APPROVED

Topsfield Conservation Commission

MEETING MINUTES

August 24, 2011 – Topsfield Library Meeting Room

Members present: George Hall, Jim MacDougall, Cheryl Jolley, Holger Luther, Mark Erickson, Jennie Merrill, and Lana Spillman, Administrator and Lisa-Marie Cashman, Minutes Secretary

Others: Greg Krom, Greg Hochmuth (The Neve-Morin Group), James P. O'Brien (Essex Ag. Society/Topsfield Fair), Kate Connolly (Murtha Cullina), Dick Gandt, Laura Powers, Paul McDermott (Amerigas Corp.), Christopher Geiger, Gordon Rogerson (Hayes Engineering), John Dick (Hancock Associates)

7:10pm **Chairman George Hall called the meeting to order.**

HEARINGS:

Continuation NoI 307-0678: 207 & 233 Boston Street (Topsfield Fairgrounds) and 37 River Road (South Main Street frontage), (Map 57, Lots 4-1,4-2 & 7; Map 48, Lot 13; & Map 49, Lot 82), Essex Agricultural Society and Aftandilian/The Neve-Morin Group

Hochmuth, wetland scientist from The Neve-Morin Group, presented on behalf of the Topsfield Fairgrounds its revised plans for exhibit before the TCC. A brief overview of where and how they arrived at the current plan was given to bring other members and the audience up to speed on the enforcement order inclusions – Field 4 being not part of the enforcement, but added in good measure. The newest proposal to create separation between the Fairgrounds and the bike path includes installing concrete barrier blocks.

Some further clarification was asked as to whether the group had delineated BVW on the plan. Hochmuth indicated it was pretty much just topographic and the wetlands at 233 Boston previously delineated are not shown on the plan.

Hochmuth continued the presentation, addressing the concerns regarding the field below Petco. There is a paved access path. The bike path runs along old rail bed. The Fairgrounds wish to make the path sturdy enough so carriages and wheelchairs can get to Fair with minimal impact. At the last meeting on August 10, Dick Gandt proposed something sturdier than the original proposed plantings. Hochmuth proposed installing a post and rail fence. The gravel will be pulled out, the path area paved, and then seeded.

The discussion then turned to the question of how do the two activities of parking and agriculture coexist? The two activities seem incongruous to most members of the TCC based on the Wetland Regulations.

Spillman suggested that the plan is not complete and it would behoove the Fairgrounds to add the wetland delineation to the plan so that TCC could look at a complete picture and arrive at an informed decision.

Field 3 Partial Plan (Version 2)

A lengthy discussion regarding the field facing Route 1 and along the telephone lines ensued. The sticking point – agriculture vs. parking in a wetland area – drew much debate.

Questions from DEP analyst Nancy White have not yet been answered. Hochmuth felt having White present her comments concerning wanting to understand the mechanisms for haying and other uses associated with the field would be of particular value to the TCC in determining the outcome.
Connolly again presented the historical use of the field for the past 11 years being that of a parking lot and having used the field for agricultural purposes with the exception of the two weeks out of the year when the Fair was in full swing. Connolly reported to the TCC that according to the Wetland Regulations, the Fairgrounds is only required to hay once a year.
O'Brien informed the group that the Fair would begin September 30.
MacDougall pointed to other elements to consider when making a final determination, including wildlife, pollution, and compaction of soil in a wetland area.
Hochmuth acknowledged the concerns and mentioned that the Fairground officials were suggesting eliminating parking on 1/3 of the field.
O'Brien reported that when the Fairgrounds could park in this area, 1400 cars would fill the space and reiterated that the Chief of Police considers parking off-street critical to the safety of pedestrians and flow of traffic.
Several TCC members asked questions about reducing the number of cars parked in the field.
Commissioners expressed willingness to work with the Fair to help increase reliability of parking, but the laws protecting wetlands must be adhered to.
O'Brien mentioned he has increased satellite parking most recently at NSCC. It cost $50K to bus, but he is willing to do whatever it takes.
Hall asked to focus more on wrapping up the summation so the TCC could deliberate and close the hearing, but the outstanding information from the DEP analyst was still at hand.
Hall agreed to not close the hearing pending the DEP comments. He mentioned the DEP report comments would be helpful and TCC could move quickly thereafter on a decision.
Spillman recommended revising the Lot 3 plan to show other resources areas.

Luther made motion to continue the hearing to Sept 14 to finish the hearing process.

MacDougall seconded such a motion, which was approved by UNANIMOUS VOTE.

