

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **08/25/11** – Approved 9/22/11

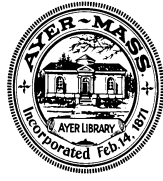
Location: Ayer Town Hall, 1<sup>st</sup> Floor

Members present: Bill Daniels (BD, Chair), George Bacon (GB), Takashi Tada (TT), Jessica Gugino (JG, Clerk), Warren Ball (WB), Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

### **7:16 PM – Open Meeting**

- **Public Hearing: Amendment to NOI, Ayer DPW, Grove Pond Wells (DEP #100-0320)**
  - Paul Ruzsala, from Onsite Engineering, Inc., represented Ayer DPW.
  - Mr. Ruzsala summarized the written report circulated to the Commission.
  - Tata & Howard was issued an OOC in 10/08 to construct two replacement wells.
  - A separate OOC in 12/07 was issued to install, pump test and permit new Well No. 3.
    - This delayed the construction of the well houses for the two replacement wells.
  - To conserve money and engineering resources, the Town then chose to combine the two well projects into a single comprehensive design.
  - Onsite Engineering took over the project midstream.
  - The original design proposed two well houses within the buffer zone (BZ) and flood plain
  - The new design proposes a single 23' x 20' building outside the BZ and floodplain.
    - The pipe configurations from wells 1 and 2 need to be changed accordingly.
  - Onsite seeks to amend the previous NOI to reflect the revised piping, equipment, and well house design for all three wells to connect to a single Water Treatment Facility.
  - Haybales and silt fencing have been installed around the whole site.
  - The Limit of Work has been identified to prevent unnecessary soil disturbance and a native seed mix is planned to stabilize the banks when the work is complete.
  - Onsite is finalizing stormwater calculations to show how the new design handles runoff.
    - Mr. Ruzsala said that as there are currently no stormwater provisions whatsoever, this will be a dramatic improvement to the site.
  - BD said he was concerned that if all 3 wells are pumped into one central building, backup redundancy is lost.
  - A site walk was scheduled for 9 a.m., 9/24/11, meeting on Barnum Road.
  - GB moved to continue the Hearing to 10/13; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Public Meeting: RDA – Christine Malette and William Daniels, 3 Brilaina Court**
  - BD recused himself for this item on the agenda; GB took over as temporary Chair.
  - Mr. Daniels, speaking as co-owner with Ms. Malette, described the RDA and attached drawing for a proposed deck and porch addition to a single family home.
  - The addition requires a maximum of 14 piers (4' deep/10" diam.) to support the framing.
  - The work area within the BZ is flat and the drawing indicates erosion control placement.
  - Soil from the pier holes will be spread in the flat area behind the house which is outside of the 100' BZ and in addition pitches away from the resource area.
  - CA has performed a site walk and said it is a straightforward project.
    - CA asked Mr. Daniels to update the drawing to show soil storage/spreading.
  - TT moved to issue a Negative Determination; WB 2<sup>nd</sup>.
    - Motion approved unanimously.
  - CA indicated Ms. Malette previously submitted a check for \$56.10 to pay for the legal notice.



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- **Announcements**

- BD reviewed the pamphlet received from the Devens Regional Household Hazardous Products Collection Center.
  - The Center is open, 9 a.m. to noon, to area towns, including Ayer, the first Wednesday and following Saturday of every month except for January and February; fees apply.
  - Further information is available at [www.DevensHHW.com](http://www.DevensHHW.com).

- **Public Hearing (cont'd): NOI – 138 Snake Hill Road**

- Jesse Johnson, of David E. Ross Associates, appeared on behalf of applicant Sharon Carter regarding the NOI application to build a single-family house on a 0.68 acre lot.
- A site walk took place on 8/20/11.
- Mr. Johnson said then when the house corners and foundation drain outlet were staked prior to the site walk, he noticed an informal trail running on the property.
  - Mr. Johnson said this would be a better path for the foundation drain to follow than the one indicated on the drawing, requiring less clearing of vegetation.
- BD said if the drain was being relocated, the drawing needed to be changed to reflect this.
- CA raised a concern that an area nearby the foundation drain outflow might be at risk for puddling during heavy storm events and suggested the possibility of a rain-garden there.
  - Mr. Johnson said the foundation drain is protection for a 100-year storm event only, and that a rain garden, if sitting in ground water, would not work properly.
- David Bodurtha, in the audience, asked if ConsCom had any intention to tell the future homeowner not to dump yard refuse into the wetland.
  - CA reminded Mr. Bodurtha that this is part of ConsCom's standard template.
- GB moved to issue an OOC; TT 2<sup>nd</sup>.
  - Motion approved 4-0; WB abstained.
- GB moved to continue Public Hearing to 9/8; TT 2<sup>nd</sup>.
  - Motion approved 4-0; WB abstained.

