

GROTON CONSERVATION COMMISSION

Minutes

March 23, 2010

Chairman Bruce Easom called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Craig Auman, Marshall Giguere, Ryan Lambert, and Peter Morrison were present. Member Wayne Addy arrived at 7:06 p.m. David Pitkin was absent. Conservation Administrator Barbara Ganem was present.

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

VOTED: to approve the minutes of March 9, 2010 as amended.

C. Auman abstained from the vote as he was not present at the meeting.

B. Ganem reported that the discussion with Mark Haddad and Val Jenkins on Sargisson Beach resulted in a decision to leave the beach parking lot open and not sell parking stickers. The docks will be removed and stored at the Highway garage. Members discussed the wording for signs at the beach and agreed that the suggestion by the Town's insurance company to state "No lifeguards on duty, swim at your own risk" was the best wording. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to purchase 3 signs not to exceed \$200.00 for Sargisson Beach with the wording "No lifeguards on duty – Swim at your own risk".

(W. Addy arrived at 7:06 p.m.)

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

VOTED: to issue an Order of Conditions under the Wetlands Protection Act for Groton School, DEP#169-1033.

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

VOTED: to issue an Order of Conditions under the Wetlands Protection Bylaw for Groton School, DEP#169-1033.

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

VOTED: to issue an Order of Conditions under the Wetlands Protection Act for 35 Whitney Pond, DEP#169-1035 as amended.

The motion passed by majority vote with B. Easom voting in the negative.

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

VOTED: to issue an Order of Conditions under the Wetlands Protection Bylaw for 35 Whitney Pond, DEP#169-1035.

B. Easom opposed the vote.

7:15 p.m. – Appointment Mark Archambault

Mr. Archambault explained he is the Smart Growth Circuit Rider for the Nashua River Watershed Association and is seeking to promote intermunicipal and interstate cooperation in the Squannacook and Nissitissit River watersheds. He is a planner by profession and focuses on the northern part of the Nashua River watershed. The Nashua River was identified as a targeted watershed in 2004 when the Association received a grant from the EPA. The Nissitissit and Squannacook watersheds have about 7% impervious surfacing and a matrix of forests, farms, and woodlands. A recent grant from Environ Corporation encourages communication and cooperation across state boundaries, and one mechanism M. Archambault felt would work well is to contact Conservation Commissions since they are involved in water resource protection issues. This would mean appointing a representative to attend a monthly meeting.

M. Archambault anticipates inviting speakers on various topics to provide better training and more insight into common issues. He acknowledged Groton is likely to be one of the towns that is in the best shape with its zoning ordinances and wellhead protection. He suggested either May 6th or 13th as a possible start-up meeting. Another facet would be the initiation of a Conservation Commission list serve and communication protocols for emergencies throughout the towns. Mr. Archambault said this would introduce the concept of regional meetings, and part of the grant requirements is to get states to communicate better with each other.

Member Easom suggested looking into the possibility of removing the dam in W. Groton since it is no longer a valuable resource for hydropower, but this effort would require coordination with Shirley. C. Auman commented that Massachusetts commissions may not be that interested in learning how New Hampshire handles its wetland resources. M. Giguere noted another resource available to Massachusetts commissioners is the list serve of the Massachusetts Association of Conservation Commission. Mr. Archambault said this will be a niche that is not currently filled as it concentrates on the Squannacook and Nissitissit Rivers. He requested the Commission to name a representative who would participate in this effort in early April.

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

VOTED: to issue an Order of Conditions, as amended, under the Wetlands Protection Act for 65 Rawding Road, DEP#169-1034.

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

VOTED: to issue an Order of Conditions under the Wetlands Protection Bylaw for 65 Rawding Road, DEP#169-1034.

Commissioners visited 246 Lowell Rd. where it is apparent the size of a long-term beaver impoundment has been significantly reduced. Based on the visit, Commissioners did not believe the dam was tampered with. B. Ganem reported Tom Delaney said the dam has not been maintained during the past winter and the water level had been dropping slowly before the recent flooding events.

