

CONNECTICUT RIVER GATEWAY COMMISSION

REGULAR MEETING MINUTES

December 5, 2013

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

Chester:	Margaret (Peggy) Wilson, Martha Wallace (E)
Deep River:	Nancy Fischbach, Amy Petrone (E)
East Haddam:	Harvey Thomas, Emmett Lyman
Essex:	Claire Matthew, Wally Schieferdecker
Fenwick:	Ethel Davies, Borough Warden (E)
Haddam:	Susan Bement, Derek Turner
Lyme:	J. Melvin Woody, Lisa Niccolai
Old Lyme:	Peter Cable, Suzanne Thompson, (E)
Old Saybrook:	Madge Fish (E), Belinda Ahern (E)
Former MRPA:	Raul Debrigard (E), Stasia DeMichele (E)
Former CRERPA:	Two vacancies
DEEP:	David Blatt
Staff:	J. H. Torrance Downes.
Guests:	Harvey Clew

Call to Order

Chairman Melvin **Woody** called the regular meeting of the Connecticut River Gateway Commission to order at RiverCOG offices located at 145 Dennison Road, Essex at 7:35p.

Approval of 10/24/13 Regular Meeting Minutes

Motion to approve by **Fischbach**, seconded by **Wilson**, passed unanimously.

Approval of 10/24/13 Annual Meeting Minutes

Motion to approve by **Fischbach**, seconded by **Wilson**, passed unanimously.

Treasurer's Report

1. Financial Advisor. **Wilson** reported that Merrill Lynch will divest itself of Gateway investments and funds by January 17, 2014. An arrangement has been made with Essex Financial to open a temporary account within which the Gateway funds will be deposited while the search for another financial advisor goes forward. The funds will be moved to the Essex Financial account will occur by 12/31/13. Motion by **Schieferdecker**, seconded by **Bement**, to transfer funds from Merrill Lynch to the temporary Essex Financial account. The Finance Committee was authorized to advise Essex Financial regarding short term opportunities reflective of the temporary status of the account. Motion passed unanimously.
2. Monthly Bills. Staff bill for the period October through November 20, 2013 included 21.5 hours of time for Downes and 1 hour for Papp, totaling \$777.82 and \$1166.75 in overhead charges. Total bill \$1944.58. Motion by **Bement**, seconded by **Fischbach**, to pay bill. Passes unanimously.
3. Insurance. **Fischbach** provided a summary of the status of insurance. The Town of Essex reported that it's municipal insurance covers its appointed representatives, including those on the Gateway Commission. In discussion of "risks" inherent in Gateway work, the Governance Committee couldn't say that there were any real areas of risk of liability exposure to commissioners that they could determine. Risk was "very, very small".

With regard to employee dishonesty insurance, the Governance Committee found that there was no need since the staffing of Gateway is performed with an employee of the Lower CT River Valley Council of Governments.

Staff is *not* an employee of the Gateway Commission, rather he/she is considered a “contractor”. The issue of employee dishonesty will be covered in the contract between the Gateway Commission and RiverCOG that is currently being developed by the Governance Committee.

It was agreed that Gateway “self-insures” for legal fees. Based upon the Gateway mission and program, Gateway’s exposure to damages is essentially zero.

A note was made to add bylaw language which indemnifies members of the Gateway Commission.

Correspondence/Staff Report

1. Dock & Dine, Old Saybrook. The application was heard by both the ZBA and the Zoning Commission. Following an initial motion to deny before the ZBA, further discussion led to the approval of the variance requests. At issue was the potential lack of “hardship” for the 42 foot height requested by the Appellant. The application was then reviewed and approved by the Zoning Commission on Monday, December 2, 2013, clearing the way for the start of demolition and construction.
2. CYCP Project (Connecticut Yankee, Haddam Neck). Report of status (see attached memo).
3. Navigation Boom/CT Yankee Atomic Power Company, Haddam Neck. GW will recall that staff sent a letter to CY (dated October 30, 2013) requesting consideration for the replacement of the “highly visible” navigation boom present at the site with a boom that results in the desired navigation limitations while being somewhat less “vibrant” in color.

