

GROTON CONSERVATION COMMISSION

Open Session Minutes

August 25, 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.

P. Morrison suggested holding off on reviewing the minutes of August 11th as he had some changes.

In discussion on the request for a Certificate of Compliance for DEP#169-989 for 25 W. Main St., C. Auman questioned the purpose the pipes in the backyard leading to the stream. P. Morrison noted the area where the new septic system was installed is stabilized. It may be that the area was cleared of brush during the construction process, making the pipes more visible now. It is difficult to say how long the pipes have been there. M. Giguere commented they appear to drain east to west. It could have been a pre-existing condition, but the Commission needs to know their functionality. B. Ganem said the homeowner, in a telephone conversation, stated the pipes drain an abutting field. B. Easom felt that everything should be straightened out before we issue a Certificate of Compliance, and we should know what is going into the stream. A motion by P. Morrison, seconded by R. Lambert, to issue a Certificate of Compliance failed, with only P. Morrison voting in favor. Members felt that the purpose of the pipes should be determined either from the homeowner or the contractor. It may be necessary to go onto the neighbor's property to find the origin of the pipes. Once we get their answer, the Commission can decide what to do. B. Ganem will send a letter to the homeowner asking the source of the water and the functionality of the pipes and asking that they contact the contractor to see if he can answer the questions.

Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to issue a letter of acknowledgement for the dock and deck at 58 Old Lantern Lane.

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

VOTED: to issue a letter of acknowledgement for the dock at 176 Shelters Rd.

Only one bid has been received to do the mowing at the Shattuck Lewis conservation area although no due date was specified. Roy MacGregor said he could do the mowing for \$2000, and the tree/limb removal for another \$1500. This would be a way to prepare the land for agricultural land next year. George Moore and Bruce Dubey were also asked to bid. Commissioners agreed, after a reminder goes out to the other potential bidders, to wait two weeks before making a decision. Resident Cindy Kollarics Swezey reminded the board there is a pond and vernal pool very near the agricultural fields. She also noted the Commission should be careful about what agricultural uses these fields are put to as the sprays necessary to grow grapes or apples would not be appropriate in a water resource protection district. B. Easom said the Commission is interested in preparing the land for agricultural proposals and will keep that in mind.

Cindy Kollarics Swezey and Larry Swezey, members of the Great Ponds Advisory Committee, were present to update the Commission on the progress in producing Resource Management Plans for the Great Ponds (those over 10 acres in their natural state) in Groton. These include Martins Pond, Baddacook Pond, Lost Lake/Knops Pond, Massapoag Pond (part of which is in Tyngsborough, and Long Pond, most of which is in Ayer. This is a requirement set up when much of the region was designated an Area of Critical Environmental Concern. These plans are to look at the usage of the ponds for fishing and boating, and anticipate future usage. Mr. Swezey explained there is a representative for each pond, and W. Addy serves as the Commission's representative. The state would like to see docks and structures counted along the shore line, but there has been some resistance to doing this at Lost Lake/Knops Pond. Members have spent several years collecting data on Whitney, Baddacook, and Martins Ponds.

Part of the ACEC process involved looking at the history of the area, the human use, any culverts that discharge to the ponds, plant communities, wildlife livability, identification of problems, and the development of possible action plans. It will be necessary to have public hearings for each pond, where hopefully, representatives from both the Groton Conservation Trust and the Commission will be in attendance. C. Swezey reported there are no structures on Martins Pond. She noted docks can sometimes impact water body especially when there is boat traffic involved. Members will look at algae and benthic communities to try and piece together water quality information. It is anticipated these reports will be ready by December 13th. This will get at the overall health of the ponds. C. Swezey mentioned there are concerns about the privacy factor. There is no public boat ramp at Martins Pond, and the water is only about 4 feet in depth. Much of the pond is in a state of eutrophication or starting to break down open water into swamp, marsh, or bog. R. Lambert pointed out this is a condition where there are excess minerals. Martins Pond is the standard for the remaining Great Ponds as it has had little alteration because it is isolated, and there is no easy access.

Francoise Forbes reported on Baddacook Pond. She noted the report will be developed by volunteer abutters, and they expect to meet the December deadline. The report will describe the pond, its history, usage, abutters, structures, and an action plan, including the excessive growth of invasive aquatic weeds which threaten both boating and swimming activities. The goal is to keep the pond healthy and develop a plan to control weeds. The plan will have to be approved by the Board of Selectmen and then be presented to the state. There are a number of possible solutions to weed control, but they can be costly and are likely to require a professional. Harvesting started this year, but it is a short-term solution similar to mowing one's lawn.

