

CONNECTICUT RIVER GATEWAY COMMISSION
REGULAR MEETING MINUTES
April 22, 2010

Present/Absent:

Chester:	Margaret (Peggy) Wilson, Martha Wallace
Deep River:	Nancy Fischbach, Amy Petrone
East Haddam:	Harvey Thomas, Robert Boulware
<i>Essex:</i>	<i>Ellen Whaley, Anthony Chirico</i>
<i>Fenwick:</i>	<i>Ethel Davies, Borough Warden</i>
Haddam:	Susan Bement, Derek Turner
Lyme:	<i>Kevin Mazer, J. Melvin Woody</i>
Old Lyme:	Ted Crosby, Vacancy
Old Saybrook:	Madge Fish, Vacancy
<i>CRERPA:</i>	<i>Steve Williams</i>
Midstate RPA:	Raul De Brigard, Stacia DeMichele
DEP:	David Blatt
Staff:	J.H. Torrance Downes
<i>CRERPA:</i>	<i>None</i>
<i>Tidewater:</i>	<i>None</i>
Guests:	Matthew White, Doug Domenie (BFPM), Jacqueline Talbot (CRWC River Steward), Steven Rocco (Haddam Developer)

Call to Order

Chairman **Melvin Woody** called the regular meeting of the Gateway Commission to order at 7:30 pm in the CRERPA meeting room.

Approval of Minutes

Motion to approve 3/25/10 minutes by **Peggy Wilson**, seconded by **David Blatt**, passed unanimously. Approval of CRLT minutes, scheduled on the agenda, will be handled when the Trust meets again.

Guests

Variance Referral – Brewers Ferry Point Marina, Old Saybrook

Matthew White of Angus McDonald Gary Sharpe Associates presented plans for the construction of a boat storage building off Essex Road in Old Saybrook, this on behalf of the Brewer's Ferry Point Marina. The location is adjacent to Essex Road and is all but completely unseen from the Connecticut River, its tributaries and associated wetlands. Following some discussion, the Commission voted to not oppose the requested flood ordinance variances. Motion to approve by **Harvey Thomas**, seconded by **Peggy Wilson**, approved unanimously.

Jacqueline Talbot, CT River Watershed Council River Steward

Ms. Talbot introduced herself and explained her background. Talbot described her understanding of her position as one of advocacy, education and outreach. Mel Woody commented on the need for lobbying assistance with respect to riparian buffer efforts at the State Legislature, this to help in furthering the efforts of the Commission in moving their own riparian buffer standards forward in the future. It was requested that Talbot check in with the Gateway Commission every six months or so. Ted Crosby raised the scheduling of the river clean up on October 2, 2010 and recommended that Talbot connect with

Judy Preston of Tidewater Institute. Following the discussion, Talbot remained to listen to the proceedings which followed.

Steven Rocco, Developer and Owner of The Riverhouse, Haddam

Rocco made a Powerpoint presentation of the properties involved in the Bill 5520 Conveyance Bill. Significant discussion regarding Rocco's position and thinking on the conveyance and the position taken by the Gateway Commission took place. Rocco presented the history of the effort, including discussion with Commissioner Gina McCarthy on the portion of the DEP land to the west of the Valley RR tracks and surrounding the Riverhouse property. Rocco reported that when the DEP bought the land, owner Charlie Robertson indicated that, to obtain the riverfront parcel in which they had interest, the DEP would have to purchase the entire parcel, which they did. It is the vacant land west of the RR tracks that Rocco indicated the DEP was not particularly interested in owning, land that Rocco described as an abandoned sand and gravel pit overgrown with invasive vegetation. **Fischbach** pointed out that the land was undeveloped, which was the reason for its importance to the Gateway Commission.

Further discussion revolved around Rocco's willingness to place a conservation easement on the property, with the exception of the area where the partners would like to build a hotel that would accommodate operations at The Riverhouse. He indicated that he had concern over conserving such a large portion of a \$700,000 property. Limited discussion occurred with respect to the acreage adjacent to Conkaponsett State Forest that is being offered in trade for conveyance of the State parcel. Discussion included the location of that acreage with respect to the Gateway Conservation Zone (its almost totally outside of the Conservation Zone) and its minimal visibility, if any, especially considering the distance of that land from the river.

