

GROTON CONSERVATION COMMISSION

Minutes

February 12, 2013

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, and John Smigelski, were present. Rena Swezey arrived at 8:15 p.m. Peter Morrison was absent. Conservation Administrator Barbara Ganem was present.

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

VOTED: to approve the minutes of January 22, 2013 as drafted.

The vote was unanimous.

Member Giguere explained that the Wetlands Bylaw Review Committee has continued its public hearing on potential revisions. GELD had an extensive list of changes they would like to see, and some of these are beginning to filter into the Bylaw. Bob Pine and M. Giguere are wordsmithing several areas, in particular the expansion of the preamble. There has been a good discussion on public benefit. The next meeting is on February 13th, and M. Giguere invited Commissioners to attend. Other areas where revisions are proposed include the exception language and seeking input from other boards. Town Counsel's observations have been helpful, and the MACC model bylaw also offers guidance. The October Town Counsel letter will be sent to members.

Chairman Auman asked whether a contribution to the Conservation Fund might be considered for a performance bond. M. Giguere pointed out there are no specific state statutes that allow the imposition of a bond for an Order of Conditions. This will be discussed further among the Wetlands Bylaw Review Committee members. Any proposed changes would be brought forward by the Board of Selectmen and Conservation Commission. B. Easom thought the changes to the preamble were very good, but C. Auman questioned whether it was clear enough on why we need a Bylaw, what it does, and how it is different from the Wetlands Protection Act. Protecting the buffer zone as a resource area is a key component of the Bylaw.

Associate member David Pitkin added the Wetlands Protection Act is generic for the whole state, while the Bylaw is specific to our particular town and resources. Members questioned whether this is going to be ready for Town Meeting as Town Counsel and the Conservation Commission will have to review it. It's also a good idea to have someone in the Attorney General's office do a preliminary review. M. Giguere said the Committee anticipates one more public meeting. N. Madden asked if there are a lot of costs involved in changing the Bylaw.

7:15 p.m. – Request for Determination of Applicability Maahs/973 Lowell Rd. garage

Paul Catalano of Catalano Construction explained his client wished to construct a 2 car garage with storage space above. The current garage with a bedroom above will remain, but the space is currently unusable as a garage. Member Easom said he visited the site before the Saturday storm

and would like to know the planned access for the new garage. Mr. Catalano said the existing garage will be closed in and the driveway will be extended to the side of the new garage. He drew in the planned driveway on the submitted plans. The foundation of the garage will be a 4-ft. frost wall with a poured cement floor. The property dips down from Lowell Rd.

N. Madden questioned the space needed for machinery, and Mr. Catalano estimated it would be about 10 – 12 ft. around the structure, but most of the excavation will be done from the driveway. He drew in the proposed limit of work on the plan. It is anticipated the work will start as soon as the permitting is in place. Mr. Catalano thought the excavated materials could be used to regrade the area around the structure to drain water away. Commissioners advised that the disturbed soils would have to be re-vegetated after the work is complete. Straw wattles are satisfactory for erosion control as the terrain is relatively flat. Upon a motion by B. Easom, seconded by B. Easom, it was

VOTED: to issue a negative #3 Determination in which crushed stone shall be placed at the dripline under the eave, straw wattles may be used for erosion control, mulch straw shall be placed on disturbed areas until seeding and final stabilization takes place; and all work shall occur within the limit of disturbance as defined by the erosion control line.

The vote was unanimous.

Two forestry bids have been received for the work at Baddacook Field on Martins Pond Rd.: Hopkinton for \$9,986.25 and Monadnock Landclearing for \$8,677.40. Baystate Forestry Service recommends Hopkinton. Upon a motion by M. Giguere, seconded by B. Easom, it was

Voted: to accept the bid from Hopkinton for \$9,986.25.

The vote was unanimous. B. Ganem mentioned the forestry operation may either be carried out before March 15th or after November 15th of this year and will be weather-dependent.

Town Counsel Shirin Everett has prepared Purchase & Sale Agreements for both the Cox and Walker parcels. Both parties have signed off. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to sign the Purchase & Sale Agreements with Marjorie Cox and Susan Walker agreeing to a closing date of February 26, 2013.

The vote was unanimous.

Mike Martorella of Ross Associates has prepared a survey plan excluding the 5 acres that will remain with the Cox house. The Planning Board has accepted this as an approval-not-required plan. Mahoney Lane is called out on the survey plan as “status unknown”, and it will be identified as such in the deed. Upon a motion by M. Giguere, seconded by N. Madden, it was

VOTED: to approve the survey plan identified as Plan No. L-12005 prepared by David E. Ross Associates, Inc. and dated January, 2013.

The vote was unanimous.

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

VOTED: to authorize withdrawals from the Conservation Fund of a sum not to exceed \$275,000.00 in payment for the Cox land (Groton Assessors' Parcel 225-54) and a sum not to exceed \$441,000.00 in payment for the Walker land (Groton Assessors' Parcel 225-55).

The vote was unanimous.

