

## GROTON CONSERVATION COMMISSION

### Minutes

May 10, 2011

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 Craig Auman, Marshall Giguere, and David Pitkin were present. Peter Morrison arrived at 7:05 p.m. Members Nadia Madden and Bill Neacy were absent. Barbara Ganem, Conservation Administrator, was present.

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

VOTED: to approve the minutes of April 26, 2011 as drafted.

B. Ganem reported she planned to visit 134 Main St. tomorrow since she would not be present for the regular site visits on May 21<sup>st</sup>. C. Auman and M. Giguere indicated they were interested in attending as well.

(P. Morrison arrived at 7:05 p.m.)

Due to B. Ganem's upcoming vacation, the Land Use Department will need to know which Commissioner to contact in the event of an emergency. C. Auman indicated he could be available, but urged that the staff be familiar with the use of Enforcement Orders and Emergency Certifications. Both M. Giguere and B. Easom will be out of town as well.

Commissioners reviewed the draft Order of Conditions for DEP#169-1056 for 54 Hill Rd. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue the Order of Conditions as drafted for DEP#169-1056 for 54 Hill Rd. under the Wetlands Protection Act.

Under the Bylaw Order, Commissioners agreed to eliminate the requirement for conservation markers and demarcation of the wetland buffer. Addressing the issue of whether to require the removal of the trash heaps at the edge of the wetland boundary, members expressed concern that this could be a massive undertaking. P. Morrison suggested just removing the top coating of debris and then loaming and seeding the remainder of the piles. With the incorporation of this amendment, upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue the Order of Conditions, as amended, for DEP#169-1056 for 54 Hill Rd. under the Wetlands Protection Bylaw.

Attorney Paul Alphen has contacted the Commission to determine whether it is willing to hold a Conservation Restriction on parts of the Jenkins Rd. land originally proposed by Robert Hicks for the development of a Ch. 40B project. The project has now been revised to include the existing home and two new houses. Having the CR will be a condition of the Conservation

Permit issued by the Natural Heritage & Endangered Species Program. Questions were raised about whether the land could be deeded in fee although it would be landlocked and there would need to be a right of access. Commissioners agreed to inform Mr. Alphen that the Commission's first choice is to receive the deeded fee to the land with access for monitoring or acceptance of the CR provided the applicant is willing to cover the costs of legal review, recording, and monumentation of the CR bounds.

7:15 p.m. – Appointment Robert Collins

Attorney Collins explained that the Woodle property is the largest privately-owned parcel in the lake area. It is 20± acres with approximately 2000 feet of shore frontage. There are four certified vernal pools on the property. The property has been in the Woodle family for 80 years, having been bought in the late 1930's. There is a unique original Adirondack-style log cabin, and the property is crisscrossed with a series of paper roads with 9 lots on the record.

According to Mr. Collins, the Woodles are proposing a limited development project, to pay for the estate tax, and preserve the property and the log cabin. He mentioned the water levels in the vernal pools tend to fluctuate with the number of boards in the dam. Instead of maximizing development at the waterfront, the Woodles plan to preserve the cabin on a 12-acre lot with a Conservation Restriction on 8.2 acres. They would like to know whether the Commission is willing to hold the CR. The new lots would be accessed by Tavern and Indian Roads. No work is proposed in the 100-foot Buffer Zone to wetlands. Mr. Collins maintained that there would be no need to do a filing with the Conservation Commission with the proposed project. He stated his client could create 9 lots without visiting any one of the Town departments. This plan will create 7 and save what needs to be protected.

Mr. Collins added the Planning Board is only hearing him extol the virtues of this plan. If the Commission is in favor of protecting this resource area it would be helpful to let the Planning Board know. M. Giguere asked if a fee transfer had been considered, and Mr. Collins said there is a desire to maintain the log cabin lot in an intact manner. The site is within Estimated Habitat according to the most recent Natural Heritage mapping. The limit of disturbance on all of the lots is outside of the 100-ft. wetlands buffer in all instances. Members visited the property on Saturday, but did not walk the site.

