

GROTON CONSERVATION COMMISSION

Minutes

October 24, 2006

Chairman Evan Owen called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Bruce Clements, Bruce Easom, and Marshall Giguere, were present. Peter Morrison was absent. Conservation Assistant Barbara Ganem was present.

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

VOTED: to approve the minutes of October 10, 2006, as amended.

Member Giguere reported he and Chris Coutu of the Water Department reviewed the right-of-way easement off Paquawket Path with the Water Department GPS unit. They observed that the neighbor at 92 Paquawket Path has recently had their boundary re-surveyed by Rose Mary Chaulk. An iron pin was found at the southern corner of the lot, and there was a wooden stake about 300 ft. up. The Striebel (100 Paquawket Path) driveway appears to cross the neighbor's (98 Paquawket Path) yard and to be in the right-of-way. In addition, the driveway for 104 Paquawket Path crosses #98. Mr. Coutu suggested using magnets to identify where the boundary is located, but E. Owen noted that rebar does not move. Mr. Giguere commented the existing trail veers off the property at 98 Paquawket onto 92 Paquawket as it approaches the Nashua River Rail Trail. They found the GPS unit to be accurate to within 1 meter of the iron pin and the stakes.

B. Easom underscored the need to get the boundary marked and suggested coordinating the effort with the Trails Committee, particularly since the end of the trail is not on the easement. He volunteered to do this on Saturday and asked that the neighbor be notified.

Noting that the educational offerings are very useful, upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to agreed to contribute \$50 for membership in the Nashua River Watershed Association.

7:15 p.m. - Academy Hill NOI

Larry Beals of Beals Associates submitted the green cards. He explained the Commission has previously issued an Order of Conditions on July 24, 2002 which expired on July 24, 2005. Natural Heritage did not issue a decision on the development until 2005, and the proponent requested an amendment to the Order in February, 2005. The amended Order was issued July 16, 2005. The owner wishes to continue with the project, and this is the reason for this filing.

B. Clements described the situation as one in which the applicant is looking to reinstate the Order under the same circumstances as previously. The original filing was filed under the Wetlands Protection Act, and there is probably no need for change. C. Auman asked if a DEP number has been assigned to the project. He also requested the status of the Conservation Permit and a map of the proposed turtle nesting area. L. Beals indicated he would look into this. The applicant will install the turtle nesting area according to the plans submitted to Natural Heritage. He assured the Commission all this work is outside the 100-ft. buffer zone. Mr. Beals encouraged the Commission to visit the site to understand where the nesting area is proposed. Commissioners asked for the time line for construction in this segment of the property. Member Easom noted there is another DEP filing for the south access to the property. He questioned whether the wetlands boundary delineation may have changed in the interim since the original filing was completed. Mr. Beals said the Commission had hired wetlands consultant Mark West to review the 35,000 LF or 7 miles of delineation. B. Easom pointed out the wetland crossing is a critical part of the project, and he suggested walking the site to assure nothing has changed.

The replication area near the south access has been constructed, but no work has taken place for the north access. M. Giguere asked what the deadline is for recording the Conservation Restriction, and L. Beals said he will check with the owner on this. Mr. Beals stated the drainage infrastructure is in place, a requirement of the Planning Board, and the applicant expects to pave shortly. In summarizing the information necessary to close the hearing, members mentioned the need for the status on the Conservation Restriction, a map of the turtle nesting area, the timeline for construction of the north access, and the DEP number. Upon a motion by M. Giguere, seconded by B. Easom, it was

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

7:30 p.m. - 285D Nashua Rd. RDA

The homeowner's representative, Toby Fairweather, explained that the proposed work is to bring the grade up at the back of the house and salvage an area so it doesn't have runoff. They plan to incorporate native plants. Member Auman pointed out there are no dimensions on the plan, and Mr. Fairweather drew the work area out on the white board, stating the dimensions would be 40 ft. by 60 ft. The area would be filled with loam.

Homeowner Raghu Prakhya explained a retaining wall will be constructed and suitable vegetation planted as there are very bad shrubs and small pines there now. They would like to improve the space for walking. Mr. Auman pointed out the Wetlands Protection Bylaw allows minor grading of less than 2 ft. in the buffer zone. Mr. Prakhya said the soil is very loose. Mr. Fairweather indicated the retaining wall will be constructed of blocks, and approximately 5 ft. of fill will be necessary at the deepest point. Commissioners advised the Building Inspector will have to have detailed plans for any retaining wall over 4 ft. in height.

