

GROTON CONSERVATION COMMISSION

Minutes

July 28, 2009

Chairman Bruce Easom 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 Marshall Giguere was absent. Conservation Administrator Barbara Ganem was present.

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

VOTED: to approve the Executive Session minutes of June 23, 2009 as drafted.

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

VOTED: to approve the Open Session minutes of June 23, 2009 as drafted.

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

VOTED: to approve the Executive Session minutes of July 14, 2009 as amended.

W. Addy abstained from the vote.

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

VOTED: to approve the Open Session minutes of July 14, 2009 as drafted.

W. Addy abstained from the vote.

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

VOTED: to issue a Certificate of Compliance for DEP#169-774 for 31 Autumn Leaf Dr.

Following up on the Saturday site visits, members thought the beaver flooding experienced by residents at 46 Whispering Brook Rd. could be abated through the installation of a beaver flow leveling device. B. Easom commented that, in the past, the Commission has not paid for such devices, but has allowed abutters to install them on conservation lands at their own expense. P. Morrison observed they have lost a lot of area they used to walk around on. He did not feel this was a high risk issue if they are willing to pay for the work. C. Auman and D. Pitkin agreed this was a good approach. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to authorize the residents of 46 Whispering Brook Rd. (Corsetti) to install an approved beaver deceiver device to lower the water elevation in the beaver impoundment that extends into the Whispering Brook Conservation Area.

The filing of a Request for Determination of Applicability will be necessary to describe the level to which the water will be lowered.

Commissioners also visited Groton Hills on Saturday where members noted the resident at 51 Kaileys Way is maintaining a conservation area as mowed lawn. The developer installed vertical TRAIL signs which appear to be very effective in marking the trail access. P. Morrison said there may be similar signs at the Deerhaven Conservation Area. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to install six signs (vertical TRAIL signs) with two at the beginning, two in the middle, and two as you enter the forested area on the access to the Groton Hills Conservation Area.

W. Addy thought it very important to let residents know about the new signage. B. Easom indicated this is Town-owned land, and we should be clear we are not seeking permission. Members agreed to notify abutters approximately one week in advance of our intention to install signs marking the trail entrance. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize an expenditure not to exceed \$250 for the purchase of "TRAIL" signs.

7:15 p.m. - Groton School RDA continuation - trail bridges

The applicant has requested a continuation until there is an opportunity for the Commission to visit the site with the proponent for the cross country track route and proposed trail bridges. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to continue the meeting to August 11, 2009.

7:15 p.m. - 24 Island Pond Rd. NOI

Resident Andrew Jenner explained that he wished to replace an existing 10' by 20' sunroom on the west side of the house with a three-season porch on the existing foundation. In addition he proposes to add a second floor deck and to re-grade the backyard into two tiers to provide a level surface. The first tier will be retained with a stone wall, and the second tier with a concrete block wall varying from 24" to 36" - 40" at the east end. He explained there is a five foot drop in his backyard, and that is why he proposing two tiers. The blocks may be 2' x 2' or 2' x 18", depending on the product he selects. He explained there is a brook behind the yard which runs during heavy rains or periods of snow melt. All of the activities are proposed within the existing yard area.

The lower wall, next to the brook, will avoid any trees, and the side nearest the brook will be allowed to grow in naturally. Machinery will work from the lawn side. C. Auman said he saw no problems with the sunroom improvement, deck, and first retaining wall. He thought the second retaining wall presented some questions, including the amount of dirt used to fill behind the wall. He also noted it could require design and certification by an engineer because of the pressure of retaining the soils. Mr. Jenner said he is considering using a concrete/recycled plastic block for this wall. The wall will be located 8 ft. from the stream at the top of a steep slope.

B. Easom outlined a punch list of items the Commission requires: certificates of mailing, a letter from Natural Heritage, the DEP number, details for the wall (with an engineer's assessment), cubic yards of fill, erosion and sedimentation controls on the plan to serve as the limit of disturbance, and a construction sequence.

