

CONNECTICUT RIVER GATEWAY COMMISSION
REGULAR MEETING MINUTES
July 22, 2010

Present/Absent:

Chester:	Margaret (Peggy) Wilson, Martha Wallace
Deep River:	Nancy Fischbach, Amy Petrone (excused)
East Haddam:	Harvey Thomas, Vacancy
<i>Essex:</i>	<i>Ellen Whaley, Tony Chirico (excused)</i>
<i>Fenwick:</i>	<i>Ethel Davies, Borough Warden (excused)</i>
Haddam:	Susan Bement, Derek Turner
Lyme:	J. Melvin Woody, Lisa Niccolai
Old Lyme:	Peter Cable, Vacancy
Old Saybrook:	Madge Fish, Vacancy
<i>CRERPA:</i>	<i>Steve Williams (excused)</i>
Midstate RPA:	Raul Debrigard, Stasia DeMichele
DEP:	David Blatt
Staff:	J.H. Torrance Downes
CRERPA:	<i>None</i>
Tidewater:	<i>None</i>
Guests:	Jacqueline Talbot, CT River Steward; Attorney Barbara Serantonio; Attorney William Childress; Architect Jill Cartagena, Engineer Stuart Fairbank, Fred Ottarino.

Call to Order

Chairman **Melvin Woody** called the regular meeting of the Gateway Commission to order at 7:30p.

Approval of Minutes

Corrections were made as follows:

- Page 2, C. The \$575 Land Trust Alliance entry should be noted as an “expense”.
- Page 2, footnote (2). Add “The suggestion was made that...”.

A motion was made by **Wilson** and seconded by **Bement** to approve the minutes from the June 24, 2010 meeting including the above noted corrections. Approved unanimously.

Guests: Chairman **Woody** noted the guests that were present.

Correspondence

Commission was referred to the *Items of Interest* report emailed by Staff J.H. Torrance Downes (attached at the end of these minutes). As part of correspondence, Staff presented a proposed Letter of Support for a TNC DEP grant application which proposed restoration of marshes including eradication of Phragmites within the Conservation Zone of the lower Connecticut River. Motion by **Fischbach**, seconded by **Cable**, to sign the Letter of Support. Passed unanimously. (Commissioner’s Representative **David Blatt** recused himself from discussion and decision).

Staff Report

Essex Land Trust/Great Meadows: Attorney Barbara Sarrantonio, representing the Essex Land Trust, was present to make a request regarding a conservation easement held by the Gateway Commission for property in Great Meadow for which a GW grant of \$20,000 was given in 1997 (see Items of Interest description following minutes). The Commission agreed in principle to the subordination of the conservation rights received in return for the grant in order that the Essex Land Trust can apply for a

Natural Resource Conservation Service grant. The grant requires that subordinated rights detrimentally impact the level of grant that can be achieved. Sarrantonio assured the GW that the restrictions placed on the property will be no less strict than that which already exists. Motion made by **Thomas**, seconded by **Bement** to approve. Passed unanimously. **Debrigard** asked that the GW Executive Committee review the entire packet of documents to which the GW will be subordinate.

Goodspeed Airport/Mellon Easement: Staff explained to the Commission that the Land Acquisition Group of DEP has decided that they continue to have no interest in the Goodspeed Airport easement offered by Tim Mellon. As such, DEP Analyst Martha Fraenkel requested that the Commission send a letter confirming that they are no longer requesting the DEP to “reconsider” the acceptance of the easement, as stated in a letter from the GW dated October, 2008. Motion by **Bement**, seconded by **Wilson**, to send such a letter. Passed unanimously. (Commissioner’s Representative **David Blatt** abstained from voting).

Connecticut River Riverfront Enhancement Project: Staff briefly described a riverbank stabilization project occurring on the Lyme riverfront near Brockway Ferry for informational purposes. Native, non-invasive vegetation is proposed to be planted in a way which is intended to retard the erosion that occurs in the location. The project is not under the jurisdiction of the Gateway Commission or the CT DEP as no permits are needed. The application is going before the Lyme Inland Wetlands and Watercourses Commission, however.

