

GROTON CONSERVATION COMMISSION

Open Session Minutes

July 22, 2008

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

Chairman Giguere announced the Commission has received word of the death of former member Bruce Clements. Mr. Clements served on the Commission for 7 years, as well as many other boards in the Town, before his recent re-location to Petersham. Graveside services are scheduled for July 23rd, and donations to The Trustees for Reservations are suggested in lieu of flowers. Members agreed to send a sympathy card to Mrs. Clements.

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

VOTED: to approve the Open Session minutes of June 7, 2008 as drafted.

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

VOTED: to approve the Executive Session minutes of June 7, 2008 as drafted.

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

VOTED: to approve the Open Session minutes of June 24, 2008 as drafted.

M. Giguere abstained from the vote since he was not present.

Upon a motion by R. Lambert, seconded by B. Easom, it was

VOTED: to approve the Executive Session minutes of June 24, 2008 as drafted.

M. Giguere abstained from the vote.

Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to approve the Open Session minutes of July 8, 2008 as amended.

After review of the Order of Conditions for DEP #169-995 for 100 Hollis St., upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to issue the Special Conditions for DEP #169-995 under the Wetlands Protection Act as drafted.

Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to issue the Special Conditions for DEP #169-995 under the Groton Wetlands Protection Bylaw.

Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to appoint Wayne Addy as Clerk of the Conservation Commission, to replace Holly Estes.

R. Lambert indicated he wished to further consider the time commitment necessary to serve on the Earth Removal Stormwater Advisory Committee. He is unsure how often their site visits take place and does not want to conflict with his existing work or Commission time commitments. The Committee meets on the first Tuesday of the month, but this is usually preceded by Saturday site walks. Commissioners agreed to table the issue of appointing a representative to the Committee until the next meeting.

B. Ganem reported there is a trail easement on properties on Fletcher Hill Lane, and a landowner has reported a tree has fallen near a neighbor's shed. The Town does not own the land, but the easement apparently is the responsibility of the Conservation Commission. B. Easom and P. Morrison agreed to look into the matter.

7:15 p.m. – Gleason/Lot 1 Kemp St. Request for Determination of Applicability

Surveyor Stan Dillis and Attorney Ray Lyons were present to represent the landowner, Dr. David Gleason. Mr. Dillis explained the lot was created about 2003 and, at that time, Dr. Gleason got an Order of Conditions for a force main sewer through wetlands on the property. The Order has been extended, and the force main was installed. Last year, the Commission issued an Enforcement Order to repair damage to the wetland, but it was found the area re-vegetated naturally, and the Commission agreed to lift the Enforcement Order in August 2007.

Mr. Dillis noted that some fencing was removed from the left side of the lot, and this included cutting back a great deal of vegetation. At the time the Commission issued the Enforcement Order, it was noted there were additional areas with wetland vegetation on the lot, and members requested that he take a look at it. S. Dillis acknowledged they delineated hydric soils that connected to the already delineated wetlands with flagging that includes the stream. The proposed work around a new single family house comes no closer than 50 ft. according to S. Dillis. Chairman Giguere requested soil logs for any soil probes that were done for the delineation.

The original Order of Conditions has expired, but the work on the force main has been completed. M. Giguere pointed out that a Certificate of Compliance should be requested, and this could be considered a housekeeping issue related to the work. Member Morrison said the house appears to be situated as best as possible on a difficult lot. Mr. Dillis acknowledged the buffer line now goes through the middle of the house as a result of the re-flagging. Questions arose as to the condition of the land, and Mr. Dillis indicated it was Dr. Gleason's intention to keep the

land in agriculture, and he has created the lots so that the land could still be used for grazing. He thought Lot 1 itself has been mowed and grazed.

C. Auman questioned whether the house was now larger, and S. Dillis maintained it was a smaller house, but half the house is now in the buffer. (*The plan for the old Order shows a house of 1,750 SF while the new plan has a house of 2112 SF.*) The wetland line has not been verified, but Mr. Auman pointed out the Wetlands Bylaw does not allow structures within the 100-ft. buffer zone, under Ch. 215-7 (1)(b): “Prohibited Activity. For the aforementioned reasons, the adjacent upland areas, within 200 feet of rivers and streams and 100 feet of other wetland resource areas protected by this chapter, are deemed valuable resources under this chapter. Therefore this chapter strictly limits any disturbance within adjacent upland areas by prohibiting the following activities or uses: ... (b) Erection of permanent structures, including, but not limited to, barns, garages, or attached structures.

