

GROTON CONSERVATION COMMISSION

Minutes

November 23, 2010

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

Upon a motion by D. Pitkin, seconded by B. Neacy, it was

VOTED: to approve the minutes of November 9, 2010 as drafted.

D. Pitkin abstained from the vote.

Upon a motion by D. Pitkin, seconded by B. Neacy, it was

VOTED: to approve the minutes of November 16, 2010 as amended.

P. Morrison and N. Madden abstained from the vote.

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

VOTED: to issue an amended Order of Conditions for DEP#169-1053 for Lot A Townsend Rd. under the Wetlands Protection Act.

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

VOTED: to issue an Order of Conditions for DEP#169-1053 for Lot A Townsend Rd. under the Wetlands Protection Bylaw.

Regarding the request for a Certificate of Compliance for DEP#169-1029 at 613 Townsend Rd. members commented the conservation markers are not installed in the proper location or on the 4' x 4" posts and requested a letter be sent to the homeowner. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to issue the Certificate of Compliance contingent upon acceptable conservation markers being installed and reviewed by the Conservation Administrator.

A complaint has been received in the Conservation office about Bennett Black flooding a downstream neighbor's yard with the release of a beaver dam under his driveway. T. Delaney has also indicated there has previously been flooding on Rt. 40 due to this unexpected release of water. B. Neacy questioned whether water was overtopping the driveway. It was noted this type of activity requires the filing of a Notice of Intent. If it is an emergency situation, the Board of

Health can grant an out of season permit for trapping if it is a matter of public health or safety, but impacting the dam itself requires a filing with the Conservation Commission. Audience member Ray Lyons pointed out beavers will move right back in if it is appropriate habitat. Upon a motion by N. Madden, seconded by D. Pitkin, it was

VOTED: to send a letter to Mr. Black informing him that removal of a beaver dam requires the filing of a Notice of Intent.

B. Easom stressed the need to reduce water levels in a controlled fashion so as not to flood out Rt. 40.

7:15 p.m. – 21 Moose Trail Request for Determination of Applicability

Engineer Dan Wolfe pointed out this is actually a request for an amendment to DEP#169-1041, and abutters have been notified via certified mail. The legal notice was incorrectly advertised in the newspaper as a Request for Determination of Applicability. A motion by P. Morrison, seconded by C. Auman, to allow the hearing for an amendment to proceed failed with D. Pitkin, N. Madden, B. Easom, and B. Neacy voting in the negative, and C. Auman and P. Morrison casting 'aye' votes. Member discussed treating it as a Request for Determination of Applicability and going ahead for our purposes. Not doing so would make the applicant suffer for a mistake he did not make. B. Easom expressed concern about the Commission's obligation to the public. Members requested Mr. Wolfe complete the Request for Determination of Applicability form to include in the record.

Taking up other business in the interim, members discussed the Saturday site visit to the land to be deeded to the Town on Monarch Path. N. Madden noted the access did not seem to be clearly marked in the field. D. Pitkin asked if conservation markers could be installed, and B. Ganem pointed out there is no Order of Conditions for this subdivision. She asked if the Commission wished to have an as-built plan showing the location of the granite bounds as well as the demarcation of the access. The current monumentation, some of which was located in the field, should be depicted on the plan. Members thought we could request two conservation markers on each of the house lots. N. Madden suggested the bounds and markers should match both what is in the field and what is on the plan.

Returning to the subject of the 21 Moose Trail Request for Determination of Applicability, Dan Wolfe reported the Zoning Board of Appeals agreed to allow them to move the house closer to the street with a 21.3' variance. The Board of Health, however, found that the well was too close to the foundation. With variances for the offsets to the road line, property line, septic system, and wetlands, they plan to drill an Artesian well to replace the current shallow well. The pipe for the shallow well will be pulled. Attorney Ray Lyons also indicated his client plans to remove an oak and three pines. Member Madden pointed out the Commission observed that the trees were already cut during the Saturday site walk. The new well could be drilled now or after the garage is completed. Mr. Lyons said his client wishes to plant four new trees, and D. Wolfe stated he did not mark the location on a plan because that will be determined on site. B. Easom said he liked seeing the well drilled further from the lake.