Treasurer’s Report

- (a) **Wilson** presented Authorization Letter from GW Auditor Joe Wollack for signature. **Woody** commented that a decision had been made earlier by the Finance Committee to conduct a full audit as has been past practice despite the consideration that the full audit is not necessary. A motion by **Wilson**, second by **Fischbach**, passed unanimously. The authorization was signed by Chairman **Woody**.
- (b) **Wilson** reported that the Finance Committee will be meeting with Merrill Lynch on August 10, 2010 to review the 2nd Quarter financial results.
- (c) **Wilson** presented the final bill for FY 2009/10. A motion to pay \$1760 for CRERPA services by **Debrigard**, seconded by **Thomas** passed unanimously.

Referrals/Report of Staff Actions

- (a) Variance Application submitted by Thompson/Nicastro of Haddam requesting permission to remove and relocate an existing and unpermitted open deck and gazebo to a location extending to within one (1) foot of the rear property line which is coincident with the top of slope above the Connecticut River. The structure currently extends to a point where it encroaches onto the abutting property owned by the CTDEP. This request follows a denial of an initial variance application which requested permission to leave the structure in a location which extended 20 feet into a 20 foot setback, eg. Extending to the property line. That initial request was denied with opposition to its approval being recorded by the Gateway Commission.

In a motion by **Fischbach**, seconded by **Fish**, the GW reiterated their opposition to the granting of the variance. Members felt that allowing unpermitted structures that do not undergo proper permit review to be retained could potentially be detrimental to the mission of protection and preservation of the “*natural and traditional riverway scene*”.

- (b) Explanation of staff actions regarding five separate variance applications in the Town of Essex are as noted in Staff Items of Interest report at the end of these minutes.

Special Exception/Section 8-30g CGS Affordable Housing Applications, Marina Village, Old Saybrook
GW member and Old Saybrook representative **Madge Fish** recused herself and promptly left the meeting. Representatives of the applicant were present to answer any questions and provide information to the Commission as appropriate. Representatives included Attorney William Childress, Architect Jill Cartagena, Engineer Stuart Fairbank and property co-owner Fred Ottarino.

Staff presented highlighted versions of the architectural drawings submitted by the applicants, describing the heights of the various buildings and their physical surroundings. For the Special Exception concerning the marina and restaurant components of the project, staff described that other than the new marina boat storage/maintenance building and new sewage treatment/maintenance building (neither of which exceed Gateway standards), work involved renovation of existing building exteriors, including the planting of vegetative planters where climbing vegetation would be trained to climb up “trellis-like” structures and cover portions of the sides of the buildings. The existing office structure (existing non-conforming height of 48 feet) would be renovated to accommodate the new site restaurant. The structure will be modified to include an outside covered deck on the second level of the riverside with a “wrap-around” to Ferry Road on the north side.

Regarding the affordable housing component of the project, discussion included description of the residential structures both on the riverfront site and the portion of the property to the west of Ferry Road. The location of affordable units was briefly discussed. Staff noted that new residential structures located on the riverfront portion of the property were shown to extend to heights of 44 feet and 48 feet with architectural features extending up to as much as 58 feet above “existing natural grade”.

Discussion regarding the regulations proposed as a part of the application occurred. Childress explained that Section 8-30g CGS required submission of regulations that would apply to this development and this development only. Such regulations included the provision for residential buildings which extend to a maximum of 50 feet and bedroom densities of up to 15 bedrooms per acre. Childress explained that the program permitted under Section 8-30g CGS was an “incentive” program which relieved an applicant of zoning requirements in order to entice private developers to propose developments with 30% of the residential units at far below “market rates”. Without such provisions, it was explained, there would be little incentive for private development of affordable housing.

