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TOWN OF AYER
TOWN CLERK

1:25pm *lf*

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 3/28/2019

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)

Not Present:

APAC taped: Yes

7:00 PM – Open Meeting

- **Confirmation of Agenda**

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

- **Approval of Meeting Minutes**

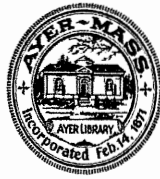
- BT moved to accept the minutes for 3/14/2019 as written; JS 2nd.
 - Motion approved unanimously.

- **Accounts Payable**

- Eco Tec Inc.: \$2601.76, for outside consultant services of Paul McManus, through 3/24/2019, for Page-Hilltop Oil Spill Cleanup (MassDEP # 100-0425).
 - 19 consulting hours @ \$130/hour - \$2470.00; 244 mileage @ \$54¢/mile - \$131.76.
 - BT moved to approve payment of \$2601.76; JS 2nd.
 - (Funds to come from special account set up for this purpose, funded by OOC applicant)
 - Motion approved unanimously.
- Kim Becker: \$125.00, for design/art work for 6" round ConCom conservation sign.
 - BT moved to approve payment of \$125.00; JS 2nd.
 - Motion approved unanimously.
- W. B. Mason: \$2.19, office index cards.
 - BT moved to approve payment of \$2.19; JS 2nd.
 - Motion approved unanimously.

- **Public Hearing (cont'd.): Request for Amendments to Orders of Conditions (OOC) – Lots 7 & 8, Littleton Road (Rte. 2A), Aho Development Corp., MassDEP #s 100-0406 and 100-0407**

- Assessor's Map 36, portion of Parcel 18
- The draft OOCs were reviewed and approved by John Boardman, of Places Associates, Inc., acting on behalf of the applicant.
 - Correction to previous minutes: The drainline running from the western catchbasin on Rte 2A to the raingarden will not be removed when the raingarden is taken out.
 - Instead it will be plugged when that catchbasin is decommissioned.
- BT moved to sign the Amended OOC for 100-0406 and close the Public Hearing; JS 2nd.
 - Motion approved unanimously and the OOC was signed.
- BT moved to sign the Amended OOC for 100-0407 and close the Public Hearing; JS 2nd.
 - Motion approved unanimously and the OOC was signed.



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- **Public Hearing (cont'd.): Notice of Intent (NOI) – 10 Fox Run Drive (Lot 114), Ridge View Realty Trust, MassDEP # 100-0435**
- Assessor's Map 36, Parcel 153
 - With the ground now clear of snow, a site walk was scheduled for 9 a.m. on Saturday, April 6.
 - CA received an email from erosion control specialist Dr. Desheng Wang.
 - He has refreshed the wetland flagging, including relocation of a few flags to address wetland changes.
 - Mr. Mullaney told CA that the house corners have already been staked.
- **Discussion: Kohler Place Conservation Restriction (CR)**
 - (MassDep #s: Lot 1 – 100-0392; Lot 3 – 100-0390; Lot 4 – 100-0391; Subdivision – 100-0340)
 - After receiving some questions/comments from ConCom, Misty Ann Marold, of Natural Heritage & Endangered Species Program (NHESP) made some edits which were reviewed.
 - Per NHESP, the 'Access Path' to the dock is limited to 5 ft. in width, cannot be paved, and can only be used by motorized vehicles three times/year (for dock construction/maintenance, boat loading/unloading).
 - BT will work on rewording one section of the document.
 - Questions were raised about the language used regarding 'beach construction'.
 - ConCom at some point needs to work on a uniform policy for beaches on Sandy Pond.
 - Before moving forward on the CR, ConCom will perform a site visit to see the location of the proposed path and ascertain plans for the beach area.
 - NHESP also underscored that while the CR creates reserved rights for the current owners, exercise of those rights in some cases nevertheless will require passing through the ConCom permitting process, as in construction of the path or beach.
 - Pending approval of the current applicant, A.J. Bergin, ConCom will plan to do the site walk on Saturday, April 6.
- **Unplanned Discussion: Calvin Moore**
 - Mr. Moore showed up to raise some questions regarding the Pleasant Street Riley Jayne Farm subdivision, including Trevor Trail.
 - C.J. Moore (Riley Jayne Farm LLC) will be submitting a request for Extension of his OOC (MassDEP #100-0389), which expires in June.
 - Complications have arisen as C. J. Moore holds the OOC, but the builder, Seal Harbor (Mark Gallagher, Sr.), is resisting responsibility for some of the conditions in the OOC.
 - Additional complications have arisen as some of the lots on Trevor Trail, which Seal Harbor is building, are also listed on the OOC for the Page Hilltop Oil Spill Cleanup (100-0425).
 - Mr. Gallagher has said he wants a letter of indemnification from someone that removes any liability from him for any effects arising at the tail-end of the Diesel Direct cleanup as this could affect his sale of houses.
 - Mr. Moore will be talking to his Attorney, Jim Marsh, next week, and said he would be happy to have CA present for at least part of the conversation.
 - Mr. Moore said that Onyx Corporation has been given the go-ahead by C. J. Moore to finish the road on Trevor Trail, so that it is ready for Town acceptance.

