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TOWN OF AYER
TOWN CLERK

2:30pm lf

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 1/24/2019

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

7:05 PM – Open Meeting

- **Confirmation of Agenda**

- A discussion with Alan Manoian, Director of Community and Economic Development, was cancelled.
- BT moved to confirm the agenda as amended; JS 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

- BT moved to accept the minutes for 1/10/2019 as corrected; JS 2nd.
 - Motion approved unanimously.

- **Accounts Payable**

- Beaver Solutions: \$708.00, annual maintenance contract for installed beaver deceivers at Long Pond Dam, Rock Meadow Pond, and Nonacoicus Brook (behind the Fire Station).
 - Maintenance cost per deceiver is \$295, but there is a 20% discount for multiple maintenance sites.
 - BT moved to approve payment of \$708.00; JS 2nd.
 - Motion approved unanimously.

- **Public Hearing: Request for Amendment to Order of Conditions (OOC) – 323 West Main Street, Ice House Partners, Liisa Marino, MassDEP # 100-0321**

- Assessor's Map 38, Parcel 1
- Ms. Marino was unable to attend and asked that the Hearing be continued.
 - BT moved to continue the Public Hearing to 2/14/2019; JS 2nd.
 - Motion approved unanimously.

- **Discussion: Solitude Lake Management – Summer 2019 treatment options for Ayer ponds (Sandy, Flannagan, Pine Meadow)**

- Joe Onorato and Dominic Meringolo, of Solitude Lake Management, were present to go over the 2018 pond treatment report and discuss treatment options for 2019 and on.
- This topic was previously discussed on 11/29/2018 following a summarization of Solitude's final report from BT.
- Solitude is a full service lake management company that, in addition to chemical weed treatments, performs surveys, water quality testing, wetland consulting, aeration, mechanical harvesting, hydroraking, and other related services.
 - Mr. Meringolo was originally with Aquatic Control Technologies (ACT), which began working with Ayer to manage invasives in the ponds back in the 1990s.
 - ACT was acquired by Solitude a few years back, along with Lycott Environmental, which also had previously performed some weed treatments for the town.



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- The primary treatment targets for Sandy, Flannagan and Pine Meadow ponds have been for control of invasive Variable Milfoil and Fanwort, as well as restriction of nuisance-level growth of native floating leaf plants (e.g. waterlilies, water shield) to preserve open navigable waterways for habitat and recreational enjoyment.
 - Nuisance levels of water lilies are most prevalent in Flannagan and Pine Meadow ponds.
- As BT noted in her presentation, it has become clear to the Commission over the years that a regular treatment plan over consecutive years is far more functionally effective as well as cost effective compared to sporadic treatment, i.e. a couple years of treatment followed by gaps and then followed by more costly efforts to catch up on maintenance again (the 'wait and see' approach).
- The goal of the tonight's discussion was to:
 - evaluate the success of the previous two years of higher levels of treatment;
 - develop a plan that closely monitors the ponds and seeks a consistent, consecutive, and cost-effective maintenance plan going forward.
- The final survey, done on 9/4/2018, observed the following:
 - Sandy Pond: trace to sparse growth of milfoil, trace growth of fanwort, both observed to be unviable and dying as a result of earlier-season treatments.
 - Flannagan Pond: no fanwort and only limited milfoil observed; excessive waterlily and water shield over growth had been successfully cut back.
 - Pine Meadow Pond: trace to sparse growth of dying milfoil was observed, along with successful cut back of waterlilies.
- The current treatment protocols for each plant are as follows:
 - Variable milfoil: Reward (diquat), a contact herbicide which has no effect on either fanwort or waterlilies;
 - Fanwort: Sonar (fluridone), pellet formulation;
 - Waterlilies/floating leaf plants: AquaPro (glyphosate), a full leaf ("foliar") treatment done later in the season.
- Among the highlights of the discussion:
 - Mr. Meringolo asked about the potentiality for the use of **Clipper** (flumioxazin), a granular powder, for shoreline fanwort growth.
 - Use of Clipper would require an Amendment to the Town's OOC for weed treatment (MassDEP # 100-0293).
 - Last time this was looked into, 2 or 3 years ago, NHESP (Natural Heritage & Endangered Species Program) had indicated to JG that they would not approve use of Clipper in a designated ACEC pond (Area of Critical Environmental Concern).
 - Mr. Meringolo said the advantages of using Clipper was its greater effectiveness for use in spot treatments.
 - Clipper does not need the same level of concentration as Sonar.
 - It can also be used effectively later in the season than Sonar.
 - Sonar takes up to 60 days to work, which is why Solitude likes to treat as early in the season as possible.
 - While Clipper breaks down quickly, it has previously not been allowed where there are State listed species of freshwater mussels.
 - Mr. Meringolo pointed to a 'data gap' – i.e. insufficient studies – that may have affected the State's previous evaluation.



