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OCT 29 2021

TOWN OF AYER
TOWN CLERK

Town of Ayer Conservation Commission

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

Minutes for 5/13/2021

Location: Remote Meeting via Zoom, accessible to public, due to Pandemic State of Emergency
Present: Jon Schmalenberger (JS, Chair), Mark Phillips (MP, Vice-Chair), George Bacon (GB, Member), Jennifer Amaya (JA, Member), Jessica Gugino (JG, Member/Clerk), Scott Murray (SM, Associate Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

Broadcast and Recorded by APAC

7:00 PM – Open Meeting

- Throughout the meeting, JS periodically asked for input (questions or comments) from members of the public viewing the meeting remotely (via Zoom or live broadcast), and calling in to participate either by Zoom or telephone connection.
- **Confirmation of Agenda**
 - GB moved to confirm the agenda as posted; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 4/22/2021 as written; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: West Main Street culvert safety stabilization and restoration plans**
 - Beavers continue their damming activities in the destroyed culvert in Nonacoicus Brook off West Main, requiring multiple clearings by DPW crews.
 - In coordination with the DPW, CA has contacted Mike Callahan, of Beaver Solutions, who has provided a quote of up to \$1,331.00 for installation of a beaver deceiver.
 - Mr. Callahan will do the installation on 5/20.
 - DPW Town Engineer Dan Van Schalkwyk is checking to see if the DPW already has a 12-in. pipe, 40 ft. long, in their yard.
 - If so, this would take nearly \$500 off the cost.
 - Mr. Van Schalkwyk is also going to be talking with a consultant to develop a town-wide beaver management plan that clearly delineates tasks and responsibilities between ConCom and DPW.
 - In addition, CA told the Commission she had had to issue another Emergency Certification, after-the-fact, to the DPW for removal of a beaver dam in a channel that runs parallel to the new Parks & Rec building at Pirone Park.
 - Water had been backing up in the drainage swales to either side of Bligh Street.
 - This beaver dam was not in a manmade culvert, and because of miscommunication at the DPW, the crew went ahead and cleared it.
 - CA will have Mike Callahan take a look at this area on the 20th.



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- **Discussion: Wild and Scenic Nashua River Stewardship Council grant and grant agreement**

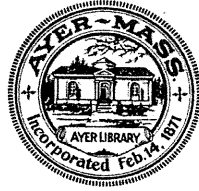
- A community grant for \$4800 was awarded to the Town through ConCom for the creation and installation of informative signage identifying visible waterways and water bodies in Ayer.
 - CA said it was the largest of the grants awarded in this first year of the grant program.
 - ConCom again expressed its appreciation for the volunteer contribution of resident Faith Salter in putting together the grant proposal.
- Ms. Salter has also offered to put together a task list to help move this project forward – an offer readily accepted!
 - The project must be completed by 6/30/2022.
- The grant agreement needs to be signed by a representative of the Town.
 - GB said when the Historical Commission received a grant from the State, the agreement had to be signed by the Chair of the Select Board.
 - CA will investigate who should be the signer of this grant agreement.
 - Meanwhile, GB moved to approve signing the grant acceptance form by whoever is determined to be the proper authorized person; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

- **Discussion: Treatment of ponds for invasive aquatic weeds**

- The first weed treatment, this one in Flannagan Pond, is scheduled to be done by Water & Wetland LLC on Monday, 5/17.
 - Notices of treatment are being posted in the area, as well as on the Town Hall kiosk, Facebook page, etc.

- **Discussion: Ayer Master Plan implementation update**

- Alan Manoian, Director of Economic & Community Development, will be presenting a report to the Select Board next week on the Town's progress in implementing Master Plan goals.
- CA distributed copies of the summary she prepared for him that outlines the ConCom goals that have been achieved, including:
 - Resource Goal: coordinating volunteer efforts to enhance stewardship of open spaces;
 - Achievements:
 - working with Boy Scout Troop to remove invasive plants on Pine Meadow Conservation Area trail;
 - working to assist Girl Scout Keziah Salter's project to develop a brochure promoting efforts to combat non-point source pollution of Ayer ponds;
 - working with the Library to create a 'Poetry Path' to attract hikers to Pine Meadow Conservation Area;