Construction equipment has been observed within the wetland buffer at 147 Gay Rd. The owner will be contacted to determine what is proposed at the site.

B. Easom reported that Josh Degen has recently moved the stone to be engraved for the Bruce Clements trail at Sorhaug Woods Williams Barn. Unfortunately he did not contact the Conservation office prior to doing the work, and his bobcat got stuck on the trail in the mud and also crossed a flooded area of the vernal pool adjacent to the trail. Members stressed it is important to handle transgressions on Town property the same as homeowners. P. Morrison asked if long-term damage occurred, and Chairman Easom mentioned there is a large seed stock of invasives in this area. Mr. Degen was performing as a volunteer and has offered to rake and roller the area when things dry out. A conservation seed mix to stabilize the soils might also be useful.

7:45 p.m. – Appointment Dana McKiel/6 Integrity Way

Mr. McKiel came at the Commission's request after the November 2009 site visit in which members observed a retaining wall and white fence encroaching into the Integrity Way Conservation Area. He explained he was one of the developers of Integrity Way, but did not realize the fence, retaining wall, and playground were on conservation land. He asked if a land swap or monetary reimbursement were possible alternatives. Members mentioned this would not be feasible due to the Article 97 process requiring Town Meeting and a vote of both state legislative bodies. P. Morrison said we are trying to work out a similar issue with New England Forestry Foundation, but it involves having an attorney on call.

The easiest thing is actually to move the retaining wall and fence as this is an infringement on conservation land. Mr. McKiel said he was not going to be digging his heels in as he has no rights. W. Addy inquired as to whether there were creative ways of leasing, and M. Giguere mentioned the Island Pond situation in which the Commission acquired a tax title parcel which already had encroachment issues. Other examples include Northwoods and Crosswinds where residents were required to remove encroaching fences. Members asked if the intrusions pre-existed the Town's ownership of the parcel. It was agreed that Mr. McKiel should not do anything until he hears again from the Commission.

8:00 p.m. – 14 Rustic Trail RDA – septic upgrade

Engineer Kevin Ritchie of Civil Solutions explained this house had a gray water system which drained to the groundwater table from the laundry and kitchen. They wish to tie the plumbing into a new combination pump chamber/septic tank. They do not propose to remove any trees and expect to take 1 or 2 days to complete the project. They will uncover the existing system and pump it out. It is a leaching pit which has been in place 20 – 25 years, and Mr. Ritchie said some can last for 40 years. The soils at the site are very good. The current gray water system is too deep in the ground and, consequently, is in groundwater. P. Morrison suggested using materials

removed for the installation of the tank and pump chamber, with any excess removed from the site. Upon a motion by C. Auman and seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination with the following conditions:

1) work occurs under dry conditions, 2) silt fencing is installed according to RDA plan, and 3) any excess materials are removed from the site.

8:15 p.m. – 26 Orion Way RDA – in-ground salt water pool

Engineer Matt Waterman and homeowner Bob Wilson were present. Mr. Waterman mentioned there is 24 acres of protected open space behind the developed homes, and he was here to address an outstanding Order of Conditions and to get the Commission's authorization to install an in-ground salt water pool. Mr. Wilson is the first owner of the new house, and certification of the vernal pool was required during the permitting process. Mr. Waterman said there are slight changes from the approved plan to the as-built plan i.e., the house foundation moved west 87 ft. instead of the proposed 82 ft. A woodshed has been located along the old gravel cart path, and a retaining wall installed. The scale of the as-built plan is 20 ft. while the NOI plan was in 40-scale. In pulling together a restoration plan, Mr. Waterman stated permanent conservation markers will be installed, in addition to some plantings. The proposed pool is 20 ft. x 30 ft. and does push slightly into the originally proposed limit of work. The restoration area will be approximately 600 SF. The stairs to the deck will be moved further away from the wetland. Mr. Waterman said approximately 600 SF will be disturbed within the 50-ft. buffer and 2,650 SF within the 100-ft. buffer. The owner proposes restricting future use and encroachment. It is not possible to do any work since the original Order of Conditions has expired.

