

GROTON CONSERVATION COMMISSION

Minutes

September 11, 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, Peter Morrison, John Smigelski, and Rena Swezey were present. N. Madden arrived at 7:50 p.m. Conservation Administrator Barbara Ganem was present.

Selectman Peter Cunningham was delayed due to other meetings and has asked the Commission to delay the discussion on the Shattuck trail easement until later in the meeting.

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

VOTED: to approve the Open Session minutes of August 28, 2012 as drafted.

The vote was unanimous.

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

VOTED: to approve the Executive Session minutes of August 28, 2012 as drafted.

The vote was unanimous.

In discussion on the status of manure management at 122 Old Ayer Rd., J. Smigelski noted this is really a storage issue as they are not managing the manure and bedding from the horse stable. The major concern is that they are storing it in one area which happens to drain toward James Brook. P. Morrison questioned whether the materials could be recycled, and Mr. Smigelski indicated there could be problems with trash and twine being present. A letter went to the lessors in February asking for cooperation. Members recommended a strong follow-up letter go to the owners, Thomas More College, requiring they address the problem by removing the manure off site, commencing within 30 days (or fines will be issued) with a completion date of 60 days. The site map previously included will be included in the letter.

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

VOTED: to issue a Certificate of Compliance for DEP#169-1055 for 716 Lowell Rd., subject to the Conservation Administrator's confirmation that the straw wattles have been removed from the site.

The vote was unanimous.

M. Giguere reported the Community Preservation Committee had approved receiving an out-of-cycle request for funding and had also approved the submittal of an article in support of the

Commission's \$25,000 request for additional funding at the October 15th Town Meeting. B. Easom commented the Board of Selectmen was running through articles for the Town Meeting warrant at their September 10th meeting. He reported Selectman Josh Degen questioned the developability of the Cox-Walker land, and Mr. Easom advised someone in real estate can more appropriately address that issue. The Selectmen did not take a position, but there seemed to be general support for the \$25,000 article.

7:15 p.m. – Request for Determination of Applicability Sheedy/204 Lowell Rd.

Homeowner John Sheedy explained he has been experiencing erosion from his driveway into the wetlands and brook. During heavy rain, sediments run down the slope to the point where silt has blocked the culvert under his driveway and undermined the driveway itself. He plans to use re-processed filings when the Town re-paves Lowell Rd. Member Smigelski suggested he look into an interceptor trench pipe which is carried by Baystate Pipes on Taylor St. in Littleton. M. Giguere expressed concern about pitching the driveway correctly so that runoff will spread across grassed areas. Member Easom pointed out the driveway has a steep slope from south to north, and it's important to re-direct the runoff at its source rather than at the bottom of the hill. Mr. Sheedy anticipates doing the work in early fall when the Town road work is scheduled. Upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to issue a negative #3 Determination in which riprap is installed on the outside of curves and haybales are available on site during the work.

The vote was unanimous.

B. Easom said he had not found the trash and rope swing problem that may be on the Partridgeberry Woods conservation-restricted area or on Lawrence Woods. He will re-visit the site in the upcoming week.

P. Morrison indicated he was trying to get in touch with Vin Bisceglia about the Ames Meadow property. In other land management issues, Bob Collins has sent a revised conservation restriction for TABCOM (Groton Woods Camp) to the Division of Conservation Services. The Commission has two Conservation Restrictions (Lawrence Woods and Baddacook Fields) pending with the Groton Conservation Trust. Members suggested scheduling an appointment with the GCT board to see if these can be finalized to suit all parties. Dan Cyr of Bay State Forestry has asked whether the Commission wishes to have the shacks demolished while the forestry project is underway in the winter. Members suggested getting in touch with local contractors to get estimates for this work. The status of the Angus & Gibbet Hill Stewardship Plan to be approved by the Town, owners, and DEM and the marginal reference to the Fuccillo deed remains the same.

(M. Giguere left the meeting at 7:30 p.m. to attend a Water Commissioners' meeting.)

7:30 p.m. – Notice of Intent – Shattuck/5 Baby Beach Rd. DEP#169-1085

Surveyor Stan Dillis explained his client wished to replace an existing outhouse with a tight tank. It is a small site, and the tight tank will require the placement of a 3 ft. high retaining wall on the lake side.

(M. Giguere returned at 7:32 p.m.)

