

## GROTON CONSERVATION COMMISSION

### Minutes

August 12, 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, Ryan Lambert, and Peter Morrison were present. Conservation Assistant Barbara Ganem was also present.

#### 7:00 p.m. – Appointment/Si Balch/NEFF/Baddacook Woods CR/Allen’s Trail

Mr. Balch said he received the Conservation Restriction Monitoring Report produced by Bruce Easom and Marshall Giguere on the Baddacook Woods conservation restricted land off Allen’s Trail and had looked at the various encroachment issues on the property. Most of the issues are fairly simple but several could pose problems. He acknowledged the Conservation Restriction is 10 years old, and this monitoring report really constitutes the first baseline documentation for the property. The acquisition of the land by New England Forestry Foundation involved a land swap with the developer at the time the subdivision was built. Some of the conditions observed in the field probably pre-date the CR, but others are post-CR.

Mowing conservation-restricted land is an annoyance, but NEFF frequently handles this type of issue. Mr. Balch explained that NEFF is responsible for monitoring over 400 linear miles of boundaries, and they currently have a budget of \$20,000 with which they try to monitor 30 to 40 miles a year. The boundary between the conservation-restricted land and private property is likely to be marked by junk. He pointed out there are two major issues with the Baddacook Woods property, one of which is a pre-existing road that was turned into a driveway and paved. The owner actually showed the monitors that the boundary marker was in the middle of the paved driveway. The owner maintained the Town had told him he should pave in order to reduce the potential for erosion. Chairman Giguere suggested checking with Tom Delaney on this.

The second major issue is a landowner who has built a driveway extension on the hillside, and the fill (shoulders) has extended onto NEFF land. In addition, the landowner has installed a French drain which outlets onto NEFF land. A major reconstruction of the driveway will be necessary to re-locate it back to private property. Mr. Balch indicated he would write to all abutters thanking them for staying within their property bounds or pointing out problem areas. Chairman Giguere commented the Commission holds the CR while NEFF owns the property. He noted there could be legal implications, and it is up to the property owner to deal with the issues.

Mr. Balch said he was not looking for the Commission’s answer tonight. He acknowledged that NEFF has run into difficulties by not monitoring properties early enough, especially one on which someone had built a house on CR land, and they have had to go to court when the landowner refused a land swap. Once stuff is in the ground, it becomes even more difficult. This particular case is difficult because it involves the Conservation Commission as well as NEFF. P. Morrison acknowledged he had not read the CR recently, but questioned whether it would be possible to lease land to the landowner. B. Easom said it would be a violation of the CR as

language in the CR specifically prohibits this type of activity. C. Auman questioned whether the landowner knowingly violated the CR thinking they can negotiate a way out.

Mr. Balch pointed out both parties have essentially agreed to enforce the CR if there are encroachment issues. He noted there is a growing body of case law in support of CRs. The law applying to adverse possession after 20 years does not work against conservation land held by non-profits or municipalities in Massachusetts. M. Giguere clarified the situation as one in which it is NEFF's job to enforce the CR, and the Commission is going to help out on this. Riprap or hydroseeding could address the claimed problem of erosion at the site. Paving to address erosion puts it over the edge. Members agreed that requesting the owner to remove the asphalt and stabilize the site was a satisfactory goal. For the site with the driveway embankment and drainage within CR land, it may depend on whether it happened before or after development. M. Giguere pointed out that when they were taking photographs of the CR land, they observed fresh material on NEFF property. That "fill" is in the CR. W. Addy said the Commission has to be fair in applying its rules and suggested a retaining wall might work in this situation. B. Easom reported they observed a granite marker and steel pin right in the vicinity of the work. S. Balch indicated he would talk with NEFF's lawyer before sending a letter out to abutters and agreed to copy the Commission ahead of time.

#### 7:15 p.m. – Appointment/Erich Garger

Mr. Garger was not present, but B. Ganem reported he has expressed concern about allowing private use of conservation land, i.e., Redskin Trail Conservation Area. Members noted the dock owner was allowed use of the dock until such time as the winter drawdown occurs, and he can re-locate the docks to his own land.

