

Town of Ayer Conservation Commission

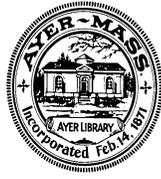
Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **10/28/10** – Approved 11/18/10

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), Dave Bodurtha (DB, Vice-Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Becky DaSilva-Conde (CA, Conservation Administrator)
APAC taped: Yes

7:08 PM – Open Meeting

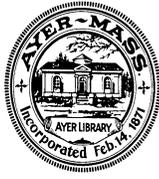
- **Pledge of Allegiance**
- **Motion to amend agenda**
 - GB moved to amend agenda to place Accounts Payable at the end of the meeting; TT 2nd.
 - Motion approved unanimously.
- **Meeting Minutes Approval**
 - GB moved to approve minutes from 10/14/10, with one correction; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting (cont'd): RDA: John C. Canney, 152 Central Avenue**
 - Mr. Canney plans landscaping, tree removal and the installation of irrigation hose.
 - Because of the steep slope down to Flannagan Pond, the Commission had asked for a sketch of the work planned and Mr. Canney was advised of this by the CA.
 - Mr. Canney did not yet have a sketch but came before the Commission to ask for advice.
 - Mr. Canney was told to include rough distance estimates as well as details on the irrigation system and the size of fruit tree bulbs to be planted.
 - GB moved to continue the public meeting to 11/4/10; TT 2nd.
 - Motion approved unanimously.
- **Public Meeting: RDA – Ayer DPW**
 - DPW Superintendent Dan Nason came before the Commission with an RDA.
 - Since a few minutes remained before the scheduled opening of the RDA meeting, Commissioners took the opportunity to bring several matters to Mr. Nason's attention:
 - JG alerted Mr. Nason to the expansion of a detention basin at Stratton Hill that appears to incorporate the access road used by the DPW/Town to the Long Pond dam; Mr. Nason planned to look into this.
 - JG brought up Commission concerns about the DPW's clearing of beaver debris at Long Pond dam.
 - The debris is not removed but rather moved to the other side of the dam onto private property where it is now building up.
 - BD told Mr. Nason about a chained access point to Pine Ridge Pond off of Oak Ridge near Groton-Harvard Road.
 - The resident who owns this property has spoken to the Commission in the past about how the DPW leaves the chain undone, thereby enabling others in Town to use their property for parking.



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- Mr. Nason presented the RDA for proposed work to upgrade stormwater piping under Groton-Harvard Road.
- The DPW plans to replace approximately 30' of existing 10" drainage pipe running under the road with three 14" pipes and to upgrade the manhole cover to accommodate the new pipes.
- All work planned is within the Town right-of-way and within the limits of pavement.
- The Town is purchasing the materials for this project but the labor is being donated by Steve Mullaney of SJ Mullaney Engineering.
- Mr. Nason hopes to get the work done quickly before area pavement plants close down for the season, and to have the upgrades in place before spring flooding.
- BD asked that the road, if left open overnight, be steelplated and Mr. Nason agreed.
- DB suggested the placement of one or two haybales at the outflow point under the road until the new piping was flushed at the end of the project.
- Because of the possibility of haybales being blown out by heavy stormwater flow, Mr. Nason suggested instead the use of riprap to dissipate the velocity of flowing water and agreed to the hand-removal of discharge materials that have built up there over the years.
- BD agreed that the use of riprap was a better solution than haybales, then asked for input from resident George Hynes who was in attendance.
- After crossing under Groton-Harvard Road, the stormwater runoff flows down an easement on Mr. Hynes' property to Flannagan Pond.
- Mr. Hynes, who attended the Commission's 9/23/10 meeting on related issues, expressed concern about the environmental impact of these drainage upgrades as well as their impact on flooding in his basement which is below the level of the easement.
- Mr. Nason said that while the volume of water moving across Mr. Hynes' property would not change, the velocity or flow rate of the water would be beneficially lessened.
- Mr. Hynes asked about the impact of Emily's Way, the proposed subdivision which lies uphill and for which Mr. Mullaney would be project engineer.
- Mr. Hynes stated his belief that, regardless of plans, the stormwater system for Emily's Way will undoubtedly direct additional water into the Town's stormwater system that flows across his property.
- Mr. Hynes questioned what he perceived to be the rush to do this drainage upgrade, especially given that it involves work to be performed by a company associated with Emily's Way.
- BD reminded Mr. Hynes that the proposed RDA was a separate matter and that Emily's Way, which appears to be outside of the Commission's jurisdictional authority, was not an approved project at this time.
- Mr. Nason added that Mr. Mullaney was donating labor to help fix a Town problem and that, in these hard economic times, he did not want to 'look a gift horse in the mouth'.
- Mr. Nason reiterated the DPW's proposed upgrades were unconnected to Emily's Way.
- Mr. Hynes said he remained concerned about flooding and environmental impact and asked how much time he had to do his own outside review.
- BD said that, contrary to the procedures followed for an NOI, the Commission typically handles an RDA in one meeting and does not seek outside input. However, given that the Commission would be meeting again in just one week, BD said that the Commission would