The shed has been moved to a neighboring lot, but D. Wolfe was not aware if that was to be the permanent location. P. Morrison commented this is not part of this project and is likely to require a Request for Determination of Applicability from the neighbor. C. Auman suggested the tree planting occur on land not subject to the Conservation Restriction as the turtle ramp should not be too shaded. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination requiring that erosion control measures be placed in accordance with the existing Order of Conditions (DEP#169-1041) and requiring the planting of four native trees.

7:30 p.m. – 219 Townsend Rd. /Hollingsworth & Vose Request for Determination of Applicability

Engineer Bob Pine indicated this filing is for the replacement of a couple of sheds and a holding area with a new structure. He said it is his hope this filing will clarify how the Commission will be dealing with the issue of compensatory flood storage. Hollingsworth and Vose regularly takes action to install barriers to prevent flooding. Flooding of the site did occur in 1936 and 1938, events which are considered far more than a 100-year storm. H & V also manages water levels with a dam upstream in Townsend Harbor and a second dam just downstream of the plant in W. Groton.

If an area beyond the barriers is proposed for flood storage the matter becomes more complex. The Commission could determine it is not in the floodplain because of the barriers. Mr. Pine pointed out it is difficult to make compensation as the property is low. There are undisturbed areas that they do own. Bob Collins noted the new structure will replace existing structures. C. Auman agreed this is a difficult situation, but said he couldn't accept the premise that someone can build a wall and keep their land from flooding. He asked how many acres H & V owns, and Mr. Collins said "it is about one-half mile of shoreline." Compensatory flood storage would require disturbing land that is not currently disturbed. Responding to a question about whether other buildings could be razed, Mr. Collins said "what distinguishes this property is that the wall was built a number of years ago." Because they can manipulate the dams to release water from the Squannacook before a storm, the water elevations and the extent of flooding are reduced. N. Madden observed it would be necessary to move the barriers further out into the floodplain.

Mr. Pine thought the floodplain elevation in this area approaches 248 feet above sea level. It is likely the area around the railroad bed is the only spot that is pervious. He noted all stormwater is treated at the H & V treatment plant. Sandbagging does not address downstream flooding. The FEMA map is the law unless proven otherwise. B. Easom thought the barriers protecting the plant are likely to decrease flood storage. He questioned what would happen if this site were to be abandoned. The impact of not putting the barriers in would likely increase the area of floodplain storage.

B. Neacy asked about the practices and procedures for managing the dams. Although the plant has been there since 1830 (not in the same form) boards in the dams have been removed and replaced to control water elevations during this time. Mr. Neacy said he did not understand the issue. Bob Pine explained this is a commercial structure located within a floodplain which is now a resource area. No changes to dam management are proposed. P. Morrison said his feeling is

that the map is the map, and he has no expertise to dispute what is floodplain or what is not floodplain. He indicated he was unwilling to call it non-floodplain and compensatory flood storage is necessary as there is room on the site. B. Ganem recommended looking at the originals of the FEMA map to determine elevations for the 100-year floodplain in this area. Compensatory storage must be at the same elevations as the filling, and volume must be considered. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a positive #3 and #5 Determination.

7:45 p.m. – 63 Kemp St. Request for Determination of Applicability

Homeowner Danyelle Mottram explained she had experienced flooding in her basement last year because of a broken French drain. The break is near the pond where the pipe outlets. In addition, there is a downspout at the back of the house, and they wish to install another pipe to divert water away from the house.

Member Auman said he could see why there is a problem as the driveway is a chute for water from both the driveway and the road. There is no filter to clean the water before it reaches the pond. He noted there are low impact development techniques which may be appropriate for this site. A swale with gravel, riprap, and grass could purify the water before it gets to the pond. Ms. Mottram asked for clarification on how this would work. N. Madden said eventually the water quality and wildlife in the pond could be affected by the runoff from the driveway and the road. This would be a means to control non-point pollution by slowing and cleaning the water. D. Mottram maintained the French drain works surprisingly well when it is intact. Members noted it does not remove sand or salt. B. Easom suggested daylighting the pipe before it reaches the pond. The repair of the pipe would be done with a backhoe, and the same machinery could be used to connect the pipe to a rain garden. B. Neacy suggested viewing Coppersmith Way in Townsend where they incorporated low impact development techniques into the landscaping.

