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TOWN OF AYER  
TOWN CLERK



## Town of Ayer Conservation Commission

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8220, ext. 143

Minutes for 6/22/2023

Location: Ayer Town Hall, 1st Floor

Present: Jon Schmalenberger (Chair), Mark Phillips (Vice-Chair), George Bacon (Member), Jen Amaya (Member), Jessica Gugino (Member/Clerk), Heather Hampson (Conservation Agent)

APAC taped: YES

All Public Hearings are opened under the Wetlands Protection Act (MCL Ch. 131, section 40)  
and under the Ayer Wetlands Bylaw (Article XXVI)

### 7:00 PM – Open Meeting

- **Confirmation of Agenda**
  - **VOTE:** G. Bacon moved to confirm the agenda as posted; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
- **Approval of Meeting Minutes**
  - **VOTE:** G. Bacon moved to accept the minutes for 6/8/2023 as written; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
- **Public Input**
  - Laurie Nehring, President of People of Ayer Concerned about the Environment (PACE), announced that PACE is sponsoring a Public Forum on PFAS (per- and poly-fluoroalkyl substances) from 7-9 p.m. on July 13, 2023, at the Ayer-Shirley Regional High School, 141 Washington Street, Ayer.
    - The forum will include a short film on the health effects of PFAS pollution as well as presentations and a Q&A.
    - State Senator Jamie Eldridge, State Representative Dan Sena, and others will also be present.
- **Discussion: Update on PACE-led Water Chestnut Pull on Grove Pond**
  - Laurie Nehring, President of PACE, provided an update on the second year's continuing effort by volunteers to hand-pull invasive water chestnuts at the northeastern end of Grove Pond.
    - This project received a supporting community grant from the Nashua River Stewardship Council for the second year in a row.
  - Since plant, water, and sediment testing for potentially harmful pollutants (e.g. arsenic) did not have to be repeated this year, the hand-pulling was able to commence much earlier than last year's starting point of July 30.
    - This year, the invasive plants began visibly reaching the surface in early May, around Mother's Day.
    - A total of 10 3-hour pulling sessions took place in May, and 9 in June so far.
      - Six more pulls are scheduled during the rest of June and into July.



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- In April Ms. Nehring experimented with raking the bottom to pull up early plant growth and nuts but this wasn't particularly successful and has been deemed not worth the effort.
- Ms. Nehring estimates that, as of 6/22, 542 baskets have been filled with approximately 159,800 invasive plants that were pulled and deposited on the nearby shore where they are left to decompose.
  - 75 volunteers have participated so far, providing a total of 316 volunteer hours added onto the 81 hours contributed by Ms. Nehring herself.
- While volunteers are required to sign liability waivers, the question of potential liability has continued to concern Ms. Nehring.
  - She always talks with volunteers about safety issues, including flatwater canoe use.
    - Ms. Nehring herself is covered by the American Canoe Association because of her teaching activities.
  - Ms. Nehring has now had several discussions with Town Manager Robert Pontbriand and Assistant Town Manager Carly Antonellis about whether the Town's liability insurance could cover volunteers.
    - However, the Town has made clear, including after consulting with Town Counsel, that it cannot extend liability coverage to volunteers.
  - Ms. Nehring is still pushing the question of whether, if she were a Town employee (e.g. through the Town's Senior Tax Work Off program – or through the Department of Public Works (DPW) or the Commission itself, liability coverage could be worked out.
- J. Schmalenberger, who has volunteered with the pull several times, said the Commission strongly appreciates and supports the PACE-led project, but that the Commission does not have anything to do with Town insurance issues.
- M. Phillips asked if insurance is really needed for the volunteers, given they sign the waivers.
  - Ms. Nehring did note that water chestnut pullers in other towns do not have insurance coverage.
- It was suggested that when Ms. Nehring submits a grant application to the Nashua River Stewardship Council for support for next year's pull, she include the amount estimated to be needed for liability insurance coverage from some other entity than the Town.
- **Public Hearing (cont'd.): Amendment to the Order of Conditions (OOC) – 0 Washington Street, Ayer Solar II, Rohit Garb, MassDEP # 100-0444.**
  - Nick Pauling, of Goldsmith, Prest & Ringwall, Inc., was present on behalf of the applicant to update the Commission.
  - Mr. Pauling said there were no newly-revised plans to submit since last meeting with ConCom.
    - The project met with the Planning Board on 6/20 to discuss the peer review comments the Board received from Green International.



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- GPR is now in the process of revising the plans to respond to the peer review comments with, for example, new stormwater calculations.
- Mr. Pauling also met onsite with H. Hampson and Town Engineer Matt Hernon to assess what modifications may need to be made to the as-constructed culvert crossing in order to address flaws that have arisen (e.g. a recent blow-out of a coir log underneath the culvert after a heavy rain) and bring it into substantial compliance with the plans and with Massachusetts Stream Crossing Standards.
  - A June 22, 2023 letter to ConCom from Town Engineer Hernon was provided attesting that, while some criterion, such as Embedment of the culvert's concrete footings, were not technically met and would be inappropriate for a high-flow stream channel, because this is a low-flow intermittent stream channel, it should suffice.
  - H. Hampson said that while there were still some corrections that needed to be done, inside the culvert, the work needed was not enough to block the permitting process from going forward.
- The Planning Board will be reviewing the project again, including addressing the peer reviewer's concerns, on July 11<sup>th</sup>, and it is likely they will finalize their Site Plan Review at that time.
  - While Mr. Pauling was hopeful ConCom would move forward with approving the drafting of an OOC at this meeting, G. Bacon said he thought the Commission should wait until its next meeting on July 13, after the Planning Board has met on the project on the 11<sup>th</sup>.
    - Other commissioners were in agreement with this.
- Ken Diskin, of 180 Washington Street and an abutter to the project, asked if ConCom should have a completed Conservation Restriction (CR) for the project before it issues an amended OOC.
  - H. Hampson explained that the CR was still in process, and that the amended OOC should not be confused with the Certificate of Compliance (COC) that is issued when a project is complete.
  - The COC for this project would not be issued until the CR is complete and recorded, and in any case, cannot be issued until two growing seasons have passed so that the success of the wetland replication areas on the site can be confirmed.
- **VOTE:** G. Bacon moved to continue the Public Hearing for 100-0444 to July 13; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 5-0.
- **Discussion: Friends of Pine Meadow Land Stewards**
  - A number of Town residents interested in taking part in the formation of a new volunteer group were present: Sue Kennedy, Ken Diskin, Scott Wilson, Jonathan Kranz, and Andrew Sealey.
    - Other residents unable to attend tonight's meeting have also expressed interest and H. Hampson has a record of their names.



