

## GROTON CONSERVATION COMMISSION

### Open Session Minutes

October 27, 2009

Chairman Bruce Easom called the meeting to order at 7:00 p.m. in the 2<sup>nd</sup> floor conference room in Town Hall. Members Wayne Addy, Craig Auman, Marshall Giguere, and David Pitkin were present. Peter Morrison arrived at 7:05 p.m. Conservation Administrator Barbara Ganem was also present.

Upon a motion by D. Pitkin, seconded by M. Giguere, it was

VOTED: to approve the Open Session minutes of September 22, 2009 as drafted.

Upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to approve the Executive Session minutes of September 22, 2009 as drafted.

Upon a motion by W. Addy, seconded by C. Auman, it was

VOTED: to approve the Open Session minutes of October 13, 2009 as drafted.

Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to approve the Executive Session minutes of October 13, 2009 as drafted.

In discussion on the Order of Resource Area Delineation for Croteau/66 North St., members noted the property bound lies on the Pepperell town line.

(P. Morrison arrived at 7:05 p.m.)

Because the USGS topographic map shows a more extensive river than presented on the plan, M. Giguere worried that the plan would not reflect any changes the Commission makes in the ORAD. W. Addy suggested waiting until Stan Dillis was present to discuss this issue with him. B. Easom pointed out earlier topographic maps show a pond on site that has now disappeared. He questioned whether the Commission would compromise its ability to ask for restoration if that pond was illegally filled. P. Morrison said the question is when it was filled. The ORAD is good for three years unless new information comes in. M. Giguere asked whether the Commission can approve the delineation with a caveat, and P. Morrison thought it would have to be approve or disapprove. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue the Order of Resource Area Delineation approving flagging only on land owned by the applicant, modification of the Riverfront Area to reflect the USGS topographic mapping for the river, and noting the delineation on this site reflects current site conditions including disturbances over the years as a stone yard, stump dump, landfill, as well as

indicators of previous wetland filling, which could result in a finding of additional wetland resource areas on the site with future investigations.

P. Morrison and M. Giguere voted in the negative.

7:15 p.m. – 7 Shenandoah Rd. NOI DEP#169-1027 continuation

Engineer Daniel Wolfe of David E. Ross Associates was present on behalf of applicant Robert Anctil who wishes to construct a garage and additional driveway. The Board of Health wishes to clarify some issues as does the Zoning Board of Appeals. There will be access to the lower area of the garage, using a retaining wall to break the grades. No disturbance is planned adjacent to the existing well. Mr. Wolfe mentioned several wells were drilled on a paper road owned by the Groton Conservation Trust. The neighbors, Edward and David Jewett, have used the paper road for access to their properties. Mr. Anctil has purchased the paper road from the Trust and arranged for the Jewetts to have access to their property, included an easement for the Anctils to use their lower driveway access and to own the land on which the Anctil well is located. Mr. Wolfe explained the plan includes both the 50-ft. and 100-ft. buffer zone lines.

W. Addy asked if the existing driveway will remain, and Mr. Wolfe indicated it will be used for overflow parking, but will be kept as crushed stone and not be paved. It will be a 2-car garage with a third garage space underneath to store their boat. The remainder of the ground floor will be used for storage. Mr. Anctil said they did not want the house to appear as three stories from the lake side, but they are lacking in storage due to the house design.

M. Giguere noted the garage construction involves removal of a forested hill, and this is currently the only undisturbed part of the lot. Mr. Anctil acknowledged that trees will be cut to accommodate the new garage. He explained there are several constraints involved in designing for this site, including the proximity to the lake, topographic issues, and the requirement that they not encroach on the septic system or well. He also pointed out that decreasing the size the garage would result in it not being useful for storage. Balancing the requirements of the different boards is difficult as well.

Mr. Giguere and C. Auman thought the undisturbed area has some value as habitat. Two large oaks will have to be removed. The applicant could consider adding native plantings to the site to compensate for loss of habitat. Mr. Anctil said they have planted blueberry bushes and mentioned the site drains very well. He agreed to look at options for compensation. There is value in having a root system to absorb undesirable pollutants and stabilize soils.

Mr. Wolfe noted additional native plantings could be considered near the driveway area. Mr. Auman said the New England Wildflower Society has a list of native plants which should be considered. He expressed concern about losing habitat because the site is already so compact. D. Wolfe stated the applicant does not want to lose parking spaces. Members asked how much material will have to be removed to accommodate the garage, and Mr. Anctil said he will have to follow up with Michelle Collette under the Earth Removal and Stormwater Advisory bylaw. He said he would ask Dennis Lacombe to take any excess fill off site.