In response to C. Auman's question about whether the road that will serve as a shared driveway to both the log cabin and the new Braudes home will be improved, Mr. Collins stated "No". D. Pitkin observed there are a number of trails on the property, and there is evidence of ATV use. The trails also provide pedestrian access to the Baptist camp property. He felt the trails should be discouraged near the vernal pool area, but this should be addressed when the terms of the CR are discussed.

B. Easom asked about public access, and Mr. Collins explained that the area between Arrow Trail and Balsam Walk must be kept open as a Mr. Parmenter owns a lot with frontage on the lake. He indicated the Woodles actually own the paper roads although they are not developed. Resident Virginia Bennett (34 Arrow Trail) pointed out that lower Tavern Road is located in the buffer zone, and Mr. Collins said no construction or improvements are proposed in this area. Ms. Bennett also mentioned the area has been heavily used by dirt bikes and ATVs. Mr. Collins said

there are now 'no trespassing' signs posted at the site, and Mr. Braudes has been living in the log cabin recently. If the Commission does vote in favor of holding the CR, the property owner would be notified if there continues to be a problem with motorized vehicles. Those who use the property illegally can be fined. The Commission is responsible for monitoring conservation-restricted property to assure nothing occurs to damage the conservation values. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to support the flexible 7-lot plan dated December 15, 2010 with the understanding that 8.2 acres will be subject to a Conservation Restriction and that no work is proposed within the 100-foot Buffer Zone to wetlands.

Members reminded Mr. Collins that the Division of Conservation Services is awaiting a hard copy of The American Baptist Churches of Massachusetts (TABCOM) CR for the signature of the Secretary of the Executive Office of Energy and Environment.

Mr. Collins reported that an Order of Conditions was issued to his client Elio Sgrosso for a house at 2 Wyman Rd., but it has now expired. He questioned whether the Commission would allow him to do a new filing using the originally submitted plan. Chairman Easom pointed out several things have happened on the regulatory level in the interim i.e., Reedy Meadow Brook is considered a perennial river under the Bylaw. R. Collins said Mr. Sgrosso has done some work on site including the planting of trees and gardening so the lot is not in its original state, but it was not in a natural state when it was originally approved.

M. Giguere said the question seems to be whether the lot is grandfathered in any way. C. Auman asked if it was possible to move the house out of the Riverfront Area, and Mr. Collins said it would be shaded by an adjoining hill. Members agreed the applicant would have to demonstrate the location is preferable from a resource protection point of view. They advised the preparation of new plans.

Attorney Collins mentioned Groton School is considering the possible re-location of Rt. 111. Several wetland crossings and work in the ACEC would be involved, but the goal would be to get the road out of the middle of the campus and to do stormwater management. It would provide an opportunity to eliminate a danger to students and to more effectively treat runoff. This discussion is in the very earliest conceptual stages, but Mr. Collins said he would like to schedule time on the Commission's agenda to brainstorm the Commission's ideas on the subject.

#### 7:45 p.m. - Gulliver/99 Boathouse Road Request for Determination of Applicability

Contractor John Gulliver and Surveyor Stan Dillis were present. Mr. Dillis explained there are a series of retaining walls on this lot, and the plan is to extend the house about 10 ft. Haybales will be placed along the lake side, and most of the work will consist of pouring concrete sonatube piers. Work will be done by hand, and no equipment will be used. Any excess excavated materials will be placed in a truck and removed from the site. The dumpster will be located in the parking spot. New plumbing and electricity is proposed, and they will cap the pipe currently exiting under the house toward Lost Lake/Knops Pond.

