

RECEIVED
TOWN CLERK
TOWN OF AYER

2015 AUG -7 AM 11:57 Ayer Town Hall - 1st Floor Meeting Room

Susan Copeland

Town of Ayer
Board of Selectmen

Ayer, MA 01432



Tuesday August 11, 2015
Open Session Meeting Agenda

- 7:00 PM **Call to Order**
Review and Approve Agenda; Announcements
- Ayer-Shirley All-Stars Baseball Team Recognition (Selectman Luca)**
2015 Cal Ripken National Tournament Massachusetts State Champions
- 7:05 PM* **Public Input**
- 7:10 PM **Ms. Alicia Hersey, Office of Community Development**
1. FY'11 CDBG Extension Request
- Chief William A. Murray, Ayer Police Department**
1. Appointment of Office Manager and Dispatcher
- 7:15 PM **Joint Meeting with Planning Board to Fill Planning Board Vacancy**
1. Call to Order Ayer Planning Board
2. Planning Board Member Appointment
3. Adjournment of Planning Board
- 7:25 PM **Consultant Bylaw Proposal from Planning Board**
- 7:30 PM **Purchase/Acceptance of Deed of 0 Park Street (Per May 11, 2015 ATM)**
- 7:40 PM **Application for Common Victualler's License**
1. Tipo Taco's, 35 Main Street
- 7:45 PM **Superintendent Mark Wetzel, Department of Public Works**
1. Town of Groton MOU
- 7:55 PM **Opening of the Special Fall Town Meeting Warrant**
- 8:00 PM **Town Administrator's Report**
1. Administrative Update
2. Management Letter Discussion
3. Appointments
4. Intern Policy
5. Review of proposed Nuisance Bylaw Update
6. Review of proposed Free Cash Policy
7. Agreement with MassDevelopment for Veteran Services

8:25 PM

New Business/Selectmen's Questions

1. Compliance with MGL Chapter 32B 9 A 1/2 (Selectman Luca)

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TOWN OF AYER

8:30 PM

Approval of the Minutes

July 14, 2015

2015 AUG -7 AM 11:57

Susan Copeland

**Executive Session Pursuant to MGL Chapter 30A, Section 21A

Exemption #3 (Collective Bargaining) AFSCME 93 DPW Union MOA

Adjournment

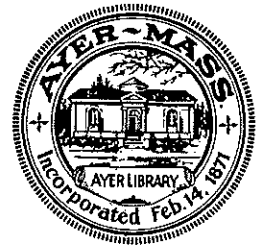
*Note: *Agenda Times are for planning purposes only and do not necessarily constitute exact times*

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

Town of Ayer

Department of Planning & Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8221 ♦ 978-772-8208 (fax)



MEMORANDUM

TO: Board of Selectmen

FROM: David Maher, Director OCED
Alicia Hersey Grant Administrator

DATE: August 4, 2015

RE: BOS Approval of Chairman's Signature for Documents for
FY11 EDF Grant

The Office of Community Development is requesting approval, per DHCD suggestion and direction, by the Ayer Board of Selectmen to extend the FY11 CDBG Housing Rehab Grant through October 31, 2015.

The Ayer Office of Community Development has been rehabbing houses outside of the target area with Program Income for the past 9 months. Our extension on the FY11 Grant ran out as of June 30th. We are currently in the middle of a rehabilitation and have been advised by DHCD to extend the FY11 Grant and finish this project after which any additional program income which we choose to spend on rehab can be run through the FY15 Grant.

Please find attached the CDBG grant amendment form for the approval of the extension and an email from Mark Southard, Deputy Director, and DHCD which is supporting these efforts of the Ayer Office of Community Development.

David Maher
Director, Community and Economic Development

Alicia Hersey
Grant Administrator

Request the Board of Selectmen approve signature by the Chairman on attached documents for FY11 CDBG grant Extension and.

Alicia Hersey

From: Southard, Mark (OCD) <mark.southard@state.ma.us>
Sent: Tuesday, August 04, 2015 8:26 AM
To: Alicia Hersey
Subject: RE: FY 11 GRANT EXTENSION

Hi Alicia,

Please extend the 2011 grant. The 2015 grants won't be available until sometime in September. You can close the 2011 as soon as the project is completed and then any other program income activities can be entered into the 2015. Congratulations by the way.

Mark

From: Alicia Hersey [mailto:ahersey@ayer.ma.us]
Sent: Monday, August 03, 2015 1:00 PM
To: Southard, Mark (OCD) <Mark.Southard@MassMail.State.MA.US>
Subject: FY 11 GRANT EXTENSION

Dear Mark,

I am writing to you regarding the Town of Ayer FY 11 grant which was extended through July 31, 2015 to rehab homes with Program Income funds. The Town choose to work outside the target area, using a wait list that had people on it from 9 years ago. In many ways this was good because we were able to address long standing issues. On the other hand it was time consuming as we waded through this old list. So far the Town has rehabbed one house and addressed one emergency. We are in the process of rehabbing another 2 unit property. This project will not be finished before the end of the month. I am writing to ask how you would like me to handle this situation? Originally I was supposed to close out the FY11 grant at the end of July, shall I extended the grant to finish using up the PI money or shall I use the remainder of the PI funds with in the FY15 grant.

Also so I just wanted to say how excited I am, and the Town is to have received an FY15 grant. We look forward to working with you and DHCD.

Sincerely,

Alicia Hersey
Town of Ayer
Community Development Office
One Main Street
Ayer, MA 01432
Ph: 978-772-8221
Fax: 978-772-8208



AYER POLICE DEPARTMENT

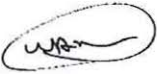
54 Park Street · Ayer, Massachusetts 01432-1161
Tel. (978) 772-8200 · Fax (978) 772-8202



William A. Murray
Chief of Police

RECEIVED
AUG 04 2015
TOWN OF AYER
SELECTMEN'S OFFICE

MEMORANDUM

To: Board of Selectmen
From: Chief William A. Murray 
CC: TA Pontbriand, file
Date: August 3, 2015
Re: Dispatcher Appointment

Upon receipt of the resignation letter of Casey Scott, we began the process of finding a full time dispatch replacement; we didn't have to look far. Per Diem Dispatcher Christopher Herrstrom had previously told us that if the Ayer Police Department were ever in need of a Full Time Dispatcher he would like to be considered as a candidate. While working for Ayer, Chris has proven himself to be a valuable and reliable member of the Police Department. As an example, during this past winter, Chris happened to hear over the scanner that there was some sort of medical issue unfolding in the dispatch center. He called in and learned that the dispatchers had been exposed to high levels of carbon monoxide due to a snow clogged heater and were being taken to the hospital. Without hesitation Chris offered to come in and cover the dispatch duties, but due to the raging snow storm, needed a ride. He was picked up by one of the department 4x4 units and within minutes took over dispatching.

Mr. Herrstrom is a resident of Ayer, is a graduate of the Massachusetts 911 Dispatch Academy, and has all of the required certifications to be 911/EMD Dispatcher in Ayer, Massachusetts. Though he is working at the West Boylston Police Department as a dispatcher, he has maintained a Per-Diem status with the Ayer Police Department since January 2014. As such, Chris is familiar with our entire dispatch center and would practically be a seamless transition. Mr. Herrstrom is an on-call member of the Ayer Fire Department, possesses a Bachelor's Degree in Fire Science, and is a Massachusetts Certified EMT and Firefighter I/II. Given his experience it is my recommendation that Mr. Herrstrom start at Step 2 of the Dispatchers Wage Scale.



AYER POLICE DEPARTMENT

54 Park Street · Ayer, Massachusetts 01432-1161
Tel. (978) 772-8200 · Fax (978) 772-8202




William A. Murray
Chief of Police

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AUG 04 2015

TOWN OF AYER
SELECTMEN'S OFFICE

MEMORANDUM

To: Board of Selectmen
From: Chief William A. Murray 
CC: TA Pontbriand, file
Date: August 4, 2015
Re: Administrative Assistant/Office Manager Hire

I respectfully request that the Board hire **Amanda L. Belliveau** for the position of Police Department Administrative Assistant/Office Manager. If approved this date of hire would be effective August 31, 2015.

