



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for **2/23/2017** – Approved 3/9/2017

Location: Ayer Town Hall, 2nd Floor Great Hall

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: No

7:05 PM – Open Meeting

- **Confirmation of Agenda**
 - The two Public Hearings for the DPW were moved to the top of the agenda.
 - GB moved to confirm the agenda as amended; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Farmland Inventory Project, North County Land Trust (NCLT)**
 - Jassy Bratko, Director of Land Protection for NCLT, made a short presentation to ConCom.
 - NCLT is located in Leominster.
 - It currently owns 8 conservation areas, 5 of which are open to the public, and holds 6 additional Conservation Restrictions (CR).
 - The Land Trust is working with a number of towns on its Farmland Inventory Project and hopes Ayer will be part of this.
 - The project seeks to inventory Ch. 61 lands, lands with ‘prime agricultural soils’, and lands already conserved, with a goal of working toward conserving potential farmland parcels.
 - NCLT can then assist towns in identifying and facilitating possible funding sources for conserving such parcels for farmland use.
 - BD expressed ConCom’s enthusiasm for participating in the project and asked Ms. Bratko to coordinate with CA as needed.
- **Public Hearing: Notice of Intent (NOI) – Water Main Extension, Ayer Department of Public Works (DPW), MassDEP # 100-TBD**
 - As an abutter, JG recused herself from this Hearing; GB took notes as Acting Clerk.
 - DPW Superintendent Mark Wetzel and Town Engineer Dan Van Schalkwyk presented the project.
 - The project seeks to install a new cross-country 8-inch water main from the end of Wright Road (Kohler Place subdivision) to Sandy Pond Road.
 - The Wright Road water main currently dead-ends; this project will loop it into the Sandy Pond water main by adding a new 900 ft. section.
 - This will assist with water quality and fire protection by increasing flow and pressure in the area.
 - Horizontal directional drilling (HDD), to a maximum depth of 15-20 ft., will be used to extend the water main.
 - The project will traverse two wetland resource areas, passing underneath the inlet stream to Sandy Pond.
 - An open excavation area will be set up at one end, outside the resource area, at Kohler Place to assemble and insert the new water main as part of the HDD process.



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- Existing erosion controls here will be utilized, and dewatering will be done via an existing stormwater basin.
 - A second open excavation area will be used at the other end, in the buffer zone going out approximately 30 ft. north from Sandy Pond Road, to make the connection to the existing water main there.
 - Dewatering will need to be done at this end but the method is to be determined.
- Mr. Van Schalkwyk said the HDD will take 2 days, while overall the pipe installation will take approximately 2 weeks.
 - The project is planned for the upcoming construction season.
- Work in the actual resource area is limited to soil borings.
 - TT said this qualifies as a limited project in the ACEC.
- A site walk was set up for Saturday, 2/25, at 9 a.m., meeting on Sandy Pond Road near Patriot Way.
 - The DPW was asked to stake the area where the drill rig and temporary access ramp from the road would be located.
- GB moved to continue the Public Hearing to 3/9; TT 2nd.
 - Motion approved unanimously.
- **Public Hearing: NOI – Community Dog Park, 101 Snake Hill Road, Ayer DPW, MassDEP # 100-TBD**
 - DPW Superintendent Mark Wetzel and Town Engineer Dan Van Schalkwyk presented the project.
 - Assessors Map 36, Lots 214 and 218. – aka Parcel H-1.
 - The Town has received a grant from the Stanton Foundation for the construction of a dog park.
 - It is hoped the park will be ready to open by fall 2017.
 - The parcel was originally intended as a soccer field, as part of the agreement with Pingry Hill Subdivision, but the Parks & Recreation Department rejected the site.
 - Parcel H-1 abuts Ayer conservation land on parcel H-2, and is located on the east side of Snake Hill Road, between the B&M rail tracks and Fox Run Drive.
 - A drainage easement exists on a portion of the 43,101 sq. ft. parcel, with the majority of the rest of the easement on H-2.
 - H-1 is within the buffer zone of bordering vegetated wetland on parcel H-2.
 - Selective clearing and grading will take place to construct and install the following:
 - a parking area for 15 vehicles (includes handicapped);
 - concrete walkways to the park gate;
 - a 5-ft. high chain link fence that will encircle two dog play areas (one for small dogs, the other for big dogs).
 - 4 inches of rice stone surfacing for the dog areas;
 - dog park appurtenances – benches, water fountain, shade structure, bag stations, refuse containers;
 - drainage detention basin and swales within existing drainage easement.
 - In addition:
 - 26 existing large maple and oak trees will be left in place for shade and aesthetics.
 - Staked compost socks will be used for erosion control at the limits of disturbance.
 - A stabilized construction entrance will prevent transfer of sediments off site.
 - Disturbed areas will be seeded and mulched after final grading.