ACTION: Hochmuth to present revised Lot 3 Plan showing other area resources

8:00 pm
RDA 2011-02: 215 Boston Street, (Map 9, Lot 80), Amerigas
The proposal is to install a concrete driveway in Riverfront Area near School Brook and BVW/BLSF.
Paul McDermott of Amerigas submitted a proposal to install a concrete slab where tractor trailers offload gas. He explained that in 2003, a situation resulted in issuance of an Enforcement Order from the TCC requiring Amerigas to repair damage done by a snowplow pushing debris into the wetlands area. The CoC for the resulting OoC was recorded a week ago.
McDermott requested to pour a concrete pad instead of pavement, measuring 15ft. x 75 ft., so that in the wintertime, should the snowplow push snow and debris off to the side, it will prevent it from pushing gravel back into wetlands in the future.
Hall asked if the old pad would be removed and disposed of properly. McDermott confirmed that it would be removed and he indicated that the pad protects vegetation in areas 12, 13, and 14 on the plan exhibit. Vegetation includes blueberries and witch hazel among other species. The pad will be level, according to McDermott.

Erickson moved to close the hearing.

MacDougall seconded the motion, which was APPROVED BY UNANIMOUS VOTE.

Luther moved to issue a Negative Determination of Applicability to allow the pad to be constructed on the proposed site. In addition, he clarified that the Determination is subject to the usual requirements and conditions.
Erickson seconded the motion, which passed with a unanimous vote.

RDA 2011-03: 250 Perkins Row, (Map 35, Lot 4), Town of Topsfield Water Department
Jolley read the legal ad. The RDA proposal is to install 2.5 inch diameter wells in Buffer Zone and Riverfront Area.
Krom presented that he would like to do soil testing, and follow that with pumping test in an area selected based on DEP requirements. The plan is to install submersible pumps.
Krom explained to members that the diameter would be maybe 6 inches. Test wells are only 2.5-inch driven. Dennis L. Marr is the contractor conducting the work. A 30-40 ft. shallow aquifer will be drilled.
MacDougall asked if it would increase yield of the well. Krom explained that the Regulations would not allow them to increase yield. Through DEP the Town could increase capacity, but on a day-to-day basis, capacity would not be changed. The Town, however, would like to increase the capacity.
Hall confirmed water regulations allow increased capacity but that one just cannot "suck it out."
Krom confirmed for Luther and other members that the work conducted will be a 1/3 arc of the center of Buffer Zone. It will take 1-2 weeks with the equipment. A bombardier machine would be used to dig the wells.

Luther moved to close the hearing.
Jolley seconded the motion, which was APPROVED BY UNANIMOUS VOTE.

Luther moved to issue a Negative Determination.
Erickson seconded the motion, which was APPROVED BY UNANANIMOUS VOTE.

Exhibit: Zone 1 overlaps along backside of Perkins Circle... Improvements to be made.

8:14 pm
NoI 307-0677: 28 Wilmor Road, (Map 10, Lot 6), John and Linda Harvey /Hayes Engineering, Inc.
Gordon Rogerson from Hayes Engineering presented for the homeowners and described the exhibit plan in detail. The proposed project is a septic system replacement in Buffer Zone/Riverfront Area of Pye Brook. The replacement site includes a portion within 50 feet of the BVW. Libby Wallace of Hayes flagged the wetland.
Currently there is a tank underneath the deck, and the system is approved for a 4-BR home. The plan for the new system proposes a 20ft. x 40 ft. drainage field located on the southerly section of property line. Due to the existing well and the neighbor's wells, if you put arc around the wells, there is no room outside of 100 ft. Buffer Zone. There is no Town water on Wilmore Road; it ends at Bear Hill Road. Soils are coarse gravel; the proposal is to dig out contaminated area and replace it with appropriate fill.

Erickson noted there is substantial change in elevation on the site. Rogerson said it matches the elevation at 69 feet and the bottom of the bed would be at elevation 66… then 2 ft. of finished grade…basically 3 ft. change in elevation. Rogerson indicated the wetlands are flagged…20-25 ft. away from standing water. Luther wondered if there was a good 4ft. of separation and Rogerson

confirmed this measure. Work will begin in the fall, according to Rogerson and the property will go up for sale in the spring.
Hall questioned if the system footprint could be made smaller, e.g. with another type of leaching system. Rogerson indicated the fill will be 5ft above from ground water separation. Standard according to Title V and will involve a mounted system in the backyard. Hydroseed and loam will be spread on the back slope indicated in the plan exhibit.

Hall moved to close the hearing.
Erickson seconded the motion, which was APPROVED BY UNANANIMOUS VOTE.

