

GROTON CONSERVATION COMMISSION

Minutes

November 13, 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 N. Madden, seconded by R. Swezey, it was

VOTED: to approve the minutes of October 23, 2012 as amended.

In discussion on the Conservation Fund summary narrative submitted to the Community Preservation Committee, members debated the exact request amount. P. Morrison made a motion, seconded by M. Giguere, to approve the narrative as submitted. B. Easom noted that \$200,000 could be perceived as a big grab. P. Morrison pointed out you can go down, but can't increase the amount of the request. The amount can be altered right up until Town Meeting. Looking at the Conservation Fund requests over time the Commission received \$185,000 in 2005, 0 in 2006 when Surrenden Farm was purchased, \$200,000 in 2007, \$100,000 in 2008 and 2009, 0 in 2010 and 2011, and \$150,000 which was reduced to \$75,000 at the April 2012 Town Meeting. J. Smigelski asked what was available in the CPC bin, and B. Easom replied the Parks Commission has requested \$500,000 in two phases to construct a sports field on Cow Pond Brook Rd. There is \$500,000 in the unallocated reserve bin. There is the yearly unfunded liability of \$500,000 for the Surrenden Farm bond. M. Giguere said he would like to change his motion to request the amount of \$150,000, which was seconded by B. Easom, and it was

VOTED: to amend the requested amount in the Conservation Fund summary narrative to \$150,000.

The motion passed with M. Giguere, B. Easom, C. Auman, J. Smigelski, and R. Swezey voting in favor while P. Morrison and N. Madden voted in opposition. In voting on the main motion by P. Morrison, seconded by M. Giguere, it was

VOTED: to submit the Conservation Fund summary narrative as amended.

The vote was unanimous.

In discussion on the tree clearing at 111 Wintergreen Lane, P. Morrison suggested having the homeowners remove the stumps from the wetland buffer. They do not have to remove them from the property unless there is a Town bylaw requiring them to do so. Upon a motion by R. Swezey, seconded by B. Easom, it was

VOTED: to send a letter to the homeowner requiring the stumps to be moved outside the

100-ft. buffer zone to wetlands.

The vote was unanimous.

B. Ganem reported 49 Cherry Tree Lane was well stabilized, and the engineer has submitted both a statement and an as-built plan. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to issue a Certificate of Compliance for DEP#169-1048 for 49 Cherry Tree Lane.

Chairman Auman thanked M. Giguere and others for the good job with the Town Meeting presentation on the Walker Cox land acquisition. With the favorable Town Meeting vote, we are now waiting for word from the state on the LAND grant. Ross Associates has submitted an estimate for the survey of the 5-acre house lot to be excluded from the Cox property. Members requested B. Ganem get quotes to install concrete bounds rather than re-bar at the corners of the property. There is concern that the survey could be impacted by winter weather.

7:15 p.m. – Appointment Paul Funch/Trails Committee

Mr. Funch said that the acquisition of the B & M trail easement in W. Groton means there is a new trail to be developed and maintained between Hill Rd. and Fitch's Bridge Rd. The Trails Committee would like to install trail markers and posts to demarcate the trail. There will be three sets of posts: 1) at the Hill Rd. end; 2) near the utility line where the Johnston Conservation Area intersects the trail; and 3) at the Fitch's Bridge Rd. end. There is strong potential for erosion at the Hill Rd. entry because of the steepness. They will use water bars to divert water in a few places. It will be necessary to cut through approximately 150 ft. of brush and saplings after the cattle crossing. Mr. Funch did not think it would be as appealing to have walkers go out to the edge of the agricultural fields. B. Easom is marking the trail with a GPS unit to be sure the work is on the easement. P. Funch said he felt it was important to complete this trail work due to the recent vote on the design of the Fitch's Bridge as this represents the chief trail linkage west of the Nashua River.

Selectman Peter Cunningham indicated the owner, Chris Shattuck, has said he can help with the clearing of the trail since he has large equipment. Upon a motion by P. Morrison, seconded by J. Smigelski, it was

VOTED: to approve the establishment and maintenance of a trail on the B & M right-of-way trail easement per Mr. Funch's outline.

B. Easom reminded Mr. Funch to contact Dig Safe before putting in the posts.

A site walk will take place on December 1 at 9 a.m. on Baddacook Field to provide an overview of the forestry plans for this winter. Members invited Selectman Cunningham to attend, and abutters, stewards, newspapers, and board members will be notified as well. B. Ganem reported that Roy MacGregor had submitted an estimate for \$800 to brush hog the field at Baddacook, and she has asked him to complete the work this fall.