Mr. Dillis explained his client has not yet met with the Board of Health which will dictate how often the tank is to be pumped. It is likely the tank will be installed in the spring. Pending a response from Natural Heritage and upon a motion by B. Easom, seconded by P. Morrison, it was

VOTED: to continue the hearing until September 25, 2012.

The vote was unanimous.

In discussion on the process for issuing a decision on the GELD filing under the Wetlands Bylaw as a draft approval and draft denial have been prepared. M. Giguere recommended a vote on the denial be taken first.

Member Morrison questioned whether the Commission would be agreeable to allowing the owner of 53 Burntmeadow Rd. to pave a portion of his driveway near the pond. He explained the gravel driveway is dusty at this time of year, and the paving would improve the situation, particularly with the addition of French drains. M. Giguere said he would like to review the earlier Order of Conditions as the Commission has previously had concerns with impervious surfacing in the buffer zone. Mr. Morrison estimated it was an area about 12 ft. by 30 ft. Mr. Smigelski observed a compacted gravel driveway can shed more water than it absorbs, and pavement and a recharge structure tilted away from the pond could improve conditions. Members recommended filing a Request for Determination of Applicability.

7:45 p.m. – Abbreviated Notice of Resource Area Delineation – Groton Housing Authority/Nashua Rd. DEP#169- 1087

Engineer Jeff Brem of Meisner Brem stated he represented the Groton Housing Authority for the filing to confirm the wetlands on a 14-acre lot on the west side of Nashua Rd. Wetlands are located across the road and at the back of the lot, as well as in the middle. The flagging was done by Judith Schmitz in April 2008.

(N. Madden arrived at 7:30 p.m.)

Mr. Brem explained that an isolated wetland was flagged in the middle of the lot. In preparing calculations for the Isolated Land Subject to Flooding (ISLF), it was assumed the bottom is impervious. At the time of the wetland flagging the ISLF was observed to be more than 6 in. deep and extended over a large area. Ms. Schmitz flagged the vegetated area. Mr. Brem said when he re-visited the property in early July, there was no water or cattails and the large area showed no evidence of staining and was dry. There is no inlet or outlet, and the soils are very sandy. He indicated the water sits there briefly and then drains, and it is up to the Commission to determine whether this qualifies as ILSF under the state Wetlands Protection Act.

M. Giguere noted that some of the flagging shown on the ANRAD plan was missing. The Commission expects to be able to check all of the flag locations in order to confirm the

delineation. The ILSF is characterized by extensive royal fern and highbush blueberries. While the state requires two factors to be considered in a delineation (hydrology, vegetation, and/or soils), the Wetlands Bylaw requires only one. C. Auman pointed out the area cannot be verified as a vernal pool this month.

Mark Kerkmann (133 Nashua Rd.) said something was proposed on this site at an earlier time, and it didn't go because of the extensive wetlands. He commented this is the dry season, but this area is typically ponded. Cynthia Labbe (109 Nashua Rd.) added "there is no doubt in my mind that everything is wet back there." Mr. Kerkmann mentioned this area had served as the town gravel pit at one time. He thought the original filing was done around 1988, and this was the third time something has been proposed for the lot.

B. Ganem questioned the methodology used to determine the volume of the ILSF, and Mr. Brem maintained this is the appropriate calculation. B. Easom asked if the missing flags were going to be replaced as the Commission cannot verify all the numbers at this time. Upon a motion by N. Madden, seconded by B. Easom, it was

VOTED: to continue the hearing for DEP#169-1087 for the ANRAD for the Groton Housing Authority to September 25, 2012.

The vote was unanimous.

8:00 p.m. – Request for Determination of Applicability Garger/46 Redskin Trail

Attorney Bob Collins explained that homeowner Erich Garger built a retaining wall that was a little more ambitious than what the Commission previously anticipated under an earlier Request for Determination of Applicability filing. C. Auman agreed that it was very different from what was proposed. Mr. Collins stressed that the work was very nicely done, and Mr. Garger is looking for a sense of direction from the Commission. Had he come in to modify the plan with the Commission, it could have been resolved by an amendment. Once aware of the issue, E. Garger has been very contrite according to Mr. Collins and has made this after-the-fact filing.

