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TOWN OF AYER
TOWN CLERK

Town of Ayer Conservation Commission

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

Minutes for 1/27/2022

Location: Remote Meeting via Zoom, accessible to public, due to ongoing COVID 19 Pandemic

Present: Jon Schmalenberger (JS, Chair), Mark Phillips (MP, Vice-Chair), George Bacon (GB, Member), Jennifer Amaya (JA, Member), Jessica Gugino (JG, Interim Office Administrator; Member/Clerk)

APAC Recorded: Yes

7:00 PM – Open Meeting

- **Confirmation of Agenda**
 - GB moved to confirm the agenda as posted; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 4-0 (JA not yet present).
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 1/6/2022 as amended; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 4-0 (JA not yet present).
- **Accounts Payable**
 - It was noted that an invoice for \$217.00, to J & S Business Products, Inc., has been approved for payment.
 - This was for the production of 5 signature stamps for each commissioner, to be used while meetings continue to be held remotely.
 - To use them, however, requires each member to authorize in writing, following each meeting, the use of the signature stamp in place of their direct signing.
 - Procedurally, JG will circulate an email immediately following each meeting, listing the votes taken for which a signature will be required, and asking each member to respond ASAP – for yes votes – with their permission to use the stamp, or if not, when they can come into the office to sign directly.
- **Public Input**
 - None received.
- **Public Hearing (cont'd.): NOI – Willow Road and Route 2A, Massachusetts Department of Transportation (MassDOT) – Highway Division, Danielle Spicer, MassDEP # 100-0477**
 - Assessor's Map 30
 - Present via Zoom and on behalf of MassDOT were Danielle Spicer, Stormwater & Permitting Group Leader, and Tom Bigelow, Project Manager, both from Green International Affiliates, Inc.; and Hung Pham, from MassDOT.
 - Also present via Zoom was DPW Director Dan Van Schalkwyk.
 - The project location is at the intersection of Littleton Road/Route 2A and Willow Road (north side of intersection, in Ayer) and Bruce Street (south side, in Littleton).
 - It proposes to improve the intersection with a permanent traffic light, turn lanes, a shared use pathway and granite curbing on 2A, and the addition of some stormwater treatment infrastructure in Littleton.

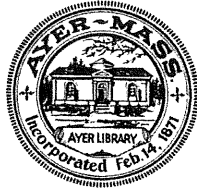


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- As the project will discharge through a new pipe very close to Bennett's Brook, on the outlet side of the culvert under Willow Road, ConCom was concerned with the lack of any stormwater treatment nearby in Ayer, given most of the environmental impact of the project was to be felt by Ayer.
- Since ConCom's last meeting on 1/6, Mr. Van Schalkwyk worked with Mr. Bigelow, meeting on site, to come up with a solution, detailed in the 1/26/2022 memo to ConCom received from Ms. Spicer:
 - "While traditional infiltrating BMP's [Best Management Practices] are not feasible within Ayer, the Town has agreed to pay for and maintain a proprietary water quality structure that will be installed near the outlet, providing additional treatment removal prior to discharge to Bennett's Brook."
 - Revised plans and detail were also provided with the memo.
 - This new stormwater treatment will include a hydrodynamic separator and an overflow weir, and will be located within the existing Right-of-Way.
 - The unit will allow the increased removal of TSS (Total Suspended Solids) from stormwater prior to discharge.
- The possibility of DOT being willing to partner with a town to do something like this had been mentioned at the last meeting and noted in the approved minutes (p. 4).
 - In conferring with Mr. Van Schalkwyk, DOT was made aware that Ayer already has a few of these units as well as the equipment to check and maintain them.
 - Generally Ayer DPW inspects units like this twice a year, and if necessary, then hires a special contractor to vacuum them out.
- Mr. Van Schalkwyk said the DPW also had available funds in its stormwater budget to take on this cost.
 - As with the East Main Street project, MassDOT will put the project out to bid, including this new catchbasin; the Town will then cover the cost.
- In response to MP's questions, Mr. Van Schalkwyk said that when he walked the site with Mr. Bigelow, he had looked at other possibilities previously raised, such as a basin on the other side of the intersection along Bruce Street (Littleton).
 - He agreed, however, that there was no space to expand a basin there – given the existing farm – nor was there sufficient elevation – given other underground pipes in the intersection (including gas), to install another pipe.
- MP, as well as the rest of the Commission, were appreciative of what DOT has been willing to do, with the Town, in response to ConCom's concerns.
- As for site specific Special Conditions, GP said DOT knows how to run a site so he did not think additional special conditions were necessary.
- GB moved to approve the NOI as amended and revised and to draft an Order of Conditions (OOC) for 100-0477; MP 2nd.
 - Motion approved unanimously 4-0 (JA not yet present).
 - JG will prepare the draft OOC and send it to Ms. Spicer for review.
- GB moved to continue the Public Hearing to 2/10/2022; MP 2nd.
 - Motion approved unanimously 4-0 (JA not yet present).