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- Both CA and Mr. Meringolo will contact NHESP/the State to see if the same restrictions on Clipper use still apply.
- A new herbicide, **Procellacor**, may eventually be an option for the control of milfoil.
 - Procellacor has gotten federal approval, and is now being used in New Hampshire, but Massachusetts is still reviewing it for potential approval.
- Control of invasives through use of sterilized grass carp – as periodically suggested by some residents – is not an option as it is illegal in Massachusetts.
 - Even if legal, there can be other negative consequences for this form of invasive weed control.
- **Mechanical harvesting** was also explored.
 - This is an eco-friendly method of weed control, via barge, that removes nuisance vegetation and algae from the surface of a waterbody.
 - This would be useful for the control of over growth in floating leaf plants like waterlilies.
 - **It was underscored that mechanical harvesting is *not to be used* for milfoil or fanwort.**
 - Both of these invasives spread by fragmentation.
 - Where used, mechanical harvesting has the benefit of removing plant matter before it falls to the bottom of a waterbody and begins to decompose and build up biomass.
 - Often local DPWs will help with legal disposal of the organic material, perhaps via composting.
 - Mechanical harvesting is costly, running five to ten times higher than the amount for chemical treatments.
 - It could be a good alternative for limited spot-specific areas of growth.
- A different mechanical alternative would be that of **hydroraking**.
 - This method rakes the bottom of a waterbody, to remove accumulated biomass and restore water depth.
 - Hydroraking is also very costly.
 - It would take about a week to hydrorake just an acre of waterbody, with this running to a cost of \$10,000-12,000 per acre.
- In both cases (mechanical harvesting, hydroraking), the removal of organic material serves to reduce the level of nutrients (i.e. phosphorous and nitrogen) that contribute to the growth of invasives, algae, and native overgrowth.
- The identification of **trigger points** that would signal the need to treat was discussed.
 - Mr. Meringolo said they currently use the post-treatment monitoring report from the fall to determine their recommendations for spring treatment the following year.
 - MP asked what the scale for determining treatment would be, were ConCom to follow BT's suggestion of, say, the observation of a 20% or more regrowth of a particular species.
 - Mr. Meringolo said that "relative abundance" is useful.
 - Fanwort and milfoil will always come back, even if they appear to have been eradicated the previous year.