As the Board is aware, the previous Administrative Assistant, Marcia Gilson, had been employed with the Town for 33 years. We advertised the position knowing how difficult it was going to be to fill such large shoes and forty-seven people answered the call. Several had superb credentials but Ms. Belliveau rose above the others in her demeanor, experience, and enthusiasm. It is our belief that she will be a perfect fit for the Department as well as the Town.

Ms. Belliveau lives in Gardner, MA and is a graduate, with an Associate's Degree in Business Administration, from Mount Wachusett Community College. She has worked as an Assistant Assessor in the Town of Harvard, as the Administrative Assistant to the Board of Selectmen in Phillipston, and as an Office Manager and Executive Assistant for Lemay Associates. She has proven to be a team player with excellent customer service skills, to have a high degree of attention to detail, and knowledgeable in the State's Public Records Retention/Dissemination laws. Ms. Belliveau is well versed in the Microsoft Suite of products and I have no doubt that she will quickly learn the Department's and the Town's record/payroll software applications.

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

MEMORANDUM

DATE: August 6, 2015

TO: Ayer Board of Selectmen
Cc: Ayer Planning Board

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Joint Meeting with Planning Board to Fill Planning Board Vacancy

Dear Honorable Selectmen,

On Tuesday, August 11, 2015, the BOS and Planning Board will meet in Joint Session to fill a vacancy on the Planning Board as a result of Planning Board Member Kyle Gordon's resignation on July 8, 2015 (see attached).

The vacancy will be filled pursuant to the provisions of M.G.L. c. 41, sec. 11 provide, with respect to the filling of a vacancy on a multi-member board, as follows:

"If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified."

Although one month has passed since the vacancy, it has been past practice for such vacancies to be filled by Joint Appointment by the BOS and the respective Board.

The statute clearly requires that the Board of Selectmen and the remaining members of the Planning Board act together to make an appointment to fill the vacancy, with the votes tallied by roll call. In my opinion, therefore, the Board of Selectmen and the remaining members of the Planning Board must meet together and vote by roll call to make an appointment to fill the vacancies.

Two candidates have expressed interest in the vacancy which would be for a term effective upon appointment until April 25, 2016 (the annual municipal election). The candidates are:

Mr. Mark Fermanian (see attached) and Ms. Jane Morris (see attached)

The Planning Board should call to order on Tuesday (the BOS will already be in session); the Joint Meeting should interview each of the candidates; the Join Meeting should vote to appoint by roll call vote; and the Planning Board should adjourn.


Attachment(s)

July 8, 2015

To: Susan Copeland, Ayer Town Clerk

From: Kyle Gordon

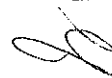
Effective immediately I resign my elected seat on the Ayer Planning Board.



Kyle Gordon

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TOWN OF AYER

2015 JUL -8 PM 2:59



07-23-2015

Robert Pontbriand

Town Manager

Re: vacant planning board seat

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JUL 27 2015

TOWN OF AYER
SELECTMEN'S OFFICE

Dear Robert,

Recently I had a brief conversation with Mr. Roper about the Planning Board. He informed me there was a vacant seat on the board. As you know I am a past member of the planning board, and would be available to sit on the board if you and the current board would like to fill the seat. Please let know if I can help in any way.

Thank You

Mark Fermanian
PO Box 759
Ayer, Mass, 01432

Phone # work 978-487-1647
Cell 978-487-1647

From: Ayer Board of Health [<mailto:boh@ayer.ma.us>]
Sent: Wednesday, July 01, 2015 9:59 AM
To: Robert Pontbriand; 'Jeremy Callahan'; 'Jane Morriss'
Cc: Carly Antonellis
Subject: RE: Planning Board Vacancy

VIA E-MAIL

TO: Robert Pontbriand, Town Administrator
Jeremy Callahan, Chairman, Ayer Planning Board

FROM: Jane Morriss, Administrative Assistant, Ayer Board of Health & aspiring candidate for seat on the Ayer Planning Board

DATE: July 1, 2015

Thank you for sending the Disclosure of Election or Appointment to an Uncompensated Position as required by 930 CMR 6.02(3). I will be completing it and submitting it to the Ayer Board of Health at its next meeting July 13.

Meanwhile, I wanted to ask for your formal consideration for appointment to fill a vacancy on the Ayer Planning Board. I believe my experiences working as a newspaper reporter and editor have provided me with years of experience covering planning board meetings in St. Johns, Michigan; Middlefield, Durham and Glastonbury, Connecticut; and Groton, Massachusetts.

In addition, I was for more than 10 years a Realtor and Broker with ERA Cunningham—later known as ERA Home & Family in Groton where the broker of record (Barry Cunningham) was also a developer.

Serving in this capacity also feels like the continuation of a family legacy as my father also served for several decades as a member of the planning board in my home town of St. Johns, Michigan.

If you need any further information, please do not hesitate to contact me.

Jane Morriss
62 Pleasant Street, Apt. 306
Ayer, MA
jane@janemorriss.com
978-772-3914 (H)
978-618-7392 (C)

Jane Morriss
Administrative Assistant
Ayer Board of Health
jmorriss@ayer.ma.us
978-772-8213

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

MEMORANDUM

DATE: August 7, 2015

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

A handwritten signature in blue ink, reading 'R.A.P.', is written over a horizontal blue line. The signature is slanted and appears to be a cursive or semi-cursive style.

SUBJECT: Purchase/Acceptance of Deed of 0 Park Street (Per May 11, 2015 ATM)

Dear Honorable Selectmen,

In accordance with the unanimous passage of Article 35 at the May 11, 2015 Annual Town Meeting, the purchase of 0 Park Street in the amount of \$250,000 (funded from the Town's UDAG Unrestricted Funds) has been prepared by the Administration and Town Counsel. The Phase I Environmental Analysis of the property was favorable (full analysis report on file at BOS Office).

Town Counsel (Attorney Katie Klein) will be present for this portion of the Meeting along with the property Sellers, Mr. Paul Routhier and Mr. Frank Finney to execute the closing sales documents.

The Quitclaim Deed for 0 Park Street that the Board is requested to review and sign is being finalized by Town Counsel and will be transmitted to the Board prior to Tuesday's meeting.

If you have any further questions, please do not hesitate to contact me directly.

Thank you.

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AUG 03 2015

TOWN OF AYER
SELECTMEN'S OFFICE

OFFICE OF THE BOARD OF SELECTMEN
TOWN OF AYER, MA



APPLICATION FOR COMMON VICTUALLER'S LICENSE

Application is hereby made for a Common Victualler's License

NAME OF APPLICANT: MARK diCiccio

COMPANY NAME: Mark A diCiccio Enterprises DBA. Tipo TACOS

COMPANY ADDRESS: 35 MAIN Street

TYPE OF BUSINESS: RESTAURANT **COPY**

NAME OF PARTNERS: _____

DESCRIPTION OF PREMISE: (Use back side if necessary)

The old Ayer optical

APPLICANT'S SIGNATURE: _____

[Signature] **COPY**

DATE: 8/29/15

ADDRESS: _____

[Redacted Address]

TELEPHONE #: _____

[Redacted Home Phone]

978-391-4837

[Redacted Cell Phone]

HOME

BUSINESS

CELL PHONE

Selectmen's Meeting Date: _____

8-11-15

FEE: \$50.00 Cash, Check or Money Order Payable to the Town of Ayer

pd 8-3-15 \$50

COPY

August 3, 2015
Date Fee Received

CASH
Payment Type

FOOD HANDLER'S LICENSE: Please attach copy

SEE ATTACHED
License Number

October 31 2015
Date of Issue = Expiration

TAX COLLECTOR:

I certify that applicant is current on all local taxes, assessments, betterments or any other municipal charges.