Regarding the affordable units, all twenty seven (27) units (the development includes 90 residential units in total) are located to the west of Ferry Road with none present on the eastern riverfront portion of the properties (the riverfront portion of the property is entirely within the Gateway Conservation Zone while the easternmost 300 feet of the property to the west of Ferry Road is within the Conservation Zone. Childress explained that, due to flood insurance costs and the ongoing maintenance costs of upkeep of the existing concrete platform upon which the new residential structures will sit, will create higher ongoing costs for units on the riverfront. Those additional costs, it was explained, required that the affordable units had to be located on the western side of Ferry Road. In addition, Childress indicated that Section 8-30f CGS does not require where affordable units are to be placed, rather that the development must include the units. The development is comprised of several parcels. Statutes also do not require that each “parcel” include affordable units. Due to differing platform elevations, residential structures identified as “C” and “D” will have higher peak heights than structure “B” and “A”. The buildings will have shared parking amenities and septic facilities. The septic effluent field will be located to the west of Ferry Road. Childress was asked if he had any knowledge of other developments where individual parcels did not have affordable units on them. He indicated he did not have such knowledge. Regarding a question of “spot-zoning”, Childress indicated that under Section 8-30g CGS such zoning changes are not considered as “spot-zoning”.

The public hearing for the development before the Old Saybrook Zoning Commission commences on Monday, August 16, 2010. The Gateway Commission moved to schedule a Special Meeting for Tuesday, August 10, 2010 at 7:30p to further discuss the applications with counsel. Staff was asked to contact Attorney Mark Branse for recommendations of counsel who would have knowledge of affordable housing applications and with whom Branse could coordinate. The Commission would retain such counsel and invite same to the August 10, 2010 meeting to discuss the applications and assist in preparing a response from the Gateway Commission to the Old Saybrook Zoning Commission.

Conveyance of Certain Parcels of Land in Haddam

Staff reported that development partner Steve Rocco contacted him regarding scheduling a meeting with members of the GW Commission to discuss the placement of a conservation easement on a portion of the Tylerville property in question. Woody reviewed a conversation he had had previously with Mr. Rocco wherein a similar discussion had occurred. Staff contacted Haddam Town Planner Liz West to inform her of Rocco's request. Prior to leaving for the weekend, Ms. West indicated that Tuesday 7/20/10 was a good day to meet. When Ms. West was asked to contact Mr. Rocco on Tuesday, it was discovered that he was out of town and unavailable to meet. The Commission reiterated the importance of the Town driving the meetings and not the Gateway Commission. The Gateway could only respond to presentations saying that they would or would not potentially object. Gateway is not meant to create the proposal.

Debrigard raised the issue of the upcoming (Wednesday, July 28, 2010) hearing for the Council on Environmental Quality (CEQ) in Hartford. In light of what the members characterized as a misleading letter by Senator Eileen Daily in the Haddam Bulletin, **Debrigard** recommended that the GW send a letter to First Selectman Paul DeStefano which states that the Commission continues to be willing to discuss the Tylerville conveyance but that the Town should be reminded that GW is a party and that the Town should coordinate all meeting efforts. Motion by **Debrigard**, seconded by **Bement**, to send such a letter. Letter should include mention of the discussion and outcome of the meeting with DEP Commissioner Amey Marrella. Letter to be copied to the CEQ and to Commissioner Marrella. Members questioned if the effort is dependant upon a village zoning proposal by Haddam. The motion passed unanimously.

As noted above, the Daily letter in the Haddam Bulletin was discussed. It was decided that Haddam GW representatives **Derek Turner** and **Susan Bement** will craft a reply, keeping in mind that a consensus of all parties must still be reached.

Riparian Buffer Standards

Due to the length of the meeting, the discussion of potential adoption of the Riparian Buffer Standards was tabled until another meeting.

