

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **12/6/12** –Approved 12/20/12

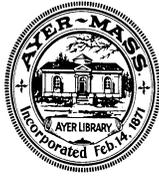
Location: Ayer Town Hall, 1st Floor

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

APAC taped: No

7:08 PM – Open Meeting

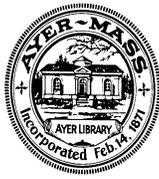
- **Meeting Minutes Approval**
 - GB moved to accept the minutes for 11/8/12 as written; TT 2nd.
 - Motion approved unanimously.
- **Accounts Payable**
 - Lowell Sun: \$57.28 – Public Hearing notice for 72 Snake Hill Road chicken coop.
 - GB moved to approve payment of \$57.28; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Route 2A/110 property abutting Bennetts Brook**
 - Work has been done, using earthmoving equipment, on a parcel of land on Rte. 2A, on the right just past Willow Road (heading toward Ayer)
 - (LC previously noted possible activity at ConCom's 11/8 meeting.)
 - CA spoke with Littleton Conservation Commissioner Tom Mann who also had concerns.
 - This parcel, owned by Joseph and Patricia Routhier, has been confirmed as located within the Town of Ayer.
 - Bennetts Brook wraps around a part of it.
 - While the parcel already had 4 mobile homes located on it, Brent Routhier recently brought in a 5th mobile home.
 - He is now living and has tied it into pre-existing water and septic connections.
 - Mr. Routhier said he had a building permit from Building Inspector Gabe Vallente.
 - Before bringing in the new trailer, Mr. Routhier removed old brush, trash, an oil tank, and stumps.
 - Earthmoving equipment was used to scrape and level the ground, leaving a large soil pile that Mr. Routhier said he plans to screen and re-scatter.
 - Since his trailer is set apart from the others, Mr. Routhier also erected a stockade fence around it for privacy, and anchored this fence atop a retaining wall of railroad ties, possibly creosote-soaked.
 - An older mobile home was also removed from the site and Mr. Routhier told CA that a replacement one will be delivered to the exact same location in the future.
 - This work, including the soil pile, has been done within 20 to 30 ft. of Bennetts Brook.
 - BD said, at minimum, the soil pile needs to be removed and haybales (without silt fencing) need to be placed to protect the brook from eroding soils.
 - CA did not think Mr. Routhier had a permit for erecting the stockade fence and will check on this.
 - Removal of the railroad ties would require removal of the entire fence.
 - The decision whether to issue a Violation Notice (VN) or an Enforcement Order (EO) was discussed.
 - TT asked if a Cease & Desist was issued.



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- CA told Mr. Routhier he was not to do any further work on the site without coming before ConCom.
 - BD said that a formal Cease & Desist should be issued.
 - It was decided therefore that CA will issue an EO.
- **Discussion: Agenda for joint meeting with BOS and Pond & Dam Committee**
 - CA sent a response to Town Administrator Pontbriand requesting the 1/10/13 meeting date option but has not yet heard a reply confirming this time.
 - If the meeting takes place, ConCom will chair it.
 - BD said the focus of this meeting will be to establish and clarify leadership roles as to who does what, etc..
 - A directional plan should be discussed at this time.
 - **Discussion: Potential sponsorship of CPC application for Town purchase of Kohler Place property.**
 - JG reported on CPC's 11/14 discussion with Ed Cornelier, representing Sandy Pond Investment Trust, on the 24-acre parcel that is located at the end of Wright Road and also abuts Sandy Pond Road.
 - The headwaters running into Sandy Pond run through the middle of this parcel. CPC performed a site walk on 11/17, at which JG, LC and GB from ConCom attended.
 - BD said the asking price of approximately \$200,000 was high.
 - Since 20.2 acres were to be set aside for Conservation Restriction per the requirement of NHESP (Natural Heritage and Endangered Species Program), BD said this price was essentially to prevent the remaining 3.7 acres – approved for 4 housing lots (now cancelled) – from being developed.
 - The Tooker property, purchased by the Town in 2009, had the value of abutting the Pine Meadow Conservation Land (PMCL) and already had some existing trails that were easily connected to the PMCL network.
 - Kohler Place is not contiguous to other Town land and would require work and expenditures in order to create parking, trails and public access, including ADA access, to a limited portion of the 24 acres.
 - LC liked the idea of protecting the parcel given it provides rare species habitat.
 - TT said the property had unique qualities but questioned the cost-benefit of putting trails on such a small area.
 - TT noted that in purchasing the Tooker property, the Town did not have to do anything significant with the parcel.
 - To purchase this parcel, TT said, would require money to 'develop' it for public use: extension of Wright Road, creation of a parking area, filing an NOI to do this work, and likely also an NHESP filing.
 - GB said the property was nice but questioned whether Open Space funds were just being used to preserve land on only one side of the Town.
 - It was noted that there are no other current Open Space acquisition possibilities on the table.
 - The unavoidable costs associated with a municipality considering such a purchase would be considerable:
 - ≈ \$5000+ for a Phase I Environmental Review;
 - ≈ \$10,000+ for a Land Survey;
 - ≈ \$1500-2500+ for a Title Search/Insurance;
 - unspecified probable attorney fees.

