

GROTON CONSERVATION COMMISSION

Minutes

April 24, 2007

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

B. Ganem reported the Trails Committee had not had a quorum to review and comment on the Self-Help Surrenden Farm Management Plan, but the Chairman noted it appears to be very comprehensive. In response to a question from B. Clements, B. Ganem said the Surrenden Farm Land Use Committee suggested several changes which have now been incorporated in the revised Plan which had been approved by the Committee. Upon a motion by P. Morrison, seconded by H. Estes, it was

VOTED: to approve the revised Self-Help Surrenden Farm Management Plan prepared by B. Ganem.

B. Clements reported he had looked at the wash-out of Island Pond Rd. and observed a lot of eroded material heading toward Massapoag Lake. He thought the materials looked reasonably clean and, as this was an act of nature, it might be best to leave it alone. P. Morrison agreed it could cause more disruption to try and remove the materials at this point. B. Ganem said her main concern is that the streambed now appears discontinuous, but it is likely there will continue to be down cutting as the stream carves out a new channel to reach Massapoag Lake. An Emergency Certificate will be issued, but restoration of the shore line will not be required.

In discussion on the contracts with the Greater Lowell YMCA for the waterfront management and swim lessons at Sargisson Beach, B. Ganem said it made sense to set up two contracts to bring us through May and June 2007 right through June 2008. It will be necessary to begin a "Request for Proposals" process in early 2008 at which time the Town will consider entering a 3-year contract. Town Counsel reviewed last year's contract, and the only change for this year is the dates. Upon a motion by B. Clements, seconded by P. Morrison, it was

VOTED: to sign off on the two contracts with the YMCA for waterfront management and swim lessons at Sargisson Beach from May 2007 through June 2008.

Chairman Evan Owen has indicated it may be difficult for him to continue on the Conservation Commission due to his work commitments. Members agreed to advertise the opening immediately, but to determine whether Evan can continue until the Commission is able to find a replacement. P. Morrison thought he would be able to attend although he may need a ride in the upcoming months. All members present said they would be available to give him a ride anytime he needed one.

7:15 p.m. - Appointment/Attorney Bob Collins - Rocky Hill deed and CR documents

Acting Chairman C. Auman thanked Mr. Collins for providing the draft letter to potential homebuyers at Rocky Hill as well as information about the granite bounds. Mr. Collins explained the bounds would be placed for Parcel A this year, with those on Parcels B1, B2, D1, and D2 being installed as those areas are developed. C. Auman pointed out it is the goal of the Commission to have the bounds in before people move in. B. Collins assured the Commission he would be happy to incorporate any changes the Commission wishes. He questioned whether he should include information about the cumulative nature of daily penalties in the event of violations in the correspondence with homebuyers.

Member Clements noted he pays particular attention to prohibited and allowed activities. He asked whether hunting is

allowed, and B. Collins responded “No, but it is up to the Commission to make the determination.” He commented there could be occasions when a species is found to over-populate an area, to the detriment of other species, and this would be an instance where Natural Heritage and the Conservation Commission may want to allow hunting. Concerning the 17 acres the Town is to own, hunting would be impossible there due to the proximity of houses unless there is a request from the Conservation Commission, and it is mandated by Fisheries & Wildlife. Mr. Collins added the Commission is considering 3 different acquisitions this evening. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to accept the Conservation Restriction on 10.84 acres of land that is internal to the site, with two of the three parcels (Parcels B1, D1, and (D2) having common septic systems.

Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to accept the Conservation Restriction on 404 acres to be owned by MassAudubon which includes Parcels B2 and Lot 2A.

Upon a motion by P. Morrison, seconded by H. Estes, it was

VOTED: to accept a gift of land in the amount of 17 acres identified as Parcel A1.

Mr. Collins commented he thought these documents preserve the single largest area of protected land in Groton, as well as 150 acres in Ayer. MassAudubon has identified this as a very special piece of land.

B. Clements thanked Mr. Collins and Bob Pine for their efforts in bringing this project to a conclusion. Mr. Collins noted they worked with three successive owners including one project that called for an extensive development on the other side of the power lines. B. Collins explained it could not have happened without the civic-mindedness that characterizes Bob Lacombe and David Moulton, both self-made philanthropists. Their hard work enabled them to purchase the parcels for \$1.5 million.

