

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

October 23, 2014

Present/Absent: [Excused absence (E); Unexcused absence (U)]

Chester:	Margaret (Peggy) Wilson, Martha Wallace (E)
Deep River:	Nancy Fischbach, Sam Shaw (E)
East Haddam:	Harvey Thomas, Emmett Lyman(E)
Essex:	Claire Matthews, Vacancy
Fenwick:	Ethel Davies, Borough Warden (E)
Haddam:	Susan Bement, Derek Turner
Lyme:	J. Melvin Woody, Vacancy
Old Lyme:	Peter Cable (E) , Suzanne Thompson
Old Saybrook:	Madge Fish, Belinda Ahern
Regional Rep:	Raul Debrigard
DEEP:	David Blatt
Staff:	J. H. Torrance Downes
Guests:	Kate Brown, TPL; James Hays, Hays Haven Marina; George Keithan, CES

Call to Order

Chairman **Woody** called the regular meeting of the Connecticut River Gateway Commission to order at RiverCOG offices located at 145 Dennison Road, Essex at 7:40p following the annual meeting of the CT River Gateway Commission.

Approval of 8/28/14 Meeting Minutes

Motion to approve minutes (as amended by Fischbach) by **Fish**, seconded by **Blatt**, passed unanimously.

Publicity

Kate Brown of TPL appeared in order to have publicity photographs taken in support of Gateway's donation to TPL for the effort to purchase the property known as "The Preserve". Photographs were taken with Ms. Brown and various members of the Commission for the purpose of the production of a Press Release by Humphrey Tyler, assisted by GW member **Thompson**.

Motion to Revise Agenda

Upon a motion by **Thomas**, seconded by **Bement**, the agenda was amended to allow for review of the variance application of Hays Haven Marina.

Hays Haven Marina Variance Application, Chester

Mr. Jamie Hays of Hays Haven Marina and George Keithan of CES attended in order to make a presentation of the variance application and to answer questions that may arise.

The marina property was identified using projected aerial photographs. Mr. Keithan discussed the installation of numerous solar panel arrays located along the south property line and in the 40 foot sideline, 100 foot Gateway structure, and 50 foot vegetated buffer setbacks. The panels will be mounted on a wood pole similar to the materials used throughout the marina property. The panels will be elevated between 15 and 18 feet above ground and be angled at 5 degrees from horizontal (essentially parallel to the ground) and will be pitched to the south. Keithan explained how reflections from the panels will occur, stating that approximately 70% of the sun light will be absorbed by the panels with only 30% being reflected (panel materials are designed to absorb the energy, not reflect it).

Reflection from panels is less than that from energy-efficient windows which are designed to reflect the light rather than absorb the energy, this for energy efficiency during summertime. Downes described that two site visits were conducted, one with Chester member Peggy Wilson and GW alumni Whitey Wilson and one with ZEO Judy Brown. Mr. Hays appeared and provided answers to questions at both site visits. The site and location of the proposed arrays, because of its location on Chester Creek off the main stem of the CT River, is surrounded by trees and all but unseen from the river.

Motion by **Fischbach**, seconded by **Matthews**, to send a letter of “no objection” to the Chester ZBA based upon information presented in the application, information gleaned during site inspections at the marina, and based upon testimony presented during the meeting. Motion passed unanimously.

As a part of this discussion, **Debrigard** discussed the point that the proposed Gateway standards/Haddam Zoning Regulations – as pointed out during the Gateway visit to the Haddam P&Z – include no language regarding solar installations and any adverse impacts that they may have. Downes offered that the solar arrays in Chester were considered a “structure” based upon Chester’s definition of structure. This, GW members thought, would be a good way to insure that similar installations always require zoning permits and will therefore be reviewed for impacts.

Treasurer’s Report

Wilson presented the Treasurer’s Report , reporting that a meeting was held on October 13, 2014 with John Rafal of Essex Financial. **Wilson** reported on the value of the Gateway investment portfolio, indicating that the recent volatility of the markets had the GW value down and then rebounding again. The GW portfolio was reported as being down “less than the markets” and is still balanced 60%-40% equities/fixed and cash. No changes are recommended by Essex Financial at this time. Finally, Essex Financial was notified of financial needs as a result of the upcoming Sogge purchase.

Wilson discussed the format of the monthly financial report. The Commission agreed that the line entitled “Cash” is not necessary and agreed to have Financial Administrator Paula Fernald remove it from future reports.

Bills were presented, totaling \$1,932.58 for RiverCOG contracted services including overhead charges. Motion by **Fischbach**, seconded by **Bement**, to approve the payment of bills. Passed unanimously.

