

GROTON CONSERVATION COMMISSION

Minutes

February 10, 2009

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, Ryan Lambert, Peter Morrison, and David Pitkin were present. Member Bruce Easom was absent. Conservation Assistant Barbara Ganem was present.

Upon a motion by R. Lambert, seconded by W. Addy, it was

VOTED: to approve the minutes of the Open Session meeting of January 27, 2009, as amended.

Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to approve the minutes of the Executive Session meeting of January 27, 2009, as drafted.

Members reviewed the draft Order of Conditions for DEP#169-1010 for 47 Boathouse Rd. Regarding the future maintenance for the proposed hot tub, members recommended a condition be included prohibiting drainage into the Lake and outdoor storage of any chemicals needed for the operation of the hot tub. D. Pitkin asked if anything was included about the outstanding Order of Conditions, and B. Ganem replied #39 addresses that. M. Giguere acknowledged it has been difficult getting cooperation in the past from this applicant. P. Morrison expressed reservations about requiring a surveyed as-built plan, pointing out the difficulty in getting people who live on the Lake to file. Upon a motion by D. Pitkin, seconded by P. Morrison, it was

VOTED: to approve the issuance of an Order of Conditions under the Wetlands Protection Act, as amended, for DEP#169-1010 for 47 Boathouse Rd.

Upon a motion by D. Pitkin, seconded by C. Auman, it was

VOTED: to approve the issuance of an Order of Conditions under the Groton Wetlands Protection Bylaw, as drafted, for DEP #169-1010 for 47 Boathouse Rd.

7:15 p.m. – Appointment – Carol Quinn/Lost Lake sewer proposal

With a quorum of Lost Lake Sewer Committee members present, Committee Chairman Tom Doyle, called the meeting of the Lost Lake Sewer Committee to order. Member Carol Quinn explained the Committee has met with members of the Board of Health and the Board of Selectmen, and they are looking for both comments and support. They have a 5-member board with one vacancy at this time. They have been reviewing cost estimates and possible funding sources, as well as potential locations for community sewage treatment plants. Many of the

septic systems at the Lake are antiquated, and this contributes to the failure rate. In addition, both a well and septic system must be sited on small lots, many of which have soil and slope constraints.

The Committee is looking to move into Phases 2 and 3 in the preparation of a Comprehensive Wastewater Management Plan. There are three potential sites for locating a treatment facility: Grotonwoods, the Lost Lake Fire Station, and property off Lone Lane belonging to the Groton Conservation Trust. Another treatment alternative is to connect with the Ayer Sewer Treatment Plant, but this would mean removing water from the watershed which is usually not a favored option. Along with the alternatives analysis, the Committee has been looking into the costs associated with developing the Plan. Income levels play a part in determining whether the Town would qualify for a low interest loan from the state revolving fund. They anticipate having two warrant articles that will require funding at the upcoming Town Meeting.

Observing this could be a lengthy process, Ms. Quinn said it could be January 2011 before we have a shovel ready project. Chairman Giguere commented he would definitely favor something that would improve the sewerage system at the Lake. Ms. Quinn pointed out that all of the Committee members live on the Lake and are quite familiar with the installation of septic systems in the area. P. Morrison affirmed that this effort is a wonderful thing for the Commission to support, and C. Quinn noted a letter of support to the Board of Selectmen would be helpful, as well as speaking in favor of the articles at Town Meeting.

Lost Lake Sewer Committee Chairman Tom Doyle acknowledged these are tough financial times, but DEP requires that these studies be done prior to putting a wastewater treatment system in place. The design phase is expected to cost \$300,000, but the final cost of the system will be spread among those who will benefit. Once the articles are completed for Town Meeting, it is anticipated they can be brought to the Commission for a vote. P. Morrison reiterated the Commission's approval of the concept, and C. Auman noted members have witnessed firsthand the destruction of wildlife habitat and trees in order to install sewage disposal systems. Members agreed to do the letter of support, with the expectation the Committee will return with the Town Meeting articles for further review.