Mr. Auman said he would be uncomfortable supporting this much grading when the Bylaw specifies a 2 ft. grade elevation change. Also, the buffer zone is part of a Conservation Restriction. He requested a list of proposed plantings and that the retaining wall be defined. B. Easom asked if Mr. Prakhya received a copy of the Conservation Restriction when he closed on his property as it's important to have that in front of you when planning work in the area. Mr. Prakhya asked if the project would be acceptable if grading and planting are done, but no wall is constructed. Commissioners recommended he check the Conservation Restriction to assure he is within the guidelines. T. Fairweather indicated the intention is to replant any area that is graded, and this would make the back yard more walkable. Mr. Prakhya asserted it is necessary to bring the grade of the area up however.

Commissioners requested a planting plan with the list of proposed plants, noting there is a bias against non-native, invasive species. M. Giguere pointed out the Commission, as a general rule, does not look favorably on altering wildlife habitat values. Preserving the 100 ft. buffer was a condition for the construction of these units. E. Owen commented the Commission has no jurisdiction on any part of the house lot that is outside of the 100 ft. buffer zone. He told Mr. Prakhya it is likely the Conservation Restriction is on line at the Registry site. Mr. Owen questioned whether a stone wall was possible. B. Clements said the current plan is not acceptable, especially with the maximum of 2 ft. allowed under the Bylaw. No structures, such as the retaining wall, are allowed in the 100 ft. buffer zone. Planting with native vegetation is allowed. Members questioned whether grading is allowed under the Restriction.

Mr. Prakhya asked whether it would be possible to do a 1 ft. stone wall located where the haybales were placed when the development was constructed. He was advised that native plantings should be planted. The Commission asked that he return with a plan showing no structures in the 100 ft. buffer zone. Mr. Prakhya said his soils are slightly alkaline, and he will use the list of wildlife shrubs previously given to him by Ms. Ganem. He continues to be concerned there is no firm ground at the corner of his property. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to continue the discussion at the meeting on November 14, 2006.

7:45 p.m. - 601 Lowell Road NOI continuation

Attorney Robert Collins apologized that wetland scientist Brandon Ducharme was unable to provide his response to the Commission on the size and hydrological connection of the replication area. He indicated the information has been

prepared, and he will submit it so the Commission has an opportunity to digest it before the next meeting. Mr. Collins advised the draft Conservation Restriction has been sent to Town Counsel. He also submitted a letter from Littleton Water Superintendent Savos Davos supporting the garaging of vehicles in Zone II. With the applicant's consent, and upon a motion by M. Giguere, seconded by B. Clements, it was

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

8:00 p.m. - 57 Lower Dam Way (Massapoag Pond drawdown) Abbreviated NOI continuation

B. Ganem explained Mr. Sargent dropped off the long NOI (completed) form which includes a plan estimating the square footage of Land Under Water that will be exposed as a result of the drawdown. Because he had a conflicting meeting, he was unable to stay until this hearing. DEP has issued a Groton DEP number. Mr. Sargent did indicate he has 'loosened' the gate, and the water level is down approximately 6 in. The Commission reviewed the September 27, 2006 letter from Natural Heritage concerning the drawdown.

C. Auman questioned how the Commission is to know where the problem weeds are located. M. Giguere pointed out that the Lost Lake/Knops Pond drawdown has marked areas on a map which show where weeds are concentrated and also those areas that are to be surveyed regularly. He also inquired as to the rate at which Massapoag Lake is to be lowered, noting that Fisheries & Game may have suggestions. B. Clements added the Natural Heritage letter requires compliance with the Final Generic Environmental Impact Report - the GEIR. B. Easom recommended the Commission send a letter requiring that the draining of the Lake be stopped until after November 1 as the applicant is currently in violation of the Natural Heritage letter.

Karen Corey (150 Main St., Groton, and 5 Lower Dam Way, Dunstable) expressed concerns that the drawdown is being done without following state guidelines. She pointed out there has been some testing, but the drawdown only works in a small portion of the Lake. She underscored the need to have the boards in all three towns work together to assure that management techniques are working. Apparently the Dunstable Conservation Commission permitted the work 18 years ago but the drawdown is generally unsupervised and unchecked.

