

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **07/28/11** – Approved 8/11/11

Location: Ayer Town Hall, 1st Floor

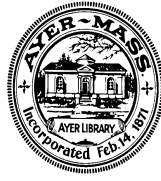
Members present: Bill Daniels (BD, Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk)

Not present: Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

7:03 PM – Open Meeting

- GB opened meeting and chaired until arrival of BD at 7:48 PM
- **Pledge of Allegiance**
- **Confirmation of Agenda**
 - JG moved to amend agenda to include an interview with David Bodurtha for ConsCom vacancy at roughly 8:45 PM; TT 2nd.
 - Motion approved unanimously (3-0).
- **Announcements**
 - An Open Space Conference will be held from 9-2:30 on Saturday, 8/20/11, in Greenfield.
- **Meeting Minutes Approval**
 - TT moved to approve the minutes of 6/23/11 as written; JG 2nd.
 - Motion approved unanimously (3-0).
 - TT moved to approve the minutes of 7/14/11 as written; JG 2nd.
 - Motion approved unanimously (3-0).
- **Discussions:**
 - Pond Vegetation Treatment updates
 - JG said Sandy Pond and Pine Meadow Pond were treated on 7/27/11 by ACT.
 - JG will contact Dominic Meringolo of ACT to see how treatments went.
 - GB read into the record the 7/26/11 letter from William Stevenson, President of Lycott Environmental, with their recommendation, as requested by CA, for treatment of Flannagan Pond in the wake of the beaver dam collapse and subsequent flooding.
 - The letter said Lycott “strongly suggests” postponement of treatment until 2012 due to raised water level, increased turbidity, and the target species (Fanwort and Milfoil) being now well within the reproductive stage.
 - JG had written Lycott a confirmation of receipt of the letter, and said she had added in the expectation that Flannagan treatment would be placed as early as feasible on Lycott’s spring schedule.
 - TT suggested asking Lycott to confirm that Flannagan treatment would be a priority for them come spring, with preparations and materials at hand so that they can ‘hit the ground running’.

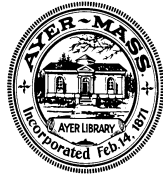


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- David Bodurtha, in the audience, asked if the Town's contract with Lycott was valid for the following spring, including holding to the same cost.
 - TT said Town Administrator Pontbriand had indicated at the 7/19 BOS meeting that there were no issues with the contract being invalidated.
 - JG will confirm with Mr. Pontbriand that this holds even if the cost of chemicals for treatment goes up.
- Beaver dam washouts on Pine Meadow Conservation Land.
 - JG said she posted two Mass Fish & Wildlife signs at each dam site on 7/21.
 - The signs state it is illegal to tamper with beaver dams without a state permit, and warns of fines of \$25,000 per day plus damages.
- Board of Selectmen: agenda items for August meeting
 - Nothing new was added to the items discussed on 7/14/11.
- **Public Hearing: NOI – 138 Snake Hill Road**
 - Jesse Johnson, of David E. Ross Associates, appeared on behalf of applicant Sharon Carter.
 - The NOI is to build a single-family dwelling on a 0.68 acre parcel with bordering vegetated wetlands along the northern portion of the lot.
 - The applicant hopes to begin construction this fall.
 - The closest disturbance to the wetlands is 6 ft. for installation of a foundation drain, and this may or may not be necessary depending on the Building Inspector.
 - Mr. Johnson said only 31% of the lot will be disturbed for house construction.
 - Roof runoff will be taken up by a drip trench running around the perimeter.
 - While the application called for use of silt fencing for erosion control, GB said ConsCom is now leaning toward encouraging the use of straw wattles instead.
 - A site walk was discussed for 8/20, pending CA's schedule.
 - Mr. Johnson gave ConsCom permission to perform the site walk without himself or the applicant present.
 - GB asked that the two corners of the planned house that are closest to the wetlands be staked, as well as the outlet for the foundation drain.
 - TT confirmed that wetland flags are already in place and visible.
 - JG moved to continue the Public Hearing to 8/25/11; TT 2nd.
 - Motion approved unanimously (3-0).
- **Public Meeting: RDA – Emily's Way subdivision, MEMS Realty Trust**
 - Steve Mullaney, of SJ Mullaney Engineering, represented MEMS.
 - Emily's Way (EW) is a planned 8-house subdivision on the northwest side of Groton-Harvard Road, across the street and upland from Flannagan Pond.
 - The RDA is to ascertain whether or not the proposed subdivision involves work jurisdictional to the Commission.
 - Mr. Mullaney referred to the recent Negative Determination of Applicability given to the Town's DPW for upgrades to Groton-Harvard Road and argued that the 100 ft. setback for DPW work should hold for MEMS as well.

