

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **06/23/11** – Approved 7/28/11

Location: Ayer Town Hall, 1st Floor

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

APAC taped: Yes

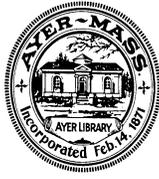
7:07 PM – Open Meeting

- **Pledge of Allegiance**

- **Confirmation of Agenda**
 - A representative of Pan Am Railways will not be appearing for an RDA Public Meeting at 7:45 due to a family emergency.

- **Accounts Payable**
 - The Lowell Sun: \$452.70, for Public Hearing/Meeting notices:
 - MBCR RDA: \$59.50 (payment received by CA)
 - Horizon Milling RDA: \$54.50 (payment received by CA)
 - two RFPs for Town of Ayer, Flannagan Pond weed control: \$169.40 each
 - Payment for the Flannagan RFPs are approved by ConCom but will be paid from the BOS budget.
 - GB moved to approve payment of \$452.70; DB 2nd.
 - Motion approved unanimously.
 - The Lowell Sun: \$572.40, for Public Hearing/Meeting notices:
 - Pingry Hill/Crabtree Development: \$85.00 (payment received)
 - Marc Gautreau RDA: \$54.50 (payment received by CA)
 - Epic Enterprises NOI: \$66.30 (payment received by CA)
 - Pan Am Railways RDA: \$51.00 (payment forthcoming from Pan Am)
 - two RFPs for Town of Ayer, Sandy Pond and Pine Meadow Pond weed control treatment: \$157.85 each
 - GB moved to approve payment of \$572.40; DB 2nd.
 - Motion approved unanimously.
 - Commissioner Dave Bodurtha: \$95.00, reimbursement for MACC Fall Conference
 - TT moved to approve payment of \$95.00; GB 2nd.
 - Motion approved unanimously.
 - Commissioner Bill Daniels: \$95.00, reimbursement for MACC Fall Conference
 - DB moved to approve payment of \$95.00; TT 2nd.
 - Motion approved unanimously.

- **Public Hearing: NOI – John S. Giaimo, Patriot Way Lot 4A**
 - Jesse Johnson, of David E. Ross Associates, appeared for Mr. Giaimo.
 - Lot 4A is the first lot on the left when entering Patriot Way, and is the last lot to be constructed.
 - Lot 4A is directly across the street from wetlands on Sandy Pond Road, and abuts an ‘isolated land subject to flooding’ (ILSF) in the back.
 - This ILSF flooded badly in spring 2010, affecting nearby houses.
 - ConCom issued an emergency certification at that time for the construction of a culvert under Sandy Pond Road to facilitate draining water from this area; the culvert drains into the wetlands.

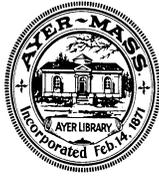


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- Other than protecting an existing detention basin, Mr. Johnson did not feel additional erosion controls other than a proposed silt fence were needed for this NOI, noting that an ILSF did not require the same degree of protection as other wetlands.
- DB said that as a result of the culvert construction, this ILSF is no longer isolated and that siltation and pollution into this area can now affect the wetlands across the street.
- BD agreed and asked that plans for this NOI show erosion controls to protect the no-longer-isolated ILSF, and that these controls remain in place until grass comes in on the finished lot.
 - BD also asked that the future landowner be instructed to not throw yard waste into ILSF.
- CA noted that the erosion control proposed for the ILSF was just a silt fence and that this should be doubled to include haybales or the use of filter socks.
 - CA also asked that the erosion protection line extend all the way to Sandy Pond Road.
 - Mr. Johnson agreed to both these provisions.
- GB moved to issue an OOC with revisions (double protection, extended to the road); DB 2nd.
 - GB asked for a revised drawing showing the revisions before ConCom signs off.
 - CA noted that the applicant has already been delayed for a month because of weather-related cancellation of the previously scheduled ConCom meeting.
 - CA asked the Commission to go ahead and sign the signature page now with the understanding that CA will not issue the OOC until drawings reflecting the revisions have been submitted.
 - Motion approved unanimously.
- GB moved to continue the Public Hearing to 7/14/11; DB 2nd.
 - Motion approved unanimously.
- **Public Meeting: RDA – Ayer DPW, Groton-Harvard Road stormwater pipe upgrade**
 - DPW Superintendent Dan Nason appeared before the Commission.
 - Resident George Hynes, of 35 Groton-Harvard Road, was also in attendance.
 - Mr. Nason previously met with ConCom on this upgrade on 10/28/10 and 11/4/10.
 - The proposed work replaces 30 ft. of an existing 10” drainage pipe running under the road with three 14” pipes, and upgrades a catchbasin and manhole.
 - All of the work will take place within the currently paved area.
 - The purpose of the work is to address periodic ponding issues on Groton-Harvard Road that create potentially unsafe driving conditions (hydroplaning, etc.).
 - The Town will purchase the materials for this project but the labor has been offered as a donation by Steve Mullaney of SJ Mullaney Engineering, who is affiliated with the proposed Emily’s Way subdivision uphill and on the far side of Groton-Harvard Road from Flannagan Pond.
 - Via previous site visit, CA said the drainage swale/easement running from the road down to Flannagan Pond is a continuation to original bordering vegetated wetlands (BVW), some of which were filled in decades ago to construct two houses, one of them being Mr. Hynes’ house.
 - CA said the upgrade is an improvement to existing conditions, unlikely to have further impact on the resource area, and therefore CA saw no reason to object to this project.
 - CA did say, however, that Mr. Hynes has raised the question as to whether this work will have an impact on his property in terms of contributing to flooding of his basement with water runoff.
 - Mr. Hynes said he remained concerned with the impact of the proposed 8-unit Emily’s Way subdivision, and referred as well to his fall 2010 letter from Ducharme and Dillis Civil Design Group (D&D) saying the Town’s planned upgrade would in itself increase the volume of water



