

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **10/22/2015** – Approved 11/12/2015

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

### **7:10 PM – Open Meeting**

- **Confirmation of Agenda**

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

- **Approval of Meeting Minutes**

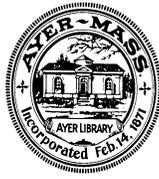
- GB moved to approve the minutes for 10/8/2015 as written; BT 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Public Hearing (cont'd.): NOI – 78 Sandy Pond Road, Hagel LLC (MassDEP # 100-0386)**

- Robert Oliva, of David E. Ross Associates, was present on behalf of the applicant.
- The project proposes the demolition of an existing house and construction of a new single-family house at a further distance from Sandy Pond.
  - BD did a site walk on 9/26; GB, BT, and JG did a site walk on 10/10; CA has visited the site as well.
- BD confirmed for Mr. Oliva that an as-built will be required at the end of the project.
- GB moved to approve and issue an Order of Conditions for 100-0386; BT 2<sup>nd</sup>.
  - Motion approved unanimously and the OOC signed by ConCom.
- GB moved to close the Public Hearing; BT 2<sup>nd</sup>.
  - Motion approved unanimously.
- Mr. Oliva left the meeting with the signed copy of the OOC in his possession.

- **Discussion: Conservation Restriction (CR) on Sandy Pond 3 by C & F Builders**

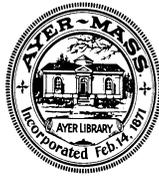
- CA learned that Smolack & Vaughan no longer represent C & F Builders.
- CA also talked with Amanda Veinotte, Administrative Coordinator for Natural Heritage & Endangered Species Program (NHESP).
  - For the past couple of years, Ms. Veinotte has tried repeatedly to contact the developer for Sandy Pond 3 but has gotten no response.
  - According to Ms. Veinotte, neither NHESP nor ConCom can ‘make’ a CR happen, even if the CR was required by the State Conservation Permit.
    - The impetus to finalize a CR has to be initiated by the builder.
- CA got contact information from Ms. Veinotte for David Murray, who is actually doing the work for Ranger Development.
  - CA sent Mr. Murray an email expressing ConCom’s eagerness in finalizing the CR and noting that the initiative to move forward must come from the builder.
- BD said ConCom should look into how, in future, it can develop conditions that compel a builder to actually complete a CR that was required by the State as a condition during the permitting process.
  - BD questioned whether ConCom can use the fiscal mechanism of a bond to ensure terms agreed to, such as a CR, are completed.



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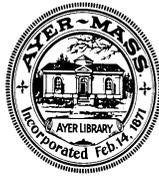
- TT said that the Town of Groton has discouraged its ConCom from employing bonding and advised that that should happen through its Planning Board.
- The issue of whether completion of a CR could be tied to the issuance of an Occupancy Permit was discussed.
  - In such case, stages of the CR process could be tied to stages in the construction of a development.
- TT said Groton sometimes makes it a condition that an escrow account, in control of the ConCom, is developed to enable the fulfillment of maintenance requirements.
- BD asked CA to:
  - get information in writing from Ms. Veinotte regarding how long she has been sending emails to the builder and getting no replies;
  - with that information in hand, then talk with Building Inspector Gabe Vellante to see whether it is possible, and/or he would be willing, to assist the Commission by holding up progress on a project, including issuance of Occupancy Permits, until the builder has fulfilled State and/or local requirements of the OOC.
- **Discussion: Geosyntec’s Draft Reports for Comprehensive Pond Survey**
  - ConCom has now received revised drafts for the pond survey from Geosyntec.
    - The previous drafts were discussed in detail at ConCom’s 6/25, 7/9, and 7/23/2015 meetings.
  - BD asked CA to contact DPW Superintendent Mark Wetzel for details on the Town’s water quality sampling, and to see if the regular testing recommended by the survey would be something the DPW could assist with in conjunction with its own regular testing.
  - BD divided up sections of the latest draft for commissioners to review before ConCom’s next meeting on 11/12:
    - BT: Section 1, Water Quality Sampling;
    - GB: Section 2, Phosphorous Budgets and Modeling;
    - TT: Section 3, Aquatic Vegetation Surveys;
    - BD: Section 3, Aquatic Plant Management Recommendations;
    - JG: Section 4, Field Watershed Investigation and Recommendations.
    - Everyone should review and comment on the opening Executive Summary as well as Section 5, Recommended 5-Year Management Plan.
  - Commissioners should have comments in to CA by 11/9 in preparation for that meeting.
    - BD said a guiding interpretive lens for commenting on the material is the question: ‘Can this material be used to stand up in front of Town Meeting and adequately explain something?’
  - CA will invite members of the Pond & Dam Committee to offer comments by 11/9 and attend the 11/12 meeting as well.
- **CA Updates**
  - 6 Wright Road Violation Notice
    - After advice from the State, CA had the Town Constable serve the Violation Notice to Julie Elmore, of 6 Wright Road.
    - Ms. Elmore subsequently contacted CA, who will have her attend ConCom’s 11/12 meeting.
  - Software



