

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **11/6/2014** – Approved 11/20/14

Location: Ayer Town Hall, 2nd Floor

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

APAC taped: Yes

7:05 PM – Open Meeting

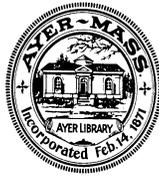
- **Confirmation of the Agenda**
 - GB moved to confirm the agenda as posted; TT 2nd.
 - Motion approved unanimously.

- **Accounts Payable**
 - Geosyntec: \$17,895.98, for 21.55% of work completed on the comprehensive survey of Ayer ponds.
 - BD noted that the invoice, dated 10/13/14, was not itemized.
 - BD asked CA to contact Bob Hartzel and ask for a detailed invoice, breaking down activities covered, before payment will be authorized.

- **Announcements**
 - A letter was received from Judith Schmitz, the new Wetland Circuit Rider for the Central Region, announcing the office for the Central Region has moved to 8 New Bond Street, Worcester.
 - BD asked CA to invite Ms. Schmitz to attend one of ConCom's future meetings.

- **Meeting Minutes Approval**
 - GB moved to approve the minutes for 10/23/14 as corrected; TT 2nd.
 - Motion approved 4-0 (LC abstained).

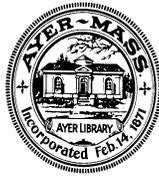
- **Public Meeting: Request for Determination of Applicability (RDA), Cains Foods, 114 East Main Street**
 - John Mabon, Project Management Consultant for Cains, was present.
 - The project entails resolving stormwater management deficiencies that are causing ponding at the rear of the property.
 - The plan involves maintenance and repair of a 225-ft. long stormwater management swale that runs north-to-south on the western side of the property, as well as repair and minor regarding of a paved area in the back.
 - Parts of both the swale and the parking lot are within the buffer zone.
 - Stabilization would be done with sod rather than reseeding, given the time of year.
 - Flagging was done by Steve Sears, of David E. Ross Associates.
 - The limit of work is 78 feet from Balch Pond and there is a high bank in between.
 - Mr. Mabon said Cains hopes to be able to complete this project in November or early December.
 - TT noted that a headwall is located at the end of the swale and asked where that drained to.
 - Mr. Mabon said the swale directs water into a catchbasin in the front parking lot, and then this catchbasin discharges out the front into wetlands.
 - BD asked if the catchbasin collected oil and gas or was it just a pure catchbasin.



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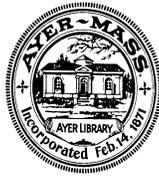
- Mr. Mabon said it had been there a long time and was probably not an up-to-date ‘best management practice’.
- A site walk was scheduled for 8 a.m. on Saturday, 11/8, at 8 a.m., meeting at the East Main Street parking lot.
- GB moved to continue the Public Meeting to 11/20; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont’d.): Abbreviated Notice of Resource Area Delineation (ANRAD) – Woodland Way, Pingry Hill Phase IV, Ridge View Realty, Rick Roper, MassDEP # 100-0378**
 - Steve Mullaney, of S.J. Mullaney Engineering, was present.
 - Mr. Mullaney handed out copies of the revised plan, dated 11/4/14, showing corrected or added wetland flagging based on ConCom’s 10/18 site walk and new soil borings taken by erosion control specialist Desheng Wang on 10/20.
 - Mr. Mullaney has reviewed the draft Order of Resource Area Delineation (ORAD) and found it satisfactory.
 - GB moved to issue an ORAD for 100-0378; TT 2nd.
 - No public comment was offered.
 - Motion approved unanimously.
 - GB moved to close the Public Hearing; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Pingry Hill development, Rick Roper, Crabtree Development, follow-up to previous discussions on outstanding violations**
 - Steve Mullaney, of S. J. Mullaney Engineering, was present for Mr. Roper, who was unable to attend.
 - Signed Affidavits
 - Mr. Mullaney received an update from Attorney Philip Eliopoulos, who has received 3 of 14 signed affidavits thus far.
 - One of the three still needs to be notarized and was sent back.
 - Attorney Eliopoulos has heard from other homeowners with questions before they signed.
 - Attorney Eliopoulos has also sent a letter to each homeowner’s closing attorney asking for their assistance as well.
 - Certificates of Compliance (COC)
 - Mr. Mullaney passed to CA 11 completed requests for COCs for lots requiring as-builts.
 - A site walk to view the lots was scheduled for Saturday, 11/8, at 9 a.m.
 - BD asked Mr. Mullaney, as applicant, to contact the homeowners in advance for permission to enter their properties.
 - A contingency date of 11/15 was agreed upon if ConCom was unable to visit all of the sites on 11/8.
- **Public Hearing (cont’d.): NOI – 97 Holly Ridge Road, Lot 29, Crabtree Development/Rick Roper, Pingry Hill, MassDEP # 100-0375**
 - GB moved to continue the Public Hearing to 11/20; TT 2nd.
 - Motion approved unanimously.