Luther moved to issue an Order of Conditions with usual conditions to safeguard the area.
MacDougall seconded the motion, which was APPROVED BY UNANANIMOUS VOTE.

REQUESTS:

8:24pm Continuation CoC 307-0648: 14 Perkins Row, (Map 10, Lot 15), Sanger
Spillman asked the TCC to consider whether a special permit application should have been submitted for in-law apartment regarding the property at the time it was for sale. According to the Wetlands Protection Act, all applicable local permits are to have been applied for at the time of application to the TCC. Spillman informed Hall and members the special permit was for an addition. The in-law apartment was not disclosed but discovered just last week.

MacDougall made a motion to issue a CoC with usual conditions.
Luther seconded the motion, which was APPROVED BY UNANIMOUS VOTE.

8:26pm CoCs 307-0386; 307-0415; 307-0652: 50 Prospect Street, (Map 48, Lot 12), Crowe/Hancock Associates
John Dick of Hancock Engineering presented before the TCC.
An overview from Dick: Eleven years ago when Meredith Farms had piece of land that could be subdivided if it would perk owners paid to conduct perk tests and did the filing in order to cross the Buffer Zone to get to upland on the site. They received an OoC then received an EO when trees and other vegetation were knocked over in Buffer Zone getting a machine to the soil test site.
Dick went on to explain that Ara Aftandilian filed a NoI application to put a house on the site, then sold to the builder Jason Barnes. Following some difficulties, Barnes gave up on the project. There was an expiration of the OoC and subsequent new filing, then a sale to Mr. Malloy. Along the way there were amendments to Orders and DEP issued a Superseding Order under the Act, which also expired. Mike Crowe purchased the property and obtained the most recent OoC.
Hall asked if there were two open Orders. Spillman said that there were four, with three open; the first, under the Bylaw only, received a CoC and the second was carried out and expired without a CoC issued yet. A third Order, under the Bylaw, was amended and has expired; an Order under the Act at the same time received a Superseding Order from DEP. The fourth Order is the current one.
Luther informed the TCC that the last three OoCs involve wetland replication.
Dick continued the presentation and said that the four proposals always had a driveway. It has been there for long time. Pointing to the exhibit, Dick said that the wetland Buffer Zone mitigation area, located outside of the staging area is where Barnes did “donuts” and then did some mitigation for that Buffer Zone disturbance. From his inspection of the plantings in the Buffer Zone mitigation area, Dick said there is a missing holly, and an elderberry and other shrubs could not be found; additional

plantings were done in that area recently. And, currently there are people living there who planted many things along driveway.
Spillman had some reservations based on her recent site inspection. Some of the trees planted along lot line do not look well and may survive winter, and purple loosestrife needs to be removed alongside the driveway. Buckthorn is too numerous and too invasive. Some control of loosestrife would be good. A major concern (she had pictures to show along driveway) is that in the process of installing three drainage areas, the siltation fencing was folded over against ground and soil and stone put on it. The question is whether the footprint of fill in the BVW is larger than was approved. The project involved filling and a replication/mitigation area; on the as-built plan there are no dimensions of the as-built fill area of the driveway and of the replication area.
Spillman presented an exhibit picture of silt lying over area not permitted for work and with cattails coming up in an adjacent filled wetland. Since this is a wetland replication project it is important that the ratio of replication area to BVW fill area be at least 1:1.
Hall asked why the wetlands seemed larger than the original plan and asked Dick what letter was filed with the TCC. Spillman stressed everything must be documented.
Dick said a June 16, 2011 letter to the TCC with a list of all of the Orders, and stating that the site is stable and clean. He recommended that the silt fence be removed and that the dead ash in the wetland mitigation area be allowed to be cut.
Hall asked the TCC to consider waiting until Sept. 14 to close the hearing.
Hall said in order to vote the issue for CoCs, Hall reminded Dick that the letter does not hold to regulations for a CoC since it is not stamped by engineer. Hall asked Dick to get the letter certified.

ACTION:
-Dick will add paragraph citing that the sedimentation control lines will be removed.
-Dick will have the letter certified by an engineer

Erickson made a motion to issue a CoC for file #306-0386.
Luther seconded the motion, which was APPROVED BY UNANIMOUS VOTE.

8:45 p.m.
2nd Extension ORAD 307-0480: 120 High Street/Hickory Beech Subdivision, (Map 49 Former Lot 56), Hickory Beech Realty Trust – J. Falzone/Beals Associates, Inc.
Spillman said the applicant called at 5 p.m. and asked for a continuance to Sept. 14.
Hall asked Spillman to make a site visit to determine if there are substantial changes to the Resource Area boundaries as a result of the development – where and why. The item was carried over to the agenda for the next TCC meeting.

