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TOWN OF AYER

2017 JUL 17 PM 12:48

## Town of Ayer Conservation Commission

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

Minutes for 6/8/2017

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 Collieran (CA, Conservation Administrator)

Not Present: Takashi Tada (TT, Member)

APAC taped: Yes

### 7:08 PM – Open Meeting

- **Confirmation of Agenda**

- A continued discussion of arsenic sampling, by Solitude Lake Management, for Grove Pond water chestnuts was added.
- GB moved to confirm the agenda as modified; BT 2<sup>nd</sup>.
  - Motion approved unanimously.

- BD asked CA to contact Solitude for information as to when Sandy Pond is scheduled for treatment.

- This treatment needs to be scheduled within the next few weeks to be effective.
- BT asked that CA also let Solitude know that the first treatment of Flannagan Pond does not visually seem to have been that effective.

- **Approval of Meeting Minutes**

- GR moved to accept the minutes for 5/25/2017 as written; BT 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Public Hearing (cont'd.): Notice of Intent (NOI) – Ayer Solar II, 0 Washington Street, Rohit Garg, Ayer Solar II LLC, MassDEP # 100-0403**

- Assessor's Map 4/parcel 39, Map 12/parcel 1, and Map 13/parcel 1 & 2.
- Kyle Burchard, of Goldsmith, Prest & Ringwall (GPR), was present on behalf of the applicant.
- The NOI proposes construction of a lengthy access driveway to a planned new solar array, entering the site from Washington Street, to the east.
  - ConCom has a site walk scheduled with the outside consultant Matt Schweisberg, of Wetland Strategies & Solutions, on Tuesday, 6/13, at 6 p.m.
    - Mr. Burchard showed maps previewing the flagging that has been laid out for the site walk.
- GPR has also contracted with Oxbow Associates to prepare Habitat Evaluation Form A.
  - The consultant will be asked to review and assess this as well, as an add-on cost.
- JG asked if the project required MEPA review as this had been raised the night before at a CPC meeting.
  - (MEPA – Massachusetts Environmental Policy Act, a state permit)
  - The project does not seem to meet the threshold that requires MEPA review.
- GB moved to continue the Public Hearing to 6/22; BT 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Public Hearing (cont'd.): NOI – James Brook Riverfront Restoration, Ayer Solar I, Rohit Garg / Prometheus Power Group, 0 Rosewood Avenue, MassDEP # 100-0404**

- Assessor's Map 3/parcels 2 & 50, northeast of the end of Rosewood Avenue.



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- Kyle Burchard, of GPR, was present on behalf of the applicant.
- ConCom did a site walk with Mr. Burchard on the evening of 5/26.
  - Per the site walk, a small berm on the westernmost side of the site, to capture drainage and direct to a natural depression, has been added to the plan.
    - This was previously raised by the Commission during a site walk over the winter but not included in the proposed plan.
    - On viewing the area again without snow on the ground, BD felt addition of the berm was warranted.
- The restoration plan is still in the process of being revised.
  - Plantings being considered for the restoration now include afterglow winterberry, vernal witchhazel, and rhododendron while viburnum has been removed, per MassDEP comments.
  - Two-three inches of mulch will be used around the base of newly planted trees only so as not to impede natural regrowth of native seeds.
    - Note 13 on the GPR plan will be amended to change the language from mulch to be spread "throughout all planted areas."
  - ConCom will be asking for a requirement that a 3-ft. wide path be left cleared on the outside of the array fence, with a wildflower mix used in this area.
    - This area can then be mowed twice a year.
  - While the GPR plan cites a one year plant guarantee period in Note 14, ConCom asked that the wording be changed to cover a minimum of "two growing seasons."
  - As an additional note, GPR was asked to provide a plan for the monitoring and removal of invasive species throughout this period.
- BD said that, given the time of year, restoration plantings should not, now, be done until the end of August or September in order to have the greatest chance of success.
  - The invasive species plan will need to be prepared and approved prior to the commencement of that work.
- Mark Smith, of 23 Douglas Drive, asked about plantings and the eventual height of some of the trees and shrubs being considered for planting (red cedar – 15 ft. at 10 years; white pine, 25 ft. at 10 years; rhododendron 8 ft. at 10 years).
- CA said that, in his view, the restoration plan did not have an ecology-justified purpose (including justification for species choices) and looked more like a plan for screening than restoration.
  - He referred to the Army Corps of Engineers standard for restoration tree planting in wetlands – roughly 700 trees per acre.
  - It was noted that the Corps standards is for wetlands while the James Brook restoration is for buffer zone work significantly upland from the wetlands.
  - CA suggested the proposal be vetted by an ecology-trained professional, such as from Oxbow Consultants.
  - BD said he thought the way trees were clumped and grouped in the current draft plan was good, and did not want more mature trees planted closer together, especially with so much new native growth coming in.
- The use of hemlock in the planting plan was eliminated because of its susceptibility to disease.
- ConCom will look forward to seeing how the draft plan evolves.
- GB moved to continue the Public Hearing to 6/22; BT 2<sup>nd</sup>.
  - Motion approved unanimously.



