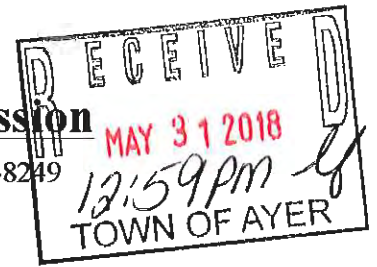




## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 5/10/2018



Location: Ayer Town Hall, 1st Floor

Present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Jessica Gugino (JG, Member/Clerk), Jon Schmalenberger (JS, Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

Not Present: Bonnie Tillotson (BT, Member)

APAC taped: Yes

### **7:07 PM – Open Meeting**

- **Confirmation of Agenda**
  - GB moved to confirm the agenda as posted; JS 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Meeting: Request for Determination of Applicability (RDA) – Pine Meadow Trail Bridge, Robert Houde, Eagle Scout Project**
  - Mr. Houde has been working with Building Inspector Charlie Schultz as well as Calvin Goldsmith, of Goldsmith, Prest & Ringwall, to redesign his bridge project.
  - Mr. Schultz has approved the new design drawings.
    - The location of the bridge has been shifted slightly.
    - No digging is needed for the new design.
    - The concrete piers from the originally-planned bridge will be removed and soil replaced and compacted to fill in the holes.
  - The target date for completion of the project is the second week of August, leaving time to address any problems before fall.
  - GB moved to issue a Negative Determination of Applicability, with the condition that the concrete piers will be removed and soil replaced in the holes; JS 2<sup>nd</sup>.
    - Motion approved unanimously.
  - Mr. Houde is to let CA know when he starts work on the project.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – West Main Street Bridge Replacement Project (crossing Nonacoicus Brook), Ayer Department of Public Works (DPW), MassDEP # 100-0424**
  - Town Engineer Dan Van Schalkwyk was present, along with consultants Kristopher Surette, of WorldTech Engineering, and Laurie Benoit, of Stantec Consulting Services, Inc.
  - The Commission performed a site walk on the evening of 4/23.
  - GB asked if any thought had been given to raising the road in the area where it dips.
    - Mr. Surette said they have shifted the lowpoint on the bridge further to the east, but the close proximity of adjacent properties/driveways makes it difficult to raise the road significantly.
  - Per request of Page Czepiga, MEPA Environmental Analyst (Mass. Environmental Policy Act office), the armoring of the sidewalls for the new culvert, for scour protection, has been reduced in thickness, from 4' to 2-3' thick.
    - This reduces the amount of excavation in "Waters of the US" from 173 cu. yards to 80 cu. yards, taking it below the 100 cu. yard dredging threshold that requires an Individual Water Quality Certification.
  - The ENF (Environmental Notification Form) Certificate is forthcoming from Ms. Czepiga.



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- It was agreed that the OOC would not be released until ConCom has received a copy of the ENF Certificate.
  - At the request of MassDEP's Gary Delmain, a Stormwater Checklist was prepared and distributed.
  - Ms. Benoit asked ConCom for a decision on whether it wants to require a mitigation area cut on the steep slope on the southeast side of the bridge.
    - Being a Limited Project, they are required to meet regulations "to the maximum practical extent."
    - BD suggested riprapping the lower slope but Ms. Benoit said that would constitute additional fill in the "Waters of the US," taking the project above the 100 cu. yard threshold.
    - ConCom decided to not require the mitigation cut, but to request vegetative stabilization of the slope instead.
  - CA had already prepared a draft OOC which has been reviewed by the applicant.
  - GB moved to issue a final OOC with the condition that the Order not be released to the applicant until the MEPA decision has been received; JS 2<sup>nd</sup>.
    - GB moved to accept a friendly amendment to add vegetative restoration of the SE corner slope to prevent further erosion as Special Condition #44; JS 2<sup>nd</sup>.
      - Motion, as amended, approved unanimously.
    - CA will make adjustments to the final OOC based on decisions made above.
  - ConCom agreed to not close the Public Hearing at this time, until the MEPA decision is resolved.
    - GB moved to continue the Public Hearing to 5/24; JS 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Discussion: Enforcement Order (EO) – Ridge View Realty Trust (Pingry Hill), MassDEP # 100-0393**
  - Phase 4: Woodland Way and Hemlock Extension
  - Assessor's Map 36, Parcels 116-121, 172, 177, 178, 180-85 & 213
  - Present were erosion control specialist Desheng Wang, of Creative Land & Water Engineering (CLAWE); and Steve Mullaney, of S. J. Mullaney Engineering.
  - On 4/17, 2018, ConCom issued an EO with a Cease & Desist to Ridge View Realty Trust for failure to control stormwater on site, leading to turbid water and sediment infiltrating resource areas.
    - This followed a very heavy rain event on 4/16 (2-1/2 to 3 inches).
      - (Note: CA had spoken in advance to the site contractor, on 4/13, to warn of the upcoming storm.)
    - The Cease & Desist applied to construction activities that would affect buffer zone or resource areas at the project site.
  - Dr. Wang's 5/8 letter to ConCom was reviewed, "Follow up Field Action to respond to EO DEP file # 100-0393."
    - On 4/20, CLAWE submitted a restoration plan and updated the Erosion and Sediment Control plan.
    - Dr. Wang stressed that the site contractor, Glen Pyburn, who works with his son Luke, took immediate action in the field.
      - As of 4/25, all of the recommended restoration and erosion control measures had been implemented.