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- working with volunteer Faith Salter to submit a grant application to the Nashua River Stewardship Council to fund waterway/water body signage;
- Resource Goal: developing and coordinating support for conservation initiatives with the Nashua River Watershed Association (NRWA), US Fish and Wildlife, MA Fisheries and Wildlife, Mass Audubon, and neighboring towns;
 - Achievements:
 - working with some of the above groups to convene the Land Protection Partners to promote conservation efforts for the proposed Stratton Hill development in 2018;
 - working with NRWA to successfully complete Ayer's 2019 Open Space Recreation Plan update;
 - CA also volunteers as a water quality monitor for NRWA since 2019;
 - CA will be on an upcoming panel (5/18) with North County Land Trust (NCLT) discussing ways small towns can use the services of regional land trusts to implement land conservation initiatives;
- Resource Goal: explore formation of land trust or partnership with a regional land trust to help facilitate acquisition and management of open spaces and Conservation Restrictions (CR);
 - Achievement: CA currently working with NCLT to create a fee-based mechanism for NCLT to take over the monitoring and stewardship of several Town CRs, as required under the Ayer Open Space Residential Development bylaw;
- Land Use Goals: actively protect, conserve, and preserve Ayer's natural resources and supporting infrastructure in order to protect critical environmental habitats, drinking water supplies, recreational areas, and open spaces, including management and treatment of Ayer's ponds, streams, and open spaces for invasive species and other threats;
 - Achievements:
 - Commission chose new pond weed treatment contractor for 2021 weed control in Ayer ponds, hoping for less expense and less herbicide use going forward;
 - Commission now using its permitting process (Orders of Conditions, Determinations of Applicability) to require or encourage removal and remediation of invasive vegetation where possible.
- Commission members were very appreciative of all of these achievements, largely accomplished through the efforts and care of CA Crystoff!



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- **Public Meeting: Request for Determination of Applicability (RDA), 87 Littleton Road, Scott & Jacqueline Anderson**
 - Assessor's Map 36, Parcel 231
 - Mr. Anderson participated via Zoom.
 - Mr. Anderson is seeking permitting approval to draw water from Shaker Mill Pond to service a sprinkler irrigation system for his front and back yards
 - Mr. Anderson provided CA with a copy of the 'plat map' that shows his property extends a bit out into the water.
 - Mr. Anderson said he has also spoken with the abutting property owner of the land under water in Shaker Mill Pond, who had no issues with him drawing water from the pond as long as it was okay with ConCom.
 - All effort should be made, however, to locate the stake holding the intake hose on Mr. Anderson's property if possible.
 - JS made two requests of Mr. Anderson:
 - given that what goes onto a lawn eventually winds up downhill in the pond, JS asked Mr. Anderson to please minimize the use of fertilizer to treat his lawn;
 - during serious drought conditions, he asked that Mr. Anderson abide by Town restrictions on water use as well.
 - GB said he was not opposed to this RDA but wanted it clear that ConCom, in granting this permit, was not setting a precedent for the future.
 - ConCom members agreed with this 'no precedent' and 'see how this works out' approach.
 - JS stressed that he appreciated that Mr. Anderson was willing to put himself through the RDA process rather than just go ahead and do it on his own.
 - GB moved to issue a Negative Determination of Applicability; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 9 Victor Drive, Sean Matthews, MassDEP # 100-0456**
 - Assessor's Map 12, Parcel 71
 - Mr. Matthews participated via Zoom.
 - His project is for construction of a garage addition and replacement of a retaining wall next to an intermittent stream.
 - Earlier in the day, Mr. Matthews picked up some 'No Dumping/No Disturbance' signs from CA for posting along the stream.
 - Mr. Matthews said some minor adjustments to the construction sequence/plans will need to be made per input Mr. Matthews has received from his site contractor.
 - For example, the container and shed were to be stored temporarily in the backyard but this will destroy the backyard, resulting in greater disturbance and expense.
 - Instead, these will be stored toward the road, to the right of the driveway, where they will only need to be moved once at the beginning, and then only one more time to their final location after construction is complete.



