

## GROTON CONSERVATION COMMISSION

### Minutes

February 9, 2010

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, Ryan Lambert, and Peter Morrison were present. Commissioner David Pitkin was absent while Conservation Administrator Barbara Ganem was present.

Upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to approve the minutes of January 26, 2010 as drafted.

Upon a motion by R. Lambert, seconded by W. Addy, it was

VOTED: to approve the minutes of February 6, 2010 as drafted.

The owner of 26 Orion Way is interested in putting in an in-ground pool and would like to know if the Commission would consider issuing a partial COC. The Batten Woods/Orion Way subdivision involved 6 lots, 5 of which included wetland buffer zones, and was built out in 2003 – 2004. The original Order called for recharge structures on buildings, ‘no salt’ signs in sensitive areas, and permanent demarcation at the edge of disturbed areas. All of the houses have sold (some twice) without benefit of a Certificate of Compliance. The owner has requested a meeting with the Commission to discuss how best to proceed.

Members expressed concern about the wording in the draft W. Groton Water District Conservation Restriction related to a building involved with actual water processing and necessary for a public water supply. Town Counsel has reviewed and revised the CR, but it has not yet been reviewed by the W. Groton Water District. Commissioners agreed to review it in time for discussion at the next meeting.

The consultant for the Comprehensive Master Plan, Judi Barrett, will be meeting with the Commission at its regular meeting on March 9, 2010 to go over the timing for open space events.

A tentative meeting with Honeywell, the owner of the Conductorlab site, is scheduled for Friday, April 9<sup>th</sup> at 1:30 to visit the proposed Arlington St. connection with the Nashua River Rail Trail. It has not yet been confirmed with Honeywell. Land Use Director/Town Planner Michelle Collette reported the Conductorlab Committee had met the previous evening with the Licensed Site Professional to discuss two recent violations to Conductorlab’s NPDES permit which involved discharges to the intermittent brook that outlets to Tuity Brook. They are using an experimental chemical process for treatment that resulted in the release to the environment of elevated hexavalent chromium levels.

M. Giguere mentioned the upcoming MACC Annual Meeting (February 27<sup>th</sup>), and members who are attending agreed to meet at Town Hall at 7 a.m. to carpool to the event.

In order to get the reimbursement from the state LAND grant program for the Fuccillo property, it is necessary to complete a management plan, provide parking, and post a LAND sign. B. Ganem said she would look into purchasing the sign, and attorney Robert Collins offered to provide any documents related to the closing that may be necessary for the reimbursement.

To begin the development of a town-wide 'Request for Proposals' to manage forests on Town properties, a sample RFP from Fitchburg is under review by Water Superintendent Tom Orcutt. This would be a retainer situation, and M. Giguere said it would also address such concerns as control of invasives and weed management.

7:15 p.m. – Public Forum – update Action Plan in 2005 Groton Open Space & Recreation Plan  
Chairman Easom explained the updating of the Action Plan will allow the Town to remain eligible to apply for state funding grants for another two years. Copies of the Goals & Objectives section of the Plan were available to the audience, and members noted these items would remain the same, but it is important to have public input on action items to be accomplished in the next two years – 2011 through 2012 – in order to appropriately update the Action Plan.

Land Use Director/Town Planner Michelle Collette said she has given written comments to B. Ganem, but wanted to especially note that protection of water resources has been a driving force for conservation efforts in Groton for many decades, but has primarily focused on public drinking water supplies rather than private wells. She recently attended a workshop sponsored by the Nashua River Watershed Association in which there were extensive concerns about the need for public education and the dissemination of information around the issue of protecting private wells.

Resident George Wheatley, Jr. expressed concern about low-flowing streams, such as Cady Pond Brook and James Brook, which have been neglected for years. He thought this could cause a flooding problem. B. Easom asked what is clogging the streams, and Mr. Wheatley replied “the lack of land maintenance”. Member Morrison said these streams used to be maintained almost down to the new police station, and the Conservation Commission managed the project years ago.

