

Arcand, Richard

From: Winters, Shelley
Sent: Thursday, April 02, 2020 8:37 AM
To: Barker, Louis; Herlihy, Patrick; Dugas, Michael
Subject: RE: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

From: Barker, Louis
Sent: Thursday, April 2, 2020 8:21 AM
To: Herlihy, Patrick ; Dugas, Michael ; Winters, Shelley
Subject: RE: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

That is the way I interpreted it. We have electric company facilities in Seabrook-Hampton Falls-Hampton under license.

From: Herlihy, Patrick
Sent: Thursday, April 2, 2020 8:05 AM
To: Dugas, Michael ; Winters, Shelley
Cc: Barker, Louis
Subject: RE: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

Sorry, read the wrong last paragraph! I think we would need to check with the AG's Office but being non-exclusive we may be able to entertain easements especially if they were utility easements as opposed to telecommunications easements.

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NOTE NEW EMAIL ADDRESS: Patrick.Herlihy@dot.nh.gov



From: Dugas, Michael <Michael.Dugas@dot.nh.gov>
Sent: Wednesday, April 1, 2020 1:36 PM
To: Winters, Shelley <Shelley.Winters@dot.nh.gov>; Herlihy, Patrick <Patrick.Herlihy@dot.nh.gov>
Subject: FW: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

Shelley,

Some questions from Scott Bogle from a couple of weeks ago related to NH Seacoast Greenway and issues pertaining motorized access and utilities within the corridor. I think the only item I'd ask for a response to would be in the last paragraph of the body of the email regarding future telecommunications.

Thanks.
Mike

From: Scott Bogle <sbogle@therpc.org>
Sent: Friday, March 13, 2020 4:29 PM
To: Dugas, Michael <Michael.Dugas@dot.nh.gov>
Cc: Debowski, Mark (mdebowski@gpinet.com) <mdebowski@gpinet.com>
Subject: RE: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

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Hi Mike and Mark,

Thanks for this information.

Regarding the question about motorized access, the intent of all of the towns to date has been that the trails will be open only to non-motorized use, with exceptions for maintenance vehicles, emergency vehicles, motorized wheelchairs and class one electric bicycles. In the meeting I referenced ADA-related court rulings around "Other Power Driven Motorized Vehicles". Trails must allow folks with mobility disabilities to use OPDMDs, but the trail management entities may do an analysis of trails safety and define allowable types of OPDMDs. In the absence of such an analysis someone with a disability would be able to bring any ATV onto a trail, and determining who has a legitimate disability to allow them to do that apparently gets very sticky from an enforcement standpoint. The Rails to Trails Conservancy had given us a sample policy from Lancaster PA addressing this. We originally suggested wording about this in the NHDOT-Municipal agreements, but Patrick wanted to just cite the federal reg and the corridor communities could adopt more specific requirements. I've attached the sample from Lancaster and a draft we had started for NHSG communities that references last year's electric bicycle legislation.

Interesting to read the wording of the telecommunications easement, and that it is "non-exclusive". Does that mean that if a telecommunications company approached NHDOT rather than Pan Am regarding a line that a lessee of the State could also occupy that space? At a minimum this would allow the state to grant/sell an easement to a utility for any purpose beyond 7.5" from the centerline of the parcel.

Have a great weekend

Cheers, Scott

From: Dugas, Michael <Michael.Dugas@dot.nh.gov>
Sent: Friday, March 13, 2020 3:26 PM
To: Scott Bogle <sbogle@therpc.org>
Cc: Debowski, Mark (mdebowski@gpinet.com) <mdebowski@gpinet.com>
Subject: FW: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

Scott,

Some answers below to questions that were raised at the NHSG meeting. Pages 11-20, 39, and 89-99 of the attachment relate to the limits of the purchase. I am also told that the DOT's Bureau of Environment feels that the future stone dust

surface would not be considered to be an increase in the impermeability of the corridor. I'm not sure if this is the final word on the subject, or if input from DES is needed.

Best regards,
Mike

*Michael J. Dugas, P.E.
State Highway Safety Engineer
Bureau of Highway Design*

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From: Winters, Shelley <Shelley.Winters@dot.nh.gov>
Sent: Tuesday, March 03, 2020 9:19 AM
To: Dugas, Michael <Michael.Dugas@dot.nh.gov>; Herlihy, Patrick <Patrick.Herlihy@dot.nh.gov>
Cc: Cass, William <William.Cass@dot.nh.gov>
Subject: RE: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

Mike,
Here are some answers:

Also need refresher on what kinds of vehicles would be allowed on completed trail. Are any motor vehicles allowed as they are on some other trails?

- Section 2.1 of the signed Rail Trail Agreements includes this motorized wording:
 - "The Permittee shall limit motorized use of the Rail-Trail in accordance with Title 23 USC Chapter 2 Section 217 "Bicycle Transportation & Pedestrian Walkways" Subsection (h) "Use of Motorized Vehicles", or as amended."
 - Here is a cut paste of Subsection (h), which we discussed with the towns & Scott Bogle:
 - (h) Use of Motorized Vehicles. - Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for –
 - (1) maintenance purposes;
 - (2) when snow conditions and State or local regulations permit, snowmobiles;
 - (3) motorized wheelchairs;
 - (4) when State or local regulations permit, electric bicycles; and (5) such other circumstances as the Secretary deems appropriate.

Does Pan Am retain rights to keep and/or add underground utilities within the corridor?

