

**City of Port Colborne
Special Meeting of Council Addendum**

Date: Tuesday, April 15, 2025
Time: 7:00 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

***6. Delegations**

- | | | |
|------|---|----|
| *6.1 | Marsha and Mike McCreddie - 574 Wyldewood Road
Delegating on Report 2025-87. | 1 |
| *6.2 | Anne Yagi - 11 Berkwood Place
Delegating on Report 2025-87 - on behalf of Lorraine Bay Association. | 4 |
| *6.3 | Rick Froese - 1575 Firelane 2
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| *6.4 | Robert Henderson - 1933 Firelane 2
Written Delegation on behalf of the Lorraine Bay Association on Report 2025-87. | 30 |

Delegation Letter – Marsha and Mike McCreadie

We are writing to all members of the City of Port Colborne, City Council, to be included as delegation of the Tuesday, April 15, 2025, City of Port Colborne City Council meeting regarding Waterfront Road Allowances.

Having had little time to research and prepare this response was very difficult and stressful because the city gave little public notice and announced this item on their agenda last Thursday and the meeting is tonight, giving us just a few days to research, cross reference and prepare - hopefully we did our best.

Having communication with other environmental groups and associations and experts of endangered species and specifically the Fowler toad and the north shores of Lake Erie, they have stated a recovery team can assist the City with a mitigation plan. The toads have coexisted with the landowners here for sometime. The main threats are lost habitat from poor development planning which continues today. Occasional access to the beach during the day with a tractor or any smaller vehicle has a low probability of impact and can be mitigated through timing and location.

Stewardship has always been an important component for species recovery. They have reached out to the city to offer assistance.

Our family has been before council several times in the past having to fight for our rights to get ALL of us to the beach equally and fairly. It's been a five year battle with the city who has caused a great deal of stress to our family and neighbourhood who have only very peacefully lived next to the largest campground and Airbb in Ontario. Our neighbourhood has also been long time shepherds of the beach cleaning it after storms and each season change and maintaining its safety (glass, metal, debris) for ALL the enjoy. We too will be taking heed and lessons how to move forward with our stewardship keeping in mind careful handling of potential habitats.

Our family purchased and invested in living close to the Wyldewood road allowance, intentionally, nearly two decades ago. We have a son with a disability and he could enjoy sharing time with his family at the shoreline because the City had a system that accommodated his safe traverse with us to enjoy it like everyone else and like those next door at the trailer park. Other families in our neighborhood had the same rationale. Whether it was a family member at infancy or the elderly, the abled, less abled or temporarily disabled due to health reasons. We are grateful for the City's support that we and many other families in the neighbourhood have been able to achieve this precedent for many decades. All was supported in the Sierra Planning and Management Report stating "what is clear is that there is a reasonable expectation that can be achieved to affect balance between the needs of adjacent property owners and others in the community and prevent the excesses that come with unfettered access. Neither should those persons that require accessibility/mobility assistance be constrained by virtue of a gate."

We are active advocates of the accessibility for ALL - following the AODA Accessibility for Ontarians with Disabilities Act that aims to identify, remove, and prevent barriers for people with disabilities which the City must conform to as well.

We participated in all the stages of the Sierra Group and Management research, survey and meetings five years ago and asked councillors yearly when those recommendations would be put in place.

The city states each of their seven road ends are unique but need to be treated equally. Spending all that money to contract the Sierra Planning and Management company to create a survey, tabulate, compilations, meetings and recommendations, etc. proves and indicates otherwise. We are all unique with our own set of circumstances. Likewise spending more up to \$150,000 to lock out disabled residents will not alter any of the risks the City is trying to avoid. Trespassers and all possible liability of potential motorized vehicles to properties bordering the road allowances come from ALL directions. What is the City doing to prevent those?

We question how this Council can enforce protection of the Fowler toad within the mere 66 feet that is the Wyldewood road allowance when just a few feet to the east there are thousands of golf carts on the same shoreline, tractors and machinery grading the beaches regularly, and boat/watercraft launches that allow vehicles and trucks all day everyday?? As stated in the LCA Environmental Consultants report attached to Report 2024-143 the "ESA legislation prohibits destruction of the species (Fowlers toad) and habitat, and is written in such a manner that the landowners (person or corporation) are equally responsible for any negligence and offence under the act." If council is truly concerned with the Fowlers toad, its habitat and species designation, then the City of Port Colborne would create a bylaw to encompass all vehicular access to the entire lake Erie shoreline within its City's boundaries identified as habitat for Fowlers toad and not just targeting the seven road allowances. The City's approach is then viewed strictly as a political opportunity using the species designation for this Council's end goal to lock out residents of road allowance access and further disable people with disabilities by creating more boundaries.

