

Town of Ayer Conservation Commission

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

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), Takashi Tada (TT), Lee Curtis (LC), Becky DaSilva-Conde (CA, Conservation Administrator), Jessica Gugino (JG, Clerk)

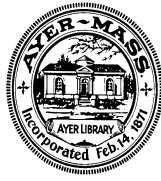
Not present: George Bacon (GB, Vice-Chair)

APAC taped: Yes

7:15 PM – Open Meeting

- **Confirmation of Agenda**
 - TT moved to confirm agenda as posted; LC 2nd.
 - Motion approved unanimously.

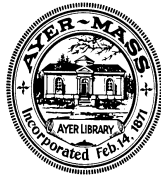
- **Public Hearing: NOI – Victor Drive culvert replacement, Ayer DPW**
 - DPW Superintendent Mark Wetzel and Nick Pauling, of Goldsmith, Prest & Ringwall (GPR), were present.
 - The existing corrugated metal culvert on Victor Drive is failing, causing sinkholes in the road.
 - A drainage ditch / intermittent stream, running into James Brook, passes through the culvert.
 - Up- and downstream retaining walls, made of timbers, are also collapsing.
 - A site walk was performed on 9/28/2013.
 - The project proposes to replace the culvert with new pipe and replace the retaining walls with precast concrete “Redi-Rock Blocks” (46” wide x 18” tall x 41” deep).
 - Spring Town Meeting 2013 voted to approve the use of funds for this project.
 - The new pipe, installed in sections, will be 24-inch High Density Polyethylene (HDPE).
 - Mr. Wetzel said the project should be relatively quick, using an open cut to the road.
 - The culvert should be without a pipe for a couple weeks at most.
 - Replacing the retaining walls will be a more complicated process.
 - The DPW needs to obtain an easement to perform some of the work on the upstream side.
 - Mr. Wetzel said the work will be done when flow in the intermittent stream is low.
 - If there is a need, a drainage pipe upstream a short distance from the culvert could be temporarily blocked.
 - Two precast concrete deep sump hooded catchbasins will replace existing catchbasins made of cinder blocks and without sumps.
 - BD asked if the new catchbasins were sufficient to deal with what comes off the roadway.
 - Mr. Wetzel said the DPW is doing a simple replacement and not looking to expand this as a more extensive drainage project.
 - Both Mr. Wetzel and Mr. Pauling said there was also no history of ponding issues on Victor Drive.
 - On behalf of a question received from GB, CA noted that at the site walk, it was mentioned that wetland soils would be removed and stored, then replaced.
 - This detail is not referred to in the NOI and needs to be spelled out.
 - Mr. Pauling said the hydric soils would be stored in the vicinity of the corner of Victor Drive and Doug Road.



