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Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Tuesday, April 7, 2015
Open Session Meeting Agenda

- 7:00 PM Call to Order
Review and Approve Agenda
- Announcements
FY' 2016 Budget Joint Meeting w/ Finance Committee will be held on 4/21/15 at 7:00 PM
National Public Safety Telecommunications Week
- 7:05 PM* Public Input
- 7:10 PM MBTA/Depot Square Update
- 7:30 PM Superintendent Mark Wetzel, Department of Public Works
1. CDM – Smith Contract for Wastewater Treatment Study
2. Wastewater Division Foreman Recommendation
3. Solid Waste Transfer Station FY' 16 Rate Recommendation
- 7:45 PM Chief William Murray, Police Department
1. Truck Traffic Survey; Downtown Speeding/Parking
- 8:00 PM Town Administrator's Report
1. Administrative Update
2. Reserve Fund Transfer – Board of Selectmen's Office
3. FY 2016 Capital Planning Committee Recommendation
4. Status of the Town's OPEB Trust Funds
5. Appointments - Comprehensive Plan Committee
- 8:15 PM New Business/Selectmen's Questions
1. Traffic Calming Main and Columbia (Selectman Hillman)
2. Status of Shirley Street Bridge Inspection (Selectman Hillman)
- 8:25 PM Approval of Meeting Minutes
March 17, 2015; March 19, 2015
- Executive Session Pursuant to MGL Chapter 30A, Section 21A
Exemption #6 (Contemplation of the Purchase of Land)
Exemption #3 (Collective Bargaining Strategy) APPOA Patrolmen's Contract MOA
Exemption #3 (Litigation Strategy) 190 West Main Street
- Adjournment**

*Note: *Agenda Times are for planning purposes only and do not necessarily constitute exact times.*

**Note: *The Board of Selectmen will adjourn for the evening at the conclusion of Executive Session*

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Pamela J. Martin, Business Manager



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AYER, MASSACHUSETTS 01432
T: (978) 772-8240
F: (978) 772-8244

MEMORANDUM

Date: April 7, 2015
To: Board of Selectmen
From: Mark Wetzel, P.E., Public Works Superintendent
Subject: **Meeting Agenda Items**

1. CDM - Smith Contract for Wastewater Treatment Study - Attached is the contract for engineering services related to the Wastewater Treatment Facility Evaluation and Capital Improvement Plan. The objectives of the study are:
 - a. Evaluate the existing facility for physical condition, safety issues and regulatory requirements
 - b. Evaluate the facility / treatment process and identify improvements to modernize equipment, increase operational efficiency and reliability
 - c. Evaluate alternatives for improving the WWTP process to meet the proposed NPDES discharge permit
 - d. Develop 5 year and 10 year capital improvement plans
 - e. Begin implementation of an Asset Management / Maintenance Management systemThe DPW solicited proposals from three qualified engineering companies and CDM-Smith was selected.
2. Recommendation for appointment of Wastewater Division Foreman - See attached memo.
3. Solid Waste Transfer Station FY16 rate recommendation- See attached memo. A PowerPoint slide presentation will be presented at the meeting.

**STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND ENGINEER**

THIS IS AN AGREEMENT made as of April _____, 2015 between Town of Ayer, Massachusetts ("OWNER") and CDM Smith Inc. ("ENGINEER").

OWNER's Project is generally identified as follows Wastewater Treatment Facility Evaluation and Capital Improvement Plan (the "Project").

OWNER and ENGINEER, in consideration of their mutual covenants herein, agree in respect of the performance or furnishing of services by ENGINEER to the Project and the payment for those services by OWNER as set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in Article 1 below. This Agreement will become effective on the date first above written.

ARTICLE 1 – SCOPE OF SERVICES

- 1.1 ENGINEER agrees to perform, or cause to be performed, for OWNER services as described in Exhibit A (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

ARTICLE 2 – TIMES FOR RENDERING SERVICES

- 2.1 Specific time periods and/or specific dates for the performance of ENGINEER's Services are set forth in Exhibit A.
- 2.2 If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.3 If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.4 Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If ENGINEER's services are delayed or suspended in whole or in part by OWNER for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of the schedule and of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation.

ARTICLE 3 – OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1 Pay the ENGINEER in accordance with the terms of this Agreement.
- 3.2 Designate in writing a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and

decisions with respect to ENGINEER's services for the Project.

- 3.3 Provide all criteria and full information as to OWNER's requirements for the Project, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- 3.5 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any relevant, material defect or nonconformance in ENGINEER's Services or in the work of any Contractor employed by Owner on the Project.
- 3.6 Bear all costs incident to compliance with the requirements of this Article 3.

ARTICLE 4 – PAYMENTS TO ENGINEER FOR SERVICES

- 4.1 Methods of Payment for Services of ENGINEER.
 - 4.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement or as described in Exhibit A. The amount of any excise, VAT, or gross receipts tax that may be imposed shall be added to the compensation shown in Exhibit A. If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional taxes in addition to the compensation to which Engineer is entitled.
 - 4.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. Payments are due within 30 days of receipt of invoice.
 - 4.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

ARTICLE 5 – GENERAL CONDITIONS

5.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

5.2 Technical Accuracy

Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner furnished information.

5.3 Opinions of Probable Construction Cost

Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.4 Compliance with Laws and Regulations, and Policies and Procedures

5.4.1 Engineer and Owner shall comply with applicable Laws and Regulations.

5.4.2 This Agreement is based on Laws and Regulations procedures as of the Effective Date. Changes after the Effective Date to Laws and Regulations may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

5.4.3 Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

5.4.4 Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

5.4.5 Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.

5.4.6 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.

5.4.7 Engineer is not required to provide and does not have any responsibility for surety bonding

or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

- 5.4.8 Engineer's services do not include providing legal advice or representation.
- 5.4.9 Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- 5.4.10 While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

5.5 Termination

The obligation to provide further services under this Agreement may be terminated:

- 5.5.1 For cause,
 - a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
- 5.5.2 For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- 5.5.3 Effective Date of Termination: The terminating party under Paragraph 5.5.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.5.4 Payments Upon Termination:

- a. In the event of any termination under Paragraph 5.5, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 5.6.
- b. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 5.5.4.a, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs.

5.6 Use of Documents

- 5.6.1 All Documents are instruments of service, and ENGINEER shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.
- 5.6.2 If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.
- 5.6.3 Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.
- 5.6.4 OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Upon receipt of full payment due and owing for all Services, ENGINEER grants OWNER a license to use the Documents on the Project, extensions of the Project, and related uses of OWNER, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants; (3) OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by ENGINEER; (4) such limited license to OWNER shall not create any rights in third parties.
- 5.6.5 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the

Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an amount to be agreed upon by OWNER and ENGINEER.

5.7 Controlling Law

This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

5.8 Mutual Waiver of Consequential Damages

Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.

5.9 Limitation of Liability

In no event shall ENGINEER's total liability to OWNER and/or any of the OWNER's officers, employees, agents, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this agreement from cause or causes, including, but not limited to, ENGINEER's wrongful act, omission, negligence, errors, strict liability, breach of contract, breach of warranty, express or implied, exceed the total amount of fee paid to ENGINEER under this agreement or \$50,000, whichever is greater.

5.10 Successors and Assigns

5.10.1 OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 5.10.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

5.10.2 Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.10.3 Unless expressly provided otherwise in this Agreement:

- a. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Constructor, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.11 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to

time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

5.12 Severability

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.13 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon claim by the ENGINEER, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

5.14 Environmental Site Conditions

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern, as defined in Article 6. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern as defined in Article 6, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, so defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

5.15 Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property.

5.16 Discovery

ENGINEER shall be entitled to compensation on a time and materials basis when responding to all requests for discovery relating to this Project and to extent that ENGINEER is not a party to the lawsuit.

5.17 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.18 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

5.19 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.20 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

5.21 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

5.22 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "defective" will be used in this Agreement as defined in the Standard General Conditions.

5.23 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated

herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

5.24 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

ARTICLE 6 – DEFINITIONS

Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

6.1 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Article 7.

6.2 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6.3 Construction Cost – ♦

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs.

♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

- 6.4 Constructor
Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- 6.5 Contractor - ♦
The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.
- 6.6 Documents
As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.
- 6.7 ENGINEER's Subcontractor.
A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.
- 6.8 Reimbursable Expenses.
The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit .
- 6.9 Resident Project Representative - ♦
The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").
- 6.10 Standard General Conditions - ♦
The Standard General Conditions of the Construction Contract (No.) of the Engineers Joint Contract Documents Committee.
- 6.11 Total Project Costs - ♦
The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.
- 6.12 Work - ♦
The entire construction or the various separately identifiable parts thereof required to be

♦ This provision is applicable for projects where ENGINEER provides Design, Bidding and/or Construction Phase Services.

provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

ARTICLE 7 – EXHIBITS AND SPECIAL PROVISIONS

7.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

Exhibit A - Engineer's Services, Owner's Responsibilities, Time for Performance, Method of Payment, and Special Provisions.

This Agreement (consisting of Pages 1 to 11 inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

ENGINEER:

By:
Title:
Date:

By: Lisa Gove
Title: Associate
Date:

Address for giving notices:

Address for giving notices:

Ayer Public Works Department
25 Brook St
Ayer, MA 01432

CDM Smith
75 State Street, Suite 701
Boston, MA 02109

**EXHIBIT A
TO AGREEMENT BETWEEN
OWNER AND ENGINEER
Scope of Work**

This is an exhibit attached to and made a part of the Agreement dated April _____, 2015, between The Town of Ayer, Massachusetts (OWNER) and CDM Smith Inc. (ENGINEER) for professional services.

1.0 ENGINEER'S SERVICES

Study and Report Phase

Upon this Agreement becoming effective, ENGINEER shall:

Task 1: Project Objectives and Existing Conditions

- 1.1 Attend a kick-off meeting to discuss the project objectives, team roles, and schedule. Bring to this meeting a project work plan including responsibilities, schedule, and information needs.
- 1.2 Gather and review existing facility plans, records, O&M manuals, and operations data.
- 1.3 Review available data pertaining to existing flows and loads, including industrial contributions.
- 1.4 Review existing facility permits and related regulatory correspondence.
- 1.5 At the kickoff meeting, discuss the asset management goals of the Town and the format for data gathering to best allow for future input of information into an asset management system.
- 1.6 Develop a comprehensive list of facility process and building system equipment. Provide the equipment list to the Town to verify the status of each piece of equipment (i.e., functioning well, functioning with issues, abandoned, or to be demolished). From this list and with the Town's status input, CDM Smith will develop facility inspection tools to be used in Task 2.

Task 2: Facility Condition Assessment

- 2.1 Coordinate a site visit for representatives from the following disciplines: process/mechanical, architectural, structural, HVAC, plumbing, electrical, instrumentation and controls, and site design. Provide the equipment list developed under Task 1 and facility plans for review in advance of the meeting. Each discipline representative will inspect the facility in his/her area of expertise.
- 2.2 Interview the wastewater operators and mechanic, as well as management staff, during the site visit, to determine operating conditions and issues, limitations, and requirements.
- 2.3 Document facility conditions, with an emphasis on equipment requiring upgrades, reaching the end of its useful life, or abandoned and requiring removal. For each piece of equipment, document the unique identifier tag, physical description, manufacturer, year installed,

capacity and other design criteria, electrical requirements, condition, and criticality. Include a photograph of each piece of equipment. Data in this task will be recorded electronically in the form of a database and .jpg format photographs for the Town's use in a future asset management system.