Member Pitkin asked whether the applicant planned to pave the entrance to the garage from Shenandoah Rd., and Mr. Anctil responded “Yes”. Mr. Pitkin noted there is a 4-ft. cut for the garage, and B. Easom said the Commission will need an estimate of the materials to be removed. Mr. Anctil thought the responses from the Board of Health and the ZBA were likely to be positive. Mr. Addy asked if there would be any water or electricity to the garage, and Mr. Wolfe replied a conduit would carry electricity to the garage, but no water is proposed. The garage will have standard width bays of 10 – 12 ft. Commissioners requested information on the garage roof line, a list of plants and a planting plan, how roof runoff will be addressed, and the cubic yardage of materials to be removed. Member suggested leaving the hearing open in the event there are any changes after review by other boards. Upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to continue the hearing to December 22, 2009.

7:30 p.m. – Appointment Steve Morlock/718 Townsend Rd. fire exercise

Mr. Morlock explained that some previous firefighting exercises, including dragging the hoses and searching for victims, were conducted at this address before he became aware that technically the Commission is the owner of the property. He said it is unusual to have a structurally sound building in which to conduct training activities, and he has only recently learned the Commission would like to see the building demolished. In accordance with regulations sets by the National Fire Association and DEP, they propose to set straw bales or pallets on fire to allow the firefighters to practice exterior fire fighting skills. All hazardous materials would be removed from the site before the exercise, and burning would result in less debris going to the landfill.

Members asked how runoff to the stream will be handled and whether petroleum products would be used to start the fire. Mr. Morlock replied it must be a clean burn, and any existing oil tank would be removed beforehand. Removal of asbestos or other hazardous material would be coordinated with the developer before the activity takes place. M. Giguere said this is regarded as an attractive nuisance, but he thought the structure could provide valuable training. C. Auman stated he was fine with waiting until April for the exercise to take place. S. Morlock indicated there is a nearby fire hydrant, and they usually also bring a tanker of water. A haybale/silt fence barrier would be set up to prevent sediments from reaching the stream. It is also advantageous that there are no close by neighbors.

B. Easom asked if lead paint would be burned, and S. Morlock said they would follow DEP guidelines on this. Members thought the filing of a Request for Determination of Applicability would be advisable as we get closer to the exercise date. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to approve the delay in demolition of 718 Townsend Rd. in order to allow fire training to be conducted by the Groton Fire Department.

S. Morlock agreed to see that the developer secures the structure against vandalism, and B. Ganem will let the developer know the Commission has agreed to a delay in the demolition.

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

VOTED: to remove the demolition condition from the Extension previously granted for Academy Hill.

Members discussed how best to handle the foundation and final clean up. There should be a Request for Determination of Applicability filing to spell out final details for the exercise and protection of the resource area, including what steps will be done when. S. Morlock agreed to submit standards for live burns electronically and informed the Commission there may be other opportunities for training if that is okay with GCC. Members advised Mr. Morlock of the demolition delay bylaw. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to appoint Steve Morlock as the Commission's agent to deal with the Fire Department and the builder in the development of a plan for the Townsend Road fire exercise.

7:30 p.m. – 54 Ridgewood Ave. NOI DEP#169-1026 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 November 10, 2009.

7:45 p.m. – 55 Wenuchas Tr. NOI DEP#169-1024 continuation

Scott Smyers of Oxbow Associates was present and indicated he had observed no nesting cavities or perches in the trees along the bank. He maintained that the nooks and crannies in the stone wall will provide wildlife access. He thought the shallow bank burrow could be used by a star-nosed mole. He pointed out the bank is being severely undermined and would be stabilized by a wall along the shore line. Removing the timbers at the shore would also be advantageous.

M. Giguere asked the correct number of linear feet to be altered by the retaining wall, and Mr. Dillis said it is 360 linear feet of alteration. The applicant wishes to save mature trees. The process would be to install fill into the undercut area and then place filter fabric topped with boulders. Between 15 and 20 willow tubelings, a native species, will be planted to enhance habitat. Blueberry bushes will be planted between trees on the bank. Mr. Smyers said the plantings will provide good filtering action and slow sheet flow coming down the slope. The applicant plans to continue to maintain the lawn area directly in front of the house on the lake side.

S. Smyers acknowledged the undercutting of the bank and potential for collapse of trees and the slope will have to be balanced against the loss of fish habitat. He pointed out the irregularities in the stone wall creates additional micro-features for small critters. The overhanging canopy trees are also important to provide shading. C. Auman said he appreciated the effort to save trees. The boulders will be between 100 and 500 pounds, and there will be good-sized openings between them. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to close the hearing.

R. Lyons asked if the Commission would be willing to share the draft Order of Conditions ahead of their discussion and issuance of the document, and Commissioners agreed to do this.

