

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

January 26, 2012

Present/Absent: [Excused (exc); Unexcused (abs)]

Chester:	Margaret (Peggy) Wilson , <i>Martha Wallace (exc)</i>
Deep River:	Nancy Fischbach , <i>Amy Petrone (exc)</i>
East Haddam:	Harvey Thomas , <i>Emmett Lyman (exc)</i>
Essex:	Tony Chirico , <i>Vacancy</i>
<i>Fenwick:</i>	<i>Ethel Davies</i> , <i>Borough Warden (exc)</i>
Haddam:	Susan Bement , Derek Turner (arr. at 8:40p)
Lyme:	J. Melvin Woody , Lisa Niccolai
Old Lyme:	Peter Cable , Suzanne Thompson (departed at 9:08p)
Old Saybrook:	Madge Fish , <i>Belinda Ahern (exc)</i>
<i>CRERPA:</i>	<i>Steve Williams (abs)</i>
Midstate RPA:	Raul Debrigard , <i>Stasia DeMichele (exc)</i>
<i>DEP:</i>	David Blatt
Staff:	J.H. Torrance Downes
Guests:	Bob Nusbaum, Essex Land Trust; Campbell Hudson, representing Tim Mellon; Judy Preston of Tidewater Institute; Melissa Schlag, Ed Schwing and John Kennedy of CPPL

Call to Order

Chairman **Woody** called the regular meeting of the Connecticut River Gateway Commission to order at 7:35p.

Approval of 12/1/11 Meeting Minutes

Upon a motion by **Fischbach**, seconded by **Bement**, the minutes of the 12/1/11 regular Gateway meeting were approved with the following correction:

Under "New Business", that last sentence should read "*There may be a need for a Special Meeting.....*".

Correspondence/Staff Report

1. Connecticut Yankee Conservation Project (CYCP): Erik Hesselberg wrote a positive article in the January 17, 2012 issue of the Hartford Courant (copy available at meeting). Jim McHutchison of CYCP said "*...those of us serving on the Connecticut Yankee Conservation Project Advisory Committee were very pleased with the way it was written.*" Hesselberg also wrote that "*....McHutchison's group has been working closely with the Fish & Wildlife, which hopes to add the 582-acre Connecticut Yankee property to its Silvio O. Conte Fish & Wildlife Refuge, running the length of the 7.2 million-acre Connecticut River watershed.*" Andrew French, the Conte refuge's project leader, said "*....the Connecticut Yankee property is a key piece in the "conservation mosaic" of the lower Connecticut River. when you look at look at the property and its location at the confluence of the Salmon and Connecticut rivers – it's an important property.*"
2. New Residential Construction, Saltus Drive, Old Saybrook: A potential buyer of property at the end of Saltus Drive at the end of Sheffield Street on North Cove in Old Saybrook contacted Gateway at the

urging of ZEO Chris Costa. Downes and ZEO Chris Costa have discussed and conducted a site visit. Following that, Downes met onsite with the potential buyer and Angus McDonald, Jr. to discuss Gateway-related issues. Renowned Madison architect Duo Dickinson has apparently been retained to design the residence (Downes contacted him via email to offer advice – haven't heard from him). Those on the Commission who were involved eight or so years ago may recall that Dickinson was one of the architects sitting on our "Charting the Course" panel on responsible, context-sensitive design in the Gateway Conservation Zone. The potential buyer wants to demolish the existing one-story structure located within the 100 foot setback and buffer and move it landward slightly. Variances for setback encroachments will be necessary. At issue is the buyer's desire to remove a significant number of pine trees that are located on the west side of the property opposite the Cove. The most compliant location on the lot is not where the buyer wants to put the house. The buyer has expressed a desire to come before Gateway to have a preliminary discussion in February.