Larry Swezey added that the Water Department also has concerns because the Baddacook public water well is 150 ft. from the shore of Baddacook Pond. Although the well does not draw water from the Pond, the Water Department would not like to see changes in water quality as a result of activities in the Pond's watershed.

Dr. Susan Horowitz, the Board of Health representative to the Great Ponds Advisory Committee, explained she was working on the plan for Whitney Pond. She noted the Committee has gone through many plan iterations with the original focus on Lost Lake/Knops Pond where it is possible to have a drawdown in order to control aquatic weeds. She commented there is the physical work involved in getting the species identified. There is a Groton Lakes Association representative on the Committee. It appears that the state's biggest concern is getting money from the docks. She noted there are 12 stakeholders on Whitney Pond, many of whom would like to be involved in the process.

The Water Department owns land surrounding much of the Pond. A major algae bloom has been observed, and it is likely weed harvesting will be necessary in the future.

L. Swezey said a plan has not been developed for Lost Lake/Knops Pond in the absence of John Diezemann. The purpose of the plans will be to advise the Board of Selectmen on how to proceed with invasive weeds where dredging, harvest, chemicals, and drawdown all work to some degree. It is necessary to differentiate between invasive and native plants. Another problem with Lost Lake/Knops Pond is that a drawdown of 6 to 8 feet could threaten many private shallow wells. Lost Lake/Knops Pond does have the advantage of having a working siphon to control a drawdown which is not possible on Whitney Pond.

Each of the ponds will have diverse descriptions, but whether it will meet state guidelines remains to be seen. B. Easom asked whether the plans are in draft or final form. Members thought they would gather additional information at the public hearings and then make a presentation to the Selectmen before submitting it to the state. Mr. Easom mentioned he had aerial photographs of one-third of the town taken in 2008 and 2009 which he would be glad to forward to Committee members to assist with the dock count. W. Addy has volunteered to find out the number of dock permits the Commission has already processed. It is likely the Committee will use the public hearings as an opportunity to educate residents about the use of fertilizers and low-phosphate laundry detergents to help protect the water quality of the Great Ponds.

7:45 p.m. 246 Lowell Rd NOI continuation

Surveyor Stan Dillis explained he had designed a recharge trench on the inside of the driveway and prepared drainage calculations to support the revised design. This will provide recharge for the upper portion of the driveway. In addition, he has proposed an operation and maintenance plan that includes sweeping in the spring and snow not pushed over the recharge trench, as well as cleaning and replacement of stone in the trench as necessary. P. Morrison asked what percentage of the runoff will be captured by the trench, and Mr. Dillis replied it will capture the portion shown in red on the submitted plan which is the tributary area to the trench. The contours determine the watershed that drains to the trench. He noted this design will mitigate as much as possible compared to what is there now. Members expressed concern that this runoff is likely to be contaminated with salt, sand, and stones.

W. Addy asked about the gravel berm, and Mr. Dillis responded it will remain and be planted with a ground cover for stabilization. He requested that the key elements of the proposal be better documented on the plan. M. Giguere worried about snow storage within the buffer zone and questioned whether there should be something to control melting snow. The berm around the outer edge will direct flow to the driveway, but it's likely to be fast. It will also be contaminated with salt, sand, and gravel. S. Dillis reminded Commissioners the driveway is to be paved. D. Pitkin asked if the driveway will be banked toward the trench, and Mr. Dillis indicated it will be super-elevated toward the trench on the inside.

Correspondence from Natural Heritage & Endangered Species Program confirms there will be no adverse impact for rare species from this project. Commissioners indicated there remain questions about the functioning of the trench, the profile of the driveway, and the changes at the bottom of the driveway. W. Addy said he felt he needed more time to review the submittal as the information was just received tonight. P. Morrison expressed concern about how the recharge strip will be maintained in the future. He also noted the Commission previously requested a profile of the driveway and

anything that might limit the velocity of runoff. S. Dillis said the velocity has not been eliminated, but there is reduced volume. There is an approximately 2-3% grade coming across the front of the house. W. Addy asked if the driveway meets requirements for access by emergency vehicles. With applicant's concurrence, upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the hearing for 246 Lowell Rd. to September 8, 2009.

