

GROTON CONSERVATION COMMISSION

Minutes

July 10, 2012

Clerk 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, and Peter Morrison were present. Newly appointed members John Smigelski and Rena Swezey were also present, as well as Conservation Administrator Barbara Ganem. Member Nadia Madden was absent due to maternity leave.

Mr. Easom asked members' consent to proceed to chair the meeting in the absence of Chairman Madden and resignation of Vice Chairman David Pitkin, and Commissioners agreed to this arrangement.

7:00 p.m. – Eklof/Request for Determination of Applicability - 31 Ames Rd. continuation
Dr. Eklof has requested a continuation, and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the meeting to July 24, 2012.

In review of the minutes of May 22, 2012, several modifications were made to Page 6. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to approve the amended minutes of May 22, 2013.

The vote passed by majority, with P. Morrison, B. Easom, and C. Auman voting in favor, and Members R. Swezey, J. Smigelski, and M. Giguere abstaining from the vote.

With the appointment of two new members, the Commission decided to reorganize. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to nominate C. Auman to serve as Chairman.

The motion passed by majority with C. Auman abstaining from the vote.

Upon a motion by P. Morrison, seconded by R. Swezey, it was

VOTED: to nominate B. Easom to serve as Vice Chairman.

The motion passed unanimously.

Upon a motion by P. Morrison, seconded by R. Swezey, it was

VOTED: to nominate J. Smigelski to serve as Clerk.

The vote was unanimous.

Representatives from the Conservation Commission serve on other boards and committees. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to appoint M. Giguere as the Commission's representative to the Great Ponds Committee.

The motion carried by majority vote, with an abstention by M. Giguere.

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

VOTED: to appoint B. Easom to serve as the Commission's representative to the Community Preservation Committee.

The vote was unanimous.

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

VOTED: to appoint R. Swezey to serve as the Commission's representative to the Earth Removal Stormwater Advisory Committee.

The vote was unanimous.

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

VOTED: to appoint B. Easom to serve as the Commission's representative to the Williams Barn Committee.

7:15 p.m. – Groton Conservation Trust Request for Determination of Applicability

M. Giguere read the legal notice. Bob Pine, a Trust board member, explained they wished to replace an existing bridge connection between the Groton Conservation Trust Duck Pond property and the Skitapet conservation land. An Eagle Scout candidate, Paul (PJ) Ciarfella, is planning to do the work. Both he and his father were present, as well as Duck Pond steward, Susannah Black. The bridge will be designed in accordance with plans developed by Trust member Dann Chamberlain. Scout PJ Ciarfella explained the bridge will be about 30 ft. x 3 ft. and will rest on cinder blocks so that water flow will continue and wildlife will not be affected. This is a well-traveled area, and it is anticipated that pedestrians will use the bridge rather than the wetland area.

C. Auman cautioned Mr. Ciarfella to check that the pressure-treated wood he uses is not the old kind that contains chromium arsenate. The trailhead will be cleared of trash and other debris, and it is anticipated the wood will be composted naturally. The bridge will be high enough off the ground that the water flows beneath it. M. Giguere thought brush piles for wildlife could be created with the cleared materials and questioned whether there were plans to remove the bus tires in the wetlands. Mr. Ciarfella Sr. reminded his son that his project has been specifically

approved by the scout leadership and changes are probably not possible. B. Pine indicated the Trust would be interested in removing these tires at some point. Members agreed this was a good project as the bridge is in need of replacement.

Mr. Pine explained Scout Ciarfella will be responsible for raising funds and organizing a work crew. They expect the actual work to take 1 – 2 days. J. Smigelski cautioned about insuring that the concrete blocks are installed so they are stable. Upon a motion by C. Auman, seconded by M. Giguere, it was

VOTED: to issue a negative #3 Determination in which 1) care shall be taken to choose pressure-treated wood without chromium arsenate; 2) trash shall be removed from the area; 3) cement blocks shall be set in a solid manner; 3) the tires may be removed from the wetlands; and 4) brush piles for wildlife are allowed.

The vote was unanimous.