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- **Public Hearing (cont'd.): NOI – 26 Oak Ridge Drive, Roger Kanniard / R.D. Kanniard Homes, Inc., MassDEP # 100-0405**
  - The CERO number having been received, ConCom could proceed with the completion of the application.
  - GB moved to sign the OOC for 100-0405; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to close the Public Hearing for 100-0405; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
  - BD explained to resident Carol Lacey that this means the applicant can now go forward with other permitting, i.e. from the Building Inspector.
- **Public Meeting: Request for Determination of Applicability (RDA) – 149 Oak Ridge Drive, John Wickens**
  - Assessor's Map 21/parcel 64
  - Mr. Wickens was present on his own behalf and distributed copies of the plans.
  - CA did not do a site walk because the plans seemed straightforward.
  - Mr. Wickens plans to build a deck in his back yard, 16 ft. wide by 12 ft. deep.
    - He has already been in contact with the Building Inspector who advised him to contact ConCom because the work will be within the buffer zone to Flannagan Pond.
    - The application says the deck will use sonotubes as footing but Mr. Wickens said he might replace those with pre-cast, already-made piers.
    - BD suggested Mr. Wickens would likely want to scrape away the topsoil underneath the deck and replace with stone.
    - The closest work to the pond is approximately 59 ft.
  - ConCom's condition will be that soil from the construction process (installation of piers, clearing from underneath deck) is to be hauled off site.
    - GB moved to issue a Negative Determination of Applicability, #3, with the above condition; BT 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Public Meeting: RDA – 8 Hemlock Drive, Gerald Croteau Jr.**
  - Assessors Map 36/parcel 101
  - Neither the applicant nor a representative showed up.
  - No further action taken.
- **Discussion: Request for Certificate of Compliance (COC) – 22 Robbins Road, MassDEP # 100-0073**
- **Discussion: Request for Certificate of Compliance (COC) – 22 Robbins Road, MassDEP # 100-0135**
  - Assessor's Map 37/parcel 21 (Lot 45)
  - The RDAs were submitted by Attorney Thalheimer on behalf of the owner.
  - 100-0135 was previously discussed at ConCom's 5/25 meeting.
    - As requested, an engineer's letter, dated 6/8/2017, from Brian Milisci, P.E., of Whitman & Bingham, has been received.