So the question is are the fowler toads only to be valued and protected on the 66 feet of road allowance? What about the endangered Fowler toads that inhabit Sun Retreats Sherkston Shores stretch of kilometres of shoreline and dunes? Aren't there many more Fowler toads and habitats to be saved there? ***See City of Port Colborne Operation Manual of Road Ends and Municipal Drainage Outlets December 2023 identifying Fowler Toads habitats exist on the northern shores of Lake Erie including the Sun Retreats Sherkston Shores.

How are EMS going to be able to get to the Wyldewood road allowance shoreline in an emergency?

In the past I personally have driven paramedics down to a patient and then returned the patient and paramedics back to the ambulance on our golf cart. I was grateful to be able to help play a role in helping the injured surfer. This has been a common occurrence that Wyldewood residents with golf carts are happy to help. An ambulance or any other EMS vehicle would risk getting stuck in the sand in any conditions and they needed and will continue to need assistance to get to patients as quickly as possible.

in conclusion, how can we work together to find a balance of Human Rights and Accessibility, EMS access in emergencies and protecting endangered species while not leaking fluid to contaminate water or sand? Along with the cities fear of liability when continuing to allow residents historically uncomplicated access to road allowance by golf cart? When just a foot away at Sherkston Shores trailer park 10's of thousands of people with tractor graders, and thousands golf carts, vehicles, boats and Seadoo's are running amuck doing ALL the things the City is trying to protect its 66 feet of road allowance liability? To everyone, this appears to be thick of hypocrisy



Fowler's toads and Beach Access

Anne Yagi M.Sc. EP, CERP

Chair of The Fowler's Toad Recovery
Implementation Team

Representing the Lorraine Bay Association

Prepared for Port Colborne City Council Meeting
April 15, 2025

Fowler's toads

Endangered Species in Canada

Ontario Endangered Species Act (ESA)

Species and its Habitat are protected under the ESA

ESA follows a Stewardship Approach to foster Species Recovery



Fowler's toad Recovery Implementation Team

- Promote Stewardship
- Research and Population Monitoring



History of Stewardship

- From 2002 to 2016 the Recovery Team through MNR worked with City of Port Colborne Staff to mitigate impacts on toads at Nickel Beach



History of Stewardship

- In 2008: MNR negotiated Mitigation
 - Timing for Beach Grooming
 - Toadlet emerged from breeding sites through monitoring by Recovery Team
- Improved Habitat Increased Dunes and Beach Area
 - Not trucking sand off the beach
- Confining Vehicle Access to the Western groomed area
 - Vehicle Use / Public Parking was allowed on beach through MNR agreements





From 2016 to
2021

- MNR ESA Mitigation Agreement ceased being implemented by the City
- MECP took over ESA

From 2017 to 2021

- The Recovery Team through 8Trees Inc. continued monitoring Fowler's Toad at Niagara Beaches with City Staff and Landowner permissions
- Attending Open houses, Park Planning
- Outreach “campfire” events with “Joad The Toad” Mascot

