

GROTON CONSERVATION COMMISSION

Minutes

April 25, 2006

Clerk M. Giguere called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Bruce Clements, and Evan Owen were present. K. Corwin arrived at 7:04 p.m., followed by B. Easom at 7:05 p.m. Peter Morrison was absent. Conservation Assistant Barbara Ganem was also present.

7:00 p.m. - Appointment - Kathy Sferra/Land Protection Specialist - MassAudubon

Ms. Sferra explained MassAudubon is planning to grant a Conservation Restriction to the Town of Groton on land they have recently acquired from the MSPCA. (K. Corwin and B. Easom arrived at 7:04 p.m. and 7:05 p.m. respectively.) On the Saturday site visit to the parcel, some Commissioners suggested the language from the Rocky Hill Conservation Restriction might be appropriate for this CR. C. Auman questioned whether the changes in the CR suggested by Town Counsel were acceptable to MassAudubon, and Ms. Sferra said "yes". She reported there are no trails currently in the area; they are currently planning for the larger area and working closely with Natural Heritage who may require approval over any new trails. It is likely they will identify trails for different uses, such as hiking, biking, or horseback riding. She noted if public access is a required condition of the CR, MassAudubon would never be able to close the area even when necessary. Ms. Sferra commented MassAudubon typically does not allow biking or horseback riding, but they are still working through all the issues with Natural Heritage which has also requested a management plan.

Member Auman thanked MassAudubon for coming to town and for preserving some of Groton's land. He noted the property belongs to MassAudubon, and he has no problem with the proposed CR. He added it is okay to have a few places just for wildlife habitat and expressed enthusiasm about the upcoming partnership. K. Corwin, seconded by C. Auman, made a motion, and it was

VOTED: to accept the proposed draft MassAudubon/MSPCA Conservation Restriction submittal package.

Vice Chairman B. Easom reported Town Meeting approved the \$5.6 million for the Surrenden Farm purchase the previous night. The tax taking articles were also approved. K. Corwin noted some questions were raised by an abutter to the Redskin Trail property, and she requested the site be included in the next site visit. B. Ganem stressed that deeds for each of the parcels should be recorded as soon as possible to assure they are permanently protected as conservation land.

K. Corwin noted Natural Heritage has recommended specific Forestry Conservation Management Practices for several species. Some of their requirements include forestry only when the ground is frozen solid. She felt this was a very important step as there have been repeated problems with forestry, including skid roads, opening up tree canopies, and the proliferation of non-native, invasive plants. Upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to send a letter of support for the implementation of the Conservation Management Practices.

In discussion on issuing an Order of Conditions for DEP #169-949 for 293 Chicopee Row, K. Corwin stepped down. Members thought the work for a septic upgrade was likely to proceed quickly and would not require staggered haybales. Upon a motion by C. Auman, seconded by B. Clements, it was

VOTED: to issue the Order of Conditions as drafted for DEP #169-949.

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

VOTED: to approve the minutes of April 11, 2006 as drafted.

Members visited 402 Chicopee Row on April 22nd in response to a request for a Certificate of Compliance. The owner, Tom Delaney, was present, and members advised him rocks should be installed at the culvert outfall, and the original Order of Conditions for DEP #169-618 must be recorded. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to issue a Certificate of Compliance for DEP #169-618 for 402 Chicopee Row.

Concerning the previous filing for 245 - 246 Lowell Road, members commented they were pleased to see the hillside below the detention basin stabilized and felt the homeowner had been very cooperative in resolving the sedimentation issue. When visiting the site on Saturday, members observed a small amount of sediment remaining in the grassed area downhill from the site remaining from last year. The applicant will not be required to remove these materials.

7:30 p.m. - Highway Department NOI

Highway Superintendent Tom Delaney explained the goal is to streamline the process and address the mutual needs of the Highway and Conservation departments when working in resource areas. He added that best management practices for each of the items - culvert replacement (including cleaning of inlets and outlets), ditch cleaning, and detention basin cleaning - will be to protect the resource area and finish the work quickly. The Commission or its agent will be kept informed of upcoming work. The work, unless done on an emergency basis, will be done when the resource area is dry or can be temporarily blocked. Whitman Road, where there is seepage out of the side of a hill, is a recent example of ditch cleaning. Any stockpiles of material will also be removed.

