

GROTON CONSERVATION COMMISSION

Minutes

October 22, 2007

Chairman Marshall Giguere called the meeting to order at 5:30 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Bruce Easom, Holly Estes, Ryan Lambert, and Peter Morrison were present. Highway Surveyor Tom Delaney and Conservation Assistant Barbara Ganem were also present.

The Commission began discussion, upon a motion by P. Morrison, seconded by B. Easom, to approve the conversion of portions of Torrey Woods (Parcel 231-94) and Sawtell (Parcel 232-9) Conservation Areas for use as a public municipal water well. Member Auman read Article 9 of the Warrant for the Special Town Meeting on October 22, 2007:

“To see if the Town will vote to authorize the Board of Water Commissioners to enter into an agreement with the Conservation Commission to utilize a portion of Torrey Woods Conservation Area, Map 231-Parcel 94-Lot 0 and a portion of the Sawtell Drive Conservation Area located on Map 232-Parcel 9-Lot 0 as a municipal drinking water resource and to authorize the Board of Selectmen to petition the General Court of the Commonwealth of Massachusetts under Article 97 of the Amendments to the Massachusetts Constitution for any special legislation necessary therefor, or take any action thereon.”

B. Easom said he would like to have clarification on whether management and control mean ownership, or is it necessary for the Water Department to have ownership of the Zone I. P. Morrison pointed out the Town of Groton actually owns the conservation land although it is currently under the control of the Conservation Commission. He did not believe ownership would be transferred.

C. Auman cautioned that the Commission must be very careful in making this decision because citizens who wish to donate land for conservation purposes may be discouraged from doing so if the land is subsequently used for other purposes. Chairman Giguere noted there has been discussion of placing the land under a conservation restriction. B. Easom offered two amendments to the motion:

- 1) control of the land will revert back to the Conservation Commission if the area is subsequently found to be unsuitable as a water supply source; and
- 2) the Water Department will not have the right to sell the land without the unanimous vote of the Conservation Commission such as is necessary for the disposal of Article 97 land.

P. Morrison incorporated the above amendments into the main motion with a second from Ryan Lambert.

C. Auman added that no building should be allowed on the land, but several members then noted there had been mention of some type of 12' by 12' pad. T. Delaney said there may be an opportunity to locate a pump house in a subsurface pit. The well at Whitney occupies an area of about 15' by 20'. C. Auman modified his suggestion to include no building other than for the support of the well pad.

H. Estes questioned whether the Commission is acting on a conservation restriction tonight. She requested clarification on how negotiations would work if we make a decision to allow it to go forward tonight. P. Morrison contended that we are taking care of the big items, the 'showstoppers', tonight. Ms. Estes asked what would happen if, in ten years, it was decided it would be necessary to go in the other direction (toward Kaileys Way) with the water main, but the Commission had already granted permission to use the parcel for a well. The easement goes with the land forever, and she did not support installation of a water line in that direction. She speculated that a positive decision tonight could put the Commission in an awkward position in the future should this become necessary.

Tom Delaney maintained that the Commission would have to be satisfied with the negotiations before the Selectmen reach the point of presenting the request to the state legislature. C. Auman questioned whether the Commission has any teeth in its decisions once we vote and Town Meeting votes. B. Easom asked whether this is a time critical decision for the Water Department, and will it be a hardship to delay for a year. It was noted the Water Department does appear to need a decision on whether they have a protected Zone I, including the purchase of the one acre belonging to Tom Delaney, before it can apply to DEP. Mr. Delaney added that all of these steps are a necessary part of the puzzle. P. Morrison mentioned it would

have to be the Water Department's decision to pull the article because they were the ones who brought it forward.

Member Auman said it was his understanding the Water Department did not need to put a building at the site, and that is why he offered an amendment that would allow no building. He added that there should also be no storage of trucks or chemicals at the site. T. Delaney confirmed that he, too, would look to have this restriction in any easement he granted to the Water Department.

