

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for 7/11/2013 –Approved 7/25/2013

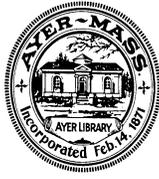
Location: Ayer Town Hall, 1st Floor

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

APAC taped: Yes

7:18 PM – Open Meeting

- **Confirmation of the Agenda**
 - GB moved to confirm the agenda as posted; LC 2nd.
 - Motion approved unanimously.
- **Discussion: PACE (People of Ayer Concerned about the Environment)**
 - Present were Julie Corenzwit, President of PACE; Laurie Nehring, PACE Member; and Richard Doherty, of Engineering Consulting Resources, environmental consultant to PACE.
 - Ms. Nehring said that PACE was formed 16 years ago and has received Technical Assistance Grants from the Environmental Protection Agency (EPA).
 - It is from this funding that PACE was able to retain Mr. Doherty as consultant.
 - Mr. Doherty gave a power-point presentation updating ConCom on the U.S. Army's remediation plans for Shepley's Hill Landfill (SHL), in Devens, and Plow Shop Pond, in Devens and Ayer.
 - The former Fort Devens was declared a Superfund site in 1989.
 - Waste disposal at SHL ended in 1992, with the capping of the landfill accomplished in stages between 1986 and 1993.
 - Mr. Doherty explained that SHL is an older unlined landfill built in wetlands.
 - Typically, newer landfills are lined and built in dry areas.
 - An underground arsenic plume flows north from SHL toward West Main Street and Nonacoicus Brook.
 - Arsenic is an element and therefore cannot be broken down further or destroyed.
 - While arsenic is also a naturally occurring poison, in this case it has been argued that a substantial portion of the arsenic in the plume comes from human-made sources of contamination.
 - Arsenic concentrations up to 6000 parts per billion (ppb) have been detected in groundwater samples from wells.
 - These are among the highest / worst readings the EPA has encountered from landfills nationwide.
 - The drinking water standard for arsenic is only 10 ppb.
 - Arsenic in solid form is not mobile while arsenic in liquid form moves, as with the underground groundwater plume.
 - Ms. Corenzwit said the source of arsenic contamination – from the highly fractured bedrock under SHL – is only part of the problem.
 - The other part that has to be addressed is why it is on the move via the plume.
 - For many years the Army resisted assuming responsibility and instead sought to blame the contamination on an old tannery that is no longer in existence.
 - It took the combined efforts of the EPA and PACE to force the Army to put up an Arsenic Treatment Plant (ATP) in 2006.

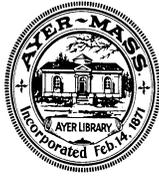


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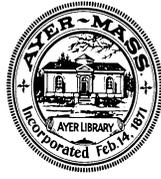
- Ms. Nehring said the Army used to insist the flow of the arsenic plume stopped at Nonacoicus Brook, but they have now begun taking samples on the other side of the brook.
 - Readings are not high north of the brook, and there is minimal impact on people and wildlife, so there are no plans for remediation work north of the brook.
 - The Army plans to remove contaminated sediments from the Red Cove and Round House areas of Plow Shop Pond during the summer / fall of 2013.
- Ms. Nehring said a recent update on the Army's plans indicated they will not be draining as much water from Plow Shop Pond as initially planned.
 - She said this decision was in part a response to comments received from the EPA and Ayer ConCom criticizing the anticipated devastating impact on the wetlands, fish, and wildlife from a significant drawdown.
 - BD reiterated his position that cleaning up contaminated sediments from only a small portion of Plow Shop Pond will have little ultimate effect once the pond returns to its normal level and the still remaining contaminated sediments elsewhere re-disperse.
 - Mr. Doherty said it had been a lengthy struggle to get the Army even this far in clean-up efforts.
- It was also noted that the Army tried to shut down the ATP because of the expense of running it.
 - The EPA came down hard on the Army and forced its re-opening.
 - The ATP is to continue operating for the time being.
- Future questions can be directed Mr. Doherty and PACE members via paceayer@gmail.com.
- **Public Meeting: RDA – 2013 paving projects, Ayer Department of Public Works (DPW)**
 - DPW Superintendent Mark Wetzel was present.
 - The DPW's annual Ch. 90 paving projects for 2013 include:
 - Old Sandy Pond Road (850 ft.)
 - Doug Road (1120 ft.)
 - Snake Hill Road (1015 ft. from Sandy Pond Road to the railroad tracks)
 - Washington Street (2500 ft. from the high school to the hospital)
 - The projects involve pulverizing and reclaiming existing asphalt and subgrade, regrading, and repaving with 4 inches of binder and top coat.
 - Straw wattles will be staked where needed to protect wetlands.
 - CA specified that filter fabric must be used in nearby catchbasins as well.
 - GB moved to issue a Negative Determination of Applicability with two conditions; LC 2nd.
 - The two conditions are for the use of straw wattles and filter fabric.
 - Motion approved unanimously.
 - ConCom signed the DOA form.
 - GB moved to close the Public Meeting; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: RDA – East Main Street / Balch Pond Spillway Fencing and Site Restoration, Ayer DPW**
 - Mr. Wetzel described the work planned as including:
 - removal and replacement of security fence using the same footprint, with new poles set in concrete;
 - relocation of the gate for easier access;
 - cleaning up roots – no tree cutting is planned;
 - grading, raking, loaming and seeding areas west of the dam.



