



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249

Minutes for **2/14/2017** – Approved 3/9/2017

Location: Ayer Town Hall, 1st Floor

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

Not Present: Takashi Tada (TT, Member)

APAC taped: Yes

7:20 PM – Open Meeting

- **Confirmation of Agenda**
 - A discussion with a representative of North Country Land Trust was postponed.
 - A Request for a Certificate of Compliance (COC) for 31 Pingry Way was postponed.
 - GB moved to confirm the agenda as amended; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – Ayer DPW, Balch Dam Dike Improvements Project, East Main Street, MassDEP # 100-0396**
 - GB moved to issue the OOC as approved by the applicant; BT 2nd.
 - Motion approved unanimously.
 - GB moved to close the Public Hearing for 100-0396; BT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for Determination of Applicability (RDA) -- 7 Trevor Trail, Joseph D'Ambrosio Jr.**
 - Assessor's Map 12 & 13, lots 106 & 9; Riley Jayne Farm subdivision, lot 13.
 - Nick Pauling, of GPR, was present on behalf of the applicant.
 - The purpose of the RDA is to move the Limit of Work (LOW) approved under the Order of Conditions (OOC) for Riley Jayne Farm Subdivision, MassDEP # 100-0389 (6/23/2016).
 - The OOC was issued for the entire subdivision, not just this one lot.
 - At ConCom's 1/26/17 meeting, it was felt that the change to the extent of work within the buffer zone was too substantial to be addressed by an RDA.
 - To give the applicant the benefit of the doubt, ConCom asked Mr. Pauling to consult with MassDEP Circuit Rider Judy Schmitz for her opinion as well.
 - Mr. Pauling said that Ms. Schmitz agreed with ConCom that an RDA was insufficient to address the extensive LOW change.
 - Ms. Schmitz provided Mr. Pauling with three possible scenarios:
 - 1) File an Amendment to OOC #100-0389.
 - The difficulty with this as a solution is that the OOC is under the name of the applicant, Riley Jayne Farm LLC.
 - The LOW changes requested are for Lot 13 (7 Trevor Trail) under a different owner, Mr. D'Ambrosio.
 - 2) File a new NOI for Lot 13, for everything related to the house, driveway, grading, LOW, etc.



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- To do this, however, will also require filing for a Partial COC for this lot under the OOC for #100-0389, closing it out from that Order for everything except the water line work.
 - 3) File a new NOI, but just for the area of the planned new work/disturbance within the buffer zone.
 - This would leave the rest of Lot 13 under the original OOC, so that part of the work would fall under one applicant (OOC #100-0389) and the rest under the new applicant's OOC, if issued.
 - ConCom members agreed the second option was the most practical and least complicated.
 - The applicant was advised to submit a new NOI to be done simultaneously with a request for a PCOC.
 - GB moved to issue Positive Determination of Applicability (DOA); BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for COC – 118 Sandy Pond Road, MassDEP # 100-0183**
 - Ed Cornelier asked to appear before ConCom to discuss this.
 - Because of the change of date due to postponement of the 2/9 meeting, Mr. Cornelier was unable to attend this rescheduled meeting.
 - GB moved to continue this discussion to 2/23/2017; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): ANRAD – 0 Washington Street, Rohit Garg, Triple AE Group LLC, MassDEP # 100-0398**
 - Assessor's Map 13, parcels 1 & 2.
 - A revised plan, Job # 151053-D, @/9/2017, has been received.
 - Abutter Ken Diskin, of 180 Washington Street, was present.
 - BD made sure that Mr. Diskin understood that the ANRAD – an Abbreviated Notice of Resource Area Delineation – was merely to confirm the wetland flag line and had nothing to do with whether anything is to be built on the parcels.
 - It was noted that Washington Street was incorrectly labeled Groton-Harvard Road on the revised plan, and also that there were two flags labeled '22'.
 - GB moved to require that the applicant furnish ConCom with the check to cover the Public Hearing ad, and correct the map-plan as noted above and so that it is consistent with information in the Assessor's Office; BT 2nd.
 - Motion approved unanimously.
 - GB moved to continue the Public Hearing to 2/23; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing: NOI – Off Groton School Road, Mark Anderson, MassDEP # 100-0399**
 - Assessor's Map 3, Parcel 88, Lot #2
 - Work on this lot was previously discussed at ConCom's 11/10/2016 meeting.
 - Stephen Sears, of David E. Ross Associates, was present on behalf of the applicant; Mr. Anderson joined the Public Hearing later while it was still in progress.
 - Mr. Sears flagged the wetland delineation on 11/15/2016, with a few new flags added a few weeks ago, prior to snow cover.



