

GROTON CONSERVATION COMMISSION

Minutes

August 11, 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, Marshall Giguere, Ryan Lambert, Peter Morrison, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

7:15 p.m. – Appointment Julie Marin – Request to hold a civil war re-enactment at Surrenden Farm

Ms. Marin thanked the Commission for considering the proposal and explained that their mission is to educate the public about this extremely important event. She noted the 2005 and 2007 events were very successful and were held on private land that is no longer available because of illness in the family. Don Black has organized the portapotties, hay, and wood, as well as coordinating with the Police and Fire Departments for the events. She explained that both the Groton Conservation Trust and the Commission were approached to see if their lands could be used. Ms. Marin explained that Surrenden Farm West would be an ideal site if hayed. They also visited the 14- acre site managed by the Board of Selectmen and agreed that would be appropriate for parking. They do have a tractor and the ability to mow and plan to ask permission of the Selectmen. The re-enactors would arrive on Friday, October 9th, and the event would run through the Columbus Day weekend, with clean-up on Monday, October 12th.

P. Morrison asked if the field would have to be mowed or hayed before the re-enactment, and Ms. Marin indicated Bill King is available to take away the hay as he wants to assist with the re-enactment. Regarding damage or disturbance to the area, J. Marin said there will be between 150 and 300 re-enactors, and it is likely they will have 30 fire pits. This will involve lifting a 3' by 3' square of turf to serve as the pit which will then be replaced at the end of the event. She reported there are very strict rules and regulations for the re-enactors. Water buckets are kept at the sites. The portapotties for the spectators are serviced throughout the weekend, and there is a provost to oversee the removal of firewood and trash at the end. The horses will trample the area to some extent, and manure would be left to fertilize the fields.

Also accompanying Ms. Marin was Sam Grant who said that rain can present a problem, but usually the fields are reasonably back to normal by the following summer. Re-enactors would drive onto the field to set up. M. Giguere emphasized the need to stay out of the wetter and more sensitive wildlife areas in the lower floodplain field. J. Marin assured the Commission they wished to use the drier, flat hayed areas on the upper fields. Signage would be added to aid spectator traffic and warn of the uneven road. M. Giguere asked if they would direct traffic to come in from the Ayer side, but they felt it was important to allow two-way traffic. The worst place in Shirley Road is right in front of the parcel. Mr. Giguere mentioned there are uneven spots in the field due to failed tile drains, and these should be marked.

Member Auman explained that Fisheries & Wildlife holds the conservation restriction over this property, and it will be necessary to get their permission as well. Ms. Marin estimated there could be between 1000 and 3000 spectators per day, depending on the weather. She thought 1000 cars per day were likely. He noted this is public land, and he expressed concern about the intensity of use. John Smigelski, a local farmer, said he thought the fields could recover. Roy MacGregor, also a local farmer, said his horses were used to pull the stagecoach at the last event. C. Auman said it is important to stay off the Groton Conservation Trust land. P. Morrison made a motion to allow the use of Surrenden Farm West for a civil war re-enactment on Columbus Day Weekend, seconded by M. Giguere. An amendment was offered by M. Giguere, seconded by C. Auman, and it was

VOTED: to authorize the applicant to have the fields mowed prior to the event.

The amendment passed, with P. Morrison and R. Lambert voting in the negative.

Returning to the main motion, it was

VOTED: to authorize and approve the use of the two upper Surrenden Farm West fields for the Columbus Day weekend, providing the area is left clean and picked up, repairs are done and the re-enactors notify the Commission of any damages, provide proof of insurance to the Town, contingent upon the approval of Fisheries & Wildlife and the Board of Selectmen for parking on the 14-acre parcel. The applicant is authorized to have the fields hayed in time for the event.

The vote was unanimous. The Commission will forward a letter to Fisheries & Wildlife.

R. MacGregor asked about the haying of the fields, and M. Giguere said it is unlikely we will have someone licensed by that time as Fisheries & Wildlife will also have to approve the licensing.

7:30 p.m. – 246 Lowell Rd. DEP#169-1022

Stan Dillis requested the Commission keep the hearing open as he was due at a simultaneous meeting of the Earth Removal and Stormwater Control Committee. With a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to temporarily table discussion on the hearing for 246 Lowell Rd.

Members reviewed photographs of the farms visited on the Saturday site visits, noting they are more familiar with hay farming on Town-owned land. The Commission can recommend the granting of a license, but Fisheries & Wildlife (F & W) holds the conservation restriction and will have a say in the final selection of the farmer who licenses Surrenden. C. Auman and R. Lambert said they would be interested in getting input from F & W on all of the proposals as we might learn something.