8:00 p.m. – 27 Whitney Pond Rd. NOI DEP#169-1023

Surveyor Russ Wilson explained the project involves an existing summer cottage, which is to be demolished, located 42 ft. from Whitney Pond. It is proposed to re-build it within the same footprint. The septic system, located across the street, is under discussion before the Board of Health. A septic tank and pump chamber will be under the concrete platform which is to be removed and then replaced after installation is complete.

Mr. Auman pointed out the plan should show where things are to be re-located. Mr. Wilson said the cesspool will be crushed and backfilled. It will be necessary to remove some small pine trees. Commissioners advised that a Form of Intent will have to be submitted for review by all departments. The plan should include details for the retaining wall. M. Giguere commented there needs to be some method for dealing with roof runoff, as well as a construction sequence. How machinery will access the site should also be included in the plan.

B. Easom questioned whether there are any other wetlands near the septic system, and Mr. Wilson said this area is surrounded by upland. Commissioners asked what will happen with construction debris and whether the stairway will be replaced. P. Morrison questioned where the shed and deck will be moved to, the details for the retaining wall, roof runoff, and a construction sequence.

Mr. Wilson thought the stairs that are removed will be replaced in the same place. Mr. Giguere stressed that everything the applicant intends to do should be shown on the plan or otherwise, the applicant will need to return to the Commission. B. Easom said this includes decks which may fall outside the existing footprint, such as a balcony off a sliding door. The Commission needs to know what areas will become impermeable, due to a roof or deck, even though the foundation remains the same. M. Giguere commented "If it is not on this plan, it is not approved." Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing for DEP #169-1023 to September 22, 2009.

8:15 p.m. – 80 Lakeside Dr. RDA

Landscaper Peter Myette explained the homeowner wished to rebuild existing retaining walls using better materials with wall heights not to exceed 4 ft. Commissioners said the plan should reflect the work planned on the stairway. Mr. Myette added the proposed work on the stairway and patio to the Commission's plan. All work will be done by hand with removed materials collected in a container to be hauled away. No tree removal is proposed. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination in which no tree removal is permitted, the work is done by hand, debris is removed from the site, haybales are on site, and

the area behind the retaining wall may be backfilled with crushed rock or stone, and environmentally sensitive pressure treated wood is utilized.

Mr. Giguere pointed out that any changes in the plan require the applicant to return to the board.

8:30 p.m. – 24 Island Pond Rd. NOI

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

VOTED: to continue the hearing for 24 Island Pond Rd. to September 8, 2009.

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

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

VOTED: to continue the hearing for DEP#169-1007 to September 8, 2009.

8:30 p.m. - Groton School RDA - trail bridges RDA

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

VOTED: to continue the meeting for the trail bridges at Groton School to September 8, 2009.

In review of the August 11th meeting minutes P. Morrison questioned the vote the Commission took on the mowing of Surrenden Farm. Both the vote to reconsider and the action to not allow the civil war re-enactors to hay the area cannot be rolled into one vote. He felt the vote to reconsider wiped the original vote out.

M. Giguere said the Commission has previously discussed forestry management, and Tom Orcutt has suggested hiring a consulting forester to handle all of the Town's forested parcels. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to authorize B. Easom to talk to the Town Manager about the preparation of a 'request for proposals' to engage a forestry consultant.

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

VOTED: to approve the minutes of August 11, 2009 as amended to include a statement to refer to the minutes of August 25, 2009 for clarification of the vote on the proposed civil war re-enactment.

To correct the actions taken at the August 11th meeting, upon a motion by D. Pitkin, seconded by R. Lambert, 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 proponents for the civil war re-enactment have appeared before the Board of Selectmen who will be walking the 14-acre reserve area with Tom Delaney to determine its suitability for parking.

In discussion on the proposed re-organization of the land use departments, members noted there will be a single figure under the Town Manager to be designated the Land Use Coordinator/Town Planner. Michelle Collette will serve in this capacity, and it appears the biggest impact of the re-organization will be on the Planning Board as it increases Ms. Collette's responsibilities. The purpose of the re-organization is to improve coordination of permit applications. The position of Land Use Assistant I would not be filled unless there is an increase in the work load. Personnel reviews, budgets, and time cards would fall to this position. Members were concerned that it be clear comments are directed at the position, not the person in the job. C. Auman said the organizational chart is confusing as the functionality and lines of communication are uncertain. Does the individual in this position review personnel, direct the Conservation Administrator or is it mostly administrative? For a functional relationship, the lines should be dotted. Information flow and reporting should be clarified, and M. Giguere commented it may be necessary to have two charts. Questions were raised about why Parks or the Community Preservation boards weren't included, and B. Ganem pointed out neither of these boards issue permits.