- 2.4 Assess the performance of each process unit with respect to operational efficiency, existing permit requirements, and proposed permit requirements.
- 2.5 Deliver a technical memorandum summarizing the facility condition assessment performed under Task 2. Allow three weeks for client review of the memo. Address client comments and issue a final technical memorandum for the facility condition assessment.

Task 3: Process Evaluation

- 3.1 The operations specialist will review plant operations including standard operating procedures (SOPs), seasonal changes, and operational issues and responsibilities.
- 3.2 Review 36 months of Discharge Monitoring Report data to identify potential operational modifications that should be considered.
- 3.3 Review wastewater sludge handling and disposal and provide recommendations for improving the process and reducing disposal costs.
- 3.4 Provide an operations specialist for one day of observation, interviews, and discussion at the WWTP site.
- 3.5 Develop a list of recommended operational modifications to improve effluent quality and efficiency and to reduce costs.
- 3.6 The operations specialist will meet with operations staff and management (as desired) for a second, half-day to discuss the operational recommendations and assist with their implementation in the form of operator training.
- 3.7 Additional operational assistance can be added to this scope of work by amendment using an hourly rate.

Task 4: NPDES Compliance

- 4.1 Review the facility's NPDES permit and related correspondence.
- 4.2 Identify potential process changes including anoxic tank modifications and chemical feed changes to improve plant performance and permit compliance.
- 4.3 Recommend additional studies, evaluations, and potential process additions to meet permit requirements. This will include discussion with the Town about the possibility of river sampling and discussions with MassDEP and EPA to determine if metals limits might be modified based on limits issued at other facilities in the Nashua River watershed.

Task 5: Recommendations and Implementation

- 5.1 Develop a 10-year capital improvements plan listing the equipment which requires replacement, improvements, or removal to achieve the goals outlined in Tasks 2, 3, and 4 above. Include planning level cost estimates, and prioritize improvements to develop target

implementation dates for each item within the 10-year time frame. Include this plan in a technical memorandum. Provide a draft version and a final version incorporating the Town's comments on the draft.

- 5.2 Conduct a final project meeting to review and discuss the findings.

Task 6: Project Management

- 6.1 Oversee the progress of the project and its staff.
- 6.2 Attend project meetings including the kickoff meeting, the coordinated site visit with project staff representing each discipline, and a final project meeting to present overall recommendations.
- 6.3 Submit monthly invoices along with a monthly progress report outlining: tasks completed to date, tasks remaining to be completed, meetings, and deliverables.

2.0 OWNER'S RESPONSIBILITIES

- 2.1 Furnish to ENGINEER, as requested by ENGINEER for performance of Services as required by the Contract Documents, engineering documents, operations and maintenance manuals, equipment records, instrumentation records, or any other data needed to execute the tasks Section 1.0. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Agreement.
- 2.2 Provide, as required by the Contract Documents,
- 2.3 Provide access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
- 2.4 Examine all alternate solutions, studies, reports, sketches, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.
- 2.5 Bear all costs incident to compliance with the requirements of the OWNER's Responsibilities.

3.0 TIME PERIOD FOR PERFORMANCE

The time periods for the performance of ENGINEER's services as set forth in Article 2 of said Agreement are as follows:

Engineer shall deliver the

4.0 METHOD OF PAYMENT

The method of payment for Services rendered by ENGINEER shall be as set forth below:

For the Basic Services performed under Section 1, the OWNER agrees to pay the ENGINEER the lump sum fee of \$83,000, partial payments to be made on a monthly basis in proportion to the percentage of work completed and the balance of payment made when the Report are completed.

5.0 SPECIAL PROVISIONS

OWNER has established the following special provisions and/or other considerations or requirements in respect of the Assignment:

None



MEMORANDUM

Date: April 7, 2015

To: Robert Pontbriand, Town Administrator

From: Mark Wetzel P.E., Public Works Superintendent

Subject: Wastewater Division Foreman Recommendation

In September, 2014, I implemented changes in the staffing of the DPW Wastewater Division. As a result of these changes, Richard Hudson was assigned as the "acting" Division Foreman. In accordance with Article 15 of the AFSCME Collective Bargaining Agreement, the position was posted in March and Richard (Rick) was the only applicant.

I recommend Rick for the Foreman's position based on the following:

- Rick has been an operator with the Wastewater Division since 2008.
- As acting Foreman of the Wastewater Division, he organizes the daily and weekly work schedules and staffing. He coordinates with the other Foreman when additional manpower, equipment or scheduling is needed.
- Rick has a Grade 6 Operator's license, CDL B, Hydraulics and Construction Supervisor License.
- Rich communicates with me on a daily basis with operation status, questions and issues.
- He has a good understanding of the wastewater infrastructure, operations and town procedures.
- Since becoming acting Foreman, Rick has started developing and implementing SOPs for various aspect of the Wastewater Division operations and maintenance.

In the past 6 months, Rick has demonstrated that he understands the responsibilities, commitment and leadership needed to be the Foreman. He has implemented several operational changes and ideas to improve the Division. He is a team player and I believe he will do an excellent job as the Foreman for the DPW Highway Division.

DEPARTMENT OF PUBLIC WORKS

Mark L. Wetzel, P.E., Superintendent
Pamela J. Martin, Business Manager

25 BROOK STREET
AYER, MASSACHUSETTS 01432
T: (978) 772-8240
F: (978) 772-8244

Memorandum

Date: March 27, 2015

To: Ayer Board of Selectmen

From: Mark Wetzel P.E., Public Works Superintendent

Re: Recommended FY16 Transfer Station Fees

I have reviewed the current fees charged for the DPW Solid Waste Enterprise Fund with respect to the proposed FY16 budget. I have worked with the Town Accountant and evaluated different alternatives.

Current Fees - The Transfer Station fees for FY15 are:

Annual Permit:	\$80.00
Senior Citizen Rate:	\$50.00
Second Permit:	\$20.00
One day Permit	\$10.00
PAYT 15 Gallon Trash Bag	\$1 .00
PAYT 33 Gallon Trash Bag	\$2.00
Bulk Tag	\$5.00 each

These fees were set by the Board of Health and the only change from FY14 to FY15 was an increase in the 33 gallon bag cost from \$1.50 to \$2.00.

In FY14, the Permit and Bag fees generated \$151,000 in revenue and we received another \$11,700 from recycling and grants, for a total revenue of \$162,700. The FY14 budget was \$491,855 and the actual expenses were \$479,662. There was a debt exclusion and General Fund subsidy that made up the difference between the revenue and the expenses.

The FY15 budget for Solid Waste Enterprise Fund is \$491, 848 and revenue for the first 6 months is \$97,926.

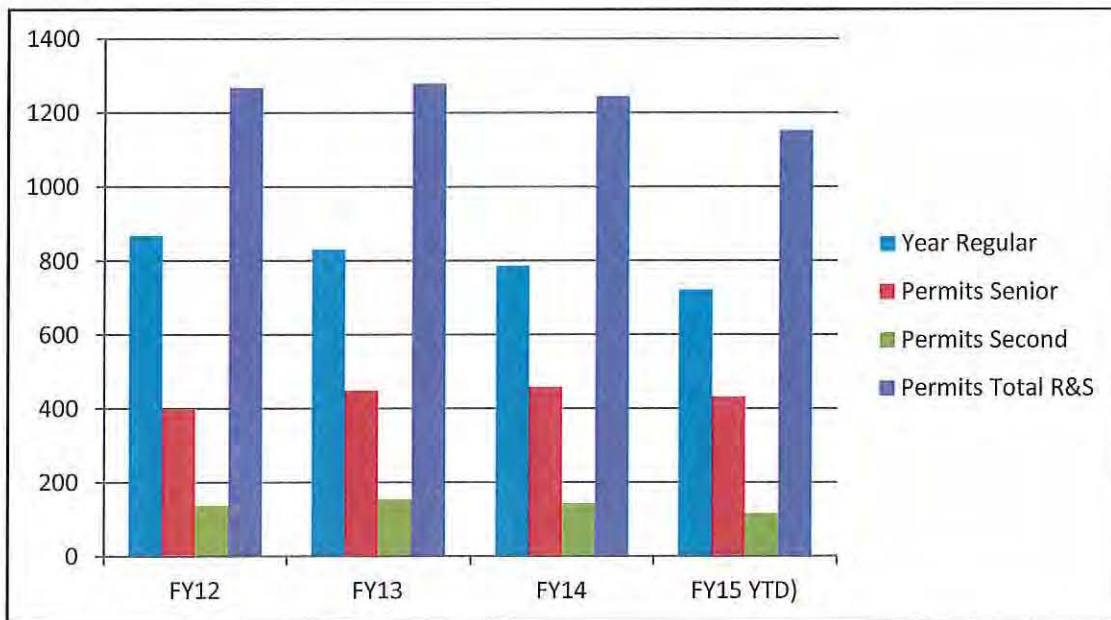
FY16 Budget - The proposed FY16 budget is \$507,716. This includes the proposed pavement project. Based on the Town Accountant's budget breakdown, the revenue generated from permit and bag fees should be approximately \$224,000. This assumes the funding as follows:

Debt Exclusion (General Fund)	\$ 69,228
General Fund Subsidy	\$177,000
Free Cash	\$ 40,000
Fee Revenue needed	\$223,988

Note that the free cash in the account is currently at \$73,036 and we are proposing using \$40,000 of the free cash for this year's budget and reserving the remaining for future adjustments.

The DPW is in the process of procuring a new solid waste disposal contract. The FY 16 budget is based on our current contract rates and hopefully the new contract will provide a slight savings. The DPW is also working with the Town Energy Committee to develop solar energy on the Town landfill. The revenue from this operation may also be used to offset future Transfer Station rates.

Transfer Station Use - The use trends for the transfer station have an impact on the revenues. In the past 4 years, the number of permits has remained relatively unchanged. The number of regular permits has declined slightly and the number of senior permits has increased slightly.



Rate Options - A total of eight different rate increase options were developed. The rate model assumed a total of 1270 permits (722 Regular, 431 Senior, 117 Second), 250 cases of 33 gallon bags and 50 cases of 15 gallon bags were sold. The option of a 50 gallon bag was also evaluated. The different options and revenue generated is as shown:

<u>Rate Scenarios</u>	<u>Revenue</u>
Current Rates	\$ 191,630
1. Permit Increase \$5	\$ 197,975
2. Permit Increase \$10	\$ 204,320
3. Bag increase \$0.25	\$ 206,630
4. Bag Increase \$0.50	\$ 221,630
5. Permit Increase \$5 , Bag \$0.25	\$ 212,975

6. Permit Increase \$5 , Bag \$0.50	\$ 227,975
7. Permit Increase \$10 Res, \$5 Sr and \$0.25 bag incr.	\$ 213,685
8. Add a 50 gallon bag @\$3.50	\$ 206,630

As the analysis results show, there are two options that generate close to the required \$224,000. Option 4 and option 6.