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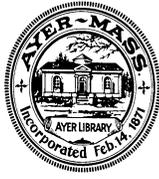
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hold off ruling on this RDA until 11/4/10, at which time Mr. Hynes may present his findings or have an outside expert attend.

- BD also suggested that many of the issues of concern to Mr. Hynes having to do with Emily's Way were better addressed by the Planning Board.
- DB moved to continue the public meeting to 11/4/10; GB 2nd.
 - Motion approved simultaneously.

- **Public Meeting: RDA – Cowfield Realty Trust c/o Calvin Moore**
 - Calvin Moore presented his request to renew the RDA for an undeveloped lot at the corner of Taft and Nashua streets (Assessors Map 19; Parcel 119); no work on the lot is planned at this time.
 - CA clarified that RDAs expire after 3 years, with no instrument for extension, making this therefore a new RDA application.
 - Mr. Moore described how, on the east side of this lot, the Town maintains a culvert which appears to convey stormwater through a shallow ditch across his property to a catchbasin on the west side.
 - Warren Carlson, a resident who abuts this property, asked Mr. Moore the purpose of recent surveying done on the property.
 - Mr. Moore said that, at some future time, he hoped to come before the Commission with another application for putting in catchbasins and pipes to prevent Town stormwater from being conveyed onto his property. He does not want a brook on his property anymore.
 - However, Mr. Moore said that the purpose of the current RDA was to confirm that the ditch/brook is isolated and nonjurisdictional to the Mass. Wetlands Protection Act.
 - The CA expressed concern over the wording of the RDA. saying that while a Negative Determination of Applicability was issued 3 years ago, site walks in the area the following spring raised serious questions as to the status of the wetlands in this area, i.e. whether the ditch qualified as stormwater drainage or as a natural intermittent stream.
 - BD asked if Mr. Moore was amenable to the CA taking soil borings. CA said this was not necessary as she had previously visited the property a couple of years ago with wetland scientist Mike Turgeon and soil borings had been done at that time.
 - Mr. Moore said he was told by Ross Associates that, in cases like this, if wetland soil dries up, it simply goes back to being normal soil.
 - BD said the Commission would like to get DEP's opinion on this and asked the CA to contact Phil Nadeau.
 - The question is whether the water running through the shallow ditch is natural or the result of artificially diverted water that created the current situation for Mr. Moore; if the latter, what is DEP's opinion on what is permissible for Mr. Moore to do to mitigate the situation.
 - DB moved to continue this meeting to 11/4 or 11/18, depending on when the CA hears back from DEP; GB 2nd.
 - Motion approved unanimously.

