

GROTON CONSERVATION COMMISSION

Open Session Minutes

January 25, 2011

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, Peter Morrison, and David Pitkin were present. Bill Neacy arrived at 7:03 p.m. Member Nadia Madden was absent. Conservation Administrator Barbara Ganem was also present.

Members discussed the potential for modifying the funding requested in this year's Community Preservation application. The meeting has been re-scheduled for February 1 due to a lack of quorum for the last meeting date.

(Member Bill Neacy arrived at 7:03 p.m.)

C. Auman noted the Commission has indicated the need to maintain the fund at a level between \$750,000 and \$1,000,000, and we should show the impact of the recent proposal to acquire the Baddacook Pond parcel. This amount of money is needed to make a quick response at an auction or for time critical needs. B. Easom pointed out there are more applications than they have money for this year. Each application is ranked according to the merits and scored by members. If they agree, it goes to Town Meeting with the designated amount or nothing. He felt the Commission's chances of approval are less than it would be if we come in at \$100,000 so there should be a decision whether we can be flexible or firm with the figure. B. Easom said he doesn't want to see the Commission at a political disadvantage. B. Neacy noted the mention of politics and asked how this could work. B. Easom said he was treasurer for the Community Preservation Committee, and he was aware that \$500,000 comes off the top of CPC funds for the Surrenden Farm bond payment. Between \$600,000 and \$700,000 is collected in the local match.

M. Giguere volunteered to attend the CPC meeting, indicating he would not begin the conversation with a specific number but will express a willingness to be flexible. D. Pitkin clarified that this continues to be the primary source of funding for the Conservation Fund. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to indicate a willingness of negotiating down to \$100,000 but stay as close as possible to the \$150,000 request.

P. Morrison suggested a correction to the 8:30 hearing minutes on page 8 of the January 11, 2011 minutes, and upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to approve the minutes of January 11, 2011 as amended.

B. Easom abstained from the vote.

7:15 p.m. - Appointment Dan Cyr

Mr. Cyr has prepared a report on possible conservation lands on which to implement forestry management activities, whittling down the number of parcels from 90 to 35. He pointed out the Town's holdings are extensive, but some lots may not lend themselves well to forestry because of wetlands. These were assigned to Category 2. Of the remaining parcels, access is a major problem. The access could subsequently be used as a trail head or provide parking and trails. In response to a question about the difference between a biomass and conventional cutting, D. Cyr said a biomass cutting is likely to be more invasive because a feller buncher, skidder, and chipper are needed to produce a clean product. Junk trees can be handled in this way. A conventional cutting means the trees would be cut and then hauled along a main skidding road to a landing. Mr. Cyr pointed out there is good signage and high recreational use of conservation lands in Groton. He acknowledged the Commission may wish to see a cleaner site by using smaller equipment, but still improving the forest health and not making a sacrifice in order to make money. Clearing areas for cottontails or woodcock might be a habitat improvement to consider. If there are any survey plans it is possible to re-establish bounds, but on many parcels it is not clear where the boundary lines are located. For this and other reasons Mr. Cyr suggested preparing a management plan on 4 or 5 parcels of land together. It may make sense to do some Town-owned and abutting Groton Conservation Trust land at the same time. Frequently the GCT land has frontage on a road which could provide a better access.

Member Giguere commented the Commission has asked Mr. Cyr to evaluate the parcels and make recommendations. Then a Request for Proposals and contract would come into play. He asked what areas the Commission wished to target. P. Morrison questioned what 'clumps' of land could be considered for the best return on habitat and biodiversity, and Mr. Cyr said probably Surrenden Farm as it would have great habitat value and could start working to generate revenue. There is another clump on Chicopee Row (Sawtell, Torrey Woods, Floyd, and Groton Hills) which might be an option. The old fields at the Williams Barn are quite loaded with invasives. Clearing a 2-acre field and removing ugly pines and invasives might be an option. Either haying or a community garden might be considered on the field. A source of water for irrigation might be an issue. D. Pitkin mentioned the Commission would have to work with Fisheries and Wildlife, the holder of the Conservation Restriction on Surrenden Farm, in the development of a forestry management plan. Mr. Cyr said he works closely with state forester John Scanlon on forestry cutting and management plans that improve wildlife habitat.