B. Easom asked how the Commission will have any authority to enforce after we say yes. He confirmed he has no problem with the integrity of the people involved and his question centers on the situation itself. It was noted the Water Department also has other difficulties with which to deal such as withdrawals from the Nashua water basin vs. those from the Merrimack water basin. Member Easom pointed out the Nashua is tributary to the Merrimack and questioned why they would be considered separate basins. He summarized the questions as one of whether we are comfortable enough with the conditions offered to make a vote today. H. Estes commented she was not feeling comfortable about the decision, but some of her reservations may be related to a lack of understanding of the situation.

C. Auman argued that water is an important asset for the Town and reiterated his concern that residents would have reservations about donating conservation land if it is to be subsequently converted to another use. It was noted conservation land can have different meanings for different people as long as it is protected from development. Member Morrison said this vote will authorize the Water Commissioners to enter into negotiations, and the details can be hammered out during the negotiations. H. Estes indicated she did not understand why we have to bring the control issue before Town Meeting now. P. Morrison disagreed, pointing out our vote has to be unanimous. The vote of Town Meeting requires 2/3's in favor, as does the vote of the state legislature which is usually a given once the local votes are taken.

B. Easom declared he would not want to give his approval until he has seen the actual agreement. P. Morrison contended that Town Meeting does not get involved with drafting and approving conservation restrictions.

M. Giguere added "Once it goes to Town Meeting, the agreement has not been negotiated." Mr. Auman said the Town Meeting warrant article makes no mention of a conservation restriction. The article, according to Mr. Giguere, is an agreement that we will negotiate. C. Auman conceded the article may have to be postponed in order for Commissioners to be aware of all the conditions.

B. Easom commented this Commission cannot bind the decisions of a future Commission.

M. Giguere attempted to encapsulate the discussion thus far as a decision on the terms of the transfer of control. P. Morrison added, although the Commission has previously discussed the issue, all members of the Commission have not been able to be present to make a unanimous decision. The Water Department may end up withdrawing the article, but the Commission has to unanimously agree to transfer control provided there are successful negotiations. Chairman Giguere re-read Article 9 and pointed out there are two actions: 1) to authorize negotiations and 2) to transfer control. P. Morrison added "We have to complete one before attempting the second."

H. Estes questioned why the Commission does not have the agreement already. B. Easom added, "It feels like we're signing a blank check." P. Morrison suggested the Commission support the article unanimously but not take a vote on the transfer of control which does need unanimity. C. Auman said the intention of the article is to transfer control to the Water Department, but P. Morrison argued it is not the Commission's article to amend. We are the first step and, if we do not vote positively, it goes no further.

B. Ganem said there is a difficulty in having the property owned by the Town and the Town also holding the conservation restriction. Members suggested the Groton Conservation Trust or MassAudubon may be willing to hold the restriction. In summary, Commissioners felt the conservation restriction should be subject to the following conditions: 1) control of the land will revert back to the Conservation Commission if the area is subsequently found to be unsuitable as a water supply source; 2) the Water Department will not have the right to sell the land without the unanimous vote of the Conservation Commission such as is necessary for the disposal of Article 97 land; and 3.) no building shall be allowed other than for the support of the well pad. All members voted to approve the addition of the above amendments.

Returning to the amended main motion by P. Morrison, seconded by B. Easom, the motion failed with P. Morrison, R. Lambert, H. Estes, C. Auman, and M. Giguere voting in favor, and B. Easom voting in the negative. B. Easom indicated he did not think the structure of the agreement with the Water Department had been laid out in sufficient detail for him to vote yes on the motion.

B. Ganem briefly reviewed the situation at 60 Boston Rd. in which she reported the applicants have cleaned up the stone and removed it from both the wetland and the buffer zone. The draft Order of Conditions will be reviewed at tomorrow night's regular meeting.

There being no further business, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as drafted October 23, 2007.