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- BD said haybales would need to be placed around this pile, and that ConCom will need to be provided with an 8-1/2 x 11 SK drawing.
- TT moved to approve the NOI and issue an OOC with Special Condition; LC 2nd.
 - The Special Condition will specify that hydric soils are to be stockpiled and stored on site per the SK drawing and that all other soils are to be removed and stored offsite.
 - Motion approved unanimously.
- TT moved to continue the Public Hearing to 10/24/13; LC 2nd.
 - Motion approved unanimously.
- **Accounts Payable**
 - MACC: \$312, annual membership dues for Commissioners and CA.
 - JG moved to approve payment of \$312; LC 2nd.
 - Motion approved unanimously.
- **Meeting Minutes Approval 1**
 - The minutes for 9/26/13 were reviewed and amended.
 - CA made corrections to JG's notes for the COC application from Roger Kanniard for Easy Street subdivision.
 - On the subject of the Operations & Maintenance Plan (OMP) for Autumn Ridge, with DPW Superintendent Wetzel still in the audience, BD asked if he would be willing to review the Autumn Ridge OMP and make comments.
 - Mr. Wetzel said he would and added that he will be working on developing a DPW protocol to oversee OMPs in general and make sure they are being followed correctly.
 - On the subject of 217 West Main Street, BD noted for the record that Calvin Moore followed through promptly and that erosion controls were placed around the soil pile area as requested at the 9/26 meeting.
 - On the subject of Littleton Lyne Apartment's (LLA) sewer connection, Mr. Wetzel said that the sewer connection work to be done on Hemlock Drive has been completed.
 - However, the sewer connection as a whole has not yet been finished.
 - LLA now needs to install a pump station on their side of Rte. 2A, and then perform directional drilling to cross under the roadway to reach the point of connection on Hemlock Drive.
 - BD said that since LLA is at a good distance from Bennett's Brook, LLA will likely just need to submit an RDA for the work they'll be doing on the Pingry Hill side of 2A – depending on how they're going to do that work.
 - TT moved to accept the minutes for 9/26 as amended; LC 2nd.
 - Motion approved unanimously.
- **Brief Discussion: Easy Street subdivision**
 - Mr. Wetzel said that street acceptance for Easy Street has been requested and that this will be voted on at Fall Town Meeting (10/28).
 - Mr. Wetzel won't be present for that meeting and asked if ConCom had any issues with the street or its drainage.
 - BD said that CA has reported no issues with the COC request for the infrastructure portion of the subdivision but that ConCom will confirm this during a site walk to be held on 10/19.
 - ConCom has noted significant discrepancies between the plans and the as-builts for 3 housing lots.

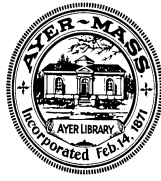


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- Mr. Wetzel said that the street, catchbasins and outlets tally with the plans under the infrastructure OOC.
- If ConCom notes any discrepancies on 10/19, Mr. Wetzel will be notified.
- The site walk is scheduled for 8 a.m., and since CA is unable to attend, JG will bring the plans to the walk for review.

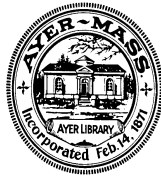
- **Public Hearing (cont'd.): NOI & Enforcement Order (EO): Nashua Street Extension subdivision, Molumpco Development (Calvin Moore) – DEP # 100-0363**
 - J. P. Connolly, of GPR, was present representing Calvin Moore.
 - While the DEP file number (#100-0363) has been received for this NOI, no OOC has yet been issued.
 - A site walk on 10/28 resulted in the issuance of an EO and a Cease & Desist (C&D).
 - Clear-cutting of the proposed roadway and cul-de-sac was done illegally, without ConCom approval, and before the NOI approval process had even begun.
 - The clear-cutting went right up to the delineation flags for the wetland resource area, in clear violation of the Wetland Protection Act.
 - The NOI was submitted to Town Hall on 8/29, and received by CA on 9/6.
 - This work was done prior to the end of August.
 - In addition, a large soil/fill pile was dumped onto the property in a location abutting a culvert opening.
 - This culvert empties into a channel that flows directly into Bordering Vegetated Wetland (BVW).
 - The channel itself was not delineated on the NOI Site Plan, but was found delineated and flagged during the site visit.
 - The submitted NOI Site Plan is therefore also incomplete.
 - CA will also amend the EO to note that there was, in fact, an erosion control measure at the base of the fill pile.
 - The EO specified that:
 - A winterization plan for the entire site be submitted to ConCom by 11/7 for review and approval.
 - No further work beyond winterization is to occur until ConCom approves and issues an OOC.
 - The property owner must immediately install and remediate erosion control measures along all resource areas.
 - It was observed on the site walk that some wetland flags were missing.
 - Mr. Connolly said that flags 201-213 or 216, on the east side, and flags 251-263, on the west side, will be restored.
 - Regarding the soil pile, Mr. Connolly said they planned to re-establish the existing grade at the bottom of the slope, and to pull back and bench the upper slope.
 - Mr. Connolly did not know how far back this would pull the pile, but expected that the material in it would further consolidate.
 - BD said that, on the contrary, we would, in fact, know how far back because ConCom was now requiring this to be drawn out in advance on an SK-drawing, after which ConCom will determine if the plan is valid and work can move forward.
 - Mr. Connolly corrected his previous statement to ConCom on 9/26:



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- The initial wetland flagging was done in April 2012, and reflagging was done on July 5 and 15, 2013.
- This was done because neighbors have allegedly removed flags.
- Mr. Connolly said that, on the site walk, BD requested a copy of the field notes from the company that did the flagging.
 - Mr. Connolly said he was not sure he could get these notes.
 - The flagging was done by David Crossman, of B & C Associates.
 - Mr. Crossman told Mr. Connolly he would be happy to talk to ConCom in person, but that his field notes were not in presentable shape.
 - Mr. Crossman told Mr. Connolly that he only wanted to provide the required DEP forms.
 - Mr. Connolly also said that Mr. Crossman was the one who alerted GPR about the premature clear-cutting on the site.
 - Mr. Connolly submitted the NOI a few days later, after receiving this information.
- TT moved to ratify the EO; LC 2nd.
 - BD polled the Commission members individually and the motion was approved unanimously.
 - ConCom members signed the EO.
- CA said she had also contacted Joe Bellino, at Mass DEP, to alert him that the EO would be coming his way.
 - Mr. Bellino expressed confidence that ConCom would be able to manage this EO with direct involvement by DEP.
- CA will send the original of the EO directly to Mr. Moore, and a copy to GPR.
- Continuing the discussion, BD asked Mr. Connolly if plans for winterization of the site were being worked on.
 - Mr. Connolly said they were in process, and added that he had not observed any changes or evidence of further work on the site after his most recent visit to it.
- BD summarized that ConCom was now waiting for:
 - A drawing and plan showing a method by which the soil pile will be handled;
 - A winterization plan;
 - A new plan showing more extensive flagging (i.e. going off the page submitted in the original NOI).
- Mr. Connolly clarified the process by which the soil pile would be dealt with:
 - Submission of a plan and SK-drawing on or before 11/7;
 - ConCom review and approval of the plan;
 - Subject to approval, work can then be started to remediate the situation with the pile.
- Mr. Connolly will attempt to have a plan ready for review earlier, at ConCom's 10/24 meeting.
- Mr. Wetzel, from the audience, asked if the Site Plan submitted in the NOI would be discussed at a future meeting since DPW had some issues it wished to raise.
 - BD said yes, but that the current focus was just on protecting the exposed areas on the site for the upcoming winter.
 - Review of the plans for issuance of an OOC will come at a later date.
 - Mr. Wetzel indicated he would be looking for a water main easement to be part of the final plan.
 - BD told Mr. Wetzel and Mr. Connelly that all of these components will need to be part of application and clearly marked on plans for review.



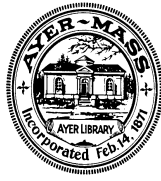
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- TT moved to continue the Public Hearing to 10/24; LC 2nd.
 - Motion approved unanimously.