Member Giguere asked if any trees were removed to accommodate the shed, and M. Waterman indicated this had been located at the edge of the old cart path. Mitigation is proposed for the proposed 600 SF of disturbance. The tree to be removed is thought to be diseased. A diverse planting of winterberry and arrow-wood is planned. Excavation equipment could be stored on the driveway outside the 100-ft. buffer zone. P. Morrison questioned how long the installation will take, and M. Waterman responded "10 days or two weeks". The soils are sandy, and no ledge has been encountered previously. A salt water pool does not require chemicals or backwashing. The salt would be stored in the garage, and no pool shed is proposed. Mr. Wilson indicated he had cut some tree branches because of damage to trees during a microburst. Members advised getting the opinion of an arborist about the tree to be removed.

W. Addy suggested extending the erosion control measures as it is clear that runoff from the driveway has become channelized and stone should be added to prevent erosion. Members asked if the shed had a permit. B. Easom noted that the original Order of Conditions (Condition #47) was pretty clear that the limit of disturbance line was in perpetuity. Grading for the pool, the fencing, and the shed are all within the no-disturbance zone. R. Lambert asked if there would be a deck around the pool and whether the staging area would go beyond the limit of work approved under the original Order of Conditions. Mr. Waterman said the pool would be concrete lined with vinyl, and it would be unrealistic to try to site it anywhere else on the property. He assured the Commission trucks would not be cleaned back there.

Returning to the topic of the temporary staging area, C. Auman explained that the vernal pool is very sensitive habitat, and there should really be no disturbance within 100 ft., and here we already have had significant work within 100 ft. of the pool. The more area we can preserve in a natural state, the better it is for the salamanders.

Mr. Wilson said the shed went in in 2003, but there have been no changes to the original deck on the house. M. Waterman commented there are currently no permanent conservation markers. Commissioners indicated these would be necessary every 15 – 25 ft. and are usually 4" x 4" posts with discs. Members thought the plantings were a step in the right direction. M. Waterman indicated they could expand the restoration area and install permanent markers. Limitations on fertilizers would be considered, and members pointed out cutting down trees could result in changes in temperature in the vernal pool. Mr. Waterman said they could make an effort to move the plan in a different direction. M. Giguere commented the Commission needs to decide whether the pool work rises to the level of a Notice of Intent

R. Lambert thought the stockpiling should be outside the limit of disturbance. C. Auman commented the Commission had voted on a plan and now changes are proposed. He said the Commission can choose to vote the new plan up or down. He indicated he would probably vote no on a new Notice of Intent that does not follow the original limit of disturbance. P. Morrison suggested addressing the old conditions, incorporating them into the new plan. M. Giguere said another alternative is to issue an Enforcement Order to file a Notice of Intent for work that was done outside of the existing expired Order. He pointed out that work was done in violation which you are now asking the Commission to approve. The question seems to be how to make the 'in perpetuity' clause go way with a new condition. C. Auman said he has problems when the Order of Conditions is not followed, and there should be some way to make sure the process is sound. M. Waterman said Verdant Arch, the builder of this development, is now out of business. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a positive #3 Determination under both the Wetlands Protection Act and the Bylaw.

P. Morrison voted in the negative.

Members agreed it was necessary to convey to the engineer and applicant the parameters of what the Commission expects. M. Giguere mentioned we have been asked to consider a partial Certificate of Compliance, and he felt it would be better to have at least one done within the subdivision and encourage others to apply. On the other hand, issuing a Certificate would approve what is on the ground which does not comply with the Order of Conditions. Mr. Wilson is the only who has moved forward to get this issue resolved. Mr. Waterman agreed to withdraw the request for a partial Certificate and wait until we're through with the process which will be handled as part of a Notice of Intent.

8:30 p.m. – Groton School RDA

Attorney Robert Collins was present to explain that a pipe carrying effluent from the sewer treatment facility has been compromised, and the School intends to replace the pipe which was installed in 1886. In order to design a plan for the installation, it will be necessary to do soil tests

through soil borings. The equipment to be used is a small drill rig on a bobcat. The drilling will be done from the paved driveway parallel to the boathouse on the Nashua River. They need to find the appropriate 50 ft. swath within 200 ft. of the Nashua River. While they wish to have the work proceed expeditiously, it is likely it will take another month to prepare the design plans once the soil borings are completed. At that time a Notice of Intent will be prepared and submitted.

