

GROTON CONSERVATION COMMISSION

Minutes

December 13, 2005

Chairman Peter Morrison called the meeting to order at 7 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Bruce Clements, Kris Corwin, Bruce Easom, Marshall Giguere, and Evan Owen were present. Conservation Assistant Barbara Ganem was also present.

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

VOTED: to approve the Executive Session minutes of November 8, 2005 as drafted.

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

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

K. Corwin abstained from the vote.

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

VOTED: to issue the Order of Conditions for DEP #169-942 for 23 Radio Rd. as drafted.

In discussion on the drafting of the Order of Conditions for DEP #169-933 for 10 Redskin Trail, Member B. Clement stepped down. E. Owen noted he was uncomfortable with allowing two docks on the property at this point in time. P. Morrison questioned whether disallowing the docks was fair to the applicant since it had not been brought up during the hearing. Mr. Owen said he had made his view known at the hearing, commenting the Commission is presented with a proposal which can be voted up or down. He pointed out no straw vote was taken during the hearing, but he could vote no on the Order of Conditions. Upon a motion by E. Owen, seconded by K. Corwin, it was

VOTED: to issue an Order of Conditions for DEP #169-933 for 10 Redskin Trail as drafted.

E. Owen voted in the negative.

7:15 p.m. - Appointment/June Johnson

Ms. Johnson explained she was present to provide background information on the proposed Conservation Restriction on the Bates-Blackman Conservation Areas to be held by The Trustees of Reservations (TTOR). She said the Bates parcel was one of the first donated to the Groton Conservation Trust. In the CR, it is referred to as Zone I and has a more park-like atmosphere. Zone II, the Blackman parcel, is in a more natural state. She noted this is part of a larger effort on the part of the Groton Conservation Trust to assure people that Trust land is protected in perpetuity. Ms. Johnson reminded the Commission of the Trust's placement of CRs on conservation parcels (Hayes, West Throne, and Mason) as part of the deal to protect Gibbet Hill, commenting that it can be a very successful strategy to preserve land. Photographs of the site, showing views from different locations, were provided to the Commission. In summary, she asked the Commission to confirm, for the Selectmen and for the Executive Office of Environmental Affairs, that this CR was in the public interest.

K. Corwin thought it was great the Trust was putting CRs on its land. She suggested this would discourage the thought of taking over conservation land by eminent domain for public buildings such as schools. J. Johnson indicated this was also the reason the Trust has co-holders of CRs on some of their properties. She said TTOR holds over 300 CRs throughout the state, and it is hoped they will provide a model for the monitoring of conservation-restricted properties.

She expects to meet with the Board of Selectmen on December 19th. Mr. Auman stated he, too, was pleased to see this land permanently protected and would like to see restrictions put on all Trust properties. Ms. Johnson noted that one of the stipulations in the Restriction is that benches are prohibited although signs are acceptable. The document goes to the state, once signed locally, although the language has been previously approved by TTOR and the Division of Conservation and Recreation. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to approve a municipal certification, to be prepared by B. Ganem, for the submittal of a Conservation Restriction on the Bates/Blackman Conservation Areas to the state Executive Office of Environmental Affairs.

B. Clements was authorized by the Commission to serve as “inspector” on the properties for the submittal of the Conservation Restriction Field Inspection form.

7:30 p.m. - Partridgeberry Homeowners’ Association RDA continuation

Dave Klinon of ENSR noted that approximately 80% of the shoreline of the manmade pond is covered with purple loosestrife. He explained he has over 15 years of experience as both a plant and soil scientist and has several options for the control of this invasive that will have less ecological impact. He noted there has been some success using the *Galerucella* beetle, a species which feeds on loosestrife in its native Asian habitats. Mr. Klinon was involved in a study done at Suffolk Downs using the beetle. While acknowledging it is a non-native species, he noted it is possible to buy either adult or larval beetles. They are generally not capable of reproducing in this climate. It is likely to take several years of application to control the 2 -3 acres of loosestrife currently in the pond. He estimated the cost to be under \$1,000 if the Homeowners’ Association does the monitoring. He noted the other option is to cut the plants and use an herbicide prior to seed production. The herbicide would be a product called Rodeo, a glycolphosphate. A pull or cut would be conducted in the first year, followed up with an herbicide application in subsequent years.