Mr. Delaney said detention basins are supposed to be mowed and cleaned every year per DEP guidelines. He reported some residents have asked if the areas can be used for passive recreation such as pasturing horses. B. Clements did not think this was a good idea but noted it is private property. For culvert replacement T. Delaney indicated he sometimes uses an arch pipe that is oval with a flat bottom that is level with the stream bottom. E. Owen encouraged him to install pipes level with the stream as the Commission does not want waterfalls. Mr. Delaney responded that a washout from flooding caused by a beaver dam release had created that condition on his private driveway.

K. Corwin commented the detention basins are usually not within Commission jurisdiction, and ditch cleaning may or may not fall under the Commission. She stressed that culvert installations or replacement should follow the guidelines outlined in the *Massachusetts River and Stream Crossing Standards: Technical Guidelines*. Mr. Delaney said he could use an open bottom asphalt-coated steel pipe for repairs. Members noted there should be no constriction in the stream, and the *Guidelines* call for a span 1.5 x the width of the stream. He noted most of the culverts are in the 12" - 18" range with a few at 24".

C. Auman thanked Mr. Delaney for bringing this filing forward and indicated it could be renewed if there were no issues. He asked that tree removal be minimized. Also, there should be no Reed Canary Grass in the seed mix used for stabilization. Mr. Delaney replied he typically uses a mix with sheep fescue and perennial rye. The sheep fescue does not require mowing.

M. Giguere reinforced earlier statements about the *Stream Crossing Guidelines* and urged the use of arches with no bottom or using a pipe buried in the streambed with the same materials as occur naturally to be conducive to migration. T. Delaney reminded the board that he would come before them for any new crossings but warned that installing the arches could prolong the length of time it takes for installations. He also reported there is a new state-produced manual to serve as guidance for roadway construction and maintenance in Massachusetts. The mailing to Natural Heritage went out late, and it will be necessary to continue the hearing in order to include their comments. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the hearing to May 23, 2006.

7:45 p.m. - Delaney/402 Chicopee Row RDA

Homeowner Tom Delaney explained he wished to construct a horse shelter and an equipment storage shed. He noted the proposed site is previously disturbed as it has been used as a gravel borrow pit and a landing for logging activities. A berm at the edge of the site protects the resource area. The site is mostly gravel and sand so runoff will infiltrate easily. Manure is removed offsite regularly, and they use biological controls insects and lime to control odors. Members noted the site is fairly level. He will hand dig the post holes for the pole barn. Upon a motion by M. Giguere, seconded by K. Corwin, it was

VOTED: to issue a negative #3 Determination requiring the removal of manure from the 100-foot buffer zone.

8:00 p.m. - Public Hearing - Groton Wetlands Protection Bylaw Regulations

No members of the public were present, and the Commission agreed to keep the hearing open.

Resident Virginia Bennett (34 Arrow Trail) stated she was present to discuss the possible de-listing of the Spotted turtle as a species of special concern through the Natural Heritage & Endangered Species Program. Members reported they intended to send a letter of support concerning the Forestry Conservation Management Practices. K. Corwin noted she understood the Fisheries & Wildlife Advisory Board has not yet voted on this issue. Ms. Bennett indicated a lot of thought and study has gone into the de-listing proposal. Part of the process is to train landowners and foresters, but she has concerns about assuring that the Conservation Management Practices are a proven strategy before the Spotted turtles are de-listed. Commissioners agreed comments in the letter of support will include a recommendation that the Spotted turtle not be de-listed concurrently with the promulgation of the Forestry Conservation Management Practices.

Members Clements asked that the parking of heavy equipment near the Nashua River, on conservation land, be investigated.

Based on the site visit to Groton Residential Gardens with DEP, Environmental Analyst Marty Jalonski appears to believe Detention Basin 3 is not within DEP jurisdiction despite Mr. Walker's statement that the design meets stormwater management guidelines. It also appears the groundwater level may have been miscalculated or that something is fundamentally wrong with the design. New haybales and silt fence were in place for the site visit, and DEP was concerned that a well rig was in the process of digging a well not shown on the approved plan. The applicant is to clarify this with a surveyed plan. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to issue an Enforcement Order requiring the filing of a Notice of Intent for the installation of an unauthorized well within the 100-foot buffer zone.

With no comments from the public, upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to close the public hearing on the proposed revisions to the Groton Wetlands Protection Bylaw Regulations.

The draft Regulations approved on March 28, 2006 will be conveyed to the Town Clerk's office.