3. Haddam Conveyance: Word "on the street" is that the value of the two properties in question is separated by about \$1 million. The 17 acres is the higher valued property, meaning that if the values are confirmed reliable by DEEP, the Riverhouse Partners will have to make up the difference in value in some way. SPRB Director Brian Dillon is intending to put a banner of sorts on the home page of the SPRB website to alert the public on the date of the meeting, that as opposed to having to find your way through to the specific agenda and search for the item.
4. North Cove (Essex) 7-lot Subdivision: The 11-acre Croft parcel, located adjacent to North Cove and the "windmill" on Foxboro Point is the subject of a subdivision review before the Essex Planning Commission. Questions have been asked of Downes regarding Gateway involvement and policies in such an application. During the update to the activities of the Essex Land Trust as they relate to the Gateway Commission, Land Trust member Bob Nusbaum may have a comment or two about this application.

The general structure notations on the application plan shows "5 bedroom homes" located close to the road (away from the cove-front). Each lot has cove frontage where each property owner can apply to have a private residential dock. The applicant has apparently offered a 100 foot conservation easement along the cove and discussions regarding the retention of the windmill have occurred as well.

Downes showed aerial photographs of the site and a copy of the proposed subdivision plan. He pointed out the existing Croft house, the tree cover on the property question and the existing windmill, which is located on the adjacent property. It was pointed out that Gateway has no authority in the subdivision process and, depending upon whether or not the 2004 Gateway standards are adopted into the Essex Zoning Regulations, may have no authority in the construction of any of the structures either, especially if no variances are requested.

During discussion, Bob Nusbaum of the Essex Land Trust confirmed that the property owner is offering a conservation easement measuring 150 feet from the water's edge, a "no-build" zone, which is not insignificant. Mr. Nusbaum indicated that the high asking price for the property (approximately \$8 million) was too much for the Land Trust to consider for purchase and preservation.

5. CT Land Conservation Council (Amy Paterson): Through Amy Paterson, Gateway has been asked if they may be willing to sponsor the 2012 Annual Land Conservation Conference to be held Saturday,

March 24th at Wesleyan University in Middletown. There are four levels – Platinum (\$1000), Gold (\$500), Silver (\$250) and Bronze (\$100). The dollar amounts are referred to as “starting at....”. The CLCC flyer on the subject is attached at the end of this document. The request will be dealt with under “New Business” at the end of the meeting.

6. Great Meadows Conservation Trust/Rocky Hill “Dump” Update: Peter Maxwell of the Rocky Hill Riverfront Preservation Society is updating Gateway on their issues with the dump in close proximity to Geoff Brook. The following email information was forwarded for you interest. A flyer for a January 18th “First Annual Town Hall Meeting and Pot Luck” is attached.

The Society's meeting was a pot luck dinner, raffle, and informational meeting with Mayor LaRosa, partly to learn what the town is doing regarding the environmental threats posed by the proposed dump activities. Maxwell noted that the groundwater was tested by the Central Connecticut Health District at two domestic wells adjacent to the dump and determined to not contain significant levels of contaminants - it is potable. Surface water in Goff Brook was tested by ATC Associates upstream and downstream of the dump and determined to not contain contaminants. Meadow Properties, the owner, has taken out a legal notice, warning the public that proposed activities may contaminate the brook.

7. Special Exception Exemption, Deep River, Meadowoods Road at River Road: The current property owner is planning to demolish her existing house, which is located on a 6 acre lot that is substantially treed. The proposed replacement structure will be located essentially on the same footprint, will meet all regulations (no variances) and will be in excess of 4,000sf. This will be the first case where the local zoning authority has determined that the proposed structure will not be seen from the river and will therefore not be subject to the requirement for a Special Exception review. The exemption is codified as Section 10.3.2 of the Deep River Zoning Regulations and reads as follows:

*10.3.2 **Exception.** A Special Permit shall not be required for residential structures over 4000 square feet in total area under this Section if it can be demonstrated by the applicant that the proposed structure or structures will not be visible from the Connecticut River. Demonstration that a structure will not be visible from the Connecticut River shall consist of an area topographic map showing that there is intervening ground at an elevation at least 35 feet above ground elevation of the proposed structure.*

The builder has said that the owner, Karen Katon, is set on not removing *any* trees; she enjoys the seclusion that the lot and existing tree cover provides.

Fischbach confirmed, based upon local knowledge, that the structures are not seen from the Connecticut River, River Road or Meadowoods Road. **Downes** commented that the exemption relieved the applicant of having to make application to the Planning & Zoning Commission but not the Gateway standards included in the Deep River Zoning Regulations.

