

GROTON CONSERVATION COMMISSION

Minutes

November 8, 2011

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

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

VOTED: to approve the minutes of October 22, 2011 as drafted.

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

VOTED: to approve the minutes of October 25, 2011 as amended.

B. Ganem reported that Land Use Director Michelle Collette and she had met with developer Bruce Wheeler, Comprehensive Environmental Inc. engineer David Nyman, Greg St. Louis of Beals Associates, and Peter Ogren of Hayes Engineering to review the proposed culvert improvements at the north entrance to Academy Hill. She noted the developer, Bruce Wheeler, has not yet submitted a check to cover the costs of the monitoring. B. Easom expressed concern about having the consultant do work when we do not have funding in place. He pointed out the Zoning Board of Appeals ran into this difficulty with some of their consultants. C. Auman questioned whether this is a stalling tactic as the Bylaw and Regulations clearly give the Commission the statutory authority to request payment upfront for anticipated peer reviews under Ch. 215 4. D. Fees (2). Attorney Bob Collins affirmed that the Commission can expect payment in advance to hire consultants. Commissioners agreed to inform Town Manager Mark Haddad of their wish to enter into a contract with CEI.

7:15 p.m. - Groton School 182 Farmers Row Request for Determination of Applicability
Attorney Bob Collins explained they are planning a partial foundation repair of a barn and connecting shed just south of the main Groton School campus. The existing foundation is dry set fieldstone and will be replaced with a concrete foundation. There is an agricultural swale behind the house, and erosion control will be installed down gradient of the entire structure. The fieldstone will be removed and used elsewhere on campus. The bulk of the work will occur under the structure itself, and Mr. Collins anticipated a lot of the work will be done by hand or with a bobcat. All work will occur within a 10 ft. perimeter of the foundation.

Member Auman commented the work was well removed from the resource area. Haybales are proposed for erosion control as it could be difficult to trench silt fencing in at this time of year. The Historic Districts Commission has already weighed in on the project and has no objections. The wall may have a brick facing, and it is hoped the work can occur before snow flies. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination in which haybales are installed as shown on the plans and the work is completed before the end of the year.

Member Neacy reported he had visited the Bertozzi Monument where the grounds were recently enhanced by Eagle Scout David Linzey. He said Mr. Linzey has made excellent improvements to the site, and people walking the trail complimented him on the work. It is anticipated he will submit photographs of the area and the work which included new fencing and the removal of saplings.

B. Easom submitted a letter dated November 3, 2011, clarifying a comment he made during the September 13, 2011 Commission meeting. He read this letter into the record and said he had mailed it to Dan Cyr of Bay State Forestry.

M. Giguere reported he had visited the Farmers & Mechanics parcel following the Halloween snowstorm. He noted half a dozen trunks were down, mostly white pine, and estimated crown damage somewhere between 4% and 10%. There are some leaning trees which may come down when trees marked for removal are cut. It is anticipated this will be put out to bid with a requirement for harvest in winter or summer.

7:30 p.m. – Brookfield Commons Verizon FiOS Request for Determination of Applicability
Julie Freshman of Resource Controls and Robert Coulter of Verizon were present. The plans call for the underground installation of conduit (1.25-inch diameter PVC pipe) in a trench 18 – 24 inches deep and 12 – 15 inches wide. They have flagged Bordering Vegetated Wetland for any work within 50 ft. Straw wattles will be used for erosion control. It is anticipated the trenches will be backfilled and seeded or paved for stabilization. Mr. Coulter said it would take about two weeks to complete the job in spring 2012. They use a mini-excavator about 3 ft. wide and will place it on plywood in wet areas. Members complimented the consultants on the comprehensive application and plan. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination in which the following actions are required: 1) straw wattles are installed prior to the commencement of work, 2) trenches are backfilled on a daily basis, and 3) disturbed land is stabilized before wattles are removed.

Commissioners reviewed photographs submitted by members of the Trails Committee showing continued mowing of the approach to the Wiewel Land on Skyfield Drive. In addition, the owner of 85 Skyfield Dr. appears to have added invisible fencing to the trail area owned by the Town. Members advised sending a letter requesting their cooperation in removal of the fencing and discontinuing the mowing.

In discussion on other land management issues, B. Neacy reported he has not yet followed up on the Ames Meadow Memorandum of Understanding. Regarding the TABCOM Conservation Restriction, Attorney Bob Collins said he wrote two subsequent letters and worried that they had lost the original document. Member Easom explained he had a call from Meredith Scarlet who is considering fencing the area at the top of Angus Hill off with the intention of excluding cattle. He questioned whether it would be a conflict of interest to assist with the location of the fencing

because he already has the Angus plan downloaded to his equipment. He would use the GPS coordinates to help lay the fencing out. Members felt this would be an asset in the continued monitoring of the conservation-restricted area. There has been no progress on the Fuccillo metes and bounds plan. M. Giguere hoped to get over to Allens Trail to review the encroachment question there.

Attorney Collins explained he has filed for a Notice of Intent for Garrett Boles at 58 Old Lantern Lane to expand his house. He noted the foundation for the existing house would be replaced, and an addition would triple the size. He asked where this should fall under the Wetlands Protection Act fees. Commissioners agreed this could fall under the minor project category.