Stan Dillis requested a moment to discuss some changes in the plans for the Groton Community School. He noted the plans called for two playground lights, and they want to add a third. The installation will be dug by hand. There are existing conduits for all three lights. C. Auman thanked him for bringing this to the Commission's attention. Upon a motion by P. Morrison, seconded W. Addy, it was

VOTED: to accept this change as a minor modification for DEP#169-1013.

Commissioners mentioned to Mr. Dillis that the USGS topographic map for the Croteau property shows the river extending closer to North St. than is depicted on the plans submitted with the Abbreviated Notice of Resource Area Delineation. S. Dillis said the plan reflected the channelized portion of the stream where it started at Wetland Flag #16. Members asked if he could prepare a plan transferring the USGS stream to the plan as this is the standard used under the Groton Wetlands Protection Bylaw. Mr. Dillis agreed to forward this to B. Ganem.

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

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

VOTED: to continue the hearing to November 10, 2009.

Commissioners reviewed the proposed trail flagging off Paugus Trail during the previous Saturday site visit. Chairman Easom explained that a group of students from Lawrence Academy will be available November 3<sup>rd</sup> to help with trail clearing, and he wished to get clearance from the Commission before this activity takes place. How the trail will cross the wetland in the area of the stone wall is yet to be determined, but the wall will be kept intact. C. Auman said this parcel provides a beautiful boulder tour, but he felt it was important to make it less attractive to ATV traffic once you go by the stones. Members suggested filing a Request for Determination of Applicability for a bridge. M. Giguere noted the trail had been moved slightly up from the wet area. B. Easom noted the wetland runs southwest, and the trail southeast so there will have to be a crossing at some point. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to approve the trail clearing off Paugus Trail with no clearing around the wet area.

Mr. Easom indicated they will call Dig Safe before any trailhead markers are installed.

Selectman Anna Eliot was present to discuss the Master Planning process with the Commission. B. Easom indicated he had met with Mark Haddad and Michelle Collette, and they had suggested there may be an opportunity to use the same organization for the preparation of the Open Space & Recreation Plan which establishes the Town's eligibility for LAND grants. The consultant, Community Opportunities Group, is working with a consortium of consultants including Fay, Spofford & Thorndike which is the firm that prepared the Squannacook Rail Trail proposal. The list of projects which they have prepared includes Merrimack, Ayer, and Clinton. Ms. Eliot

explained that these actions are in response to the amendment to the Master Plan funding article from Town Meeting calling for exploration of ways to lower costs. One of the elements of the Master Plan addresses open space, and many of the same components are required in both the Master Plan and in the Open Space & Recreation Plan, and it would be wasteful to pay twice for the same information. C. Auman said that both previous committees which worked on earlier editions of these documents experienced difficulties with their consultants. He recommended meeting with the consultants and being very clear on the deliverables. M. Giguere and C. Auman agreed to meet with B. Ganem to go over the current Plan and then attend the Planning Board meeting Thursday night. It was noted that public participation is key to the preparation of both plans. The last Master Plan included very little on economic development. B. Easom pointed out that the Town's bargaining abilities are strongest before a contract is signed. D. Pitkin questioned whether we could save money on the Master Plan by having the same elements in both documents and doing a lot of the work ourselves. In general the Commission agreed that it makes sense to align efforts and see that elements in both plans are not duplicated. Ms. Eliot explained that she, Josh Degen, Jay Prager, Michelle Collette, and Mark Haddad have been negotiating on ways to reduce the costs.

Attorney Ray Lyons was present to discuss the Purchase and Sales Agreement for the Island Pond parcel. With the existing lot configuration, there is an issue with an easement serving Lots 3 and 4 that requires driveway maintenance. B. Easom said the concern is what happens to the easement where the property touches Island Pond Road, and, as a general practice, it is not good for the Commission to get involved in plowing, mowing, or maintenance. Members expressed concern about discussing this matter outside of the context of an Executive Session, and Mr. Lyons agreed to just disclose information and not get into any exchanges. The frontage of the lot provides access for utilities and a shared driveway serving two houses. The owner of Lot 4 could provide an indemnification which would cover the Town. While indicating he couldn't promise a release from the owner of Lot 3, Mr. Lyons' confirmed he would make a good faith effort to try. He stated his client holds an easement on their property that is not needed, and an exchange of easement releases could be offered. R. Lyons said he was anxious to nudge this project along and hoping for February as a possible closing date.

In discussion on the Certificate of Compliance for 25 W. Main St., members mentioned that Mrs. Croteau had explained during the site visit that the pipes had been put in to drain the neighbor's lawn and were plugged and not functioning. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a Certificate of Compliance for 25 W. Main St., DEP#169-989.

