

GROTON CONSERVATION COMMISSION

Minutes

January 24, 2012

Chairman Nadia Madden 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, Bill Neacy, and David Pitkin were present. Conservation Administrator Barbara Ganem was also present.

Appointment – Selectmen Peter Cunningham and Fran Dillon

Mr. Cunningham said he wished to follow-up on the proposed easement language for a trail easement on the abandoned B & M railroad property in W. Groton. Both Town Counsel and abutter Chris Shattuck have had an opportunity to review the language. Part of the trail easement is over the Adamovich property, now owned by Mr. Shattuck. The 12-ft. wide trail easement is located next to the property line which will require a wetlands crossing. Mr. Cunningham thought a trail bridge could be done as part of an Eagle Scout project. C. Shattuck has no problem with the existing cart path being used on an interim basis. P. Cunningham explained this is a long-pending lawsuit which will be settled through this agreement. The family has strong roots in the community and significant holdings along the Nashua River. The language must be acceptable to and voted on by both parties. It is the intention of the Board of Selectmen to end the litigation.

Member Easom looked at the proposed easement plan and questioned the actual location of the vertical rock wall. The structure is thought to be a cattle crossing that ran beneath the railroad. In the field there was discussion about bringing the trail down toward the field before this drop-off. Mr. Cunningham thought Town Counsel may have a more up-to-date plan which shows this. A granite bound was also found in the field and this should be shown on the plan as well to assist with future monitoring efforts. The agreement with the B & M railroad has to be settled before the trail easement is finalized. Members recommended these items be reconciled on the trail easement plan. N. Madden observed there seem to be attachments the Commission has not seen. She also asked if mountain biking was to be allowed and questioned whether the language should include access for disabled individuals using ATVs, a new Federal law.

D. Pitkin questioned whether the 12-ft. wide trail easement extended to the remainder of the rail trail, and it was noted the trail would run in the middle of the railroad bed south to Hill Rd. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to approve the draft trail easement language subject to the following changes:
1) the plan shall show the location of the vertical stone walls of the cattle crossing and the bound noted in the field; 2) bicycling will be an allowed use, and 3) wording on accessibility for disabled users shall be modified if necessary to comply with Federal law.

The vote was unanimous.

B. Easom asked what would happen if it turns out the cattle crossing is on the left side of the easement. It is hoped that we will continue to make progress in the resolution of this matter.

7:15 p.m. Appointment June Johnson

Ms. Johnson explained she was present, on behalf of the Groton Conservation Trust, to request the Commission consider accepting a Conservation Restriction on the Lawrence Park parcel owned by the Trust. The property is located on West Main Street opposite Groton Place. There are two entrances to the property, and there is a lot of road frontage which could put the property at risk should something happen to the Trust. J. Johnson said Arthur Hughes at the Division of Conservation Services has reviewed the language of the CR. His only suggestion is that #C on page 4 should be modified to allow a parking area to be defined.

B. Neacy questioned why the Trust is so concerned about this particular parcel, and Ms. Johnson replied that the property has been held since the 1970's. There is a certain liability if the Trust is sued, and a judgment is found against them. The 1,600 feet of road frontage makes this an attractive property to take. The Trust is exercising good practice for a non-profit organization. She indicated the Trust does carry insurance. Endorsing the proposed CR, M. Giguere regarded the CR on this property as belts and suspenders to protect a desirable property. Ms. Johnson said the parcel was donated in two parts, and forestry can take place on the 24 acres away from the River. In 2005, a forest stewardship plan was prepared for this property.

Dan Wolfe, also a member of the Trust, said he saw the possibility of the development of 10 lots. C. Auman felt the concerns were more than outweighed by the advantages offered by the CR. B. Easom asked if there was any downside to putting on a CR, such as losing leverage on a land deal similar to that which protected Gibbet Hill. He commented the CR on the Town Forest was used as a sweetener for the Surrenden Hill negotiations. Ms. Johnson said the Trust does hold other lands that can be used in this manner, but they felt this acreage was important to doubly protect as it's highly developable.