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- Dr. Wang explained what he thought were the key factors that contributed to the loss of stormwater control:
  - the stormwater basins in this area, which are the responsibility of the site contractor, are only 60-70% complete;
  - in doing earthwork to open up house lots, the site contractor neglected to re-install a temporary diversion swale which would have directed water into detention basin 9403.
  - silt sacks in catchbasins in the affected area also quickly blocked up and were overwhelmed with sediments in the torrential rain, forcing turbid stormwater to go to the wrong place, i.e. detention basin 9405;
  - detention basin 9405 overflowed as it is far from complete and lacks an overflow structure between it and basin 9403.
- BD added that an additional important factor is how much open ground for new lots, as well as paved roads, exists in this area, without prior completion of the stormwater basins.
  - In short, too much open soil was exposed at once.
- The resulting sheetflow from the storm went largely into a basin that does not yet have the capacity to handle that amount of rain.
- In response to the event, Dr. Wang said the silt sacks in the catchbasins have been removed to prevent a similar backup in heavy rains.
  - The diversion swale, to direct water into 9403, has been reinstalled, along with a new flow diversion swale to direct water into basin 1112.
  - Most of the roadside area has now been mulched with hay or stump grindings for soil and erosion control.
  - The overflow structure between 9405 and 9403 will be installed as soon as possible; this will improve turbidity issues.
    - It will also bring 9405 closer to achieving its capacity.
    - The approaching summer dry season will help facilitate this.
  - BD noted that 9403 still needs more banking.
- Mr. Mullaney said house Lot 75A is located between basins 9405 and 9403.
  - It will probably be one of the last to be constructed.
  - They have discussed excavating the foundation and using it as a temporary sediment basin.
  - BD thought this was a good idea as a back-up measure.
- Dr. Wang also stressed that completion of the open house lots, which will involve loaming and seeding of the lawns, will help greatly in the reduction of uncontrolled stormwater flow.
- Tim Opgenorth, of Greenscape Property & Building LLC, the builder for Pingry Hill, said that the priority for the site contractor is, of course, to ensure control of the site under such conditions as heavy rain.
  - This is the priority over work on the house lots, but Mr. Opgenorth also stressed that work has to proceed in tandem on both site control and house lots.
    - As noted above, loaming and seeding to stabilize the house lots reduces the potential uncontrolled flow of sediment during storm events.
  - Mr. Opgenorth also said work on Woodland Way would go well into the fall of 2019.
- BD and CA said getting the basins finished, top to bottom, is critical, and also suggested the developer be made aware that the current 2-man site contractor unit likely needs to hire more people so that tandem work on both basins and house lot completions is enabled.
- On 5/4, CA held a working meeting at Town Hall with the project team: developer Duke Pointer, Masha Pointer, Steve Mullaney, Glen Pyburn, and Desheng Wang.



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- The purpose of the meeting was to address the site situation and come up with a workable plan for completion of the stormwater basins.
  - Table I, "Construction and Completion Planning," in Dr. Wang's 5/8 letter outlines the schedule hammered out for completion of the stormwater retention and detention basins by the end of September 2018.
- BD cautioned that the site contractor be made very aware that work on the basins, as well as the house lots, needs to happen at the same time, and they need to be very conscientious about preparations for future storms.
  - It would be greatly disappointing if the Commission had to shut down this site yet again.
  - CA expressed the hope that the Pyburns are able to stick to the basin completion schedule described in Table I.
- Based on this discussion, BD asked for a motion to lift the Cease & Desist in place due to the EO.
  - GB so moved; JS 2<sup>nd</sup>.
    - Motion approved unanimously
- **Discussion: Request for Amendment to Order of Conditions – 77 Woodland Way (Lot 68), Ridge View Realty Trust, MassDEP # 100-0408**
  - Assessor's Map 36, Parcel 110.
  - Mr. Mullaney and Dr. Wang remained present for this discussion.
  - ConCom had previously (4/26/2018) discussed this in response to Mr. Mullaney's 4/19 email asking if CA could independently authorize a proposed "field change."
    - ConCom then decided that the proposed changes were significant enough in scope to require a formal Amendment to the OOC.
    - Mr. Mullaney said after this was relayed to the potential lot buyer, the sale was then lost.
  - While the Request to Amend the OOC was therefore withdrawn, Mr. Mullaney asked for clarification of ConCom's policies going forward.
    - In the case of the previously proposed changes for 77 Woodland Way, Dr. Wang argued that the Commission ought to have accepted them as a field change since the changes led to less impact on wetland resource areas.
  - BD said that while the Commission has approved field changes in the past, based on its recent review of "Wetlands Program Policy 85-4, Amended Orders," it does not appear that ConCom has legal jurisdiction to do so outside of the Amendment process.
    - Looking at 100-0408 as an example, the proposed changes had reduced jurisdictional impact, but had also moved work outside of the previously-approved Limit of Work (LOW).
  - Therefore it was decided that changes that resulted in reduced impact but were still within the approved LOW did not require an Amendment.
    - These changes would get picked up in the Certificate of Compliance process, via submittal of the as-built plan.
    - Changes that increase impact, or extend work beyond the approved LOW, require at minimum a Request to Amend the OOC.
      - It is at the Commission's discretion whether it would accept an Amendment request or would require submission of a new NOI.
- **Public Hearing (cont'd.): Notice of Intent – 138 Littleton Road, Ridge View Realty Trust, MassDEP # 100-0423**
  - Assessor's Map 36, Parcels 199 & 210



