

GROTON CONSERVATION COMMISSION

Minutes

May 12, 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, Bruce Easom, Ryan Lambert, and David Pitkin were present. Peter Morrison was absent. Conservation Administrator Barbara Ganem was present.

7:00 p.m. – Groton Community School NOI continuation, DEP#169-1013

At the applicant's request and upon a motion by B. Easom, seconded by R. Lambert, it was

VOTED: to continue the hearing to for DEP #169-1013 to May 26, 2009.

7:00 p.m. – Baker/Island Pond Rd. NOI continuation, DEP#169-1007

At the applicant's request and upon a motion by B. Easom, seconded by D. Pitkin, it was

VOTED: to continue the hearing for DEP#169-1007 to May 26, 2009.

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

VOTED: to approve the Open Session minutes of April 25, 2009 as drafted.

R. Lambert abstained from the vote.

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

VOTED: to approve the Executive Session minutes of April 25, 2009, as drafted.

R. Lambert abstained from the vote.

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

VOTED: to approve the Open Session minutes of April 28, 2009, as amended.

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

VOTED: to approve the Executive Session minutes of April 28, 2009, as drafted.

Upon a motion by D. Pitkin, seconded by R. Lambert, it was

VOTED: to issue the Order of Conditions for DEP#169-1015 as drafted for 16 Hayden Rd.

under the Wetlands Protection Act.

B. Easom questioned whether we have a good plan identifying the extent of lawn if we wish to limit its expansion in the future. Upon a motion by D. Pitkin, seconded by C. Auman, it was

VOTED: to issue the Order of Conditions for DEP#169-1015 as amended for 16 Hayden Rd. under the Wetlands Protection Bylaw.

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

VOTED: to issue a Certificate of Compliance for 10 Robin Hill Rd., DEP#169-999, pending receipt of an as-built plan showing the plantings and conservation markers.

7:15 p.m. – 62 Watson Way RDA

Resident Susan Hughes stated she wished to replace a deck. The sonatubes have already been installed and the old deck removed. A silt fence was installed between the work area of the wetland resource area. Commissioners advised that a filing is required before the work is undertaken. Member Addy observed the silt fencing had been properly installed. C. Auman questioned whether turtles or salamanders were ever observed in the area, and Ms. Hughes indicated she has only seen a pair of ducks there. Peastone will be used under the deck, and the applicant expects to sod the disturbed lawn area. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination requiring the silt fencing remain until disturbed surfaces are grassed and gravel is placed under the deck.

Upon a motion by R. Lambert, seconded by D. Pitkin, it was

VOTED: to approve the Order of Conditions as amended for DEP#169-1017 for 29 Boathouse Rd. under the Wetlands Protection Act.

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

VOTED: to approve the Order of Conditions as amended for DEP#169-1017 for 29 Boathouse Rd. under the Wetlands Protection Bylaw.

C. Auman explained the draft Groton Farm Policy is basically modeled after that of Lincoln, MA. He asked members to review it and get back to him or to P. Morrison with any changes. B. Easom commented this seems to favor licensing over leasing, and M. Giguere noted that the latest opinion from the state is that a lease constitutes a change in ownership which would trigger the Article 97 process. This can be difficult for farmers and the Commission because we both want a long-term commitment to manage and improve the land for agricultural use.

B. Easom reported he has entered the GPS points for Angus Hill. He and M. Giguere tentatively scheduled a meeting of the Conservation Restriction Monitoring Committee for Monday, May

25, 2009. This would be the meeting before going out in the field. Mr. Easom indicated the landowner must be contacted before the field visit.

7:30 p.m. – Baddacook Pond Notice of Intent

The applicant, William Strickland, was not present due to a concurrent meeting with the Board of Selectmen to gain their authorization for filing the NOI. Members agreed to temporarily postpone the hearing until Mr. Strickland could be present.

Chairman Giguere reported the Stewardship Committee met on May 7th to see a video of a site visit to Brookside Place by Steward Allen King. Rick Muehlke was also present and gave an update on the loosestrife control project with the *Galerucella* beetle. Mr. Giguere said three other sites have been selected for field visits during the upcoming summer. The monitoring survey will be prepared as a group effort and will provide good background information on these conservation areas. The Stewardship field visits are scheduled for McLain Woods on June 27th, Farmers & Mechanics on August 15th, and Hurd on October 17th.

In discussion on the recent Enforcement Order issued to Jon Liebold/246 Lowell Rd., B. Ganem noted no green receipt card for certified mail has been returned so he may not be aware of the May 12th filing deadline. Commissioners debated whether to commence fines for failure to comply with the Enforcement Order. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to send a letter to the owner stating the Commission expects a filing by May 26th; if nothing is received by that date, the Commission will commence issuing fines of \$50 per day in accordance with the Wetlands Protection Bylaw and Regulations.