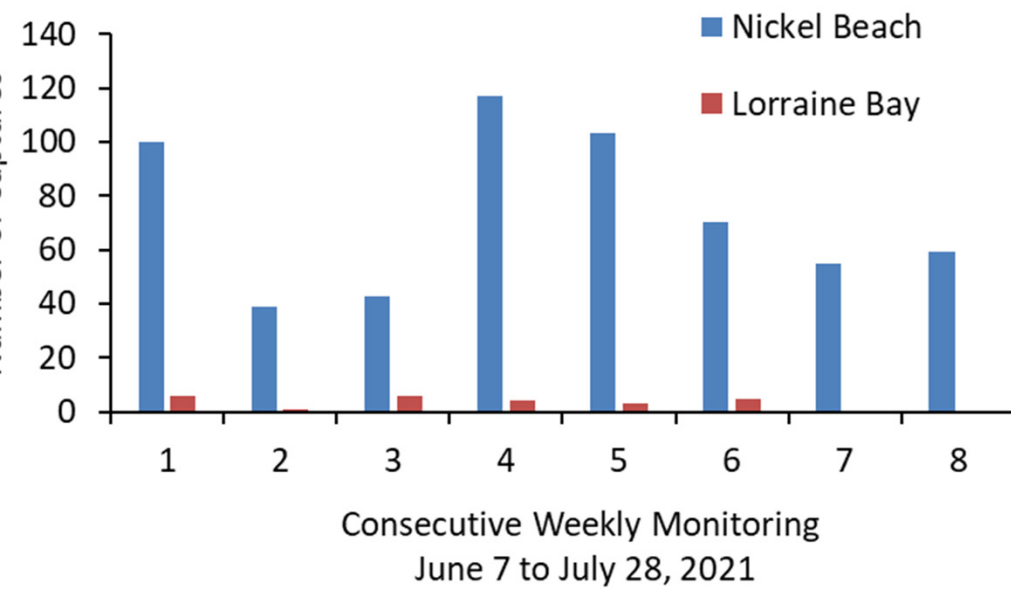


In 2022

- MECP contacted Recovery Team because of a complaint they received regarding development within regulated habitat
- City restricted Recovery Team Access for monitoring
- Now using the Fowler's Toad and past ESA issues to continue to Restrict Access to other Beaches "to protect the Toad"
- MECP is not usually proactive, they are reactive - complaint driven
- MECP would need to prove there is an impact on toads and toad habitat
- We have submitted A Stewardship plan to MECP for comment.



Fowler's toad Encounters 2021



Nickel Beach is Type 1: Optimal habitat : the best in Port Colborne
all other beaches are Type 2

Harmful vehicle use on beaches happens when

- vehicles drive on soft sandy beach areas and dunes, or
- drive on beaches at night when toads are moving from dunes to the water's edge to rehydrate and to feed, or
- when driving next to breeding sites during the day when toadlets are exhibiting diurnal behaviour and are very vulnerable.



