

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **8/28/2014** – Approved 9/11/2014

Location: Ayer Town Hall, 1st Floor

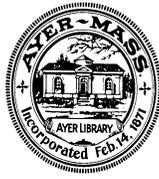
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)

Not present: Lee Curtis (LC)

APAC taped: Yes

7:18 PM – Open Meeting

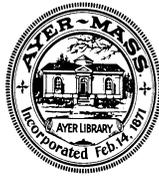
- **Confirmation of Agenda**
 - GB moved to confirm the agenda as noted; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for Certificate of Compliance (COC) – Grove Pond Wells Project, Ayer DPW (DEP # 100-0320)**
 - CA performed a site visit with the consultant, Onsite Engineering, and found no issues.
 - Copies of the as-builts have been received.
 - GB moved to approve and issue a COC; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Nashua Street Extension, Calvin Moore (DEP #100-0363)**
 - Issues raised by the DPW have not yet been addressed.
 - GB moved to continue the Public Hearing to 9/11/14; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Chapter 61 land inquiries and Town's right of first refusal**
 - Questions have been raised by concerned residents about the Ch. 61 status of the parcels for the Nashua Street Extension and the 114 Pleasant Street / Riley Jayne Farm, both of which are going through the permitting process for subdivision development.
 - A number of residents in the vicinity of these two proposed developments were present.
 - BD summed up some of the details concerning Chapter 61.
 - Chapter 61 is a voluntary tax instrument by which the Commonwealth of Massachusetts offers tax relief as incentive for property owners to retain woodland forests or farmland as is rather than sell them for development.
 - It is a voluntary 10-year enrollment plan.
 - Tax reductions are given in exchange for a lien on the property.
 - This lien allegedly gives the local municipality the right of first refusal if the landowner puts the property up for sale while it is enrolled in the program.
 - If a landowner takes a property out of Ch. 61, there is a notification process, the possibility of paying back taxes, and the potential triggering of a town's right of first refusal.
 - It has been hard to clarify exactly when and how the right of first refusal is triggered.
 - BD said that if, however, a property is taken out of Ch. 61, the permit that would allow an owner to build would come from the Building Inspector, not the Conservation Commission.
 - ConCom therefore does not have jurisdiction over Ch. 61 properties.



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- Resident Christa Maxant asked if the Commission would be interested in purchasing either of these parcels if the opportunity were to present itself.
 - BD clarified that ConCom is not budgeted funds for such purchases by the Town and suggested the Community Preservation Committee (CPC) as a possibility.
 - JG and resident Beth Suedmeyer (both CPC members) noted that a large group of residents had had an informal discussion with CPC at its August meeting where procedures for applying for CPC funding were outlined.
- CA said she had met recently with Town Administrator Robert Pontbriand to discuss this issue.
 - The Board of Selectmen (BOS) has received a legal opinion from Town Counsel (Kopelman & Paige) that finds the 34-lot subdivision planned for Pleasant Street is in violation of Ch. 61 State law.
 - The BOS has given Town Counsel authorization to issue a demand letter for a notice of intent to develop from C. J. Moore.
 - BD said that the Nashua Street Extension, owned by Calvin Moore, may also be affected.
- Ms. Suedmeyer said that while the Department of Conservation and Recreation (DCR) has yet to clarify a number of questions raised, she would hate to see a good program like Ch. 61 be taken advantage of and hoped that the landowners will be held accountable.
 - If an acquisition opportunity were to arise via right of first refusal, Ms. Suedmeyer listed some of the qualities that would make the Pleasant Street parcel of value to the Town.
 - These include maintenance of habitat corridors, proximity to the Rail Trail, and already-cleared land in one area that could be used for community gardens.
 - BD said the biggest hurdle would be the time frame in which to act.
 - Triggering of the right of first refusal starts a limited 120-day time frame in which a municipality must act.
 - CA noted that some towns will enter into a Purchase-and-Sale Agreement with contingencies that allow the town a little more time to enable a potential purchase.
- **Public Hearing (cont'd.): NOI – 97 Holly Ridge Road (Lot 29), Pingry Hill (DEP # 100-0375)**
- **Public Hearing (cont'd.): NOI – 113 Holly Ridge Road (Lot 30), Pingry Hill (DEP # 100-0376)**
 - Some of the requirements made of developer Rick Roper, at ConCom's 8/14 meeting, have not yet been met.
 - The construction sequence schedule, requested by ConCom and DPW, has not yet been received.
 - The four unrecorded OOCs have not been recorded, but CA anticipated this would follow soon after ConCom signed the reissued OOCs which were prepared for signature at this meeting.
 - GB moved to continue the Public Hearing for 97 Holly Ridge Road to 9/11; TT 2nd.
 - Motion approved unanimously.
 - GB moved to continue the Public Hearing for 113 Holly Ridge Road to 9/11; TT 2nd.
 - Motion approved unanimously.
 - CA said she had also talked with DPW about signs and posts since ConCom will be requiring these for the two NOIs.
 - DPW sets their posts in 1-ft. of concrete to make them more stable and resist tampering.
- **Reissuing of Original Orders of Conditions for Pingry Hill**