Both the President and Treasurer of the Trust will sign off on the document. A municipal certification has been prepared. Ms. Johnson will schedule an appointment with the Selectmen to request their acceptance of the document. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to authorize the Chairman to act on the Commission's behalf in signing off on the Conservation Restriction over Lawrence Woods, pending review by Town Counsel.

The motion passed by a majority with D. Pitkin and B. Easom voting in the negative. B. Easom said he had reservations about accepting the Conservation Restriction without prior input by Town Counsel.

7:30 p.m. Iovino/583 Lowell Rd. Notice of Intent DEP#169-1075

Surveyor Stan Dillis explained his client wished to construct a garage off an existing driveway. Mr. Dillis maintained this area had originally been cleared for the driveway and house according to Google Earth maps. Roof runoff will be recharged, the front to a dry well and the back to a

recharge trench. There has previously been discussion with the Commission about subdividing the parcel and conveying the back portion to the Commission.

Attorney Bob Collins said the 2 acres at the back about the Kiley conservation-restricted land and will also provide protection to the Water Department. He acknowledged there is not much which could actually be done with the land. B. Neacy and P. Morrison had no questions. M. Giguere asked if it was possible to move the garage further out of the 50 ft. buffer zone. B. Collins said the right-of-way for Lowell Rd. is over 100 feet wide at this point, and the garage is already at the minimally required front yard setback.

C. Auman noted the previous filing for this lot included fencing and conservation markers. He asked when these items would be addressed. Mr. Iovino indicated the garage will be constructed by late summer. Mr. Auman said he supported the donation of land. Mr. Iovino stated he did not intend to remove any more trees for this project. B. Easom commented he would like to see more protection of the 50 ft. buffer, and he did not think 2 acres of wetlands adequately mitigated for the work in the buffer zone.

There are 7 stumps which remain in the vicinity of the garage footprint. It is unlikely the Zoning Board of Appeals would agree to a setback change in this situation as the difficulty is one of the owner's own making. There is also nothing based on topography that would dictate a variance. B. Collins thought it unlikely the ZBA would grant a variance in this instance. The presence of a wetland is not a cause for granting a variance.

B. Neacy asked about the potential donation of land, and B. Collins responded that there would be two parcels, one 1.17 acres and the second .52 acres. While this land would enjoy some protection under the Wetlands Protection Act, it is not land which could be built upon, and there is no access. S. Dillis said the landscape is similar to the NEFF Baddacook acquisition. C. Auman asked whether a smaller structure moved forward could be considered. Mr. Dillis indicated there was no way to flip the garage to the other side because of the side yard setback. B. Easom asked if there's an opportunity to straighten out the road. Mr. Collins thought this unlikely because of the way the road was carved out previously, giving some land to abutters and removing some from other's ownership.

The Commission has not yet heard from Natural Heritage on this project. B. Collins asked if it was possible to get a sense from the board of how they regard this proposal. B. Easom, D. Pitkin, and N. Madden expressed reservations. D. Pitkin and M. Giguere said they would like to see the barn shrunk. S. Dillis pointed out the building site would be right beside the driveway. Mr. Collins opined that putting vehicles under cover was better for the environment. B. Neacy and P. Morrison did not see a problem with the proposal. It was noted that one of the vehicles is a 40 ft. trailer which they would like to put under cover. This would be preferable to parking in the dirt which is what is presently occurring. Upon a motion by D. Pitkin, seconded by B. Easom, it was

VOTED: to continue the hearing to February 14, 2012.

The vote was unanimous.

7:45 p.m. – Aubuchon/213 Whiley Road Notice of Intent

Homeowner Lauren Aubuchon explained it is their intention to move the 30 ft. long retaining wall back 3 ft. and to provide a survey after it is done. The work would be done once the ground thaws. The materials would be removed by hand before the lake level comes back up. The project is weather-related and is likely to take place in April. Ms. Aubuchon added they would use the same materials that are there to re-build the wall. B. Easom noted the shore line is curved, and how will the wall follow the natural shore. Jeff Aubuchon said the boards will straighten the line somewhat. Any extra materials will be removed from the property, but he estimated stockpiles could be there for 1 or 2 weeks.

