



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **6/9/2016** – Approved 6/23/2016

Location: Ayer Town Hall, 1st Floor

Present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT, Member), Bonnie Tillotson (BT, Member), Jessica Gugino (JG, Member/Clerk), Brian Colleran (CA, Conservation Administrator)

APAC taped: Yes

7:12 PM – Open Meeting

- **Confirmation of Agenda**
 - GB moved to confirm the agenda as posted; TT 2nd.
 - Motion approved unanimously.
- **Accounts Payable**
 - Geosyntec
 - \$16,604.27, final payment for preparation of Pond Survey.
 - GB moved to approve payment of \$16,604.27; TT 2nd.
 - Motion approved unanimously.
 - Brian Colleran
 - \$77.22, mileage reimbursement (143 miles @\$0.54/mile, January 1 – July 9, 2016).
 - GB moved to approve payment of \$77.22; TT 2nd.
 - Motion approved unanimously.
 - J & S Business Products
 - \$11.38, printing blueprints for Sandy Pond 3 Conservation Restriction.
 - GB moved to approve payment of \$11.38; TT 2nd.
 - Motion approved unanimously.
 - P. N. Laggis Co.
 - \$107.94, rubber boots for CA field work.
 - GB moved to approve payment of \$107.94; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing: Notice of Intent (NOI) – Ridge View Heights Phase V, Woodland Way (Pingry Hill), MassDEP #: TBD**
 - Steve Mullaney, of S. J. Mullaney Engineering, appeared on behalf of the applicant, Rick Roper, of Ridge View Realty Trust.
 - The NOI is for the infrastructure only (roadway and utilities).
 - Subsequent NOIs, RDAs, or Requests for Amended OOCs (AOOC) will be submitted for this phase of the development which will have a total of 36 individual single-family house lots.
 - Half of those lots are within ConCom jurisdiction.
 - Three will require RDAs, 5 will require AOOCs (their OOCs were renewed a year ago), and the remaining 10 will require original NOI submissions.
 - Mr. Mullaney provided some historical background to this portion of the subdivision that is now known as Pingry Hill.



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- Woodland Way is located on the east side of Pingry Hill, north of Littleton Road (Rte. 2A) and was originally known as part of the “Ridge View Heights” subdivision, now Pingry Hill.
- A Superceding OOC was issued by MassDEP in 2004 and that order expired on 12/17/2007 without any construction activity having taken place.
 - DEP declined to extend the OOC in light of stricter new stormwater standards to be applied in 2008.
- The original plan was based on a wetland delineation that took place in 1997 and was found to be flawed and inaccurate by later delineations (2005, 2014).
 - After the 2014 wetland delineation, the applicant filed an ANRAD (Abbreviated Notice of Resource Area Delineation) with ConCom (MassDEP # 100-0378).
 - After a site walk, with corrections and additions made to the wetland flagging, ConCom issued an ORAD on 11/6/2014.
- Woodland Way has now been significantly redesigned since it was first proposed in 1997.
 - The road now circles back on itself and avoids a big wetland crossing laid out in the original plan.
 - A smaller wetland crossing remains in the current plan.
 - The roadway, with a maximum grade of 9.14%, will also provide access to a new water tank at the top of the hill.
 - Wetland alteration for Phase V has been reduced to approximately 3000 sq. ft., which is below the threshold that requires a 401 Permit from MassDEP.
 - 6000 sq. ft. of replication in a similar area has been proposed.
 - Phase V will involve 27 acres of site work, 6 of which will have impervious surfaces, the rest vegetated.
 - The infrastructure work will involve 15 acres of alteration, of which 0.06 acre is in buffer zone.
 - There will be a total of 27 stormwater basins that will mimic the existing watershed.
 - Ten of the basins are required to have a limited amount of fencing (black vinyl chainlink or densely planted thorny shrub) on sides close to homes.
 - The Planning Board originally required these basins to be maintained by the Homeowners Association.
 - DPW Superintendent Mark Wetzel is in the process of seeking to modify this requirement.
 - The DPW would take over maintenance of the basins but a funding mechanism for the Homeowners Association to pay for this needs to be developed.
 - Low Impact Development measures have been proposed.
 - Grading has been minimized.
 - The lot designs employ minimum setbacks from the road and reasonable backyards.
 - The Planning Board has agreed to a waiver that reduces the width of the road from 40 ft. to 24 ft., and permits a 4 ft. sidewalk on only one side of the road.
 - Catchbasins on either side will be placed at 200-300 ft. intervals.
 - The current plan outlined in the NOI meets the EPA’s new 2014 requirements for additional erosion controls during work less than 50 ft. from wetlands.
 - The sewer line will be half gravity, half low-pressure sewer.
- Mr. Mullaney said that alternatives were explored to avoid filling at the wetland crossing.