B. Easom preferred to start with the Williams Barn parcel, feeling it important to have some experience under the Commission's belt before attempting more complex properties. Managing public education is going to be a critical element of the process. B. Neacy asked if cash flow will help prioritize our projects. Clearing fields for a biomass operation could be a revenue maker, but constructing a footbridge for a wetland crossing or de-stumping a field is likely to be an extra cost. Marking the trees and figuring the inventory is the first step. Determining appropriate accesses to the Academy Hill conservation land would be an important part of the planning process. The market for chips is not great right now, but could bounce back. A conventional cutting is more appropriate in areas where the tree quality is better. Cut branches would be left and run over to leave nutrients there for future growth. B. Neacy pointed out brush piles can also be important for wildlife. Mr. Cyr explained his company has the equipment to chip brush and cover trails. M. Giguere said another goal is to make some money to support maintenance. Sorhaug Woods Williams Barn would be considered as a single parcel as there is no contiguous

land. Mr. Cyr acknowledged maintaining the viewshed at the Baddacook Pond parcel is going to be tough because of the wetlands and the condition of the trees.

The first step is to mark the trees and then begin to see about public support. M. Giguere said he had considered a presentation by the forester for the stewardship group. P. Morrison mentioned the New England Forestry Foundation (NEFF) has been successful with holding a public site walk for abutters and conservation groups to see the property and hear what is proposed ahead of the forestry operation. Reporter Pierre Comtois asked in what capacity Mr. Cyr is acting, and Commissioners explained he has been selected by the Town to act as a consulting forester. He works with Bay State Forestry and is in the process of reviewing parcels to evaluate the potential for implementing forestry management activities. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to instruct Mr. Cyr to go forward with a forestry management plan for the Williams Barn Sorhaug Woods parcel with the goal of implementation.

Mr. Cyr said he would prepare a new inventory, using the latest GIS techniques, and also GPS the corners. Mr. Pitkin asked if there would be an invoice before the harvest. B. Easom said he understood the Commission will receive an invoice for the forestry management plan once that plan is written. It is unlikely Mr. Cyr will prepare a plan for both the Williams parcel and Williams Barn because the former parcel is only 8 acres and a firewood cutting is probably more appropriate. C. Auman underscored the need to improve the habitat and health of the forest on the 93-acre Williams Barn parcel. P. Morrison suggested looking more closely at the Shattuck Baddacook Pond parcel once the Conservation Restriction is put to bed. Mr. Cyr requested a copy of any surveys on the Williams Barn parcel.

7:45 p.m. – 836 Lowell Road Notice of Intent DEP#169-1054

Ross Associates engineer Dan Wolfe submitted the green abutter cards for the filing. He reported an inspection of the septic leaching area revealed it to be in the groundwater table. There are few options on this 1.68 acre lot because wetlands surround it on three sides. The proposed leaching area is within the 50' to 100' wetland buffer. The effluent will be brought via a pump chamber to the leaching area in front of the house. A filing was made with Natural Heritage, and they found there would be no adverse effect. There is an abandoned water line still there. No changes in grade are planned. The old septic tank will be pumped and removed, and Mr. Wolfe does not anticipate the need for any fill other than for the leaching field. P. Morrison inquired whether the system would have the usual alarms and bells and if any trees will be removed. Mr. Wolfe said it would not be necessary to remove trees, and he anticipates the new system will be constructed in the spring in accordance with Board of Health requirements. He said he estimated the water table to be at 9.5 ft. where he observed soil mottling. The water table is at 2 ft. where the tank is proposed to be located. He has prepared buoyancy calculations in accordance with the requirements of the Board of Health which has approved several variances for the septic system. Upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP#169-1054 for 836 Lowell Rd.

B. Ganem is completing the revisions to the Baddacook Pond Conservation Restriction and expects to have it ready for distribution to the GCT in the next week.

Several estimates have come in on the review of the compensatory floodplain storage plan for River Court (DEP#169-668). Judith Nitsch initially reviewed the project when it was in the planning and design phase before the Planning Board, and they appear to be the most qualified to review the new storage scheme. Upon a motion by B. Neacy, seconded by P. Morrison, it was

VOTED: to send a copy of the official (now approved) minutes of January 11, 2011 to Frank DiPietro and David Hamilton.

8:00 p.m. – Tavern Rd. Request for Determination of Applicability

B. Easom explained he had received a call from Michelle Collette who had heard from a resident on Tavern Rd. about a tree that was in danger of falling across the road. He looked at the white pine that had roots coming out of the ground, and he viewed this as an emergency situation. Chairman Easom asked the resident to cut the tree above the “y” in the trunk and leave the remainder intact in the wetland, as well as the top. He requested the work be done by hand i.e., guys with a chainsaw. The tree was on Mr. Braudis’ property, and it was specified that no equipment should enter the wetland. Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination with the conditions formulated by B. Easom.