Member Easom reported that Brooks Orchard is reverting to Steve Webber for nonpayment by the Groton Conservation Trust on the note. June Johnson had been invited to talk about some common interests the Conservation Commission may share with the Groton Conservation Trust, but nothing was ever scheduled. The property is subject to an Agricultural Preservation Restriction (APR) on 113 acres, but there are concerns there is not enough agricultural activity occurring. Pumpkins were planted at one point, and some of the apple trees have been removed. The state holds the APR and has done the monitoring.

7:45 p.m. – 46 Redskin Trail RDA

Resident Erich Garger said he plans to replace the existing railroad tie retaining wall with an interlocking (8" by 6") block wall, construct a stairwell, and construct a patio. The patio is planned at the side of the house, above the retaining wall. Mr. Garger clarified the location of the retaining wall and patio on the submitted plans and dated and initialed the plan modifications. Members questioned why the stump would be considered hazardous material and asked if he could grind it rather than remove it.

C. Auman asked if a stump remover was used as Commissioners observed drill holes during the Saturday site visit. Mr. Garger responded that his father-in-law had done this without his

knowledge. In response to Mr. Addy's question about the size of the patio, E. Garger replied "about 8 ft. by 10 ft.". It will have a sand base with pavers. Upon a motion by B. Easom, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination requiring that 1) haybales shall be staked in place before work commences; 2) the stump shall be ground, not removed; and 3) only organic low nitrogen, low phosphorous fertilizers shall be used for lawn maintenance.

At 7:55 p.m. Bill Strickland arrived at the meeting, and the hearing for the Baddacook Pond weed harvesting NOI was opened. Chairman Giguere read into the record a letter from Natural Heritage, dated April 22, 2009.

8:00 p.m. – 7 Baby Beach Rd. RDA

Homeowner Joe Ferguson was present to explain that he wished to install three sonatubes at the edge of Lost Lake/Knops Pond. He explained he was originally going to cantilever the deck, but that meant he would have to put a beam 12 ft. into the house. Members noted that it is necessary to come before the Commission particularly in cases where there is excavation near the lake. Mr. Ferguson maintained the new fencing observed on Saturday was installed to replace part of an existing fence. Members advised that almost anything done on this property requires a wetlands filing because of the proximity to the lake. Mr. Ferguson said he used the original fence posts. Members commented the major concern is work being done that was not permitted in the original Order of Conditions.

C. Auman pointed out the deck cannot extend further than the water line. He also indicated the area behind the shed (nearest the lake) has not been appropriately stabilized with grass or wood chips. D. Pitkin observed this appears to be an after-the-fact filing as the holes are already dug. J. Ferguson indicated two are 4 ft. deep and one is 3 ft. deep. M. Giguere advised Mr. Ferguson to notify the Commission ahead of time for any changes on this lot. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination providing that the new structure may not extend or cantilever over the water and that the bank behind the shed be stabilized with grass cover, wood chips, or native shrubs.

Chairman Giguere asked if the Commission wished to consider a fine for work without a permit, and members indicated not at this time, but it remains an option for any further unpermitted activities.

Resuming the Baddacook Pond hearing, Chairman Giguere read into the record a letter from Board of Health/Great Ponds Advisory Committee member Susan Horowitz, dated May 12, 2009, in support of the weed harvesting proposal.

8:15 p.m. – James Brook Restoration Project NOI continuation, DEP#169-1018

The Commission was awaiting the assignment of a DEP file number, and correspondence has been received designating it as DEP#169-1018. Cynthia Kollarics (39 Indian Hill Rd.) asked

what this project involves, and M. Giguere explained it is a bank restoration project for a portion of James Brook between Main and Court St. It also includes demonstration and public education components. There being no further questions from the public, upon a motion by B. Easom, seconded by R. Lambert, it was

VOTED: to close the hearing for DEP#169-1018 for the James Brook Restoration Project.

Referring to the letter from Fisheries & Wildlife on the weed harvesting project at Baddacook Pond, M. Giguere noted there are Blanding's turtles and other data-sensitive species in the pond. They also refer the applicant to the GEIR (*Generic Environmental Impact Report on Eutrophication and Aquatic Plant Management in Massachusetts*) for additional information on weed harvesting practices. Mr. Strickland indicated he had received the letter and confirmed they wish to restrict the harvesting to fall, but he is seeking to get permission to weed harvest a channel between the public boat ramp and the middle of the pond, as well as the cove where he lives which the Commission observed during the Saturday site visit. This would constitute a minimal harvest to start. He commented the situation has gotten worse each year, and this activity presents an opportunity to start working with the Weed Harvesting Committee. Fish & Wildlife has specified a fall harvest and also that a screen be placed at the outlet. Mr. Strickland said Si Balch of New England Forestry Foundation has no problem with the installation of a screen which is at a fairly shallow and narrow outlet on their property.