The Conservation Restriction for The American Baptist Churches of Massachusetts (TABCOM) parcels has been finalized. Two, rather than three, parcels will be subject to the CR bringing to total acreage to 27 acres. A representative of TABCOM has signed off on behalf of that organization, and the signature page is ready for Commissioners' signatures tonight.

The December 11th meeting will be the only Commission meeting for the month of December due to a scheduling conflict for the 4th Tuesday (Christmas Day).

7:30 p.m. – Jackson/153 Main St. Notice of Intent Invasives Remediation Plan continuation
At the applicant's request and upon a motion by R. Swezey, seconded by B. Easom, it was

VOTED: to continue the hearing to November 27, 2012.

7:30 p.m. – Request for amendment to DEP#169-1073 for Groton Electric Light Department facility under the Wetlands Protection Act

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

VOTED: to continue the hearing to November 27, 2012.

7:30 p.m. - Appointment/Arthur Prest Groton Lakes Association Order of Conditions DEP#169-1086

Mr. Prest (6 Weymisset Ave.), Val Prest (11 Highland Ave.), Alex Woodle (20 Highland Rd.), and Steve Beard (resident of Berlin, MA) were present. Chairman Auman thanked Mr. Prest for sending the PowerPoint presentation by Savos Danos explaining the improvements to stormwater management practices around Long Pond in Littleton. He noted a vegetated buffer is very important, and it may be possible to do a demonstration project on Lost Lake/Knops Pond. C. Auman pointed out this is an opportunity to work on getting things done using members of the Groton Lakes Association, the Great Ponds Advisory Committee, and the Conservation Commission. One of the items mentioned in the Order of Conditions is for a boat wash or boat inspections. A. Prest mentioned that the Department of Conservation & Recreation is familiar with setting these facilities up but only for land they own and manage. Senator Eileen Donoghue has been approached about possible sources of funding. There is also an enforcement issue for those leaving the Lake without washing their boats as the Lake has now become a net exporter of weeds. Alex Woodle said the hope is to get some legislation before the state aimed at preventing the spread of weeds from lake to lake.

[Residents Brad Harper (4 Birchwood Ave.) and Gerrett Darling (33 Ridgewood Ave.) arrived.]

Another measure before the state legislature is a fertilizer bill which levies a fine on homeowners for using fertilizers with phosphate. J. Smigelski said he thought the state of Maine had outlawed the sale of fertilizers with phosphate, and this may be a better approach. Mr. Woodle indicated they could ask local hardware stores and nurseries to stock particular kinds of fertilizer that would be appropriate around the Lake.

A. Prest said there are concerns about the wording of the Order of Conditions, but not to the level of appealing the decision. He noted there is erosion at both ends of the bridge on Island Road, as well as at Sargisson Beach. P. Morrison commented the erosion control condition is standard boilerplate and is not addressing general lake erosion. Mr. Prest explained that the airboat will be put in at the public boat launch when the water level is down so there will be exposed soils. He questioned why the indemnification condition (#32) was included since the Selectmen are the applicants. Regarding Condition #35, it will be necessary to re-fuel the airboat, and it would be cumbersome to have to bring it in and out of the water to do so. B. Easom asked if a boom could be used while re-fueling.

In discussion on Condition #44, Mr. Prest assured the Commission these are goals which they do plan to address. A booklet was published in the early 1990's which underscored the importance of pumping septic systems and sweeping streets. Regarding the use of fertilizers next to the Lake, members suggested talking with Mr. Danos to determine what has been used in the Littleton project - organic fertilizer, the specific name of a recommended product, or no fertilizer.

S. Beard asked if the Commission has a no-touch zone as that would mean no use of fertilizers in that area. Commissioners indicated this was the 50-ft. buffer zone. Member M. Giguere questioned whether Mr. Prest was looking for an amendment to the Order of Conditions or minor changes in the Order. He suggested the Commission vote on the particular conditions of concern. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to omit Condition #27 (on erosion control) from the final Order.

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

Upon a motion by P. Morrison, seconded by J. Smigelski, it was

VOTED: to omit the portion of Condition #35 pertaining to re-fueling from the final Order.