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- Fall monitoring shows the level of success achieved following a treatment cycle, but is also taken at a time of year when the normal growth cycle has fallen or ceased for the season.
- Similarly, the spring monitoring gives an indication of potential regrowth, but at a time with the growth cycle is just ramping up.
- There are always unknowns to the level of treatment that will be warranted.
 - Mr. Meringolo said that was one of the reasons they wanted to explore whether Clipper could be used for fanwort.
 - With aggressive invasives, a later-season surge in fanwort regrowth could be more successfully managed with Clipper than with Sonar.
- **2019 recommendations:**
 - Mr. Onorato and Meringolo said 2019 costs could probably be held to around \$25,000.
 - Sandy Pond should get at least spot treatments for milfoil and fanwort.
 - Flannagan Pond should have spot treatments of milfoil and fanwort, and continued control over nuisance level growth of floating leaf plants.
 - Pine Meadow Pond does not have fanwort, but should get milfoil treatment as well as continued efforts to scale back the overgrowth of waterlilies.
 - ConCom thanked Mr. Onorato and Mr. Merinigolo for the informative session and will get back to them after further discussion of 2019 treatment options.
- **Discussion: Conservation Analysis for Open Space Residential Development (OSRD) at 54, 56, and 64 Littleton Road**
 - Following ConCom discussion on 1/10, GB and CA prepared a draft written Commission recommendation to the Planning Board based on the preliminary plan for development at this site.
 - This recommendation was based on the rudimentary Conservation Analysis prepared by Oxbow Associates for Goldsmith, Prest & Ringwall (GPR) and on behalf of the applicant for this subdivision project.
 - The Analysis was prepared prior to there being available a final Conservation Analysis guidance document (see discussion following).
 - On Tuesday, 1/22, GB and CA met with the Planning Board to discuss the submitted Conservation Analysis for Littleton Road and to get a clearer sense of what the Planning Board is looking for in terms of a recommendation response from the Commission.
 - ConCom must now submit its final recommendation.
 - GB asked Commission members to go over the draft and submit comments to he and CA by the end of the following week.
 - One was to strengthen the wording on recommending against allowing the placement of stormwater structures in the 50% required set-aside for Open Space.
- **Discussion: Conservation Analysis draft for OSRD Zoning Bylaw**
 - When GB and CA met with the Planning Board on 1/22, it was also to go over the Commission's proposed draft of the guidance document for preparing a Conservation Analysis for new subdivisions going forward.
 - Per the new Zoning Bylaw, this Analysis is to be reviewed by ConCom and used as the basis for submitting a recommendation to the Planning Board as they review Open Space Residential Development proposals and plans.



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- The Planning Board expressed the view that they wanted to base their decisions on as much information as possible.
- CA said one pushback on the draft guidance was regarding the Commission calling an official Public Hearing to review a Conservation Analysis.
 - Several developers have indicated they do not want to pay for the legal notice for a Public Hearing that is in addition to the one already required before the Planning Board.
 - The Commission decided, since it only makes a recommendation, that it did not need to require a formal Public Hearing and associated legal notice.
 - It will still seek to meet with the preparer of the Analysis and/or representatives for the applicant.
- Another point of discussion was the time frame ConCom would need to make a recommendation.
 - Town Planner Mark Archambault suggested a 3 week timeframe for ConCom to review an Analysis and make a recommendation to the Planning Board.
 - However, the Commission thinks that this timeframe is too tight.
 - The Commission meets twice a month.
 - The Analysis would have to be submitted and reviewed, a site walk scheduled, and a follow-up meeting with a representative for the application scheduled, after which the recommendation would then be generated.
 - Although the Commission would do everything to speed the process, factors such as when a site visit could be scheduled, potential weather postponements, and even a potential ConCom meeting cancellation, would have to be factored in.
 - MP suggested, therefore, that a minimum of 4 weeks would be required, and that, to cover all bases, the timeframe wording in the Conservation Analysis guidance document read that ConCom would produce a recommendation 'within 60 days' of its receipt.
 - Ken Diskin, who is a member of the Planning Board and was in the audience, initially thought the Analysis, with resulting ConCom recommendation, should be done even before a preliminary plan is submitted to the Planning Board.
 - The OSRD process really changes the timeframe of the design process, requiring that the open space be identified and designated prior to the design of a subdivision layout (house lots, roadways, infrastructure).
 - A thorough Analysis and ConCom recommendation will then help the Planning Board as they consider a preliminary plan for a subdivision.
 - After further thought, however, Mr. Diskin noted that there is a statutory time limit for a Planning Board response once a preliminary plan has been submitted.
 - JG suggested that a preliminary plan application might be deemed incomplete without the combined inclusion of the Conservation Analysis and ConCom review/recommendation.
 - Perhaps the statutory 'time clock' would not be held to start until the submission, complying with the new Zoning Bylaw provisions, is deemed complete in that regard.
 - CA will look into this.
- **Request for Certificate of Compliance (COC) – Orion Park Drive, Lot 3, Foresite Engineering, Scott Hayes, MassDEP # 10w0-0292**
 - Assessor's Map 7, Parcels 5 & 7