Mr. Auman added that a recent workshop sponsored by MACC recommended providing a 60 – 300 foot grass buffer between active agricultural fields and wetlands in order to buffer wetlands from nutrients, pesticides, bacteria and viruses from manure, and erosion and also to prevent disturbance of wildlife in wetlands. The proposed house and driveway with accompanying grading would result in disturbances to these buffering areas. Mr. Dillis said there is a natural break in the topography, and the applicant will handle roof runoff with drip line trenches.

C. Auman indicated he felt the buffer zone plays an important role in preservation of wetland values. Mr. Dillis argued that the ditch is manmade and a remnant from agricultural activities. Mr. Auman pointed out the Conservation Commission allowed the construction of the sewer line under Ch. 215-7(2)(e) after reviewing alternatives.

B. Easom commented there is still some filtration barrier in the wetland, but Mr. Dillis said this is a biodegradable wattle. He pointed out the wetland delineation line needs to be verified to see if this is the best we can hope for on this site, suggesting perhaps Dr. Gleason would be willing to sign an affidavit to the effect this was a drainage ditch.

R. Lambert had no questions. Mr. Dillis submitted a copy of a letter from Natural Heritage on their MESA findings. Reporter Pierre Comptois of the *Groton Landmark* questioned whether the Commission is finding that this is a wetland or not. Members explained that there was a previous filing for a sewer pipe to be put underground through the wetlands on this 4.5 acre lot. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to issue a positive Determination #1, #2b, #4, and #5 requiring the filing of a Notice of Intent (or an Abbreviated Notice of Resource Area Delineation for a wetlands delineation only) for the proposed single family house.

P. Morrison questioned whether the Bylaw applies to the new house. C. Auman pointed out the Bylaw states, under Ch. 215-7 3. : “Standards for altered areas. Where an adjacent upland resource area is already altered in such a manner that the purpose of this chapter is not being met, the Commission may issue an order of conditions for a project, provided that it finds that the proposed alterations will not increase adverse impacts on that specific portion of the adjacent upland area or associated wetlands and that there is no technically feasible construction

alternative.” Chairman Giguere commented this is a decision the Conservation Commission makes after a full review. The Request for Determination of Applicability has been heard, and the Commission has issued a decision which will require the filing of a Notice of Intent with additional information before this project can go forward.

7:30 p.m. – Madigan/187 Main St. Request for Determination of Applicability

Resident John Madigan explained he wished to extend his patio about 7 – 8 ft., and this is work within 70 ft. of James Brook. Any materials needed for the project will be stored at the side of the garage. The existing lawn area is relatively flat. Chairman Giguere pointed out the Riverfront Area actually begins at the culvert outflow. Mr. Madigan clarified that the dotted line on the lawn area depicted the bobcat access for the work. W. Addy questioned whether it would be possible to work from the top of the patio, and the contractor, Josh Degen, explained it would escalate costs as they plan to dig a trench 1 ft. deep and fill it with 6 in. of stone to support the patio extension. Mr. Degen said they will use 800 lb. stones for the stairs. The bobcat is utilized to do the excavation and will use a 10 ft. wide access that goes around the garage. Materials will be removed from trucks in the driveway in front of the garage, and the stone wall itself is built using hand tools.

Member Auman commented the project looks pretty straightforward and asked what erosion control measures will be utilized. Mr. Degen said they will rely on biofiltration of the lawn grasses and vinca and plan to toe in silt fencing near the culvert which he drew in on the RDA plan. A bush at the corner of the garage will be tied up to improve machinery access. The patio will actually be lowered in elevation to match that of the adjacent driveway. Upon a motion by W. Addy, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination requiring silt fencing to be installed as shown on the RDA plan and that the work of the bobcat be kept as close as possible to the garage.

