

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for 9/13/12 – Approved 10/25/12

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), Jessica Gugino (JG, Clerk), Takashi Tada (TT), Steve Zisk (CA, Conservation Administrator)

APAC taped: Yes

Not present: George Bacon (GB, Vice-Chair)

### **7:15 PM – Open Meeting**

- **Confirmation of Agenda**

- TT moved to confirm agenda as posted; JG 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Announcements**

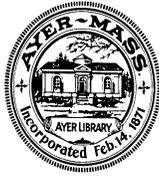
- A naturalist from the Nashua River Watershed Association (NRWA) will be leading free guided 1-hour hikes monthly this fall.
  - The next scheduled hike is on Ayer's Pine Meadow Conservation Land, on Sunday, Sept. 23, from 1-2 p.m.
- The Audubon Society is hosting a Grand Opening for its new Rocky Hill conservation land.
  - The opening is scheduled for Sunday, Sept. 23, from 3-5 p.m., rain or shine.
  - The trail network to Rocky Hill is accessed from Robin Hill Lane and leads to the top of Long Pond.
- A Notice of Submittal of Tier II Extension Request and Phase IV Remedy Implementation Plan Modification was received from Lessard Environmental.
  - Work being planned is to remediate a gasoline concentration recently detected in the surface water along the boundary of a wetland area adjacent to 27 Harvard Road.
  - This is in vicinity to the gas station near the rotary.
  - Implementation will require approvals from Mass DEP and ConCom.

- **Meeting Minutes Approval**

- TT moved to accept the minutes for 8/23/12 as written; JG 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Public Meeting: RDA – Pond View Estates**

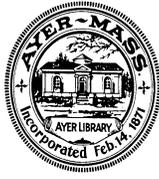
- Present were Paul Magno, Chair of the Homeowners Association; Ken Bishara, Treasurer; Pond View resident Louise Moncreaff; and Lynn Flint, Chair of the Condo Association.
- The RDA covers installation of a single fence post to the left side of the dock area; repositioning of other fence posts to better protect the landscaping; relocation of some of the shrubs planted by the developer; continuing maintenance of the area, including moving and annual plantings; and maintenance of the dock.
  - Mr. Magno said that signs are yet to be installed to direct public access to the dock in order to protect the landscaping.
- TT moved to issue a Negative Determination of Applicability; JG 2<sup>nd</sup>.
  - Motion approved unanimously.
- Ms. Flint asked if condo units closer to the waterfront needed permission to install plantings.
  - BD said if the area is within 100 ft. of the water and extensive plantings are planned, then the homeowners should come in and talk to ConCom.



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- Ms. Moncreaff asked why Mr. Principe, a condo owner on Sunflower Court, did not have to file an RDA for the steps, plants, and boards he put in behind his condo while the Homeowners Association was required to for work in the dock area.
  - Mr. Magno and Ms. Flint also asked why the process that Mr. Principe went through was different from their process.
- The Sunflower Court work was discussed at the 7/26 and 8/9 ConCom meetings.
  - BD said that Mr. Principe met with CA and that CA visited the site.
  - Mr. Principe should have come to ConCom before doing this work.
  - The work was done in an area that was previously disturbed.
  - As no additional work was planned, no further action was deemed necessary.
    - BD said ConCom in Ayer has no ability to issue fines and does not generally ask for the filing of an RDA retrospectively.
- BD said CA issued a Violation Notice to the Pond View Homeowners Association because of complaints from a resident that new fencing had been dug and public access had been blocked.
  - Ms. Moncreaff said the Association was only required to provide 25 ft. of public access to Long Pond, but that there was 175 ft. between the two paths on either side of the dock.
    - The fencing is intended to block illegal access to Pond View land, not the public access, and to prevent damage to the landscaping.
- To further address the Association's concerns, TT said that Mr. Principe would have been asked to file an RDA if he had come to ConCom prior to doing his work.
  - ConCom only learned about Mr. Principe's work after it had been completed.
  - Mr. Principe, on learning his work was an issue, came in promptly to speak to CA.
- JG said that, given the earlier complaints led to an appearance before the BOS, it was better for the Pond View Association to go through the RDA process and have the paperwork to authorize future work should another complaint arise.
- CA said that the regulatory aspect of the WPA allows for some exemptions for minor activities.
  - Mr. Principe's work largely qualified for this.
  - Some of the Association's planned work does as well but other work is not exempt, including work on the dock.
- BD said Pond View's developer obtained a dock permit directly from the State and bypassed the normal RDA process which Ch. 91 applicants were required to go through.
  - Pond View therefore lacks an RDA determination to back up their dock permit.
  - The issuance of a Negative Determination voted on this night now gives the Association the backup necessary for ongoing dock and property maintenance in the future.
- BD asked CA to include a letter with the Negative Determination highlighting the State's appeal period, which started as of this evening's vote.
  - BD suggested the Association delay further work until this appeal period is over.
- **Discussion: CPC Update on Sandy Pond Investment Trust land (aka Kohler Place)**
  - JG updated ConCom on CPC's 9/5 discussion of the possibility of considering a land purchase of 23 acres at the end of Wright Road and adjacent to Sandy Pond Road.
    - This was originally discussed by ConCom on 8/23 when Ed Cornelier, representing the Trust, approached ConCom to see if there would be Town interest in such a purchase
  - CPC specified two requirements before further evaluation can take place:
    - 1) the Trust must submit copies of the Deed and the Land Court ruling on the crossing easement.
    - 2) the Trust, which has made clear it wishes to recoup some, if not all, planning and development expenses, needs to present a starting 'number' for negotiation.

