

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **05/12/11** – Approved 5/26/11

Location: Ayer Town Hall, 1st Floor

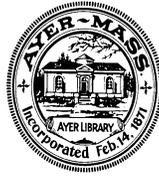
Members present: Bill Daniels (BD, Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)

Not present: Dave Bodurtha (DB, Vice-Chair)

APAC taped: No

7:06 PM – Open Meeting

- **Pledge of Allegiance**
- **Meeting Minutes Approval**
 - Amendments were made to the discussion section concerning the Friends of Flannagan Pond in the meeting minutes of 4/28/11.
 - BD added his mention to Selectman Luca that ConsCom has never had UDAG funds made available to its needs, nor been informed that possibility.
 - BD added note of the discussion in which Selectman Luca was asked if it was his intent to develop a management plan for all the ponds, not just Flannagan's.
 - Mr. Luca answered yes, such a plan would be for all the Town's ponds.
 - BD requested note of the corrections that had to be made to the FOFP RFP (dates, pond references, contact information) and asked that it be underscored that the RFP on which ConsCom was asked to vote at its 4/28/11 had been prepared by FOFP and approved by the Town Administrator.
 - GB moved to approve the minutes of 4/28/11 as amended; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: RDA – Pan Am Railways**
 - Mr. Keith Morris, Environmental Consultant for Pan Am Railways, did not show up for the scheduled Public Meeting.
 - Pan Am Railways plans to treat its rights-of-ways with herbicides for weed control.
 - The RDA is for verification of sensitive areas, not for the application of herbicides.
 - A motion was made to continue the Public Meeting to 5/26/11.
- **Public Meeting: RDA – Massachusetts Bay Commuter Rail (MBCR)**
 - Kyle Fair, of TEC Associates, appeared before ConsCom to review a submitted RDA.
 - The RDA is to renew the wetland delineation along MBCR's right-of-way in Ayer, from the Littleton line to the Shirley line.
 - MBCR will be conducting its annual herbicide application for vegetation management activities in accordance with Rights of Way Management Regulations for sensitive areas.
 - Mr. Fair explained MBCR's zone delineation on maps of the work area.
 - Yellow indicates no spray areas in which water and wetlands have been identified within 20 ft. of the center line of track.
 - Light blue indicates sensitive areas in which water and wetlands have been identified within 110 ft. of the center line of track.

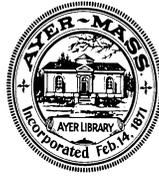


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- This designation requires the use of particular, low-migrating materials and can be applied once every 12 months.
 - Dark blue indicates water protection zones to which applications can be made once every 24 months.
- Work is planned for sometime during the first two weeks in July.
- GB asked if someone from MBCR would be present to monitor the spraying.
 - Mr. Fair said an environmental compliance officer, with maps in hand, and a patrolman, scouting a half-mile ahead of spraying, would be present.
- BD asked about the potential health hazards of the herbicide materials, acknowledging that unauthorized people are not supposed to be on railroad tracks at any time.
 - Mr. Fair said the herbicide used is a derivative of Roundup, has a kill-time of 7-10 days, and is used in a diluted mist form that typically dries in 20 minutes.
 - A person's only risk would be in handling the undiluted/concentrated product.
- CA has received for file the MBCR's Vegetation Management Plan and its 2011 YOP (Yearly Operational Plan) which has updated emergency contact information.
- GB moved to issue a Negative Determination of Applicability; TT 2nd.
 - Motion approved unanimously.
- **CA Updates**
- **Pond View Acres Development Resolution**
 - CA handed out an information packet, including a 4/12/11 letter from Town Administrator Robert Pontbriand to Ms. Linnea Flint, Chair of the Pond View Acres Condominium Association.
 - The letter summarizes the mutual resolution reached between the Town and the Pond View Homeowners/Condo Association wherein the Town will pay for completion of Field Surveying (\$1200), As Built plans (\$1800) and Conservation issues (\$1000).
 - The Homeowners' and Condo Association will be responsible for costs (\$3000) for the "Street Acceptance Plans" which the Town will facilitate for placement on the Warrant for Spring and/or Fall Town Meeting.
 - The packet also included a letter of 4/5/11 from DPW Superintendent Dan Nason to Jeffrey Brem of Meisner-Brem Corporation, Professional Service Agreement, and agreed-upon Scope of Services (Attachment B) between the Town and Meisner-Brem.
 - Meisner-Brem acknowledged that portions of the construction of the stormwater management basin behind units 32 and 33 were not acceptable.
 - BD noted that there was no mention of planned repairs to this basin; CA concurred that this had yet to be spelled out.
 - BD questioned how acceptance of street plans can properly take place if work has not met the standards of criteria initially set out.
 - BD found Meisner-Brem's disclaimer to be disconcerting at best. The disclaimer reads:
 - "Finally, embedded throughout the discussion above, is the concept that the final end product of this effort will not be up to the engineering standards normally employed for As Built Plans. This firm has real and valid concerns that the end work product is incomplete or will be considered as an inferior work product to that which this firm is used to presenting. This is uncomfortable. Therefore, by



