

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

September 22, 2011

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

Chester:	Margaret (Peggy) Wilson, Martha Wallace
Deep River:	Nancy Fischbach, Amy Petrone (exc)
East Haddam:	Harvey Thomas, Emmett Lyman
Essex:	<i>Tony Chirico (exc), Vacancy</i>
Fenwick:	<i>Ethel Davies, Borough Warden (exc)</i>
Haddam:	Susan Bement, Derek Turner (exc)
Lyme:	J. Melvin Woody, Lisa Niccolai (exc)
Old Lyme:	Peter Cable, Suzanne Thompson (exc)
Old Saybrook:	Madge Fish, Vacancy
CRERPA:	<i>Steve Williams (abs)</i>
Midstate RPA:	Raul Debrigard, Stasia DeMichele
DEP:	David Blatt
Staff:	J.H. Torrance Downes
Guests:	For <u>36 Mack Lane, Essex</u> : Tom Metcalf, Architect, Atty. Terry Lomme For <u>Stop the Swap</u> : Ed Schwing, John Kennedy and Rob Smith Mimi Mitton, Essex resident.

Call to Order

Chairman **Woody** called the meeting of the Connecticut River Gateway Commission to order at 7:33p. **Woody** introduced **Emmett Lyman**, the new alternate appointed by the Town of East Haddam.

Approval of 8/25/11 Regular Meeting Minutes

DeMichelle indicated that she was unable to attend the August meeting as a result of an emergency situation that prevented her from being in touch to indicate the likelihood of her absence. Consensus was to mark her as “excused” and not “absent” according to Commission Rules of Procedure. Motion to approve minutes as amended by **Fischbach**, seconded by **Bement**, approved unanimously. **DeMichelle** abstained from voting.

Correspondence/Staff Report

No correspondence presented.

1. Stop the Swap, September 8, 2011. Downes reported on the meeting held at the UConn Ext Service. Speakers included Martin Mador, Phil Miller, Margaret Minor, Melissa Schlag, Rob Smith. The assembled 200+ people were told that they were the core activists and it was their job to inform all of their neighbors of the effort to stop the conveyance of the 17 acre parcel in Tylerville. The Haddam government was to be told that “they got it wrong” and the activists would help them “get it right”. For further comment, see Items of Interest, attached to these minutes.
2. Haddam proposed zoning regulations. To be reported on as a referral later in the meetings. Haddam Town Planner Liz Glidden was requested to appear in order to provide background to the effort.
3. Marina Village, Old Saybrook. Downes reported that the property owners of Marina Village had submitted a request for clarification of numerous conditions of approval of the Old Saybrook Zoning Commission. None of the conditions were substantive Gateway issues so no review was

determined to be necessary by the Gateway Commission.

4. Essex Garden Club. On October 3, 2011, Downes reported that he will be making a presentation on the mission of the Gateway Commission to the Essex Garden Club. The Gateway Power Point “slide show” will be presented with modifications that “tailor” the presentation to the Town of Essex.

Treasurer’s Report

Wilson reported that the Finance Committee met with Merrill Lynch representatives on Tuesday, September 20, 2011. As of that date, the Gateway portfolio was down 1% net withdrawals and fees. Since 2003 it was reported that the portfolio has earned \$452,000 in dividends and interest as well as \$183,000 in appreciation. The operating account was reported to be up 10% since the implementation its restructuring. The “managed account” has increased in value by 18% since 2006. The Committee decided to move some funds from short term bonds to long term bonds. The Committee also moved 3% of the managed account to an investment instrument tied to the S&P 500.

Wilson reported that there were two bills to pay. The CRERPA monthly bill totaled \$1287.29 (which included a \$25 fee for the renewal of the website server services). The second was the payment of \$2240.00 to LeClair/Ryan for legal services provided by Attorney Charles Andres in the matter of the Marina Village Section 8-30g CGS affordable housing application.