According to the USGS topographic map, the brook is considered a perennial stream under the Wetlands Protection Bylaw, and the work will be within Riverfront Area. B. Easom noted the flow observed during the Saturday site visit would not be considered the result of a 100-yr. storm event. The total Riverfront Area on the lot and the amount of proposed disturbance should be itemized. A re-development project in the Riverfront Area should show an improvement to existing conditions, and Mr. Easom asked what aspects of this project meet this performance standard. Mr. Jenner thought that raising the grade would result in less water entering the brook.

P. Morrison asked how roof runoff will be handled, and Mr. Jenner replied he will likely use rain barrels. B. Easom commented the Commission is looking for a net gain to the resource area. An example of an improvement to the site would be to control existing erosion. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing for 24 Island Pond Rd. to August 25, 2009.

7:30 p.m. – 993 Boston Rd. NOI continuation, DEP#169-1020

Proponent Bob Tierney was present and submitted the certificates of mailing for the abutter notification. He said they plan to remove just the one tree in the front yard for the installation of the septic system. He stated the back yard is at 236 ft., and he anticipated the finish grade for the septic system would be 238 ft. Mr. Tierney submitted a sketch showing where erosion control measures will be located and indicated the finish grade will likely be closer to 240 ft. W. Addy expressed concern that the septic system fill will cause water to run onto Rt. 119. Mr. Tierney thought the flow would be toward the back of the lot. Mr. Addy questioned whether a swale is necessary and recommended the Commission not approve a design that puts water onto the roadway. Members suggested such a stipulation could be included in the Order of Conditions and be incorporated into the as-built plan which should specify the final grades for the lot. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to close the hearing for DEP#169-1020.

7:45 p.m. – Groton Place RDA

Rick Muehlke explained they wished to replace parts of the beaver deceiver device with a new design which the vendor believes will be a more effective way to prevent the beavers from piling stuff at the bridge opening. This causes flooding of the upper pond and can result in flooding of the road. A side benefit of extending the fence into the pond will be an opportunity to educate the public about the beavers on the site. The device has been in place for years and requires a great deal of maintenance. There are currently four 8-in. pipes which run under the bridge, and these will remain the same, but the fencing will be larger and more visible. They also plan to cut invasive bushes and prevent large tree growth along the bridge as this vegetation can undermine the structure. The fence will be anchored with steel u-shaped posts pounded into the pond

bottom. The installation will be done by hand by Mike Callahan of Beaver Solutions who will also continue to do maintenance. Vegetation will be pruned or cut to a height of 3 – 4 ft. in order to maintain a visual barrier. Members questioned whether herbicides will be used to control vegetation, and Mr. Muehlke said “no”. If a lot of vegetation is cleared, Commissioners recommended the planting of grass seeds. Mr. Muehlke said the control of vegetation will be done over a period of time.

D. Pitkin suggested including signage explaining the fencing as an educational piece be included in the filing. It was noted the plastic pipes that go through the dam are currently buried in mud and sticks and are not visible. The dam is built on a concrete apron that is under the bridge. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination requiring the removal of vegetation by hand (no herbicides) and noting educational signage about the beaver flow device is optional.

Attorney Ray Lyons requested a brief moment on the agenda. He asked if members of the Conservation Restriction Monitoring Committee (Bruce Easom, Marshall Giguere, and David Pitkin) could be authorized to meet on several monitoring issues during the day when Si Balch of New England Forestry Foundation (NEFF) is available. Members explained the meeting will be posted meetings as this is a sub-committee of the Conservation Commission. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to authorize the Conservation Restriction Monitoring Committee to meet with NEFF to discuss the monitoring of conservation-restricted land.

B. Easom noted the Commission is undertaking a review of farm proposals and the development of a licensing procedure to conduct agricultural activities on several parcels of land. Town Counsel has provided a sample draft license for Commission review. Leasing property would trigger the Article 97 process with approval required from Town Meeting and the General Court as a long term private use of public assets. Reviewing the terms of the license, as well as the individual proposals, is the purpose of the discussion tonight.