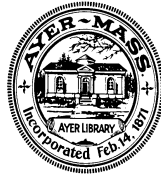


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- BD said the DPW's RDA discussion with ConsCom included CA's finding that the existing drainage easement running downhill between 33 and 35 Groton-Harvard Road is a continuation of the natural wetlands/BVW along the pond, and these two residences were likely constructed, decades ago, on filled-in-wetlands.
- The stormwater plans for EW were reviewed.
 - Mr. Mullaney said the stormwater plans for EW were designed to handle a 100-year storm event.
 - BD said DPW Superintendent Dan Nason, at his RDA meeting (6/23/11), had not recognized the intent of EW to connect to the Town's stormwater on Groton-Harvard Road.
 - Mr. Mullaney said that overflow was designed to enter the Town's system.
 - Mr. Mullaney said that, with the planned catchbasins, their stormwater calculations indicated, however, that less water would enter the Town's stormwater structures than currently does today.
 - EW's planned storage capacity will reduce the rate of discharge across the road, Mr. Mullaney said.
 - These calculations were previously given to the Planning Board and the DPW.
 - Mr. Mullaney said a two-acre parcel further upland and at the back of the subdivision is in the process of being conveyed to VOA Ayer (Volunteers of America) Assisted-Living Residence.
 - Although it is not known what VOA will be doing with the parcel, EW has provided DPW with calculations showing how much VOA could potentially do that would not exceed the capacity of EW's stormwater structures to absorb additional flow from added impervious surfaces.
 - Mr. Mullaney said EW's pre-development figures indicated a discharge flow rate of 36.49 cubic feet/second; post-development, assuming VOA added 20% impervious surface, this figure drops to 36.21 cf/second.
 - If VOA does nothing, the post-development change in discharge flow would be a decrease of 5% in a 100-year storm event.
 - Mr. Mullaney gave BD a copy of these calculations for the file.
 - These calculations were done using HydroCAD stormwater modeling software, the accepted standard for DPWs, contractors, and the state.
 - Mr. Mullaney added that Flannagan Pond depends in part on water running into it; the proposed catchbasins are intended to slow the velocity/rate of flow, not prevent water from running down the hillside as it does now in the absence of the subdivision.
 - BD requested that the drawings reflect this by changing the language from 'overflow' to 'outlet'.
- BD recommended a site walk with ConsCom and CA.
 - Mr. Mullaney said the applicant was unwilling to ask for permission or enter the private properties along the drainage easement.
 - BD said ConsCom needs to consult with Town Administrator Pontbriand as to liability issues for the Town should the Commission perform a site walk on land



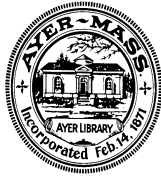
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that may be impacted by EW but for which the applicant will not perform flagging or enter the disputed site.

- Mr. Mullaney agreed and said that should a resource area be determined to be on the easement property and be jurisdictional to ConsCom, then EW will be willing to prepare an NOI application.
 - Mr. Mullaney added that EW representatives will be happy to walk the remaining property for the subdivision with ConsCom, just not the private property of the resident in question.
- BD said this was a situation ConsCom had not previously encountered and would need to get a clearer understanding of how to handle this kind of situation.
- Mr. Bodurtha, in the audience, asked if VOA Ayer had asked about connecting into EW's stormwater system.
 - Mr. Mullaney said EW has no idea of what VOA's plans are for the new parcel.
- Mr. Bodurtha asked if it was the developer's intention to have EW's roadway accepted as a public way.
 - Mr. Mullaney said yes.
- Resident George Hynes, of 35 Groton-Harvard Road, said that the difference in pre- and post-development flow rates was so small that it looked like development of the VOA parcel could easily overwhelm EW's stormwater system. Mr. Hynes asked if ConsCom could stipulate that if EW is constructed, other property development upland, such as VOA Ayer, could be limited.
 - BD said ConsCom could not presuppose the impact of potential future development by another applicant in considering the EW application.
 - A future applicant would have to prove their own calculations in any case.
- Mr. Hynes asked Mr. Mullaney why he was presenting 100-year-event stormwater plans to ConsCom but had only presented 25-year-event plans to the Planning Board.
 - Mr. Mullaney explained that the PB only requires 25-year-event calculations; EW provided 100-year-event information to ConsCom because it had been asked to do so by ConsCom and Mr. Nason.
 - BD told Mr. Hynes he was asking questions about EW's PB application and should therefore address those questions to the PB.
- Mr. Hynes asked about 3rd party analysis of the figures.
 - BD recommended that Mr. Hynes talk with Mr. Nason unless Mr. Hynes wishes to consult with Hamwey Engineering of Leominster, which reviewed the initial calculations for DPW.
- GB moved to continue the Public Meeting to 8/11/11; TT 2nd.
 - Motion approved unanimously (4-0).
- **Public Hearing (cont'd): NOI – Crabtree Development, Ridge View Heights/Pingry Hill**
 - Mr. Mullaney addressed the Commission regarding Phase III.
 - Issuance of the OOC for Phase III still awaits independent review by Tata & Howard, which was sent materials in May.
 - BD sent an email to Stephanie Tarves, at Tata & Howard, asking where they were with the review at this time.