Correspondence and Staff Report

1. Letter of Resignation. Lisa Niccolai of Lyme has tendered her resignation for her membership on the Gateway Commission and the Lower CT River Land Trust. **Woody** to “exit interview”.

RESOLUTION: The Gateway Commission voted to thank Lisa Niccolai of Lyme for her service to the Commission and their mission of protection of the Natural and Traditional Riverway Scene and her recent important contributions to Commission efforts in the acquisition of the Haddam Neck property known as “the Sogge property”.

2. “The Preserve” PR Photo Op. Humphrey Tyler, on behalf of TPL, has asked that the members of the GW Commission have a photo taken of them with an oversized publicity check for use in PR. A publicity check has been prepared and was used during the taking of photos for a press release.
3. Scenic Easement, Steve and Arleen Klein, 100-4 Joshuatown Road, Lyme. A copy of a letter, signed by DEEP Commissioner Rob Klee, was presented to the Gateway Commission. The letter confirmed that a proposed addition to be built by the property owners was determined by DEEP to be consistent with a State scenic easement that was originally acquired by the Gateway Commission. The original easement was granted to Gateway by the Milnes. Thanks to Lyme ZEO Bernie Gigliotti for recognizing the significance of this process by asking the initial question.
4. CT Land Conservation Council (CLCC). Membership contribution request.
5. TPL Thank You Letter, “The Preserve”. Letter from TPL President Will Rogers thanking the Gateway Commission for their donation of \$5,000. The check, it is reported, was processed on October 10, 2014.

6. CT River Watershed Council. River Steward Jacqueline Talbot has resigned her position at CRWC and is no longer working there. She plans to travel to visit family.
7. Hartford Courant, 10/15/14, CT Yankee, Relocation of Floating Orange Boom.

“Connecticut Yankee officials are weighing whether to relocate a floating boom that bars access to a popular man-made canal at the decommissioned nuclear power plant on the Connecticut River in Haddam Neck. They (boaters) have launched an online petition at <http://www.uglyorangebarrier.weebly.com>, which has already garnered 600 signatures. Once the petition reaches 1,000 signatures, it will be forwarded to Gov. Dannel P. Malloy; Robert Klee, commissioner of the state Department of Energy and Environmental Protection; and First Selectwoman Melissa Schlag....”

“.....Connecticut Yankee spokesman Bob Capstick said the company ‘is willing to consider relocating and re-permitting the boom further up the canal, provided the relocation does not diminish or degrade the site’s current security protective capability’.”

Commission Referrals Handled by Staff.

1. Special Exception Application, 17 Whispering Cove Road, Old Saybrook. Review of the demolition and reconstruction of a single family dwelling adjacent to CT River marshland along Whispering Cove Road in the Ragged Rock area of Old Saybrook. Gateway had been involved in discussions during a related variance application whereby the proposed structure location was moved as a result of Gateway Commission concerns. Special Exception letter confirmed that, as a result of the applicant’s cooperation in the variance process, the proposal is consistent with Gateway standards included in the Old Saybrook Zoning Regulations. The review letter issued reiterated the GW request to have trees retained on the site as much as possible.
2. Special Exception Application, 22 Ragged Rock Road, Old Saybrook. Review of the construction of a new single family dwelling on a lot that was approved in a 1980’s subdivision. According to case law (Poirier v. Town of Wilton), zoning regulations in existence at that time apply, which means that the current Gateway standards contained in the Old Saybrook Zoning regulations do not apply. The structure, by today’s GW standards, would measure over 35 feet from *existing natural grade* and would therefor require a variance. None would have been required at the time of the subdivision, so no variance application was required in this application process. Interestingly, the façade facing the river is proposed to be *less* than 35 feet as measured by today’s standards while the side facing *away* from the river – the unseen side – is slightly over the 35 foot height maximum allowed under current regulations. The review letter strongly recommended retention of trees on the visible side of the proposed structure.

Regulation Changes to be Reviewed and Approved by the Gateway Commission

1. Essex, Proposed Changes to Village Residential District Regulations concerning Minimum Lot Size and Maximum Building Coverage. Petition from the Essex Zoning Commission proposes to reduce the minimum lot size in the district by half, from 60,000 square feet to 30,000 square feet. The intent is to reset this standard to that which existed in 2000 when minimum lot size was “upzoned” from 30,000sf to the current 60,000sf. Any NEW lot proposed to be brought into existence after a certain unidentified date (presumably the date this change becomes effective) will have to meet the 60,000sf minimum lot size. The intent is to render the many lots rendered nonconforming by the 2000 change, conforming again and thereby dramatically reduce the number of variance applications going to the ZBA as a result of an overly strict standard.