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- The NOI is for tree and shrub clearing and stumping as well as the construction of a new driveway within the 100 ft. buffer zone to bordering vegetated wetlands (BVW).
 - The closest point of disturbance to the BVW is 34 ft.
 - Planned construction of a new modular house will take place outside of the buffer zone.
 - However, the front of the lot has to be completely cleared of trees not only in the driveway portion but also more widely in order to allow a crane to have enough room to swing the modular unit from the road onto a foundation.
 - The driveway will be gravel to allow for maximum stormwater infiltration.
- BD said ConCom will need to schedule a site walk, but will need the ground clear enough of snow to be able to adequately assess the application and its buffer zone impact.
- Prior to Mr. Anderson's arrival, Mr. Sears indicated that the modular contractors wanted to get the foundation started as soon as possible.
 - BD said there was no problem with trees being cut and stumped for the foundation since this area is not jurisdictional.
 - After then talking with Mr. Anderson, BD said that clearing trees within the buffer zone, but leaving the stumps, would be allowable at this point.
 - He suggested Mr. Anderson talk to the crane company to see if the operator could do the job initially with stumps left in place in the buffer zone.
 - Mr. Anderson said he was now thinking, given the recent snows, that he wouldn't be able to begin work until March anyway.
 - BD reiterated that Mr. Anderson was free to clear trees for the house in the area beyond the buffer zone.
- ConCom will wait until its first March meeting to assess snow conditions prior to scheduling a site walk.
- GB moved to continue the Public Hearing to 3/9/2017; BT 2nd.
 - Motion approved unanimously.
- **Discussion: ConCom Letter of Support for Parks & Recreation Department Project**
 - Jeff Thomas, Ayer Parks Director, has asked for a ConCom letter of support for an application for CPA (Community Preservation Act) funding to construct an ADA-compliant paved perimeter path around Pirone Park.
 - The Community Preservation Committee (CPC) will hold a Public Hearing to review the application at its 3/1/2017 meeting.
 - CPC typically asks for letters of support from other Town boards for relevant applications.
 - Spring Town Meeting will vote on final funding approval in May.
 - If funding is approved, the Parks Department will then prepare an NOI for ConCom permitting since a good portion of the work will be done in the buffer zone, in close proximity to the shore of Grove Pond.
 - BD read the draft letter prepared by CA.
 - GB moved to approve and sign the letter of support; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for Proposals (RFP), 2017 Aquatic Plant Management for Sandy, Flannagan, and Pine Meadow Ponds**
 - Town Bid #17CC01



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- At its 1/26/2017 meeting, ConCom reviewed and evaluated the two non-price proposals received in response to the RFP.
 - The two bids received were from Solitude Lake Management (formerly Aquatic Control Technologies and Lycott Environmental), of Shrewsbury, and from All Habitat Services LLC, of Branford, CT.
 - Both proposals were found to be substantially ‘responsible and responsive’, but ConCom members expressed a preference for the more substantive Solitude proposal.
 - This put the weight for a final decision to be based on the opening of the cost proposals this evening.
- Chuck Miller, Chair, and Marina Giovannini, Member, of the Pond & Dam Committee, were also present.
 - Mr. Miller expressed the view that Solitude appeared to have a ‘deeper bench of expertise’ than All Habitat.
- Channeling his inner Johnny Carson/Carnac the Magnificent, with appropriate sound effects, BD opened the sealed cost proposals.
 - The Solitude proposal for weed treatment on all 3 ponds totaled \$61,500.
 - The All Habitat proposal was more difficult to evaluate since it detailed separate costs for each aspect of treatment on each pond and did not provide a concluding sum.
 - In addition, the cost proposal was not clear cut, with confusion over whether certain price quotes were per pond or per acre, or whether a price quote (e.g. on photographic coverage) was for each pond or for all three.
 - BD and Mr. Miller came up with 3 possible cost summations:
 - \$874,210, based on the most literal use of the figures in the proposal;
 - \$118,210, making assumptions that some of the cost figures were probably meant to refer to all 3 ponds together rather than individually;
 - \$62,860, the best-case scenario with the most liberal interpretation but totally unsupported by the actual language of the cost proposal.
- GB moved to recommend awarding the RFP contract to Solitude and to forward this to the Board of Selectmen (BOS) for final approval; BT 2nd.
 - Motion approved unanimously.
- GB recommended that ConCom include more definition for an adequate price proposal into its next RFP for future pond treatments.
 - ConCom may consider going so far as to provide a detailed cost sheet for applicants to fill out.
- **Discussion: Possible Land Gift to ConCom**
 - At its 1/26/2017 meeting, CA brought up a possible land gift by Stephen Slarsky in lieu of back taxes.
 - CA was asked to provide a plan of the area, as well as its valuation, for ConCom’s next meeting.
 - The land is roughly behind the new fire station, with Nonacoicus Brook running through.
 - ConCom funded the installation a beaver deceiver on this property last fall to alleviate area flooding.
 - Immediately prior to the opening of tonight’s meeting, Town Accountant Lisa Gabree stopped in to express her support to GB for ConCom accepting the parcel as a gift.
 - The area in question is approximately 3-1/2 acres in size, Parcel 00260030.
 - Back taxes owed are \$2644.24 (\$3430.13 with interest and fines).