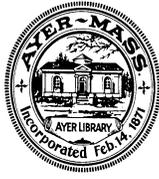
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flowing down the drainage easement. This letter was submitted to the ConsCom on 11/4/10 and read into the record at that time.

- Mr. Hynes said he did not think the DPW's RDA should be considered independent of Emily's Way.
- CA said the latest plans from Emily's Way claimed that their stormwater did not tie into the Town's system and would not contribute to increased waterflow.
- CA retrieved the Emily's Way plans (dated 8/27/10) for the Commission and Mr. Nason to look over in light of Mr. Hynes' concerns.
 - BD observed that Mr. Hynes was correct in saying that the Town's catchbasin is located in the middle of the proposed entrance drive to Emily's Way; the grate for this basin would likely be raised but covered over, reducing the use of the Town's catchbasin.
 - Mr. Nason said that even if the subdivision were to cover over this grate the Town will still have two pipes that collect water into the catchbasin, so it will still retain functionality.
 - Mr. Hynes asked if the catchbasin was likely to be covered over by Emily's Way, what was the purpose of doing the DPW upgrade?
 - BD answered that the subdivision may or may not actually happen, and if it does happen, it may be years down the road; in the meantime the Town still has to address the road's ponding problem as it is a public safety matter.
 - On examination, BD said the current version of the Emily's Way drawings (the most recent that the Commission has been given) seems to indicate that the majority of water flowing down the hill on Groton-Harvard Road will likely flow into the Emily's Way catchbasins – and mostly into the first catchbasin which is the smaller of the two.
 - BD said this raised immediate concerns about new ponding and sheetflow problems when this basin overflows during heavy stormwater events.
 - BD said it looked like the stormwater plans for Emily's Way, based on these drawings, were designed to take all the runoff from the subdivision, but did not appear to take into account runoff from Groton-Harvard Road as well.
 - BD noted the subdivision's drainage structures on these plans were also marked out with arrows pointing to the Town's drainage system, adding that this changed everything.
 - In response to BD's question, Mr. Nason said the Emily's Way developer has not gone over these drawings with DPW.
 - CA said that, based on this review, it no longer seemed as if Emily's Way would be keeping all the stormwater on their site, and that overflow likely would enter into the Town's system – thereby having an impact on the easement and BVW.
 - This is a change as to what ConsCom was led to believe, and if ConsCom's observations are correct, this makes the subdivision plans jurisdictional to the Commission.
 - Mr. Nason agreed that the plan on review revealed a potential overflow issue into the Town's stormwater system that would also potentially increase the volume of water brought across the road.
 - CA said the subdivision has not officially submitted their application to us.
 - Based on what ConsCom had previously been told about the stormwater plans, it appeared that the subdivision would only need to submit an RDA; if, however, the subdivision will potentially discharge stormwater into the Town's system – as it now appears – its plans fall under the jurisdiction of ConsCom and will require an NOI instead.