B. Clements said his preference is not to use herbicides, and he did not see the downside of utilizing the beetles. Mr. Klinon indicated the beetle is species-specific, eating only loosestrife and not cattails. Because loosestrife spreads by both seeds and rhizomes, it can quickly invade and take over an area. He thought it likely the beetles could make a substantial reduction in the biomass of loosestrife over time. The USDA has approved the use of the beetles. They do not do as well in wetter regimes and are not likely to go from patch to patch unless the patches are connected, and this could compromise the beetles’ effectiveness. Mr. Klinon anticipates a 80% - 90% reduction within two seasons.

K. Corwin said she also was against using chemicals as that could kill everything. She asked if any other species would be at risk from the beetles, and Mr. Klinon acknowledged it could affect swamp candles, a less common variety of lythrum that is uncommon. E. Owen noted the pond is part of an elaborate stormwater drainage system over which the Commission has no jurisdiction, and he appreciated the applicant keeping the Commission informed of the proposed work as a courtesy.

J. Klinon noted the beetle lays eggs in the pith, and the larvae eat the basal growth of loosestrife. The beetles will die off rather than eat species other than lythrum or jump to patches that are quite far away. He thought it extremely unlikely that they would spread uncontrollably. Although it is legal in Massachusetts to release the beetles, Mr. Klinon was not aware of an official stance at DEP. The Army Corps, MDC, and DCR have tended to utilize more direct and quick-acting measures such as disking, harrowing, and spraying to control loosestrife. Due to our climate and the fact that many beetles are sterilized, he felt that any larvae were unlikely to survive freezing temperatures.

M. Giguere indicated he would not be in favor of using chemicals, but he thought the beetles would be a worthy experiment. Mr. Klinon estimated that an application of Rodeo would be approximately \$1,000, plus \$200 to \$300 for an individual to apply it. B. Easom questioned whether other towns have had any experience with the beetles and noted there is a poor record of introducing non-native species although the eradication made him a little more comfortable. Given the predator-prey concept, Mr. Easom asked if it is likely the loosestrife will reach a steady state. Mr. Klinon indicated a steady state could be reached after the 2nd year of treatment, but there will remain a portion of the population that remains unaffected. It is also likely that outside seed sources could lead to future infestations of

loosestrife at the site. Mr. Klinon explained the beetle is an insect about 1/8" in length. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to issue a negative #2 Determination that the area is not subject to protection under the Wetlands Protection Act.

The proponents thought they would probably set up for the project in late April.

7:45 p.m. - 245 & 246 Lowell Road NOI

Meredith Scarlet, the applicant, introduced her husband, Ben, and mother-in-law, Ginny Scarlet, who assisted with the presentation. M. Scarlet indicated the site is now fully stabilized with matting, and there has been a response to the Earth Removal Advisory Committee and the Board of Selectmen. She noted she had walked in the wetland across the street, and there are patches of sediment in the reed canary grass. They propose the removal of mud patches or a better option may be to leave them to be re-colonized by reed canary grass. K. Corwin thanked them for filing and for taking the Commission's request seriously. She said she had thought about the project a lot and suggested waiting until spring to see if the area recovers on its own. E. Owen thanked them for a thorough review of the project. C. Auman concurred, stating the matting was a good step.

G. Scarlet said it is likely the wetland begins with the growth of reed canary grass on the other side of Rt. 40. She noted there are discrete patches less than 1/2" in depth, with depths closer to 11" at the culvert outfall. The stream actually passes back under Rt. 40 and back onto the farm. She indicated she did not feel the wetland was impacted at this point. Due to the current snow cover, she recommended a decision be made in the spring about whether to remove the materials or leave them in place. Ms. Scarlet noted the culvert was clean, but it is cracked and there is likely to be subsurface flow which could have contributed to the sediment load.

B. Easom agreed the Commission will know more in the spring, and it would be a good time to reassess the situation. P. Morrison commented the stabilization with the matting was helpful. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to close the hearing for 245 & 246 Lowell Road.

8:00 p.m. - Gilson Road Abbreviated Notice of Resource Area Delineation

Terry Ramborger, wetland scientist for TF Moran, stated he did the wetland delineation on October 5th, using soils, vegetative, and hydrologic criteria. He noted two wetland scrub-shrub areas were combined within the delineation, and he understood this area has been certified as a vernal pool. He mentioned he was also aware of Hyla Ecological's tracking of a Blanding's turtle near the site.

E. Owen acknowledged the Commission did not review the area on Saturday due to the recent snow fall. He asked Mr. Ramborger to outline his experience in wetland delineation, and Mr. Ramborger replied he has wetland and soils certification in New Hampshire and had worked in the field for EarthTech and as a soil scientist for the Middlesex Conservation District 15 years ago.