- **Discussion: Beaver Dam Management**
 - While Mr. Wetzel was still present, CA raised an early update.
 - CA received a call from Mike Callahan, of Beaver Solutions, saying he has openings this month in which to install beaver deceivers.
 - CA has checked property lines for some of the locales being considered with the Assessors Office.
 - The Long Pond Dam presents no problems as all of the work to install a deceiver would be on the Town-owned side of the man-made structure that beavers are blocking up.
 - In terms of the Rock Meadow Pond beaver dam, the Assessor's map shows that Pine Meadow Pond Conservation Land lies south of the dam; to the north is Autumn Ridge; and to the east is property owned by the Ayer Rod & Gun Club.
 - Installing a beaver deceiver for this dam would entail work on either Town land or Autumn Ridge land, for which there is a Conservation Restriction.
 - As to the Rosewood Avenue beaver dam, Mr. Wetzel said he still needs to locate where the Town's easement is.
 - He is also sure that property owners in the area will have no objections to the installation of a deceiver since it will alleviate yard flooding issues for many of them.
 - While some of the work to lower this dam can be done by hand, it is also possible that a machine may need to be brought in to haul material offsite.
 - CA said that because the Rock Meadow and Rosewood dams are natural beaver dams, with no man-made structures being blocked, then the proper procedure will be to file an Emergency Order with the Board of Health, and to hold a Public Meeting after abutter notification.
 - BD said he would prefer that Beaver Solutions file this paperwork for a permit.
 - CA said an RDA would need to be filed for both these dams.
 - Mr. Wetzel said he would contact Mr. Callahan to see what his schedule was like.
 - It is possible that work can proceed on just the Long Pond Dam for now, since no RDA would need to be filed because the beaver dam blocks a man-made dam.

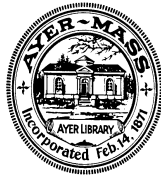
- **Discussion: Field change– Pingry Hill Development (aka Ridge View Heights), DEP # 100-0341**
 - Present were Rick Roper, of Crabtree Development, and Steve Mullaney, of S.J. Mullaney Engineering.
 - Earlier in the summer, the development ran into issues with connecting stormwater drainage from Hemlock Drive to state catchbasins on Rte. 2A.
 - The State's two catchbasins were clogged and the State was unable to clear them.
 - In the process, the State discovered it had no easement to do this work, and the resultant delay would be at least 9 months.
 - An alternate plan to cross 2A and extend drainage across property owned by Littleton Lyne Apartments (LLA) did not work out due to increasing demands from that property owner.
 - Mr. Mullaney therefore presented a new alternate plan -- Plan 2-B-8 – which entails 490 ft. of new drain pipe running parallel to 2A on the Pingry Hill side of the Road.
 - Four new drain manholes and one new flared end section will be installed.
 - All of the work is within the 100-ft. buffer zone.
 - All of the work is on Pingry Hill property and within an existing easement.



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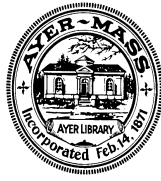
- It begins at the base of Hemlock Drive and runs roughly half the distance west toward Hickory Way.
- Two catchbasins will be at the base of Hemlock, on Lot 59, within roughly 12 ft. of the wetland.
 - BD asked if there was way to move these catchbasins further from the wetland.
 - Mr. Mullaney said there was not given the need to not hit other existing infrastructure systems.
 - BD stressed that Powell Construction would need to be very careful when working in this area.
- A third basin will be located on Lot N.
- A fourth, on Lot 51, will be within roughly 40 ft. of the wetland.
- The work area has already been disturbed because of line-of-sight clearing and grading required by the State.
 - No new clearing needs to be done except for some clearing on Lot 59 that was already planned.
 - This clearing is associated with the infrastructure OOC, not the housing lot OOC.
- The change in drainage work was approved by Engineer Eric Nascimento, of Mass DOT, in an email dated 10/7/13.
- The area with the flared end section, at the westernmost end of this work, was discussed.
 - CA confirmed that there would be no changes to the State drain that will connect to.
 - Mr. Mullaney said minimal earthwork would be done in this area.
 - BD asked CA to drive by and observe this area on the following day.
- TT moved to approve Plan 2-B-8, as accepted by Mass DOT; LC 2nd.
 - Motion approved unanimously.
- **Informal Discussion: Calvin Moore**
 - Mr. Moore showed up, apologizing for having missed the earlier Public Hearing.
 - He provided CA with a check for \$73.39 to pay for the Public Hearing notice.
 - BD summarized the earlier discussion with J.P. Connolly for Mr. Moore:
 - No further work until a winterization plan has been approved;
 - The 40-ft. soil pile has to be reduced and should not have been placed right next to blue flags delineating the wetland boundary.
 - In addition, the optimal slope for such a pile should be 3 to 1.
 - The only way corrective work on this pile could begin immediately was if Mr. Moore was going to have material hauled offsite.
 - Since Mr. Moore indicated he wouldn't be doing that, it was reiterated that any work on the pile to relocate it on the site must be approved first by ConCom.
 - Regarding the illegal tree-cutting up to the wetland line, Mr. Moore said that neighbors have been removing delineation flags.
 - Mr. Moore said that he assumed the reason the tree-cutters cleared that far was that the cutting line flags must have been removed.
 - CA noted that the presence of haybales at the wetland boundary should have been a cue that clear-cutting shouldn't have gone that far.
 - In any case, the NOI application and approval process had not even been started when the illegal tree-cutting was done.