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- Silt fencing and straw wattles will be used for protection along the edge of the resource area.
- Mr. Wetzel said that if the DPW moves forward on plans to improve the dam by replacing the wooden boards with stop logs, they will file an NOI with ConCom.
- Mr. Wetzel said he was also concerned with the state of the dike between Balch Pond and Cain's.
 - The area contains a lot of pine trees and if one were to fall and break the dike, this could cause flooding issues for the Town.
 - Mr. Wetzel is looking into ownership of the land in question.
- Regarding the unauthorized DPW work to address a water valve failure this spring, BD cautioned Mr. Wetzel that ConCom must hold Town entities to the same standards as other citizens.
 - Mr. Wetzel said no other work of that nature is currently planned.
- GB moved to issue a Negative Determination of Applicability; LC 2nd.
 - Motion approved unanimously.
 - ConCom signed the DOA form.
- GB moved to close the Public Meeting; LC 2nd.
 - Motion approved unanimously.
- **Discussion: DPW – Ayer Beaver Management Study**
 - Mr. Wetzel discussed the beaver management study plan received from Michael Callahan, of Beaver Solutions, LLC.
 - In the June 15th report, Mr. Callahan assessed the conflict status at 8 beaver dam areas in Ayer at site visits performed on 5/23/13.
 - The 6/15/13 report presented Mr. Callahan's recommendations for solutions as well as cost estimates for some of the dams.
 - ConCom has \$10,000 in funds for use in dealing with beaver control issues but understands that these funds can only be used on Town property or in areas directly affecting the Town.
 - Mr. Wetzel will be checking with property owners regarding some of the beaver dam sites and will return to ConCom with an action-plan.
 - BD said ConCom would like to perform site walks at some of the sites as well.
 - Rosewood Avenue Dam
 - Mr. Wetzel said part of this dam is on Town property and part on private property.
 - Mr. Wetzel has already spoken to the owner of the private section.
 - This dam has raised the upstream water level to a depth of 5 ft., causing flooding in the area, including impacting the nearby Rail Trail.
 - At issue for the DPW is that the flooding impedes access to 6 sewer line manhole covers.
 - Beaver Solutions recommends installation of a 12-inch Flexible Pond Leveler pipe to maintain a lower water level, and the possibility of trapping / killing beavers.
 - Because of the sewer line issues, Mr. Wetzel said that this work would be paid for out of the DPW's sewer budget.
 - The Rail Trail Dams
 - Mr. Wetzel said a stone box culvert lies under the Rail Trail.
 - The culvert is completely submerged because of the flooding from the Rosewood Avenue dam.
 - In addition, sinkholes have occurred, damaging the trail and requiring repair.
 - Two beaver dams have also been constructed immediately upstream of this culvert.
 - Electrical transmission structures have been flooded, with water 10-24 inches above normal levels.