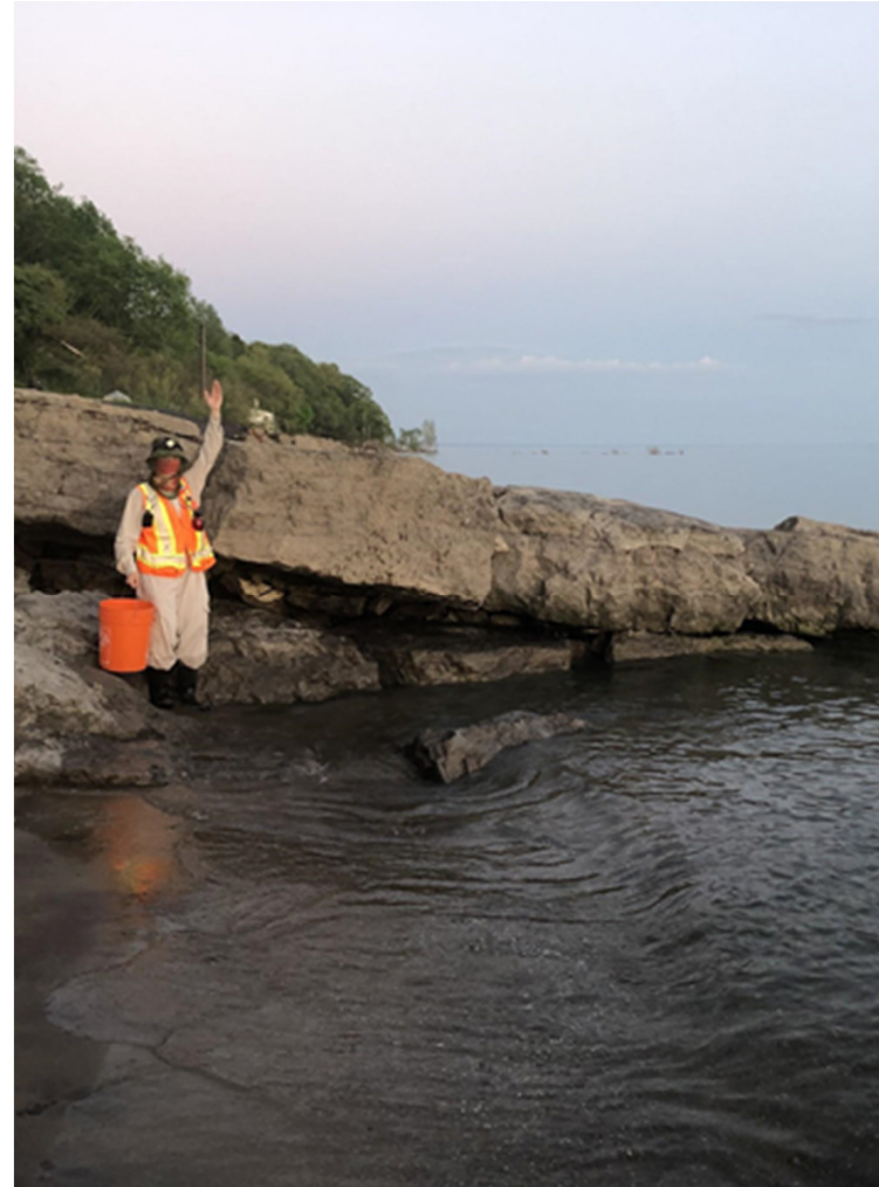
Stewardship

- Adhering to seasonal and time of day restrictions
- Avoiding sensitive habitats
- Negotiate an Agreement with MECP to mitigate potential impacts, extend timing windows and allow some vehicle access in nonsensitive areas



Lorraine Bay Beach Access Weaver Rd and Lorraine Rd

- Residents and public have always enjoyed access to these beaches
- The toad and landowners have coexisted here for over 100 years
- Low risk to toads- lower quality habitat
- A stewardship approach will work!
- Start with signage to explain sensitive habitat and timing!
- The Residents can monitor the toads!



Recovery Team Stewardship Products





Fowler's toad at Nickel Beach, Ontario

Fowler's toad is a Species at Risk amphibian with a Canadian distribution limited to three populations on the Lake Erie shoreline: Niagara, Long Point and Rondeau. Nickel Beach toads are part of the Niagara population that extends from James N. Allen Park to Fort Erie. Large storms on Lake Erie can wash toads from one part of the Niagara area to another, but in general each beach houses a distinct group. Nickel Beach is home to one of the larger groups of Fowler's Toad within the Niagara population.



Satellite photograph of the Niagara area shoreline.

Two kinds of toads in Ontario

Life cycle

Habitat needs



Fowler's toad adult (*Bufo fowleri*)

- Medium sized toad
- 5 to 8 cm in length
- Grey, beige or buff coloured
- Back has dark patches or spots, each containing 3 or more smaller warts.
- Belly is cream or whitish with no spots or a single dark spot between the two front legs.

- Large gland behind eye connects with the bony ridge
- Snout is short and blunt
- Lower legs have small warts on the upper surface.



American toad adult (*Bufo americanus*)

- Larger toad
- 6.5 to 10 cm in length
- Skin on back is dark brown, tan or khaki
- 2 or fewer larger warts per dark spot.
- Belly usually creamy or yellowish with many speckles or dark spots.
- Gland behind eye does not connect to bony ridge or connects only by a short spur.

- Long and sharp snout and large warts on the upper surface of the lower leg.



As an amphibian, this toad has a life cycle that involves an extraordinary change or "metamorphosis", from a gill-breathing, swimming aquatic tadpole to a lung-breathing, hopping, terrestrial toad. Each life stage involves a different part of the shoreline habitat. Fowler's toad is active less than half the year and most often at night. Whether they are on the beach feeding, calling at the breeding pools at each end of the bay, or hopping among the dunes, Fowler's toads are gentle and interesting creatures that depend on the ever-changing Lake Erie beach landscape.

Partners assisting in the protection of the Fowler's toad include:



Typical Fowler's toad coloring



Fowler's toad hiding from the mid-day heat under dried algae on the beach.



Fowler's toad calling in spring

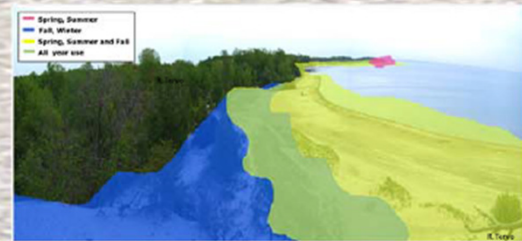
At Nickel Beach, Fowler's toads hibernate deep in the large dunes, below the frost level and away from the water's edge. Hibernation begins in late fall, and lasts through mid spring.

Usually in May, adults and juveniles emerge in the evening and begin their nightly routine of feeding and hydrating. At this time of the year, adult male toads make their way to the rocky breeding pools at each end of the bay. Males 'call' the females to follow.