Member Morrison asked, with the recent flooding that has taken place, whether the small enclosure for petroleum containers stored in the boathouse had held. Mr. Collins said water had completely surrounded the boathouse, but this area remained intact. He also indicated that the engineer working on this project has done so for 20 years and already had enough information about the soils for the remaining route for the pipe. Commissioners expressed concern that further testing to gather complete soil information may be required. Permits from DEP and the Army Corps of Engineers will also be necessary, and Mr. Collins promised to submit copies as part of the Notice of Intent filing. W. Addy questioned whether it would be possible to sleeve the pipe, and Mr. Collins pointed out the age of the pipe indicated replacement was necessary. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination allowing the extension of the test area if necessary.

8:45 p.m. – 302 Lost Lake Dr. RDA continuation

Homeowner Timothy Jones explained he has had his lot surveyed. In order to move the shed 6 ft. over and 5 ft. back from its current location, he would need to cut one tree. This Determination would include both the tree removal and moving of the shed which was installed without a wetlands permit. The shed would be set on blocks or 6" x 6" posts as directed by the Building Commissioner. The tree is an oak, 30 ft. in height. B. Easom asked about controlling the erosion into the lake caused by machines going on the ice. Mr. Jones suggested loaming and seeding and a fence. Mr. Easom said he was looking for something to form a natural barrier to remediate for the tree cutting. The tree stump should be left in place. Upon a motion by R. Lambert, seconded by W. Addy, it was

VOTED: to issue a negative #3 Determination in which the 1) tree stump shall be left in place, 2) a stone trench shall be installed at the shed roof drip line, and 3) native shrubs shall be planted along the shore line to mitigate for the eroded trail.

9:00 p.m. – 35 Common St. NOI continuation DEP#169-1037

At the request of applicant David Elliot, and upon a motion by M. Giguere, seconded by R. Lambert, it was

VOTED: to continue the hearing for 35 Common St., DEP#169-1037 to April 13, 2010.

Commissioners discussed the potential for bringing water to the Shattuck field on Martins Pond Rd. Springdell Farm of Littleton may be interested in pasturing goats, but are concerned about the water supply. While withdrawing water from the vernal pools is unlikely, Baddacook Pond may be an option. Two suggestions were made, including a point well and asking neighbor

Sanford Johnson if he would be willing to allow a hose to be run from his well to water livestock.

The resident at 749 Lowell Rd. has proposed removing the dock that was put in without a permit, and Commissioners agreed to keep an eye on the site to be sure this is done.

Regarding the Ames Meadow access, members suggested talking with the Agricultural Commission which supports the right to farm concept in the community. M. Giguere volunteered to meet with the Commission, and P. Morrison, C. Auman, and B. Easom said they would be willing to go as well. It was suggested that Selectmen Josh Degen and Anna Eliot also be included.

B. Easom was able to take some aerial photographs of the Fuccillo property which will be useful as the management plan is prepared.

Lawrence Academy will be having a community service day on Sunday, April 11th, and one of the work sites will involve adding several trail signs adjacent to 51 Kaileys Way. B. Easom will be contacting Dig Safe to be sure there are no utilities where the posts are proposed.

Commissioners requested more quotes be gathered for the work on Redskin Trail to install bollards.

Attorney Collins has the final Conservation Restriction for TABCOM, but he has indicated it may be necessary to get additional original signature pages before submitting it for sign off by the Secretary of the Executive Office of Energy and Environment Affairs.

Because of the size of the file, Chairman Easom agreed to burn individual CDs of the draft monitoring report on the Angus Hills CR and include the aerial photographs of the Fuccillo property as well for each member.

C. Auman volunteered to attend the proposed regional meeting of Conservation Commissioners. He reminded the Commission that May 13th is the date of a community forum for the Master Plan.

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

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 4/13/10.