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TOWN OF AYER
TOWN CLERK

8:46 AM *ly*

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 1/10/2019

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

7:00 PM – Open Meeting

- **Confirmation of Agenda**

- The first discussion item, with Alan Manoian, was rescheduled to 1/24/2019.
- JG added an item for discussion on a draft ConCom letter regarding Balch Dam.
- GB added an item for discussion of ConCom's draft 2018 Annual Report.
- BT moved to confirm the agenda as amended; JS 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

- BT moved to accept the minutes for 12/27/2018 as written; JS 2nd.
 - Motion approved unanimously.

- **Announcements**

- A free workshop, "Growing Locally – Open Space, Farms & Housing: Is there Room for All?," will be held on Wednesday, Feb. 13, from 3-5 p.m. at Acton Town Hall.
 - CA and JG will be going.

- **Discussion: Violation Notice – Shaker Road, Justin Smith, Lots 6 & 7**

- Assessor's Map 36, Parcel 16
- Justin Smith, of Home Scout LLC (Harvard), was present to respond to the violation for topsoil removal inside of buffer zone without an Order of Conditions.
- Mr. Smith is preparing an area for development, with two of proposed lots inside of buffer zone.
 - When he purchased the property, it had already been surveyed by an engineering company, including wetland flagging.
 - However, some confusion arose after he hired a new engineering company, David E. Ross Associates, which resurveyed the parcel.
 - After the new survey, it was clear where the wetland line actually was located.
 - However, it appears that the topsoil clearing took place when Mr. Smith's project was between engineering companies.
 - David E. Ross Associates is now preparing a Notice of Intent (NOI) for the jurisdictional lots and this should be ready for ConCom in the next few weeks.
- For now, GB told Mr. Smith to install straw wattles between the cleared topsoil and the wetlands for immediate stabilization.
 - He should also assume the erosion controls will likely have to be moved after the NOI is reviewed and the Commission has determined their proper location based on the submitted plans.
 - Mr. Smith agreed to this and CA asked him to contact her when the wattles are in so that she can inspect them.



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- **Discussion: Conservation Analysis for Open Space Residential Development (OSRD) at 54, 56 & 64 Littleton Road (Rte. 2A)**
 - Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR), was present.
 - Kerry Curley was also present in the audience, on behalf of the applicant for the project that is currently undergoing Planning Board review.
 - Under the new Zoning Bylaw (Spring Town Meeting 2018), Section 10.1 establishes a new OSRD requirement that sets aside 50/% of subdivision land to be preserved as open space.
 - A Conservation Analysis must be done and reviewed by ConCom, which will then send its recommendations to the Planning Board.
 - The Conservation Analysis for this project was prepared by Oxbow Associates and submitted on 11/2/2018.
 - At that time, instructions for performing a Conservation Analysis were not yet ready (see following Discussion) so Oxbow based its Analysis on the criteria used by the town of Princeton, MA.
 - The development plan is, at this time, only preliminary.
 - Ideally, as described in the Analysis draft discussed below, the open space area should be set aside for protection prior to decisions as to the layout of house lots and roadways.
 - This is the first review of a Conservation Analysis for OSRD since the new Bylaw went into effect.
 - (It was also noted that an amendment to the bylaw, passed at Fall Town Meeting 2018, does not apply to this project – meaning that the wetlands in this case *can* be counted as part of the open space total.)
 - ConCom performed a site walk with Nick Pauling, of GPR, on Sunday, 1/6/2019.
 - Mr. Goldsmith stressed that the site is not within an ACEC (Area of Critical Environmental Concern), and contains no rare wildlife, priority habitats, vernal pools, or unique cultural features.
 - Based on the site walk and review of the preliminary plans, ConCom's comments were as follows:
 - JG questioned the location of a stormwater management basin in the area designated for preservation as open space.
 - She would prefer to see the designated open space area actually preserved as open space without disturbance.
 - Mr. Goldsmith indicated he would look into this, noting that they try to keep stormwater structures on common land to avoid future homeowners tampering or removing them.
 - MP noted an area on the aerial photograph of the parcel where, from the preliminary plan, it looks as though some houses are to go – while on the aerial photograph, that spot is marked as outside of the plans.
 - Mr. Goldsmith said that appears to be an error and would be corrected.
 - CA noted that the preliminary plan shows no access to the open space area in the back (northern part of parcel) except over what would be private properties.
 - She, and other members of ConCom, said there should be a common path of access between the open space and the cul-de-sac or road.
 - BT observed that the preliminary plan indicating a house to be built on Lot C seems questionable because of the steepness of the topography right there.