Rick Muehlke suggested including some consideration of biodiversity under the #2 Goal of “Promote the preservation of important land resources in Groton.”

Marion Stoddart, a member of the Greenway Committee, noted her Committee has always stressed the protection of land along the Nashua and Squannacook Rivers. In addition they support the Conservation Commission having adequate funds to purchase land or easements on land. She also stressed the need to improve relations between the Town and the Massachusetts Division of Fisheries & Wildlife in the hope they will continue to help the Town acquire land along the Rivers. Anne Gagnon, the DFW land protection specialist for this region, has asked for help in improving relations between the Town and the DFW.

Stacey Chilcoat, also a member of the Greenway Committee, urged the Commission to give consideration to public education at differing levels, citing the example of the middle school Roots & Shoots group participation in the James Brook restoration project.

Another Greenway Committee member, David Manugian, said he was glad to see the restoration of Fitch's Bridge included as an objective and said his group is continuing to investigate various funding opportunities to move this project forward.

Resident Carol Quinn commented she lives across from Sargisson Beach and would like to see this resource better utilized. She suggested renting out space for kayaks and canoes to encourage more people to use the lake.

Attorney Bob Collins mentioned the need to protect land adjacent to ponds, in addition to wetlands and streams. He suggested the Commission consider submitting comments to the Planning Board during the permitting process to encourage the development of neighborhood stewardship groups to help the Commission manage adjacent conservation land. Mr. Collins also pointed out that our agricultural lands are becoming scarcer and can support wildlife management efforts as well. Carrying out stewardship by leasing land such as the Jenkins Rd. parcel that was part of the development of Canterbury Lane is a way for the Commission to accomplish its management goals while maintaining agricultural lands. This land was an active hayfield and has continued to be managed as a hayfield. He encouraged the Commission to focus on preservation of our shrinking agricultural resources.

Marion Stoddart expressed concerns about both water quality and quantity. She noted there has recently been funding available for the removal of water chestnuts from the Nashua River, and she was interested in seeing support from the Town for this effort. It is likely that four consecutive years of mechanical weed harvesting will be necessary. The Town of Pepperell received funding for the weed harvester, and volunteers have provided help with hand pulling around islands. B. Easom asked if there was grant money available, and it was noted the original \$400,000 in funding was a designated appropriation by the legislature, but it is likely additional funds will have to be found to continue the practice for the required time period.

R. Muehlke stated he was glad to see the "Goals and Objectives" section mentions the ACEC Stewardship Committee, but noted there are other conservation entities in Town, such as New England Forestry Foundation, MassAudubon, the Town Forest Committee, and the Water Department, that also should be mentioned. He pointed out the Town has also voted to form an Agricultural Commission. He added that he would like to see the Conservation Commission investigate which conservation parcels might be appropriate for timber harvesting. Mr. Muehlke encouraged the sourcing of forestry products from New England rather than other countries. He felt that some of the Town-owned land could be managed for sustainable forestry products, such as firewood, while supporting conservation efforts and providing ecological benefits.

Mr. Muehlke advocated continuing to allow hunting on Groton's undeveloped land. He noted it was helpful to have the list of conservation areas where hunting is permitted available for the public in the fall. The over population of deer has created problems in much of the region, and some communities are taking steps to prohibit hunting altogether.

M. Collette concurred with Mr. Muehlke's suggestion on active forestry management providing good stewardship of the land. She added that leasing out agricultural lands can also provide stewardship as well as a local food supply. This is becoming a sustainability goal of increasing importance, but there are residents who do not understand the need for producing crops locally.

Resident Richard Hewitt felt that both forestry and agricultural management offer an educational opportunity from a sustainability perspective. He supported R. Muehlke's position on hunting, but urged that it be handled carefully. One of the difficulties in preserving and protecting land is the profusion of invasives and poison ivy, the control of which should be taken into consideration with any management decisions. Chairman Easom mentioned the Commission has been concerned about this issue and had walked forests in Dunstable to see how their forestry management activities were being carried out as their Conservation Commission has had quite a bit of experience.

