

## GROTON CONSERVATION COMMISSION

### Minutes

April 8, 2008

Chairman Marshall Giguere called the meeting to order at 7:00 p.m. in the 2<sup>nd</sup> floor conference room in Town Hall. Members Wayne Addy, Craig Auman, Bruce Easom, and Peter Morrison were present. Ryan Lambert arrived at 7:05 p.m. and Holly Estes at 7:10 p.m. Conservation Assistant Barbara Ganem was also present.

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

VOTED: to approve the minutes of the Open Session of the March 25, 2008 meeting as drafted.

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

VOTED: to approve the minutes of the Executive Session of the March 25, 2008 meeting as drafted.

The Commission has received a complaint of trailers and other vehicles being stored on the Nutile property at the corner of Hill Rd. and West Main St. P. Morrison questioned what law is being broken as these are vehicles that have wheels and can be moved out of the floodplain which is the only jurisdictional area for the Conservation Commission. M. Giguere advised keeping an eye on what happens there.

B. Ganem reported the retaining wall work at 53 Island Rd. has been completed as proposed, and the owner has submitted a statement and requested a Certificate of Compliance. The owner has placed random concrete blocks in the Lake bottom near the shore line to dissipate wave energy from passing boats. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to issue a Certificate of Compliance for DEP #169-934 for 53 Island Rd.

Members asked that the cover letter advise Mr. King not to add any additional blocks as this could be considered fill in the Lake.

(R. Lambert arrived at 7:05 p.m.)

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

VOTED: to sign a letter in support of the proposed Environmental Bond bill.

As a follow up to the site visit to Academy Hill this past Saturday, members requested a letter be sent to the owner requiring improvements to the erosion control measures at the site prior to the

Commission's next site walk. Without a timely cleanup of the site, the owner can anticipate repercussions such as an Enforcement Order or fines.

(H. Estes arrived at 7:10 p.m.)

Police Chief Donald Palma has been appointed Harbormaster for the Town. He is holding his first hearing, for a Ch. 10A permit for a water skiing course at Lost Lake/Knops Pond. Commissioners voiced no concerns about the environment in setting up such a course. B. Ganem noted that the proposed course is not within an area where there are known rare plant species.

Member Auman asked if more details about the costs involved in recording the tax-title taking parcels could be provided before the Commission makes a decision to go forward. B. Ganem will check with Town Counsel to determine the estimated expense for the work.

Regarding the Wilson/21 Moose Trail restriction and deed, the Secretary of the Executive Office of Energy and the Environment has signed off on the Conservation Restriction. Once the Selectmen sign the deed and both documents are recorded, Town Counsel will release the escrow check she has been holding to cover the cost of the land, back taxes, and legal fees incurred for the transfer of Assessor's parcel 130-55 from the Town to Mr. Wilson as part of the agreement approved at Town Meeting.

Email correspondence has been previously distributed to the Commission from Rich Davis about the removal of docks from the Redskin Trail Conservation Area. Town Counsel has advised the Commission that this is an encroachment or trespass on conservation land. Both Mr. Davis and Mr. Petrie have been notified by mail of the Commission's request to have these structures removed from conservation land by April 15th. They have also received a copy of the Rules and Regulations for use of Town-owned conservation land. B. Ganem will confirm the April 15<sup>th</sup> deadline for removal of all structures with Mr. Davis. Members acknowledged it may be necessary to place boulders at the parcel to prevent future encroachment issues.

#### 7:15 p.m. – Appointment/Chris Johanson/Natgun Corporation

Daniel Hudd, Project Manager for Natgun Corporation, was present. Chairman Giguere said he was disappointed by the silt coming off the driveway that the Commission observed during the site visit this past Saturday. He pointed out the road is still eroding, and he felt it necessary that the silt be contained. Mr. Hudd explained his company was responsible for building the water tank, and there was no identification of the wetlands in the bid specification materials presented to his company so they did not address the situation in bidding for the project. He said his company proceeded to execute the project, and he believed they satisfactorily accomplished their goal. Since the tank construction was completed, he explained his company has had no control over what the road is used for. He noted that Natgun received approval of the completed work by an independent consultant as part of their request for a Certificate of Compliance.