8. Annual Rockfall Membership Renewal. Request for renewal of annual membership and request for donation. To be discussed under New Business.

Treasurer’s Report

Wilson reported that the Finance Committee will be meeting on Monday, February 6th at 4pm at CRERPA. Committee member **Fischbach** will not be able to attend.

Wilson presented a check totaling \$7,674.72 which includes three months of staff fees payable to CRERPA. Questions were raised with respect to which monthly bills had been paid and which had not. Question was also raised based upon the fact that Gateway did not meet in November due to the Thanksgiving holiday. The consensus was that the financial questions should be resolved through discussion with Financial Advisor Dorothy Papp. Payment of the bills was tabled until the Gateway's next meeting on Thursday, February 23, 2012.

Referrals

Old Lyme. Reduction of Setbacks for Accessory Uses, Buildings and Structures*.

- In Residence RU-40, 80 Districts, side and rear setbacks can be "halved" for accessory structures less than 200 square feet (e.g. 10' x 20') with height of 15 feet or less.
- In RU-10, 15, 20 Districts, such structures can be as close to boundary as 5 feet if less than 200 sf and no higher than 10 feet.

* Only for side and rear setbacks, accessory structure to be no closer to streetline than principal building, building must be uninhabited.

Motion to approve by **Fischbach**, seconded by **Cable** as proposed. Motion passed unanimously.

Staff Actions

Haddam, Saybrook Road, LLC. Saybrook Road (opposite the DOT Tylerville facility driveway). Map #65, Lot #7A. Rear yard variance request for placement of proposed diesel fuel dispenser, canopy and auto repair building in a non-conforming location. Downes, who showed aerial photos and displayed the site plan map submitted with the application, indicated that a letter of non-opposition was sent at the end of December, 2011 due to the fact that the property was not visible from the river.

Discussion the Goodspeed Airport Scenic Easement offered by Airport owner Tim Mellon

Attorney Campbell Hudson led the discussion on behalf of Mr. Mellon. Hudson reported that Mellon continues to be interested in conveying a scenic easement to the State of Connecticut, preferably through the Gateway Commission. The site visit attended by Mellon, Hudson, Downes and Judy Preston of the Tidewater Institute was summarized. Mellon had previously agreed to the concept of planting a riparian buffer along the riverfront of the parcel in return for the Gateway Commission again urging CTDEEP to accept possession of the scenic easement. Hudson indicated that Mellon's desire is for the easement to ultimately go to the State of CT and not what may be a more ephemeral organization (even Gateway may be "ephemeral" for the purposes of easement ownership).

Mellon agreed to have Judy Preston develop a plan for the planting of non-invasive plants in a manner which would not interfere with airport and FAA regulations. Preston referenced the riparian buffer study performed by Margot Burns and her for CRERPA and Tidewater. The airport property was one which was identified in the study as having high potential for the reestablishment of a riparian buffer, which would be narrow to the north and widen to the south in the vicinity of the existing cottages at the site. The site includes approximately 2,500 linear feet of shoreline (excluding approximately 250 linear feet of shoreline to the immediate north of the airstrip, an area which would have to remain clear of any vegetation which could present hazard to aircraft). Preston discussed appropriate plantings that would work in this location including sumac, red cedar, elderberry, alders, willows, witch hazel and sassafras (under story plantings). Native perennials could be planted as well including asters and golden rod. Although much of the initial discussion about this riparian was in terms of its ability to buffer the view of

the upland facilities, Preston emphasized the value of the buffer in terms of habitat and food source for pollinators and neo-tropical migrants and as protection against non-point source pollution from the airport. Secondly, depending upon the allowable height of the vegetation, the buffer could act somewhat as a visual buffer as well. Preston agreed that the project could be a wonderful educational opportunity supporting efforts to reestablish riparian buffers throughout the lower river valley.

Niccolai asked about the presence of invasive plant species and whether the proposed buffer will effectively mitigate the growth of such invasives. Preston indicated that, planted at the proper density, invasive species could be controlled to a great extent.