Within the pools new eggs develop into tadpoles and tadpoles metamorphose into tiny toadlets (about the size of your fingernail). Adults and toadlets disperse from the rocky points to colonize the whole beach length through the summer.

But they are difficult to find! Fowler's toads hide from the heat of the day and emerge at night. Fowler's toads use many niches to escape the summer heat. They bury themselves in the surface sand of larger dunes, smaller sand piles, flat sand beach, and within layers of dry algae on the beach.

All habitat types are required for the survival of the toad.



Seasonal use of the bay/beach includes areas from point to point.



Active dunes are needed for shelter by juvenile and adult Fowler's toads.



Breeding pools at the rocky point, west end, Nickel Beach.



Newly emerged toadlet with dime.



Escaping the heat of the day in the shelter of sand & algae



Thank you

This is a radio tracked Fowler's toad found during the daytime just under the sand surface



Lorraine Bay Association

Road End Report

Concerns & Request

Background

Road End Issues :

- Covid triggered City Beach Closures
- People went to unopened road allowances causing problems
- City hired Sierra Planning Consultants to prepare an assessment of the issues and come back to the City with recommendations.
- The Study included public consultation, surveys and public meetings.
- Final Recommendations were approved by City in May 2022 and staff were instructed to report back to City with implementation plans
- Lorraine Bay was in agreement with these recommendations and requested involvement in the plans that would affect our road ends.

Report 2024 -143 – July 2024

- City releases Road End report for approval by City on July 23, 2024
- Road End recommendations were changed without any public consultation or our involvement as per our request
- Report recommends our road ends be gated and locked otherwise they will be fined by the MECP
- There was a public outcry about these changes without public consultation and a public meeting was subsequently scheduled for August 2024

Concerns

We've identified the following concerns:

- 1) Fowler's Toad - Species at Risk in Ontario
 - Nocturnal and buries in soft sand at base of dune during the day
 - We use the beach during the day and drive vehicles on hard packed sand
 - Lisa Price - LCA Environmental - agreed there would be little risk to Fowler's Toad with this use
 - However, we were told that the MECP would fine the City if they didn't install locked gates

Concerns

1) Fowler's Toad – Cont'd

Stewardship Plan –

- Many toads were swept out of the bay during Fall storms when we have record high water levels in 2019
- Population Counts in summer of 2021 counted between 0 and 5 toads over an 8 week period
- Lorraine Bay is a Type 2 Habitat which means it has limited habitat and breeding Ponds
- Lorraine Bay Association along with Anne Yagi from the Fowler's Toad Recovery Team offered to initiate a Stewardship plan to help the population recover.
- This was offered to help the toads instead of placing locked gates on our road ends
- This was declined by the City of Port Colborne claiming added costs and still having the liability from the MECP

Concerns

1) Fowler's Toad – Cont'd

MECP –

- We were told the MECP would fine the City if they didn't install locked gates
- It has been confirmed by the Public Works Director that there is no such directive from the MECP

Concerns

2) Safety –

- Locked Gates would prevent us from responding to emergencies in the water and we're told to call 911
- 911 – Puts 25% of its calls on hold and it takes Fire Service 18 minutes to respond to Lorraine Bay
- Fire services would then cut the lock and rely on us to launch a boat to respond to the emergency.
- We have had two emergencies on our bay in the last three years:
- Overturned Laser Sailboat – Sailor was hypothermic & confused. He would have drowned if he needed to wait for emergency services.

Concerns

2) Safety Continued –

- 28' Sailboat ran aground on Cassidy Point – Dr. McGarry called Polmar, the Police and drove his tractor to the point where he directed emergency services to the boat.
- Response delays cause by locked gates are the difference between life and death in an emergency.
- We are there and can respond quickly

Concerns

3) Accessibility –

- House are on dunes 20' – 30' above the beach
- Family and friends with mobility issues cannot use the stairs down to the beach. We use road ends to bring them to the beach to be with family members.
- City of Port Colborne and Province of Ontario have Accessibility mandates.
- Why would we place locks gates to deny access to our beaches which we've enjoyed for over 125 years.