M. Giguere reported the Commission had visited the Farmers & Mechanics parcel this past Saturday. The forestry operation is complete and most of the ruts have been smoothed out and slash cleaned up. He felt the job was beautifully done and recommended the Commission send a letter to Bay State Forestry commending the foresters. P. Morrison said he visited the parcel on Friday and also thought the job was really well done. Upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to send a thank you letter to Bay State, including Dan Cyr, Jeff Hutchins, and Eric Radlof, for a job well done.

A member of the audience, Andrew Davis, reported on the recent cleanup at Sargisson Beach. He estimated there were between 30 and 40 residents, and they filled the weed harvester trailer 3 times with weeds collected from the beach area. Mark Haddad was to take care of any parking tickets incurred by the cleanup crew. There is still some confusion about the parking signs, but Mr. Davis has asked for assistance from Mr. Haddad in resolving the matter. Members thanked him for his efforts in bringing the cleanup to fruition. A. Davis said he is working on a 3-year plan to address some of the problems he sees at the beach, including erosion control, signage, and access issues. It is anticipated this will be filed as a Notice of Intent.

7:30 p.m. – Groton Electric Light Department Notice of Intent - A joint hearing with the Groton Earth Removal and Stormwater Advisory Committee (ERSAC)

Clerk Smigelski read the legal notice. ERSAC Chairman Ed Perkins called their hearing to order. B. Easom noted this filing is under the Wetlands Protection Bylaw only as the applicant has an Order under the Wetlands Protection Act. Attorney Bob Collins presented a brief overview of the project, indicating the office building has been at the site since 1904. There is a collection of buildings, garages, and open storage areas which have developed over time. Outside work is currently occurring in the buffer zone, and it is felt it would be more efficient to incorporate all operations into one central building. An area that used to contain several houses and a garage has become overgrown with invasives and a remediation plan to deal with these plants is included in

the filing. Mr. Collins said his clients have approached the Jacksons who live next door about doing invasive remediation on their land, and they are interested in working with GELD on this.

Surveyor Stan Dillis reported his firm reviewed the plan and made several suggestions including moving the snow storage areas out of the 100-ft. buffer zone. He suggested there are additional technical details to be worked out between the consulting engineers Comprehensive Environmental, Inc. (CEI) and Sue Carter, engineer for GELD, from Places. He felt the issues of monitoring and replacement plants were fairly minor. He acknowledged the calculated areas of disturbance in the buffer zone are not shown on the plan, and portions of the invasive narrative plan were not included with the Notice of Intent plan. There is a list of each invasive and the methodology of how to deal with it. Mr. Dillis said the drainage system remains the same, and there has been no change in the design of the rain gardens.

B. Collins suggested a meeting between the GELD consultants and CEI. Land Use Director Michelle Collette said often this is a good way to work out questions about filings. It should take place in Town Hall so that staff can be present in order to report back to boards. This will keep it in the public forum.

Mr. Collins said he wrestled with the definition of public good, even finding one in which it was defined in terms of “not to the detriment of the public”. The same law in the state constitution allows the formation of municipal light companies and conservation commissions, all aimed at serving the public benefit and carrying out quasi public functions. None of these laws function to the exclusion of others. B. Collins maintained that the interior storage of poles, control of invasive plants, and improvements to the management of stormwater all serve the public. In addition, there is discussion of gifting additional land, next to the Fuccillo drive access on Rt. 40, since the Commission’s parking lot is currently on GELD property. Mr. Collins noted the Commission had approved the project under the state Wetlands Protection Act. Surveyor Stan Dillis acknowledged they are still awaiting the habitat analysis.

ERSAC member Bob Hanninen questioned whether the issues brought up by CEI would be addressed by the two engineers. Stephanie Hanson from CEI was present and explained she had worked on the Town’s James Brook project and was familiar with best management practices and is reviewing this project with professional engineer, David Nyman. She said part of her analysis is to see how the wetland is functioning and how to deal with restoration in the buffer zone and adjacent property. She observed phragmites in the wetlands in addition to other invasives in the buffer zone. She encouraged Commissioners to send any additional questions they may have to her.