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- The letter addresses satisfactory completion of the work for 100-0135 as well as measurement of the Pingry Way wetland crossing from headwall to headwall (46.5 ft. +/-) under 100-0073.
    - The letter does not, however, address confirmation of the compensatory flood storage capacity required by the OOC.
  - The other COC request was for OOC 100-0073, which was issued in 1988 and applies to the whole development project.
    - It is for the Pingry Way wetland crossing.
    - In the 1990s, there was apparently some dispute between ConCom and the Planning Board as to the width of the road, with this OOC amended accordingly in 1996.
    - Complicating matters, 3 members of ConCom in 2003 (Poole, DeFilippo & Eldredge) signed a COC for 100-0073, checking the "invalid" box.
      - This action appears to have been incorrect because "invalid" means the work never happened, but the work DID actually happen.
      - This is confusing to lawyers reviewing the parcel and raising the question of whether a correct COC needs to be filed.
    - In CA's talk with MassDEP Circuit Rider Judy Schmitz, Ms. Schmitz said that signing a FULL COC for 100-0073 should remedy the situation.
  - CA anticipated receiving the engineer's plan, from Steve Sears of David E. Ross Associates, on the following day (6/9).
    - BD said ConCom would prefer to look at the plan and, given questions about the compensatory flood storage capacity having been met, schedule a site walk, possibly on 6/24, before signing off on these two COC requests.
- **Discussion: Derek Delcore, Eagle Scout Project**
    - Mr. Delcore undertook a project to install monofilament (fishing line) disposal stations at 5 locations on Sandy and Flannagan ponds.
      - He made 3 spare disposal units as well.
    - Mr. Delcore asked ConCom to sign an official document for the Eagle Scouts confirming satisfactory completion of his project.
      - The Commission was pleased to do so, with BD reading ConCom's letter into the record.
    - Mr. Delcore said it appears that people are making use of the disposal stations, which are intended to protect wildlife and pets from carelessly disposed lines.
  - **Discussion: Request for COC – Borrego Solar, Groton Road and Park Street, MassDEP # 100-0379**
    - Assessor's Map 12/parcel 26; Assessor's Map 19/parcels 21, 22 & 23
    - The site has been inspected, grass has grown in, soils are now stabilized.
      - GB moved to issue a COC for 100-0379; BT 2<sup>nd</sup>.
        - Motion approved unanimously.
  - **Discussion: Request for COC – 53 Hemlock Drive, Crabtree Development, MassDEP # 100-0356**
    - Assessor's Map 36/parcel 105
    - CA confirmed that signs on posts delineating limit of backyard have been installed.
      - GB moved to issue a COC for 100-0356; BT 2<sup>nd</sup>.
        - Motion approved unanimously.



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- **Discussion: Request for COC – 37 Hemlock Drive, Crabtree Development, MassDEP # 100-0355**
  - Assessor's Map 36/parcel 104
  - CA confirmed that signs on posts delineating limit of backyard have been installed.
    - GB moved to issue a COC for 100-0355; BT 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Discussion: Request for 3 COCs to clean up ConCom files**
  - The following were requested by CA for the purpose of closing out old ConCom files.
    - 100-0276, 267 Woodland Way, Lot 134, Pingry Hill – recorded at Registry but OOC expired, work never done, no plans to do this work as originally planned.
      - GB moved to issue a COC, marked “invalid” (work never done), for 100-0276; BT 2<sup>nd</sup>.
        - Motion approved unanimously.
    - 100-0277, 176 Woodland Way, Lot 171, Pingry Hill -- recorded at Registry but OOC expired, work never done, no plans to do this work as originally planned.
      - GB moved to issue a COC, marked “invalid” (work never done), for 100-0277; BT 2<sup>nd</sup>.
        - Motion approved unanimously.
    - To clean up the files and save headaches for future Commission members, GB moved to approve filing both of these OOCs at the Registry, at the Commission's expense; BT 2<sup>nd</sup>.
      - Motion approved unanimously.
    - 100-0183, 99 Sandy Pond Road
      - CA said this OOC, issued in 1998, was never recorded according to material in the files.
        - No work was done per the original plans.
        - Signing off on this COC will clean up the file, but this one does not need to be recorded at the Registry since the original OOC was never recorded.
        - GB moved to issue a COC, marked “invalid” (work never done), for 100-0183; BT 2<sup>nd</sup>.
          - Motion approved unanimously.
- **Accounts Payable**
  - Brian Collieran: \$33.98, reimbursement for purchase of bug spray from Costco for office use during field visits.
    - GB moved to approve payment of \$33.98; BT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - CA salary authorization
    - Town Accountant Lisa Gabree asked ConCom to sign off on the 2% across-the-board salary increase for CA, per the union contract negotiated by the Town for FY2018.
      - GB so moved; BT 2<sup>nd</sup>.
        - Motion approved unanimously.
- **Discussion: Testing for Arsenic Levels in Grove Pond Water Chestnut**
  - Per ConCom's request on 5/25, CA secured a written contract proposal from Solitude Lake Management for the cost of pulling and testing arsenic levels in invasive water chestnut.