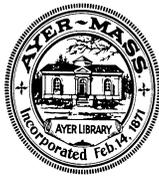
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acceptance of this proposal, the Client [Town of Ayer] acknowledges this situation and accepts all the consequences thereto and holds this firm harmless from non-acceptance due to the situation as thus described.”

- Pondview resident Bill P. asked for a copy of the packet.
 - Bill P. noted the many problems that have arisen given the unresponsiveness of the developer, Robert M. Hicks, Inc.
- With respect to the stormwater basin behind units 32 and 33, CA said DPW Superintendent Nason has said that the basin is not constructed to its design specs but that so far he has not seen problems with its functioning.
 - During the flooding rains of spring 2010, CA noted this basin infiltrated water quickly and did not have large amounts of standing water, as had been expected.
 - TT asked Bill P. if residents have seen deficiencies in this stormwater basin.
 - Bill P. said no, but added that he had not been watching this basin.
 - TT said if there were catastrophic problems, people would likely have noticed.
 - The Commission noted that DB, not present, has had issues with this basin not having been constructed to design specs, nor having proper access.
- **Public Meeting: RDA – Horizon Milling, 35 Nemco Way**
 - Joseph Kochan presented an RDA for work planned to start in June to construct an approximately 10 ft.-deep new Scale Pit at their facility.
 - The majority of work will be done within their shed, but Mr. Kochan wanted to make clear that part of the shed will be taken down during the excavation.
 - The RDA application included a 4/6/11 letter from Michael Lally, of Sea & Shore Contracting, describing the dewatering basin plans for the Receiving Pit excavation.
 - The excavation work is to be performed in a dry pit, requiring sump pumps to lower the groundwater level during construction.
 - Discharge hoses will run into a dewatering basin comprised of silt fabric sacks surrounded by haybales for filtering before running across 70-80 ft. of pavement to the vegetated border, wetlands and then Spectacle Pond
 - CA confirmed the pavement area was very flat with little grade.
 - BD requested the dewatering basin employ a double line of haybales with filter fabric in between.
 - CA will provide Mr. Kochan with a sample of the method used by the Town.
 - GB moved to issue a Negative Determination of Applicability with conditions; TT 2nd.
 - Motion approved unanimously.
 - Mr. Kochan gave CA a check for \$54.50 to pay for the legal notice.
- **Public Hearing (cont'd): Phase III Ridgeview Heights/Pingry Hill subdivision**
 - Steve Mullaney, of S.J. Mullaney Engineering, represented Crabtree Development.
 - Mr. Mullaney gave CA a check for \$85.00 to pay for the legal notice.
 - BD said there were no surprises on the site walk performed on 4/30/11 and that the wetland flagging was in good order.
 - GB moved to approve the NOI and issue an OOC for Phase III; TT 2nd.
 - Motion approved unanimously.