Attorney Ray Lyons has contacted C. Auman about possible bylaw modifications. P. Morrison noted the Commission worked very closely with Alexandra Dawson in the development of the bylaw and regulations, and they were also reviewed by Town Counsel. C. Auman commented Town Counsel was quite adamant that the word 'hardship' be removed from the bylaw as it is impossible to define. Three things were stressed when the bylaw was proposed: 1) no structures within 100 ft. of wetlands, 2) a 50 ft. no-disturb buffer, and 3) greater protection of vernal pools. There were exemptions for work on previously disturbed lots and existing structures. Limited projects were not included in the model MACC bylaw, but this presented a danger in terms of enforceability.

P. Morrison said the Commission should listen to what Mr. Lyons has to say, and C. Auman, M. Giguere, and B. Easom volunteered to do this and then bring the information back to the Commission.

M. Giguere mentioned a recent MACC article in which it was determined bylaw performance standards were not enforceable. The Commission should consider having Kopelman & Paige review our bylaw for soundness and to determine whether they remain applicable in today's market. The Boxford regulations are supposed to be a good example. It seems reasonable to prepare a budget estimate and contact Mark to see if it is feasible to have this review. W. Addy recommended that Mr. Lyons work through the Commission's chairman in the future, and members explained that C. Auman had been the guiding force in the original preparation of the bylaw.

Regarding the possible length for an agricultural license, Town Counsel David Doneski has advised one year. P. Morrison said he wants to go with a longer time period to better accommodate farm planning and suggested 5 years was more reasonable. B. Easom agreed this was more workable. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to approve agricultural licenses for a period of up to five years reviewable by either party with 90 days notice with a reaffirmation if both parties are amenable.

B. Ganem had prepared a draft letter to the Secretary of the Commonwealth to get permission to destroy audio tapes from 1999 to 2001. These tapes have been converted to written minutes which have been approved by the Commission, and there are no pending freedom of information requests. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to approve sending the letter, as drafted, to the Secretary of the Commonwealth.

Commissioners expressed concern about the apparent loss of photographic records from the Conservation office computer. Members suggested backup software to be sure these records are maintained. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize the purchase of two terabyte drives (estimated to be \$100 each) to backup Commission photographs.

B. Ganem said correspondence from Town Counsel and the attorney for Michael McCarthy, owner of 65 Island Pond Rd., is included in tonight's packet. With multiple violations for the construction of structures in or near Massapoag Pond, this project presents a number of difficulties for the permitting boards and staff.

Regarding the warrant articles for the upcoming October 19th Town Meeting, upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve three articles, all involving LAND grant applications, for submittal for the Town Meeting warrant.

M. Giguere and B. Easom reported on a meeting with Si Balch and Ray Lyons on the Conservation Restriction held by the Town on land owned by the New England Forestry Foundation off Allens Trail. There are two serious encroachment issues involving Lots 25 and 27, including a French drain outletting onto conservation land and an extended paved driveway. A land swap is a possibility, with legal costs borne by the offending parties. The option can be presented to the landowner. P. Morrison commented the paved driveway has been there since day 1. There is an existing right-of-way which appears on the deeds. If logging operations can occur via this access, it may be better to leave the pavement under those conditions. The owner was told to fix the erosion problem, not necessarily to pave the area. If it is used as an entrance and egress for logging equipment it could decrease environmental degradation as the hill would not have to be cut back. Members questioned whether Beecher Rd. is private or a public way. P. Morrison thought it would be treacherous to get equipment up the hillside. R. Lambert asked about going back to the state about the proposed changes, but this would fall to NEFF to sort out. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to allow consideration of a land swap relative to Lot 25.

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

VOTED: to consider accepting easement for access over paved surface on Lot 27 in exchange for retaining the pavement on Lot 27.

These votes will be communicated to Ray Lyons who will approach the landowners.

B. Ganem explained Town Counsel has prepared a deed for the donation of land on Nashua Rd. by Hilda O'Hara to the Town. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to sign off on the acceptance of the deed of land identified in Assessor's records as Parcel 226-67.

To follow up on the tree cutting on Groton Woods property off Whitewood Rd., members recommended contacting the camp director to see how they wish to proceed.

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

VOTED: to enter Executive Session for the purpose of discussing a land purchase, not to return to Open Session at adjournment.

The meeting adjourned at 9:52 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/22/09.