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- Approximately 4-6 inches of plant and soil litter will be removed from the site, to be replaced with 4 inches of rice stone.
- A 6-in. deep stone dust path will circle around the outside of the dog park, its height slightly above that of the dog play area.
 - The stone dust path will use filter fabric but not the rice stone area since dogs will dig into and rip any such fabric.
- The DPW will maintain the park, including emptying refuse containers 2-3 times/week.
 - Mr. Wetzel said they anticipated having to replenish approximately 5% of surface material yearly.
 - A Friends of Ayer Dogs group is being formed to monitor the park and perform light maintenance.
- David E. Ross Associates delineated the wetlands, as indicated on plan L-2, updating the measurements from 2004, but they did not reflag.
 - BD asked that the site be reflagged, with a conservative wetland line for that area, for when Concom does its site walk.
 - If the newly-flagged line differs greatly from the line indicated on plan L-2, ConCom is to be notified.
- Resident Tom Poole asked about liability concerns.
 - Mr. Wetzel said that, like other public places, use will be at one's own risk.
 - There will, however, be park rules.
 - BD noted that this discussion was outside of the jurisdiction of ConCom's Hearing interests.
- GB moved to continue the Public Hearing to 3/23, at which time the ground will be clearer and the site flagged and staked; TT 2nd.
 - Motion approved unanimously.
- **Discussion: Public Comment On Draft Local Wetland Bylaw Revision**
 - Over a dozen Town residents were present to ask questions and comment on the draft version of the Bylaw.
 - The draft Bylaw is available for viewing on the Town's website under Conservation Commission.
 - The State's Wetland Protection Act (WPA) provides a base level of protection for wetland resource areas and their buffers.
 - ConCom seeks to update its local Bylaw which currently merely reflects the WPA.
 - The WPA was passed in 1972.
 - Since then, the Commonwealth passed the Rivers Protection Act in 1996.
 - In addition, the Commonwealth's NHESP (Natural Heritage and Endangered Species Program) applies its own more stringent protection standards to ACECs (Areas of Critical Environmental Concern) over which it has jurisdiction.
 - Portions of Ayer are located within two ACECs – the Squannacook and the Petawag.
 - Part of the intention of revising the local bylaw is to consolidate all of these different levels of state protection into one place, providing enhanced clarity for residents and contractors alike.
 - This would include clarity regarding jurisdiction, permit and hearing procedures, and regulations.



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- The Bylaw revision also is intended to provide better protection to the Town's resource and recreation areas
- More than half of the Commonwealth's 351 towns and cities have adopted local bylaws or ordinances.
 - Like many of these towns, ConCom is drawing on the 'model bylaw' provided by the MACC (Massachusetts Association of Conservation Commissions).
 - The model bylaw has already therefore been reviewed and accepted many times over when individual towns have submitted versions of it to the Commonwealth's Office of the Attorney General.
- Comments:
 - DPW Superintendent Mark Wetzel questioned the inclusion of protection for intermittent streams, brooks and creeks within the 200 ft. riverfront buffer zone rather than the 100 ft. wetlands buffer zone.
 - The MACC model bylaw includes intermittent streams within the 100 ft. buffer zone, not the 200 ft.
 - Mr. Wetzel argued that this change would be both restrictive and a costly hardship for many residents who might suddenly find a backyard project to be newly jurisdictional.
 - CA said that ConCom had specifically added exemptions for public works such as stormwater and sewer lines for this regard.
 - Mr. Wetzel said he was speaking instead about a prohibitive impact on homeowners.
 - BD noted that this was the value of public comment periods; ConCom will reconsider this change.
 - Mr. Wetzel questioned the lack of clarity in the model bylaw's references to vernal pools.
 - His experience in the Town of Reading was that some aspects of the model bylaw were restrictive but not necessarily helpful.
 - Under the "Definitions" section, the wording of the model does not differentiate between certified versus uncertified and potential vernal pools, leaving the definition in the bylaw somewhat subjective.
 - ConCom discussed considering narrowing the definition to refer to potential vernal pools that meet the criteria, are not yet certified but have been under study for more than a year.
- *Temporary interruption: Autumn Ridge COC, see below.*
 - Reviewing the Bylaw section on "Exemptions and Exceptions," resident John Cadigan suggested removing the last paragraph which says that 'exceptions provided in the WPA and regulations shall not apply under this bylaw'.
 - In saying so, Mr. Cadigan noted what he perceived to be the anti-regulatory atmosphere of our time period.
 - Under the "Notice & Hearings" section, the issue of abutter notifications was discussed.
 - The WPA specifies notification to abutters within 100 ft. of the permit applicant's property line for NOI applications.
 - The MACC model, reflected in Ayer's draft, changes this to 300 ft. and now requires abutter notification to applications for RDAs and ANRADs as well.