Member Auman noted the Commission is concerned with what happens in the 50' and 100' buffer, and he would like to see soil samples in the field. K. Corwin indicated other rare species were documented near the site. Mr. Ramborger said the site is fairly uniform, and this is why only one field data form was submitted.

Abutter Russell Broz (27 Old Carriage Path) said his property has a continuous history of water and flooding and not just in the spring. He indicated water frequently comes right to the edge of his lawn, and he expressed concern that this development would displace additional water onto his property. Mr. Ramborger stated his wetland delineation was more conservative than the 2004 flagging done by Norse. Mr. Broz commented his septic system leach field had to be raised 4'. He also noted the wetlands delineation prepared by Northeast Land Consultants showed more extensive

wetlands than the current delineation. He pointed out the boundary of the vernal pool has not been certified, and he understood this was standard procedure to review the line. A 1996 plan prepared by Ross Associates showed the extent of water occurs within a contour detail.

Member Corwin said the Commission will agree or disagree with the flagging. Mr. Ramborger asked if engineering calculations were provided to determine the edge of the wetland. This would provide documentation of the water issue as much as possible. He noted the proposed 14 lots would be subject to the stormwater management policies. B. Easom said the Commission will need additional time to evaluate the wetland.

Abutter Valerie Spenser (21 Old Carriage Path) said she has photographs of water coming past the delineated area. Of the six years her family has lived there, there has been only one year in which this flooding did not occur. Members noted there is concern among abutters about the potential for flooding if this area is developed, but Chairman Morrison pointed out no project is currently before the Commission, just a boundary delineation. Upon a motion by B. Easom, seconded by E. Owen, it was

VOTED: to continue the hearing for Monarch Path to January 10, 2006.

8:15 p.m. - Request for Amendment DEP #169-828/Bennett Black, Jr.

Members M. Giguere and P. Morrison stepped down from the hearing, and Vice Chairman Bruce Easom presided. Ben Black, Sr. explained his family has owned the farm since 1934 when they began resurrecting the 180 acre farm. In 1975, ten lots were laid out with plans for a 5th generation of Blacks. There are nine active dug wells in the area, and Robert Black just brought in a public water main. Originally this project was to have a well. Also it was found that the electricity in the right of way was not adequate to cover another house so GELD demanded upgraded service. Mr. Black noted there were recent heavy rainstorms, and there has been no evidence of flooding at this lot and no sign of erosion. He requested the Commission come together and approve the project. He said the new plans drawn up by Sean Hale of Ross Associates shows where the work has already happened.

B. Clements commented he was not sure what the Commission was trying to accomplish since the work was already done. He asked if any additional work is proposed that would affect the buffer zone. K. Corwin pointed out the water line is within 50' of the wetland, and the Bylaw spells out no structures are allowed within the 100 foot buffer zone. She also said the work was done without prior approval. C. Auman added new utilities may be allowed if it is the best environmental alternative, and the applicant can demonstrate there is no better alternative. K. Corwin said the record must show where things are located, and the new plan accomplishes this.

Ben Black, Sr. acknowledged they originally intended to use a well although Bennett Black, Jr. acknowledged there is no mention of it in their plans. When asked to describe the site, Mr. Black, Jr. indicated it is a 10' wide gravel road, loamed and seeded at the edges. All trenches are now closed.

Member Easom questioned whether the haybale line delineates the limit of disturbance and whether any work was done on the wetland side. Ben Black, Sr. stressed that the work was required by the Water Department and GELD. C. Auman pointed out the Commission has to agree it is the best location. B. Easom noted it is technically a violation of the Order of Conditions even though the reason for the violation is legitimate, and it is a filing after-the-fact. K. Corwin said the Commission negotiated at the time of the first hearing and agreed to a 50' limit and that seems to have been blown off. The plans show a notation that the haybales will be moved to the 50' line.

Abutter Peter Morrison (37 Burntmeadow Rd.) said the road is in and the area stable. He thought it would involve more disturbance at this point to try to move the utilities, and this would not be a benefit to the environment. K. Corwin expressed frustration at getting builders to actually follow the plans they file. Ben Black, Sr. said they followed the regulations from GELD and the Water Department, and they did not intentionally go over anybody's head. Members urged him to come back and file with the Commission if there are changes. Mr. Black, Sr. stated the work was well beyond the haybale barrier at the end of the first day.