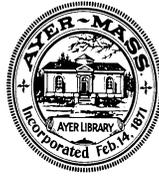


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- JG said she informed Mr. Cornelier of these requirements, along with the information that neither CPC nor ConCom would support pursuing a shared appraisal with the Trust.
  
- **Accounts Payable**
  - The Sun: \$71.60, for the public notice of the RDA for the Pond View Homeowners Association.
    - CA noted that the Association did not a check for the ad during its previous Public Meeting and that he had forgotten to ask for it before they left.
    - JG moved to approve payment of \$71.60; TT 2<sup>nd</sup>.
      - TT suggested not moving forward with the vote until receipt of the check.
      - CA suggested moving forward with the vote but holding off on mailing the Negative Determination to the Association until after payment was received.
      - Motion approved unanimously.
  - Lycott Environmental: \$28,200, for 2012 weed treatment on Flannagan Pond.
    - This was previously discussed at ConCom's 6/14 meeting and forwarded on to the BOS for approval of payment at that time.
      - ConCom does not have access to the funds approved by the BOS to pay this bill.
    - Town Administrator Pontbriand will be reminded of the need for the BOS, not ConCom, to authorize this payment.
  
- **CA Updates**
  - 72 Snake Hill Road
    - The resident here is seeking permits from the BOH and ConCom for constructing a chicken coop for 10 chickens.
    - Wetlands and a detention basin are close to the downward slope of the backyard.
      - It could not be determined from the plan submitted to the BOH exactly where the coop would go and whether or not its location made it jurisdictional to ConCom.
      - CA said it was hard to tell at the site visit where the coop was going to be placed but thought it would be between the fence and the house.
      - The Board of Health noted on its application form that the coop was to be located per the BOH and ConCom.
    - BD said that, at minimum, the resident needs to come in for an informal discussion with ConCom.
      - ConCom will also need to see what measures are to be taken to prevent runoff from the coop going downslope into the wetlands.
    - CA will invite the resident appear at ConCom's 9/27 meeting.
  - Catagna Spagna, 1 Nemco Way
    - CA referenced a 9/5 email received by David Maher, Director of Ayer Planning and Development, from Attorney Kathleen E. Connolly on behalf of Catania Spagna.
    - Catania Spagna is considering expanding its Ayer plant and is reviewing its current site layout and existing approvals to determine its options.
    - Ms. Connolly is looking for a copy of the NOI and accompanying OOC (DEP # 100-47) issued by ConCom in 1985 for the "creation of a drainage pond."
    - CA located an old box of files from the 1970s and 1980s, but the files for this project were not present.
      - CA left Ms. Connolly a message detailing this news.
    - BD said that, given how wetlands change over time, old flagging of wetlands would no longer be relevant to what they are planning now.
      - The company would have to start from scratch regardless.



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- GPR update for Autumn Ridge Estates (DEP # 100-317)
  - Resident John Cadigan, Vice Chair of the Trustees of the Autumn Ridge Farms Condo Association, was present.
  - CA circulated a 9/12 email from Calvin R. Goldsmith, of Goldsmith, Prest & Ringwall, Inc., detailing the current status of work done in relation to ConCom's Enforcement Order issued earlier in the spring.
  - The email cited information received from Steve Gillis, of Woodstone Homes:
    - The forebay to the detention basin behind building 5 has been cleaned out and a new wick is in place. Loaming and seeding would be completed by the end of the day, 9/12.
    - The slope behind Building 6 will be loamed, hydroseeded, and stabilized with jute mesh stapled down by 9/14.
    - The loaming and landscaping of Building 6, and placement of curbing around Building 6, will be completed by 9/14 as well.
  - Mr. Cadigan said the foreback looks much improved.
    - Standing water is gone, the basin is dry, its banks have been loamed, and a tree between the forebay and the residences has been removed.
  - Mr. Cadigan asked about the requirement in the Enforcement Order to rehabilitate the turtle nesting area.
    - BD reminded Mr. Cadigan that this work cannot be done until later in October, when nesting season ends.
  - Mr. Cadigan said the Association would like to have design drawings for the forebay area so that they can maintain it properly once construction is finished.
    - BD suggested the Association approach Gilles Homes for that.
  - Mr. Cadigan said the Association would be in contact with ConCom for guidance in properly maintaining the detention basins.
    - BD said the primary responsibility is to keep the basins clear of excess vegetation and silt and to cut down trees growing on basin slopes.
  - CA suggested the Association ask for a copy of the Operation and Maintenance manual from the developer.
    - BD said if the developer won't provide one, ConCom could check to see if it had a copy in its files.
    - Mr. Cadigan asked if ConCom required O & M manuals from developers.
      - BD said no, this was a Planning Board requirement, so Mr. Cadigan should also check with that board.
  - Mr. Cadigan said the new catchbasin behind Building 6 does not have a silt sack in place.
  - Mr. Cadigan said that the catchbasin behind the clubhouse still has a hood in it that does not allow passage of a clamshell for clean-out.
    - The Association has not found this to be an issue with other catchbasins.
    - Mr. Cadigan asked if this could be addressed.
    - BD wasn't sure if this aspect of the catchbasin was part of ConCom's jurisdiction but sent an email to Mr. Goldsmith asking that it be addressed, as well as placement of a silt sack in the new Building 6 catchbasin.
- **8:41 PM – Adjourn Meeting**
  - TT moved to adjourn; JG 2<sup>nd</sup>.
    - Motion approved unanimously.