Members Auman and Giguere reported on a meeting with staff and the potential developers of the Kilbridge property at 134 Main St. The property is in foreclosure and presently owned by North Middlesex bank. The developers are proposing two retail buildings, including the colonial house on Main St., as well as 15 housing units which would consist of a combination of 3-bedroom homes and condominiums. They will need to file with the Commission because of the proximity of wetlands at the rear of the lot. There are two buildings at the 50-ft. buffer line. Part of the impetus in moving the development forward is funding through the Groton Housing Trust which would result in three units of affordable housing. This is not being proposed as a Ch. 40B development. Members discussed whether it would be possible to move the houses out of the buffer, and questioned whether mitigation might consist of a Conservation Restriction on the Brown Loaf parcel. The key will be to see what kind of mitigation is proposed.

Members agreed it would be appropriate to have the \$3400 check from the Ch. 91 licensing for 65 Rawding Rd. deposited in a designated account for maintenance and operation at Sargisson Beach. This could be utilized on the granite steps, access, or to improve the erosion situation.

8:15 p.m. – 583 Lowell Road Request for Determination of Applicability

Dominic and Linda Iovino were present in response to the Commission’s Enforcement Order issued for the removal of trees in their backyard. Mr. Iovino maintained he had no idea the wetlands were so extensive, but the trees were big and huge he wished to take them down before they fell. Mr. Morrison asked if he had had an arborist look at them and requested a copy of the arborist’s report. Mr. Iovino knew nothing about the Order of Conditions issued for the construction of the house until B. Ganem gave him a copy of the recorded document. He pointed out one of the trees to the right of the driveway fell on the power line. Members pointed out the

construction of the house required a wetlands permit, and it is up to the owner to request a Certificate of Compliance once things are completed. This responsibility rests with subsequent owners if the builder fails to do this. Mr. Iovino said his realtor said nothing about this at the closing.

C. Auman said the conditions outlined in the Order have been violated, and he thought the trees that had been removed looked healthy. A very large area has been cleared, and he would like to see the area re-planted. Shrubs, red maple, birch, dogwoods, witch hazel, and blueberry could be considered. There are wetland shrubs in the understory adjacent to the other side of the stream.

D. Pitkin indicated he would like to learn more about the restrictions. The house is in the 50-ft. Buffer Zone to wetlands. The Order of Conditions was recorded at the Registry of Deeds. This is not a restriction but it references a limit of disturbance line. The current activity is under both the Wetlands Protection Act and the Bylaw, but the owner must also comply with the original Order of Conditions. B. Easom said the Order is a list of conditions available at the Registry. It usually consists of installation of silt fencing and guidelines on site preparation for how to move forward with building.

Bill Neacy made it clear the owner must follow the Order of Conditions for work within the 100 ft. Buffer Zone. Unpermitted work has resulted in disruption of the Buffer Zone, and realtors and attorneys should be aware of the wetland permitting requirements. Mr. Neacy preferred to see the re-planting of similar species as those removed. A positive Determination is the likely next step, and it may be necessary to hire an engineer to help with the paperwork. M. Giguere noted the Commission saw heavy equipment being used in the Buffer Zone on January 8, 2011, and issued an emergency Enforcement Order on that date. There are "in perpetuity" clauses in the Order of Conditions, and member Giguere reviewed the information with Mr. Iovino on site. The tree butts on the property at that time looked healthy, and Mr. Giguere would like to know if an arborist looked at them. P. Morrison pointed out the fact the Commission never signed off on the Order of Conditions is a situation that happens a lot. New owners may not be informed about what it means to not have a Certificate of Compliance. He commented a neighbor requested a swimming pool, and we said no. Upon a motion by c. Auman, seconded by B. Neacy, it was

VOTED: to issue a positive #3 and #5 Determination requiring the owner to file a Notice of Intent that includes a re-planting plan.

Members noted that stumps could be ground rather than removed.

8:30 p.m. – 213 Whiley Road Request for Determination of Applicability continuation

Mr. and Mrs. Aubuchon had an estimate of \$2,295 prepared for the cost to remove the retaining wall on their property. They are proposing this amount as a contribution to the repair of the wall at Sargisson Beach. B. Easom said he was surprised at a proposal to mitigate on Town-owned property. B. Neacy commented this could add some significant value to the Town, and he hopes to go ahead with the arrangement. M. Giguere noted we would have a precedent in the arrangement with Mr. Mavilia on the repair at Sargisson Beach. The difficulty there was we were never able to establish the original shore line. The state fined him after-the-fact. P. Morrison said

there is no question looking at the Mavilia situation as a similar situation, and the \$2295 seems reasonable.