Members asked if they could consider filing for the failing retaining wall in the future. B. Easom questioned whether parts of the work could be done under the Determination because of the time constraints the homeowner is under to remain eligible for a HUD loan, but Mr. Gulliver said this is a structural necessity before the tenant is allowed to occupy the home. Chairman Easom felt that the majority of this work should be handled with a Notice of Intent. P. Morrison concurred, saying he would be more comfortable with a NOI as well because of its location on the Lake.

M. Giguere thought some of the work is small enough to qualify for a Request for Determination of Applicability. The plumbing and electrical work is interior and the four tubes are to be dug by hand. Mr. Gulliver said the house is not currently habitable, and the job must be completed within 45 days. S. Dillis said this is the minimum work to get started, and asked the Commission to consider a negative #3 during which time the Commission could monitor progress and issue an Enforcement Order if things are not done right. He maintained the work will happen quickly. Mr. Dillis added the approximate location of the 4 sonatubes which will be 4 ft. deep and hand dug with the materials hauled out. Upon a motion by M. Giguere, seconded by P. Morrison it was

VOTED: to issue a negative #3 Determination for 99 Boathouse Rd. providing  
1) sonatubes shall be dug by hand; 2) excavated materials shall be removed from site; and 3) any change of scope requires the applicant to return to the Conservation Commission.

8:00 p.m. - Cloyd/2 Loomis Lane Notice of Intent continuation

At Mr. Cloyd's request and upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to continue the hearing to May 24, 2011.

M. Giguere abstained from the vote.

8:15 p.m. – Appointment Academy Hill/Larry Beals

Developer Bruce Wheeler and wetland consultant Mary Trudeau were also present. Mr. Beals explained this was a follow up to several meetings, as well as a letter from the Conservation Commission. He noted they previously left the Commission's meeting with the understanding that the work shown on the drawings was approved. L. Beals commented he thought the changes were best understood in the field where everyone could look at specific details. He felt the Commission had reviewed the drawings and was in agreement to begin the work. M. Trudeau prepares weekly reports on stabilization at the site, and it is their intention to get the work done as weather permits. Yet today, Mr. Beals commented, they were notified by the Planning Board that work on a subdrain at the road shoulder should not be proceeding and received a letter from the Commission rescinding its previous approval of the culvert mitigation plan.

L. Beals asserted the statement in the minutes that the fill required to raise the temporary culvert pipe would be the same as that necessary for the final grading was incorrect. He maintained the footing for the retaining wall was at the right elevation, and they expect to lower that by 1 ft. Mr. Beals said he was here to improve communications and wanted to follow the proper protocol. Vice Chairman D. Pitkin said we are following up on two Enforcement Orders, one for

stabilization and one for the wetland stream crossing. The Commission agreed to extend the discussion on the stabilization Order two weeks, but there does not appear to be any progress in fully stabilizing the site or providing water testing results. Both Enforcements were dated March 23, 2011. The Commission's letter enumerated conditions which it wished to see addressed. L. Beals said they want to understand and comply. B. Easom requested Mr. Pitkin read through the conditions outlined in the March 23<sup>rd</sup> Enforcement Order on stabilization for the purpose of clarity. Citing Condition #25 in the Order of Conditions for DEP#169-970, D. Pitkin noted the construction sequence should have provided plan details for an open bottom arch or pipe at the wetland crossing. The Commission's comment, in italics, was "Plan details were provided to the Planning Board consultant but then not followed."

The construction of the replication area and detention basin is incomplete. Mr. Beals agreed to write a letter with formal responses to each of the Commission's points. Condition #42 said the crossing, including retaining walls, should not exceed 40 ft. Mr. Beals said the right of way is 50 ft. Condition #46 prohibits the parking of construction vehicles within the Buffer Zone and Riverfront Area. In Condition #46, the Commission stated "the detention basin almost overtopped the berm during a storm with .5 in. of rain. Applicant should re-check volume capacity and offset to groundwater for the basin." L. Beals said the detention basin was built without an outlet and, once this is in, the basin will function differently. The water table is at 256 ft. , and there is sufficient capacity above that to handle the stormwater. M. Giguere noted it is supposed to empty at some point. Erosion control issues were noted in Condition #48 while Condition #57 stated the Commission had to request the applicant re-locate a soil stockpile out of the 100-ft. Buffer Zone and Riverfront Area. The excavation of the replication area was done after the wetland crossing was accomplished. Condition #60 outlined the need for pre- and post-development water analyses of the stream. The Commission's comment was "No water quality test results have been forwarded to the Commission for Phase II of the Academy Hill project. Siltation into Flat Pond Brook was observed on March 18, 2011."

