

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **1/10/2013** –Approved 1/24/2013

Location: Ayer Town Hall, 1st Floor

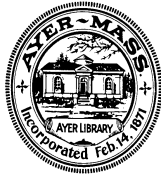
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Jessica Gugino (JG, Clerk), Lee Curtis (LC), Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

Not present: Takashi Tada (TT)

### **7:10 PM – Open Meeting**

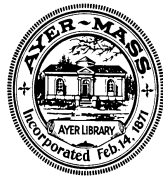
- **Confirmation of the Agenda**
  - GB moved to confirm agenda as posted; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): Mass Broadband Institute (Mass DEP # 100-0352)**
  - Present were Cornell Robinson, Project Manager; Mike Turgeon, wetland scientist from Jacobs Engineering; Tess Paganelli; and Mike Nolan.
  - A site walk took place on 1/5/13, with BD, GB, JG, LC and CA in attendance.
  - Mr. Turgeon will redline the submitted drawing to show the amended plan to move the trench into the road, against the curb.
  - CA asked for a copy of the NOI showing the Town's signature as property owner of the easement on which four new utility poles will be erected by MBI.
  - GB moved to issue an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
      - The OOC will be ready for ConCom signatures at it next meeting on 1/24/13.
      - Mr. Robinson asked that the original copy of the OOC be sent to his office.
  - BD reminded MBI the OOC will require 72-hour notification to CA for inspection of haybales.
  - GB moved to continue the Public Hearing to 1/24/13; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Meeting Minutes Approval**
  - GB moved to approve the minutes for 12/20/12 as written; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
- **CA Updates**
  - Brent Routhier's failure to appear on 12/20/12 for Enforcement Order was due to the flu.
    - CA will request that he appear before ConCom on 1/24/13.
  - Epic Enterprises/Pepsi
    - CA performed a site walk at Epic Enterprises.
    - The company would like to continue a fence line along the rest of its property in order to protect the security of its water source from trespass by recreational vehicles (4-wheelers, dirt bikes, etc.).
      - Because the area in question is all wetland, CA informed Epic that they will have to submit an NOI.
      - CA also asked for an alternatives analysis.
  - Certificates of Compliance (COC) for Elizabeth Estates
    - CA will touch base with Joe Bellino, of Mass DEP.
    - David E. Ross Associates was hired by developer Bob Prescott to request COCs.



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- The submission was inadequate:
  - The lots in question were not pinpointed – i.e., 9 different DEP numbers were submitted for each lot;
  - No as-builts were submitted;
  - Some of the COCs need to be secured from Mass DEP instead.
- Public Records Training Workshop
  - The mandatory workshop will be held at Town Hall from 10-12 noon on 1/17/13.
    - CA, GB, and JG planned to attend.
    - Materials will be posted on Town website for those unable to attend.
- The Willows
  - Joe Bellino recently performed a site visit.
    - Mass DEP's Enforcement Order is still in effect and state monitoring will continue.
    - The developer is doing a much better job of controlling the site and keeping turbidity in check.
- RDA – 72 Snake Hill Road chicken coop
  - CA received an update from Board of Health (BOH) re the applicant's question to them of whether he could move the berm that was specified by ConCom.
    - BOH informed the applicant that he could not do this.
  - CA will contact the applicant in the spring to see if the berm has been constructed. and is ready for inspection.
- Annual Town Report
  - GB will prepare the ConCom report.
  - JG will tally the numbers for permits, orders, etc. for CA.
- Autumn Ridge
  - Resident John Cadigan was present and will be meeting with CA on 1/11 as well.
  - CA said Mr. Cadigan was denied his request for a copy of the developer's catchbasin maintenance log from the developer's consultant, Doug Miller, at Goldsmith, Prest & Ringwall, Inc.(GPR)
    - ConCom, however, does have the right to ask for those logs.
  - Mr. Cadigan is concerned with recurrent flooding in front of a couple of the residences.
    - One particular catchbasin contains a teabag filter that Mr. Cadigan says is never cleaned and that fills with debris causing subsequent flooding for several days after rain events.
  - Mr. Cadigan reported that Mr. Gillis, the developer, complained that the Autumn Ridge residents wanted containment of construction runoff and no flooding but couldn't have both while construction was still in process.
    - This is the basis of Mr. Cadigan's request for the maintenance logs as he says the developer has failed to properly maintain the catchbasins during construction.
  - BD said he planned to drive through the site again over the weekend.
    - He thought the amount of disturbed soil on the site is now so minimal that the bag filters could safely be removed.
    - Mr. Cadigan said he had asked Mr. Miller this same thing but was told the bags shouldn't be removed yet.
    - CA said the bag filters work great if cleaned regularly; flooding issues result if they are not cleaned.
  - Mr. Cadigan also said that the definitive site plan shows 16 manholes but that there are currently no drainage manholes visible.

