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TOWN OF AYER  
TOWN CLERK

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## Town of Ayer Conservation Commission

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8220, ext. 143  
Minutes for 9/28/2023

Location: Ayer Town Hall, 1st Floor

Present: Jon Schmalenberger (Chair), Mark Phillips (Vice-Chair), George Bacon (Member), Jen Amaya (Member), Jessica Gugino (Member/Clerk), Heather Hampson (Conservation Agent)  
APAC taped: YES

All Public Hearings are opened under the Wetlands Protection Act (MCL Ch. 131, section 40)  
and under the Ayer Wetlands Bylaw (Article XXVI)

### 7:00 PM – Open Meeting

- **Confirmation of Agenda**
  - **VOTE:** G. Bacon moved to confirm the agenda as posted; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
- **Approval of Meeting Minutes**
  - **VOTE:** G. Bacon moved to accept the minutes for 9/14/2023 as written; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
- **Beaver Solutions Proposal**
  - H. Hampson was contacted by Mike Callahan about the failing pond leveler/beaver deceiver installed at the Rod & Gun Club.
    - Beavers have chewed on the 40-ft. plastic pipe, causing it to fail.
    - Mr. Callahan submitted a proposal for the installation of a new pipe, to be wrapped in metal mesh, for \$2290.00, which includes a 10% discount.
  - Due to some confusion over the device's location and whether it was installed by the Gun Club or by ConCom, H. Hampson will check with Beaver Solutions for the original invoice.
    - If ConCom previously installed the pipe, then H. Hampson will okay the proposal for its replacement.
    - **[POST-MEETING FOLLOW-UP NOTE:** It was later confirmed that ConCom did okay the installation of this pipe, in 2014, not near the Gun Club building itself but at the beaver dam on Rock Meadow Pond, adjacent to Autumn Ridge.
      - This was the beaver dam that blew out in 2011, suddenly releasing so much impounded water that it washed out part of Oak Ridge Drive – hence the Town's interest in controlling the water level at this location.]
- **Public Input**
  - None received.
- **Public Hearing (cont'd.): Notice of Intent – 201-205 West Main Street, DMG Investments LLC, MassDEP # 100-0485**
  - Drew Garvin, of Bohler Engineering, was present.
  - This project is for the building of a 170-unit apartment complex, including 2 retail areas, on two already-disturbed lots on West Main.



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- Most of the work is outside of ConCom's jurisdiction, but midway along the eastern side as well as at the back northeast corner, some paving and retaining wall work is located at the outer fringe of the 100-ft. Buffer Zone.
- In addition, a portion of the project site is in Flood Zone; the project will be mitigating the filled-in area with the creation of new graded Flood Zone nearby.
- This project was last discussed at ConCom's 8/10 meeting.
  - Some revisions have been made to the plans since then and new ones (9/15/2023) have been distributed.
  - Other developments include:
    - The letter from NHESP (Natural Heritage & Endangered Species Program) has been received confirming that 'no take' of endangered species or impact on their habitat is expected.
    - The project received a Special Permit from the Zoning Board of Appeals on 8/20/2023 for work in a flood overlay district.
    - The project is also still before the Planning Board, which has now agreed to limit a peer review of the project to traffic and parking.
    - The Ayer Department of Public Works (DPW) has reviewed the stormwater drainage plans and sees no issues at this time.
- The small revisions made to the plans were based on comments received from the Town Planner and Town boards and include (but not limited to):
  - an expanded island to make room for some plantings in the outdoor parking area;
  - specification of the location of two temporary snow storage locations.
- Regarding snow storage, J. Schmalenberger clarified that the Commission understands that large snow piles will not be stored on site for any length of time but will be trucked off-site as soon as possible.
  - He said the size of the temporary storage sites did not seem large enough to handle a plowable snow event.
  - Mr. Garvin said the language in a forthcoming Operations & Maintenance manual will address that snow is to be removed immediately following significant snow events.
  - H. Hampson emphasized a correction that needed to be made, that sodium chloride is not to be listed as a salt alternative (since it is a salt!) or to be used for treatment of paved surfaces at this site, given nearby wetlands and vernal pool.
    - She will confirm with other Agents that calcium carbonate or potassium chloride are acceptable salt alternatives.
  - Given some remaining questions about how a future O&M plan would address snow storage and removal, J. Gugino suggested ConCom could include a perpetual Special Condition in the Order of Conditions(OOC), to later be cited in the Certificate of Compliance (COC).
    - This could mandate that the Commission or its Agent would have the right to inspect the site for snow storage compliance after snow events.
- G. Bacon also suggested requiring the posting of a sign specifying no sodium-based chemicals are to be used for snow/ice treatment of paved surfaces.



