

GROTON CONSERVATION COMMISSION

Open Session Minutes

August 28, 2012

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

Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to approve the Open Session minutes of August 14, 2012 as drafted.

(R. Swezey briefly left the meeting.)

The vote was unanimous.

Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to approve the Executive Session minutes of August 14, 2012 as drafted.

Member Giguere reported on the discussions of the Wetlands Bylaw Review Committee which he broke down into three areas of concern: 1) the definition of public good. This has been difficult to pin down, and everyone comes up with examples. Mr. Giguere pointed out boards and committees can always send letters of support for projects they feel are in the public good; 2) the definition of altered areas is under discussion; and 3) the cutoff date for the implementation of the Wetlands Bylaw no longer appears to be necessary. B. Easom concurred that it is difficult to pinpoint exact dates and what was there as of 2001 because of the passing of time.

M. Giguere also pointed out there are concerns about administrative requirements for relatively simple projects such as the removal of invasive plants. One of the suggestions is for a town-wide Notice of Intent for invasives removals such as some towns do for highway department projects.

(R. Swezey returned to the Commission meeting.)

B. Ganem mentioned the blanket DPW NOI ran into difficulty in Groton because of extensive rare species habitat. It is anticipated an attorney from Kopelman & Paige will provide instruction on the interaction of home rule and the Wetland Protection Bylaw and Act. There was discussion of having an appeals committee to supplement the home rule regulation. This will be an opportunity to see how the Act and the Bylaw mesh and the difficulty of balancing complex definitions and interests. J. Smigelski suggested taking each project on its own merit. M. Giguere referenced Justice Steward Potter's statement on pornography in which he stated "I know it when I see it."

N. Madden asked if the expedited permitting process could resolve any of these issues. The 134 Main St. project is the only project that has gone through this to date. The attorney will do his presentation at the September 19th meeting at 4 p.m. C. Auman said it is good to show Commission support if members are able to attend.

Upon a motion by B. Easom, seconded by J. Smigelski, it was

VOTED: to issue a Certificate of Compliance for DEP#169-1078 for 326 Nashua Rd.

B. Ganem reported a complaint has come in to the office about the public using the Moose Trail Conservation Restriction Area as a boat ramp. It may be necessary to replace the boulders to block the access. In addition, at the time of the site visit, Ms. Ganem observed there is a new block wall under the fencing that defines where the conservation-restricted land is located. This structure is not depicted on plans submitted for the garage, well, or turtle habitat improvement filings. Upon a motion by P. Morrison, seconded by N. Madden, it was

VOTED: to request the owner/applicant to return to the Commission to request an amendment to the Order of Conditions that includes a revised plan with the retaining wall.

In order to add the boulders, the Commission would need Mr. Wilson's consent as he owns the property over which the Commission holds the Conservation Restriction. B. Ganem will send a letter addressing both items.

7:15 p.m. – Groton Electric Light Department Notice of Intent continuation

Attorney Collins explained he and the other consultants involved with this project have attempted to address the Commission's concerns about avoiding, minimizing, and mitigating for work in the 100-ft. buffer zone of wetlands. Sue Carter of Places Associates has outlined the constraints of the particular site in a letter dated August 16th. Mr. Collins said this design is conservatively sited at the most appropriate location. Two siting alternatives have been reviewed, one of which involves 16,000 SF of disturbance in the buffer zone and the other 28,000 SF in the buffer zone. He pointed out both locations run counter to the Memorandum of Understanding.

In an August 1 letter, Mr. Collins included GELD's analysis of the alternative sites for locating the new GELD facility, including Sandy Pond and Lowell Rd. He pointed out both sites are close to rare species habitat, resources which are of higher quality than those at Station Ave. In fact, Mass Audubon feels that the Sandy Pond site is one of the most important in eastern Massachusetts. Also included with the revised submittal are improved plans for operations and maintenance and for invasives remediation. A separate submittal will be made for invasives remediation on the adjacent Jackson property. Brian Butler of Oxbow Associates has augmented his previous letter to the board.

In the area of mitigation, B. Collins said GELD is proposing a gift of approximately 2 acres of their Lowell Rd. Fuccillo land. This would provide dry access to the back of the land. Overall, Mr. Collins stressed this is a good compromise on a number of competing interests and is likely to enhance the area. Ms. Carter added that the invasives plan has been augmented, and the

Jacksons are supportive of the restoration plan on their property. This will be filed as a separate Notice of Intent and will address such problem invasives as honeysuckle, bittersweet, and multiflora rose. The work will occur only in the buffer zone, and there is no intention to disturb the wetlands. Trash will be cleaned from the wetland, and anything large will be removed with machinery operating from the periphery of the wetland. Burning has been eliminated as a treatment alternative for the invasives.