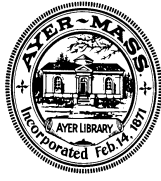


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- According to GPR, the manholes are under the road, either fully constructed or covered by plate.
  - Mr. Cadigan said that, in his conversation with Doug Miller at GPR, Mr. Miller said there was no operational manual for the stormwater system, and no plan to provide one.
    - BD said this manual was a requirement of the OOC.
  - BD said he would send an email to Cal Goldsmith at GPR after his drive-through to get some answers.
- **Discussion: Long-term pond weed management**
    - Present were: Jim Fay, Chairman of the Board of Selectmen (BOS); Town Administrator Robert Pontbriand; and Chuck Miller, of the Dam & Pond Management Committee (DPMC).
    - BD said that when the DPMC was created without a defined charter, it was left unclear which responsibilities were the DPMC's and which were ConCom's.
      - BD said ConCom's view was that the next step ought to be soliciting an outside consultant to review all of Ayer's treatable ponds and recommend a long-term treatment plan.
      - BD said this meeting was called in order to ask the BOS for clarification as to which board should be doing what.
    - Mr. Fay said ConCom has regulatory authority rigidly defined by the Wetlands Protection Act.
      - In contrast, the DPMC has no regulatory authority other than what flows to it from the BOS.
      - Actions which the DPMC recommends must therefore pass through ConCom.
      - Mr. Fay said the DMPC was tasked to come up with a management plan which is not yet complete.
      - Mr. Fay said he saw weed control issues as falling to ConCom whereas dam issues would fall to DMPC.
        - However, if anything is done in relation to the dams, this work will still have to be done in concert with ConCom.
    - BD said there were two questions.
      - The first question has to do with the distinction between planning and methods, on the one hand, and implementation on the other.
        - BD said that implementation of work on either the ponds or dams has to come through ConCom.
          - But to do implementation requires a plan.
        - The second question has to do with funding.
      - In considering a study of the ponds, BD said a Request for Proposals (RFP) was not issued for the study undertaken in 2005 by Aquatic Control Technologies (ACT).
        - Mr. Pontbriand said that any project with a cost over \$25,000 requires an RFP.
      - BD summarized the discussion thus far saying that implementation of weed control would fall to ConCom while work on the dams would fall to the DPMC, passing through ConCom.
      - Mr. Fay said the expenditure of weed control funds would be administered by ConCom.
        - JG asked if the available funding thus far (the \$35,000 UDAG funds approved by the BOS in 2011; and the \$35,000 in Article 38 funds approved by Town Meeting in 2011) could be used more broadly than for treatment of Flannagan Pond.
        - Mr. Fay said yes, these funds could be used more broadly.
        - JG noted that BOS minutes for the UDAG funds specifically cited their use for Flannagan Pond, and that the wording for Article 38 was also specific to Flannagan Pond.

