

## Town of Ayer Conservation Commission

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **11/4/10** – Approved 11/18/10

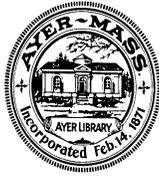
Location: Ayer Town Hall, 2nd Floor

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**
- **Meeting Minutes Approval**
  - GB moved to approve minutes from 6/10/10; DB 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Accounts Payable**
  - Dave Bodurtha: \$5.90, for expenses related to the mailing of Violation Notices
  - GB moved to approve payment of \$5.90; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Meeting (cont'd): RDA: John C. Canney, 152 Central Avenue**
  - Mr. Canney provided a rudimentary sketch of his property, showing roughly the location of garden beds and irrigation hose; he did not have information on the size of tree bulbs.
  - TT asked to add the condition that if any soils wind up being stored on site, proper erosion controls will be implemented.
  - GB moved to issue Negative Determination of Applicability with conditions; DB 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Meeting (cont'd): RDA – Ayer DPW, Groton-Harvard Road stormwater upgrades**
  - BD read into the record a letter hand-delivered from Gregory S. Roy, Principal, Ducharme and Dillis Civil Design Group (D&D), addressing the impact of the proposed stormwater upgrades on the property of resident George Hynes; the Town's stormwater drainage easement runs across Mr. Hynes' property to Flannagan Pond.
  - At the 10/28/10 meeting, Mr. Hynes had asked for time to submit an outside review of the planned work before the Commission issued its ruling.
  - Mr. Hynes' concerns were both environmental re impact on his basement flooding.
  - D&D stated that the increase from one 10" pipe to three 14" pipes would increase the flow rate and the volume of water passing over Mr. Hynes' property.
  - D&D said it would be remiss to not include the drainage calculations for the planned Emily's Way subdivision, which has not yet been approved, in assessing the impact of the Town's proposed stormwater upgrades.
    - BD disagreed, saying that the ponding that takes place on the western side of Groton-Harvard Road, and which the upgrades are meant to alleviate, have always been an issue, emphasizing this a Town issue and not a subdivision issue.

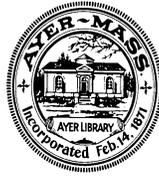


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- D&D also argued that portions of the easement’s drainage swale should be classified as BVW (bordering vegetative wetlands).
  - CA confirmed observation of both wetland soils and vegetation on her site walk.
  - CA added that the undeveloped lot abutting the north side of Mr. Hynes’ property has BVW throughout and is often flooded as well.
  - CA suspects this lot exemplifies the natural topography/state of the area, whereas the developed properties next door were more than likely built-up before construction many years ago.
- While the Commission did not previously view the easement’s drainage swale as wetland falling under the jurisdiction of the Wetland Protection Act (WPA), it now appears that the drainage swale is continuous within broader BVW.
- DB said this drainage system has been in effect for the past 40-some years and that the proposed upgrades won’t really change what material passes through the drainage swale. He asked if the Commission was now asking for different conditions to be applied to a situation that has been ongoing for years.
- BD talked of the possibility of requiring DPW to install a Stormceptor in the middle of the road to help slow the flow of water and allow sedimentation to drop out before continuing into the drainage swale/BVW on Mr. Hynes’ property.
- BD said that if the drainage swale incorporates natural BVW, the Commission has a responsibility to protect the BVW, starting with what happens at the roadway.
  - GB agreed, adding that if DPW’s planned changes will increase the flow rate/volume of stormwater, we need more information before ruling on the RDA.
- DPW Superintendent Dan Nason will be notified of the D&D letter and asked to appear before the Commission on 11/18 to address concerns raised by the outside review.
- GB moved to continue this meeting to 11/18/10; DB 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Meeting (cont’d): RDA – Cowfield Realty Trust c/o Calvin Moore**
  - Calvin Moore appeared before the Commission to discuss the undeveloped lot at the corner of Taft and Nashua streets (Map 19, Parcel 119).
  - Mr. Moore wants to renew the previous RDA that classified the shallow ditch that carries Town stormwater across his property as nonjurisdictional to the WPA.
  - CA had not yet heard back from DEP over her request for advice in dealing with a drainage swale that may or may not also be an intermittent stream.
  - Mr. Moore stated his goal is to prevent the Town’s stormwater from passing across his property by redirecting its flow, allowing him to turn the property into a buildable lot at some future point.
  - BD agreed that the Town has a stormwater issue that needs to be corrected, but added that the Commission still needs to hear back from DEP.
  - CA reiterated that there were other intermittent streams uphill also contributing to the waterflow issues, and that her concern is that the drainage ditch is already a redirected intermittent stream.
    - CA added that redirecting this waterflow may disturb an area larger than Mr. Moore’s property, also making it essential that we hear from DEP.