Tax Collector

[Signature] **COPY**

August 3, 2015
Date



Commonwealth of Massachusetts



Nashoba Health District

Food Service Permit
Fee: \$250.00

Board of Health of Ayer

COPY

PERMIT TO OPERATE A FOOD SERVICE ESTABLISHMENT

In accordance with regulations promulgated under authority of Chapter 94, Section 305A and Chapter 111, Section 5 of the General Laws, a permit is hereby granted to:

Lucias Tavola Restorante Italiano, 31 Main Street

Applicant : Mark diCicco
31 Main Street
Ayer MA 01432-

COPY

COPY
Date: August 03, 2015

Expiration Date: October 31, 2015

Board of Health of Ayer

Agent for the Board of Health
Sanitation Officer, Nashoba Associated Boards of Health

COPY

NON-TRANSFERABLE

MEMORANDUM OF UNDERSTANDING (MOU)

June 2, 2015 – Version 1; draft designation
July 29, 2015 – Version 2; draft designation removed

Background

The Town of Groton, MA wishes to convey approximately 40,500 gpd average daily flow of wastewater, as calculated using Title 5 (310 CMR 15.00) criteria, from the Four Corners commercial area, to the Town of Ayer through a new connection to Ayer's existing collection system on Westford Road.

The Town of Groton's and Town of Ayer's authorized representatives agree that a MOU and future long term agreement are in the best interests of both communities. The Town of Ayer has sufficient capacity within its discharge permit (under the National Pollution Discharge Elimination System) to accept the requested wastewater from Groton. Minor upgrades may be needed within Ayer's collection system to accommodate the Groton wastewater.

Purpose of the MOU

The MOU will be a working document and is intended to present the agreement between the Town of Groton and the Town of Ayer to determine the feasibility of the wastewater connection, and to present a framework by which the proposed connection will be made and maintained.

Basis of MOU

Technical

Ayer infrastructure along the proposed route to the treatment facility with surcharge conditions within 10% of full surcharge will be considered in need of improvement. Groton is aware of a potential capacity restriction on one segment of sewer in Westford Road at the intersection of Willow Road.

Groton agrees to survey Westford Road from the Groton town line to the proposed wastewater connection and in the area of the intended infrastructure improvements at Willow Road. The survey will be suitable to properly design and construct the necessary infrastructure improvements, with the intent of providing gravity service and service lateral connections for the properties in Ayer along this route, if possible. All utility design and restoration will meet the Town of Ayer requirements.

Ayer has a "sewer bank" to manage capacity within its system. Ayer and Groton will further discuss mitigation efforts and cost of mitigation to accept the proposed flow from Groton, with the intent that Groton will fund a capacity investigatory program in Ayer comparable in cost to the sewer bank mitigation cost.

Administrative

The long term agreement between Ayer and Groton will be an Inter-municipal Agreement (IMA) to supersede this MOU. This IMA will be developed once the technical tasks are complete.

The execution of a final IMA is dependent on Groton's wastewater project being approved by the MassWorks Infrastructure Grant Program and the completion of the final design of that system,

including design of agreed upon improvements to Ayer's wastewater infrastructure.

In accordance with Ayer Town Bylaw Article XVII, the extension of sewers into the Town of Groton will require Town Meeting approval.

Financial

The Town of Groton has provided funds for the consultant services listed under the Technical heading herein.

IMA

The IMA will contain provisions of agreement for:

- Necessary upgrades to the Ayer system because of capacity issues caused by the Groton flows.
- Potential operations & maintenance services provided by Ayer for the Groton Four Corners system.
- User fees for Ayer wastewater collection and treatment services.
- Basis of billing from Ayer to Groton for wastewater services.
- Volume of wastewater to be conveyed.
- Schedule and other administrative topics.

Anticipated Schedule

MOU	August 2015
Design	August 2015
Final IMA	Spring 2016
Construction Bid	Spring 2016

Approved by:

Authorized Representative

Town of Ayer, MA

Jannet L. Livingston

Printed Name

Chairman – Board of Selectmen

Title

Signature

Date

Authorized Representative

Town of Groton, MA

Mark W. Haddad

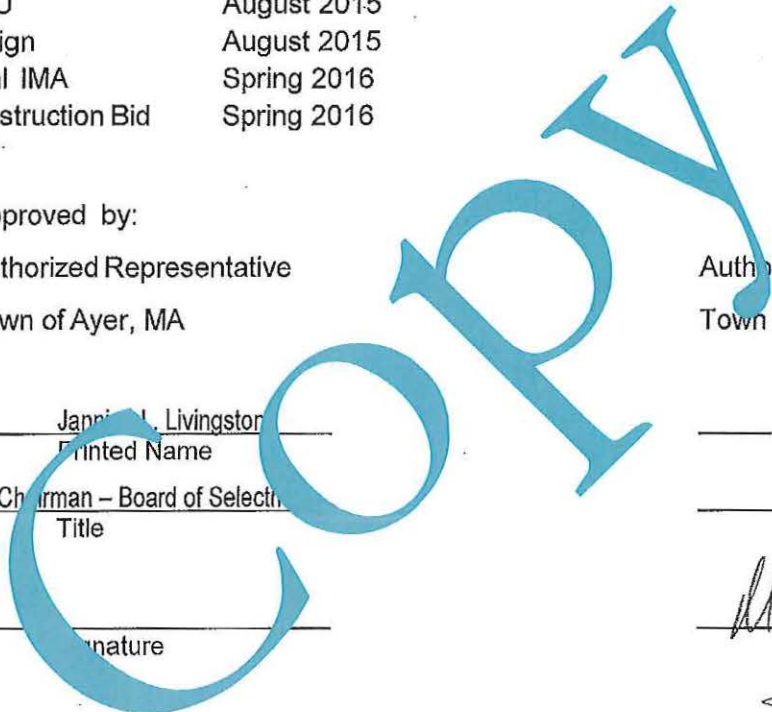
Printed Name

Town Manager

Title

Mark W. Haddad
Signature

8-5-15
Date



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

MEMORANDUM

DATE: August 7, 2015

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

R.A.P.

SUBJECT: **Opening of the 2015 Special Fall Town Meeting Warrant and Special Fall Town Meeting Schedule**

Dear Honorable Selectmen,

As the Board is aware, the 2015 Special Fall Town Meeting (STM) is scheduled for Monday, October 26, 2015 at 7pm in the Great Hall of the Ayer Town Hall. The Board is respectfully requested to vote to officially open the Special Fall Town Meeting at your August 11, 2015 Board of Selectmen Meeting with a deadline for all Citizens Petitions of Friday, September 25, 2015 at 12pm.

Below is the schedule for the 2015 Special Fall Town Meeting Warrant:

- Tuesday, August 11, 2015: BOS Formally Open the Special Fall Town Meeting Warrant with a Closing Date of Friday, September 25, 2015 at 12pm for Citizens Petitions;
- Friday, September 25, 2015: Citizens Petitions due to the Town Clerk by 12pm Noon;
- Friday, September 25, 2015: Deadline for all Warrant Articles from Departments;
- Tuesday, October 6, 2015: BOS to Finalize/Approve STM Warrant at their Meeting;
- Friday, October 9, 2015: Final STM Warrant due to Printer by 12pm noon. STM Warrant to be posted electronically and available at Town Hall as of 1pm that day;
- Friday, October 16, 2015: Last day to register to vote with the Town Clerk for the Fall Special Town Meeting.
- Friday, October 16, 2015: Resident's to receive STM Warrant by Mail; and
- Monday, October 26, 2015: SPECIAL FALL TOWN MEETING to begin at 7pm in the Great Hall of Town Hall, 1 Main Street, Ayer, MA 01432.

Thank you for your consideration.

Cc: Mr. Tom Horgan, Town Moderator
Ms. Susan Copeland, Town Clerk & Tax Collector

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

MEMORANDUM

DATE: August 6, 2015

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Town Administrator's Report for the Period of July 14, 2015 to August 11, 2015

Dear Honorable Selectmen,

I offer the following Town Administrator's Report for the period of July 14, 2015 to August 11, 2015 for your consideration at the August 11, 2015 Board of Selectmen Meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly. Thank you.

Administrative Update:

The Town Administrator will offer a brief oral update on various initiatives, issues, and projects under way by the Administration.

Management Letter Discussion:

On August 3, 2015 the Town received the official, final management letter for the Town of Ayer for the year ending June 30, 2014 (see attached). The Board is respectfully requested to review the management letter in preparation for any discussion/questions at the August 11, 2015 meeting.

Appointments:

The Town Administrator respectfully recommends the appointment of Ms. Susan Tordella of Ayer to a one-year term effective upon appointment to June 30, 2016 to the Dam and Pond Committee. Ms. Tordella has expressed her interest in serving on this Committee and is a resident living on Flannagan's Pond.