E. Owen asked if the utilities were field located, and S. Hale indicated he would check on this. Mr. Black, Jr., said all

the wires and lines were GPS'd. Don Black stated the utility line was in the shoulder with the water line to the left and electric line to the right, which is the standard used by the respective departments. Dave Alexander (#36 Burntmeadow Rd.) urged the Commission to not require more digging over there. B. Easom, E. Owen, and C. Auman all indicated they were struggling with the issue of filing after-the-fact. They questioned whether there was a need for remediation or consideration whether the situation justifies a fine. B. Clements thought the utilities should be left as they are although he acknowledged a violation has occurred. C. Auman noted the Commission has really held to the 50' non-disturb buffer. Bennett Black, Jr. asked if 3' is really that big of a concern.

C. Auman explained the difficulty is work was done that was not shown on the plan, and it was not brought forward to the Commission before being done. The work is done, and Mr. Black, Jr. indicated paving is not intended. Marshall Giguere (234 Burntmeadow Rd.) noted the area is stable and he felt it should be left alone, now that there is an updated set of plans. He felt the matter would have come up when the Commission saw the As-Built Plans at the conclusion of the project. Upon a motion by E. Owen, seconded by C. Auman, it was

VOTED: to close the hearing for the amendment to DEP #169-828 on Burntmeadow Rd.

8:30 p.m. - Nam Hang LLC RDA/Crossroads Plaza RDA

Bruce Ringwald from GPR explained that he and Oxbow Associates have only recently become involved in the project. As the initial phase of a project, it was suggested an official filing with the Conservation Commission be put forth. Scott Smyers of Oxbow acknowledged the Commission has previously requested additional information about the isolated area. Some test borings were submitted. The area has isolated land subject to flooding, and there has been historic alteration or tree clearing relatively recently. The soils appear to have an intact natural A horizon. He believed it did not qualify as hydric soils. He said the soil borings were done next to the tire ruts down to a depth of 20". It has a relatively high chroma - 5/4. He noted the vegetation is mostly facultative with wind blown seeds. Oak seedlings and mullein were also at the same elevations. Does it hold significant water? Based on a November 9th inspection there is no evidence of substantial flooding. Mr. Smyers did not think it qualified as a wetland under the Bylaw. He requested the Commission consider the evidence put forth for the filing.

M. Giguere noted the Commission has observed the site twice, and both times there was water in the depression. In addition, water boatmen were present during one visit. P. Morrison said it was his belief the site stayed wet for a good part of the year. B. Clements urged the Commission to visit, and member K. Corwin noted she has observed standing water within the depression several times.

B. Ringwald indicated he has mountain biked through the property, and it does drop off quickly. He maintained the water also disappears quickly although he has not biked through the bottom of the depression. P. Morrison said he would have anticipated being asked about this property long ago. In fact he thought it would have been helpful to look at the site before the forestry activities took place. Mr. Ringwald explained his client became concerned about snow mobile traffic through the property once the restaurant was shut down. He felt that cutting the trees made the area more visible.

B. Easom noted the Bylaw standard is whether the standing water continues for more than two months. K. Corwin noted the original vegetation may have died out when the area became exposed to sunlight. Mr. Smyers commented the soils are very fine silty loam. He acknowledged a sandy soil may have a chroma of 3 to qualify as a hydric soil. S. Smyers stated these soils do not fall into the sandy category because of their texture.

Member B. Clements indicated he understood that tree cutting may impact the nature of the land, but he thought the soils would be the same regardless. Mr. Smyers maintained the trees could pull more water out of the ground during the growing season, and the soils remain relatively undisturbed despite the logging. No excavation or movement of soils was observed at the site. Exposed gravel on both sides gives way to a steep drop-off. S. Smyers noted that invertebrates such as water boatmen do fly, and are not limited to one wetland area. He questioned whether the Commission believes the depression is only the area where there is tire rutting, and members suggested the area extends beyond the ruts. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to continue the hearing to January 10, 2006.

8:45 p.m. - 160 Townsend Rd. NOI continuation

Upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to continue the hearing for DEP #169-908 for 160 Townsend Rd. to January 10, 2006.

8:45 p.m. - Murray/Whiley Rd. NOI continuation

David Murray stated he would like to withdraw his application because the house has been pulled out of the 100 foot buffer zone. He submitted a plan to the Commission showing the house to be 109' from the wetlands although the plan did not show the location of the silt fencing or the topography of the lot. Mr. Murray said it is his intention to keep all grading and any work beyond the 100 foot buffer zone. There being no additional information, upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to close the hearing for DEP #169-928 for Whiley Road.