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- **Public Meeting: Request for Determination of Applicability – 4 Shelly Lane, Seann Ives**
 - Assessor's Map 34, Parcel 153
 - Mr. Ives was present via Zoom and described his project proposal.
 - His property abuts Grove Pond on a downslope, and he would like to level a 16' x 12' area, just beyond 25' from the bank, to create a sitting area around a fire pit.
 - The levelled area would be lined with pea gravel, and the far end of the area (farthest from the pond) would be backed by a short retaining wall.
 - In Mr. Ives initial plan, to level the area would require dropping the ground level down about 21" from the highest point at the back.
 - ConCom members had been able to previously visit the site back on 12/18/2021, when the ground was still clear.
 - JS and JA said they were concerned too deep soil removal could impact tree roots observed in or near the sitting area and thereby put the surrounding trees at risk.
 - Mr. Ives said he did not want to damage the trees and asked for recommendations.
 - JG suggested adding a retaining edge and then adding material to raise the level of the front of the sitting area.
 - As a solution, Mr. Ives liked the idea of "splitting the difference" – lowering the back half of the sitting area by half of what was initially planned, and using that soil to build up the front of the sitting area.
 - A shorter retaining wall would then be used along the back edge, and another along the front edge to hold the pea gravel sitting area in place.
 - Mr. Ives estimated that this would involve taking the back down only about 10 inches rather than around 21 inches.
 - GB moved to issue a Negative Determination of Applicability (DOA) with conditions – installation of erosion controls (silt fence/haybales or straw wattles) – to be inspected prior to work; leveling by removing soil from the back and re-using to build up the front of the sitting area; two short retaining walls, at back and front of leveled area; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Review of Contract with North County Land Trust (NCLT) for Conservation Restriction (CR) Services**
 - The draft prepared by Town Manager Robert Pontbriand and NCLT was reviewed.
 - It was clarified this contract, for \$10,000/year, would be an on-going, multi-year project.
 - All that needs to be done cannot be done in a single year.
 - The Town needs help in creating and/or finalizing existing CR properties; creating baseline documentation needed for annual monitoring – for all but two of the CRs on the list; and performing the annual monitoring and enforcement.
 - ConCom members had a number of comments.
 - Per GB, three additional CRs needed to be added to the Exhibit A table on p. 3:
 - Orion Place
 - Panther Place

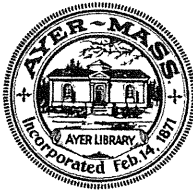


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- Ayer Solar IIB
 - ConCom members wanted clarification of the “Expenses” paragraph on p. 1.
 - ConCom members also wanted it to be really clear what NCLT would be being asked to do, i.e. the expected “deliverables.”
- Comments made by Geoff Tillotson, Chair of the Planning Board, were also noted:
 - New CRs are now required under the new Open Space Residential Subdivision Zoning Bylaw.
 - Going forward, the Planning Board is intent on ensuring the cost of preparing the CR as well as the baseline documentation will be funded by the developer.
 - The Board is also now writing into their approvals of OSRD subdivisions that the completed CR must be in hand before Certificates of Occupancy can be issued.
- It was noted that the State currently does not have a CR reviewer, so some sort of back-up/contingency plan might be needed.
 - Mr. Tillotson will reach out to Town Counsel for guidance on this.
- JG will convey the Commission’s comments to Mr. Pontbriand.
- **Discussion: Review of Draft Request for Quotes (RFQ), 2022 Ayer Pond Weed Treatments**
 - Questions were raised about the wording in some sections, including the section on water sampling rounds and their timing.
 - GB suggested having the applicants submit their own water sampling plan and schedule for ConCom to review.
 - It should include at least an initial sampling round per pond to establish a baseline, and must end with an appropriately timed post-treatment round.
 - The post-treatment round will help establish the treatment recommendations for the following year.
 - The wording for reaching the target control levels (90% eradication for milfoil and fanwort, 50% for invasive phragmites) will be reworked to indicate these levels should be reached after the last treatment ‘by the end of the MSDS (material safety data sheet) effective time period’ as indicated on the labeling.
- **Discussion: Water Chestnut removal project for Grove Pond, Laurie Nehring**
 - Laurie Nehring, President of PACE (People of Ayer Concerned about the Environment), was present via Zoom.
 - Ms. Nehring is submitting an application for grant funding, on behalf of PACE, to the Nashua River Wild & Scenic Stewardship Council 2022 community grant program.
 - The grant is to seek funding for chemical lab testing of plants, water and sediment by the invasive water chestnut patch at the north end of Grove Pond (near to the Community Garden off Barnum Road).
 - The testing would repeat arsenic testing of 6 plants that was done by SOLitude in 2017, but also adding in tests for other substances, including chromium and PFAS.



