

## ***Topsfield Conservation Commission***

**Minutes of Wednesday, August 19, 2015**

**Topsfield Library Meeting Room**

**Present:** Cheryl Jolley, Chairperson; Dodds Shamroth, Vice Chairperson; Holger Luther, James Carroll, Jen DiCarlo, Lana Spillman, Administrator; Dee Wise, Minutes Secretary

**Absent:** None

**Other Attendees:** Dick Gandt; Thomas Melto; Scott Cameron, The Morin-Cameron Group; Greg Hochmuth, Williams and Sparages; John Darling, Salem & Beverly Water Supply Board; Ann Marton, LEC Environmental Consultants; Philip Lake, Kim Sherwood, Jeanine Cunniff, Maija Scarpaci, Alex Tatum, Dan Jamroz, Paul Greenaway, Martha Sanders, Bill Guinee, Robert Kmetz, James Love, Ellery Dyer, Luke Hurley, James O'Brien, Jeff Ganser, David Finn, and others.

The meeting was called to Order at 7:09p.m. Cheryl Jolley chaired the meeting.

### **HEARINGS:**

**Continuation NoI 307-0723: 199 Ipswich Road, (Map 20, Lot 055), DeIulis/Williams & Sparages, LLC.** Greg Hochmuth presented to the Commission. Luther cautioned that the Commission could open the hearing, but not take any action at this point. Hochmuth had plans to show the Commission. Luther moved to waive the 7-day prior policy requirement for the purpose of discussion of the latest plan; Carroll Seconded. **So Voted Unanimously.** Hochmuth explained that his client commenced several projects after being informed that those activities would need review and an application to TCC. He was hired to investigate what was done and assist to get a permit for those activities that could be authorized. His delineation of Resource Areas on the site shows that it is very wet; the septic system is out front. At his site inspection he determined that some fill was used for leveling, a patio was poured with a sitting wall, and the unauthorized deck was started. Pine trees were dumped in the wetland by the contractor; the owner has not removed to brush from the wetland due to the cease and desist order. Hochmuth acknowledged that the crushed stone area for the originally proposed above ground swimming pool is too close to the wetlands. The revised plan shows the above-ground pool in an area of existing lawn ~14 feet from the wetland, not considering the 3-foot deck to be attached to the pool. There would be a net increase in flood storage since they would cut into the hill, the wall constructed adjacent to the wetland would be removed, and the proposal includes re-vegetating/restoring 1,250 sq. ft. of wetland, much of which currently is "lawn". Mitigation plantings would include sweet pepperbush, dogwood, etc. Luther suggested adding a few trees to the restoration area.

DiCarlo asked about fencing, Hochmuth stated no fencing is proposed, due to the siding of the pool being four feet in height. Spillman asked about removal of stumps currently in the wetland, and added that they should be removed before any other action is taken. There would be the usual monitoring of the restoration plantings, as part of the OoC. Luther pointed out that the owner would have to be released from the cease and desist Enforcement Order in order for him to remove the stumps. Spillman will write a letter authorizing removal of brush piles and stumps from the BVW under oversight of the Administrator or a wetland scientist. Luther moved to exempt those two activities from the Enforcement Order. Carroll seconded. **So**

**Voted Unanimously.** Luther made a motion to continue the hearing to September 9<sup>th</sup>; Carroll seconded. **So Voted Unanimously.**

**Continuation NoI TCC 2015-01: 97 Boston Street,** (Map 69, Lot 015), Essex Agricultural Society/Richardson Green, Inc./Williams & Sparages, LLC (Requesting a waiver to reduce the Bylaw filing fee) Greg Hochmuth addressed the Commission regarding the filing of a NoI under the Bylaw to make improvements in the property at 97 Boston Street known as Richardson's field. Hochmuth stated that since the last hearing date there was a site walk that included himself, Holger Luther and Alex Driski. They all looked at the site, and questions were answered. Hochmuth explained that the comment period was up on Monday and they received one comment from Mass DOT; it was a positive comment. The MEPA certificate would be expected the coming Friday. Luther stated he had a conversation with Driski earlier in the day and he reiterated that there was a positive comment by the Mass DOT. Jolley and Luther suggested a discussion about the waiver of the fee. Hochmuth explained that the Bylaw Regulations have a fee schedule and part of the fee schedule includes a monetary value per sq. ft. They calculated the field where it is not used as agriculture and multiplied that by the .25 cents, and came up with \$430; it would be a waiver in access of \$1000.00. Luther made a motion to grant the waiver, Carroll seconded. **So Voted Unanimously.** Luther made a motion to close the hearing, Carroll second. **So Voted Unanimously.** Luther moved to permit the activities and issue an OoC under the By Law with the usual Conditions and to make sure that the beautiful walnut trees are held from any harm and held from poison chemicals. Hochmuth explained that as proposed they are not planning to go near the walnut trees while the site is under construction. Carroll seconded. **So Voted Unanimously.** (DiCarlo recused herself from the vote).