Concerns

4) Cayaks, Canoes, Laser Sailboats & Small Power Boats –

- Our houses are on dunes above the beach with stair access
- We use the road ends to bring our small boats to the beach
- Final report suggest we use the Sugarloaf Marina to launch our boats.
- It would be unreasonable to launch a small boat and travel 7 km to our beach

Lorraine Bay Request

We request that Lorraine Bay Road Ends be exempt from any new Bylaws and leave our Road Ends as they are:

- Lorraine Road
- Weaver Road

This is consistent with the Sierra Planning Consultant Recommendations dated Apr/22

To Mayor Steele and Councillors.
Re: Waterfront Road Allowance

To start, I am asking that you amend the motion/report and drop Lorraine Rd road end and Weaver Rd road end. My rationale may apply to other road ends but I am addressing those that I know about.

This issue has been exacerbated by the fact that Lorraine Bay is a class 2 habitat for a Species At Risk(SAR), the Fowler's Toad.

My appeal to you is to appeal to your business sense. Others will make the case for environmental aspects. As a business decision, I look at it from the perspective of risk and reward.

As I understand it, the issue is with the Ministry of Environment, Conservation, and Parks(MECP) and their threat of tightening The Endangered Species Act (ESA). I have been told that they have never fined anyone for the death of a Fowler's toad. I believe this to be true because there is zero risk of finding a dead toad that was killed intentionally. Appendix "A" goes into more detail of how I arrive at zero.

The reward is not spending, dare I say squandering, 2/7th of the budgeted \$150,000 for gates. There is already a bylaw(4527-58-04) in place since 2004 that allows enforcement by the bylaw officers of the 7.5m from Firelane 2 southward on Weaver Rd and 37m southward on Lorraine Rd from Firelane 1. How many by-law citations have the officers written for infractions in the last 20 years at these 2 road ends. I posit that it is no where near \$43,000 worth. My point is, what has been in place for the last 20 years works just fine.

Many years ago I was taught 3 rules for making rules.

Rule 1: Does the issue require a rule?

Rule 2: Does the rule you're making make sense?

Rule 3: Can you enforce the rule you made?

If you can't answer yes to all three, don't make a rule.

Regarding rule 1, at Lorraine Rd and Weaver Rd the answer is NO. There is not an issue.

Regarding rule 2, installing expensive locked gates and requiring an expensive permitting system does not make sense when there is no issue. Therefore, the answer is NO.

Regarding rule 3, one of your reports stated that a previous attempt at locked gates had padlocks cut and keys duplicated and widely distributed proving the enforcement failure. So, this is a NO also.

The City staff have made their recommendation. I am sure they have, in the past, made good recommendations. This is not one of them!

Drop Lorraine Rd end and Weaver Rd end from this proposal.

Please.

Robert Henderson
1933 Firelane 2,
Port Colborne ON L3K 5V3

Appendix "A"

ZERO RISK ASSUMPTIONS THAT MECP WILL ADMINISTER A FINE

1. Someone finds a dead toad.

I give this a 1 in 10 probability. In 39 years of walking on the beach and Firelane 1 and 2, I have never seen a dead toad. I have seen dead frogs and dead snakes but never a toad.

2. That same someone has to care enough to report it to an employee of MECP.

I give this a 1 in 1000 probability. In order to identify it as a Fowler's toad vs an American toad it has to be picked up and turned over. The distinguishing feature is a light coloured belly. Ask yourself, how many people are going to pick up a toad? Not many! Then there is the unknown if the belly of a dead toad is the same colour as it was when it was alive.

3. The MECP employee has to be interested enough in the case to leave his or her office to investigate.

I give this a 1 in 10 probability. Any thinking person would realize to do this is creating more work for themselves and would likely ask a few unanswerable questions that would get him or her off the hook.

4. Assuming for a moment the MECP does investigate. The MECP employee would have to have proof of who killed the toad and that it was done with malicious intent. (One of the unanswerable questions) I give these probability of 1 in 1000 and 1 in 10,000 respectively.

5. Following this is the filing paperwork and potential legal wrangling.

When calculating odds of multiple events happening you multiply the odds of each step with the odds of the next. In this chain of events that is $1/10 \times 1/1000 \times 1/10 \times 1/1000 \times 1/10000 = 1 \times 10^{-12}$ or 1 in a trillion. Since we are not landing a lunar rover on the sea of tranquility I round down to ZERO.

You can change my probability estimates but it is a moot point. The chances of it happening are non existent.

A similar exercise can be done for Golf Carts and Parked Cars. Neither of these pose an issue at Weaver Rd and Lorraine Rd that warrant the action that the City staff are proposing.