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- A lot of grading would need to be done, and the topography would also make stormwater drainage problematic.
- CA thought it would be good to pull the development, and its back lots, further from the wetland and entirely outside of the buffer zone.
 - The OSRD permits the configuration of smaller lots in exchange for the open space provision.
 - Mr. Goldsmith said the market does not accommodate too dense a development, and they would still keep minimum setbacks.
- BT asked if the subdivision plan would include any multi-unit houses.
 - Mr. Goldsmith said that housing demand was more for single unit houses, so none were planned at this point.
 - It was noted that Harvard has a new multi-unit development that is quite attractive.
- BT said that during the site walk, evidence of a lot of wildlife activity was noted.
 - This was another argument for preserving the 100 ft. buffer zone by pulling back some of the preliminarily proposed house lots.
 - Mr. Goldsmith said that only lots 8 and 9 intrude into the buffer zone and he was not sure they would be able to stay out but he would try as much as possible with this, as well as the adjusting location of the stormwater basin.
 - CA also noted that it has been established that high quality open space adds substantial value to the houses that abut it, so leaving buffer zone and wildlife habitat, as well as creating access to the open space, are all important real estate values in considering development plans.
- On the site walk, ConCom also observed some mature trees (red oak, white oak) toward the back, approaching the open space area.
 - It would be preferable if, during development, some of these could be saved in backyards rather than clear-cut.
 - The retention of mature, healthy trees also adds value to new property developments.
 - MP suggested perhaps some of these good lines of trees could be taken into account when locating a pathway access to the open space.
 - Any requirements for compensatory tree planting, in areas not jurisdictional to ConCom, would have to come from the Planning Board, but tree preservation would be part of ConCom's recommendation.
- As this is the first Conservation Analysis reviewed by ConCom, CA will talk to Town Planner Mark Archambault to try to get a better idea of what he and the Planning Board would like in terms of a format for recommendations.
 - In the meantime, CA will prepare a draft of ConCom's recommendations for this project, based on this discussion, and circulate.
 - GB will approve the final version.
 - Prior to ConCom's next meeting, GB and CA will be attending the next Planning Board meeting (1/22/2019) to discuss ConCom's draft Conservation Analysis (see following), and can also address at that time the Commission's recommendations for this project.

- **Discussion: Conservation Analysis for OSRD Zoning Bylaw**



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- The latest draft of ConCom's recommended instruction for a proper Conservation Analysis was reviewed.
- CA emailed the South East Wisconsin Regional Planning Commission for permission to borrow from, and heavily edit, their Analysis document, as well as borrow some of the graphics and photographs used to illustrate requirements.
 - CA has not yet heard back from them.
- CA has also circulated the draft to, and requested feedback from, DPW Superintendent Mark Wetzel, Town Engineer Dan Van Schalkwyk, Town Planner Archambault, as well as some engineers the Commission deals with regularly – i.e., Cal Goldsmith, of GPR, and Steve Mullaney, of S. J. Mullaney Engineering, Inc.
- In the previous discussion, Mr. Goldsmith promised to provide CA with some comments.
 - He did note that adjusting the photos and graphics to fit the smaller scale of Ayer would be useful.
- ConCom made some minor edits to the draft and deemed it now final.
 - As noted in the previous discussion, GB and CA will be presenting this document to the Planning Board at its next meeting on 1/22.
- **Discussion: Request for Certificate of Compliance (COC) – Lot 3, Orion Park Drive, Scott Hayes, Foresite Engineering, MassDEP # 100-0292**
 - Assessor's Map 7, Parcels 5 & 7
 - The COC is being requested to close out the old OOC.
 - This is for work that wasn't done as described in the original NOI, with the exception of the installation of a fence.
 - No action was taken on this Request at this time.
 - CA attempted a site visit but could not access the area due to a locked gate, fencing and barbed wire.
 - The engineer has talked to the owner of Orion Park, who has promised to remove the locks next week so CA can see the area covered by the OOC.
 - In addition, CA was able to observe an accumulating large pile of yard waste/leaves that has been dumped on the edge of, or into, what appears to be a wetland body.
- **Discussion: Request for Extension of Order of Conditions (OOC) – Town of Ayer, 1 Main Street, MassDEP # 100-0293**
 - This OOC is what ConCom uses for its Aquatic Weed Management program for Ayer town ponds.
 - BT moved to approve a 3-year Extension of OOC # 100-0293; JS 2nd.
 - Motion approved unanimously and the Extension was signed.
- **Discussion: NPDES Permit Public Outreach Tasks**
 - Per ConCom's previous discussion on 12/13/2018, CA charted out the requirements for some of the tasks that the DPW must have performed in order to apply for a new NPDES permit (National Pollutant Discharge Elimination System) to comply with US EPA regulations, and as required by Ayer Bylaw Article XLVII.
 - Of the 53 tasks that must be completed for the permit, ConCom agreed to help with those that overlap with the Commission's interests in enforcing the Wetlands Protection Act.
 - The two categories of tasks that CA, and ConCom, can help with fall under 'public education and outreach' and 'public involvement and participation'.