P. Morrison recommended the Commission go ahead and make a decision on properties for which there are singleton requests. B. Easom suggested putting the owners of lots subject to Agricultural Preservation Restrictions (APRs) in touch with farmers as some of them do not have sufficient agricultural activities to meet their obligations under the restrictions. He suggested this would be an alternative to taking open space and offering it to private organizations as farmland and may be in the best interests of the town as a whole. P. Morrison pointed out the Commission’s job is to manage conservation land, not broker deals between farmers and private landowners. He thought the tax burden for managing these lands would be reduced if the land is in agriculture. He did not object to making the information available about APR lands.

Another discussion in the selection of farmers is whether the Commission’s policy is to encourage the production of food for animals or for people. B. Easom felt that large land areas are necessary for growing hay while smaller sized parcels may be more appropriate for growing food for people. He advised matching the size of the parcel with an appropriate use. An example

is Groton Local's request to use 5 acres out of a 33-acre parcel. Mr. Auman encouraged the Commission to consider wildlife habitat along with food for animals and humans. On Surrenden Farm there is a lot of wooded land. He noted that open fields are a diminishing resource. B. Easom commented the Commission received a WHIP grant to manage Crosswinds as early successional grassland, primarily for birds and turtles. C. Auman suggested we inventory our land to determine what activities are appropriate.

The Eliades Conservation Area off Pacer Way has approximately six acres of open land at the Ayer/Groton town line. C. Auman said the Commission needs to strike a balance between bird habitat and farming while generating some revenue. If the lessee agrees to mow after the birds have fledged, we could protect both interests. Perhaps a small portion could be left unmowed. B. Easom noted the Commission previously agreed to separate mowing from agricultural activities.

Farmer Roy MacGregor was present and said he would like to see the line before signing any agreement. P. Morrison suggested a site walk with the applicant. Trails Committee member Wendy Good pointed out the Eliades parcel has a recreational trail, and she questioned whether there would be notifications on pesticide use, an undisturbed buffer to wetlands, and fungicide use near wetlands.

B. Easom recommended posting the site walk as a meeting so the Commission can determine the line where mowing would be stopped and actually sign a license. Mr. MacGregor said he was aware there was a trail on the land, and there are trail posts in place. Members agreed to post a meeting for 8:15 a.m. on August 8, 2009 at the Eliades parcel. The acreage and term for the license will be determined at that time. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to seek the endorsement of the Board of Selectmen for a license for the Eliades Conservation Area on Pacer Way to be used for agriculture (hay) for a term of 5 years at \$25/acre.

In discussion on the licensing of the Walnut Run Conservation Area on Jenkins Rd. (off Canterbury Lane), water is not easily available for use by Groton Local. Excalibur Farms has been haying approximately 5 acres. C. Auman said he is not familiar with what Groton Local does and would like to see their site in W. Groton. He felt the Commission needs to see existing farms in order to visualize what each of the proposals will look like. P. Morrison said he has seen what Groton Local does and has also observed what the Smigelskis have done with the Surrenden farm fields (The General Field). The remainder of the Walnut Run parcel is forested with an existing trail.

Farmer Laurie Smigelski asked if the Commission had any concerns about Excalibur Farm continuing to hay the Jenkins Rd. parcel. P. Morrison pointed out the Smigelskis are the incumbents. C. Auman said he wants to assure that the process is fair to everyone. The Smigelskis, who have been haying this parcel since the 1990's, said they expect to get a second cutting any time now and maybe a third cutting in September. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to issue a license to Excalibur Farm to hay 5 of the 9.5 acre-Walnut Run parcel for a period of 5 years at \$20/acre per year.

Members agreed that the Smigelskis have been good stewards of the land and have invested in improving the land significantly.

8:30 p.m. – Appointment/Wendy Good

Ms. Good reported the Trails Committee recently held a public hearing on the subject of motorized vehicle use on conservation properties. Representatives from the Groton Conservation Trust, Commission, and New England Forestry Foundation noted the erosion problems these vehicles cause. One of the first steps is to post properties notifying users that motorized vehicles are not allowed. W. Good had a sample sign which they would like to post in conservation areas throughout the Town. She requested the Commission consider authorizing the purchase of 100 signs for \$247.