The same 2000 regulation change dropped the maximum building coverage allowance in half, going from 15% to 7.5%. Again, the overly strict standard resulted in many variance applications that were ultimately granted by the Essex ZBA. The proposal before the EZC and Gateway proposes to return the standard to the 2000 level of 15%. Any lot established after the as yet to be identified date will have to meet the 7.5% standard while lots existing as of that date will have the less stringent standard of 15% applied once again.

Motion by **Fischbach**, seconded by **Bement**, to “approve” the proposed change pursuant to Section 25-102g CGS. GW members agreed that the 15% coverage is still at least as stringent, if not more so, than most residential coverage requirements in other GW member towns and the Gateway standards themselves. The minimum lot size requirement change is also consistent with most residential lot standards in the GW member towns.

2. Old Saybrook, Proposed Change to Section 52.5, Special Exceptions. Between the Bridges, LLC, owner of the marina complex on Ferry Road on the Old Saybrook side of the CT River immediately south of the Baldwin Bridge, and developer of the Marina Village mixed use affordable housing development, proposed the request. BTB proposes to extend the timeline of the existing completion requirement from three (3) years, with possibility of two (2) years of extension (total five (5) years) to five (5) years with a possibility of one or more extensions totaling an additional five (5) years (total ten (10) years). The reason for the proposal is said to be that, with the lack of financing available, BTB, LLC doesn't feel it can complete the project within the existing timelines.

The Gateway Commission found that they would "disapprove" the petition as proposed. They would, however, "approve" a petition that proposed a five (5) year extension with the possibility of one or more extensions totaling two (2) years (totaling seven (7) years). If the petition were to be amended to what Gateway considered as approvable (the latter timeline totaling seven (7) years), the Old Saybrook Zoning Commission could consider the amended petition as "approved" pursuant to Section 25-102g CGS.

Motion to "disapprove" the submitted petition by **Fischbach**, seconded by **Bement**, passed with one opposed and one abstaining (Old Saybrook representative **Fish**. Motion carries). Reasons included that (1) the proposal applies to all future Special Exception approvals town-wide, not just the subject development approval and (2) the total time period may be excessive when considering the changes that could take place in the areas surrounding the development, changes that may require re-application and review.

Committee Reports

a. Outreach.

Debrigard summarized the Gateway standards presentation to the Haddam Planning & Zoning Commission on October 2, 2014 which reported as being "supportive". **Woody** and **Thomas** briefed members on the Commission presence at the October 18, 2014 Eight Mile Riverfest in East Haddam.

b. Land.

Wilson reported on behalf of the Land Committee. Noted was:

1. The Middlesex Land Trust attorney, Bill Howard, will return in the first week of November when he will be asked by MLT staff to review several documents and requests regarding the land acquisition. Among those questions will be the status of the title search, questions of the need for title insurance, drafting of an affidavit regarding hazardous materials on the property to be signed by the seller and the final agreement between MLT and the Gateway Commission regarding potential receipt of proceeds if the property is eventually purchased by US Fish & Wildlife.
2. Doug Bonoff, Surveyor, has been instructed on October 10, 2014 to proceed with producing an A-2 survey of the property by Downes, this to be paid for by the Gateway Commission.
3. A three week extension for the affidavit referred to in #1 above was requested and approved by the seller with a new deadline of November 24, 2014. The extension was requested due to the fact that MLT attorney Bill Howard has been out of town and won't be able to address the affidavit until the first week of November. A question was raised with respect to whether or not Mr. Sogge's *daughter*, to whom Mr. Sogge will transfer the property *prior* to final sale, will need to sign a similar affidavit as the *new owner*. David Brown of the MLT was asked to make that query of MLT Attorney Bill Howard.
4. The MLT/GW agreement referred to in #1 above will detail how proceeds from a USF&WS acquisition will be distributed between MLT and GW and set forth the agreement regarding the ongoing stewardship of the property.

Discussion occurred regarding the need for legal advice from retained GW attorney Mark Branse. Mr. Branse is to be consulted after Attorney Howard makes recommendations regarding the aforementioned questions, including comments regarding the use of warranty deed vs. quit claim deed.

New Business. None.

Old Business. None.

Adjournment

Upon motion by **Bement**, seconded by **Wilson**, and passed unanimously, the meeting adjourned at 8:51 pm.