Option 4 would increase the small and large bags each by \$0.50 (\$1.50 and \$2.50). It is estimated that this option would generate approximately \$222,000, which is slightly less than the required amount. However this option is more consistent with Pay As You Throw (PAYT) where the fees are directly related to the amount of trash.

Option 6 would increase both Resident and Senior permits by \$5.00 (\$85 and \$55) and bags by \$0.50 (\$1.50 and \$2.50). This will generate \$228,000 which is more than what is needed.

The DPW is proposing to offer the 50 gallon bag size in FY16 with a rate of \$3.50 and evaluate the need / usage at the end of the year.

Recommendation - Based on the rate model analysis, the DPW is recommending that the FY16 Transfer Station fees be set as follows:

Annual Permit:	\$80.00
Senior Citizen Rate:	\$50.00
Second Permit:	\$20.00
One day Permit	\$10.00
PAYT 15 Gallon Trash Bag	\$1 .50
PAYT 33 Gallon Trash Bag	\$2.50
PAYT 50 Gallon Trash Bag	\$3.50
Bulk Tag	\$5.00 each

Carly Antonellis

From: Robert Pontbriand <ta@ayer.ma.us>
Sent: Thursday, April 02, 2015 5:00 PM
To: AyerBOS
Cc: wmurray@ayer.ma.us
Subject: FW: downtown truck survey
Attachments: SURVEY 3-12-15.xlsx

FOR INFORMATIONAL PURPOSES ONLY. NOT FOR DELIBERATION BY THE BOS.

Dear Selectmen,

FYI below and attached. The Chief will appear before the BOS on Tuesday, April 7th to discuss this (i.e. truck traffic; speeding).

I do want to congratulate the Chief, Officer Krasinskas, and the APD for securing the Pedestrian Safety Grant mentioned below!

Thank you.

Sincerely,

Robert

Robert A. Pontbriand
Town Administrator

Town of Ayer
1 Main Street
Ayer, MA 01432
978-772-8220

From: Chief William Murray [<mailto:pdchief@ayer.ma.us>]
Sent: Thursday, April 02, 2015 3:03 PM
To: Robert Pontbriand
Subject: downtown truck survey

Dear TA Pontbriand,

Attached is a survey of downtown truck traffic that we conducted over 4 days at varying times during the day. The last column labeled "C" are trucks coming off of Columbia Street. As you can see the bulk of the traffic is travelling at the speed limit of 25mph \pm 4mph. There is never going to be 100% compliance with any speed limit on any road but we can certainly do what we can to get closer to that goal.

I have, through my staff, embarked on a zero tolerance policy for all speeding on Main Street. For now that policy states that anyone travelling faster than 25 mph is to be stopped and educated on the downtown speed challenges. I do not have the authority to mandate citations be written, case law prohibits me from doing this, but I can order that stops be made. We have already begun increased radar for the area and are going to increase this even further as staffing

allows. Through social media I have begun to spread the word with hopes that we become well known for our zero tolerance policy on Main Street.

Separate from the speeding we received a Pedestrian Safety Grant from the Executive Office of Public Safety and Security that is going to pay for overtime for officers to conduct enforcement actions. We conducted our first assignment today and are going to focus these efforts on the Main Street crosswalks.

As always I welcome any suggestions you or the Board may have on this or any issue.

Sincerely,

Chief William Murray
Ayer Police Department
54 Park Street
Ayer, MA 01432
978-772-8200 x500
fax 978-772-8202

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 Please consider the environment before printing this email.

Ayer Police Department Downtown Truck Survey

12-Mar						
Time	T	TT	Speed	Direction	C	Comments
1:20		X		W	X	THE PAPER STORE
1:21	X			W	X	SNOW REMOVAL TRUCK
1:23	X		30	W		
1:24		X	26	E		
1:24		X	26	E		
1:25	X		25	E		
1:25	X		25	E		
1:27	X		31	E		
1:30		X	35	E		
1:32	X		27	E		
1:34		X		E	X	U.S. FOODS
1:38		X	24	W		
1:38		X	30	E		
1:38	X		25	E		
1:40		X	28	E		
1:42	X		28	E		
1:46	X		27	E		
1:46		X	28	E		
1:48	X			W	X	UHAUL
1:57	X		32	E		
16-Mar						
TIME	T	TT	SPEED	DIRECTION	C	COMMENTS
1:19	X		28	E		
1:23		X	32	E		
1:24		X	30	E		
1:26		X	26	W		
1:27		X	29	E		
1:29		X	27	E		
1:30		X	25	W		
1:32		X	25	W		
1:35		X	25	E		
1:35		X		E	X	
1:37		X	25	E		
1:39		X	27	E		
1:45		X	23	E		
1:46		X		W	X	MOORE
1:57	X		35	E		
1:49	X		25	E		
1:50		X		W	X	
17-Mar						
TIME	T	TT	SPEED	DIRECTION	C	COMMENTS
1:20		X	27	W		
1:22		X	25	W		
1:27	X		30	W		
1:32		X	27	E		
1:37		X	28	W		
1:38	X		24	E		
1:41		X	29	W		

Ayer Police Department Downtown Truck Survey

1:43		X	25	W		
1:46	X		28	W		
1:48		X	25	E		
1:50		X	23	E		
1:50		X	31	E		
1:50		X	29	E		
1:53		X	27	E		
1:53		X	26	W		
1:54		X	21	W		
1:55		X	23	E		
1:58	X		26	E		
18-Mar						
TIME	T	TT	SPEED	DIRECTION	C	COMMENTS
1:40		X	29	E		
1:42		X	25	E		
1:56	X			W	X	HUNTER APPLIANCE
1:57		X	24	W		
1:59		X	30	E		
2:00		X	21	W		
2:02		X	28	E		
2:02	X		25	W		
2:03	X		21	W		
2:03		X	26	W		
2:06	X			E	X	IMPERIAL PACKAGING
2:06		X	27	W		
2:16		X	24	W		
2:18		X	18	W		
2:19		X	28	E		
2:21	X		20	E		
2:25		X	28	E		
19-Mar						
TIME	T	TT	SPEED	DIRECTION	C	COMMENTS
11:03	X		21	W		
11:03	X		20	W		
11:04		X	25	W		
11:06		X	24	E		
11:07		X	30	E		
11:07		X	20	W		
11:09		X	25	E		
11:09	X		21	E		
11:10	X		23	W		
11:13	X		31	E		
11:14	X		32	W		
11:14		X	23	W		
11:18		X	27	W		
11:19	X		23	E		
11:19	X		24	E		
11:21		X	26	W		
11:23		X	24	W		
11:23		X	21	E		
11:24		X	28	E		

Ayer Police Department Downtown Truck Survey

11:25	X		23	E		
11:25		X	29	W		
11:26		X	30	W		
11:26	X		20	W		
11:28		X	28	E		

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: April 3, 2015

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Administrative Update for the April 7, 2015 Ayer Board of Selectmen's Meeting

Dear Honorable Selectmen:

I offer the following Administrative Update for your review and consideration for your April 7, 2015 Board of Selectmen's Meeting. If you have any questions, please do not hesitate to contact me directly. Thank you.

1. Administrative Update:

The Administration's primary focus remains preparation of the FY 2016 Budget and the Annual Town Meeting Warrant. Additionally, the Board of Selectmen's Office has been very involved with the MBTA/Depot Square issue(s). The BOS and Fin Com will meet in Joint Session at your April 21, 2015 meeting to finalize and vote the FY 2016 Budget and the Annual Town Meeting Warrant. As previously stated, the absolute deadline for the finalization of the Town Meeting Warrant is Friday, April 24, 2015 at 12pm. In addition to the action items below, I will offer a brief oral update on additional projects, issues, and initiatives underway.

2. Reserve Fund Transfer – Board of Selectmen's Office Account

I am respectfully requesting BOS approval for a Reserve Fund Transfer in the amount of \$18,000.00. Please see attached Memo and supporting material.

3. FY 2016 Capital Planning Committee Recommendations

On behalf of the Capital Planning Committee, I am respectfully requesting that the BOS review and approve the Capital Planning Committee's Recommendations for FY 2016 (See Attached). Upon formal approval by the BOS, these recommendations will be formally incorporated into the Annual Town Meeting Warrant for Town Meeting consideration and approval.

4. Status of the Town's OPEB Trust Funds

See attached Memo and supporting material.

5. Appointments – Comprehensive Plan Committee

As the BOS is aware, the Town's Comprehensive Plan is now ten (10) years old and in need of a formal review and update. To achieve this goal, the BOS has authorized the creation of a thirteen (13) Member Comprehensive Plan Committee of which seven (7) Members are Citizen Representatives. We are in the process of forming the Committee. Additionally, there is a Warrant Article for Town Meeting consideration in the amount of \$10,000 for the Committee to hire a consultant to assist in this process.

I am recommending that the BOS appoint the following individuals as Citizen Representatives for a term effective immediately to expire upon the completion of the Comprehensive Plan review and update (estimated to be one year):

- Mr. Harry Zane
- Ms. Carolyn McCreary

We continue to advertise the vacancies on this Committee (5 Citizen Seats remaining).

Thank you.

Attachment(s)

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: April 3, 2015

TO: Ayer Board of Selectmen

Cc: Ayer Finance Committee
Town Accountant/Finance Manager
Benefits and Payroll Manager

FROM: Robert A. Pontbriand
Town Administrator

**SUBJECT: Reserve Fund Transfer (RFT) in the Amount of \$18,000.00 for Account # 01122
(Board of Selectmen Office Account)**

Dear Honorable Selectmen:

I am respectfully requested your authorization for a RFT in the amount of \$18,000 for Account #01122 Board of Selectmen Office Account (See Attached RFT).

As you are aware, FY 2015 was a year of extraordinary and unforeseen events which impacted the Board of Selectmen Office Account as follows:

1. The hiring of a professional Assistant to the Town Administrator at a slightly higher rate of pay than originally budgeted for in FY 2015;
2. In terms of the Overtime Account for the Assistant to the Town Administrator, this unforeseen increase was the result of the policy decision by the BOS to have this position take the meeting minutes not only for BOS Open Session Meetings but also BOS Executive Session Meetings;
3. The creation of the Benefits and Payroll Department and the hiring of the Benefits and Payroll Manager;
4. The unexpected action(s) and vote(s) by Town Meeting on May 12, 2014 which eliminated the Planning Board Budget and the Zoning Board Budget. Though Town Meeting voted to eliminate these two budgets and their funding, the Planning and Zoning Functions of the Town needed to continue. As such, all of the supplies costs for Planning and Zoning (i.e. advertising; notices; etc.) were funded by the Board of Selectmen Budget. Additionally, needed supplies for the new Benefits and Payroll Department were also funded by the Board of Selectmen Office Account.

Though all unforeseen at the time of the creation and finalization of the FY 2015 Budget, I am pleased to report that in all of the abovementioned instances the Town has greatly benefitted in terms of the professionalization of these various services to the benefit of the Town and especially the Taxpayers of Ayer. Additionally in the proposed FY 2016 budget, the Benefits and Payroll Department will have its own budget independent from the BOS Budget. Additionally, the ZBA has been consolidated and centralized under the BOS representing a significant cost savings to the Town in FY 2016 as well as increased customer service. The issue(s) of the Planning Board funding remain status quo at this time due to ongoing and unresolved legal matters at the Division of Labor Relations.