- **Accounts Payable**

- Aquatic Control Technology (ACT): \$6120.00 for weed treatment on Sandy Pond and Pine Meadow Pond.
  - This represents 85% of the balance due.
  - The remainder is due after a second treatment of Pine Meadow Pond and a year-end report is submitted that demonstrates an 85% or more success rate has been achieved.
- WB said it did not appear to him that there had been much of a weed kill-off on Sandy Pond.
- JG anecdotally described oozy green stuff washing up on the eastern shore of Sandy Pond.
- TT asked CA to talk to Parks & Recreation Supervisor Jeff Thomas to see if he has noticed an improvement in weeds at the Town Beach treatment area.
- GB moved to pay \$6120 to ACT; TT 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Public Meeting (cont'd): RDA – Emily's Way Subdivision, MEMS Realty Trust**

- Steve Mullaney, of SJ Mullaney Engineering, represented MEMS Realty Trust.
- A site walk took place on 8/20.
  - No additional wetland areas were detected on the hillside, walking from the top of the property down to its base on Groton-Harvard Road.
- BD underscored that with this RDA, the applicant was discussing only the issue of the identification of wetlands in the area and not the scope of work for the construction project.

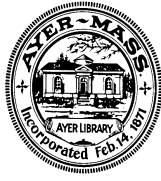


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- CA clarified for the record that the nearby wetland resource area, on the other side of Groton-Harvard Road has been ‘identified’, not formally ‘delineated’.
- Mr. Mullaney indicated the intent of MEMS Realty was to start with the RDA, to settle questions of ConsCom jurisdiction, and then follow-up with an NOI for the project itself.
- BD read into the record a letter dated 8/17 from George Hynes of 35 Groton-Harvard Road, and referred as well to CA’s response of 8/23 to Mr. Hynes questions and requests.
  - First, Mr. Hynes asked CA for a clear reason as to why the applicant’s representative stated his client would not walk on the property at 35 Groton-Harvard Road.
    - CA responded that the Commission was not privy to that information and could not engage in hearsay.
    - BD asked Mr. Mullaney if he would like to address this question directly.
    - Mr. Mullaney said they preferred not to discuss this at this time.
  - Second, Mr. Hynes requested copies of all ConsCom documentation related to the Emily’s Way RDA, including correspondence with the Planning Board.
    - CA has submitted copies of all records as requested to Mr. Hynes, with the exception of the 8/11/11 meeting minutes, to be approved later in this meeting.
      - CA will promptly forward the minutes, when approved, to Mr. Hynes.
  - Third, CA summarized the ongoing process for Mr. Hynes, indicating that ConsCom would review and discuss the RDA on 8/25, subsequent to the 8/20 site walk, and likely then make a motion to vote on a Determination of Applicability.
- Mr. Hynes handed the Chair a letter from Goldsmith, Prest & Ringwald (GPR), dated 8/24, engaged by Mr. Hynes to review the RDA and subdivision plans.
  - BD read the letter into the record and addressed various points as raised.
  - GPR said that the Commission retains jurisdiction over the subdivision project insofar as its impact on adjoining properties and resource areas.
  - GPR questioned the slope of the roadway as it connects to Groton-Harvard Road.
    - BD said ConsCom has no jurisdiction over this.
    - Mr. Mullaney said the slope has been reviewed by Ayer DPW and a consultant.
  - GPR questioned the high velocity of stormwater flow.
    - Mr. Mullaney said the Emily’s Way plans fulfilled the Ayer Subdivision Regulations for a 25-year storm event, as required by the Planning Board.
  - GPR wrote that a high velocity stormwater flow would run over the catch basin grates, creating waterfalls and the possibility of pooling.
    - GPR noted that catch basins are normally designed parallel to the gutter but that the Emily’s Way design had them perpendicular to the gutter.
    - Mr. Mullaney said the grate design had, in fact, been “specified” by the DPW.
  - Mr. Bodurtha raised a point of order, saying these questions were appropriate for the Planning Board but not ConsCom.
    - BD said that given there was only a single letter involved, he thought it appropriate to review its contents nevertheless and expressed his appreciation for Mr. Mullaney’s forbearance.
- BD summarized that the issues and recommendations raised by GPR having to do with roadway slope, stormwater pipe velocities, and catch basin grates were not the purview of ConsCom, but fell instead under the authority of the Planning Board.
- With regard to the issue of identification of the wetland resources and BZ, BD said the applicant has agreed to a delineation based on the easterly edge of the right-of-way of Groton-Harvard Rd.
  - BD said this is a very conservative designation that applies only to this application.