There was some contention about where the original wall was located, and Mr. Aubuchon pointed out that concrete blocks were used to shore up the wall and some had fallen into the water. B. Easom said he was not okay with just moving the wall 3 ft. back as the new wall would not be coincident with the former shore line. Mr. Aubuchon said he would like to use the existing 'deadmen' to anchor the new wall, and that would mean not cutting any further back into the bank which would create more disturbance.

M. Giguere expressed concern that the plan does not say exactly what the work is to be and how it will be done. There should be something showing what the new wall will look like, using a fixed point. Mr. Aubuchon said the shore line was not accurately shown on the Ross plan as it did not depict the 8 in. – 10 in. blocks sitting in the water. He would like to leave these pieces in. B. Neacy protested we keep going over the same points and the wall should be brought back to the original line and the area stabilized. C. Auman urged that measurements be taken at the site and suggested the Commission verify them in the field. B. Neacy felt this was the applicant's responsibility, and B. Easom recommended a plan and an alternative be prepared for review at the next meeting. Upon a motion by M. Giguere, seconded by D. Pitkin, it was

VOTED: to continue the hearing for 213 Whiley Rd. to February 14, 2012.

The vote was unanimous.

8:00 p.m. – Moore/475 Lost Lake Dr. Request for Determination of Applicability

The contractor for Mr. and Mrs. Moore, Louis Clipper, explained a 3-season, unheated porch addition is proposed. The addition will house a therapeutic swim spa. It will require a 4 ft. frost wall. Mr. Clipper plans to use the driveway for storage of materials and will keep everything toward the front of the house. Commissioners advised haybales, silt fencing, or straw wattles can be considered for erosion control. Gutters will be used to direct roof runoff into the ground. Mr. Clipper indicated he was willing to consider a stone trench on the wetland side of the gable style roof and could direct gutters into the stone trench. He stated there were no trees of significant size (> 1 in.) that have to be removed. Access for the work will be to the left (as you face the house from the street) of the driveway.

June Johnson explained she was present on behalf of the Groton Conservation Trust which originally developed this lot as a way of protecting Duck Pond. They defined a specific building envelop and there are cutting restrictions as well. She stated the applicants, Mr. and Mrs. Moore,

had fully complied with the covenants on record with the proposed project. Upon a motion by C. Auman, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination providing: 1) erosion control measures are installed and 2) gutters are used to direct roof runoff into diffusers or a stone trench.

The vote was unanimous.

8:15 p.m. – Groton Electric Light Department, DEP#169-1073 continuation

Attorney Bob Collins briefly reviewed the history of the site, distributing old photographs showing how the area has changed over the past 10 years. He asserted this is a low-quality wetland resource, taken over by invasives that have become established in a poor drainage area. N. Madden asked him to define low quality, and Mr. Collins said the abutting high areas formerly drained to Broadmeadow but over time the poor soils have led to slow drainage. While invasives first began to take over the fringe area, they have now spread to the whole area. Mr. Collins thought it a worthwhile goal to remove the trash vines and invasives and cease having utility work done outside. Because of the industrial uses of the site and heavy silting and sanding, the wetland has degraded over time. The GELD plan will improve conditions that exist there now. The elimination of outside storage of materials combined with stormwater treatment and the compression of occupations will result in an improvement to the site.

Mr. Collins stated he has read the minutes of Commission meetings with GELD and would like to address the concerns brought forward by Commissioners. Two rain gardens are proposed within the fringe area that will eliminate that stretch of invasives, replacing them with something that will not degrade wetlands. He maintained the world will be a better place as a result of this project. He thought public utilities receive some exemptions under the Wetlands Protection Act. B. Collins added that the Fuccillo facility is right next to a resource area on Rt. 40 and is also in the Watershed Protection District. The Sandy Pond Rd. site has significant wildlife habitat. He acknowledged the GELD wetland has some functions, but it is desperately in need of management. He thought the engineer can prepare figures on the impervious surfacing, as well as the cut and fill calculations which show a slight increase in material.