**Continuation NoI 307-0724: 57 Perkins Row,** (Map 58, Lot 025), New Meadows Development/The Morin-Cameron Group, Inc. Tyler Ferrick from DeRosa Environmental was present. Scott Cameron addressed the Commission, providing a recap from the previous hearing date. He explained that the peer review by Beals and Thomas has commenced. Matt Burne in his preliminary report of his site visit to analyze the ponded area for vernal pool activity made a negative determination based on the findings of predatory species, e.g. turtles and aquatic plants that need wet conditions year round. A decision will be made after the final report is reviewed. Cameron then proposed discussing alternatives to working in the Buffer Zone. The alternatives were just received the day before, which was not in compliance with the TCC 7-day prior policy. Luther stated he did not see any reason why Cameron cannot go on to discuss this matter but stated he was not going to take any actions until he read the documents/material. Cameron presented four alternative plans. He explained that the current crossing was constructed before relevant regulations existed. Based on the delineation based on DEP criteria, they proposed a 7-lot subdivision; the Bylaw Riverfront Area makes that not feasible. Jolley stated, to clarify, that the TCC was discussing alternatives to the need for waivers to work in the Buffer Zone. Cameron continued that the property was subdivided well before the regulations came into existence. Cameron stated that the current proposal is for a 5-lot subdivision, that the application to review the road, and also stated that he wanted the Commission to review the area coming through the Buffer Zone. He talked about lots 1, 2 and 5 that show no work in the Buffer Zone; lots 3 and 4 show activities in the Riverfront Area. There would be a separate notice if any future work is proposed in Riverfront Area. They are focusing on the crossing for now. When they looked at a common driveway and a special

permit for the common driveway that would allow access for a 3-lot subdivision, the lots still would need to meet zoning, and additional frontage would be needed to meet the zoning laws. This property only has 100 feet of frontage; the zoning minimum is 150 feet. That is the reason that the 3-lot alternative would not work. Alternative two in the packet is to reduce width of the roadway to closer to that of driveway in construction. The existing driveway is about 10 ft. wide; to meet the state fire code access has to be 25 ft., so that forces a 20 ft. width. If they reduce the road they could knock the footprint down from 34 ft. to 30 ft. They have been working with the Planning Board since February and also have met with the Fire Department, and DPW. Cameron stated that the Fire Chief would not support any waivers to the right of way diameter of the turnaround. They need to be able to turn a fire truck around. With a 3-lot the impact would be the same; it would still go through the Buffer Zone and the roadway crossing would be needed. Cameron stated that whether it would be 5 lots or 3 lots, they would still have to meet the subdivision control regulations, so the impact would be the same. The last alternative he discussed is a permit for a 40B, which is subsidized housing; Topsfield is under the 10% subsidized housing criteria. There would be 36 condo units with 25% of them going to affordable housing. There is 3000 sq. ft. of wetland but only 500 sq. ft. of alteration proposed since they propose to use the existing driveway. Cameron explained that the mitigation plan would improve the Buffer Zone and would be a permanent fix. Luther asked for an explanation of the proposed stormwater drainage and where the water would flow relative to topography of the land. He would like a conclusion that the abutters at 63 Perkins Row would not have new flooding. There was discussion about the watershed contributing to the site. In response to a question, Cameron explained that he was not asking TCC to review proposed activities in Riverfront Area at this time. There was discussion about the process of subdividing the property from 1 to 5 lots. Luther asked about the magnificent oak tree he was told will have to come down. Cameron responded that it would have to come down and the tree is starting to have issues and he questions if it could survive. Mitigation is proposing many younger trees. Jolley stated that there were several letters received from abutters. Luther suggested that if lot 1 were left vacant, the detention pond could be constructed more outside of the Buffer Zone. He added that DeRosa has done a great mitigation, but it still means digging up 80% of the Buffer Zone and the pond is going to be altered. Spillman explained the Avoid: Minimize: Mitigate concept; first one should try to avoid any alteration, if you can't avoid alteration then you minimize, if you cannot minimize, then you mitigate. Jeanine Cunniff, member of the Planning Board, asked Cameron if the road he was showing now is the one for requested waivers and he stated it is. Cameron explained that any deviations for the rules and regulations of the Bylaws would be require a waiver. The proposed roadway would have 24 feet of pavement width and there would be 5 feet on either side, with a required sidewalk on one side. One audience member asked if they had considered moving the road. Cameron responded that if they shifted the road around a single tree they would be in more of the wetland. Jolley acknowledged abutter letters. She read a letter from the Sherwoods dated August 12<sup>th</sup>, and from Carol Decker dated August 13<sup>th</sup>, and from Catherine Carlson, abutters/ concern citizens. A letter from the Whelan's was also submitted. Luther made a motion to continue the hearing to September 9<sup>th</sup>; Carroll seconded. **So Voted Unanimously.**