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- The high cost and longterm maintenance that would be needed by the alternative, as compared to burying a culvert at the crossing, was deemed unfeasible.
 - A second alternative that would have split the road into two dead-end cul-de-sacs would violate the Ayer Subdivision Regulations, Section IV.A.2.a.
 - Mr. Mullaney said that Ridge View Realty Trust will be putting the Phase V work out to bid.
 - The Phase V plans have also been submitted to the Planning Board, which is holding its Hearing on 7/7.
 - A site walk by ConCom was scheduled for 9 a.m. on 6/25, meeting at the intersection of Hemlock and Hickory Way.
 - BD asked that the roadway be center-staked, along with the headwalls for basins.
 - He also asked that an Order of Operations be prepared for discussion during the site walk so that ConCom can better evaluate the area and avoid the construction problems that have occurred numerous times during earlier phases of the Pingry Hill project.
 - Mr. Mullaney asked if the stormwater review would be done 'in-house' now that the DPW has a Town Engineer.
 - BD asked CA to check with Superintendent Wetzel on this.
 - GB moved to continue the Public Hearing to 7/14; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Pleasant Street, Riley Jayne Farm LLC, MassDEP # 100-0389**
 - Nicholas Pauling, of Goldsmith, Prest & Ringwall (GPR), was present on behalf of the applicant.
 - The Planning Board closed its Hearing on the project and will sign off on it at its 7/7 meeting.
 - Jim Fay, Chair of the PB and in the audience for another matter, said the delay was only administrative.
 - BD summarized the site walk that ConCom performed on 5/28.
 - ConCom observed the revisions made to the plan, including the realignment of the driveway to Lot 16, moving it out of the buffer zone.
 - ConCom's greatest concern was with how dewatering would take place during the time of the sewer connection.
 - BD asked that a Special Condition be included in the OOC dealing with this matter and its scheduling.
 - BD stressed that the developer will need to stay on top of maintaining erosion control barriers, especially at the start of construction, and that CA will be asked to inspect periodically.
 - Mr. Pauling said they had received a reply by email from NHESP confirming they had no permitting issues with the project as it is not in Priority Habitat.
 - BD asked Mr. Pauling to forward a copy of the email to CA for ConCom's records.
 - BT raised concerns about wetland vegetation she observed in areas outside the flagged buffer zone on lots 9, 13, and 16.
 - She asked whether this indicated changes/expansion in the wetlands and also if there was a risk of the buffer zone line thereby creeping closer to the houses.
 - BD said ConCom had spent a lot of time walking the area for the ANRAD in 2014.
 - Wetland vegetation can be present without there being true hydric soils and that appeared to be the case in these areas.
 - Mr. Pauling said one of the things the project would be doing was to replace a 12 in. pipe culvert at the current end of Pleasant Street with a new 15 in. pipe.