W. Addy thought that was a bad idea and that we would be better off picking one or two of the proposals to forward to F & W. Upon a motion by W. Addy, seconded by P. Morrison, it was

VOTED: to submit to Fisheries & Wildlife what the Commission decides is the most valuable with several alternatives.

The motion passed with C. Auman and D. Pitkin voting in the negative.

7:45 p.m. – 7 Little Hollow Lane RDA

Steve Jaslowich from Osterman Propane explained he was handling the installation of a 500-gallon underground propane tank on this property. The 9' x 3' tank will be located outside of the permanent limit of disturbance line, but within the 100-ft. buffer zone. The tank will supply gas for the pool heater, a generator, grill, cook stove, and tiki torches. This is a new Request for Determination of Applicability as the owner previously filed another RDA for the in-ground pool and shed.

Member Auman read Ch. 215.3 of the Wetlands Protection Bylaw which covers exceptions for previously disturbed areas or where a house existed prior to the Bylaw. (*The Order of Conditions pre-dates the Bylaw, but the house wasn't actually built until 2006.*) B. Easom pointed out the Commission has jurisdiction within the 100-ft. buffer zone. M. Giguere noted the tank was installed with no permit. Mr. Jaslowich said it is not connected and there is no gas, and it can be moved. Members noted the rock boundary marks the edge of no disturbance, and it appears the rocks have been moved. This boundary was at a slightly different elevation from the lawn. It looks as though the rock was dug up and moved during the installation of the tank. Mr. Jaslowich said they selected a spot 28 ft. from the edge of the house. The tank was delivered to the site, and the contractor installed it. Both Jason Ward of Ferrari Pools and David Babin of Babin Landscaping maintained they had not moved any rocks.

M. Giguere pointed out the earlier RDA had made no mention of the entire lawn being taken up, and he was shocked by what had been done as he felt there was a lot of work beyond the original request. The applicant's representatives said Groton Electric moved some things in front of the lot, and members noted a boundary marker had been dug up. They pointed out moving a bound is illegal, and this should be reset by a licensed surveyor. The proponents' representatives thought GELD had done this. J. Ward said the cabana was approved under the earlier RDA. The deck that was under construction on Saturday was not included on the RDA plan. M. Giguere felt that the work in the field went far beyond what was presented to the Commission originally. He pointed out the Commission bases its decision on what is proposed, and now a tank, a deck, and total disruption of the yard have taken place. Mr. Ward maintained the pool company never stockpiled soils on site and did not go beyond the scope of the original project. He explained it is necessary to dig up the yard to install the pool. He also stated there was originally a wood deck at the site which was demolished.

Member Auman said the plan that comes before us is what we expect to see on the ground. He felt the filing of an after-the-fact Notice of Intent (NOI) was required in order to document all the features on site with an accurate as-built plan. W. Addy said the berm where the rocks were

originally placed has clearly been cut off and, without an accurate plan, it is necessary to go with an NOI.

P. Morrison noted the rock near the gas tank would make it very difficult to dig a hole. He thought the limit of disturbance had been pushed toward the resource. He asked what kind of offset the gas tank must have from the house, and Mr. Jaslowich said it must be 10 ft. from any source of ignition and protected from traffic. There is no potential for a leak as the liquid gas vaporizes as it escapes. P. Morrison asked if there were any other locations where the gas tank could be sited and still be out of the way but accessible.

B. Easom noted the Commission could take three possible routes from the benign to the extreme: 1) issue a stop work order and require the filing of an NOI, 2) condition this project when an after-the-fact NOI is filed, and 3) proceed with the requested Determination of Applicability. P. Morrison suggested if we do a Determination, an as-built plan should include re-setting the bound. Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to issue a positive #1 Determination requiring the applicant to file a Notice of Intent.

The vote was unanimous. P. Morrison noted the pool and cabana should not change, but the deck, concrete pad, and patio around the pool should be shown on the plan. C. Auman added the plan is what is exhibited on the site, and we can't verify what's in the field without an adequate plan.

8:00 p.m. – Appointment Rick Muehlke – management activities for The General Field

Mr. Muehlke explained there is an existing, old sub-surface drainage system which is in disrepair and is to be replaced in the western portion of The General Field. This land is currently leased to the Smigelskis for farming, and they have obtained a USDA grant to improve the field's drainage. The USDA Natural Resource Conservation Service has reviewed options for dealing with the surface water coming from north of the site. There will be a main line and a system of feeder lines to direct the water. Water is currently directed onto land of an adjacent neighbor, and this would be a way to control runoff and prevent erosion. Water will continue to flow in the same direction and will have the capacity to handle a 100-yr. storm. It should not affect downstream properties as there is currently a bridge under Amandry Way which can handle substantial flows.

