

# CONNECTICUT RIVER GATEWAY COMMISSION

## REGULAR MEETING MINUTES

January 26, 2017

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

**Chester:** Margaret (Peggy) Wilson, Errol Horner (E)  
**Deep River:** Nancy Fischbach, Kate Cotton (E)  
**East Haddam:** Harvey Thomas, Crary Brownell  
**Essex:** Claire Matthews (7:35p), Jerri MacMillian (E)  
**Fenwick:** Fran Adams, Borough Warden  
**Haddam:** Susan Bement (7:32p), Chip Frey  
**Lyme:** J. Melvin Woody, Emily Bjornberg (E)  
**Old Lyme:** Peter Cable, Suzanne Thompson  
**Old Saybrook:** Madge Fish, Belinda Ahern (E)  
**Regional Rep:** Raul Debrigard  
**DEEP:** David Blatt  
  
**Staff:** J. H. Torrance Downes  
**Guests:** Whitey Wilson, Richard Snarski, John Pritchard, Laurie Snarski, Chris Smith, Sylvia Rutkowska, Diane Gregory, Rick Carlson, Chuck Mueller

### 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 7:30 pm.

### Approval of 12/1/16 Regular Meeting Minutes

Upon a motion by **Fischbach**, seconded by **Wilson**, the 12/1/16 regular meeting minutes were approved unanimously. Abstained: **Thomas, Thompson, Cable** and **Woody**

### Discussion, Eradication of Phragmites in Lords Cove, Lyme.

Richard Snarski and John Pritchard represented a coalition of partners (self-titled the Phragmites Fighters) including the US Fish & Wildlife Service, The Nature Conservancy, the CT DEEP and property owners in the Lords Cove/Eli Meadows area. Pritchard and Snarski explained the plan of the partnership to cut and spray to rid the marshes in that area of invasive Phragmites. DEEP has committed to spray the lower area of the marsh (where the State of CT owns most of its acreage) after the cutting of the Phragmites. Private funding is needed for the northern portion of the marshes. In all, about a mile of CT River riverfront will be restored so that native vegetation will grow. The process includes cutting of the phragmites followed by several applications of an herbicide. Permission has been received from all property owners involved as well as TNC, DEEP and USF&WS. The herbicide to be used is approved by the EPA and is used by DEEP. It is described as having a short "half-life" and is applied to the vegetation itself and not to the soil. The southern portion, to be overseen by the DEEP, will undergo the eradication for two years. The northern portion will take three years and will have the need for the raising of \$70,000 of private funds. When asked if members of the partnership might provide guidance to others who have interest in this sort of project, they said they would.

Pritchard and Snarski proposed a request for a Gateway matching grant totaling \$30,000 to be paid out over three years at a suggested level of \$20K/\$5K/\$5K. Spraying could start in June of 2017.

### Motion by Thomas, seconded by Wilson as follows:

The Gateway Commission voted to provide up to \$30,000 matching grant to be provided over a three year period in amounts to be determined by submitted budgets of the partnership. Matching amounts must be *in-hand* and not just commitments. The motion passed unanimously.

Essex, Petition to Revise Zoning Regulations to Allow Restaurants as Accessory Uses in the Waterfront District. Attorney Chris Smith of Shipman & Goodman presented the text amendment petition. Smith explained that the petitioner is interested in building a structure that will include a small restaurant in a location between the Essex Boat Works and the CT River Museum. Although there are accessory restaurants in the Waterfront District (Abby's and Marley's to name a few), the regulations do not currently permit such uses (the two existing restaurants and other accessory restaurants are legally-existing nonconformities). The proposed text change will "codify" those existing uses and allow for the establishment of an accessory restaurant by Special Exception in the location discussed. The building is not a part of this petition, but questions led to Smith's explanation of what is anticipated. Smith indicated that the petitioner would be submitting a second petition to increase the maximum height of structures in the Waterfront District from 30 feet to 35 feet in order to accommodate the structure without having to rely on the approval of variances. Gateway will review that petition at its February meeting. The existing regulations define what is "accessory". Motion by **Fischbach**, seconded by **Cable** to approve the petition pursuant to Section 25,102g CGS. Motion passed unanimously.