Intern Policy:

At the request of the Town Administrator, the Benefits and Payroll Manager developed an Intern Policy for the Town of Ayer (see attached). This policy was vetted by the Town's Departments. The Board is respectfully requested to consider voting to official approve the policy.

Review of Proposed Updated Nuisance Bylaw:

As directed by the Board at the July 14, 2015 BOS Meeting, the attached proposed updated Nuisance Bylaw (modelled after the Town of Framingham) was circulated to the Building Commissioner; Board of Health; Fire Chief; and Police Chief for comment. Attached are the various departmental comments (see attached). In order for consideration by the Special Fall Town Meeting, the Board would have until October 6th to place an article on the warrant for Town Meeting consideration.

Review of Proposed DRAFT Free Cash Policy:

As directed by the Board the attached proposed DRAFT Free Cash Policy (see attached) was circulated to the Finance Committee, Town Accountant, Tax Collector, Treasurer, and Benefits/Payroll Manager for comment. Attached are the departmental comments received.

Agreement with MassDevelopment for Veterans Services:

As the Board is aware, the Town of Ayer has a contract with MassDevelopment for the Town of Ayer's Veterans Commissioner to provide Veterans Services to any Veteran living on Devens. Attached is the Agreement with MassDevelopment for these Veterans Services (see attached). The Board is respectfully requested to review, approve, and sign.

Thank you.

Giusti, Hingston and Company

Certified Public Accountants

36 Jackman Street, Unit One

Georgetown, MA 01833

Tel: 978-352-7470 Fax: 978-352-8812

Email: GiustiHingstonCo@aol.com

RECEIVED
AUG 03 2015

TOWN OF AYER
SELECTMEN'S OFFICE

July 30, 2015

Board of Selectmen
Town of Ayer
Town Hall
Ayer, MA 01432

Dear Members of the Board:

Standards adopted by the American Institute of Certified Public Accountants (Statement on Auditing Standards #114) requires that we make certain communications with "those who govern". This letter is an effort to inform you and comply with that standard.

If you have any questions please feel free to call. Otherwise no further action is necessary.

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Town of Ayer, Massachusetts for the year ended June 30, 2014, and have issued our report thereon dated March 27, 2015. Professional standards require that we provide you with the following information related to our audit.

Our Responsibility Under U.S. Generally Accepted Auditing Standards

As stated in our engagement letter dated September 10, 2012, our responsibility, as described by professional standards, is to express opinions about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit of the financial statements does not relieve you or management of your responsibilities.

Significant Audit Findings

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town of Ayer, Massachusetts are described in Note I to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during fiscal year 2014. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. There are no significant transactions that have been recognized in the financial statements in a different period than when the transaction occurred.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ

significantly from those expected. The most sensitive estimate(s) affecting the financial statements was (were):

Management's estimates (based on actuarial reports) of the unfunded pension and other post employment benefit liabilities.

Management's estimate of the compensated absences is based on the amount of unused vacation time as of June 30, 2014. We evaluated the key factors and assumptions used to develop the estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

The disclosures in the financial statements are neutral, consistent, and clear. Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users.

Difficulties Encountered in Performing the Audit

We encountered no difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. There were no misstatements detected during our audit.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated March 20, 2015.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

This information is intended solely for the use of the Board of Selectmen and management of the Town of Ayer, Massachusetts, and is not intended to be and should not be used by anyone other than these specified parties.

* * * * *

We would like to thank you for the cooperation and courtesy extended to us during the course of the engagement.

Very truly yours,

James J. Giusti

James J. Giusti
Certified Public Accountant
Giusti, Hingston and Company

Giusti, Hingston and Company

Certified Public Accountants

36 Jackman Street, Unit One

Georgetown, MA 01833

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Email: GiustiHingstonCo@aol.com

RECEIVED

AUG 03 2015

TOWN OF AYER
SELECTMEN'S OFFICE

May 29, 2015

Board of Selectmen
Town of Ayer
Town Hall
Ayer, MA 01432

Dear Members of the Board:

In planning and performing our audit of the financial statements of the Town of Ayer, Massachusetts as of and for the year ended June 30, 2014, in accordance with auditing standards generally accepted in the United States of America, we considered the Town of Ayer, Massachusetts' internal control over financial reporting (internal control) as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Town of Ayer, Massachusetts' internal control. Accordingly, we do not express an opinion on the effectiveness of the Town of Ayer, Massachusetts' internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be significant deficiencies or material weaknesses and therefore there can be no assurance that all such deficiencies have been identified.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

We do not consider the following matters to be significant deficiencies or material weaknesses. However, they are matters we want to communicate to you.

Tax Collector's Depository Bank Account

During our prior two audits (for the fiscal year ended, June 30, 2012 and June 30, 2013), and during the fiscal year 2014 audit, we noted that there were a number of cash reconciliation items that required a significant amount of attention, when performing the year end cash reconciliation work. These reconciling items relate to property tax and motor vehicle excise tax receipts and turnovers from the Tax Collector to the Treasurer. The procedures followed relating to these tax collections included depositing the receipts into a Tax Collector's bank account, by the Tax Collector's office, and then subsequently a turnover was made from the Tax Collector's bank account to the Treasurer's bank account. Because of the problems encountered reconciling cash, relating to the Tax Collector's bank account deposits, **we had recommended that the Tax Collector's bank account not be used any more, to make tax deposits. Instead, we recommended that a new bank account be opened. The new bank account would have been set up as a Treasurer's bank account and not a Tax Collector's bank account.**

During the fiscal year ended June 30, 2014, the Tax Collector, Finance Manager, Selectmen and Finance Committee were in agreement with us that these steps should be taken, relating to the Tax Collector's bank account. However, the Treasurer did not agree that these steps were necessary, and therefore a new account was never established. **Since the Treasurer did not agree, an alternative solution was agreed upon by the Tax Collector and Finance Manager.** The alternative solution (that is currently in effect, in fiscal year 2015), is to have the Tax Collector no longer make deposits into the Tax Collector's bank account, but instead to turn over all receipts directly to the Treasurer, to be deposited by the Treasurer.

By making these changes, and no longer making deposits into the Tax Collector's bank account, this bank account would soon become inactive, which will in turn allow the Tax Collector and Finance Manager to more easily identify and analyze cash reconciliation items, that have made the year end cash reconciliation process very difficult, during the past three fiscal year ends. As a historical note, most of the cash reconciliation issues came about because revenues received by the Tax Collector, relating to tax collections, were posted to the Town's accounts receivable accounting software (and therefore into the Town Accountant's general ledger), but these items were not turned over to the Treasurer until a later date. During our review and in the discussions that took place, relating to the Tax Collections and turnovers from the Tax Collector to the Treasurer, it was agreed upon by all parties that it is extremely important that the Tax Collector's office do all that it can to make timely turnovers every month, and, that the turnovers should be made in the same period as when the revenues are posted to the accounts receivable software. During our fiscal 2014 review, we found that turnovers were being made in a timely manner by the new Tax Collector.

During our review of the fiscal year ended June 30, 2014 tax collection and cash reconciliation work (and during my follow up meeting on June 9, 2015), we found that the Tax Collector and Finance Manager are doing a very good job in recording, reporting and reconciling the collections and cash reconciliation items.

We recommend that the Tax Collector continue to post the tax revenues to the accounts receivable computer system. It is also very important to be sure that the turnovers to the Treasurer are in the same period, that they have been posted to the Accounting system (at year end). In addition, the timing of when these postings are happening should be carefully reviewed by the Tax Collector with the Town Accountant every month, and especially at year end.

During our 2015 annual audit, we will work closely with the Finance Manager and the Tax Collector to analyze any cash reconciliation items that may be in existence, at June 30, 2015, and provide whatever assistance that may be needed (to determine if there is in fact a cash variance), and if there is, we will work with the Town to determine why the variance exists, and how to correct it.

Cyber Security

In recent months, several Massachusetts municipalities have had cyber-attacks on their computer systems. The attacks have ranged from annoying intrusions to an attempt to transfer millions of dollars out of a town's bank account. As a result, it has become increasingly important to keep town employees keenly aware of the constant threat of cyber-attacks.

In addition to the risk of financial loss, the Town must be concerned with confidential/sensitive personal information that is on its computer systems including social security numbers, employee benefit and retirement information and tax records.

