

GROTON CONSERVATION COMMISSION

Minutes

October 23, 2012

Chairman Craig Auman called the meeting to order at 7:15 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.

7:15 p.m. – 153 Main St. Notice of Intent Invasives Remediation Plan continuation

At the applicant's request and upon a motion by P. Morrison, seconded by N. Madden, it was

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

The vote was unanimous.

Upon a motion by B. Easom, seconded by R. Swezey, it was

VOTED: to issue an Order of Conditions for DEP#169-1088 for 49 Valley Rd. as amended under the Wetlands Protection Act.

The vote was unanimous.

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

VOTED: to issue an Order of Conditions for DEP#169-1088 for 49 Valley Rd. as drafted under the Wetlands Protection Bylaw.

The vote was unanimous.

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

VOTED: to issue an Order of Conditions for DEP#169-1086 for Weed Management in Lost Lake/Knops Ponds as amended under the Wetlands Protection Act.

Alex Woodle asked how boat speeds are to be regulated, and members explained this was an issue that could be addressed in a resource management plan for the watershed and was not a required condition in the Order. R. Swezey thought this had been attempted at a previous Town Meeting, and it was determined by the state that it could not be done. *(Please see attached MGL 131 §45 on the public use and rules and regulations for Great Ponds.)*

The vote was unanimous.

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

VOTED: to issue an Order of Conditions for DEP#169-1086 for Weed Management in Lost Lake/Knops Pond as amended under the Wetlands Protection Bylaw.

The vote was unanimous.

B. Easom questioned how R. Swezey could vote on this matter as a resident on the lake, and member Swezey stated she had contacted the State Ethics Commission and filled out a form which was approved by the Board of Selectmen Monday night which allows her to participate in the vote. She noted she had nothing to gain financially from this vote.

Upon a motion by N. Madden, seconded by M. Giguere, it was

VOTED: to approve the minutes of September 25, 2012 as drafted.

The vote was unanimous.

Upon a motion by N. Madden, seconded by M. Giguere, it was

VOTED: to approve the minutes of October 9, 2012 as drafted.

The vote was unanimous.

J. Smigelski recused himself from the room before discussion on the Orders of Conditions for the new sewer line to the proposed fire station commenced. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to issue an Order of Conditions as drafted, for DEP#169-1090 for the installation of a sewer line from the Public Safety Building to the proposed new fire station on Farmers Row under the Wetlands Protection Act.

The motion passed with C. Auman, M. Giguere, B. Easom, N. Madden, P. Morrison, and R. Swezey voting in favor.

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

VOTED: to issue an Order of Conditions, as drafted, for DEP#169-1090 for the installation of a sewer line from the Public Safety Building to the proposed new fire station on Farmers Row under the Wetlands Protection Bylaw.

C. Auman, M. Giguere, B. Easom, N. Madden, P. Morrison, and R. Swezey voted in favor of the motion.

In discussion on the Order of Conditions for the driveway servicing Lot 1 on the Lawrence Homestead Trust property, C. Auman said he was reluctant to include conditions without the applicant's knowledge. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to issue an Order of Conditions, as amended, for DEP#169-1089 for the construction of a driveway on Lot 1, Lawrence Homestead Trust under the Wetlands Protection Act.

The motion passed with C. Auman, M. Giguere, B. Easom, N. Madden, P. Morrison, and R. Swezey voting in favor.

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

VOTED: to issue an Order of Conditions, as drafted, for DEP#169-1089 for the construction of a driveway on Lot 1, Lawrence Homestead Trust under the Wetlands Protection Bylaw.

The motion passed with B. Easom and M. Giguere voting in opposition, and C. Auman, P. Morrison, N. Madden, and R. Swezey voting in favor. B. Easom said he saw no reason to place a structure, the driveway, within the 100-ft. buffer zone to wetlands.

(J. Smigelski returned to the room at 7:46 p.m.)