7:45 p.m. – Appointment – Ray Lyons/Moose Trail Conservation Restriction

Attorney Lyons indicated his client Tom Wilson has completed the conditions necessary to apply for a Certificate of Compliance for work at 21 Moose Trail, DEP #169-982, including the recording of his Ch. 91 dock license. He provided a brief history of the project, noting that the Commission was interested in assuring that the boat ramp not be utilized in the future. He acknowledged there were compliance issues for work on the property which have now been resolved, and he is requesting a Certificate. The only thing that remained to be done is the placement of boulders within the Town right-of-way, and this was recently completed. He pointed out to the Commission that David Black, a wildlife expert, had indicated it would be best not to bring heavy machinery into the area to break up the boat ramp as this would compact the soils.

Chairman Giguere did not recall a particular number of boulders that was specified, and R. Lyons commented it was not in the CR, but in the Notice of Intent filing and he felt the number was two. He maintained that vehicles could not get through the boulders which were placed about 6 ft. apart. Members suggested this did not provide enough of an impediment to access as

there are photographs of snowmobiles, a trail groomer, and a boat with a motor parked on the CR land.

R. Lyons offered to assist the Commission in preparing baseline documentation on the CR land as he has done several and has a form that serves as a good template for other properties. Member Easom said it appears we actually need another boulder in the middle of the boat launch. He also indicated he did not understand the soils compaction issue. The purpose of the CR is to preserve the conservation values of the property.

Mr. Lyons contended that turtles would not be using the area under winter conditions, and he maintained that such machinery would not impact the conservation values. He did acknowledge the CR prohibits the storage of equipment there. Members pointed out that even when the ground is frozen, there is an opportunity for volatiles to leak out onto the ground. P. Morrison said it is one thing for vehicles to traverse the area, but storing the groomer and snowmobile is an issue.

Mr. Easom said placing a boulder at the water's edge sends a message that the area is not to be used as a boat ramp. W. Addy suggested adding two boulders to address the issue, and Commissioners agreed to approach Tom Delaney to see if he would be willing to place some additional boulders at the site. B. Easom questioned whether the Commission should consider issuing the Certificate until there is an appropriate number of boulders, and members agreed to wait until they were in place.

Mr. Lyons said he was very sorry to hear of Bruce Clements' passing as he admired his passion and consistency in his beliefs.

8:00 – Appointment/Joachim Preiss – proposed Gibbet Hill trail work

Mr. Preiss reviewed the trail locations which the Commission visited during the past Saturday site walks. The upper trail is in the proper location and would need improvements due to the presence of wetlands. Landowner Steve Webber has asked about his liability if the lower trail is moved outside of the trail easement area, and members agreed this was a question for Town Counsel. Changing the trail easement itself would be a difficult problem, but to run it on his private property is a legal issue. B. Easom said it was his understanding that if there is no charge, there is no liability. Members agreed that the re-located lower trail would avoid an area that tends to be quite wet throughout most of the year.

J. Preiss said he has begun filling out the RDA and has some questions about the Assessor's mapping. He wanted to know if the Commission was okay with a boardwalk to traverse the wet area. The actual engineering will involve a design of approximately 40 ft. by 8 ft., but there is concern that footings could sink in if they are not concrete sonotubes. B. Easom offered to assist with the design. Right now the wet area has boulders which allow hikers to hop across, but the area is clearly being torn up by horse traffic. B. Easom advised keeping the boardwalk low to the ground for both safety and economic reasons. There would be a toe rail and frame to allow equestrian use. It is not necessary to provide clearance for high water, but it will be a significant span.

A commercial dog trainer is interested in having weekly access to land on which to train off-leash retrievers by whistle or clicker. The land has to be open field that is mowed fairly regularly. Many of his clientele come from the area. Members acknowledged the use of town-owned land for a commercial purpose is a gray area. Questions arose as to how many dogs and the liability of allowing private individuals to use the land for commercial purposes. Neighbors might not like the idea of off-leash dogs near their property. B. Easom pointed out that the Farmers' Market at Williams Barn is a commercial use of the property, but there is a community good realized there.