Member Morrison said he views this as a repair, not something where the Commission can require improvements. If it were a new development he would agree the techniques should be incorporated. B. Neacy pointed out it is helpful to understand what can be done, especially the cumulative effects that may be at work at the site. Upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to issue a negative #3 Determination in which 1) work shall be completed in a limited period of time; 2) haybales or silt fence shall be placed at the edge of the pond; 3) disturbance with the backhoe shall be limited (hand work is preferred); and 4) consideration shall be given to low impact development techniques.

B. Easom voted in opposition to the motion. N. Madden commented the presence of two trees in the vicinity of the outlet means it is unlikely this will be the last time this type of repair work is necessary.

8:00 p.m. – 213 Whiley Rd. Request for Determination of Applicability continuation

Homeowner Jeff Aubuchon stated they have created a series of walls which help limit erosion, and they have done things to help the property such as leaving trees in place. He acknowledged

the shore wall was not placed properly, but pointed out the rest of the shore line is showing signs of severe erosion. To remove the wall and backfill will disturb the property, and questioned whether the Commission would consider exploring other opportunities. He said the fix is going to be very difficult as it will involve carrying the materials uphill. The wall is doing the job of holding back the soils and preventing erosion. While he understands it is out too far, he would like to see if there are other options such as plantings. He pointed out all the work would have to be done by hand as it is difficult to get machinery in there.

Member Madden observed the retaining wall extends into the floodplain, and that water will have to go elsewhere. Although a volume of materials may have eroded, she said it is not clear whether there is room on the property for compensatory flood storage. D. Pitkin commented it is a challenge to see how this retaining wall improves the resource area which is one of the things the Commission also reviews. Filling a resource area is not considered mitigation.

J. Aubuchon suggested planting blueberry bushes or not putting a wall on other parts of the property could be an option. Members stressed that flood storage is the issue. Chairman Easom said he understands that taking the materials out could be quite disruptive. He questioned whether it would be possible to build the wall at the shoreline and then use the backfill behind it. Mr. Aubuchon stated this would require a very tall wall, and there is no way to get machinery down there.

Mr. Morrison indicated the water level in Lost Lake/Knops Pond is controlled by a dam. Essentially, this project is filling within the lake, and that did not set well with him. While he understood the difficulties in restoring the wall to where it should be, he didn't see a problem with adding a wall on the other side of the dock as long as things did not extend into the lake. J. Aubuchon said the patio blocks had collapsed into the lake. P. Morrison said he is aware that there is a tremendous undercutting problem at the lake from boat traffic. Filling land under a water body, however, is not acceptable as it is a protected resource under both the Act and the Bylaw. C. Auman added the Commission needs to be consistent with people, and we always tell people not to extend walls into the lake and to do the work during the winter drawdown. An exception in this case would set a precedent.

Mr. Aubuchon asked if there was something other than the removal of the fill which the Commission could consider. B. Easom questioned what the materials were, and J. Aubuchon stated generally materials from the property were utilized, including a set of brick stairs as well as a topcoat of soil. B. Neacy said it is clear this work is in violation of state law and the regulations. A sketch was submitted to the Commission to commence the retaining wall project, and nothing was ever engineered. J. Aubuchon questioned whether somewhere in the middle could be worked out. B. Easom pointed out compensatory storage is required elsewhere on the property or nearby. P. Morrison said he would be okay with having it on the same water body. B. Neacy indicated he was uncomfortable with setting a precedent that changes the very nature and shape of the lake. N. Madden also expressed concern with the precedent-setting aspect indicating the Commission has not accepted this in the past.

Commissioners recommended ascertaining the volume of the structure and whether cutting into the shoreline was feasible. Compensatory storage would not be acceptable on land owned by the

Town of Groton. C. Auman said the Commission did not want to negotiate the surveyed line at the edge of the lake. The Commission will want to monitor impact issues, and engineering may be necessary to do the actual removal of the fill. This work is filed under a Request for Determination of Applicability, and it is likely to be a positive finding. To give the applicants time to explore other ideas and options, upon a motion by C. Auman, seconded by N. Madden, it was

VOTED: to continue the meeting on 213 Whiley Rd. to January 11, 2011.