Debrigard asked Hudson if the existing access roadway (existing via easement) could be moved away from the river, thereby providing more area for a riparian buffer than is currently available, especially toward the north end of the property. Hudson said, yes it's a possibility but unlikely due to all of the property owners who would have to grant permission to such an initiative. In fact, Mellon's predecessor in ownership had a drawn out legal issue that required resolving the easement issue with those property owners. Mellon would likely be reluctant to open that can of worms again. **Debrigard** asked how frequently the property floods. **Bement** offered that she recalled flooding during the 1982 storm. Hudson confirmed that flooding occurred in 1982, 1984 and during Tropical Storm Irene in 2011.

Debrigard offered that any plantings would have to be chosen to withstand flooding. He also asked if the right for public access could be granted as well. Hudson responded that, no, public access couldn't be provided (not that Mellon doesn't support public access) due to restrictions of the FAA and the airport.

Hudson brought up the issue of possession of the easement and the concern that if the State held it, is there a possibility that the easement could be "overturned" in a manner similar to the Riverhouse Partners/Charlie Robinson (Camelot Cruises) parcel across the river in Haddam. Although the government could do "damn-well what it pleases", Hudson said, it is less likely that a donated easement would suffer the same disposition.

Based upon Hudson's acknowledgement that Mr. Mellon will gain a tax advantage from this effort, **Thomas** asked why Mellon could sell the property "at a bargain price", take the tax advantage and have the new owner allow the property to revert to a natural state. Hudson expressed his belief that Mellon was intent upon protecting the property from development but also has a love of small airports as valuable resources; they are under threat throughout Connecticut. **Thomas** also indicated that a reversion clause would also be necessary that had the property revert to another organization like the Gateway, East Haddam Land Trust or other similar organization if any effort to transfer the property were to commence by the State of Connecticut.

Niccolai and others suggested that the riparian buffer be planted to the inland side of the access roadway as well, which was again discouraged by Hudson based upon the need for continual maintenance due to FAA restrictions to plant heights as one moves laterally away from the center of the airstrip.

Woody asked Hudson what he thought he wanted the Gateway Commission to do. Hudson indicated that he wanted the minutes to reflect the continuing support of this effort. The Commission came to a consensus that they wanted Mellon, Hudson and Preston to continue their efforts to design a riparian buffer prior to urging the State of Connecticut to accept the offered scenic easement.

Deep River resident John Kennedy made comments regarding ideas concerning what could be done with

this important property. **Woody** and **Fischbach** responded indicating that most of what Kennedy referred to was covered in the numerous discussions that have been held at numerous Gateway meetings through the past several years.

Hudson commented that a “reversion” clause was a definite possibility in any agreement if and when the easement is transferred, this to protect the ultimate easement holder.

Great Meadows of Essex and the Essex Land Trust

Bob Nusbaum of the Essex Land Trust was present to briefly update the Gateway Commission on their efforts to acquire the rights of all properties on the Great Meadow peninsula for the purpose of conservation and preservation. Nusbaum handed out copies of a simple map which showed the parcels on Great Meadow and reminded the Gateway that last year they “subordinated” their rights to some of the property, this to allow the ELT to apply for and acquire funding from the NRCS (Dept. of Agriculture, formerly the Soil Conservation Service), funds that have been used in this acquisition process. Great Meadows is approximately 174 acres and is divided into approximately 170 individual “slivers” of land owned as follows: 60, ELT; 100, private owners; and 10, boat clubs. The ELT is using the grant funds to acquire 25 additional acres. Nusbaum reviewed the previous location of Ely’s Ferry and the access locations which include a ROW along the riverfront of Great Meadow from the north and a wooden bridge which originated near the Bushnell Street canoe launch and connected to Great Meadow above Essex Island Marina.

