

GROTON CONSERVATION COMMISSION

Minutes

January 26, 2010

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, and Peter Morrison were present. Member David Pitkin 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 January 12, 2010 as drafted

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

VOTED: to approve the Open Session minutes of January 12, 2010 as amended.

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

VOTED: to issue the Order of Conditions for 51 Carmichael Way, DEP#169-1035 as drafted under the Wetlands Protection Act.

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

VOTED: to issue the Order of Conditions for 51 Carmichael Way, DEP#169-1035 as drafted under the Wetlands Protection Bylaw.

A public forum is scheduled for the first part of the regular Commission meeting on Feb. 9th to gain public input to update the Action Plan portion of the *2005 Open Space & Recreation Plan*. M. Giguere and B. Ganem have received comments from Don Black, the Water Department, and the W. Groton Water Superintendent. Requests for comments have gone out to other departments as well. An announcement of the forum is scheduled to appear in the *Groton Herald* this week, and members suggested also posting it on the town list serve and web site.

7:15 p.m. – 235 Old Dunstable Rd. RDA

Homeowner Richard Sargent explained the driveway has been there since the 1800's, and he had cut back vegetation and cut some trees damaged in last December's ice storm, as well as removed invasive vines. Member Lambert asked about the configuration of the barrier at the end of the driveway, and Mr. Sargent said there are eight individual stones which would stop snow from being pushed further (into the wetland).

C. Auman noted the invasive vine to be removed is probably bittersweet which should be pulled up by hand if small enough. The other technique, for larger stems, involves cutting the stem and painting it with concentrated Round-up. If left in place, the vine is likely to kill the tree. Mr. Sargent said he is concerned some of the leaning trees could pose a safety hazard as his land abuts trails on adjacent New England Forestry Foundation land. M. Giguere asked about the material that has been placed on

the driveway, and R. Sargent stated it was Starpac. He uses sand on the house driveway, but does not treat the barn driveway. P. Morrison acknowledged that invasives are a significant problem in this section of the NEFF property. He understood that chopping and then painting stumps could prevent re-growth. Member Morrison said the Commission typically recommends a mix of 10% salt to 90% sand, the same mixture the Town Highway Department uses, for private driveways.

Mr. Sargent indicated he plans to remove three more trees, and he revised, initialed, and dated his plan to reflect the tree locations. C. Auman pointed out cut invasives can re-grow so burning may be a better solution. Upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination including the following conditions: removal of three trees is allowed, the removal of non-native invasive vegetation is allowed, and any winter treatment of the driveway surface shall not exceed a 10% ratio of salt to 90% sand.

7:30 p.m. – 46 Redskin Trail RDA

Homeowner Erich Garger explained he wished to get permits for existing docks and a boat lift. He said the docks have been there since he bought the property in 1997, but he has re-done them and maintained them. He estimated the boat lift has been in place 4 or 5 years. When asked if there was access along the shore line, Mr. Garger said people would have to go around the docks. Members advised him a Ch. 91 application should include the neighbors' permission because the docks were closer than 25 ft. to adjacent properties. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to issue a negative #3 Determination which will include the standard dock conditions.

Chairman Easom explained he had attended the Community Preservation Committee meeting the previous night during which they reviewed the full applications with a goal of providing feedback before the deadline. There were no comments for the Commission's application for \$30,000 for the Conservation Fund, but several letters of support are anticipated for inclusion in the application. It is expected the note for Surrenden Farm will be between \$400,000 and \$500,000. Normally the CPC would forecast anticipated revenue and then make sure expenses do not exceed that figure. The local surcharge is likely to yield \$500,000 this year, but the CPC is making the assumption there will be a 0% match from the state. B. Easom said this is unlikely to be true because the July through December figures are slightly up from last year. There will be a warrant article for the three different bins and the administrative budget and then additional warrant articles for each of the 4 applications. Mr. Easom indicated that this intentional underestimation of this year's budget could cause problems, but the money is not going away and would be available in subsequent years.

P. Morrison suggested increasing the Commission's application to \$200,000 next year if we are unsuccessful in getting the \$30,000 this year. C. Auman thought the message at Town Meeting would be that the state match has gone away when, in fact, it hasn't. It appears the CPC strategy is to take a year off from spending money. W. Addy felt the Commission should press now for this money rather than it being brought out at Town Meeting. M. Giguere encouraged Mr. Easom to make the case for using this year's match. There are opportunity costs associated with this strategy, especially with many forecasting that we are currently at the bottom of the housing market. Attorney Ray Lyons, who was in the audience, said that recording fees at the Middlesex Registry are actually up over those of the previous year's although Bristol County and the Cape may be down. The

Department of Revenue has forecast an increase for the upcoming year. All members agreed that B. Easom should strongly push for CPC support of the Commission's article.

7:45 p.m. – Groton School NOI DEP#169-1033 continuation

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

VOTED: to continue the Groton School NOI DEP#169-1033 to February 9, 2010.