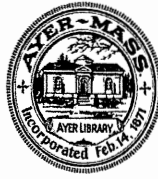


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- There are also some water issues affecting backyards of some of the houses on Trevor Trail.
 - An old drain pipe conveying stormwater, installed decades ago by a resident, has become a problem.
 - It used to divert water to the left, where it can travel along a natural swale to a culvert running under Pleasant Street, but now is instead directing the water straight where it affects the backyards.
 - Mr. Moore said it would be a simple solution to build up a kind of earthen berm to re-divert that water back to the left/swale once more.
 - GB said that ConCom would like to see a plan of some sort before it decides whether this would require an Amendment to the OOC or something else like an RDA submission.
 - Mr. Moore will provide a plan by the time they are ready to move forward with the Extension request.
- **Request for Certificate of Compliance (COC) (cont'd.) – Lot 3, Orion Park Drive, Foresite Engineering, Scott Hayes, MassDEP @ 100-0292**
 - Assessor's Map 7, Parcels 5 & 7
 - CA has still not heard back from the engineer or company so matters have yet to be sorted out.
- **Request for Partial COC (cont'd.): 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0073**
- **Request for Partial COC (cont'd.): 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0092**
- **Request for Partial COC (cont'd.): 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0126**
 - Assessor's Map 37, Parcel 69
 - With snow gone, CA was able to do a site visit.
 - The house is high and dry, there is no sump pump discharging anywhere, and all looks fine.
 - BT moved to approve the Partial COC for MassDEP # 100-0073; JS 2nd.
 - Motion approved unanimously.
 - BT moved to approve the Partial COC for MassDEP # 100-0092; JS 2nd.
 - Motion approved unanimously.
 - BT moved to approve the Partial COC for MassDEP # 100-0126; JS 2nd.
 - Motion approved unanimously.
- **Discussion: Ayer Wetlands Protection Bylaw**
 - JG circulated a draft of the bylaw for ConCom to review, edit, and comment upon.
 - CA will check with the Town Clerk's office to see if there are any upcoming mailings planned that ConCom could include a notice of public hearings within.
- **Conservation Commission Office Updates**
 - Paige-Hill School Oil Spill Clean-up (MassDEP # 100-0425)
 - Twenty pounds of wetland plant seed mix has now been spread across the cleanup site.
 - CA had to stop two men from Seal Harbor who were shoveling stone out of the brook and creating a real mess.



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- Stephan Landry, of Omni Environmental, expressed concerns to CA that when Seal Harbor, who is the builder for Nashua Street Extension, installed the temporary wetland crossing, they set the pipe on the up-gradient side lower than the original level of the brook.
 - This has the effect of draining more water out of the wetlands, and Omni has concerns this may impact the success of the replication areas and reseedling.
 - If this is duplicated when the permanent wetland crossing goes in, that could continue to have an adverse effect.
 - Since Nashua Street Extension is under a Superseding OOC, CA will contact Denise Childs, at MassDEP, to update her on the potential change in hydraulics to the area.
 - CA is also hoping that the plans for the State's Superseding OOC specify the elevations for the pipe.
- Possible Land Donation
 - CA was contacted by Al Futterman, of Nashua River Watershed Association.
 - Mr. Futterman, in turn, was contacted by Mr. Slarsky, who had contacted ConCom a couple years ago about donating a wetland parcel in the area behind the Fire Station.
 - GB asked CA to contact Mr. Slarsky for permission for ConCom to visit the site on April 6, if it has time, and to put this on the next agenda.
- "Ayer Green Residences"
 - At the Board of Selectmen special meeting on 3/27, the BOS voted to enter into a 'Memorandum of Agreement' to pursue a 'friendly' Ch. 40B Local Initiative Program (LIP).
 - The location of this project is at the site of the former Ayer Solar II, approved in 2017 by ConCom under MassDEP #100-0403 – and within the Petapawag ACEC (Area of Critical Environmental Concern).
- Warrant Article, Spring Town Meeting
 - CA submitted ConCom's draft article to Town Manager Pontbriand requesting \$30,000 in funding for pond weed treatment.
- 2019 Pond Weed Treatment
 - The contract with Solitude Lake Management is now in the hands of Town Manager Pontbriand for final execution.
- Ayer Public Library
 - CA delivered to the library some free educational materials as well as a copy of the recently-approved Open Space & Recreation Plan
 - She also informally discussed educational and outreach possibilities with Tim Silva, Director of the Library.
- Possible Violations
 - Harvard Road/Rte. 110
 - Tree-clearing took place on land adjacent to the gas station, just off the rotary, going right up to the edge of an intermittent brook that drains into Grove Pond.
 - The intermittent brook may actually be in Harvard, though the land cleared is in Ayer.
 - CA will talk to the Harvard Conservation Commission about this.
 - 14 Robbins Road



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- CA received a phone call from a resident about a neighbor clearing trees in close proximity to Bennett's Brook.
- CA will check further.
- Stormwater Committee
 - If this committee can meet in the evening, BT will be happy to represent the Commission.
- **Executive Session (approximately 9:30 PM)**
 - Executive Session pursuant to MGL, Chapter 30A, Section 21A, Exemption #6 (to consider the purchase, exchange, lease or value of real property)
 - Chair GB stated that to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy.
 - JG moved to go into Executive Session to consider the purchase, exchange, lease or value of real property, and to reconvene in Open Session for the purpose of adjourning from the regular meeting; JS 2nd.
 - A Roll Call vote was taken: MP Aye; JS Aye; BT Aye; JG Aye; GB Aye.
 - Motion approved unanimously.
- **[EXECUTIVE SESSION, recorded in a separate set of minutes]**
- **9:50 PM – Adjourn Meeting from Executive Session**
 - JG moved to close the Executive Session and return to Open Session for the purpose of adjourning from the regular meeting; BT 2nd
 - A Roll Call vote was taken: MP Aye; JS Aye; BT Aye; JG Aye; GB Aye.
 - Motion approved unanimously.
- **9:50 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: _____

4/11/2019
Jessica G. Gugino