

# CONNECTICUT RIVER GATEWAY COMMISSION

## REGULAR MEETING MINUTES

August 22, 2019

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

<b>Chester:</b>	<b>Margaret (Peggy) Wilson, Jenny Kitsen</b>
<b>Deep River:</b>	<b>Nancy Fischbach, Conal Sampson</b>
<b>East Haddam:</b>	<i>Crary Brownell (E), Joel Ide</i>
<i>Essex:</i>	<b>Claire Mathews, Mary Ann Pleva</b>
<i>Fenwick:</i>	<i>Newton Brainerd, Borough Warden</i>
<i>Haddam:</i>	<b>Susan Bement, Mike Farina</b>
<b>Lyme:</b>	<b>J. Melvin Woody, Wendy Hill</b>
<b>Old Lyme:</b>	<b>Peter Cable, Suzanne Thompson</b>
<b>Old Saybrook:</b>	<b>Bill Webb, Tom Gezo</b>
<i>Regional Rep:</i>	<b>Raul Debrigard (7:11pm)</b>
<b>DEEP:</b>	<b>David Blatt</b>
<b>Staff:</b>	<b>J H Torrance Downes</b>

### Call to Order

Chair Thompson called the regular meeting of the Connecticut River Gateway Commission to order at RiverCOG offices located at 145 Dennison Road, Essex at 7:03pm.

### Approval of 7/25/19 Meeting Minutes

- Motion to approve the amended minutes by **Fischbach**, seconded by **Bement**, passed unanimously with typos corrected including the word “eradicate” on page 1.
- Motion to move Treasurers Report/Financial Report to the end of the agenda with Committee reports. Motion by **Fischbach**, second by **Mathews**, passed unanimously.

### Correspondence/Staff Report

- Essex, 46 Crosstree Drive. Site inspection regarding report of illegal tree removal. Upon notification, Downes went to the site and stopped work until it was clear that the contractor – Wilcox Tree Service – was working in a way consistent with the Essex Zoning Regulations/GW standards. Members will recall that, as of October of 2018, the Town of Essex implemented the 50 foot riparian (no-cut) setback, requiring a variance from the Zoning Board of Appeals if anything other than “limbing up” mature trees and creating a 5 foot path to the water was proposed. A dead tree was removed from the 50 foot buffer, something they would have been given permission to do. Another tree was alive, but hollow to the point of it being a danger. That tree was in the process of removal, which the contractor was told to continue. A third tree was being “limbed up” consistent with GW standards. No low vegetation within the 50 foot setback was being removed. A meeting with ZEO Joe Budrow at Essex Town Hall was held afterward so that he could be briefed on this site inspection. The Wilcox Tree Services owner was also contacted to be briefed on the inspection.  
As a side note, I noticed that the neighbor’s house at 42 Crosstree was for sale, a cove-front property with a beautiful series of mature trees hiding the house from river view. A perfect example of where “limbing up” the trees would provide beautiful views without removing trees. The hillside was totally vegetated. The owner, Jack Meier, is representing himself as real estate agent, which I found out by calling Southeby’s. It turns out his architect – Chris Arelt who designed the Deep River property with the boathouse – is who called me about the neighbors taking down trees. I had called to inform Meier about the new regulations governing cutting of trees within the 50 foot area of the river. He was upset with the work that had been done at 46 Crosstree, telling me that the builder – Mike Picard – was behind all of the tree removal (most of the trees were outside of the 50 foot no-cut area), but even Meier recognized Mr. Picard as a “tree-clearer” and “stone-wall-builder”. I explained my conversation with the Wilcox tree people working at the neighbor’s property. He said, it’s too bad I hadn’t gotten to the property a week earlier than I did, although I told him as soon as I was notified, I was at the site within a half hour. Meier said that although he has no intent on cutting trees, he appreciated being told that there are new regulations governing cutting within 50 feet.  
Finally, in calling Southeby’s to get information on who’s selling the property at 42 Crosstree, I was instructed on how to get information to all of the agents regarding the new standards governing the river setback and the riparian buffer, and will

follow up.