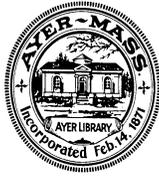


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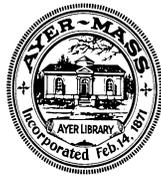
- Beaver Solutions recommends a culvert protective fence, Flexible Pond Leveler pipes, and potential trapping / killing beavers.
 - Mr. Wetzel said the DPW would also pay for this work out of their sewer budget.
- Robbins Road Dam
 - The DPW gets the greatest volume of citizen complaints about this 250-ft. beaver dam built across Bennett's Brook behind 20 Robbins Road.
 - Flooding has put many trees at risk of die-off because of the high water level.
 - Beaver Solutions does not think leveler pipes would be effective here because the water is too shallow for the pipes to remain undetected by the beavers.
 - Beaver Solutions suggests residents use inexpensive wire mesh to protect trees from being chewed down – as well as reducing the available beaver food supply.
 - Otherwise, Beaver Solutions said the area could be reclassified a “No Tolerance Zone” and would then recommend removal of the dam and trapping / killing beavers.
 - As to who owns this land, CA said she thought this area was Town property due to a tax-taking a few years ago.
- Rod and Gun Club – Utility ROW Dam
 - This dam is located in an area also sometimes called ‘Rock Meadow Pond’, and is also adjacent to Autumn Ridge.
 - The breaching of this dam in 2011 led to a massive release of impounded water that caused significant flooding downstream, including the washing out of a portion of Oak Ridge Drive.
 - Mr. Wetzel said addressing this tall beaver dam was a matter of public safety.
 - Beaver Solutions did not recommend taking this dam down, but rather proposed reducing the height of the dam and installing two 15-inch Flexible Pond Leveler pipes to maintain a reduced impoundment of water.
 - Beaver Solutions suggests the impounded pond could be lowered by up to 2 vertical feet.
 - It is unclear who owns the land on which the dam is located – Calvin Moore or Autumn Ridge.
 - CA said that, in addition to securing the cooperation of the property owner/s, outreach would be needed to inform the public as to plans to address this dam.
- Long Pond Spillway
 - This beaver dam area is reached via a path running off Wright Road across from Standish Avenue.
 - A manmade dam is situated at the outflow of Long Pond and beavers are actively damming the spillway under the Boy Scout trail bridge.
 - This is primarily a DPW maintenance issue, but it also has impacts on the levels of ponds further downstream.
 - Beaver Solutions recommends use of a 15-inch Flexible Pond Leveler pipe.
 - BD said this dam would fit the criteria for appropriate use of ConCom's beaver control funds.
- Barnum Road Dam
 - This dam is located on Cold Springs Brook 25 feet upstream of the Barnum Road bridge near the rotary.
 - Mr. Wetzel said that occasional complaints come from residents in the Town of Harvard.
 - This is not a priority problem site and Beaver Solutions recommended just monitoring for now unless flooding becomes problematic at some point in the future.
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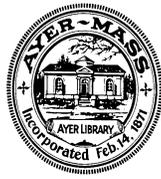
- **Shaker Mill Pond Spillway**
 - This dam is located on private property, behind the Blue Northern, and belongs to the Madigan Family Trust.
 - The DPW does not maintain this area but does occasionally help in clearing it.
 - The water level behind the beaver dam has been raised over 2 feet.
 - Mr. Wetzel will approach the Family Trust to pass on the recommendations made by Beaver Solutions for a Culvert Protective Fence and Pipe Leveler.
- **Shaker Road Culvert**
 - The Shaker Mill Pond beaver dam in turn backs up to the Shaker Road Culvert which beavers are also damming.
 - This has caused flooding for a nearby residence but has not created a problem for National Grid in accessing its lines.
 - A second Madigan Trust owns this land.
 - Beaver Solutions recommends a Fence and Pipe flow device here as well and Mr. Wetzel will discuss this with the property owner.
 - As for the culvert, BD said he wouldn't have a problem with the failing culvert being removed entirely and replaced with large stone rip-rap.
- **Public Hearing (cont'd.): NOI -- #6-8 Groton-Harvard Road, Liberty Condominium Trust (Mass DEP #100-0362)**
 - CA noted that the key Special Condition (#47) would exist in perpetuity and required that future maintenance or repair of the parking area would require the entire area be brought up to current stormwater standards.
 - This would require the filing of a new NOI at that time.
 - This condition has already been discussed at length with Thomas Gibbons, representing the Trust, and Jesse Johnson, of David E. Ross Associates.
 - ConCom signed two copies of the OOC.
 - One of the copies was given to Steve Sears, who was present from David E. Ross Associates.
 - GB moved to close the Public Hearing; LC 2nd.
 - Motion approved unanimously.
- **Public Meeting: COCs – 82 Groton School Road, Mass DEP #100-0236 and #100-0313**
 - Present were Steve Sears, wetland specialist from David E. Ross Associates; Attorney Peter Knox, representing the Routhiers (property owners); and Brian Lucier, prospective buyer.
 - The Routhiers are seeking Certificates of Compliance on two open OOCs in order to proceed with a short sale scheduled to close on 7/15.
 - The open OOCs were discovered only recently in the process of running the title.
 - OOC #100-0236 dates to May 2003 and was for work on the original house, including a proposed addition, garage and driveway.
 - Mr. Sears said the property was in substantial compliance with the OOC with the exception that the garage was never built.
 - OOC #100-0313 dates to August 2007 and refers to a wetland remediation / restoration plan.
 - This was required after ConCom issued an Enforcement Order (EO) when it was discovered that a brook running beside the house had been illegally relocated and wetlands had been filled in.