**ANRAD 307-07??: 9 and 21 Towne Lane, (Map 33, Lot 061 & Map 41, Lot 073),** LeClair/Gove Environmental Services, Inc. Jolley explained that the abutters did not receive notice until after the legal notice was in the newspaper. Spillman suggested that there needs to be a second legal notice in the paper, with the hearing date set at September 9<sup>th</sup>. Jolley

summarized that the hearing would not be opened at this meeting but at the September 9<sup>th</sup> hearing due to the timing of the legal notice. There will be new notifications to abutters and a new legal notice in the newspaper for a hearing on September 9. Luther made a motion to not open the hearing at this time, but to reschedule to September 9<sup>th</sup>; Carroll seconded. **So Voted Unanimously.**

**RDA 2015-03: 22 Evergreen Lane, (Map 50, Lot 032), Melto** The legal notice was read by DiCarlo. Melto explained that the project under this after-the-fact application was completed, including a patio and walkway in Buffer Zone. He had pictures to share with the Commission. Spillman added that there were some drainage pipes that needed to be replaced due to their being low quality. She has not made the site visit. Spillman stated that the findings would read that there were unauthorized activities in the resource area, list the work that was required and state that there needs to be a post activity site visit. Luther moved to close the hearing. Carroll seconded. **So Voted Unanimously.** Luther moved to issue a Negative Determination, with conditions for protection of the resource areas. Carroll Seconded. **So Voted Unanimously.**

**ANRAD 307-0725: 116 & 120 Hill Street, (Map 68, Lots 047 & 048), New Meadows Development/DeRosa Environmental** Tyler Ferrick of DeRosa Environmental presented. Scott Cameron of the Morin-Cameron Group also was present. Proof of abutter's notification was received. DiCarlo read the legal notice. Jolley stated that this application is to review the resource area boundaries. An abutter had submitted a letter stating that he was unable to attend the hearing but would like to be kept informed of the Commission's actions going forward. Ferrick reviewed the site plan with the Commission. He explained that there was a good size body of water at 116 Hill Street, which has three outlets but no inlets, it gets the runoff water from the street. They found turtles and numerous large bullfrogs. Spillman thinks it could function as a Vernal Pool. 120 Hill Street is a larger property, with extensive BVW lines with isolated islands. There are a few Intermittent Streams that run through it, there is a driveway coming off of Rowley Bridge Road, with an Intermittent Stream with a small BVW island that connects it. Spillman stated that she reviewed the lines and flagging with Mary Rimmer a couple of years ago; she reviewed her notes. Ferrick put up new flags, many in the same locations. Luther asked if there were any other open water area other than the one that flows by Hill Street; Ferrick stated that there is not. In response to a question, Spillman stated that there were some differences but many similarities between the Rimmer and DeRosa delineations. She added that she would like to see the potential Vernal Pool in the spring, she suspects that some of the Vernal Pool species would take advantage of it. There is a second area that Spillman believes may be a Vernal Pool, and would have to look at her notes to see exactly where it was. Luther asked if the old flags were still up and Ferrick stated that most of them are. Spillman noted that some corrections are needed on the plan, to show Buffer Zone correctly in the area of the recently developed lot at the corner of Hill Street and Rowley Bridge Road. The stream in that area flows onto the property across Hill Street. Also, in the area of that intersection, there are wetlands across there that create Buffer Zones that are not shown. Scott Cameron stated that they have all the soil testing locations and everything that was done was outside the Buffer Zones. The next step would be a site visit with DeRosa Environmental. Luther stated that the Commission should not be in any hurry due to the dry conditions. Spillman will do the initial site walk with Ferrick; the TCC will go after the delineation review. Luther made a Motion to continue the hearing to September 9<sup>th</sup>; Carroll Seconded. **So Voted Unanimously.**