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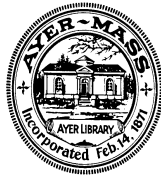
- He said the wet conditions BT was referring to are the result of how the Town has been plowing the end of Pleasant Street, with the build up of sedimentation from the snow piles creating a back-up of water.
 - When the development is complete, this plow-pattern will no longer be a factor and the wetness in these areas should decrease.
- Mr. Pauling did not know the exact schedule for the project.
 - If the project has to be phased, it will make sense to do the Pleasant Street extension portion first, then the Trevor Trail portion.
 - He added that the DPW will likely want the infrastructure completed first.
- BD asked CA to contact Superintendent Wetzel to see if the DPW had any other concerns with the project.
- BT asked if it was possible to include additional species of trees for the street tree planting.
 - Mr. Pauling said the current list was agreed to by the PB and since they have now closed their Hearing, they can't revise the list.
 - In response to BD's question, Mr. Fay, Chair of the PB, said they would have no issues with the inclusion of other tree species.
 - Developer Calvin Moore, in the audience, said BT should provide some suggestions, he'd look into it and would accommodate if he could.
 - BD told BT to make her suggestions within the next couple of weeks while the OOC is being finalized.
 - He noted, however, that the selection of planting species is not under ConCom's jurisdiction except in the case of a wetland remediation planting plan.
- GB moved to approve the project and issue an OOC; TT 2nd.
 - Motion approved unanimously.
- GB moved to continue the Public Hearing to 6/23 for review and signing of the OOC; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Rosewood Avenue Extension, CALCO LLC, MassDEP # 100-0388**
 - Kyle Burchard and Calvin Goldsmith, of GPR, were present on behalf of the applicant, Calvin Moore.
 - The project seeks approval for the extension of Rosewood Avenue, at its eastern terminus, along an existing gravel cart path, in order to provide access to two planned solar arrays approved under a separate RDA.
 - Revised plans were distributed to members of ConCom.
 - Based on discussion at ConCom's 5/26 Public Hearing, GPR contacted wetland biologist David Crossman to re-evaluate the flagged wetlands from the December 2015 delineation and take soil borings to confirm findings.
 - GPR's interest was in reducing the overall wetland disturbance to under 5000 sq. ft., thereby eliminating the requirement for a 401 permit from MassDEP and a 404 permit from the Army Corps of Engineering.
 - Mr. Goldsmith reiterated his position that the original cartpath was undoubtedly not built atop hydric soils but that, over the years, water had deposited soils on top of the roadway (and presumed collapsed old culvert) that now supported wetland plants.
 - Revisions to the NOI plans have now redesigned the culvert, shifting it and the roadway crossing 30 ft. downstream to reduce the impact on wetlands.
 - This changes where the roadway enters and exits the wetlands, minimizing disturbance.
 - The roadway extension has also been reduced in width from 16 ft. to 12 ft.



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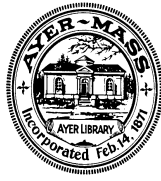
- Superintendent Wetzel has indicated to GPR that he has no problem with this change.
- As a result, Mr. Goldsmith said that the total disturbance to wetlands has now been reduced to approximately 4000 sq. ft., well below the 5000 sq. ft. threshold.
- Per discussion at ConCom's 5/26 Hearing, CA contacted Tim Chorey, Stream Continuity Specialist at the Mass. Division of Ecological Restoration (DER).
 - CA, Mr. Chorey, and Mr. Burchard walked the stream on 6/3, in particular examining the area Mr. Burchard selected as a representative stream channel in order to calculate the required 1.2 times bankfull width for the restoration of the stream crossing.
 - Mr. Burchard had selected an area 800 ft. down from the beaver dam, approximately 5 ft. in width, and as a result had designed a box culvert at Rosewood that was 6 ft. wide.
 - CA said they walked the stream down to the confluence with James Brook, observing several other beaver dams in the process.
 - Mr. Chorey identified different representative sections that were 7-8.4 ft. in width.
 - As a result, the redesigned box culvert will now be 9 ft. wide, and will have a .75 openness ratio, providing easier passage for turtles and other wildlife.
 - Mr. Chorey discussed with them the shaping of the stream channel.
 - It has now been designed to be 4 ft. wide at the bottom, with a 3:1 slope up the sides, and the stream channel will be kept in the middle.
 - The new culvert will have the capacity to handle 4 times the capacity of a 100-year storm.
- Mr. Goldsmith again said the revisions are significant and simplify everything.
 - By reducing the wetland impact to under 5000 sq. ft., the applicant no longer needs permits from the State or the Army Corps.
- Mr. Burchard, who reworked the Hydraulic Narrative because of the revisions, provided photos showing that the ponding in the area did not exist until 1966, when beavers began damming the area.
 - Historic photos also show that this area originally was the stream channel.
 - Starting in 1935, indications show that some kind of vehicular crossing began to take place at this location.
- Mr. Burchard also provided a revised Sequence of Construction (dated 6/9/2016) to which he has added USGS map resources.
 - He said the new plan also provides an additional 300 cu. yards of compensatory flood storage over the original submission.
- In terms of the impact on the pond elevation once the beaver dam is removed and the stream channel and culvert restored, Mr. Burchard said he expected the water level to drop approximately 6 ft.
- For the removal of the beaver dam, GPR has consulted with, and secured the services of, contractor/engineer Clint Sykes, of Athol, MA.
 - Mr. Sykes has specialized experience as well as equipment for dismantling beaver dams.
 - He is also well versed with the process of working under Board of Health 10-day permits.
- The plans still have detail for the installation of a beaver fence, but Mr. Goldsmith said this might not wind up being necessary.
 - The flow of water in the restored stream and culvert will likely not be turbulent enough to trigger the beaver instinct for damming.
- In addition, the removal of the dam and gradual dewatering will be done under the supervision of GPR in order to prevent the possibility of a downstream water washout.



