

## GROTON CONSERVATION COMMISSION

### Open Session Minutes

May 11, 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. David Pitkin was absent. Conservation Administrator Barbara Ganem was present.

#### 7:00 p.m. – Appointment Don Desrosiers

At the Commission's request, Don Desrosiers of 42 Acorn Path was present to discuss erosion and sedimentation generated by work on his lot. Mr. Desrosiers said the water flowed as it has for over 200 years. He started work on the site in July 2009, and he maintained water has always come down from the property. Chairman Easom noted the Commission looked at the site and observed a considerable amount of erosion has occurred. W. Addy pointed out between 4" to 6" of siltation was deposited on abutting property, and it must be determined what to do about this. Mr. Desrosiers said he was not the only one to have water problems during these storm events. He has had to cut some trees as the lot is not very wide. He added he also owns the adjacent lot that received a lot of sediment.

Patrick Marion of 11 Autumn Leaf Dr., on whose property an additional slug of siltation was deposited, estimated there was 30 cubic yards of material. He mentioned he is in the construction industry and asked "what can be done?" Hand dig it out? Mr. Marion stated his chief concern is that it will reoccur, and his property will continue to experience similar washouts in the future. He said he knew there was a depression on his land but was not aware it was a wetland although water does pool there during certain times of the year.

Mr. Desrosiers said the Commission reviewed the entire subdivision in 1983, and there were no wetlands on site. He urged the Commission to be rational about the fact that we got 6" of water in a very short period of time. C. Auman reminded him the soils came from a bare, unstabilized site. Mr. Marion added the topography has changed because of the addition of the retaining wall. Mr. Desrosiers said the site was hydro seeded yesterday, and the stone wall has been there since 1983. Mr. Auman pointed out the water runoff caused a problem because it is a disturbed site, and the Commission has a responsibility for protecting wetlands. M. Giguere said the Commission observed that the site was unstable and, although there was some silt fence there, it was not properly installed and was not providing any mitigation. He added there were also significant piles of dirt beside the new house. Mr. Desrosiers indicated he has hired David Babin to landscape and do what can be done to stabilize the site. He wants to prevent what occurred from happening again.

Members wondered if the materials could be removed by hand, but acknowledged Mr. Desrosiers would have to work it out with Mr. Marion whether he wants it removed. P. Morrison mentioned the Commission has had situations in which it has allowed siltation to remain. B. Easom said there needs to be a decision on the part of the Commission whether this is a

jurisdictional area. B. Ganem said she observed water within 6 in. of the ground surface, and there was mottling in the soils. The vegetation consisted of a mix of white pines and red maple. The size of the depression was considerably larger than that at Crossroads which met the definition of a wetland under the local Bylaw. Members thought the Stormwater Earth Removal Committee should also be notified so they can decide whether they have jurisdiction. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: that it is a jurisdictional wetland under the Wetlands Protection Bylaw.

P. Morrison voted in opposition.

B. Easom then asked members what they would like to see happen to remedy the filling situation. W. Addy thought Mr. Desrosiers should be a good neighbor and remove his materials from the neighboring property. P. Morrison questioned whether it would be more injurious to the wetland to remove the fill than to leave it in place. M. Giguere suggested seeding what is in place and then assuring the future stability of the area above the wetlands. R. Lambert agreed. P. Marion said he would prefer to see no machinery used, but the work could be done by hand. He underscored his chief concern is to prevent it from happening again. He pointed out the retaining wall was built with no weep holes for drainage so it will continue eroding. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to request the filing of a Request for Determination of Applicability to address proper mitigation and to prevent future siltation and erosion events from the property at 42 Acorn Path.

P. Morrison voted in opposition.

A motion by C. Auman, seconded by W. Addy, to require D. Desrosiers to remove the siltation from the abutting property failed with a tie vote with M. Giguere, R. Lambert, and P. Morrison voting against, and C. Auman, B. Easom, and W. Addy voting in favor.

