

## GROTON CONSERVATION COMMISSION

### Open Session Minutes

April 9, 2013

Chairman Craig Auman called the meeting to order at 7:00 p.m. in the 2<sup>nd</sup> 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 J. Smigelski, seconded by N. Madden, it was

VOTED: to approve the minutes of February 26, 2013 as drafted.

Chairman Auman reported the Sign Committee did not approve the directional signs proposed by Mass Audubon on Boston Rd. and on Sandy Pond Rd. on conservation land the Commission visited during the Saturday site visits.

Member Giguere explained the Wetlands Bylaw Review Committee was currently reviewing buffer zone standards for rivers, streams, and vernal pools and the possibility of extending protection to more streams. Right now the USGS topographic map is the standard used in the Wetlands Bylaw. The Committee's report will not be going to Town Meeting in April.

Three estimates have been prepared for a baseline documentation report and land management plan for the Fritz & Helen Walker Conservation Area: 1) Land Stewardship, Inc. came in between \$4,375 and \$5,250, 2) Mass Audubon estimated \$6000 for both elements, and 3) New England Environmental, Inc. divided theirs into parts, the total for which is \$18,890.00. We would not need the forestry part (deduct \$2,990.00). B. Easom noted the Commission has previously worked with Mass Audubon, and N. Madden commented it seems they have offered considerably more in their proposal. B. Ganem reported all three firms have excellent reputations, but Mass Audubon also has a lot of experience in trail layouts to address both human and wildlife needs. Upon a motion by B. Easom, seconded by M. Giguere, it was

VOTED: to select Mass Audubon to prepare both the baseline documentation report and a land management plan on the Fritz & Helen Walker Conservation Area for \$6000.

The motion passed by majority, with P. Morrison voting in the negative.

Commissioners reviewed the wording of the amended Conservation Restriction on Moose Trail, as well as the letter of agreement signed by Tom Wilson and Ray Lyons dated August 18, 2010 and the Determination of Applicability for the turtle path improvement project. The agreement specified certification from Ross Associates that the turtle path was improved in accordance with the plan and the Determination. During the Saturday site visit, Commissioners observed riprapping and trees planted on the conservation-restricted area that constitutes the turtle path. In addition, Commissioners observed the retaining wall constructed as part of the garage addition

for which Mr. Wilson hand drew the location on the Notice of Intent plan to serve as an as-built plan for DEP#169-1041 at 21 Moose Tr. Mr. Wilson stated on site he had not done the pervious driveway as proposed in the NOI. A structure to collect roof runoff is in place. The question is whether the Commission is ready to issue a Certificate of Compliance for this project. Members discussed whether to place boulders at the lake end of the conservation-restricted property. The purpose of the CR is to protect wildlife habitat and having boat access there does not seem appropriate. B. Easom noted a boat washing station is proposed at the public boat ramp on Paul Revere Trail to help prevent the spread of invasive weeds in the lake. Upon a motion by P. Morrison, seconded by R. Swezey, it was

VOTED: to issue a Certificate of Compliance for DEP#169-1041 for 21 Moose Trail.

The motion passed by majority vote with M. Giguere and B. Easom voting in opposition.

Member Smigelski questioned how boulders could be placed there without crossing private property. R. Swezey said it is unlikely Steve Tremblay will allow it. Commissioners suggested using a fence instead of boulders. Upon a motion by J. Smigelski, seconded by B. Easom, it was

VOTED: to look into placing a split rail fence at the lake end of the conservation-restricted Parcel dependent upon whether it is allowed under the terms of the Conservation Restriction.

The motion passed with M. Giguere voting in the negative.

7:15 p.m. – Comeau/8 Hazelwood Ave. Notice of Intent DEP#169-1094

Attorney Robert Collins and engineer Nicholas Pauling represented the owner, John Comeau. Mr. Collins explained this is a 1920 – 1930 vintage cottage that is surrounded by water. The groundwater is close to the surface, and a tight tank is proposed. The Board of Health has voted, but the state DEP must also sign off on a tight tank. There is a no-take letter from Fish & Wildlife. The existing system is not in failure but is essentially a hole in gravel, and action has been demanded by the Board of Health. The cesspool would be pumped and filled. M. Giguere questioned whether it would be necessary to remove any trees. Mr. Pauling said this will be a construction time decision as the roots may be damaged. Mr. Giguere requested the Commission be notified if there are trees to come down.