We recommend that the Town have “ongoing” discussions on how to mitigate the risk of cyber-attacks.

Topics for the discussions should include:

- Policies – There should be documented rules for various situations.
 - Be cautious about opening attachments or downloading files from emails
 - Don’t click on, or reply to email or pop-up messages that ask for personal or financial information
 - Don’t email personal or financial information
 - Require strong passwords that **must** be changed periodically
- Training – The level of training could vary by department based on perceived need.
- Technical Controls – Do we have the right technology in place (i.e. current anti-virus software and malware remover)?

It appears that the threat of cyber-attacks is a way of life in our age of technology. As the perpetrators of the attacks continue to grow more sophisticated, it is important that the Town remain vigilant in its efforts to protect the Town’s assets and the confidential personal information maintained by the Town.

IT Directors Management Response

I: Electronic Communication Policy

The Town of Ayer has in place an Electronic Communication Policy which all employees and Board & Committee members with email are required to sign. The only exceptions to this are those employees who work at the Ayer Police & the Ayer Fire Departments. Ayer Police & Fire have their own internal policies. This policy, in part, states the following:

- Employees are prohibited from storing information on Personal Storage Devices unless authorized
- Any Personal Storage Devices that contain personal information must be encrypted

The Electronic Communication Policy also states that employees may not:

- Maliciously use or disrupt the Town’s computers, networks, internet services or breach the Systems’ security features
- Misuse computer passwords or accounts
- Load or download any software applications unless authorized
- Allow unauthorized persons to access the Town’s Systems
- Open any attachments unless they are reasonably sure the content is safe
- Use any unauthorized computer to remotely access Town Systems unless authorized
- Engage in any activity that subjects the systems to unwarranted exposure to viruses or other potential damage
- Attach computers or other hardware that is not owned by the Town to the Towns’ Network
- Share passwords or leave passwords in a locked controlled access area

The Town’s internal network and other software require that passwords are changed every 90 days and passwords must be at least 8 characters in length and contain at least one uppercase character, one lowercase character, and one number.

II: Hardware, Software, Backups

The Town has replaced its aging servers and workstations with the latest hardware and software. Servers are Windows Server 2012 and all workstations are Windows 7 Professional or above. Anti-Virus software is installed on the servers. Workstations are automatically updated from the server. Server Policy rules prevent tampering with the anti-virus software.

All servers are backed up on a daily basis. Currently, the Ayer Fire & Police Departments are backing up locally and offsite. The Ayer Town Hall and Department of Public Works servers backup locally. Currently plans are for these two locations to perform off site backups as well.

III: Training and Prevention

The Town will, in fiscal year 2016, provide Cyber Security Training to all employees. This will take the form of required video training, agreement of adherence to policies when logging in to the Town's Network, and periodic reminders by email of security best practices.

Also in fiscal year 2016, the Town will finalize its Written Information Security Plan (WISP). This plan will identify reasonably foreseeable internal and external risks to records containing personal information. We will design and implement this WISP to put in place safeguards in place to minimize these risks.

IV: IT Committee

The Town has an Information Technology Committee which meets several times a year. This committee reviews new security policies and procedures and acts in an advisory capability for new software and procedures. The committee is represented by the IT Department, the Town Administrator, Accounting, Department, Fire & Police Departments, and citizen members.

Payroll Procedures Relating to the Ayer Public Library

The Town has hired a new Benefits and Payroll Manager to oversee the Town's entire payroll and benefits area. During our review of the Town's procedures, relating to these matters, we found that the new Manager has done a very good job reviewing the internal controls and related procedures and is working on ideas on how to make the entire process even better.

During our review of the payroll procedures being followed by the Town's Library Department, we found that the Library Director does a good job keeping track of payroll information, however, it has come to our attention that the payroll forms being submitted to the Town Accountant (from the Library Department), do not include a breakdown of sick, vacation or holiday time.

During our review of the Library payroll procedures, we noted that the personnel policies, which are approved by the Board of Trustees, include holidays, sick leave, family leave, personal-days, and vacation policies. The Director of the Ayer Library, marks the use of those on a monthly calendar. She also has a spreadsheet to keep track of the use of vacation time of each employee, beginning with the total vacation time an employee is allowed for the fiscal year. Unused vacation time from the prior year is not carried into the current year. The Director said that she told employees about how many unused vacation days she/he still had toward the end of the fiscal year. Per the personnel policies, an employee is only entitled to be paid for the number of vacation days she/he has remaining in the current fiscal year when the employment is terminated with the Library. Also, by the policies, an employee may take up to six weeks of accrued sick leave upon departure or retirement. The Director, also, keeps a running tally of built up sick hours in a

document called "Compensated Absences" that is sent to the Town Accountant at the beginning of each new fiscal year. The Town Accountant keeps copies of this document.

There is a bi-weekly time sheet with every Library employee's name on it on the wall. The Director records the hours that each employee worked each day on the time sheet. The use of vacation time, sick time, and personal time are also recorded on the time sheet. The Director reports all hours as "regular hours," regardless of the paid time off recorded on her records, to the Payroll Office in the Town Hall. The Director keeps all the bi-weekly time sheets of a fiscal year with the copies of the calendar, marked with employees' vacation, sick, and personal time, in a binder. The personnel policies are kept up to date.

We recommend that the Ayer Public Library report sick, vacation and holiday time to the Town Accountant when the other payroll information is being reported. Reporting this additional payroll information, in the same way that all of the other Town departments report it, will increase Internal Account Control, relating to this important employee payroll information.

Library Director Management Response

I will discuss this matter and give copies of the letter requesting a suggested change in Library policy to the Board of Trustees at our next regular meeting on September 15, 2015. I'm sure they will take the recommendation under advisement.

GASB Statement #68 – Accounting and Financial Reporting for Pensions

Statement #68 establishes the methodology that must be used by governments to determine the "net pension liability" of the pension plan. The Town's share of the plan's net pension liability will be reported in the Town's Statement of Net Position. Reporting the net pension liability will have a significant impact on the Town's net position. Currently, the pension system's unfunded liability is only reported in the Required Supplementary Information section of the Town's financial statements and does not impact the Town's Statement of Net Position. **The Town's share of the Middlesex County Retirement System's unfunded actuarial accrued liability per the January 1, 2014 valuation is \$16,247,621.** The required implementation date of Statement #68 for the Town is June 30, 2015.

Since the unfunded "other post-employment benefits" liability is similar to the net pension liability, the Governmental Accounting Standards Board has proposed reporting the **entire** OPEB liability in the Statement of Net Position (the GASB has issued an exposure draft relating to the OPEB liability). Currently, the reporting the OPEB liability is being phased in over a thirty year period.

Health Insurance – Retirees

We have repeated this comment from our prior management letter. In 2010, the Massachusetts Legislature adopted Massachusetts General Laws (MGL) Chapter 32B Section 9A ½. This section of the law provides the statutory authority for one municipality to bill other municipalities for a percentage of a retiree's health insurance premium. The Town may issue a bill "*for the portion of the premium contributions that corresponds to the percentage of the retiree's creditable service that is attributable to each governmental unit.*"

The language of MGL 32B S 9A ½ is fairly broad, but it does address the circumstances where each Town pays a different percentage of retirees' health insurance. ("*The other governmental units shall be charged based on their own contribution rate or the contribution rate of the first employer, whichever is lower.*") Currently, many municipalities have their own requirements (years of service, must retire from that municipality) that must be met in order to be eligible for retirees' health insurance. These varying

requirements have made it difficult to determine what a municipality's "contribution rate" is (i.e. it may be interpreted that "based on their own contribution rate" could mean you owe nothing since the employee did not meet your eligibility requirements).

Another issue to be resolved is whether the premium bills from other municipalities should be considered "prior period bills" since you would be reimbursing a municipality for premiums paid in a prior fiscal year. Although a formal policy decision has not yet been made by the Division of Local Services, it is likely that they will provide guidance in the future.

Many municipalities have already begun issuing bills in accordance with MGL 32B S 9A ½ and it appears that more will soon follow. As a result, the Town will have to consider the potential costs during the appropriation process. In addition, we believe that the Town should develop procedures to bill other municipalities for their portion of retiree health insurance benefits. The regional (county) retirement system can be a resource in the billing process since they have the employment history for retirees.

