

GROTON CONSERVATION COMMISSION

Minutes

February 28, 2006

Chairman Peter Morrison called the meeting to order at 7:00 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 C. Auman, seconded by M. Giguere, it was

VOTED: to approve the minutes of February 14, 2006 as drafted.

B. Easom abstained from the vote.

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

VOTED: to approve the minutes of February 23, 2006 as drafted.

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

VOTED: to approve the Executive Session minutes of February 23, 2006 as drafted.

In discussion on the request for a Certificate of Compliance for 23 W. Main St., members noted the whole lot is within the 100-foot buffer, members commented it would be difficult to re-direct the roof runoff away from the stream. The work proposed in DEP #169-820 involved the upgrade of a septic system. Upon a motion by K. Corwin, seconded by B. Easom, it was

VOTED: to issue a Certificate of Compliance for DEP #169-820 for 23 W. Main St.

B. Ganem reported there has been no communication from Town Counsel regarding the warrant articles proposed by the Commission for the spring town meeting. Members agreed to convey the current wording of the articles to the Board of Selectmen by the March 1 deadline.

The farmhouse demolition project on the conservation-restricted land behind the high school was carried out during the past week. They have inquired as to whether they could go beyond March 1 to do some backfilling around the foundation for safety reasons. Commissioners agreed to give them another week as the weather forecast calls for continued cold temperatures.

An Occupancy Permit has been requested for 28 Boathouse Rd. B. Ganem explained she hesitated to sign off on the Permit as there appeared to be some one occupying the house, and the Commission had not received a successor letter. Mr. Enwright came in to say he continues to own the house and understands his responsibility regarding the Order of Conditions. Members agreed that the Occupancy Permit could be signed.

In the review of the draft Conservation Restriction which the Commission will hold on the MSPCA land recently purchased by MassAudubon, members noted an inconsistency between what is stated in Sections C1 about constructing trails and C2 and F (1) about no public access. Members agreed this should be clarified with MassAudubon and also requested that Exhibit A be submitted for review. A site visit will be scheduled in early April.

7:15 p.m. - Reedy Meadow Estates - DEP #169-893

B. Ganem reported the applicant's consultant has indicated he wishes to close the hearing as all land disturbances have been moved outside the buffer and Riverfront Area. K. Corwin questioned how the conditions recommended by Natural Heritage could be enforced without an Order of Conditions. A copy of the letter has been conveyed to the Planning Board according to B. Clements, and he agreed to follow up with the Planning Board about including the recommendations in their final decision. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to close the hearing for DEP #169-893 for Reedy Meadow Estates.

A letter confirming the withdrawal of the filing will be sent to the applicant.

7:25 p.m. Appointment - Dr. William Eger/Ch. 91

Dr. Eger reported the Great Ponds Advisory Committee has been researching the status of great ponds. He requested that B. Ganem be instructed to modify the statement that a Ch. 91 license is needed for a dock and only advise applicants that they need to investigate whether they will need the license. He pointed out there is a contradiction in the Regulations themselves in that they are stating that docks and piers are standing on land owned by the Commonwealth when this is privately owned land with extant heirs. He stated it is his belief that the state does not own Lost Lake/Knops Pond as there are private owners who have property under Lost Lake/Knops Pond. He noted there has been some talk of the Town acquiring the lakes to avoid future problems with the dam. Dr. Eger commented Rt. 40 was almost washed out during recent storms when the water was 1' over the spillway. He added the 1866 historic high water mark is based on a brook, and he does not believe any permit is required.

Dr. Eger maintained the October 20, 2005 letter from Town Counsel contained some major inaccurate conclusions. Although the Committee has prepared a response to the letter, the Town did not want to incur any further legal expenses. Town Counsel indicated that, unless the Board of Selectmen was prepared to carry out a lawsuit, they would not put anything further in writing. Dr. Eger said the water elevations in the Lake are artificially raised and lowered. If the mean elevation is used, it ignores the rest of the year. There is a 5 year grace period, until 2007, allowing an exemption for unauthorized piers until the Resource Management Plan goes into effect. The water rights for Knops Pond preceded the implementation of Ch. 91. He asked if it is absolutely necessary to advise applicants to file under Ch. 91 as it is possibly inaccurate advice.

B. Clements said he has previously heard a lot of this discussion as a member of the Great Ponds Advisory Committee. He recommended that any new docks be in compliance with wetland issues. Dr. Eger stated that residents would have to pay an annual occupancy fee for piers on Commonwealth land. K. Corwin said she would find it hard to instruct B. Ganem to go against Town Counsel's written opinion. Dr. Eger fully agreed that docks must be installed in compliance with wetland regulations, but he argued that the validity of requiring permits on Commonwealth land was an absolute contradiction. E. Owen commented the matter is not going to be resolved in the near future.