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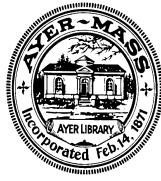
- Mr. Moore suggested ConCom did not need to bother with formal measures, like an EO, since he was eager to do whatever needed to be done to make things right.
 - BD countered that such formalities are designed to protect both residents and ConCom.
- **Meeting Minutes Approval 2**
 - The minutes of 9/30/13, for ConCom’s Special Meeting with Geosyntec and the Pond & Dam Management Committee (PDMC), were reviewed.
 - BD said an effort should be made to see if particular equipment could be purchased by the Town to cost-effectively allow year-round sampling of the ponds for some of the easier tests (temperature, dissolved oxygen, conductance, Ph, and clarity).
 - LC moved to approve the minutes for 9/30/13 as written; JG 2nd.
 - Motion approved unanimously.
- **Member Updates**
 - JG reported on last week’s 10/2 meeting of the Community Preservation Committee (CPC).
 - Jason Mayo suggested Parks & Recreation, which he represents on CPC, might be a potential source of funding for the comprehensive pond study given that their usage of Sandy and Grove ponds.
 - After hearing from JG earlier in the week, CA said she had talked to Parks & Recreation Supervisor Jeff Thomas and either he or one of his board members will try to attend the next joint meeting of ConCom and PDMC on 10/21.
 - JG said Mr. Mayo had also talked about ongoing work to create a perimeter path around Pirone Park.
 - Since the park abuts Grove Pond, JG reminded Mr. Mayo that work within the 100 ft. buffer zone needs to be approved by ConCom.
 - CA did not know about this work until JG informed her after the 10/2 CPC meeting.
 - CA has since talked to Mr. Thomas.
 - Mr. Thomas told her some tree-cutting of dead trees, for safety reasons, has been done, along with “usual maintenance” in conjunction with the DPW.
 - Mr. Thomas said there was one area of the planned trail that would need to be filled to level the path out for ADA compliance.
 - However, Mr. Thomas was also going to talk to the Greenway Committee because if the path was put in by volunteers, rather than officially by the Town, it might not need to be ADA compliant.
 - Mr. Thomas later contacted CA to offer to do a site walk to show CA what has been done, what is planned, and go over what needs to be reviewed by ConCom.
- **CA Updates**
 - 85 Groton-School Road
 - The former Routhier property was bought by an investor.
 - That investor has renovated the property and now has it up for re-sale.
 - CA was contacted by a local resident interested in purchasing it as an investment opportunity.
 - The realtor (Keller Williams) has posted the 2007 restoration plan inside the house and a marketing presentation is suggesting to potential buyers that the parcel could be subdivided for further development.



