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TOWN OF AYER
TOWN CLERK

Town of Ayer Conservation Commission

6 pages

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

Minutes for 2/11/2021

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)

Not Present:

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 1/28/2021 as corrected; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - GB moved to accept the minutes for 1/22/2021 (joint meeting with Planning Board) as written; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Payables Report**
 - The latest Payables Report was briefly reviewed with no comments.
- **Public Hearing (cont'd.): Notice of Intent – 1 Bishop Road, Carlos Obregon, UCC LLC (Ultimate Car Care), MassDEP # 100-0449**
 - Assessor's Map 19, Parcel 199
 - Thomas Christopher, of Christopher Environmental Associates (CEA), was present via Zoom on behalf of Mr. Obregon.
 - The draft Order of Conditions (OOC) has been reviewed by the applicant, with no issues.
 - Following previous consultation with CA, Mr. Christopher said 30 'Sweetferns' will be planted along the back slope of the fill area and that the edges will also be lined with bark mulch.
 - Mr. Christopher has provided a planting sketch.
 - GB moved to approve and authorize the signing of the OOC; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - GB moved to close the Public Hearing for 100-0449; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.



SCANNED

05.24.2021



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- **Public Hearing: NOI – Jonathan Drive, Cross-Country Water Main, Ayer Department of Public Works (DPW), MassDEP # 100-0455**
 - Assessor's Map 12, Parcel 158
 - Town Engineer Dan Van Schalkwyk participated via Zoom on behalf of the DPW and, using screen-sharing, gave a power point presentation of the NOI application:
 - Installation of a new 12-inch ductile iron cross-country water main to connect the end of Jonathan Drive with the water main at Lots 4 and 5 of the Riley Jane Farm subdivision (Pleasant Street Extension).
 - Currently the northwest portion of Ayer is serviced by a “dead-end” water main with no direct backfeed in the event of a shutdown.
 - The proposed new water main will eliminate the dead-end by creating a loop.
 - The looped water main will additionally improve water quality as well as the water flow rate that is critical for fire protection.
750 GPM (gallons per minute) is the accepted threshold needed for adequate fire flow.
 - Prior to 2020, the fireflow rate in this area was 712 GPM; this rate rose to 748 GPM following construction in 2020 of a Groton Shirley Road loop.
 - At the completion of the water main proposed in this application, the fireflow rate would rise to 810 GPM.
 - The method for installation of the new water main would be via underground horizontal directional drilling.
 - This involves the excavation of 5-6-ft. deep temporary entry and exit pits at either end of the installation line.
 - Gate valves will be installed at either end as well.
 - While the NOI plan showed the temporary exit pit would be located on the National Grid land, because NG objected to that, the entry pit will instead be located at the edge of Lots 4 and 5.
 - Mr. Van Schalkwyk will be updating the plan to reflect this change.
 - The underground water main will be installed at a minimum depth of 5 ft.
 - During the installation, a crewmember will track the underground location of the horizontal drill bit from the surface using an electromagnetic guidance device.
 - The crewmember will also be monitoring for ‘lost circulation material’ – i.e. the bentonite, clay and water mixture of drill fluid – in case of an accidental breakthrough to the surface.
 - The NOI was accompanied by a “Horizontal Directional Drill Fluid Management and Contingency Release Plan” to address responses to such an incident.
 - The path of the new water main will cross 5 parcels:
 - 29 Jonathan Drive



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- The DCR Nashua River Rail Trail (Mass. Dept. of Conservation & Recreation)
 - National Grid powerlines
 - Lots 4 and 5, Riley Jane Farm subdivision
- Because the water main will cross under the DCR Rail Trail, which is given conservation protection under Article 97 of the State Constitution, this triggered the threshold requiring MEPA (Mass. Environmental Policy Act) review, currently underway.
 - The DPW has submitted an ENF (Environmental Notification Form) and expects a decision on 2/22 as to whether the ENF is acceptable.
- Easements:
 - An easement already exists on Lots 4 and 5 (Riley Jayne Farm) that will allow the laying of the water main.
 - The DPW/Town is in the process of formalizing separate easements for 1) crossing under the DCR Rail Trail, and 2) crossing under the National Grid land.
- The project will also have to go before Annual Spring Town Meeting, on 4/26, for approval of funding.
 - If approved, it would then be put out to bid for contractors.
- ConCom cannot schedule a site visit until the ground is no longer covered by snow so will wait until early April.
 - GB moved to continue the Public Hearing to 4/8/2021; MP 2nd.,
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 0 & 31 Central Avenue, Central Realty Trust, John Hillier, MassDEP # 100-0451**
 - Assessor's Map 27, Parcel 33 and Assessor's Map 26, Parcel 352
- **Enforcement Order (EO) Update: 0 Central Avenue, John Hillier**
 - Assessor's Map 26, Parcel 352
 - John Hillier was present via Zoom, along with Attorney David McCay, of Mirick O'Connell Attorneys At Law.
 - JS opened by saying that draft OOCs are sent to applicants for review as a courtesy and that the Commission is under no obligation to allow edits.
 - This was in response to the many edits to the draft sent back by Mr. McCay in consultation with his client.
 - Mr. McCay said the edits were offered in good faith, in order to have an accurate OOC that, at the same time, did not burden Mr. Hillier more.
 - One edit in particular came up for discussion as Mr. McCay had asked, on Mr. Hillier's behalf, that the original deadline for the planting of 12 trees to address the EOs be changed from June 1 to Dec. 1, 2021.
 - JS said he did not see how there would be a problem with getting 12 trees into the ground by June 1.
 - Mr. Hillier said the June 1 deadline had been agreed to months earlier, and there had continued delays since then, therefore he was asking for the extension.
 - JG said that deadline had been agreed to at ConCom's 11/5/2020 meeting which was then continued to 11/19 for review of a draft OOC.