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

VOTED: to approve the minutes of the Open Sessions of July 12, July 14, and August 1 as drafted, while the Open Session meeting of July 22, 2008 was approved with amendments.

Chairman Giguere noted the Commission received copies of the Conservation Farm Plan for the General Field, but it did not include a Resource Management Plan to address wildlife habitat, trails, or archaeological surveys. Members had no comments about the Plan.

#### 7:30 p.m. – 204 Lowell Rd. Notice of Intent

M. Giguere reported the Commission visited the site this past Saturday and reviewed most of the wetland flagging with the exception of those flags where the numbering had disappeared. Flagging numbers closer to Rt. 40 were not visible. Chairman Giguere explained the hearing process for members of the audience.

Engineer Steven Marsden explained that this is a 4-acre parcel purchased a number of years ago. The owners have recently moved to Ashburnham and they are now in the process of working to develop and sell the lot. The highest point is on an abutting lot. Generally the Commission walked a mowed path for access, but Mr. Marsden confirmed this is included within the wetland

delineation. He anticipates a 10 ft. wide driveway with 2 ft. shoulders and a retaining wall. There are no indications that this is a perennial stream, and he proposes open bottom box culverts that are larger than the downstream culvert. He mentioned there is also drainage that comes under Lowell Rd. He indicated the stream flows in a westerly direction. In addition two 18-in. culverts are proposed further south on the driveway to prevent ponding around the driveway. Mr. Marsden stated the person next door does not want to provide access. He said the plan calls for replication at 1.4 times what is being filled. He stated he has tried to limit fill within the buffer zone and will use rocks to delineate the edge (toe of slope) to provide a visual limit of work. He added the project was fairly simple from an engineering point of view.

The owners' son, Bill Gale, Jr. was present and explained the 4-acre lot was originally attached to the lot next door where the log cabin is located. He pointed out no one would buy the log cabin with a shared driveway in place. Members noted that a portion of the parcel lies within Natural Heritage Estimated Habitat, and the NH&ESP should receive a copy of the Notice of Intent. Mr. Marsden said the NOI has been sent to NH&ESP. The Groton GIS Assessor's mapping for the lot shows a different shape for the lot than what is presented in the NOI. Members also noted that flagging numbers are missing in the field. Mr. Marsden maintained that the recorded plans show the actual shape in the 1970's. It was originally one entire lot and was subdivided in the 1970's.

W. Addy said it is certainly a wet site, and the new driveway will mean no trees and no canopy. He questioned whether the impacts could be reduced by moving the driveway location to an area where there are fewer trees. Mr. Marsden stated he would be happy to move the driveway, but the state will make the call on the curb cut. The mowed part is definitely hydrologically connected with the wetland and excavating 4 ft. down could isolate sections of the wetland which could impact both the volume of water and the diversity of species that use or grow in the wetlands. Mr. Marsden said he would be willing to install more French drains in the driveway, but this is the only way to reach the proposed house site. He assured the Commission it would not be a problem to address drainage at the site, and he could design a plan with additional piping perpendicular to the driveway. He cautioned that 4 in. or 6 in. pipes are likely to get blocked, and he advised installing 12 in. to 18 in. culverts.

Member Morrison said he understood the Gales owned the log cabin lot which has been sold. He requested documentation that the new owner is not willing to have a shared driveway. He expressed concern that the proposed driveway will act as a dam to the wetlands on site. C. Auman said this is a significant project, and Mr. Marsden confirmed that the driveway to the house is 600 ft. long, and the wetland filling exceeds 5,000 sq. ft. Mr. Auman noted that the Wetlands Protection Act regulations at 310 CMR 10.53(3)(e) state "The construction and maintenance of a new roadway or driveway of minimum legal and practical width acceptable to the planning board, where reasonable alternative means of access from a public way to an upland area of the same owner is unavailable. Such roadway or driveway shall be constructed in a manner which does not restrict the flow of water. Reasonable alternative means of access may include any previously or currently available alternatives such as realignment or reconfiguration of the project..." He stressed that the applicant must do an alternatives analysis that includes land currently or formerly owned by the applicant. Noting that the MACC Environmental Handbook states that an applicant is not entitled to multiple wetland crossings especially if there

is another reasonable access and the applicant has created his own hardship by selling off property that would have provided access, Mr. Auman pointed out that there are many common driveways all over Groton.