M. Giguere said the concern, on the part of the Commission, is that there is continuing erosion and the wetland area is not well-vegetated. Mr. Hudd acknowledged there had been better

survival of plants on the slope. M. Giguere asked when the road was modified and was there any change in width, and D. Hudd responded he didn't believe there were any changes to the road.

W. Addy questioned whether the property owner is responsible as the situation is unacceptable. Mr. Hudd maintained that the work proceeded with a Determination that there were no wetlands on the site, and Natgun did not know there were any wetlands on the site. Mr. Addy said this seems rather convoluted as the owner is usually responsible for activities on his land. He suggested consideration should be given to closing the road. M. Giguere said care should have been taken whether the work was near a wetland or not.

B. Easom acknowledged the details of a contract can be strange and that, normally, the Commission would go to the landowner and ask for correction. They have allowed work to be done on their land. He advocated talking to the Groton Land Foundation as the landowner as the Commission is now at a disadvantage in dealing with the contractor.

R. Lambert questioned whether the contractor was aware of the steps necessary to carry out the task. C. Auman clarified that the Conservation Commission became aware of an adverse effect on the wetlands and took action. H. Estes felt that it was not reasonable to sign off on a Certificate of Compliance as things are not stabilized. D. Hudd said the November 2007 study prepared by an independent contractor indicated the restoration was complete. H. Estes mentioned the Commission did a site walk at that time, with snow cover, and observed bare soils and did not agree it was stabilized at that point.

M. Giguere questioned where stability is addressed in the report. Water Superintendent Tom Orcutt said the Water Department filed a Request for Determination of Applicability in 2001 or 2002, and the Conservation Commission issued a negative Determination saying there were no wetlands involved in the construction of the water storage tank. He felt holding the Water Department up to a standard that was not there at the time was unfair. Subsequently several trees were removed and materials were added to gain access to the site. Some of these materials eroded. Two other permits (for water mains and a treatment facility at Baddacook) were issued at the same time the Determination was issued.

M. Giguere questioned which was true – fill was added or no changes were made? The work was completed in the fall of 2005. P. Morrison noted the Commission walked the road earlier and noted siltation in two separate areas, and had concerns about the silt being removed by hand from the area closest to the road. The 66% survival rate was reported by the consultant. The Commission's Order of Conditions required additional plantings to help with the stabilization. C. Auman said, "The issue is that siltation is continuing." T. Orcutt maintained nobody is going to control it as it's a dirt road on a hill. B. Easom pointed out the problem seems to be originating from wheel ruts. Erosion may not have been a concern when the road was traveled in the autumn for work in the former orchards. Mr. Orcutt said nobody from his department has accessed the site since last fall, and perhaps the answer would be to put a chain across the roadway. If access is restricted when it is wet or muddy, the problem would be resolved.

Mr. Orcutt questioned whether the road shoulder was stable, and Commissioners observed that silt is running off the road from an area above the wetland. P. Morrison asked if what was done

was okay, but now we have a new origin of the problem. He suggested seeing whether the Groton Land Foundation would consider blocking the road to stop unauthorized travel. He questioned whether erosion is now occurring from a different source.

H. Estes stated the Commission does not know what the condition of the road was before the work was done. She asked what kinds of equipment traveled the access road, and it was noted pick up trucks for the most part, but also a crane, excavator, and cement trucks. Following the discussion, and upon a motion by P. Morrison, seconded by B. Easom, a motion to issue the Certificate of Compliance failed with R. Lambert, B. Easom, and P. Morrison voting in favor, and C. Auman, H. Estes, M. Giguere, and W. Addy voting in the negative. H. Estes added "Silt continues to run into the wetlands."

