



Town of Ayer Conservation Commission

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

Minutes for 6/28/2018

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), Jo-Anne Crystoff, (CA, Conservation Administrator)

Not Present: Jon Schmalenberger (JS, Member)

APAC taped: Yes

7:05 PM – Open Meeting

- **Confirmation of Agenda**

- Discussion of CA's upcoming performance review evaluation with Town Manager Robert Pontbriand was added.
- GB moved to confirm the agenda as amended; JG 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

- GB moved to accept the minutes for 6/14/2018 as written; BT 2nd.
 - Motion approved unanimously.

- **Announcements**

- CA showed the Commission some May 1939 topographical maps of Ayer that she rescued from disposal.
 - The maps were commissioned under WPA (Works Progress Administration) project 17788.
 - GB moved to have CA pursue pricing the cost of having the maps framed; BT 2nd.
 - Motion approved unanimously.
- The Town has received notification from the Dept. of the Army regarding the Army's reorganization of the airspace boundaries over Devens for flight exercises.

- **Public Hearing (cont'd.): Notice of Intent (NOI) – Massachusetts Department of Transportation (MassDOT) – Highway Division, Frederick Carleton Circle, MasssDEP # 100-0426**

- GB moved to approve and issue the Order of Conditions (OOC), and close the Public Hearing, for 100-0426; BT 2nd.
 - Motion approved unanimously.

- **Discussion: Review of proposals for third party review of NOI for Oil Spill Clean-up, Page Hilltop School, MassDEP # 100-0425**

- Assessor's Map 13 & Map 20, Parcels 13-11, 13-42, 12-158, 12-159
- MassDEP Release Tracking Number 2-20459
- Gregory Morand, of Omni Environmental Group LLC (OEG), was present on behalf of Diesel Direct (the NOI Applicant).
- Following discussion at the Public Hearing on 6/14 and a site walk on 6/19, CA prepared a Scope of Services request and solicited proposals from third-party consultants for review on 6/28.
 - Two proposals were received, from EcoTec, Inc., and from Wetland Strategies and Solutions LLC (WSS).
- The Scope of Services requested:
 - review of the NOI/Amendment, with summary memo;



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- site walk with CA;
- review of clean-up plan with summary memo;
- review of Risk Characterization, with summary memo;
- design review of proposed mitigation plan, with summary memo;
- up to 4 site visits for oversight of initial planting installation for restoration planting, with brief status report memos;
- final report at completion of clean-up, covering site condition, planting plan status, and confirmation of schedule for completion of project.
- EcoTec's proposal came in at \$6700; WSS's at \$3289.
 - ConCom then added an additional task: attendance at a ConCom meeting to provide review of the NOI/Amendment and address questions.
 - Ideally, assuming access issues to the site are resolved by the Applicant, the consultant would attend ConCom's next meeting on 7/12 with the initial evaluation of the NOI.
- Both proposals covered similar ground.
 - GB thought EcoTec looked a little more qualified re environmental risk assessment and remediation.
 - BT noted that Matt Schweisberg, of WSS, has worked on EPA Superfund sites across New England.
 - Both consultants could provide an assessment of risk to the environment, but neither could directly assess the human health risk and would have to sub this out.
 - Mr. Morand said that he, as LSP (Licensed Site Professional), will have to provide risk assessments for both ecological impact and human health impact.
 - After discussion, it was decided that human health risk assessment was outside of ConCom's jurisdiction and that this should be referred to Town Manager Pontbriand, if the Town wished to pursue this separately.
- Adjusting for the addition of attendance at ConCom's 7/12 meeting, the proposed budget for each of the consultants was now estimated:
 - EcoTec: \$7100
 - WSS: \$3689
- Regarding access to the site:
 - Access to parcels 13-42 and 13-41, which fall within the Nashua Street Extension subdivision currently under active construction by Seal Harbor Development, has yet to be resolved.
 - Communications from Boyle & Shaughnessy, the applicant's legal counsel, have not been responded to.
 - However, Mr. Morand met earlier today (6/28) with Mark Gallagher, of Seal Harbor, who said they had not received any written requests for access.
 - Mr. Morand then gave Mr. Gallagher two hard copies of the request and hopes for a response next week, per Mr. Gallagher's assurance.
 - Mr. Morand said Jason Ward, of MassDEP's Wayside Clean-up, was also present.
 - Mr. Ward said that DEP had no problem with Mr. Gallagher's plans for the culvert, which Mr. Morand said they are hoping to use for access to the site.
 - Mr. Morand reiterated he hoped to have all access issues for the project resolved by 7/4.
- In terms of selecting a consultant, BD said the cost range for the applicant would be up to \$7100.