Committee Reports

- A. Rules/Membership/Land Trust: The recommended Conflict of Interest policy, dated 7/22/10, was circulated for consideration at the Commission's August 26, 2010 meeting.
- B. Membership Committee: The committee recommended the formation of a subcommittee responsible for calling GW members who have been unable to attend meetings on a regular basis. The recommendations included membership of three, with one being the GW Secretary. Motion to approve by **Fischbach**, seconded by **Wilson**. **Madge Fish** and **Peter Cable** volunteered for initial subcommittee membership.

Adoption of 2004 Standards

Staff reported that the recommended replacement for the ZEA position in Essex, who was offered the

job, declined the position. As a result, the Town will likely conduct additional interviews. It was reported that Essex member Tony Chirico would be meeting with outgoing ZEA Marian Staye in order to discuss her position with relation to the Gateway Commission and the adoption of the 2004 standards.

Gateway Properties

Staff reported that Attorney John Bennet, who prepared and sent the letter requesting the removal of the shed to Mr. Peter Kaiser from adjacent Gateway land, had not received a response as of the date of the meeting. Attorney Bennet will be looking for guidance on how to proceed.

Old Business

None.

New Business: None

Adjournment

Upon motion by **Thomas**, seconded by **Wilson**, the meeting adjourned at 9:50 p.m.

**The next regular meeting of the Gateway Commission is
Thursday, August 10, 2010**

Gateway Items of Interest

July 22, 2010

A. Correspondence

- (1) CT Land Conservation Council, CLCC. Greetings and financial support request letter from Amy Patterson, Executive Director.
- (2) The Rockfall Chronicle, Spring/Summer, 2010.
- (3) Copy of Letter sent by Attorney John Bennet to Mr. and Mrs. Kaiser, the East Haddam residents who abut the "Duncan" property and who have been asked to remove their shed from said property.
- (4) Letter of Authorization to have Lewitz, Balosie, Wollack, Rayner & Giroux perform the GW's annual audit.
- (5) Announcement of Grant Funds, LIS License Plate and DEP/SEP Funds. Looking for habitat restoration projects that hopefully exceed \$100,000. Large projects. The Nature Conservancy is applying and would appreciate a GW Letter of Support (see Staff Report Item #4 below).

B. Staff Report

- (1) Goodspeed Airport Easement. The GW Commission will recall that, at the request of Atty. Campbell Hudson, a letter was written (attached below) to the DEP asking the Land Acquisition division to reconsider the acceptance of the easement from land owner Timothy Mellon. The DEP had earlier determined that they were not interested in accepting the easement. DEP Analyst Martha Frankel requests that the GW Commission write an updated letter to DEP Land Acquisition indicating that they are no longer interested in the reevaluation of the easement because there is little likelihood of detrimental development at the site. The property is described as "flood plain" where uses permitted include agricultural, farming, parks/playgrounds, accessory uses, single family dwellings, parking area for commercial, aircraft landing field, marinas, home occupations, retail trade of marine craft, aircraft and accessories, public facilities and services, and tag sales.
- (2) Essex Land Trust, Great Meadow Conservation Property. Attorney Barbara Serantonio represents ELT, who is seeking a grant from the Natural Resources Conservation Service for conservation work on properties located on Great Meadow on the CT River. The ELT is asking the GW to provide a "subordination of its rights under the Agreement and a confirmation that it does not consider the grant to NRCS grant an encumbrance in violation of the Agreement." If the ELT isn't able to straighten this issue out, the potential grant will be reduced by the amount of land that continues to be encumbered by such conditions. Serantonio indicated that they do not have a copy of the grant documentation as of yet, but they could provide the form "they usually start with".

Briefly, the GW Commission had helped ELT with the acquisition of the 18.82 acres on Great Meadows, voting to approve an expenditure in May of 1997. The GW agreed to donate \$20,000 on a 50/50 cost sharing basis with two conditions:

- (1) The title was to contain a reversion clause in the event that the ELT ceased to exist;
 - (2) The GW Commission was to be included in all publicity.
- (3) FYI/CT River Flora Enhancement Project, Lyme. 34-2 Brockway Ferry Road. Curtis Deane and Thomas Shoemaker. Enhancement of the appearance of riverfront and control of

erosion through the planting of native New England species specific to the CT River. Organic, non-toxic substances such as Kelp and fish emulsion will be used to reduce stress on plant root systems and as a fertilizer. Planting will be primarily done using hand tools and possibly a light garden tractor to plant small trees upland of the river bank. DEP/OLISP has determined that no permits are needed for the work. The project coordinators are presenting the project to the Lyme Inland Wetlands Commission.

