



Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

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

7:05 PM – Open Meeting

- **Confirmation of Agenda**
 - Discussion of a potential Grove Pond Conservation Restriction was moved to the end.
 - Because some residents were present with questions, discussion of Ayer 1 Solar was added.
 - GB moved to confirm the agenda as amended; BT 2nd.
 - Motion approved unanimously.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 3/23/2017 as written; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Ayer 1 Solar (accessed via end of Rosewood Avenue)**
 - Residents Mark and Kathy Smith, of 23 Douglas Drive, had questions about the area of wrongful clearing in the riverfront to James Brook.
 - (See previous discussions with Goldsmith, Prest & Ringwall (GPR) on this: 3/9 and 3/23/2017.)
 - BD went over an area map and described GPR's anticipated plan to repair the construction error.
 - The Smiths were told that an NOI would be forthcoming from GPR for the restoration plan.
 - Abutters would be notified, but the residents were also told to monitor ConCom's posted agendas.
 - Whether a hedge could be required to cover up the planned fence around the array is out of ConCom's purview.
- **Discussion: Site Walk Confirmation**
 - ConCom scheduled a site walk at 8 a.m. at 26 Hemlock drive on Saturday, 4/15.
 - ConCom scheduled a site walk at 9 a.m. at 31 Pingry Way on Saturday, 4/15.
 - Attorney Eliopoulos, working to secure a Certificate of Compliance (COC) on behalf of the previous homeowners, confirmed permission from the current homeowner to enter the property, as discussed on 3/23/2017.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 7 Trevor Trail, Joseph D. Ambrosia, Jr., MassDEP # 100-0400**
 - Riley Jayne Farm subdivision lot 13, formerly 114 Pleasant Street; Assessor's Map 12 & 13, parcels 9 & 106.
 - Note: This NOI application is because work at 7 Trevor Trail is being split off from the approved plan (OOC 100-0389) for the Riley Jayne Farm subdivision as a whole.



Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

- As this NOI application (100-0400) is completed, a partial COC will be requested to remove this lot from the subdivision's OOC (100-0389).
- Nick Pauling, of GPR, was present to discuss the application and present a revised plan (GPR Job 161078, revised 4/5/2017) on behalf of the homeowner, Mr. Ambrosia.
- As discussed at ConCom's 3/23 meeting re an Enforcement Order, mistakes were made by the site contractor (Onyx Corporation) for the Riley Jayne Farm subdivision in laying out the limit of clearing/erosion control line.
 - As a result, trees were cleared in some areas where they were not supposed to be cleared.
 - A restoration/mitigation plan for this construction error is in the works and will require a new / separate NOI.
 - Related to this construction error for the subdivision as a whole, forested land was mistakenly cleared on the 7 Trevor Trail / lot 13 as well.
- The plan for this NOI (100-0400) now indicates revisions to the existing clearing limit and a staging area.
 - A dewatering location is marked in case one is needed.
 - The original plan (January 2017, Job 161078) intended to preserve a 750 sq. ft. clump of trees but these were mistakenly cleared, as noted above.
 - As a result of this change, the revised plan now shows the relocation of two pipes, one for the foundation drain, the second for overflow from the roof drain.
 - In addition, work has been pulled back from the wetland line in one area to make up for the 750 sq. ft. of trees that were not supposed to have been cleared elsewhere on the lot.
- With these changes, Mr. Pauling said that the originally-proposed buffer zone clearing therefore remains the same.
 - In addition, the originally planned clearing for this lot, under the Riley Jayne OOC (100-0389), was 17,301 sq. ft.
 - Changes to the amount of clearing led to the submission of a separate NOI (100-0400).
 - The revised plan, under 100-0400, calls for 23,988 sq. ft. of buffer zone clearing.
 - 1100 sq. ft. of this total still remains to be cleared.
- BD and Mr. Pauling agreed that an ideal area for some of the restoration was a 'divot' on the plan where clearing mistakenly took place, along with two other spots on the lot.
- Mr. Pauling stressed that the restoration work, and associated costs, are to be done under the Enforcement Order for 100-0389, and are not the responsibility of the homeowner for 7 Trevor Trail (100-0400).
 - The mistaken clearing was done by the Riley Jayne contractor (Onyx), not the homeowner.
 - As a result, Mr. Pauling said that the revised plan for 7 Trevor Trail therefore did not include restoration details for a "vegetative barrier" and specific plantings on this lot.
 - He asked that the request for a border and restoration plantings be put in the conditions under the EO (which will require its own new NOI submission) so that it is not the homeowner's burden to implement.
 - Mr. Pauling said the homeowner was open to shrubs but would not be in favor of a hedgerow as the vegetative barrier between the yard and wetlands.
 - BD asked that GPR be in communication with Mr. Ambrosia to ensure that GPR's restoration plan was acceptable to the homeowner.



Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

- The complicated logistics of issuing an OOC for this NOI application (100-0400), but requiring restoration work by the contractor (Onyx) under a new NOI responding to the EO against the original OOC for the subdivision (100-0389) was discussed.
 - The wording has to be such as to place the burden on Onyx Corporation for restoration work specific to lot 13.
 - BD suggested that the COC separating 7 Trevor Trail from the subdivision not be issued until the restoration work is complete.
 - In addition, the wording of the 100-0400 OOC needs to be such that the homeowner, Mr. Ambrosia, is not encumbered with the requirement for the vegetative barrier that he is not responsible for building.
 - BD wondered if it was plausible to issue an OOC for Mr. Ambrosia that includes the vegetative barrier between yard and wetland.
 - Ideally the vegetative barrier should be in place prior to the start of construction at 7 Trevor Trail.
 - Complicating this is that it is unlikely the barrier can be in place prior to the end of May, when Mr. Pauling indicated that the applicant might then have the building permit necessary to begin work.
 - The best time for such restoration planting is in the spring, prior to June.
 - Onyx has not yet submitted an NOI for the restoration work per the EO to 100-0389.
 - This means that Onyx is unlikely to receive an OOC that will allow them to do this work on the 7 Trevor Trail lot until the optimal planting time has passed.
 - This therefore makes it difficult to require the vegetative barrier to be in place before work begins for 7 Trevor Trail under OOC 100-0400.
 - BD asked that language in this OOC indicate that the vegetative barrier is to be designed and implemented under the EO process by the underlying contractor (for Riley Jayne Farm, 100-0389).
 - BD asked CA to work on squaring away the language and to have a draft OOC for 100-0400 ready for ConCom review at its 4/27 meeting.
 - BD asked Mr. Pauling to let GPR and Onyx know that ConCom needs the NOI as soon as possible for the restoration plan to answer to the Enforcement Order.
 - GB moved to continue the Public Hearing for 100-0400 to 4/27/2017; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for COC – Mill Corp., Littleton Road (DEP # 100-0291)**
 - Assessor's Map 43, Parcels 4 & 7, Map 36, Parcel 18.
 - John Boardman, of Places Associates, Inc., was present.
 - The OOC was issued in 2005.
 - Work was done to stabilize piping but the piping is not going to be used.
 - CA has walked the site and seen no issues.
 - GB moved to issue a COC for 100-0291; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for COC – Julie and Neil Lacey, 34 Calvin Street (DEP #100-0283)**
 - Assessor's Map 21, Parcel 101
 - CA visited the site where a garage was put in late in the 1990s and found no issues.



Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

- GB moved to issue a COC for 100-0283; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – Water Main Extension, Ayer Department of Public Works (DPW), MassDEP # 100-0401**
 - DPW Superintendent Mark Wetzel and DPW Town Engineer Dan Van Schalkwyk were present.
 - With the applicant's agreement, JG recused herself from participation but remained present for taking notes.
 - Mr. Van Schalkwyk provided requested information to Misty-Anne Marold, of NHESP, on 4/3 but has not yet had a reply.
 - GB moved to continue the Public Hearing to 4/27; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Community Dog Park, 101 Snake Hill Road, Ayer DPW, MassDEP # 100-0402**
 - Assessors Map 36, Lots 214 and 218. – aka "Parcel H-1."
 - Includes a small portion (0.7% - 2600 sq. ft.) of "Parcel H-2."
 - DPW Superintendent Mark Wetzel and Town Engineer Dan Van Schalkwyk were present.
 - ConCom performed a site walk on 4/8.
 - BD said there were some inconsistencies in the wetland flagging, done by David E. Ross Associates, at the back of the lot.
 - As long as the layout of the erosion controls accommodated these changes, it did not present a problem to moving forward on the application.
 - BT asked about the wellhead seen on the lot.
 - Mr. Wetzel said that it was likely an observation well for Epic Enterprises (Pepsi), across the street.
 - If it is, it will have to be abandoned according the MassDEP requirements.
 - Mr. Wetzel will check with Epic's geologist.
 - Resident Liz Bodurtha asked if the dog park's planned fence along the rail road tracks would include a sound barrier.
 - BD said this was not within the jurisdiction of ConCom.
 - Mr. Wetzel said his intent was to leave as much of a natural barrier between the dog park and the tracks as possible.
 - GB moved to continue the Public Hearing to 4/27 for the purpose of discussing the draft OOC; BT 2nd.
 - Motion approved unanimously.
 - Mr. Wetzel also asked the Commission for a letter of support for the dog park, addressed to the Community Preservation Committee.
 - The DPW is requesting 10% (\$20,000) in CPC funding for construction costs, to fulfill the terms of the Stanton Foundation's grant.
 - JG produced a draft letter of support which BD signed.
 - Mr. Wetzel also noted that a promotion for the dog park will be held at Pirone Park on Sunday, May 7, from 10 a.m. to noon.
- **Unscheduled Discussion: Ayer DPW**

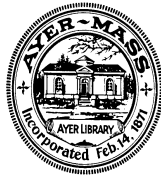


Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

- Mr. Wetzel told ConCom of the DPW's plans to erect solar panel arrays on the closed landfill adjacent to the Transfer Station, on Groton-Harvard Road, and by the waste water treatment plant.
 - There are some environmental issues at the waste water plant that have yet to be resolved so this is not yet moving forward.
- The layout of an array on the landfill is clearcut, however, and the DPW has selected Citizens Energy to do the installation.
 - A lease has not yet been signed as this will require Town Meeting approval..
- Mr. Wetzel asked how much involvement ConCom will want on the landfill installation.
 - The landfill is upland from Pine Meadow Pond and an intermittent stream running into the pond.
 - Mr. Wetzel said the landfill is a clearly-defined space that is already graded; ballast blocks will be placed on top of the landfill to anchor the panels.
- BD said that the Commission would like to walk this site when the project is ready to move forward.
- **Discussion: Request for Extension of Order of Conditions (OOC) – Ridge View Heights (Pingry Hill), Phase V Subdivision Infrastructure, MassDEP # 100-0369**
 - GB moved to extend the OOC for 3 years, from 5/8/2017 to 5/8/2020; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for COC – John Giaimo, 12 Patriot Way, MassDEP # 100-0335**
 - Assessor's Map 22, Parcel 69
 - CA performed a site visit and reviewed the as-built plan.
 - The OOC called for a row of signs at the proposed limit of work (LOW) to indicate that no clearing was to be done beyond that point.
 - The signs were not put in and significant additional clearing and planting was done beyond the LOW, with the backyard now approximately twice as big as originally planned and approved.
 - It is unclear whether this was done by the developer or the homeowner, although CA said the homeowner has been informed that this discussion is going on.
 - BD asked CA to start with Mr. Giaimo, the developer, and see when ConCom can perform a site walk to determine what went wrong.
 - If Mr. Giaimo could possibly do the coming Saturday morning, 4/15, ConCom could add it to its planned schedule of site walks.
 - CA will check the following day and let the Commission know.
- **Discussion: Spring Town Meeting Warrant**
 - Town Accountant Lisa Gabree asked for a vote from ConCom to approve 1) ConCom's line item in the Omnibus budget; and 2) ConCom's raise article for \$25,000, to go into a fund that will roll-over and accumulate from year to year for the purpose of performing pond treatment and management.
 - The sheet submitted for ConCom's line item in the budget now reflects the change in the CA position from part-time to full-time.
 - The sheet, however, lacked column titles, which presented some confusion.
 - CA said, however, that Ms. Gabree needed this voted on now.