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- Ms. Nehring hopes to coordinate a volunteer effort this coming summer to handpull the water chestnut patch before it gets larger.
 - The testing is to ensure the safety of volunteers, especially from dermal absorption of contamination.
 - The purchase of safety equipment, such as long protective gloves, would be part of the grant application.
- The grant will also seek recommendations, based on the testing results, for proper methods of collecting and disposing of the water chestnuts once pulled.
 - DPW Director Van Schalkwyk previously told Ms. Nehring that if the plants are not diagnosed as 'hazardous waste', then he would be able to have the DPW collect them in a dump truck and dispose of for composting.
- Give the cycle of the water chestnut and its seeding, Ms. Nehring expects that handpulling would need to be repeated for the next 5 years or so.
- Time windows are also important – the ideal time to test plants – after they've grown big enough to be visible on the surface – is in early June, while the ideal time to handpull them is a 2-3 week period at the end of July and early August.
- Ms. Nehring asked the Commission if it would be willing to provide a letter of support for her grant application.
 - JS said it was a wonderful project, and the Commission as a whole was in favor of submitting a letter of support.
 - JG read a draft that she had previously prepared, and it will be finalized and sent to Ms. Nehring on the following day (1/28).
- **Discussion: Update on Stratton Hill, Open Space Residential Subdivision (OSRD)**
 - At its previous meeting, ConCom voted on selecting a third-party reviewer of the conservation analysis.
 - However, since then, and at the request of the Planning Board, Attorney Robert Collins submitted a formal request to withdraw the applications before the Planning Board "without prejudice."
 - The applications were for the subdivision, stormwater permitting, and site plan review.
 - The Planning Board formally accepted this request at its meeting on 1/25.
 - It expects the applicant, Dave Moulton, to resubmit an application later in the spring, when they have their plans more in hand.
 - Since an application is no longer on the table, ConCom cannot proceed with the third-party review at this time.
 - This is also per the advice of Attorney Amy Kwesell (Town Counsel, KP Law) to Town Planner Mark Archambault.
- **Conservation Commission Office and Member Updates**
 - OSRD review process, coordination with Planning Board, guidance documents



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- JS summarized a meeting held by Zoom earlier in the day with himself, Town Planner Archambault, JG, Mr. Van Schalkwyk, and two members of the Planning Board, Ken Diskin and Jonathan Kranz, to take up again work on finalizing the guidelines issued to developers who propose Open Space Residential Development subdivisions.
 - Further meetings will be scheduled.
- Waterways signs project
 - If weather permits, the previously scheduled site walk to review sign locations – cancelled because of extreme cold – was rescheduled to Saturday, February 5, at 9 a.m., meeting at the Town Beach parking lot.
- ConCom 2021 Annual Report
 - GB's draft annual report was reviewed and is ready to be submitted to the Town Manager's office.
- Conservation Commission Job Vacancy
 - The Conservation Administrator position has been posted internally, per union requirements, and will be posted publicly next week.
- Update on Fertilizer Bylaw review by Attorney General
 - A letter from the Attorney General's Office was received requesting a 90-day extension from the Feb. 7 deadline for their decision on the fertilizer bylaw submitted to them last fall.
 - Town Counsel Attorney Mark Reich approved the extension request.
- Flannagan Pond public access project
 - The DPW, with JG's help, has prepared an application for Community Preservation Act grant funding of a feasibility study to investigate best locations, pros and cons of each, for creating a public boat launch (canoes and kayaks) on Flannagan Pond that is ADA compliant and has parking.
 - The application will go before CPC (Community Preservation Committee) at its meeting next week (2/2), before going on to the next steps of a Public Hearing at CPC in March and then, if approved to move forward, a final decision by Spring Town Meeting voters in April.
- **9:01 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:

2/10/2022 