As of April 3, 2015 there is \$39,460.87 remaining in this account (See Attached Budget Report).

In consultation with the Town Accountant, this account will have insufficient funds imminently (largely due to the wage accounts). In consultation with the Town Accountant, the breakdown of the needed funds is as follows:

01122 51110 Assistant to the Town Administrator Wages:	(\$7,818.60)
01122 51300 Assistant to the Town Admin. Overtime:	(\$1,350.35)
01122 51130 Benefits and Payroll Manager Wages:	(\$7,552.78)
011223 54000 Supplies	(\$1,278.27)
<u>TOTAL RFT Request:</u>	<u>(\$18,000.00)</u>

Thank you in advance for your consideration and approval.

Attachment(s): Reserve Fund Transfer Request
MUNIS Budget Report for BOS Office Account 01122 (as of 4/3/2015)

RESERVE FUND TRANSFER REQUEST

Section I (Completed by Elected Official or Department Head)

This request for a transfer from the Reserve Fund is being made in accordance with M.G.L., Chapter 40, Section 6:

- 1 Amount requested: \$18,000.00
 - 2 To be transferred to:
A. Account Name: Board of Selectmen
B. Account #: 01122
 - 3 Present balance in budget \$39,460.87 (As of 4/3/2015)
(See attached budget report)
 - 4 The amount requested will be used for (please attach supporting information):
* See Attached 4/3/2015 Memo *
 - 5 The expense is extraordinary or unforeseen for the following reason(s):
* See Attached 4/3/2015 Memo *
- 4/3/2015 Date Robert A. Potholm
Town Administrator
Elected Official or Department Head

COPY

Section II Action by Board of Selectmen or Appointing Authority when Section I not completed by an Elected Official

Transfer Approved: YES NO
Amount Approved: COPY
Date of Meeting: _____ Number Present/Voting COPY

Chairman

Section III Action by Finance Committee

Transfer Approved: YES NO
Amount Approved: COPY
Date of Meeting: _____ Number Present/Voting _____

Chairman COPY

04/03/2015 09:48
2481gabr

TOWN OF AYER
BUDGET REPORT

P 1
glytdbud

FOR 2015 10

ACCOUNTS FOR: 001 GENERAL FUND	ORIGINAL APPROP	TRANFRS/ ADJSTMTS	REVISED BUDGET	YTD EXPENDED	ENCUMBRANCES	AVAILABLE BUDGET	PCT USED
01122 BOARD OF SELECTMEN							
01122 51100 STIPENDS	6,976	0	6,976	5,813.30	.00	1,162.70	83.3%
01122 51110 SECRETARY WAGES	46,365	0	46,365	40,482.00	.00	5,883.00	87.3%*
01122 51120 ADMINISTRATOR	92,539	0	92,539	69,138.05	.00	23,400.95	74.7%
01122 51130 PAYROLL/BENEFITS MGR	0	49,174	49,174	41,191.63	.00	7,982.37	83.8%*
01122 51300 OVERTIME	2,000	0	2,000	2,569.42	.00	-569.42	128.5%*
01122 52000 SERVICES	1,000	300	1,300	867.39	.00	432.61	66.7%
01122 52100 CLERICAL SERVICES	800	0	800	.00	.00	800.00	.0%
01122 54000 SUPPLIES	1,000	1,226	2,226	2,503.68	.00	-277.68	112.5%*
01122 57000 OTHER CHARGES & EXPENS	2,600	200	2,800	2,153.66	.00	646.34	76.9%
TOTAL BOARD OF SELECTMEN	153,280	50,900	204,180	164,719.13	.00	39,460.87	80.7%
TOTAL GENERAL FUND	153,280	50,900	204,180	164,719.13	.00	39,460.87	80.7%
TOTAL EXPENSES	153,280	50,900	204,180	164,719.13	.00	39,460.87	

The Capital Planning Committee voted January 22, 2015 to recommend the following capital projects for FY16:

		requested	recommended	purchase	borrow	transfer from other sources	recommended funding sources	1st year interest (3%) & bond admin (5%) total 8% first year cost
GENERAL FUND:								
	Information Technology							
	digitize records	\$17,000.00	\$17,000.00	\$17,000.00			purchase (service-not capital)	
	workstations & software	\$10,000.00	\$10,000.00	\$10,000.00			purchase (due to small \$ amount)	
	printers	\$8,000.00						
	Parks							
	storage/office building	see no	\$250,000.00					
	Police							
	replace cell check monitor & upgrade remaining entry doors		\$20,000.00	\$20,000.00			purchase (due to small \$ amount & appears to be maintenance)	
	Fire		\$20,000.00	\$20,000.00				
	fire prevention car & radio		\$33,000.00					
	Facilities Maintenance		\$26,028.00	\$26,028.00			purchase (due to small \$ amount & appears to be maintenance)	
	carpet for town hall offices		\$26,028.00	\$26,028.00				
	Library		\$28,700.00	\$28,700.00			purchase (due to small \$ amount & appears to be maintenance)	
	Interior/exterior painting		\$28,700.00	\$28,700.00				
	Interior/exterior door replacement		\$32,347.00	\$32,347.00			purchase (due to small \$ amount & appears to be maintenance)	
	DPW admin		\$75,000.00	\$75,000.00		\$75,000.00	regular borrow	\$6,000.00
	fuel station maintenance & canopy		\$75,000.00	\$75,000.00				
	DPW highway		\$150,000.00	\$150,000.00		\$150,000.00	regular borrow	\$12,000.00
	E. Main St design		\$150,000.00	\$150,000.00				
	Shirley St bridge replacement design		\$30,000.00					\$18,000.00 gen fd
	(use inspection revolving funds now to determine design needs)							
AMBULANCE	Replace Ambulance #2	\$225,000.00	\$225,000.00		\$225,000.00		ambulance enterprise borrow	\$18,000.00
WATER:	water Grove Pd plant garage	\$175,000.00	\$175,000.00		\$153,810.00	\$21,190.00	unexpended funds from backwash pump project	\$12,304.80
	water meter radio read system	\$50,000.00	\$50,000.00		\$50,000.00		water enterprise borrow	\$4,000.00
	demolish inactive water standpipes	\$40,000.00	\$40,000.00	\$40,000.00			water enterprise borrow	\$4,000.00
	annual water main replacements	(add'l \$100,000 in operating)	\$150,000.00	\$150,000.00	\$150,000.00		water enterprise borrow (see note below)	\$12,000.00
WASTEWATER	water meter radio read system	\$50,000.00	\$50,000.00		\$50,000.00		sewer enterprise borrow	\$4,000.00
	radio telemetry system	\$30,000.00	\$30,000.00		\$30,000.00		sewer enterprise borrow	\$2,400.00
	W. Main St pump station (easement issues & work load issues)	\$450,000.00					sewer enterprise borrow	\$0.00
	NPDES permit compliance	\$20,000.00	\$20,000.00	\$20,000.00			purchase (service-not capital)	
	WWTP upgrades	\$75,000.00						
SOLID WASTE	garage/storage facility	\$165,000.00						
	resurfacing parking lot	\$175,000.00	\$175,000.00		\$175,000.00		solid waste borrow	\$14,000.00
STORMWATER:	Shirley St. bridge - drainage repairs	need analysis first	\$75,000.00					
	storm drain upgrades		\$50,000.00	\$50,000.00	\$50,000.00		stormwater borrow	\$4,000.00
	biofiltration/outfall improvements		\$50,000.00					
	culvert replacements		\$75,000.00					
Total Capital Projects		\$2,535,075.00	\$1,324,075.00	\$194,075.00	\$1,108,810.00	\$21,190.00		\$88,704.80
		Requested	Recommended	purchase	borrow	other sources		

Note: The Committee is in agreement that the Parks Dept should receive assistance in finding a long-term solution to their facilities needs and that certain Committee members as well as other Town officials should work with the Parks Commissioners to develop the plan and explore funding options.

GENERAL FUND:	requested	recommended	Per BiBoard recommendation:			transfer from other sources	recommended funding sources	1st year interest (3%) & bond admin (5%) total 8% first year cost
			purchase	borrow				
Information Technology	digitize records	\$17,000.00	\$17,000.00	\$17,000.00			purchase (service-not capital)	
	workstations & software	\$10,000.00	\$10,000.00	\$10,000.00			purchase (due to small \$ amount)	
	printers	\$8,000.00						
Parks	storage/office building see not	\$250,000.00						
Police	replace cell check monitor &							
	upgrade remaining entry doors	\$20,000.00	\$20,000.00	\$20,000.00			purchase (due to small \$ amount & appears to be maintenance)	
Fire	fire prevention car & radio	\$33,000.00						
Facilities Maintenance	carpet for town hall offices	\$26,028.00	\$26,028.00	\$26,028.00			purchase (due to small \$ amount & appears to be maintenance)	
Library	interior/exterior painting	\$28,700.00	\$28,700.00	\$28,700.00			purchase (due to small \$ amount & appears to be maintenance)	
	interior/exterior door replacem	\$32,347.00	\$32,347.00	\$32,347.00			purchase (due to small \$ amount & appears to be maintenance)	
DPW admin	fuel station maintenance & can	\$75,000.00	\$75,000.00	\$75,000.00			purchase per BiBoard	
DPW highway	E. Main St design	\$150,000.00	\$150,000.00	\$150,000.00			purchase per BiBoard	
	Shirley St bridge replacement d	\$30,000.00						\$0.00 gen fd
	(use inspection revolving funds now to determine design needs)							
AMBULANCE	Replace Ambulance #2	\$225,000.00	\$225,000.00		\$225,000.00		ambulance enterprise borrow	\$18,000.00
WATER:	water Grove Pd plant garage	\$175,000.00	\$175,000.00		\$153,810.00	\$21,190.00	unexpended funds from backwash pump project	\$12,304.80
	water meter radio read system	\$50,000.00	\$50,000.00		\$50,000.00		water enterprise borrow	\$4,000.00
	demolish inactive water standpipes	\$40,000.00	\$40,000.00	\$40,000.00			water enterprise borrow	
	annual water main replacements (add'l \$100,000 in oper	\$150,000.00	\$150,000.00		\$150,000.00		water enterprise borrow (see note below)	\$12,000.00
WASTEWATER:	water meter radio read system	\$50,000.00	\$50,000.00		\$50,000.00		sewer enterprise borrow	\$4,000.00
	radio telemetry system	\$30,000.00	\$30,000.00		\$30,000.00		sewer enterprise borrow	\$2,400.00
	W. Main St pump station (easement issues & work load i	\$450,000.00					sewer enterprise borrow	\$0.00
	NPDES permit compliance	\$20,000.00	\$20,000.00	\$20,000.00			purchase (service-not capital)	
	WWTP upgrades	\$75,000.00						
SOLID WASTE	garage/storage facility	\$165,000.00						
	resurfacing parking lot	\$175,000.00	\$175,000.00		\$175,000.00		solid waste borrow	\$14,000.00
STORMWATER:	Shirley St. bridge - drainage repairs need analysis first	\$75,000.00						
	storm drain upgrades	\$50,000.00	\$50,000.00		\$50,000.00		stormwater borrow	\$4,000.00
	biofiltration/outfall improvements	\$50,000.00						
	culvert replacements	\$75,000.00						
Total Capital Projects		\$2,535,075.00	\$1,324,075.00	\$419,075.00	\$883,810.00	\$21,190.00		\$70,704.80
		Requested	Recommended	purchase	borrow	other sources		

Note: The Committee is in agreement that the Parks Dept should receive assistance in finding a long-term solution to their facilities needs and that certain Committee members as well as other Town officials should work with the Parks Commissioners to develop the plan and explore funding options.