Approximately 8" – 10" tile drains will come off the concrete standpipe at the top of the field. Mr. Smigelski estimated the work will take approximately two weeks using an excavator. He would like to do it this year, but next August, during a drier time of year is also under consideration. P. Morrison said he would like to see it done as it could be considered regular maintenance of agricultural fields. M. Giguere reminded members the Commission holds the conservation restriction on the property. He questioned whether these could be considered historic tile drains that should be reviewed by an archaeologist. He suggested letting Michael Roberts know of the planned ground disturbance to see whether it's an issue or not. Upon a motion by W. Addy, seconded by P. Morrison, it was

VOTED: to approve the restoration of tile drains in The General Field as outlined in the management plan dated June 2, 2009.

8:15 p.m. – Groton School RDA - trail bridges RDA continuation

Attorney Robert Collins explained this is a continuation of an RDA for two more, possibly 3, trails bridges in the Gunderson field owned by Groton School. He acknowledged the Commission visited the proposed sites with property manager John MacMillan the previous Saturday. Members informed him the width of one of the areas was substantial with wet soils on either side of a stream. Mr. Collins said the intent is to span the streams, and members responded it would take a 40-ft. span because it is a resource area. W. Addy questioned what would be done in the area between the drainage swale bridge and the forest bridge to assure the resource area is not destroyed. Members noted the route is important as that will determine the number of bridges. M. Giguere said Mr. MacMillan did not appear to be absolutely sure of the bridge locations. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the meeting on the Groton School trail bridges RDA to August 25, 2009.

8:30 p.m. – Island Pond NOI – DEP#169-1007 continuation

At the applicant's request and upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing to August 25, 2009.

The 246 Lowell Rd. hearing was re-convened at 8:45 p.m. Surveyor Stan Dillis said that the paved driveway off Lowell Rd. received a lot of water from Rt. 40/Lowell Rd, and erosion was becoming an issue because the driveway is steep. They have to use a lot of sand and salt in the winter. Mr. Dillis explained that some of the pavement was removed, and the loop that was the former cart path was re-constructed. Surface runoff will sheet off into the woods and grassed area. S. Dillis said the contractor did this work without Mr. Liebold's knowledge, but followed an existing farm road.

The green receipt cards were submitted, but the Commission will need a letter from Natural Heritage. A filing has been done under the Massachusetts Endangered Species Act. Members questioned how drainage will be improved by this re-design. A berm will be used at the edge of the driveway which is to be paved and will also run in front of the house (an area outside the buffer zone). Mr. Dillis said there is a leaching drain between the house and the new addition. Fewer treatments will be necessary in the winter. No curbing is proposed.

P. Morrison questioned what was the matter with the french drain at the bottom of the driveway, and Mr. Dillis replied the driveway is steep and the site is currently experiencing erosion from water coming off Lowell Rd. Mr. Morrison asked if there are haybales and silt fencing to protect the resource area, and Mr. Liebold said they were installed several years ago and inspected by B. Ganem. Members noted it is likely they are no longer in good repair, particularly if water breaches the berm. P. Morrison questioned whether there is recharge at the bottom of the driveway and what improvements are proposed to what is there now. Mr. Dillis maintained the

velocity of flow would be slowed, but Mr. Morrison noted there will be additional paved surfaces unless the applicant is considering pervious concrete. In response to a question about snow storage, S. Dillis said there would be some storage to the right top and end of the driveway, as the snow is likely to be plowed downhill. J. Liebold said he uses a snow blower on a tractor so more snow will go to the front yard. He thought there would be 1/5 less than previously.

Mr. Morrison said paving will cause water to go faster down the driveway. M. Giguere noted the direction and flow will be toward the existing French drain, and he suggested looking at the design to be sure it is sufficient to handle the expected flow. S. Dillis said one alternative would be to have a recharge trench outside of the buffer zone. C. Auman pointed out the septic system for the new in-law apartment has moved toward the front of the house. Vehicles are to travel over this area, and he questioned what kind of safety factors the Board of Health might want. S. Dillis indicated they are working with the Board on this issue. Members cautioned Mr. Liebold against doing anything to the granite curbing and gravel at the base of the driveway that could affect its functionality. Members agreed that greater detail on the driveway is necessary. In addition, the Commission is awaiting a response from Natural Heritage on both the Massachusetts Endangered Species Act and the estimated habitat of rare species. A cross section of the driveway showing grading as well as anything to alleviate the velocity of runoff should be submitted for this filing. With the applicant's consent, upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing for DEP#169-1022 to August 25, 2009.