7:45 p.m. – Appointment/Ray Lyons

Attorney Lyons explained he was present to discuss the Commission's impromptu Saturday site visit to the work site at 55 Wenuchas Trail. Owner Steve May and surveyor Stan Dillis were also present. Mr. Dillis acknowledged there have been some field changes mostly due to the fact that the water level had not dropped as much as anticipated. The stone retaining wall was built in front of the existing wood retaining wall which was then pulled out. The applicant also proposes creating a fieldstone wall in lieu of the segmental block wall originally proposed on the lake side of the house. Mr. Dillis said the remaining railroad ties will be removed and replaced with stone walls while the ground is still frozen. The support for the deck will also be replaced.

W. Addy questioned the manner in which the silt fence was used - essentially to retain fill for the access ramp – and asked about the source of the material and what will be done with it. He pointed out the wall has been moved further into the lake than was proposed in the NOI plan which has the effect of changing the architecture of the lake. He thought the site should be fixed the way it is supposed to be. It is necessary to maintain silt fencing once it is put in, and Mr. Addy noted there is debris and dirt on the wrong side of the fencing.

Mr. Dillis explained the material in the access road will be used to fill under the bank and build the wall as they work their way back out. They will clean up as they go out. Mr. Addy pointed out the access ramp does not match the plan, and he considered the entire project at risk and not under proper control. M. Giguere mentioned the pre-construction meeting did not occur until after brush and trees were already cut. S. Dillis said the ramp into the lake is temporary, and they always intended to have access from the lake bed to construct the wall. Fill was added to the top of the ice and will be used as backfill for the wall. Because of the extensive root system of the large willow near the shore line, the wall was pushed out about 10 ft. rather than the 4 – 5 ft. shown on the NOI plan.

Machinery is being parked on the east side of Wenuchas Trail in what S. Dillis characterized as a temporary staging area created with a stone retaining wall. Members pointed out this is a major change in the operation and construction detail for the plan. In fact, this is a different plan on the ground than what was approved. P. Morrison agreed that the new access was a good idea as opposed to going directly down the slope, but the whole process has reinforced the need to have an accurate construction sequence and appropriate communication between the Commission and applicants. B. Easom summarized the issues that concern the Commission: 1) work began before on-site meeting; 2) lake not drawn down as far as engineer anticipated; 3) additional fill added around the willow tree; 4) inadequate or no silt fencing for original limit of disturbance with dirty snow and brush piled on the lake side of the fence; 5) applicant/contractor have not communicated with us; and 6) oil/hydraulic spill on the hill. There are at least 3 serious violations of the Order of Conditions. R. Lambert noted that the debris piles on the other side of the fence include dirt and pieces of the tree. The change in the shore line was his major concern. With a cement mixer and bobcat on site, Commissioners asked whether machinery is currently diapered. S. Dillis admitted to a failure in

communication, but pointed out time is of the essence in getting the work done under frozen conditions. C. Auman commented there is approximately 5 – 8 ft. of fill that has been added on the lake side of the willow tree, but the new stone wall is another 3 – 4 ft. across, forming an additional intrusion into the lake. He stressed the need for compensation for filling. He noted the site visit provided a good opportunity for the Commission to see the extent of bank erosion. P. Morrison questioned whether the oil spill was cleaned up after January 15th and, if so, where was the contaminated material taken?

M. Giguere felt that the extent of changes made in the field could rise to the level of requiring a new filing rather than amendment. B. Ganem said the standard is whether the changes constitute an additional impact to the resource area. R. Lyons stated the Commission is looking for calculations for the cuts and fill along the shore line and something from the contractor, Brett Ramsden, on where the soils came from. He requested clarification from the Commission on how much the applicant can continue to do. C. Auman advised including the size of the rock wall in the calculations.

W. Addy suggested addressing near term remediation issues first. The applicant is in a violation situation in which about 2 – 3 ft. of fill has been added to form a ramp with silt fencing used as a retaining wall. P. Morrison felt that stopping work could result in problems when things start to thaw. Members suggested that nothing be done on the retaining wall from the dock down until we know what the calculations are. Mr. Morrison pointed out the applicant will be taking a risk if we find that the bump out is larger than anticipated. B. Easom asked if the Commission should require that the stone be moved back to form a more undulating shore line which could help with wave action. M. Giguere said his preference was to see nothing else done on the wall south of the dock until we have the flood storage calculations. If those are found to be satisfactory, it may then be okay to continue work on the wall on the north side. The immediate issues would be removal of snow with embedded debris, identify source of fill and method of handling contaminated soils, dirt removed from the ramp, and the re-installation of silt fencing. These steps will contribute to risk mitigation. Work along the wall at the house may continue. Calculations must be prepared for fill and floodplain compensatory storage. C. Auman recommended that measurements from fixed points be made so we can see changes. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to deputize B. Ganem to determine the suitability of soils for backfilling wall and under the bank.