W. Addy expressed concern about the area proposed to off-load the weeds from the harvester as he noticed it was quite soft during the Saturday site visit. Mr. Strickland said he would be using a smaller trailer and front end loader with the materials dumped on the ground and then removed. Commissioners advised that a silt fence might be helpful as the weeds are going to be very wet when off-loaded and should be dumped on something solid as there is concern about fragments going back into the water.

R. Lambert noted the Baddacook public drinking water well is located nearby and questioned what steps would be taken if there is an emergency spill. B. Strickland said the harvester uses a special, non-hazardous oil, and the other fluids – hydraulic and diesel – would be like that of any other boat on the pond. They are not planning to have a botanist.

D. Pitkin said the biggest questions seems to be where and when; he questioned whether there was a map of the sites which you wish to do immediately. Mr. Strickland stated one immediate goal is to clear a channel for recreation. D. Pitkin asked why the cove was chosen as an early site, and Mr. Strickland answered that the worst places are at the stream inlets. Peter Roberts (158 Hemlock Park Dr.) said the boat ramp is also problematic. Mr. Strickland stated the pond is almost solid weeds and clearing a channel will allow the equipment to enter the pond in the fall to start the cleanup.

B. Easom said he did not feel the use of the boat ramp was appropriate as there would be less chance of contaminating adjacent wetlands if the proposed dump site is utilized. He recommended the weeds be dumped on a tarp and strict adherence to de-contamination procedures when entering and leaving the pond to assure the weeds are not spread. Mr.

Strickland said he has contacted an adjacent landowner, Mr. Macy, to see if it would be possible to do a high pressure wash down at the ramp when the harvester is pulled out. C. Auman asked if he was willing to clean the screen daily as required by Fisheries & Wildlife, and Mr. Strickland replied "yes". Cuttings are also to be netted or skimmed from the pond surface, and the applicant is to maintain a written record of what is found in the screen or harvester. Commissioners suggested photographs are also helpful

C. Auman asked if there are any protected plants in the pond, and it was noted Natural Heritage does not appear to have any on record. Cindy Kollarics has been helpful in designing a protocol for use at Lost Lake/Knops Pond. C. Auman expressed concern that the Commission should be aware of any plants at Baddacook Pond that we should protect. C. Kollarics (39 Indian Hill Rd.) urged the Commission to consider having a pre- and post-treatment monitoring program so that in order to know the effects of the harvesting. The target species are milfoil and cabomba (*Cabomba caroliniana*), but another one of the interests protected under the Wetlands Protection Act is fisheries. Ms. Kollarics questioned whether the effect on the fish would be positive or negative. She agreed it was good to remove the invasive species, but noted it is unlikely to permanently eradicate these species. Cabomba seeds are viable for 10 – 20 years, and it has been a problem at Baddacook Pond since the 1950's. C. Kollarics felt that more information could be gleaned from the monitoring reports. She noted she did monitoring for about 15 years at 10 different sites on Lost Lake/Knops Pond. The boat ramp area is where the weeds first became established. Once aggressive plants such as cabomba get started, it is very difficult to get native plants re-established.

Water Superintendent Tom Orcutt said the state stocks Baddacook Pond every year in the fall. He reported his board is not opposed to the weed harvesting, but noted that Fisheries & Wildlife requires the harvesting be done when temperatures are less than 50°, and there is less potential for weed fragments to become re-established or for re-seeding. Mr. Orcutt stated that, should the weed harvesting effort fail, the board would be opposed to the use of chemicals because it is a public water supply. He thought the equipment should be carefully cleaned and questioned who will be monitoring activities in general.

M. Giguere said the group at Lost Lake/Knops Pond is self-monitoring, and the Commission may consider a similar protocol for Baddacook. Peter Roberts (158 Hemlock Park Dr.) noted that the weeds will not take root in water that is over 16 ft. in depth, and the harvester cuts them to a 6 ft. depth. He felt the weeds were dangerous for swimmers and for children.

Françoise Forbes (597 Lowell Rd.) pointed out that the cabomba will be going to seed before we experience 50° temperatures. She commented there is no place for swimmers to swim as the cabomba will grow back in the spring after a fall harvesting. She felt there is something to be said for being able to safely swim, boat, and fish on Baddacook Pond, and conditions are currently dangerous and unpleasant.