Member Madden felt the Wednesday meeting with representatives from Places and CEI identified an area thick with invasives that would provide a good form of mitigation on-site. Mr. Collins thanked the Commission for putting together the guide on items they wished to see GELD address. M. Giguere thought it helpful to have mitigation in the upland area while P. Morrison felt the removal of trash advantageous. Ms. Madden worried that the combination of invasive treatment and a gift of land was too extensive. B. Easom said this could be addressed in the 'Findings' section of the Order, assuming GELD gets approval. Chairman Auman asked if the applicants understood that any future development of Parcels 213-51, 52, 53, 54, & 55 will require the applicant and any successors to proceed as "new development" in compliance with all applicable stormwater management standards. This facility has been proposed under "re-development" standards, using the removal of buildings and pavement to improve pre-existing conditions. Mr. Collins agreed that this was a true statement.

Stephanie Hanson of CEI recommended the Order include conditions on the storage of herbicides and prohibit exterior storage of such items as transformers. In the field, there was discussion of a performance standard of 75% vegetative coverage, 50% of which should be native vegetation for the remediation of the buffer zone. Consultant David Nyman noted the headings were transposed in the table showing pre- and post-construction impermeable surfaces. He said it was correctly shown in the separately submitted Word document. The invasives plan calls for a 3 – 5 year observation and eradication program while the Operations & Management Plan addresses future monitoring in perpetuity.

It is likely the land donation and ANR plan would be tied to the Order of Conditions. Commissioners questioned whether conservation markers would be appropriate to represent the edge of disturbance. S. Carter pointed out there would be disturbance right to the edge of the wetland for the removal of invasives, and members clarified this could be at 25 ft. intervals and at every turn and could be subject to a marked-up plan submitted to the Commission at the conclusion of work.

Administratively, both the Order under the Wetlands Protection Act and under the Bylaw should reference the same plans. GELD would need to file for an amendment to DEP#169-1073. B. Ganem questioned whether the consultants concurred with the Total Suspended Solids (TSS) analysis. S. Carter said the runoff received in the rain garden is pre-treated by water quality inlets, stone weirs, and residence time which filter the discharge before overflowing. D. Nyman agreed the pre-treatment and rain gardens exceed the 80% standard for credit, but in all practicality there will be less than 2 ft. for infiltration to groundwater.

Member Easom thanked GELD for providing the details the Commission needs to make an informed decision. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to close the hearing at 7:48 p.m.

8:00 p.m. – Appointment Andrew Davis – Sargisson Beach

Chairman Auman thanked Mr. Davis for all the work he has put into drafting a Stewardship Plan for the conservation area. A. Davis acknowledged it is a work in progress, especially with the mapping piece missing. He introduced Danny Horrigan, a scout who is seeking his Eagle badge and would like to get an overview of the problems at Sargisson Beach. Mr. Davis said the user base at the conservation area is changing with the most popular time seeming to be for teenagers in the evening using the rope swing at the point. Other issues include weed management, parking, and multiple fires. A fire pit has been constructed on the picnic point. A. Davis acknowledged the Commission will need to make decisions about policies and usage before investing in signs. He stressed the most pressing issue at this time is to control erosion and has divided the site into several zones for management purposes.

With a PowerPoint presentation, Mr. Davis provided photographs of problem erosion spots. Wherever there is a compacted driveway slope, runoff tends to carry sediments down slope. He maintained the swim area is 2 ft. shallower on the beach side vs. the grassed side due to sand washing down the slope. The Commission will need to decide whether the grassed area will be allowed to return to the wild. One use of the area could be for a kayak rack and allow kayak/canoe landings on that area. There are potholes at the entrance to the area and grass has started to take over the beach area. The granite steps to the beach provide a path for runoff.

Commissioners agreed that the idea of leaving the gate open until first snow as determined by the stewards and the Conservation Administrator is acceptable. B. Easom pointed out that it is important to limit snow mobile access. Such measures as water bars and wood chips could be used to help maintain existing trails and the driveway. M. Giguere advised of the need to file a Request for Determination of Applicability for work in the buffer zone. Mr. Davis suggested pulling sand up from the swim area to the beach during the winter. He asked if the Commission was okay with using a truck to bring wood chips in for distribution along the driveway. B. Easom recommended treating the road separately from the trails. If there are depressions in the saddle of the terrain probably water bars down slope could help to drain water off. A. Davis said that downed trees could be used for water bars, but their life span is usually less than 5 years.

J. Smigelski said he would like to read the Best Management Practices mentioned in Mr. Davis' presentation. He also suggested that 2" to 3" rock can be added to slow and filter water and this will last longer than wood. M. Giguere commented the use of machinery within the 100-ft. buffer zone will require some type of filing with the Commission. For work outside of that zone, only the Commission's permission is necessary.