Motion to approve payment of bill by **Bement**, seconded by **Fischbach**. Approved unanimously.

Referrals

1. 36 Mack Lane, Essex. Variance application for the demolition and reconstruction of a residential dwelling on the Middle Cove shoreline. Downes oriented Commission members showing the satellite aerials, pointing out the location of the proposal on Middle Cove.

Engineer Tom Metcalf made a presentation of the details of the proposal. Variances required included an increase in building coverage beyond the 7.5% (existing 200+ year old structure is nonconforming with an 8+% coverage) permitted in regulations, and a variance related to the vertical expansion of height within the 50 foot setback established in the Zoning Regulations (pre-2004 Gateway standards).

Metcalf discussed the necessary removal of two large large trees located on the coveside of the existing structure, one a “Norway maple”, the other, a “tulip” tree. The maple was to be removed because it fell within the footprint of the proposed structure while the tulip is to be removed because nearby foundation construction would likely disrupt the root system and cause imminent death. Arborist Ken Bombaci, representing the applicant, explained that the trees were not desirable trees. Metcalf reported that two Sycamore trees of 3 to 3½ inch caliper would be planted in the lawn area between the proposed structure and the cove edge. Further, the applicant would plant a vegetated buffer of native plantings along the entire waterfront edge of the property.

The 200 plus year old age of the existing structure was discussed with Commission members expressing disappointment that a structure of such age and “character” was to be demolished to make way for a modern structure.

Metcalf explained that there is a view easement along the southern boundary of the property in

favor of the property owner living in the dwelling uphill and west of the proposed property. A discussion of what the easement protects and the conversations had between the neighbor and the new property owners was discussed, including the possibility of the relocation of the proposed structure in such a way as to remove the possibility of a driveway passing through the view easement. Whether or not that relocation will occur is unknown; additional variances would be required.

Although the proposed structure measures 35 feet in height according to the height definition in the Essex Zoning Regulations, Metcalf explained that, as seen from Middle Cove, the structure would measure 43 feet from the base of a new retaining wall to the top of the roof peak.

Woody expressed that the 2004 Gateway standard for height – measuring the total height from “existing natural grade” was designed to reduce the visual impact of hillside structures where the “presentation” view could be in excess of 35 feet based upon the wording of the height definition. The grade is being raised by approximately eight (8) feet.

The new structure has a proposed footprint of approximately 1900 square feet and a total square footage of over 4,000 square feet.

Attorney Terry Lomme, representing the potential buyers, pointed out on aerial photographs that surrounding properties had similar structures, some larger with few buffering trees. The subject property was one of the only ones with two mature trees. Lomme indicated that the proposed structure would be similar to and in harmony with the neighborhood.

Lomme indicated that the hardship at the site was the hillside topography and the encumbrance caused by the sight line easement.

Motion made by **Debrigard**, seconded by **Cable** to send letter which outlines concerns with respect to issues including inconsistency with the adopted Gateway standards (25-102d CGS) which have *not* been adopted into local regulations as of yet, the loss of a structure of historic and character value, the loss of two mature trees that provide significant visual buffering for the subject properties and the one uphill, the change of mass and scale between the existing and proposed structures and, if the house is to be demolished there is an opportunity to design minimizing the need for variances. The letter should indicate appreciation for the inclusion of a riparian buffer which will aid in maintaining water quality in the coves and for the retention of existing vegetation to the extent possible. The motion passed unanimously.

Woody expressed the awkwardness of the timing of the application with respect to recent efforts to have the 2004 Gateway standards adopted into the Essex Zoning Regulations.

2. Haddam Zoning Regulation Proposal. Haddam Town Planner Liz Glidden was present to discuss the proposal. Glidden presented the background to the rezoning effort indicating that the work had been contemplated for some time. Low impact development regulations from the eight town consortium (including Salem) were used for background purposes.