**REQUESTS:**

**CoC 307-0682: 8 Evergreen Lane**, (Map 50, Lot 028), Simoes/Wetlands and Land Management, Inc. Spillman made a site visit and everything looks in order. Luther made a motion to grant a CoC for 8 Evergreen Lane, Carroll seconded, **So Voted Unanimously.**

**CoC 307-0659: 19 High Ridge Road**, (Map 65, Lot 027), Gillis/The Morin-Cameron Group, Inc. Spillman did not support issuing this CoC because a Conservation marker/placard is missing and they still have siltation socks in place that need to be removed.

**RDNI 2015-13: 17 North Street**, (Map 18, Lot 061), Radochia. The project is a proposed deck/patio in Riverfront Area of Mile Brook. Luther made a motion to issue a DNI for the 17 North Street project. Carroll Seconded. **So Voted Unanimously.**

**RDNI 2015-14: 38 Summer Street**, (Map 41, Lot 052), Donovan. Spillman suggested issuing. This is a project to construct an 8'x12' storage shed in Buffer Zone. Luther made a motion to issue a DNI for the project at 38 Summer Street; Carroll seconded. **So Voted Unanimously.**

**CoC 307-0708: 222 Boston Street**, (Map 49, Lot 041), Lawton/The Morin Cameron Group, Inc. Mr. Lawton was present. Spillman made a site visit August 18 and had concerns. She suggested that a RDNI be filed for the walkway installed in front of the building in Riverfront Area and possibly in Buffer Zone/BLSF. That area of alteration was not proposed in the NoI. Lawton responded that the Planning Board told him to install the walkway; Spillman explained that the Commission did not authorize it. Deviations between the approved OoC plan and the as-built plan were discussed. Spillman stated that grass is not sufficiently growing and that is one of the main reason she does not recommend the issuance of the certificate. Also, a large truck was parked on the infiltration trench beside the new pavement, which would compact the stone that is to provide infiltration. Lawton was unaware of the large truck. At the site visit, Spillman also observed a small oil spill that looked like it had cat litter on it and had leaked from a vehicle on the new pavement, adjacent to the stone infiltration trench. Lawton stated that he was not aware of it but would check into it. Luther stated that if this was happening then a berm would have to be put in the area. Spillman suggested that there should be a spill kit onsite. Lawton will look into all of this. Lawton stated that he has another issue that he is trying to deal with; he is trying to make grass grow but he keeps getting fined by the Water Commission. Jolley summarized that the Commission would wait on issuing the CoC. Spillman asked if the Commission wanted to address the watering issue. Luther moved to release Lawton from having to water the lawn in violation of the Water Department; Carroll seconded. **So Voted Unanimously.** Luther moved to waive the \$75 filing fee for a subsequent filing for a CoC, Carroll seconded. **So Voted Unanimously.**

**Continuation CoC 307-0119: 207 Boston Street - Fairgrounds**, (Map 57, Lot 004), Essex Agricultural Society/Williams and Sparages, LLC. Hochmuth stated that Morin went to the site yesterday and confirmed that nothing has changed. He did not stamp the plan due to the 2012 date on the original plan that was signed and stamped. There are 4 CoCs being sought. Hochmuth and Spillman did a site walk and found some lawn dumping in BVW by the neighbor across the street (MBD Outdoor Power Equipment). The dumped material has been removed. Luther asked about the first OoC. Hochmuth stated it was for installation of a pipe Central

Street down to the wetland in the middle of the field. Luther Moved that a CoC be issued for 307-0119; Carroll seconded. **So Voted Unanimously.**

**Continuation CoC 307-0384: 207 & 233 Boston Street - Fairgrounds,** (Map 57, Lot 004 & Map 49, Lot 082), Essex Agricultural Society/Williams and Sparages, LLC Hochmuth stated this was for some cutting that took place without proper permitting and once they got before the TCC they were given some conditions, mostly for education of the staff . Luther Moved that a CoC be issued for 307-0384; Carroll seconded. **So Voted Unanimously.**