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- Mr. Morand said he could not answer definitively for the applicant but thought this would be acceptable.
- He said Diesel Direct is hoping to have the project move forward soon, in the dry months of July-August, so time is of the essence to the applicant.
- CA will contact both consultants to ascertain availability for meeting with ConCom on 7/12.
 - It was noted that the consultant may need access to the site for NOI evaluation; if the applicant has not resolved access issues, the delay will be their responsibility.
 - A contract will need to be prepared, and the applicant will need to provide the Town with funds to cover the contract.
- Since this needs to happen as quickly as possible, BD asked for a motion to authorize Agent Crystoff to work with the consultant vendors re availability on 7/12 with a written report, to select the vendor, and to create a contract for up to \$7100 (depending on the vendor chosen) to provide the services detailed in the Scope, and amended to include attendance at ConCom's 7/12 meeting.
 - GB so moved; BT 2nd.
 - Motion approved unanimously.
- As a side note, JG questioned the NOI's listing of the Commission at the "3rd level of notification" for oil spills.
 - Mr. Morand said this only meant the Commission would be notified 'minutes' after DEP, fire, police, etc.
 - However it was also noted that the Commission did not learn about the 2/23 oil spill until several days after the incident.
 - Mr. Morand attributed this to having received erroneous information that the CA position was only part-time.
 - The Commission expects that this misperception is now corrected.
- **Discussion: DPW considering work at 112 Washington Street**
 - This property was directly affected by the Page Hilltop oil spill due to the stormwater catchbasin in front of the property catching the oil flow.
 - The yard has also experienced damage from catchbasin overflows during heavy rains.
 - Yard damage from catchbasin overflow this spring was aggravated after the oil spill because of the use of absorbent sock material which has now been removed from the basin.
 - The DPW has also ascertained that the pipe leading into the catchbasin is 15" in diameter, while the pipe running out of the basin is only 10".
 - This creates a hydraulic restriction leading to overflows from the basin.
 - The DPW is proposing replacing the pipe running out of the basin with a larger-diameter pipe.
 - The pipe likely runs underneath the driveway at this address.
 - DPW Superintendent Mark Wetzel asked CA what procedures ConCom would want followed.
 - BD said a bigger discharge pipe might create more impact to the wetlands that the pipe discharges into at the back (northern) edge of 112 Washington.
 - CA said, on the other hand, that it could also lessen velocity as well as overland flow from the catchbasin backing up.
 - BD said a method would be needed to catch siltation at the bottom of the discharge pipe.
 - Up in the air was whether this work could be permitted under an Emergency Certification or would need an NOI.
 - Mr. Morand, the LSP for the oil spill, said he had no problem with this work being done by DPW.
 - In cleaning up the oil spill, they hope to be able to provide DPW with an area that could be used as a detention basin to allow treatment of stormwater before the wetlands.



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- BD agreed that the DPW will need some kind of detention basin to catch runoff.
- **Discussion: Conservation Fund Policies & Procedures**
 - Town Counsel has the draft document but has not yet okayed it.
 - No further action to be taken by ConCom until Town Counsel has responded.
- **Discussion: Request for Partial Certificate of Compliance (PCOC) – 1 Orchid Lane, MassDEP # 100-0234**
 - The buyer's attorney submitted the PCOC request.
 - CA noted that the file does not contain the original OOC, only the amended OOC.
 - CA walked the site and found no issues related to infrastructure work.
 - GB moved to issue a PCOC for 100-0234 to clear the infrastructure component of the project that is attached to this house; BT 2nd.
 - Motion approved unanimously.
- **Discussion: Review of Balch Pond Dam status (aka East Main Street Spillway)**
 - The status and poor condition of this dam has been the subject of discussion for over a decade, with there being no plan for dealing with an emergency if the dam were to fail.
 - Again, the dam is listed as in poor condition and presenting a "significant" hazard potential.
 - CA obtained more documentation and reports on the dam from Town Engineer Dan Van Schalkwyk.
 - Years ago when the valve-operated dam failed, a new – and more primitive – system was initiated in which two boards are slid into a frame to control the water level.
 - Fire Chief Pedrazzi has said that these boards can leak like a sieve and that the Town needs a new system.
 - DPW Superintendent Mark Wetzel agrees and said DPW would be happy to attend to the dam's needs once ownership is resolved.
 - The Town did a Phase I inspection/evaluation of the dam, while MassDOT – whose state highway (Rte. 2A) crosses the spillway – did a Phase II review.
 - BD asked CA to invite Town Manager Pontbriand to attend a ConCom meeting to discuss this further.
 - It might be necessary to seek assistance from State Senator Jamie Eldridge to definitively address the ownership question so that corrective actions may be pursued.
- **Discussion: CA Performance Review**
 - CA's review is scheduled with Town Manager Pontbriand at 2 p.m. on 7/3.
 - JG will plan to attend.
 - The Commission was asked to come up with 3-5 goals for CA and ConCom for the year ahead.
 - After discussion:
 - updating the Town's wetland bylaw;
 - resolving Balch Pond Dam;
 - engaging in community outreach;
 - addressing work conditions for CA on the 3rd floor – largely noise issues.