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- CA's public outreach chart identifies the disparate target audiences that must be reached: residents, businesses, developers, and industrial facilities.
 - To comply with the 5-year permit, each audience would get targeted at least twice.
 - CA has found that a lot of the material that could be used for such outreach (i.e. in mailings) already exists via various nonprofits or the EPA itself.
 - Most of these materials are editable, so that the Town seal could be used and details could be made Ayer-specific.
- As for public involvement, some of these tasks could be handled by CA and/or members of the Commission – i.e., attending various community events, such as those scheduled for roadside cleanups.
- The biggest factor in CA/ConCom helping the DPW meet its permit requirements is 'time', and since this hasn't been done before, it is unknown how much time each of the tasks would take.
 - It was also noted that public outreach through mailings could probably piggyback onto other townwide mailings (e.g. taxes).
- As for the budget to pay for such mailings, it was felt that this would be DPW's responsibility as ConCom does not have such budgeted funds, and it is the DPW's permit.
- CA and GB will further develop this chart and discuss its implementation.
- **Discussion: Balch Dam Letter**
 - JG produced a preliminary draft of a letter to the Board of Selectmen and Town Manager that strongly recommends action to be taken to address the "poor" status and "significant" hazard potential of Balch Dam (the East Main Street Spillway, off the rotary, under Rte. 2A).
 - Former Chair Bill Daniels initiated this discussion over the summer (see 6/28/2018 and 7/26/2018 minutes).
 - Suggestions were made to the draft letter and JG will edit it down to a less wordy document.
- **Discussion: Review of Draft 2018 Conservation Commission Annual Report**
 - GB produced a draft summarizing ConCom's 2018 highlights for the Town's Annual Report.
 - JG produced the figures tallying the number of permits issued and other actions taken by the Commission during this time.
- **Conservation Commission Office Updates**
 - Pingry Hill/Hemlock Drive
 - CA walked the first lot on the right, going toward the cul-de-sac, with site contractor Luke Pyburn, for the preconstruction meeting.
 - The erosion controls in this area were installed and inspected prior to Ms. Crystoff becoming CA.
 - These erosion controls were understood by the tree-clearer as delineating the Limit of Work.
 - However, it appears that the erosion controls were placed too close to the wetland flagging, and that more land was accordingly cleared than should have been.
 - The placement of stakes for house corners also looked to be closer to the wetlands than they should be according to the plans.