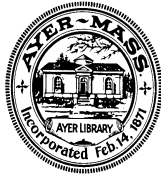


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- Mr. Mullaney agreed, saying this designation creates a 100' BZ, 50' of which is Groton-Harvard Road, and the additional 50' continuing onto the subdivision property.
- GB moved to issue a Positive Determination of Applicability; TT 2<sup>nd</sup>.
  - Motion approved 4-0; WB abstained.
- In response to Mr. Hynes' question, BD explained that the ruling of a Positive Determination meant that the law now requires the applicant to submit an NOI.
  
- **Discussion: Request for Certificate of Compliance (COC) – Pond View Estates**
  - CA summarized the packet circulated to Commission members and containing the following:
    - 12/10/10 letter to ConsCom from Linnea Flint, Chairman of the Pond View Estates Condominium Trust, and James Nash, President, Pond View Estates Homeowners Trust.
    - 4/5/11 letter from DPW Superintendent Dan Nason to Mr. Brem detailing the Professional Service Agreement for Pond View As-Built, not to exceed \$4100.00.
    - 4/12/11 letter from Town Administrator Robert Pontbriand to Linnea Flint detailing the Pond View Acres Development Resolution as reached between the Town of Ayer and the Pond View Homeowners and Condo Associations with regard to completion of Field Surveying, As-Built Plans, and Conservation issues.
    - 7/12/11 letter to ConsCom from Jeffrey Brem, Project Engineer, Meisner Brem Corporation, with WPA Form 8A requesting COC.
  - CA summarized the situation as one in which not everything has been built to spec.
    - That said, the Pond View associations now want to tie up loose ends, move forward and seek a vote on road acceptance at Fall Town Meeting on 10/17/11.
  - CA gave permission last year to residents to begin removing silt fencing/erosion controls prior to issuance of a COC, given the site had stabilized.
    - Because volunteers were available and the site is overgrown, CA approved this removal prior to the COC issuance; the Commission agreed with her decision.
    - CA wants an update from the Pond View associations as to where erosion controls have been removed, and where they are too buried in for removal or are underwater.
  - It was noted by TT that signage for the Pond View Conservation Restriction is up, and by BD that the 12/15/10 letter noted that the first submittal of a Biological Wildlife Report for the Turtle habitat (required every 4 years) is due March, 2012.
  - A site walk was planned for 10 a.m., 9/24/11; CA will invite Ms. Flint and Mr. Nash.
  - Mr. Bodurtha informed the Commission that there is a group that will oppose road acceptance because of objections to certain stormwater basins and maintenance.
    - Mr. Bodurtha acknowledged this issue was not related to the COC.
  - BD noted the next Commission meeting following the 9/24 site walk was 10/13.
    - ConsCom would be able to produce a letter at that time that could be read by the Pond View associations at Fall Town Meeting.
  - Mr. Bodurtha asked if the Commission was concerned about the stormwater basin, behind Rose Lane, that is not being maintained.
    - BD said this will be looked at and discussed during the site walk.
    - CA said DPW has been willing to accept this basin because there is no developer to fix it.
    - CA said that maintenance of the basin is addressed in the 11/2010 O&M Plan.
    - BD ended the discussion by saying the time to address this will be on the site walk.
  
- **Public Hearing (cont'd): NOI – Phase III, Ridge View Heights/Pingry Hill subdivision**
  - Steve Mullaney represented Crabtree Development.