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- BD suggested CA talk to Mr. Pontbriand about the availability of quiet/unused work space that CA could go to during non-office hours, a few times a week, for work that needs undisturbed concentration.
- **Accounts / Accounts Payable**
 - ConCom Budget MUNIS reports
 - ConCom reviewed its end of FY2018 budget reports.
 - The Commission was disappointed to see that the report lists a \$14,649.47 deficit under Services (01171 52000).
 - From the report, it is clear this deficit is due to money paid to BSC Group last summer for hiring a Temporary CA (Kait Rimol) during the CA job search.
 - As per ConCom's discussion and **VOTE** on 7/12/2017, coverage of extra funds needed during that time period beyond the ConCom salary budget was to come from the Commission's Wetlands Fund.
 - ConCom has been trying to have this corrected in its budget report for some time.
 - BD asked CA to consult with Town Manager Pontbriand to have the Town Accountant correct this.
 - Jo-Anne Crystoff, mileage reimbursement for site visits, April-May-June
 - Note: the April mileage report was missing and will have to be taken up at next meeting.
 - \$79.25, for period May 2-29, 145 miles, including trip to Grafton.
 - GB moved to approve payment of \$79.25; BT 2nd.
 - Motion approved unanimously.
 - \$78.48, for period June 2-June 27.
 - GB moved to approve payment of \$78.48; BT 2nd.
 - Motion approved unanimously.
 - Steve Smith, \$376.67, reimbursement for 500 trail map brochures, ten laminated sheets, and a new 20x30 color map for kiosk.
 - Previously approved at ConCom's 4/26/2018 meeting.
 - Because of the money remaining in ConCom's FY2018 budget, it was decided that Mr. Smith's reimbursement should come from the Commission's Wetlands Fund.
 - GB moved to approve payment of \$367.67, to come from the Wetlands Fund; BT 2nd.
 - Motion approved unanimously.
 - W.B. Mason, \$5.22, office supplies (metal file folder rack).
 - GB moved to approve payment of \$5.22; BT 2nd.
 - Motion approved unanimously.
- **Conservation Commission Office Updates**
 - AHO Development
 - This developer will be submitting a plan to the Town for construction of 25 houses, on the other side of Shaker Mill Pond.
 - They will have to prepare a conservation analysis.
 - Ayer-Shirley Regional School District (ASRSD)
 - CA received a 6/26 email from Jonathan Deforge, Chairman of the ASRSD School Committee, regarding the district's plan to upgrade playing fields at the Washington Street campus.



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- Mr. Deforge provided a preliminary plan and asked if the Commission had any concerns that should be addressed prior to the project going out to bid.
 - After brief review, ConCom was in agreement that this project was on land not jurisdictional to the Commission and therefore there were no concerns.
- Pingry Hill
 - The contractor is having a hard time finishing stormwater basin 9403 due to rain refilling the basin.
 - CA was advised to use her best judgment in authorizing the contractor to change the order of basin completion as needed.
- Kohler Place Conservation Restriction (CR)
 - CA will ask A. J. Bergin for an update on the status of the CR.
- Ayer Solar I / Rosewood Avenue Extension (MassDEP # 100-0388)
 - Still no response from Mike Lotti, of Industria Engineering, regarding construction of the replication area as required by the OOC.
 - CA said the DPW has confirmed it still has access to its sewer manholes and therefore plans no further work to address water level in the area.
 - Mr. Lotti had previously said he was delaying work until DPW resolved any water level issues.
 - See ConCom minutes for 10/26/2017 and 5/24/2018.
 - Mr. Lotti, however, has not responded to CA phone calls or emails for several months.
 - BD said, if necessary, ConCom will have to start talking about fines for failure to start/complete this work.
- 29 Jonathan Drive (MassDEP # 100-0395)
 - CA provided photos showing that the rain garden has now been planted and is doing well.
- 231 Snake Hill Road (MassDEP # 100-0421)
 - The foundation for the house is complete and has now been backfilled.
 - On a recent inspection, CA jumped into the foundation area to open a sump lid in the corner.
 - Water was in the sump.
 - The basement floor will be 4 inches above the stone, but if there is already water in the sump, CA wondered if this will be a continuing problem and where that water will be discharged to.
- **10:15 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: _____

7.26.18.