M. Giguere, seconded by W. Addy, made a motion to direct Mr. Desrosiers to plant wetland plants in the filled depression, but the motion failed with B. Easom, M. Giguere, and W. Addy voting in favor and C. Auman, R. Lambert, and P. Morrison voting in the negative.

P. Morrison felt it would be simpler to just have Mr. Desrosiers install regular haybales and silt fencing to control erosion. He thought an Enforcement Order should have been issued. Members advised Mr. Desrosiers to contact B. Ganem about filing the Request for Determination of Applicability as soon as possible.

#### 7:15 p.m. – Appointment Kris McEvoy

Ms. McEvoy explained the Mattbob 40B project on Rt. 119 is now before the Housing Appeals Commission for the removal of the over-55 restriction. She encouraged the Commission to consider purchasing the parcel since the 36 condominiums proposed for the site are likely to impact the 13-acre vernal pool and the rare species on site (Blanding's turtles and 4-toed salamanders). She said she recently attended a meeting for the repeal of the Ch. 40B law, and

there were over 200 attorneys present who regularly represent clients before the Housing Appeals Commission. The applicant wishes to remove the age-restricted portion of the Zoning Board of Appeals decision, and he will have to file his case this week, giving the Town a month in which to respond. Ms. McEvoy said the neighborhood would like to make a commitment of \$25,000 in an effort to acquire the land.

Former Commission member Kris Corwin acknowledged she had certified this pool based on spotted salamanders. She noted that a Blanding's turtle was found across the street and 4-toed salamanders have been found within the wetland complex; there are also reports of blue spotted salamanders in the area. Due to a lot of pushback from the Commission, the applicant was not allowed to fill in the wetland. Resident Ginny Bennett pointed out Blanding's turtles can travel long distances and are an endangered species. She made a report to the Natural Heritage & Endangered Species Program. Rt. 119 is a very dangerous road for turtles to cross because of the number of cars and their speed. It is likely this was a female seeking a nesting area. Ms. Bennett commented the vernal pool is very important habitat.

K. McEvoy added there are two detention basins and drainage within 100 ft. of the vernal pool, and it is likely any migrating creatures will be killed as they cross the 40B roadway to get to uplands. She asked the Commission to consider pursuing the purchase of this parcel whether through a LAND grant or in coordination with affordable housing proponents to set aside the yellow house on the Town line. She said consultant Brian Butler is reviewing the project on behalf of the developer. Joseph Rand (79 Stonebridge Way) indicated he too would like to support the protection of this property.

Ms. Corwin suggested approaching Fisheries & Wildlife to see if they have funds to protect this area. Chairman Easom assured those present that the Commission would keep this parcel on the radar screen. C. Auman added that it is valuable, unique, and worthy of protection. The recent vote not to support a CPC allocation to the Conservation Fund would not have failed had representatives from this neighborhood been present. Ms. McEvoy said this may be an opportune time to talk with the developer since he continues to spend money for permitting.

#### 7:30 p.m. – Appointment John Maynard

Mr. Maynard said he lives at the end of Joy Lane, and he is interested in helping to look after the west section of Surrenden Farm. He understood the Commission wishes to maintain a portion of Management Zone I for wildlife and wanted to have the wet meadow mowed once a year after October. He indicated he would be happy to take care of that. J. Maynard asked the status of having someone hay the fields in Management Zone II as brush, particularly multiflora, is encroaching from the field sides, and there are several trees that have fallen into the field. He would be willing to cut the trees, chip the tree tops, and then cut up the remainder of the tree for firewood. The trees in the field have rings of brush and, with the concurrence of Fisheries & Wildlife, he would be willing to cut down dead trees in the middle of the field. Mr. Maynard explained his interest was more in cleaning up the fields than getting a hay crop. He indicated John Greenhalgh, however, is interested in haying and could borrow equipment if the Conservation Commission wants it hayed.