Office of the Ayer Board of Selectmen
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: March 31, 2015

TO: M. Stephanie Gintner, Town Treasurer

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Status of the Town of Ayer's OPEB Funds in the PRIT

Dear Stephanie,

I am writing to you with respect to the status of the Town of Ayer's OPEB Funds being deposited in the PRIT in accordance with the Ayer Town Meeting's vote and approval of Article 30 on May 12, 2014 (See Attached). Furthermore, as you know I am in receipt of the attached Warrant Article Submission Form which you submitted for consideration by the BOS (See Attached)

In consultation with Town Counsel, I am advised that the attached, proposed Warrant Article from you is legally not required because the Statute (MGL) designates the Custodian of the funds as the Town Treasurer (as set forth not only by Article 30) but the State Agency (the PRIM; Pension Reserve Investment Management) overseeing OPEB funds and specifically the PRIT (Pensions Reserve Investment Trust) has an official policy of deferring to the Statute (PRIM voted in December 2014). However, in consultation with the PRIM, communities such as Ayer that voted and applied to have their funds in the PRIT and managed by PRIM prior to December 2014 are "grandfathered" in. In summation, the intent and will of the Town of Ayer is to have its OPEB Funds deposited in the PRIT; managed by the PRIM; and most importantly for the protected purposes that these OPEB Funds are in an irrevocable trust and can only be used for OPEB purposes and not directed elsewhere. This intent and will was set forth by the vote and approval of Article 30 of the Ayer Town Meeting on May 12, 2014. Therefore, your proposed Warrant Article is not only legally not necessary but contrary to the will of Town Meeting.

What is most concerning is that Article 30 as approved by Town Meeting on May 12, 2014 has not been implemented almost a year after passage. I am concerned that the "Will of Town Meeting" by virtue of their vote (regardless of individual opinions) on May 12, 2014 has not been implemented. Specifically:

1. Town Meeting on May 12, 2014 by virtue of the passage of Article 30 directed the Town to deposit the \$528,864.35 in the PRIT (Pensions Reserve Investment Trust) [See Attached];

2. On October 7, 2014 the Board of Selectmen voted and authorized you (as Town Treasurer) to execute the OPEB/PRIT agreement [See Attached];
3. On October 16, 2014 Town Counsel provided the required letter certifying their legal review of the Custodian and Investment Agreement [See Attached];
4. In consultation with the PRIM it appears that the Declaration of Trust Document (an internal document required by them) was not/has not been completed by you to date. I would ask you to clarify/verify as this document is required by the PRIM to deposit/designate the OPEB funds into the PRIT;
5. To date, these funds have not been deposited into the PRIT and remain in a Bartholomew Money Market Account as verified by the review of your proposed Warrant Article and the Town Accountant when she was booking interest from the Bartholomew Account.
6. There is concern that the interest these OPEB funds could/would have been receiving if in the PRIT would be higher than the interest accrued in the Bartholomew Account, an analysis of this is underway to confirm and/or if you could clarify/verify what the comparison of the PRIT vs. Bartholomew would be in terms of interest that would be helpful; and

In conclusion, I remain concerned that the will and vote of Town Meeting regarding the Town's OPEB Funds has not been honored and implemented to date and there has been an assumption by the Board of Selectmen; Finance Committee; Town Accountant; Town Administrator; and Town Meeting that these OPEB funds were set up and deposited in the PRIT in accordance with Town Meeting. The reason for this assumption has largely been that there has been little to no communication from you as Town Treasurer as to the status of these funds.

It is incumbent upon me as Town Administrator to bring this matter to the attention of the Ayer Board of Selectmen on Tuesday, April 7, 2015 at 7pm. It is on the Agenda as "Status of Town's OPEB Funds" under my report. I hope that you will attend this meeting on April 7, 2015 so that you can clarify and explain why the Town's OPEB funds are not in the PRIT as directed by Town Meeting on May 12, 2015. Additionally, it will give you an opportunity to also publically explain/justify the need for your proposed Warrant Article for this year's ATM as it is contrary to the intent of Town Meeting and the Board ultimately approves the Warrant.

Thank you.

Attachment(s): Warrant Article Submission Form from Town Treasurer (2/19/2015)
Article 30 of the Ayer Town Meeting (5/12/2014)
Certification and Meeting Minutes of Vote of BOS (10/7/2015)
Town Counsel Letter and Custodian Agreement (10/16/2014)

CC: Ayer Finance Committee
Town Accountant/Finance Manager

Submitted by Stephanie Gardner

- she will send email of text
Town of Ayer

RECEIVED
FEB 19 2015



TOWN OF AYER
SELECTMEN'S OFFICE

Warrant Article Submission Form

Warrant Article Text:

RESOLVED: That, in accordance with Chapter 32B, Section 20 of the Massachusetts General Laws, as amended by Chapter 68, section 57 of the Acts of 2011, this Municipality hereby designates the Town Treasurer to serve as custodian of the Municipality's OPEB Trust Fund;

RESOLVED: That the Treasurer of the Municipality be authorized to execute and deliver the Investment Agreement with SRBT in substantially the form presented to this meeting and attached hereto, to sign checks and wire OPEB Trust Funds to SRBT or to the Pension Reserves Investment Trust, or as it may otherwise be directed by SRBT, and to make withdrawals and investments and enter into such agreements and deliver such certificates and other documents as SRBT or the Pension Reserves Investment Management Board may direct; and

RESOLVED: That the sum of \$_____ be appropriated as the initial investment into the OPEB Trust Fund.

Purpose of the Article:

To correct the wording in Article 30 in the Annual Town Meeting Warrant of May 12, 2014. At the suggestion of Paul Todisco, Senior Client Services Officer at Pension Reserves Investment Management Board the Warrant Article language should read as written above. This change will easily allow the Town of make any changes to the OPEB funds should we wish to withdraw the funds from PRIT and invest them elsewhere. This change will give the Town control over the OPEB funds.

Funding Source:

The funds that are currently in the OPEB Account. Also, any new funds that are voted separately by other Articles in the Town Warrant.

Reason(s)/Justification for Article's Placement on Warrant:

On January 21, 2015 I was told that the State Retiree Benefits Trust Fund (SRBTF) had changed their policy at their December 2, 2014 meeting. They no longer want to accept the role of Custodian of OPEB Funds. The reason for the new Article is to vote to make the Treasurer the Custodian of the Funds.

Anticipated Timeline for Implementation of Article: July 1, 2015

Scheduling of Article: Annual Town Meeting Special Town Meeting

Date Warrant Article Submitted: February 19, 2015 *msg*

Date Warrant Article Submission Received:

Date Reviewed by Town Administrator:

Date Reviewed by Town Counsel:

Date Approved by Ayer Board of Selectmen:

RECEIVED
FEB 19 2015
TOWN
SELECTMEN OFFICE



ARTICLE 30: DESIGNATION OF CUSTODIAN OF TOWN'S OPEB TRUST FUND

To see if the Town will vote pursuant to the provisions of Chapter 32B, Section 20 of the Massachusetts General Laws, as amended by Chapter 68, Section 57 of the Acts of 2011 (the "Act"), to designate the Health Care Security Trust (HCST) board of trustees to serve as custodian of the Town's OPEB Trust Fund; and authorize the Town Treasurer with the approval of the Board of Selectmen to execute and deliver the Custodian and Investment Agreement with HCST; and further to authorize the Town Treasurer to sign checks and wire OPEB Trust Funds to HCST or to the Pension Reserves Investment Trust (PRIT), or as it may otherwise be directed by HCST, and to make withdrawals and investments and enter into such agreements and deliver such certificates and other documents as HCST or the PRIT Management Board may direct; to authorize the Town Treasurer to transfer any and all funds that have been and will in the future be appropriated for the purpose of meeting the Town's OPEB funding requirement to HCST or PRIT; and transfer the sum of \$528,864.35, or any other amount, and any applicable additional interest accrued as of February 28, 2014 as the initial investment into the OPEB Trust Fund, or take any action thereon or in relation thereto.

Sponsor: Board of Selectmen

Finance Committee: Recommends

Simple Majority Vote Required

Note:

The \$528,864.35 consists of \$10,000 dedicated to OPEB in FY 2012; \$40,000 dedicated to OPEB in FY 2013; \$170,000 dedicated to OPEB in FY 2014 and \$300,000 for FY 2015 (contingent on the passage of Article 29)

Gary Luca moved and was seconded:

Discussion: Town Treasurer Stephanie Gintner questioned the type of account to place funds into. Pauline Conley, resident, pointing out this is not a revocable trust or needs to be. Gary Luca, Selectmen and Robert Pontbriand, Town Administrator, commenting during discussion for the funds to be placed where they can not be touched and can begin receiving interest.

Motion to table: No

Motion to move to question. Passed

Motion to Vote. Passed. Majority vote.

A TRUE COPY ATTEST

Susan Copeland
TOWN CLERK
Sept. 16, 2014

Board of Selectmen

MEETING TUESDAYS AT 7:00 P.M. • UPPER TOWN HALL • 1 MAIN STREET • AYER, MASSACHUSETTS 01432



Tel. (978) 772-8220
Fax. (978) 772-3017

Town Administrator
(978) 772-8210

Town of Ayer

Ayer Board of Selectmen

CERTIFICATION OF VOTE

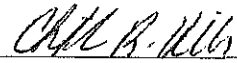
We, the undersigned Selectmen certify that the Ayer Board of Selectmen meet in a legally posted, open session meeting on Tuesday, October 7, 2014 (see attached meeting minutes) and took the following vote:

“MOTION was made by G. Luca and seconded by J. Livingston to authorize the Town Treasurer to execute the OPEB/PRIT agreement.”

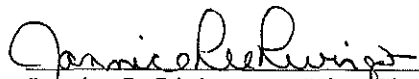
Motion Passed Unanimously 2-0

Signed and certified this 4th day of December 2014 by:

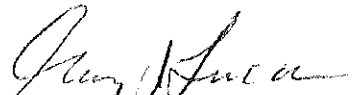
The Ayer Board of Selectmen



Christopher R. Hillman, Chairman



Jannice L. Livingston, Vice Chairman

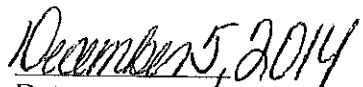


Gary J. Luca, Clerk

True Copy and Attest By:



Susan E. Copeland, Ayer Town Clerk



Date

Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Tuesday, October 7, 2014

Selectmen in Attendance: Jannice Livingston, Vice-Chair; Gary Luca, Clerk
Also in Attendance: Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator
Absent: Christopher Hillman, Chair

Call to Order: The Open Session Meeting was called to order at 7:00 PM by Vice - Chairman Livingston. Selectwoman Livingston offered apologies on behalf of Chairman Hillman who could not attend the meeting due to a medical emergency in his family.