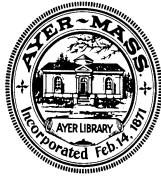


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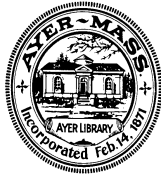
- CA said the clarification that ConCom was asked for was not just for the authority to dispense funds but what those funds could actually be used for.
- Mr. Fay said the use of the funds could be as broad a brush as needed, according to the spirit of their intended use.
- BD said one concern was that if a resident voted for Article 38 at Spring Town Meeting in 2011, then that resident would have a legitimate complaint if those funds were used beyond the scope of Article 38.
- Mr. Miller said there were two issues at present:
  - Developing a long-range plan for treatment of all of Ayer's ponds;
  - Planning weed treatment for Flannagan Pond in spring 2013.
- Mr. Miller, who authored Article 38, noted that the DPMC did not yet exist in spring 2011 when treatment of Flannagan Pond was a bone of contention for the Friends of Flannagan Pond.
  - At that time, therefore, Article 38 was not written with a larger scope than Flannagan Pond in mind.
- Mr. Miller said that if there was money left over from Article 38 after treatment of Flannagan Pond and the deployment of hydroraking equipment, then perhaps that money could be used for a comprehensive study of all the ponds.
  - That said, Mr. Miller said it would be a mistake otherwise to think Article 38 was written for broader usage.
- BD summarized that there were two funding sources for Flannagan Pond weed treatment: UDAG funds (used for 2012 treatment) and Article 38 funds.
  - No work has yet been planned for 2013, awaiting clarification of roles, funding and plans.
  - BD said ConCom would implement weed treatment on Flannagan Pond for 2013.
    - The issue of mobilization of hydroraking equipment needs further discussion.
  - BD said that while ConCom would implement treatment plans, the responsibility for deciding when to spend or when to cease spending money should fall to the DPMC.
    - BD noted that it is not always efficacious to treat ponds on a yearly basis.
    - Mr. Miller said that while the 2012 treatment was effective for the west end of Flannagan Pond, the results on the east end of the pond were questionable.
      - Mr. Miller said therefore that treatment of Flannagan Pond could not wait another year until after a pond study had been done.
- BD reiterated that a study of all the ponds by a qualified consultant needed to be done in order to best evaluate when treatments need to take place.
  - BD suggested ConCom issue an RFP for Flannagan Pond for 2013.
  - At the same time, ComCom will also separately pursue a comprehensive study.
- Given ConCom's limited budget, Mr. Pontbriand said that Article 38 funds could legally be used to pay for the costs of the legal notices associated with advertising the Flannagan Pond RFP.
  - Mr. Pontbriand also said his understanding of the wording of Article 38 was that these funds could only be legally used for the treatment of Flannagan Pond and not more broadly.
- BD asked where funding for a comprehensive study of the treatment needs of all the ponds would come from.
  - Mr. Pontbriand asked ConCom to find out what the cost of such a study would be.
  - BD said that ACT was used in 2005 for a study that cost around \$5000.
    - He assumed a study now would cost in the range of \$10-15,000.



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- BD said he would prefer using a 3<sup>rd</sup> party consultant not engaged in the treatment business for an unbiased study.
- Mr. Pontbriand asked what the timetable for such a study would be.
  - BD said ConCom would want a consultant to look at the ponds at at least 3 points: in spring after the ice goes out, in summer when the weeds are at their peak, and in fall when the weeds begin to die out.
  - BD said this kind of study did not preclude doing work on Flannagan Pond this summer as well.
- Mr. Pontbriand proposed:
  - that ConCom issue the RFP for Flannagan Pond treatment in 2013 asap.
  - that ConCom put together an RFP for a comprehensive study and get an estimate of its cost.
- In terms of funding a comprehensive study, Mr. Pontbriand pointed to several possible sources, including:
  - the \$10,000 which BOS allocated in 2011 to DPMC for its discretionary use re ponds and dams;
  - the BOS could appropriate money from UDAG again.
- Mr. Miller said the DPMC was looking to expand the scope of its pond management plan beyond weed control to include consideration of fish and wildlife, kayaking, water quality, beaver management, and more.
  - JG said part of the urgent reason for calling this meeting was to get things rolling.
  - Mr. Miller said the DPMC saw its role as fact-finding rather than execution.
- BD said ConCom will take care of the RFPs for Flannagan Pond and a comprehensive study, and looked forward to DPMC's pond management plan and study of the dams when ready.
  - Prior to the clarification of roles offered at this meeting, ConCom had been waiting to hear from DPMC while apparently the DPMC was waiting to hear from ConCom.
  - Mr. Fay said he still thought that if weed control problems began, say, in Long Pond, then he thought Article 38 funds could be used more broadly.
- CA returned to the issue of the deployment of hydroraking equipment, as per the wording of Article 38.
  - CA asked who would be managing that piece?
  - Mr. Miller said the idea of this was that Article 38 would pay for the mobilization of equipment over, say, a 3-week period, and then individual homeowners would have the opportunity to pay for its use on their property.
    - Removed material would be deposited on homeowners' properties for them to haul away themselves.
  - BD said the issue of liability to the Town would need to be addressed.
  - Additionally, BD said hydroraking was not mentioned in the Town's OOC for weed treatment.
  - GB returned to the practical question of who would be responsible for getting this particular ball rolling.
    - JG reiterated this question as well but its answer was deferred to a later date.
  - Mr. Miller said the question of whether hydroraking is even possible under the Town's OOC needs to be answered first.
  - CA said the OOC was issued and approved just for chemical treatment.
  - BD said his recollection was that ACT, while mentioning the possibility of hydroraking in its 2005 study, had also recommended against it.