Member Auman noted that timing is important in these items, and the applicant should address when these items will occur. He also suggested that Ms. Trudeau elaborate on what does not occur in response to her recommendations. P. Morrison recommended the Commission set a deadline of May 13<sup>th</sup> for the receipt of this response, with a copy to Michelle Collette. The follow-up 4/29/11 letter to Bruce Wheeler questions whether the detention basin was sized correctly from a hydrologic point of view. There needs to be an analysis and evaluation of the drainage infrastructure. M. Giguere pointed out the new elevations seem to disagree with the proposed culvert mitigation plan to remove a foot from footing carrying the retaining wall. He added the temporary plastic culvert captures some of the stream but runoff is running into culvert and then back out. Member Giguere estimated there would need to be 2 additional feet of fill added to the wetland at the outlet. He questioned the total amount of filling proposed for this mitigation. How much of it will be "substrate"? How well does it reflect the original grades and substrate at the site? He suggested the Commission have a peer review to assure the functioning of the wetland crossing. The footing creates a dam at both the inlet and outlet. L. Beals said they could remove all of the footing to make the connection to the trout stream.

Members recommended having an independent consultant look at the plan as they were less and less comfortable with what was proposed and what was visible during the site visit. L. Beals said

this is an opportunity to shake out the whole thing. M. Giguere said we would not be here with this discussion if the wetland crossing has been done as originally conditioned. L. Beals protested that the process has evolved over a decade, and he acknowledged the crossing would be very different if designed today. He maintained the wetlands were very hard to delineate in this area with the original filing. A peer review was done of the flagging at the time, and the project has resulted in the protection of 13 vernal pools and Blanding's turtle habitat. M. Giguere commented the Order required an open box culvert, and we would not be looking at this modification if the elevations in the field matched what was provided on the plan.

C. Auman noted there appears to be a 1-ft. difference on one side of the wetland crossing and 18 in. on the other even if 1 foot of the 'dam' formed by the footing is removed. The wetland should be put back the way it was with a culvert over it. D. Pitkin agreed an external peer review would give him less consternation about the plan. B. Easom added there may be several different possibilities to remedy the situation, but he urged that we move forward on addressing the stream crossing. M. Giguere pointed out we have a hydraulic issue, habitat issue, and invertebrate point of view to consider. What do we do to assure the culvert does not impede anything in the future? P. Morrison said we should be clear on what the peer review will entail. We could have the proposal address what is the best solution for drainage and habitat connectivity. It should consider both biological and hydrological issues. The plans submitted to the Planning Board are under review by their consultant Nitsch Engineering. L. Beals asked if this would go out as a bid, and members explained the process. M. Giguere suggested we need completed answers before going back and forward with the Planning Board. Upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to request a proposal for a peer review of the habitat connectivity and biology issues surrounding the wetland/stream crossing proposed in the culvert mitigation plan dated April 5, 2011.

B. Easom asked if the applicants felt these steps were definitive enough. M. Trudeau recommended the Commission select someone who is respected in the field. B. Ganem mentioned the Commission has a list of possible consultants which can be provided. It would be specific to the site and needs. The Commission would be getting the proposals and presenting the information to the applicant before actually hiring.