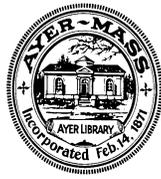


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- BD said ConsCom will need to confirm that the plans it was just reviewing are accurate and up-to-date.
 - A third-party review under the consultant by-law will likely be required of the subdivision.
- Discussion took place about continuing the Public Meeting to 7/14/11, allowing Mr. Nason to confirm the subdivision plans.
- After consideration, Mr. Nason requested that ConsCom consider the DPW's RDA as a separate matter from the proposed subdivision and asked for a vote on the RDA at this meeting.
 - Mr. Nason said that the subdivision was under obligation to the Planning Board to adjust its stormwater catchbasins to meet "existing conditions."
 - The DPW needs to solve the current ponding problem now and what happens with the subdivision is outside the purview of the DPW's application.
 - The onus will then be on the developer later on to prove that their calculations will not cause a problem.
 - Also, if Emily's Way is jurisdictional to ConsCom authority, Mr. Nason said they will have to redesign their catchbasins from 25-year to 100-year flood event standards.
- Mr. Hynes asked why the DPW application couldn't be put off for vote until 7/14, allowing him time to consult D&D again.
 - BD agreed with Mr. Nason that the subdivision was a different matter from the DPW project and that the Town needed to address the ponding issue now, not years from now.
 - BD assured Mr. Hynes, however, that what had come out of this meeting was an understanding that the subdivision, if the current plans are correct, will come under ConsCom jurisdiction.
- In response to further questions, BD told Mr. Hynes that while he appreciated his concerns, many of his questions were better directed at the Planning Board or Board of Selectman.
- GB moved to issue a Negative Determination of Applicability to the DPW's RDA; TT 2nd.
 - CA repeated from last fall's meetings that erosion controls (haybales or silt socks) needed to be placed on the far side of the outlet under the road, and that sediment at the discharge point would be dug out by hand.
 - Motion approved unanimously.
- BD asked Mr. Nason to let CA know in advance when work would start so that she could inspect the erosion controls.
- **Meeting Minutes Approval**
 - ConsCom reviewed the minutes for 5/26/11.
 - BD asked if CA if a response had been received yet from the BOS regarding reimbursement of CA's time given over to the Flannagan Pond RFP; CA said no.
 - GB moved to approve the minutes for 5/26/11 as written; DB 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd): NOI – Epic Enterprises, Inc. (Pepsi Co), 11 Copeland Drive**
 - CA reviewed the site-specific special conditions added to the draft OOC, including the die tablet tests to ascertain the origin of water discharging directly into Day Brook from two pipes not marked on plans originally submitted to ConsCom before the site walk on 5/14/11.
 - BD asked CA to add a requirement that a letter from the engineer of record be submitted to ConsCom detailing the results of the die tablet test.

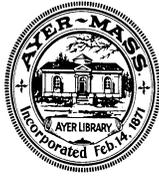


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- JG confirmed that the special conditions included the requirement of a contingency plan if the results of the die test proved different than expected (roof water runoff).
- GB moved to accept the special conditions as amended for the OOC for Epic Enterprises; TT 2nd.
 - Motion approved unanimously.
- GB moved to close the Public Hearing; DB 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd): NOI – Crabtree Development, LLC, Phase III Ridge View Heights**
 - The Public Hearing was not re-opened but it was noted that ConsCom is waiting to hear back from Tata & Howard with results of the third-party review of Phase III stormwater calculations.
- **Discussion: Crabtree Development, LLC, Ridge View Heights subdivision/Pingry Hill, Lot 86.**
 - Rick Roper, Crabtree Development, contacted CA about Lot 86 (33 Dear Run), DEP# 100-0261.
 - Mr. Roper appeared on 4/14/11 seeking ConsCom approval for modification to the plans for this lot which is being designed for a handicapped buyer.
 - The modification was to eliminate a sharp drop-off to the wetland in back.
 - At that time, Mr. Roper said the buyer would, in the future, be installing a small swimming pool for physical therapy.
 - Mr. Roper asked CA to consult ConsCom for permission for the pool to instead be installed now (by Cherry Hill Pool & Spa of Pembroke), under the conditions of his OOC.
 - BD confirmed that the work would all take place within the approved area of disturbance, and said that this could be considered as an addition to the scope of work rather than as an amendment.
 - CA concurred, saying that it would be advantageous to have Mr. Roper on site so as to ensure that the pool company was aware and compliant with the prescribed limits of work.
 - BD added that it was better to have the pool installed now while the ground is already disturbed rather than later, having to disturb it for a second time.
 - CA will write a letter to Mr. Roper approving this work.
- **Public Hearing (cont'd): NOI – Kohler Place, Sandy Pond Investment Trust/Oxbow Associations**
 - The Public Hearing was not re-opened but it was noted that the issuance of the OOC is still pending receipt of the NHESP permit.
- **Discussion: Flannagan Pond RFP re water level management**
 - Lycott, which is contracted to perform weed treatment on Flannagan, suggested ConsCom issue an emergency certification in order to remove the boards from Balch Dam outside of the Town's OOC so as to not delay weed treatment this summer. An amendment to the OOC will then be pursued to allow for board removal for the purpose of weed treatment.
 - The emergency certification was issued and Fire Chief Pedrazzi had the second board removed on 6/18/11; the water level on Flannagan Pond is dropping.
 - CA said Rob Wheaton of Lycott Environmental reported not yet having received their Mass DEP permit. Dominic Meringolo reported ACT had just received its permit for treatment of Sandy Pond and Pine Meadow Pond.
 - CA will coordinate with Parks & Recreation Supervisor Jeff Thomas so that treatment of Sandy Pond will interfere minimally with Town Beach activities.

