



Town of Ayer Conservation Commission

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

Minutes for 12/13/2018

Location: Ayer Town Hall, 1st Floor

Present: George Bacon (GB, Chair), Bonnie Tillotson (BT, Vice-Chair), Jessica Gugino (JG, Member/Clerk), Jon Schmalenberger (JS, Member), Mark Phillips (MP, Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

APAC taped: Yes

7:06 PM – Open Meeting

- **Confirmation of Agenda**

- BT moved to confirm the agenda as posted; JS 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

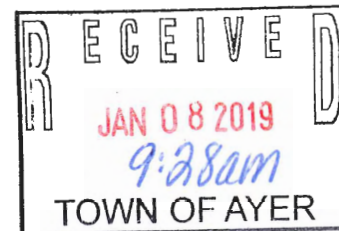
- BT moved to accept the minutes for 11/29/2018 as corrected; JS 2nd.
 - Motion approved unanimously.

- **Discussion: Ice House Partners Dam (MassDEP # 100-0321)**

- Liisa Marino, VP/GM of Ice House Partners, Inc., was present.
- The hydropower producing dam operates under OOCs for routine maintenance from both Ayer and Shirley.
 - The dam, originally built in 1798, underwent a major reconstruction in 2000 and became operational in 2007.
- Ms. Marino received an 11/1/2018 letter from the Federal Energy Regulatory Commission recommending the clearing of trees adjacent to the dam's water retaining structures.
 - FERC performed an annual dam safety inspection on 5/22/2018.
 - Erosion and undercutting were observed at the tailrace and the intake at the location of these trees.
- Work in this area falls solely under Ayer's OOC for the dam.
 - Ms. Marino noted that Special Condition #50 prohibits alteration, including the removal of standing or fallen trees in this area.
 - GB said this obviously-needed work should be done under an Amendment to the OOC.
 - Since the current OOC expires in April 2019, ConCom can deal with both the Amendment and the Extension at the same meeting.
 - CA will provide Ms. Marino with the forms for requesting an OOC Amendment.
 - A plan will also need to be provided showing the location of the trees to be removed.
 - GB asked for a maintenance plan to be submitted as well.

- **Discussion: Pingry Hill (Woodland Way) erosion and sedimentation controls**

- CA and GB met on site earlier in the week with erosion control specialist Desheng Wang to review the conditions caused by multiple lots being opened but many without limited construction entrances.
 - This has led to contractors entering lots with heavy equipment from many directions, resulting in a great deal of dirt being tracked onto the road where it can potentially enter storm drains, stormwater basins, and eventually wetlands.





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- Both CA and Dr. Wang have requested that the developer install specific construction entrances for each lot, as well as arrange haybale protection around nearby storm drains.
 - This is an important measure to control runoff into designated wetlands while work is going on during the winter months.
- Four driveways are scheduled to be paved the following week, which will help.
- At the time of CA's and GB's visit, the street had been swept clean, in contrast to recent photos provided by CA and Dr. Wang.
- GB said it's important to continue to keep the site in order, as per the OOC.
 - GB said that if runoff and sedimentation continue to be uncontrolled, ConCom could consider notifying the EPA in the spring.
- **Discussion: 0 Snake Hill Road, Fishing and Boating Access**
 - Parcel 21-3 is a narrow strip off Snake Hill Road, abutting Flannagan Pond.
 - It is not buildable and the current owner has inquired whether the Town would be interested in acquiring this property in lieu of back taxes.
 - A 12/5/2018 email from Doug Cameron, of Dept. of Fish & Game (DFG), Fishing and Boating Access, was received following his site visit with CA.
 - Mr. Cameron determined that the deed for the parcel under water that abuts the Snake Hill parcel (Parcel 21-3) does not grant abutters access to Flannagan Pond through that parcel.
 - The lack of legal access as well as the dense, woody BVW vegetation means the parcel does not currently meet DFG minimum standards for their involvement in helping create public access to Flannagan Pond.
 - CA spoke to Mr. Cameron on 12/12, asking if ownership of the abutting land under water was resolved, would the State reconsider.
 - Mr. Cameron said he could then give it more thought but the extent of heavy vegetation to get through would still in an issue.
 - In the meantime, CA has also discovered a very small parcel nearby (Parcel 28-135), also on Flannagan and owned by the Town.
 - Mr. Cameron will take a look at that piece in terms of potential public access.
 - ConCom may also look into whether there is a means to resolve the ownership or access across the abutting underwater parcel.
 - In the meantime, GB, JG, and MP spoke out in support of the Town accepting the Snake Hill Road parcel regardless, as a solution may present itself at some point in the future.
 - CA has spoken to the Tax Collector on this, and the Collector is confident that Town Counsel would approve the Town accepting the deed in lieu of taxes.
 - JG moved that the Commission formally express support for the Town's acceptance of this parcel and ask the Collector to put this acquisition in motion, pending Town Counsel's review; MP 2nd.
 - Motion approved unanimously.- **Discussion: Conservation Analysis for Open Space Residential Development (OSRD) Zoning Bylaw**
 - ConCom has been asked to provide input for the Conservation Analysis portion of the OSRD, the purpose of which is to preserve open space resources in Ayer.
 - See Zoning Bylaw Section 10.1, "Open Space Residential Development," administered via the Planning Board.