The November 6, 2013 letter from CY ISFSI Manager Brantley Buerger wrote that the current boom ***“was approved to be in compliance with the applicable CT DEEP Boating Division regulations that unfortunately require high visibility”*** and that he ***“does not have the authority to replace it with something less bright as suggested in your letter.”*** Buerger went on to say that, where they hadn’t intended to reinstall a sign at the site, it was made clear during DEEP inspection of the boom CY that they ***“are required to install a 4’ by 4’ sign that complies with specific state requirements regarding text, font size and reflectivity.”*** Despite understanding the complaints received by GW, CY ***“unfortunately cannot accommodate [GW’s] request to replace it with one that does not comply with DEEP visibility regulations, nor can [they] ignore the Departments direction to install the required signage.”***

Mr. Alan Aronow of Haddam, who initially brought the issue before GW, was told that this was as far as GW would likely go with this. That, of course, is up to the Commission. Mr. Aronow commented that he didn’t think that GW’s letter, prepared by staff, was strong enough in its demands. Although understanding the position that GW has taken, Mr. Aronow suggested that he may continue to pursue this matter.

4. CT River Watershed Council, Greenfield, MA. Mr. James Okun, Chairman of the CRWC board of directors, sent a thank you letter for GW’s participation in the “Source to Sound” clean-up.

Public Discussion

Harvey Clew of Haddam (former member of the GW Commission as the representative of the former Midstate RPA) presented a land acquisition question to the Gateway Commission. The question involves a parcel of approximately 25 acres on the river at Deep River Town Landing. The owner fears that she will be assessed approximately \$20,000 in fees for the four properties for construction of sewers to serve her property. She is said to have little interest in developing the property and wouldn’t have the need for sewer “hook-ups”. Downes offered to contact the Town of Deep River in order to determine the status of such a possibility and report back to the Commission and Mr. Clew.

Commission Referrals

None presented.

Staff Actions

Stephen Jacobs, Joshuatown Road, Lyme. Downes reported that he reviewed a Special Exception application for a residential structure located on Joshuatown Road in Lyme. The applicant, an architect with offices in New York City,

provided several photographs of the hillside where the structure was to be constructed. Each of the photos included a relatively accurate depiction of the structure inserted into the photos with a photo-editing program. The photos demonstrated the relatively insignificant impact of the view of the structure. Two versions of one of the photos were presented, one with a "natural" staining to the exterior and one with a darker staining of the wood. In a pre-application meeting, Downes had asked the applicant if he would be averse to using the dark stain in order to buffer the view of the structure to a greater degree than the natural stain would, to which he agreed.

The project will be "net-zero" with respect to energy needs as it will include an array of solar panels and includes a window design which will minimize summer heating of the structure and maximize winter heating. The window design, which takes advantage of having the windows recessed into the structure, will also minimize sun reflection and the adverse impacts that could have on the traditional viewscape in the river valley.

Although trees were removed to open up the site for construction and solar panel use, the applicant reported that it was not his intention to remove any more trees.

Downes reported that a letter was sent to the Lyme P&Z stating that the project was essentially compliant with GW standards and Gateway mission if the structure were to be finished with a dark stain and if no more mature trees were removed unless absolutely necessary.

The Gateway Commission was impressed with the photographic demonstration made in the application.

25 Heron Pond Road, Essex. Downes reported that a letter of "no opposition" was sent to the Essex ZBA for a proposed structure to be built on Heron Pond Road, which extends *westerly* off Route 154 adjacent to South Cove. The height variance was determined to be necessary due to a sloping property which required the roof peak to measure more than 35 feet from *existing natural grade*. The property cannot be seen from the river or South Cove.