D. Pitkin questioned whether fines are accruing or should they be suspended indefinitely. Members felt that no fines were accruing with regard to the wetland crossing Enforcement Order unless and until a new situation arises. P. Morrison suggested we suspend fines until May 24<sup>th</sup>, implementing them only if we get no cooperation. The fines are currently \$1980. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to suspend fines under the Enforcement Order for stabilization until the next meeting on May 24<sup>th</sup>.

M. Trudeau expressed concerns about the conflicts in doing work 300 ft. above the wetland crossing on Cherry Tree Lane for the installation of a subdrain at the road. She felt the work on the road shoulder constitutes stabilization. The installation of electrical conduit on the western

shoulder and a subdrain on the eastern shoulder must be done before loaming and seeding. P. Morrison felt the installation of utilities should be allowed. B. Ganem reported the Planning Board has prohibited any work other than activities needed to stabilize the site or to address an immediate emergency. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to allow the installation of the subdrain on the east side and the electrical conduit on the west side of Cherry Tree Lane, followed by subsequent loaming and seeding.

B. Easom said the above should result in improved communications. He said he hoped the next time the Commission goes out, the field elevations will have been measured and we will have suggestions from the peer review.

8:30 p.m. – Appointment Ray Lyons

Attorney Lyons explained that his client, Juanita Rollins, was the owner of property at the corner of Sandy Hill Rd. and Common St. The property connects the Department of Conservation & Recreation Nashua River Rail Trail with Rich's State Forest. Mr. Lyons stated the proposed trail easement for this connection is dry although there is an old farm pond nearby. A skully track formerly went through this area of the property. Mr. Lyons explained he is asking the Commission to accept the trail easement as shown on the plan. The area was logged about 4 years ago, and he said many pine saplings are growing in. He thought markers could be added when Stan Dillis goes in to add the septic system going in on the adjoining lot. M. Giguere questioned whether the easement could be widened to 12 ft. as this would be more manageable. Larger trees are located at both ends of the trail and can be used as guides. Upon a motion by P. Morrison, seconded by D. Pitkin, it was

VOTED: to offer to pay costs associated with the installation of pins, not to exceed a maximum of \$200, to demarcate the Rollins Trail Easement.

Mr. Lyons reported the Selectmen will meet and vote on the acceptance on May 16<sup>th</sup>. Upon a motion by D. Pitkin, seconded by P. Morrison, it was

VOTED: to approve and sign off on the Rollins Trail Easement and authorize one member to walk the easement area and then release the signed Trail Easement.

Vice Chairman D. Pitkin agreed to visit the site and hold onto the signed Trail Easement.

Upon a motion by C. Auman, seconded by D. Pitkin, it was

VOTED: to issue a Certificate of Compliance for DEP#169-1039 for 144 Shelters Rd.

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

VOTED: to issue a Certificate of Compliance for DEP#169-1042 for 222 Reedy Meadow Rd.

Commissioners reviewed a proposal by Altaeros Energies to anchor a wind turbine to generate electricity on conservation land within the Town. P. Morrison questioned how high it would rise, whether it would limit farming, or be precedent-setting. The height might be a Planning Board issue. C. Auman said he was interested in having a discussion with the proponents, but questioned whether it could be noisy. It is unclear what sites would be suitable, how much disturbance may be involved, and how much electricity would be generated and where it would go, and just what permits might be necessary from other Town boards and commissions. Members recommended having the proponents visit potential sites and then meet with the Commission for further discussion if they find something suitable for their purposes.

B. Ganem reported the Board of Selectmen recently heard a complaint from the Troupes/106 Mill St. about their neighbor Truax/124 Mill St. running a business, residing in campers, and having unregistered vehicles on what is considered an unoccupied lot. Members commented Mr. Truax has had a number of items, temporary in nature, located within the 100 ft. buffer zone to wetlands. The Zoning Board of Appeals, Board of Health, and Building Commissioner are looking into the parts of the complaint under their specific control.

