

Topsfield Conservation Commission
Wednesday, January 19, 2011
Topsfield Library Meeting Room

Present: George Hall, Chairman; Holger Luther; Jennie Merrill; Jim McDougall; Jud Pratt; Cheryl Jolley; Lana Spillman, Conservation Administrator; Lisa Nihan-Demeule, Minutes Secretary; Dick Gandt, BoS Liaison.

Others present: Engineer Jim MacDowell, Dana Williamson, Attorney Nick Decoulos, Elizabeth Wallis of Hayes Engineering, Carol Decker of MA Audubon/IRWS, Attorney Scott Houseman, Don Cragg, Tom Houten, Stenographer, and Alan Berry.

Acronyms:

TCC - Topsfield Conservation Commission

BoS - Board of Selectmen

NoI - Notice of Intent

OoC - Order of Conditions

EO – Enforcement Order

CoC - Certificate of Compliance

RDNI - Request for Determination of Negligible Impact

DNI - Determination of Negligible Impact

NHESP - Natural Heritage and Endangered Species Program

With a quorum present, Hall called the meeting to order at 7:06 pm.

PUBLIC HEARINGS:

NoI 307-0668: 30 Wildes Road/New Meadows Golf Course, (Map 8, Lot 5), Iovanella MacDowell and Williamson were present.

MacDowell reviewed the purpose for the filing of NoI. NHESP's December 22, 2010, letter indicates that the work "appears to be exempt." The work will not disturb the woodlands. Pratt motioned to close hearing. Merrill seconded. There was a unanimous vote in favor to close the hearing. Merrill motioned to issue an OoC with special conditions. Pratt seconded. Luther abstained. Motion carried 5-0 in favor with one abstention.

Continuation Remand Hearing 307-0638: 57 Candlewood Drive/109R Perkins Row, (Map 43, Lot 7) Skeffington/Hayes Engineering

Decoulos, Wallis were present to represent Skeffington. Decker, Houseman, and Cragg also were present.

Hall indicated that the hearing is being conducted under the Town Bylaw. Decoulos has a stenographer, Tom Houten, who will produce a transcript and will provide a copy for the TCC. Decoulos would like TCC to close the hearing and send the matter back to Superior Court or settle. Hall clarified that TCC would make another decision and it would be up to Records added to the file since the last meeting include a 3-page memorandum from Scott Houseman on behalf on the Audubon Society Wildlife Sanctuary; a 4-page letter dated December 21, 2010, from Cragg; and a 1-page letter with 5-page attachment from Decoulos. Spillman identified errors in the transcript. An errata sheet will be furnished if it is necessary to submit the transcript to the court. Houseman, on behalf of the Audubon Wildlife Sanctuary, would like to submit additional information summarizing the materials already on file in one complete record. Spillman submitted packets of information to the parties tonight.

Houseman showed TCC copies of three photographs from the TCC files. He contends the photos show the applicant installed unpermitted culverts, and he submitted to TCC a two-page document entitled "Memorandum" dated January 19, 2011. The memorandum attempts to answer three questions. He asked that the applicant provide proof the culverts were permitted. Houseman contends that the

unpermitted activity is a basis for denial. Hall asked what would be the consequence to downstream riparian owners of removing one or both culverts. Houseman is not prepared to answer and would like an opportunity to offer information later. Luther needs to know if this was a replacement culvert. Houseman does not know. Luther asked Decoulos to elaborate on any cleanup ordered carried out on the property in 2001. Decoulos indicated there were materials that were not thought to be objectionable and no action was taken. Houseman found there was action taken in response to the EO: 451 gallons of waste oil, 15 55-gallon drums, an LPG tank and 2,000 pounds of oily solids were removed, as indicated in a report by an environmental firm retained by Green Acres Realty/Skeffington. Houseman added that TCC Minutes question whether that cleanup got everything and he suggested TCC leave the matter open and perform a site visit. Cragg, a neighbor, expressed frustration at the process. He indicated that he watched most of the activity and went to TCC. Hall asked if the culvert that Mr. Cragg believes affects his property is the one under the driveway. Cragg said it is.