- (4) Support Letter Request, The Nature Conservancy. Nathan Frohling of TNC requested a support letter for Phragmites restoration project (Phragmites removal in tidal wetlands areas from the mouth of the river up into Haddam and the Chapman Pond area). TNC is seeking a grant – potentially about \$150,000 - from the license plate/SEP (environmental settlements) programs for the work. This round of grants is for “Statewide Ecosystem Management and Habitat Restoration” and License Plate “Habitat Restoration” grant proposals. Up to \$4 million is anticipated to be awarded with grant awards “preferably over \$100,000”. For comparison purposes, the Canoe and Kayak Trail grant awards were all between \$5,000 and \$10,000.....

C. Variance Referrals to be Reviewed by the Commission

- (1) Thompson/Nicastro, Haddam. Re-application to retain a gazebo and deck built in rear yard setback and extending onto State of CT property. The current plan shows the structure pulled back so as to allow 0.5 feet between the structure and the rear property line, thus projecting 19.5 feet into a 20 foot setback.

D. Zoning Regulation Referral

See Special Exception Review below – “Marine Village”. Section 8-30g of the CGS requires the submission of regulations impacting that project as a part of the application.

E. Special Exception Review - Between the Bridges/Marine Village (289 slip marina)

Three separate applications/petitions submitted:

- (1) Marina Village, Special Exception Application/Coastal Site Plan Review*
- a) Renovations of façade and other improvements to existing buildings and structures;
 - b) renovation of existing building for restaurant/office uses;
 - c) renovation of existing 4-bedroom dwelling for office/retail uses;
 - d) construction of new 2,646 s.f. boat repair building;
 - e) construction of new sewerage treatment maintenance building;

* With exception of the new marina building and the maintenance building, all work is renovation (the existing office will be renovated into the new restaurant with the existing restaurant demolished and replaced with one of the residential structures – existing office building is 48 feet in height). Flood variance for marina building was reviewed and “not opposed” by GW. The two new buildings do *not* exceed 35 feet from “existing natural grade”. Note that the new maintenance building is located in a side setback for which a variance was *not* requested – the proposed regulations that will guide this particular development allow the encroachment. With the exception of the maintenance building, this application generally affects the southern half of the riverfront portion of the property.

(2) **Marina Village, Affordable Housing Development Site Plan Review and zoning amendments pursuant to C.G.S. 8-30g****

- a) Construction of 90 dwelling units, 27 of which are “affordable” according to 8-30g;
- b) appurtenant sewerage treatment facilities;
- c) maintenance building, parking, and amenities;
- d) renovations and improvements of existing structures.

** The Commission may find issues with the affordable housing site plan application in that it is essentially identical to that presented in December of 2009, where structure heights in excess of the required 35 feet were also proposed. Proposed residential structure heights are primarily 44 and 48 feet above “existing natural grade” (the lower parking lot) with architectural features extending as high as 56 feet above that grade. The “Manor House” structure on the west side of Ferry Road has heights of 38 to 44 feet from grade and, with the 20 plus foot elevation of that side of Ferry Road, 60 plus feet above the river elevation.

(3) **Regulation Change Proposal*****

- a) Revisions to zoning text for Section 9 Definitions to add “set-aside affordable housing development;”
- b) 15 bedrooms per acre where existing regulations permit 7 to 8 per acre.
- c) For dwellings and accessory buildings/structures, 3 stories permitted.
- d) For dwellings and accessory buildings/structures, 50 foot height allowance.
- e) No setback from CT River/tributary/wetland – that western portion of the property is not located within the Gateway Conservation Zone. The *eastern* half of the property, however, IS located within the Conservation Zone.
- f) Minimum open space requirement of 11 acres. As best as can be determined, the Applicant only offers 5.66 acres.