C. Auman mentioned the Commission had earlier asked for impervious surfacing, and the figure of 32,613 SF was given for existing and 32,039 SF for proposed, but this includes the linemen's building. The McGregor house and garage were said to be in the 50 ft. buffer zone. He acknowledged this is a distressed wetland in need of a management plan. C. Auman asked if it would be possible to build within the current footprint and eliminate the probability of anything else occurring there. There are currently 3 industrial uses within the Station Ave. Overlay District (SAOD) – GELD, Buckingham bus, and May & Hally. N. Madden said she would like to see what has existed within the 50 ft. and 100 ft. buffer zones and what is proposed. C. Auman cautioned that GELD cannot count the area which is to be sold in these computations.

B. Easom saw the biggest problem is the area that is to be developed in the future. There will be a hidden encumbrance on that property when you've already banked the property in the process of the GELD re-construction. The Commission would not have a leg to stand on to prevent future impervious surfacing. Kevin Lindemer, Chairman of the GELD Commission, said it is

impossible to build facilities with no net increase in impervious surface. If B. Easom's interpretation is followed, nothing will be built there. Members suggested considering pervious areas or pavers to bring the project into balance. Sue Carter cautioned that it is impractical, due to the weight and turning radius of the GELD equipment, to use pervious paving as it is not heavy duty enough to withstand the torque. D. Pitkin asked how GELD can consider the construction of buildings within the 50 ft. buffer zone an improvement. He preferred invasives over a building in this sensitive area. B. Collins pointed out that trees are going to die if invasives are not managed in the buffer zone and, with the proposed project, there would no longer be untreated runoff going into the wetland.

N. Madden said the Commission needs to look at the function of this wetland. Is there wildlife habitat? Is the buffer zone catching pollution and runoff and allowing the runoff to stay there rather than quickly draining into James Brook? How is salt captured by the rain garden? S. Carter agreed there was no easy solution to capture the salt. The runoff is slowed and will bind up with soils. How much of this wetland is actually under the ownership of GELD? If there is very little jurisdiction to manage, how will this project, which occurs in the buffer zone, change the speed of runoff, remove barriers to flow, and add to native plantings. B. Neacy argued the scale of the project is grossly inappropriate for the site. Unless GELD is willing to create a park out of the current linemen's building or reduce the size of the proposed structure, or keep work out of the buffer, he did not see a workable project. He protested the rain gardens create a further intrusion into the buffer zone. He expressed frustration with the level of communication among Town boards which he thought was a disservice to residents.

Sue Carter said the rain gardens were strategically placed to help control the Japanese knotweed, honeysuckle, and bittersweet by continually maintaining and mowing to control these invasives.

P. Morrison felt that holding GELD to a no net increase standard flies in the face of the re-development of Station Avenue. The original plans have most of the area covered, and this project is going in the right direction. He added he did not want to keep flogging the GELD project to death 6 months down the road.

M. Giguere urged the 90° turn which could result in some minor impacts to the 100-ft. buffer zone and no impacts in the 50-ft. buffer zone. If the building is oriented differently, it could minimize the amount of impervious surfacing. Staying in the area that is already substantially disturbed should be under consideration. GELD has no control of the adjacent Jackson property where much of the wetland lays. Sue Carter expressed reservations about this orientation because of the broad turning radiuses needed for the GELD equipment. It may be possible to use pervious paving if office business is restricted to one driveway.

Kevin Lindemer said that GELD has solicited input from everyone for the past 10 years. The goal has been to improve the Town and have the lowest impact on tax rates and rate payers. GELD had the option of doing nothing. They considered a lower cost facility, but felt it was possible to take advantage of an opportunity to improve larger goals in the community.

Member Auman read from the Wetlands Bylaw Section 215-7. Presumptions. A.3. which gives the standard for altered areas as no increase in adverse impacts. It does not prevent GELD from

doing anything but requests a filing and that GELD demonstrate that it is an improvement and does not make things worse. The applicant should demonstrate that alternatives, i.e., the Marshall plan, do not work. The final project may not be the ideal plan, but it could reflect a compromise that is the best given the circumstances. B. Collins noted there has previously been discussion of off-site mitigation. B. Easom maintained the 50' buffer should be a necessary condition. N. Madden noted the Commission has previously requested information on buildings in the 50-ft. and 100-ft. buffer zones before and after construction. D. Pitkin offered a motion, seconded by B. Easom, to continue the hearing to February 28th, but P. Morrison and M. Giguere indicated they would not be available on that date. Mr. Pitkin withdrew his motion.