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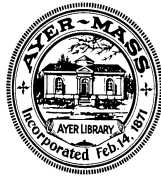
- In conversation with Joe Bellino, of MassDEP, CA said Mr. Bellino advised that the two aspects of the project be kept separate:
 - the dismantling of the beaver dam (which DPW will seek permits for, and which is advantageous to its interest in lowering the water level to gain access to 5 sewer manholes);
 - the stream crossing.
- JG asked TT if the 5000 sq. ft. disturbance threshold triggering permit requirements by MassDEP was the same threshold used by the Army Corps.
 - TT did not know but said that the Corps might also have other criteria, such as impacts to banks or land under water.
 - TT said it was not the place of ConCom to decide if the applicant needed to apply for a 404 permit from the Corps.
 - BD asked GPR to contact the Corps and provide documentation as to their response.
- TT asked that GPR submit the wetland data sheets, the basis for the delineation, which were not included with the original NOI submission.
 - Given that the revised delineation and plan enables GPR to argue it is below the 5000 sq. ft. disturbance threshold, TT felt ConCom needed the data to be sure it is on solid ground in evaluating the project.
- TT also raised the possibility of ConCom requiring an outside consultant review since the revisions made by the applicant allowed the applicant to eliminate permitting review by the State.
 - BD said he was comfortable that Mr. Chorey, from DER, had been out to evaluate the area in person.
 - CA noted, however, that wetlands were not jurisdictional to Mr. Chorey's expertise.
- BD said the big question hanging over the project had to do with whether the Army Corps needed to be consulted or not.
 - BD felt that if the Corps had issues, then it would make sense to require an outside consultant.
- Mr. Goldsmith raised the urgency of time constraints.
 - January 8, 2018 is the State's deadline by which point solar projects have to be up and running.
 - If the permitting process drags out, then investors for the solar project will drop out and the project will be dead.
 - It would likely take an extended period of time before getting a response from the Army Corps.
 - Mr. Goldsmith therefore asked that ConCom not constrain the issuance of an OOC based on hearing from the Army Corps.
- Applicant Calvin Moore, in the audience, complained of the project being "engineered to death."
- Mr. Burchard asked if GPR were to put together a memo identifying the criteria that trigger the requirement for permitting from the Corps, would that be sufficient?
 - BD asked that GPR prepare a memo identifying the Army Corps requirements and conditions, prior to ConCom's 6/23 meeting, and held out the possibility that GPR might at that point also have received direct feedback from the Corps as well.
- BD instructed CA to proceed with developing the OOC in the meantime.
- GB moved to issue an OOC; BT 2nd.
 - Motion approved 4-1. (Yea: BD, GB, JG, BT; Nay: TT)
- GB moved to continue the Public Hearing to 6/23; TT 2nd.