Member Giguere said, in his opinion, the approval under the Act had done a great deal of violence to the Act. He felt public benefit was never adequately addressed during the earlier hearings for this project. He also noted the Station Avenue Overlay District (SAOD) envisioned a mix of residential and commercial activities, more like a downtown area. This project maintains industrial uses on Station Ave., and there is nothing different in this proposal.

K. Lindemer said that GELD has been putting aside funds for a new facility for years. One alternative they are considering is to rebuild on the existing footprint. P. Morrison said he would

like to see the mitigation of a gift of property tied down. Whether future development of the SAOD is possible is an interesting point as he saw problems with the development of anything further. S. Dillis urged the Commission to look at the long term disturbance of the site and the improvements represented by moving everything inside. In general, vehicles are out of the facility for the day. B. Collins maintained GELD is a wonderful draw because many ratepayers pay their bills in person, and GELD would provide an anchor in furtherance of the SAOD. Tammi Lemire estimated perhaps 1,000 ratepayers pay their bills in person.

J. Smigelski asked what is stored outside now, and Mr. Collins indicated poles and transformers were stored in the yard. The poles will be moved to Rt. 40 out of the wetland buffer zone. They are too big to be stored inside or covered. Transformers are stored inside. Mr. Smigelski also asked about the selection of herbicide, suggesting Crossbow might be a better alternative to Roundup which treats a broad spectrum and creates super weeds.

Member Swezey liked the idea of consolidating the buildings into one facility and suggested joining all the parcels into one parcel. B. Easom noted that he had expected fewer impacts on the wetland resource areas now that the fire station option has been eliminated. B. Collins said between the cul-de-sac and the parking requirements, the site is still very tight. The building is within 21 ft. of the wetlands, and grading occurs within 11 ft. In Mr. Easom's view, the public good would be served by preserving the 50 ft. buffer zone and assuring the groundwater is kept free of pollution. Mr. Easom questioned the potential impact on ratepayers of the construction of this facility. GELD's Annual Report states they have about half the amount needed to construct this project. This would mean it is necessary to bond the remaining amount. GELD has indicated their hope is to sell surplus land for \$300,000.

K. Kelly said GELD does not plan to raise rates. B. Easom distributed a handout which included a graph showing rising CO² rates as monitored in Hawaii, as well as graphs showing flooding events in Fitchburg, on the Squannacook River, and on the Nashua River in Pepperell have been increasing in recent years. If these storms are becoming more frequent and more severe, the flood waters tend to spread out further into the floodplain. As time goes on, flooding events could become a bigger problem. The data presented by the ACOE (*should be FEMA*) is between 15 and 20 years old before the flood maps are actually updated. Even with the sale of the surplus property, Mr. Easom presented figures showing that the average ratepayer will be paying an additional 40¢ each month. He indicated it is deceptive to state there will be no rate increase. In addition, the trend for increasing impacts from flooding could compromise a municipal facility's ability to safely serve the community. Mr. Easom said GELD's plan to stay on Station Ave. is not consistent with the original plan for Station Avenue.

K. Lindemer took exception to Mr. Easom's use of the word 'deceptive' and explained that an amount for the building fund has been set aside from every ratepayer's bill for years and will continue to be in the future to cover the cost of the new facility. He added that he was not aware of any flooding of this site for at least the past 50 years. He pointed out that 54% of GELD's electric power is carbon free, and GELD is part owner of a wind farm. GELD is currently considering the use of solar power. He assured those present that GELD does mind their business and watches the dollars and cents associated with running a utility. He maintained GELD serves the Town well, delivering the best possible service for the best rate.

S. Dillis said the floodplain elevation is 302 ft., and the building will be at 310 ft. so the floodplain would have to change radically. Land Use Director Michelle Collette asked about the depth to groundwater in some of the test pits as there was severe localized flooding at Groton Residential Gardens several years ago due to the reduced depth to groundwater for the detention pond. She also noted the CEI report suggests the DEP stormwater guidelines be followed in computing the volume in the swale and rain gardens. She questioned what happens to stormwater if these components overflow. Ms. Collette requested the Operations & Maintenance Plan be submitted separately on 8½ x 11 sheets in Word format. On Page 6 of the CEI report, the engineer states the proprietary drainage system will drain in less than 72 hours, and this should be documented. Future maintenance is critical to the continued functioning of these systems.