7:30 p.m. - Appointment/Attorney Bob Collins - Lost Lake dam

Mr. Collins explained he was present to ask the Commission’s support for the upcoming article to be considered at the Annual Town Meeting to allow the Town to take, by a friendly eminent domain taking, ownership of the Lost Lake Dam. Maintenance of the Dam would protect 269 acres of land downstream. C. Auman asked Mr. Collins to outline why the Town should take ownership and why now? Mr. Collins explained it has been assumed by the Assessors’ office that the dam was owned by The American Baptist Church of Massachusetts (TABCOM). In response to a request for an annual dam registration form, Mr. Collins researched the title for the property. He could not find anything that proved TABCOM is the owner of the property, even with research that reached to Nashua. Apparently there was a conveyance in 1934 to a non-existent entity. He noted there is a need to establish ownership despite the fact that TABCOM has cared for the dam since 1956.

In negotiations with TABCOM, they have agreed to pay the costs involved in the taking of the property, as well as \$20,000 for the next several years. An estimate of \$90,000 was prepared for the repair of the dam, but Mr. Collins noted this estimate included a \$20,000 estimate to remove trees. Mr. Collins asked if a statement of support could be conveyed to Town Moderator Bob Gosselin. He also explained he was working with Town Counsel Shirin Everett to produce a title certification on the 17 acre parcel.

7:45 p.m. - 6 Hazelwood Drive NOI, DEP #169-979

- Stan Dillis explained this was a continuation of a previous hearing. The filing involves an expired Order of Conditions. Fisheries & Wildlife has reviewed the case, and has not raised any concerns about rare species. Mr. Dillis submitted an additional check to cover the filing fees for the retaining wall. He indicated his client intends to clean the

area between the new retaining wall and the old stone wall. The area will then be loamed and seeded for stabilization.

B. Clements asked how the flood elevation was determined, and S. Dillis said it was based on the height of the dam. He noted the flashboards do not go all the way up, and he felt the 216' elevation presented in the determination by GPR did not offer any more specificity. He assured the Commission that the house would not flood as its base elevation is 220'. C. Auman pointed out the concern is that the retaining wall work will cause flooding of a neighbor's property as the water has to go somewhere if the floodplain is filled.

P. Morrison reminded Mr. Dillis that the owners should be aware of the need to file before they do work. Mr. Dillis said they did not realize the Order had expired and they worked beyond the Order of Conditions. He prepared an as-built plan for the tight tank a year ago, but did not realize they intended to do more work. Mr. Dillis was given a copy of the 6/28/05 floodplain study prepared by Val Prest. A letter from the Building Inspector, in which he stated the owner would not need a building permit, was read into the record. Upon a motion by P. Morrison, seconded by Holly Estes, it was

VOTED: to close the hearing for DEP #169-979 for 6 Hazelwood Dr.

8:00 p.m. - 72 Maplewood Dr. RDA

Homeowner Francis Giangregorio explained he wished to remove some large white pines as there have already been incidents in which several have come down. His lot is long and narrow with water on both sides. He has no plans to build in the areas where trees are removed. A crane will be used to cut and lift them, and he plans to leave the stumps in place.

B. Clements said he doesn't like to see trees cut unless it's absolutely necessary. He asked whether it would be possible to leave trees further away from the house, and Mr. Giangregorio said there is a private beach and power lines in that area, and he is concerned about the effect on the abutter. He estimated the property is approximately 300' long by 70' wide. H. Estes questioned what types of vegetation will be left, and Mrs. Giangregorio said there are some oak, maple, small pines, birch, highbush blueberry bushes, and hemlocks that will remain. C. Auman suggested some re-planting to replace the white pine because, over time, the stumps will rot away and there needs to be vegetation to stabilize the banks. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to issue a negative #3 Determination requiring re-planting with highbush blueberry or other native shrubs; tree removal is done by a professional; and debris shall be kept out of the Lake.

Commissioners urged the homeowner to assure that some backward pressure be kept on the trees in order to prevent them from falling into the water.

B. Ganem reported the haying bids for Surrenden Farm are due by April 30th, and one has been submitted at this point. C. Auman noted that Concord gets \$25/acre for land that is hayed by a contractor. P. Morrison pointed out the Commission has a fiduciary responsibility in the management of conservation lands.

Upon a motion by B. Clements, seconded by H. Estes, it was

VOTED: to approve the minutes of April 10, 2007 as drafted.

B. Ganem reported she had visited the Monarch Path site and observed they have already installed a through road. They had received permission to do some perc testing. None of the work appeared to be within 100 ft. of wetlands. B. Clements advised checking with the wetland consultant because the engineer does not appear to be aware that some of the proposed work is within the 100 ft. buffer. The area was flagged as an Isolated Land Subject to Flooding which does not have a buffer under the Wetlands Protection Act, but does under the Bylaw.