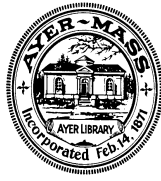


Town of Ayer Conservation Commission

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

Minutes for 4/13/2017 – Approved 4/27/2017

- It was assumed that any confusion could be cleared up by Ms. Gabree during Town Meeting (5/8).
 - Therefore, GB moved to approve the “proposed guessestimate” of ConCom’s line item for the Omnibus budget; JG 2nd.
 - Motion approved 3-0 (BT abstained).
 - GB moved to approve the \$25,000 raise article for pond management; BT 2nd.
 - Motion approved unanimously.
 - BD asked CA to convey that ConCom will need clear written explanations of such items in the future before it will proceed with votes to approve.
- **Conservation Administrator Updates**
 - Field Inspections Report and Log Book Review
 - ***Woodland Way (Pingry Hill)***
 - Desheng Wang, of Creative Land & Water Engineering, was present.
 - Dr. Wang is the onsite Erosion Control Specialist for the developer.
 - CA walked the site on 4/7 with Dr. Wang and site contractor Glen Pyburn after some recent heavy rains, including particularly heavy rain on 4/4.
 - Some holes and weak points in the erosion controls were identified.
 - Sedimentation and turbidity was visually observed in wetlands, resulting in pools of cloudy water.
 - Dr. Wang said the erosion controls worked well to retain large particle sediment, but some turbidity flow, of fine particles, did go beyond the erosion control line into the downgradient wetlands.
 - Dr. Wang took multiple turbidity readings in several affected areas.
 - While turbidity was higher than normal, no readings exceeded 30 NTUs (Nephelometric Turbidity Unit).
 - Both MassDEP and the EPA employ a 50 NTU threshold as their standard.
 - Dr. Wang said the sedimentation problem was contributed to by heavy rains falling on still-frozen ground.
 - In response to the noted problems, improvements have been made to the site, including:
 - erosion controls have been repaired where necessary;
 - floc logs will be used for additional filtration and turbidity control at weak points;
 - mulch tube check-dams have been added in areas of greater flow during storm events;
 - additional mulch, including grindage blankets, are being employed.
 - Close monitoring of the site and its controls will continue to be performed.
 - CA said he did not believe an Enforcement Order was warranted given the excellent response on the part of Dr. Wang and the site contractor.
 - BD was pleased that additional precautions are being taken, even with the measured turbidity following the storm events showing results below the State and EPA standards.

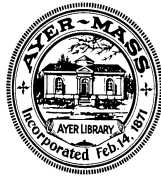


Town of Ayer Conservation Commission

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

Minutes for **4/13/2017** – Approved 4/27/2017

- BT asked about the status of the soil borrow pit, noting that sediment runoff from this area, which is nonjurisdictional and which the Town never agreed to, is quite evident.
 - Dr. Wang said that the sediment basin will be cleaned and more floc logs employed.
- ***Riley Jayne Farm***
 - CA made two visits to this site.
 - While there were problem areas, the contractor did a good job in patching these.
- ***Kohler Place***
 - CA observed small blowouts in the erosion controls in a couple areas but these have been cleaned up.
 - He has talked to A.J. Bergin about installing additional erosion controls higher up, at the source of water flow.
- ***Willow Road***
 - As noted in regular updates received from Mary Trudeau, erosion specialist for this project, the site is continuing to look good.
- ***COC site walks***
 - CA has done a number of these in support of various requests for COCs on the agenda.
- **Mr. Mapper Database**
 - CA has been investigating the pros and cons of attaching ConCom's database (still in process of completion) to the Assessor's database.
 - This could be done in conjunction with MRPC's (Montechusett Regional Planning Commission) platform and would cost approximately \$865 to append.
 - CA described 3 different scenarios:
 - one to which only CA would have access;
 - an internal version allowing access to other Town employees;
 - a public facing version allowing access to residents.
 - CA noted that the Town of Concord did this but stopped because of residents' privacy concerns.
 - BD asked CA to find out more information on costs, especially assuming that such a database would need to be updated and that this would likely involve additional costs.
 - ConCom will revisit consideration of this at its next meeting.
- **2017 Pond Treatment, Solitude Lake Management**
 - Solitude asked that ConCom add the use of Clipper Herbicide (Flumioxazin) to the Town's OOC (MassDEP # 100-0293).
 - No action in this regard is needed as the language of the Town's OOC for pond treatment, condition 21, is nonspecific and reads "A copy of all herbicide product labels and registration numbers must be supplied to the Conservation office prior to commencement" of treatments.
 - However, it was noted that the 2013 review study just submitted by Solitude with their materials describing Flumioxazin poses some questions:
 - Solitude's narrative submitted earlier in the month stated that "Clipper is a USEPA/MA registered herbicide approved for use in lakes and ponds."
 - But in the accompanying June 2013 MDAR/MassDEP technical review of Clipper, the study stated that "Flumioxazin should be excluded from use in State-