RDNI 2011-11: 222 Washington Street, (Map 47 Lot 46), Popielski
Spillman made a site visit on August 17 and recommend a vote to issue a DNI for installation of an in-ground pool and deck in Bylaw Riverfront Area. Spillman said the Resource Area meets Bylaw criteria for Riverfront Area.

Luther moved to issue a Determination of Negligible Impact with conditions.
Erickson seconded the motion, which was APPROVED BY UNANANIMOUS VOTE.

MEETING MINUTES:

- **July 13, 2011**
- **July 27, 2011**

Consideration of these minutes was deferred to a later meeting.

OTHER:

8:46p.m. 47 Cross Street, (Map 62, Lot 34), Geiger – activities at Cross Street/Rowley Bridge Road
Spillman drove by the corner of Cross and Rowley Bridge Roads. Luther visited as well. Adjacent to the road extensive drainage work was done in the Buffer Zone and along the Intermittent Stream nearby…at least partly within resource area. Spillman made a phone call and sent letter to Christopher Geiger, the property owner, asking him to explain. Part of it is in Town right of way. Spillman did not find visible seed or vegetation stabilization. Drainage structures and pipes are around.
Luther noticed a PVC pipe was recently installed on the site.
Geiger told the TCC that he was repairing and maintaining fencing. Previously there was barbed wire fence around and he was replacing with stone fence, to continue onto Rowley Bridge Road. Geiger said he already walked the area with Highway maintenance and that he is putting footing in for a stone fence, old gate repairs and part of a stone wall, a new gate, put pipe in, all fill filled in natural swales.
Geiger further presented that the stone footing pulled back 21 ft. off Town property; the reason was for visibility. He stated that it is a natural swale where the pipe goes into is Town drainage system and he does not believe it is an Intermittent Stream…been there since 1930. The pipes collapse and he will have to repair at great expense.
Erickson asked Geiger if he came to TCC asking for requirements for a Determination of Negligible Impact.
Geiger admitted that he did not, but he thought since he had hayed the area for many years and it was used for cattle previously, he would not have been required to do so.
Hall had different concerns, namely the impact of upcoming Hurricane Irene and he asked if Geiger had a plan in place.
Luther asked Geiger if he intended on having livestock or horses in the area in the future.
Luther was concerned that the work conducted would potentially cause effluent from cattle going into a surface drain into Town water and the river. He wanted assurance that no cattle and products would be in vicinity of the surface drain.
Geiger said he could secure the area in preparation for the storm, but cannot guarantee anything.
He invited the TCC to conduct a site visit.
Luther that warned the drainage should have no direct connection with the surface and drainage system.
Luther asked Geiger to sketch work being conducted into the original plan on file.
Geiger agreed and said he is working with Dan Lenthall for a proper plan.
MacDougall asked that Lenthall look into the issue with the barn before the wetland intersects the drainage ditch.
Spillman commented upon site visit, observing that there had been some pooling and silt over onto the newly placed crushed stone.
Merrill suggested Geiger consider sprayed straw on the bare soil like is done on golf courses.
Luther suggested salt marsh hay barriers along the area—particularly where the ditch was forming.
Geiger said he would comply.

ACTIONS:
Erickson suggested Geiger may want to put 6-10 hay bales and stake them; the storm could cause erosion if they are not there.
Hall requested a drainage plan from Lenthall be submitted to the TCC.

Geiger explained his land was originally part of Nash's (Meredith Farm) farm plan but he would rather go on his own plan.

NoI 307-0676: 20 Hickory Lane, (Map 50, Lot 21), Annis/Beals Associates

The August 10th meeting (when the Administrator was on vacation) did not meet Open Meeting Law notification requirements (first posted with the Town Clerk's office the morning of the meeting), so TCC decided to revote.
Hall requested a reading from the August 10 draft meeting minutes.
Hall reiterated language to permit the work and to add a provision with 4 conditions including:

1. Maintain the wells around the hickory trees including keeping clear of debris and leaves and fill
2. Relocate 2 markers indicated on the proposed plan to limit work area
3. Allow identification and subsequent removal of pernicious plants including bittersweet
4. Should tree plantings not withstand within a two year period, contractor must replace with like for like.

Luther made a motion to close the hearing.
Jolley seconded the motion, which was APPROVED BY UNANIMOUS VOTE.

Luther: moved to revote the motion that was made on August 10th referenced relative to the minutes and to issue the OoC incorporating by reference.
The motion was seconded and was APPROVED BY MAJORITY VOTE with Merrill abstaining.