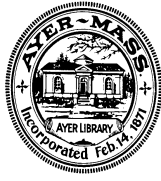


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- BD read an email received 8/25 from Stephanie Tarves, of Tata & Howard, containing their third-party review of the Phase III stormwater calculations and infrastructure plans.
  - The review asked for further calculation information on several of the stormwater basins.
  - Mr. Mullaney will respond to Tata & Howard and forward a copy of the review to Rick Roper of Crabtree Development.
- GB moved to continue the Hearing to 9/8; WB 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearing (cont'd): NOI – Kohler Place, Sandy Pond Investment Trust/Oxbow Associates**
  - No NHESP permit number, required for issuance of the OOC, has yet been received.
  - GB moved to continue the Hearing to 9/8; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Accounts Payable (cont'd)**
  - Lowell Sun: \$117.30.
    - \$61.20 for Public Hearing notice, Emily's Way; payment received.
    - \$56.10 for Public Hearing notice, 138 Snake Hill Road; payment received.
  - GB moved to approve payment of \$117.30; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Meeting Minutes Approval**
  - GB moved to approve 8/11/11 meeting minutes as written; TT 2<sup>nd</sup>.
    - Motion approved 4-0; WB abstained.
- **CA Updates**
  - CA circulated an email from Christine Laggis Wood about the Wood family's interest in selling a 36 acre parcel of undeveloped land to the Town.
    - The Wood family has been told by a developer that possibly 5-7 homes could be built there, although the land is wet and swampy, being part of a perennial stream system.
    - The Wood family is asking \$300,000 for the parcel.
    - The parcel lies in between the Rail Trail (to its left) and Rosewood Avenue.
    - Ms. Wood will appear at ConsCom's next meeting on 9/8 to discuss this further.
      - JG will invite the Community Preservation Committee to attend as well.
    - WB asked what benefit it was to the Town to purchase it.
      - BD said properties such as this can be put under a Conservation Restriction that prevents future development unless changed by an action of the state legislature.
    - Mr. Bodurtha referred to the destruction of a beaver dam near Rosewood Avenue that drained this wetland swamp in 2010.
      - Mr. Bodurtha talked about this recently with Pat Huckery, Mass Fish & Wildlife.
        - Mr. Bodurtha said Ms. Huckery expressed concern that ConsCom did not file an Enforcement Order with the Environmental Police when it had been discovered that heavy equipment was used to destroy the dam.
        - Ms. Huckery said that whenever a beaver dam has been illegally destroyed, the Environmental Police are to be notified, even if it is not known who was responsible for the damage.
          - Only after that can Mass Fish & Wildlife also get involved.
      - ConsCom did not know this procedural policy but now knew for the future.
        - CA will contact the Environmental Police.



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- Mr. Bodurtha said he would forward photographic support to CA.
- CA asked for ConsCom discussion of how to handle substantial records requests going forward, given the extremely limited office time and budget which ConsCom ‘enjoys’.
  - This issue was raised in response to a recent records request that took several hours out of CA’s time schedule.
  - Janet Lewis, Secretary to BOS, suggested to CA that ConsCom charge fees for CA time.
  - BD suggested the following (with pages understood to be a single face 8x11 or 11x17):
    - 5 pages or less: \$2.50 plus \$0.25 per page
    - 6-20 pages: \$5.00 plus \$0.25 per page
    - 21 pages and up: \$25.00 per hour plus \$0.25 per page
  - CA said this money, under current policy, goes into the Town’s General Fund.
    - BD told CA to ask Town Accountant Lisa Gabree if fees for CA time could go back into the ConsCom budget, while per-page fees go to the Town.
    - Otherwise perhaps such requests should be directed to the Town Clerk’s office.
  - BD asked that CA copy Town Administrator Pontbriand on ConsCom’s suggested fees and fee disbursement, and ask if the BOS must also approve.
  - Mr. Bodurtha asked if ConsCom had been reimbursed by the BOS, as promised, for CA’s time used for the Flannagan Pond RFP.
    - CA said there has been no response.
    - BD said this will be another item for discussion with the BOS on 9/6.
- CA received feedback from MaryAnn DiPinto, of MassDEP, regarding the Negative Determination with conditions issued on 6/23 for the DPW RFP for Groton-Harvard Road, subsequently appealed by Mr. George Hynes.
  - DEP issued a superseding determination which agreed with ConsCom’s Negative Determination but DEP did not apply any conditions.
    - The two conditions were for the addition of riprap and the hand-digging out of accumulated sediment along the drainage swale.
  - CA said Mr. Nason and Mr. Hynes are likely to ask about the conditions.
    - BD said that DEP has given the final word and therefore the conditions are out.
- **Member Updates and Additional Discussions**
  - GB asked that the issue of houses without house numbers be raised with the BOS on 9/6.
  - Mr. Bodurtha, from the audience, asked about maintenance of the section of conservation land trails near the power lines and beaver dams abutting the Autumn Ridge area.
    - Mr. Bodurtha said the volunteer trail steward had been fired and asked to be reappointed.
    - Mr. Bodurtha was referring to the BOS’s refusal to reappoint him to ConsCom.
    - TT said stewardship was given to Mr. Bodurtha by the Greenway Committee.
    - BD concurred that ConsCom did not have any part in making this appointment.
    - To move things along, GB moved that Mr. Bodurtha be appointed trail steward; TT 2<sup>nd</sup>.
      - Motion approved unanimously.
  - Mr. Bodurtha said he had talked to Police Chief Murray about the Oak Ridge resident who continues to store property on the Town’s abutting conservation land.
    - Mr. Bodurtha said that Chief Murray had not yet been contacted by Building Commissioner Gabe Vellante about this being a trespassing, not zoning, issue.
- **10:25 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.