Members asked if he had equipment suitable for these jobs, and Mr. Maynard said he has a John Deere tractor with a brush hog and would particularly like to go after the multiflora. C. Auman recommended passing these ideas by Fisheries & Wildlife. He acknowledged there are definitely some maintenance jobs that need to be tackled. There is another area southeast of Management Zone II which should also be cut after October.

Roy MacGregor was present and said all of these items were addressed in the bid he put in last year, and he would have done the work had B. Ganem moved the contract along. Chairman Easom explained the Commission has to consider the interface between the Commission and Fisheries & Wildlife which holds the conservation restriction on the land and has the final say on what happens to this property. B. Ganem reported the top two proposals were conveyed to Fisheries & Wildlife in the fall, and they requested copies of all the proposals. They then asked for greater detail on the two haying proposals, such as brush hogging the lower fields ~ October and using late maturing Timothy grasses when re-seeding. These modifications were conveyed to each bidder who was then allowed to re-submit their proposal and alter their bid if they so wished. For instance, Mr. Spiczka changed his proposal to not include the pasturing of animals. Ms. Ganem stated that proposals may be changed after submittal and gave the example of the Master Plan proposal process in which the bid components were changed to reflect lowered costs for the Town. The revised proposals were again sent to Fisheries & Wildlife for their input, and this is the decision the Commission is awaiting. Ms. Ganem indicated that no selection has yet been made by the Commission although their preference was stated last fall.

Mr. Easom acknowledged the triangle definitely challenges the patience of all parties with respect to jurisdictional issues and timeliness. Mr. MacGregor's bid was accepted by the Commission as the most responsive, but R. MacGregor said he has no signed contract or he would have started cleaning up the fence last winter, as well as brush mowing the parts that must wait until October. Mr. Easom acknowledged it is unfortunate Mr. MacGregor is caught in the middle.

There are upcoming meetings with Pat Huckery of Fisheries & Wildlife scheduled for May 14<sup>th</sup> and May 28<sup>th</sup> to finish up the draft Resource Management Plan for Surrenden Farm. M. Giguere questioned whether the Commission wishes to consider re-bidding the work. B. Easom said we are not changing anything, but may end up jerking Mr. MacGregor around still more. The contract is to cover a 5-year period. Chairman Easom said we are likely to get better results if we could have a longer agreement with a farmer, but that has been our guidance from Town Counsel. Mr. MacGregor was allowed to mow late last year, but did not remove the fence or mow the lower fields. M. Easom said he felt bad about the situation, and P. Morrison added the goal is to get the area in hay. Mr. MacGregor asked if he could attend the meeting, and Commissioners agreed since he is the preferred bidder. The Commission wishes to come to a final contractual agreement to document and memorialize what we agree upon. Mr. Maynard said he is just interested in seeing a process set in motion to get the grass hayed and the contract terms established. He said he had no interest in stepping on anyone's toes.

The meeting is scheduled for 10 a.m. on May 14<sup>th</sup> in the Selectmen's meeting room. B. Easom explained the Commission is at their mercy to make a compelling case. He assured Mr. MacGregor there is no subterfuge going on here, and nothing is occurring behind the scenes. It is

the Commission's intention to respond to their request the best we can. He invited Mr. MacGregor to call him personally if he feels he is getting mixed messages.

7:45 p.m. – 628 Boston Rd. RDA

Contractor David Blodgett said he submitted the paperwork for the construction of a new 20 ft. x 24 ft. shed to replace an existing shed which is in poor condition. Resident Vinh Chau intends to use the shed for storage of lawn furniture, a mower, snow blower, and grill. C. Auman asked if it will be necessary to remove any trees, and Mr. Blodgett said he thought nothing larger than 3 in. in diameter would be removed. The existing shed will be dismantled and taken to the dump. D. Blodgett said the shed will require 12 sonatubes. Members questioned how roof runoff will be handled, and he said he could use gutters and downspouts.