C. Auman summarized the question as "Did you do work that caused erosion into the wetlands?" D. Hudd said the problem area is uphill from the area where his company did the work. Mr. Auman questioned why the company took responsibility under the Enforcement Order for the work they had done. H. Estes pointed out it appears that construction equipment degraded the road. T. Orcutt argued that sediment has been pouring into the wetland for years, and the Commission has not required any improvements whatsoever. C. Auman expressed uncertainty about whether the contractor is responsible. H. Estes asked what would happen if we recall the earlier vote, and B. Easom pointed out the motion would have to come from someone on the winning side. Ms. Estes questioned what options the Commission has to move forward on the separate issue of erosion. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to recall the previous motion and issue a Certificate of Compliance for DEP #169-939.

W. Addy voted in the negative, with the remaining members voting affirmatively.

B. Easom suggested the Commission postpone further discussion of the issue until the end of the meeting to avoid falling even further behind in the agenda schedule.

7:30 p.m. – 176 Shelters Road NOI continuation, DEP #169-990

Contractor Bob Margolis said the plans have been re-worked to show a different size building turned the other way. He maintained the issue of the deed restriction limiting structures to a 40 ft. setback from the Lake was going away, based on a letter submitted by Attorney Bob Collins. This was a personal restriction. Due to the revisions in the plans, it will not be necessary to remove any trees and this will help maintain the slope. However, the owner would like to fill in a 5 ft. deep gully which will require the removal of a small sapling. There will be a gravel driveway in the same location as the current driveway. The silt fence location has been revised. All materials will be removed offsite. Members expressed appreciation for the applicant's cooperation in addressing the Commission's concerns about the size of the house and its orientation. C. Auman questioned whether any floodplain is involved in the filling of the gully, and Mr. Margolis indicated it was well outside the floodplain area. Mr. Margolis turned in revised plans. The Commission will await a response from the Natural Heritage & Endangered Species Program, and upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing to April 22, 2008.

7:45 p.m. – Galerucella beetle release Request for Determination of Applicability

Bob Pine explained he was present both as a landowner where a release is proposed and as a representative of the ACEC (Area of Critical Environmental Concern) Stewardship Committee. Beth Suedmeyer, who is responsible for the state program for the control of purple loosestrife, was also present. The ACEC Stewardship Committee held a workshop, attended by over 70 people, on the control of purple loosestrife this past Monday. As an initial venture into purple loosestrife control, two locations in Groton and one each in Ayer and Lunenburg are proposed as test sites.

Mr. Pine acknowledged that purple loosestrife has been an issue on his property from the beginning, but their focus has been on using mechanical means to control invasive weeds. Unfortunately this method stimulates loosestrife to have a stronger root system. He noted Massachusetts has taken a very conservative stance about introducing non-native beetles to control loosestrife. Monitoring and a multi-year release program to establish a population is planned.

Chairman Giguere said he was in favor of this proposal but regretted it was not being attempted on more parcels, especially the swamp at the corner of Rt. 40 and Schoolhouse Rd. Mr. Pine indicated they hope to work with additional landowners in the future. Mr. Giguere suggested having a link on the Town web site to explain the program.

Member Estes commented she had attended the workshop and found it very informative. She pointed out that one of the first steps is digging out some of the loosestrife plants from a wetland area. Mr. Pine explained they will be using his property as the source of the loosestrife. He noted that one of the goals of the program is to encourage community involvement and provide educational outreach throughout the project. The beetles will be purchased from a location in New York or New Jersey. Each loosestrife plant will be used as a nursery for the beetles which are expected to increase 100-fold before the actual release is done. This will maximize the effectiveness of the introduction.

C. Auman questioned how long it will take to eradicate the loosestrife, and Beth Suedmeyer responded it depends on such factors as the quantity of beetles released, whether it's a sunny site, and water levels. For a 20 acre site, the timeline could be longer than ten years. The goal is to control the spread, not to eradicate. Over time the beetle population will increase with releases made over a period of three or four years. Monitoring will usually show results within three years for sites with a loosestrife infestation around the perimeter.