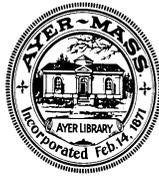


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- CA handed out the reissued OOCs for ConCom signatures.
 - ConCom members signed:
 - DEP # 100-0330
 - DEP # 100-0337
 - DEP # 100-0338
 - DEP # 100-0339

- **Public Meeting: Request for field changes, The Willows subdivision**
 - Present were Desheng Wang, of Creative Land & Water Engineering; Jesse Johnson, of David E. Ross Associates; and developer Mark O'Hagan, of MCO Associates.
 - Two topics were under discussion:
 - Plan changes done by the developer months ago without prior notification of ConCom.
 - New proposed field changes.
 - Old changes
 - Mr. Johnson asked if it was necessary to review the work done months earlier.
 - BD said that, given the history of violations and Enforcement Orders issued to the landowner for this site, it was indeed necessary.
 - Mr. Johnson reviewed the reason for prior changes to the plans.
 - This work had been cleared by the Zoning Board of Appeals (ZBA) but they had not approached ConCom for approval of the changes.
 - The location of some units (20, 21, 22, 23, 24, and 25) was changed because of poor clay fill material unsuitable for construction.
 - These units were relocated further uphill and across the road into the Phase III area.
 - Units 50, 51, 52, and 53 were shifted and changed from triplexes to duplexes.
 - Changes were also made to the road, moving and straightening it somewhat.
 - There was no increase in either units or impervious surfaces.
 - Proposed new field changes
 - Mr. Wang detailed these changes:
 - Units 56, 57, and 58 are to be moved, because of clayey soils at original location, to an area already cleared to the west of Unit 95, in the outer riparian zone.
 - No construction work will be done in the inner riparian zone.
 - Instead, an enhanced vegetative buffer will be planted (sweet pepperbush, highbush blueberry, and silk dogwood).
 - BD said ConCom will also want 2 signs and 3-ft. boulders placed to discourage extension of yards into this zone.
 - Mr. Wang suggested that wording alluding to 'conservation land' rather than 'riverfront' would be more readily understood by residents.
 - CA will look into wording used on such signage by other towns.
 - Most of the stormwater runoff from the relocated units 56-58 will be directed to Detention Basin #2.
 - Rear roof runoff will be directed to a nearby 6-ft. drywell.
 - Units 88 and 89 are to be relocated further uphill, and unit 87 to the other side of the road.



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- GB moved to approve the field changes for the project known as “The Willows,” as detailed above and depicted on the August 2014 plan; TT 2nd.
 - Motion approved unanimously.

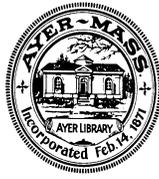
- **Meeting Minutes Approval**
 - GB moved to accept the meeting minutes for 8/14/14 as written; TT 2nd.
 - Motion approved unanimously.

- **Announcements**
 - MassDEP announced the hiring of Judy Schmitz as the new Wetland Circuit Rider for the Central Region, effective 8/11.

- **Accounts Payable**
 - Office Budget
 - CA said that ConCom’s current budget stands at \$1825.
 - For record-keeping purposes, CA suggested ConCom consider subdividing line 55801 into 2 line items:
 - \$100 for Public Hearing expenses;
 - \$225 for CA mileage expenses.
 - GB moved to authorize CA to ask the Town Accountant to make this change; TT 2nd.
 - Motion approved unanimously.
 - MACC Annual Dues: \$320, for Commission members and CA.
 - GB moved to approve payment of \$320; TT 2nd.
 - Motion approved unanimously.
 - Lowell Sun: \$252.39, for Public Hearing notices.
 - \$53.70 of this would come from ConCom’s Public Hearing expense budget, for the hearing regarding the use of beaver deceivers at Long Pond Dam and Rock Meadow.
 - \$198.69 would come from the revolving fund, for which ConCom has already received reimbursement:
 - \$60.86, for Mark Miller’s hearing for the keeping of goats;
 - \$137.83, for Pingry Hill hearings for 97 and 113 Holly Ridge Road.
 - GB moved to approve payment of \$252.39 as detailed; TT 2nd.
 - Motion approved unanimously.