**Fischbach** spoke of a tree cutting issue in Lyme near Brockway Ferry. A suggestion was made to send a letter or communication to various tree cutters to inform them of the new Gateway standards regarding tree cutting in the 50 foot buffer. Downes indicated that he can do that. **Blatt** suggested that a letter could be sent to Valley RR, cc'd to DEEP Land Acquisition and **Blatt** to mention that Gateway has the riparian buffer standards and that they've been sent to tree cutters. Recognize that the state is not obligated to comply with these zoning standards, but Gateway would hope that they would attempt to comply as much as is practical.

- Future Regulation Referrals.

- (1) At its September meeting, the Commission will be reviewing zoning regulations to allow a "Planned Residential Development" at the end of Sheffield Street in Old Saybrook on property that fronts on North Cove (formerly Ocean Survey, next to Riverside Cemetery). Depending upon tree removal (which would be overseen at the development application stage), the site may be visible from the river, although certainly it will be from the upper portion of North Cove. Private development. Members discussed the intent and practical applicability of a "developed area" and how it is designated and approved.

- (2) Commission will also see general regulations submitted by the Deep River Planning & Zoning Commission concerning various topics, none of which appear to be significant to the Gateway mission. Formal referral has not yet been made.

- Haddam Neck Fair, Labor Day Weekend. Downes has discussed Gateway presence at this year's Haddam Neck Fair. A larger tent area will be used providing more ability to display information and accommodate visitors.

**Variance Referrals for Commission Consideration:** None presented.

**Special Exception Referrals for Commission Consideration:** None presented.

Old Saybrook. Staff Review of Special Exceptions: Downes mentioned two separate reviews conducted, one for the removal of an in-basin peninsula at a marina off Essex Road/Route 154 north of the Rocky Point neighborhood, and the construction of an in-ground swimming pool at the Ragged Rock Marina, both in Old Saybrook. Both projects did not rise to the level of creating any significant visual impacts to the Conservation Zone or "natural and traditional river scene".

**Variance Applications Reviewed by Staff:**

Essex. 28 River Road. Construction of a 10 foot by 12 foot shed. Property located far from river. Small shed to be placed among trees in the rear of the property on the upland side of the residential structure. Small structure that is blocked from view and within trees. No impact letter sent to ZBA.

**Regulation/Map Review and Approval pursuant to Section 25-102 G CGS.**

Old Lyme. Tidal Waters Protection. Petition tabled at July meeting and carried forward to the August 22nd meeting. At the previous meeting, the general consensus was that the 50 foot increase to an existing 50 foot setback (total 100 feet) that will mark the area within which development will require a Special Permit approved consistent with various criteria was an additional protection of which Gateway is supportive. In addition, a letter prepared by DEEP Analyst Karen Michaels was sent along that further addresses the petition. The Michaels letter was described as being substantive. Even if the Gateway Commission "approves" the petition as it exists at present and were subsequently modified consistent with the DEEP letter, the result would still be positive and would be seen by Gateway as consistent with the Gateway approval which occurred prior to those amendments. A recommendation was made to include a statement saying that Gateway encourages the Zoning Commission to consider the changes recommended in the Michaels letter as long as those changes continued or enhanced protections of the "natural and traditional river scene" in the Conservation Zone. Motion by **Fischbach**, seconded by **Bement** to approve the draft letter prepared by staff, including above comments by Commission members as a part of the discussion. Motion approved unanimously. **Blatt** abstains.

Old Saybrook. Various regulations considered "housekeeping", adding clarity and making corrections. Staff references an off-site parking regulation approved by Gateway during the previous year and adopted by the Zoning Commission. The intent of that regulation was to allow a "satellite" parking lot (to be located within 500 feet of the property for which the satellite lot would serve) for the Big "Y" in the western part of town. Being in the B-4 Business District, that regulation impacted properties in the B-4 that are *also* located in the Conservation Zone on Essex Road.

That regulation was proposed for removal from the Old Saybrook Zoning Regulations. Motion by **Woody**, seconded by **Fischbach** to approve. Motion passed unanimously.

#### Committees Reports

Land Committee. **Wilson** emailed Jim McHutchison and David Brown of MxLT requesting an update of the land acquisition circumstances in Haddam Neck. McHutchison responded indicating that there were no updates to report. McHutchison *did* report that Wayne Norton, president of Northeast Utility CY, told him NU/CY was continuing discussion of the ultimate conservation of the CY property; so discussions are still occurring, which is considered a “positive”. Also reported was that, with David Brown’s help, USF&WS has purchased an additional 120 acres on the Salmon River as well as the house(s) near the gate of the CY property on Injun Hollow Road in Haddam Neck.