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

In discussion on Condition #44 the goal is the development of a joint plan to get things done. R. Swezey made a motion, seconded by B. Easom to remove this condition. R. Swezey said she was uncomfortable with including this condition as it sounds like things that have to be done. M. Giguere felt it was a list of goals, not requirements, which should be part of an education plan. C. Auman noted that many of the same issues are mentioned in the Resource Management Plan submitted with the Notice of Intent. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to revise Condition #44 to reference the Resource Management Plan rather than present a list of goals and to issue the final Order of Conditions as revised.

The vote was unanimous.

Chairman Auman asked why Groton has not done a similar program as Littleton carried out. Defining how to get funding for a facility at the public boat launch whether through a grant, CPC funds, or DCR education needs to be addressed. He asked if P. Morrison would be willing to work with Mr. Prest on this issue. Stormwater management is another area of concern and will require working with DPW Director Tom Delaney on road drainage issues. N. Madden offered to assist with this aspect. Improvements to the Sargisson Beach Conservation Area could include a buffer zone restoration test site. Clean Water Act Section 319 grants may be a source of funding. This provided funds to improve the riparian zone on James Brook, rain gardens, and roadway drainage on Main St. here in Groton.

A. Woodle pointed out there are many models around the country that could be used to structure an educational and outreach program. He reported the Groton Lakes Association has withdrawn its CPC application and expects to go the Special Town Meeting in January to seek funding for herbicide treatment of aquatic weeds at Lost Lake/Knops Pond. Their objective is to treat in the first week of April when the water level is still low. Less herbicide would be necessary to control early growth, and this results in the generation of less biomass which will reduce the possibility of oxygen deprivation. The slow kill action of the herbicide also decreases the dying biomass at any one time. Treating when there is less effluent going downstream will help concentrate the herbicide dosage. Mr. Prest expressed appreciation to the board for their help and interest in the project. Members suggested a follow-up meeting on December 11th.

8:00 p.m. – Request for Amendment to DEP#169-886 Eliades/Lot A-2 Culver Rd.

Drew Garvin of R. Wilson Associates, Inc. and the would-be buyers, Brian and Jennifer Dressel, were present. Mr. Garvin explained the original plan called for two duplexes with garages, and the Dressels are interested in buying the land to build a 4-bedroom single family house. The driveway surfaces will be reduced to a single driveway but that and a portion of the house are within the 200-ft. Riverfront Zone of James Brook.

Member Easom disclosed Dr. Dressel is his doctor, but he felt he could make an objective decision. He asked why the house and driveway were not moved further from the resource area instead of closer, and Brian Dressel responded “We plan to build a zero energy house using solar panels which maximize the use of a southern exposure.”

Members asked the Dressels if they were aware of the requirement in the Order of Conditions to make a deposit of \$11,000 to the Conservation Fund, and the Dressels replied “Yes.” R. Swezey questioned whether this is a building lot, and B. Dressel answered there is a contingency in the Purchase and Sale Agreement that they must be able to get a Building Permit before the sale goes through. C. Auman noted there is a reduction in the amount of impervious surfacing within the Riverfront Area, and this represents an improvement over the original filing.

B. Ganem explained that, as part of the Settlement Agreement on these parcels, Conservation Restrictions protecting James Brook were required. The acreage of the conservation-restricted land does not match up with the acreage listed in the recorded CR plan. This discrepancy results in less acreage being subject to the CR, and the issue should be addressed in some manner. The Occupancy Permit is contingent upon the recording of the CR and the \$11,000 deposit. The CR

is to be on 2.8 acres of land. D. Garvin was uncertain what the source of the discrepancy could be and asked whether the CR is the same as a deed. The August 3, 2012 plan submitted with the amendment request gives the conservation-restricted land as 2.8 acres. Commissioners requested D. Garvin draw in the proposed dry well on the plan. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to accept the changed plan for Lot A-2 Culver Rd. dated August 3, 2012, revised 9/18/12 and 11/13/12.

The vote was unanimous.

Upon a motion by P. Morrison, seconded by N. Madden, it was

VOTED: to close the hearing for DEP#169-886 for Culver Rd.

The vote was unanimous.

Chairman Auman explained that David Pitkin has agreed to become an associate member but was unable to be present tonight. The appointment will be taken up at a future meeting.

