

Topsfield Conservation Commission

Meeting of Wednesday, March 10, 2010 ~7 PM

Topsfield Library Meeting Room

In the absence of the Chair, Mr. Luther called the meeting to order at 7:00 p.m. with a quorum present:
Topsfield Conservation Commissioners Holger Luther, Acting Chair; Jim MacDougall; Mark Erickson;
Jennie Merrill; Jud Pratt

Not Present: George Hall

Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary;
Selectman Dick Gandt, BoS Liaison

Acronyms:

TCC – Topsfield Conservation Commission	BOS – Board of Selectmen
DEP – Department of Environmental Protection	NoI – Notice of Intent
DoA – Determination of Applicability	CoC – Certificate of Compliance
OoC – Order of Conditions	EO – Enforcement Order
SORAD – Superseding Order of Resource Area Delineation	
SOoC – Superseding Order of Conditions	
BVW – Bordering Vegetated Wetland	
MBTA – Massachusetts Bay Transportation Authority	
MACC – Massachusetts Association of Conservation Commissions	

Public Information: Agenda

OPEN MEETING:

TCC signed bills, authorizations, and time sheets.

HEARINGS:

RDA 2010-01: 130 Central Street (Map 49, Lot 68), Vasilades

Ms. Merrill read the legal ad. It was noted that the legal ad was misprinted as lot 69; the TCC corrected it as lot 68. Proof of abutter notification was collected.

This is an after-the-fact application for replacement of a patio and construction of two wood landings in the Buffer Zone of BVW. These were constructed in the footprint of the previous patio. Tom Chausse, Special Project Manager, reviewed that the building was purchased in July. Mr. Chausse was not aware of the need for an OoC, and explained that work was done within the 100-foot Buffer Zone to remove steps and replace exterior decking. Mr. Chausse identified that the Building Inspector is requiring the sono tubes to be exposed for inspection; this work will be hand dug. Ms. Spillman reported on her site visit made on 3/10/10. The hearing was opened to the public; there was no comment

Mr. Pratt made a motion to close the hearing. Ms. Merrill seconded and the motion carried by unanimous vote.

Mr. MacDougall made a motion to issue a Negative Determination under the Act and the Bylaw. Ms. Merrill seconded and the motion carried by unanimous vote.

RDA 2010-02: Topsfield Linear Common/Rail Trail (Maps 49 & 58 Lots 44& 81; 2 & 52), Town of
Topsfield Rail Trail Committee

Ms. Merrill read the legal ad. Proof of abutter notification was collected.

Present: Joe Geller, Rail Trail Committee, Chair; Kyle James and Louis Ibanez, representatives from Iron Horse Preservation Society, based in Reno, Nevada.

Mr. Geller gave a brief history and over view of the project, including proposed work to be done by Iron Horse Preservation. He showed pictures of the work in progress with equipment in Danvers. The proposal includes: Proposed removal of rails and ties from Summer Street to the Wenham Line and smoothing of the surface, by Iron Horse Preservation, and after-the-fact installation of railings with post supports, extending ~50 feet in each direction from the bridge over the Ipswich River (unauthorized work that took place during the bridge surface replacement under the previous DoA).

Mr. Geller, Mr. James and Mr. Ibanez answered questions from the TCC.

Mr. Ibanez explained that work is at a rate of approximately 1000 feet a day. There are 1.9 miles that Iron Horse Preservation will be working on. Strong electromagnets are used to clear the area of all metal. A bobcat with forklifts is used to do the work. Rock will be brought in to fill the holes. It was noted that material filling is not a part of the application. The Trail would be graded.

Mr. MacDougall gave an update on the delineation of the wetlands.

Pete Hayes, 50 Timber Lane said he observed that the work done in Danvers is very clean.

Ralph Stump, 18 Valley Road, presented the TCC with a written request dated March 4, 2010, asking that the TCC find this RDA and its objectives to be too expensive and possibly having the potential for a negative environmental impact for this work in the Ipswich River and Great Wenham Swamp area. He added that it is hard to enforce conditions under a negative DoA. He requested a positive determination be issued followed with a NOI. Mr. Stump noted his concern that with heavy equipment on the trail there is potential for accidental fuel leaks, hydraulic leaks, and further chemical contamination upon the removal of the ties. He reminded the TCC that there are five shallow drinking water wells along the Valley Road side of the trail and this area is in the water shed area. He explained that he has spent a lot of time and thousands of dollars to keep National Grid from spraying herbicides in the area. A lengthy Discussion followed. The TCC will take Mr. Stump's request under consideration.

