

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **4/26/12** – Approved 5/10/12

Location: Ayer Town Hall, 1st Floor

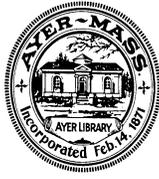
Members present: Bill Daniels (BD, Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

Not present: Warren Ball (WB)

7:10 PM – Open Meeting

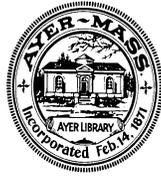
- **Meeting Minutes Approval**
 - GB moved to approve the minutes for 3/22/12 as written; JG 2nd.
 - Motion approved unanimously.
 - GB moved to approve the minutes for 4/12/12 as corrected; JG 2nd.
 - Motion approved unanimously.
- **Public Meeting: Enforcement Order: Pan Am, Groton-Harvard Road at railroad crossing**
 - Dana Banks, Environmental Director of Pan Am, appeared before ConCom.
 - ConCom issued EOs to both Roger McPadden and Pan-Am for the unauthorized tree-cutting, bank alteration, and wetland filling that has taken place in the streambed/culvert that runs between Balch and Grove ponds.
 - Property lines in this area are unclear as to where the McPadden property ends and the railroad property begins.
 - Mr. McPadden and his son Steven appeared before ConCom on 4/12 and indicated they had received permission from railroad workers to cut down damaged trees and clear brush on railroad land in the culvert.
 - BD asked Mr. Banks if he knew who had cleared the culvert 5 or 6 years ago.
 - ConCom's understanding was that this clearing was done for public safety reasons, given flooding further up the track.
 - The clearing was done, however, without ConCom knowledge or authorization.
 - On a site-walk a couple of years ago, MBCR indicated the area in question was owned by Pan Am.
 - Mr. Banks said he did not know who had done the initial clearing.
 - BD said ConCom's primary interest now, going forward, was to make sure people don't cross onto railroad property and cut down trees without someone having first appeared before ConCom.
 - Mr. Banks said he would put up 'No Trespassing' signs.
 - BD asked Mr. Banks to specifically notify the McPaddens and to have ConCom copied on that letter of notification.
 - CA asked Mr. Banks if there was an Operation and Management Plan for keeping this area of the clear of debris.
 - CA noted that, aside from the authorization issue, it has been the McPaddens who have been the ones keeping it clear and free of debris most recently.



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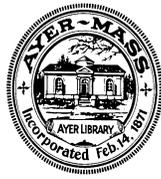
- Mr. Banks said this area was cleaned on an as-needed basis, and that railroad workers regularly checked conditions on the whole track looking for problems.
- Mr. Banks was asked to highlight this specific area of the culvert for regular track inspection.
- BD reiterated that the build-up of debris 5 or 6 years ago had risked safety problems from possible flooding.
 - BD stressed that while it was good that the railroad back then cleared the area for safety concerns, it was improper to do so without having first contacted ConCom.
- In sum, Mr. Banks agreed to post ‘No Trespassing’ signs and to send a letter to the McPaddens.
- **Discussion: Chuck Miller, 6 Calvin Street, dock/deck reconstruction on Flannagan Pond**
 - Mr. Miller, who purchased this property 8 years ago, described the condition of his dock, built some 20 or more years ago.
 - The dock was significantly damaged by ice this past winter.
 - Mr. Miller asked ConCom for guidance as to what flexibility he has in making structural repairs.
 - Mr. Miller noted that he would be doing all such work by hand as his backyard offers no access to heavy equipment.
 - Specifically, Mr. Miller expressed concern over mud and slop currently held back from the pond by the framing.
 - BD said that if that was material that was there before, then he regarded it as technically part of the pond.
 - ConCom’s concern was with how much work Mr. Miller plans to do in the water, and how much excavating disturbance (e.g. through digging holes) might take place.
 - CA arranged to meet Mr. Miller on 4/27 at 11 a.m. to visit the site.
 - CA will determine whether Mr. Miller’s work will require an NOI or an RDA.
- **Public Meeting: Enforcement Order: Woodstone Homes, Autumn Ridge Residential Community, DEP # 100-317.**
 - Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR), represented Woodstone Homes.
 - Mr. Goldsmith addressed the points raised in the EO sent to John Baichich, President of Woodstone Homes and said that a great deal of progress has been made since the EO.
 - Loam pile area
 - The area of the former loam pile has now been raked and seeded with Agway’s “Northeast Hay Mix”.
 - Turtle nesting area
 - Mr. Goldsmith said this area does need maintenance but questioned whether they should go in there with power equipment to clear brush and shrubs before restoring the habitat with sand.
 - BD said cutting down brush and shrubs would not be effective at this point and that probably the most effective course would be to machine-pull the vegetation.
 - CA questioned doing this work at this time of the year.