The sonatubes will be dug by hand, and they will need about 5 ft. of clearance around the building for access. Mr. Giguere asked if this represents a cleared area of approximately 30 ft. x 34 ft. He also asked what will be done with the excavated materials, and Mr. Blodgett said they can remove them offsite if the Commission so requires. A stone trench around the roof drip line can also be used to handle roof runoff. R. Lambert clarified that no equipment other than a wheelbarrow is to be used for the construction of the shed. Some members felt that haybales are in order, but then noted the parcel is relatively flat. Mr. Blodgett asked the recommended dimensions for the stone trench, and Commissioners said 6" – 8" in depth by 1 ft. in width. Upon a motion by R. Lambert, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) haybales shall be available on site; 2) no clearing of vegetation beyond the 30 ft. x 34 ft. building envelope; 3) excavated materials shall be removed off site; 4) work shall be done by hand; and 5) a stone trench shall be installed at the roof drip line.

8:00 p.m. – 36 Anthony Rd. NOI continuation DEP#169-1038

At the consultant's request and upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to continue the hearing until June 8, 2010.

8:15 p.m. – Appointment Bill Strickland – draft Whitney Pond and Martins Pond Resource Management Plans

Mr. Strickland said the Great Ponds Advisory Committee has most recently been working on management plans for Martins Pond and Whitney Pond and would like to get comments from the Commission before submittal to the state. He noted the Committee has met with representatives from the Department of Conservation and Recreation (DCR) and the Department of Environmental Protection (DEP) to develop the plans. They urged communication with the Town and with abutters. One of the more controversial items is how the issue of docks is addressed. The format for the draft plans is set by DCR. It addresses pond usage and provides an inventory of animal, fish, and plant species.

Members commended Mr. Strickland and his Committee for the work they have put into developing these plans. P. Morrison said, despite the work being done by volunteers, it is clear they have a great deal of expertise. Cindy Swezey, who prepared the Martins Pond plan, said this

particular pond is only 4 ft. deep and therefore is not suitable for recreational activities such as swimming or boating. The mucky bottom keeps it somewhat protected although she noted phragmites and loosestrife were present. There are no aquatic invasives at this time. There is a push to have public access on Great Ponds, but these recreational activities must be watched very closely. B. Easom said he understood Martins Pond was relatively pristine, and it is boaters who sometimes transfer invasive aquatic species from one water body to another. Not having docks will help assure that this doesn't happen. P. Morrison pointed out Martins Pond is not as accessible as most ponds and lakes in Town, and he agrees with the idea of no docks. C. Swezey said the issue of docks is complicated on other ponds and lakes in Town.

Mr. Strickland said the Committee has prepared and submitted a report on the weed harvesting of Baddacook Pond last year. They did a survey in June 2009 which will be repeated in 2010. It is too early to tell whether the harvesting was successful. Weeds in the cove, near the Baddacook pump station, and the inlet from Hemlock Park Dr. were harvested, and a lot of material was removed. Mr. Strickland acknowledged this is a sizeable job for volunteers, and DCR has suggested hydro-raking might be more effective. Both milfoil and cabomba are problem weeds in Baddacook Pond. Part of the program is to continue to visit stations and monitor their status on an annual basis. Commissioners thanked those present for all their work in developing the draft plans. Upon a motion by W. Addy, seconded by P. Morrison, it was

VOTED: to send a letter to the Board of Selectmen accepting and recommending the draft management plans prepared by the Great Ponds Advisory Committee for submittal to DCR.

8:30 p.m. – Murphy/144 Shelters Rd. NOI continuation DEP#169-1039

(R. Lambert recused himself from the hearing.) Homeowner John Murphy said he had updated the plan and explained it is their goal to remove all of the old railroad ties and replace the retaining wall with granite stones. He believed this step will make the wall stronger and more appealing. The wooden platform at the end of the retaining wall is to be removed and not replaced. It's the only thing holding the retaining wall in place at this time. The railroad ties are to be taken to Devens for proper disposal. The replacement wall will be in the same footprint, but have a more rounded face, and the granite stones will allow nooks and crannies for wildlife. The work will take place when the water is down. The staging area for materials will be the flat area at the top of the lot. A silt barrier will be placed between the work area and the lake. Tractors will be used to place the stones, but no excavation will be required. Mr. Murphy explained that 88 ft. is the measurement of the current retaining wall, but the new curved design will be about 78 ft. which is in line with the fees paid for the project.

