motion by C. Auman, seconded by B. Clements, it was

VOTED: to close the hearing for DEP #169-916 for Indian Hill Rd.

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

VOTED: to approve the minutes of May 10, 2005.

Member Corwin abstained from the vote.

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

VOTED: to elect Marshall Giguere as Clerk of the Groton Conservation Commission.

The vote passed with an abstention by M. Giguere.

7:45 p.m. - McGovern/Longley Rd. and Sand Hill Rd. Abbreviated Notice of Resource Area Delineation continuation, DEP #169-914

Consultant Steven Ericksen explained the plan has been revised to reflect the changes the Commission made in the field. In addition he submitted the soil data forms supporting the delineation. Mr. Ericksen acknowledged there were a lot of wetlands on site, and it may be necessary to make slight adjustments to the delineation once a project is actually proposed. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to close the hearing for DEP #169-914 for Longley and Sand Hill Rds.

Member M. Giguere suggested the Commission consider recommendations developed by Partners in Flight in their *North American Landbird Conservation Plan*. Some of the ideas recommend maintaining hardwood forests and increasing cover adjacent to open, sandy areas where grassland birds such as killdeer or sandpipers may breed. P. Morrison said this could be difficult to incorporate into an Order of Conditions, but may be feasible on town-owned parcels such as the parcel next to the transfer station which is a rocky, sandy area. E. Owen suggested wildlife enhancement could be considered mitigation for projects reviewed under the Bylaw. K. Corwin added mitigation ideas could be part of negotiations with developers. P. Morrison said "Including an item that runs in perpetuity in an Order of Conditions could prove difficult." B. Clements questioned how the Commission would address bird conservation issues directly in an Order. P. Morrison stated it is a possibility with wildlife conservation. K. Corwin suggested areas of upland could be permanently preserved, and this could be included in the Order of Conditions. B. Clements suggested the Commission develop a list of mitigation ideas.

In discussion on the draft Community Preservation Plan, members felt the Acquisition section under Pillar 1 - Open Space was rather limited in scope and should be expanded to include other examples. Questions were also raised about the inclusion of salt water marshes and ocean in the "Definition" section. C. Auman commented the section on history on page 7 is rather unbalanced as it does not tell the other side of the Native American story, especially what became of the local population. P. Morrison reminded the Commission of the need to file for a \$250,000 request to supplement the Conservation Fund.

8:00 p.m. - McNulty/100 Wintergreen Lane Request for Determination of Applicability

No applicant was present. During the Saturday site visit, E. Owen noted he had paced off the distance between the wetland and the house, and he estimated it to be 90' rather than 110' as given on the plan for the addition. Upon a motion by C. Auman, seconded by B. Clements, it was

VOTED: to issue a negative #3 Determination attaching a copy of the plan showing the addition of silt fencing around the work area.

Commissioners reviewed draft comments on the Jenkins Road 40B proposal, and upon a motion by E. Owen, seconded by B. Clements, it was

VOTED: to send a memo with Commission comments to the ZBA on the Pineridge Court Comprehensive Permit proposal.

8:15 p.m. - Reeves/Gould/101 Longley Road Notice of Intent

With no applicant present, B. Clements made a motion, seconded by M. Giguere, and it was

VOTED: to continue the hearing to June 14, 2005.

Regarding the request for a Certificate of Compliance for 8 Labbe Road, E. Owen pointed out the plan does not reflect conditions on the ground, and he was not comfortable signing off. K. Corwin said it appears the yard was substantially extended. E. Owen reminded her this was a tear-down with a lot of debris (bedspring, etc.) in the backyard. He also noted the wildlife value probably declined. Members commented this is a reminder to be clear about the limit of lawn and requiring plans that clearly show the tree line. Commissioners requested an As Built Plan and discussion of how the finished project varies from that proposed in the NOI before a Certificate can be considered.

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

VOTED: to issue a Certificate of Compliance for DEP #169-860, 28 Vose Avenue.

