

# ***Topsfield Conservation Commission***

**Meeting of Wednesday, January 13, 2010**

Topsfield Library Meeting Room ~ 7PM

The meeting was called to order at 7:03 p.m. with a quorum present: Holger Luther, Acting Chair; Jim MacDougall; Mark Erickson; Jennie Merrill; Jud Pratt (7:12)

Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary

Not present: George Hall

Abbreviations used:

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

NoI – Notice of Intent

CoC – Certificate of Compliance

ORAD – Order of Resource Area Delineation

SORAD – Superseding Order of Resource Area Delineation

BoS – Board of Selectmen

BoH – Topsfield Board of Health

OoC – Order of Conditions

EO – Enforcement Order

BVW – Bordering Vegetated Wetland

Public Information: Agenda

## **OPEN MEETING:**

TCC signed bills, authorizations and time sheets.

## **HEARINGS:**

**Continuation AmOoC TCC 2006-01: 72 Hill Street (Map 69, Lot 16), Malinowski/Hayes Engineering.**

The TCC office received a written request to continue the hearing to January 27<sup>th</sup> since neither Scott Malinowski nor Gordie Rogerson is available to attend.

*Ms. Merrill made a motion to continue the hearing as requested. Mr. Erickson seconded and the motion carried by unanimous vote.*

**RDA 2009-17: 19 Blueberry Lane, (Map 6, Lot 6) Donnellen/Dalton**

This is an after-the-fact filing for temporary removal of a stone wall, placement of a pile of soil, and access to the construction site in/through the Buffer Zone of a Vernal Pool.

The hearing was deferred to the next TCC meeting on January 27, 2010 due to lack of proof of abutter notification and lack of a legal ad.

**MEETING MINUTES: April 24, 2002, Executive Session (ES) May 5, 2003, November 5, 2003, May 13, 2009, June 10, 2009, and December 16, 2009**

*Mr. Erickson made a motion to accept the minutes of April 24, 2002, May 5, 2003 Executive Session, and November 5, 2003 as amended as written documentation of the meetings. Ms. Merrill seconded and the motion carried by unanimous vote.*

*Mr. Erickson made a motion to accept the May 13, 2009; June 10, 2009; December 16, 2009 minutes as amended. Ms. Merrill seconded and the motion carried by unanimous vote.*

## **ENFORCEMENT, APPEAL REPORTS, UPDATES:**

**Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update and discussion**

Present: Bear Albright

Mr. Albright addressed the outstanding Bylaw fine, proposing to pay approximately half the fine immediately, with the condition that they remain in compliance with the standards set and in

compliance with the Enforcement Order. He suggested that if the project did not remain in compliance, he would be liable for the balance of the original fine, and he asked for minimal publicity. TCC decided to take the offer under advisement and asked Mr. Albright to submit his proposal in writing, to be discussed at the next TCC meeting.

**2<sup>nd</sup> Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka** – Update  
Ms. Spillman reported that DEP is taking over the case and will seek Mr. Galka's implementation of the plan prepared by Gulf of Maine subsequent to the Enforcement Order. Mr. Stelline of DEP will provide updates to the TCC.

**7:12 PM – Mr. Pratt arrived.**

**OoC 307-0510, Ipswich Road Project** – update

Ms. Spillman updated the TCC on the project, saying that the silt fence and hay bales along North Street are still in place and reviewing that these were to be removed to allow migration, especially of small mammals, in the spring. The TCC agreed that the animals are hibernating and that the fence must be removed by March 15<sup>th</sup> at the latest.

**SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row, (Map 43, Lot 7), Skeffington** – update

Ms. Spillman reported that the TCC office has not received a SORAD yet.

**REQUESTS:**

**Continuation CoC 307-0433: 131 Haverhill Road, (Maps 2 & 5, Lots 10 & 15), Topsfield Beach Association**

Ms. Spillman had provided the TCC with a draft of continuing conditions for review.

*Mr. Erickson made a motion to issue the Certificate of Compliance for 131 Haverhill Road with attached Continuing Conditions associated with file no. 307-0433 under the Act and the Bylaw. Mr. MacDougall seconded and the motion carried by unanimous vote.*

**Emergency Certification: 39 Howlett Street, (Map33, Lot 24), Ahern** – Ratification

The Emergency Certificate was issued for removal of dead/diseased/recently damaged (by a storm) trees in Buffer Zone of BVW and an Intermittent Stream that were a threat to the nearby driveway.

*Ms. Merrill made a motion to ratify the Emergency Certification. Mr. MacDougall seconded and the motion carried by unanimous vote.*

**Arrowhead/Washington Street** – discussion

Ms. Spillman reviewed that the TCC office received a complaint in November 2009 for backup of water in the wetland area between Arrowhead and Washington Streets. At a previous inspection, Ms. Spillman reported obstructions in the outlet area of a small, created pond. It was her observation that this area may be dammed to create a skating area. It was the recommendation of the Administrator at that time for the property owner to clean out the obstruction by hand to allow the water to resume flow. TCC feels that there is not an obvious infraction of the law, and, therefore, does not feel there is authority to issue a finding. However, TCC did ask Ms. Spillman to suggest to the property owners that they keep the outlet cleaned out.

