

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **07/14/11** – Approved 7/28/11

Location: Ayer Town Hall, 1st Floor

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

Not present: Bill Daniels (BD, Chair)

APAC taped: Yes

7:08 PM – Open Meeting

• Announcements

- CA said pond vegetation treatments scheduled for Flannagan Pond, Sandy Pond, and Pine Meadow Pond are on hold due to the severity of impact of two collapsed beaver dams on 7/11/11.
 - The blow-out resulted in the draining of a substantial wetland swamp into Pine Meadow Pond, from there flooding catastrophically across Oak Ridge Drive, undermining the road and forcing its closure to thru-traffic.
 - The influx of water raised the level of Flannagan Pond by an estimated 12-18 inches, and was severe enough to cause a backflow from Flannagan into Sandy Pond, raising that pond up to 12 inches as well.
 - See discussion later for further details.
- The Town Beach on Sandy Pond was closed temporarily due to concern over water quality, given the influx of stagnated swamp water into the ponds.
 - It was re-opened on 7/13/11 after the results of water testing were found to be acceptable.

• Public Meeting: COC – 9 Bishop Road (DEP #100-0305)

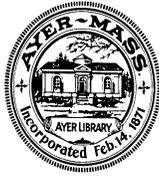
- David Wright, environmental consultant from Arcadis, appeared before the Commission requesting a COC for FMC Corporation for the completion of wetland cleanup and restoration.
- ConsCom performed a site walk at 6:30 pm, just prior to this meeting.
- Conditions were found to be satisfactory, with robust growth of wetland vegetation.
- GB moved to issue a COC; TT 2nd.
 - Motion approved unanimously.
- CA told Mr. Wright it was now okay to remove any materials related to erosion controls, including silt fencing, plastic ties, wood stakes, and any other non-biodegradable material.
- CA asked that when the COC is recorded at the Registry of Deeds, a copy be sent to ConsCom.

• Public Hearing: NOI – John S. Giaimo, Patriot Way Lot 4A (DEP #100-0343)

- Jesse Johnson, of David E. Ross Associates, has submitted a revised drawing to CA showing the two changes requested by ConsCom at its 6/23/11 hearing.
- The plans showed erosion controls doubled (haybales and silt fencing) as well as extended all the way to Sandy Pond Road.
- CA inspected the erosion controls and found them per ConsCom's request.
- GB moved to close the Public Hearing; TT 2nd.
 - Motion approved unanimously.

• Public Meeting: COC – 7 Amandrey Way

- Sheldon Law Offices has requested a partial COC for its client at 7 Amandrey Way.
- At least ten houses were constructed in this subdivision, whose OOC was issued to Seven Seas Realty Trust on 7/10/96.



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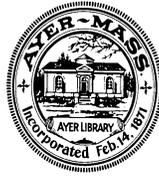
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- TT recalled another lot in this subdivision applying for a COC several years earlier. At that time, debris was found in the buffer zone and the issuance of a COC was put off pending its removal. That homeowner never contacted ConsCom again about a COC.
- CA inspected 7 Amandrey Way, which is within the buffer zone, and found no problems.
- GB moved to issue COC to 7 Amandrey Way; TT 2nd.
 - Motion approved unanimously.

- **Accounts Payable**
 - FY 2011:
 - Becky DaSilva-Conde: \$44.00, reimbursement for purchase of three USGS topographical maps (1988) and another map showing all the dams in Ayer.
 - GB moved to approve payment of \$44.00; JG 2nd.
 - Motion approved unanimously.
 - Ben Meadows: \$195.15, for purchase of a new Munsell Book.
 - GB moved to approve payment of \$195.15; JG 2nd.
 - Motion approved unanimously.
 - Staples: \$409.54, for purchase of office supplies, including a keyboard tray and two flash drives for backup (one for CA, one for Clerk).
 - TT moved to approve payment of \$409.54; GB 2nd.
 - Motion approved unanimously.
 - Lowell Sun (\$572.40), for Public Hearing/Meeting notices.
 - CA noted that this invoice was approved and signed for payment on 6/23/11 but its processing is pending receipt of \$51.00 from Pan Am. (*payment later rec'd)
 - FY 2012:
 - Lowell Sun: \$56.10, Public Hearing notice, John Giaimo/Patriot Way (payment rec'd).
 - JG moved to approve payment of \$56.10; GB 2nd.
 - Motion approved unanimously.
 - Massachusetts Association of Conservation Commissions (MACC): \$274.00, annual membership dues for five commissioners and CA.
 - TT moved to approve payment of \$274.00; GB 2nd.
 - Motion approved unanimously.