Dr. Eger said the finalization of the RMP may reduce the process so that dock owners can pay a small fee, and the Town can authorize docks and collect fees. P. Morrison said Commission actions are authorized under Ch. 131, Section 40, not Ch. 91. He stated he thought it likely that anyone putting a dock in a waterway is going to need some form of bottom-anchoring. Planning Administrator Michelle Collette pointed out that, based on her experience as a Conservation Commissioner from 1978 to 1988, the Commission has historically advised applicants filing a Notice of Intent for a dock to also seek a Ch. 91 license. She gave the example of the dock owned by Alan Fletcher where DEP required the landowner to apply for a Ch. 91 license. Ms. Collette questioned why this matter is even being debated. Dr. Eger pointed out this was in Knops Pond and noted Mr. Fletcher ignored warnings about ice damage when he first constructed his dock.

B. Clements asked if the question centered on whether the mean standard was met to designate Lost Lake as a Great Pond. He thought this could be splitting hairs as distinguishing and treating Lost Lake/Knops Pond differently would be difficult. Chairman Morrison suggested this topic be allocated 15 minutes on the agenda for the next meeting.

M. Collette reported she, Mark Archambault (Smart Growth Circuit Rider for NRWA), and members of the Earth Removal Advisory Committee worked with the Natural Resources Conservation Service, Middlesex Conservation

District, Town Counsel, and Tom Delaney, Highway Surveyor, to develop a draft Stormwater Management Bylaw. She noted this is required under the Clean Waters Act implemented by EPA. Groton is considered a NPDES Phase II community, and the Bylaw must be in place before April 2008. As part of a public education initiative, the working committee has sponsored a Low Impact Development (LID) presentation by Andrea Cooper, the state Smart Growth guru. Tom Delaney deals with illicit discharges to the municipal stormwater system, and since 1998, construction site runoff.

The proposed bylaw will give local control over operations and maintenance (O & M) plans and help keep the municipal storm system free of pollutants. The plan is to have the new bylaw replace the Erosion Control Bylaw in its entirety. It will help assure that appropriate drainage easements are turned over to the Town in order to allow for future modifications. It is hoped that this Committee will be able to get an early look at plans in order to encourage the incorporation of LID techniques during the design phase. The goal is to have joint meetings with all departments using the same design storm and criteria. They plan to hold a hearing on the first Wednesday in April. K. Corwin asked if they are encouraging infiltration rather than detention and asked the position on underground stormwater structures.

M. Collette said emphasis will be placed on LID elements which are generally amphibian-friendly. The current subdivision regulations call for classic closed drainage systems, so eventually a wholesale re-write will be necessary. Commissioners thanked her and the Committee for all the hard work on the preparation of the bylaw and for coming in to discuss the bylaw.

8:00 p.m. - Request for an amendment to DEP #169-777 - 162 Hayden Rd.

Homeowner Roger Cruz explained he is requesting both an extension and authorization to discharge runoff from a foundation drain into the pond. He noted that the rains in October resulted in the water table rising into his newly constructed basement. The proposed installation would consist of approximately 100' of rigid PVC piping in a trench 3' deep. A backhoe would be used to dig the trench. C. Auman questioned whether water would be released directly into the stream without filtering or slowing down. The waterproofing used on the exterior of the basement could contribute pollutants to the stream.

M. Giguere commented the applicant feels the water is already filtered by passing through the ground, but there does seem to be a need for defusing the water's energy. Mr. Cruz said the water very rarely reaches the point where it must be discharged. B. Easom asked what happened to the water before the new house was built. Mr. Cruz stated the existing house has an even bigger problem with flooding in the basement. He indicated he was aware of the high water table and that's why he built the new foundation 2' higher than in the old house. He estimated the new cellar floor is at 98.5'. B. Clements asked how the water enters, and Mr. Cruz indicated through a pipe coupler before it gets into the basement. He maintained there are no contaminants in the water.

K. Corwin questioned whether the water was clean as concrete leaches, the waterproofing was used, and there are sediments which should not be dumped into the stream. She noted a drywell would have to be above the water table to function. P. Morrison asked if it was possible to riprap the outlet prior to the culvert, and R. Cruz thought that would not work because of the elevation.

E. Owen asked whether there would be a means to clean out the pipe where the bend in the line is proposed. A 6" pipe is proposed, and Mr. Cruz did not think the slight bend would result in plugging.

Upon a motion by B. Clements, seconded by B. Easom, it was

VOTED: to extend the Order of Conditions for two years.

Upon a motion by E. Owen, seconded by B. Clements, it was

VOTED: to authorize a change in plan as shown on the revised sketch, allowing a discharge at the 95' elevation providing erosion control measures are extended to cover the work area when the trench is dug.