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- It was assumed that initial personnel may be aware of such limitations but new staff in future years might not be properly informed; a posted sign would address this.
  - H. Hampson asked if snow treatment chemicals or large equipment are to be stored on site, especially in a big stockpile, that this information be specified to ConCom.
  - M. Phillips said ConCom should also require that its 'no disturb/no dumping' conservation signs be required along the back/side edges facing wetlands.
    - The number and location of these signs will be determined by the Conservation Agent at a later date, after seeing the shape and conditions of the actual construction when underway.
    - Their installation will be a requirement before a COC can be issued at the project's conclusion.
  - Mr. Garvin said they were hoping to finalize ConCom's permitting at this or the next meeting.
    - The Planning Board next meets to continue its review of this project on 10/10.
    - If ConCom were to approve an OOC now, and were plans to change down the road such that the limited Buffer Zone and Flood areas jurisdictional to ConCom were affected with greater impact, the project would have to resubmit a new NOI to ConCom.
      - It was decided therefore that H. Hampson could begin preparation of a draft OOC for review, and if new developments at the Planning Board's 10/10 meeting were of concern, ConCom could hold up its issuance at its 10/12 meeting.
  - **VOTE:** G. Bacon moved to approve the NOI and draft an Order of Conditions for 100-0485, to include Special Conditions as discussed above (inspections of snow storage compliance; sign banning use of sodium-based products on pavement; no disturb/no dumping conservation signs; and further details on snow storage/treatment procedures as known); M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
  - **VOTE:** G. Bacon moved to continue the Public Hearing for 100-0485 to 10/12/2023; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.
- **Enforcement Order (EO): Ayer Solar II, LLC, 0 Washington Street, Rohit Garg, MassDEP # 100-0444**
- **Discussion: Revisions to previously approved plans for Ayer Solar II, LLC**
  - Present were Rohit Garg as well as Nick Pauling, of Goldsmith, Prest & Ringwall (GPR).
  - ConCom signed the issuance of an Amended OOC for this project, based on revised plans that addressed a number of issues, in particular the stream crossing, at a Public Hearing on 7/27/2023.
  - Following ConCom's previous discussion on 9/24 of continuing problems and violations at the stream crossing that resulted in the washout of river stones and sediments through



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the silt fence erosion controls, H. Hampson issued an EO based on violations to General Condition 18 as well as several Special Conditions in the OOC.

- On 9/25, H. Hampson received a detailed Restoration Action Plan from Mr. Garg, and met with Mr. Garg and Rhianna Sommers, the Environmental Monitor, on site yesterday.
- Clean-up work has started, and Mr. Pauling displayed slides and video showing progress.
- J. Schmalenberger said this was a fairly major event and asked if the blow-out would have occurred had the stream crossing outlet been built correctly according to the revised plan specifications that were approved back in July.
  - H. Hampson said it was impossible to know, but added that there had been no apparent shifting of the trap rock inside the culvert channel and along the sides of the outlet channel.
    - Only the 4-inch-or-less river rock laid between the trap rock at the outlet area moved, likely because it had been placed in a mound rather than flush as designed.
  - Mr. Pauling also said it was impossible to know, but thought part of the contributing problem now was the presence of the silt fence immediately downgradient of the outlet.
    - The fence works as a dam that allows water to pool and, in turn, during heavy rain events, this allows the water to churn, giving force to the movement of the river rock.
- The remaining work, including adding a final top-dressing layer of river rock (starting at the culvert inlet, through the culvert, and at the outlet), was due to be completed on the following day (9/29), and Mr. Pauling asked the Commission to consider two things:
- While the July-approved plans specified 4-inch-or-less sized river rock, would the Commission approve the use of larger 6-inch-or-less sized river rock for the final top-dressing, the larger size providing additional stability during heavy flow events?
  - After discussion, the Commission felt that the larger sized river rock would add additional security (belts and suspenders) and could be regarded as a “minor change” that did not require the submission of new revised plans.
- Would the Commission approve the removal of the silt fence downgradient of the outlet to eliminate the pooling of turbulent water – a 15-20 foot stretch of the fencing?
  - The Commission also felt that, now that the stream crossing was built as designed, it was worth seeing if the current design actually works if the silt fence is no longer there.
- Mr. Pauling also asked about the possibility of removing silt fence/haybale erosion controls more extensively elsewhere on the Solar II site – with the exception of the area along the access road from Washington Street downgradient, where final paving has yet to be finished.
  - The Commission’s consensus was that this should not be approved until after feedback has been received from Ms. Sommers, the Environmental Monitor, as to the stability of the other areas protected by the controls.



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- H. Hampson is continuing to seek the items necessary for completion of a number of CRs (Shaker Mill Pond, Kohler Place, John Carroll Reserve), in particular completed Baseline Documentations.
  - The Town Planner is helping her with some, and she is still trying to get hold of someone for the Panther Place CR.
- **8:35 PM – Adjourn Meeting**
  - **VOTE:** G. Bacon moved to adjourn; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval: 10/12/2023 *Jessica G. Gugino*