Mr. Auman asked whether there would eventually be a balance between the beetles and their food sources, leading to feeding on non-target plants. The effectiveness of the beetles has been tested at 26 sites with spring and fall monitoring, and no negative sustained damage to any other plants was observed. Ecologists from the Natural Heritage & Endangered Species Program will also help with the monitoring. C. Auman said he assumed the beetles were able to move onto someone else's land and asked what would happen if they start destroying loosestrife on land

where the owner wants to maintain loosestrife. Ms. Suedmeyer said they have not run into that issue. She noted beetles were released in the Parker River Wildlife Refuge over ten years ago, and they are just beginning to see results along the water corridors in the North Shore. The beetle can both fly and be carried by the wind. She noted they are monitoring to see that phragmites does not replace loosestrife. In addition, they are working to discover a beetle that might help control phragmites.

B. Easom worried that the next step would be to introduce something to eat the beetles. We want them to do well, but not too well. As a biocontrol, Ms. Suedmeyer noted the *Galerucella* leaf-eating beetle was approved by the USDA in 1992 after years of research in Europe where the beetle originates. Mr. Easom cautioned that human hubris has no limits and questioned whether the species can stay in equilibrium indefinitely or will they need re-introduction. Ms. Suedmeyer said if the loosestrife re-bounds, a re-introduction would be necessary. She also pointed out the monitoring process will be adaptive, and we are looking at 10 years of experience in Massachusetts and in the national wildlife refuges since the 1990's.

B. Pine pointed out that the monitoring is important to get the science to back up what happens with the release. B. Easom commented that some of the effects of genetically modified corn were not anticipated, and he said it is also likely the beetles could mutate at some point.

R. Lambert shared Mr. Easom's concern about releasing a new species into the environment. He thought it required caution and questioned whether there were any known natural predators here. Ms. Suedmeyer said dragonflies will eat them, and it is anticipated that, since they come from a similar climate in Europe, this will happen here.

W. Addy questioned whether the beetles were susceptible to any commonly applied and approved pesticides. There is a synthetically approved pheromone that could be used to control the beetles according to Ms. Suedmeyer. Mr. Addy asked if abutting landowners will be notified of the releases. Ms. Suedmeyer pointed out purple loosestrife was listed on the prohibited plant list in January 2006. Mr. Addy thought it would be a good idea to hold a public hearing to make people aware of the proposal.

Bob Pine pointed out that the Trust property (Gamlin Crystal Spring) is isolated, and he has talked with neighbors to his property who are enthusiastic about controlling the loosestrife. The loosestrife is susceptible to pesticides, but only Rodeo is approved for use in wetlands. Mr. Pine said they expect to schedule beetle releases on other properties in the future, and he would like the Commission's advice on how to handle this.

W. Addy said he would like to see signatures from abutting landowners as well as have a public notice to the neighborhood. M. Giguere noted that would require separate filings. Upon a motion by C. Auman, seconded by H. Estes, it was

VOTED: to issue a negative #3 Determination requiring the applicant to submit 1) a letter that includes written permission from the landowner for any proposed additional treatment sites and 2) copies of monitoring reports on treatment sites.

W. Addy voted nay, while the remaining Commissioners voted in the affirmative.

H. Estes cautioned that monitors should be very careful not to do the monitoring when the flower heads are ripe as the seeds can easily be carried from one site to another.

8:00 p.m. - 54 Ridgewood Avenue continuation, DEP \$169-992

At the applicant's request, and upon a motion by P. Morrison, seconded by H. Estes, it was

VOTED: to continue the hearing to April 22, 2008.

8:00 p.m. – 37 Boathouse Rd. NOI continuation, DEP #169-991

Engineer Bob Elliott explained this filing is for a new septic system and the extension of a water line within Boathouse Rd. Mr. Elliott also noted the sewer line is located under the roadway, and there is a 5 year moratorium on digging up roadways so the sewer and water lines would be done simultaneously. He added that the project would not be subject to MESA review because it is within an existing landscaped area. P. Morrison pointed out the Commission would expect to have the trash cleaned from the wetlands and wetlands buffer prior to the commencement of the project.

Member Auman asked how the proposed system will work, and Mr. Elliott said there is a settling tank with an aeration chamber that will outlet to eight 4' x 8' Cultec chambers. This plan reduces the overall footprint of the work by 40%. A 40 ml polybarrier surrounding the system will also protect the wetland. He added that this is the most compact system, other than a tight tank, for the site. A maintenance plan will require twice/year monitoring with reports sent to the Board of Health. This maintenance plan is attached to the deed for the property.