K. Corwin, M. Giguere, and B. Easom voted in the negative, and P. Morrison, B. Clements, E. Owen, and C. Auman

voted in favor of the motion.

R. Cruz maintained the rising of the water table is tied to the amount of rain, and he has observed this situation twice in the 5 years in which he has lived there.

8:15 p.m. - Patenaude/Bridge St. ANRAD DEP #169-945

Brandon Ducharme indicated the Abbreviated Notice of Resource Area Delineation was for an area north of Bridge Street and included the Bordering Vegetated Wetland associated with Cow Pond Brook. The delineation used hydrology, soils, and vegetation. The NGVD elevation was used, and the 100-year storm floodplain elevation was never encountered on the subject property. The Riverfront Area is 200' from the Mean Annual High Water line, but due to beaver activity, the area floods back to within 10 - 12' of the BVW line. The stream was originally taken from the Groton GIS site. Mr. Ducharme said a 1940 assessors map shows the stream as being 12' wide. Other MAHW characteristics include scouring and staining, but B. Ducharme thought it would result in topographing Land Under Water currently. Because abutters were not notified, Chairman Morrison urged the Commission to delay further discussions. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to continue the hearing to March 14, 2006.

8:30 p.m. - Bue/14 Island Road NOI #169-946

Chris DeLoge of Whitman Bingham explained the project consists of the replacement of an existing 17' by 10' garage with a 20' by 24' garage with parking at the street level and storage underneath. Mr. DeLoge acknowledged the 100-year floodplain coincides with the 216' elevation, and it is the applicant's intention to leave the area open under the garage. He anticipates the garage will be constructed on a pad with a poured concrete foundation. A gutter line will project to the road although this is not shown on the plan. B. Clements noted a concrete floor allows no infiltration, and P. Morrison pointed out this is flood storage, not recharge. K. Corwin indicated she was not sure she agreed. She requested that a cross section of the floodplain vs. the filling be provided. Also, details on the retaining wall area are necessary. E. Owen was concerned that an open structure was likely to be filled over time, presenting a problem down the road. C. Auman requested information on the amount of impervious surface vs. the size of the lot. Although the garage is in the same general footprint, it has significantly increased in size. He expressed concern about the amount of impervious surface on the lot. Mr. DeLoge said it meets state regulations.

Rena Swezey, Assistant Town Assessor and a resident of 60 Island Road, said there was another structure there years ago, and the resident was not doing anything that was not done before. She maintained the Lake has never come up as high as the 100-year floodplain shown on the plan, and B. Clements pointed out that, nevertheless, a potential does exist for a 100-year storm to result in flooding at that elevation. He also indicated he would prefer not to see petroleum products stored there.

Jack Wollons (sp?) asked whether that means everyone on the Lake should not be storing petroleum products near the Lake. Commissioners noted that in a previous filing for Groton School, the applicant was asked to keep such materials out of the 100-year floodplain. E. Owen explained the Commission may condition this project in a similar fashion but generally would not seek out residents who are storing petroleum projects close to the Lake.

M. Giguere noted the Commission has previously tried to keep things within the existing footprint, but this filing has resulted in a footprint 2.5 times the size of an existing structure. R. Swezey noted the ZBA has already granted a permit for the structure and asked how the Commission can now require a change in the size. R. Swezey asserted that people on the Lake are trying to fix up their properties, and it's a good thing that residents understand the need to file with the Commission before beginning work. Members summed up the information necessary from the applicant as a cross section of the fill and flood storage areas, depth of footings, retaining wall construction and make up, pervious vs. impervious computations, and how runoff from the roof and driveway will be handled. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to continue the hearing to March 14, 2006.

8:45 p.m. - Lawrence Academy NOI

Gerald Buzanoski, an engineer with Ducharme & Dillis Civil Design Group, submitted revised plans, explaining he had added riprap to the drainage outfall. The proposed work involves a parking area in the location of a previously existing tennis court. Also, there will be improvements to an existing access road, including widening it from 18' to 22'. There is a culvert under Rt. 40 which essentially drains a 9 acre watershed to an intermittent stream that feeds a large wetland on the north side of the road. Some of the work is located within the 100-foot buffer zone. A series of catch basins are proposed on the access road, as well as underground detention basins under the parking area. These will discharge water on the east side of the access way. An addition proposed to the Ferguson building will result in the closing of an outlet collecting drainage from the Lawrence Academy quadrangle. The drainage will be collected and piped under the building to a collection point on the east side of the access. Mr. Buzanoski maintained this drainage system will attenuate peak flows from the 10-, 25-, and 100-year storms. He acknowledged the 100-year storm will overtax the system briefly, but this plan creates a lot of natural storage areas.