M. Giguere reported the Wetlands Bylaw Review Committee has scheduled a public hearing for November 20th at 7 p.m. He explained that he and Bob Pine have put together committee recommendations for this session, but he is unable to be there. C. Auman said that he could attend, but questioned whether he would be able to vote in Mr. Giguere's absence. Mr. Giguere said this is a public hearing to take input, and there was unlikely to be a vote. Whatever recommendations are generated would have to be brought back before the Committee and the Conservation Commission, and they are not finalized at this time. There could be wording changes for instance. Town Counsel has recommended against recording Enforcement Orders as another example. C. Auman pointed out that he also did not like the idea of bonding, but this is still in the model bylaw promoted by the Massachusetts Association of Conservation Commissions. One of the issues with this is that it would require trespass in order to complete work, and this raises a concern about Town liability. It has not yet been determined whether only the Regulations or the Bylaw and Regulations need to be tweaked.

The steward for the Sargisson Beach Conservation Area, Andrew Davis, is organizing a fall clean-up at the beach this coming Saturday, November 17th. He has reached out to a lot of people, and M. Giguere agreed to also notify the Stewardship Committee about the event.

B. Ganem explained there is a filing in tonight's packet for a retaining wall, cement walkway, and concrete stairway at 25 Ridgewood Ave. A portion of the work has been done, including the removal of a concrete walkway that left holes in the foundation wall for the house. There is a potential for rain to enter the structure. She asked the Commission's position on allowing the walkway replacement work to continue until the next meeting when the Request for Determination of Applicability will be heard. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to allow the work on the walkway to continue at 25 Ridgewood Ave. pending the meeting on the Request for Determination of Applicability.

To follow up on the Saturday site visit to Academy Hill, members reported water is not going through the culvert but percolating up through the sides of the bridge foundation. It appears to be going subterranean as you face north. It may have washed out over time, but it is likely to impact the foundation of the bridge. Last fall, they pumped hydraulic cement into this area to help stabilize the foundation. N. Madden commented the bridge is going to be a problem for the town. P. Morrison observed that something is going on under the culvert. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to request the applicant to replace the culvert with a structure that meets stream crossing guidelines as originally required in the Order of Conditions.

P. Morrison protested this would be costly, particularly since the service utilities are under the bridge. The bridge was improperly built and apparently the water line is underneath. B. Easom said it should be abandoned and re-routed. The motion passed with B. Easom, R. Swezey, N. Madden, and M. Giguere voting in favor, and P. Morrison, J. Smigelski, and C. Auman voting against. The Commission will look for a response by December 11th.

Regarding the land management tickle list, P. Morrison indicated the Memorandum of Understanding for Ames Meadow was in progress. Members reviewed the draft Municipal Certification for the Conservation Restriction on Lawrence Woods. This is a statement of the public benefit of the restriction. Upon a motion by P. Morrison, seconded by B. Easom, it was

VOTED: to approve and sign off on the Municipal Certification for the Lawrence Woods Conservation Restriction.

The vote was unanimous.

B. Ganem reported the billing to be signed tonight includes the \$800 surveying costs for adding several features to the plan for the B & M trail easement. Also, there is a Kopelman & Paige bill for legal work covering review of the Conservation Restriction for the Town Forest. She mentioned this was part of the Town's, not the Conservation Commission's, agreement in order to receive state funding to complete the Surrenden Farm purchase and did not fall under Conservation Fund expenses.

Member Smigelski said it would be helpful for him to have the draft Orders of Conditions ahead of the meeting in order to adequately review them. The applicant should have a copy as well. N. Madden questioned whether this wasn't a procedural problem as the hearing is closed. J. Smigelski stated he would like to read them before the meeting and suggested they go out the Thursday before the meeting. The Commission has 21 days in which to issue an Order of Conditions after the hearing is closed.

There being no further business, the meeting was adjourned at 8:55 p.m.

Notes by Barbara V. Ganem
Conservation Administrator

Approved as drafted 11/23/12.

EXHIBITS

Document	Source	Date
Minutes	Conservation Commission	October 23, 2012
Conservation Fund Project Summary Application for FY'2014	Conservation Commission	11/9/12
DEP#169-1048	Flaherty/49 Cherry Tree Lane	Filed 8/27/10
Conservation Restriction	The American Baptist Churches of Massachusetts (TABCOM)	Groton Conservation Commission signed 11/13/12
DEP#169-1086	Board of Selectmen/Groton Lakes Association	Filed 9/5/12
DEP#169-886	Request for Amendment Lot A-2/Culver Road	Filed 10/31/12
Request for Determination of Applicability	Eckel/25 Ridgewood Ave.	Filed 11/13/12