

## GROTON CONSERVATION COMMISSION

### Minutes

November 28, 2006

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

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

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

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

VOTED: to issue the draft Order of Conditions for DEP #169-962 for 601 Lowell Rd. under the Wetlands Protection Act.

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

VOTED: to issue the draft Order of Conditions for DEP #169-962 for 601 Lowell Rd. under the Groton Wetlands Protection Bylaw.

It was noted that the wetlands buffer identification discs would be necessary for the 601 Lowell Rd. filing. Members recommended the discs be available free for small projects and available at cost for larger projects. After discussion, upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to make the discs available at no cost for projects requiring less than \$12 worth of discs; any projects exceeding that value will be required to make full reimbursement for the cost of the discs.

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

VOTED: to issue the draft Order of Conditions for DEP #169-970 for Academy Hill off Townsend Road under the Wetlands Protection Act.

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

VOTED: to issue the draft Order of Conditions for DEP #169-970 for Academy Hill off Townsend Road under the Groton Wetlands Protection Bylaw.

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

VOTED: to issue a Certificate of Compliance for DEP #169-706 for 7 Little Hollow Lane.

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

VOTED: to issue an amended Order of Conditions for DEP #169-706 for 47 Shenandoah Road.

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

VOTED: to issue a Certificate of Compliance for DEP #169-878 for 12 Highland Rd.

B. Ganem explained it would be easier to process and a more rapid reimbursement if she can sign off on WHIP bills on which the Commission has already authorized payment. Upon a motion by B. Clements, seconded by M. Giguere, it was

VOTED: to authorize B. Ganem to sign off on WHIP expenses for the reimbursement submittal to the USDA.

Wendy Good and Bruce Easom reviewed the survey done on the neighboring property this past Sunday at the Longley I/Paquawket Path easement. The Trails Committee plans to move the trail onto the easement (off 92 Paquawket where it is currently located). The paved common driveway serving 98 and 100 Paquawket actually coincides with the easement for most of its length. The Trails Committee also plans to install markers. Bruce E. recommends the Commission do a site visit to review the proposed re-location of the trail and posting of signs. Members agreed to include this site in the December 9 site visits.

7:15 p.m. - 49 Island Road Request for Amendment to DEP #169-907

Surveyor Stan Dillis of Ducharme & Dillis explained Ms. Richard had filed a Notice of Intent in 1998 to install a septic system, well, and for renovations to an existing house. In 2004, they filed for a retaining wall to control erosion at the shoreline. The plan showed steps, a dock, and a retaining wall at the edge of the pond. In the course of that work, they added stairs and a patio. Mr. Dillis stated the patio was constructed on an existing plateau. A timber retaining wall was also added to stabilize the site.

Member B. Clements said he was concerned that the patio was not part of the original filing and wanted to assure that it did not encroach further into the lake. He questioned whether all of this work was on the applicant's land. Mr. Dillis indicated he showed on the plan what he could document from the deeds and the deed references.

C. Auman commented the Commission has not yet heard from Natural Heritage, and he was disturbed to have work done without a filing with the possibility the work is an infringement on the lake. Mr. Dillis said he shot the topography again and then compared it to the 1998 plan. The floodplain line coincides with the top of the dam and is less than 213 ft. It was noted that permits are necessary from the Conservation Commission and the state for the dock. Mr. Dillis said the elevations in the new plan are based on NGVD (National Geodetic Vertical Datum), not the assumed elevations shown on the 1998 plan. Although the elevations are numerically different, Mr. Dillis stated overlapping the plans shows there has been no filling in the intervening years.

E. Owen said it is very helpful to have a surveyed plan showing what work has occurred.

Abutter Lorraine McDonough (39 Island Rd.) indicated she had permitted the residents of 49 Island Rd. to come onto her property for the purpose of constructing their septic system, but she did not allow them to drive a vehicle down the parcel or construct a stairway to the dock on her property. She questioned why she should pay a surveyor when the boundary markers were moved when the septic system went in. Chairman Owen pointed out the Commission does not have the power to resolve lot line disputes. C. Auman suggested old photographs might be helpful.