Vice- Chair Livingston made the following announcements: the 3rd Annual Rotary Tree Lighting will be held on December 7, 2014 at 6:00 PM and the State General Election will be held on Tuesday November 4, 2014, which is a regularly scheduled meeting of the Board of Selectmen. The November 4, 2014 Board of Selectmen meeting will be rescheduled at a later date.

Due to Chairman Hillman's absence, the Board will be abbreviating the agenda and tabling non time sensitive issues until 10/14/14 at 7 PM. R. Pontbriand listed the items the Board would be taking up: Appointments; Public Hearing on Street Acceptance; DPW Superintendent's Report *Items 3,4,5*; Review and Approval of Special Fall Town Meeting Warrant; Execution of OPEB/PRIIT agreement and the Barnum Road Liquors KENO Application. All other matters on the agenda will be tabled until 10/14/14.

MOTION: Motion made by G. Luca and seconded by J. Livingston to approve the agenda, as amended. **Motion passed 2-0.**

Public Input: DPW Superintendent Mark Wetzel made an announcement that the Ayer Recycling Committee and the Shirley Recycling Committee was sponsoring a Recycle Your Reusables event on Saturday October 25, 2014 from 9am – 2pm.

Appointments: R. Pontbriand stated that two candidates have been identified to serve on the Zoning Board of Appeals: Mr. Michael Gibbons and Mr. Sam Goodwin. Mr. Goodwin's request for appointment will be tabled to the next meeting.

MOTION: Motion made by G. Luca and seconded by J. Livingston to appoint Michael Gibbons to a three year term as an alternate member of the Zoning Board of Appeals for the term beginning July 1, 2014 and ending June 30, 2017. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to appoint Ms. Laurie Nehring to a three year term to the Cultural Council for the term beginning July 1, 2014 and ending on June 30, 2017. **Motion passed 2-0.**

Mr. Mark Wetzel, DPW Superintendent: M. Wetzel made a recommendation to award the contract for the Victor Drive culvert replacement project to East Coast Developments, Inc. of North Reading.

MOTION: Motion made by G. Luca and seconded by J. Livingston to accept the recommendation of M. Wetzel and to award the Victor Drive culvert replacement project to East Coast Developments, Inc. of North Reading in the amount of \$124,450 with signature by the Chair. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to approve contact between the Town of Ayer and East Coast Developments, Inc. in the amount of \$124,450, pending receipt of contract documents. **Motion passed 2-0.**

M. Wetzel presented a one year contract extension for sludge disposal between the Town of Ayer and the Upper Blackstone Water Pollution Abatement District.

MOTION: Motion made by G. Luca and seconded by J. Livingston to approve the one year contract extension between the Town of Ayer and Upper Blackstone Water Pollution Abatement District, as outlined in the cost schedule of the document with signature by the Chair. **Motion passed 2-0.**

Public Hearing – Street Acceptance of Crabtree Development LLC: The public hearing was opened at 7:18 PM. G. Luca read the public hearing noticed as published in the newspaper on 9/26/2014. M. Wetzel went over items on the punch list he identified that need completion prior to October 27, 2014 Town Meeting. Rick Roper, the Developer for Crabtree Development, stated that most items on the punch list would be completed by the end of the week. M. Wetzel will make a recommendation at Town Meeting based on the completion of the checklist.

MOTION: Motion made by G. Luca and seconded by J. Livingston to approve the Layout as presented and to place item on the Fall Town Meeting Warrant. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to close public hearing at 7:24 PM. **Motion passed 2-0.**

Review and Approval of Special Fall Town Meeting Warrant:

MOTION: Motion made by G. Luca and seconded by J. Livingston to place *article 1: CPAC – Habitat for Humanity* on the Fall Town Meeting Warrant. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to support *article 1: CPAC – Habitat for Humanity.* **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to place *article 2: Street Acceptance – Deer Run; Partridge Run; Portions of Hickory Way and Old Farm Way* on the Fall Town Meeting Warrant. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to place *article 3: Teenage Anxiety and Depression Solutions* on the Fall Town Meeting Warrant. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to place *article 4: Transfer from FY 2015 Department 200 – Finance to FY 15 Department 100 – General Government* on the Fall Town Meeting Warrant. **Motion passed 2-0.**

MOTION: Motion made by G. Luca and seconded by J. Livingston to approve the Special Fall Town Meeting Warrant. **Motion passed 2-0.**

Town Administrator's Report:

MOTION: Motion made by G. Luca and seconded by J. Livingston to authorize the Town Treasurer to execute the OPEB/PRIIT agreement. **Motion passed 2-0.**

The Town received correspondence from the Massachusetts State Lottery Commission relative to Barnum Road Liquors and an application for the KENO To Go Product. The Board of Selectmen have until Thursday October 9, 2014 to submit objections to the application. No objections were given.

MOTION: Motion made by G. Luca and seconded by J. Livingston to adjourn at 7:43 PM. **Motion passed 2-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Minutes Approved by BOS: _____

November 5, 2014

Gary J. Luca, Clerk: _____

Gary Luca
2



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

October 16, 2014

Mark R. Reich
mreich@k-plaw.com

Health Care Security Trust Board
One Ashburton Place – 9th floor
Boston, MA 02108
Attention: Chair

Re: Town of Ayer

Dear Sir or Madam:

This firm serves as Town Counsel to the Town of Ayer, validly existing under G.L. c. 40 or any other applicable general or special law (the “Municipality”). By vote duly taken of its Town Meeting (the “Governing Body”), the Town accepted the provisions of G.L. c.32B, § 20 on May 9, 2011, thereby creating an Other Post-Employment Benefits Liability Trust Fund (the “OPEB Trust Fund”). By vote of the Governing Body duly taken on May 12, 2014, (a) the board of trustees of Health Care Security Trust (“HCST”) was designated to serve as custodian of the OPEB Trust Fund; (b) the Town Treasurer, with approval of the Board of Selectmen, was authorized to execute and deliver an Custodian and Investment Agreement with HCST; and (c) the sum of \$528,864.35 was appropriated as the initial investment into the OPEB Trust Fund.

I have reviewed the form of the Custodian and Investment Agreement between HCST and the Town dated as of October 7, 2014 (the “Agreement”). Based on my review of the aforesaid votes and the applicable law, it is my opinion that the Town has been duly authorized to execute and deliver the Agreement to HCST by and through its Treasurer; that the Agreement is a valid and binding obligation of the Town, enforceable against the Town in accordance with its terms; and that the terms of the Agreement do not violate any obligation or covenant by which the Town is bound by contract, operation of law or otherwise. The foregoing opinion is for the sole benefit of HCST and can only be relied upon by HCST.

Very truly yours,

Mark R. Reich

MRR/prm

cc: Board of Selectmen
Treasurer

506766/AYER/0001

INVESTMENT AGREEMENT
BETWEEN HCST BOARD AND MUNICIPALITY

This Agreement is made this 7th day of October, 2014, by and between the Health Care Security Trust board of trustees (“HCST Board”), established pursuant to Massachusetts General Laws (“M.G.L.”) Chapter 29D, Section 4, acting as the trustee and administrator of the State Retiree Benefits Trust Fund (“SRBT Fund”) established under the provisions of M.G.L. Chapter 32A, Section 24, having an address of One Ashburton Place, Room 901, Boston, Massachusetts 02108, and the Town of Ayer (the “Municipality”), a body corporate and politic of the Commonwealth of Massachusetts, having an address at One Main Street, Ayer, MA 01432.

Preliminary Statement

M.G.L. Chapter 32B, Section 20, as amended by Chapter 68, Section 57 of the Acts of 2011 (“Section 20”), authorizes municipalities that accept such Section to establish an Other Post-Employment Benefits Liability Trust Fund (“OPEB Trust Fund”) and to appropriate amounts to be credited to such OPEB Trust Fund. Pursuant to Section 20, the Municipality, by vote of its Board of Selectmen and approval of the Town Meeting (the “Vote”), a certified copy of which is attached hereto as **Exhibit A**, has established an OPEB Trust Fund, has initially appropriated the amount of \$528,864.35 to be credited to the OPEB Trust Fund, and has directed the Municipality’s Custodian to invest the OPEB Trust Fund in the SRBT Fund administered by the HCST.

Accordingly, the parties agree as follows:

1. The Municipality hereby represents and warrants that, by virtue of the Vote, it has accepted Section 20, has established the OPEB Trust Fund with the Town Treasurer as Custodian and has appropriated \$528,864.35 for initial credit to the OPEB Trust Fund.
2. The HCST Board hereby accepts the investment of the Municipality’s OPEB Fund.

3. The HCST Board and the Municipality acknowledge that, pursuant to M.G.L. Chapter 29D, Section 4 and M.G.L. c.32A, Section 24(a), the HCST Board is required to invest the SRBT Fund with the Pension Reserves Investment Trust Fund (“the PRIT Fund”), which is administered by the Pension Reserves Investment Management Board (“PRIM Board”), established pursuant to M.G.L. Chapter 32, Section 23(2A).
4. The Municipality hereby directs the HCST Board to invest the OPEB Trust Fund in the SRBT Fund as a “Purchasing System” in the PRIT Fund (as set forth below), and the HCST Board hereby authorizes participation by the Municipality in the SRBT Fund and approves such investment. The Municipality acknowledges that its OPEB Trust Fund will be commingled with assets of other participants in the SRBT Fund. The Municipality will provide the HCST Board and/or the PRIM Board with such information as the HCST Board or PRIM Board may request from time to time to enable them to perform their responsibilities under this Agreement.
5. The HCST Board and the PRIM Board, acting on behalf of the PRIT Fund, have entered into an Amended and Restated Investment Services Agreement, dated as of October 1, 2011, attached as **Exhibit B** hereto (the “Investment Services Agreement”), pursuant to which the SRBT Fund is invested in the PRIT Fund General Allocation Account (“GAA”) as a “Purchasing System” under the terms of the Pension Reserves Investment Management Board Operating Trust, a copy of which is attached as **Exhibit C** (the “PRIM Board Operating Trust”). The Municipality hereby acknowledges that it has reviewed such materials as it deems necessary and appropriate to understand the GAA and the PRIT Fund. In the event the Investment Services Agreement is amended, the HCST shall provide the Municipality with the Amended Investment Services Agreement.
6. The Municipality acknowledges that, pursuant to M.G.L. Chapter 29D, Section 4, the HCST Board, acting on behalf of the SRBT Fund, and the PRIM Board have entered into an Administrative Services Agreement, dated as of October 1, 2011,

attached hereto as **Exhibit D** (the “PRIM Administration Agreement”), pursuant to which the HCST Board is utilizing the existing resources and staff of the PRIM Board to provide the administrative services described therein to the SRBT Fund and those municipalities and other political subdivisions, agencies and authorities of the Commonwealth which may participate in the SRBT Fund. The PRIM Board shall have responsibility for the valuation of assets in accordance with the provisions of Article 6 of the PRIM Board Operating Trust and for reporting to the Municipality regarding the OPEB Trust Fund. In the event the PRIM Administration Agreement is amended, the HCST Board shall provide the Municipality with the Amended PRIM Administration Agreement.