Dr. William Eger spoke in favor of the project, stating that one of his concerns is the major increase in serious erosion problems into the lake. This project will have great value in stabilizing the shore line, and he felt more residents should be encouraged to do something similar. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP#169-1039.

B. Easom mentioned the Order of Conditions is likely to have conditions or terms under which the work can be done, such as not storing equipment overnight and no disruption of the resource area.

8:45 p.m. – Appointment David Elliott – 35 Common St., DEP#169-1037

Mr. Elliott stated he wished to withdraw his Notice of Intent filing. M. Giguere pointed out the Order of Conditions has already been issued, and there is a process for appealing a Commission decision. P. Morrison suggested procedurally just letting the Order expire as it will never be initiated or completed. Copies of the Order are sent to the Board of Health, Planning Board, and Building Commissioner. Mr. Elliott objected to this as it states he had a violation when all he did was clean out a swale. He noted this all started when he filed to build a shed. B. Easom commented the Commission saw work being done in a wetland resource area without a permit. P. Morrison said the original problem may have been seen as maintenance. M. Giguere questioned whether the property was in agriculture at the time. Mr. Morrison felt the Commission should view it as maintaining a drainage system in simplest terms, and the applicant should have informed the Commission ahead of time.

B. Easom maintained the work was much more invasive as there were clear heavy machinery tracks into the wetland. C. Auman pointed out the applicant originally stated he intended to restore agriculture at the site and that was the purpose of the filing. Mr. Elliott protested the Order includes language about ‘in perpetuity’ and ties his property up with 62 conditions. Mr. Morrison pointed out these are typical conditions that are included for every project that involves wetlands. Mr. Elliott argued he was just improving his property.

B. Ganem read Condition#21 of the Wetlands Protection Act Order which states: *“The proposed restoration of fields and clearance of invasives shall commence in the 2010 growing season. A minimum of one-third of the proposed project shall occur each year for the three-year duration of the Order of Conditions.”* Commencing work on the restoration was part of the remediation for work done without a permit. Enforcing that would require remediation. P. Morrison said the Commission was acting on Mr. Elliott’s request, and the completion of the Order of Conditions is the remediation. The whole plan constitutes mitigation for a violation. C. Auman pointed out most of the conditions are boilerplate for any Order that the Commission issues. D. Elliott said he is washing his hands of it.

M. Giguere observed that this would not be the first Order of Conditions that did not get recorded or acted on, but it was written from the perspective of an Enforcement Order. W. Addy said the Commission could consider issuing an Enforcement Order at the end of the appeal period. P. Morrison mentioned the appeal process is complicated in that it must go through DEP and, under the Bylaw, to the Superior Court. C. Auman noted the Order is written so that something is required to take place in the first year, and the applicant has a right to appeal. The Commission could issue an Enforcement Order if the Order is not complied with. M. Giguere said there is no way to vacate our decision so we would just go forward with the process. The fines issued could vary from \$50 to \$300 per day.

D. Elliott exclaimed “This is ridiculous!” He maintained that what he did was right back to where it was because the ditch is still blocked. He said the 62 conditions were ridiculous, and he

was not going to do it. He stated he would pay a realistic fine and urged the Commission to use common sense. M. Giguere indicated the Commission is rather stuck with procedures as set by state law. P. Morrison said the Order can just expire. B. Easom pointed out the Commission is charged with protecting the interests of the Act. P. Morrison stated the Commission can use enforcement orders to begin. The original Enforcement Order was essentially vacated by allowing Mr. Elliott to file a NOI to begin the restoration of the field. Chairman Easom asked if anyone wished to make a motion or re-visit this in a year based on progress or non-progress. M. Giguere suggested getting a recommendation from MACC on the legal processes involved. B. Easom thanked Mr. Elliott for coming in.