Mr. Pauling assured B. Easom that the buoyancy calculations had been done for the concrete tank. The Board of Health will be notified when pumping occurs, and the tank will be inspected at that time. Upon a motion by M. Giguere, seconded by P. Morrison, it was

VOTED: to close the hearing for DEP#169-1094 for 8 Hazelwood Ave.

The vote was unanimous.

Town Counsel David Doneski has issued an opinion that a Conservation Restriction is necessary in the case of the purchase of land with Conservation Funds generated through the Community Preservation Act. Shirin Everett says this can be done without going through the Article 97 process as the CPC enabling legislation requires a CR. This could affect both the Fuccillo and

Baddacook Pond acquisitions. P. Morrison questioned why this matter was brought before Town Counsel before coming before the Commission. B. Easom explained this is a topic that has come before the Community Preservation Committee frequently. He recently attended a conference in which it was clear the status of CRs on lands purchased with CPC monies will influence future state grant decisions. Member Morrison stressed that he felt any expenditure of Commission funds should come before the Commission before going to Town Counsel. B. Ganem said this may be paid out of the Town's regular legal budget. It is anticipated the Groton Conservation Trust will hold the CR on the Walker-Cox land. P. Morrison felt the Baddacook Pond and Fuccillo purchases should be left alone since they are already completed. N. Madden pointed out these lands have protection and would not be subject to a 40B. B. Easom agreed to follow up on the possibility of the Trust holding the Baddacook Pond CR.

7:30 p.m. – Baddacook Pond Weed Harvesting, Notice of Intent DEP#169-1093

Bill Strickland (542 Martins Pond Rd.) explained he lives on Baddacook Pond and has been using the weed harvester there since 2009 when the Selectmen received the first Order of Conditions for weed harvesting. That Order restricted harvesting to periods when the temperature was less than 50° per conditions specified by the Natural Heritage & Endangered Species Program. This Notice of Intent proposes harvesting in the summer when the weeds are visible and before they go to seed. He noted a lot of biomass accumulates if the harvesting is delayed until the fall. The weed harvester would be used at the boat ramp and in front of residential properties. Mr. Strickland said the Great Ponds Advisory Committee had had a survey of Baddacook Pond prepared by Aquatic Control Technologies. They prepared a spreadsheet showing where the weeds are concentrated. He asked for the Commission's support in allowing harvesting during the summer.

N. Madden asked if Mr. Strickland was familiar with the conditions laid out by NHESP in their letter of March 14, 2013. B. Strickland replied that he was but found it difficult to inspect the weeds for wildlife once they're dumped on land. He explained that he sees materials and wildlife on the conveyor belt of the weed harvester. It is a very slow process so wildlife can easily be viewed and returned to the water. J. Smigelski asked if there was an alternative plan if this doesn't work. Mr. Strickland mentioned that dredging or the use of an herbicide such as Clipper might be considered. He noted there is a public water well located on Baddacook Pond, but Clipper has been used in reservoirs. Hydroraking is also recommended but materials are typically removed by a weed harvester. Admitting that weed harvesting is labor intensive and not permanent, Mr. Strickland said this approach makes sense in this particular case.

B. Easom noted there was some discussion at the site visit of using the harvested materials in gardens. He expressed concern that this could transport weed seeds around town. He preferred to see the material rot at the proposed disposal site. Mr. Strickland said he had no problem with this plan and pointed out the take out spot was the most appropriate location to remove the weeds. NHESP has required that the proponent keep track of the number and types of wildlife species observed during the harvesting process. B. Strickland said he has been preparing such reports each year of harvesting along with a vegetation report in June.

Water Superintendent Tom Orcutt summarized his memo of March 7, 2013 to the Conservation

Commission on this NOI filing. It was his understanding that the filing requested the ability to harvest at five different locations and that the temperature restrictions were removed by the NHESP letter. He urged that there be no harvesting when the state is stocking fish. Mr. Strickland said the collected materials come up on the conveyor belt and are then conveyed to a trailer for disposal. He assured those present that the harvester cuts and cleans up the materials, and there is no residue. Alex Woodle of the Great Ponds Advisory Committee informed Commissioners that Committee voted to support the Notice of Intent for weed harvesting at Baddacook Pond.