7. The PRIM Board is paid a Service Fee and Out-of-Pocket Expenses for the services provided in accordance with the PRIM Administration Agreement including but not limited to custodian bank fees, which fees are transferred directly to the PRIM Board from the SRBT Fund’s cash account. The HCST Board’s administrative expenses shall be paid out of the SRBT Fund’s cash account. The Municipality will be responsible for its pro rata share of all such fees. The Municipality understands the respective rights and obligations of the PRIM Board, the HCST Board and the Municipality with respect to the OPEB Trust Fund deposited as part of the SRBT Fund in the GAA of the PRIT Fund.
8. The cash and assets of the OPEB Trust Fund will be held as part of the SRBT Fund by a custodian designated from time to time by the PRIM Board. The current custodian is The Bank of New York Mellon Trust Company, N.A.. The PRIM Board will direct the Municipality with respect to investing and withdrawing assets in the PRIT Fund GAA.
9. The Municipality acknowledges that it is obligated, as the fiduciary for the OPEB Trust Fund, to review and evaluate the suitability of the investment of the OPEB Trust Fund in the PRIT Fund GAA. The HCST Board is required to employ the PRIM Board to invest the SRBT Fund in the PRIT Fund.

10. The Municipality acknowledges that its participation in the SRBT Fund will be in accordance with the HCST Board Operating Trust Agreement attached as **Exhibit E** and the procedures and criteria adopted by the HCST Board and attached hereto as **Exhibit F**, as they may be amended from time to time, and in accordance with the PRIM Board Operating Trust, the Investment Services Agreement and the PRIM Administration Agreement.
11. The Municipality intends to appropriate \$ _____ in each fiscal year hereafter to fund the OPEB Trust Fund, with a goal of funding \$ _____ of its liabilities for other post-employment benefits by the year 20 ____.
12. The Municipality shall annually provide the HCST Board with a copy of the summary that it is required to provide to the public employee retirement administration commission pursuant to Section 20 concerning its other post-employment benefits cost and obligations and related information, as required by Government Accounting Standards Board standard 45.
13. The Municipality hereby represents that the persons listed below are duly authorized to act on behalf of the Municipality with respect to the OPEB Trust Fund and to execute, deliver, and perform this Agreement, that this Agreement is a valid and binding obligation, enforceable against the Municipality in accordance with its terms, and that the terms of this Agreement do not violate any obligation by which the Municipality is bound by contract, operation of law or otherwise:

M. Stephanie Gintner, Treasurer

14. The Municipality shall immediately notify the HCST Board in writing of any change in the persons authorized hereunder to act on behalf of the Municipality, such notice to be accompanied by a certificate of the Clerk of the Municipality, certifying that the persons named are so authorized.

15. Neither the HCST Board nor any of its members, officers, employees or agents, make any representations or warranties, express or implied, that any level of performance or investment results will be achieved by the OPEB Trust Fund, the SRBT Fund or the PRIT Fund GAA, or that the OPEB Trust Fund, the SRBT Fund or the PRIT Fund GAA will perform comparably with any standard or index.
16. The HCST Board shall not be liable with respect to its services hereunder except for any loss attributable to the HCST Board's gross negligence or willful misfeasance. The HCST Board shall not be liable for any act or omission of the PRIM Board, any custodian or any broker or dealer. Without limiting the foregoing, the HCST Board does not assume responsibility for the accuracy of information furnished to it by Municipality, the PRIM Board, any custodian, any broker or dealer, or by any person on whom it reasonably relies. The Municipality shall indemnify and hold harmless the HCST Board, its officers, members, employees and agents for any loss, liability, cost, damage or expense, including reasonable attorneys' fees and costs, that does not directly result from the HCST Board's gross negligence or willful misfeasance. Nothing contained in this Agreement shall, however, constitute a waiver or limitation of any rights which the Municipality may have under any applicable law.
17. This Agreement may be terminated by the Municipality or the HCST Board at the end of any month following 30 days' prior written notice from the terminating party to the other party. Upon termination, the Municipality is responsible for issuing written instructions regarding assets in the OPEB Trust Fund. Fees will be prorated to the date of termination.
18. Any notices hereunder shall be in writing, duly signed by the party giving such notice, and shall be effective when received by the party to whom addressed at the address set forth above, or to such other address as a party may designate in writing to the other party.

19. This Agreement shall be governed by the laws of Massachusetts. If any provision of this Agreement is deemed invalid or unenforceable by appropriate authority, this Agreement shall continue as if such provision were omitted, unless such omission would substantially impair the rights or benefits of either party.
20. This Agreement, including the exhibits attached hereto, constitutes the entire agreement between the Municipality and the HCST Board with respect to the subject matter hereof and supersedes all prior agreements, negotiation, representations and proposals, whether written or oral, and may be amended only in writing signed by both parties. This Agreement is binding upon the Municipality and the HCST Board and their respective successors.

IN WITNESS WHEREOF, the HCST Board and the Municipality have caused this Agreement to be executed as of the date first above written.

HEALTH CARE SECURITY TRUST BOARD OF TRUSTEES

By: _____
Martin J. Benison, Chair

MUNICIPALITY

TOWN OF AYER

By: M. Stephanie Gintner
M. Stephanie Gintner, Treasurer
October 7, 2014

ATTACHMENT—Opinion of Counsel for Municipality

EXHIBITS

- EXHIBIT A: Vote of Municipality
- EXHIBIT B: Investment Services Agreement
- EXHIBIT C: PRIM Board Operating Trust
- EXHIBIT D: PRIM Administration Agreement
- EXHIBIT E: HCST Board Operating Trust Agreement
- EXHIBIT F: HCST Board Policies and Procedures

279600010351016.4

**CERTIFICATE OF THE CLERK
OF
TOWN OF AYER**

The undersigned certifies that, as of this 18th day of September 2014, she is the duly elected Clerk of AYER, Massachusetts (the "Municipality"), and that, as such, she is authorized to execute this Certificate in the name and on behalf of the Municipality and further certifies to the Health Care Security Trust Board of Trustees and the Pension Reserves Investment Management Board that:

1. Attached hereto as Exhibit A is a true, complete and correct copy of resolutions, duly adopted by the Municipality at Annual Town Meeting on May 9, 2011 in accordance with applicable law. Said resolutions have not been altered, amended, rescinded, or repealed, in whole or in part, remain in full force and effect on the date hereof.
2. The persons listed below are duly qualified and acting officers of the Municipality, duly elected to the offices set opposite their respective names, and the signature appearing opposite the name of each person is his or her genuine signature.

<u>Name</u>	<u>Office</u>	<u>Signature</u>
M. Stephanie Gintner	Treasurer	<i>M. Stephanie Gintner</i>
Susan E. Copeland	Clerk	<i>Susan E. Copeland</i>

IN WITNESS WHEREOF, I have hereunto set my hand as of the date first written above.

By: *Susan E. Copeland*
Name: Susan E. Copeland
Title: Town Clerk
Town of Ayer, Massachusetts



ARTICLE 30. GASB STATEMENT #45 FUND

To see if the Town will vote to accept the provisions of G.L. c. 32B, § 20, to create an "Other Post Employment Benefits Liability Trust Fund" to meet the Town's obligations under the Government Accounting Standards Board (GASB) Statement #45 to fund the Town's future obligations for the cost of other post employment benefits identified by the GASB #45 Statement; and, as funding therefore, to raise and appropriate or transfer from available funds the sum of \$10,000.00 more or less; or take any action thereon or in relation thereto.

Sponsor: Board of Selectmen
Finance Committee:

Simple Majority Vote Required

*James M. Fay moved by deleting "transfer from available funds" and "more or less."
Seconded.
Moderator declared Article 30 passes.*

A TRUE COPY, ATTEST

Susan E. Copeland
TOWN CLERK

September 18, 2014





ARTICLE 30: DESIGNATION OF CUSTODIAN OF TOWN'S OPEB TRUST FUND

To see if the Town will vote pursuant to the provisions of Chapter 32B, Section 20 of the Massachusetts General Laws, as amended by Chapter 68, Section 57 of the Acts of 2011 (the "Act"), to designate the Health Care Security Trust (HCST) board of trustees to serve as custodian of the Town's OPEB Trust Fund; and authorize the Town Treasurer with the approval of the Board of Selectmen to execute and deliver the Custodian and Investment Agreement with HCST; and further to authorize the Town Treasurer to sign checks and wire OPEB Trust Funds to HCST or to the Pension Reserves Investment Trust (PRIT), or as it may otherwise be directed by HCST, and to make withdrawals and investments and enter into such agreements and deliver such certificates and other documents as HCST or the PRIT Management Board may direct; to authorize the Town Treasurer to transfer any and all funds that have been and will in the future be appropriated for the purpose of meeting the Town's OPEB funding requirement to HCST or PRIT; and transfer the sum of \$528,864.35, or any other amount, and any applicable additional interest accrued as of February 28, 2014 as the initial investment into the OPEB Trust Fund, or take any action thereon or in relation thereto.

Sponsor: Board of Selectmen

Finance Committee: Recommends

Simple Majority Vote Required

Note:

The \$528,864.35 consists of \$10,000 dedicated to OPEB in FY 2012; \$40,000 dedicated to OPEB in FY 2013; \$170,000 dedicated to OPEB in FY 2014 and \$300,000 for FY 2015 (contingent on the passage of Article 29)

Gary Luca moved and was seconded:

Discussion: Town Treasurer Stephanie Gintner questioned the type of account to place funds into. Pauline Conley, resident, pointing out this is not a revocable trust or needs to be. Gary Luca, Selectmen and Robert Pontbriand, Town Administrator, commenting during discussion for the funds to be placed where they can not be touched and can begin receiving interest.

Motion to table: No

Motion to move to question. Passed

Motion to Vote. Passed. Majority vote.