Houseman followed up since the last hearing by calling the Fire Department and the Highway Department. Dave Bond at the Highway Department confirmed that activity at end of Candlewood Drive had created mud and dirt. Skeffington did provide for cleanup. Hall marked the three photographs individually. The photo with former Commissioner Harmer is Mass. Audubon Photo 1. The close-up of a culvert outlet photo is Mass. Audubon Photo 2, and a photo depicting the entrance to the property with metal remnant is Mass. Audubon Photo 3. The record will reflect that the older culvert in #3 was the one that was removed and replaced in the intermittent stream. Carol Decker had submitted a letter dated 5/10/2000 referencing a new pipe. Cragg also indicated he observed one, too. Decoulos indicated that he had walked the site after the cleanup and noticed iron articles and that nobody found them offensive and they were not removed. Pratt asked for clarification. Decoulos indicated maybe a drum but that no one found the items offensive, but he couldn't remember not having been on the lot lately. Luther asked if there was any applicable statute of limitations on conservation violations. Houseman is not aware of any statute of limitations. Decoulos without further review could not answer. TCC documents do indicate certain materials were removed, and Houseman questions whether there has been complete removal. Pratt prefers to leave the hearing open until sometime in late spring to confirm there is not a source polluting the water. Hall asked what waste material can be removed without creating more environmental disturbance. Luther moved to close the hearing. MacDougall seconded. Hall suggested addressing concerns by imposing various conditions. MacDougall is interested in the restoration of Cow Pen Brook and questions if TCC has sufficient hydrologic information. If project is approved, MacDougall would like the driveway crossing redone. Corps of Engineers prohibits overhanging culverts and it has to be rectified. DEP insisted the rain garden be removed from project. Unanimous vote to close the hearing. Spillman and Hall will work to prepare a draft decision for the next meeting February 9th. Language could include surface waste debris be removed. Luther questioned how much of a disturbance factor to remedy a past violation. MacDougall suggested looking at the long-term and consider rare species habitat and what degree of restoration that the Town Bylaw would allow. Hall expressed reluctance to modify the culverts on Cow Pen Brook but modification of the culvert under the driveway would be different. The deliberation recessed until February 9.

REQUESTS:

CoC 307-0559: 11 Kinsman Lane, (Map 31, Lot 79), Murley

Holger moved to issue a CoC for things that were never done. Jolley seconded. There was a unanimous vote in favor.

RDNI 2011-01: 8 Brady Lane, (Map 18, Lot 34), Kornusky

Spillman inspected the area January 6. One tree did show evidence of disease. Luther motioned to issue a DNI for removal for trees at 8 Brady Lane. Pratt seconded. There was a unanimous vote in favor.

CoC 307-0598: 47 Rowley Road, (Map 6, Lot 14), Nelson/Hancock Associates

With too much snow on the ground for inspection, the applicant is content to a delay until after a follow-up site inspection can be made.

OTHER:

NoI 307-0669: 12 Boston Street/English Commons, (Map 81, Lot 1), English Commons, LLC/Beals/Berry

Gandt indicated the purpose of the walkway is to provide access to the town other than by car. Jolley questioned if there were other trails on the property. MacDougall stressed the value of a trail system in town. Walkway will be maintained by the Association. Luther doesn't see bad effect on the wetlands because of walkway. Merrill motioned to issue an OoC approving project. Luther seconded. Pratt abstained. Five votes in favor, one abstention.

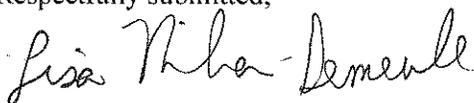
Locations for Stream Gauges

Spillman explained that the TCC has three stream gages to monitor river levels. She indicated the Watershed Association may be interested in measuring elevations. MacDougall said it is a good Eagle Scout project. At present, someone measures the height of the river on a monthly basis at some locations. Stream gages are at Rowley Bridge Road, Asbury Street, Fish Brook at Washington Street, and Salem Road. Hall suggested coordinating locations with the Watershed Association. Town doesn't have a lot of information on School Brook, Howlett Brook, or Pye Brook. USGS depending on height, they measure a height to flow ratio. MacDougall has equipment. Spillman added that TCC has survey equipment in the office.

MacDougall will do a workshop-type presentation at the next meeting, January 26. MacDougall has done a resource evaluation of town. He wants to identify wetlands at Pye Brook Park, inventory stream crossings, and certify vernal pools. Items from the Administrator's Report also will be discussed; it will be a non-regulatory meeting.

Luther made a motion to adjourn. Jim seconded. There was a unanimous vote in favor. Meeting adjourned at 9:20pm.

Respectfully submitted,



Lisa Nihan-Demeule, Minutes Secretary

Accepted at the TCC meeting on February 9, 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.