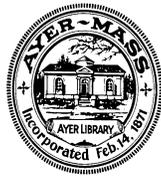


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- TT asked that Mr. Moore redo the RDA application, given that Mr. Moore has said that he plans to do work on this lot at a future date.
  - BD added that the RDA as applied for is not useful and would not put Mr. Moore into a position to do future work. Input from the DEP will help Mr. Moore and the engineering firm he uses to better draw up plans for a future NOI.
- GB moved to continue the meeting to 12/9, or when the CA hears from DEP; DB 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Discussion: Violation Notice – 100 Park Street Association**
  - Representing the Association, Jim McNiff appeared before the Commission in response to the Violation Notice sent by DB on 10/12/10. The Violation Notice alleges unauthorized wetland filling behind the business condos based on changes observed in a series of aerial photos taken between 1999 and 2008.
  - CA noted that this was brought to the Commission's attention because of complaints last spring as a result of heavy spring rains and resultant flooding in the area.
  - The business condos were built sometime in the 1980s; Mr. McNiff has been a condo owner for the last 10 or 15 years.
  - Mr. McNiff described the conditions in the back of the building when he moved in as having piles of rock and dirt as well as vehicles 3-deep which the previous tenant subsequently removed.
  - Mr. McNiff stated that he did not do any filling-in of wetland but rather just removed accumulated material and cleaned up the area. He emphasized that he did not push any material into the wetland.
  - BD said that changes depicted in the aerial photos don't support that. The taking down of trees, if that happened, is an issue of concern to the Commission, as is the storage of vehicles with the threat of contaminated leakage.
  - Mr. McNiff said he has two 20' storage containers and a trailer back there, but only an occasional vehicle parked overnight. Another tenant stores two trucks back there.
  - To better evaluate the conditions of the lot, the Commission arranged to meet Mr. McNiff at the back of this lot for a site walk on Saturday, 11/6, at 8 a.m.
- **Discussion: Resident complaint about the storage of ponies at 15 Douglas Drive.**
  - Henry Wysk, of 13 Douglas Drive, contacted the Commission with concern over his neighbor, Howard Misselhorn, housing Shetland ponies on his property, especially with a brook running close by.
  - CA forwarded Mr. Wysk's concerns to the Ayer Board of Health and learned that the BOH had issued a permit on 7/26/10 allowing the Misselhorn's to keep horses on the property seasonally, winter excluded.
  - DB raised the recurring issue of the lack of good communication between various boards and departments in Town.
    - In this case, the BOH apparently made a determination defining the location of the buffer zone, something that should have been done in consultation with the Conservation Commission.
    - CA noted BOH has been good about contacting the Commission on other matters.

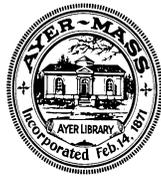


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- BD sent an email to the BOH inviting a representative to attend a Commission meeting to discuss the kinds of things the BOH should be looking for that would require Commission input.
- Meanwhile, BD awaits hearing back from the concerned neighbor to arrange a site walk.
  
- **Public Hearing (cont'd): Pingry Hill development**
  - Scott, from Pingry Hill, spoke to the Commission about his handling of haybale installation and removal in answer to the 10/28 discussion of problems related to COC applications.
  - BD reminded Scott that Mr. Roper assured the Commission on 10/28 that the next day he would see to the placement of haybales needed to protect the unseeded slope on Lot 37 (8 Hickory Way). BD said haybales were still not in place and that this needed to happen by the weekend.
  - CA did not have paperwork ready for the signing of Orders of Conditions for 3 lots approved on 10/18, but said the Conditions were straightforward.
  - GB moved to continue Public Hearing for 187 Old Farm Way (Lot 32) to 11/18; DB 2<sup>nd</sup>.
    - Motion approved unanimously.
    - Blank signature sheet of OOC signed by Commission members.
  - GB moved to continue Public Hearing for 214 Old Farm Way (Lot 84) to 11/18; DB 2<sup>nd</sup>.
    - Motion approved unanimously.
    - Blank signature sheet of OOC signed by Commission members.
  - DB moved to continue Public Hearing for 8 Hickory Way (Lot 37) to 11/18; JG 2<sup>nd</sup>.
    - Motion approved unanimously.
    - Blank signature sheet of OOC signed by Commission members.
  - Signature sheets amended by TT who mistakenly signed them; TT abstained on the actual votes at the 10//18 hearing.
  