- **Discussions**
 - Greenway Committee Chairman vacancy
 - CA forwarded an email from former Greenway Chair Patrick Hughes.
 - Mr. Hughes' email was in response to GB email to Greenway Committee requesting faster progress on the installation of the information kiosk at the trailhead to Pine Meadow Conservation Land. (PMCL)
 - Mr. Hughes requested an alternative location for kiosk storage than his garage be found.
 - Mr. Hughes also stated his opinion that if there was no Chair, then there was no Greenway Committee.
 - TT said the content subcommittee for the kiosk was working on it but wouldn't be finished until later in the summer.
 - CA noted her appreciation for the hands-on conservation work done by the Greenway Committee in the past and said she'd hate to see this Committee fall apart completely.
 - GB suggested an alternative storage location for the kiosk might be the locked building located on the former Tooker property, now part of PMCL.
 - DB will contact Mr. Hughes about the kiosk.



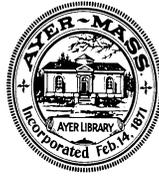
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- **Public Meeting: RDA – Pan Am Railways**
 - Environmental Consultant Keith Morris appeared before ConsCom representing Pan Am.
 - Mr. Morris gave CA a check for \$51 as payment for the legal ad notice.
 - The RDA is for verification of sensitive areas prior to application of herbicides for weed control to Pan Am’s right-of-way.
 - Pan Am treats the entire right-of-way as a restricted spray zone; only the “no-spray” zones are re-marked each year.
 - No changes to boundaries, application methods, and herbicides since the last RDA.
 - GB moved to issue a Negative Determination of Applicability; TT 2nd.
 - Motion approved unanimously.

- **Public Hearing: NOI – Phase III, Crabtree Development, Ridge View Heights/Pingry Hill**
 - ConsCom awaits results of a third-party review of stormwater calculations.
 - Steve Mullaney, representing Crabtree Development, informed CA that the consultant who has reviewed calculations for this subdivision in the past no longer works at Tata & Howard.
 - CA will confirm that the third-party review has been assigned to someone else.
 - GB moved to continue the Public Hearing to 7/28/11; JG 2nd.
 - Motion approved unanimously.

- **Discussions (cont’d)**
 - Pond Vegetation treatments and Beaver dam washouts
 - Further discussion of the beaver dam blowouts of 7/11/11 that have postponed and/or cancelled pond vegetation treatment took place.
 - It is assumed the upper dam, behind Autumn Ridge, blew first, taking out the second dam, draining the wetland swamp, and undermining Oak Ridge Drive.
 - DB said DPW reported the washout did not damage the culvert running under Oak Ridge.
 - Aquatic Control Technologies (ACT), due to treat Pine Meadow Pond on 7/12/11, has tentatively rescheduled treatment for 7/27/11, the same day as Sandy Pond.
 - Because ACT was only going to be doing spot treatments on these ponds, the higher water levels as a result of the dam washouts is not as much of a factor.
 - CA said the planned treatment of Flannagan Pond by Lycott Environmental, scheduled for 7/13/11, has been more drastically affected.
 - Lycott’s treatment required lowering of the pond level, which was accomplished by the prior removal of the two boards at Balch Dam; this lowering was completely negated by the dam washouts and subsequent flooding of the ponds.
 - CA was out in the field on Tuesday 7/12 with Will Stevenson, of Lycott, inspecting the situation.
 - Prior to the washouts, the depth of water running over Balch Dam was 2-3 inches; on Tuesday it was 18 inches.
 - As a result of the raised water level and increased turbidity, Mr. Stevenson advised CA to postpone treatment as both ineffective and a waste of money due to dilution and flushing.
 - Still under consideration, however, was whether the use of Reward to treat fanwort was a viable option later in the summer (saving the application of Sonar for the following year).
 - CA spoke to Pat Huckery, of Mass Fish & Wildlife, about the dam washouts.