Glidden was provided with a list of Gateway-related concerns. The first issue raised was the inconsistency of the height definition between Section 3.2 and Section 10, Gateway standards. Rather than height being measured “above grade”, the definition should read “above existing natural grade” prior to construction. Another issue concerned the removal of the 100 foot setback from the river, its tributaries and marshes. It was thought that the 100 foot setback was redundant to the inland wetland “regulated area”. The difference between a regulatory

“setback” and the wetland “regulated area” was explained.

Following more discussion, the Commission decided to authorize Mr. Downes to meet with Ms. Glidden to discuss the inconsistencies in the proposed regulations with the Gateway standards and to correct said inconsistencies. A letter expressing the results of the meeting should be prepared and sent to the Haddam P&Z Commission for the record of the Public Hearing.

Additional discussion continued including the questioning of industrial uses in the Tylerville area. Glidden reported that most of Haddam industrially-zoned properties were located within the Gateway Conservation Zone.

When asked about the “village” regulation effort, Glidden confirmed that she intends to work with Mr. Downes on coordination between Haddam P&Z and the Gateway Commission. **Debrigard** commented that regulations and modifications need to be cross-referenced with the Gateway section.

John Kennedy asked to speak. He commented on the importance of the Gateway Commission in overseeing the adoption of regulations that would continue to protect the river and Tylerville area. He requested that, prior to going to public hearing, the Gateway Commission hold a public hearing to allow citizens to comment on the comments that Gateway intended to submit. **Fischbach** indicated that timing would not allow such a schedule, and the comments provided would be through ‘courtesy’. The *official* process provided for in statute will commence once the P&Z makes their decision and sends it to the Gateway Commission. **Debrigard** commented that perhaps it would be a good idea for Gateway to consider calling a public hearing to allow those from adjacent member towns to be able to comment on the Haddam Zoning Regulations as they relate to the protection of the “natural and traditional riverway scene”.

Debrigard commented that there is a history of regulation modifications that eliminated some of the environmental regulations and moving them over to the jurisdiction of the Inland Wetlands and Watercourse Commission. Perhaps, he said, the confusion over the 100 foot wetlands “regulated area” and the 100 foot setback was initiated at that time.

Woody and other Commission members thanked Ms. Glidden for attending the meeting and thanked her for efforts to further the mission of the Gateway Commission in the protection of the lower river in that area.

3. Borough of Fenwick Zoning Regulations, Old Saybrook. Modifications throughout regulations. Most significant to Gateway Commission is the removal of the requirement for Special Permit review for structures in excess of 6,000 square feet (Gateway minimum standard is review for anything in excess of 4,000 square feet). Zoning Enforcement Officer Marilyn Ozols explained that there is the opinion that all properties but one in the Borough are within the Fenwick Historic District. As such, there is more than sufficient oversight into the design of homes. Further, a new standard requires Site Plan review for any structures in excess of 5,000 square feet.

Other concerns include that Section 5.4.1, Conservation Buffer Area, requires a setback of 50 feet as opposed to the Gateway minimum standard of 100 feet. A consensus was reached by the Gateway Commission requesting that a letter be sent asking to have the requirement for Special Permit review retained in the Borough Zoning Regulations and that the standard be brought into compliance with the 4,000 square foot minimum included in the Gateway Commission’s 2004

standards. In addition, Gateway requests that the Conservation Buffer Area setback be brought into compliance with the current 100 foot minimum standard of the 2004 adopted Gateway standards. Further, **Fischbach** suggested that Downes and **Woody** attend a Borough meeting to introduce themselves to the Borough P&Z.

4. Between the Bridges, South Yard, Old Saybrook. Variances have been requested for adherence to flood ordinances and a streetline setback in order to allow for the demolition of two portions of the marina structure at the BTB South Yard. The roof of the southernmost portion was damaged by snow during February of 2011. The northern portion (immediately adjacent to the former power house) will be demolished and left as a concrete pad. The flood standard variance is required as all boat work and storage – the purpose of the structures – is done at grade which is below required elevations. The one foot setback encroachment is requested in order to locate the new structure's wall in line with that of the adjacent structural wall.