Member Easom asked about the use of sand and salt in the 100-foot buffer zone as he did not want to feed salt into the wetland. Linda Deasy of Lawrence Academy said the school uses the same salt and sand mix as the town. In addition, the catch basins are fitted with deep sumps. The discharge will flow into a grassed area. This is a Best Management Practice (BMP), and there is a capacity of 4 feet of storage for sediments. P. Morrison questioned the capacity of the underground detention basins, and Mr. Buzanoski said these would store 8000 cubic feet of water. The 2-, 10-, and 25-year storm volumes would be handled in the parking lot, but it would be flooded during the 100-year storm. Chairman Morrison pointed out there have been three projects in the immediate area, and if there are problems, the Commission would take jurisdiction all the way back to their origins. While there is no increase in peak flows, Mr. Buzanoski acknowledged there will be a slight increase in the volume. Some water is being eliminated from the grass swale by the measures installed on the upper access road. He has met with Highway Surveyor Tom Delaney who indicated the lack of a swale above the access road has been an on-going issue.

B. Clements expressed concern about the increase in the volume of water coming off the site. Mr. Buzanoski stated the stormwater policy addresses only peak rates, and there is no standard for volumes. P. Morrison maintained the Wetlands Protection Act specifies the volumes should not change pre- and post-construction. Members noted the underground drainage system is elaborate, and there should be an Operations & Maintenance plan to assure its continued functioning. Inspections to assure that orifices are not obstructed are important. K. Corwin requested a copy of the O & M plan. The outlet drains to an area that is in a Natural Heritage polygon, but the drain itself is not located in a polygon. She expressed concern that an area below the drainage outlet near the existing catch basins has collapsed. Part of the roadway itself is slumping. E. Owen advised that any plantings in the buffer be native and non-invasive species. Low shrubs and shade trees will be planted in the parking area. No retaining walls are proposed so species such as ash for shade and junipers and yews to hold slopes. M. Giguere suggested using salt tolerant species and placing the trees in low areas where water can infiltrate.

Resident Terry Ragot indicated she was present as a representative of the First Parish Church. She acknowledged most of the work appears to be below the elevation of the church property, but she did not want to see a repeat of the broken water line when Powderhouse Rd. was torn up. Sue Gilbert (35 Lowell Rd.) asked if there would be landscape protection from the proposed work and whether anyone was testing for salt in the wetland. Chairman Morrison commented wetlands are a good filter, and salt use is a concern. with the increase of impervious surfaces. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to continue the hearing to March 14, 2006.

9:00 p.m. - 160 Townsend Road NOI continuation

Attorney David Deschenes reported his client's representatives have provided the information on additional plantings in the replication area. Test holes 7 and 8 were located in the area of the detention basin, and this is noted on the revised plan. The monitoring wells have been located inside the edge of the wetland, but Mr. Deschenes thought this could be changed if the Commission desired. David Kelley, the applicant's previous representative, agreed with the W.

Groton Water Department and their consultant, Dufresne-Henry, to the monitoring wells to assure that no effluent enters the wetland. D. Deschenes indicated the plans dated 9/26/06 were the plans on which the Comprehensive Permit was issued. He noted 18 housing units are proposed in this plan set. The final Judith Nitsch Engineering, Inc. letter indicated a review of the drainage based on plans dated 11/1/04. The amount of impervious surface was reduced but it did not change the drainage as it was over-designed with extra capacity. Mr. Deschenes apologized for not getting the plans to the Commission before tonight's meeting.

B. Clements agreed with the Epsilon recommendations and said he preferred not to disturb the wetland with the monitoring wells. K. Corwin noted Epsilon suggested replacing some of the dogwood in the buffer planting plan with gray dogwood, a species that reacts better to more upland situations. In addition, they recommend some plantings to the right of the driveway. It was noted the plan reviewed by Judith Nitsch Engineering, Inc. included 24 housing units. M. Giguere expressed reservations about the eventual height of the white pines. Acknowledging that these recommendations could be incorporated into the final Order of Conditions, upon a motion by B. Easom, seconded by K. Corwin, it was

VOTED: to close the hearing for Squannacook Hill.

C. Auman said he had discussed the naming of conservation properties with Rick Muehlke who had some suggestions on how to design signs for various properties. Before spring Town Meeting, B. Clements suggested a clear explanation of the eventual ownership of the Campbell/Strachan properties was necessary as townspeople will want to know exactly what they are buying. The use of the land may influence where donations come from. The Groton School contribution is a private donation which may serve as a safety valve for funding the project. Commissioners agreed the project is certainly worth doing, but there will need to be a lot of outreach between now and Town Meeting. Setting aside 7 acres for recreation continues to be a topic of discussion.

There being no further business, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended 3/14/06