Mr. Geller reported that MBTA has required that Iron Horse have environmental insurance. The TCC talked about requiring emergency spill kits to be onsite.

Mr. MacDougall stated that he would like to be sensitive to the Wenham Swamp and observed that since there was no representation from the Salem Beverly Water Supply Board or the MA Audubon Society that these groups must not have concerns. He added that he supports the removal of the toxic materials.

Greg Demers, 70 Washington Street, a member of the Rail Trail Committee, noted that EPA documents support the removal of the ties rather than capping them.

Eric D'Agostino, 189 Central Street, questioned what kind of containment would be used. He told the TCC that he is concerned that construction debris and silt could block the culvert behind his property and result in flooding.

Mr. James responded that the soil is immediately compacted. He said that a silt fence can be used. The TCC resolved that there be a condition that culverts have to be left clean and free flowing. There was a side discussion about the TCC authorizing the Highway Department to have access to wetlands to maintain culverts in the wetlands.

Mr. Geller addressed the TCC concern about the unauthorized installation of railings with post supports adjacent to the Ipswich River and resulting lack of access to the river by fishermen, saying it is the intent

of the Rail Trail Committee to begin the process this year for a gate and stairs from the trail down to the river as access to the river. He added that an engineer will be hired to create a plan.

The washout section along the trail in Wenham was briefly discussed. There is a section owned by Mass Audubon that is being considered for access; a few trees would have to come out to get equipment down there. Mr. Stump offered use of his property in order to get equipment down to the two crushed culverts.

Luther said that capping with a membrane could still be considered prior to final grades. Mr. Geller stated that they will consider any possibility that is good for the environment. Mr. Demers offered that the State has issued a document on conversion of rail beds to rail trails.

Gene Marshall, 7 Eagle Lane, asked about privacy provisions for homes along the trail. It was identified that this is not under the jurisdiction of the TCC and it was not addressed.

Mr. Pratt made a motion to close the hearing. Mr. Erickson seconded and the motion carried by unanimous vote.

The TCC further discussed the conditions to be applied to the Negative Determination. The TCC talked about testing the private wells prior to and immediately after the proposed work is completed. A question was raised: If there is contamination after the work, is remediation due? Mr. Stump suggested testing two wells on his property – one closed well and one open well. The TCC talked about testing other property owners' wells near the trail bed. Pratt suggested holding off on a decision on this.

The TCC confirmed that they are requiring a NOI be filed for any elevation changes, for resurfacing, and for restoration of the rail bed, etc.

Mr. Luther asked for a report from Iron Horse on the condition of ties when they come out. Erickson suggested removal of the rails now and removal of ties later, and in the meantime, there could be an assessment of what portions could have the ties removed without a problem and which portions are more sensitive and should be left until later, after some research has been done, e.g. concerning use of a membrane.

Mr. Stump noted that his concern is that if the timbers come out as sawdust, harmful substances filtrate through the ground. If they come out in a single piece, there is little concern. He agreed to waive the well water testing at this time.

The TCC discussed conditions for the Determination:

1. A detailed report, by area, of the tie conditions as removed from the particular locations, by telephone pole numbers, as controls. Report is to be submitted within 2 weeks of completion of the project.
2. Installation of erosion controls where the bed is currently eroded and at culverts, e.g. near the railroad bridge. Culverts are to be maintained and cleaned out.
3. A 55 to 90 gallon spill kit is to be available, including two or three bags of "speedy dry" onsite at all times.
4. Site inspection of culverts before and after construction. (MacDougall volunteered to inspect.)
5. Remediation of any culverts affected adversely. If damage is done during the process, the culverts are to be restored to original condition.
6. Pre- and post-activity site conferences/inspections onsite.

The TCC agreed to the removal of the rails, and the ties are to be left in the areas where they appear to be rotted.