P. Morrison questioned whether Crosswinds might be an appropriate site for this activity, but C. Auman pointed out this would compromise wildlife habitat. Members wondered whether other Town-owned properties, such as the Country Club or the Cow Pond area might work. Surrenden Farm is not appropriate as it would interfere with farming activities. If the activity were once a year, that might work better. B. Easom said if we charge someone for their activities, then we become liable. Members agreed to politely decline the inquiry as the activity does not mesh with our charge.

B. Ganem reported that David Eliades has mowed a portion of the Eliades Conservation Area field area adjacent to the land he hays for the hospital. He said he regularly does this as a Commissioner had informed him it would save the town money. This was well beyond the new trail. Commissioners advised sending a letter indicating that the timing for mowing is very important for wildlife management and asking if he is willing to do it all or if there is some other arrangement we can work out.

Mr. Truax/124 Mill St. has failed to meet the Commission's deadline of 7/11/08 for the filing of a Request for Determination of Applicability for the removal of the shed attached to the trailer. The building has been dismantled however. P. Morrison stressed that the Commission needs to be consistent in the application of the Bylaw and issuing fines. Chairman Giguere commented we could issue an Enforcement Order with a fine to gain compliance. P. Morrison suggested attaching a fine of \$50 if a RDA is not filed within two weeks from the date of receipt of the Enforcement Order. A copy of the fine schedule can accompany the letter so that he is aware we could issue one every day or make an increase. Upon a motion by B. Easom, seconded by R. Lambert, it was

VOTED: to issue an Enforcement Order and authorize B. Ganem to issue a fine of \$50 if there is no compliance in filing a Request for Determination of Applicability within two weeks of the date of receipt for the Enforcement Order.

W. Addy clarified that he is being fined because he did an action without first filing a RDA.

The Shattuck/Baddacook Pond Conservation Area has been under agreement for livestock grazing with Leslie Chaput (Evan Owen's wife), and the Commission observed during the Saturday site walk that the fields are quickly succeeding to saplings. P. Morrison pointed out the Commission has an obligation to maintain this parcel. He said there have been some forestry activities on the site, including a 'brontosaurus' used for limited tree removal which was mostly

a thinning. Although there was a cutting, he did not believe a forestry plan was drawn up, and there were no plans to continue forestry.

The Conservation Restriction, to be held by the Groton Conservation Trust, is under review by the Division of Conservation Services after being rejected by Joel Lerner because of timing issues. B. Easom expressed concern that currently the land is not protected, and he felt this should be remedied as quickly as possible. He offered to call DCS to move the project along. Members felt it reasonable to send a letter to Mr. Owen to determine his interest in the parcel, get an estimate from Bruce Dubey on brush hogging the land, get a quote on the removal of the camps, and determine whether long term management as a hay field is feasible.

8:45 – Appointment/Mary Trudeau and Matt Goodfriend – Academy Hill

Ms. Trudeau said they currently have a front end loader, excavator, and screener on site in preparation for loaming some of the bare shoulders. The entire site has been swept. Lot B1 is particularly critical because of the siltation into the wetland. The check dams have been repaired and they are in the process of constructing sumps to hold water and reduce the volume of water crossing the site. It is important to retain the water in a series of settling basins. Handwork is necessary at Station 16+50 (adjacent to wetlands) and across Townsend Rd. These areas also need to be raked out. The vernal pool is dry and needs cleaning.

B. Easom said his biggest concern is Lot B1 and the nearby wetland. He believes there are two options for keeping water out of the wetland – a basin to allow sediments to settle out and then run the water through haybales or an earthen berm to direct water into the catch basins. Mr. Goodfriend explained they will be paving to Station 14+00, and this will allow the drainage infrastructure to work. If that catch basin receives all the flow, it will surcharge as it is now taking a disproportionate share of water. M. Trudeau said she agrees that the current system is not working, but they are attempting to do something different with the addition of settling basins.

According to Mr. Goodfriend, once the area is stabilized with grass, it will not be an issue. Much of the backlog of things-to-do has been accomplished, and he has the authority to act as necessary. The economy is a problem because they had to get much of the infrastructure in place in order to build the affordable housing units. Ms. Trudeau said they would have phased the project differently had the Planning Board allowed them to do so.