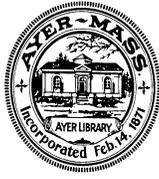


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- Ms. Huckery said she thought it was unlikely to be a natural occurrence on such a large and established dam, and voice the suspicion that someone may have tampered with and pulled away at the upper dam, thereby weakening it.
- CA has put in several calls to the Massachusetts Environmental Police but has yet to hear from them.
- Ms. Huckery was going to walk the site with CA and JG earlier in the day but had to cancel due to a personal emergency.
- CA hopes Ms. Huckery will be able to visit the site in the following week.
- Selectman Gary Luca expressed concern about sabotage to the dams and asked if any chop marks were visible.
 - CA said the area is not accessible to large equipment, and that evidence of tampering was not overtly apparent; CA hoped that inspection by the Environmental Police and/or Fish & Wildlife would shed more definitive light.
- Resident Chuck Miller said he has put out a request on the Friends of Flannagan Pond website for anyone with information to please come forward.
 - Mr. Miller expressed the suspicion of many over the remarkable coincidence of the washouts occurring just two days before Flannagan Pond was to be treated.
 - Mr. Miller also said it was hard to believe the dams blew naturally during a dry period with no exceptional water pressure.
- CA said she has already emailed Police Chief Murray asking if he has received any calls with information about the washouts.
 - CA emphasized that aside from the considerable ecological devastation to the wetlands as well as the road damage, something needed to be said as well about the public safety issues (i.e. rerouting of emergency responders to Oak Ridge).
- TT asked if ConsCom should issue an emergency certification to DPW for whatever work they will need to do to repair the situation.
 - CA said she would talk to DPW Superintendent Dan Nason the following day.
- Mr. Miller said numerous residents were concerned about leaching from the nearby landfill, given the deluge of sediment/sludge bringing pollutants into Flannagan Pond.
 - Mr. Miller asked for more stringent testing of the water quality and that an analysis of impact take place.
- Public Spirit Reporter Mary Arata asked if Mass DEP had been contacted.
 - CA said no, just the Environmental Police and Fish & Wildlife.
 - Mass DEP has no investigative capacity for events such as this.
- In terms of pond vegetation treatment, CA said Town Administrator Robert Pontbriand is talking to legal counsel to ascertain the impact of postponement or cancellation of treatment for this year on the Town's contracts with Lycott and ACT.
 - CA said at her Tuesday meeting with Mr. Stevenson, she asked whether Lycott would be willing to continue the contract to the following year.
 - At that time, Mr. Stevenson said that would be an option.
 - CA will ask Lycott for a more specific recommendation for Flannagan treatment.
 - Mr. Miller asked at what point the language for Flannagan treatment is changed from 'postponement' to 'outright cancellation'.
 - Mr. Miller said that if treatment is cancelled until next year, he hoped everything would be in order so that treatment could take place earlier in the year, dependent only on weather and water levels.
- Agenda for ConsCom meeting with the BOS
 - JG