Chairman Giguere questioned whether there was a way to set up a monitoring program. There are ten waterfront property owners, including the Water Department. T. Orcutt questioned whether blankets (benthic barriers) could be utilized in swimming areas to cut down on the weeds. The Commission is still awaiting a DEP number, as well as authorization from the Board

of Selectmen to file the Notice of Intent. B. Easom said the NOI should have had the Selectmen's approval and signature before submittal. A motion by B. Easom, seconded by D. Pitkin to close the public hearing and issue a denial failed with C. Auman, M. Giguere, R. Lambert, and W. Addy voting in the negative and D. Pitkin and B. Easom voting in favor. Upon a motion by C. Auman, seconded by R. Lambert, it was

VOTED: to continue the hearing to May 26, 2009 for the Baddacook Pond Weed Harvesting project.

B. Easom and D. Pitkin were opposed to the continuation.

8:30 p.m. – Appointment/Joachim Preiss – Trails Committee

Mr. Preiss noted the Commission had walked the Surrenden Farm West Management Zone 3 trails with him this past Saturday, May 9th. It was agreed to re-route the single track trail around a wet area. In general, the trail will be moved toward a big oak and dead pine to come out near an old woodpile. Time will tell whether this new location will work. To divert hikers, the Trails Committee will block the old trail route with brush.

The second area of concern involves a brook crossing near the Nashua River. Mr. Preiss said he had envisioned a 2 ft. by 10 ft -12 ft. boardwalk off to the side to accommodate hikers. Bikers and equestrians would still use the ford. He noted there is evidence that people have thrown logs into the brook in order to have dry footing. Another option might be to have large flat rocks – stepping stones – to provide dryer access. M. Giguere noted this is really addressing hikers only as equestrians are still to use the ford. Determining a source for the flat rocks could be problematic according to J. Preiss, but members mentioned the Highway Surveyor or the Blacks as a source. C. Auman preferred to see natural stone utilized, not curbstone remnants. Getting the material to the site could be difficult. B. Easom questioned why we need to do anything there as people seem to be managing to get through.

W. Addy thought if we leave it alone over time the water is likely to be re-routed and start to undercut trees and cause more problems. He felt that anything in the water might be problematic. The crossing is about 3 ft. wide, and he suggested putting in a log on either side. Members expressed concern this could become slippery, and we're creating more problems than we're solving. J. Preiss said the Trails Committee does not want to spend a lot of time constructing a bridge if it's not necessary. He questioned the minimal amount of work that is needed to maintain the trail and suggested perhaps periodically cleaning out the brook, but otherwise doing nothing. Currently we do not have a final, approved management plan for the area, but J. Preiss agreed we should try to keep the trails as maintenance-free as feasible. If we give people an easy solution, they do not think about it and won't add materials. The Commission could await a recommendation from the Trails Committee.

C. Auman made a motion, seconded by R. Lambert, to authorize the Trails Committee to put in several stepping stones at the edge of the stream. Before undertaking trail maintenance, members thought it advisable to talk to Pat Huckery at the Division of Fisheries & Wildlife as the state holds the Conservation Restriction. B. Easom said the deed may reference a notification

requirement. Members also felt it would be necessary to have the Trails Committee file a Request for Determination of Applicability. C. Auman withdrew his original motion, noting the filing of a RDA and checking with Fisheries & Wildlife are necessary before proceeding.

For the third area visited by the Commission, J. Preiss advised using water bars to help clear water from the trail. Members noted this is a wetland with gleyed soils and wetland vegetation species raising the issue of whether it is possible to divert the water. Water bars may be good for situations with erosion, particularly those with a slope, but this trail is a low spot which is actually lower than the parallel ditch in some spots. J. Preiss suggested hardening the trail with crushed rock or lowering the water table by deepening the ditch to divert the water.

C. Auman said the hydric soils indicate the area is a wetland. J. Preiss distributed copies of a diagram for a 'bog bridge', but acknowledged it is only suitable for hikers, not bikers or horseback riders. Commissioners recommended filing a RDA for the re-routing of this trail section and suggested now is a good time to look at alternatives. The re-routing of the single track trail will be based on consultation with the holder of the Conservation Restriction. It can be marked but no re-location should be done at this time. Members thanked J. Preiss for coming before the Commission and walking the site to look at the problem areas.

Regarding the use of motorized vehicles on the Redskin Trail Conservation Area, B. Easom noted that Earl Carter has equipment that could be used to bring in rocks. It's important that Tom Delaney be aware of and approves the proposal to close off vehicular access.

There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 5/26/09.