- **Public Hearing: Notice of Intent applications – Pingry Hill**

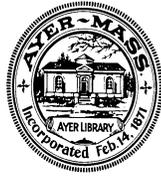


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- Steve Mullaney, of SJ Mullaney Engineering, and Rick Roper, of Crabtree Development, were before the Commission to file 3 NOI applications for Pingry Hill.
- Prior to addressing the NOIs, Mr. Mullaney and Mr. Roper entered into an informal discussion with the Commission and Andrew Spejewski of the EPA over the possibility of Crabtree Development making a land donation to the Town of Ayer in lieu of a fine imposed by the EPA over an Enforcement Order.
- BD said the Commission expressed an interest in parcel C but Mr. Mullaney said that the wetlands in the area had expanded significantly between the 1997 and 2005 delineations, and that the whole of this parcel was a wet drainage easement and therefore of no use for hiking trails.
- DB asked Mr. Spejewski what the EPA was looking for in its settlement with Crabtree Development.
- Mr. Spejewski said a land donation had to have an environmental value in a larger nexus as well as a dollar value that works within the scope of the EPA's planned fine.
- Mr. Roper indicated that there were a limited number of donation possibilities that he would consider in lieu of the fine and pointed to parcels A-1 or H.
- Mr. Spejewski said an independent appraisal would have to be done to confirm enough value to satisfy the EPA fine.
- After discussion, BD said that the Commission (which rejected parcel A-1 on 9/23/20) would look favorably on parcel H which has frontage on Snake Hill road and abuts the Matheson property.
- This matter now rests on the results of a land appraisal and further discussion between Crabtree Development and the EPA.
- Mr. Mullaney and Mr. Roper now presented NOI applications for 3 lots at Pingry Hill.
 - Members of the Commission performed a site visit to these lots on 10/16/10.
 - 187 Old Farm Way (Lot 32) (DEP#100-0337)
 - Only lawn and landscaping work will be done within the buffer zone, 39' at the closest to wetland resources.
 - GB moved to issue an OOC; DB seconded.
 - Motion approved 4-0; TT abstained.
 - CA will draft OOC for signing at 11/4/10 meeting.
 - GB moved to continue hearing to 11/4; DB 2nd.
 - Motion approved unanimously.
 - 214 Old Farm Way (Lot 84)(DEP# 100-0339)
 - The work proposed involves backyard lawn, 64' at the closest to BWV.
 - GB moved to issue an OOC; DB seconded.
 - Motion approved 4-0; TT abstained.
 - CA will draft OOC for signing at 11/4/10 meeting.
 - GB moved to continue hearing to 11/4; DB 2nd.
 - Motion approved unanimously.
 - 8 Hickory Way (Lot 37) (DEP# 100-0338)
 - This lot is located on 2A/Littleton Road, nearby to Bennett's Brook.
 - While the Riverfront Act discourages the discharge of stormwater into a riverfront area, on the site walk it was determined that the better solution here is to tie



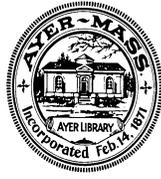
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stormwater discharge from this lot into the detention basin close by rather than make significant new cuts across the hillside to fulfill this recommendation.