Jim Luening (711 Martins Pond Rd.) did not feel it reasonable to prohibit harvesting on Saturday and Sunday as putting any type of restriction on volunteers is burdensome. T. Orcutt, pointing out this is rich habitat, said he would like to accompany Mr. Strickland on the weed harvester to observe the process before eliminating this timing requirement. The harvester is housed at the Transfer Station and they steam clean it prior to operation after doing the painting, repairs, and the replacement of belts. This year the harvester would stay at Baddacook Pond unless Lost Lake/Knops Pond needs to have a follow up treatment after the Sonar application. Mr. Orcutt thought that high pressure washing would be adequate if the harvester is moved between ponds. The Sonar application is scheduled for April 24<sup>th</sup>.

Mr. Strickland said he did not feel comfortable operating the weed harvester when other people are around because the harvester has a big paddle to the side. Timing of the hours of operation will be addressed in the Order of Conditions. There being no further questions, upon a motion by P. Morrison, seconded by R. Swezey, it was

VOTED: to close the hearing for DEP#169-1093 for weed harvesting in Baddacook Pond.

The vote was unanimous.

7:45 p.m. – Delaney/Lost Lake Dr. culvert - Request for Determination of Applicability

Department of Public Works Director Tom Delaney explained he wished to repair the culvert under Lost Lake Dr. at the pork barrel across from Valley Rd. The plan is to spincast a concrete shell within the existing culvert. Steel plates will be riveted to the gaps in the bottom of the corrugated metal culvert. There will no intrusion into the wetlands as no excavation is required. Mr. Delaney does not anticipate any need for erosion control measures. This is new technology which has been approved by the Department of Transportation. He expects the cost to run about \$40,000 for the 3-day project. The lining will be approximately 4 in. thick on the 58-ft. culvert. Mr. Delaney explained there is a 10 ft. drop at the culvert outlet. The work will be done when the boards are in the Lost Lake/Knops Pond dam so that the work area will be dry. The Sonar application is to take place when there is no flow out of the lake so there will be no conflict between projects.

Chairman Auman noted there is severe erosion with a lot of sand and salt washing down upstream and downstream slopes abutting the culvert. T. Delaney said this is the first area that is swept after winter. Re-paving will also allow berming at the sides of the roadway. This may also present an opportunity for a possible 319 grant to manage stormwater. He expects the culvert

repair to last 30 years. Any washing of concrete trucks, which will work from the side of the road, will not occur at the site.

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

VOTED: to issue a negative #3 Determination which requires that any washing out of cement trucks be done away from the site.

The motion passed unanimously.

C. Auman asked Mr. Delaney if he was familiar with the beaver damming behind 65 Gay Rd. T. Delaney said he thought abutting homeowners had been clearing the plugged culvert for some years. To assist with the control of beavers along Town roadways, Mr. Delaney said he hopes to have one of his employees trained in problem animal control. He indicated he would be willing to work with the Commission to address this issue.

8:00 p.m. – Appointment Antcil/Myette – 120 Boston Rd.

Surveyor Stan Dillis presented a concept plan for two 2-story buildings at the site. As mitigation, there are also plans to infiltrate runoff from the conservation land (Hurd) to prevent flooding on the Myette site.

Attorney Robert Antcil said this project has to go before the upcoming Town Meeting because of the way the property is currently zoned. The Planning Board will review the concept plan this coming Thursday. He maintained this project would be exempt from the local Wetlands Protection Bylaw because it is a pre-existing disturbed site per Ch. 215-3. B. Mr. Dillis commented the wetlands were flagged in connection with another project. The work would conform to all current stormwater standards and would improve existing conditions. There is currently a 7,500 SF building on the property.

M. Giguere questioned how this will be exempt from the Bylaw. This same claim was made for 134 Main St. because of its previous uses. Mr. Giguere pointed out the performance standards for work in the 200-ft. Riverfront Area require an improvement in existing conditions while this project appears to represent a significant increase in impervious surfacing. He questioned what can exist beyond what is there now.

