

GROTON CONSERVATION COMMISSION

Minutes

June 25, 2013

Chairman Peter Morrison called the meeting to order at 6:30 p.m. in the 2nd floor conference room in Town Hall. Members Bruce Easom, Marshall Giguere, Peter Morrison, Nadia Madden and John Smigelski were present. Rena Swezey could not attend because she was serving as a poll worker at today's senatorial election. Conservation Administrator Barbara Ganem was present.

6:30 p.m. – Andrew Davis/Steward - Sargisson Beach improvements

Mr. Davis made a PowerPoint presentation, reviewing some of the items discussed at the last meeting and noting the clean-up on June 15th went very well with the beach area cleared of aquatic weeds and the grassed area mowed. Resident and Planning Board member John Giger helped out with tools including a tractor mower. A. Davis agreed to take a barrel of weeds to the dump every week. There is a need for improved signage at the Beach. Additional signage to direct people to where kayaks and canoes can land and prohibiting motorboats is necessary. He thought signs could be obtained from smartsign.com for \$18 - \$23 apiece. There have been incidents in which motor boats have been driven up onto the Beach endangering swimmers. Mr. Davis also pointed out the current signage seems to indicate one can swim at the barbeque point.

There have been two incidents involving the portapotty – it was flipped once and last night, it was rolled down a hill. Users are leaving trash, and there are damaged trees on site. He presented several motions for Commission action. Upon a motion by C. Auman, seconded by B. Easom, it was

VOTED: to approve the installation by the stewards of trash bag dispensers and “Carry In Carry Out” signs (beach, point, parking lot) and to amend the Sargisson Beach area rules to include “Pickup after your dog in all areas within 300 feet of the water and on all trails and parking lot areas.”

The vote was unanimous.

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

VOTED: to designate the southern portion of Sargisson Beach as a landing area for non-motorized boats, such as kayaks and canoes. The swim area float line will be updated so that the rope encloses the swimming portion of the Beach. Signage indicating swim area and canoe/kayak landing area will be added.

The vote was unanimous.

C. Auman expressed concern that this plan cuts the swim area in half. B. Ganem mentioned there are lap swimmers who swim the length of the beach float rope.

Associate member David Pitkin was in the audience and noted the Sign Committee usually has a problem with a lot of little signs, and Selectman Josh Degen suggested the Harbormaster (Chief of Police Don Palma) could perhaps waive sign rules.

N. Madden pointed out Town Manager Mark Haddad has concerns about liability with the installation of a storage rack for kayaks and canoes. Even with locks these can be subject to vandalism which the Commission has already frequently encountered at the Beach. M. Giguere mentioned a rack could become a jungle gym. A. Davis objected that he had not been informed of this under the Open Meeting Law that requires disclosure and transparency. P. Morrison said the Commission could vote with a contingency on a positive response from the Town Manager while M. Giguere suggested tabling the motion due to concerns about liability. B. Easom asked how much additional funding would be needed to cover the expense. The Town is insured through the MIAA (Massachusetts Interlocal Insurance Association) whose rates are determined by risk factors and the number of claims.

Upon a motion by M. Giguere, it was

VOTED: to authorize B. Ganem to use available funds from existing restricted gifts for Sargisson Beach or the FY 2014 operating budget to order aluminum signs in an amount not to exceed \$500.

The vote was unanimous.

Members thought it best to wait to order the kayak and canoe signs. B. Ganem will check with Michelle Collette who implements the Sign Bylaw in Town about the proposed signage.

Mr. Davis continued with his presentation, stating he expects to meet with Eagle Scout Matt Lambright in early August to go over a plan to continue the erosion control measures out to the barbecue point. He offered to remove a 4 in. diameter tree that has been damaged. The rope swing continues to be a draw, encouraging motor boats to land at the point. He asked if there was any way it could be cut down. To discourage vandalism of the portapotties, A. Davis recommended anchoring them in some fashion. It may be best to put them in a more visible location such as the parking lot. With school just letting out and the upcoming July 4th holiday, Commissioners agreed an increased police presence could help. Upon a motion by M. Giguere, seconded by N. Madden, it was

VOTED: to request the Town Manager ask the Police Department to institute regular weekend patrols of the Sargisson Beach property.