Motion by **Fischbach**, seconded by **Bement**, to not oppose the granting of the requested variances. Motion passed unanimously.

Staff Actions

Deep River, Livestock and Poultry in the R-20 District. Downes informed the Commission that a petition was made to the Deep River Planning & Zoning Commission to include provisions for livestock and poultry under certain limited circumstances in the R-20 District of Deep River. Specifically, a resident wants to retain the ability to keep egg-laying chickens that they currently have on their R-20 District property. A letter is to be sent to indicate a consensus of the Gateway Commission to not oppose the petition as there will be little impact to the "natural and traditional riverway scene" if approved.

Discussion of Tylerville Land Swap and Senate Bill No. 1196

Downes indicated that there was no formal report on the status of the conveyance of property in the Tylerville area of Haddam. After a brief discussion of proposed zoning regulations and the Gateway Commission's position in the review and approval or disapproval of the proposed regulations pursuant to Section 25-102g(b) of the Connecticut General Statutes, John Kennedy asked to be recognized to speak. Kennedy reminded the Gateway Commission of the important part they continue to play in overseeing development in the highly visible Gateway Conservation Zone in the Tylerville area. He requested that, prior to the Gateway Commission sending their *preliminary* comments to the Haddam Planning & Zoning Commission, Gateway hold a public hearing so that the public could comment on the Gateway *comments* that would be submitted to the P&Z. **Fischbach** explained that the timing of the October 17, 2011 municipal public hearing precluded the ability to accomplish such a schedule. Further, the comments that will be made are courtesy in nature as the statutory process for Gateway review will require that the **final decision** of the P&Z must be forwarded to Gateway for approval or disapproval. At *that* time, Gateway has the ability to schedule a public hearing which would allow citizens from adjacent Gateway member towns to comment on the zoning regulation changes, thus opening up dialogue to those who may be impacted by visual intrusion of development in other member towns.

Committee Reports

Public Outreach will be meeting to decide upon a next step and report at the October 27, 2011 meeting. Under membership considerations, the Commission requested that a letter be sent to Essex representative Ellen Whaley which would explore if she continues to have interest in serving. Ms. Whaley has not been in touch with the Commission for well over a year. Rules of Practice require that after three (3) unexcused absences, such a letter be sent.

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

Downes reported that the Essex Zoning Commission continues to be interested in the adoption of the 2004 Gateway standards, but wants to be sure that the public is fully aware of the adoption process. ZEA Joe Budrow reported in an email that the thought at present is to convene a public hearing during December of 2011. **Fischbach** commented that it may be helpful to have several Gateway members present at the public hearing to answer questions and to demonstrate an interest in the importance of the adoption of the 2004 standards.

Gateway Properties

Downes reported that Beth Brothers of the DEEP Land Acquisition Group sent an email stating that DEEP will be responding to the Gateway inquiry regarding what assurances DEEP can provide if the Mt. Tom parcel known as "Klar" were transferred to the State of Connecticut. Gateway had sent a letter in August of 2011 indicating a willingness to transfer the 37 acre parcel if they were certain that the parcel would remain in State ownership. She also indicated that it may be wise for Gateway to seek their own counsel regarding such safeguards.

Old Business:

None presented.

New Business:

With the appointment of Emmett Lyman of East Haddam and the likely appointment of Belinda Ahern of Old Saybrook, the Commission acknowledged that many of the Commission vacancies are being filled. A request was made to send a letter to the Estuary RPA seeking interested members to fill those positions (although Steve Williams, formerly of Chester, continues to express interest in the actions of the Gateway Commission as a CRERPA representative, members acknowledged that his residency outside of the lower river region precludes his membership as stated in the Rules of Practice).

Adjournment

Upon motion by **Bement**, seconded by **Cable**, the meeting adjourned at 10:10 p.m.