Mr. Marsden said the purchaser of the property was not interested in a common driveway. He maintained the lots are held in separate ownership and were created long ago. C. Auman questioned whether there are any other possible access routes, and Mr. Marsden said it would have to come from the Country Club property. Mr. Auman also pointed out that the Groton Wetlands Protection Bylaw requires 3 to 1 replication, and Mr. Marsden replied there is not physically enough room on the lot to provide this much replication. C. Auman mentioned the Commission has previously considered other types of mitigation.

Chairman Giguere questioned whether the amount of grading in the buffer zone exceeds the Bylaw definition of minor grading. Mr. Marsden estimated the steepness of the grade at 1 to 3. Member Easom said he had seen the property when the owner asked if the Commission had any interest in purchasing the land for conservation purposes. He felt the alternatives analysis was crucial to a decision on whether the project could go forward as proposed. He requested letters from abutters about possible access.

Member Lambert said he felt this was an extensive crossing that is completely discretionary. Chairman Giguere said it appears that the lots have been in similar ownership since the land was subdivided and this has created a situation in which there is no access without another wetland crossing. There is the potential to destroy habitat by disturbing the wetlands which is a functioning wetland ecosystem with few invasive plant species at this time as stated by the wetland scientist at the time of the site visit. S. Marsden said he understood the Commission's concerns and could provide greater detail, including letters from abutters refusing access across their property.

Abutter Scott Wilson (154 Lowell Rd.) questioned the statement about a self-imposed hardship. He noted the lot could not be sold without extinguishing the shared driveway easement so the owner was feeling economic pressure. C. Auman explained that a taking is not allowed, but this would not be a taking as the law specifies that land currently or formerly owned by the applicant may be considered. This becomes a case of self-imposed hardship and not being able to sell the lot is not a reason. S. Wilson followed up with a question about whether the land was subsequently sold to someone other than the applicant whether the self-imposed hardship would still apply. M. Giguere suggested this was a question for an attorney.

S. Marsden stressed that a limited project is discretionary, and the Commission may grant a permit for the project. John Sheedy (204 Lowell Rd.) explained that he had asked the owner if they would be willing to waive the shared driveway as a condition of his purchasing the log cabin lot. He advised the water flows toward Gay Rd. not in a westerly direction as indicated by the engineer. Mr. Sheedy also pointed out that he believed the lot lines shown on the NOI plan are incorrect as he purchased Lots 4 and 3A, and some of the grading for the new house is shown on his land. He indicated Attorney Bob Collins assured him that the lot lines had been changed to reflect his ownership. Member Morrison said the Commission would need to see information about the owners of the lots and to see lot lines on an accurate plan of the site. Chairman Giguere

said the Commission does not get involved in lot line disputes, but needs an accurate plan of where work is proposed. S. Marsden agreed to address this issue.

Member Easom asked when the lots were created, and S. Marsden indicated it would be helpful to see the original deeds for one large lot and then subsequent subdivision. If the right of access was extinguished as part of selling the lot this information should be available in the deed. Chairman Giguere read into the record a letter from abutter Charles Brindle (172 Lowell Rd.) indicating that he did not want to see a replication area right against his property line as this would remove a treed buffer that provides privacy. Mr. Marsden explained that he is trying to get as much replication area on the lot as possible, and this was one of the few suitable upland locations. The replication area would have to be at the same elevation as the adjoining wetlands.

S. Wilson questioned whether it would be possible to do the replication off site. P. Morrison responded the replication area has to be hydrologically connected with the wetland that is destroyed and provide general habitat requirements and be graded at the same elevation as the lost wetland. It would require excavation and removal of trees. There is a steep bank along Lowell Rd., and it may be necessary to have a retaining wall to support the roadway if a replication area is constructed there. Chairman Giguere pointed out the Commission does not engineer projects, but does have the responsibility to assure that the work adheres to performance standards. Mr. Marsden stated that no part of the work is within the FEMA 100-year floodplain.