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- This was of interest because the back of the lot is very wet.
 - BD and CA said it could not be subdivided.
- CA has not yet received a request from the current owner for a COC.
 - ConCom can't issue a COC in the near future anyway until it sees that specified plantings have been successful.
- Nashoba Valley Medical Center
 - Ongoing construction work at the hospital has generated soil.
 - A temporary soil pile has been placed by the parking lot.
 - CA told the contractor previously that if work was to extend into the open meadow area, they would have to come before ConCom.
 - The contractor has contacted CA and said that now they would like to spread the pile in the meadow area, and that they have been given permission to do this by NHESP.
 - In a previous site visit for a different project a couple of years ago, BD and CA had observed a wet area of unknown origin in the meadow.
 - Both had concerns about this wet area at the time, however that project was dropped and therefore no ruling as to the nature of the wet area was ever made.
 - It is possible now that what the current contractors think is a non-buffer zone area, ConCom would regard as a resource area.
 - CA will ask the contractors involved (Tony Moura, of Stantic, and Stephen O'Connor, of Suffolk Construction) to come before ConCom to discuss this further.
 - BD said this area also involves a steep slope down to wetlands, so ConCom will also need to see a plan.
 - BD asked CA to request copies of the NHESP permission received.
- 45 Partridge Run
 - BD did a site visit with owner Nick Mancini on 9/28.
 - CA said that Mr. Mancini has submitted an RDA for his planned tree-cutting.
 - The RDA only reiterates Mr. Mancini's justification for cutting down the trees based on safety concerns.
 - It does not include a plan for plantings, as specified by BD.
 - BD said this will be taken up again with Mr. Mancini in open session before ConCom.
- Epic Enterprises
 - Jesse Johnson, of David E. Ross Associates, submitted an NOI on behalf of Epic Enterprises, for the construction of a full-perimeter security fence.
 - The majority of the work, if approved, would be done in the wetlands.
- Oak Ridge Drive
 - Steve Sears, of David E. Ross Associates, will be submitting an NOI for a new residence on a subdivided lot.
 - Mr. Sears contacted CA to see if the proper submission would be an NOI or an RDA.
 - CA told him it needed to be an NOI, and that the draft survey he showed CA is incomplete because it does not extend in back of the planned house.
- Sedgeway
 - [10/24/2013: This item corrected: street in question is actually Ledgeway.]
 - An NOI will be coming in for the demolition of a house at the end of Sedgeway along with plans to erect a new one.
 - BD said ConCom will need to look at the retaining wall area, which was put in on the right-of-way, and whether any work planned will involve the wall.



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- When the NOI comes in, CA will contact the Zoning Enforcement Officer to see what would be grandfathered in.
- 11 Willow Road
 - A chemical distributor is interested in opening a warehouse for storage of research chemicals.
 - It is unclear if this would entail using an existing building.
 - A department meeting, with DPW Superintendent Wetzel, the Board of Health, and the Fire Chief, will be held at 11 a.m. on Tuesday, 10/15.
 - If this goes forward, ConCom will have significant concerns over the potential for impact on a nearby stream and the area's location over the Town aquifer.
 - BD asked CA to suggest to Mr. Wetzel the use of the Consultant By-Law.
- ConCom Enforcement Fees
 - CA saw that Town Clerk John Canney has now posted the enforcement fees which ConCom can employ, as approved at Spring Town Meeting 2013.
 - CA emailed Town Administrator Pontbriand to see if any decisions have been reached on procedures for implementing the use of enforcement fees for violations.
 - Mr. Pontbriand referred CA back to Mr. Canney.
 - ConCom had previously been told that the Board of Selectmen insisted on reviewing procedures before giving the okay on implementation.
 - ConCom has been unable to confirm whether BOS has followed through on this.
- Pingry Hill EO / Joe Bellino, Mass DEP
 - The Unilateral Administrative Order (UAO) has still not been sent out for Pingry Hill.
 - Mr. Bellino expressed frustration that the UAO has been held up so long in DEP's legal department.
- November Meetings
 - CA reminded members that, due to the Thanksgiving holiday, ConCom meetings will be held on the first and third Thursdays of November (11/7 and 11/21).
- **10:08 PM – Adjourn Meeting**
 - JG moved to adjourn; LC 2nd.
 - Motion approved unanimously.