7:30 p.m. – 10 Paul Revere Rd. (off Pine Trail) RDA

Sanitarian Jeff Hannaford explained this lot is off Pine Trail, the access to the public boat launch. This is a half-acre lot, and the septic design has been submitted to Nashoba which has approved it as the agent for the Board of Health. Several variances are requested, but the leach field and tank are out of the 100-ft. buffer zone. The installation pipe is within the buffer, as is the cesspool which is to be pumped and filled. Erosion control measures are proposed on either side of the trench. The cottage has not been occupied for a number of months so it may be unnecessary to pump. It is mostly hand work, but it is likely a bobcat will be used to bring in sand to fill the cesspool.

Mr. Hannaford estimated it would be necessary to remove about 5 trees for the installation although there could be damage to roots which would require additional trees to be cut. The work is planned as soon as practicable. He thought it likely the trench work could be done in

about a day with a backhoe at which point it would have to be inspected. He mentioned the tank was moved as far from the resource as possible on this lot. Soil testing revealed that the bottom of the leaching trench is 5 ft. above the water table. Members noted there is a dock on the property which should be filed for. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the following conditions: extra haybales or silt fencing shall be available on site during the pumping and filling of the cesspools; any tree removal within the 100-ft buffer of the Lake other than what is shown on the plan shall require notification to the Conservation Commission; the dock requires a permit or letter from the Conservation Commission, as well as a Ch. 91 license from the state; and future owners of the property shall be notified of the need to file with the Conservation Commission prior to implementing any work that involves moving soils, including cutting trees.

Chairman Giguere announced Personnel Manager Elizabeth Currier is looking into a chain saw safety course which may be offered to staff, as well as to volunteers serving on the Trails Committee. This could be offered through Massachusetts Interlocal Insurance Association (MIIA) at a reduced cost to town departments.

Chicopee Row NOI DEP #169-1011

Surveyor Stan Dillis submitted the green cards associated with this filing and indicated he understood the Commission still wishes to look at the site once the snow cover has melted. He explained the proposed driveway generally follows the existing cart path, and replication is proposed at a 3:1 ratio. He commented it is his hope the Commission would consider reducing this amount as it would require disturbance of a relatively pristine woodland to construct one of the replication areas. A sediment forebay is proposed adjacent to the Isolated Land Subject to Flooding to provide treatment to stormwater from the driveway. Several recharge basins will also serve this purpose, micromanaging the stormwater runoff along the length of the driveway. Driveway grading will be improved to meet driveway regulations. It will be paved to avoid transition areas between gravel and pavement which tend to erode.

The driveway is approximately 1,200 ft. long. P. Morrison said he liked the idea of several small detention basins, and the bioretention area looks good. The Commission visited the site in April 2008 when an Abbreviated Notice of Resource Area Delineation was filed. Mr. Dillis mentioned the Commission also visited the site in connection with the filing of a Request for Determination of Applicability to do the septic testing.

Member Auman noted that this has been filed as a limited project under 310 CMR 10.53 and, as such, is a discretionary project. Mr. Auman read “The (Commission) shall consider the magnitude of the alterations, and the significance of the project site to the interests identified in M.G.L. c.131, § 40, the availability of reasonable alternatives, and the extent to which mitigation measures, including replication or restoration, are provided to contribute to the protection of the interests identified in M.G.L. c 131, § 40.” Regarding the alternatives analysis, Mr. Auman said

the Commission will need a history of how the lot was configured. Mr. Dillis said there were originally three lots subject to a Special Permit which has now lapsed.

The driveway will be 10 ft. wide in order to accommodate oil deliveries and fire trucks. In response to C. Auman's question on the cost of a bridge, Mr. Dillis opined that a 300 ft. bridge was cost prohibitive. Mr. Auman questioned whether wildlife migratory routes would be disrupted by the height of the proposed driveway and retaining wall. S. Dillis replied the driveway would be raised about 3 ft. as it comes off Chicopee Row, becoming 5 ft. high at the stream channel crossing. A 3-ft. high retaining wall on the left side of the driveway will result in less filling in the wetland area as the driveway comes off Chicopee Row. This has a slope of 1:1 to minimize the footprint of the driveway. There is generally filling and grading along the length of the driveway.