Member Pitkin asked if there is a list of targeted properties that are experiencing high abuse. Commissioners agreed they would like to see this list before signs are installed. The signs are 6” x 12” and show an “X” through a motor bike and through an all-terrain vehicle. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to authorize the expenditure of up to \$250 for the purchase of 100 signs.

8:45 p.m. – Appointment/June Johnson – 634 Old Dunstable Rd.

Ms. Johnson explained she has worked with Town Counsel Shirin Everett to prepare a final draft on the encroachment license. One of the new requirements is that each new owner will need to sign a new document. She pointed out the key elements are #4 on Page 2 which allows the present items in the encroachment area to remain and #7 on Page 3 which maintains both parties’ right to revoke at any time with 30 days notice. The term of the license is up to the board. W. Addy said he was not comfortable that there was nothing attached to the deed. If it’s not a recorded document the onus is on every seller to tell their buyer. B. Easom worried that the Town would forget the document as well. Revoking the license would also have to be recorded, but it would be the seller’s responsibility. P. Morrison suggested voting the matters separately.

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

VOTED: to recommend to the Board of Selectmen that they ratify the license agreement prepared by Town Counsel for the seller/buyer of 634 Old Dunstable Rd.

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

VOTED: to seek the opinion of Town Counsel on the value of recording the document and, if they see a value to recording it, to then authorize the recording of the license agreement for the seller/buyer of 634 Old Dunstable Rd.

Mr. and Mrs. Corsetti/46 Whispering Brook Road requested clarification on the Commission’s discussion on the beaver flooding behind their home. Members informed them they would

receive a letter recommending they contact a company called Beaver Solutions which could install a pipe through the beaver dam to reduce the water level in the beaver impoundment. It will be necessary to file a Request for Determination of Applicability to determine the conditions under which the water lowering would occur. In addition, expenses involved for the installation of the beaver flow device would rest with the Corsettis. The Commission previously voted to give permission to the Corsettis to install the device on conservation land since it is not clear exactly on whose property the dam is located.

Returning to the subject of the farm proposals, members noted there are five proposals for the use of the Surrenden Farm property: 1) Maple Shade Farm/MacGregor for haying; 2) Dragonfly Farm/Venturas for organic vegetable crops; 3) Dennis Spiczka for mowing and baling hay and pasturing cows; 4) Charles Dance for livestock (beef cattle, beefalo, pastured pork, and bees); and 5) Groton Local to farm 5 acres with organic vegetables and eventually small fruits.

The Venturas have presented a comprehensive farm management plan where they will rotate crops and fallow fields. Mr. Spiczka proposes to re-seed 1/5 of the 33 acres each year and will pasture cows where it is too wet to hay. Mr. Dance proposes a livestock farm, but no bid was included. B. Ganem has informed him he could submit that as part of the interview process. Groton Local proposes to use 5 of the 33 acres, but they are dependent on the Highway Department improving Shirley Rd.

B. Easom said the question for the board is whether farming 5 acres out of the 33 acres is an appropriate use. P. Morrison thought this would put them at the end of the Board's list. C. Auman suggested we could find someone who was willing to hay the remaining 27 acres, and we do not have to accept everything as proposed. He also pointed out that, with the increasing cost of gas, it is likely a larger number of citizens are going to be looking for local food.

Chairman Easom said it's unfortunate no one has proposed a use for the Shattuck/Lewis parcel, and it may be necessary for the Commission to put money into that parcel to get someone farming there. Members commented the Ventura proposal offers the most money and is the most professionally done. C. Auman said he would like to see their operation as he felt the Surrenden Farm vista was an important feature, and crop farming could give those fields a very different look. Crops could limit public access, as well as what else we can do with the property. Haying is probably the easiest from a management perspective. B. Easom said the vegetable crop proposers spend their own money to buy the seeds, and it's probably important to keep people from helping themselves to the produce. He did not feel the use of the land as a vegetable field was a good use of our money.