8:15 p.m. – Appointment Ray Lyons

Attorney Lyons explained he wished to discuss the sale of NEFF land to the Town. He expressed concern about seasonal (winter) conditions for the timing of the demolition and removal of materials and said he has received three bids for the work, both with and without haybales. He pointed out there is small risk of erosion because of the sandy soils, and haybales increase the expense. B. Easom suggested an event in which there is rain on top of ice could result in erosion. The house is set on a foundation of cement block pillars with a chimney in the middle. P. Morrison said he had no issue with not using haybales.

Member Auman asked how long it would take, and Mr. Lyons estimated 2 – 3 weeks because the work would be done piecemeal if the lowest bidder is selected. Otherwise machinery would knock it down in relatively short order. N. Madden said the project was proposed with haybales. B. Easom asked if the bid includes the demolition permit. R. Lyons indicated he has requested GELD to remove electrical wires before the demo. C. Auman commented if this were an applicant we would require haybales. A motion by P. Morrison, seconded by B. Neacy, to select Bidder A without the haybales, failed with C. Auman, N. Madden, D. Pitkin, and B. Easom voting in the negative, and P. Morrison and B. Neacy voting in the affirmative. P. Morrison pointed out the Commission can also require haybales be put in place once the site is reviewed in the field.

The lowest bid is \$6000 with the haybales placed according to the Request for Determination of Applicability plan. One of the more sensitive areas, on the wetland side of the outhouse, would require the removal of some vegetation in order to place the haybales. Upon a motion by P. Morrison, seconded by N. Madden, it was

VOTED: to recommend NEFF select Bidder A with haybales at a cost of \$6000.

Mr. Lyons said the Commission selected Bennett Black as the lowest bidder of the three quotes with Bob Black and Brian Lagasse coming in with higher bids. Commissioners said the site would be monitored during this work.

Attorney Robert Collins was present to discuss the additional work proposed on the ramp leading to the docks at Groton School. He explained they had discovered the underlying structure was in poor condition and requires replacement. The entire ramp, from the hinges on, would be moved off site to be re-built and the decking replaced. None of the concrete abutments will be changed in any way. The ramp would then be replaced where it currently is located. Mr. Collins thought a

crane would be necessary to move the ramp. Upon a motion by D. Pitkin, seconded by P. Morrison, it was

VOTED: to let Mr. Collins' letter of November 10, 2010 stand as a modification to the Request for Determination of Applicability filed on February 19, 2010.

Mr. Collins also indicated Groton School is considering the planting of rhododendrons and mountain laurel to stabilize the wetland side of the work done on the sewer outfall pipe installation (DEP#169-1043) which was more aggressively disturbed than the Commission anticipated. N. Madden stressed that they were particularly needed along the hilly part of the site. Mr. Collins agreed to get a list and number of plants to the Commission.

Members inquired about the status of the TABCOM (The American Baptist Church of Massachusetts) Conservation Restriction, and Mr. Collins responded he had recently talked to Nicole Sicard of the Division of Conservation Services who indicated they were now focusing on those Conservation Restrictions which must be completed before the end of the year to meet tax deduction deadlines. It is likely this one will not be handled until after the first of the year, and then he will put it on record.

Having observed a newly installed stockade fence at 34 Kemp St. during the Saturday site visits, members asked if this was shown on the recently amended plan for DEP#169-1003. With discussion on whether a letter would suffice or a fine should be included, upon a motion by P. Morrison, seconded by B. Neacy, it was

VOTED: to send the applicant a letter requesting that the stockade fencing be shown on the plan.

B. Easom voted in opposition. C. Auman offered a motion, seconded by D. Pitkin, and it was

VOTED: to offer the applicant the option of either removing the fence or paying a fine of \$50 and including it on the as-built plan.