- **Discussion: Conservation Commission meeting dates**
  - CA informed Commission that its scheduled meeting on 12/23/10 can no longer take place due to the early closing of Town Hall that day for the Christmas holiday.
  - After discussion, JG moved to change the previously scheduled December meeting dates of 12/9 and 12/23 to 12/2 and 12/16; GB 2<sup>nd</sup>.
    - Motion approved unanimously; CA will post changes the next day.
  - The dates for the 2011 meeting scheduled were arranged as follows:
    - January: 13 and 27
    - February: 10 and 24
    - March: 10 and 24
    - April: 14 and 28
    - May: 12 and 26
    - June: 9 and 23
    - July: 14 and 28
    - August: 11 and 25
    - September: 8 and 22
    - October: 6 and 20

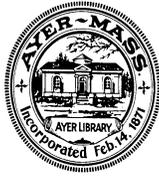


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- November: 3 and 17
- December: 1 and 15
  
- **CA Updates**
  - The Devens Enterprise Commission will appear before the Commission soon to discuss a joint CR for Sheply Hill.
  - Another RDA for chicken-keeping will be on a future agenda.
  - Mr. Kanniard has filed a request for a COC for New England Way.
    - CA has not had a chance to visit the site.
    - CA had suggested Mr. Kanniard delay this request until spring so that it can be determined whether soil seeding has been successful.
  - Phil Berry, West Main Street
    - The BOS granted a business license to Mr. Berry for business on West Main Street (across from Shriver Job Corps) that will involve the storage of vehicles.
    - Mr. Berry approached the CA at the end of summer about whether he could put gravel down on this lot, given its proximity to wetland resources.
    - DB reiterated the necessity of having better communication between boards so that permits cannot be issued in such a short span of time that other boards having jurisdictional concerns are not given the opportunity to provide input.
      - CA noted it would generally be in applicants' best interests given that if applicant gets a permit from one board only to find they are in violation before another board, it is the applicant who is held solely responsible.
      - BD suggested it would be beneficial to have Town Administrator Pontbriand look at the example of Waltham, which uses a multi-step process involving all pertinent boards before permits can be issued.
    - With regard to Mr. Berry's business permit on West Main Street, DB said the issue is not just stormwater but also, as winter approaches, snow removal.
    - Questions were raised about whether a Violation Notice should be issued.
      - CA noted Mr. Berry approached the Commission first about his plans, knowing there may be problems.
    - CA will ask Mr. Berry to attend the next Commission meeting on 11/18.
  - Office Procedures
    - CA discussed the recent incident in which the Planning Board Chair mistakenly confused Conservation Commission and Planning Board files, removing a Commission file for Pondview Estates from the office without the CA knowing.
    - BD said the Commission needs lockable file drawers and directed the CA to purchase two 3-/4-drawer files for the office using Wetland Protection funds.
    - DB and GB asked that the Commission first seek to pay this from Town budget funds before drawing on Wetland Protection funds.
  
- **Member Updates and Discussions:**
  - DB: General Business
    - Conservation Commission Budget for FY 2012 should be discussed soon.



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- BD sent email to Town Administrator Pontbriand requesting the Commission be placed on an upcoming BOS agenda.
- Maple Street house project is moving forward.
  - The footprint is not changing; CA has inspected haybales/silt fencing.
- Expressed concern that the Central Street Pumping Station has not yet sent in a request for a COC, but the haybales have been removed nevertheless.
  - BD has observed that everything in the area has grown in.
  - DB wants to ensure proper procedures are followed.
- The Planning Board requested a meeting of all parties re Pond View Estates.
  - There are no monies left for attorney fees so the developer's lawyer, Paul Alphen, will not be attending.
  - DB will attend, in particular to express Commission concerns over stormwater basins and outflow.
  - TT noted the Commission is supposed to be receiving regular reports on the beaver deceiver as well as the turtle nesting habitat.
- Pingry Hill – with Commission permission, DB will approach the Zoning Board to ask their intentions for Town-accepted Lots 109 and 114 on Fox Run Drive.
- Since turtle-nesting season is now over, DB will remind Kevin Hardin about the need to remove his dirt piles on Sandy Pond Road.
- Tooker property
  - The abutting resident has removed his firewood, as requested, from the Town's shed but the wood has merely been dumped outside and still remains on Town property.
  - BD said he had meant to contact the Town Administrator on this to find out what can or cannot be done with use of the shed.
- DB asked if the Commission should send Matt Pinard a letter asking what his or his contractor's intentions are for cleaning up work done on 2A.
  - BD noted it is still unclear what Mass Highway wants given we have yet to hear back from them.
  - CA interjected that she has been crossing phone messages with Bill Davis, who is apparently the contact person for Mass Highway.
- DB will contact Ayer Moving and Storage about their need to replace the boulders they removed next to the wetland.
- BD: It is time for the Commission to send its fall notice to Fire Chief Pedrazzi requesting the removal of the boards from Balch Dam in preparation for winter.
  - CA will email request and put hard copy into Chief Pedrazzi's Town Hall box.
- GB asked if we were still planning on trying to move the CA's office.
  - CA said the space under consideration is no longer available.
- **10:07 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.