9:00 p.m. – Appointment Stan Dillis – Sjoberg/Chicopee Row

Mr. Dillis noted the NOI plans for this project show a limit of work silt fence, and he was here to inquire whether the Commission would allow the use of straw wattles as they are easier to use. They lay right on the ground and do not have invasive seeds. In addition they are moving the house slightly, and there is some grading in the buffer zone. The choice would be to do the grading or build a retaining wall right along the 100-ft. buffer zone. He estimated it involves a small knob about 30 ft. x 60 ft. He thought the work was 60 ft. from the resource area on a sparsely vegetated ledgy knob.

S. Dillis said the wattles are about 12 in. in diameter and are filled with straw, burlap, or mulch and are supposed to be biodegradable. P. Morrison said he regards this as minor change. C. Auman agreed he liked the idea of using the wattle and asked about its length. Mr. Dillis thought the sections were between 10 ft. and 12 ft. in length. Mr. Auman expressed concern about seeing changes in the buffer zone. S. Dillis indicated the driveway would be shortened by 50 ft. with this change. To Mr. Lambert's question about the amount of material to be removed, Mr. Dillis replied "a rough guess is 50 yards". The area would then be loamed and seeded. B. Easom said he would like to see the site before making a decision. The wattles conform to the ground surface contours, and water can pass through them. Mr. Dillis estimated about 4 ft. of the knob would be removed. W. Addy thought this amount excessive. He added there is a lot of water within the first 100 ft. of the driveway. Upon a motion by W. Addy, seconded by M. Giguere, it was

VOTED: to require regular haybales and silt fencing for the first 100 ft. of the driveway but allow wattles for the remainder of the project.

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

VOTED: to allow the use of silt fencing up gradient of wetlands to demarcate the limit of work. It is not necessary to embed the fencing.

9:15 p.m. – Appointment Ray Lyons

Attorney Lyons stated his client, Patriot Excavation Co., has found a buyer for Lot 4 on Island Pond Rd. He understood the Town was in active negotiations with the abutter, Mr. McCarthy, for the construction of a house without permits. Part of the negotiation includes public access via a trail easement over the former railroad bed. He maintained the Planning Board intends to get this public access to accomplish the public purpose which was the original purpose of the signed Purchase & Sale Agreement between the developer and the Commission. P. Morrison questioned



the chances that this easement will occur. Mr. McCarthy was not given an Enforcement Order with this standard so the Commission would be taking a risk. Surveyor Stan Dillis said the negotiations are occurring as part of the special permit process before the Planning Board, but no final vote has occurred. The railroad bed outlets at the entry to the YMCA property. P. Morrison questioned whether this would be a better trail and expressed hesitation about giving up something before we know we are getting something.

R. Lambert said the Commission could send a letter to the Planning Board before we agree to the release. C. Auman disagreed with the idea of signing a release, especially since the Commission has spent over \$9000 toward the acquisition. M. Giguere said he would like to know we have it locked down for sure before signing the release. He pointed out anything can evaporate just as this deal has evaporated. The Conservation Fund does not have an infinite amount of money. R. Lyons commented "On the other hand, you will save the \$65,000 purchase price." The Purchase & Sale was contingent upon the Planning Board granting a second lot, but this is a request to just walk away from the agreement when the developer has not even made the request for a second house and has until August to do so.

Chairman Easom expressed concern that we do not know the terms of the proposed easement such as whether it would allow vehicular or pedestrian access. Mr. Lyons said his client has scheduled a closing for this week. He pointed out the Planning Board has some leverage to get Mr. McCarthy to comply since he has constructed a second house without proper permits. He stated he was 99% confident this is a done deal. W. Addy observed the Commission has until August, and the Commission could be unwilling to release the Purchase & Sale until we know we have the alternate trail easement in our pocket.