7:30 p.m. – Appointment Andrew Davis – Sargisson Beach Management Plan – postponed
Mr. Davis was unable to work on the plan due to the snowstorm this past weekend.

7:45 p.m. – Appointment Matthew Waterman and Frederick Dunn – 36 Orion Way – DEP#169-768

Engineer Matt Waterman, representing his clients Don and Cheryl O'Sullivan, the sellers of 36 Orion Way, explained that Attorney Dunn was unable to be present. Mr. Waterman is seeking a partial Certificate of Compliance for Lot 6 or 36 Orion Way proposed as part of Batten Woods. Mr. Waterman explained he has prepared calculations and drawings for Town Meeting to vote to accept Orion Way as a public way. Mr. and Mrs. O'Sullivan are the original owners and have done nothing to the land since the builder completed construction. This lot has a detention basin, and Mr. Waterman stated the owners have agreed to install conservation markers. The house is approximately 12 ft. closer to the wetlands than was originally proposed. There is a roof drain downspout, but Mr. Waterman said he could not confirm the location of a dry well in the field.

B. Ganem said this situation points to the need to show the buffer zone on the foundation as-built plan to better clarify house locations in the future. M. Waterman also noted that instead of the proposed turf stone pavers, the builder installed asphalt pavement. M. Giguere observed the contractor has departed, and the work is closer than anticipated, but the site is well stabilized. He felt the installation of the conservation markers and a plan showing the 50 ft. and 100 ft. buffer zones could work. B. Easom noted that some of the 50-ft. buffer zone is maintained as lawn, and M. Waterman said this captures sheet flow which is pitched toward the detention basin. Since pervious pavers were not installed, the house is closer to the wetlands, and the retaining wall is within the 50-ft. buffer zone, Mr. Easom questioned whether it would be possible to reclaim part of the 50-ft. buffer zone. The location of the conservation markers could help in that regard. Upon a motion be B. Easom, seconded by M. Giguere, it was

VOTED: to issue a partial Certificate of Compliance for 36 Orion Way for DEP#169-768 contingent upon B. Ganem's approval of the placement of 11 conservation markers.

B. Easom, M. Giguere, and J. Smigelski indicated they had individually signed up for the MACC Annual Conference on March 2nd.

(R. Swezey returned from her meeting with the Selectmen at 8:15 p.m.)

Randall Grover of 205 Whiley Rd. has requested authorization to remove downed wood from the Sargisson Beach Conservation Area. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to give Randall Grover permission to remove downed wood once the ground is stable at the Sargisson Beach Conservation Area.

The vote was unanimous.

Member Giguere said he attended the Keystone forestry program 3 years ago, and this resulted in the forestry work the Commission is now carrying out on conservation lands. He said the program was very motivating, and he encouraged other Commissioners to get involved as it is helpful to learn more about the management of conservation lands. B. Easom said he was interested in filling out an application. The cost is \$50, but a lot of the materials they give out are free due to funding by other state and private agencies.

Members reviewed a draft letter to Joey Ferguson at 7 Baby Beach Rd. about outstanding violations on his property. R. Swezey abstained from the discussion as she has just hired him to do work at her house. M. Giguere commented the photographs show no haybales or silt fencing at the edge of the retaining wall or mulch on the bare ground. He recommended requesting those items by a date certain with fines to ensue. B. Easom questioned whether it would be worthwhile to handle this project in conjunction with other boards as the problem seems similar to McCarthy on Island Pond Rd. He mentioned a shed had never been brought before the Zoning Board of Appeals. It could confuse the matter if he receives contradictory directions from different boards or departments. Mr. Easom commented this is also the property that has the deck sticking out over the water in contradiction of the Order of Conditions. J. Smigelski suggested requiring that roof runoff be collected from the entire structure.

Member Madden felt the Commission laid everything out quite well in advance for this project, but it seems we continue to allow him to encroach. M. Giguere thought that fines would get his attention, but the Commission has been reluctant to take enforcement to another level. This is basically an egregious violation of the contract – the Order of Conditions – which requires that some form of compensation be exacted. C. Auman mentioned the Commission was taken to task by P. Morrison and R. Swezey at the last meeting for treating people poorly. M. Giguere felt some kind of compensation is necessary. This is the third or fourth time with this particular applicant. B. Easom advocated for fines or perhaps mediation as there are legal obligations with which Mr. Ferguson should comply. There should be a full and complete response. The Commission should request immediate compliance or fines will be issued. B. Easom urged there be a clear paper trail as this could end up in court. Correspondence should reference all back documentation and require stabilization of the site and recording of the Order of Conditions with February 26th as the deadline. Fines would commence as of that date. Upon a motion by M. Giguere, seconded by B. Easom, it was

VOTED: to send a letter to Mr. Ferguson/7 Baby Beach Rd. outlining the Conditions that have been violated under DEP#169-1077 and the specific actions required by the Commission with fines for non-compliance to commence as of February 26th in

accordance with the fining schedule outlined in the Wetlands Protection Bylaw.