G. Wheatley agreed that improvements in forestry management were needed, especially when one sees the number of fallen trees along the roads. He mentioned the extensive fire which burned through sections of Groton in the 1940's. P. Morrison said trees are another 'crop' which needs to be turned, just on a very infrequent basis.

Ray Lyons pointed out the forest that existed 400 years ago was cut and turned into pasture or fields. Once left alone, these areas grew into birch, an early successional tree, but some species have never caught up. In order to bring back species and age diversity and encourage wildlife, the forests should be actively managed.

R. Muehlke complimented the Commission on the formation of the volunteer Stewardship Committee to monitor conservation properties, and he encouraged the continuation and expansion of this activity in the coming years.

Resident Virginia Bennett noted that Goal #7 "Assure adequate habitat and corridors for wildlife" was important, and she thought the receipt of the state grant to purchase the Fuccillo land would protect a parcel very important for Blanding's turtles. One effort that would improve wildlife corridors, especially along busy roads, is to replace or re-do culverts to allow the safe passage of wildlife. She urged the Commission to work closely with the state in the development of turtle nesting sites or creating adequate habitat. B. Easom observed that many of the sites where rare species live include uplands that are adjacent to wetlands.

M. Stoddart said another issue she would like to see addressed is the use of off-road vehicles on conservation lands. She explained there is current legislation that proposes stiffer regulation of off-road recreational vehicles, and she would like to see the support of this bill as one of the goals in the Plan.

M. Collette pointed out the *Open Space & Recreation Plan* has a component that addresses accessibility issues at Town-owned facilities. She stressed that all of our recreational facilities, in particular the Country Club, should be accessible to everyone. It may involve the expenditure of public funds, but this is an area that needs advocacy.

Chairman Easom asked those in the audience to contact B. Ganem if they have any further comments on the Action Plan. There will be a full update of the *2005 Open Space & Recreation Plan* as part of the Comprehensive Master Plan process during the next couple of years, and he urged those present to volunteer to participate in the process by contacting Michelle Collette.

7:45 p.m. – Appointment - 55 Wenuchas Trail 169-1024

Attorney Ray Lyons and surveyor Stan Dillis were present on behalf of the applicant, Steve May. Mr. Lyons thanked the Commission for the site walk and meeting conducted this past Saturday. Mr. Dillis explained he prepared a revised plan bringing the retaining wall more tightly against the shore line; he said the amount of floodplain filled amounted to 40 cubic yards, and the floodplain compensatory storage (divided between two sites) was equivalent to 58 cubic yards. He pointed out it is unlikely the willow tree would survive if the wall is pulled in to where it was originally proposed. A construction sequence is included in the revised plans. Items numbered 1-8 refer to work near the lake. Mr. Lyons maintained this work could be completed prior to the March 15<sup>th</sup> date when the water elevations start to come up. He said it was even likely they could meet a March 7<sup>th</sup> deadline. He requested the Commission's permission to file an amendment but continue work in the meantime as the project has to keep moving in order to be completed before the lake rises and meet the deadline.

P. Morrison stated the only deviation from the original NOI plan is the bump out around the tree. Construction sequence #5 includes the removal of the silt plume into the lake and an additional 8 cubic yards of flood storage is proposed along the stone wall. The final plan will have to address siltation from the roadway into the lake. M. Giguere thought there should be greater detail on this remediation and whether it will include a forebay or other opportunities for removal of silt. S. Dillis said they would formulate a complete plan to build a wall with a gutter to prevent runoff from entering the lake.

R. Lyons mentioned we had discussed a stone wall on both sides of the road with a wooden rail to prevent ATV traffic. Members questioned whether it would be necessary to remove any more trees in order to carve out the area behind the lowered part of the stone wall at the shore line, and S. Dillis said all of the trees that needed to be removed have now been cut.

Commissioners discussed whether an Emergency Certification or Enforcement Order would be appropriate in order to allow work to go forward. The emergency would be that the water is going to rise. Another deviation in the plan is the access along the shore line rather than down the hill as originally proposed. Members observed it would be possible to plant a new tree to replace the willow, but the wall is going to be there forever. It is a change in the NOI to use field stone instead of the Versa Lok wall proposed behind the house, but the replacement of the railroad ties has always been planned.