Chester, Various Regulations (SpEx requirements, ZBA standards, location of establishments selling alcoholic beverages and regulations concerning Research and Light Manufacturing). Sylvia Rutkowska of Dzialo, Picket & Allen represented the Chester Planning & Zoning Commission for the first two petitions. Rutkowska explained the proposed modifications stating that, especially with respect to the ZBA standards contained in Section 140J, the petition is presented to clarify confusing language with respect to when approved variances must be recorded, when they become "effective" and how long a property owner has to commence and conclude work authorized by such variances. Of concern was proposed language that reaches back ten years (from the effective date of *this* regulation should it be approved) to allow those who received variances during that time period to have their variances "revived" because of the confusion that the existing language has created. Variances that would be subject to the new language would be those where no work has taken place. Also discussed was a variance issued by the Chester ZBA to property owners named Barnick in 2007. That approval was appealed by the Gateway Commission (the appeal was dismissed) for procedural reasons. Upon questioning, Rutkowska indicated that the proposed language *would* help the town avoid a potential lawsuit that would be based upon the unclear nature of the existing language. The "Barnick" variance would be subject to the proposed language and would be "revived" under the proposed language. During that discussion, **Fischbach** indicated that the proposed text revision and the issues surrounding the Barnick variance approval were unrelated.

Considerable discussion transpired regarding how long the "reach back" provision should be that is included in Sections 120L and 140J. Time periods of ten (10) years (proposed) and five (5) years were discussed. A motion was put forth by **Fischbach**, seconded by **Blatt**, to *conditionally* approve both the ZBA and Special Exception petition so as to allow the reach-back provision, but at five (5) years instead of ten (10) years. All other language in those two petitions was found to be acceptable. That motion was approved by a 6 to 3 vote. Pursuant to Section 25-102g CGS, this means that the petition as presented (with a 10 year reach-back) could not become effective as written. If the language was changed by the P&Z to be 5 years, this approval would be considered as the Gateway "approval" required under that section of the statutes. Gateway Commission members suggested that Attorney Rutkowska come back before it next month with additional information that will allow Gateway members to be less concerned about the ten (10) year time period if the P&Z so chooses. One suggestion was for the P&Z to provide a determination of just how many variances would be subject to this language. It was thought that the total number of variances may be few in number. The towns in favor of the 5 year reach-back: Chester, Regional Representative, Haddam, Commissioner's Representative, Old Saybrook and Deep River. Towns voting in opposition to motion: Old Lyme, East Haddam and Essex.

Following the vote on these two petitions, the Commission voted to "approve" the language modifying requirements for the location of establishments selling alcohol for off-premises consumption (motion by **Fischbach**, seconded by

**Matthews**, passed unanimously) and the prohibition of medical marijuana facilities (motion by **Fischbach**, seconded by **Bement**, passed unanimously) pursuant to Section 25-102g CGS. Those petitions can therefore become effective

as presented.

Deep River, 46 Deep Hollow LLC. Proposal to amend regulations impacting the establishment of “accessory dwellings” (know more commonly as “accessory apartments”). The proposal eliminates a provision that requires a detached accessory building to be at least ten (10) years old before an accessory dwelling can be established in it. Other language allowed for the establishment of a second accessory dwelling on properties with a principal use of “farm” of at least 15 acres. In that case, the additional dwelling would have to be occupied by farm-related worker and his/her family, if they had one. Motion to approve by **Bement**, seconded by **Debrigard**, passed unanimously as such dwellings will not likely have any significant impact on the “natural and traditional riverway scene”.

Deep River, Four Petitionerers. Proposal to modify regulations concerning Research and Light Manufacturing District (RLM) facilities so as to clarify what uses can and can't be established in that district. The proposal actually “tightens up” standards as opposed to diminishing them. The focus of the amendments is properties located on Route 145 far west of the Gateway Conservation Zone. Because of two developed parcels on Route 154 that are zoned as RLM and located within the Gateway Conservation Zone, these regulations *potentially* impact those properties as well. In that the likelihood of significant visual impacts to properties within the Conservation Zone being low, Commission members approved the petition pursuant to Section 25-102g CGS because there is little likelihood of adverse impacts to the “natural and traditional riverway scene”.

#### Discussion of Authorization of Staff to Review and Report on Regulation Petitions

Following a short discussion regarding why petitions that have seemingly little impact on the Gateway mission of protection, a suggestion was made to allow staff of the Commission to make determinations on what petitions could be addressed by staff versus full commission review, similar to the process used for variance responses. Downes explained that, where the statutory language concerning review of variances does *not* include a requirement for Commission review, statutory language for review of *regulation/map changes* requires an “approval” of the Gateway Commission. There would appear to be no provision that would allow a delegated review to staff of the Commission. **Thomas** commented that he is comfortable following the “letter of the law” in this case. As a result, the consensus was to *not* authorize staff to follow a similar procedure to variance reporting as statutes don't provide for that procedure. Instead, staff would provide an initial report before any regulation petition that would summarize whether there appeared to be any significant impact if the petition were to be approved pursuant to 25-102g CGS.