Resident Sandra McDonough (265 Lost Lake Dr.) questioned how this could happen when everyone else on the lake is required to get permits. Mr. Dillis noted the lot line is not germane to wetland issues, and he acknowledged the patio was not permitted. L. McDonough complained that the abutter also moors a boat in front of her property. C. Auman reiterated that the Conservation Commission has no authority over property boundary disputes usually require an attorney. The Commission does have authority to deal with an infringement into the lake.

Mr. Dillis commented it is difficult to establish lot lines on lake properties, especially with the boundary marker now gone. The marker is shown on the 1998 plan, but there is no reference to the missing lot in the Richard deed. B. Ganem indicated additional filing fees are due for the amendment which can be discussed outside the meeting. C. Auman added there could be issues with changes in the flow of water off the lot. Mr. Dillis pointed out the addition of the two walls helps slow the flow of water before it reaches the lake and makes the site more stable than previously. Members

said they were very surprised to see that much concrete at the edge of the lake. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the hearing to December 12, 2006.

7:30 p.m. - 26 Nate Nutting RDA

Homeowner John Nojeim explained they wished to raise the roof on a  $\frac{3}{4}$  dormer to the height of the existing roof and add doghouse dormers at the front of the house. In addition, they propose a farmer's porch on sona tubes. He noted the plan shows a proposed shed location, but he prefers to locate it on the other side of the lawn area. There is sharp break in the slope at the edge of the lawn. The slope to the stream is at a 30° angle, and the distance between the lawn and the stream is 75 ft. He indicated he prefers not to have gutters which have created ice dams on the roof in the past. The entire site is generally very permeable sand and gravel.

C. Auman noted applicants are allowed to alter up to 10% of the Riverfront Area on a lot, and the shed is proposed within an existing lawn area that is clearly demarcated. Mr. Nojeim said the shed would be 8 or 10 ft. x 12 ft. in size and located at the appropriate setback from his side lot line. Mr. Auman cautioned that gravel trenches next to the house can direct water into the basement.

The dumpster will either be located to the east or south of the house, within the outer 100 ft. Riverfront Area. Member Giguere advised trash should not enter the wetlands. Normally the Commission would not allow new structures within 100 ft., but this activity is within existing lawn associated with a house built in 1954.

Member Clements cautioned that there should be no erosion toward the stream from the shed being close to a sharp drop off. Mr. Nojeim indicated he would be willing to install a stone trench or retaining logs to interrupt flow going down hill. E. Owen said it makes sense to locate the shed closer to the driveway as it will cut travel distance. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination in which roof runoff shall be adequately infiltrated, no sediments or erosion should reach the wetland resource area, pervious materials shall underlay the porch, size of the shed shall not exceed 10' by 12', the shed floor shall be wood, and no trash or construction debris should reach the buffer zone.

Mr. Nojeim said the natural gravel under the deck is stable and permeable.

7:45 p.m. - Request for Amendment to DEP #169-951 for sewer on Rt. 119 and Old Ayer Rd.

Mike Chace, President of Five Oaks Construction Co., explained a steel sleeve was eliminated because they used directional drilling rather than the usual sewer installation which is a dig and lay process with dewatering. Mr. Chace noted the stone culvert under Rt. 119 would have had to be exposed on both sides which could potentially weaken the structure. The directional drilling is done 3 ft. below the culvert. The hole is 4 in. in diameter while the pipe is 3 in.; any voids are filled in with mud generated during the drilling. This type of installation results in no joints within the culvert itself, and the pipe remains somewhat flexible below the culvert.

M. Giguere commented the project engineer has provided certification that the pressure the pipe is exposed to will not exceed its capability. Bob Rafferty of Woodard & Curran stated the pipe is pressure tested at 90 psi which is two times the necessary operating pressure. The weakest link in the pipe is located more than 45 ft. from the culvert. Mr. Rafferty explained it is likely that the digging and laying method for sewer pipe installation would have required dewatering. With the change in technology allowing directional drilling he noted the project has become less invasive and more environmentally friendly. The directional drilling was not proposed in the original filing. Upon a motion by M. Giguere, seconded by C. Auman, it was

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

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

VOTED: to approve the request for an amendment.

The Order of Conditions will not be issued until the next meeting of the Conservation Commission on December 12, 2006.

8:00 p.m. - 21 Moose Trail RDA continuation

At the applicant's request and upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to continue the meeting to December 12, 2006.