Spillman will circulate the draft OoC for edits prior to issuance.

DNI 2011-10 for the Water Department, 250 Perkins Row
MacDougall moved to confirm the DNI vote.
The motion was seconded and was APPROVED BY MAJORITY VOTE with Merrill abstaining.

Amendments to Wetlands Bylaw Regulation 1854 R: 10-5.2, TCCAP
Spillman discussed proposed amendments:

a. Building Inspector told her that most sono tubes are 12" diameter.
b. Suggestion to decrease footprint limit from 3,000 to 1,000 sq. ft.
c. Change from pervious to semi-pervious (driveway)

MacDougall asked if any TCCAPs were more than 1000 sq. ft. Luther mentioned TCC needs to think about 3000 and 1000 sq. ft.
It would not be a substantive change to regulations for the third suggestion. TCC discussed that they do not want to constrain the Administrator's decision ability – she could always decline to grant a permit.
Hall read the Wetland Bylaw; in Sec 62-14 it requires due notice. There needs to be a public hearing, but it does not need to be posted in the newspaper.
Spillman will notify on the TCC page of the Town website.

Ipswich River Access at High Street/Route 97 – continuation of discussion
MacDougall discussed that the canoe landing is on State land and the area may need to be ADA compliant.
MacDougall said he had discussed this with the Public Access Board representative, Jack Shepard weeks ago. He was told that the funder is on hold until more is known regarding the ADA laws.
Hall asked if there was a conceptual design on file. MacDougall replied there was none.
Hall made reference to the proposed plan for a bike and walking trail on Argilla Road.

Jolley had had informal discussions with a friend who is an architect in Pittsburgh; there are other access points along river that do not all need to be ADA accessible.
MacDougall noted that Foote's Canoe is unloading canoes on state property, but on a ramp.
Hall suggested issuing an EO to the state barring public access until the area is stabilized somehow.
MacDougall cautioned that it is under restrictions with Greenbelt and Mass Wildlife restrictions. He suggested calling it a "bank stabilization project" and hopefully it can accommodate canoers. Erosion currently is at the edge of pavement.
Luther observed there is a bed of silt in water already.
MacDougall suggested putting Dave Rimmer, Jack Shepard, and TCC heads together and coming up with a chronology.

ACTION: MacDougall will call Shepard.

HALL: CARRY OVER TO NEXT AGENDA

ADMINISTRATOR'S REPORT:

- **Rail Trail Updates**
  Spillman reported that she received E-mails from Joe Geller. New grass was dumped on the southern side of the trail edge at the site mentioned in a site visit report by Luther.
  Geller is asking TCC to do something.
  ACTION: Spillman is to call Bill Manuell to see what needs to be done in the next two days in anticipation of the hurricane.

- **270 Boston Street**
  Spillman indicated Bear Albright left a phone message the day after she went on vacation, saying that he would take the tree out "himself" (in conflict with the TCCAP conditions, which require use of a qualified tree service experienced with work near wetlands) and that he has the equipment and that is why he mowed that area "where it would drop."
  It is not known if the tree was taken down. The TCCAP requires a follow-up site visit, not made yet. There is a condition to add more replacement trees to the approved restoration plan.
  Spillman is to follow up with Bear to see if these requirements were met.

- **Highway and Water Department General Permit**
  The current general permit for the Highway Dept. has expired. Recent repaving on Ipswich Road was done without any communication with the Conservation office. At the bridge over Howlett Brook, loose soil was observed within 3-4 feet from the brook, with no limit of work/sedimentation controls in place.
  Spillman discussed the general permit that Boxford uses, as an example. (also on MACC website).
  Hall mentioned that DEP and MA Highways came up with standard procedures for bridges. These projects are exempted from the Wetlands Protection Act, but they were made subject to conditions in a handbook, including procedural steps and protection

measures. Hall suggested finding the handbook (Mill Road bond bill project) and using it as a benchmark. A proposal will need to be prepared.

- **MA DOT work under DoA – south Route 1**
- Spillman indicated the South Route 1 repaving by MA Dept. of Transportation was underway. She suggested that the start should be rescheduled from Friday to Monday due to the potential heavy precipitation (Hurricane Irene). Said they were thinking about it. Concern is that water coming down the hill goes directly into the stream into the reservoir.

Luther moved to adjourn the meeting.
Erickson seconded the motion, which passed unanimously.

Meeting adjourned at 9:53 p.m.

Respectfully submitted,

Lisa-Marie Cashman, Minutes Secretary

Accepted at the TCC Meeting on September 28, 2011

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.