Kevin Kelly, manager of GELD, asked if a straw poll would be possible. B. Collins said he was not hearing an absolute "no" to the project. B. Easom indicated he would like to see a 50-ft. buffer maintained. B. Neacy said he did not like the design. K. Lindemer said that a great deal of time and money has been spent on the process. He asked "Is doing something viable on the site and developing a building lot to declare surplus to be put on the market even possible?" He stressed that building the GELD site and recouping some money to reduce the costs was important. B. Neacy pointed out residents voted on the Wetlands Bylaw and also for money to purchase conservation land, and he appreciated the concerns of rate payers and tax payers. Mr. Lindemer said 40% of GELD's electrical services go to non-paying taxpayers such as municipal entities.

P. Morrison commented taxpayers voted for the Bylaw, but they also voted on the Station Avenue Overlay District which has implications for this project. He thought this would be difficult to implement with no net increase in impervious surfacing and staying out of the 50-ft buffer zone. M. Giguere said the SAOD did not carve out exemptions under the Act or the Bylaw. B. Collins clarified that the Commission is looking for no net increase within the buffer zone only. M. Giguere reiterated that the 90° turn has not been demonstrated to not work on the site. B. Easom said there appears to be no intersection between GELD's desires and the protection of wetlands. There is no overlap of the two concepts. C. Auman commented the project is not that far from being out of the 50-ft. buffer zone, and the final project may involve compromise on everyone's part. Upon a motion by D. Pitkin, seconded by M. Giguere, it was

VOTED: to continue the hearing to March 13, 2012.

The vote was unanimous.

8:45 p.m. – Luther/518 Farmers Row Request for Determination of Applicability

Dan Wolfe, an engineer with David E. Ross Associates, Inc., explained the proposed work is the upgrade of a sewage design system which will be outside the 100-ft. buffer zone of wetlands. The construction of an access to the system will include the temporary addition of gravel within the buffer zone. Members observed a pipe daylighting just above the culvert under Farmers Row. Mr. Wolfe reported this is a clay drainage pipe which connects to a drain system under the adjacent General Field. The pipe had broken, creating a sinkhole which was repaired by the farmer who hays the land. The drainage pipe does not go under the proposed septic system and will not affect its operation according to Mr. Wolfe. He stated only upland soils were noted on

the property while wetlands were delineated across the street. Upon a motion by B. Easom, seconded by D. Pitkin, it was

VOTED: to issue a negative #3 Determination in which 1) haybales shall be installed as shown on the plan; and 2) the construction entrance shall be restored to its original condition before the commencement of work.

The vote was unanimous.

9:00 p.m. – Ferguson/7 Baby Beach Rd. Notice of Intent continuation

At the applicant's request, and upon a motion by D. Pitkin, seconded by B. Easom, it was

VOTED: to continue the hearing for 7 Baby Beach Rd. to February 14, 2012.

The vote was unanimous.

9:15 p.m. - Sgrosso/2 Wyman Rd. Notice of Intent DEP#169-1067 continuation

At the applicant's request and upon a motion by D. Pitkin, seconded by B. Easom, it was

VOTED: to continue the hearing for 2 Wyman Rd., DEP#169-1067, to February 14, 2012.

The vote was unanimous.

Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to approve the minutes of January 10, 2012 as drafted.

The vote was unanimous.

B. Collins explained he was present with a question on the draft Boles Order of Conditions for DEP#169-1070 at 58 Old Lantern Lane. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to issue an Order of Conditions, as amended, under the Wetlands Protection Act for 58 Old Lantern Lane, DEP#169-1070.

The vote was unanimous.