Chairman Owen reported he visited the Sampas land on Longley Rd. again and found several more boundary markers. He observed some brush, cans, old chairs, and old wire in trees at the site. Upon a motion by B. Clements, seconded by C. Auman, it was

VOTED: to accept the gift of land of Parcel 227-91 as offered by Betty Sampas.

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

VOTED: to engage Town Counsel to prepare whatever documents, including a title evaluation, are necessary for the acquisition of the parcel.

E. Owen noted that the deed will not provide the boundaries, but will exclude all other lots such as the frontage lots on Longley Rd.

B. Ganem reported Peter Olson of 147 Lowell Rd. believes that the recently constructed pond on his lot is not within a wetlands area. He has indicated the Commission is welcome to visit the site during the December 9<sup>th</sup> site walks. Members of the Earth Removal Advisory Committee are also reviewing this project.

8:15 p.m. - Appointment - Attorney June Johnson/Lot 6 Martins Pond Road Conservation Restriction

Ms. Johnson previously submitted a letter describing the proposed CR, as well as the text of the CR. This is a parcel that was excluded from the original Gibbet Hill CR as a reserved house lot for the Webbers. The family finds that they will be able to continue the agricultural use of the lot in perpetuity. No public access will be permitted. The land currently has some woods near the Martins Pond Road frontage, but is mowed or grazed field. The Groton Conservation Trust will hold the CR, and to assure permanent protection, they request the Commission's assent to being the assignee of the CR should the GCT cease to be. Ms. Johnson explained the parcel does not abut other land subject to public access and cannot function as a parking area. She provided photographs of the site which showed a very steep slope.

Member Auman asked if there was anything unique about the CR, and J. Johnson responded the CR does allow agricultural structures. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to approve the Conservation Restriction on Lot 6 on Martins Pond Road, the Conservation Restriction Field Inspection Form, and issue the Municipal Certification that this CR donation is in the public interest.

Ms. Johnson pointed out this is the 2<sup>th</sup> CR for the Town of Groton, and she appreciated the Commission's knowledgeable approach to the process. Commissioners thanked her for her extensive work in preserving open space within the Town.

8:30 p.m. - Appointment/Attorney Louis Levine and developer Bruce Wheeler - Academy Hill

Mr. Levine said there is a large amount of land that is to be preserved as open space as a condition of the Conservation and Management Permit. The question is who will hold the land and who will hold the CR as required by the Permit. Mr. Wheeler has indicated his willingness to deed the land to the Town in fee and complete discussions with the Groton Conservation Trust about holding the CR. The draft deed they have prepared reserves the right to put a CR in place after the conveyance. Most of the open space will serve as reserve area for Blanding's turtles. L. Levine requested a vote from the Commission to accept the land subject to any conditions Town Counsel might suggest. He mentioned they will appear before the Planning Board this coming Thursday to further discuss this proposal.

C. Auman questioned whether there was any hazardous waste on the property or any other reason the Town should not accept the land. Mr. Levine said this land has been evaluated for over 5 years by many different parties, including the Conservation Commission. Member Clements expressed concern about public access and asked whether the GCT is willing to hold the CR. Mr. Levine explained the Permit requires that one party hold the fee and another party hold the CR. Natural Heritage has put some limitations on the use of the property to protect the habitat. He acknowledged the Executive Office of Environmental Affairs has not yet responded to the CR although Groton Town Counsel has made some changes. The public purpose of preserving the land involves some public use. Mr. Levine maintained it was Natural Heritage's call on how much use is to be allowed, but the CR must eventually be approved by the Conservation Commission.

Mr. Auman felt that Natural Heritage has issued very clear directives on managing habitat. Mr. Levine indicated the builder is responsible for building and maintaining turtle nesting areas, and if the Commission accepts the deed, it would facilitate protection of the area. As an owner, the Town has a stake in the land. B. Clements commented, "If we own the land, the Commission should have some input into the wording of the CR."

Attorney June Johnson pointed out it is the owner of the land who has to give the CR, and she questioned how the deed could be processed through EOEA before the CR was in place. Mr. Levine indicated the Planning Board will not release lots unless the open space is protected. Even if the Town owns the land, a CR must still be granted. B. Clements maintained both the GCT and the Town should have the right to review the CR. Town Counsel has reviewed the document, and Ed McNierney has reviewed it on behalf of the GCT. Irene del Bono of the Division of Conservation Services of EOEA is currently reviewing it. The Conservation Commission will have to agree to sign off on the final CR. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to recommend to the Board of Selectmen the acceptance of the deed to the open space parcels at Academy Hill, subject to a title evaluation and Town Counsel review and approval.