C. Auman mentioned he was anticipating more than subtle changes with the new submittal, especially based on the fact a fire station is no longer proposed for the site. K. Kelly acknowledged they were squeezing onto the back of the site because of the existing Memorandum of Understanding with the Selectmen. Mr. Auman said he would like to understand what the alternatives are, such as GELD moving out or the MOU changing. He also noted it is likely there will have to be an amendment to the Order issued under the Wetlands Protection Act. K. Lindemer said the goal was to have the facility moved as far away from the Rail Trail as possible. He maintained that moving the facility off Station Ave. could cost as much as \$900,000 which would make the project increasingly expensive, and the meter continues to run. C. Auman requested a brief statement addressing what alternatives were considered and why they couldn't meet GELD's needs. It was noted it is premature to file a Federal Notice of Intent for NPDES permit which is usually done closer to the actual commencement of construction.

Resident Bud Robertson (179 Main St.) said he believes this to be a good plan; he does not see the SAOD plans as being viable at this point. He felt that moving the Highway Department to the other end of Town was a mistake, and he said having GELD in a central location makes sense. Abutter Alison Jackson (153 Main St.) said she was disappointed SAOD was still being pushed. She felt it was time to move on. GELD provides reliable power, and they are good neighbors. Agreeing to wait until the Oxbow report, as well as the remaining information on invasive removal, are submitted and upon a motion by P. Morrison, seconded by C. Auman, it was

VOTED: to continue the hearing until July 24, 2012.

The ERSAC hearing was adjourned at 8:30 p.m. with Chairman Ed Perkins announcing their continuation to August 7th at 7:30 p.m.

8:15 p.m. – Groton School Notice of Intent continuation DEP#169-1084

Attorney Bob Collins was present and explained Jesse Leddick from the Natural Heritage & Endangered Species Program was visiting the site on Thursday. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to continue the hearing for DEP#169-1084 to July 24th at 7:30 p.m.

B. Easom asked Mr. Collins if he could give the Commission an update on the marginal reference for the updated Fuccillo plan. B. Collins explained the new plan was recorded, and he would see that there is a reference on the deed. He will also send the revised TABCOM Conservation Restriction to Irene DelBono at the Division of Conservation Services.

8:15 p.m. – Appointment Lisa Wiesner/O’Neill Way Conservation Area

Jean Nordin Evans, also a proponent of the community garden, outlined the plans for the conservation area. She has contacted Tom Delaney who advised the Massachusetts Department of Transportation (DOT) has jurisdiction over the new curb cut necessary if a parking area is to be constructed off Rt. 119. Ms. Evans noted they were willing to contact the 50 – 60 abutters who live in the surrounding area to determine the level of interest. They would form a board of directors to govern the implementation of the submitted plan. The letter will advise abutters of the plan and offer another opportunity to walk the land. Ms. Evans and Ms. Wiesner plan to follow up with the DOT and remain positive and hope to move forward with this project.

L. Wiesner commented the plan could work if given a chance, and she felt they could prevail, and she remains hopeful people who are at odds with the project will come around. She read a letter from abutter Emily Lingham who has offered refreshing support. She assured the Commission they will deal with parking and liability issues.

J. Smigelski asked if they needed the visibility of Rt. 119 to make this work. Ms. Wiesner responded it is a bonus as it is accessible and visible. He saw an issue with having livestock and asked the potential for scaling back the project. L. Wiesner maintained this conceptual approach is an ideal system in which six chickens live in a mobile chicken tractor. Fowl provide an indispensable link in the garden. Mr. Smigelski asked about sanitary facilities. Ms. Wiesner said the plan could be modified according to the participants’ wishes. Ms. Evans said the group would report to the Commission periodically.

