

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for **10/14/10** – Approved 10/28/10

Location: Ayer Town Hall, 1st Floor

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

Members Absent: Becky DaSilva-Conde (CA, Conservation Administrator)

APAC taped: Yes

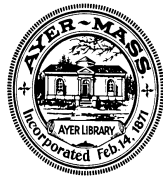
7:10 PM – Open Meeting

- **Pledge of Allegiance**

- **Accounts Payable**
 - Lowell Sun: \$57.80 – Legal notice for RDA for John Canney, 152 Central Avenue
 - GB moved to approve payment of Lowell Sun invoice; TT 2nd.
 - Motion approved unanimously.

- **Meeting Minutes Approval**
 - GB moved to approve minutes from 9/23/10 with one correction; DB 2nd.
 - Motion approved unanimously.

- **Discussion: Policies and Procedures**
 - Plans to develop and articulate more formal Policies and Procedures were discussed as a means of making better use of the Commission's time.
 - As a case in point, frustrations that arose at the 9/25/10 MBTA site walk were reviewed.
 - It was agreed that in the future, NOI applications before the Commission must comply with the following:
 1. all areas of planned disturbance must be accessible for inspection by the Conservation Commission during the site walk;
 2. the location of planned buildings and structures must be clearly staked out/flagged in the field to avoid fruitless guesswork;
 3. drawings and plans supplied by the applicant must specify and indicate all abutters to the site.
 - The issue of how much time to spend with an unprepared applicant was raised.
 - BD expressed the desire for the Commission to have the power to reject applications in the future that do not comply.
 - The Commission discussed the fine line between offering its members' expertise to help applicants solve or avoid potential problems versus being too helpful and doing applicants' work for them.
 - GB suggested to general agreement that the Commission adopt the following structure for reviewing future applications:
 1. an introductory meeting that provides the Commission with a quick overview of work planned;
 2. a site visit by the Commission;
 3. a subsequent meeting that then reviews an applicant's plans in detail.



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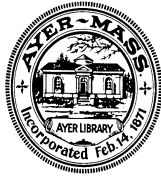
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- Pertinent sections of the Wetlands Permit Application Information Packet draft prepared last January by the CA were examined, and some preliminary edits were made in light of the above concerns.
- It was decided that further review of Policies and Procedures would not be done until 1) an overhead projector was available for shared review; and 2) the CA was present to provide her input and expertise.
- GB volunteered to take charge of maintaining an updated draft of edits to Policies and Procedures as this process moves forward.

- **Discussion: Enforcement Order – The Willows**
 - Kevin Hunt of Habitech, representing Willow Road Development, appeared.
 - Mr. Hunt received an Enforcement Order, ratified on 9/9/10, for The Willows.
 - The EO was in response to continued erosion problems after a storm event on 8/25/10.
 - Mr. Hunt handed out copies of a letter and photos, dated 10/14/10, in response to the EO.
 - Mr. Hunt described the work in progress leading up to the 8/25 storm event.
 - On 8/23, Habitech removed erosion controls to install an asphalt curb and a berm.
 - The berm unfortunately acted as an artificial barrier to the heavy rains, contributing to the undermining of a check dam and allowing for the uncontrolled flow of dirty stormwater down onto Willow Road.
 - Mr. Hunt said that once Habitech realized the problem, they installed 50 new haybales that afternoon, and then subsequently cleaned up the silt.
 - Since 8/25, further work has been done to install sidewalks, drainage pipe, a stone swale, and a curtain drain that, it is hoped, will prevent the continuation of this problem. In addition, the final paving of the road leading uphill into the development is now done.
 - Mr. Hunt expressed confidence that these solutions will successfully direct surface water into the drainage system and catch basins rather than down onto Willow Road.
 - BD said that the recurrent problem with controlling the downhill waterflow from this site has implications for wetland impact, stormwater impact, and basic safety. He expressed his hope that Habitech's modifications to the original plans by David E. Ross Inc. will work, but warned that if the latest fix doesn't prove successful, it may be necessary to halt work on the site and turn the matter over to DEP.
 - DB said that the latest work, in his view, represented the first real attempt to solve the problem and was also hopeful for its success.

 - The EO having been discussed, DB brought a different matter to Mr. Hunt's attention.
 - DB described new bulldozing work being done over the past week on the access road, now to be a permanent road, that connects the project to Willow Road.
 - DB expressed concern over the steep slope nearby leading to Bennett's Brook, noting that, without any haybales or other erosion controls in place, the soil pile near the roadway entrance as well as the stripping of soil along the planned roadway puts the riverfront area of Bennett's Brook severely at risk.
 - Mr. Hunt explained that work has now begun on the infrastructure for the road. The removal of scrub the previous week revealed dilapidated haybales and silt fencing, but he planned to put new haybales in place the following week.