Iron Horse agreed to provide the TCC with a status report on the ties. Mr. James stated Iron Horse has a grading system for reuse that they can use for this purpose.

Mr. MacDougall made a motion to issue a Negative Determination, under the Act and the Bylaw, provided, however, that: Erosion and sedimentation controls are used where the rail bed is eroded and where work is near culverts, and that the culverts are cleaned out of debris after the work, that a 55-90 gallon spill kit including pads and 3 bags of "speedy dry" are onsite at all times, pre and post activity site inspections are done by the TCC Administrator, a detailed report of the condition of the trail, specifically the ties is submitted to the TCC within 2 weeks of the rail removal work being completed, and that the telephone pole numbers are used as location identifiers. Ms. Merrill seconded and the motion carried by unanimous vote.

Dick Gandt left the meeting 8:45 PM

ENFORCEMENT, APPEAL REPORTS, UPDATES:

2nd Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka – Update
Ms. Spillman reported that there is no update; there has been no response from DEP.

The TCC instructed Ms. Spillman to call DEP to clarify what the intention of DEP is regarding this enforcement. It was noted that other town departments are involved with issues at this address.

SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row, (Map 43, Lot 7), Skeffington – Update
Ms. Spillman reported that soil testing was performed last week with the Board of Health Agent, with access from Candlewood Drive. A SOoC has not been received to date. This goes to court March 11, 2010.

REQUESTS:

CoC 307-0597: 49 Rowley Road (Map 6, Lot 13), Rabines/Hancock Associates

Ms. Spillman reported that there is an erosion problem next to the driveway in Buffer Zone of the Vernal Pool next to Rowley Road – silt has traveled beyond the silt fence. An additional row of silt fence is to be installed by the end of tomorrow/Thursday and the area is to be stabilized prior to the rainstorms predicted for this weekend. A long-term plan for restoration/vegetation for that area is needed. The TCC noted that this is an area of high quality habitat. TCC took no further action.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

279 High Street (abutting 255 High Street Town Conservation property) – complaint follow-up
The draft letter was reviewed by the TCC and it was the consensus for the letter to be sent to the property owners.

307-0628, 12 Boston Street/English Commons, (Map 81, Lot 1) – Update

TCC Monitoring continues. Mr. MacDougall reported that two weeks ago he walked the entire length of the directional drilling (OoC 307-0610). The material blew out where there were small intermittent streams and there is cobble. This was cleaned up under Mr. MacDougall's supervision, about 15 gallons of material.

School Brook behind Town Library – No update was given.

207 Boston Street, Topsfield Fairgrounds –Follow-up

List of properties – Mr. MacDougall said he put together some maps and printed them out with map and lot numbers for identification of each property, including those that allow Fair parking. This will be on a future agenda for discussion.

Mr. MacDougall reported that he noticed a new culvert off of Salem and South Main Streets; there is now a causeway across the drainage ditch.

Conservation Properties – Schedule site visits

The TCC was provided with a list of Conservation properties owned by the Town based on information received from the Assessor’s office. Mr. MacDougall gave a projected presentation with photos.

Some concerns noted:

1. There is a potential issue with a barn and clearing partly on the Pheasant Lane conservation property.
2. There is a manure pile within the Buffer Zone off High Street on the Morningside conservation property.
3. At Ipswich Road and Route 1, cars, etc. appear to be on Town land. There appears to be an infringement on conservation land.

Mr. MacDougall suggested that the Commission schedule baseline documentation site visits for these properties. Ms. Spillman will follow up. This will be on a future agenda.

FY 2011 Budget – Update

The budget discussion was deferred.

ADMINISTRATOR’S REPORT:

MACC Annual Meeting – Summary

TCC Webpage – Update

EXECUTIVE SESSION: Potential litigation

Cross Street – update

The Executive Session was deferred to the next meeting in order to include Mr. Hall.

9:30 p.m. Ms. Merrill made a motion to adjourn. Mr. Erickson seconded and the motion carried by unanimous vote.

Respectfully submitted,

Catherine Tinsley, Minutes Secretary

Accepted at the TCC meeting on November 17, 2010

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.