9:00 p.m. - W. Groton Water Treatment Plant NOI continuation

W. Groton Water Superintendent Gordon Newell stated no work will be done until all permitting is completed. Randy Christiansen, wetland scientist from Dufresne & Henry, said he had met with Natural Heritage on November 30th to discuss the conditions necessary to avoid a "taking" of rare species. The protocol developed includes a "capture and re-location" barrier between the kettle holes and the Squannacook River. The trench will be backfilled on a daily basis, and they expect to do a 300' length of water main installation in ten day increments. Drift fences will be set up on both sides of the right-of-way with 34 pitfalls. There will be daily inspections to retrieve captured wildlife as light or heat can kill the turtles. Information on the weight, sex, species, and age will be collected to assist Natural Heritage in generating a database. The period between March 30th and November 15th is the time when turtles are active. The removal of the drift fencing will depend on the Conservation Commission's authorization.

Mr. Christiansen stated the final protocol has not been officially approved by the Natural Heritage Program, but they will have an opportunity to present comments when the Final Environmental Impact Report is submitted. B. Clements commented the Commission's Order of Conditions should reflect the fact that work is contingent upon satisfactory Natural Heritage review. K. Corwin questioned whether a qualified wildlife biologist is required as part of the protocol for pitfall inspections. C. Auman wanted to know if work is allowed anytime providing the pitfall traps are in place. Mr. Newell indicated he would hire someone locally, perhaps a graduate student, with experience or training to provide proper documentation. R. Christiansen will be responsible for training the individual.

C. Auman questioned what will be done with excess excavated materials, and Mr. Newell said this material will be reused to maintain the Town Forest trails to the proper standard. R. Christiansen stated the protocol was worked out with Dan Nein at Natural Heritage, but there may be more details added when the final Natural Heritage decision is issued. M. Giguere questioned whether the pitfall traps will be inspected on a daily basis, and Mr. Christiansen said this would be required. Mr. Newell said a pre-bid meeting will be held to assure that all contractors are aware of the extreme sensitivity of the site. Signs may be placed to remind workers of the need to be aware of the wildlife in the area. Any barriers will be removed as soon as the work is completed.

B. Easom asked the direction in which the work will proceed, and Mr. Christiansen indicated the trenching and backfilling will work from the well toward the road. The land will be restored in the entire Town Forest first. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to close the public hearing for DEP #169-938 for the W. Groton Water Treatment Plant.

9:15 p.m. - Malloy/155 Indian Hill Rd. NOI continuation

Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to continue the hearing for DEP #169-937 for 155 Indian Hill Rd. to January 10, 2006.

9:15 p.m. - Bobzien/Longley Rd. & Sand Hill Rd. NOI continuation

Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to continue the hearing for DEP #169-940 for Longley Rd. & Sand Hill Rd. to January 10, 2006.

B. Ganem reported the signs marking the edge of conservation-restricted land have been placed on the Eliades Lot A-1 on Culver Rd. The Building Inspector will be reminded of the settlement fee of \$22,000 before an Occupancy Permit is issued.

B. Clements noted Robert Hicks had participated in an informal meeting to discuss options for the development of the Jenkins Rd. property for which the Commission will issue an Order of Resource Area Delineation this evening. A reduction in housing units from 44 to 28 was presented, and Mr. Hicks was urged to look at filing under the regular subdivision regulations rather than as a 40B.

An estimate for the printing of 30 hard copies and 40 cd's of the 2005 Groton Open Space & Recreation Plan has been received. Commissioners agreed to go with the \$500 estimate submitted by Autumn Printing in Billerica. Commissioners agreed to select the Blanding's turtle photograph as the cover for the Plan.

Three bids have been submitted for the forestry project at the Crosswinds Conservation Area - Brackett at \$8,160, Radwich at \$7,500, and Monadnock Landclearing & Chipping at \$7,100. P. Morrison said he has had experience with all three and found them quite competent. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to select Monadnock Landclearing & Chipping to conduct the forestry project at the Crosswinds Conservation Area.

Regarding the request for an emergency certification for adding crushed stone at 60 Boston Rd., Commissioners recommended the proponent file a Request for Determination of Applicability to do the work.

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

VOTED: to reappoint Bruce Easom to serve as the Conservation Commission representative to the Growth Management Advisory Committee.

Under other business, M. Giguere noted there is an 1830 map prepared by the Harvard Forest which identifies old growth forests in the state. In addition, an Ipswich commission has software for tracking filings under the Wetlands Protection Act.

Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to issue an Order of Resource Area Delineation for DEP #169-935 approving the most recently revised delineation plan (11/22/05) for Jenkins Rd.

B. Easom abstained from the vote.

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

VOTED: to go into Executive Session to discuss litigation and the purchase of real estate, not to return to Open Session.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted 1/10/06