Discussion of Haddam Conveyance

Downes reported that he had been in touch with Director Brian Dillon of the State Property Review Board who indicated that (1) he is planning to put a banner on the front page of the SPRB website that will alert all those who are interested that the conveyance package has reached them and that a date has been set for the meeting and, (2) unlike the DEEP proceedings, the SPRB proceedings will be completely open to the public. Downes and **Fischbach** reported that as of the close of business on Thursday, 1/26/12, the conveyance hadn’t appeared on the SPRB agendas. Downes reported that he put in a call to DEEP Analyst Beth Brothers leaving a message asking if she could simply provide any information on the possible timeline for when DEEP may be done with the closed “negotiation” that was underway. As expected and as has been the case for some time, Brothers did not return the call. At this point, Ed Schwing and Melissa Schlag of CPPL reported on their efforts to acquire information on the four appraisals performed for the State and the CT SPRB. Schwing reported that the Haddam Bulletin FOI request for the information was denied by DEEP due to the process being a part of a “negotiation”. A complaint/inquiry was lodged with the Freedom of Information Commission (Docket No. 2012-007, Tom Hennick). It was commented that Senator Daily was requested to put pressure on DEEP to be more transparent, consistent with her assertions made throughout the legislative process of the conveyance.

Schlag spoke commenting that she had been attending the Haddam P&Z meetings. The P&Z has apparently followed through with suggestions to remove hotels and theaters from the commercial zone, instead leaving that step to the process of developing the village regulations that will ultimately be put in place and allow the Riverhouse development anticipated to occur at the 17 acre property. She also reported that the CAHV committee (Committee for the Advancement of Haddam Villages) was disbanded as it had lost momentum through the past year and became obsolete. It was also reported that Town Planner John Pagini of Coventry would fill in for Haddam Town Planner Liz Glidden during her maternity leave, expected to commence in the latter part of February. Schlag further reported that she and Martin Mador of the Sierra Club had recently met with Haddam 1st Selectman Paul DeStefano, who expressed discouragement regarding the lack of infrastructure in the Tylerville area. She reported that

DeStefano had expressed no need to “plan ahead” in terms of what will occur at the 17 acre site. He believes that the developers will be providing the needed infrastructure to the area. Schlag reported that CPPL was going to try to have a town meeting scheduled where residents could vote to oppose the swap, but she was reluctant to think that that would happen. She also cited Jon Lender’s Courant article as well as that in the Haddam Bulletin.

Blatt asked about the “local thinking” on the conveyance and whether or not there seemed to be any opinion regarding whether or not the Riverhouse Partners could indeed come up with a significant sum of money if the rumors of the discrepancies in property values is true. Schlag reported that for weeks now no one is returning calls; DEEP or members of Riverhouse Partnership.

Wilson raised the question of what the time deadlines are in this case. It was concluded that the two-year deadline established by the legislature commences once the properties are actually conveyed. One recollection is that the two year time period is for the commencement of the project, which could simply mean the “removal of the first tree”.

Debrigard suggested the writing of a letter to the SPRB reminding them of Gateway’s ongoing interest in this conveyance and its disposition, their desire to be notified and to remind them to be looking at this situation very carefully. The letter would also request the information associated with the four appraisals. The letter would be copied to Ms. Beth Brothers at CTDEEP. **Fischbach** added that the letter should also include the offer that members of Gateway would be happy to attend any meetings and provide any testimony that the SPRB thought may be appropriate.

Woody offered his recollection of protective easements being offered by the Riverhouse Partners during the legislative process. **Debrigard** offered that protective easements would further reduce the development value of the 17 acre property and, along with the \$1 million appraisal differences that are being reported, may make the project financially infeasible.

A motion was made by **Debrigard**, seconded by **Thomas** to send a letter to the CT State Property Review Board expressing the points addressed above (GW interest, desire to be notified, reminder to look at the case in detail, request for the appraisal information and the offer for GW attendance to allow for testimony before the SPRB). The motion was approved unanimously with **Blatt** abstaining from the vote.

Committee Reports

Thomas of the Outreach Committee raised the topic of the Spring Boat Trip. He said the same format should be used including (1) the trip down river, (2) the use of same trip brochure and the same ten talking points and (3) the same invitation process. The Commission consensus was to proceed with the planning, using the early June dates as the targets for the trip.

Thomas also suggested that Gateway show a presence at the various fairs located throughout the Gateway region such as the Haddam Neck Fair, the Chester Fair, the Hamburg Fair, the 8 mile Wild and Scenic Fair and others. There wouldn’t be a need for attendance, but a table display should be organized so that materials (Mission Booklet, etc) could be handed out. A map could also be displayed as well.