7:45 p.m. – 53 Burntmeadow Rd. Request for Determination of Applicability Driveway
Homeowner Rebecca Hallock explained that she wished to finish paving her driveway. A section near the pond was left graveled by the builder. R. Swezey had no issue with the plan to pave. Member Giguere explained it was left unpaved because it was within the 100-ft. buffer zone to the pond. He indicated he was not sure paving would improve conditions. Member Madden asked if permeable paving was considered for the driveway, and Ms. Hallock said she would prefer to use regular tar as she understood the permeable paving was a difficult surface to maintain.

J. Smigelski pointed out he has had difficulties with his own driveway washing out and creating dusty conditions. Ms. Hallock mentioned she has been having the gravel area refilled every 3 or 4 months. M. Giguere said he did not observe siltation near the resource area, and it appeared water was being absorbed. B. Easom recalled that not paving the driveway allowed the project to go forward since it is located within the 100 ft. buffer zone, but he was willing to see it pervious. B. Ganem clarified that there have been two filings, one for 3 houses with a shared driveway which was approved under the Act and denied under the Bylaw. The owner subsequently decided to go back to his original filing, DEP#169-828, issued in 2002 and amended in 2006. That driveway served a single family house, and paving was never proposed in the NOI. That Order was issued prior to the implementation of the Bylaw. A Certificate of Compliance, with continuing special conditions, has also been issued.

Ms. Hallock said a road pre-existed the driveway. Chairman Auman pointed out there is nothing in the Order of Conditions prohibiting paving. He thought sloping the driveway away from the resource area was a good idea but he didn't want to see an increase of water onto the neighbor's

property. A French drain may be possible, as well as some improvement with native plants near the water resource area. Upon a motion by B. Easom, seconded by R. Swezey, it was

VOTED: to issue a negative #3 Determination with the following conditions: 1) limited to the existing 10 ft. wide footprint, 2) driveway shall be sloped away from the pond, and 3) applicant shall plant 5 native shrubs suitable for wildlife.

B. Easom reported the Zoning Board of Appeals was hearing a request for an extension to the Mattbob Comprehensive Permit, and it could be an opportunity for the Commission to make comments. If there are significant changes to the plans, the applicant is likely to have to return to the Commission. They have a Superseding Order of Conditions from DEP, and they would hear minor amendments.

Town Meeting has been continued to October 29th, and B. Easom said he has prepared slides for Articles 8 and 9 explaining the Surrenden Farm note and the Community Preservation budget. This will also cover why we need the additional \$25,000 of Community Preservation funding for the Conservation Fund. Selectmen J. Degen and P. Cunningham have indicated their support if a contingency clause is included in the Purchase and Sale agreement. Mr. Morrison also thought J. Petropoulos would support the articles. One of the questions that may arise is how developable the land is, and this is addressed in the value determined by the appraisal. It would be possible to have 4 large lots in which clearing could occur up to the buffer zone. Access via Mahoney Lane or a tear down on Brown Lane are also possibilities. Town Meeting approval is likely to require the Commission's assurance that if we do not get the LAND grant, we will not buy the land. The acquisition, if the LAND grant application is successful, would cost about \$2900/acre. The landowners would like to see progress on the purchase and sale agreement to demonstrate the Commission's commitment. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to authorize Town Counsel to draft a purchase and sale agreement for the acquisition of the Walker/Cox parcels in an amount not to exceed \$5000 and to include a contingency clause for approval of the LAND grant application.

The vote was unanimous.

Drew Garvin of R. Wilson has submitted a proposed modification of the house and driveway for Lot 2A/Culver Rd., property owned by Tracy Eliades. R. Swezey questioned whether this was a legitimate lot because there is insufficient frontage in Groton. The plan will reduce impervious surfacing in the Riverfront Area by 400 SF. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to request the filing of an amendment to DEP#169-886 for Lot 2A Culver Rd.

The vote was unanimous.