Since the new legislation will impact all municipal entities, we recommend that the Town work with its state Legislators and other municipalities to develop procedures that will simplify what appears to be a cumbersome billing process. In addition, State Law requires that these bills be paid, so we recommend that the Treasurer review each bill that comes in and properly authorizes payment for legitimate bills.

Non Sufficient Funds (NSF) Checks

As we noted in our prior report, there are a number of checks that have been received by the Town, which were deposited into the Town's depository bank account that the bank subsequently returned to the Town because of insufficient funds. When the bank determines that a check has insufficient funds, it automatically redeposits the check in anticipation that funds would then be available. If there are still insufficient funds available, the bank notifies the Treasurer of the NSF check. The Treasurer then sends a letter to the person indicating that the check has been returned for insufficient funds, and requesting payment. In addition to the first letter that is being sent by the Town, we recommend that a second letter be sent within thirty days, if there is no success from the first letter.

We also recommend that the Town consider developing a policy with the objective of not giving Town goods or services to anyone who has a NSF check outstanding with the Town. A procedure could be developed so that any department that provides goods or services, would be notified in a very timely manner of any new NSF checks that the Town has been made aware of. This policy would have the effect of reducing the number of new NSF checks the Town is burdened with, by refusing to give goods or services to persons or businesses with these checks. During the fiscal year ended June 30, 2013, there were only seven new NSF checks that the Town added to the list. If a policy can be developed, the number of new NSF fund checks could be kept to a minimum.

Informational Item

Legislation related to retirees' health insurance has been introduced by the Governor. The legislation, if enacted, will affect all municipal entities in Massachusetts. We are providing the Town of Ayer with the following information relating to retiree health insurance that is not a finding, but, has been written for informational purposes only. Subsequent to the issuance of our prior year management letter, new developments have taken place, relating to House Bill 59, which we have noted below.

Pending Legislation Retirees' Health Insurance

In February of 2013, the Governor introduced legislation (House Bill Number 59) aimed at reducing the cost/liability for retirees' health insurance. The legislation, if enacted, will change the eligibility requirements for age and years of service that employees must meet in order to receive the retirees' health insurance benefit. In addition, the legislation pro-rates the retirees' health insurance benefit based on years of service. In order to receive the Town of Ayer's maximum benefit, an employee must have thirty years of service. If an employee retires with twenty years of service, he/she is eligible to receive 50% of the premium, regardless of the benefit offered by the employer. Upon reaching twenty-three and twenty-seven years of service the employee's benefit increases (if the employer's maximum benefit exceeds 50%). Long term employees would be among those who phase in to the maximum benefit. In an attempt to protect employees close to retirement and those on disability pensions, the legislation includes grandfathering and phase in provisions. The legislation, as written, does not include a local option provision.

On February 18, 2014, the Massachusetts legislature had a public hearing on this matter. In July of 2014, the Senate voted to extend the reporting deadline on the Bill. On September 29, 2014 the House discharged the Bill to the Committee on House Rules. Currently, nothing has been finalized relating to the Bill.

If passed, the long term impact of the legislation would reduce the Town's Other Post Employment Benefits liability and the future appropriation requirements for retirees' health insurance. We recommend that the Town of Ayer monitor the status of the House Bill Number 59.

* * * * *

This communication is intended solely for the information and use of management, and those charged with governance and others within the organization, and is not intended to be and should not be used by anyone other than those specified parties.

After you have had an opportunity to consider our findings and recommendations, we shall be pleased to discuss them further with you. We would like to thank you for the cooperation and courtesy extended to us during the course of the engagement.

Sincerely,

Giusti, Hingston and Company
Giusti, Hingston and Company
Certified Public Accountants



Town of Ayer Internship Program Administration Policy

The Town of Ayer is pleased to offer Internship opportunities to undergraduate and graduate students enrolled in an accredited college or university. Internship programs are designed to provide the Intern with an understanding of how a local government is organized and operates. Interns will be provided the opportunity to apply their knowledge from the academic setting to the work environment. Interns may have the opportunity to observe and assist in different aspects Departmental operations, will work directly for the Department management staff, and may be assigned specific tasks or projects.

PURPOSE

This Policy describes the administration of Internship Programs in the Town of Ayer ("Town").

APPLICATION

This Policy applies to all Internship Program opportunities in the Town.

PROCEDURES

1. Each Department is responsible for identifying Internship opportunities.
2. Internships may be paid or unpaid. The U.S. Department of Labor, Wage and Hour Division, Fact Sheet #71 provides information about paid internship programs.
3. Paid Internships must have an identified funding source.
4. Paid Internships are temporary and are non-benefitted positions.
5. The term of internships may differ based on Departmental needs.
6. Interns who intend to receive college credit for the Internship must make appropriate arrangements with their college or university.

Policy Approved By:

Jannice L. Livingston, Chair

Gary J. Luca, Vice-Chair

Christopher R. Hillman, Clerk

TOWN OF AYER
BOARD OF SELECTMEN

Date: August 11, 2015

Town of Ayer
DRAFT
Nuisance By-Law Proposal



1. AUTHORITY AND PURPOSE

Pursuant to the general powers granted to cities and towns by Article 89 of the Amendments to the Massachusetts Constitution, and the specific powers granted by Massachusetts General Laws, Chapter 139, Sections 1-3A, this Bylaw is adopted for the prevention of future nuisances and the removal of existing nuisances within the Town, which nuisances constitute a hazard of blight, or adversely affect property values.

2. DEFINITIONS

- A) Blight - Any condition that seriously impairs the value, condition, strength, durability or appearance of real property, including real property owned or occupied by an Interested Party as defined in section 2E.
- B) Building - A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed, of a combination of any materials, to form shelter for persons, animals, or property. Also, see 2J.
- C) Dilapidated - A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The term includes, but is not limited to:
- Property having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors;
 - Property having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection other protective covering;
 - Personal property that is broken, rusted, worn, partially or wholly dismantled or otherwise due to deterioration is unsuitable for the purpose for which designed.
- D) Hazard - A condition likely to expose persons to injury, or property to damage, loss or destruction.
- E) Interested Parties - In connection with the notification requirements of this bylaw Interested Parties are the Building Commissioner; owner(s) and/or occupants of property which is the subject of a hearing; owners and/or occupants of property directly opposite the subject property on any public or private street or way, owners and/or occupants of property abutting the subject property, and owners and/or occupants of property abutting, and that is within 300 feet of, the property line of the subjected property. Other persons who own or occupy property and who demonstrate to the satisfaction of the Building Commissioner that

they are affected by the condition of the property or building that is the subject of a hearing may be regarded as Interested Parties by the Building Commissioner.

F) Nuisance - Any substantial interference with the common interest of the general public in the maintaining decent, safe, and sanitary structures that are not dilapidated, and neighborhoods, when such interference results from the hazardous or blighted condition of private property, land or buildings. The fact that a particular structure or use may be permitted under the Zoning Bylaw does not create an exemption from the application of this bylaw. The term includes but is not limited to:

- (a) burned structures not otherwise lawfully habitable or usable,
- (b) dilapidated real or personal property,
- (c) dangerous or unsafe structures or personal property,
- (d) overgrown vegetation which may harbor rats and vermin, conceal pools of stagnant water or other nuisances, or which is otherwise detrimental to neighboring properties or property values,
- (e) dead, decayed, diseased or hazardous trees, debris or trash,
- (f) signs as described in section XX of the sign bylaw,
- (g) personal property that is exposed to the elements without protection against deterioration, rust or dilapidation,
- (h) vehicles, machinery or mechanical equipment or parts thereof that are located on soil, grass or other porous surfaces that may result in the destruction of vegetation or contamination of soil,
- (i) in any Residence District, keeping of more than one commercial vehicle, or of a tractor that exceeds a gross vehicle weight of three-quarters (3/4) of a ton for hauling a van or trailer as defined by the Registry of Motor Vehicles,

~~(j) personal property that has been placed for the collection as rubbish or refuse in violation of Article VI, section 4.1 of the Town Bylaws other than as approved by the Director of Public Works, or left in public view for more than seven days.~~

Comment [CMA1]: Deleted because appears to be specific to Framingham

- G. Occupant - A person who occupies real property with the consent of the owner as a lessee, tenant at will, licensee or otherwise. The singular use of the term includes the plural when the context so indicates.
- H. Owner - Every person who alone or jointly or severally with others (a) has legal title to any building, structure or property to this Bylaw; or (b) has care, charge, or control of any such building structure or property in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of

legal title; or (c) lessee under a written letter agreement; or (d) mortgage in possession; or (e) agent, trustee or other person appointed by the courts.