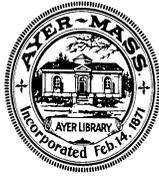


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- Mr. Mullaney said work is not expected to start for another couple of months, given the current housing market.
- GB moved to continue the Public Hearing to 5/26/11 for signing of the OOC; TT 2ndf.
 - Motion approved unanimously.
- **Public Hearing (cont'd): NOI – Kohler Place, Sandy Pond Investment /Oxbow Associates**
 - CA handed out copies of the draft Special Conditions of the OOC for review.
 - The OOC will be completed when NHESP issues a permit number.
 - CA said Ed Cornelier, of Sandy Pond Investment, understands this is the only holdup to ConsCom's issuing the OOC.
 - CA said Mr. Cornelier asked when he could begin talking with architects.
 - CA told him he could begin that but just couldn't break ground until the NHESP permit was issued.
 - In reviewing the draft conditions, #38 was edited to delete references to replication work and stormwater basins, neither of which is applicable to this project.
 - #51 was edited to read "This Order of Conditions applies only to disturbance within the limit of work shown on the approved plan. Any further development may be subject to additional permitting."
 - #54, re stormwater basins, and #55, re weekly construction updates, were deleted.
 - TT said NHESP will want to see the monumentation and signage for the CR.
 - CA said ConsCom does have a standard sign example and will pass a copy of this on to Scott Smyers, of Oxbow Associates.
 - GB moved to continue the Public Hearing to 5/26/11; TT 2nd.
 - Motion approved unanimously.
- **CA Updates cont'd**
- Article 38, weed control treatment on Flannagan Pond.
 - On 5/9/11, Town Meeting voted 42-41 to approve Article 38, the Friends of Flannagan Pond citizen petition requesting \$35,000 in funding for weed control treatment on Flannagan Pond.
 - The BOS voted 4/19/11 to use \$35,000 in UDAG funds for this purpose as well.
 - The Town Meeting vote now appears to provide \$70,000 in funding.
 - CA handed out copies of the 5/12/11 email received from Chuck Miller, of FOFP.
 - The RFP for weed control and Sandy and Pine Meadow ponds is due 5/13/11, the RFP for weed control on Flannagan Pond is due 5/20/11.
 - BD will schedule a meeting with the BOS to discuss various issues that have arisen concerning this as well as how the BOS approaches permitting in areas with wetlands.
- CA requested a copy of the guidelines for the East Main Street Spillway (aka Balch Dam) from Fire Chief Pedrazzi.
 - Chief Pedrazzi only has a 2001 memo on file but said maintaining a certain water level for emergency fire pumping was no longer a concern for them with Balch Dam.
 - GB has a copy of a 2005 letter about board removal from Balch Dam from Marielle Stone, of Mass DEP, and will provide CA with a copy for ConsCom files.