Paula Lantz (63 Island Pond Rd., Groton) said the Lake is down 1 ft. at her dock, and she agrees with Karen. She maintained Lake residents are not kept informed about drawdowns unless they have a computer. She noted the newsletter to Lake residents specifically stated in June that there would be no drawdown this year. This was subsequently revoked by a meeting of the Board of Directors of the Massapoag Rod & Gun Club. She urged that there be some kind of control over the drawdown. Ms. Corey pointed out there were still boats in the water when the applicant proceeded to lower the water.

Pat Corey (6 Geraldine Place, Tyngsborough) said there is a need to validate the actions taken on the Lake to see if they are working. If they are not working, we need to go to the next step. Bill Taylor (15 Lower Dam Way, Dunstable) said he is a recently elected member of the Board of the Massapoag Rod & Gun Club. He noted the decision to do the drawdown was not a whim, and there were consultations about the weed problem with a recommendation made by an expert. Things are discussed by the full Board. B. Clements said it does appear residents in Groton were notified. Bill Taylor acknowledged there may be a break down in communications, but there was a vote for a drawdown despite the circulation of the newsletter. He thought the newsletter was e-mailed out.

Commissioners questioned whether there was enough information to close the hearing. Members felt that some assurance is needed that the GEIR requirements can be met. B. Ganem was asked to contact Fisheries & Game to determine the impact of a drawdown before the November 1 date mentioned in the letter from Natural Heritage letter. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to issue an Enforcement Order if Natural Heritage is firm that the drawdown should not commence until after the beginning of November.

Mr. Taylor suggested the applicant be given an opportunity to attend and bring back any information necessary for the Commission to make a decision. Chairman Owen recommended the rate information be submitted, noting it is likely

the limit would be set at no more than 6 in. per day. The information noted in the Natural Heritage letter should be provided. Upon a motion by B. Easom, seconded by B. Clements, it was

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

The motion passed with M. Giguere voting in the negative.

Commissioners requested the Enforcement Order be issued tomorrow if Natural Heritage affirms the November start date.

8:15 p.m. - 78 Wharton Row DEP #169-NOI continuation

Consultant Matt Marro explained the revised plan reduces the impervious surfacing by 55%. The swing set will be moved to another part of the lawn. M. Giguere said he reviewed the original Order for the house and noted the plan area to the left had been 120 ft. back. He did not consider the proposed large stone pavers to be pervious.

B. Clements thought it likely rain would drain from the stones into vegetation. Sand is to underlay the pavers. Mr. Clements said he preferred this plan and asked how water will be recharged around the cabana. Mr. Marro indicated there could be a crushed stone dripline as there is around the existing house. C. Auman said he did not like to see the trees cut down, but pointed out the house was built prior to the Bylaw. He agreed the existing retaining wall should define the limit of work. Mr. Marro stated the mitigation is the replanting of the area where there was previously grass. Replacing white pine could also lend itself to better habitat. B. Easom asked whether the Figueroas would consider placing posts with small signs stating "No disturbance beyond this point". E. Owen questioned why there was no stamp on the plan and recommended recharge methods for the cabana, shed, and sunroom. B. Easom thought the marking of the wetland was not as useful as it is the 'creep' that needs to be protected. Mr. Marro indicated his client would be willing to consider engraved stones. Members agreed to include an either/or option for demarcation in the Order of Conditions. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to close the hearing for 78 Wharton Row.

8:30 p.m. - Highway Department NOI continuation

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

VOTED: to continue the hearing for the Highway Best Management Practices,
DEP #169-950.

Members agreed the conditions of the two previous Orders of Conditions for 78 Wharton Row appear to be met and upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to issue a Certificate of Compliance for DEP #169-719 for 78 Wharton Row.

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

VOTED: to issue a Certificate of Compliance for DEP #169-645 for 78 Wharton Row.

Resident Jim Selders (76 Deerfield Dr.) noted that the Deerfield Dr. Conservation Area was on the agenda for tonight, and members said maintenance mowing will be considered. Mr. Selders indicated the play sets have been removed from the conservation-restricted area. He asked whether construction debris will be removed. Mr. Giguere commented the old car is actually on the Black's land. Upon a motion by B. Clements, seconded by M. Giguere, it was

VOTED: to authorize Bruce Dubey to mow the Deerhaven Conservation Area and
Eliades Conservation Area.

B. Easom and C. Auman abstained from the vote.

Member Easom reported he talked with Joachim Preiss, Chairman of the Trails Committee, about possibly serving on the Conservation Commission. B. Ganem will talk with Holly Estes who has also expressed an interest.