B. Easom asked whether the new owner would be willing to sell the land to the Commission, and Mr. Lyons said "No." Mr. Lyons added this would keep the neighborhood happy as they do not wish to see a second lot approved at the site. He indicated there is no way to develop the lot with frontage on Bryanwood Lane because of the steep terrain. The house on Lot 4 would be constructed where excavation has already occurred. P. Morrison questioned how long it is likely to take to know that we are assured of receiving the trail easement. Rob Anctil represents Mr. McCarthy, and he may already have language in place. Mr. Morrison suggested releasing the Purchase & Sale contingent upon getting assurance that the trail easement comes our way shortly. B. Easom said we invested \$9000 and that should go away if we agree to the release. P. Morrison said he had a problem extinguishing a right before we get the trail easement. B. Easom indicated he would have some level of comfort if Michelle Collette agrees with this assumption. The Planning Board will be voting on their decision on May 22<sup>nd</sup>.

P. Morrison suggested the Commission authorize Chairman Easom to release the Purchase & Sale agreement under terms the Commission finds acceptable. It could be anything in writing offering the easement or included as part of the application, minutes of the Planning Board, or a date when it is to be offered. B. Easom said this would be asking the Commission to take a risk for the benefit of Mr. Lyon's client and questioned whether compensation is to be involved. Mr. Lyons said the plan is to sell the house lot as they have a buyer and plan to close this week. A motion by P. Morrison, seconded by M. Giguere, to authorize B. Easom to release the Purchase & Sale Agreement contingent upon Mr. Easom finding the Groton Conservation Commission is

reasonably protected failed with P. Morrison voting in favor, and all others voting in the negative.

Mr. Morrison made another motion to remove the word 'reasonably', but this failed without a second. Mr. Dillis assured the Commission the Planning Board hearing minutes would reflect discussion of the trail easement, and he added the Commission could add it as a contingency in its Order of Conditions for the property. B. Easom expressed concern about the wording of the easement and whether it is to include horses, people, and bikes and be open to the public 24/7, prohibit motorized vehicles. Mr. Dillis said a common driveway is proposed to serve two hammerhead lots. C. Auman protested the Commission was being pressured to make a decision based on someone else's deadline. The Commission does not have all the information it needs, and it's not fair to put the Chairman in that spot. P. Morrison said it is unlikely we can record a deed easement this week.

W. Addy commented the Commission could authorize the Chairman to accept a conservation easement to the Town providing it is recorded pending a signed offer that it is irrevocable. M. Giguere suggested making an offer and negotiating it. Commissioners discussed the terms of reimbursement, including whether it should be \$9000 to cover all expenses. Attorney Lyons argued that legal expenses were not incurred until after the Commission had an appraisal in hand so the remaining fees would run about \$4800. P. Morrison made a motion, seconded by M. Giguere, to release the Purchase & Sale Agreement if the Commission receives a donation or expense reimbursement of \$9000 to the Conservation Fund.

M. Giguere offered an amendment, seconded by P. Morrison, and it was

VOTED: to reduce the amount to \$4800.

W. Addy and C. Auman voted in opposition to the amendment, while the majority (B. Easom, P. Morrison, R. Lambert, and M. Giguere) voted in favor.

The original motion was amended, and it was

VOTED: to release the Purchase & Sale Agreement if the Commission receives a donation or expense reimbursement of \$4800 to the Conservation Fund.

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

VOTED: to approve the minutes of the April 22, 2010, April 27, 2010 (Open & Executive Sessions), and May 3, 2010 (Open & Executive Sessions) meetings as drafted.

M. Giguere reported that David Kittredge has reviewed the draft request for proposals for a town forester and made some comments. Mr. Giguere is also working on a Commission policy for forestry work. B. Easom observed that the current draft appears to be very unfriendly to foresters, indemnifying the Town through many of the proposed activities. He wondered if the language should be toned down a bit as it appears to be confrontational, and there should be a process for mediation when there is a disagreement. M. Giguere reported there will be a meeting

with Tom Orcutt on May 12<sup>th</sup> at 2 p.m. to further discuss the draft, and this issue can be addressed at that time. The forester will fill in the amounts in the table after we give him or her the expectations for income.