C. Auman expressed concern the applicant was getting off pretty cheaply to be able to extend his land into the lake. He did not have a preference for a specific amount, but did not want to close on this matter until we have the money in hand. P. Morrison thought the money could be added to other funds for mitigation at the lake shore line. He was willing to see the concept, but noted the Commission could vote the choice to put the shore line back. C. Auman pointed out he has essentially expanded his property.

(Member B. Neacy left at 8:45 p.m.)

D. Pitkin questioned why not just have him remove the retaining wall. Jeff Aubuchon countered that the area is currently stable, and there is no longer an on-going undercutting issue. He added this would at least start the process of getting something done at Sargisson Beach. Mr. Pitkin wanted to know how much of the shore line could be improved with this amount of money. C. Auman questioned whether it was worthwhile to make this concession. The state fined Mr. Mavilia \$6000. We have not set this precedent as a Commission. A motion by P. Morrison, seconded by M. Giguere, to accept \$2,295 as mitigation for the modification of the 213 Whiley Rd. shore line failed with M. Giguere and P. Morrison voting in favor and B. Easom, D. Pitkin, and C. Auman voting in the negative.

It was noted two members are missing so the vote could be re-considered if the applicants wish. B. Easom noted the Commission rejected the notion of one-to-one mitigation perhaps because there was no penalty attached. He too questioned the number of linear feet that could be repaired. C. Auman suggested getting a quote to help settle the matter. P. Morrison disagreed on the premise of a penalty over the proposed \$2295. Mr. Aubuchon argued it would involve machinery and a substantial amount of disturbance to cut out the 'deadman' in the retaining wall and remove fill from behind the retaining wall. He felt it would be better for the lake to repair the undercutting at the beach. J. Aubuchon said this would make a start on the repair of the retaining walls at Sargisson Beach even though the project was of a greater magnitude. P. Morrison made a motion to raise the mitigation to \$2800, seconded by M. Giguere, but the motion also failed by majority vote. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to authorize B. Ganem to get quotations for the cost of repairs per linear foot of a retaining wall.

The vote was unanimous.

C. Auman stressed that this should be along the existing wall, not extending into the lake. P. Morrison concurred, stating "Rocks should be stuffed into the undercut area." He suggested contacting the builder at Wenuchas Trail. Mr. Auman pointed out this is setting a precedent, and we better have good value coming back. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: with the concurrence of the homeowner, to continue the meeting on the 213 Whiley

Rd. Request for Determination of Applicability to February 8, 2011.

As a result of the meeting last week with Academy Hill builder Bruce Wheeler and his consultant, Larry Beals, the Commission should have a clear direction and timetable for handling the wetland crossing and various violations at the north entrance to Academy Hill on Cherry Tree Lane. Members discussed visiting the site, noting it would be advantageous to finalize everything at the next meeting. It is important to keep the process moving. Commissioners expressed a preference for having their technical experts available at both the site visit and subsequent Commission meeting. The only way to get back to the original elevations would be to have them remove the entire structure. P. Morrison thought the Commission agreed in concept to the idea of lowering the culvert floor rather than requiring removal of the whole thing. B. Easom pointed out this may have been a premature decision as we are not clear whether the alternative is feasible. He felt the site visit and meeting would help move things forward, particularly if we can gain a clearer understanding in the field. A letter will be sent to the developer, outlining the above concerns, as well as the issue with the replication area.

M. Giguere has been working on the community survey to be included with the next GELD bill. There have been a number of revisions since Community Opportunities Group prepared a draft.

D. Pitkin said there is a Special Town Meeting coming up on February 28th. The warrant articles include the purchase of land where the Sacred Heart Church stands and the extension of public sewer to Puritan Hill. Members were uncertain where the church is to be re-located.

M. Giguere continues to try to meet with Gordon Newell of the West Groton Water District. He questioned whether it would be more appropriate and timely to meet with the Water Commissioners on the proposed Conservation Restriction for the Blood parcel.

P. Morrison said a Memorandum of Understanding is under development between the Commission and the Town Forest Committee. They continue to work on the wording, and it is not yet ready to present to the Conservation Commission. It would encompass a 10-ft. wide trail with a 14-ft. vertical clearance to Ames Meadow. It has to be floated by the neighbors. With a 10 ft. x 14 ft. access, he did not anticipate other cutting or trimming would be necessary in order to hay the parcel twice a year. B. Easom agreed it was important to get started on this.

Upon a motion by P. Morrison, seconded by C. Auman, and roll call vote of M. Giguere, P. Morrison, C. Auman, D. Pitkin, and B. Easom, it was

VOTED: to enter Executive Session at 9:30 p.m. for the purpose of discussing land acquisitions, not to return to Open Session at adjournment.

There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