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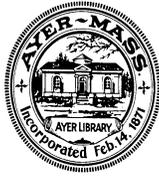
- TT said the best time to work on turtle nesting habitat is from mid-October to mid-April.
- It was agreed that GPR should contact the Natural Heritage and Endangered Species Program (NHESP) as they have greater jurisdiction over this than ConCom.
- Mr. Goldsmith said the area is currently probably ineffective as nesting habitat.
- TT said it was not ConCom's place to make that decision but rather NHESP.
- BD asked that GPR share its correspondence with NHESP with ConCom.
- Detention basin behind Building #5
 - Mr. Goldsmith described this area as consisting of catchbasins on the road leading to a sediment forebay that in turn feeds into the detention basin.
 - The forebay has accumulated tons of sediment, enough so that it saturated the embankment and sealed off the wick.
 - This prevented proper flow-through to the adjacent bubbler.
 - Mr. Goldsmith said the accumulation of sediment was indicative of the forebay doing its job as little of the sediment went into the basin itself or beyond into the wetlands.
 - The catchbasins, which Mr. Goldsmith said were the source of a lot of the sediment in the forebay, have recently been cleaned and now have commercial silt sacks in them.
 - The contractor has cleaned out 2/3 of the left side of the forebay along the wick and replaced sediment with sand, with the intent of raising the level of the forebay to that of the bubbler.
 - The digging out and sand-replacement will be completed within the next few weeks, rain permitting.
 - Plans are to place stone on top of the wick as well.
 - In answer to BD's question, Mr. Goldsmith said work done by the contractor, LaGasse Company, is inspected regularly, and showed ConCom a sample inspection log book.
 - BD asked why, if this work was being inspected all along, the engineer did not notice the problems cited in the EO.
 - Mr. Goldsmith reiterated that, in the long run, the forebay successfully protected the basin and wetlands, and added that the haybale lines had been kept up.
 - CA noted that on previous site visits by ConCom, sediment had been observed beyond the haybales.
 - Mr. Goldsmith said that with silt sacks in the catchbasins and construction coming to a close (expected to be done by the end of the year), sedimentation build-up will be much reduced as the site becomes more stable.
 - BD agreed the forebay had done its job but emphasized ConCom would have liked to have seen it maintained properly all along.
 - CA added that the basin and forebay need to be regularly maintained, not just when ConCom complains and issues an EO.



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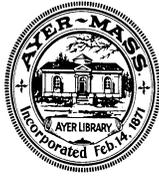
- Members of the public/Autumn Ridge residents also in attendance were allowed to comment.
 - In answer to one question, Mr. Goldsmith said that after a heavy rainfall, the level of water in the detention basin could reach 2-3 ft., but most would drain away in the 24 hour period after rain ceased, leaving just a couple of inches.
 - Regarding the former loam pile area, John Cadigan and Steve Smith said there is an 8 inch deep depression amounting to a swale running through the middle of the area.
 - BD said he would drive by the area and take a look at it.
 - Mr. Cadigan asked on whom the burden of fixing the turtle nesting area would fall if work is delayed until October, and what guarantees the homeowners have that the builders would still be around.
 - Mr. Goldsmith said the builder would be responsible, and in any case, the builder would still need to approach ConCom for a Certificate of Compliance for the site.
 - Steve Gillis, of Gillis Homes, said that the builder is not responsible in perpetuity and that a case could be made that the Homeowners Association is responsible.
 - To dispute this, BD said that the real question was whether the turtle nesting area had been properly constructed and approved in the first place, something which he strongly doubted.
 - Until the COC is issued, the site still falls under the responsibility of the builder.
 - Mr. Cadigan said the catchbasin behind the clubhouse – subsequently identified as catchbasin #15 – was full of debris and that 4-6 attempts to clean it out were unsuccessful because a clamshell could not pass beyond the hood.
 - This will be a problem for the Homeowners Association when it takes over responsibility.
 - For instance, was specialized equipment going to be necessary to clean this catchbasin?
 - Mr. Goldsmith said the basin has been cleaned out now and he would also have it inspected to see if the hood had been installed properly.
 - BD concluded the Meeting with an affirmation that the EO was appropriate.
 - The issues that remain to be resolved are finalization of the forebay cleaning and restoration/approval of the turtle nesting area.
 - GB moved to ratify the EO; TT 2nd.
 - Motion approved unanimously.
 - BD informed Mr. Goldsmith that ConCom will follow up on progress re the EO.
 - If the builder fails to follow through, ConCom will issue another EO and pass the matter over to Mass DEP.
- **CA Updates**
 - The Willows