In discussion on some of the encroachment sites visited by the Commission this past Saturday, members agreed to send certified letters to the abutters at Deerhaven who are mowing, fertilizing, and have structures on conservation land. E. Owen added 44 Carmichael Way is another problem area with the owner accessing his pool via conservation land. He added fencing on Sawtell might help demarcate the conservation access way. Mr. Owen also questioned whether the Commission could issue fines to homeowners who are encroaching on conservation lands. Regarding the Sawtell Conservation Area access, Commissioners noted the hemlocks have been moved, and there may be some differences in how the area is mowed. A letter will go to the party who agreed to install the bark mulch. The builder of the Orion Way homes will also be reminded of his commitment to put in a bark mulch trail.

8:30 p.m. - Board of Selectmen/Lost Lake/Knops Pond Weed Harvesting Notice of Intent

Brad Harper explained that abutters had not been notified in time, but he would like to go over the basics of the plan. He said the earlier permit for the mechanical weed harvester expired in the late 1990's. Based on a recommendation from the Great Pond Advisory Committee and approval from the Board of Selectmen, this NOI was filed. A map was included with the NOI showing where the heaviest concentrations occur. The harvester has not been operational for

several years.

The harvester essentially functions as a lawnmower, cutting vegetation off at a 6 foot depth. The goal is to keep the beach areas free from invasive aquatic weeds and provide navigable water channels. Sometimes repeat cuttings are necessary, but usually the weeds do not grow back rapidly. Bill Eger and Cindy Kollarics are involved in coordinating a rare plant survey.

Regarding abutter notification Beth Montgomery (29 Whitewood Road) indicated this could be done by hand delivery rather than certified mailings. It was noted that fees are waived for a municipal filing.

Member Giguere questioned effectiveness of the harvester, especially in preventing the further spread of the weeds. Resident Bob Watson (11 Juniper Point Rd.) said the harvester is very effective as there are areas where harvesting has not been needed for two years after treatment. The cove near Birchwood Avenue tends to grow in quickly. Commissioners asked what would prevent the clippings from re-seeding. Mr. Watson replied harvesting has been done for 13 years, and, in his opinion, it does not make a difference in the spread although there are several schools of thought. The harvester cuts a 5' swath below the level of the typical boat propeller. Boat propellers are known to contribute to the spread of weeds.

Cut materials would be conveyed to the shore and spread on land. Loads could also be taken to the landfill. If you spread lime on the surface, it reduces the smell and will speed the decay. The weeds are good compost material and could help limit erosion on steep shore lines. Member Corwin noted Natural Heritage has asked for the filing, and they will need 30 days in which to review the plans. It is anticipated a new map of treatment sites will be needed each year. B. Clements reported he and Bill Eger met with Jon Regosin at Natural Heritage to work on the development of an overall plan to address the aquatic weed problem at the Lake. This may include benthic barriers, a drawdown, mechanical harvesting, and handpulling. His letter of May 12, 2005 summarizes Dr. Regosin's recommendations. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to continue the hearing to June 14, 2005.

8:45 p.m. - Petroff/227 Riverbend Drive Request for Determination of Applicability

Chris Petroff explained he plans to drop the deck about 7" and chop off the corners. The plan shows a planar view of the deck which is 74' from the Bordering Vegetated Wetland. He plans to get rid of pressure-treated wood and will be using a composite wood product. The net change in the area is that it will be 25 SF smaller. Mr. Petroff said there is currently sand beneath the deck.

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

VOTED: to issue a negative #3 Determination.

Mr. Petroff said there is a sharp dropoff to the pond from his lot, and there has been some erosion on the hill. He noted he has been watering the vegetation that has sprung up on the slope, and he wanted to be sure that is okay. K. Corwin indicated the Commission likes to have areas near wetlands stabilized, and watering would help.

For the next discussion member Corwin stepped down as she is an abutter. She distributed copies of a letter which her husband received from Sue Walker regarding their willingness to sell the adjacent 100 acres. The land is currently assessed at \$775,000, and they plan to keep the house and ten acres. Ms. Corwin asked the Commission to consider whether this land would be an appropriate conservation acquisition, particularly since it joins with the McLain, Williams, Sorhaug Williams Barn, and Brown Lane parcels. P. Morrison thought the assessment might be high and questioned whether this was core habitat on the Biomap. The NRWA and Groton Conservation Trust may also be interested although limited development may not be an option with the presence of rare species. Members asked if test pits have been accepted by the Board of Health. Rick Muehlke indicated it is likely the Trust would have an interest in working with the Commission on this. The Groton Land Foundation has been in touch with them in the past. If the town applies for a Self Help grant, the land would have to be in public hands, but if the Trust is involved the land would have protected status too.