8:15 p.m. - 1 Lost Lake Dr. continuation - DEP #169-978

P. Morrison read the continuation notice and noted the Commission has been awaiting the as-built plan for six weeks. During the recent storm event, the silt fencing at the site blew away and was not replaced for several days. A significant amount of silt washed into the wetlands. Mr. Morrison pointed out the letter from Natural Heritage required the placement of haybales. The applicant is not abiding by the Determination issued by the Commission. Acting Chairman Craig Auman read a letter into the record from Maryann DiPinto of DEP to the applicant.

B. Ganem read a section of the Bylaw Regulations, §344-26 Enforcement, concerning the recording of violations and issuance of fines. Mr. Morrison indicated he felt it was time the Commission considered re-instituting the fines. The applicant is required to keep turtles out of the property, and he has consistently failed to put the haybales in across the driveway entrance. Silt fencing is routinely utilized, and no one else seems to have a problem following through with its installation. There is a sign advertising the property for sale, and the outstanding fines remain unpaid. Upon a motion by B. Clements, seconded by P. Morrison, it was

VOTED: to issue an Enforcement Order for continued failure to keep silt from running into the wetland and failure to maintain haybales across the driveway per the plan submitted with the wetland filing.

If the applicant fails to comply within a week of receipt of the Enforcement Order, the Commission will, upon a motion by P. Morrison, seconded by B. Clements, and

VOTED: begin to issue fines in the amount of \$50 every other day.

Mr. Morrison stated the purpose of issuing fines is both to gain compliance and as a punitive measure. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to continue the hearing for DEP #169-978 to May 8, 2007.

8:30 p.m. - 60 Boston Road, DEP #169-974 continuation

(Member B. Clements stepped down from the hearing.)

Consultant Sean Hale said the applicant plans to install some type of roof runoff recharge system although it is not shown on the plan. He suggested the Commission could include this as a condition in the Order of Conditions. It is likely a recharge trench will be added. Mr. Hale indicated the stormwater infiltration bed will be located in native soils as demonstrated by the horizons observed during the soil tests. The soils are identified as "ice contact outwash". The infiltration bed will be installed 2 feet above the high groundwater observed during the soil tests.

Member Morrison asked if the applicant has considered using pervious bituminous asphalt instead of regular paving. S. Hale said it requires a change in the design, and he did not feel comfortable answering an engineering question. Overall it may not result in much of a net gain.

H. Estes expressed concern about the amount of impervious surfacing planned for this property.

Mr. Hale said the applicant is attempting to balance the concerns of the Planning Board and the Conservation Commission.

C. Auman said he would like to see the situation improved by not moving the garage so close to the wetlands. S. Hale asserted there would be some improvements from existing conditions where overland flow reaches the wetland without any treatment. The proposed stormwater management plan provides a way to collect and treat the runoff.

Commissioners asked if any hazardous materials will be stored on site, and the applicant replied only ladders, staging, and tarpaper. Usually materials are delivered directly to a work site. Adhesives will not be stored on site. Trucks, wheelbarrows, and hand tools will be locked in the storage center.

Jim Cullen (66 Boston Rd.) asked if the existing storage trailers will be removed, as well as the dumpster, and the 15

ft. setback from property lines observed for all structures, and the applicant replied in the affirmative. P. Morrison observed that the applicant has not completed the Planning Board process and will need a factual plan for that. The applicant said he would be willing to move the garage further away from the wetlands if the Planning Board allows the elimination of some of the parking spaces. C. Auman pointed out the Commission generally likes to see the same footprint utilized or the project pushed further back from the wetlands. Comments from Nitsch Engineering, dated April 19th, must also be addressed. Upon a motion by P. Morrison, seconded by H. Estes, it was

VOTED: to continue the hearing for 60 Boston Rd. DEP #169-974 to May 8, 2007.

8:45 p.m. - 4 Birchwood Dr. - DEP #169-912 amendment

The Commission has not received any correspondence from Natural Heritage at this point, but it is unlikely this project will have an impact on rare species. Upon a motion by P. Morrison, seconded by B. Clements, it was

VOTED: to close the hearing for 4 Birchwood Dr., DEP #169-912 amendment.

B. Ganem reported that the Adamovich land in which the Commission has had an interest has recently been sold to the Shattuck family.

There being no further business, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted 5/8/07