Property Transfers

Klar, East Haddam. Downes reported that a revised reversionary clause which combined language of GW and the DEEP was submitted which accommodated concerns of DEEP and the Office of the Attorney General acting as counsel to DEEP. The clause had been vetted with Chairman Woody and Vice Chairman Fischbach. Upon a motion by **Fischbach**, seconded by **Bement**, the language was approved. The motion was approved unanimously with **Blatt** abstaining. That language is as follows:

"THE GRANTEE, the Connecticut Department of Energy and Environmental Protection (the Department), by acceptance of this deed, hereby covenants and agrees that said Premises shall be preserved and managed in perpetuity as forest or open space as a part of the Machimoodus State Park with public access permitted for passive recreation only including, but not limited to, hiking, fishing and hunting as may be permitted by the Grantee. These covenants and agreements shall run with the land hereby conveyed and be binding upon the said Grantee and its successor and/or assigns."

The Department acknowledges that the real property, which is the subject of this Grant Agreement, is acquired for the approved purpose of protecting in perpetuity, wildlife and wildlife habitat and to allow compatible wildlife associated recreational uses. This acquisition will expand the existing Machimoodus State Park which is owned and managed by the Department. The Department acknowledges that the property will be administered for the long-term conservation of said lands and wildlife dependent thereon. The Department, hereby acknowledges that it is responsible for exercising sufficient control over the property to ensure that the property is used and will continue to be used for the approved purposes for which it is acquired and that the property may not be conveyed or encumbered, in whole or in part, to any other party or for any other use, whatsoever, without first notifying the Connecticut River Gateway Commission (the Commission) at least 90 days prior to any formal action which may lead to the conveyance of the property.

If the Department loses control of the property, control must be fully restored to the Department or the

property must be replaced, within three years, with like property of equal value at current market prices and equal benefits. Further, if the property is used for activities which interfere with accomplishment of approved purposes, the violating activities must cease and any resulting adverse effects must be remedied.

If the Department determines the property is no longer needed or useful for its original purpose, the Department, may with the prior consent of the Commission transfer the subject property to said Commission or to a third-party designated or approved by the Commission.

Garthwaite, Chester. Downes reported that Surveyor Don Carlson had completed his survey, which amounted to identifying the survey markers for the common property line between Garthwaite and the Chester Point Marina. He also confirmed that there were no marina encroachments onto the Garthwaite parcel. The 25 foot ROW across the marina property was *not* resurveyed, but Carlson reported that most of the ROW was clear of obstructions with the exception of a piece of heavy equipment and several small temporary structures. Downes reported that it seemed advisable to allow the Chester Land Trust, to whom the property will be donated, to come to an understanding regarding access to the property with the owners of Chester Point Marina. Downes reported that he will facilitate communication between the land trust attorney and the attorney for the marina.

It was agreed that, given the reestablishment of the survey markers, the 1994 survey on file in Chester Town Hall can be used for the preparation of the deed of transfer. Steve Cline, the attorney/member for the Chester Land Trust, was provided a copy of the deed for the Gartwaite property and a copy of the 1994 survey originally performed by Engineer/Surveyor Tom Metcalf.

Motion by Thomas, seconded by Fischbach to approve the transfer of the Garthwaite property to the Chester Land Trust according to the survey entitled "*Land of Lower Connecticut River Land Trust, Railroad Avenue, Chester, Connecticut, dated April 11, 1994, Identification Number 94-623, by Thomas E. Metcalf, PE, LS.*"

Gateway Standards

Following brief discussion, **Fischbach** reported that she and Downes will prepare a presentation to be made before the P&Zs and ZBAs of the eight member towns in the Gateway compact.

Committee Reports

Outreach. No report.

Finance. No report.

Governance. After a brief discussion, it was agreed that the Commission should contact Attorney Mark Branse of Glastonbury to determine if his firm would be willing to be retained by Gateway for ongoing legal work, when deemed to be necessary. Motion by **Fischbach**, seconded by **Bement**, for Downes to contact Branse and inquire about representation. Passed unanimously.

Regarding the draft contract developed to formalize agreement between the Gateway Commission and the RiverCOG regarding the interrelationship of the two organizations, a motion was made by **Schieferdecker**, seconded by **Bement**, to send the contract to the Council of Governments for review and agreement.

Old Business. None.

New Business. None.

Adjournment

Upon motion by **Bement**, seconded by **Turner**, and passed unanimously, the meeting adjourned at 8:35pm.