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- CA received a price quote of \$256.03 from IT Systems Administrator Cindy Knox for the purchase of Adobe Govt. TLP Acrobat Standard software.
  - The software would allow for both indexing and searchability of ConCom document postings to the Town website.
- BD asked CA to confirm that this is the best price available prior to the 11/12 meeting.
- ‘Taxable Parcels in Ayer subject to the Wetland Protection Act’ map
  - CA distributed a draft of a map he prepared showing taxable parcels that are jurisdictional to ConCom.
    - CA’s goal is to have a large poster version available for residents to consult, as well as posting the map online.
    - Details as to the best form of shading for overlapping areas still need to be worked out.
    - CA will see if a major road overlay may be workable on the map as well, for the purpose of orienting the viewer.
  - BD asked that a final version be dated and include the tag line: “For informational purposes only.”
    - Final determinations of jurisdictional applicability will still need to be made by CA and ConCom.
  - It is hoped that the map will also be of use to the Building Inspector as a guide for when projects before him require ConCom review as well.
  - BD said an accompanying list showing street addresses and Assessor’s map/parcel numbers, as well as qualitative information about the parcel (e.g. stream, wetland) would also be very useful.
- MACC Fall 2015 Conference on Wetland Mitigation
  - CA and GB attended the Conference on 10/17, and CA distributed a handout from the presentation.
    - Among the notable facts shared at the conference were 1) that only 28% of wetland replications are successful; and 2) 12% of required replications never get done and yet these projects still get their Certificates of Compliance anyway because of poor oversight.
  - The presentation raises suggestions for changes to ConCom’s OOC Special Conditions.
    - ConCom will revisit this as a topic of discussion at its 1/14/2016 meeting.
- Borrego Solar
  - CA performed a site visit with John Coles.
  - CA suggestion that a native plant/seed mix be used under the solar array instead of grass was well received.
  - New England Wetland Plants can provide ‘recipes’ for appropriate local mixes.
- Pingry Hill
  - CA pointed to the 10/13/15 email from Steve Mullaney regarding missing postings of OOC numbers at lots undergoing construction at the subdivision.
    - Mr. Mullaney forwarded CA’s original email on to developer Rick Roper, of Crabtree Development; Lori Loughlin, Project Manager for Powell Construction; and erosion control specialist Desheng Wang.
  - Mr. Mullaney’s email also contained a summary of the 20 currently active OOCs for the development.



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- CA has not heard back from Mr. Roper or Ms. Loughlin as to whether the OOC numbers have yet been posted, and will be checking next Monday, 10/26.
  - CA will also let Mr. Roper know that construction project updates are no longer being received regularly by ConCom.
- Grove Pond water chestnuts
  - CA spoke with the Nashua River Watershed Association (NRWA) about how to handle the invasive water chestnuts in Grove Pond.
    - NRWA can assist in training and guiding but not with the actual removal.
    - This would have to be via volunteers using kayaks or canoes.
  - CA stressed the infestation is still at an early stage but that the risk of spread is not just to water bodies downstream but also to those upstream via birds, amphibians, etc.
  - BD said one thing that needs to be ascertained is how removed water chestnuts can be safely disposed of.
    - Invasives cannot be put into local brush dumps.
    - Because of the heavy metal contamination in the pond's sediments, it might also be prohibitively expensive to dispose of water chestnuts once removed from the water.
    - BD asked CA to reach out to Geosyntec for suggestions.
- **Accounts Payable**
  - Town Constable: \$30.00, for serving of Violation Notice to 6 Wright Road.
    - GB moved to approve payment of \$30; JG 2<sup>nd</sup>.
      - Motion approved unanimously.
  - George Bacon: \$95.00, reimbursement for MACC Conference attendance fee.
    - JG moved to approve payment of \$95; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Member Updates**
  - JG circulated a list for 2016 ConCom meeting dates for approval.
    - In 2016, ConCom will keep to its 2<sup>nd</sup> and 4<sup>th</sup> Thursday of the month schedule in November and December by eliminating the 4<sup>th</sup> Thursday meetings for those two months because of the holidays.
  - JG asked that CA be given the okay to request the Fire Department to remove the boards from Balch Dam after November 1<sup>st</sup>.
  - JG said that, regarding the October 20 deadline for comment in response to the Supplemental Briefing Order on the Anuta Appeal, Town Administrator Robert Pontbriand wrote in a 10/19 email that Town Counsel recommends the Town take a “passive role” and not issue comments.
  - GB spoke recently with reporter Ann O’Connor, for the Nashoba Valley Voice, regarding historical background on the Pine Meadow Conservation Land.
- **10:00 PM – Adjourn Meeting**
  - GB moved to adjourn; BT 2<sup>nd</sup>.
    - Motion approved unanimously.