Mr. Dillis explained that, although no work is proposed within the area included in the estimated rare species polygon, the Commission requested that notification go to Natural Heritage. This wetland is not shown as a stream on the most recent USGS topographic map. In response to a question about where snow will be stored, S. Dillis said it will be stockpiled in the turn out areas shown on the plan.

Chairman Giguere noted the Commission may wish to have an outside consultant review the stormwater management design plans for the site. Resident David Chodorow (71 Chicopee Row) explained he was a neighbor to the proposed project and asked if water would continue to flow into a pond on his property. S. Dillis said a clay pipe under the cart path has collapsed and would be replaced with another culvert that would maintain water flow.

Regarding an alternatives analysis, Mr. Dillis thought that at one point this property had been split off a larger property. Members asked if he could provide a history of how it is connected and what the change in ownership has been. Mr. Dillis noted Jon Sjoberg recently purchased the parcel. Gaining access via property belonging to others should be a part of the alternatives analysis. B. Ganem urged that the checklist for replication area projects in the Groton Wetlands Bylaw regulations be consulted as there are some required items which have not been included in the submittal package. M. Giguere observed this is a difficult wetland crossing which may flow year round. The second crossing is to be spanned with an arch culvert. The level of disturbances in the Riverfront Area and buffer zone is another issue which needs to be considered. Upon a motion by R. Lambert, seconded by P. Morrison, it was

VOTED: to continue the hearing to March 24, 2009.

8:00 p.m. –Appointment Ray Lyons – Gleason decision

Mr. Lyons acknowledged he has a copy of the decision issued for this matter and questioned where things will go from here. It was noted W. Addy, R. Lambert, and P. Morrison voted against the denial, but it is not necessary to have unanimity to approve a decision. R. Lyons questioned what conservation interests were not addressed to the satisfaction of the Commission. He explained that David Gleason was distraught as he had laid out the lots and got the septic line in as part of his retirement plan.

M. Giguere assured him he sympathized as his retirement plan is much smaller as well. He noted the Commission attempted to determine the significant public benefit, such as the not grazing restriction, that was offered but then suddenly removed from the table. There appear to be no mitigating circumstances for work to be done in a prohibited area. C. Auman added there is nothing to mark as a benefit or mitigation.

R. Lyons stated there was a misunderstanding regarding the 'right of first refusal' for the back parcel which is awkward for him. Part of the problem is that the parcel is landlocked with no frontage and no development potential unless sold to an abutter. Mr. Lyons said it is too ledgey to put a house back there. David Gleason would like to be able to have cows there, but prefers to have grazing restrictions vs. not having a house. Chairman Giguere said consultation with Town Counsel offers some guidance on where can we go from here. There is a 60 day period in which to appeal the Commission's denial. The applicant may choose to file another Notice of Intent. Mr. Lyons maintained he can't walk away and has no choice but to file an appeal. Mr. Lyons indicated the Commission can prohibit grazing on Lot 1 according to a revised plan as offered by applicant. R. Lyons did not think anyone has standing to appeal the decision.

M. Giguere cautioned about the proper procedure as Town Counsel has advised against re-opening the hearing. P. Morrison objected, saying this was the first he has heard about this, and he has a problem with stuff going on he does not know about. He protested this is a process issue. C. Auman suggested showing the Commission a plan. R. Lyons stated he did not have time to re-file a new Notice of Intent and have the Commission's decision before the appeal period lapses.

Chairman Giguere said parliamentarian procedure requires that the prevailing side request a re-vote so one of the four who voted to issue the denial would have to make the motion. It would require a majority vote to put it before the Commission again. This would not be a motion to re-open the hearing. He asked if anyone was willing to make the motion, but postpone the discussion until February 24th when it is hoped we will have a full Commission present.