#### Treasurers Report

- Audit : **Wilson** presented the final audit document presented by auditor Joe Wollack. The audit will be accepted at the February meeting providing time for members to review the document and ask questions if so desired. A request was made to distribute audits electronically in succeeding years.
- Meeting with Essex Financial, 1/26/17: **Wilson** summarized the meeting of the GW Finance Committee with EF. Portfolio performing well. Adjustments were made to rebalance equities/bonds. It was reported that EF has “cyber insurance” in the case of losses caused through “hacking”. The \$6,895.72 reimbursement check from the Middlesex Land Trust reimbursing Gateway for residual funds that weren't needed in the closing of the Halvorson land purchase was given to EF for deposit.
- Bills: Bills presented for payment for audit (\$6,000), November staffing (\$1,911.24) and December staffing (\$1394.91). Motion by **Fischbach**, seconded by **Bement** to approve, passed unanimously.

#### Items of Interest Report

##### Goodspeed Airport Scenic Easement/Campbell Hudson.

A letter supporting the acquisition of the scenic easement by the State of Connecticut was sent to Graham Stevens of DEEP on

Monday, January 23, 2017. In a conversation with Attorney Hudson, it was learned that the revised easement, described to Gateway members at their meeting on December 1, 2016, will be forwarded to the State of Connecticut today for final processing.

#### Essex Petition for Height

The Commission will receive a petition from Carlson Landing LLC (Essex Boat Works) to revise the height limit in the Waterfront Business Zone District from 30 feet to 35 feet. The height will be required to be measured from "existing natural grade", as is the case now. Not that this proposal only impacts the specified district and not other districts where the height limit will remain 30 feet from "existing natural grade". The proposal will bring the height limit in the district to the minimum Gateway standard (the height requirement in Essex is currently *more* restrictive than the GW minimum standard). The petition will be on Gateway's February 23<sup>rd</sup> agenda.

CT Land Conservation Council. Gateway was notified that it has succeeded in its application to make a presentation at the land trust workshop at Wesleyan University in March. Conference preview sent out week of 1/17/17. Registration for workshops set to open on or about 2/1/17.

#### Report on Several Old Saybrook Dock Projects.

Old Saybrook Town Dock, CT River. The upland at Old Saybrook's Town Dock, which is located within the shorefront occupied by "Between the Bridges" marina, will be built up using concrete blocks to level the grade and minimize the upland flooding that occurs there on a regular basis. In-water work on the docks themselves will be conducted as well.

Old Saybrook Town Dock, Sheffield Street, North Cove. The upland at the Sheffield Street town dock will be raised to level the area that leads from the street to the docks at the west end of North Cove.

S&S Marine, Old Saybrook. S&S Marine, located south of the I-95 bridge, has plans to expand their docks, requiring a Structures and Dredging Permit from the State of Connecticut.

Because of the nature of these efforts, no Gateway "approvals" are necessary for these activities. No trees or vegetation is being removed or cut.

Letter of Support, Doane Property in Essex. A letter of support was sent to the Essex Land Trust on behalf of the Gateway Commission for inclusion in a grant application package in support of their effort to purchase 18 acres of undeveloped land within the Gateway Conservation Zone of Essex (attached).

#### Letter of Support, Resolution 16-1, Protection of Public Lands.

A letter of support was sent to all members of the CT General Assembly requesting their support of the passing of the Constitutional Amendment. The Gateway Commission previously approved its name being included among the many organizations which support the effort. The letter and the list of supporting organizations is attached.

Newspaper Articles. Brainard Quarry Preserve (Courant), NEC Futures (Wall Street Journal)

Variance or Special Exception Referrals. None presented for review.

Staff Actions. None reported.

#### Committee Reports

Land Committee **Bement** reported the sale for land abutting CT Yankee on the river side of Injun Hollow Road is to close shortly. The purchaser is the US Fish and Wildlife Service.

#### Outreach Committee

Downes reported that the new Gateway website has been launched and includes many historical documents that have been buried in files over the years. These documents should be available for wider viewing. It was also reported that information regarding the reprinting of canoe and kayak trails will be provided at the February meeting.

#### Governance Committee

**Fischbach** reported that the draft standards will be compiled in a final document and circulated to the eight member towns for final comment. Following that, Gateway will conduct its required hearing to adopt the standards and then forward them to member towns for inclusion in their zoning regulations. Following discussions with the Essex Zoning Commission, Gateway will submit a petition requesting adoption in that town.

Old Business . None.

New Business. None.

Adjournment. Upon motion by **Bement** and **Thomas**, the meeting adjourned at 9:30p.

DRAFT