A TRUE COPY, ATTEST

Shirley Copeland
TOWN CLERK
Sept. 16, 2014

OPEB Investment History

		Contributions	Investment Earnings (note A)	Balance	Percent Earned	Fiscal Year Earnings	Fiscal Year Percent Earned
FY12	10/19/2011	\$10,000.00		\$10,000.00			
	10/31/2011		\$0.02	\$10,000.02	0.00%		
	1/31/2012		\$11.35	\$10,011.37	0.11%		
	2/29/2012		(\$3.57)	\$10,007.80	-0.04%		
	3/31/2012		\$1.60	\$10,009.40	0.02%		
	4/30/2012		\$1.60	\$10,011.00	0.02%		
	5/31/2012		\$5.39	\$10,016.39	0.05%		
FY13	6/30/2012		\$0.08	\$10,016.47	0.00%	\$16.47	0.16%
	7/31/2012		\$0.09	\$10,016.56	0.00%		
	8/31/2012		\$0.09	\$10,016.65	0.00%		
	9/30/2012		\$0.08	\$10,016.73	0.00%		
	10/4/2012	\$40,000.00		\$50,016.73			
	10/31/2012		\$0.38	\$50,017.11	0.00%		
	11/30/2012		\$0.41	\$50,017.52	0.00%		
	12/31/2012		\$31.17	\$50,048.69	0.06%		
	1/31/2013		(\$83.12)	\$49,965.57	-0.17%		
	2/28/2013		\$209.58	\$50,175.15	0.42%		
	3/31/2013		\$737.41	\$50,912.56	1.47%		
	4/30/2013		\$877.96	\$51,790.52	1.72%		
	5/31/2013		(\$545.75)	\$51,244.77	-1.05%		
6/30/2013		(\$1,117.11)	\$50,127.66	-2.18%	\$111.19	0.22%	
FY14	7/31/2013		\$581.66	\$50,709.32	1.16%		
	8/31/2013		(\$953.69)	\$49,755.63	-1.88%		
	9/30/2013		\$1,195.18	\$50,950.81	2.40%		
	10/21/2013	\$170,000.00		\$220,950.81			
	10/31/2013		\$1,003.91	\$221,954.72	0.45%		
	11/30/2013		\$1,529.72	\$223,484.44	0.69%		
	12/31/2013		\$2,445.56	\$225,930.00	1.09%		
	1/31/2014		(\$3,427.73)	\$222,502.27	-1.52%		
	2/28/2014		\$6,021.11	\$228,523.38	2.71%		
	3/31/2014		\$340.97	\$228,864.35	0.15%	\$228,864.35	\$300,000.00
	4/30/2014		\$930.58	\$229,794.93	0.41%		
	5/31/2014		\$3,552.32	\$233,347.25	1.55%		
	6/30/2014		\$3,939.90	\$237,287.15	1.69%	\$17,159.49	7.80%
	FY15	7/31/2014		(\$3,619.68)	\$233,667.47	-1.53%	
8/31/2014			\$4,436.09	\$238,103.56	1.90%		
9/15/2014		\$300,000.00		\$538,103.56			
9/30/2014			(\$8,853.43)	\$529,250.13	-1.65%		
10/31/2014			\$6,398.02	\$535,648.15	1.21%		
11/30/2014			\$4,853.24	\$540,501.39	0.91%		
12/31/2014			(\$5,089.57)	\$535,411.82	-0.94%		
1/31/2015			\$218.66	\$535,630.48	0.04%		
2/28/2015			\$11,505.37	\$547,135.85	2.15%	\$9,848.70	1.83%

\$528,864.35 Article 30 - May 12, 2014 ATM amount referenced in article

Note A - As recorded by the Treasurer. (The current Treasurer does not willingly provide me with copies of bank/investment statements. I have had to complete formal public records requests in the past in order to receive these documents.)

Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Tuesday, March 17, 2015
Meeting Minutes

Broadcast and Recorded by APAC

Present: Christopher R. Hillman, Chair; Gary J. Luca, Clerk

Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator

Absent: Jannice L. Livingston, Vice-Chair

Call to Order: C. Hillman called the meeting to order at 7:05 PM.

Review and Approve Agenda:

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the agenda. **Motion passed 2-0.**

Announcements: G. Luca announced the Boston Strong 2.62 mile walk/run in Winchendon on April 11, 2015. Benefits go towards those affected by the Boston Marathon Bombings.

C. Hillman announced that the Winter Parking Ban will be in effect until April 15, 2015.

Presentation of Certificate of Recognition: C. Hillman introduced Christine Miska, team leader for the Ayer Shirley Regional High School's FIRST Robotics team, Andromeda One. She explained that the team won the Chairman's award at a recent robotics competition. The Board presented the team with a certificate of appreciation.

Public Input: Jeremy Callahan (Zoning Board of Appeals and Planning Board) and Jennifer Gibbons (Planning Board) asked to be recognized. J. Callahan stated that one of the major goals of the 2005 Comprehensive Plan was to update the Zoning Bylaw. The Planning Board would like to hold a Special Town Meeting after the Annual Town Meeting and before July 1, 2015 to vote on a new Zoning Bylaw. J. Callahan stated that both Boards would like to see a professional planner be hired by the Town. C. Hillman said that the Board will take the request under advisement.

Ms. Alicia Hersey, Office of Community Development: A. Hersey is requesting two loan subordinations for 7 Mark Street, case numbers 04-267E and 04-267. She is requesting the Chairman sign the subordination of the Town's lien conditioned upon a new mortgage not to exceed \$127,000.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the loan subordination requests for case number 04-267E and 04-267 not to exceed \$127,000 with signature by the Chairman of the Board. **Motion passed 2-0.**

Dr. Mary Malone, Superintendent – Ayer Shirley Regional School District: Murray Clark (ASRSD Building Committee), Patrick Kelly (ASRSD School Committee), Dr. Malone, Joyce Reischutz (ASRSD School Committee), gave an update to the Board on the School Building Project update. They stated that the project is about 80% complete. They also discussed a sewer replacement being required by the Department of Public Works. R. Pontbriand read a memo from the Department of Public Works regarding the history of this issue because M. Wetzel could not attend tonight's meeting due to a prior commitment. The School Building Project Committee said that they were getting the sewer evaluated with a video inspection in the coming week. They will then send those results to the Town.

Dr. Malone, David Jack (Interim Finance Manager) and Patrick Kelley gave a presentation of the Ayer Shirley Regional School District FY'16 budget proposal. R. Pontbriand stated that with the increase presented by the School District, upwards of 10%

represents a challenge to the Town of Ayer. He recommends that the professional staff meet in the coming week to discuss a plan moving forward.

Town Administrator's Report: R. Pontbriand gave an administrative update relative to FY'16 budget process and the Annual Town Meeting Warrant. The deadline for departments to submit warrant articles is April 3, 2015 and the Citizen's Petitions are due April 17, 2015. The Board of Selectmen will take these up at the April 21, 2015 Board of Selectmen's Meeting.

Insurance Advisory Committee Appointment – R. Pontbriand recommended Paul Fillebrown, Sr. to serve as the retiree representative on the Insurance Advisory Committee.

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint Paul Fillebrown, Sr. to serve on the Insurance Advisory Committee for a term to expire on March 17, 2016. **Motion passed 2-0.**

One Day Liquor License – R. Pontbriand presented St. Mary's Parish request to have a one day beer and wine license on Saturday March 21, 2015 from 5:30 PM – 9:30 PM for their St. Patrick's Day supper.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the request from St. Mary's Parish to have a one day beer and wine only license on Saturday March 21, 2015. **Motion passed 2-0.**

Presentation of Resident Guide to Town Meeting – Because of J. Livingston's absence this will be tabled to the next meeting.

Approval of Meeting Minutes:

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the meeting minutes of February 24, 2015. **Motion passed 2-0.**

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the meeting minutes of March 3, 2015. **Motion passed 2-0.**

New Business/Selectmen's Questions: G. Luca gave an overview of the elected officials breakfast held at Nashoba Valley Technical High School the week before.

G. Luca asked R. Pontbriand to inquire with Town Counsel about the legality of having the Town give funds to the Sandy Pond School House Association, a local 501(c)3.

Executive Session:

Motion: A motion was made by G. Luca and seconded by C. Hillman in Open Session to enter into Executive Session at 9:33 PM pursuant to Massachusetts General Law, Chapter 30A, Section 21A Exemption #6 (Consideration of the Purchase of Real Estate); Exemption #3 (Collective Bargaining) Police and Dispatchers Contract Negotiations Update; Exemption #3 (Litigation Strategy) *Power v. Berlo* and to adjourn at the conclusion of Executive Session. G. Luca stated that to discuss these items in Open Session would be detrimental to the Town's Negotiating Strategy. By Roll Call Vote: C. Hillman, Yes; G. Luca, Yes. **Motion passed 2-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Minutes Approved by BOS: _____

Gary J. Luca, Clerk: _____

Town of Ayer

Ayer Board of Selectmen

FY 2016 Water and Sewer Rate(s) Public Hearing

Thursday, March 19, 2015, 7:00 PM

1st Floor Meeting Room – Ayer Town Hall
1 Main Street, Ayer, MA 01432

Meeting Minutes

Selectmen Attendance: Christopher R. Hillman, Chair; Jannice L. Livingston, Vice-Chair; Gary J. Luca, Clerk

Others in Attendance: Robert A. Pontbriand, Town Administrator; Lisa Gabree, Town Accountant and Finance Manager

Call To Order: Chairman Hillman called the Meeting to Order at 7pm.

MOTION: A motion was made by G. Luca and seconded by J. Livingston to approve the meeting agenda as posted. Motion Passed 3-0.

G. Luca, Clerk of the Board of Selectmen read the Public Hearing Notice for the FY 2016 Water and Sewer Rate(s) Public Hearing into the record.

MOTION: A motion was made by G. Luca and seconded by J. Livingston to open the Public Hearing. Motion Passed 3-0.

Presentation of the Proposed FY 2016 Water and Sewer Rate(s)

R. Pontbriand: Publically recognized and thanked the Water and Sewer Rate Review Committee for their work. Selectman Livingston, Mary Spinner, Rick Schochyls, Rick Guercero (CAINS) with professional staff support from the Town Administrator, Town Accountant, and DPW Superintendent.

L. Gabree (Town Accountant and Finance Manager) presented the proposed FY 2016 Water and Sewer Rate(s) as recommended by the Water and Sewer Rate Review Committee [See Attached Power Point Presentation]

J. Livingston asked for clarification about the difference in the net required water rates.

L. Gabree explained that the difference was due to a previous software billing error. L. Gabree further recommended that after quarterly billing is in place that the Town considers using an outside consultant to look at the consumption rates.

J. Livingston agreed and stated that the Town needs to move away from using the term “surplus” as residents and the public continue to ask if there is a surplus than why are the rates increases.

L. Gabree agreed and further stated that the Town needs to show the respective histories of the water and sewer stabilization funds. Finally, L. Gabree stated that at the June 2015 Quarterly Water and Sewer Rate Review Committee that we will look at the history of the funds as well as the projections for the funds.

M. Spinner stated that the Town has always had a business owner from the SIUs on the Rate Review Committee for the purposes of serving as a liaison to the other businesses and that the quarterly meetings have been instituted as they help keep everyone up on the various capital projects.

MOTION: A motion was made by G. Luca and seconded by J. Livingston to approve the FY 2016 Water and Sewer Rates as follows:

FY 2016 Water Rates		FY 2016 Sewer Rates	
Step 1	\$2.47	Step 1	\$6.94
Step 2	\$3.07	Step 2	\$7.94
Step 3	\$3.62	Step 3	\$9.04

Motion passed unanimously 3-0.

MOTION: A motion was made by G. Luca and seconded by C. Hillman to close the Public Hearing. **Motion passed unanimously 3-0.**

MOTION: A motion was made by J. Livingston and seconded by G. Luca to adjourn. **Motion passed unanimously 3-0.**

The Board of Selectmen adjourned at 7:44pm.

Minutes recorded and submitted by R. Pontbriand, Town Administrator

Minutes reviewed and approved on: _____

Minutes signed by: _____ Gary J. Luca, Clerk