Bill Gale, Jr. said the property was on the market for 1½ years with about 6 or 7 potential buyers, and the only way the lot could be sold was without the shared driveway. He explained they needed to make a quick decision to facilitate selling the log cabin, and he had done an informal walk with a friend who indicated that the wetland crossing on this lot was doable. Chairman Giguere said people can tell you a lot of things, and it may have been incorrect information that this is a viable wetland crossing. He felt that the chain of ownership is germane to this issue, and it may be necessary to talk to Town Counsel. He said he did not feel comfortable with this project.

P. Morrison suggested continuing the hearing, pending additional information from the applicant. He said he did not think the project was deniable at this point, but added he was not ready to approve it either. W. Addy questioned whether these matters can be resolved between now and the next meeting. S. Marsden said he would not address the hydrologic issues or re-siting of the driveway, but only the legal questions and the property line issue. M. Giguere said the self-imposed hardship is an issue as well. C. Auman summarized the information that the Commission is looking for: deeds, accurate lot lines, ownership records, and letters from abutters. B. Easom added the Commission also needs to know whether there is deeded access across other lots or has this been extinguished. S. Marsden maintained one driveway was never envisioned as servicing four lots at the site. C. Auman noted that it would also be necessary to do a wildlife study as there are severe potential impacts to wildlife habitat from the wetland crossing. S. Marsden indicated he would not have his client go to these additional expenses now until the legal matters are resolved. He acknowledged the Commission was looking for the DEP number, which he said he had, as well as the Natural Heritage & Endangered Species Program green card which starts the Natural Heritage Program's response period. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to continue the hearing for Lowell Rd. to August 26, 2008.

7:45 p.m. – 100 Wintergreen Lane Request for Determination of Applicability

Landscape architect Lorayne Black explained she was representing the landowners, Mary and Michael McNulty. Mary McNulty was present. The proposal is to remove some of the lawn area and add plantings and install an in-ground pool with chain link fencing. It will be necessary to remove 21 white pines within the buffer zone, and 2 others that are out of the buffer zone. Chairman Giguere acknowledged the Commission may have missed the flagging for the trees to be cut during the Saturday site visit. Ms. Black said the white pines are mostly located along the edge of the lawn; a large maple and several hemlocks will remain. The current lawn area is shown on the submitted plan, and any plantings will be non-invasive, native species.

Member Lambert asked why the trees are to be removed, and L. Black responded they are large and shade the lawn and pose a safety concern. Some of the shrubs, such as witch hazel, will do better without so much shade. Member Auman noted the Commission likes to see things done that will improve the habitat, and Ms. Black said species such as viburnums, Rhododendron maximum, and spicebush will be planted. Stumps will be cut at grade, leaving ferns to fill in. Mr. Addy recommended that there be no backwashing of pool water into the wetlands or buffer zone and that pool chemicals not be stored in this area.

Members advised some type of erosion control and requested that no heavy equipment enter the buffer zone. Ms. Black indicated only digging for fence posts will be done in the buffer zone, and soils would be stored on the paved driveway. Commissioners asked that an existing area where lawn clippings are currently dumped be cleaned out to improve the wetland area. Member Easom observed that there is likely to be decreased shade in the buffer zone during the morning hours, and he was not comfortable with cutting the trees as this could change the hydrological characteristics of the habitat. Ms. Black pointed out a number of tall trees will still remain. Mr. Easom suggested topping the trees if there is concern they could fall on the house.

A black chain link fence is proposed around most of the yard. To prevent small animals such as amphibians or turtles from entering the pool area, members asked if smaller mesh fencing could be installed at the base of the fence. C. Auman pointed out it is not a very large lawn area, and most of the other work is outside the 100 ft. buffer zone. M. Giguere expressed concern that the chain link fencing was so extensive. Mr. Morrison said most of the work is within existing lawn, and they are not cutting trees to put in the fence. W. Addy stated the wetland area is actually 2 ft. lower than the surrounding land, and he did not feel it was ideal habitat or a potential vernal pool. Mary McNulty said they wish to keep the woodland look of the property.