Governance Committee. **Webb** reported that the committee will be following up with an additional meeting. Of discussion, what it will take to have the remaining towns to adopt the updated Gateway standards. Webb has also began researching non-profits and additional standards that can be discussed.

Public Outreach Committee. **Gezo** summarized a “rousing” meeting that was held on Monday, August 19, 2019. Members discussed issues described as “back to basics” including objectives, who to reach what to say. A “survey monkey” survey will be sent to all Gateway members for their responses. **Gezo** reported on a former colleague with expertise in marketing and websites will be tapped to speak to the committee at a future meeting about how to achieve outreach goals. A meeting will be scheduled for some time in October.

Finance. RiverCOG staffing bill, including mileage, totals \$2,447.00. Motion by **Fischbach**, second by **Kitsen** to approve bill. Passed unanimously. **Matthews** reminds members that the investments fee seen on the treasurers spread sheet is automatically withdrawn. **Matthews** summarizes that the portfolio total reported was what existed at the end of July before the August volatility.

#### Old Business:

**Fischbach** formally introduced **Conal Sampson** who was officially appointed by the Town, informing the Commission that he will be alternate until she – **Fischbach** – steps down when he’ll become the “representative”. **Sampson** discusses his background.

#### New Business:

**Downes** reports that there is an application for a private dock extension being proposed for the Schaller dock on property located just north of the Chester Ferry dock on the Chester side. The discussion includes a short history of the dock application process that occurred between 15 and 20 years ago. The current dock was shortened from its maximum length recommendation through the previous dock application process and included a boat lift. The river bottom area off the site is quite shallow with the mudflat extending well into the river. The proposal includes a 45 to 50 foot extension that also includes a lift. Docko (the company preparing the application), according to **Blatt**, seems to be in the process of a business model modification which seeks business to extend existing permitted docks. **Blatt** was asked if the extension could be approved; he reported approval would occur only if the property owner can document that conditions have changed that would warrant the extension. It is reported that, in Stonington, conditions in some areas of that nearshore have shallowed as a result of recent – a “change of condition” that might warrant a modification to a previously approved dock. **Webb** asked what authority Gateway would have. Downes explained the different authorities between upland zoning authority and inland “public trust” authority held by the State of Connecticut. **Blatt** further explains the riparian “right to access” navigable waters and that because of that right, it is very difficult to legally deny any dock at all. The right to the private right to “wharf out” for reasonable navigational access is, however, balanced by navigational rights of the public and protection of the environment. **Blatt** further describes the application process with respect to procedures followed when a hearing is called. **Woody** provided additional history of the original dock application. Opposition the first time around included kayakers, neighbors and environmentalists. What exists now is the previous decision of the Commissioner that the dock built and exists at the site was that reasonable based upon the conditions at the site at that time. If the site conditions can be demonstrated as having changed (shoaling, requiring a longer dock), an extension *could* be approved. With

Staffing changes coming, the analysts who will be responsible for reviewing docks throughout the state will be fewer and perhaps with less experience than present analysts. **Fischbach** reasserts that a short letter requesting notification should an application come in or if there are any changes that occur during the application process would be applicable. **Thompson** encouraged more discussion on what groups might be interested in the extension project. Downes to write letter. **Gezo** asks for clarification on what authority Gateway has and would cite in such a letter. On what basis does Gateway object? The traditional river scene? The ecology of the river? Members indicate that both of those areas are legitimate concerns to cite. **Woody** reminds that that area of the river is one of the most accessible to visitors in the lower river through visits to Gillette's Castle on the bluff above the river. **Matthews** reminds members of the influence Gateway had in the Lyme application for a large residential structure on Hamburg Cove.

Finally, Downes provided a copy of an article regarding the first Gateway purchase in the Chapmans Pond area. **Woody** provided a brief summary of the first purchase in that area. Date of article was mid-1980s. **Woody** points out some of the historical correspondence regarding the Conservation Fund award that is included in the handbook.

Adjournment: Motion to adjourn by **Bement** at 7:58pm.