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- Dr. Desheng Wang, the erosion control specialist for the development, was told of his finding.
 - He has suggested putting a line of material, like stump grindings, in front of the controls for additional protection.
- Mr. Pyburn is waiting to hear back from the surveyor before proceeding with more work.
- Trevor Trail (Riley Jayne Farm subdivision, MassDEP # 100-0389)
 - CA met on site last week with DPW Superintendent Mark Wetzel and Mark Gallagher Jr., of Seal Harbor Development.
 - Seal Harbor is doing the Nashua Street Extension subdivision and will be developing some lots in the Riley Jayne Farm subdivision.
 - At Trevor Trail, Seal Harbor has had to dig a giant trench to contain, control and direct the flow of water coming out of a pipe from Lot 1, Nashua street extension.
 - Mr. Gallagher wanted to put in a new drain to run around Trevor Trail and discharge into a stormwater swale and basin meant to accommodate stormwater from Trevor Trail.
 - The swale and basin were not sized to also accommodate stormwater originating off of Nashua Street.
 - Accordingly, CA wanted DPW Superintendent Wetzel to evaluate the situation.
 - Mr. Wetzel recommended instead investigating directing stormwater to a new culvert under Pleasant Street.
 - The engineering calculations will need to be checked for feasibility.
- Page-Hilltop School Oil Spill Cleanup (MassDEP # 100-0425)
 - At the end of the Nashua Street Extension, Mark Gallagher and Seal Harbor have now completed the wetland crossing, as permitted under the State's Superseding OOC.
 - The oil spill cleanup area is still underway, but CA had photos of a dump truck filled with replication area replacement soil as well as a stack of wetland plants, indicating progress is about to be made on that front.
- ConCom Signs for Protected Wetland Areas
 - CA has received a \$125 estimate from graphic artist Kim Becker, who designed a previous ConCom wetland sign.
 - In terms of design, and for consistency with older signs, ConCom prefers a round sign.
 - A round sign also does not have sharp corners that could injure someone.
 - Again for consistency, the sign should probably follow the same red and green on white color scheme as the previous sign.
 - BT asked to see a couple of design options before ConCom decides on a final sign design.
- ConCom Database
 - CA showed a screenshot of the town of Lincoln's ConCom database.
 - Information Technology Director Cindy Knox estimated it would cost between \$4-5000 to create a similar database.
 - This would be more accessible and different from the spreadsheet created by ConCom's former CA.
 - Ms. Knox could also lend her Senior work-off person to ConCom to help with scanning, if ConCom were to proceed.
 - CA will check with the DPW and the Building Department to see what they use.



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- Kohler Place Conservation Restriction (CR) (MassDep #s: Lot 1 – 100-0392; Lot 3 – 100-0390; Lot 4 – 100-0391; subdivision – 100-0340)
 - CA distributed copies of the current version of the CR that the State has indicated it will approve.
 - GB asked members to review the document for discussion at ConCom's next meeting.
- Future Conservation Restrictions and Their Monitoring
 - With the new OSRD Zoning Bylaw that mandates the creation of open space in new developments, this means there will be new CRs created in the future.
 - This raises the question of how these, and already-existing CRs, are to be monitored, and ConCom needs to be prepared for this.
 - Assistant Town Manager Carly Antonellis has indicated to CA that adjustments to the budget could be made to handle this.
 - Meanwhile, CA will make inquiries and get estimates for an appropriate person to monitor CRs.
 - JG added that she just learned that ConCom's purchase of the Tooker property (in 2010), using CPC (Community Preservation Committee) funds, requires a permanent preservation restriction – that is, its own CR.
 - This will have to be done eventually for the 4.5 acre parcel that was added to the Pine Meadow Conservation Land.
- New MRPC DLTA Grant Opportunity
 - The Montachusett Regional Planning Commission has opened up a new round of DLTA grants (District Local Technical Assistance).
 - This could help the town further refine its mapping of potential open space parcels.
 - GB gave the okay for CA to apply for this new DLTA grant.
- Eagle Scout Robert Houde Bridge
 - ConCom will schedule a site walk for Saturday, 1/26, at 9 a.m., to meet Robert Houde at the site of his newly-constructed bridge, done for his Eagle Scout program.
 - The bridge is on Pine Meadow Conservation Land, across the stream that runs into Pine Meadow pond.
 - The Commission would like to take a photo of Mr. Houde in appreciation of his project.
 - CA will also notify the Nashoba Valley Voice to see if they are interested.
- **Member Updates**
 - JG
 - JG asked that a discussion of revising the Ayer Wetlands Bylaw be added to the agenda for the next meeting.
 - She intends to have an overview ready of where the Commission was last time it took up this topic.
 - JG said the Commission should schedule a discussion for implementing use of the Conservation Fund at some point in the future.
 - BT
 - Regarding Pine Meadow Conservation Land, BT noted:
 - Downed trees still need to be removed.
 - CA will contact the Tree Warden.



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- Some people's use of mountain bikes in the area is really tearing up some of the trails.
 - Mountain bikes are, however, not prohibited by the Regulations adopted by ConCom for the conservation land.
- MP
 - MP contacted National Grid to alert them to exposed 'Counterpoise' – the groundwire system – that presents a tripping hazard to people using the trails crossing under the power lines.
- **9:40 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: _____

1/24/2019

Signature Indicating Approval: _____

Jessica G. Gugino