**Continuation CoC 307-0403: 233 Boston Street,** (Map 49, Lot 082), Essex Agricultural Society/Williams and Sparages, LLC. Hochmuth stated this was for maintenance of a drainage ditch, and to remove fill and restore the area around the drainage ditch. Luther moved that a CoC be issued for 307-0403; Carroll seconded. **So Voted Unanimously**

**Continuation CoC 307-0646: 207 Boston Street,** (Map 57, Lot 004), Essex Agricultural Society/Williams and Sparages, LLC. Hochmuth stated they were actually able to submit a full CoC and all is well. Luther moved that a CoC be issued for 307-0646; Carroll seconded. **So Voted Unanimously.**

**OTHER:**

**Enforcement Order 2015-02: 2R Valley Road,** (Map 65, Lot 036), Salem and Beverly Water Supply Board – ratification and discussion with SBWSB. Jolley stated that this issue was never ratified so the Commission would like to discuss the current status of this. John Darling, attorney for the SBWSB stated that what happened last meeting was that they pointed out the exemptions from both the Wetlands Protection Act and Topsfield Bylaws. They asked TCC not to ratify the EO so that they would not be under litigation with the town. He added that TCC did not ratify the Enforcement Order, so it is gone. He went on to say that they discussed doing some restorative plantings of different varieties along the path. One planting was the Alder bush. Marton looked into the Alder and there is some sort of national warning that said that there are no-native stock mixed in with the native stock so there is a caution to everyone not to use it. Luther expressed a preference for choke berries or sweet pepperbush. Darling stated that the Water Board received a letter of request from the Army Corps of Engineers (ACE); they have been discussing the project with them. The SBWSB was out there this afternoon to make sure the area is stable. Native species, whatever was trimmed, have grown in considerably. He believes there is nothing more for them to do. Luther asked Darling if they were waiting for ACE to come up with guidance as to how to finish the project; Darling answered yes. Spillman stated that she made a site visit this week and had some observations. She thinks it's a good thing that nothing has been planted yet, with the very dry conditions it is not a good time. A lot of the vegetation that was mowed down is coming up. She believes stone is still collapsing outside the silt socks, into BVW on both sides. Luther also made a visit himself and has concerns regarding the west bank of the path from the bridge to 2/3 of the way to the Rail Trail. While the Easterly bank has restored vegetation, the west bank is bare. Spillman has observed sloughing on both sides. Spillman confirmed that the silt socks are still in place. Jolley asked that the Commission be kept informed.

**Herbicide Spraying along guardrails** – Discussion with Highway Department. Spillman received a letter from a woman walking her dog; the dog became very sick reportedly due to the



spray. They DPW never notified that they sprayed there. She called the highway department and they confirmed that they were spraying. Shamroth stated that placards could be put up. Luther cautioned that the Highway Department should be careful where there is open water. Spillman had received a message from Bond stating that he could use some guidance. Some kind of signage should be used. One suggestion is to put the notice on the Town website. The Commission is concerned about notifying the general public about the spraying. DiCarlo suggested that the Board of Health should take this up. Spillman will respond to Dave Bond's email.

**Proposal for layout of 255 High Street/Morningside River Estates Open Space, (Map 65, Lot 001), The Morin Cameron Group, Inc. – review and discussion.** John Morin was not available for this discussion.

**MEETING MINUTES:**

**June 24, 2015**

**July 15, 2015**

Jolley stated that she would like all documents pertaining to the meetings be included in minutes. Luther moved to accept the minutes of **June 24, 2015** and **July 15, 2015** as amended; Carroll seconded. **So Voted Unanimously.**

**ADMINISTRATOR'S REPORT:**

A large number of people have retired from DEP under the Governor's retirement program, and their positions have been filled. DEP staff are at very low levels. Ron Stelline retired and Galka's file for a Washington Street property (EO) was given to Wayne Lozzi, who called for an update. The Commission has not heard anything since it was handed over the case to DEP.

**ADJOURNMENT:**

Shamroth moved to adjourn the meeting; Carroll Seconded.

**So Voted Unanimously**

The meeting was adjourned at 10:15 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Diane Wise" followed by a stylized flourish or initial.

Diane Wise,  
Recording Secretary

*Minutes approved at the TCC meeting on November 4, 2015*

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.