- **Committee Updates**
 - CPC: JG said CPC would be holding two Public Hearings on 9/10, one for an Open Space purchase of Kohler Place, the second for funding a Habitat for Humanity duplex on Central Avenue.

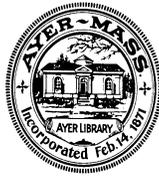
- **CA Updates**
 - MBTA site walk for COC request
 - Mike Turgeon would now like to schedule a site walk without attempting to coordinate with Littleton.
 - CA will suggest 10/4 as a date at which ConCom members can attend.
 - Comprehensive pond survey
 - Geosyntec has started its plant survey of the ponds.



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- CA will receive an update on the following day.
- Beaver Solutions
 - CA will be submitting the emergency certification paperwork tomorrow to the Board of Health (BOH) for the installation of beaver deceivers at Long Pond Dam and Rock Meadow Pond.
 - CA noted that DPW Superintendent Mark Wetzel has indicated he will attempt to have Mike Callahan, of Beaver Solutions, also install a deceiver at Rosewood Avenue at the same time.
 - CA will sign off on emergency certification to do this when the DPW has the paperwork ready.
 - CA has also asked the DPW to provide a best estimate of how much it anticipates lowering the water to do this.
- Stratton Hill Enforcement Order
 - On behalf of developer Dave Moulton, Attorney Bob Collins has asked to be placed on ConCom's 9/25 for discussion of the EO.
 - Neither TT nor GB will be able to attend this meeting.
- Vitasoy
 - CA was copied on Vitasoy's submittal to the BOH regarding its plans to address two violations:
 - Noise;
 - Improvements to its water treatment facility prior to release into Town sewer system.
 - Vitasoy now plans for its new water treatment tanks to be located inside the building, not outside in the buffer zone.
 - Because of this change, Vitasoy suggested it was no longer jurisdictional to ConCom.
 - BD disagreed and said that the water treatment tank work is still jurisdictional.
 - ConCom has concerns over the quantity of storage as well as Vitasoy's backup plans in case of tank failure, where tank contents might run over paved area into the wetlands.
 - BD asked CA to request a copy of the plan for ConCom to review.
- Pirone Park
 - CA met with Parks & Recreation Supervisor Jeff Thomas to discuss possible plans for Pirone Park on Grove Pond.
 - CA has recommended that Mr. Thomas come before ConCom to discuss these plans, and that ConCom perform a site visit, possibly in October.
 - Parks & Recreation is considering:
 - Upgrading the informal walking trail around the perimeter of the park to an official walking trail.
 - Mr. Thomas asked if asphalt could be used on the trail, as well as whether it would need to be ADA compliant.
 - Parks & Recreation may seek to install fencing at the end of Winthrop, to discourage Canada geese from entering into a picnic area.
 - Parks & Recreation is also considering an area for a raised bed community garden in the buffer zone to the pond and BVW.



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- At the edge of this area is a berm constructed 10 years ago from loam left over from the new fire station.
- The area is now overgrown and Parks & Recreation would like to clear it and use the loam for the garden beds.
- DPW
 - The DPW is looking at responding to erosion issues in the Wagon Road area.
 - Questions of land ownership need to be resolved before entering property here.
 - Adjacent to the Pingry Hill development on Rte. 2A, the overgrowth of weeds along the haybale/silt fence line is creating some visibility issues.
 - This is especially true in the stretch between Snake Hill Road and Hickory Way, but also to a lesser extent between Hickory Way and Hemlock.
 - The DPW has been weedwhacking to address the issue.
 - DPW Superintendent Wetzel asked CA if ConCom could release some of this area so that the erosion controls could be removed.
 - BD said that the DPW should continue weedwhacking, or better still, ask developer Rick Roper to attend to this task.
 - As long as there is ongoing construction at Pingry Hill, however, the erosion controls have to stay.
- CA hours
 - CA's weekly hours have been averaging 20-25 / week, which raises the question of eligibility for benefits.
 - ConCom will have to go before the BOS to discuss this further.
- **Member Updates**
 - GB said that the MACC Fall Conference will be held on Saturday, Sept. 27, at Framingham State University.
 - The topic is the management of aquatic invasive plants.
- **9:00 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.