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- At the request of the applicant, the Public Hearing on 11/19 was continued to 12/3, then the 12/3 meeting was continued to 12/17 at the request of the applicant.
- Following corrections to the NOI (requested by MassDEP), the 12/17 Hearing was continued to 1/14/2021, and that Public Hearing was then again continued to 2/11 at the request of the applicant.
- ConCom was not the cause of the delays.
 - GB did not see the June 1st deadline as a huge burden.
 - JA agreed, adding that if there was cause for a reasonable delay, such as a snowstorm in May, ConCom would not be unreasonable.
 - MP said he was steadfast as to maintaining the June 1 deadline.
- There being no further discussion offered, GB moved to approve and issue the OOC draft as prepared by CA (with the June 1 deadline); MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- GB moved to close the Public Hearing for 100-0451; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - CA provided information to Mr. Hillier and Attorney McCay as to the 10-day appeal period to MassDEP, from the date of issuance, if they so choose to exercise that option.
- Pertaining to Mr. Hillier's property, resident David Bodurtha asked the Commission why it was not enforcing no disturbance in the buffer zone, given snow is being plowed, and by extension dirt disturbed, in a parking area.
 - Mr. Bodurtha also asked why Mr. Hillier was still being allowed to park cars in the buffer zone.
- JS said the State provides "guidelines" for snow removal, but they are guidelines, not regulations.
 - Mr. Hillier is allowed to plow on his property.
 - There is also a berm on the left side, between the parking area and the intermittent stream, so snow or dirt won't make it into the stream.
 - JS pointed out how the DPW regularly plows snow in the buffer zone, especially on many side streets leading downhill toward the ponds.
 - While he appreciated Mr. Bodurtha's concerns, he did not feel Mr. Hillier's snowplowing was a significant issue.
 - As to parking on his lot, Mr. Hillier is allowed to park up to 4 cars there – more than that would require Planning Board review.
 - Mr. McCay said the area where cars are parked has existed for decades, and had been plowed for decades back when owned and used by the railroad.
 - Mr. Bodurtha disagreed with this assertion.
- On polling, ConCom members were agreed that Mr. Hillier's parking of up to 4 cars in that area, and plowing snow to accommodate those cars, was not a problem, and that ConCom was ready to move on.



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- The only remaining issue, CA said, was her finding time to write the letter, to be signed by the Chair, stating that all the terms of the previous EOs have been satisfactorily resolved.
 - CA's recommendation was that ConCom move forward with issuing this letter (as voted on at ConCom's 12/17/2020 meeting).
- **Public Hearing (cont'd.): Adoption of Regulations to accompany Ayer's local Wetlands Bylaw (Article XXVI)**
 - ConCom voted to formally adopt draft Regulations at its 1/28 meeting but neglected to close the Public Hearing.
 - Following that meeting, CA said the Regulations were filed with the Town Clerk on 2/1/2021, putting them officially into effect.
 - GB moved to close the Public Hearing; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Coordination of Open Space Residential Development (OSRD) process with Planning Board**
 - A brief discussion took place regarding the joint meeting held between ConCom and the Planning Board on 1/22/2021.
 - Ken Diskin, a member of the Planning Board, also participated in this discussion and said he was pleased that a process had been started to tighten up the review of OSRDs.
 - One of the results of the 1/22 meeting was recognition that some of the "guidelines" provided to OSRD developers could be strengthened by the Planning Board making them into "regulations."
 - Mr. Diskin also thanked CA for providing him with a recent copy of "Massachusetts Wildlife" (No. 3, 2020) that provides an excellent overview of the Mass. Endangered Species Act (MESA).
 - MESA permitting review, through the Natural Heritage & Endangered Species Program (NHESP), accompanies many projects that also come before the Planning Board and ConCom.
 - He has passed this copy on to other Planning Board members.
- **Conservation Commission Office Updates**
 - Upcoming ConCom agenda items
 - Catania Oils, changes to stormwater structures accompanying construction of building addition;
 - McDonald's, facelift to their building and other changes;
 - To save time, the applicant would prefer not to delineate wetlands and is willing to consider that the whole project will take place within riverfront.



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- CA has told their consultant that the wetland nearby is an intermittent stream, not a perennial stream, but the applicant would prefer to move forward as quickly as possible nevertheless;
 - The Autumn Ridge Conservation Restriction annual monitoring report will be presented by Steve Smith at a March meeting.
- RFQ for 2021 pond weed treatment
 - The RFQ has gone out and ConCom should have at least two robust proposals to review at its next meeting.
- Grant opportunity
 - The Nashua, Squannacook, and Nissitissit Rivers Wild & Scenic Stewardship Council has issued a Request for Proposals for its 2021 Community Grants Program.
 - Four grants, up to \$5000 each, will be awarded; the application deadline is April 1, 2021.
 - CA wondered if creating signs to put at stream/river crossings in Ayer would be a viable project.
- Flannagan Pond public access
 - JS asked that this be included on a future agenda, to see if things can get moving on this.
 - CA noted that the Town owns a small bit of land on the pond, off Oak Ridge, across from the intersection of either Eastern or Western Avenue.
 - Mr. Bodurtha said this area would be a better location than from the more shrubby/swampy areas potentially available off of Snake Hill Road or Old Sandy Pond Road.
- Poetry path
 - CA has been working with Library staff on plans to install wooden signs displaying nature poetry along the Pine Meadow Conservation Land trails.
 - CA, who is working on this as a volunteer on her own time, said they hope to install the signs in mid-April.
- **8:26PM – Adjourn Meeting**
 - GB moved to adjourn; MP 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval:

2/25/2021