

GROTON CONSERVATION COMMISSION

Minutes

October 12, 2010

Chairman Bruce Easom called the meeting to order at 7:00 p.m. in the 2nd floor conference room in Town Hall. Members Marshall Giguere, Nadia Madden, Peter Morrison, Bill Neacy, and David Pitkin were also present. Member Craig Auman was absent. Conservation Administrator Barbara Ganem was present.

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

VOTED: to approve the minutes of September 28, 2010 as drafted.

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

VOTED: to approve the Open Session minutes of October 5, 2010, as drafted.

The motion passed by majority vote with D. Pitkin abstaining.

B. Neacy said he would like to discuss a correction to the Executive Session minutes of October 5, 2010 so the topic will be postponed until the Commission enters Executive Session.

Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to issue the Order of Conditions, as drafted, for 49 Cherry Tree Lane for DEP#169-1048 under the Wetlands Protection Act.

Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to issue the Order of Conditions, as drafted, for 49 Cherry Tree Lane for DEP#169-1048 under the Wetlands Protection Bylaw.

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

VOTED: to issue the Order of Conditions, as drafted, for 79 Raddin Rd. for DEP#169-1052 under the Wetlands Protection Act.

In discussion on the Order under the Bylaw, members felt the language could be more precise and added “native” to the type of vegetation that could not be removed within the 100-foot buffer zone for Condition #10. With this correction, upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to issue the Order of Conditions, as amended, for 79 Raddin Rd. for DEP#169-1052 under the Wetlands Protection Bylaw.

The motion passed by majority vote, with N. Madden voting in the negative.

7:15 p.m. – Appointment Patti Kelleher, Master Plan Open Space & Recreation consultant/Community Opportunities Group

Ms. Kelleher explained she was working on the Open Space & Recreation element of the Master Plan and expects to have a draft ready soon. She is also working to update the *2005 Groton Open Space & Recreation Plan (OS&RP)* and one requirement is a community survey to assess perceived conservation and recreation needs. Several templates were emailed earlier to members, and Ms. Kelleher indicated she would like to get the Commission's preferences for how to proceed. M. Giguere said there are two groups, one a sub-committee working on the open space element for the Master Plan and the other working on the update of the OS&RP. M. Giguere and C. Auman sit on both, and B. Ganem participates on the OS&RP.

B. Easom commented his preference is for the form used by Hudson which would have to be modified to reflect the amount of conservation land held by the Town. N. Madden suggested allowing an open-ended question, such as "what area are you likely to use the most?" rather than naming each conservation area. P. Kelleher said they expect to have the Parks Commission comment on the survey as well. Commissioners questioned whether it would be best to send the survey out by mail or have it available on-line. Ms. Kelleher mentioned the response results have typically run around 20%. The survey could be sent out with the electric bill or the tax bill. B. Neacy noted there should probably be a unique identifier if we use an on-line survey. B. Ganem reported we have reserved April as the month for doing the mailing, but it can only be one page. It was agreed to let the sub-committee work this out on the Commission's behalf.

P. Kelleher stated the prioritization of open space acquisitions is another element to be addressed in the Master Plan. Representatives from the Park Commission, Water Department, and Planning Board will also be looking at this. When asked about the review of the draft maps prepared by Peter Flinker of Dodson Associates, member M. Giguere said he found them confusing as there seemed to be excessive information included. While he liked the priorities map, he thought portions had been hand drawn. M. Collette has been scheduling meetings of the sub-committees, and this may require a separate meeting. Member Neacy thought it may be necessary to do a second or third mailing to assure the survey is filled out. He suggested sending out postcards asking people to request the survey. P. Morrison mentioned the Commission can email the survey or use the Town list serve, as well as the local newspapers to solicit input. Ms. Kelleher thanked the Commission for their comments, indicating she would pull together a draft survey for members to review.

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

VOTED: to issue the Order of Conditions, as amended, for DEP#169-1050 for 14 Heritage Lane under the Wetlands Protection Act.

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

VOTED: to issue the Order of Conditions, as drafted, for DEP#169-1050 for 14 Heritage Lane under the Wetlands Protection Bylaw.