W. Addy noted the installation of the wall was done 2 ft. out from the retaining wall rather than in the location of the old retaining wall. He felt the only alternative is to pull the wall out and re-build. R. Lyons pointed out there will be more remediation than what was originally proposed. B. Easom said he would rather see the willow tree go, and the original wall location in place. He agreed with C. Auman in that there is no room to work unless the area around the tree is extended. S. Dillis explained Mr. May likes the tree and prefers it not be removed. W. Addy

stated he disagreed with the proposal for remediation as it will require more work from the Highway Department. He added “The Commission worked hard with the applicant to get the plans where we wanted them.”

P. Morrison made a motion, seconded by R. Lambert, to entertain the plan presented tonight as an amendment to the Order of Conditions to be heard at a future date. He pointed out it is an opportunity to get the road fixed and is the fiscally responsible thing to do. The remediation does not cover building a forebay, but is more the removal of sediments. S. Dillis pointed out there is still water around the willow tree which would definitely have to go if the retaining wall is pulled back as originally proposed. R. Lyons commented the tree provides shade in the summer, but is in the way if the retaining wall is pulled back. M. Giguere and C. Auman objected to not having more details covering how silt will be prevented from entering the lake, the stone wall itself, and the fence to prevent ATV traffic. They felt that these changes were more than minor in nature. P. Morrison pointed out the filing of a new NOI or an amended NOI is discretionary and not black and white. The motion failed, with P. Morrison and R. Lambert voting in favor, and B. Easom, C. Auman, W. Addy, and M. Giguere voting in the negative.

M. Giguere questioned whether the Commission needs to issue any directive that the project be restored to its original dimensions without the bump out around the tree or withdraw the revised plan. P. Morrison argued that this was a fiscally irresponsible decision. Lyons said there are six variations on two different themes – leave the wall in place and go for an amendment or return the site to the original NOI plans. B. Easom said it appears that no one on the board has misunderstood what has been proposed. P. Morrison noted that, in the past, the Commission has not dictated the materials to be used in retaining walls. M. Giguere asked whether a new NOI should be filed. P. Morrison objected to this idea because the applicant would not be able to complete the project before the water level goes up. M. Giguere stated implementing the original plan could work out to be just as lengthy a process. R. Lyons said only the contractor was involved in the decision to proceed with the retaining wall construction modification without checking with B. Ganem or Stan Dillis. Mr. Lyons said “We respect the work the Commission put into reviewing the original plan.”

M. Giguere suggested looking at some of the things that were proposed, but pointed out there is a problem with setting a precedent for the future. P. Morrison mentioned the applicant has paid for the consultants so time, effort, and money have been involved. He urged members who believe in part of the plan to vote for it. B. Easom asked if the Commission wished to reconsider its vote, noting that a member from the negative side would need to offer a motion. W. Addy worried about encouraging an illegal activity if we now approve the additional alterations. He urged the Commission to consider issuing more fines. B. Easom said we can do that, but it may be unwarranted in this case. P. Morrison said he wholeheartedly disagreed with this as the applicant has made a good faith effort to comply and the earlier fine has been paid. Mr. Lyons agreed to notify the contractor that the work should be returned to the footprint outlined in the original NOI plan.

8:00 p.m – 65 Rawding Rd. NOI continuation DEP#169-1034

Engineer Brian Thorne reported he had met with a representative from the DEP Waterways Program in connection with the public hearing for a Ch. 91 license for this site. It appears it will

be necessary to file for a variance as there is living space above the boathouse, and that is considered a non-water dependent use. It will be necessary to review additional files to get a clearer picture of the history of the site, and then provide some type of constructive public benefit which could be a monetary benefit to the Town. This would be based on the linear feet of obstruction and fees according to the deck and dock. As an example, the repair of the weedy area around the boat ramp could be considered a public benefit. If it can be proved that the structures pre-dated 1984, it would meet the requirement to issue a non-water dependent variance.