B. Easom questioned what will happen in the event of a power failure, and B. Elliott explained the tank is designed at a 2 – 3 day capacity and the toilet will start to back up if this is exceeded. A power outage will also eliminate the use of appliances such as washing machines and dish washers. There being no further questions, and upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the hearing.

Upon a motion by C. Auman, seconded by B. Easom and a roll call vote of P. Morrison, H. Estes, C. Auman, B. Easom, R. Lambert, W. Addy, and M. Giguere, it was

VOTED: to enter Executive Session at 8:45 p.m. for the purpose of discussing land acquisitions, to return to Open Session at adjournment.

The Commission returned to Open Session at 9:00 p.m.

Discussion continued on the Natgun situation off Orchard Lane. H. Estes questioned whether Natgun degraded the roadway or not. M. Giguere said the Commission is left with no choice –

it's not the Water Department and it's not Natgun, so it becomes the responsibility of the Groton Land Foundation. Water Superintendent Tom Orcutt returned at 9:05 p.m. for further discussion about the erosion problem. An Enforcement Order or fines can be considered. Mr. Orcutt thought Steve Webber owns the property and pointed out there are multiple areas where the roadway is eroding into the wetlands. He added that a tree collapse has resulted in the collapse of a slope giving way to the wetland area. He also questioned whether the Commission was ready to issue a letter to everybody who has this situation on their land. Commissioners assured him that residents are notified if an active violation is observed. Chairman Giguere likened the situation to that of a speeder – sometimes they are caught, and other times they are not.

C. Auman felt that the fact the Commission issued a negative Determination does not matter at this stage, but T. Orcutt argued that the Commission must be consistent and always take the same approach. H. Estes asked who will maintain this road over the years as it looks as though there has been damage. T. Orcutt maintained that the wheel ruts were always there. B. Easom pointed out it is not the Commission's job to fix the road. Mr. Orcutt said it would take \$1000's to fix the road, and neither the landowner nor the Water Department has the money.

Commissioners pointed out there is one spot where water could be diverted into the forest above the wetland area. It was noted the landowner was paid for the property where the water tank is located and probably the access easement. If they are letting someone use the road then perhaps they should place a bar or gate to block unauthorized access after first mitigating the situation. C. Auman recommended just riprapping a swale to divert the flow to resolve the situation. Commissioners reviewed photographs of the site. T. Orcutt asked that he be given a month to rectify the situation. B. Easom felt the Commission should also deal with the landowners as the landowner has signed for this. T. Orcutt agreed that the Water Department will put some riprap into the problem area and report back in a month. The Commission can then assess whether it will solve the problem, but at least it's a reasonable attempt.

Mr. Orcutt reiterated there are other erosion problems on the roadway, particularly a side slope which is slumping into the beaver pond. Commissioners agreed to send a letter to the GLF noting the Water Department has agreed to add 3" to 4" trap rock to a swale above the wetland area to divert the flow of muddy water into the wetlands located at the bend in the road. T. Orcutt stated he thought the Conservation Commission was overstepping its bounds if the Water Department is required to perpetually maintain the access. B. Easom pointed out the board's jurisdiction is only within 100 ft. of wetland resource areas.

Members offered congratulations to the Chairman on forming the stewardship committee. C. Auman noted that both the stewardship article and the wetland FAQs article appeared in a recent edition of the local newspaper. Andrea Mischel will be contacted to see if she is interested in participating as a volunteer steward.

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

VOTED: to authorize B. Ganem to proceed with taking care of the paperwork involved with Ch. 91 licensing of the swim docks at Sargisson Beach.



Final plans have been submitted to the ZBA for the Squannacook Hills Ch. 40B project. There do not appear to be changes within the 100 ft. area jurisdictional to the Commission except the GCC did require the monitoring wells to be outside the wetland. B. Ganem will be meeting with the developer, David Trahan, in the near future.

The Washington Green Ch. 40B project does not appear to be going forward due to a recent court case which was found in the Town's favor.

There being no further business, the meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as drafted April 8, 2008.**