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- Mr. Kranz suggested one of the first steps should be to define the responsibilities and duties of the group, clarifying the parameters under which it would be operating.
- Reflecting on the old volunteer Greenway Committee that used to handle trail maintenance, G. Bacon said that group had put up the kiosks and generally gotten together for trail maintenance work one or two weekends in the spring and maybe another in the fall.
  - They also organized some public guided walks.
  - The organizational structure of that group had been led by a Chair.
- After discussion, it was agreed that the next step should be to hold a group walk of the roughly 3-1/2 miles of trails in the Pine Meadow conservation land in order to come up with a punch list of things that need doing or improvements that need to be made.
  - After that, clarification of responsibilities and duties should be able to be drawn up by the Commission, working with the volunteers.
  - Among the things anticipated or envisioned were:
    - re-marking or blazing the official trails, and figuring out how to identify for the public those informal trails that lead onto private properties abutting the land;
    - the kiosks on the Groton-Harvard Road and Oak Ridge Drive trailheads need improvement along with the sign at the wooden footbridge stream-crossing further in;
    - evaluating whether and/or where invasive plant growth may need attention;
    - the possible provision of benches at certain locations;
    - replacing the deteriorating signage identifying key features such as vernal pools and a glacial erratic.
- The group walk will be held at 9 a.m. on Saturday, July 15 (with a rain date of July 22<sup>nd</sup> if needed), meeting at the Groton Harvard Road trailhead.
- An additional question raised was whether it was feasible for the Town to provide a crosswalk from the parking area to the trailhead on Groton Harvard Road and H. Hampson will talk to the DPW about this.
  - Several years ago, the Town said no when asked about this by a resident.
- **Conservation Commission Office and Member Updates**
  - DPW
    - The DPW will be coming before ConCom this summer with an application for permitting to do exploratory drillings for a new water wellhead site near Spectacle Pond.
      - The project will have to go through State permitting as well, but for ConCom, the initial test wells can probably be covered under a Request for Determination of Applicability (RDA) filing.
  - West Main Street project



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- H. Hampson received a Notice of Intent (NOI) submission earlier in the day for a West Main Street apartment complex project that just recently received variances from the Zoning Board of Appeals.
  - This project will open its Public Hearing before the Commission on July 13, and will open before the Planning Board as well at their meeting on July 11.
- Waterways Sign Project
  - The Sandy Pond sign, located inside the fencing to the Town Beach, has been stolen and will need to be replaced.
- 2023 Aquatic Weed Management
  - The initial treatments of Sandy, Flannagan, and Pine Meadow ponds have been completed and there won't be any more treatments until September, when overgrowth of water lilies and phragmites will be treated.
    - It was noted that Water & Wetlands spotted a few water chestnut plants in Flannagan Pond while they were treating for milfoil, fanwort and curly leaf pondweed, and that they went ahead and hand-pulled the plants.
- Meeting with Town Manager Pontbriand
  - J. Schmalenberger, J. Gugino, and H. Hampson met with Mr. Pontbriand and DPW Director Dan Van Schalkwyk earlier in the day to discuss and/or update several ConCom-related issues:
    - **Conservation land sheds**
      - The two sheds on Pine Meadow Conservation Land, behind the residence next to the Oak Ridge Drive trailhead, still need to be removed.
        - This was about to be undertaken when the Covid-19 shut-down in March 2020 ensued, putting this onto the backburner.
      - Mr. Van Schalkwyk will be visiting the site soon to evaluate how to go about securing their removal.
    - **Beaver Management Plan**
      - Mr. Van Schalkwyk will be making some edits to a draft management plan that will then be circulated to ConCom for its input since there will be shared responsibilities.
    - **Alternate methods of aquatic weed treatment.**
      - Mr. Van Schalkwyk was also asked if he could provide a rudimentary evaluation of the feasibility of trying a pump-house drawdown method, as Harvard does for Bare Hill Pond, to control invasive weed growth.
        - The Commission is seeking input of alternative methods given the questions raised by resident Susan Tordella Williams.
        - The cost of a pumphouse, how it could be done, and even if it could be done given Ayer's linked chain of



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ponds – and what environmental impact that might have  
– are initial questions that need to be evaluated.

- **Flannagan Pond public access**
  - The consultant working with the DPW has identified 3 or 4 top sites for consideration.
    - Once it has researched a few more questions, the DPW plans to hold a public meeting for resident input.
  - To avoid conflict of interest, this is a project that the DPW must lead since, if it proceeds forward, ConCom will have to permit the project.
  
- **8:36 PM – Adjourn Meeting**
  - **VOTE:** G. Bacon moved to adjourn; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval:

7/13/2023

Jessica G. Gugino