*** Most significant to GW Commission authority. Others proposed as well.

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

- (1) 3 Cross Street, Essex Village. Request to extend the time that a daycare facility can occupy a building in Essex Village. No structure alterations associated with the request.
- (2) 52 Saybrook Road, Essex. Construction of an addition to a house that is separated from the river by a topographic rise. As a result, the addition and the house are not visible from the river or associated tributaries.
- (3) 33 Sunset Terrace, Essex. Hilltop subdivision. Proposal to construct a porch and garage within a setback and in excess of coverage limitation. Height limits not exceeded. Letter sent to the ZBA cautioned regarding the removal of trees only for the purpose of construction. Comment was also made regarding selective cutting or trimming for view purposes, although this property is not located in an area where view of the river valley can be achieved.
- (4) 7 Riverview Street, Essex. Small house of North Cove. Second story addition atop an existing 2-story open deck. Open deck will serve as the floor for the addition. Total height of roof peak – 21 feet 4 inches. The bulk increase in appearance will be negligible in that the house is surrounded on three sides by large structures. In particular, a large structure is located just inland of the proposed location, so, visually, the view of the open deck from North Cove is occupied by the existing dwelling located to its rear.

- 5) 17 Riverview Street, Essex. Large North Cove-front home. On the north side, a family room with a dormered roof above will be modified to include an entire second story. The increase in visual bulk will amount to the approximately two (2) feet that the peak of the roof will be raised. Otherwise, the second story occupies the same bulk as that existing now. The northern property line next to which the work will occur is significantly treed. The letter written to the ZBA requested that no trees be removed if at all possible.

G. Status of Standards

Anthony Chirico has indicated that he will be meeting with the new ZEA in Essex who's name hasn't been announced.

H. Transfer of Gateway Property/Inventory Project

East Haddam, Duncan Property. GW staff and member **Peggy Wilson** contacted Attorney John Bennet and East Haddam Land Use Administrator Jim Ventres to discuss the removal of a shed from the Duncan property so the property can be transferred to the East Haddam Land Trust. Between the three of us, we determined that the encroaching shed is likely less than 15 years in that location. In consultation with **Wilson**, Bennet was instructed to prepare a letter requesting removal of the shed.

October 24, 2008

Ms. Elizabeth Brothers
State of Connecticut
Department of Environmental Protection
Division of Land Acquisition and Management
79 Elm Street, 6th Floor
Hartford, CT 06106-5127

**SUBJECT: Goodspeed Airport, LLC
Proposed Grant of Scenic Easement and Development Rights
East Haddam in the Lower Connecticut River Conservation Zone**

Dear Ms. Brothers;

At their regularly-scheduled meeting on Thursday, October 23, 2008, the Connecticut River Gateway Commission learned that the Department is willing to reconsider the acceptance of the referenced Grant offered by Timothy Mellon. Although there may be conditions and issues that might mitigate the perceived value of the Grant, the Gateway Commission has concluded that protection of the scenic value of that property in *some* form is important to Commission efforts in the protection and preservation of the "*natural and traditional riverway scene*". We very much appreciate the Department's willingness to re-review the Grant for possible acceptance and are more than willing to assist the Department in the re-evaluation if so desired.

Thank you for your efforts and support in this and other land-based partnerships with the Connecticut River Gateway Commission. Please feel free to contact the Commission through our staff, Mr. J. H. Torrance Downes at (860) 388-3497 or at jhtdownes01@yahoo.com.

For the Commission,

J. H. Torrance Downes
Senior Planner, CRERPA

Copies to:

Ms. Gina McCarthy, Commissioner of Environmental Protection
Mr. Tom Tyler, Director of Constituent Affairs and Land Management