7:45 p.m. – Sheehy/235 Riverbend Dr. Request for Determination of Applicability

Consultant Matt Marro explained his clients had filed a new Request for Determination of Applicability in order to continue a previous landscaping program commenced in 2006. He showed the Commission photographs of the site with wooded sections and landscaping around the existing pool. The application also included photographs of the site when the house was originally constructed. A monoculture of white pine has become well-established, and the site is starting to lose its biodiversity. An arborist has evaluated conditions to maintain the canopy. She has selected pines that are outcompeted for removal in order not to compromise what is there. The homeowners would like to continue to clear out small saplings and monitor growth patterns. The goal is to maintain the continued health of the white pines that are there. P. Morrison felt the services of a horticulturist on site were important. C. Auman observed the pine canopy appears to be well preserved, and the plan is to take out the smaller saplings. B. Easom noted they are essentially removing the understory. Retaining 90% of the crown canopy and not removing trees within the 50 ft. buffer zone falls under the category of vista pruning.

Abutter Chris Petroff (227 Riverbend Dr.) maintained this is a sensitive area, and there has been a great deal of cutting over time. He felt the pond was significant, and the removal of trees raises temperatures by letting more heat and light into the pond. He expressed concern about pollution and fertilizers going right into the Nashua River. Mr. Petroff stated 45 trees with a diameter greater than 2 in. in diameter have been removed although there may be no proof that those trees were there. He asked the Commission to please enforce the laws that are on the books. He added the 45 trees were cut within 50 ft. of the pond, and this will encourage others to cut as well. It is not fair to the rest of the neighbors who are not supposed to cut within 10 ft. of the property line as it is not allowed in the deeds. He recommended marking the trees that are there.

Resident Steve Pike (243 Riverbend Dr.) explained he was a trustee of the Partridgeberry Homeowners Association and a long-time resident of the area. He noted the pond is for drainage coming off the houses and roads. Much of the excess growth in the pond is due to this drainage and to fertilizers and has nothing to do with tree cutting. He felt the Sheehys do a nice job in maintaining their yard and added “they are not the only ones cutting trees.” He is new as a trustee and explained he needs to understand what can be cut. He requested the Commission’s guidance in taking a watershed-based approach to the maintenance of the area around the pond that is subject to a Conservation Restriction held by the Commission. Members advised this was

not the time to review the policy for cutting and suggested he make an appointment with Ms. Ganem to discuss strategies for going forward.

Alton Stone (Sterling, MA) pointed out the small trees below the canopy will tend to die off naturally, and he added this understory provides important habitat for wildlife. He urged the Commission to not allow the removal of the understory. Mr. Stone added that the removal of over 45 trees within 50 ft. of the pond violated both the Wetlands Act and the Town's Wetland Bylaw and suggested the Sheehys should have done it right the first time.

Lisa Wiesner explained she is the horticulturist who works for the Sheehys. She works to assure the health of the trees and encourages growth in the understory. She acknowledged she has removed perhaps 3 or 4 trees over 12 in. in diameter due to poor health. She does everything possible to prevent unnecessary removal of trees and is fully aware of the ecosystem and the need to look at the entire neighborhood. For instance, she did not think clear cutting around the entire edge of the pond was advantageous. Some of the clearing at the edge of the property line was done to promote visibility due to previous chicanery in that area. Ms. Wiesner maintained there is thorough documentation and a photographic record of the last 7 years during which she has encouraged biodiversity and growth within the understory.

M. Marro said it is up to the Conservation Commission to decide whether there is a violation. This is a microscale project within a large watershed. There may be language in a deed restriction limiting the cutting of trees over 12 in. in diameter, but B. Easom pointed out the Commission is not party to a private agreement among the builder and residents and would not get involved in violations thereof. C. Petroff said the problems are with the Association, not him. Members advised this is a civil matter which appears to be a protective covenant for the homeowners. A. Stone said you recommend looking at the whole picture, but we are here for this part, a microcosm piece of a larger ecosystem. Mr. Marro maintained the application was based on both the Wetlands Act and the Wetlands Bylaw. He thought Ms. Wiesner's recommendation to consider a watershed-based approach was worthwhile.

B. Neacy asked the nature of the Conservation Restriction, and it was noted it prohibits buildings and structures with certain exceptions but most activities are subject to the Commission's approval, e.g. the removal of trees is subject to Commission approval. B. Easom, seconded by P. Morrison, made a motion, and it was

VOTED: to issue a negative #3 Determination with the following conditions:

1) No work shall be done on the parcel on which the Conservation Commission holds the Conservation Restriction, 2) 90% of the crown canopy shall remain, and 3) all work is to take place outside of the 50-foot Buffer Zone.

Members advised the applicant the removed materials could be chipped, composted, or removed from the site.

8:00 p.m. - Iovino/583 Lowell Rd. Notice of Intent DEP#169-1065 continuation

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

VOTED: upon the applicant's request, to continue the hearing to November 22, 2011.

8:00 p.m. – Sgrosso/2 Wyman Rd. Notice of Intent DEP#169-1067 continuation

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

VOTED: upon the applicant's request, to continue the hearing to November 22, 2011.

8:15 p.m. - Groton School ANRAD DEP#169-1069 continuation

Attorney Bob Collins said the additional resource areas were mapped and identified on a plan to reflect the area walked by the Commission this past Saturday. Members agreed this provides a more coherent picture of what is happening at the site. B. Collins said they would be happy to see the Commission address the area behind the maintenance shed. Engineer Steve Garvin of Samiotes Consultants labeled and dated the page of the ANRAD revised plans with a finding that the disturbed area is non-jurisdictional area under MGL 131 §40 and the Bylaw. This will also be reflected in the Order of Resource Area Delineation. When asked how the vegetated wetlands in Series C and G were determined to be non-jurisdictional under the Wetlands Protection Act, Mr. Garvin explained that Isolated Land Subject to Flooding must be at least .25 acre in size after a 1-year storm event and of 6 in. average depth. Both the groundwater and the volume contributed by runoff must be considered. He maintained the sizes of these depressions were well under the thresholds, even when viewed very conservatively. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to close the hearing for DEP#169-1069.

There being no further business, the meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 11/22/11.