The motion was unanimous. Commissioners thanked Mr. Davis for his stewardship of the property.

Upon a motion by C. Auman, seconded by J. Smigelski, it was

VOTED: to approve the minutes of June 11, 2013, as amended.

The vote was unanimous.

A UMASS student, Liz Willey, has requested permission to conduct research on Groton Hills, Floyd Conservation Area, and Harrison Ripley Forest. This is a collaborative project with MassWildlife that includes regional sampling and monitoring for Blanding's turtles. Upon a motion by B. Easom, seconded by J. Smigelski, it was

VOTED: to authorize Ms. Willey's research project provided she submits the results to the Conservation Commission at the conclusion of the project.

The vote was unanimous.

7:15 p.m. – Groton Conservation Trust Shepley Hill Request for Determination of Applicability/invasive removal

Groton Conservation Trust board member Bob Pine explained the Trust is instituting a more aggressive stewardship and management program for its conservation land. David Black is preparing baseline documentation studies and mapping invasive plant populations, such as barberry, honeysuckle, buckthorn, and bittersweet which come in in a very aggressive manner. Several student interns will be hired, as well as a licensed pesticide applicator. Each species poses a different degree of challenge and some will be lopped off while others must be treated with an herbicide application. The work will be done at a dry time of year. The cut materials will be left in place. In the case of barberry, it is likely they will use Triclopyr because Rodeo is not as effective. Work will occur in both upland and wetland areas. Any new plants will be pulled next year. Commissioners expressed an interest in any report about the results and their experiences in dealing with invasives. Upon a motion by C. Auman, seconded by N. Madden, it was

VOTED: to issue a negative #3 Determination in which 1) work shall be done under dry conditions; 2) monitoring reports shall be submitted to the Commission; 3) cut remnants of invasive plant materials shall be left on site; and 4) a licensed pesticide applicator shall apply the herbicides.

D. Pitkin indicated he had several comments on the proposed Wetland Bylaw changes but can't stay for the appointed time on the agenda : 1) he encouraged the Commission to move hearings along as quickly as possible because the Mullen rule can make it difficult for final voting. He also felt the applicant should make the decision whether to keep the hearing open; and 2) the challenge in the GELD filing was over the performance standard for mitigation. He thought this area should be clarified when revisions are considered. Bob Pine suggested this might be most appropriate in the Regulations that accompany the Bylaw.

7:30 p.m. – Bergin/4 Brownloaf Rd. Request for Determination of Applicability landscaping
Homeowners Nancy and Michael Bergin were present. They provided a description of the proposed work from their landscaper as well as a photograph of what the retaining wall and terrace might look like. The project would provide a more usable, private space in the backyard. B. Easom asked how close the work is to the wetland. Commissioners estimated it could be

between 50 and 80 ft. M. Giguere noted the Commission requested a drawing showing measurements from a known location such as the corner of the house. C. Auman agreed that a plan showing what is going to happen on site is necessary. He would like to see the top of the hill left untouched. Members explained the plan cannot change once it has been reviewed and approved by the Commission. N. Madden thought cutting down the hill 3 – 5 ft. was a concern. Mr. and Mrs. Bergin said the most aggressive design is shown on the plan, and they may not do that. Any runoff would sheet toward the house, not the wetland. The cap observed in the backyard is part of a buried propane tank. Members recommended the information in the narrative and photograph be transferred to a plan with measurements to the wetland. With the applicants' consent and upon a motion by M. Giguere, seconded by C. Auman, it was

VOTED: to continue the Determination meeting to July 9, 2013.

The vote was unanimous.

7:45 p.m. – 78 Maplewood Ave. Notice of Intent DEP#169-1097 continuation

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

VOTED: to continue the hearing to July 9, 2013.

The vote was unanimous.