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

VOTED: to issue the Order of Conditions, as drafted, for DEP#169-1049 for 74 W. Main St. under the Wetlands Protection Act.

Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to issue the Order of Conditions, as drafted, for DEP#169-1049 for 74 W. Main St. under the Wetlands Protection Bylaw.

Member Pitkin reported the Greenway Committee is planning to return an unused \$20,000 grant to the Community Preservation Committee because it looks as though the plan to design the repair of Fitch's Bridge will be closer to \$90,000. Mr. Pitkin said various options for repair have been examined and this is the lowest estimate. Other matters before the Greenway Committee include consideration of the DeCilio land along the Nashua River. Marion Stoddart is currently chairman and Fran Stanley is clerk. David Manugian is also on the Committee. D. Pitkin stated the Commission has about 72 acres along the Nashua River, including Nod Rd., Main St., Ames Meadow, Bertozzi, and Farmers & Mechanics. He expects to make quarterly reports to the Commission about the Committee's activities.

8:00 p.m. – Appointment/Russell Burke, Prescott School Re-Use Study Committee

Mr. Burke explained he is the Planning Board's representative to the Prescott School Re-Use Study Committee. The building is owned by the Town but is leased to the School District through 2015. The Board of Selectmen is exploring the future of the property and has charged the Committee to look at potential re-uses. The Committee started in May and has been reaching out to other Town boards to solicit input. R. Burke indicated the Committee was aware wetlands are a protected resource area and has been studying the implications of the flood zone and DEP-mapped wetlands on any project at the site.

Mr. Burke said the playground behind the School is on an area that appears to have been partially filled in the early 1960's to bring the fields up to their current grade. The building itself was constructed in the 1920's with a basement and two stories equaling about 26,000 SF of space. The structure has recently been added to the National Historic Places register and is subject to the local Historic Districts Commission. The Committee is looking at several alternatives, including demolition, restoration, addition, or the addition of another building.

Member Giguere commented it would have to be an appropriate re-use as there is a 5 to 10 foot drop off between the field and the surrounding wetland. The potential re-use would have to take into consideration the 100-foot buffer zone, 100-year floodplain, and the necessity for compensatory flood storage if there were filling. R. Burke said it is unlikely they would pursue this course because of regulatory requirements. He acknowledged there could be an increase in impervious surfacing. There has been some discussion of linking Prescott School with Station Avenue, and Mr. Burke mentioned an early plan which showed a loop roadway through the Prescott School property. He said the issue there would be the crossing the wetland and floodplain.

Selectman Anna Eliot questioned whether a pedestrian walkway would be feasible. She noted there has been discussion about including the Prescott School in the more comprehensive 40D plan for Station Avenue. R. Burke said a pedestrian walkway is likely to have far less impact than a road. Helical piers are one way of constructing such a walkway. The elevation for the floodplain was not identified on a plan or in the field; the FEMA maps were drawn in on the Station Avenue filing with the Commission. B. Easom pointed out compensatory storage would have to be done at the same elevation as the filling and would have to be done on site. The Commission typically looks for three to one for wetland replications, but it may be possible to mitigate off site such as permanent protection for Brown Loaf. Members questioned whether any of this work will be in the Riverfront Area of James Brook, but the channel has been altered with ditching. P. Morrison recommended taking a look at the walkway along Battle Road in Concord that is part of Hanson Field.

Mr. Burke concluded by stating the Committee is looking at many different permutations for Prescott School. B. Easom noted it will have to maintain its historical significance, but he was aware affordable housing and senior housing were under consideration. A. Eliot said the goal is to combine commercial and residential uses but to keep the development revenue neutral.

8:15 p.m. – Amendment request for DEP#169-1003/34 Kemp St.

Stan Dillis explained changes were made in the driveway design and presently a portion of the driveway is within the 100-foot buffer zone. Two alternatives were eliminated because it would require moving a knob of earth and a tree. Only 70 SF of buffer zone will be disturbed, and the revised design results in 50 SF less impervious surfacing on the lot. The stormwater calculations remain essentially the same, and grading will be toward the catch basin which is already in place. B. Easom noted the amendment is being requested because the garage opening was shifted from the side of the building to the front. N. Madden questioned the elevations, and S. Dillis replied it will be 121 ft. at the corner of the buffer zone that will be disturbed and drainage will be directed toward the catch basin where it can be re-charged into the ground.