8:30 p.m. - Sewer Commission NOI

Arthur Leventis, representing Woodard & Curran, stated the purpose of the filing is to extend public sewer service down a portion of Old Ayer Road and on Boston Road from Old Ayer Road to Skyfield Drive. Work will be within the paved surface of the roadway with a 2"-3" HDPE low pressure pipe. In the vicinity of streams the pipe will be installed within a duct-lined pipe. Haybales will be used in areas within the 100-foot buffer zone. In general, the installation is shallow (4' 5') with greater depths necessary to go under culverts. K. Corwin questioned whether they intend to replace culverts, and Mr. Leventis indicated it should not be necessary as they would begin increasing the

depth to 7' approximately 40' to 50' before encountering culverts. The culvert carrying Cady Brook is probably a stone culvert which they do not plan to disturb.

Any water that accumulates in the trench would be pumped into siltation basins surrounded by haybales. Trenches will be backfilled at the conclusion of work each day. Each house that is connected will have a grinder pump with check valves at the stations. The shoulder adjacent to Lovers Lane is an area where de-watering may take place. Upon a motion by E. Owen, seconded by M. Giguere, it was

VOTED: to close the hearing for DEP #169-951.

In response to the ZBA's request for comments on the revised Pineridge Court 40B project plans, Commissioners requested a letter be sent asking the Board to enforce the local Wetlands Bylaw. It was noted the revised plan does not show grading which could intrude into the 100-foot buffer zone. It also relies heavily on infiltration for the management of stormwater.

Commissioners expressed concern about the manure and shavings being spread in fields adjacent to a James Brook tributary at 122 Old Ayer Road. The origin of the eroded trench within the field is difficult to determine. Upon a motion by K. Corwin, seconded by M. Giguere, it was

VOTED: to send a letter to the landowners asking them to file within 30 days or an Enforcement Order will be issued.

8:45 p.m. - Gilson Road ANRAD continuation

Establishing the boundary of the Isolated Land Subject to Flooding on this property has been difficult according to consultant Terry Ramborger of TF Moran. The area was flagged originally using soil, plants, and hydrology, only to reveal on a subsequent visit the flags were standing in water. The engineer then calculated the boundary as following the 250.89' contour.

Landowner Ebrahim Masalehdan explained they have reduced the number of house lots from 14 to 13 based on the revised wetland boundary. He felt his engineers have provided assurance there will be no water that extends to his neighbors' properties. He said he understood the Commission has requested a survey of his neighbors' properties which he is not prepared to authorize. Commissioners noted there may be a misunderstanding as the Commission requested that survey points be taken on adjoining parcels showing historical evidence of the extent of flooding. Valerie Spencer (21 Old Carriage Path) said she had photographs of the water levels on two occasions in 2001. Members stated they are not looking for a full survey, but would like to know the historic high water elevation marks, and Ms. Spencer has submitted both a CD and photographs depicting the water levels and showing the maximum perimeter of the flooding. Upon a motion by K. Corwin, seconded by C. Auman, it was

VOTED: to continue the hearing for DEP #169-941 for Gilson Road to May 9, 2006.

B. Ganem reported the pipe carrying the brook that flows under the parking area at the Workers' Credit Union at 292 Main St. was broken during excavations at the site today, April 25, 2006. It was clear that siltation was reaching the brook adjacent to the Middle School driveway, the same one that was affected by the work at 318 Main St., last year. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue an Enforcement Order and require the filing of an after-the-fact Notice of Intent for 292 Main St.

Groundskeepers at the Middle School have recently landscaped the area on the other side of the previously noted brook. While they have added some haybales, there are some areas which are unprotected and brush has been pushed into the buffer zone. Commissioners agreed to send a letter to the School District.

K. Corwin requested the removal of erosion control adjacent to the vernal pool on Schoolhouse Rd. B. Easom reported he flagged a new trail on the Allens Trail property owned by the New England Forestry Foundation to Beecher St.

NEFF is concerned that the trail could create additional traffic and other problems, but he suggested the Commission may wish to look at it during the next site visit.

9:00 p.m. - Appointment/Deerhaven Conservation Restriction

Abutters were asked to sign in, and Jim Selders (76 Deerfield Dr.) noted the neighbors have several concerns about the area that will be subject to a Conservation Restriction. Commissioners walked the parcel during the past Saturday site visit. Mr. Selders explained it is not clear to the neighborhood what the future ownership of Parcel C will be, and there is a gap between how they are currently living and what the draft CR indicates is possible. Mr. Selders submitted a list of the issues which included cleaning up the area, current lawn areas, existing structures, and dumping on Parcel C. He also questioned the location of easements for the walking trails, utilities, and the possible future roadway, as well as future maintenance of the CR area and the septic system. J. Selders commented someone is currently maintaining Parcels A and B.

