

## **Pollution issue snags trail plans**

By John Laidler, Globe Correspondent, January 13, 2005

Lynnfield and Wakefield have hit a snag in their efforts to develop an off-road recreational trail through the two towns.

The 4-mile paved path, intended for bicycling, in-line skating, running, and other nonmotorized recreation, would run along an inactive railroad right of way from "The Junction" at Main Street near Wakefield center through Lynnfield to the Peabody line.

Lynnfield and Wakefield are seeking long-term leases from the MBTA for their portions of the proposed trail -- about 2 miles of the route is in Wakefield, and about 2 miles in Lynnfield.

But officials in both towns are objecting to certain provisions of the draft lease, in particular two provisions that they fear could make them legally responsible for potential environmental costs.

"We don't want to put ourselves in a position where we are going to be liable for any cleanups in the future that are the result of decades of train use," said Lynnfield Town Administrator Bill Gustus.

The right of way, owned by the MBTA, was used until several years ago as a freight corridor by Guilford Transportation. But Guilford is in the process of relinquishing its rights to use the right of way, according to Thomas A. Mullen, who is town counsel for both Lynnfield and Wakefield.

At the request of Lynnfield and Wakefield officials, the MBTA this past November submitted the identical draft leases to the towns. The leases would run for 99 years at nominal cost to the towns.

State legislation adopted last year eased some liability concerns for communities developing trails. It said that if a municipality acquires or leases an abandoned railbed from the MBTA and works diligently to convert it to a rail trail, then the state cannot charge that community for the cleanup of any preexisting contaminants discovered on the trail.

But Mullen said the MBTA's draft leases would require Lynnfield and Wakefield to indemnify the agency for any costs associated with environmental contamination. He said that means that if the T were to be sued by a private party or by the federal government, the towns would have to cover the agency's legal costs and any damages.

The other provision of concern to the towns would forbid them from carrying out environmental tests on the railbed prior to leasing it. Mullen said that would expose them to potential lawsuits in federal courts regarding environmental contamination. (Towns have legal protection against such suits if they can show they tested the property prior to leasing it and did not uncover the contamination alleged.)

"Right now, I would say neither board of selectmen would be comfortable with signing the leases that are before us," Mullen said.

He said the towns have jointly hired Cambridge attorney Stephen Anderson, an expert in environmental law, to assist them. They are also reviewing lease agreements that other communities have made with the T.

Mullen said that ultimately the towns would either try to negotiate an agreement with the T that addresses their concerns, or look to legislation to resolve the issue. Currently, he said, there is a bill before the Legislature that would prevent the MBTA from requiring communities leasing railbeds to indemnify them.

Proponents are hoping that the legal issues can be resolved.

"This is a great deal if we can work out the environmental issues," said Wakefield Selectman Albert J. Turco, who sits on the town committee that -- with a similar committee in Lynnfield -- is spearheading the trail effort. "It would be turning something that is at least unused, and to some extent an eyesore, into something that would be a benefit to people of both towns."

From Main Street in Wakefield, the trail would extend along Water and Vernon streets, entering Lynnfield through a culvert beneath Route 128. It would then cross Reedy Meadow, a freshwater marsh, emerging on solid land just east of the Middle School and west of the Lynnfield Center Golf Course. From there, it would proceed across Summer Street to land adjacent to the high school, before reaching the Peabody line.

Trail proponents say federal and state grants could help fund the project, the costs of which have yet to be firmly established.

Dick Simmons Jr., chairman of the Lynnfield trail committee, said the trail would offer pedestrians and bicyclists in Lynnfield access to the high school and middle school, and to Wakefield center, where they could catch the train.

"It also creates a phenomenal recreation venue for pedestrians, runners, bicyclists, in-line skaters, anybody who wants to enjoy the solitude of a paved path away from traffic," he said.

Emmett Halpin, a member of the Wakefield trail committee and a bicyclist, said that for many cyclists, the trail "would just mean a place to get away, and hopefully, a way to connect with other area trails."

Former Wakefield selectman Kevin P. Scott, a member of the town's rail committee, is confident the legal issues can be resolved.

"It would be a disgrace if we didn't work this out," he said. "We've got this basically abandoned land that is overgrown and neglected, and we want to convert it to a beautiful recreational trail that is going to be a massive improvement for both towns."