- BD reminded Mr. Roper that he had previously asked that additional haybales be placed to protect the unseeded slope where the house is going to go. Having driven by the site recently, BD noted that no haybales had yet been placed and said this should be done soon, before the ground freezes.
 - Mr. Roper said he would check into this the following morning.
 - GB moved to issue an OOC; DB seconded.
 - Motion approved 4-0; TT abstained.
 - CA will draft OOC for signing at 11/4/10 meeting.
 - GB moved to continue hearing to 11/4; DB 2nd.
 - Motion approved unanimously.
 - While discussion was still focused on the area of the project near Bennett's Brook, DB raised the question of how built-up siltation was going to be removed from the outflow pipe on the other side of 2A.
 - The CA said part of the problem was figuring out who actually had ownership of that property, and that she was still waiting to hear from Mass Highway on this.
 - Mr. Roper offered to be proactive on this and look into it himself.
 - DB again requested a copy of the Mass Highway permit for cutting into 2A near Lot W.
- **Public Meeting: Request for Certificates of Compliance – Pingry Hill**
 - Mr. Mullaney and Mr. Roper requested COCs for 4 lots.
 - Members of the Commission did a site walk on 10/16/10.
 - 56 Fox Run Drive (Lot 111) (DEP #100-0266)
 - Reminder given to make sure haybales are knocked down and stakes removed.
 - GB moved to issue a COC for DEP #100-0266; DB 2nd.
 - Motion approved 4-0; TT abstained.
 - 26 Fox Run Drive (Lot 113) (DEP# 100-0265)
 - DB expressed disapproval over the condition of haybales at the back of this lot. A year ago, the Commission requested that the haybales be spread and the stakes removed, but many of the bales were still staked, and the landowner was still dumping Christmas trees back there.
 - DB also brought in a sample of nondegradable heavy plastic twine that was apparently used to bundle some of the haybales.
 - The Commission debated whether haybales should be removed before or after the issuance of a COC as this has been a matter of confusion in some cases.
 - CA suggested the following procedure going forward:
 1. Applicant requests a COC
 2. Commission performs a site visit and, if all is well, gives the okay for the applicant to remove erosion controls.
 3. Final COC issued on confirmation of proper disposal of erosion controls (breaking up/spreading haybales, removal of stakes or twine)
 - GB moved to issue a COC for DEP #100-0265; DB 2nd.
 - Motion approved 4-0; TT abstained.



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- 66 Snake Hill Road (Lot U-1) (DEP# 100-0323) and 72 Snake Hill Road (Lot T-1) (DEP# 100-0322)
 - GB moved to issue COCs for DEP #100-0323 and DEP #100-0322; DB 2nd.
 - Motions approved 4-0; TT abstained.
- **Public Hearing (cont'd): NOI – Mass Bay Transportation Authority (DEP# 100-0336)**
 - Mike Turgeon (MT), Jacobs Engineering Group, presented revisions to the NOI application based on previous feedback from the Commission and its site walk on 9/25/10.
 - The application plans now have an index sheet as requested.
 - At Groton-Harvard Road, one infiltration area has been removed, another narrowed.
 - The MBTA reconfigured sheet T-103.
 - BD said existing drainage pipes need to be added to this sheet; the Commission cannot approve plans that don't show features that we know are there.
 - On sheet T-105B for Moore's crossing and to the west, a planned signal house has been moved across the right-of-way to where there is actual room for it.
 - MT reported that he told the MBTA the Commission would not let them build access stairs unless they can prove they have the right to access abutting property.
 - Special conditions to be included with this application are:
 - excavated soils to remain on-site
 - pipes and culverts to be cleaned as needed
 - filter fabric to be used under catch basins at Moore's crossing
 - a pre-construction conference must take place, with the Commission given a 14-day notice
 - environmental monitoring reports to be received regularly
 - old ties from previous projects as well as this project will be removed
 - MT wanted it on record that the MBTA had added or removed some sheets from the original plans:
 - T-100 has been removed; it had no jurisdictional work on it
 - T-100A has been added to show siding upgrade near Sandy Pond Road
 - T-101B has been added, to show siding work
 - T-103A has been added showing siding to be upgraded near the Main Street bridge
 - T-103B has been added
 - T-105B has been added to show where a signal house has been relocated
 - T-105C has been added to show upgrades to tracks 3 and 4
 - GB asked for a copy of the MBTA's track book; MT was unsure what that was.
 - CA said the office needs a full set of the final plans and an 11x17 copy for the files.
 - GB moved to issue an OOC for DEP# 100-0336, to be signed 11/18; DB 2nd.
 - Motion approved unanimously.
 - GB moved to continue public hearing to 11/18; DB 2nd.
 - Motion approved unanimously.

10:45 PM – Adjourn Meeting

- GB moved to adjourn; DB 2nd.
 - Motion approved unanimously.