**OLD BUSINESS, UPDATES, & MISCELLANEOUS:**

**12 Boston Street/English Commons, (Map 81, Lot 1)** – Environmental monitor proposal

Mr. Alan Berry, P.E. (owner) had offered that he be the environmental monitor for the project at 12 Boston Street. After a brief discussion, it was agreed that Mr. Luther and Mr. MacDougall, as a wetland scientist, will monitor the 12 Boston Street/English Commons project. As stated in the Order

of Conditions, reports are to be submitted weekly during the work on the pond area, including photos and written reports. Alan Berry has offered to submit written reports.

*Mr. Pratt made a motion that Mr. Luther and Mr. MacDougall fill the role of the Environmental Monitors for 12 Boston Street/English Commons for the TCC and that weekly reports be submitted in addition to Alan Berry's reports for the expansion of the farm pond and related drainage structures.*

*Mr. Erickson seconded and the motion carried by unanimous vote.*

Mr. Luther will contact Mr. Berry to arrange inspection times.

**Town of Topsfield Wetlands General Bylaw, Ch. 62, Regulations R: 10-5.2 k.** – Proposed Topsfield Conservation Commission Administrator Permit (TCCAP) for Limited Buffer Zone Activity

The TCC discussed the most recent draft of the General Bylaw Ch. 62, Regulation R: 10.5.2k. The discussion included that the permit would expire three years from the date of issuance. It was the consensus for the last sentence of subsection L to read: “ The TCC AP shall be valid for a period of three years from the date of issuance.” Other edits suggested by TCC and recorded by the Administrator included that sono tubes should be 8-inch instead of 6-inch, and depth of sono tubes should be no greater than 4 feet instead of 3 feet. Inconsistencies about setbacks from vernal pools will be resolved at the next meeting and February 1<sup>st</sup> was proposed as the effective date, which would be voted at the next meeting.

**Water Quality Monitoring, School Brook behind Town Library** – Discussion

Ms. Spillman updated the TCC regarding her discussion with Health Agent John Coulon, who recommends one sampling location where the Intermittent Stream runs behind the houses at Deer Run. Coulon also suggested getting all the data from BioMarine. The TCC agreed one testing site is not adequate and suggested that the Town Library's testing be suspended. Mr. MacDougall would like an accurate representation of the streams in the immediate area. The TCC talked about general qualitative testing until the specific area of the problem is determined. The Library will be advised to suspend testing at this time. Mr. Gandt will talk with the BoH Agent about the health issue of coliform bacteria.

*Mr. Pratt made a motion to suspend further testing by the Library, pending any further action by the Board of Health. Mr. MacDougall seconded and the motion carried by unanimous vote.*

Mr. MacDougall reported on water clarity saying the stream water becomes murky in the area of School Brook and Cleveland Brook, and at the High Street area. It was suggested that there be discussions with those familiar with the cistern and pipe system under center of Town.

**Rail Trail NoI** –update

The NoI has not yet been submitted.

Mr. MacDougall completed the Resource Area flagging along the southern portion of the proposed Rail Trail, except from Route 97 to the Wenham line, where snow remains. He will complete that section soon and will complete DEP vegetative analysis forms, one plot per series of the areas.

**207 Boston Street, Topsfield Fairgrounds** –Follow-up

Luther is to provide a map for TCC of areas used for fair parking. The Fairgrounds is interested in creating more parking.

**Bylaw Amendment(s) for Annual Town Meeting** – Discussion

Proposed Bylaw Amendments include:

- Bylaw change to allow Bylaw hearing with public notice on Town website and legal ad in a newspaper not required.
- Bylaw addition to enable General Permit (TCCAP)

**H.B. 4422 Public Lands Preservation Act (PLPA)** – Discussion

This bill is also known as the “No net loss” of Conservation Properties Act. The TCC discussed the PLPA, which states that a town cannot take land from conservation for non-conservation purposes without providing compensating (conservation) space elsewhere in the town. The TCC decided to take no action.

**ADMINISTRATOR’S REPORT:**

- The **Annual Report** was submitted
- **FY2011 Budget** (from General Fund). Copies of reports related to the proposed FY 2011 budget were provided to the TCC for discussion purposes. A lengthy and detailed discussion followed. Mr. Luther will speak with the Town Accountant and report back to the TCC regarding TCC’s questions.
- **New DEP forms**. Ms. Spillman reported that there is some confusion about the recording requirements; DEP did not state a deadline for using the new forms. Therefore, the old forms will be used for now.
- The surety account for **50 Prospect Street** has been reactivated by the Treasurer’s office.

**EXECUTIVE SESSION:**

*8:43 p.m. – Mr. Pratt made a motion with five members present to enter into Executive Session (ES) under M.G.L. Chapter 39, Section 23B for the purpose of discussing current and potential litigation and to return to open session for the purpose of adjourning. Mr. Erickson seconded and with all members voting in the affirmative and none in the negative on a roll call vote it was VOTED to enter into ES.*

*9:10 p.m. – The TCC returned from ES. Mr. Pratt made a motion to adjourn. Ms. Merrill seconded and the motion carried by unanimous vote.*

Respectfully submitted,

Catherine Tinsley

*Accepted at the TCC meeting on February 24, 2010.*

<p>Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Commission constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Commission as to the completeness or accuracy of such statements.</p>
--