R. MacGregor said he uses his hay fields to feed beef cattle and goats. C. Auman pointed out that cattle are not as efficient at processing, and they consume a lot of product. B. Easom thought the public would feel less welcome on a site with vegetable fields.

John Smigelski said, since taxpayers contributed to the purchase of Surrenden Farm, he felt that someone in town should get the job. Members acknowledged it really comes down to who will best manage the land, and we need to get some questions answered. P. Morrison observed that pasturing cows also may not be inviting to the public. He noted they typically they use the least

productive land for pasture. Commissioners thought the Dance and Spiczka proposals would be eliminated under this discussion, leaving Ventura and Maple Shade. J. Smigelski added that most people who raise cattle make it a point to check them every day. Mr. Spiczka raises replacement cattle for dairy herds. Members felt it important to treat all applicants equally and agreed to visits to Groton Local, Maple Shade Farm, and Dragonfly Farm to see their operations.

Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to expend up to \$3700 to clean up 5 acres of the Lewis-Shattuck property.

It was noted it is the Town's responsibility to maintain a viewshed to Baddacook Pond, and the trees have grown in since the cutting was done in 2001. It may be time to get new quotes.

Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to authorize the expenditure of up to \$2000 to mow the Smith St. portion of the Eliades land, as well as clear invasives from the detention basins.

Wendy Good asked the Commission to consider her request to hold a third mock fox hunt on the Surrenden Farm property. She anticipates there will be 20 riders and 6 hounds, and the hunt will last about 1 hour. In addition to Surrenden Farm, the hunt will travel over Groton School and NEFF lands. The scent of anise is used to mark the existing trails where the riders will travel. Ms. Good also submitted a copy of the proposed route. C. Auman asked if there had been any problems in the previous two hunts, and Ms. Good replied "only dog walkers at Groton Place". Signage will be installed prior to the hunt and removed afterwards. The hunt is scheduled for October 20th with a rain date of October 27th. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to authorize the hunt as proposed with all signage to be removed and proof of insurance provided.

A representative of the Division of Conservation Services is scheduled to visit two of the sites proposed for acquisition under the Commission's applications to the LAND Grant Program – the Fuccillo property on Lowell Rd. and the alternative Red Line connector on Island Pond Rd. – on August 3, 2009 at 9 a.m.

In response to the letter from Julie Marin requesting Commission permission to hold a civil war reenactment event at Surrenden Farm West, C. Auman expressed concern about potential impacts. B. Easom suggested the 14 acres owned by the Town and proposed for recreation during the Surrenden Farm purchase should be considered for the parking of vehicles. He thought driving on the hayfield would not be a good idea. Members questioned whether there was any damage to the Hillbrook fields during previous reenactments. Whether the site would be mowed in time for the reenactment would depend on whether the licensee does a first cutting by October.

Members thought a successful reenactment would generate some good press on the parcel. This is a charitable educational organization as well. The condition of Shirley Rd. is a concern. The proponents have agreed to restore any damages to the property. It is likely they will need permission from the Board of Selectmen to use the 14-acre parcel, as well as from the Commission and Fish & Wildlife to use Surrenden Farm West. Liability insurance would be another consideration. Members agreed to invite Ms. Marin to the August 11th meeting for further discussion.

Members reviewed an email from Town Counsel David Doneski having to do with the management of the Ames Meadow conservation land. His discussion on adverse possession shed some light on assertions made at the hearing to discuss farming activities on the cleared portion of the land. In addition, he suggests working out an agreement with the Town Forest Committee to allow access to the conservation land. B. Easom stressed that it is very important to negotiate a suitable access, and he would prefer to see a formalized process such as a recorded easement signed by the Board of Selectmen. Members agreed to ask the Town Forest Committee to establish a trail into the property. A written agreement allowing a 10-ft. wide trail into Commission property may suffice. The Commission could meet with the Trails Committee to lay out a trail as the basis for going forward. R. Lambert asked whether abutters would be notified at this point, and members agreed it would be best to meet with the Town Forest Committee first.

With no further business to conduct, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as amended August 11, 2009.