Noting that in response to GELD's letter refusing to pay the remainder of the bill from peer reviewer, Comprehensive Environmental Inc., B. Ganem sent a letter noting the process for

hiring outside consultants. There are two upcoming filings (postponed from tonight) before the Commission, one for the Jackson invasives removal and the other for an amendment to DEP#169-1073 to reflect the plans approved under the Wetlands Protection Bylaw decision. The peer review informed both of these filings and brought a resolution to the Commission's earlier denial under the Bylaw. This reinforces the Commission's policy to collect consulting funds up front before engaging the peer reviewer and beginning the review.

In responding to the Abbreviated Notice of Resource Area Delineation submitted by the Groton Housing Authority, DEP#169-1087, M. Giguere said he observed obligate wetland species, and the wetland scientist and engineer observed standing water on several occasions. He indicated he believed the depression in the center of the parcel to be an Isolated Land Subject to Flooding under the Act and Bylaw and made a motion, seconded by B. Easom, to issue such a finding. The decision can be appealed to DEP, and the project can still go forward. Member Giguere indicated the surface runoff calculations submitted by Meisner-Brem did not take into account the groundwater. N. Madden expressed reservations about whether the standing water represented groundwater as this was from a wetland scientist, not a hydrologist. It was

VOTED: to issue a finding that the depression is an Isolated Land Subject to Flooding under the Wetlands Protection Act and Regulations.

The motion passed with C. Auman, M. Giguere, B. Easom, and J. Smigelski voting in favor, and P. Morrison and N. Madden voting in the negative. R. Swezey requested a clearer explanation of the motion.

M. Giguere said the vegetation, hydrology, and soils supported the finding that it was a wetland under the Act. Added to this is the report of the wetland scientist in which she observed standing water. The presence of obligate wetland plant species also speaks to the prolonged presence of water. B. Easom mentioned Mr. Brem's assertion, during the previous meeting, that the water was suspended on ice. Members agreed that the technical information was okay but the question of groundwater remained a gray area. Upon a motion by B. Easom, seconded by R. Swezey, it was

VOTED: to rescind the previous vote.

The vote was unanimous.

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

VOTED: to approve the wetland delineation of Bordering Vegetated Wetland (wetland flags 100 through 133) and Isolated Land Subject to Flooding (wetland flags A1 through A47) under the Wetlands Protection Bylaw as presented in the plan, revised 10/9/12, accompanying the Abbreviated Notice of Resource Area Delineation.

The vote was unanimous.

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

VOTED: to approve the wetland delineation of Bordering Vegetated Wetland (wetland flags 100 through 133) under the Wetlands Protection Act as presented in the plan, revised 10/9/12, accompanying the Abbreviated Notice of Resource Area Delineation.

The vote was unanimous.

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

VOTED: to approve the wetland delineation of Isolated Land Subject to Flooding (wetland flags A1 through A47) under the Wetlands Protection Bylaw due to the presence of obligate plant species, hydrology, and groundwater as presented in the plan, revised 10/9/12, accompanying the Abbreviated Notice of Resource Area Delineation.

The vote passed with C. Auman, M. Giguere, J. Smigelski, and B. Easom voting in favor, and R. Swezey, N. Madden, and P. Morrison voting in the negative.

Under land management tasks, B. Ganem mentioned that brush hogging some of the conservation areas is high on the list at this time of year. Baystate Forestry has submitted an estimate of \$4000 to do the Shattuck field at Baddacook Pond. She explained this area is severely overgrown with sumac saplings and does require a lot of work. Upon a motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to authorize B. Ganem to get another quote for this work and to have the work go forward for a fee not to exceed \$4000.

Other areas in need of management include Whistlepost, McLain's Woods, Groton Woods pond fields and at Duck Pond & Hidden Valley, and Crosswinds, and B. Ganem will make arrangements for mowing.

The W. Groton B & M Trail Easement is on record, and Trail Committee member Paul Funch would like to schedule a site walk with Commissioners. B. Easom, N. Madden, and J. Smigelski volunteered to meet with him to review the trail prior to the next Commission meeting.