Rocco continued to express his reasoning regarding why the conveyance made sense on several fronts while Commission members asked questions and held that the Gateway's position heavily, although not totally, involved the policy issue of conveying conserved land following its acquisition by the DEP. As was the case in legislative testimony, the issue of the "chilling effect" such a conveyance could have on conservation efforts throughout the state was raised. **Woody** queried, given the circumstances surrounding this conveyance, how sure is it that there would indeed be a chilling response. **Fischbach** mentioned the need for discussion with the DEP, owners of the parcel who are on record opposing the conveyance, otherwise the position of the Gateway Commission is "moot", given that opposition. Rocco indicated that he has tried to communicate with Commissioner Marrella but has not received a response as of yet.

At the end of the discussion, Rocco confirmed that he understood the position of the Gateway Commission, stating that he didn't completely agree with their reasoning. Commission members agreed that more discussion was needed on this topic, discussion that should occur privately amongst their membership. Following Rocco's departure, brief discussion on how to proceed took place with **DeMichelle** expressing her understanding of the situation from conversations she's had with Haddam residents, including First Selectman Paul DeStefano. **DeMichelle** reported that, where she initially felt that the policy decision of conveying conserved land by the DEP was of paramount importance, further understanding of the issues involved has led to her being more willing to at least participate in discussions. **Woody** acknowledged that there are numerous entities existing which are interested in the success of some form of this proposal for economic reasons.

Correspondence & Staff Report

See "Gateway Items of Interest", attached.

Staff presented numerous pieces of correspondence involving financial investment.

Staff circulated a copy of a letter from Old Lyme First Selectman Tim Griswold thanking member **Ted Crosby** for his years of service to the Gateway Commission. **Crosby** is retiring as a result of his effort to pare back all of the board and commission commitments that he has made, this along with his need to oversee the Crosby education foundation efforts in Haiti following the recent devastating earth quake. On behalf of the Commission, Chairman **Woody** thanked **Crosby** for his service. **Crosby** indicated that his desire is to continue as an interim representative while the Town searches for his replacement (as well as for the filling of the vacancy left upon Rudy Bessier's retirement). Staff reported that reappointment reminder letters were sent to the Gateway member towns.

The newsletter of the Lynde Point Land Trust was circulated.

Treasurer's Report

Peggy Wilson reported that although the CT River Land Trust does not have to file a full 990 tax return, it does have to "file a postcard" which was sent today. **Wilson** reported that approval was needed for two checks: (1) \$750 for reservations for ten at the May 6th celebration dinner hosted by The Rockfall Foundation on behalf of several conservation honorees including member **Raul Debrigard**, and (2) \$2,525.25 for CRERPA services.

Susan Bement moved, seconded by **Harvey Thomas**, to approve the payment of bill and payment, approved unanimously.

Variance Referrals

Haddam. Scott Thompson and Cynthia Nicastro. Staff presented aerial photographs, plans submitted by the appellant and the history of the circumstances surrounding the construction of the open deck and gazebo in 2003. History includes that the structures were constructed/placed without permits, were located within the 20 foot rear setback, and encroached over the crest of the hillside above the Connecticut River and onto property of the State of Connecticut. Local enforcement efforts had been conducted in recent years. As related to staff by Town Planner Liz West, neighbors have complained about the encroachment and the State of Connecticut has requested that the encroachment be removed from their property. In the application, the appellant indicates that Section 8-13a CGS applies (structure located in a nonconforming location without permits for more than 3 years without "institution of enforcement" may remain as a legally existing nonconformity, with enforcement being institution of court action).

Following the discussion and review of the photographs and application materials, the Commission voted to strongly **oppose** the granting of the variance on the grounds that the location of the open deck and gazebo in the proposed location results in an adverse impact on the protection and development within the Gateway Conservation Zone. In that the property owner will be removing a portion of the structure, the Commission further suggested that the appellant should be required to remove the *entire* encroachment from the setback and relocate the structures within a conforming location on the property. The motion was made by **Peggy Wilson** and seconded by **Harvey Thomas**. The vote was unanimous. A copy of the letter of opposition is to be forwarded to the Commissioner of Environmental Protection.