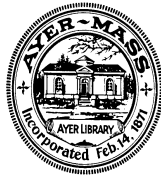


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- Ms. Gabree said accepting the parcel as a gift would take a weight off the Town's accounting burden.
 - CA expressed support for accepting the land as a gift and said he had been talking with the Director of Community & Economic Development as to whether there was a potential to develop the area as recreational space.
 - GB said that ConCom should do a site walk before making a decision.
 - GB also expressed reservations about accepting a very small parcel that would be hard to use, noting that the BOS and the DPW own surrounding parcels.
 - Why, therefore, should ConCom accept this one?
 - BD asked for a motion to concur ConCom's willingness to entertain the possibility of accepting this parcel as a gift, provided that contiguous parcels owned by other Town entities also be turned over to ConCom in order to enable potential recreational use.
 - GB so moved; BT 2nd.
 - Motion approved unanimously.
 - CA will explore this possibility and report back to ConCom.
- **Discussion: Small Dam on Bennett's Brook**
 - ConCom closed its Public Hearing on 1/26/2017 for an ANRAD (MassDEP # 100-0397) for Brent Routhier, at 53 Willow Road.
 - During a site walk for the ANRAD on 1/14/2017, a previously unknown man-made dam was observed on the property.
 - CA was asked to talk to Circuit Rider Judy Schmitz for advice on how to proceed given that the dam might present a public safety issue down the road.
 - Ms. Schmitz advised that the dam should come down, and that the Office of Dam Safety's Standards & Protocols used be used.
 - BD asked CA to pull the Standards & Protocols together for ConCom's next meeting.
 - ConCom will then contact Mr. Routhier and Dr. Desheng Wang, of Creative Land and Water Engineering, to work on resolving the issue based on advice from the State.
- **Discussion: Out-buildings on Pine Meadow Conservation Land behind 102 Oak Ridge Drive**
 - ConCom reviewed an 11/15/2016 response from Town Counsel, Mark Reich, of KP Law, regarding the use of two sheds on Town property by the residents of 102 Oak Ridge.
 - Because the property that includes the sheds was purchased with CPA funds for open space purposes, Mr. Reich did not feel the sheds could be leased for a private purpose.
 - Mr. Reich said that use of the sheds was at the Town's sole discretion.
 - Two options would be the removal of the sheds to another location or their demolition.
 - A third option would entail the BOS permitting licensing for use of the sheds.
 - As opposed to leasing, licensing is a temporary use that does not involve transferring a legally enforceable interest.
 - The licensee would, however, be responsible for paying a license fee, and for complying with any requirements for maintenance and insurance.
 - ConCom was not sure whether a personal entity, i.e. the homeowners, could actually purchase insurance that would extend to sheds on Town property as 'additional insured'.
 - BD asked CA to look into what the Town might consider charging for licensing; whether the Town could consider a waiver of liability; and what insurance the Town might or might not require.



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- **Accounts Payable**
 - Lowell Sun: \$145.86, legal ad for RFP, 2017 Pond Management.
 - GB moved to approve payment of \$145.86; BT 2nd.
 - Motion approved unanimously.
 - Beaver Solutions: \$756.00, annual maintenance fee for 3 beaver deceivers (Long Pond dam, Rock Meadow Pond dam, Slarsky property).
 - GB moved to approve payment of \$756.00; BT 2nd.
 - Motion approved unanimously.
- **10:30 PM – Adjourn Meeting**
 - JG moved to adjourn; BT 2nd.
 - Motion approved unanimously.