B. Easom said the goal with an amendment is to improve conditions so a case for improvement could be made with the reduction of 50 SF of impermeable surfacing. He stated the record should reflect this important point. Mr. Dillis submitted an updated plan of the site for the record and upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to close the hearing for the amendment for DEP#169-1003/34 Kemp. St.

In discussion on the request for a Certificate of Compliance for the garage at 601 Lowell Rd., DEP#169-962, M. Giguere said he would like to see the silt fencing removed. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to issue a Certificate of Compliance for DEP#169-962 for 601 Lowell Rd. contingent upon the removal of the silt fencing.

N. Madden abstained from the vote.

8:30 p.m. – New England Forestry Foundation (NEFF) Baddacook Pond Rd. DEP#169-1051 continuation

Attorney Ray Lyons and engineer Dan Wolfe were present to discuss the proposed development of a single house lot on Baddacook Pond Rd. Mr. Lyons reported he has received a letter from Natural Heritage which states the project is within the actual habitat of Blanding's turtles. They offer three different scenarios under which the work can occur, including limiting the work to the October 15th to March 15th period, in order to avoid a taking.

Mr. Wolfe explained he has revised the plan to reflect the comments from Natural Heritage, enclosing the building envelope with a continuous erosion control barrier. A construction sequence and trees larger than 8 in. DBH in the septic fill area have been identified on the plan. He thought stockpiling materials in the area where the outhouse and carport are to be demolished would be the least intrusive. They will be able to comply with Option 2. They will need a portion of the barrier to be removable in order to gain access. D. Wolfe said he is not picturing lawn at the site as pine litter is likely to predominate due to the acidic sandy soils.

Members noted the limit of disturbance is then defined by the erosion control line. P. Morrison said any additional work on this lot would require the applicant to file with the Commission again. He suggested using tube socks at the two entrances to the site. M. Giguere pointed out the driveway is 256 ft. long before getting to the house. B. Easom said he would prefer to see the work done between November and March because of concerns about disruptions to the driveway. A condition could be included that no work occurs between March 1 and May 31 without the Commission's express approval. N. Madden commented the construction equipment would be traveling on a relatively flat cart path. Mr. Wolfe stated the house will be sited on a 183-acre lot, and he will submit a final plan under Option 2 for Natural Heritage sign-off. Upon a motion by P. Morrison, seconded by Bill Neacy, it was

VOTED: to close the hearing for DEP#169-1051 for New England Forestry Foundation.

Attorney Lyons said he felt having an Order of Conditions for this project will provide voters greater clarity on Article 16 to be presented at the October 18th Town Meeting. Chairman Easom cautioned members that NEFF is not likely to be the one doing the actual work on this lot so it is very important to state explicitly what is necessary to complete the project. Member Pitkin questioned whether this is something for which the Commission will request a bond. He noted nearly all of the work is within 50 ft. of a resource area, there are rare species in the area, and the consequences of a failure could be significant. P. Morrison expressed concern this would set a precedent, and B. Neacy pointed out the Commission has remedies other than a bond. B. Easom questioned what amount would be appropriate should the owner abandon the lot. It is possible to levy fines for every day of a violation, and this could be adequate recourse. The decision on the bonding will be part of the Wetlands Protection Bylaw special conditions. P. Morrison, seconded by N. Madden, made a motion to approve the draft special conditions under the Wetlands Protection Act, omitting Conditions #27 and #45. B. Easom made a motion, seconded by D. Pitkin, to include #27 and #45 to allow an environmental professional to monitor the project. B. Neacy questioned what we are gaining, and B. Easom responded "We are trying to prevent an environmental disaster on either side of the work." R. Lyons pointed out someone will be going out periodically to monitor the progress on the septic system. B. Easom said he would like to

clarify the motion by adding inspections should be made once a week with reports generated once a month. It was

VOTED: to modify Condition #27 to add that inspections shall be conducted at least once a week with reports issued once a month as required in Condition #45.

The motion passed with B. Easom, N. Madden, D. Pitkin, and B. Neacy voting in favor, and P. Morrison and M. Giguere voting in the negative.

Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to strike the word “independent” from Condition #27.

The motion passed by majority vote, with N. Madden voting in the negative.

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

VOTED: to add a condition to limit access by construction vehicles between March 1 and May 31 subject to the Commission’s approval and in accordance with Option 2 of the attached October 7, 2010 letter from the Division of Fisheries & Wildlife.

With amendments, the final version of Condition #27 will read “Prior to the commencement of any activity on this site, the applicant or current landowner shall hire an “Environmental Professional”, subject to the approval of the Commission, who shall be responsible for monitoring all activity within wetland resource area and buffer zones to ensure compliance with this Order of Conditions. The Environmental Professional shall inspect and direct the maintenance of all erosion and sedimentation control measures on site and shall submit regular progress/monitoring reports to the Commission per Condition ___ of this Order. The Environmental Professional shall have the authority to stop work at any time and/or to implement additional impact mitigation measures on site whenever necessary to prevent or halt existing or imminent violations of this Order. Inspections shall be conducted at least once a week with reports issued once a month as required in Condition #___.”

Returning to the original motion by P. Morrison, seconded by N. Madden, it was

VOTED: to issue the Order of Conditions for DEP#169-1051 for NEFF/Baddacook Pond, as amended above, under the Wetlands Protection Act.

The vote was unanimous.

In discussion on a motion by P. Morrison, seconded by D. Pitkin, to approve the Special Conditions under the Wetlands Protection Bylaw, B. Easom said he saw an important and significant difference between a bond and the ability to impose fines. Collecting fines takes a long time, while bonds are funds in hand allowing the Commission to take control of the situation. The Commission could potentially stabilize a bad excavation job instead of spending time in court in Ayer. Chairman Easom mentioned a similar situation occurred on Academy Hill

where materials washed into the wetland. Mr. Wolfe asserted it is unlikely the soils at this site are going to move. Mr. Lyons said he did not see a problem with a modest level for a bond. Mr. Easom said another example could be that neighbors delay the work if they feel the access question has not been adequately resolved. Upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to include an amount of \$2000 in Condition #4 of the Special Conditions under the Wetlands Protection Bylaw.

The motion passed unanimously.

D. Pitkin noted members had expressed concern about including conservation markers as a condition, and upon a motion by D. Pitkin, seconded by B. Neacy, it was

VOTED: to remove the conditions concerning the conservation markers and issue an Order of Conditions, as amended, under the Wetlands Protection Bylaw.

The motion passed with D. Pitkin and B. Easom voting in opposition, with the remaining four members voting in favor.

N. Madden questioned why we would not include a condition about snow stockpiles because salt and sand pose a problem for water quality, and members acknowledged it is technically impossible not to push snow from the driveway into the swamp, and there really is no feasible way in which to mitigate because of the proximity or the work to wetlands.

8:30 p.m. - Aubuchon/213 Whiley Rd. Request for Determination of Applicability continuation
At the applicant's request and upon a motion by D. Pitkin, seconded by B. Neacy, it was

VOTED: to continue the meeting on the 213 Whiley Rd. Determination to October 26, 2010.

Mr. Lyons reported the Board of Water Commissioners was unanimously in favor of supporting Article 16 for the purchase of the NEFF Baddacook Pond land. He also assured the Commission the legal access rights and easements would be conveyed as part of the acquisition. B. Easom pointed out something has to happen at the Registry in order to confirm this step. Abutters appear to be in favor of the purchase. If it is taken by eminent domain, all of NEFF's interests will be divested, and R. Lyons indicated he would like to have a signed Purchase & Sales agreement prior to Town Meeting. He suggested authorizing the Chairman to sign with amendments or anything else Town Counsel recommends. B. Easom said he was uncomfortable with this arrangement, and members agreed to schedule a meeting prior to Town Meeting on October 18th. Mr. Lyons said he would have NEFF Executive Director Lynn Lyford sign the document prior to that date. He stated he would be available to lead a site walk on October 23rd which could be something advertised in the Groton Herald.