In reviewing land management items, members visited Baddacook Fields (Shattuck land) on May 7<sup>th</sup> and observed trees cut, an area being mowed, as well as a trench with a culvert connecting the vernal pools to Baddacook Pond on conservation land. Members agreed to invite the owner in to discuss encroachment issues.

Members also walked the proposed trail route at The General Field and agreed to the revisions to accommodate the agricultural activities occurring on the lot. The trails will be slightly re-routed to reflect field edges rather than former fence lines. There is no further progress on the Memorandum of Agreement between the Commission and the Town Forest Committee on the Ames Meadow access.

Forester Dan Cyr is putting together forestry management plans for Sorhaug Woods and Williams Conservation Area, Farmers & Mechanics, and Baddacook Fields for Commission review at the June 14<sup>th</sup> meeting. The Division of Conservation Services is awaiting a copy of the original TABCOM (GROTON Woods Camp) Conservation Restriction from Bob Collins.

M. Giguere recommended contacting Town Counsel for an opinion on whether the language included in the Blood deed affords protection to the parcel under Article 97. He also reported that he and N. Madden had visited every pin noted in the survey for the Baddacook NEFF parcel, as part of the preparation of the baseline documentation report for the property. Boundary information was provided by Stan Dillis, and our GIS consultant from App Geo has also worked on this. Member Giguere also noted he had spoken to Selectman Fran Dillon about the progress on the B & M railroad easement, and it is currently in the hands of Mr. Shattuck's attorney. The Commission is anxious to see this document in writing.

Chairman Easom said he expects to be out of town for the next four weeks on business. One of the items he wished to have the Commission consider is whether it would be worthwhile to have a well on the Baddacook Fields (Shattuck) property. It would have to be 100 ft. deep and require a pump powered by electricity or a generator.



Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to appoint Marshall Giguere to continue serving as the Commission representative on the Great Ponds Advisory Committee.

Chairman Easom indicated he is unwilling to continue as Chairman for the next year; Commission reorganization is scheduled after the May 17<sup>th</sup> town elections.

There being no further business, the meeting was adjourned at 9:55 p.m.

Respectfully submitted,

Barbara V. Ganem  
 Conservation Administrator

**Approved as drafted 6/11/11.**

EXHIBITS

| Document  | Source  | Date   |
|---|---|--|
| Minutes   | Conservation Commission                       | 4/26/11  |
| Abbreviated Notice of Resource Area Delineation ANRAD                 | Mount Lauren Development                      | Filed 5/9/11   |
| Order of Conditions for DEP#169-1056                                  | Reilley/54 Hill Road                          | Filed 3/28/11, Order of Conditions issued 5/11/11    |
| Woodle Family Residential Trust plans Groton Assessors' Parcel 124-24 | Signed & stamped by Dan Wolfe/Ross Associates | 12/2010  |
| Plan DEP#169-690  | Sgrosso, Elio                                 | Filed 10/27/99; issued 11/23/99; extended to 12/1/05 |
| Request for Determination of Applicability                            | Gulliver/99 Boathouse Rd.                     | 5/2/11   |
| Notice of Intent  | Cloyd/2 Loomis Lane                           | Filed 4/12/11  |
| Academy Hill Enforcement Orders on wetland crossing & stabilization   | Conservation Commission                       | 3/23/11  |
| Letter to Bruce Wheeler   | Conservation Administrator                    | 4/29/11  |

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| Culvert Mitigation Plans                       | Beals Associates, signed & stamped by Todd Lobo, R.P.E.                    | 4/5/11             |
| Rollins Trail Easement                         | Ray Lyons, Esq.  | Signed 5/10/11     |
| DEP#169-1039                                   | Murphy 144 Shelters Rd.  | COC issued 5/11/11 |
| DEP#169-1042                                   | Kelley 222 Reedy Meadow Rd.  | COC issued 5/11/11 |
| Letter to Theron E. Truax, Jr. & Linda A Truax | Mark Dupell B.C.O./C.B.O. Building Commissioner/Zoning Enforcement Officer | 4/29/11            |