- I. Responsible Party - The owner or occupant (in the case of real property) of property that is the subject of proceedings under this by-law. The singular use of the term includes the plural when the context so indicates.
- J. Structure - A combination of materials, whether wholly or partially level with, above or below the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, (see above), framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

3. ADMINISTRATION

- A. This Bylaw shall be enforced by the Building Commissioner.

If the Building Commissioner shall be informed or have reason to believe that any provision of this Bylaw has been, is being, or is likely to be violated, he shall make or cause to be made an investigation of the facts, including an investigation of the property where the violation may exist. If he finds any violation he shall give immediate notice in writing to the Owner and to the Occupant of the premises and shall immediately cease. In making such inspection, the Building Commissioner shall have such right of access to premises that may be lawfully exercised by him under the laws and constitution of the Commonwealth or of the United States.

If, after such notice and order, such violation continued, or if any Owner or Occupant fails to obey any lawful order of the Building Commissioner with respect to any violation of the provisions of the Bylaw, the Building Commissioner may make complaint to the Superior Court or any court of competent jurisdiction an any injunction or order restraining any further use of the premises and the continuation of the violation and shall take such other action as is necessary to enforce the provisions of this Bylaw.

In addition to the foregoing remedy, whoever violates any provision of this Bylaw or fails to obey any lawful order issued by the Building Commissioner in enforcing this Bylaw shall be liable to a fine of not more than three hundred (\$300.00) for each violation. Each violation of this Bylaw shall constitute a separate offense. Each day that any such violation continues shall constitute a separate offense.

The Building Commissioner may require disclosure to him/her of the identity of the person bringing a complaint of nuisance. The Building Commissioner may require that such complaint be made under oath or subject to the penalties of perjury. If the Building Commissioner determines that a reported condition may warrant immediate action, constitute a substantial violation of this Bylaw, or adversely affect protected interests of others than the complainant, the Building Commissioner may commence action under this Bylaw without requiring the disclosure of the identity of the complainant.

If the Building Commissioner determines that the condition is subject to the jurisdiction of the Board of Health or is a violation of the State Sanitary Code or any health regulation, in addition to enforcing this Bylaw, he shall refer the matter to the Director of Public Health of the town appropriate state or town officials for action.

During his investigation of the matter, the Building Commissioner may consult, but is not required to do so, with any Interested Party in an attempt to obtain voluntary compliance with this Bylaw without the need to issue a notice of violation.

- B. Notice to Complainant - In any matter in which a complaint has been made by a person other than the Building Commissioner, the Building Commissioner shall promptly notify the complainant in advance of all conferences or proceedings concerning resolution of the nuisance complaint or of any enforcement action and the complainant shall be allowed to be present and to be heard.
- C. Removal of Nuisance by Selectmen - If the Responsible Party fails to remedy the nuisance upon notice from the Building Commissioner to do so, the Board of Selectmen may cause the nuisance to be removed as provided in General Laws c. 139.
- D. Review by the Town Administrator - Any Interested Party who has filed a written complaint of a nuisance with the Building Commissioner upon which complaint the Building Commissioner has determined that the condition is not a nuisance, or has taken other action that the Interested Party claims is inadequate shall have a right to a review of the matter by the Town Administrator. At the request of such an Interested Party, the Town Administrator shall confer with the Building Commissioner and shall recommend appropriate action to the Building Commissioner and to the Board of Selectmen.
- E. Reports by Building Commissioner - The Building Commissioner shall file with the Town Administrator each month a report that shall include all complaints of nuisance made to him during the prior month; all proceedings begun by him under this Bylaw; all pending complaints and all investigations and enforcement actions taken by him or referred to the Commissioner of Public Health. The report shall state the location of the premises, a summary of the nature of the complaint, the name of the Responsible Party(ies), and the disposition or the status of the matter.

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

MEMORANDUM

DATE: July 15, 2015

TO: Gabe Vellante, Building Commissioner
Charles Shultz, Assistant Zoning Enforcement Officer
Ayer Board of Health
Bridgette Braley, Nashoba Boards of Health
Fire Chief Robert Pedrazzi
Police Chief William Murray
Susan Copeland, Town Clerk & Tax Collector

FROM: Robert A. Pontbriand
Town Administrator

SUBJECT: Proposed Revision(s)/Amendment(s) to the Town's Nuisance Bylaw
(Departmental Review)

Dear All:

On July 14, 2015, the Ayer Board of Selectmen authorized an interdepartmental review of the Town's Nuisance Bylaw for the purpose(s) of revising/amending/updating the Town's Nuisance Bylaw. As you are aware the Town's current Nuisance Bylaw (enacted in 1989) is very "vague/ambiguous" in its approach to enforcement of nuisance properties. After extensive research, the Town of Framingham's Nuisance Bylaw was found to be an ideal nuisance bylaw in its clarity of definitions; enforcement provisions; as well as its case review component and that it was approved by the Attorney General.

The Board of Selectmen plan to sponsor and submit a warrant article on the Fall Town Meeting (October 26, 2015) intended to replace/update the Town's current nuisance bylaw. In preparation for this, kindly review the following attached documents and provide any formal input/suggestions to the Town Administrator no later than Wednesday, August 5, 2015:

1. July 9, 2015 Memo to the BOS from the Town Administrator
2. Town of Ayer Nuisance Bylaw (Current)
3. Town of Framingham Nuisance Bylaw

If you have any further questions, please do not hesitate to contact me directly. Thank you for your time and consideration.

Attachment(s).

Cc: Ayer Board of Selectmen

Comments - Charlie Shultz

Nuisance By-Law

S. 22.2.5

If notification to abutters is made by certified mail, who is responsible for cost?

22.2.6 (b)

Should we expand on personal property such as interior furniture stored outside.

(d) Should we add sight line at road intersection (probably all ready have it at D.P.W., Just a second layer of protection)?

(j) Violation of article VI Section 4.1 of town By-Laws

Does This match ayers VI S. 4.1

TOWN OF AYER
BOARD OF HEALTH



TOWN HALL – 1 MAIN STREET – AYER, MASSACHUSETTS 01432 – (978) 772-8213

To: Ayer Board of Selectmen
Robert Pontbriand, Town Administrator

From: Heather Hasz, Chairman
Ayer Board of Health

Date: August 3, 2015

Subject: Proposed Revisions/Amendments to the Town of Ayer Nuisance Bylaw

Thank you for the opportunity to comment back on the proposed changes being considered to the Town of Ayer Nuisance Bylaw.

Please know that members of the Ayer Board of Health have had a chance to briefly discuss and review the memo and relevant information from the Ayer Board of Selectmen regarding proposed changes to the current Town of Ayer Nuisance Bylaw. As a Board, we agree that an update to this Bylaw would be helpful, however, perhaps the Town of Framingham model may not be best suited for our Town as fully written; we would like to offer the following feedback and commentary:

- It should be noted that the Town of Framingham is a large town with a population of approximately 68,000; Ayer is far smaller with the population of approximately 7,500 – meaning their scope and need may be different given the size and current demand on services.
- The Town of Ayer needs to employ a full time Building Commissioner before any update to the Nuisance Bylaw is made (A visit to the Town of Framingham Inspectional Services website will show that they have multiple employees dedicated to Inspectional Services and Code Enforcement while the Town of Ayer has a part time Building Inspector).
- The Board is concerned that the Town of Framingham Bylaw may be too invasive and over reaching into dictating how one should manage their own personal property.
- The Board is concerned that the time frame to develop an update to the Nuisance Bylaw for a Fall Town Meeting warrant article may not be enough; the Board suggests that in order to do a proper review and update to the existing Nuisance Bylaw as well as make sure the public is made aware of these changes they should consider the Spring Town Meeting for this proposal.

A few items within the Town of Framingham Bylaw that can be pointed out for discussion:

- 22.2.1: The definition for “blight” seems overly vague and subject to interpretation – “seriously impairs the value, strength, durability or appearance...”. Question - How would this be measured and who would make the determination?