K. Corwin she had just wanted the Commission to be aware of the offer. C. Auman questioned the development potential of the parcel, particularly with the Blue-spotted salamanders. Ms. Corwin said Natural Heritage had wanted a 500' no-disturb buffer for the proposed high school, but she did not know whether this would apply to a private developer.

9:00 p.m. - Sandy Pond Road and Boston Road/Rocky Hill Subdivision Notice of Intent continuation, DEP #169-909

Attorney Bob Collins explained he has provided copies of the deed and the Conservation Restrictions, and M. Giguere thanked him for submitting them in a timely fashion. A Conservation Permit has been issued by Natural Heritage. C. Auman noted the Commission picks up some responsibilities as the grantee of the Restriction. Turtle nesting will occur on Audubon land, and the Commission has the right to assure compliance. Mr. Collins stated he was not aware of any financial or maintenance commitments on the part of the Commission. He explained it was anticipated that the proponent would record the Restriction as soon as the first building permit was issued.

Mr. Collins noted the Commission would hold a Restriction on land owned by Audubon, the town would own land in fee within the residential subdivision itself with the NH&ESP holding that Restriction, and the areas held by homeowners would be subject to a Restriction also held by the Town. Mr. Collins recommended the draft be sent to town counsel as soon as possible as he expects the Division of Conservation Services to review the documents fairly shortly. Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to close the public hearing.

Upon a motion by E. Owen, seconded by M. Giguere, it was

VOTED: to ratify the Emergency Certification issued to 83 Champney Street.

Regarding 147 Gay Road, members agreed to include this site in the next site visit to see whether any action is necessary.

9:15 p.m. - Academy Hill Notice of Intent, DEP #169-917 and Request for an Amendment to DEP #169-783 continuation

Larry Beals said he did not believe there were any new things to go over. Amended plans were submitted to the Commission and the most recent Conservation Restriction is under review by the NH&ESP. He pointed out Natural Heritage will be the final decision-maker on what kind of public access is permitted. Natural Heritage has asked that the Commission confirm its willingness to take on a supervisory role in the maintenance of the turtle barrier and future monitoring of the turtle population.

K. Corwin expressed concern about the replication area being set up for failure in a location right next to the road. Mr. Beals explained it is a 192 SF area, and the proponent has a 50 foot strip in which to work. She pointed out slopes should not be included in the size of the replication area. L. Beals said there is still the possibility the Planning Board will allow a footbridge or doing away with the sidewalk. K. Corwin asked if there is a better location away from the road, and Mr. Beals indicated it could be relocated to flag G9, but if the sidewalk is waived it will not be necessary to build the replication area. If changes are necessary, the proponent will be required to return to the Commission for a decision.

C. Auman requested more details about the turtle area, and Attorney Louis Levine said the proponent has an agreement with Natural Heritage to set up an escrow account and has asked if the Commission is willing to oversee the administration of this account. Members asked if the Commission will have access to the escrow account in the event funds are needed for monitoring or maintenance. Pointing out it is difficult to have a say in the way the project is carried out if there are no funds to back it up. Mr. Levine said the escrow account will be set up for the future maintenance costs of the fence.

Member Auman commented there is a conflict in the reserved rights in the draft Conservation Restriction as the limited access is inconsistent in the document. Natural Heritage will have the final say on access, and they are concerned about minimizing ATV, snowmobile, or other motorized vehicular access.

B. Clements said he has concerns about the turtle area and how much of a burden administration could become for the Commission. Mr. Beals explained the Commission would only be responsible for hiring someone to do the monitoring and will act as supervisor, i.e., engage a firm such as Oxbow that would then submit a report. The Commission would function in an oversight capacity for 20 years. Mr. Clements added the Conservation Restriction should be reviewed by town counsel and Jennifer Soper for the state before finalizing. It is intended the Grantor will retain fee ownership, and the Commission would hold the Restriction on behalf of the Town. The Grantee, the Town, will be responsible for enforcing compliance with the Restriction. Both the Town and Natural Heritage will have the right to enforce the Restriction. It is likely the Grantor will convey the land when the development is completed, but his successors and assigns must also observe the requirements outlined in the Restriction. Mr. Beals stated Natural Heritage is interested in having the fee ownership of the 216 acres.