M. Giguere made a motion, seconded by B. Easom, to issue an Order of Conditions, as amended, under the Wetlands Protection Bylaw for 58 Old Lantern Lane, DEP#169-1070. In the following discussion, attorney Bob Collins had a question about using the 15 ft. setback as the no-disturb line because of the existing house and lawn area. He asked if the tree line would be more appropriate. P. Morrison asked him to mark it on the plan. C. Auman pointed out the Commission encourages native plants at the shore line to filter out pollutants and improve wildlife habitat. Members felt that plantings should not be required in an area that is already

wooded, but thought conservation markers at the edge of the existing tree line would be satisfactory. N. Madden indicated she was uncomfortable having this discussion after a hearing was closed. It seems intrusive and inappropriate. B. Collins apologized, stating his intention was to raise a question with the Commission. Returning to the motion, it was

VOTED: to issue an Order of Conditions, as amended, under the Wetlands Protection Bylaw for 58 Old Lantern Lane, DEP#169-1070.

The vote was unanimous.

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

VOTED: to issue an Order of Conditions, as drafted, under the Wetlands Protection Act for 16 Ridgefield Ave., DEP#169-1074.

The motion passed by majority, with B. Easom voting in the negative.

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

VOTED: to issue an Order of Conditions, as drafted, under the Wetlands Protection Bylaw for 16 Ridgefield Ave., DEP#169-1074.

The motion passed by majority, with B. Easom voting in the negative.

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

VOTED: to approve and issue an Order of Resource Area Delineation for DEP#169-1071 for 122 Old Ayer Rd. citing the plans dated December 17, 2011.

The vote was unanimous.

(Members P. Morrison and B. Neacy left at 10:22 p.m.)

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

VOTED: to approve the 2011 Annual Report as drafted.

The tabulation of the community surveys for the *Open Space & Recreation Plan* is nearing completion. Members agreed the emphasis on protecting wetlands and water supplies is a point that should be made to the Community Preservation Committee. B. Easom explained the CPC meets on February 7th to discuss this year's applications. The Commission is the only applicant. The CPC will provide feedback on the application, and member Easom encouraged everyone to attend as it will not be an easy fight. D. Pitkin said the Greenway Committee will also be there. N. Madden agreed to speak to the Commission's application and requested a highlighted copy of the document. If this goes to Town Meeting, it would be helpful to have pictures of the Fuccillo and Baddacook NEFF properties to demonstrate the type of open space that has been protected

using the Conservation Fund. Michael Roberts, a CPC member, has suggested the Commission pay attention to open space parcels that also have historical values. B. Ganem noted there is a cellar hole on the Baddacook property and stone walls on the Fuccillo land. D. Pitkin and C. Auman may also be available to attend the February 7th meeting.

D. Pitkin said he was willing to contact the Finance Committee to see if a meeting could be set up with them to discuss the Commission's CPC application. It's also important to speak with the Selectmen to gain their support for the allocation. Time should be allowed for a second round of discussions as necessary with both committees.

Based on the response from the DEP Section Chief concerning the Stevenson proposal to construct a barn and possibly a septic system on his Old Dunstable Rd. property, B. Ganem will draft a letter explaining the Commission's position that this is not a normal maintenance activity on agricultural land and does not qualify as an agricultural exemption.

N. Madden has submitted the paperwork to attend the MACC Annual Meeting. Other members agreed to make individual arrangements and submit receipts following the meeting. Member Easom expressed an interest in attending the Keystone program this year, and the Commission agreed to cover the minimal cost of the workshop.

In discussion on the Gale property on Lowell Rd. members noted the land does not connect with other Conservation Commission owned or managed properties. The realtor has indicated the current asking price is \$75,000. The parcel is not on the priority list and does not have rare species habitat. Commissioners agreed this land was not of conservation interest at this time.

The Conservation Restriction for The American Baptist Churches of Massachusetts (TABCOM) remains in limbo. B. Easom asked if he could move things forward by getting an updated signature page. He requested a list of the signatories to the document. B. Ganem said she will continue to raise the issue with the Division of Conservation Services. The Commission quickly reviewed the land management items and suggested the Memorandum of Agreement for Ames Meadow be included on the next Commission agenda.

There being no further business, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 2/14/12.