In response to the comment about the extent of the fencing, Ms. Black said her clients wished to have free access for circulation in the back yard and a fence around just the pool itself would bisect the family's backyard private space. P. Morrison urged the Commission to consider the quality of the wetlands we are protecting in terms of diversity and whether it is a high quality wetland. C. Auman, seconded by P. Morrison, made a motion to issue a negative #3 Determination with conditions: 1) smaller mesh barrier installed at the base of the fence to keep

small animals out of the pool area; 2) yard debris/grass clippings removed from the buffer zone; 3) no pool chemicals are stored within the 100 ft. buffer zone; 4) no backwashing or discharge of pool water into the buffer zone or wetland resource area; and 5) for tree cutting in the buffer zone, removal of stumps is prohibited, but grinding of stumps is allowed.

An amendment offered by B. Easom to eliminate the small mesh barrier fencing to allow animals to move freely in the backyard died for lack of a second. W. Addy made a motion to minimize the fencing within the 100 ft. buffer zone even in those areas with existing lawn. This too failed for lack a second. Returning to the original motion, it was

VOTED: to issue a negative #3 Determination with conditions: 1) smaller mesh barrier installed at the base of the fence to keep small animals out of the pool area; 2) yard debris/grass clippings removed from the buffer zone; 3) no pool chemicals are stored within the 100 ft. buffer zone; 4) no backwashing or discharge of pool water into the buffer zone or wetland resource area; and 5) for tree cutting in the buffer zone, removal of stumps is prohibited, but grinding of stumps is allowed.

Members W. Addy, P. Morrison, C. Auman, and R. Lambert voted in favor while B. Easom and M. Giguere voted against the motion.

8:00 p.m. – National Grid/Long Hill Rd. & W. Main St. Notice of Intent, DEP#169-997

Consultant Heather Vaillant of BSC Group explained that the installation of an 8-in. diameter natural gas main involves the crossing of two perennial rivers – the Nashua River and Wrangling Brook – for an installation that goes from Farmers Row to Wharton Row. Part of the work will take place within the 100-year floodplain and within Priority and Estimated Habitat. The installation will be conducted by trenching within the existing right-of-way. The trench will be 2 ft. to 3 ft. wide and 4 ft. deep. Excavated materials will be stored temporarily as they expect to backfill the trench every day. Any excess materials will be hauled away. The trench area will be re-paved, and there will be no changes in grade.

The existing 4 in. gas main will be removed. No coring of the bridge abutments is proposed, and the work on the bridge crossing the Nashua River will be conducted from a barge. They do not plan to use shielding as indicated in the NOI and will use the barge to intercept any falling debris. Silt sacks will be used in catch basins, and haybales will be placed at the edge of work. Some portions of the work are located outside of the Estimated and Priority Habitat, and utility line work is exempt from review under the Massachusetts Endangered Species Act.

Chairman Giguere said this appears to be a well-thought out plan and asked when the work will be done. Ms. Vaillant indicated they plan to do the work in September and October. The response from the NH &ESP is not due until August 30<sup>th</sup>. B. Easom said his chief concern is getting the old main out and the new one in. The consultant said the trench would be re-paved after backfilling every night. The old gas line will be abandoned in place. C. Auman said the Commission did not verify every wetlands flag, but felt that the NOI was very thorough. Cut pavement will be hauled away for recycling. W. Addy advised that the Commission will look to have vehicles parked and re-fueled outside of the 100 ft. buffer zone. Construction Manager Mel

Ciulla indicated they typically do not have spill containment facilities on site, but would agreed to have spill containment materials at the site during construction. He raised no objections to re-fueling outside of the 100-ft. buffer zone.