B. Ganem stated the designation of two Areas of Critical Environmental Concern in Groton and surrounding towns gave the town 5 years to prepare Resource Management Plans for local Great Ponds. This was extended to December 2009, 7 years from the original ACEC designation. The Great Ponds Advisory Committee, currently chaired by Larry Swezey, has been meeting on this and is preparing Plans for several of the smaller Great Ponds (Baddacook and Martins Pond). The Plan for Lost Lake/Knops Pond is likely to require professional input. Gaining approval and community investment is a public process that will involve public hearings and approval of the Board of Selectmen. Without a Management Plan, residents with docks or proposing docks after December 2009 will not be allowed to have them unless they have already obtained a Ch. 91 permit. This was the subject of several community hearings in 2007, and the Commission can expect an onslaught of new dock requests to meet this new 2009 deadline. Member W. Addy, the Commission's representative to the Great Ponds Advisory Committee, said he will try to get a report from that Committee prior to the Commission meeting when they will be presenting draft plans Baddacook and Martins Ponds.

Bill King, who hays Hillbrook Orchard, came to the Commission office to request permission to cut brush adjacent to the driveway that crosses James Brook which blocks his sight distance as he turns farm equipment onto Old Ayer Rd. Members thought a lot of the shrub growth is buckthorn and probably should be completely removed. This measure is considered normal maintenance of land in agriculture. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to authorize Mr. King to cut back the brush at the driveway to improve the

sight distance at the driveway crossing.

The Stewardship Committee will be visiting the Farmers & Mechanics parcel to survey and collect data for future monitoring next Saturday, August 15, 2009, at 9 a.m.

Members agreed to pay membership dues for the MACC (\$406) and Nashua River Watershed Association (\$50) bills that are due. M. Giguere noted these are important resources for new members to get training and for other issues as well.

Chairman Easom said he has been asked by the Trails Committee to try and resolve the access issue on Paquawket Path. This land is not Town-owned, and he has been trying to identify where the property with the easement is located in order to locate a trail head within the 50-ft. right of way. He will seek permission from the Highway Surveyor, and it may require a public hearing with the Board of Selectmen so that we can hear from abutters about signage, wording, hours of use, and type of use. The goal would be to eventually connect to the Nashua River Rail Trail. The easement has a complicated history as Paquawket Path was taken by the Town. Town Counsel has issued a confidential letter on the matter. The land with the easement is identified as 98 Paquawket Path which shares a driveway with 100 Paquawket Path.

M. Giguere recalled there had been previous discussion among Commissioners on allowing bicycles and equestrians on this path. One way to address the concerns might be to limit the hours of use to sunrise to sunset.

Janet Shea (103 Paquawket Path) said she is a neighbor to the easement and requested that she be notified if the Commission is to discuss the access. She is not aware of any covenant on individual property deeds that references this particular use of the property. She explained she came to observe, and she commented the Commission is very particular in its analysis of issues and requires extensive compliance. She asked the Commission to give special consideration to this particular access as it's different from other trails because it is not hidden. If it is to be used as a new entrance to the Rail Trail, she thought there could be serious impacts to this quiet circle with little traffic. Ms. Shea commented she seldom encounters anyone else when walking in this area. She noted it is a very narrow area where the property of four owners converges - #98, #100, #102, and #104. The area would be inaccessible in winter when snow is stockpiled at the corner.

She indicated she understood one of the missions of the Conservation Commission is to connect protected lands. J. Shea questioned whether this was an entrance designated by the state when the Rail Trail was built. She noted that parking concerns could interfere with quality of life depending on the number of visitors to the site.

P. Morrison assured her that typically trails where neighbors have worried about traffic and parking issues become an asset that is chiefly used by people in the neighborhood. Just because it is improved does not mean it becomes overused. Ms. Shea said she has read through Commission minutes since 2001 and observed that residents are allowed to speak their opinion, and their voice has weight. She said she was never made aware of the easement when she bought her property, nor was she ever informed that this would change. She added "I appreciate the Rail Trail, but do not want to see an entrance located there."

B. Easom said the review of the lay of the land would continue, and the four abutters would be notified. The Highway Surveyor will also be contacted to see what his concerns are regarding posts within the right of way. The next step would be to meet with the Town Manager, hold a GCC hearing, perhaps a meeting with Town Counsel, and then finally the Board of Selectmen who have the final authority to make a decision. Public opinion can be expressed to the Selectmen. J. Shea said she did not know of the right of way as she has not seen any documentation that would allow passage over a permanent easement. B. Easom said this would have to be put within a legal framework, and Town Counsel would explain the Town's authority according to his interpretation.