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- Mr. Matthews will keep CA apprised of all such changes.
 - GB moved to approve and authorize signing of the Order of Conditions (OOC) for 100-0456; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - GB moved to close the Public Hearing for 100-0456; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing (cont'd.): NOI – 1 Nemco Way, Catania Oils LLC, Joseph Basile, MassDEP # 100-0458**
 - Assessor's Map 17, Parcel 21
 - Carolyn Gorss, of Epsilon Associates, participated via Zoom on behalf of the applicant, also present.
 - GB asked if there had been feedback from MassDEP on questions they had raised regarding the jurisdictional status of the existing pond/detention basin.
 - Neither CA nor Alyssa Jacobs, who works with Ms. Gorss, received any response to emails or phone calls.
 - CA noted the possibility that MassDEP may not be responding because it is limited in what advice it can offer commissions and agents, in the event DEP may appeal or override a ConCom ruling.
 - Commissioners were comfortable moving forward and seeing how DEP responds to the OOC.
 - GB moved to approve and authorize signing of the OOC for 100-0458; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - CA will issue the OOC on Monday, 5/17, and send it certified to Ms. Gorss's office.
 - On a related matter, Ms. Gorss said they will be submitting a Request for a Certificate of Compliance (COC) to close out a Catania OOC issued in 2015.
 - The constructed swale had some erosion issues which will be fixed next week for CA to then inspect.
 - This should be on ConCom's 5/27 meeting agenda.
 - GB moved to close the Public Hearing for 100-0458; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Meeting: RDA – 3 Trevor Trail, Rob Steeman**
 - Assessor's Map 13, Parcel 9
 - Mr. Steeman participated via Zoom.
 - This is an after-the-fact submission for the removal of 3 dead trees in the resource area.
 - While it had appeared that these trees were stable, one of them came down in a March storm, missing hitting the house by about 20 inches.
 - Mr. Steeman contacted CA at the time and was given the go-ahead to remove the other two hazard trees as well before they fell on something else.
 - GB moved to issue a Negative Determination of Applicability after-the-fact; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.



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- **Public Meeting: RDA – 103 Oak Ridge Drive, John Delcore**
 - Assessor's Map 19, Parcel 28
 - Mr. Delcore participated via Zoom.
 - His RDA seeks permission to replace an old and rotting railroad tie retaining wall.
 - The collapsing retaining wall supports the integrity of a corner of the foundation to the house.
 - The new wall will be built within the same footprint and be constructed with precast blocks.
 - Two large stairways in the existing wall will be eliminated and access to the terraced area will be via the natural contour of the existing yard to the side.
 - If permitted, Mr. Delcore would also like to extend the new retaining wall under the deck to add stabilization to the existing footings there.
 - ConCom scheduled a site visit with Mr. Delcore for 5:30 p.m. on Tuesday, 5/18.
- **Public Meeting: RDA – 8 Calvin Street, Jose Mercado**
 - Assessor's Map 21, Parcel 39
 - No one showed up via Zoom or phone call for this Meeting.
- **Public Meeting: RDA – PanAm Rights-of-Way, PanAm Railways**
 - No one showed up via Zoom or phone call for this Meeting.
- **Public Meeting (cont'd.): RDA – Snake Hill Road Right-of-Way (ROW), DPW**
 - Assessor's Map 36
 - GB moved to authorize signing of the Negative Determination of Applicability; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Meeting (cont'd.): RDA – Nashua Street Right-of-Way, DPW**
 - Assessor's Map 19
 - GB moved to authorize signing of the Negative DOA; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Meeting (cont'd.): RDA – Highland Avenue Right-of-Way, DPW**
 - Assessor's Map 20
 - GB moved to authorize signing of a Positive DOA, requiring submission of an NOI for permitting instead; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Conservation Commission Office and Member Updates**
 - Fertilizer use bylaw
 - JG volunteered to research and draft a potential stand-alone bylaw submission to restrict the use of phosphorous-bearing fertilizers in the vicinity of the ponds.



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- Phosphorous drainage into water bodies is a known contributor to the growth of aquatic vegetation, which the Town spends a good deal of money yearly to eradicate in Sandy, Flannagan, and Pine Meadow ponds.
 - This is a complaint raised repeatedly at Town Meetings.
 - It would be up to Town Meeting to approve or reject such a bylaw.
- Appeal to MassDEP for #100-0451 (0 & 31 Central Avenue)
 - Kyle Burchard, of Goldsmith, Prest & Ringwall, was kind enough to forward an email to CA from the analyst at MassDEP assigned to this appeal.
 - The analyst had also sent the email to ConCom but had misaddressed it to 'concomm' rather than 'concom'.
 - The analyst is looking for dates in the next two weeks where he could meet on site with representatives from ConCom as well as the appellant.
 - If more than 2 commissioners want to attend (i.e. a quorum), CA will be happy to post the non-public meeting as is required by State law.
- **Discussion: Regulations for exempt minor activities within buffer zones**
 - No time remained for this discussion.
- **Discussion: Review of Ayer Conservation Commission Special Conditions Boiler Plate**
 - No time remained for this discussion.
- **8:32 PM – Adjourn Meeting**
 - GB moved to adjourn; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk.

Date / Signature of Approval: _____

5/27/2021 *James T. Gugino*