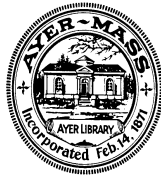


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- This would expand the notification zone.
 - It was pointed out to two residents present that this would have meant that, under the new Bylaw, they would likely have been notified of the RDA for a solar farm currently under construction near Rosewood Avenue.
 - Both residents complained they had not received abutter notice for a solar farm currently under construction in that area.
 - Mr. Cadigan suggested ConCom adopt the procedure of requiring the sending out of notices of decision to abutters.
 - Under the section on “Coordination with Other Boards,” it was suggested that the number of other boards cited for comment requests be further reviewed.
 - Additional details, such as accepting “read receipt and email,” will also be considered.
 - Also, consideration as to whether references to calendar days ought to be changed to business days.
- *Temporary interruption: Request for COC, 29 and 31 Groton-Harvard Road, MassDEP # 100-0012, see below.*
 - BD continued with review of “Permits & Conditions” section.
- This being a long section, and given the lateness of the hour (after 10:30 p.m.), further discussion of public comments regarding the Bylaw draft were continued to ConCom’s 3/9/2017 meeting.
- **Discussion: Request for Certificate of Compliance (COC) – Autumn Ridge Development, Groton Road, MassDEP # 100-0255 and 0317**
 - The discussion of the Bylaw was temporarily interrupted when Mr. Wetzel alerted ConCom to the presence of residents from Autumn Ridge who were there because a COC request had been put on the agenda.
 - This development has a complicated history with multiple changes in ownership during the time of construction.
 - A long outstanding issue preventing issuance of the COC has been the condition of the turtle habitat, a requirement imposed by NHESP.
 - CA said it was his understanding that this was not part of ConCom’s OOC.
 - BD and TT said that nevertheless this condition needs to be fulfilled satisfactorily before ConCom can sign a COC.
 - CA was instructed to contact Misty Ann Marold, of NHESP, who had previously inspected the habitat and found it still wanting.
 - CA also said the wetland area at Autumn Ridge looked like it was where it was supposed to be but he couldn’t tell how much met the requirements of the OOC.
 - CA said there was not a map in the file.
 - BD said he would look in his own files as there very definitely is a map.
 - An Autumn Ridge resident asked how to go about having the turtle habitat certified as satisfactory.
 - BD said it had to be prepared according to the standards of NHESP; its maintenance is now up to the Homeowner’s Association; and BD would stop by over the weekend to look at it.

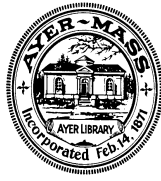


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- Another Autumn Ridge resident complained that people were unable to sell their properties (condos) since, without a signed COC, their individual deeds reflected an open lien on their properties.
 - JG pointed out that residents only need to apply for a Partial COC which would easily resolve that problem.
 - BD asked CA to step out into the hallway to explain the details to the concerned resident.
- **Discussion: Request for COC -- 29 Groton-Harvard Road, Edward & Roberta Orr, MassDEP # 100-0012;**
- **Request for COC, 31 Groton-Harvard Road, Jonathan Rose, MassDEP # 100-0012**
 - Around 10:30, CA interrupted the Bylaw discussion to note that several residents were present to get COC's for their properties.
 - This COC request is the result of CA's cleaning out the files and closing out old OOCs.
 - CA did not visit the site because, according to his reading of the OOC, there was nothing to inspect.
 - The OOC was issued in 1977 but was never recorded at the Registry.
 - TT said, therefore, that signing a COC at this point made no sense since there was nothing to change at the Registry.
 - CA said this would close out ConCom's file on this property.
 - Given the lateness of the hour and that it would do no harm to sign a COC, GB moved to issue a Partial COC for #100-0012, 29 Groton-Harvard Road and close this OOC out; TT 2nd.
 - Motion approved unanimously.
 - GB moved to issue a Partial COC for #100-0012, 31 Groton-Harvard Road; TT 2nd.
 - Motion approved unanimously.
- **Discussion: FY 2018 Budget**
 - ConCom and the Pond & Dam Committee have asked for a line item in the omnibus budget for annual weed treatment maintenance on Ayer ponds.
 - As a line item, this regularizes expenditures for treating the ponds, and helps fulfill the maintenance recommendations detailed in the Geosyntec Ponds Report, commissioned by ConCom.
 - Because the extent of pond treatments, and therefore the cost, will vary year to year, ConCom had also asked for a line item whose unexpended funds would roll-over into the same account in the next FY.
 - This would allow an accumulation of funds, augmented by annual deposits as approved in the line item at Spring Town Meeting, and make planning for bigger treatment years more feasible.
 - CA relayed that Town Accountant Lisa Gabree says that money for pond management could not roll over but would rather zero out at the end of each fiscal year.
 - BD noted that ConCom has had just such a rolling-over account for years in the form of its beaver management account.
 - CA suggested an alternate mechanism of resurrecting a 'Conservation Fund' that was approved in 1973.
 - Such a fund would then allow ConCom to use accumulated monies for pond treatment or land management.



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- ConCom members were opposed to having a vague account that could be used for anything except for pond treatment – which is what ConCom will be advocating as a new line item at the STM in May.
 - The idea of a Conservation Fund was rejected at this time.
- BD asked CA to ask Ms. Gabree and Town Administrator Pontbriand to provide ConCom with the mechanism that would provide:
 - 1) a regular line item in the budget (actual sums may vary year to year);
 - 2) AND a mechanism whereby unexpended funds roll over into the next FY and accumulate.
- **10:55 PM – Adjourn Meeting**
 - JG moved to adjourn; TT 2nd.
 - Motion approved unanimously.