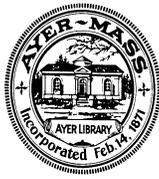


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- Resident Karen Ingle contacted CA with concerns about the number of turtles being run over on West Main Street.
 - TT said there's not much that can be done other than individually helping turtles across.
 - A solution such as providing culvert passage would only be done during major roadwork.
- Potential wetland filling on West Main Street
 - CA has continued to hear reports of potential wetland filling on a property just before the bridge on West Main Street.
 - This property has no street number, making it difficult to ascertain contact information on the owner.
 - Planning Board Administrator Sue Sullivan recently has seen tractors in use moving soil.
 - CA walked by this property on 5/11/11 and observed soil piles and tractors still on site, along with a patch of land that appears to have been recently hydroseeded.
 - CA will follow-up on contact information using the Assessors database.
 - GB noted that a Town by-law requires the display of a street number.
- Mass DOT
 - Mass DOT has informed CA they mailed an RDA on 5/11/11 to ConsCom for repaving of Rte. 2A from the Ayer rotary to the Littleton line.
 - BD asked about handling runoff from the road.
 - CA anticipates their RDA will propose use of haybales and silt fencing.
 - Problems with runoff of oil/gas and other pollutants into Bennett's Brook is partly a result of Mass DOT's failure to clean their own catchbasins.
 - CA said Mass DOT insists on doing their own legal notice for a Public Meeting.
 - If this is done correctly, Mass DOT will be on ConsCom's agenda for 5/26/11.
- Site Walk Reminder
 - CA reminded the Commission of the planned site walk on 5/14/11, at 9 a.m., for Epic Enterprises on Copeland.
- DPW
 - CA accompanied DPW Superintendent Nason on a site walk to the Rosewood Avenue area near the Nashua River Rail Trail.
 - The sewer line in this area, installed in 1964, is leaking badly.
 - Some sewage is getting out, but water is also getting into the sewer lines, contributing to overloading the capacity of the wastewater treatment plant.
 - Mr. Nason showed CA manhole covers that are accessible and the track of the sewer line.
 - Much of this is on private property and much of this is also under several feet of water, given the wetlands and nearby Jane Brook.
 - The sewer line also has several 90-degree turns, complicating matters.
 - Mr. Nason suggested to CA one way of fixing this sewer line is to drain the entire wetland ecosystem in the area in order to get to the sewer pipes.
 - BD said it is not feasible to drain this substantial wetland area.
 - BD added that even if ConsCom were to agree, Mass DEP would say no.
 - An NOI for a project of this scope would require an alternative analyses and an environmental impact report.
 - BD suggested DPW might want to consider installing new sewer pipes on an alternate route.



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- Mr. Nason will also be submitting an NOI to ConsCom for the replacement of a culvert on Victor Lane.
- COC request, FMC Corporation, Bishop Road
 - TT read FMC's report but did not have the OOC on hand for reference.
 - CA will provide a copy of the OOC to TT.
 - TT did not see any red flags in reviewing the report, and noted that FMC referenced their modifications to the as-built plan.
 - ConsCom will have to perform a site visit.
 - Because of travel requirements, FMC has asked that a site visit be scheduled within a day of the Commission's meeting.
 - BD suggested attempting to schedule it for 6/9/11.
- CA received the okay from Town Administrator Pontbriand for ConsCom to use Tata & Howard as consultant to review the stormwater calculations for Phase III of Crabtree Development's Ridge View Heights/Pingry Hill subdivision.
 - Belatedly, the Commission realized it should not have approved the OOC for Phase III earlier in the meeting.
 - BD will contact Mr. Mullaney about this.
- Wood Property
 - BD said there was no need to go into Executive Session to discuss the possibility of purchasing 36 acres at the end of Rosewood Avenue.
 - Christine Laggis Wood had previously discussed this with BD but also said she had 6 contractors interested in the property.
 - Ms. Laggis Wood was unable to provide an assessed value.
 - BD did not think the Town would be a competitive bidder for this and was not interested in spending time/effort into looking into something the Town can't afford; GB agreed.
- ID Badges
 - CA asked about requesting picture-ids for CA and Commissioners for proper identification to residents when in the field.
 - BD told CA to contact the Police Chief directly on this.
- **Public Hearing (cont'd): OOC, Stratton Hill subdivision.**
 - CA heard back from Attorney Bob Collins, who represents developer Dave Moulton.
 - Mr. Collins reviewed the Special Conditions for the OOC.
 - Mr. Collins asked that condition #59 be amended to require construction updates monthly when construction is underway, and quarterly when it is not.
 - The Commission rejected this request and will continue to require construction updates weekly when construction is underway, and monthly when it is not.
 - The weekly reports are to commence immediately upon the start of construction.
 - The Commission will amend the wording of #62 to indicate that the conveyance of various lots has been generously offered by the developer.
- **10:15 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.