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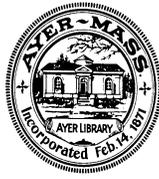
- **Public Hearing (cont'd.): NOI – 113 Holly Ridge Road, Lot 30, Crabtree Development/Rick Roper, Pingry Hill, MassDEP # 100-0376**
 - Steve Mullaney, of S. J. Mullaney Engineering, was present for Mr. Roper.
 - Mr. Mullaney indicated the draft OOC, with some minor edits, was satisfactory.
 - CA passed around a sample of signage used by Groton to demarcate protected resource areas:
 - “Town of Groton – No Disturbance Beyond This Point – Wetland Buffer”
 - CA noted that while Groton purchases its own signs and hands them out, Ayer ConCom does not have money designated in its budget for this purpose.
 - BD asked TT to find out the original artist, and where Groton buys the signs.
 - Ayer ConCom will seek to have the original artist adapt the sign to Ayer, but will pass on the cost of the production of the signs to applicants.
 - GB moved to issue the OOC for 100-0376; TT 2nd.
 - Motion approved unanimously.
 - ConCom signed two copies of the OOC, with one given directly to Mr. Mullaney.
 - GB moved to close the Public Hearing; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for COC, 8 Mountain View Avenue, Jessica Gugino, MassDEP # 100-0374**
 - JG recused herself from ConCom and GB took over as temporary Clerk for this agenda item.
 - CA performed a site visit earlier in the week.
 - All outside work is complete and grass has grown in to stabilize exposed soils.
 - GB moved to approve and issue a COC; TT 2nd.
 - Motion approved 4-0 and ConCom signed the COC.
- **Discussion: Geosyntec, Comprehensive Survey of Ayer Ponds**
 - Geosyntec’s recently circulated draft ‘Grove Pond Human Health Recreational Risk Assessment’ was briefly reviewed.
 - ConCom members were asked to submit comments, if any, at their 11/20 meeting.
 - CA will forward copies of the draft to Parks & Recreation, the Pond & Dam Committee, the Board of Health, and People of Ayer Concerned About the Environment (PACE) for comment as well.
- **Discussion: Quantifying OOC Requirements for an Erosion Control Specialist (ECS)**
 - Continuing from comments raised at its 10/23 meeting, ConCom discussed the criteria by which it could require the participation / hiring of an ECS on a construction project.
 - BD suggested the size of a project, or the amount of wetland area to be disturbed, could be a criterion.
 - LC suggested the requirement could be triggered if the project requires a SWPPP (Stormwater Pollution Protection Plan) under State law.
 - BD asked what could be done if an applicant seeks to avoid this by breaking a project into chunks.
 - LC said if it is ultimately part of a larger project, it can be regarded as cumulative.
 - LC will research and circulate language she has encountered in similar situations.
 - JG suggested steep topography, where erosion issues would be likely, as another triggering criterion.



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- CA agreed that some sort of subjective criterion, as determined appropriate by a site visit, would be advantageous.
- BD said ConCom could use both a quantitative criterion (project size, SWPPP, cumulative impact) and a qualitative criterion based on determinations from a site walk.
- TT said the requirement of an ECS should be part of ConCom’s boilerplate OOC, and then eliminated case-by-case where not needed or appropriate.
 - BD said the potential requirement should also be described in the filing packet so that an applicant knows up front about the possibility of this added expenditure to the project.
- CA suggested a third criterion, requiring an ECS for applicants who have a history of Enforcement Orders for erosion violations.
 - BD said he thought this could be covered under the qualitative criterion previously discussed.
- BD asked for a motion to issue a policy change, effective immediately, regarding the requirement for the hiring of an ECS as determined by 1) SWPPP criterion; and 2) Qualitative review by ConCom during its site walk.
 - GB moved for a policy change, as outlined by the Chair; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Wetland Bylaw Clarification**
 - Ayer’s Wetland Bylaw currently contains the ambiguous phrase for ConCom jurisdiction applying to “any land subject to flooding.”
 - There are instances where this ambiguity requires some people/companies to file an NOI when they shouldn’t have to.
 - GB asked if this could be accomplished through a policy change.
 - CA said applicants need more clarification.
 - CA will draft wording for clarification for discussion at ConCom’s 11/20 meeting.
 - Both JG and TT agreed it was time for ConCom to consider updating the Town’s Wetland Bylaw anyway.
 - TT said a policy change would also have to be clarified in the Bylaw.
 - Changes to bylaws require a Town Meeting vote.
 - BD suggested ConCom set aside its 1/8/15 and/or 1/22/15 meetings to discuss changes to the Bylaw.
 - JG will research the wetland bylaw wording of other towns in Massachusetts.
- **Committee Updates**
 - Community Preservation Committee (CPC)
 - JG said CPC was pleased with the vote of Fall Town Meeting on 10/27, approving the expenditure of \$100,000 in CPA funds for the building of a Habitat for Humanity duplex on Central Avenue.
 - Pond & Dam Committee
 - CA said that Chuck Miller is now Chair of this committee.
 - BD will be reaching out to the committee as he is now ConCom’s designated representative.
 - Open Space and Recreation Plan Update Committee
 - TT nominated JG as ConCom representative; GB 2nd.
 - Motion approved unanimously.