C. Auman asked for clarification on the building envelope, and it was estimated this would be about 18,000 SF of the 4.7 acre lot that would not be grazed. Abutter Petropolis is currently grazing his cows in this area. There may have to be a sunset clause to pull his cattle. Mr. Auman inquired whether this would prohibit activities or structures in that area. He questioned how maintaining habitat could be accomplished in perpetuity, underscoring the Commission's need to have some recourse, 20 years from now, to enforce the terms of an Order of Conditions. He felt the Order would not be as strong as a conservation restriction.

R. Lyons pointed out it is difficult to adapt a conservation restriction to changing circumstances, especially for one this close to a house. He stated he was more comfortable with this kind of restrictive language for land close to a house. C. Auman pointed out the Order of Conditions is a legal document, and the Commission would need to make it clear in the Certificate of Compliance that this restriction in perpetuity and is referenced in the deed and will follow the deed forward. R. Lyons suggested the Commission could require that the plan, with a notation

that only the use area can be disturbed, be recorded to guide activities going forward. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to reconsider the vote on the denial Order of Conditions issued for Gleason/Kemp St., DEP#169-1003 under the Groton Wetlands Protection Bylaw.

All voted in favor.

Upon a motion by D. Pitkin, seconded by C. Auman, it was

VOTED: to table the discussion of the denial until the February 24, 2009 meeting.

M. Giguere questioned whether it was highly irregular to take this action.

8:15 p.m. - Appointment Ray Lyons

Mr. Lyons acknowledged the Commission had taken no formal vote when he previously presented the proposal for New England Forestry Foundation (NEFF) to sell a cottage, land, and water rights around Baddacook Pond to the Town, mostly due to the fact that the Commission is proposing its own application to the Community Preservation Committee. He stated he would like to get a letter of support from the Conservation Commission for this project. B. Ganem will prepare a letter for Chairman Giguere's signature. C. Auman requested that language be added to the draft prepared by R. Lyons in recognition of NEFF's work in preserving land in Groton and its intention to use the money to purchase additional land on the Throne to be subject to a conservation restriction. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to send a letter of support to accompany NEFF's Community Preservation Committee application.

The vote was unanimous.

In discussion on the management of the Crosswinds Conservation Area under the WHIP grant, members noted there was no formal vote, just discussion, on the use of herbicides at the site. C. Auman expressed concern that neighbors would take issue to a plan to apply herbicides, and it could mean the Commission gains a bad reputation as conservators of the land. Members noted a public hearing could be held where neighbors can show up and complain. The use of herbicides would control woody growth, but not necessarily eliminate it, and mowing is still going to be required. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: depending on the concurrence of the WHIP program manager and timetable, the Commission will schedule a site visit to Crosswinds before finalizing a decision.

In response to a request from Mike Roberts of the Historic Commission and a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to send a letter in support of the application for funding from the Community

Preservation Committee to prepare a community-wide reconnaissance, archaeological survey, management, and interpretive planning.

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

VOTED: to approve the submittal of two warrant articles: 1) for the revolving fund for management of conservation land and 2) the purchase of the Mattbob parcels/application for a LAND grant.

Based on concerns expressed during the public meeting on the Ames Meadow conservation area, members agreed to consider the development of a farm policy to guide the Commission in its decisions on farming as a management tool for conservation lands. The Towns of Lincoln and Carlisle have had extensive experience in licensing conservation land for agricultural uses. Some of the problem seems to arise with the definition of farm and garden. P. Morrison and C. Auman volunteered to work on this project and bring it back before the Commission at a later date. B. Ganem will email informational packages from these communities.

Chairman Giguere reported that he had talked with Town Manager Mark Haddad about sending new members to the upcoming annual meeting of the Massachusetts Association of Conservation Commissioners (MACC), members. Four individuals – D. Pitkin, W. Addy, R. Lambert, and P. Morrison – have not completed the fundamentals units. These members will select the courses they wish to take and convey it to B. Ganem to register for the MACC meeting on February 28th.

Upon a motion by P. Morrison, seconded by R. Lambert, and a roll call vote of R. Lambert, W. Addy, C. Auman, D. Pitkin, 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 at adjournment.

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Assistant

Approved as amended February 24, 2009.