Referrals Reviewed by Staff

Haddam. Staff reported that a rear addition for the Haddam Restaurant near the corner of Route 154 and Bridge Street in Tylerville is (1) on the side of the structure opposite the river and (2) not visible because the property can't be seen from the river. As a result, staff wrote a letter to the Haddam ZBA

stating that the Gateway Commission would therefore likely not oppose the granting of the variance in that it would have little or no impact on the “natural and traditional riverway scene”.

Discussion of Raised Bill No. 5520, Section 19, Conveyance of Certain Parcels of Land

In that so much discussion on the subject of the Haddam conveyance was conducted during the presentation of Steven Rocco, the Commission decided to move further discussion regarding said conveyance to next month’s meeting.

Committee Updates

- Rules and Regulations. **Fischbach** reviewed draft Rules and Regulations, highlighting several changes. Copies were distributed. Further revisions will be made and brought back to the Commission for approval. Discussion regarding the ongoing riparian buffer effort resulted in the Rules Committee taking on the strategy of when and how to move forward with that effort. It was agreed that the Committee would move forward once other ongoing issues were resolved including the draft Rules and Regulations and the draft Conflict of Interest policy.
- Outreach. Staff presented the draft website that has been developed for the Gateway Commission and reported that it will utilize the same web address as the website originally designed by **Ted Crosby**. Separately, **Debrigard** recommended including links of other conservation organizations such as the CRWC, which the draft site does not presently include.

Status of 2004 Standards

Staff reported that there is not report other than new Essex member Tony Chirico is thought to still be “stuck” in Europe due to the aviation problem with volcanic ash.

Gateway Owned Properties – Duncan Property, East Haddam

Peggy Wilson reported that she and staff have scheduled to visit the Duncan property on Friday, April 30, 2010 in an effort to inspect adjacent properties for encroachments so that the transfer of the property to the East Haddam Land Trust can move forward.

New and Other Business

Staff reviewed the names of the seven members who have committed to attending the May 6th Rockfall dinner on behalf of Raul Debrigard. Those confirmed members/staff include **Bement, Thomas, Williams, Fischbach** (sitting at **Debrigard** table), **Woody, DeMichelle, Wilson** and **Downes**. Three others have requested to sit at the GW table including Haddam’s Paul DeStefano and Town Planner Liz West. Tidewater’s Preston, although paying through that organization, requested to sit at the GW table as well.

Adjournment

There being no further business, **Ted Crosby** moved to adjourn the meeting at approximately 9:32 pm.

The next regular meeting of the Gateway Commission is

Thursday, May 27, 2010

Gateway Items of Interest

April 22, 2010

A. Correspondence

- (1) Mainstay Investments – Large Cap Growth Fund, Summary Prospectus.
- (2) Goldman Sachs Trust – Supplement mailing dated March 10, 2010, replacing the “sixth sentence” in the paragraph under “Other Investment Practices and Securities” section of each of the Prospectuses for the Funds...
- (3) Henderson Global Investors, Global Funds Semi-annual Report, January 21, 2010.
- (4) Letter from Old Lyme Board of Selectmen thanking Ted Crosby for his years of service to the Gateway Commission (Ted has asked that the BOS *not* reappoint him when his term is up on June 30, 2010). The appointment reminder letter that was just sent out indicated the need for two appointments....

B. Staff Report

- (1) Letters of concern RE: Raised Bill No. 5520 sent to 35 parties, including both House and Senate leadership on both “sides of the aisle”. Thank you letters sent to Co-chairs Spallone and Slossberg of the GA&E Committee (both attached).
- (2) Reappointment reminder letters sent to seven of eight Boards of Selectmen. Lyme letter held as Lyme representatives are coming to a conclusion on how representation will be continued and, afterwards, they will inform 1st Selectman Ralph Eno.

C. Variance Referrals to be Reviewed by the Commission

- (1) Haddam, Scott Thompson and Cynthia Nicasro, 24 Cove Wharf Lane.
A deck and gazebo on the CT River-side of the property, built without permits in 2003, extends over an embankment which also demarcates the property boundary between the property in question and that of the State of CT. In that it extends beyond the property line and onto State property, it goes without saying that it *entirely* encroaches into the required 20 foot rear line setback in that location. Due to the request of the State of CT to move the offending structure off their property, the upset of numerous neighbors and pressure by the Town of Haddam, the applicant is requesting a variance which proposes moving the gazebo landward and “cutting off” off the encroaching part of the deck. It is *proposed* to be located, however, right up to the property line. To do that, the applicant is asking for a 20 foot variance of the rear yard setback.