P. Morrison urged the Commission to go ahead and close the hearing, but several members cautioned that the Commission does not usually close a hearing until after we have heard from Natural Heritage. B. Easom said they may provide new information which we couldn't accept if the hearing is closed. P. Morrison suggested including a condition in which the applicant is required to comply with whatever Natural Heritage recommends. If the hearing is continued, this will give Natural Heritage time in which to respond, and it is possible to close the hearing and issue the Order of Conditions in the same night. There is a 10 day appeal period after the issuance of an Order. Field Supervisor for construction Paul Bradley indicated National Grid will have to wrap this project up by November 15<sup>th</sup>. He anticipates the bridge work alone will take 3 to 3.5 weeks to complete. B. Easom said he would be willing to attend a special meeting on the final date of the expected response from Natural Heritage. Chairman Giguere explained that the Commission wants to be careful about setting precedents. Upon a motion by B. Easom, seconded by C. Auman, it was

VOTED: to continue the hearing for National Grid, DEP #169-997 to August 26, 2008.

In discussion on 35 Common St., Commissioners expressed regret that they were not able to talk with Mr. Elliott who was present earlier in the meeting due to on-going agenda items. Members reported that the August 11<sup>th</sup> site visit showed that much of the disturbed wetlands have re-vegetated with obligate and FACW plant species, as well as some invasives. R. Lambert said he did not think re-grading should be done at this time. M. Giguere commented it could be more damaging to the resource area. B. Easom noted it appeared that a bulldozer had gone around the perimeter and right down into the brook to create drainage trenches at the edge of the field. Water drains onto neighbor's property, and members actually observed running water. He felt the area needed to be remediated and the drainage trenches fixed.

The water drains to property owned by the Groton Dunstable Regional school system. Chairman Giguere pointed out the aerial view appears to indicate there have been wet spots on the adjoining property for a while. C. Auman agreed there is a lot of water being drained off, but questioned how long it has been occurring and do we want a study to see what should be done. Mr. Elliott received a \$5000 estimate so this seems to be a painful alternative.

Chairman Giguere pointed out this is clearly an area with wetland soils and species and has been an on-going egregious violation for almost a year. He felt the Commission was obligated to do something, whether it's re-vegetation or restoration to original grades. B. Easom suggested looking at it from the point of view of what has changed, i.e., what damage was done by driving a tractor through wetlands. C. Auman commented there is so much water flowing, and there are gleyed soils which have clearly been subject to dredging, filling, and alteration, and the trenches are directing water off site. P. Morrison questioned whether there is a net increase of runoff from the site. The lot and the one next door both have mounded septic systems, telling us the water table is high. B. Easom said the Commission could require remediation or require a study to determine the best approach.

M. Giguere recommended an official finding that it is a violation. B. Easom made a motion, seconded by R. Lambert to determine that there is a violation at 35 Common St. where a wetland has been dredged and altered without the filing of a Notice of Intent. P. Morrison said it was unfortunate that we did not acknowledge Mr. Elliott while he was here, and C. Auman agreed that we should take advantage of such opportunities. W. Addy questioned whether we can defer the discussion for 2 weeks and apologize for running so late this evening. B. Ganem said we could possibly add him to the August 26<sup>th</sup> agenda at 7 p.m., but the remainder of the agenda is quite full. P. Morrison suggested sending a letter to him stating the Commission intends to act on the matter on August 26<sup>th</sup> at 7 p.m. Returning to the original motion, it was

VOTED: to find that a violation has occurred at 35 Common St. in which wetlands have been dredged or altered without the filing of a Notice of Intent.

P. Morrison opposed the motion, with the remaining five members voting in favor.

In discussion on the next step, Commissioners questioned what kind of consultant should be hired. Members questioned whether we want the water problem fixed and whether taking water off the site is the best way to fix the problem. The 2001 aerial photograph apparently shows wet areas on the adjacent lands. A study is likely to be refused, and whether to issue fines will be the Commission's next decision. B. Easom stressed that we will need to get the message across that the alternatives to filing a Notice of Intent are not necessarily good. M. Giguere said the Commission is really not in a position to advise the best course of action. B. Easom felt that the first step is just getting rid of the trenches with no materials removed from the site. P. Morrison questioned whether the streambed is stable, and Commission noted water is flowing, and the trenching has created a sluiceway. The question then becomes do we have him restore the hydrology and allow a relatively stable streambed to stay. C. Auman questioned whether it is okay to leave it the way it is, noting he was not qualified to make the call on whether to leave to the site as is or require that the trenches be filled in. P. Morrison wondered if restoring the topography and then allowing the site to stabilize again over time would be the appropriate course of action. C. Auman maintained the Commission needs an expert to decide.