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- To perform a site walk, CA was able to squeeze through the now-unlocked gate (see previous discussion 1/10/2019).
 - However, there were several different types of fences inside the gate – mesh, barbed wire, pallets.
CA could not identify which of these was the result of work under the OOC.
 - Also none of them had the OOC-required Conservation Restriction signs displayed.
 - Someone representing the applicant will need to accompany CA.
 - CA has called and emailed the engineer but has not heard back.
 - Absent the CR signs, CA cannot recommend issuance of a COC at this point regardless.
- **Discussion: Kohler Place Conservation Restriction (CR), (MassDEP #s: Lot 1 – 100-0392; Lot 3 – 100-0390; Lot 4 – 100-0391; Subdivision – 100-0340)**
 - The documents before ConCom are the draft CR and the Oxbow Baseline Documentation Report (February ???, 2017)[sic].
 - A. J. Bergin, the applicant, previously had Oxbow Associates prepare Baseline Documentation for the CR.
 - ConCom, the Board of Selectmen, and Town Counsel will have to approve the CR.
 - GB said ConCom should submit comments before the CR goes to the BOS and Town Counsel, and asked commissioners to submit comments to CA by next meeting.
 - A few preliminary observations were made:
 - P. 6-7 of the CR draft:
 - III (Prohibited Uses & Reserved Rights), b (Reserved Rights in the Premises), xii (Access to Sandy Pond shoreline and Dock via Access Area) (1&2).
 - xii (1) retains the right to clear, mark, and maintain a 5 ft. wide path (“Access Area”) from Lot 1 to the pond;
 - This is more than ConCom had previously heard contemplated.
 - xii (2) retains the right to “use any equipment necessary, including motorized equipment, for the construction and maintenance of the Dock, and surrounding beach area” so long as complies with Dock License.
 - This is also more than ConCom previously heard, and at the same time, contradicts p. 3 of the Baseline Documentation, where the box for “Non-emergency motorized vehicles” is checked off under “Prohibited Acts and Uses.”
 - CA will look into this further.
 - CA has also spoken to Mr. Bergin about ConCom performing a site visit.
- **Discussion: Revising Ayer Wetlands Protection Bylaw (Article XXVI)**
 - JG distributed packets to ConCom members and CA containing:
 - Wetlands Protection Act (WPA) (MGL Ch. 131, §40)
 - Existing local Ayer Wetlands Bylaw (Article XXVI)
 - MACC’s model local Non-Zoning Wetlands Protection Bylaw
 - (Massachusetts Association of Conservation Commissions)
 - Several outlines and comparison lists detailing the basic provisions of the WPA, what is replicated or different in Ayer’s local bylaw, and what is replicated, expanded, different, or added in the MACC suggested local model bylaw.
 - Members and CA should review and have comments or suggestions for ConCom’s next business meeting (2/28/2019).



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- The goal will be to have a bylaw revision ready for a vote at Fall Town Meeting 2019.
 - CA will check with the Town Manager's office to develop a suitable timeframe for the Commission to hold public hearings and submit a final draft to Town Counsel for review/approval in order to be included in the FTM Warrant.