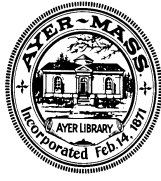


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- Hydoraking might be a short-term aesthetic solution but was not a long-term solution.
- BD said ConCom could consider seeking an amendment to its OOC to include hydoraking.
  - But before ConCom would do this, it would need to get at least two professional opinions as to the efficacy of hydoraking.
    - Was hydoraking harmless but useful for aesthetic improvement?
    - Or would hydoraking ultimately make the problem of pond weeds and their management worse and more costly for the Town?
  - Mr. Miller said that if resolving the question of hydoraking would hold up the RFP for Flannagan Pond weed treatment in 2013, then to skip it for now.
  - CA will follow-up with providing Mr. Miller a copy of Lycott's final report on Flannagan's 2012 treatment.
- Mr. Fay asked for a copy of ConCom's minutes from this meeting to update the BOS.
  - BD assured Mr. Fay that ConCom's minutes are typically very thorough.
- BD also suggested that ConCom provide informal quarterly feedback to BOS on weed treatment.
  - JG suggested it would also likewise be useful to hear regularly from DPMC.
- **Member Updates**
  - GB asked if CA had heard anything further on possibility of moving offices on the 3<sup>rd</sup> floor.
    - CA said not yet but asked if it were to be approved, would ConCom object if there were some moving costs incurred?
    - CA said David Maher, of the Office of Economic Development, had offered to cover the costs through his department.
      - CA said perhaps the cost could be split three ways between OED, ConCom, and the Planning Board.
  - GB asked about the box located on the first floor of Town Hall for the collection of used printer cartridges for recycling.
    - A sign by the box indicates money from this would go to the Greenway Committee.
    - The Greenway Committee has no account and GB wondered what happened to the cartridges since someone is emptying the box periodically.
    - BD said ConCom has now noted the existence of a collection box in Town Hall for a Committee that has no bank account.
      - If money from recycling does not go to the Greenway Committee, then the sign above the box should not say that it does.
- **CA Updates Continued**
  - CA will check on whether additional tree-cutting is taking place behind the McPadden property off Groton-Harvard Road.
    - This was the subject of an Enforcement Order in April 2012.
    - CA will also check on whether dirt and other material used to fill in the streambed had been removed, by hand-digging, as requested by ConCom on 4/12/12.
  - DPW Updates via Superintendent Mark Wetzel
    - 3 Nemco Way, Cains Distribution Building
      - CA spoke with Mr. Wetzel about ConCom's concerns with the information query as to the feasibility of putting in 14 additional parking spaces on the only remaining green space on this lot.



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- CA had directed this query be addressed to DPW.
  - Mr. Wetzel said DPW had traffic safety concerns, in addition to its opposition to moving a utility pole and guard rail.
  - CA and DPW therefore are jointly opposed to approving any plans to increase parking here.
  - Beaver Management
    - Mr. Wetzel is putting together a plan to present to ConCom.
      - He is wondering if ConCom's beaver funds could be used for the trapping and killing of beaver.
      - CA said she informed Mr. Wetzel that ConCom was more interested in long-term management (i.e. through beaver deceivers).
  - Spectacle Pond
    - A new NOI for piping will soon be submitted.
  - Grove Pond
    - DPW is downsizing the infrastructure from its original plan.
      - These changes are occurring in areas outside of ConCom's jurisdiction.
  - Victor Drive
    - DPW will be holding a Public Hearing for residents before moving forward with securing permitting to repair the culvert.
- 
- **9:13 PM – Adjourn Meeting**
    - GB moved to adjourn; LC 2<sup>nd</sup>.
      - Motion approved unanimously.