M. Giguere thought the Commission had walked the easement to verify boundaries with the Trails Committee, and the property owner to the north of the easement had had a survey prepared. The Commission does not have the authority to put signage on private land. B. Easom said one of the bounds of the easement is actually located under the paved shared driveway.

Chairman Easom noted that, to qualify for a LAND grant, the Town has to update its Open Space & Recreation Plan in the upcoming year. C. Auman explained that he, Bruce Clements, and Beth Montgomery began work with Beals & Thomas in 2002 to prepare the 2005 edition. He recalled that the Nashua River Watershed Association had expressed an interest in preparing the Plan. It is important that any request for quotes be clear on the expected deliverables. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to nominate C. Auman, M. Giguere, and D. Pitkin to a sub-committee to handle the "Request for Proposals" to update the Open Space & Recreation Plan.

Commissioners reviewed a memo from Tom Orcutt suggesting the Town consider having a forester on board to assist in the management of forested assets. This individual would be paid out of funds generated by forestry activities on various parcels. Developing a uniform management plan for the Town would be the goal. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize B. Easom to talk with the Town Manager and Tom Orcutt to look into retaining a town forester.

Roy MacGregor (284 Old Ayer Rd.) asked why the Commission was not considering someone who placed a bid to farm the Surrenden Farm land rather than letting the hay go for free to someone from out of Town. M. Giguere, who voted in favor during the vote on the civil war reenactment, made a motion, seconded by W. Addy, to reconsider, and it was

VOTED: To reconsider the original vote to authorize the four day civil war reenactment event to allow haying by a local farmer who has submitted a bid. The remaining items in the vote stand *(to authorize and approve the use of the two upper Surrenden Farm West fields for the Columbus Day weekend, providing the area is left clean and picked up, repairs are done and the re-enactors notify the Commission of any damages, provide proof of insurance to the Town, contingent upon the approval of*

Fisheries & Wildlife and the Board of Selectmen for parking on the 14-acre parcel.) NB: Please see minutes of August 25, 2009 for official vote on this matter.

This will be a one-time event, and there will be no license until Fisheries & Wildlife has an opportunity to weigh in. Regarding the choices to recommend to Fisheries & Wildlife, M. Giguere favored haying. C. Auman pointed out that would be for \$25/acre or \$800/year vs. \$5000 for the vegetable cropping which is a significant difference although they include contingencies regarding the installation of a well. Maple Shade Farm is a local operation. The vegetable crops would only utilize 8 acres per year while the remaining acreage is planted with green manure crops that would improve the soil and control erosion. Trails would present no problem, and green cover crops (clover) would be planted between rows. They use trap crops to distract deer from feeding on the vegetables, but may use fencing if that doesn't work. The hay fields are pretty, and the fields maintained by Mr. MacGregor are very impressive. W. Addy pointed out the vegetable farmers are not using chemicals to fertilize but are relying on nitrogen sequestration.

B. Easom and P. Morrison expressed the opinion that Dragonfly Farms might be better placed at the Shattuck property which would be more appealing if it were cut. Bruce Dubey provided an estimate of \$3700 for brush hogging the property about a year ago. Members urged that 3 telephone bids would be adequate, rather than advertising it in the newspaper as it should be cut soon. There are requirements to keep the view shed open to Baddacook Pond on this parcel.

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

VOTED: to recommend Maple Shade Farm to Fisheries & Wildlife as the Commission's first choice to farm Surrenden Farm West.

The motion passed with six voting in favor, and W. Addy voting in the negative.

Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to recommend Dragonfly Farms to Fisheries & Wildlife as the Commission's second choice to farm Surrenden Farm West.

The vote was unanimous.

Members stressed that both Dragonfly Farms and Groton Local be encouraged to take another look at the Shattuck property and that the Commission pay to have it mowed. W. Addy asked for clarification on why the Commission should spend money if others are to use the land.

Roy MacGregor said he would be willing to rotary mow the wildlife area on Surrenden Farm in October as part of his license agreement. The Surrenden Farm West Resource Management Plan specifies the obligation to mow the lower fields as part of the farming license agreement. Members agreed it would be okay to go ahead and mow the Surrenden fields now. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to authorize Maple Shade Farm to mow Surrenden Farm before October and again before the proposed civil war re-enactment.

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

VOTED: to enter a farming license agreement with Maple Shade Farm to hay the Eliades Conservation Area on Pacer Way.

It is hoped the licenses can be for a period of at least 5 years, but the Commission will await word from Town Counsel on the proper duration.

With no further business, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as amended August 25, 2009.