Last, **Thomas** suggested that Gateway produce a version of the one-card placard used years ago by Gateway to have something simple and inexpensive to hand out to the public at large, that rather than

using the fairly expensive Mission Booklet as Gateway's primary handout. **Fischbach** suggested that the card could be similar in size and design to the riparian buffer "rack cards" produced by Judy Preston and the Tidewater Institute.

Fischbach indicated that she will return to prioritizing the committee assignments, especially for newer members who have not yet been assigned to committees (Turner, Ahern, Lyman and possibly others).

Debrigard, representing the Land Committee, indicated that little had happened with the Haddam Neck property for which a meeting was held the Wednesday prior to Thanksgiving. He also briefly discussed the un-owned industrial property located on Higganum Cove in Haddam. Discussions have occurred which highlight the fact that there is some level of pollution on a part of the property and that at this point the owner of record has not been found (although the land would be used for anything where ground water pollution were a problem, e.g. drinking water). If the Town were to take over the property by paying the back taxes, they would take responsibility for the clean-up of the pollution, for which it doesn't want the financial responsibility. Discussion also included the possibility of allowing the property to return to its natural state.

Discussion of the Adoption of the 2004 Gateway Standards by the Town of Essex

Downes introduced the subject indicating that a public meeting of the Essex Zoning Commission was held on December 14, 2011 at Essex Town Hall. GW members who were able to attend included **Woody, Fish, Wilson** and **Chirico**. Chirico explained that the gathering was predominated by what some refer to as the "Essex libertarians". Many in attendance talked about no need for any new regulatory responsibility, new regulations or involvement with the Gateway compact. Jerry MacMillan brought up the issue of whether or not the Gateway agreement with the Town was "constitutional" and offered that, if Essex wanted, they could leave the compact. The consensus of GW members present indicated that **Chirico** and Zoning Chair Al Wolfgram did a great job for their parts in explaining the issues and keeping the discussion on track as much as the assembled would allow. **Chirico** discussed that he had been asked to come speak to the Board of Selectmen by himself in an attempt to better understand what is at issue in the effort to adopt the most updated Gateway standards into the Essex Zoning Regulations. He indicated that he thought the meeting was positive. The next step, he indicated, is for the Zoning Commission to schedule the public hearing to move forward with the adoption.

Gateway Properties

No report. No response received as of yet from Ms. Beth Brothers. **Blatt** reported that Ms. Brother's group has lost three employees to retirement and the positions are not expected to be refilled. The understaffing, along with the conveyance bill work, leaves Ms. Brothers in a position where responses may not be as timely as desired.

Old Business:

Fenwick Zoning Regulations. A draft letter had been sent by Downes to members of the Commission for their review prior to the meeting. **Cable** indicated that he thought the letter touched on all of the issues. **Woody** presented a paragraph that he thought should be added at the end of the draft letter which states that there is a significant need for *all* of the Gateway jurisdictions to have the same minimum standards so as to assure each town's neighboring municipalities that they are protected in an equal way. Statements from those in Fenwick saying that their regulations are as protective as that offered by the Gateway standards is not the point. If each of the eight member towns decided to adopt their own version of regulations that protect the mission of the Gateway, the protection may or may not be as strong as the standards of the Gateway Commission and may not provide consistent protection

throughout the lower valley. A consistency of standards, as allowed for by statute, is important to the overall viability of the Gateway mission. **Debrigard** indicated that a strong comment should be included that says that Gateway “cannot accept” their ignoring Gateway’s insistence that *all* of the minimum standards be included in local regulations.

Members agreed that both the paragraph offered by **Woody** and the suggested comment of **Debrigard** be included as additions to the draft letter.

New Business:

Upon a motion by **Fischbach**, seconded by **Bement**, the Commission voted to renew their Rockfall membership at the same level as last year (2011). The motion passed unanimously.

Upon a motion by **Fischbach**, seconded by **Thomas**, the Commission voted to support the CLCC Conference at Wesleyan University with a check in the amount of \$500. That level allows for a table, which Downes committed to “man” to pass out available materials on behalf of Gateway. The motion passed unanimously.

Adjournment

Upon motion by **Bement**, seconded by **Chirico**, the meeting adjourned at 9:45 p.m. The motion passed unanimously.