Requests for Certificates of Compliance (DEP#169-35 and #169-854) have come in for the Gleason property on Kemp St., and the site will be included in the May 22<sup>nd</sup> site visits.

Following up on the May 8<sup>th</sup> site walk, Commissioners requested the applicant be notified of the need to re-flag the wetlands associated with DEP#169-886 for the Culver Rd. Extension so the Commission can review the accuracy of the delineation after a 6 year lapse.

Hayden Rd. residents in the area of Carmichael Swamp have expressed concerns about the loss of wildlife attempting to cross the road. This area has never been posted for turtles. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to authorize B. Ganem to procure two additional turtle signs similar to the ones posted seasonally by the Highway Department.

Regarding the dead white pine on the Bixby Conservation Area (Assessors' Parcel 106-10) adjacent to Newell Crossing in W. Groton, members thought it appropriate to cut the top part of the tree that would pose a danger to the overhead wires. The remainder of the tree could be left as a snag. Upon a motion by P. Morrison, seconded by W. Addy, it was

VOTED: to ask the Groton Electric Light Department to remove the top 20 ft. of the pine or to give Gordon Newell permission to do the same.

In reviewing the farming license agreement for the Smigelskis for Walnut Run/Jenkins Rd., the Commission discussed whether a clause could be added to allow them to apply pesticides in an emergency situation. Upon a motion by P. Morrison, seconded by R. Lambert, it was

VOTED: to include in the license agreement an emergency pesticide application clause allowing notification by telephone to the Conservation Commission office.

Members are in the process of reviewing the monitoring report for Angus Hill and it will be added to the next meeting agenda. Re-routing the trail out of the wetland/multiflora area is subject to the approval of the owner, Meredith Scarlet.

Regarding the Fuccillo land, most of the large logs are on GELD land, and the driveway goes quite a distance on their land. Chairman Easom reported he and David Pitkin flagged a reasonable route for a trail. Part of the trail would actually be on Brownloaf land owned by the Town but only accessible via this parcel because it's surrounded by water. He indicated he would like to have the full Commission review the planned route.

As reported earlier, there are two upcoming meetings with Pat Huckery on the finalization of the Surrenden Farm Resource Management Plan – scheduled for 10 a.m. on May 14 and May 28.

Commissioners suggested trying the Black family to get estimates for the bollards on the Redskin Trail Conservation Area.

Regarding the fields at Shattuck, Commissioners questioned whether CPC and Conservation Fund monies could be used to provide a water source. Water Superintendent Tom Orcutt indicates public water is not an option. He is looking into both deep and shallow wells which he thinks will run between \$5000 and \$10,000. It is likely they would have to meet potable water standards. C. Auman said the Conservation Fund can be used for any conservation-related matters. Members commented they would prefer not to spend money unless we have a serious user for the property.

B. Easom has located five bounds between the Wharton Row subdivision and the Town Forest to assess the trail access to Ames Meadow. He noted he will need help from two people to finish up the work, and he, C. Auman, and M. Giguere agreed to meet on May 25<sup>th</sup> in the a.m. to accomplish this. M. Giguere reported he came away with the recommendation ‘to pick your battles’ from his meeting with members of the Agricultural Commission (George Moore, John Smigelski, and Meredith Scarlet). They felt the culvert would have to be extended, the parcel is small, it’s not close to any other farm land, the soils are not that good, and there are trees shading a portion of the field. P. Morrison noted that Mr. Smigelski’s equipment is very large, and perhaps small operators would be interested.

Chairman Easom expressed concerns that the Agricultural Commission does not always stand up for disappearing agricultural opportunities. Hay may not be the appropriate crop, but there are other crops that could work. P. Morrison pointed out our issue of gaining access remains. The Commission needs a permanent access and then we can figure out what to do with the parcel.

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

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

There being no further business, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

Barbara V. Ganem  
Conservation Administrator

**Approved as drafted 5/25/10.**