Mr. Elliott felt he had a problem and wanted to get rid of water and mosquitoes. The question is whether the mitigation should be to restore the land to original conditions and original hydrology. R. Lambert said our first decision should be to see if it is necessary. M. Giguere thought there has always been water there, but the volume has probably increased. B. Easom defined it as a hydrological, not a biological, problem. B. Easom made a motion, seconded by C. Auman, to request Mr. Elliott to engage a hydric engineer to prepare a restoration plan for the property at 35 Common St. C. Auman, M. Giguere, and B. Easom voted positively, and P. Morrison, R. Lambert, and W. Addy voted in opposition, and the motion failed. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to require Mr. Elliott to engage a wetlands consultant to prepare a restoration plan for the property at 35 Common St.

The motion passed with five positive votes, and B. Easom voting in opposition. W. Addy recommended that the Commission specify a deliverable and questioned whether the

Commission is depending on the site to restore itself vegetatively. Members cautioned that the Commission owns the projects if we design it. C. Auman recommended telling him what we are requiring via an Enforcement Order, requiring the hiring of a consultant within 30 days, whom we approve, and then another 30 days in which to file the plan. Give him a copy of the fine schedule and send copies of the letter to DEP and Town Counsel.

Commissioners reviewed the conditions for the installation of a beaver flow leveling device in the pond at Woodland Park. The work is to take place on August 14, 2008.

Members P. Morrison and B. Easom visited the Fletcher Hill trail easement and observed that a tree had already been removed from the area of a neighbor's garage.

LAND Program Administrator Tom Anderson will be visiting the Oak Ridge Manor site in connection with the Commission's grant application on Thursday, August 14<sup>th</sup>, at 9 a.m. B. Easom requested that members let him know of any questions ahead of that time.

Bob Pine has asked whether the Commission feels a proposed change in the shape of his pond merits an amendment to the Order of Conditions. With the revised plans before them and the square footage of the pond remaining essentially the same, upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to allow the proposed modification to fall under the category of minor change for DEP #169-995 for 100 Hollis St.

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

VOTED: to appoint Ryan Lambert as the Commission's representative to the Earth Removal Stormwater Advisory Committee.

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

VOTED: to issue a Certificate of Compliance for DEP #169-984 for 302 Lost Lake Dr.

Members noted that the applicant should be reminded not to allow vehicles to travel a steep cart path to the lake apparently to access abutting property.

In discussion on the Certificate of Compliance for 276 West Main St., members noted they were able to locate 7 of the 10 conservation markers in the field. The owners have removed the fence, and it appears they may be ready to install another fence. The yard debris at the corner of the lot remains. A decision to issue the COC will be delayed until these matters are addressed.

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

VOTED: to issue a Certificate of Compliance for DEP #169-948 for the Lawrence Academy Ferguson Building addition.

A motion by P. Morrison, seconded by B. Easom, to issue a Certificate of Compliance for New England Power, DEP #169-958 failed with all voting in the negative. The applicant will be required to remove loosestrife from the work site.

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

VOTED: to issue a Certificate of Compliance for DEP#169-952 for 98 Indian Hill Rd.

The as-built plan includes the farmer's porch at the front and the deck and addition on the back.

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

VOTED: to issue a letter of acknowledgement for an 8 ft. x 8 ft. dock at 207 Whiley Rd.

The landowner has provided photographs of a dock in that location for the record.

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

VOTED: to go into Executive Session for the purpose of discussing a land acquisition and litigation, not to return to Open Session.

The meeting was adjourned at 10:10 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Assistant

**Approved as drafted 8/26/08.**