

HREC Meeting  
Work Group to Discuss Low Roads Encroachment  
Wednesday, July 1, 2020, 3:00 pm via Webex

Attending: HREC members: Brian Carlstrom, Geoff Sanders, Helen Miranda Wilson, Janet Reinhart, Dan Hoort; NPS representatives: Jennifer Cherry, Jean Olson, Molly Kammerer, Tim Smith, Lauren McKean; Other: Steve Spear, Martha Craig, Christine Odiaga, Ryan Curley, Gail Ferguson, Dave Koonce; Denise Coffey, Carole Ridley

Introduction

Following introductions, Carole explained that this meeting was a follow-up to the April Herring River Executive Council meeting where the land encroachment issue was discussed. The purpose of this meeting is to make sure that the town, NPS and project team all have the same base of information about the extent of encroachment and the process and can identify concrete next steps to move this process along.

Brian Carlstrom welcomed the Northeast Lands office team. He affirmed that it was a positive step to move this discussion forward. The land exchange process is frequently used, but it is a lengthy and involved process and has many steps. It is important that the Town and Seashore share a common understanding of the process.

Town officials (Janet Reinhart, Helen Miranda Wilson, Dan Hoort) expressed a desire to move this process forward in support of the project.

Carole reviewed PowerPoint overview of the road encroachment issue (attached).

There are three main areas of encroachment: (1) the elevation of segments of Old County, Bound Brook Island and Pole Dike Roads; (2) the elevation of High Toss Road and (3) the elevation of a road and driveway on private property in the Seashore.

- Tim Smith noted that the NPS needs to identify each separate land tract impacted by the encroachment, even though only a small part of the tract is impacted. NPS land tract numbers differ from town assessing data, but the two data sets can be coordinated.
- Martha Craig asked if any of the encroachment is occurring in Truro. Steve Spear confirmed that some amount of encroachment is in Truro. It was agreed that Truro representatives should be apprised of this.
- Steve Spear noted that the amount of encroachment on High Toss Road will depend on how much of the road is elevated. Currently the project team is working with Town and Seashore officials to evaluate full and partial elevation options. The full elevation would result in encroachment along 5,000 linear feet (approximately 1 mile).
- With respect to the private property off Bound Brook Island Road, the design is settled but there are some ownership questions that need to be resolved.

Jennifer Cherry from the NPS Northeast Lands Office, described the steps involved in the land transfer process.

- Land exchanges such as are proposed for this project are common, but usually are simpler exchanges that involve far fewer parcels.
- One of the first steps is preparation of a Justification Statement that must be signed by the Regional Director. The statement explains what the NPS is giving up, and what benefits it is recouping in the land transfer, including economic value and natural resource value, among other factors. This project should have no issue with demonstrating public benefit associated with the transfer.
- At this point, the critical task is confirming and narrowing to the extent possible the NPS land tracts impacted, and also the list of possible parcels available from the town for transfer.
- Once the parcels involved in the exchange are identified, NPS will work with the Town to develop a scope of work for the survey, and legal descriptions and data files that are needed.
- Only the portions of NPS tracts that are going to be encroached upon need to be surveyed.
- Appraisals are needed and must be done at the same time on NPS and town parcels.
- This is often a 2-year process but the timeline depends on how quickly the parcels can be identified. Once that happens and the survey and legal descriptions have been submitted to NPS, a number of other steps are required, many of which happen in consultation with the Seashore office: e.g., NEPA and cultural resource compliance (may not be necessary since project has gone through NEPA and there is a Programmatic Agreement with Mass Historical Commission).
- There needs to be a preliminary exchange agreement between NPS and the Town that spells out what needs to happen and who is responsible for each task.
- Notifications to abutters, town officials, elected officials and congressional committees also may be warranted.
- An environmental site assessment is needed for each parcel so that NPS knows that what natural and cultural resources are on the land they are transferring and what they are receiving is clean from contaminants or minor contaminants that can be mitigated are identified.
- NPS also will run title on the town parcels.

Jennifer Cherry will provide templates for the work scope and preliminary exchange agreement. However, she noted that these documents would need to be tailored to the circumstances of this project.

Questions and discussion followed Jennifer Cherry's description of the NPS land exchange process:

- If a sliver of encroached land involves more than one NPS tract, will separate surveys of each tract be needed? Jean Olson will check. However she noted that NPS will need to be able to subtract the land amount from each tract.
- What guidance or parameters should the town consider in identifying parcels for exchange? The NPS Lands Office will look to the Seashore for direction on which

parcels have resource value. Lauren McKean of the Seashore will work with the Town on this aspect of the process.

- What is the basis for determining comparable land exchange? The exchange may not be the exact land area or appraised value but also will consider resource value. Appraisals are based on highest and best use, but in this instance with slivers of land, other factors such as resource value may carry more weight.
- In what form does the NPS need the parcel data? The scope of work for surveys and legal descriptions will spell out the work products that need to be submitted. These include GIS shape files, two sets of plats, legal descriptions, etc. Parcel data based on town assessors maps is workable and can then be translated by NPS into tract data.
- Town meeting will need to approve any town land transfers, so that needs to be factored into the time line.
- Existing project funding sources may not be available for this work. The Seashore will work with the Town to explore options for funding this work.

#### Next Steps

1. Develop descriptions of the project areas where encroachment will occur, including a specific parcel list for encroachment areas – Lauren McKean will work with Steve Spear on this.
  - a. Make a final decision on the elevation of High Toss Road - Project team will coordinate with Town and Seashore
  - b. Resolve ownership issues with private property on Bound Brook Island Road – Lauren McKean will work with Steve Spear on this.
2. Identify Town Parcels for Exchange
  - a. Develop an initial list of potential town parcels for exchange – Helen Miranda Wilson will assemble this information
  - b. Narrow the list of town parcels based on town and Seashore/NPS considerations for review by Select Board, others
  - c. Identify appropriate Town decision steps (e.g., Town Meeting)
3. Based on detailed list of Town and Seashore parcels, develop a work scope for the areas where encroachment will occur – Lauren will liaise with the Lands Office on this
4. Explore funding options for this work – Brian Carlstrom and Town officials will discuss options.

Submitted by Carole Ridley, Coordinator

Approved by HREC on July 16, 2020