Member Madden pointed out the 100-ft. buffer zone overlaps on the other side of the property in addition to the Riverfront Area next to Cady Brook. With no filing submitted, it is difficult for the Commission to comment. Mr. Antcil said his client is attempting to anticipate what types of questions will come up during the Town Meeting. The site is to be used for medical offices. M. Giguere observed that much of the Riverfront is already impervious, but the Commission makes a determination on whether any part of the site is currently meeting the interests of the Wetlands Protection Act.

B. Easom asked if pervious paving, similar to that behind the Town Hall, or other technologies to minimize impacts were being proposed. Mr. Dillis said pervious paving can be a maintenance issue, but there will be techniques to collect water into a recharge system. C. Auman said the

standard is that the site cannot be made worse. S. Dillis said they expected to utilize low impact development techniques, similar to those proposed for the Community School. Mr. Auman recommended that rain gardens and vegetated swales be considered. In addition, the stream could use help, but it is not on this property. The performance standard for development in Riverfront Areas is a limit of 5,000 SF or 10% of the Riverfront Area whichever is greater.

Member Swezey reported the Land Use Committee met last week to discuss the Myette concept plan. One of the benefits of this project is the construction of a rain garden on conservation land to interrupt the flow of water off the hill before it gets to Mr. Myette's land. The trail on the conservation land creates a flow way to the property according to Peter Myette.

C. Auman reminded those present that an alternatives analysis is necessary for work in the Riverfront Area. He also disagreed with Mr. Antcil's citing of Ch. 215-3.B. in the Bylaw for a previously disturbed lot. Paraphrasing Ch. 215-7 (3) of the Bylaw, Mr. Auman said the standard for work in altered areas does not include increased impacts to the wetland and a conclusion that there is no technically feasible construction alternative.

P. Morrison said it will be an improvement to remove the septic disposal system on the lot and hook up to Town sewer. The system will be replaced by a parking lot however. Members summarized the outstanding questions as the amount of impervious surfacing before and after construction, the use of low impact development techniques such as rain gardens, the need for an improvement to existing conditions, and the square footage of the property within the Riverfront Area vs. the amount of disturbance before and after construction in the Riverfront Area.

R. Swezey said she is totally in favor of the project as the Town needs more growth. N. Madden said it hard to say whether the Bylaw will apply without having a filing before the Commission. She felt water management on the site was a good idea. P. Morrison thought it a positive step to remove the shed and not have all the equipment parked on the site. Mr. Myette said his company would no longer be located there if the medical buildings are approved. The existing septic system is located aboveground and was designed to handle 68 bedrooms. Mr. Auman suggested creative approaches to make the site better. P. Morrison, seconded by J. Smigelski, made a motion, and it was

VOTED: to request a review by Town Counsel to determine if a rain garden to mitigate the flow of water can be located on the Hurd property.

The vote was unanimous.

Mr. Myette said the purchaser of the property would like to plan for a February 2014 occupancy of the buildings. B. Ganem confirmed the project would be held to the re-development standards in the Wetland Regulations. In addition, the project is not in floodplain nor does it have priority habitat for rare species. The project is being introduced by a citizen, and Town Meeting will not make an environmental decision but a vote on whether to approve the idea of the concept plan. The project will be subject to full site review after Town Meeting. The proponent is not required to get the Commission's recommendation at this time.

8:15 p.m. – Appointment David Pitkin – Stewardship Plan for Gibbet & Angus Hills

David Pitkin explained this item has been on the table for a long time, and the draft before the Commission deals with the maintenance of the areas of the trail easements and Open Space Area 4 where the castle remains are located. Mr. Pitkin explained the owner has reserved the right for several private events in Open Space Area 4. The Town is responsible for maintaining the trail network. There is an additional complexity in that the Conservation Restriction is not clear who is responsible for mowing Open Space Area 4. The CR mentions the Town will borrow equipment from the owner.

Mr. Pitkin summarized the outstanding issues for the Stewardship Plan: 1) Update pictures, 2) how to budget to maintain trails in the future, 3) mowing the 5 acres at the top of Gibbet Hill, and 4) the next steps in working with the Commission, Trails Committee, Board of Selectmen, and both landowners. The Webbers have been mowing the 5 acres around the castle although the Commission paid them \$2000 to mow it one year. P. Morrison maintained that mowing the 5 acres was the intention of those who were involved in the preservation of Gibbet and Angus Hills. J. Smigelski said “Since the Gibbet Hill Grill has access to the top for several private weddings each year, it is in their interest to maintain it.” B. Easom urged sensitivity on the right to use it as a wedding site, as the ownership could change.