Members reviewed the draft FY'12 budgets for Conservation and Water Safety. The Conservation budget shows an increase in the expenses line item to include the purchase of a Magellan Mobile Mapper 6 for \$1600. The legal notice fees also increased, reflecting actual expenses from FY'10. The Water Safety budget provides for an increase in hours for the Park Ranger since much of his time was spent maintaining the beach which was formerly taken care of by the lifeguards.

Member Neacy commented the Commission is missing an inventory conducted by a biologist in terms of habitat, flora, and fauna in Groton. He felt it is important to have this information when considering aggregations of property. Input from experts would help the Commission prioritize properties to consider for acquisition. N. Madden pointed out the state-produced Biomap and Living Waters mapping, which has recently been updated, are good sources of information on habitats and species which can help towns significant wildlife habitats and plant communities.

Members thought this was one of the tools the Master Plan will take into consideration in making recommendations, but their current scope of work does not include implementation which will be addressed in the second phase. B. Neacy said he understood this goes beyond the scope of the budgets, but he wanted to bring the concept before the Commission. D. Pitkin thought it would be difficult to address this on a town-wide level. Mr. Neacy suggested having a team map habitats and identify species before things become too fragmented. This would also help the Commission better manage the properties it does own.

B. Easom questioned whether we would include a line item for wildlife. Members agreed that the Natural Heritage Program has a lot of information which can be utilized to assist the Commission in setting priorities for acquisition. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to recommend the Conservation and Water Safety budgets as presented.

Under land management tasks, it was noted Bay State Forestry Service is the winning bidder for implementing forestry management on Town-owned lands. Mark Haddad has the contract and will be issuing it within the next couple of weeks. M. Giguere has been in touch with Dan Cyr and asked him to make a presentation to the Commission and Water Dept. on December 14th.

The Groton Conservation Trust has recommended several modifications to the Shattuck Conservation Restriction on land abutting Baddacook Pond. The next step is final review by the Commission and submittal and approval by the Division of Conservation Services. Mr. Roy MacGregor will be mowing these fields shortly.

Mr. Robert Black will be placing six boulders on the Redskin Trail Conservation Area to prevent vehicular traffic across the property. In response to Honeywell's request for the Town to have a \$5 million liability policy to allow volunteers to use a GPS to determine a preferred trail location across their land from Rt. 119 to the Nashua River Rail Trail, Chairman Easom suggested making a counter offer to them for \$1 million.

Members P. Morrison and B. Neacy volunteered to meet with the Town Forest Committee to discuss the access to Ames Meadow on Thursday, December 16th at 7 p.m. Member Giguere expects to set up a meeting with Gordon Newell to go over the Conservation Restriction for the Blood parcel next to the Town Forest.

Meredith Scarlet, owner of Angus Hill, is scheduled on the Commission's December 14th agenda to go over any outstanding concerns about the draft Conservation Restriction Monitoring Report. Virginia Bennett is working to collect data on turtle mortality in the vicinity of the Fuccillo property in preparation for formulating turtle nesting habitat improvements at the site.

B. Easom recommended that he and M. Giguere re-visit 55 Allens Trail to confirm there are no concerns about encroachment. B. Ganem reported the owner of Autumn Hill Orchard on Chicopee Row has recently passed away, and the Commission may wish to consider ways in which to keep the 83-acre parcel in agricultural use.

There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Barbara V. Ganem
 Conservation Administrator

Approved as drafted 12/20/10.

EXHIBITS

Document	Source	Date
Request for Certificate of Compliance DEP#169-1029	Liz Presti/613 Townsend Rd.	
Request for Determination of Applicability	Tom Wilson/21 Moose Trail	
Request for Determination of Applicability	Hollingsworth & Vose 219 Townsend Rd.	
Request for Determination of Applicability	Danyelle Mottram/63 Kemp St.	
Request for Determination of Applicability	Lauren & Jeff Aubuchon/213 Whiley Rd.	
Bid sheet for demolition of NEFF Baddacook cottage	Ray Lyons	11/23/10
Draft Order of Conditions DEP#169-1053	Dennis Magee/Lot 1 Townsend Rd.	
Monarch Path "lotting sheets "		
DEP#169-1003	(Lot 1) 34 Kemp St.	
Draft Purchase & Sale Agreement	Ray Lyons	11/23/10