Regarding the request from National Grid for a Certificate of Compliance, B. Ganem explained that neighbors have complained of ATV use on the power easement and adjacent conservation lands and National Grid was also responsible for preparing annual vegetative reports as a condition of the Order. A motion by M. Giguere, seconded by B. Easom to not issue a Certificate failed with no majority vote. Upon a motion by D. Pitkin, seconded by P. Morrison, it was

VOTED: to issue the Certificate of Compliance for DEP#169-958 contingent upon receiving the vegetative reports from National Grid.

M. Giguere indicated he has earlier personnel evaluations for B. Ganem, and Chairman Easom agreed to begin the evaluation process which is due to be completed by December 31<sup>st</sup>.

Steve Legge from the Trails Committee has requested ideas from the Commission about other conservation areas that could be used for the community service projects by Lawrence Academy students. Members suggested removal of junk and debris on the Shattuck parcel, bittersweet removal behind Williams Barn, and a trash cleanup at Bertozzi.

B. Ganem explained she talked with Bill Krueger of Grotonwood Camp about clearing the trees that were felled into Martins Pond Brook off Whitewood Ave. They have scheduled a volunteer work day for Saturday, October 31<sup>st</sup>, and could include this project. These trees and branches could potentially cause flooding if we experience a severe weather event. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to issue an Emergency Certification for the project to go forward with B. Ganem to provide guidance and conditions to protect the resource area.

M. Giguere suggested adding “no yard waste or composting” to Section II. A. of the proposed Conservation Restriction for the Gamlin Crystal Springs property. Mr. Collins has agreed to discuss this at a future Conservation Commission meeting.

B. Easom reported that resident Adam Burnett has been active in developing a trail connection to the Nashua River Rail Trail near Arlington St. Ed Turcoletti, the Department of Conservation and Recreation manager for this resource, supports the effort, as does the Board of Selectmen. Town Planner/Land Use Director Michelle Collette has agreed to talk with Conductorlab, the owner of the property where both the trail connector and a bridge are proposed, to see if they would be willing to donate an easement or the land itself as mitigation for environmental damages incurred by the community over the years. A bridge would be necessary to cross the headwaters of Gratuity Brook to get to the Rail Trail. This could potentially join W. Groton, via Fitch’s Bridge, with the Rail Trail. P. Morrison questioned whether there are any reasons why the Town might not want to own the land outright, i.e., 21E concerns. He thought an easement might be the preferred instrument for access. Mr. Easom said the heavy metal problem (hexavalent chromium) presented a groundwater issue, not necessarily an impact on trail users. He suggested a site walk should be scheduled to determine the best trail route and wetland crossing area.

Chairman Easom said he met with Mark Haddad and Michelle Collette who had received a complaint from Jon Liebold, the owner of 246 Lowell Rd., about both the length and onerous conditions imposed under the Order of Conditions. Mr. Easom responded the applicant has a track record of non-compliance. One of the concerns raised by Mr. Haddad is with the bond and the fact that the Town could be involved in having to fix the driveway for them which creates a liability should unknown problems occur. He suggested finding a better route to achieve compliance, such as fines, and asked the Commission to consider removing the condition. Members discussed the liability associated with a bond and the implications associated with removing language requiring permission to go on the property. P. Morrison suggested changing

the bond to a fine. D. Pitkin cautioned against changing the rules once the Order of Conditions has been issued. B. Easom said changing the terms could be dangerous, and it might be feasible to return the \$3000, but fine him for every day in which he is in violation. He did not feel the Commission has the authority to take fines out of the bond. P. Morrison withdrew a motion to strike #5 under the Bylaw in its entirety. Further discussion ensued, during which C. Auman suggested letting Mr. Liebold know that additional fines can be levied if he does not comply with the Order. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to strike a portion of #5 of the Special Conditions issued under the Wetlands Protection Act for 246 Lowell Rd. DEP#169-1022.

Members discussed adding another meeting in November to cover upcoming filings and hearings. D. Pitkin and M. Giguere both noted they would be unavailable for the November 24<sup>th</sup> meeting which could have implications under the Mullin rule. Members agreed to schedule a meeting for November 17<sup>th</sup> providing a meeting room is available.

The scheduled closing for the purchase of the Fuccillo land on Lowell Rd. is October 29<sup>th</sup>. The landowner is willing to hold the checks for a short period of time to await word from the state about the LAND grant.

Chairman Easom suggested keeping an inventory of sites where members notice ATV activity and damage to conservation areas. These sites could be shown on a map if anyone is interested in doing this. He also reported the new Community Preservation grant application package is now available, and he will send a copy to B. Ganem electronically.

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

VOTED: to enter Executive Session, not to return to Open Session.

There being no further business, the meeting was adjourned at 10 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Administrator

**Approved as drafted 11/10/09.**