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- **CA Updates**

- Beaver Management

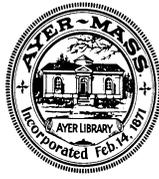
- CA will contact Mike Callahan, of Beaver Solutions, about repairs needed for the beaver deceiver recently installed at Long Pond Dam.
- JG described how a beaver was trapped in a cage that protects the intake portion of the pipe that carries water through the deceiver.
 - The Ayer Fire Department assisted on 11/1 with cutting a hole in the cage to free the beaver.
 - In addition, the beavers in this area have been able to circumvent the deceiver by the Boy Scout Bridge and have begun damming where the pipe outflows.
 - BD said he thought the pipe should have been extended anyway to the other side of the spillway under the bridge.

- Office Computer Upgrades

- CA's computer is not backing up to the network as it should.
- CA's computer will be looked at by Cindy Knox, System Administrator for the Town's Information Technology (IT), next Thursday, 11/13.
 - Ms. Knox also suggested the computer be looked at by someone else with more expertise.
 - CA asked whether this cost would be borne by IT or would be billed to ConCom.
 - It might be more cost-effective for ConCom to buy a separate, large hard drive of its own.
 - BD asked to see what IT's response is before deciding.

- Family Dollar

- Family Dollar plans to construct a building, across from Hannafords, that would be located just at the edge of buffer zone.
 - They hope to start construction in spring 2015.
 - No paving would be done on the backside of the building, just gravel.
- CA brought out the plan, currently being finalized before the Planning Board.
 - At question is whether bordering vegetated wetlands in the area are jurisdictional or not.
- CA suggested an RDA filing might be more appropriate than an NOI.
- BD asked about stormwater management.
 - Looking at the plan, there were only 2 catchbasins for the whole parcel, and a lot of pavement planned in the front for just 2 catchbasins.
 - The plan also does not show any drainage structure or detention basin that would collect oil and gas discharge from parked vehicles.
 - LC said that new stormwater discharge triggers the requirement of an NOI.
 - BD said a new system, with a new pipe, discharging stormwater into a new area, calls into question the adequacy of an RDA filing.
- CA will inform Family Dollar that an NOI will need to be submitted based on stormwater issues.
 - CA will contact Engineer Phil Henry, of Civil Design Group in Andover.
 - Mr. Henry previously indicated that all plans should be final by Thanksgiving.
 - In that case, Family Dollar could be placed on the agenda for one of ConCom's December meetings.



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- **Member Updates**

- LC asked for time on the 11/20 agenda to present some some important changes in WPA regulations.
- BD recently drove by the Nashua Street Extension.
 - CA said that Calvin Moore does not have plans to start work on the subdivision until spring.
 - Chapter 61 issues have yet to be resolved between Mr. Moore and the Town.
 - Ruth Maxant, in the audience, said that an appeal to the OOC, issued by ConCom on 10/23, has now been filed with MassDEP.
 - BD read details from the appeal into the record, including objections to the OOC based on:
 - planned wetland alteration for a road crossing;
 - concerns about the impact of water drainage on existing homes;
 - concerns about the accuracy of the calculations for stormwater management;
 - concerns raised before the Planning Board that were never addressed;
 - the owner not having offered the Town ‘right of first refusal’, as is required when a property is under Chapter 61(forestry or agriculture) for tax abatement.

- **Citizen Concerns**

- Michael Anuta, of 187 Old Farm Way, said he had been unable to find an agenda for tonight’s ConCom (11/6/14) meeting posted online.
 - In addition, Mr. Anuta’s wife, Jean Hoffman-Anuta, said she could not find the agenda posted on the outdoor kiosk.
 - CA noted, and Mr. Anuta acknowledged, that the agenda handed out at the meeting was stamped as received by the Town Clerk’s office at 1:58 p.m. on 11/4.
- *[POST NOTE: it is not a State requirement that agendas be posted on Town websites; immediately following the meeting, ConCom members examined the outdoor kiosk and were easily able to spot the posted agenda. ComCom members photographed the agenda through the locked glass, in the rain, as proof.]*

- **9:12 PM – Adjourn Meeting**

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