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- The draft OOC has been read and approved by the Applicant.
- GB moved to issue the OOC and close the Public Hearing for 100-0423; JS 2<sup>nd</sup>.
  - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): Request for Amendment to OOC – 138 Littleton Road, Ridge View Realty Trust, MassDEP # 100-0271**
  - Assessor's Map 36, Parcels 199 & 210
  - This request having been rendered moot by the issuance of OOC #100-0423 above, Mr. Mullaney withdrew the Request for Amendment without prejudice.
  - GB moved to close the Public Hearing for 100-0271; JS 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Conservation Commission Office Updates**
  - Pingry Hill
    - Mr. Mullaney has submitted five Requests for Extensions to OOCs, which must be submitted at least 30 days prior to expiration.
    - ConCom's new policy is to perform site walks prior to approving Extensions.
    - ConCom will formally open a discussion on 5/24 for the purpose of acknowledging receipt of the requests and to schedule site walks on 6/2.
      - BD asked Mr. Mullaney to make sure wetland flagging has been refreshed prior to the site walks.
  - Shaker Mill Pond
    - CA received an inquiry from a resident asking about putting a dock on Shaker Mill Pond.
    - Docks will have to follow the same requirements as for Ayer's Great Ponds:
      - be removed over the winter, have wide feet for resting on the pond bottom, and not be dug into the soil.
        - A no-dig removable dock should be reviewed via the Request for Determination of Applicability process.
    - The same caller asked about cutting down dead trees in the buffer zone to the pond.
      - Dead trees with the potential to fall on a house may be cut down, but other such trees within the buffer zone must be left in place as habitat.
  - Docks
    - Continuing the above discussion, CA recently talked to Nancy Lin, of MassDEP.
    - She has asked Ms. Lin and Ben Lynch, Program Chief for MassDEP's Waterways Regulation Program, to provide ConCom with a written protocol for how to address docks on its Great Ponds.
      - With all the confusion generated by this topic, ConCom also agreed that such a protocol from the State had to be written rather than verbally delivered.
    - ConCom also discussed as a future project putting together a pamphlet for homeowners alerting them to things they should know if they are in proximity to wetlands.
      - Maintaining wetlands and their buffer zones will better protect their natural beauty – a benefit to all.
- **Approval of Meeting Minutes**
  - GB moved to accept the minutes for 4/12/2018 as written; JS 2<sup>nd</sup>.
    - Motion approved unanimously.



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- GB moved to accept the minutes for 4/26/2018 as written; JS 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Accounts Payable**
  - Amazon: \$74.32, for purchase of an office label maker.
    - GB moved to approve payment of \$74.32; JS 2<sup>nd</sup>.
      - Motion approved unanimously.
  - Sun Enterprises: \$296.96, for Public Hearing legal notices (DPW, \$139.20; 138 Littleton Road, \$296.96).
    - GB moved to approve payment of \$296.96; JS 2<sup>nd</sup>.
      - Motion approved unanimously.
  - MSMCP: \$15.00, for CA attendance at the Annual Meeting of the Massachusetts Society of Municipal Conservation Professionals.
    - GB moved to approve payment of \$15.00; JS 2<sup>nd</sup>.
      - Motion approved unanimously.
  - Solitude Lake Management: \$1250, for Task 1, 2018 pond weed treatments.
    - GB moved to approve payment of \$1250; JS 2<sup>nd</sup>.
      - Motion approved unanimously.
- **10:00 PM – Adjourn Meeting**
- JG moved to adjourn; GB 2<sup>nd</sup>.
- Motion approved unanimously.

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

**Date Minutes Approved by Conservation Commission:** 5/24/18

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