M. Giguere questioned whether the Commission wants an amendment or a new filing. B. Easom asked if members wished to consider fines, given there was no prior meeting, silt fence not installed as shown on plan, unapproved shore line modifications, filling in wetland we did not anticipate, and work was done that was not on the NOI plan. M. Giguere said if an applicant makes changes, they are supposed to appear before the Commission. He added that it was pretty clear to him that the Commission does not want to encourage this kind of activity. The Bylaw allows fines of \$50/day/event, and we have at least 3 separate events. Additional fines could be levied at a later time. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to levy a fine of \$150.00 at this time providing the engineer can provide proof of satisfactory compensatory flood storage.

Members agreed to visit the site and post a Commission meeting on 55 Wenuchas Trail for Saturday, February 6th. The work will be stopped along the shore line, but it is okay to do the two retaining

walls in the buffer zone. The ramp roadway will be lowered to half the height of the silt fence or lower, the silt fencing will be fixed, and debris located on the lake side of the silt fence shall be removed. Attorney R. Lyons agreed to email B. Ganem a list of the issues to be immediately addressed.

In discussion on the New England Forestry Foundation (NEFF) land on Baddacook Pond, attorney Ray Lyons said he has received a quote from appraiser Jon Avery to prepare an appraisal, but he was not clear on who his client should be. B. Easom mentioned the Town would have to be the client if we wish to apply for a LAND grant, but we need a surveyed plan from NEFF. Last year the LAND application was due in mid-July. To avoid the appearance of a conflict of interest we could request estimates from other appraisers we have used in the past. R. Lyons said NEFF has not entered into any agreement, just asked for an estimate to do the appraisal. He said there is no open, active contract at this time. B. Easom explained the process for obtaining an appraisal, and Mr. Lyons estimated the acreage to be 45-46 acres with a house site. Much of the parcel contains wetlands, and it is anticipated the house lot would be extinguished. When asked if NEFF would demolish the existing structure, Mr. Lyons replied it would be gone before a closing occurs. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to authorize B. Ganem to get quotes to prepare an appraisal on the NEFF Baddacook Pond property.

R. Lyons submitted an aerial photograph with the proposed acquisition drawn in, and members advised the proposed property lines should be straightened. He maintained it does not have to be a surveyed plan for the purpose of doing the appraisal.

In discussion on the proposed Purchase & Sale Agreement for the Patriot Properties parcel on Island Pond Rd., attorney Ray Lyons noted the additional road frontage has been reduced from 10.5 ft. to 8.5 ft. mainly because it is based on a computer estimate not a field assessment. The closing is scheduled for May 7th, with an August 31st withdrawal date for the buyer. The Commission will have to make a decision on the location of boundary markers by March 10th. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to accept and sign the Purchase & Sale Agreement as revised.

Commissioners signed 4 copies of the Agreement, and Mr. Lyons left a 5th copy for Commission records. He anticipates his clients will sign the document within two weeks. Commissioners reviewed the proposed boundary marking, and upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to require a boundary marker at the northern end of the trail, one by the driveway, and another one at the easement.

The motion passed with a majority vote, with W. Addy voting in opposition.

As a result of the CR Sub-Committee's monitoring of the NEFF-owned Allens Trail property on which the Commission holds a Conservation Restriction, several areas of encroachment were observed. Attorney Ray Lyons, representing NEFF, said he has recently had a conversation with attorney Bob Collins who represents one of two property owners who are encroaching. Members felt

that Mr. Collins should be speaking to NEFF as the owner of the conservation property. B. Easom said we should minimize the conversation as the Commission appears to be negotiating, and we cannot because we are not the owners. The consequences of encroachment become very noticeable, and we have not tolerated any at this point.

Regarding some of the items on the 'tickle list', members suggested inviting Joachim Preiss in to the Feb. 23rd meeting to discuss moving the trails at Surrenden Farm. The Trails Committee was going to take another look at re-locating trails out of the wetland and finalize the bridge crossing with the filing of a Request for Determination of Applicability. The envelope for a public water well at the Shattuck land on Baddacook Pond, as well as the language for the Conservation Restriction, is also under discussion. Tom Orcutt has obtained an RFP from Fitchburg for town-wide forestry activities, and B. Easom offered to scan it in to serve as a template for a Groton RFP. Michelle Collette will be talking to Conductorlab about arranging a site visit to the proposed connecting trail between Arlington St. and the Nashua River Rail Trail.

Members reviewed and revised a draft letter to the Town Forest Committee regarding the access to the Ames Meadow conservation area and agreed to include a statement that the Commission is willing to provide a padlocked gate to prevent access by unauthorized motorized vehicles.

In discussion on the development of Stewardship Plans for Angus and Gibbet Hills, M. Giguere pointed out this only covers management of the trails not all of the property. Members questioned whether D. Pitkin would be willing to take on this task as it involves reading the CR language and coming up with a list of tasks.

M. Giguere volunteered to look into the lamination of the 'Rules & Regulations' signs for use of conservation lands. Upon a motion by W. Addy, seconded by R. Lambert, it was

VOTED: to authorize the lamination of the Rules & Regulations signs for an amount not to exceed \$100.

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

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 2/9/10.