Note that the applicant cites Section 8-13a CGS (zoning statutes), apparently stating that they’re entitled to keep the encroachment because no enforcement action had been “instituted” within three years of its construction. Upon questioning in other situations, land use attorneys, planners and ZEOs indicate that case law states that “institution” of enforcement is now held to be institution of court action, not just the writing of a letter of violation from the ZEO. Although the Town has reportedly issued notices of violation and Cease and Desist orders, no court action has been instituted.

Section 8-13a CGS states:

Sec. 8-13a. Nonconforming buildings and land uses. (a) When a building is so situated on a lot that it violates a zoning regulation of a municipality which prescribes the location of such a building in relation to the boundaries of the lot or when a building is situated on a lot that violates a zoning regulation of a municipality which prescribes the minimum area of the lot, and when such building has been so situated for three years without the institution of an action to enforce such regulation [emph. added], such building shall be deemed a nonconforming building in relation to such boundaries or to the area of such lot, as the case may be.

(2) Old Saybrook, Brewer/Ferry Point Marina.

Proposed new boat storage building in a location as far in the marina channel occupied by Island Cove Marina, Island Cove Too Marina and the Brewer facility and away from the CT River as one can get. Adjacent to Route 154 and tucked behind Rocky Point area of Old Saybrook just north of the bridges, the site cannot be seen for all practical purposes from the river.

Variance request is for relief from flood ordinance requirements. All other zoning requirements are met, including the 35 foot height maximum. If this were a residential property, staff probably would have handled this without bringing it before the GW. Since its “marina”, it’s being presented on 4/22/10. Note that this is similar to the Between the Bridges/ Marine Village variance requested several months ago. This application, however, does **not** propose office, storage space or “amenities” below “base flood elevation”, only boat storage/repair (presumably) facilities. Matt White of Angus McDonald/Gary Sharpe Associates will be present to present the application.

D. Zoning Regulation Referral

None.

E. Variance Referrals with Impacts Reported by Staff to be Insignificant

Essex (Foxboro Point), Gregory Paul, Trustees – Large cove-front residential dwelling. Two additions proposed, one on the cove-side and one on the roadside. The cove-side addition is located mid-footprint (i.e. not extending beyond the footprint of the structure as seen from the cove) and the roofline will be no higher than that existing. As such, there is no addition to the visual bulk of the structure as seen from the river or the cove. Note that if Essex had adopted the 2004 standards, these additions would likely require a Special Permit due to the existing size of the structure. A cursory review suggests that little issue would exist with respect to meeting the additional standards against which the Special Permit would be reviewed.

F. Status of Standards

Anthony Chirico of Essex was officially appointed by the Board of Selectmen to fill Fred Vollono’s spot on the Gateway Commission and was to be present at the April meeting. He is, however, stuck in Europe. Something about volcanic ash.....

G. Transfer of Gateway Property/Inventory Project

East Haddam, Duncan Property. Spoke to Rob Smith of EHLT on 4/20/10 and

reported, unfortunately, that no progress has been made from my end on the transfer process.....

Conveyance Opposition Letter

April 15, 2010

Senate President Pro Tempore, Donald J. Williams, Jr. (D)
Senate Minority Leader Pro Tempore, Len Fasano (R)
Senate Majority Leader, Martin M. Looney (D)
Deputy Senate Minority Leader Pro Tempore/Minority Caucus Chairman, Andrew Roraback (R)
Senate Minority Leader, John McKinney (R)

Connecticut Senate Democrats
Legislative Office Building
Room 3300
Hartford, CT 06106-1595

Senate Republican Office
Legislative Office Building
Room 3400
Hartford, CT 06106

Speaker of the House, Christopher G. Donovan (D)
House Majority Leader, Denise Merrill (D)
House Minority Leader, Lawrence F. Cafero, Jr. (R)
Deputy Speaker of the House, Emil Altobello (D)
Deputy House Minority Leader, William A. Hamzy (R)

Connecticut House Democrats
Legislative Office Building
Room 4100
Hartford, CT 06106

House Republican Office
Legislative Office Building
Room 4200
Hartford, CT 06106

**SUBJECT: Opposition to the Reinsertion of Section 19 of Raised Bill No. 5520
An Act Concerning Conveyance of Certain Parcels of State Land**

Dear Sirs/Madam;

The Connecticut River Gateway Commission has asked me to write to you to explain its opposition to the possible reinsertion of a property conveyance in the Tylerville section of Haddam into Raised Bill 5520. This trade was originally proposed as Section 19 of that bill, but subsequently removed by the Government Administration and Elections Committee in response to objections raised at public hearings on the bill.