7:45 p.m. – Appointment – representatives of Wetlands Bylaw Review Committee

Peter Cunningham, Steve Webber, Bob Pine, and Scott Wilson were present on behalf of the Wetlands Bylaw Review Committee. P. Cunningham said this has been a good process for tweaking some of the language in the current Bylaw to make it clearer for the applicant. The purpose section is an affirmation of the importance of wetlands, outlining the impacts, purpose, and intent of the Bylaw, thanks in large part to the work of Bob Pine. Mr. Pine added that the purpose laid out in the original Bylaw is included at the end of that segment.

§ 215-3B of the Bylaw sets out the exemptions for existing houses and is now old and would be omitted. Work can still occur within the 100 ft. buffer zone but it makes the section more consistent with the remainder of the Bylaw. M. Giguere said Town Counsel has recommended the Commission consider performance standards for alterations of lawns for example. It would give the Commission more discretion.

There are some housekeeping items in §215-4 A and B. In C we would be looking at notifying other boards, probably within a 10-day framework. This would be handled administratively however. §215-6 is more housekeeping but C will be clarified to require the permission of the applicant to continue a hearing. The definition of structure and building also got a lot of attention, and this is addressed in the §215-9 section. The Standards for altered areas [§215-7(3)] was modified to reduce concerns about the expense involved with the phrase "technically feasible alternative".

S. Webber felt that the definition of intermittent stream was a very significant concern to him as he thought it was much more restrictive than the current Bylaw. B. Pine indicated it was slightly

less restrictive as intermittent streams shown on the USGS topographic map would now be subject to the 100 ft. buffer rather than the 200 ft. Riverfront Zone. Mr. Webber maintained that it introduced a lot more protected land in his opinion. A stormwater runoff situation, i.e., a drainage ditch, would not show the bankful, vegetation, scouring, or stream bottom characteristics typical of an intermittent stream. M. Giguere explained the Wetlands Protection Act uses the USGS topographic maps as a basis, but there is a state GIS datalayer which shows hydrological connections was also considered. There is no one single, complete source of data, and field checks will be necessary to determine the specific characteristics of resource areas.

P. Cunningham said Committee members also plan to meet with the Planning Board and the Board of Selectmen. This meeting and those future meetings will present an opportunity to think through current definitions and Conservation Commission practice. For instance, a building and a structure are separately defined. The intermittent vs. perennial stream is also spelled out in the revised Bylaw. For the most part, this work involves housekeeping items and clarification.

The Bylaw Review Committee has also produced a second part which they advise considering separately as it involves increasing the protection around 'critical streams' and vernal pools. Critical streams are those that occur within priority or estimated habitat (BioMap core habitat). There would be a new set of regulations in critical zones. Bylaw members thought there could definitely be resistance within the committees to go with an increased level of protection. B. Pine said he personally thought it was important to consider this change separately from the main revisions but he stressed it was an important aspect of the revision.

P. Cunningham acknowledged that member David Black had offered good science to justify this change. A 500 ft. buffer is insufficient in some cases. It is difficult to balance making public policy so that it doesn't stifle people's rights to develop their land. He admitted some Committee members did not like this at all. M. Giguere noted the Committee considered modeling the regulations after the Rivers Protection Act which has a specific percentage written into the law. This proposal provides a little more flexibility and grants the landowner some control. He pointed out that amphibians use vernal pools for breeding purposes, but spend the majority of their lives in uplands.

The change would be in the way things are done, not what is done. The towns of Lincoln and Carlisle have 150 ft. buffer zones while some towns on the Cape have a 300 ft. buffer to vernal pools. Based on good science, according to Bob Pine, these species are using much more than the 100 ft. buffer zone. He said the change is soft enough not to take away significant rights. B. Easom asked if Committee members could elaborate on why this may not be a good idea this year. Mr. Pine mentioned there had been a move in Groton to pass its own river protection bylaw, but it was proposed just as we were coming out of a recession and failed at Town Meeting. He pointed out politics are very different when building is booming. M. Giguere commented a lot of the good land is already built on, and P. Cunningham added Groton also has a lot of land in conservation.