Other land management tasks include permission to install a barn owl box at The General Field, and the status of the Memorandum of Agreement for Ames Meadow. It is anticipated The American Baptist Camps of the Commonwealth (TABCOM - Groton Woods Camp) Conservation Restriction will be circulated for signatures shortly.

There are two CRs still pending with the Groton Conservation Trust: Lawrence Woods which the Commission will hold and Baddacook Field which the Trust will hold. It is likely the Trust will be signing the Lawrence Woods CR shortly.

Outstanding land management issues remain the Angus & Gibbet Hill Stewardship Plan and the

Fuccillo plan revisions.

There being no further business, the meeting was adjourned at 9:15 p.m.

Notes by
 Barbara V. Ganem
 Conservation Administrator

Approved as amended 11/13/12.

EXHIBITS

Document	Source	Date
DEP#169-1088	Scira/49 Valley Rd.	Filed 9/11/12
MGL 131, §45	Great ponds; public use; rules and regulations	See attached.
DEP#169-1086	Board of Selectmen/Great Ponds Committee/Lost Lake Knops Pond Aquatic Weed Management	Filed 9/5/12
Minutes	Conservation Commission	9/25/12
Minutes	Conservation Commission	10/9/12
DEP#169-1090	Town of Groton/sewer line for proposed new fire station/Farmers Row	Filed 9/11/12
DEP#169-1089	Town of Groton/Lawrence Homestead Trust/Farmers Row	Filed 9/11/12
Request for Determination of Applicability	Hallock/53 Burntmeadow Rd.	Filed 10/9/12
Letter & plans	R. Wilson/Eliades Lot A-2 Culver Rd.	10/11/12
Abbreviated Notice of Resource Area Delineation	Groton Housing Authority	Filed 8/27/12



PART I ADMINISTRATION OF THE GOVERNMENT (Chapters 1 through 182)
TITLE XIX AGRICULTURE AND CONSERVATION
CHAPTER 131 INLAND FISHERIES AND GAME AND OTHER NATURAL RESOURCES
Section 45 Great ponds; public use; rules and regulations

Section 45. Except as otherwise provided in this section and elsewhere in this chapter, every great pond not actively being used as a source of water supply of any town, water supply or fire district or public institution, and not subject to the provisions of section one hundred and sixty of chapter one hundred and eleven, shall be public for the purpose of hunting or boating thereon and shall, notwithstanding the provisions of any special law relating to fisheries in any particular place, be open to all inhabitants of the commonwealth for fishing purposes; provided that any city or town in which the whole or any portion of any great pond not exceeding five hundred acres in extent is situated may, as to so much thereof, as is located within its boundaries, make and enforce rules and regulations relative to hunting, fishing and boating thereon. Any such rule and regulation relative to boating may include, on all or any portion of said pond, for all or any portion of the year, any of the following: a speed limit, a limit on engine horsepower, a prohibition of the use of internal combustion engines, a ban on water skiing and other high speed uses and a limitation of such uses to certain areas and certain times. Any such rules or regulations shall, to the extent that they authorize hunting or fishing or, both, be subject to the approval of the director, and to the extent that they authorize any other use thereof, be subject to the approval of the commissioner of environmental protection or to the extent that they impose restrictions upon the speed limit, a limitation on engine horsepower, a prohibition of the use of internal combustion engines, a ban on water skiing and other high speed uses, and a limitation of such uses to certain areas and certain times, be subject to the approval of the director of law enforcement. All persons shall be allowed reasonable means of access to such ponds for the purposes aforesaid.

Notwithstanding any other provisions of this section and section thirty-nine B of chapter ninety, any city or town in which is situated the whole or any portion of any great pond, as defined by section one, may, as to so much thereof which is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft equipped with floats or other means of transportation on water; provided, however, that such regulations, ordinances, or by-laws providing for such use and operation shall first be approved by the Massachusetts aeronautics division.