



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 1/25/2018

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), Jon Schmalenberger (JS, Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

APAC taped: Yes

7.12 PM – Open Meeting

- **Confirmation of Agenda**
 - GB moved to confirm the agenda as posted; BT 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 217 West Main Street, Calco LLC, MassDEP # 100-0420**
 - Assessors Map 32, Parcel 51.
 - Present were: Kyle Burchard and Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR); and environmental consultant Scott Smyers, of Oxbow Associates (OA).
 - The project seeks an Order of Conditions (OOC) for the commercial construction of five buildings to house individual storage units, with one also housing an office.
 - ConCom and CA (minus JG) performed an extensive site walk with Mr. Burchard on 1/20.
 - One of the points of concern (see ConCom 1/11/2018 Public Hearing) was evaluating GPR and OA's claim that Willow Brook (aka Willow Branch) is an intermittent stream, not a perennial stream for which more stringent riverfront standards apply.
 - Older USGS maps depict Willow Brook as a perennial stream, so this would be a reclassification.
 - Mr. Smyers observed and photographed a portion of the stream as dry, with no continuous flow, from August 16-19, 2017.
 - This meets the standard set by the Wetlands Protection Act Regulations [310 CMR 10.58 (2)(1)(d)]:
 - *"Notwithstanding 310 CMR 10.58(2)(a) 1.a. through c., the issuing authority shall find that any stream is intermittent based upon a documented field observation that the stream is not flowing. A documented field observation shall be made by a competent source and shall be based upon an observation made at least once per day, over four days in any consecutive 12 month period, during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other human-made flow reductions or diversions."*
 - In addition, BD said the 1/20 site walk added a fifth day of similar observation.
 - The stream crossed from Devens under West Main Street, passing through a culvert blocked by a concrete facewall.
 - The stream then lost the appearance of flow as it emptied into wetlands prior to reaching the railroad tracks at the back.
 - BD said that because Willow Brook emptied into wetlands rather than directly into Nonacoicus Brook (further on), this also did not meet the Act's definition of perenniality.



Town of Ayer Conservation Commission

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

Minutes for 1/25/2018

- In addition, Mr. Smyers emphasized the path followed by the stream, including the discontinuity where it enters the wetlands, is now very different from the location of the stream channel mapped decades earlier by the USGS.
- Earlier today (1/25), CA/ConCom got a copy of the “Stormwater Report – Reconstruction and Design of Jackson Road, Phase IV,” (Devens, December 2014).
 - See MassDEP OOC # 352-0040.
 - It details stormwater treatments implemented during the Jackson Road re-design.
 - A portion of the report provides engineer calculations estimating a 50-60% reduction of peak stormwater flow into Willow Brook as a result of this work.
- Mr. Burchard also distributed, and read into the public record, a “Willow Brook Summary” report which he prepared earlier on the 25th.
 - The report details what is known of the history of the brook.
 - It makes clear that human activity, especially since World War I when Fort Devens came into being, has resulted in numerous “hydraulic and hydrologic flow regime changes and manipulations,” the latest being the re-design of Jackson Road just a few years ago.
 - Mr. Burchard concluded that Willow Brook now experiences “variable flow” – periods of flooding, high flow, low flow, and no flow – and that this therefore results in the new determination that Willow Brook has now stabilized in the present-day as an intermittent stream channel.
 - Mr. Goldsmith agreed that it is clear to him that human activity further upstream has affected the stream’s flow, and that these changes are now permanent in nature.
- ConCom also reviewed comments received in a 1/25 email from Meghan Selby, Environmental Analyst at MassDEP, as well as previous correspondence.
 - Ms. Selby wrote that “a hydrogeologist would be able to evaluate whether a well or upstream roadway improvements have affected Willow Brook.”
 - Mr. Smyers said he did not regard that comment as a “recommendation” per se, and asked that ConCom keep in mind the full context of the stream’s history, including the detailed estimate of the 50-60% reduction of stormwater flow into the brook.
 - He questioned whether a hydrogeologist would provide significant additional information, given that it is clear that human activity upstream over the past century has impacted the stream flow, including enough to alter the path of flow from the USGS mapped channel.
 - Instead he asked ConCom to focus not on the science, which is already clear, but rather the terminology of the Regulations.
 - Mr. Goldsmith said that we know there have been human-caused changes upstream that have affected the flow, and that these changes are permanent, but the Regulations are unclear beyond that.
 - He also said that the stormwater management planned for 217 West Main Street is sufficient to protect the stream, regardless of its status.
 - BD asked CA to contact Ms. Selby again with ConCom’s opinion that a hydrogeologist doesn’t seem likely to provide additional information of consequence.
 - Assuming “human-made flow reductions and diversions” have occurred upstream in Devens and have generated permanent impacts, what does this mean for ConCom’s evaluation of this project in Ayer, including the reclassification of Willow Brook as intermittent, per the Regulations?
- JG asked about questions raised at the 1/11 ConCom meeting regarding the location of the compensatory cut for replicating floodplain.