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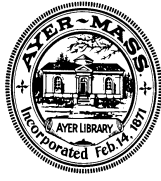
- Given the heavy rains anticipated the next day, this was deemed unacceptable.
- DB also expressed frustration that fixing this wasn't made a higher priority after he called about this earlier in the week.
- Mr. Hunt said he would make it a priority to place silt fencing down first thing in the morning, followed by new haybales after the rain ended.

- **Discussion: Violation Notice – Park Street Business Condos**
 - DB updated the Commission about the Violation Notice sent on 10/12/10 to each of the 100 Park Street Association members for possible violation of the wetlands behind the business condos.
 - Aerial photographs taken in 2005 show the wetlands behind the building; 2008 photographs of the same area show some of the wetlands appear to have been filled in.
 - The Commission has found nothing on file that shows an NOI permitting this work.
 - The work appears to have been done either without an NOI, or with an expired NOI, but in either case represents a violation of the Wetlands Protection Act.
 - BD said that it is likely the Association will have to file a remediation plan of some sort.
 - DB sent the VN to each business owner, but noted the area behind the building constitutes “common space,” and it is the Association that must resolve the issue.
 - The Association was asked to have a representative contact the CA in order to be placed on the Commission's agenda, and the Commission now awaits a response.

- **Member Issues/Updates**
 - JG: Stratton Hill
 - JG described the expansion of the detention basin along Wright Road that now incorporates part of the Town's access road to the Long Pond dam. In the event that the basin fills to its new capacity, this may interfere with DPW access. This being outside of the Commission's jurisdiction, JG will bring this to the attention of the DPW Superintendent Dan Nason.

 - BD: Ch. 91 dock licenses
 - BD asked if anyone knew if there were any temporary docks on Sandy Pond or Long Pond that were not licensed in compliance with Ch. 91. No one did.
 - DB questioned the role of the Commission in playing enforcement agent for the State DEP on this matter.
 - BD explained that residents who sought a license from the State to comply with Ch. 91 first had to come before the Commission with an RDA, making temporary docks an RDA issue for us as well.

 - GB: Violation Notice on West Main Street
 - GB asked for an update on BD's plan to issue a Violation Notice to the resident of a gray house on West Main Street near the bridge. Seen from the street, the backyard of this house, which is adjacent to Nonacoicus Brook, appears to have been cleared without having gone through the RDA or NOI process.



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- BD said there is no street number on the mailbox and he is still trying to figure out who owns the house; DB has assessors maps and will look into this.

- TT: Hunting Season
 - TT asked when deer hunting season begins.
 - Bow and Arrow season begins on 10/18/10.
 - BD will prepare a sign for public posting; DB will print and laminate.

- DB: General Business
 - DB brought up the possibility of moving the CA's office into part of the room occupied by economic development.
 - If the CA is agreeable, Town Administrator Robert Pontbriand will have to submit a request to the Board of Selectmen.
 - DB sent a letter to Mass Highway requesting information about when permits were issued for road work in relation to Lot W of Pingry Hill.
 - The developer has thus far not responded to Commission requests for a copy of a valid work permit.
 - This being a state road, the matter may have to be referred to DEP.
 - DB's letter to abutters of Flannagan Pond on Oak Ridge Drive, regarding tree cutting, is still in process.
 - With regard to three properties nearby to Bennett's Brook that now belong to the Town as a result of tax-taking, DB has written to the Board of Selectmen requesting that the BOS assign care and custody of these properties to the Conservation Commission in order to protect the wetlands located therein.
 - DB has talked further with Andrew Spejewski, of the EPA, about his request for input from the Commission with regard to a potential property donation from Crabtree Development, in lieu of EPA fines, to the Town of Ayer.
 - The Commission agreed that it was still unclear what the EPA was asking, given the lack of information about the infraction and amount of the fine.
 - With regard to the used car lot on West Main Street that was given a business permit by the BOS, DB spoke to Town Administrator Pontbriand about the need for the BOS to make it part of its process to notify all relevant Boards.
 - In this case, the BOS failed to realize it was issuing a business permit for work that is also within the jurisdiction of the Conservation Commission.
 - DB would still like to see the soil pile on Sandy Pond Road removed as turtle nesting season is now about to end.
 - BD will write a letter to the resident.
 - DB displayed pictures showing the beaver deceiver put in place at Pond View.

10:01 PM – Adjourn Meeting

- GB moved to adjourn; TT 2nd.
- Motion approved unanimously.