Regarding the filing fee submitted with the NOI, Mr. Thorne maintained it was not necessary to take into consideration the linear feet of all 4 sides of the proposed dock, particularly since his client will be responsible for extensive fees under the Ch. 91 licensing process. The proposed retaining wall will be made of granite blocks, and riprap in the area of the wall will be removed with those stones used to top part of the new wall. B. Thorne said he did not believe additional materials would need to be brought in. C. Auman asked how it will be assembled, and Mr. Thorne said it would be brought down from the paved area. It could potentially count as an improvement to provide access.

R. Lambert asked the size of the blocks, and Mr. Thorne said it would be re-constructed using the existing riprap and would help prevent damage to the shore line from wave action. B. Easom asked whether the boathouse is to be used for its intended purpose. He questioned the feasibility of providing public access from a dock in front of the boathouse. M. Giguere requested a construction sequence for the work, particularly how they will get down there. Mr. Thorne said his client may decide to not build the retaining wall. Members suggested a narrative explaining the construction process and noting they may not build it. Mr. Thorne said it is to be a free-standing stacked gravity wall with no mortise. The Commission could acknowledge in its 'Findings' section that the wall may not be built so there will be no questions about issuing a Certificate of Compliance at the end of the project. It would be considered less impact to the resource area if it is not done. Upon a motion by R. Lambert, seconded by C. Auman, it was

VOTED: to continue the hearing for 65 Rawding Rd., DEP#169-1034 to February 23, 2010.

Several land management issues were next on the agenda. Regarding the Conservation Restriction for the Shattuck land, M. Giguere noted he had prepared a map showing the proposed location of the water well envelope which is under review by Water Superintendent Tom Orcutt. Some of the wording in the CR is also under discussion. Members suggested inviting Mr. Orcutt to our next meeting to iron out the details. There were also questions about management of this land in the future, and B. Ganem mentioned she has been talking with a farmer from Littleton who may be interested in pasturing Tennessee fainting goats at the site.

In discussion on the Allens Trail encroachment, both Mr. Easom and Mr. Giguere have received correspondence from attorney Bob Collins on the subject. At this stage it is important for the landowner to work it out with the encroachers, and Mr. Lyons and Mr. Collins will be meeting on the matter.

The preparation of a management plan for Angus and Gibbet Hills remains an outstanding item.

Members felt that a start could be made by identifying tasks from the Conservation Restriction which mostly covers the maintenance of trails. The Commission asked B. Ganem to email the CR to D. Pitkin to see if he might have an opportunity to work on this.

B. Ganem reported she has completed some of the suggested modifications to the draft Surrenden Farm Management Plan. The landscape map requires updating as the Ames Meadow parcel was not shown, and the Dillon lot on the Squannacook River is now owned by the W. Groton Water District. The Trails Committee also has to finalize their recommendations for sorting out the trails to avoid wetland crossings. They are to file a Request for Determination of Applicability for trail work, and the final plan has to be approved by Fisheries & Wildlife.

M. Giguere has typed out the Fitchburg template for a Town-wide forestry RMP and will be working with Tom Orcutt to fine tune the language to reflect conservation concerns. B. Ganem has contacted Brian Lagasse for an update on the estimate to install bollards at the Redskin Trail Conservation Area. A letter has gone out to the abutter who is encroaching on the conservation land at Integrity Way, with a response requested by February 19<sup>th</sup>.

A letter has gone out to the Town Forest Committee asking for assistance in improving the trail to Ames Meadow. Their response will guide the Commission's next steps. M. Giguere reported he had the "Rules and Regulations" signs laminated so they are ready to be posted at conservation land trailheads.

B. Ganem has mentioned The American Baptist Church of Massachusetts (TABCOM) Conservation Restriction to attorney Bob Collins so he is aware of the issue and expects to receive a formal letter on the matter shortly.

There being no further business, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Administrator

**Approved as drafted 2/23/10.**