C. Auman said he sees most of the problems as being resolved with seeding, curbing, and paving to be done. In response to W. Addy's question about what will be done with the screened tailings and crushed concrete, Ms. Trudeau replied they will be moved to the other side (onto Lot B). A berm will be placed at the edge of Lot B1, and there will be check dam near detention basin 52. Fines may move in a heavy storm, but this multi-step approach should address the issues.

P. Morrison mentioned the Commission had been considering issuing fines unless the Academy Hill developer resolved the continuing erosion problems at the site. The deadline of July 19th is past, and the loaming and seeding process is slightly behind although it is clear there has been some progress in addressing the other issues.

M. Trudeau anticipates her Thursday and Friday reports should show there has been substantial progress. The Commission expects to do a follow-up site visit on August 9th. Mr. Goodfriend observed that the boards' actions were effective in spurring compliance. A lot of time has been spent in updating erosion controls when it would have been more helpful to look at bigger items.

W. Addy asked about a plan for dealing with the erosion issues, and M. Trudeau said this is part of the Stormwater Pollution Prevention Plan (SWPPP) for the site for which she makes weekly reports. The goal is to control sediments on the site, and a fairly detailed list of the to-do items is included in her reports. Mr. Addy questioned what happens if the plan does not work, and M. Trudeau replied they have set up a series of executables which hopefully will satisfy the situation. These steps include settling ponds and a berm on Lot B1, and they have to meet a performance standard of no silt. M. Trudeau said she submits photographs and a report on existing conditions at the time of her site visits and then includes steps to correct problem areas. W. Addy asked if some thought had been given to putting the whole process on paper, particularly since the area has been problematic for the Commission, and we expect to see it corrected. The weekly reports come after the situation, and he thought the Commission should know what to expect. M. Trudeau explained the bulk of the work is out of the buffer zone. P. Morrison said the Commission's objective is to see that the results match the original plan and assure that the work meets the performance standards. M. Giguere noted Commissioners can refer to the meeting minutes for a list of things to do. P. Morrison pointed out it is their job to know what to do, and M. Trudeau agreed that they typically use standard engineering practices to address the issues. W. Addy said he would defer to Commissioners and looks forward to seeing improvements at the site.

In other business, work is on-going on the Surrenden Farm West Management Plan, with the finalized plan due in December 2008. There is an upcoming Stewardship Committee meeting on July 29th, and it is anticipated this committee will meet on a quarterly rather than monthly basis. Chairman Giguere indicated he would ask attendees if there is any interest in becoming a Conservation Commission member to fill Holly Estes' position.

B. Easom and M. Giguere met with Si Balch of New England Forestry Foundation to review the Allens Trail Conservation Restriction. A driveway, shed, and 2 additional junk cars appear to be located on conservation-restricted land. Mr. Balch was receptive to issues they pointed out and will talk to his board to decide what to do. There is a possibility of a trail link to Beecher St., but we need to send a letter. B. Easom volunteered to put together a map and draft a letter to NEFF about the proposed trail. There had been early concerns about ATV use, but they do not think it will be a problem. They anticipate logging the property eventually. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize B. Easom to negotiate with NEFF to place a trail on the property.

S. Balch is to contact abutters with concerns, and B. Easom will do this as well. The next scheduled meeting of the Conservation Restriction Monitoring group is July 28th at 7:30 p.m.

Chairman Giguere said he had observed a muddy river running across the road at 39 Ames Rd. during a recent downpour. The homeowner apparently keeps opening up the hillside as there

were fresh piles of loam with no haybales in sight. The edge of the roadway is washing away due to surface flow from the hill. Member Easom noted the Commission will have to take charge of the whole project if silt reaches the wetland. He advocated sending a letter requesting the resident to stabilize the construction site and get it cleaned up. P. Morrison suggested looking at the site before we talk about compliance issues. C. Auman said another alternative would be to talk to him and show photographs of where we have concerns. B. Ganem agreed to call to discuss the Commission's concerns about the on-going problems.

Resident David Elliott/35 Common St. has indicated he cannot be available on August 9th. Members agreed to meet at that address at 5:45 p.m. on Monday, August 11, 2008.

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

VOTED: to enter Executive Session for the purpose of discussing a land acquisition, not to return to Open Session.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended 8/12/08.