Commissioners concluded their discussion by agreeing to include in the GCC budget request funds to brush hog the trails and mow the 5 acres at the top at a frequency of twice a year (early June and late September). B. Easom recommended the Commission and landowners cooperate on how to get equipment up private property, something which should be spelled out in the document. N. Madden inquired how this document will apply to new owners, particularly with regard for access for equipment. Is this a binding document for future owners? C. Auman asked why the language is included about a barn being built as it’s already been done. It was agreed to include the full Conservation Restriction as an addendum to the Stewardship Plan. He also questioned why it is necessary to go to the Selectmen. D. Pitkin thought it might be a politically wise move in order to be sure they are on board. P. Morrison suggested we share it with Mark Haddad. There will be concern when an additional \$6000 shows up in our budget request. Members thanked Mr. Pitkin for his work in pulling this together.

M. Giguere has sent out some of the PowerPoint presentations from the MACC Annual Conference. The legal ramifications of ‘Commissions Behaving Badly’ are particularly interesting, and he urged everyone to read through that presentation.

C. Auman said it looks as though Tom Delaney will work with us to resolve the beaver flooding behind 65 Gay Rd. Members requested B. Ganem contact “Beaver Solutions” to determine whether there may be a useful flow control device that would work in this situation. These devices do require future maintenance.

With Town Meeting coming up on April 22, continued to April 23<sup>rd</sup>, members agreed to change the regular Commission meeting time and place to 5:30 p.m. on April 23, 2013 in the Middle School cafeteria.

Regarding the Ames Meadow Memorandum of Understanding, P. Morrison said he needs the owner's contact information for the first house along the trail which has recently changed hands. Members reviewed the other items under land management tasks in the meeting notes:

- The Baddacook Field CR has been sent to the Division of Conservation Services for final approval before it is circulated for signatures.
- Clearing and grubbing commenced on Lot 1 Mill St./Groton Assessor's Parcel 110-19 between 157 & 179 Mill St.; this property has a use restriction due to its past use as a junkyard. The owner has contracted with an LSP to prepare an environmental report. The back 2/3<sup>ths</sup> of the lot is wetlands associated with Gratuity Brook so I have asked for a current wetland delineation in relation to the work area and proposed single family house w/appurtenances.
- A check for \$1,998.65 was received from Hopkinton Forestry & Land Clearing, Inc. as 10% of their payment for the forestry work at Baddacook Field. They will not start this until next fall (due to NHESP time constraints), but they will pay the remainder within about 80 days.
- Proponents for the development of a Hindu temple on the Mattbob property at the town line with Littleton met with the Planning Board for a pre-submission review; they were advised to contact the Conservation Commission as a church is not excluded from the local wetlands bylaw as was the 40B housing development previously approved for this site. It is likely they will have to start over with permitting as it is a new project.
- Virginia Bennett has expressed concerns about the proposed development of a 26-acre lot at the intersection of Schoolhouse Lane and Lowell Rd. (373 Lowell Rd., Parcel 233-75). It is a hot spot for amphibian/reptile crossings. A lot which is to be protected is before the Planning Bd., and another 9± acre lot may be donated to the Water Dept. Any development here will have to undergo a Massachusetts Endangered Species Act (MESA) review because of priority habitat.
- Signage has arrived for Baddacook Pond, Petapawag, and Fuccillo, and the Sign Committee signed off on the sign permits yesterday.
- 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 Board of Selectmen had questions about allowing bicycling on the conservation-restricted parcels associated with The American Baptist Church of Massachusetts Conservation Restriction near Whitman Rd.
- Fuccillo plan revisions – Attorney Collins has agreed to add a marginal reference to the deed, directing viewers to the revised plan.

Upon a motion by B. Easom, seconded by P. Morrison and a roll call vote of R. Swezey, N. Madden, P. Morrison, M. Giguere, B. Easom, and C. Auman, it was

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

The meeting was adjourned at 9:30 p.m.