#### 8:45 p.m. - Country Club/94 Lovers Lane DEP #169-972 continuation

Sean Hale acknowledged the Commission made several requests for additional information at the previous hearing, and copies of the material addressing these issues were distributed to members. He characterized the information as 1) certification from a professional that the drainage system would function as designed; 2) correspondence from NHESP indicating they did not anticipate any adverse impact from the project; 3) a draft operations and maintenance plan for the Country Club. Mr. Hale added the Country Club typically uses about 200,000 gallons of water a year, paying particular attention to the time of day when irrigation occurs; 4) permitted activities around the upper pond, i.e., no stockpiling of materials or parking of machinery; and 5) a plan of the wetlands (from MassGIS) and the 100 ft. buffer on the Country Club property to assure that staff are aware of jurisdictional areas.

Members questioned how the threshold for requiring a filing before the Commission will be determined. Mr. Hale noted that emergency repairs i.e., irrigation pipe bursting, would require notification of the Commission at the first available time. The repair would be done with hand tools with haybales in place before the work is undertaken. General Manager Brad Durrin explained that some of the irrigation pipes are steel while others are PVC. The goal is to provide some guidelines for a threshold in which a wetlands permit is necessary. Mr. Hale said the map is a sample, but not definitive delineation of the wetland. M. Giguere questioned whether the drainage trench from the upper pond to the wetland is in danger of collapsing. Contractor Brian Badger said he could add more stone to a depth of 20 in. To

stabilize the sides, it might require as much as 2 ft. of stone. Mr. Giguere also questioned why there is such a rush to repair the irrigation pipes if there is an emergency shut off valve. Mr. Durran explained that once the pump is shut off there is back flow to the lowest spot in the system and it is better to make repairs immediately rather than risk undue damage to the rest of the course in the hottest months.

Member Auman thanked the applicant for the good work in answering the Commission's questions. He asked whether it would be possible to phase the work so the Commission could have further time to study tonight's submittal. B. Ganem said she could prepare a draft Order of Conditions for the next meeting if the hearing is left open to receive additional questions. E. Owen advised the applicant the ditch with gleyed soils is not shown on the wetlands map and questioned whether a determination has been made about whether it is jurisdictional. Mr. Hale said he had used the 2001 aerials as the base map to show the wetlands. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the hearing for DEP #169-972 to December 12, 2006.

In discussion on the Deerhaven conservation-restricted area, M. Giguere indicated Mr. Moulton has removed the tractor tire from the site. He will be asked to remove the haybales and silt fencing as well. Mr. Giguere suggested the Commission consider checkerboard mowing to maintain its value as conservation land as meadowlarks are present.

B. Clements noted the Surrenden Farm Land Use group has had a lot of input into the CR on Lots 6 and 7, and he wants the Commission to have an opportunity to raise any issues or concerns. M. Giguere recalled that the last draft leaned heavily on agricultural uses for the property. C. Auman cautioned that the project must be looked at as a whole. Lot 8 has important wildlife habitat with a mix of hayfields and woodlands. In order for farming to be sustainable, it has to be cost effective for the farmer. A buffer along the River is provided, and in the end, everyone gets something. Building is limited to the designated building envelopes on Lots 6 & 7 and Lot 8. The farmer may be allowed up to 5 lean-tos within the field area. These are considered temporary structures to house livestock. B. Clements said he has constantly pushed the issue of habitat protection, but it looks as though 6 and 7 will continue to be hayed or used as pasture.

The CR includes language limiting the size of fenced enclosures, requires see-through fencing, and will provide details for the future management of the land. EOEAs may recommend changes to the CR, but agriculture is a heritage issue and the CR assures open space instead of houses. B. Clements stated he wanted to make sure no one on the Commission has any serious issues with the current CR draft.

Members asked the status of the appointment of Holly Estes as a new Commissioner, and B. Ganem said she will check with the Selectmen's office.

C. Auman reported he has submitted the evaluation for B. Ganem, revised job description, and suggested title to the new Personnel Manager, Elizabeth Currier, and she will make the appropriate follow up.

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

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as drafted December 12, 2006.**