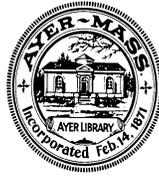


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- Given that the history of the parcel included past ownership by the Boston Ice Company, BD said might wind up triggering the need for a more costly Phase II Environmental Review.
 - Related to this, JG recalled that Mr. Cornelier mentioned on the site walk the existence, decades ago, of an old tannery upstream from the parcel.
- BD asked if the current permitting from NHESP for Kohler Place would be transferable to the Town.
 - LC said she thought NHESP's requirement of a Conservation Restriction had been mitigation for the 'take' of the originally planned housing lots.
 - Without that level of development, LC said it was likely NHESP would see no need for similar mitigation.
 - It was likely no Conservation Management Plan would therefore be required, just a MESA project review.
- TT wondered how NHESP would feel about the construction of a dock for access to Sandy Pond, given the Investment Trust secured a dock permit.
- BD summarized thus far that ConCom's concerns over sponsorship were focused on the isolated nature of the parcel and on establishing the value of the property to the Town, given the cost and work required to bring the parcel to a 'useful' condition.
- TT brought up the issue of the crossing easement over the narrow strip, owned by another resident, that lies between the parcel and Wright Road.
 - This easement was the subject of litigation against the Trust and also the Town in 2008-9.
 - JG had summarized Mr. Cornelier's reporting to CPC on 11/14 that the Land Court ruling dismissed the lawsuit with prejudice and found in favor of the Trust and the Town.
 - Mr. Cornelier had also reported that the language guaranteeing crossing rights in the original deed when that strip of land was sold by the family to another resident (to grant access to Sandy Pond) has apparently been removed from the deed in subsequent sales.
 - Therefore the current owner of that strip does not have language in his deed granting such access.
 - In resolving this dispute, JG summarized Mr. Cornelier's reporting that the Land Court ruling only implicitly supported the crossing easement rights, by dismissing the lawsuit, but did not explicitly address them.
 - Both BD and TT said that questions regarding these rights needed to be inviolably established and that the burden of proving this fell on the Trust.
 - BD said the Town could not enter into a costly purchase only to find that the current owner of the strip – or a subsequent owner in the future – might challenge crossing access.
 - Therefore, BD said, before considering the question of sponsorship, ConCom needed specific legal verbiage clarifying this right of crossing, or rectifying its deletion from deeds, in writing.
- Summarizing, ConCom requires more information and discussion of:
 - the cost of the parcel;
 - the related costs associated with purchasing the parcel;
 - costs associated with developing the parcel for public use;
 - clear settlement of questions regarding the crossing easement.
- JG will bring these concerns to CPC's attention at its next meeting on 12/12.



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- **CA Updates**

- Elizabeth Estates
 - CA received requests for partial COCs but the requests were unsorted, incomplete, and did not take into account which lots had Superceding OOCs.
 - CA returned the requests so they can be more satisfactorily submitted.
- Autumn Ridge
 - CA received an update from conservation steward Steve Smith.
 - The brush fire that occurred a few months ago in the Conservation Restriction was likely started by a squatter.
 - The camp had been removed but it has now been rebuilt.
 - The police have been notified.
- West Main Street
 - CA received a phone call from Attorney Tom Gibbons on behalf of his client, Steve Suhoski, owner of land across from 42 West Main Street.
 - Mr. Suhoski would like to donate this land to the Town for Conservation.
 - CA told Attorney Gibbons to talk to the BOS first.
- 3 Nemco Way
 - CA was contacted by the manager of the distribution warehouse at 3 Nemco Way.
 - The manager would like to put in additional parking on the only remaining available strip of grass and wanted to know if he could even do this and if so, where to start.
 - CA referred him to the Zoning Board as the next step.
- The Willows
 - CA has received a request from The Willows for a site visit with Joe Bellino, of Mass DEP, to confirm that progress is being made in response to the EO from the State.
 - BD asked CA to see if Mr. Bellino could possibly do this on a Saturday when members of ConCom could also attend.
- John Canney, Central Avenue
 - Mr. Canney asked CA for tips on stump removal in his yard, as authorized in his RDA meeting.
 - CA advised him to wait until spring so that exposed soils that can no longer be seeded won't be subject to eroding into Flannagan Pond.

- **Member Updates**

- GB has noticed that the soil pile at the corner of Central Avenue and Groton-Harvard Road, on the Coke property, is now being dug out on the pond side.
 - CA will drive by to see if there are any problems with this work.
- BD did a drive-by inspection of work in Autumn Ridge and reported things are looking good.
 - He asked CA to follow-up with Cal Goldsmith as to their schedule for fixing the turtle-nesting area.

- **10:10 PM – Adjourn Meeting**

- TT moved to adjourn; GB 2nd.
 - Motion approved unanimously.