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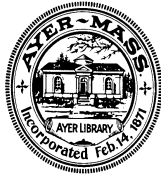
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- GB moved to continue the Public Hearing to 8/11/11; TT 2nd.
 - Motion approved unanimously.

- **Public Hearing (cont'd): NOI – Kohler Place, Sandy Pond Investment Trust/Oxbow Associates.**
 - Completion of the OOC awaits receipt of an NHESP permit number; JG said this information has still not yet been received.
 - Mr. Bodurtha raised a point-of-order. TT has had to recuse himself on this NOI; JG was unable to go on the site walk in April because of her broken leg; with Mr. Bodurtha no longer on the Commission, he wondered if this presented quorum issues.
 - BD said quorums were not always necessary in the case of site walks, especially if there were not any contentious issues, but if this became an issue, another site walk at which JG could attend would be scheduled.
 - GB moved to continue the Public Hearing to 8/11/11; JG 2nd.
 - Motion approved 3-0, TT abstained.

- **Conservation Commission Vacancy**
 - The Commission interviewed Warren Ball, a lifelong resident of Ayer living on Flannagan Pond.
 - Mr. Ball is a VP in sales for a pharmaceutical company, and cited his experience with working with small groups and committees.
 - Mr. Ball said pond issues were a catalyst for his interest in joining the Commission but not his sole interest.
 - He now has more time and would like to get involved in Town issues.
 - JG asked about Mr. Ball's availability for weekend site walks; Mr. Ball said he'd be available.
 - GB and TT encouraged Mr. Ball, if appointed, to take advantage of MACC training opportunities.
 - TT added that understanding the WPA and how to implement it at a town level was vital.
 - Mr. Ball expressed his willingness to do so.
 - The Commission interviewed David Bodurtha, who previously served on ConsCom prior to the BOS decision in June not to reappoint him.
 - Mr. Bodurtha stressed his history in Ayer, his 7 years on ConsCom, and his prior dedication of roughly 10 hours/week to Conservation Commission issues.
 - Mr. Bodurtha said he is one of 3 trail stewards for Town conservation property.
 - Mr. Bodurths said he has enjoyed his time on the Commission and would like to be reappointed.
 - GB asked Mr. Bodurtha whether, were he to be reappointed, he would do anything different.
 - Mr. Bodurtha acknowledged that issues had arisen with the BOS in terms of how to issue Enforcement Orders. Mr. Bodurtha understands the Commission's policy now is to not issue special conditions individually, and that all such correspondence is now to go through the mail.



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- BD said he had spoken with BOS Chair Gary Luca, and that two additional selectmen feel the same way about reappointing Mr. Bodurtha.
 - BD said the situation looked irretrievable at this time but said ConsCom was happy to consider Mr. Bodurtha's application for re-appointment.
- **Member Updates**
 - GB said the Commission will soon have to designate an appointment to the newly formed Pond and Dam Management Committee.
 - TT raised the issue of a new storage site for the kiosk from Patrick Hughes' garage.
 - BD asked TT to talk to Fire Chief Pedrazzi about temporarily storing the kiosk in the old Fire Station until it is ready to be installed.
 - BD received a phone call from Christine Laggis-Wood about 36 acres of property potentially for sale at the end of Rosewood Avenue; no assessed value has been provided to the Town.
 - At its 5/12/11 meeting, the Commission decided that the Town likely would not be a competitive bidder nor did it have the funds or capacity to provide an assessed value for the seller.
 - Mr. Bodurtha cited unresolved past issues with this property in terms of improper destruction of a beaver dam and wetland draining.
 - BD said it seemed out of order to proceed in talks with Ms. Laggis-Wood.
- **9:50 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.