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- The remediation plan required wetland replication that included regrading and planting the area with a variety of wetland trees and shrubs.
 - This would re-create a water storage area to replace what had been filled in.
- ConCom performed a site walk on 7/6 and observed that the area in question has significant deficiencies, including that it has not been properly graded.
 - The area that was to become wetland is clearly not wetland.
 - Upland grasses and wildflowers were well entrenched.
- BD said ConCom cannot issue a COC knowing that the conditions of the OOC have clearly not been met.
- BD confirmed with Attorney Knox that an open OOC can be passed on to the purchaser through the potential sale.
- Mr. Lucier, the potential buyer, asked for more details as to the work required to bring the property into compliance.
 - Mr. Lucier, who plans to improve the property for re-sale, was concerned about the cost of such work.
 - After lengthy discussion, ConCom summarized the work that would be required to secure a COC for OOC #100-0313:
 - Regrading.
 - This would require scraping the area down from 234-236 ft. elevation to 233 ft. elevation, as specified in the OOC.
 - The scraped-down material would then need to be removed from the property.
 - Plantings.
 - To meet the restoration planting requirements, BD said ConCom would be satisfied with:
 - the planting of 7 additional trees (maple and/or elm, in addition to the 3 already there);
 - the planting of a mix of 20 shrubs;
 - use of 2 bags of 'Conservation Mix' seed.
 - Mr. Sears said he would work with Mr. Lucier on the location for plantings.
 - ConCom made clear to Mr. Lucier that only certain portions of the lot could be used for lawn.
 - BD said the driveway could be constructed in accordance with the plan to increase lawn area.
 - The roof drainage area, which extends 3 feet out from the house, was also discussed.
 - Mr. Lucier said they planned to put in gutters.
 - BD said this was good if water runoff was controlled so that it did not discharge directly into the wetland.
 - A drywell was discussed as well as the possibility of directing roof runoff into the recharge trench that separates the driveway and lawn area from the restoration area.
 - Installation of gutters would also allow for plantings up against the house.
 - ConCom decided that the two OOCs could be handled separately since the restoration plan, which remains incomplete, is the one dated later.
 - GB moved to approve and issue a COC for #100-0236; JG 2nd.
 - Motion approved unanimously.
 - ConCom signed the COC.



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- Action on #100-0313 was not taken at this time and will require an engineer's letter confirming that the lot has been brought into compliance with the OOC.
 - BD said he would send an email on the following day to Attorney Knox summarizing the discussion for use at the closing on the following Monday.
- **Accounts Payable**
 - Lowell Sun: \$218.16, for the legal notice for the comprehensive pond study RFQ.
 - ConCom was also asked to sign approval for the DPW's legal notices for the two RDAs discussed earlier.
 - Actual payment for these notices will be taken directly from the DPW's budget.
 - GB moved to approve payment of \$218.16 to the Lowell Sun; TT 2nd.
 - Motion approved unanimously.
 - Aquatic Control Technology (ACT): \$4510, for the first booster treatment of Flannagan Pond, on 6/21/13.
 - GB moved to approve payment of \$4510 to ACT; TT 2nd.
 - Motion approved unanimously.
 - This bill will be paid for from CPC funding of Article 38 (Spring Town Meeting 2011) and will therefore also need to go before CPC for their signature.
 - Steve Smith: \$35.31, reimbursement for expenditures toward preparation of the Greenway Committee's new trail brochure and trailhead signage.
 - GB moved to approve payment of \$35.51 to Steve Smith; TT 2nd.
 - Motion approved unanimously.
 - ConCom also discussed Mr. Smith's request for the funding of a 500 print-run of the brochure, via Printing Solutions.
 - On researching this, CA said ConCom cannot legitimately use its wetland fund (from filing fees) for this purpose.
 - ConCom members agreed to the use of their office budget to cover this cost.
 - JG will notify Mr. Smith to go ahead with printing the brochure and ConCom will authorize payment on receipt of a final invoice.
- **Discussion: Ayer Ponds RFQ discussion at BOS 7/16/13 meeting**
 - Although the exact time on the agenda was not yet known, BD and fellow ConCom members were excited at the prospect of discussing funding of a pond study with the BOS.
- **10:45 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.