Member Swezey recommended starting small with vegetables and herbs in order to let people see how the project will work out. B. Easom added some of the neighbors could possibly accept the project if it is scaled back. He pointed out there may be other conservation land that is more appropriate for this project. He suggested getting the project up and running on private land to demonstrate how it can work. If there is a track record, it is much easier to convince neighbors of the merit of the project and the proponents. Mr. Easom commented the land represents a public trust that we share, not a private parcel. Ms. Wiesner protested that it appears 2 out of 60 people can sway a public process. One goal enumerated in the Master Plan is to provide community gardens on public land. Mr. Easom noted it is the proponents’ responsibility to sell the project, and there is no ‘right’ to the land.

C. Auman expressed concern with the 5 households on the cul-de-sac who have a large interest in how this property is maintained, notwithstanding the public good. He can’t support the project unless the abutters are on board. There could be a large number of cars, and there is a need to respect the wishes of the neighbors. He added “this does not seem to be the right place for the type of activities outlined in the plan.”

L. Wiesner said she hopes the concept can be supported, and she did not foresee more than 2 or 3 cars at any given time. She pointed out the abutters are not interested in hearing the plan however. Member Giguere questioned the suitability of the land for this project. J. Smigelski pointed out it is fine, gravelly soil that is well drained. Mr. Giguere thought there may be another parcel that is more suitable to this project – the Shattuck land on Martins Pond Rd. Ms. Wiesner said the central location in a densely populated area works better than a more remote site that could make it difficult for people to participate. Members discussed whether to take a formal vote or to allow time for the proponents to officially contact other abutters. The public will need to know how many people, how many plots, see a scaled plan, what is in the public benefit, how it will impact people around the site, public safety issues associated with Rt. 119, whether you will need to see the Planning Board for the parking lot, and how water will be furnished to the site.

Laura Pollard thanked the board for its balanced perspective and pointed out that while the O’Neill Way neighbors are few in number, they are abutters who will be directly impacted. H  l  ne Easom-Cahen (435 Martins Pond Rd.) said a green garden adds to the town landscape although the proponents may need more guidance on specifics. If they can create momentum, it could be a great thing to have in town and will generate interest and popularity. The idea is great, but could use some more work in planning and presentation.

B. Easom felt the Commission needs to give the proponent clear direction on how to proceed. Do they scale back and talk to neighbors? Can there be a meeting of the minds? The Commission does not want to string the proponent or the neighbors along. Member Morrison asked to hear from those in the audience. Cheryl Townsend (20 O’Neill Way) pointed out the scaling back question has to be answered. The Pollards (10 O’Neill Way) said there are a lot of negatives from their perspective. Jeff Pollard stated he preferred to see the field, and he indicated his son would not be riding his dirt bike in the field any more.

P. Morrison asked about the access from Rt. 119 and whether a vegetable garden only could be considered, bees are okay, but no animals – is that level acceptable to the neighbors? Cheryl Townsend (20 O’Neill Way) asked what happens when it does not work out as proposed? Who is responsible if the project goes bust? Members explained this is the responsibility of the Conservation Commission as the owner and manager of the land. L. Wiesner suggested a bond could be written into the license to return the land to meadow. Jeff Pollard said he liked the beautiful meadow. L. Wiesner said a buffer of wildflowers will shield the garden and mowed paths from view. There is no desire to enlarge a lawn area. She noted her own garden supports hundreds of species on 2 acres.

M. Giguere recommended bringing the plan into better focus, providing information on numbers, dimensions, locations, crops, and the wildflower buffer. P. Morrison had concerns about prolonging the process. He strongly favors community gardens, but foresaw a problem putting it where it is opposed. R. Swezey said there are other abutters who might become interested. It was agreed to meet again on August 14th to discuss the proposed use of the O’Neill Way Conservation Area.

8:30 p.m. – Appointment Bruce Wheeler – Academy Hill Replication Area

Developer Bruce Wheeler and wetland scientist Desheng Wang were present. Dr. Wang explained his credentials and said he has worked in over 60 municipalities in the state. He inspected the site hydrology, plants, and soils and discovered it is a groundwater recharge area with soils that are more typical of uplands. Although it was a dry winter, groundwater is relatively normal. Water is about 10 – 12 in. deep in the detention pond. He acknowledged the hydrology is not quite right where the excavation has been done for the replication area, although the soils looked alright, and there was a vegetative mix with 50% sedges, soft rush, and willows. The less permeable soils and loams were about 6 in. higher than water in the stream which he estimated to be at the 256 ft. contour. Dr. Wang stated there was 1,571 square feet of wetland alteration, and the mix of vegetation would include berries for wildlife. He thought the overflow could be lowered from 258 ft. to 257.5 ft.