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- Section 10.1.3 (B)(3) reads “The Planning Board, in consultation with the Conservation Commission, shall study the conservation analysis...” prior to approving or denying an application.
- CA circulated two documents she has been working on.
 - The first draft borrows heavily off of the Southeast Wisconsin Regional Planning OSRD document.
 - Both GB and CA see this document as providing a comprehensive outline of the design process as well as the components of a robust site analysis.
 - The second handout contains clips from a number of similar documents that CA thought might be most helpful to incorporate into Ayer’s version of an OSRD.
- A comprehensive Conservation Analysis for the OSRD will provide much needed guidance to consultants, allowing the Commission to identify ‘priority conservation areas’ first, prior to consultants laying out a roadway and lot design.
 - BT suggested that the Conservation Analysis include requiring the location and identification of potential vernal pools.
 - CA plans to attend a Planning Board meeting to talk to them about ConCom input on this matter.
 - Commissioners should read over the two documents circulated by CA and provide comments or edits by 12/21.
- **Discussion: NPDES Stormwater Permit tasks**
 - The Clean Water Act authorized the US Environmental Protection Agency (EPA) and States, which are delegated the authority by EPA, to regulate point sources that discharge pollutants into waters of the United States.
 - The permit program that regulates stormwater discharge is NPDES – National Pollutant Discharge Elimination System.
 - See Ayer Bylaw Article XLVII, NPDES Phase II Stormwater Bylaw, the purpose of which is to establish minimum requirements and procedures to control adverse effects from stormwater runoff and comply with the US EPA stormwater management regulations.
 - The DPW has applied for a new NPDES permit, the previous one having expired in June.
 - As part of the NPDES permit, 53 separate tasks have to be completed by the Town.
 - The DPW has asked for ConCom/CA assistance with some of them, primarily involving public outreach.
 - All agree that there is a clear overlap between the interests of the Wetlands Protection Act and the NPDES process.
 - GB and CA met with DPW Superintendent Mark Wetzel and Town Manager Robert Pontbriand last Monday to discuss this.
 - Mr. Pontbriand asked ConCom to come up with a proposal to see how, and to what extent, it can provide help to the DPW.
 - Regardless, ConCom tasks will have priority.
 - CA will review the identified tasks, available resources, and yearly calendar for when tasks have to be done. ConCom will then review this and discuss how this can best be accomplished.
 - CA also noted that many towns have a separate Stormwater Utility that raises funds to enable compliance with EPA regulations.
 - The Town has previously voted against the establishment of such a Utility.



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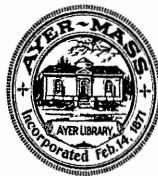
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- **Discussion: FY 2020 Conservation Commission Budget**

- The 2020 Budget is due on 12/14.
 - Town Manager Pontbriand has requested level funding.
 - CA's salary line item is a separate matter, determined by Town negotiations with the Union.
- MP moved to accept the budget draft as noted; BT 2nd.
 - Motion approved unanimously.
- CA will also attach a separate request from the Commission for \$25,000 in weed control funding for the coming year.

- **Conservation Commission Office Updates**

- Pirone Park Perimeter Path (MassDEP # 100-0422)
 - Paving of the path has now been completed.
 - However, CA showed photos of the damage done to the erosion controls (wattles and silt fencing) along the bank of Grove Pond.
 - The contractor, in packing in dirt to stabilization the new paving material, knocked down silt fencing and, in many places, left soil overtopping the wattles.
 - Ayer Parks Director Jeff Thomas, who personally installed the erosion controls, was also upset at their condition and told CA he would do whatever ConCom said was necessary to fix them.
 - At the least, CA will ask Mr. Thomas to stand the silt fencing back up and remove the soil from the wattles.
 - The general consensus was that, at the least, the contractor should help with this repair work.
 - Potentially covering the open soil with geotextile mats or hydroseeding or straw or weed control fabric was discussed.
 - CA will keep an eye on this area.
 - The contractor will be back in the spring to finish up the project.
- Page-Hilltop Oil Spill Clean-up (MassDEP # 100-0425)
 - CA directed the Commission's attention to a 12/10 email from Brian Snow, LSP (Licensed Site Professional) of OHI Engineering, for the Moores (Nashua Street and Pleasant Street Extensions) to Greg Morand and Stephan Landry, of Omni Environmental Group, which is managing the clean-up.
 - Mr. Snow's email expressed concern with how Omni is conducting the screenings for VOCs (volatile organic compounds) in making disposal site decisions.
 - Specifically, Mr. Snow objects to Omni's collection of samples from 16 discrete locations within each 'cell', but then compositing them into one EPH (Extractable Petroleum Hydrocarbons) sample for testing.
 - Mr. Snow also wrote that "remediated areas should not produce visible indications of fuel oil contamination" and yet he has observed visible petroleum impacts continuing in certain areas (i.e. west of current cell #1 and 5).
 - CA has passed this email on to Paul McManus, ConCom's outside consultant from EcoTec, for comment.