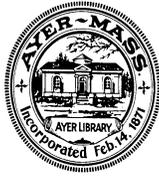


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- suggested recommending a formal pond weed control survey to formulate a long-term management plan for all of Ayer's ponds.
- suggested a request for additional CA hours for the following year be expressed.
- extended her appreciation for the BOS's recent actual formation of a Pond and Dam management committee that includes, among others, BOS, ConsCom, and FinCom participation as well as the appointment of 3 residents.
- DB
 - requested discussion of the BOS's procedures for issuing business permits when wetlands are present nearby.
 - CA reiterated the suggestion passed on by BOS secretary Janet Lewis to request a BOS policy change so that ConsCom is automatically cc'd for comment on applications similar to the one for the used car lot on West Main Street that triggered this request.
 - discussion of final disposition of two buildings on former Tooker property.
 - the problem with the adjacent landowner continuing to dump brush and store firewood on this Town property also still needs to be resolved.
 - Selectman Luca suggested ConsCom refer this to Building Inspector Gabe Vallente.
- ConsCom member non-reappointment
 - DB stated his disappointment that the BOS, which refused to re-appoint him to ConsCom at its 6/28/11 meeting, would not agree to postpone discussion of another applicant at its upcoming 7/19/11 meeting, when DB himself would be out of state on vacation.
 - DB expressed the hope that the BOS would have applicants appear before ConsCom for an interview prior to BOS formalizing another appointment.
- Conservation Office closure for CA vacation
 - ConsCom office will be closed from 7/18 – 8/4/11; CA will return on 8/5/11.
 - CA has posted this closure at her desk and on the Town announcement board; requested that Cindy Knox, the Town's IT person, post it on the webpage; and changed the office's phone message to reflect her absence and advise that in the case of an emergency, Town Administrator Pontbriand or Police Chief Murray be contacted.
 - During CA's absence, JG will check voicemail, email, and regular mail several times a week in case something needed a prompt response comes in.
- **CA Updates**
 - CA forwarded an email from Kyle Carson, of Stahlman Group, with results and photos from the die tablet test required by the Commission for Epic Enterprises's OOC.
 - The die tablet test was to ascertain the source of water draining from two previously unmarked pipes apparently discharging directly into Day Brook.
 - Stahlman Group did the initial die-testing but ran into more complications than anticipated, requiring them to hire a company called Clean Basins to remove a clog and install a trace line.
 - The result is that the pipes do drain from the two basins, with the additional good news that the pipes are perforated so that, except for extreme events, water should infiltrate along the pipe length before reaching the brook.
 - CA confirmed this was good news and that she had given Epic Enterprises the go-ahead to proceed with their building expansion.
 - Ridge View Heights/Pingry Hill Lot 86



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- CA said a false alarm had been raised by the company installing a prefabricated pool for a handicapped buyer under the conditions of developer Rick Roper's OOC.
- CA heard from Rick Roper earlier in the day that there was, in fact, enough room for the pool without requiring further encroachment into the buffer zone; Mr. Roper had simply had to re-locate a gas line running to the house.

- **Member Updates**

- DB said Mass Highway has completed most of its Route 2A repaving except for the rotary area.
- DB asked if CA has heard anything new from Pond View Estates.
 - CA said she had just received an envelope from Meisner-Brem requesting a COC.
 - CA only had time to skim the request but said the application indicated that erosion controls for the subdivision would be removed after the issuance of the COC; CA said she had made clear to the Homeowners and Condo Association that this material was to be removed *prior* to requesting a COC.
 - CA had earlier given residents a map locating all erosion controls on the project.
 - This will be discussed further when CA returns from vacation.
- DB asked CA whether Roger Kanniard had yet applied for a COC for New England Way.
 - CA said Mr. Kanniard applied for a COC last year but she had told him he had to wait another year so as to ascertain that plantings had taken properly – along with Mr. Kanniard having to finish landscaping, grading, and the removal of a loam pile.
- DB brought up the issue of public access to Flannagan Pond, suggesting the area at the end of Western Drive might be a possibility.
 - On the map, Western Drive continues across Oak Ridge Drive to the shore.
 - DB said that this section of land has, however, been absorbed by a neighbor who says he bought this section from the Town.
 - DB has asked DPW Superintendent Nason for his understanding of the matter.
 - Mr. Miller asked where people would park in this area; DB said he didn't know.
 - Mr. Miller asked about the area off Old Sandy Pond Road as potential access.
 - CA said this is all swamp and shrub and not a viable access to Flannagan Pond.

- **9:37 PM – Adjourn Meeting**

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