B. Ganem outlined some of the issues which should be addressed for the replication plan: 1) A plan is required showing the actual measurements and contours in the field for both the filled area and the replication area. A cross section of the replication area should be submitted. At least 2 engineers and 1 surveyor have stated the elevations are off by 1.5 ft. The plan submitted with the Notice of Intent was inaccurate, and this appears to be the basis for this modification; 2) Flat Pond Brook is a perennial stream, not an intermittent stream; 3) What is the source of the information about the vegetation in the existing wetland? 4) Proposed wetland plantings are not in kind; this replication is not replacing a cattail marsh, but a forested riverine resource area; 5) No unrestricted hydraulic connection between the replicated wetland and the same water body or waterway associated with the lost area per 310 CMR 10.55 (4)(b) 4.; 6) How will salt be kept out of the replication area? This could impact its functionality and survival; 7) The USGS topo map depicts the wrong location; 8) From the *DEP Massachusetts Inland Wetland Replication Guidelines*: “It is important to make sure that the side slopes of the replication area are not counted as part of the replication area or the final wetlands will be smaller than required.” The plan modification should address this requirement; 9) How does the stormwater to be discharged to the replication area meet all 9 stormwater policy standards?; 10) The Commission also requested a construction sequence in May 2011; we have had weekly NPDES reports, but no projection of what is to occur within 100 ft. of wetlands in the next 3 months, 6 months, or 1 year; 11) Both the Bylaw and Regulations were in effect when this Order was issued. How will this plan address the 3 to 1 wetland replication size?; 12) Town DPW Director Tom Delaney has requested the replacement of the Townsend Rd. culvert as part of the changes made to Townsend Rd. to accommodate the subdivision roadway. This will require a filing with the Commission – when will that be submitted?; 13) When is the damaged turtle fencing to be repaired?; and 14) The contractors should clean up construction debris that has drifted onto adjoining conservation land?

Dr. Wang indicated he was not here to make it a 3 to 1 replication area, but to create a 2200 SF replication area measured in the field and adequate to match the plan. M. Giguere noted the Commission has previously raised the issue of the 3 to 1 requirement. It was agreed a copy of the questions raised above will be emailed to Dr. Wang for written responses in advance of the next meeting on July 24th.

The buyer of 750 Townsend Rd. DEP#169-1053 has requested that the yard be squared off behind the house. The line just crosses the 200 foot Riverfront Area for Flat Pond Brook. No

trees would be cut, but there is some shrub growth to be removed. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to approve this change provided the as-built plan correctly identifies the placement of markers and shrubs.

P. Morrison indicated he would be taking over for B. Neacy on the Memorandum of Understanding with the neighbors of Ames Meadow. M. Giguere reminded members that Bay State is about to mark the trees at Baddacook Field. If there are any other items which we want them to do, such as removal of buildings, a gate, signage, landing/parking, the viewshed, or abutter requests, we should convey that information to them as soon as possible.

Upon a motion by P. Morrison, seconded by C. Auman, and a roll call vote of R. Swezey, John Smigelski, P. Morrison, M. Giguere, C. Auman, and B. Easom, it was

VOTED: to enter Executive Session for the purpose of discussing a land acquisition, not to return to Open Session at adjournment.

There being no further business, the meeting was adjourned at 11 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as amended 7/24/12.

EXHIBITS

Document	Source	Date
Minutes	Conservation Commission	5/22/12
Request for Determination of Applicability	Groton Conservation Trust/Duck Pond Conservation Area	Filed 6/11/12
WPB#12-01	Groton Electric Light Department	Filed 6/26/12
Community garden plan/O'Neill Conservation Area	Wiesner/Nordin Evans	Various
DEP#169-970 'Modification to Wetland Replication Area Academy Hill	Desheng Wang/Creative Land & Water Engineering, LLC	7/6/12