N. Madden estimated that 2/3's of the town has rare species habitat, but typically Natural Heritage does not get involved in development projects. J. Smigelski asked how this will affect large landowners, noting his land is his retirement package. B. Pine said the change would allow

building within these zones, but building is also limited by the 40,000 SF upland area. The buffer is included in that calculation. He maintained the change would not eliminate any lots. J. Smigelski said he felt it has the potential to tie up a lot of land, and B. Pine suggested it is an idea that needs to be examined more thoroughly. P. Cunningham observed that it is difficult to work with politics, and it may be a bad time to bring this forward, particularly if it will impact people's ability to build on their land.

N. Madden suggested looking at the value of an acre of land in Groton vs. Westford or Carlisle. B. Easom mentioned he has a vernal pool on his 15-acre property which is shared with neighbors. He thought development should be left up to boards rather than individuals. P. Cunningham conceded the change may need more massaging, but he thought it would be tough to get passed. N. Madden suggested the Commission also take into consideration how much more of a time commitment for Commissioners and the Conservation Administrator the change would involve. Regarding the proposed Bylaw changes, the Commission would be brought into the process for a public hearing, but it is expected there will be more comments from other boards to incorporate into the Bylaw. C. Auman thanked the members of the Bylaw Committee for all their work. P. Cunningham said it is the Committee's hope that these are improvements and clarifications. M. Giguere and B. Pine worked hard on this, and the core product is going forward.

Asia Webber has contacted the Commission about the proliferation of poison ivy on the Surrenden Farm trails. She has used a company called "The Poison Ivy Guy" for her yard, and she would be willing to help out with the cost. B. Easom said he would like to know specifically where the treatment is proposed. M. Giguere questioned what herbicide would be used because Roundup is non-selective. B. Easom suggested contacting Pat Huckery to see if this is an acceptable practice in Zone II at Surrenden Farm – is it an agricultural best practice?

In discussion on the Conservation Restriction for Crystal Spring, B. Easom mentioned the cost of monitoring conservation-restricted land should figure into the acceptances of CRs. He questioned whether there is some language that can be included that would require a contribution of \$5000 when the property changes ownership. M. Giguere commented it is the Commission's burden to monitor the backyards of nine house lots to assure there is no encroachment. The Commission previously agreed, in concept, to hold the CR on October 13, 2009. Upon a motion by C. Auman, seconded by J. Smigelski, it was

VOTED: to accept the Conservation Restriction for Crystal Spring as drafted.

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

Members advised that neither hunting nor stone walls need to be addressed in the Boynton Meadows Conservation Restriction. The developer's consultant had mentioned the "overlook" toward Gibbet Hill as being a public place, but that is not called out in the Trail Easement language or plan. B. Ganem commented there has been discussion of a boardwalk to provide access to the Gibbet Hill trails so the Commission may wish to include some language in the CR to allow this. B. Easom cautioned that it should be limited in scope, and P. Morrison suggested it

allow pedestrian access from Blacksmith Row, the name of the roadway in the Boynton Meadows development. Members recommended consulting with Steve Webber to ascertain what is envisioned.

Under land management topics, the LAND grant people have indicated the Town can be fully paid within the FY 2013 funding cycle so all paperwork must be submitted no later than 7/31/13. M. Giguere reported they were able to locate the boundary markers for the triangle of land on Surrenden Farm adjacent to Mr. Maynard's property. B. Easom suggested adding to the land management tickle list a discussion of conservation restrictions for both the Fuccillo and Baddacook NEFF properties in order to comply with the Community Preservation Act requirements.

Mass Audubon has begun its review for the Baseline Documentation Report and Land Management Plan for the Walker-Cox properties which will incorporate a 6/14/13 field visit with Paul Funch, Kris Corwin, and Jeff Collins.

There being no further business, the meeting was adjourned at 9:35 p.m.

Notes by B. Ganem
Conservation Administrator

Approved as drafted 7/25/13.