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

VOTED: to request B. Ganem send a letter to the applicant/owner for 12 Highland Rd. outlining the outstanding items needed on the as-built plan, i.e., the retaining wall and grading.

The site should also be stabilized for the winter.

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

VOTED: to request B. Ganem send a letter to Groton School requiring a revised as-built plan showing the swale at the end of the parking area, requesting signs along the edge of the haybale line next to the wetlands, and authorizing the use of crushed stone to stabilize the swale.

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

VOTED: to extend the Order of Conditions for the Shattuck Well, DEP #169-868 on Martins Pond Rd. for two years.

Regarding the Commission's goals and objectives for the upcoming year, members suggested including the development of a management plan for Surrenden Farm, several land parcels currently under consideration for acquisition, continued gathering of baseline documentation on conservation parcels, getting the conservation restriction monitoring program off the ground, and including the conservation parcels on the Town web page. On-going issues continue to be signage, encroachments, and mowing. Several major purchases, such as a GPS unit and a 4-wheel drive brush cutter, should also be addressed. The erosion control plan for the ripraping of the fishing point at Sargisson Beach is also planned for implementation.

In discussion on the Surrenden Farm Conservation Restriction, C. Auman noted the language appears to disempower the Conservation Commission as the holder of the Restriction. He objected because the whole purpose of the Town holding the CR while the Trust owns the land was that two is better than one, and no one entity has all the power. He thought that habitat protection, conservation, and forestry should also be protected values as agriculture could prove to be temporary. The CR is in perpetuity, and Mr. Auman underscored the need to think long term. B. Easom questioned what will happen if agriculture becomes non-viable on the parcel. B. Clements pointed out agriculture is important but should not completely override all other considerations. He added that brush piles should be out of sight. If public access is more restricted, residents may object. B. Clements summarized the Commission's view as the need to manage the area more generally and that the Commission would prefer the more balanced, original draft of the CR. B. Easom said he understood the need to ease the way for an agricultural enterprise with little interference, but the Commission should consider the CR is in perpetuity and the Trust also has the right to sell the property although it cannot be sub-divided and the Town will have the right of first refusal if it does not go to a conservation-minded organization.

B. Ganem explained that work has occurred at the Groton Country Club to improve the control of stormwater at the site. Several of the trenches outlet to wetlands, and there has been grading right up to the edge of the wetlands. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to ratify the issuance of an Enforcement Order requiring the filing of a Notice of Intent for work that has already occurred at the Groton Country Club.

Ms. Ganem reported that Michael Sampas has contacted the Commission about the proposed donation of an 11 acre parcel on Longley Rd. located near the Cold Spring Pond parcel. Commissioners suggested including the parcel on the next Saturday site walk.

Commissioners agreed to look into the placement of a sign at the Hurd Conservation Area.

The article on the B & M railroad easement was withdrawn at Town Meeting because there has been no settlement in the litigation.

Attorney Robert Collins has provided a site plan and Operation & Maintenance Plan for the stormwater system at 308 Main St. He suggested these could be recorded as part of the Enforcement Order. Commissioners agreed to send a letter requiring the filing of a Notice of Intent to cover stormwater management at the site.

The Commission agreed to send a memo to the Planning Board stating that any grading associated with Lot 2 at the Rocky Hill Subdivision should be pulled out of the 100-foot buffer zone unless it can qualify under the definition of minor grading in the Regulations.

Regarding correspondence received from Michael Chace on the change in the plan for the sewer installation (on Boston Rd./Rt. 119) to not require a sleeve for the culvert crossing, members advised that the applicant should file for an amendment. No immediate problems were noted with the proposed modification to DEP #169-951.

B. Ganem reported the state has been contacted about the planned demolition of structures on the Norris conservation-restricted land. There may be a delay due to the need to have the State Archaeologist from the Massachusetts Historical Commission review the work ahead of time.

In debating the merits of placing a Conservation Restriction on the Town Forest, members mentioned the apparent ease with which the new public water well went through the Article 97 process. There may be a benefit in saving the CR for a future negotiation rather than spending the 'chip' now. Fisheries & Wildlife is requesting a CR on the Town Forest as part of their \$2 million allocation toward the Surrenden Farm project. B. Clements said this step will necessitate a return to Town Meeting which he did not like. B. Easom noted it will also help Fisheries & Wildlife justify spending 25% of their budget on a relatively small project. The participation of Fisheries & Wildlife will require that hunting is allowed on the parcels.

There being no further business, the meeting was adjourned at 10:35 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended November 14, 2006.