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- Motion approved unanimously.
- **Discussion: 22 Pine Ridge Road trash removal**
 - On re-evaluation, the trash truck cab on the conservation land behind this property was found not to be a complete cab.
 - The estimated new cost for disposal of this trash at the Devens Transfer Station is \$250.
 - GB moved to approve the expenditure of up to \$250 for clean-up of this trash; TT 2nd.
 - Motion approved unanimously.
- **Violation of Wetlands Protection Act: 3 Vermark Lane & O Mark Street**
 - Brian Casey, of 3 Vermark Lane, was present.
 - On 6/2, driving by on a site visit to another property in the area, CA observed disturbed soil and what appeared to be significant filling of wetlands.
 - CA stopped and had a conversation with Mr. Casey.
 - Mr. Casey asked for a Town ID but the Town has not provided this.
 - At that time, Mr. Casey asked CA to get off his property.
 - Mr. Casey said he had not filled in the wetland but had rather cleaned up trash and replaced cleaned fill.
 - CA said that sand and soil have been piled up high against tree trunks at the top of the bank, putting those trees at risk.
 - Mr. Casey, who bought the property in 2012, said he has already paid \$800 to a company to dispose of the trash which included tires, scrap metal, pressure-treated lumber.
 - He said the trash was both dangerous and an eyesore.
 - Calvin Moore, who is in the process of selling 0 Mark Street to Mr. Casey, said the stormwater runoff to the area created the wetland area and that this, in turn, was therefore created by the Town.
 - BD said that it is not uncommon for an area that handles stormwater flow for a period of time to attain the status of wetland.
 - Neighbor Jim Fay said Mr. Casey had worked hard to improve the area.
 - Murray Park, of Victor Drive, said the area is now in far better shape because of the work Mr. Casey has done and urged that common sense be used.
 - Mr. Casey, who is a canine officer with the Littleton Police, complained that CA had brought his officer status into the process by contacting the Ayer Police and having him addressed as Officer Casey.
 - BD said it was ConCom policy for CAs to contact the local police when there is a violation and there is any conflict or complaint with the homeowner or contractor.
 - CA sent an Enforcement Order, dated 6/2/2016, via certified mail but has not received the green card back indicating receipt.
 - Mr. Casey said he has not received the certified mailing.
 - BD asked if Mr. Casey was open to a site walk on Saturday morning, 6/11, and said ConCom would accommodate whatever time was convenient for Mr. Casey.
 - A site walk at 6 a.m. was settled upon.
- **Discussion: Enforcement Policy Update**
 - The latest draft was edited.
 - BD said ConCom has to add detail as to how fines are to be delivered.



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- BT said that, according to the MACC, informal enforcement and education are preferable first steps for most violations.
- BD said fines should really not be applied to homeowners until after the second violation or repeat offenses.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 5/12/2016 as corrected; TT 2nd.
 - Motion approved unanimously.
 - GB moved to accept the minutes for 5/26/2016 as written; TT 2nd.
 - Motion approved unanimously.
- **CA Updates**
 - Office supplies
 - CA cannot purchase another flat file for the office because the existing flat files are not structurally capable of supporting another layer.
 - CA is looking into getting an ID.
 - BD said he was in favor of CA purchasing a tablet to use as a field computer.
 - ConCom can decide at a later time if it wants to purchase wireless connectivity.
 - Extension of CA hours
 - Town Administrator Pontbriand said union positions such as CAs are dealt with through the BOS.
 - The Personnel Board only handles non-union positions.
 - BD asked CA to ask for time on the BOS's next agenda for ConCom to meet with them.
 - Sandy Pond 3 Conservation Restriction
 - CA went out to Mountain Laurel to begin the baseline documentation required by Amanda Veinotte, of NHESP.
 - On checking the bounds of the CR as originally written up in 2004, and using a tape measure, CA discovered that the construction that took place has invalidated the original bounds.
 - In particular, on lot 3, one area that is supposed to be in the CR is actually underneath a deck.
 - The middle of 3 houses lines up with the boundary of the easement.
 - Baseline documentation therefore cannot confirm the bounds of the CR and easement.
 - CA has contacted Ms. Veinotte for advice on how to proceed.
 - ConCom library
 - CA received permission to purchase books to build a small library for the Commission.
 - It was also discussed whether such books could be shared with the Library, perhaps in a 'Conservation' section, for use by the public.
- **Member Updates**
 - BT spoke to the homeowner at 41 Groton-Harvard about not using a leaf blower to blow debris directly into Flannagan Pond.
- **10:35 PM – Adjourn Meeting**
 - JG moved to adjourn; GB 2nd.
 - Motion approved unanimously.