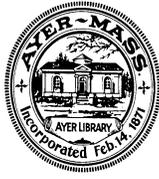


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- BD made note for future RFPs that ConsCom should arrange to pay 50% of a weed treatment contract on the purchase of chemicals, and the remaining 50% on completion of treatment and satisfactory proof of having achieved the desired treatment target.
- **Discussion: Enforcement Order – Park Street business condo association**
 - BD asked CA to send a letter to the association requesting a description of what they did to redress the wetlands' damage, accompanied by photographic proof.
 - ConsCom will plan a site visit after that report in order to confirm the results.
- **CA Updates**
 - CA will be on vacation the last two weeks of July so the office will be closed during that time.
 - CA has received several emails requesting information as to what can be done in response to beaver activity. One email had to do with a pond at the front of Autumn Ridge that beaver are slowly expanding. CA told them to come meet with the entire Commission to discuss options.
 - DB noted again that the trail is flooded on Town conservation land by the beaver dams upstream from Pine Meadow Pond.
 - BD wondered if that land was owned by the power company and not the Town.
 - DB felt fairly confident the lower dam is on Town property and suggested ConsCom look into installing a beaver deceiver in this area.
 - DB will contact the beaver deceiver company that installed a system last year in Pond View Estates development.
 - After discussion, ConsCom decided that future inquiries from residents concerned about beaver activity, or other animal problems, ought to be directed to Pat Huckery at Mass Fish & Wildlife; ConsCom's role enters in when there is interest in installing a deceiver but not otherwise.
 - CA heard from a resident at Sandy Pond III/Estates who would like to put up signs marking out the Conservation Restriction.
 - GB said Sandy Pond III is still awaiting NHESP approval.
 - As the CR is not yet official, CA does not think it appropriate to put up signs until the CR is signed by the landowner, and will convey this to the residents.
 - CA said ConsCom has \$888.17 left in this Fiscal Year's shared budget (the last such) with Economic Development. When the new FY begins, ConsCom will have much reduced funds.
 - CA secured approval to use the remaining budget to purchase a new Munsell Book (a field book for soil evaluation from auger samples); new topographical maps; and an array of office supplies needed for the coming year.
 - CA received a replication plan, as requested by ConsCom, from Drew Garvin, the engineer for R. Wilson Associates for Stratton Hill subdivision.
 - The plan submitted shows no detail as to how many or what kind of plants are planned.
 - BD said the submission doesn't give us any more information than provided in the original application. BD cited the example of Brent Routhier's plan, from several years earlier, as a model submission for replication work.
 - CA will contact Mr. Garvin asking for a more detailed replication plan.
- **Member Updates**
 - JG asked that ConsCom request a meeting with the BOS to discuss some of the issues that have come up recently, as with pond weed management.
 - BD suggested ConsCom discuss an agenda at its next meeting, prepare a draft for its meeting on 7/28/11, and request an audience with the BOS in August.



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- GB asked if there were any further developments in the Town divesting itself of the two small buildings located on the former Tooker property, purchased by the Town and added to Pine Meadow Conservation Land.
 - BD said he had gone to the BOS about this but nothing has come back to ConsCom about this since.
- GB would like to send a letter to the Greenway Committee on behalf of ConsCom asking that the information kiosk, which has already been paid for, be put up as soon as possible.
 - TT said that the ‘subcommittee’ working on content for the kiosk was doing the best it could.
- **10:37 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.