R. Swezey noted the retaining wall has gone from 20 ft. to 61 ft., and the new Request for Determination of Applicability includes an accurate plan of what was constructed. M. Giguere admitted he was surprised by what we got as opposed to what was originally proposed. Accepting schematic plans is part of the problem. Changes should be brought to the Commission before they are made. In trying to assist individual property owners, the Commission is accepting sketches which are not necessarily what is built. Mr. Collins acknowledged there was a lack of understanding on Mr. Garger's part, but no harm has been done. If he proposes anything further he knows he will need to come back before the Commission. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to issue a negative #2 Determination.

The vote was unanimous.

N. Madden questioned how the Commission is to avoid this type of issue in the future. Members suggested including a standard condition stating that any alterations require further review by the Commission.

Mr. Collins mentioned the additional issue of Mr. Garger adding sand to his swim area for which he also feels very contrite. B. Collins pointed out there would be more damage done to the resource area to now remove it; he suggested a small fine might be more appropriate. Beach areas at the lake are subject to wave action from boat wakes, and this is a constant issue. Mr. Garger is now on notice that it is not an accepted practice. Mr. Auman stressed that a filing is necessary.

(P. Morrison left at 8:30 p.m.)

B. Easom said it was his preference to see the material removed once the lake is drawn down for the winter. He felt this would send a clearer message to homeowners. Mr. Garger said he had poured 5 gallon buckets of sand along the retaining wall and questioned how he would store the removed materials. If the sand is not removed, it will just eventually wash further into the resource area. Members suggested the sand could be removed with a shovel and wheelbarrow, but Mr. Collins worried that the lake bed would be de-stabilized as a consequence of digging in the resource area. Mr. Garger said the area that becomes dry during drawdown may not include the area where sand was added. C. Auman suggested the Commission re-visit the site after the drawdown has occurred to assess the best approach to dealing with fill added to a resource area.

(P. Morrison returned at 8:40 p.m.)

Appointment Peter Cunningham – Shattuck Trail Easement

Mr. Cunningham noted that several features were added to the revised trail easement plan, including the found concrete bound, the location of the twin culverts under the railroad bed, and the cattle underpass. B. Easom pointed out the revised easement plan shows the easement to be impractical as walkers would have to scale the underpass to stay on the trail easement. P. Cunningham assured the Commission that Chris Shattuck would work with the Town to allow access along the edge of the field. N. Madden questioned whether an informal agreement with the current owner would work for the Town particularly if there is a hostile owner in the future. Mr. Cunningham protested this litigation has been going on for a long time, and this is not consistent with the agreement. B. Easom mentioned the easement ends just a little short of where it needs to be and is suboptimal. P. Cunningham reminded the board that there is a third party involved with the settlement, and that is the B & M Railroad.

P. Morrison made a motion, seconded by R. Swezey, to accept the trail easement plan with the revision date of September 6, 2012. In discussion on the easement, J. Smigelski asked if the stone blocks forming the cattle crossing could be moved. B. Ganem commented this is a historic feature that is probably worth preserving. M. Giguere suggested the Commission accept the revised plan as is and then, once Mr. Shattuck owns the property, negotiate an additional 20 foot easement. P. Cunningham agreed to work with Mr. Shattuck to fulfill this condition. Following up on the original motion, it was

VOTED: to accept the trail easement plan with revision date of September 6, 2012 conditional upon Mr. Cunningham working with Mr. Shattuck to extend the easement a minimum of 20 ft.

In discussion on the Order of Conditions for GELD under Wetlands Protection Bylaw #2012-01, B. Easom offered a motion, seconded by M. Giguere, to deny the project. Mr. Easom read through the draft denial findings. The motion failed, with B. Easom and M. Giguere voting in favor, and R. Swezey, P. Morrison, N. Madden, J. Smigelski, and C. Auman voting in the negative.

Upon a motion by P. Morrison, seconded by J. Smigelski, and a full reading of the draft approval conditions under Groton Bylaw #2012-01, it was

VOTED: to issue an approval, as amended, of the draft Order of Conditions for Groton Bylaw#2012-01 for the Groton Electric Light Department.

The motion passed with B. Easom and M. Giguere voting in the negative, and the remaining members voting for the motion.

There being no further business, the meeting adjourned at 9:45 p.m.

Respectfully submitted,

Barbara V. Ganem
Conservation Administrator

Approved as drafted 9/25/12.