The motion passed with C. Auman, B. Easom, M. Giguere, N. Madden, and J. Smigelski voting in favor, and R. Swezey abstaining. The deck was constructed under an earlier Order of Conditions – DEP#169-1016.

M. Giguere questioned whether the Commission would consider having New England Forestry Foundation hold the Conservation Restriction on the Walker/Cox property. He pointed out the Commission has taken a lot of bashing about the Baddacook Pond purchase despite the benefit of getting rid of the building lot. We were led to believe that the funds from that would go toward the purchase of the Edmands' property on Kemp St. NEFF was also pursuing the purchase of some Hollingsworth & Vose property in that area, but all of those plans now appear to have been dropped. Mr. Giguere felt this could be a chance for the Commission to partner with NEFF. They are the largest landowner in the Town, and he felt it important to keep a cooperative relationship between the Town and NEFF. B. Ganem mentioned June Johnson has indicated the Trust is willing to hold the CR. B. Easom thought that having the Trust hold the CR would be mutually beneficial, especially since they own adjoining property. Upon a motion by N. Madden, seconded by B. Easom, it was

VOTED: to formally ask the Groton Conservation Trust to hold the Conservation Restriction on the Walker-Cox lands.

The vote was unanimous.

In other land management issues, revisions have been made to the Baddacook Field CR, to be held by the Groton Conservation Trust. B. Ganem will send the revised CR to Irene DelBono because there have been some changes since they last reviewed it. Eagle Scout Greg Rositch has expressed an interest in doing stairs and clearing some of the invasives around the entrance to Groton Hills on Kailey's Way. The two signs (Fuccillo and Baddacook Pond) will cost \$525. The Baddacook Pond one is little more because it will be 3 panels due to the length of the name. B. Ganem suggested also ordering a Petapawag Boat Launch sign as that one has gone missing, and it's a very popular boating access that should be readily identifiable. Members agreed to include this in the order. There has been previous discussion of ordering additional turtle signs. Some have been stolen and others are left in place through the winter. The theft-proof bolts help somewhat, but apparently both the signs and posts are ripped up. The status on the TABCOM CR and Ames Meadow Memorandum of Understanding remains unchanged.

Associate member David Pitkin requested time to discuss the Stewardship Plan for Gibbet and Angus Hills. He suggested the trail maintenance tasks be added to the job of Conservation Restriction monitoring. This would involve inspecting trails. There is no need for an endowment fund as much of the maintenance work is undertaken by the Trails Committee. The chief purpose of the Stewardship Plan is to monitor the state of the trails. In order to do this, we will need feedback from both the Trails Committee and the landowners. It could be challenging if the land changes hands. One of the controversial items is the mowing of grass around the castle. The Webbers have taken care of this since the Commission paid \$2500 in 2007. Subsequently, the Commission budget was not funded to cover this land management task.

Mr. Pitkin reported the demolition and replacement of Fitch's Bridge has been awarded to the lowest bidder, and they expect to get underway shortly.

B. Easom explained the Community Preservation Committee budget situation for 2014 could present difficulties as currently \$360,000 is available. The Parks Commission is submitting an application for \$350,000 to build additional playing fields next to the transfer station. Other CPC applications include the Commission's request for \$150,000 and a request from the Groton Housing Authority to purchase a generator. The CPC will be taking public input at its meeting on February 25th. M. Giguere said the question is whether to press on or withdraw. Recreation projects that have been funded include the Field of Dreams on Cow Pond Brook Rd., Fitch's Bridge, and the basketball court at the Lost Lake Fire Station. B. Easom said he agreed, in the spirit of cooperation, with Mr. Giguere's statement. We have had a very successful track record in getting funds for the Conservation Fund. The money was available at the time the Commission submitted its application. The bond for Surrenden Farm must be paid every year, and this doesn't leave much left over in unallocated funds. N. Madden asked how the real estate market is doing, and R. Swezey said 2012 saw houses selling for a little over their assessed values. There were no land sales, only homes, especially at the higher end. The Parks Commission has not fully figured out the financing. B. Easom has agreed to assist Jon Strauss in writing the PARC grant application. The full plan is complex and will be contingent upon receiving money from the CPC and Town Meeting, plus the PARC grant. B. Easom recommended members think about our options.

There being no further business, the meeting was adjourned at 9:10 p.m.

Notes taken by B. Ganem
 Conservation Administrator

Approved as drafted 2/26/13.

EXHIBITS

Document	Source	Date
Request for Determination of Applicability	Maahs/973 Lowell Rd.	Filed 1/30/13
Forestry bid	Hopkinton Forestry	Dated 2/12/13
Forestry bid	Monadnock Landclearing	Dated 2/12/13
Purchase & Sale Agreement	Cox parcel	Dated 2/12/13
Purchase & Sale Agreement	Walker parcel	Dated 2/12/13
Survey Plan No. L-12005	David E. Ross Associates, Inc.	Dated January 2013
DEP#169-768	Batten Woods	Filed 12/5/00
DEP#169-1077	Ferguson/7 Baby Beach Rd.	Filed 12/13/11