Member C. Auman explained the developer originally came in with a conventional subdivision plan which was subsequently modified to allow a flexible development for which certain concessions were made. For instance, the lots may be smaller or the roadway smaller. The plan was presented to the Planning Board which required, as a condition of the Definitive Subdivision approval, that some of the land be preserved as open space and a Conservation Restriction put on the remaining parcel. The process of development has taken place but the CR was never finally approved. K. Corwin added the area is to be preserved in a natural state, not as lawn, and it has to provide a public benefit. It was anticipated that the homeowners' association would own the land, and the CR would be held by the Conservation Commission. Residents explained there are 11 homeowners which share the community septic system. K. Corwin said the Commission is responsible for enforcing the CR and encroachments are an issue.

The Commission is in the middle of negotiating the terms of the CR, and the homeowners expressed the hope that there may be some room for accommodation. B. Ganem explained that Town Counsel has reviewed the document, and it has now gone to the state Executive Office of Environmental Affairs for review. Changes are possible but a number of parties must weigh in. C. Auman noted the stone bounds mark the property boundaries, and several abutters indicated they were aware of this when they moved in. However, the developer seems to have authorized the placement of play sets on the common land. M. Giguere pointed out that negotiating on behalf of the whole trust is more complicated than just talking with a neighbor or one person. Parcels A and B have been conveyed to the Town, and the abutters said they understood there would be public access with trails on Parcel C when they purchased their homes. Evan Katz (78 Deerfield Dr.) asked if the Town would own the CR, and it was noted the homeowners' association would own Parcel C, but the CR will be held by the Town in the care and custody of the Conservation Commission. Kim Dodge (4 Allison Park) asked the Commission to explain how the owners could be limited by the terms of the CR. Members noted the CR is reviewed and signed by the Commission, the Selectmen, and the state before it is recorded, and it has to have a conservation value that serves the public good.

E. Katz asked if the Commission would consider taking no action on the CR until the neighborhood has worked things out with Attorney Collins and developer David Moulton as there are legitimate concerns voiced by the abutters. Member E. Owen pointed out that mowing, landscaping, lawn irrigation, and chemicals diminish wildlife values although the Commission has occasionally allowed intermittent mowing. Ms. Corwin added the Commission has to be sensitive to ground nesting birds, and all dumping should be eliminated. C. Auman cautioned that the Commission must apply criteria for the value of the habitat and can only go so far with negotiations. B. Ganem said the Executive Office of Environmental Affairs has questioned the conservation value because of the detention basin, sewer system, two structures, and road easement all shown on the plan for Parcel C. Member Giguere commented the quality of bird habitat has already been de-graded by the development of the subdivision, and this is one reason the Commission does not want to see the area mowed. He agreed additional plantings would be good.

B. Clements pointed out the maintenance sheds are shown on the plan, but he was not aware of any other instance in which structures were allowed on conservation-restricted land. He questioned whether Mr. Moulton would be willing to move the play structures back to the owners' lots. Abutters asked if the Commission would require the removal of trash and debris and the restoration of the land. They noted some of the heavy machinery has left ruts. In general, they maintained it was premature to consider signing off on the CR, given the condition of the land. M. Giguere said the

Commission has refused to issue a Certificate of Compliance for the roadway and drainage system portion of the project because outstanding issues remain.

Members recommended the neighborhood meet with Mr. Moulton and Mr. Collins and work out wording in the final CR which is mutually agreeable to all parties, given the comments presented by the Commission tonight. Ms. Corwin said the Commission is not signing the CR tonight, and this will put pressure on all parties to complete the CR. She said it is not the Commission's issue what the neighbors understood about the use of the CR land; this is an issue for the developer to work out with the neighbors. But, she noted, the Commission eventually will have to approve the final document. Rick Hughson (9 Fawn Terrace) asked if the Commission could send a representative to the meeting with Mr. Collins and Mr. Moulton. Mr. Selders thought this could be worked out cooperatively. B. Easom read into the record the April 25, 2006 letter from Mr. Collins to the Commission.

Kim Dodge questioned whether it would be possible to put a buffer zone around the abutters to allow for existing swing sets. Commissioners explained this would involve removing the area from the conservation-restricted area which would be a big hurdle. Ms. Dodge observed the letter appears to support their opinions but it still seems to be in conflict with the Conservation Commission. The Commission thanked the residents for their organized effort and agreed to send a Commission representative when the meeting with Mr. Collins and Mr. Moulton is held.

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended May 9, 2006.