M. Giguere commented we have previously discussed NEFF paying a minimum of \$5000 or 50% of the cost of the demolition and 20% of the survey costs. Members noted it would be

helpful to have support from the Trails Committee, Community Preservation Committee, Squannacook Rail Trail group, Greenway Committee, and Planning Board on the article. Member Giguere presented a slide show he prepared using photographs of Baddacook Pond and the subject parcel. Commissioners thanked him for all his work in pulling together the presentation. Because of its length, it is likely this will be available in the lobby before residents enter Town Meeting. B. Neacy underscored the need to state what the Town would be getting, including much of the eastern shore of Baddacook Pond, protection of water supplies, beautiful natural resources, access for boating and fishing, and recreational opportunities. He suggested putting a value to the acreage in terms of the number of feet of shoreline. Members noted a pedestrian bridge, such as the one on the Gratuity trail easement, would be necessary to cross the outlet to Baddacook Brook. Mr. Lyons suggested working with Sonya LeClair at NEFF to develop a handout for Town Meeting. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to deputize Marshall Giguere to create a presentation for Town Meeting about the acquisition of the NEFF/Baddacook Pond parcel.

Chairman Easom offered to assist with the presentation and to speak at Town Meeting.

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

VOTED: to issue a Certificate of Compliance contingent upon the removal of the stockpile of asphalt for 65 Rawding Rd., DEP#169-770.

Members discussed the request for an Extension for the Groton School biomass boiler which does not expire until 2011. Members questioned whether it would be subject to the new state law extending all permits for a 2-year window. B. Ganem reported DEP has extended the Superseding Order of Conditions for Mattbob, DEP#169-880 to December 8, 2013.

In reviewing the land management tickle list, it was noted we are awaiting the landscape context map from the Division of Fisheries & Wildlife for the Surrenden Farm Resource Management Plan. Under trail and abutter issues, mowing at Hidden Valley Dr. continues to be problematic. The Fire Chief has indicated he is more concerned with being able to get to all the houses on Redskin Trail and does not require a turnaround. A letter will go out to residents abutting the Northwoods Conservation Area to caution against dumping of grass clippings. We continue to await authorization from Honeywell to use GPS to determine the preferred trail location to make a connection between Arlington St. and the Nashua River Rail Trail. The fall is the optimal time to do this after the leaves have dropped. Since there were no bids to farm the parcel, B. Ganem is seeking estimates to brush hog the field at the Shattuck property on Baddacook Pond. Members thought December might be a good time to meet with the Town Forest Committee to discuss the Ames Meadow access.

B. Easom requested that the recent correspondence from the Division of Conservation Services concerning pending Conservation Restrictions, particularly The American Baptist Churches of Massachusetts (TABCOM) CR, be sent to Attorney Robert Collins to see if this can be moved along. Member Giguere plans to meet with W. Groton Water District Superintendent Gordon

Newell in December to go over the CR proposed for the Blood parcel adjacent to Town Forest. D. Pitkin reported he had done a second survey of Gibbet Hill to determine the trail easement locations, and work has already been done on Angus. Regarding the missing boundary markers for Angus Hill, P. Morrison suggested just making a note of it and going on with the report. M. Giguere questioned whether there should be a designated parking area on the CR which is okay for horse trailers, but not for customers. He thought no unless it is specifically allowed. The Commission should be notified of the intention to build structures, such as the water jumps, but this is considered part of the farming activity. Ms. Scarlet is in the process of developing a farm management plan. Members thought Meredith Scarlet's response to the draft CR Monitoring Report was good, and B. Easom offered to check the language on tree removal with that in the CR. The final document will require signatures from the Conservation Commission and the owner. There is an oval open space at the top of Angus Hill that has a fence with a gate. Until the perimeter fence is installed, it will be necessary to leave the gate is open. The owner may temporarily fence off the area with permission from the Commission. If she has to close the fence, it would be necessary to notify us. P. Morrison urged board members to work with her.

Upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to approve the Executive Session minutes of October 5, 2010 as drafted.

The issue of the drainage structure encroachment at 51 Allens Trail has been resolved, but the point about the basketball hoop at 55 Allens Trail should be clarified before the CR Monitoring Report is finalized. B. Easom expressed concern that the reports never reach a final form because of on-going issues.

There being no further business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as amended 10/26/10.