The Connecticut River Gateway Commission is a statutorily-empowered compact between the state and eight lower Connecticut River towns from Haddam and East Haddam south to Old Lyme and Old Saybrook at Long Island Sound. In 1973, the Connecticut General Assembly found that:

[T]he lower Connecticut River and the towns abutting the river possess unique scenic, ecological, scientific and historic value contributing to public enjoyment, inspiration and scientific study, that it is in the public interest that the provisions of this chapter be adopted to preserve such

values and to prevent deterioration of the natural and traditional riverway scene for the enjoyment of present and future generations of Connecticut citizens and that the powers of the Commissioner of Environmental Protection, conferred by the provisions of section 22a-25, should be exercised in the furtherance of the purposes hereof in conformity with his general responsibility to preserve the natural resources of the state.
(Section 25-102a of the Connecticut General Statutes)

At the public hearing on Raised Bill 5520 representatives of the Gateway Commission testified in opposition to the proposal to convey 17 acres of land held by the DEP in the Tylerville section of Haddam to private developers in exchange for land off Route 81, much further inland next to Cockaponsett State Forest. The Governor vetoed this proposal last year and the Government Administration and Elections Committee removed the same proposal from Raised Bill Number 5520 during this year's session. The Gateway Commission urges that if the same land trade is ever proposed again, it should be denied.

Background

The Gateway Commission is charged with preventing deterioration of the “*natural and traditional riverway scene*” within the “Gateway Conservation Zone”. The Conservation Zone encompasses the area of the riverfront that can be seen as one looks from the river up to the first ridgeline on both the sides of the river. The member towns have collaborated with the state Department of Environmental Protection and their regional planning agencies in order to maintain the natural appearance of the lower river valley which has earned the region national and international recognition. The federal government designated the Connecticut as an “American Heritage River” and established the Silvio O. Conte National Fish & Wildlife Preserve to conserve protect the natural resources of the Connecticut River Watershed. The Nature Conservancy identified the Connecticut Estuary as one of “Last Great Places” in the northern hemisphere and the international Ramsar Convention identified it as a “Wetlands of International Significance”. From both tourism and a natural resource preservation standpoints, the Lower Connecticut River is one of the state's most precious resources.

One of the key components of the Gateway mission is the preservation of undeveloped open space within the “Gateway Conservation Zone”, especially that which is most visible, which the subject 17 acres is. To this end, since 1973 the Gateway Commission has acquired or assisted in acquiring over 1,000 acres of land in the lower river valley for the purpose of conservation, funding such fee simple and easement acquisitions with over \$1,000,000 of their own money and, more germane, **relying on land donations from private property owners.**

Raised Bill No. 5520, An Act Concerning Conveyance of Certain Parcels of State Land

At the public hearing on Raised Bill 5520, the Gateway Commission opposed the Haddam land conveyance, citing the following reasons for their opposition:

- (1) The Connecticut Department of Environmental Protection, owners of the 17 acres in question, opposes the conveyance of the property as evidenced by a

letter submitted into the record of the March 19, 2010 GA&E hearing by DEP Commissioner Amey Marrella;

- (2) The DEP purchased the 17 acres overlooking the river in order to conserve it as SPECIFICALLY STATED IN THE DEED. It is extremely poor public policy for the DEP to acquire land for conservation and then turn around and surrender it to commercial development, in direct contravention to the deed;
- (3) Surrender of 17 acres of visible Conservation Zone property for *any* acreage outside of the Conservation Zone – as was the proposed in this case - is a net loss to the “natural and traditional riverway scene”;
- (4) Surrendering land to development that was originally and specifically acquired for conservation sends a chilling message to those who are inclined to donate land for conservation to organizations such as the Gateway Commission or the Connecticut Department of Environmental Protection. Potential benefactors will no longer have any confidence that the land will remain in conservation as the benefactor intended and originally agreed upon. This hurts conservation efforts statewide;
- (5) The Gateway Commission commonly looks for ways to balance preservation and development within the Conservation Zone by accommodating local interests when proposals are presented in a timely way for its review. This proposal was twice submitted to the Legislature without any notice or consultation with the Gateway Commission, either by the municipality or the developers themselves, thus affording no opportunity to resolve differences locally; and
- (6) The land in question is located in a clearly prominent portion of the river, directly across from the Goodspeed Opera House, and in clear view from the East Haddam Bridge. It is one of the most publically conspicuous and picturesque sections of the river where preservation of existing screening is particularly important.