Town of Ayer Conservation Commission

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

Minutes for 1/25/2018

- BD said that by the time of the site walk on 11/20, the location of the cut had been shifted west to an area that was more upland and not problematic.
 - In addition, a brush dump on site was observed that will be removed during the project and improve floodplain conditions.
 - CA questioned the plan showing snow removal storage over the site of the new cut.
 - Mr. Burchard said that would be taken off the plan; BD said ConCom still needs to know where that snow will actually go.
 - CA said preliminary comments received from DPW Superintendent Mark Wetzel, on reviewing the stormwater management for this project, expressed concern over some of the stormwater design features.
 - These comments were focused on tree box filter efficiency, sideslope stability, and breakout protection.
 - BD said ConCom would defer voting on this project until it hears back from Ms. Selby, as well as DPW's final comments on the stormwater system.
 - In considering a possible OOC for the project, JG asked about the risk of hazardous materials being stored in the storage units.
 - BD noted the buildings will have concrete foundations, and will be surrounded by asphalt.
 - Mr. Burchard said the Board of Health put restrictions on the storage of toxic/hazardous materials on site because the conditions of an Aquifer Protection District apply.
 - ConCom could draw up a Special Condition requiring a copy of the Standard Lease Agreement for future storage unit renters in which the Aquifer Protection rules, per the BOH, would be cited.
 - The Special Condition could also require that any changes to the Lease Agreement would require notification of ConCom as well.
 - GB moved to continue the Public Hearing to 2/8/2018; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Request for Extension of Order of Conditions – Spectacle Pond Aquatic Vegetation Management, Clean Lakes Committee / Littleton Light and Power, MassDEP # 100-0233**
 - The request is to extend the OOC for a 3 year period to 2021.
 - GB moved to approve and issue the OOC extension for 100-0233; BT 2nd.
 - Motion approved unanimously and the Extension was signed.
 - **Discussion: Request for Proposals (RFP), 2018 Ayer pond treatments**
 - In a 1/25/18 email, Town Administrator Robert Pontbriand advised ConCom that for a treatment project under \$50,000, the Town does not have to do a formal RFP process.
 - The current RFP could be used as a written purchase description, though the question was raised as to whether it needed to be re-named to be used as such.
 - Instead, the Town would just need to make a good faith effort to solicit 3 written quotes.
 - CA will look into this further.
 - Mr. Pontbriand also suggested looking into the possibility of developing a multi-year contract with a vendor.
 - Per the Town Administrator's request, GB moved to vote to accept the criteria as listed in the draft RFP, as well as the new Cost Sheet; BT 2nd.
 - Motion approved unanimously.



Town of Ayer Conservation Commission

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

Minutes for **1/25/2018**

- Mr. Pontbriand also asked in the email for the Commission's recommendation for a funding amount for the FY 2019 Budget, and has put a placeholder into the Budget awaiting ConCom's response.
 - ConCom will have to wait until it receives 2018 treatment quotes, as discussed above, before it can make a good estimate for maintenance funding needs for 2019.
- **Discussion: Nashua River Wild and Scenic Study Committee Update**
 - CA provided an update from Mr. Pontbriand, and distributed a copy of the Stewardship Plan Map and highlights.
 - Twelve towns will have to approve the final draft at their individual Town Meetings before the Plan can be submitted to Congress.
 - Comments should be submitted by 1/31/2018, and CA noted the link was in her email to Commission members.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 1/11/2018 as written; BT 2nd.
 - Motion approved unanimously.
- **Announcements**
 - MACC's spring conference will take place on 3/3/2018.
 - CA has received a scholarship from MACC to cover her attendance fees.
- **Conservation Commission Office Updates**
 - Upcoming Meetings
 - New NOI submissions for the 2/8 meeting were distributed.
 - CA will invite members of the Community Preservation Committee (CPC) to attend ConCom's 2/8 meeting at which the development of Policies & Procedures for use of the newly-established Conservation Fund will be discussed.
 - For the 2/22 ConCom meeting, at which MassDEP Circuit Rider Judy Schmitz will be present to answer questions about the dock license process and Resource Management Plan process, ConCom asked CA to invite members of the Pond & Dam Committee to attend.
 - 231 Snake Hill Road (MassDEP # 100-0412)
 - CA reports that the property owner has received a permit to demolish the existing shed.
 - No building permit has yet been issued.
- **10:07 PM – Adjourn Meeting**
 - GB moved to adjourn; BT 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: _____

Signature Indicating Approval: _____