Rick Muehlke, noting some of the houses back up to Groton Conservation Trust land, asked if there will be any demarcation at property lines. Mr. Beals explained a chain link fence that serves as a turtle barrier will be located at some of the property edges. Trails follow some of the property lines. K. Corwin said she would like to see the replication area for the second access moved further from the wetland. E. Owen said he shares the concern about property line demarcation.

P. Morrison suggested continuing the hearing would allow some positive changes in the plan. L. Beals indicated he preferred to close and have the Order of Conditions issued. C. Auman noted it would give the proponent some leverage with the Planning Board if the closing is delayed until their recommendation on a narrower road is known. Mr. Beals said the advantage of the project is that turtle habitat is protected, and the Commission gets the Conservation Restriction. The disadvantage is that the property is no longer on the tax rolls, and no revenue is generated. M. Giguere commented, "With no Conservation Restriction, the plan does not happen." It violates the Bylaw without the preservation of 216 acres. Mr. Beals said it would be a violation of a disturbed buffer zone. Members noted the detention basins are very large, and there is a lot of grading associated with the work. The area will be loamed and seeded with hydrophilic grasses and cattails. It will be a better filter when trees begin to grow. M. Giguere made a motion to close the hearing, seconded by K. Corwin.

B. Clements commented there are some open items, and he did not feel it appropriate to close. He noted there were some outstanding issues, and Mr. Beals inquired whether the questions were substantial. The Commission agreed to go over the items. Mr. Clements asked how pollution from the houses, lawns, and driveway areas will be kept out of the replication area. Mr. Beals indicated the pollutants will be removed by the stormwater drainage system, including the detention basins which will be planted. Mr. Beals said plant material growing in the replication area will not interfere with sight distances as the entrance which will be raised to improve sight distances.

K. Corwin inquired whether this is an open bottomed culvert, and Mr. Beals responded it was a box culvert but they are willing to install whatever the Commission requires. B. Ganem advised the 401 Water Quality Certificate application should include information on the additional filling proposed on the southern access under DEP #169-917. Mr. Beals indicated it would be the proponent's responsibility to do additional filings for lots 10, 11, and 34 if there is any filling in the buffer zone as a result of grading for the septic systems. He also suggested the Commission include a condition that all buffer zone work requires erosion control. Mr. Beals acknowledged there is a fill easement on other's property for the wetland crossing. The sheds in the vicinity are also on land not owned by the applicant. To assure that existing groundwater conditions are maintained, the Commission could require that the water line installation include a seep collar.

Mr. Beals noted the Commission has previously received a summary of drainage calculations. K. Corwin stated she personally preferred to see detention basins dry or wet longer. She explained amphibians frequently may lay their eggs in detention basins which then dry up killing the eggs or fry. Mr. Beals suggested perforated underdrains could be used in all the detention basins to assure they drain thoroughly, and the applicant is willing to bring plans in prior to construction. B. Ganem asked if the Cultec units require any maintenance on the part of homeowners, and Mr. Beals

replied the individual homeowners would be responsible for maintaining the units. L. Beals thought the Commission agreed in principal on the public access issue for the Conservation Management Plan. Another outstanding item is construction details for the open bottomed culvert. Mr. Beals suggested a project kick off meeting at the beginning of the project during which these details could be ironed out. L. Beals said the applicant would be willing to plant the vegetation preferred by the Commission in the replication area and the Riverfront Area. He submitted updated plans showing the riparian zone. E. Owen noted the calculations had changed for the amount of disturbance. Mr. Beals indicated the amount of disturbance in the Riverfront Area is well below what is allowed by the regulations. He did not provide the calculations to support this statement. He said he would like to move forward with the plans. He noted the applicant has no other alternative for the access to the project, and the road has to be in the given location. With a motion on the floor, it was

VOTED: to close the hearing for the amended Order of Conditions for DEP #169-783.

Upon a motion by K. Corwin, seconded by E. Owen, it was

VOTED: to close the hearing for DEP #169-917.

C. Auman thanked B. Clements for his year as Chairman, and P. Morrison noted his leadership has led the Commission through some of our most tumultuous times. Commissioners then signed documents, and there being no further business, adjourned at 11 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended June 14, 2005