- **Conservation Commission Office Updates**

- Paige-Hill School Oil Spill Clean-up (MassDEP # 100-0425)
 - CA displayed photos showing an extensive area that has now been replicated with new soil and currently-dormant wetland plantings.
 - Regarding the 3 pumps (2", 3" and tertiary 6") at the base of the stormwater outfall behind 112 Washington Street, Ayer recently experienced a significant flash freeze.
 - A few days later, temperatures warmed up and there was a heavy rainfall.
 - The pumps, however, had frozen solid and remained so despite Trident Environmental's best efforts.
 - Water was therefore rushing over the outfall and directly into the wetlands.
- Conservation Commission resource area signage
 - CA will be meeting with graphic designer Kim Becker to finalize the sign design.
 - CA also noted that one of the goals of the Master Plan was for there to be consistency in wayfinding signage.
 - It was therefore good that ConCom was sticking with the orange and green on white background, as well as the heron image.
- Ayer Master Plan, resources and goals
 - CA did a presentation on 1/23 to Town Hall people and some guests (Marion Stoddart, Anna Wilkins, North County Land Trust) on the resources and goals section of the Master Plan.
 - It remains clear that the Town will need to find someone to help monitor and manage its existing and forthcoming CRs.
- Eagle Scout Bridge Project, Pine Meadow Conservation Land
 - ConCom will be meeting with Robert Houde at the bridge site for a photo op on Saturday, 1/26, at 9 a.m.
 - CA contacted the Nashoba Valley Voice to see if they wanted to do an article on Mr. Houde's bridge accomplishment.
 - The bridge crosses the stream that runs from the wetlands ('Rock Meadow Pond') into Pine Meadow Pond and will be a very useful aid to hikers using the Pine Meadow Conservation Land trails.
- Shaker Road (Lots 6 & 7) Violation Notice
 - As discussed with Justin Smith at ConCom's 1/10/2019, CA received photos showing the installation of erosion controls (staked in straw wattles).
- 156 Washington Street (formerly 0 Washington Street), MassDEP # 100-0394 (issued 9/5/2016)
 - CA has been to the active construction site.
 - Some of the erosion controls have been buried and need to be restored.
 - In an effort to raise the house and move it closer to the street, the builder created a really steep slope in the back which will need to be looked at more closely by an engineer.
- Canoe launch site
 - Al Futterman, of the Nashua River Watershed Association, gave CA a map showing some potential canoe launch sites onto the river in Ayer which NRWA is looking into.



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- Associate Members/ Alternate Members to ConCom
 - After doing a recent MACC webinar, CA said the subject of associate/alternate members was addressed.
 - The Act establishing the creation of conservation commissions (MGL Ch. 40, §8c) prohibits alternate members without authorization via an act of the State Legislature, but at the same time is silent on associate members.
 - The MACC therefore considers the use of associate members to be appropriate, especially if there are special projects to which an associate could bring his/her particular expertise.
 - Town Counsel previously opined that neither alternate nor associate members were possible under §8c.
 - CA will look into this further as possibly Town Counsel lumped both categories together in error.
- Conservation Analysis for Shaker Mill Pond
 - Copies of a Conservation Analysis, prepared by Oxbow Associates (12/5/2018), for a proposed subdivision on Shaker Mill Pond were circulated for ConCom review.
 - John Boardman, of Places Associates, Inc., presented the Analysis to the Planning Board along with a preliminary plan on 1/22.
 - ConCom previously issued an ORAD (Order of Resource Area Delineation – MassDEP # 100-0433) for this project on 10/11/2018.
 - GB asked CA to have someone from Oxbow and the applicant attend ConCom's next meeting.
- ConCom 2018 Annual Report
 - Final edits were made to GB's draft.
- **Member Updates**
 - MP will be attending the MACC 3/2/2019 Annual Conference, along with other members of the Commission.
 - JG said she received a query from former member Bill Daniels about the tree clearing near the railroad tracks on Sandy Pond Road, approaching Willow Road.
 - Mr. Daniels thought there was a wetland system nearby.
 - As ConCom cannot enter the site without permission, CA will speak to the Building Inspector to make sure he knows there might be wetlands nearby before issuing a Building Permit.
- **10:01 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: _____

2/14/2019
Jessica G. Gugino