Summary

For all of the reasons stated, the Gateway Commission requests that conveyance of the aforementioned 17 acres of DEP-owned land in the Tylerville section of Haddam, through the legislative process or any other process that excludes the Commission from discussions, be denied.

If you have any questions, please don't hesitate to contact the Commission via its staff, Mr. J. H. Torrance Downes, at (860) 388-3497 or at jhtdownes01@yahoo.com. The Commission will be more than willing to meet at your convenience to discuss this important, far-reaching matter.

For the Gateway Commission,

J. H. Torrance Downes
Senior Planner
CT River Estuary Regional Planning

Agency

Copies to:

Governor Jodi M. Rell (R)
Senator Eileen Daily (D), 33rd District
Representative James Spallone (D), 36th District
Representative Marilyn Guiliano (R), 23rd District
Representative Linda Orange (R), 48th District
DEP Commissioner Amey Marrella
Commissioner's Representative to the Gateway Commission David Blatt
Connecticut River Watershed Council Executive Director Chelsea Gwyther
Dr. Melvin Woody, Chairman, Gateway Commission

Haddam 1st Selectman Paul J. DeStefano
East Haddam 1st Selectman Mark B. Walter
Lyme 1st Selectman Ralph Eno
Old Lyme 1st Selectman Timothy Griswold
Chester 1st Selectman Tom Marsh
Deep River 1st Selectman Richard Smith
Essex 1st Selectman Phil Miller
Old Saybrook 1st Selectman Michael A. Pace

Mr. Crary Brownell, Chairman, East Haddam P&Z
Mr. Malcolm Gorin, Chairman, Haddam P&Z
Mr. Michael Joplin, Chairman, Chester P&Z
Mr. Jonathan Kastner, Chairman, Deep River P&Z
Mr. Al Wolfgram, Chairman, Essex Zoning Commission
Mr. Robert Friedmann, Chairman, Old Saybrook Zoning Commission
Mr. David Tiffany, Chairman, Lyme P&Z
Ms. Jane Cable, Chairman, Old Lyme Zoning Commission

Thank You Letter

April 16, 2010

Senator Gayle S. Slossberg (D), S-14 District Representative James F. Spallone (D),
36nd District

Legislative Office Building
Room 2200
Hartford, CT 06106-1591

Legislative Office Building
Room 2202
Hartford, CT 06106-1591

**SUBJECT: Raised Bill No. 5520, An Act Concerning Conveyance of Certain
Parcels of State Land
 Section 19 Concerning the Surrender of 17 Acres along the CT River
in Haddam**

Dear Senator Slossberg and Representative Spallone;

On behalf of the Connecticut River Gateway Commission, I am writing to thank you for your support and guidance with respect to the work of the Government Administration and Election Committee on Raised Bill No. 5520. Although there may have been aspects of the Section 19 conveyance of 17 undeveloped acres along the Connecticut River in Haddam that some parties found positive, the wisdom of the GA&E Committee in removal of Section 19 from Raised Bill No.5520 reflects an understanding of the significant importance of the preservation of the lower Connecticut River Valley as both a natural and economic resource for the State of Connecticut as a whole. In addition, Gateway representatives who testified at the March 19th hearing appreciated the cordial and comfortable nature of the proceedings as well.

If you have any questions, please don't hesitate to contact the Commission through me, Mr. J. H. Torrance Downes, at (860) 388-3497 or at jhtdownes01@yahoo.com.

With thanks from the Gateway

Commission,

J. H. Torrance Downes
Senior Planner
CT River Estuary Regional Planning

Agency

Copy to:
Dr. Melvin Woody, Chairman, Gateway Commission