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- While ConCom does not have an copy of the Unilateral Administrative Order (UAO), Joe Bellino, of Mass DEP, told CA that the UAO has now been completed.
- ConCom continues to receive weekly monitoring reports from the developer.
 - After a recent heavy rainfall, there was some wash-out on an upper slope and turbidity in the detention basin rose again.
- Flannagan Pond weed treatment
 - Lycott Environmental is still waiting to receive its weed treatment permit from Mass DEP, which it applied for nearly 2 months earlier.
- Dam and Pond Management Committee
 - Chief Pedrazzi, on behalf of the Dam and Pond Management Committee, has requested a joint meeting with ConCom.
 - CA will contact the Committee with the suggestion of May 17th for a joint meeting.
 - Because ConCom holds the OOC on behalf of the Town for weed treatment on local ponds, ConCom will have to exercise oversight and be involved with any future treatment plans.
 - GB moved to draft TT as ConCom's representative on the Dam/Pond Committee; JG 2nd.
 - Motion approved unanimously.
 - Chief Pedrazzi also forwarded an email sent to Town Administrator Pontbriand and the BOS discussing the use of funds to install a high fence topped with barbed wire around the Balch Dam spillway to prevent future tampering.
- Public access to Long Pond from Pond View
 - CA forwarded emails to Mr. Pontbriand from resident Jon Andrews complaining that the Pond View Homeowners Association has erected a fence that blocks public access to Long Pond.
 - Public Access was part of the Planning Board's approval for this site.
 - CA stressed to Mr. Andrews that the issue of public access is not within ConCom's jurisdiction as this bears on an agreement reached between the Planning Board and the builder.
 - Enforcement of this therefore falls to the Zoning Officer.
 - ConCom nevertheless plans to issue a Violation Notice to the Pond View Homeowners Association as the fence was constructed within the buffer zone without prior ConCom review.
- Turtle habitat at Pond View
 - CA received an email from Louise Montcrieff saying they have received permission from NHESP to delay their report on the habitat until fall 2013.
- ConCom vacancies
 - ConCom has not heard back from Mr. Pontbriand yet about the permitted procedure for ConCom seeking 1) a new Commissioner; and 2) a temporary replacement for CA while she is on maternity leave.
 - BD stressed that ConCom's need for a temporary CA is for someone who is qualified to do fieldwork and visit sites in the exemplary manner of current CA.



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- Tree clearing on West Main Street
 - An anonymous tenant who previously reported tree-clearing by his/her landlord in a resource area has now reported that neighbors are also doing the same.
 - Since the tenant is unwilling to identify him/herself, and since the tree-clearing cannot be observed from the street, it is impossible for ConCom to move forward on this without trespassing.
- Beaver management at Bennetts Brook Crossing
 - Resident Bob Kalkert has complained to CA about beaver activity that is creating an impoundment, with water encroaching on his and others' properties.
 - Mr. Kalkert was put on tonight's agenda but did not show up.
 - CA could not see any evidence that Bennetts Brook has been blocked as it is not showing any signs of running dry.
 - The parcel on which the beaver dam activity is taking place is now owned by the Town from a Feb. 2010 tax-taking.
 - Mr. Kalkert asked CA to have the Town deal with it.
 - CA did inform Mr. Kalkert that Emergency Certification for beaver dam removal is done through the Board of Health, not ConCom.
 - BOH then evaluates whether a beaver dam constitutes an 'emergency' or a 'nuisance'.
 - In CA's opinion, this beaver dam is a nuisance, in which case Mass Fish & Wildlife protects such dams.
 - CA also talked to Pat Huckery, of Fish & Wildlife, to ascertain current state regulations for beavers.
 - Ms. Huckery said there have been no changes to state regulations regarding beavers and beaver dams.
 - This means that, with the exception of a true emergency, appropriately licensed DPW workers may legally *trap* beavers only during hunting season (typically November 1-April 15).
 - In all cases, removal of a beaver dam must still be cleared through Mass Fish & Wildlife.
 - CA asked Ms. Huckery if someone from Fish & Wildlife was available to conduct a Q & A session with residents about beavers.
 - Ms. Huckery thought this would be a good idea and suggested broadening such a session to include residents from neighboring towns.
 - ConCom will consider arranging this.
- **10:02 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.