Mr. Davis has talked with members of the Trails Committee to see if they could assist with the creation of a map. C. Auman indicated he would like to have some idea of the number and the location of water bars. Member Morrison said he did not want to see the work slowed down, but he liked what he has heard so far. N. Madden asked if a fall timeline for filing is reasonable. B. Easom noted the Massachusetts Central railroad was using stone dust and crowning trails to direct water to the sides. Mr. Davis observed this would require re-grading the roadway and the

addition of fill. Chairman Auman advised doing whatever would expedite the process. R. Swezey asked if a new name was proposed for the site and commented the plan is wonderful.

8:15 p.m. – Appointment Erich Garger/46 Redskin Trail

In response to the Commission's Enforcement Order, Mr. Garger stated he has filed for the retaining wall extension even though it is already constructed. That filing will be heard at the September 11th meeting with a site visit on September 8th. In response to a complaint, the Groton Police interviewed E. Garger on Sunday, August 26th. Mr. Garger explained he was adding sand to his swim area as there has been a lot of erosion under his lake-side retaining wall. He was not aware that a permit was required. E. Garger said he has a problem with weeds softening the sand, and the wave action erodes materials from under the granite blocks. Sink holes are forming in his lawn. He indicated he added a couple of yards of sand which he estimated covered an area about 15 ft. x 18 ft. Mr. Garger stated he adds sand to the swimming area to keep the weeds down.

Member Morrison said the Commission is aware of this problem and has not seen a permanent wall solution at the lake. B. Easom indicated he would like to visit the site, particularly since there is no filing before the Commission. This is filling a resource area but Mr. Easom did not think flood storage capacity would be affected, but rather it would change the volume of the lake. Mr. Garger said he was not planning to add more sand to the lake, but he has filled the sink holes in the lawn quite often. C. Auman cautioned against any additional work until after the Commission has an opportunity to view the site and thanked him for coming in.

It has been close to two months since the Commission requested an update on the wetland replication plan adjacent to the north entrance of Academy Hill. Developer Bruce Wheeler and his engineer Desheng Wang were scheduled to present revised plans for the design of the Academy Hill replication area tonight. Several Building Permit Applications were signed off by B. Ganem to allow the building of Lots 12A and 19 at Academy Hill, but there has been no progress in getting the replication area completed. It is not likely they will seek Occupancy Permits for those homes for five or so months. Commissioners discussed whether to issue an Enforcement Order or commence fines to move the project forward. M. Giguere made a motion, seconded by P. Morrison, to begin issuing fines. Chairman Auman read the fine structure as defined in Ch. 344 of the Wetlands Bylaw Regulations. Members stressed that we need something to get his attention. Amending the main motion, it was agreed the first week of fines would be \$50 per day, then escalating to \$100 per day for the second week, and \$300 per day for the third week and thereafter. With this amendment by B. Easom, seconded by N. Madden, it was

VOTED: to commence issuing fines the first day after mailing of the Enforcement Order of \$50 per day for the first week, \$100 per day for the second week, and \$300 per day for the third and following weeks.

The vote was unanimous.

A copy of an Environmental Notification Form filed with the state under the Massachusetts Environmental Policy Act was submitted to the Conservation Commission on behalf of the

Groton Electric Light Department proposal to install a solar array on the western section of their 16.6 acre Nate Nutting property. The project is located within rare species habitat and a portion will involve a wetland that is jurisdictional under the Wetlands Protection Bylaw. Comments will be accepted under MEPA but the due date has yet to be determined.

A complaint has come in about trash and a rope swing on the bank of the Nashua River either on the conservation-restricted portion of the Partridgeberry land or on Lawrence Woods. Rob Taisey still owns the Partridgeberry property, but the Commission holds the Conservation Restriction. N. Madden questioned whether members of the Trails Committee might help with cleaning up the parcel and whether signage would help. B. Easom agreed to GPS the area to determine on which property this is located.

Eagle Scout James Lynch has constructed six barn owl boxes with the assistance of his troop. He has asked where the Commission would like to have them installed. The owls prefer large agricultural fields away from human disturbances. Baddacook Field/Susie Shattuck's was suggested for one location. Other possible sites include The General Field, Surrenden Farm, Jenkins Rd./Walnut Run, the Wilkins farm on the Nashua River, and the Shattuck farm on Maple Avenue.

Chairman Auman asked if Commissioners wished to give B. Ganem direction on whether to draft a denial or an approval Order for the GELD filing. P. Morrison observed both a denial and an approval were drafted for the previous GELD filing so it would be easy to update both documents. Part of the process will require that they re-file under the state Wetlands Protection Act. Members felt that both drafts have to be reviewed and discussed as has been the usual process in the past with the actual vote occurring at the next meeting.

There being no further business, upon a motion by P. Morrison, seconded by N. Madden, and a roll call vote of R. Swezey, M. Giguere, P. Morrison, N. Madden, J. Smigelski, B. Easom, and C. Auman, it was

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

The meeting was adjourned at 9 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/11/12.