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- GB said that ConCom was not regulating the clean-up itself but only the remediation and restoration.
 - MassDEP standards regulate the clean-up.
- On that note, CA also said she was concerned that Omni has not started replacing any soils nor have any plants been brought in for the remediation portion of the clean-up.
- Site Inspections
 - In addition to Pingry Hill, CA has been conducting numerous other site visits, including:
 - At 231 Snake Hill Road, CA met with the developer and the buyer to look at where the earthen berm can be breached to allow the passage of water.
 - RDA-related visits have been conducted at sites on Amandry Way and Sandy Way.
 - Erosion controls at a new house construction on Sedgeway will be repaired.
 - A pre-COC inspection with John Boardman, for Lots 7 and 8 on Littleton Road, was conducted.
 - And earlier in the day, CA met with JG and CPC Chair Janet Providakes at the Barnum Road site of the planned Community Garden.
 - Earlier in the week, the DPW staked out a 100 ft. x 150 ft. area in the Town-owned parcel for use by the garden.
 - CA confirmed with measuring tape that the two corners closest to Grove Pond are roughly 130 ft. and 135 ft. from the bank of the pond.
 - The jurisdictional buffer zone distance is 100 ft., so the location of the garden is clearly outside of ConCom jurisdiction by a margin of 30 ft. or more.
- North County Land Trust
 - Marion Stoddart, founder of the Nashua River Watershed Association (NRWA) and a new resident to Ayer, has suggested that CA meet with the North County Land Trust as a possible holder of Ayer's CRs (Conservation Restrictions).
- Animal carcasses
 - Al Futterman, of the NRWA, recently discovered a pile of animal carcasses (deer, skunk hides, maybe a coyote, and feathers) dumped close to the bank of the Nashua River at the end of Groton-Shirley Road.
 - The Environmental Police cannot get involved as this is on Town land.
 - CA talked to the DPW and they had no knowledge of this as well.
 - CA will follow up, contacting the Ayer police.
 - MassCor
CA met with a representative of MassCor, the Department of Corrections, yesterday.
 - MassCor offers products from their metal working shop, custom wood working, and more, at reasonable prices and with free delivery, as part of their jobs training program.
 - CA thought this could be useful for having resource area warning signs, which ConCom frequently requires posted on new construction lots, produced through this program, and then sold to developers through ConCom.
- Associate or Alternate ConCom Membership
 - Per the recent visit from resident Jesse Caney, ConCom looked into this possibility.



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- Assistant Town Manager Carly Antonellis said Town Counsel's response to this question was that either status, Associate or Alternate, would require approval of the State Legislature.
- GB asked CA to contact MACC about this for their take as well.
- **Member Updates**
 - JG said she was hoping to start Wetlands Bylaw revision discussions at the beginning of the year.
 - JG also noted she attended the Board of Selectmen meeting on 12/4.
 - An alternate proposal for the Ayer Solar II project (MassDEP # 100-0403) was informally presented by Cal Goldsmith, of Goldsmith, Prest & Ringwall.
 - The alternate proposal is for replacing the solar project, currently under legal challenge by abutters, with a Ch. 40B residential development of potentially 55 townhouses.
 - Mr. Goldsmith told the BOS that the driveway for the solar project had received permitting from both the Planning Board and ConCom and that he had little doubt it could do so again with a residential project.
 - MP noted that tree-clearing along Sandy Pond Road, near the train tracks, has begun.
 - No one had information on this and the land is not jurisdictional to ConCom.
 - BT said she has heard that some trees are down across the Pine Meadow Conservation Land trails.
 - This would be a matter for the Tree Warden, once the location of obstructing trees is confirmed.
 - BT also noted that the Snake Hill Road causeway bridge, between Sandy and Flannagan ponds, is showing signs of erosion along its banks – caused by both beaver and fisherfolk activity.
 - ConCom should revisit this in the spring to consider whether riprap or new plantings could help.
 - GB said it was too bad that a floating dock close to the shore could not be installed for fisherfolk, but without sidewalks on Snake Hill Road, this could create a dangerous condition by encouraging pedestrian traffic.
 - GB reminded the Commission that it needs to extend its OOC soon for weed control on the ponds (MassDEP # 100-0293).
- **10:20 PM – Adjourn Meeting**
 - BT moved to adjourn; JS 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: _____

Signature Indicating Approval: _____

12/27/2018
Jessica G. Gugino