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- With money left over from ConCom's FY2017 line item, this can be paid for from general expenses.
  - While pulling water chestnut samples, Solitude should evaluate the size of the infestation so that the cost of removing all of the water chestnuts, and proper disposal, can be estimated once the arsenic information has been received.
  - The question was raised whether this, being a contract, needs to be signed/approved by the Board of Selectmen.
    - BD agreed to sign the contract with the stipulation that his signature was only valid provided it was approved by the Town Administrator; if the contract must go through the Board of Selectmen, BD's signature is to be regarded as invalid.
      - GB so moved; BT 2<sup>nd</sup>.
        - Motion approved to sign as stipulated.
- **CA Updates**
  - Fiscal management
    - In reference to the Municipal Modernization Act of 2016, ConCom nevertheless prefers to have the full Commission approve and sign off on all bills and invoices.
    - The only exception to this now is the payment of Public Hearing notices in the newspaper.
      - These are paid out of a revolving fund and the Town Accountant's office does not pay these bills until a reimbursement check has been received from the applicant.
  - Database
    - CA is close to finishing this project.
    - He still has some issues to resolve with Information Technology and the Assessor's office regarding data integrity.
  - Conservation Administrator Goals
    - CA would like to expand from permitting work to take on land management responsibilities.
      - Baseline documentation would have to be compiled for Conservation Restrictions.
      - In some cases, land ownership is blurry and would have to be resolved.
      - One example, he said, is the 'Mini-French' which old records list as 200 acres and now is listed as the Town owning 50 acres.
    - BD said ConCom was cognizant of the Town's concerns over related research that would require costly input from Town Counsel and other expenses.
      - Before moving forward any further, BD asked CA to provide a list of such potential properties.
  - The Willows
    - As requested, CA contacted the erosion control specialist for the subdivision, Desheng Wang, and asked if the developer has put together a planting plan for the required replication area.
      - The developer has begun work on the last building and there is concern the required replication work will not get done.
    - BD asked CA to notify the developer through Dr. Wang that ConCom will issue a Cease & Desist at its next meeting on 6/22 if a replication plan is not in hand at that time.



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- Old Towne Village
  - Circuit Rider Schmitz told CA that it looks like the parking lot, where the direct discharge of drainage into wetlands is observed, predates the building and any associated plans.
    - The parking lot is therefore grandfathered in and there may be little ConCom can do about it.
  - CA's notes indicated that the "MS4 process does encourage the elimination of point source discharges."
    - His note indicated this might be a DPW issue.
    - 'MS4 refers to a 'Municipal Separate Storm Sewer Systems' permitting process in Massachusetts for small municipal stormwater systems. (via Ken Diskin)
  - BD asked CA to contact the DPW, outline the Commission's concerns, and assess the applicability of the MS4 process to dealing with this situation.
  - BD also asked CA to get information on the apartment complex's owner so that the Commission can discuss sending him a letter asking for cooperation.
- Riley Jayne Farm
  - BD texted CA recently about an erosion control blowout on the Trevor Trail portion of the construction.
  - CA did not see the blowout but said that that area of the site is in good shape relatively.
- Log Book
  - CA brought in some sample site visit forms from other commissions.
    - BD selected the Weston version.
  - Other than that, nothing has been done on beginning entries for a log book.
- CA's standing desk request
  - CA had quotes for two models, one costing approximately \$515, the other \$270.
  - JG asked what the justification was for needing a standing desk.
  - JG also noted that the Town Administrator's office had heard about CA's request for purchasing a standing desk from CA and were opposed to it.
    - The issue of parity with the rest of Town Hall employees was a concern.
    - Agreeing with that, BT said that typically businesses will do an ergonomic assessment for an entire organization before making a singular purchase for one employee.
  - No further action was taken at this time.
- **Member/Committee Updates**
  - JG said that the Community Preservation Committee met the previous night (6/7) and discussed Emily's Way as a possible Open Space acquisition.
    - The owner is asking for \$225,000 for the parcel (and if not, says he plans to erect around a hundred units of Ch. 40B housing).
      - The Town's appraisal came in at \$85,000.
    - CPC Chair Janet Providakes is asking whether ConCom would be willing to sponsor an application for CPA funding IF an acceptable purchase price were to be negotiated between the Town and the landowner.
      - BD said yes.
  - BT asked CA to check if additional clearing, beyond the plans, has taken place in the Woodland Way portion of Pingry Hill.



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- BT also brought up work being done in the back at 10 Page Street, adjacent to Balch Pond.
  - From the commuter rail, BT has observed clearing down to the pond and the construction of a large fence.
    - CA was asked to check on this.
- **10:20 PM – Adjourn Meeting**
  - GB moved to adjourn; BT 2<sup>nd</sup>.
    - Motion approved unanimously.

**Minutes Recorded and Submitted by Jessica G. Gugino, Clerk**

**Date Minutes Approved by Conservation Commission:** 7/13/2017

**Signature Indicating Approval:** Jessica G. Gugino