Town of Ayer Conservation Commission

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

Minutes for **4/13/2017** – Approved 4/27/2017

listed aquatic species habitats, unless otherwise authorized in writing on a case-by-case basis by the MA Division of Fisheries and Wildlife...”

- BD asked CA to contact Solitude to explain why it is okay to use Clipper since the study that Solitude provided to ConCom indicates it may not be okay to use.
 - BD asked for CA to get something in writing from Solitude that confirms their planned use of Clipper is approved exactly as stated in the June 2013 study.
 - It was noted that this especially needs to be confirmed given that the ponds to be treated are all located in ACEC’s (Areas of Critical Environmental Concern).
- CA Course Work
 - CA is seeking approval from ConCom to fund courses he is taking for certification from the New England Wildflower Society.
 - The certification is for “Field Botany” and “Advanced Field Botany.”
 - CA provided a calendar of the courses scheduled over the next 6 months.
 - Some of the courses would take place during workdays.
 - CA is asking that ConCom fund these courses, totaling almost \$1600, from its Wetlands Fund.
 - ConCom members asked what the direct benefit to the Town would be.
 - In addition, ConCom members had concerns about approving courses that would take place during the workday.
 - CA was asked to provide Town Administrator Pontbriand with details and ask for an opinion from the Town as to its policy.
 - BD also asked that CA provide Mr. Pontbriand with a clearer listing of the courses and course times.
- Stratton Hill, off Wright Road
 - CA said that A. J. Bergin (Kohler Place, Wright Road), is considering purchasing this land for development from Dave Moulton.
 - BD asked CA to check with the Assessor’s office regarding the status of the Stratton Hill property and whether it has been sold.
 - Apparently the Division of Fish & Wildlife made an offer to Mr. Moulton last summer, which was declined.
 - Mr. Bergin asked to walk the site with CA the following week to consult.
 - ConCom members were adamant that this could be a potential conflict of interest for the Commission and that CA should not do an advisory site walk with Mr. Bergin.
 - This would be especially so if Mr. Bergin does not own the property, and in addition would be using such advice to affect a decision to purchase and develop.
 - BD stressed that the Commission can interpret the results of paperwork presented in an application but cannot give such advice outside of that jurisdictional parameter.
- **Member Updates**
 - JG asked if CA had received information from the Town Administrator’s office on the Slarsky property as well as the conditions for use of sheds on Town-owned land off Oak Ridge.
 - CA said the Town Administrator’s office was currently very busy.
 - JG told CA about some apparent earthwork activity on the bank of the stream where Eagle Scout Robert Houde plans to construct a wooden bridge.



Town of Ayer Conservation Commission

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

Minutes for **4/13/2017** – Approved 4/27/2017

- CA will look into this.
 - GB noted that the Town of Harvard will be hosting a talk on ticks on May 2.
- **Discussion: Devens Enterprise Commission (DEC), Grove Pond Conservation Restriction (CR)**
 - Angus Neil, DEC Planner, was unable to attend tonight's meeting.
 - The DEC is asking ConCom to be a backup holder of a CR.
 - Given that Mr. Neil plans to attend ConCom's next meeting, no further action was taken at this time.
- **10:40 PM – Adjourn Meeting**
 - GB moved to adjourn; BT 2nd.
 - Motion approved unanimously.