- See below from the recorded deed:

2. The Grantor hereby reserves a permanent, non-exclusive underground right of way and easement through a fifteen (15) ft. wide strip of land located seven and one half (7 1/2) feet on either side of the center line of the Premises for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing a telecommunications system or other system for transmission of intelligence or information by any means, whether now existing or hereafter devised, including such pipes, wires, fibers, fiber optic cables, repeater stations, attachments, appurtenances, structures or other equipment and property of any description necessary or useful for the same (the "Telecommunications Easement"). The Grantor further reserves the right to freely lease, license, mortgage, assign, pledge and otherwise alienate the Telecommunications Easement. The Grantor shall: (a) provide the Grantee with ten days' notice of Grantor's intention to commence such installation; (b) obtain the Grantee's approval of the location of such proposed installation, which approval shall not be unreasonably withheld or delayed; (c) furnish the Grantee with a complete and detailed description of such installation, including any applicable plans and construction schedules; and (d) replace and/or restore surface area disturbed by any work associated with the Telecommunications Easement, including but not limited to installation, maintenance, and removal. The Grantor agrees to indemnify, reimburse, defend and hold harmless the Grantee from any loss, liability, claims, damages, costs, and/or expenses arising out of or caused by the exercise or use of the Telecommunications Easement by the Grantor. The Grantee hereby covenants with the Grantor to recognize the Telecommunications Easement and, without the payment of any further consideration, to execute, acknowledge and deliver such instruments suitable for recording with the registry of deeds as the Grantor may reasonably require to acknowledge title to the Telecommunications Easement in the Grantor.

Do we have mapping or a detailed description of the limits of what we purchased from Pan Am? Did we purchase only a (relatively) consistent width corridor, or did we also acquire abutting outparcels? This will be important if we end up needing water quality treatment.

- We don't have a "new" map to describe our acquisition, but it is a relatively consistent width with a few small parcels that jut out. The limits, as described in the deed, are as follows:

Beginning at a point designated as Engineering Station 2436+50 on map 44 of railroad valuation section 3 in Hampton, thence running in a generally northeasterly direction through the Towns of Hampton, North Hampton, Rye, Greenland and the City of Portsmouth, to the southerly sideline of Barberry Lane in Portsmouth, and designated as Engineering Station 2943+40 on map 54 of railroad valuation section 3.

- I believe Lou already provided you with the Val Maps, so that would show the corridor and any outparcels.

- I have also attached a draft appraisal we had done that has some maps that may prove useful as the total acreage in the draft appraisal is the exact same (95.09 +/- acres) as the recorded deed cites. So, my guess is the maps in the draft appraisal are accurate
 - Pages with maps: PDF pages 15-24 (page # of bottom 11-20) & PDF pages 93-103 (page # of bottom 89-99)

Shelley

From: Dugas, Michael <Michael.Dugas@dot.nh.gov>

Sent: Thursday, February 27, 2020 5:23 PM

To: Winters, Shelley <Shelley.Winters@dot.nh.gov>; Herlihy, Patrick <Patrick.Herlihy@dot.nh.gov>

Cc: Cass, William <William.Cass@dot.nh.gov>

Subject: Hampton-Portsmouth 26485 (aka Seacoast Greenway)

Shelley and Patrick,

I attended the quarterly meeting of the Seacoast Greenway committee last night in Portsmouth. Some notes and observations:

1. Fourteen attendees, but officials only from Hampton and Hampton Falls, plus Rep. Mike Edgar (Hampton). GPI and TEC attended the meeting although neither is under contract yet.
2. I shared the project's current schedule (5/2021 ad) and cost estimate (\$2.05M).
3. I mentioned that executed municipal agreements will be forwarded shortly.
4. DES will be making drainage improvements this summer near Breakfast Hill Road related to the Coakley landfill superfund site. This should alleviate one of the major areas of trail flooding. DES is working with Lou Barker to get a TUA.
5. Scopes and fees are under development for design (with GPI) and environment (with MJ). These should be complete within the month.
6. Much talk of the current users of the trail and the need for immediate short-term maintenance of the trail to clear vegetation and alleviate flooding. I stated that both the current access to the trail and any maintenance activities should be formalized in temporary use agreements with all five communities. Scott Baker stated that it's very unlikely that communities would assume liability (as they grudgingly did for the permanent agreements). I stated that at a minimum any groups that seek to maintain the trail will need our permission. Scott Baker also felt that minimally improving the current trail would be the best way to boost its current use and generate popular support for the future improved rail trail. I stated again that we don't have the means to make any improvements in advance of the project.
7. Horses: much discussion of the impact of horses on the trail and how to accommodate them. We will probably ask Chris Gamache to talk at a future meeting to give his observations of how horses have affected other trails and what we should be aware of. Also need refresher on what kinds of vehicles would be allowed on completed trail. Are any motor vehicles allowed as they are on some other trails?
8. Much discussion on the need for the identification and improvement of access points to the rail trail. I reiterated that the project will not be building or funding the creation of access points and that this would need to be done by the communities. There is a lot of interest in using our [D6 storage shed and lot at the Hampton / North Hampton line](#) as a trail access. Hampton says they may extend sewer to allow there to be a restroom. I advised that the towns' study of access points should be kept separate from the rail trail project as much as possible so they don't get mingled and drawn into the federal process.
9. Hampton Marsh: Scott Bogle recommended that Hampton and Hampton Falls jointly seek a Ten Year Plan project as soon as the next round starts (July 2020).