- 22.2.3: The definition of “Dilapidated” is overly strict and subjective. While we agree with the spirit of this section, the section as written could be interpreted very narrowly or quite broadly, and it sounds more severe than I think it was intended to be. For example:-
 - “Broken...windows” – does this apply to cracks in one layer of a dual- or triple-pane window?
 - What is defective “paint, stain or siding”? How large an area of peeling paint would qualify? Is one piece of missing siding an issue?
 - Personal property that is “broken, rusted, worn or partially or wholly dismantled” could include a snow blower awaiting repair, or even a snow shovel with rust. I have no idea how the determination of “worn” could be made; most garden tools become “worn” with use, but they are still serviceable.

- 22.2.5 and 22.3.1 place quite a bit of responsibility on the Building Commissioner, which I assume would be the Building Inspector for Ayer. I don’t see how these responsibilities could possibly be fulfilled by our part-time Building Inspector.

- 22.2.6: (a), (b), (c), (f) and (i) are good. “Overgrown vegetation” (d) sounds very subjective. “Dead or “hazardous” trees are good in (e), but “decayed or diseased trees, debris or trash are subjective. “Personal property exposed to the elements” (g) is absurd – this would mean that every item in a resident’s yard must be covered or stored inside a building; even standard lawn furniture and jungle gyms could be forbidden under this requirement. (h) makes sense in the Aquifer Protection District, but I’m not concerned if someone outside of the district chooses to ruin their grass by parking on it.

In summary , the Board of Health believes that the Board of Selectmen should focus an update to the Nuisance Bylaw by focusing on a few of the more serious or unsightly problems such as burned out or abandoned buildings, large accumulations of trash or debris (possibly defined as material that is clearly unusable for any reasonable purpose), totally unsecured buildings, abandoned swimming pools, and the practice of placing upholstered furniture, console TVs, etc. on the curb in the hope that someone will pick it up.

Again, it’s important that as the Board of Selectmen look to update this Nuisance Bylaw that they strongly consider enforcement and the hiring of a full time Building Commissioner so that the Bylaw as well as the other demands of the Town of Ayer are met. In addition to this, as was stated at the start of this memo, this update should be considered for the Spring Town meeting to allow for more time to develop and update to the existing Bylaw that meetings our needs and can also be enforced.

** Also, this may not fall under the Nuisance Bylaw, but it would be nice to have a fine associated with Ayer’s existing (Dog/Leash Bylaw) regarding the removal of dog excrement from public property.

*** Pam Papineau has volunteered to serve on a working group as a representative of the Ayer Board of Health should there be a group formed to develop this update.

From: Chief Pedrazzi <firechief@ayer.ma.us>
Date: August 3, 2015 at 3:10:16 PM EDT
To: Robert Pontbriand <ta@ayer.ma.us>
Subject: RE: REMINDER: COMMENTS DUE Wed. August 5th FW: Proposed Revision(s) / Amendment(s) to theTown's Nuisance Bylaw Departmental Review

Hi Robert,

I have read through the draft and have nothing to add. The proposed looks very complete to me.

Chief Pedrazzi

Chief Robert Pedrazzi
Ayer Fire Department
1 West Main Street
Ayer, MA 01432
(978) 772-8231

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From: Robert Pontbriand [<mailto:ta@ayer.ma.us>]
Sent: Monday, August 03, 2015 1:15 PM
To: 'Gabe Vellante'; Brd of Health; Bridgette Braley; rpedrazzi@ayer.ma.us; <WMurray@ayer.ma.us> (wmurray@ayer.ma.us); Susan Copeland; hhasz@ayer.ma.us
Cc: Carly Antonellis
Subject: REMINDER: COMMENTS DUE Wed. August 5th FW: Proposed Revision(s) / Amendment(s) to theTown's Nuisance Bylaw Departmental Review
Importance: High

Dear All,

FYI below and attached sent on July 15th.

Reminder, that all input/suggestions are due this Wed. August 5, 2015.

Thank you.

Sincerely,

Robert

Robert A. Pontbriand
Town Administrator

While the new proposed bylaw is much better than what we have now I have a few concerns:

1. The bylaw gives great definitions and authority but there are no direct statements of what is prohibited. We all know it is supposed to be what is defined but I think the wording is needed.
2. The new bylaw removes the PD as an enforcing authority which I am okay with except that we use the current bylaw to fine those that put snow into the roadway or sidewalk.
3. There is no provision for prohibiting the deposit of snow into roadways or sidewalks. We loosely use section 1 of the current bylaw for this but it needs to be changed and added.

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.

From: Robert Pontbriand [<mailto:ta@ayer.ma.us>]
Sent: Wednesday, July 15, 2015 3:07 PM
To: 'Gabe Vellante'; Brd of Health; Bridgette Braley; rpedrazzi@ayer.ma.us; wmurray@ayer.ma.us; Susan Copeland; hhasz@ayer.ma.us
Cc: Carly Antonellis
Subject: Proposed Revion(s) / Amendment(s) to theTown's Nuisance Bylaw Departmental Review
Importance: High

Dear All:

On July 14, 2015, the Ayer Board of Selectmen authorized an interdepartmental review of the Town's Nuisance Bylaw for the purpose(s) of revising/amending/updating the Town's Nuisance Bylaw.

Please review the attached memo and documents.

Kindly transmit any input/suggestion to the Town Administrator no later than Wednesday, August 5, 2015. If you have any further questions, please do not hesitate to contact me directly.

Thank you for your time and consideration.

Sincerely,
Robert A. Pontbriand

**DEPARTMENT OF REVENUE DIVISION OF LOCAL SERVICES TECHNICAL ASSISTANCE
SECTION FOR MORE INFORMATION EMAIL: tacontact@dor.state.ma.us 1 FREE CASH**

Free cash is a revenue source which results from the calculation, as of July 1, of a community's remaining, unrestricted funds from operations of the previous fiscal year based on the balance sheet as of June 30. It typically includes actual receipts in excess of revenue estimates and unspent amounts in departmental budget line-items for the year just ending, plus unexpended free cash from the previous year. Free cash is offset by property tax receivables and certain deficits, and as a result, can be a negative number.

Cities and towns generally use free cash to support current year operations or as a revenue source for the ensuing year's budget. However, until a balance sheet for the prior year is submitted by the accountant, auditor or comptroller and free cash is certified by the Director of Accounts, it is not available for use. DOR certification protects communities from relying on free cash that does not materialize due to an inaccurate, unconfirmed local estimate.

DOR recommends that communities understand the role free cash plays in sustaining a strong credit rating and encourages the adoption of policies on its use. Under sound financial policies, a community would strive to generate free cash in an amount equal to 3-to-5 percent of its annual budget. Free cash would not be depleted in any year, so that the following year's calculation would begin with a positive balance. Conservative revenue projections and departmental appropriations would be orchestrated to produce excess income and departmental turn backs. As a non-recurring revenue source, a prudent use of free cash would be to fund one-time expenditures, a capital purpose or to replenish other reserves. If projected as a revenue source to support the ensuing year's operations, the amount used would be restricted to a percentage of total free cash.

However, DOR also recommends that free cash not be available to supplement current year departmental operations. By eliminating the expectation of additional resources later in the fiscal year to back-fill budgets, department heads will produce more accurate and realistic annual appropriation requests.

Under any circumstance, the use of free cash requires an appropriation approved by the city council on recommendation of the mayor, town council or town meeting, but only after it is certified by DOR. The same rules apply to DOR certification of retained earnings which is the enterprise fund equivalent of free cash.

Town of Ayer
Free Cash Policy

Sources of Income. Free Cash is the amount of the community's funds that are unrestricted and available for appropriation. Free Cash is generated when actual revenue collections are more than budget estimates, and when expenditures and encumbrances are less than appropriations, or both. It may be appropriated after certified by the Massachusetts Department of Revenue after the close of each fiscal year. Appropriation requires a simple majority vote by town meeting. Free Cash is not a fund and interest does not accrue to the balance. (Source: IGR No. 86-104, Bureau of Accounts, Mass. Department of Revenue)

Allowed Uses of Funds. Upon appropriate vote at Town Meeting, the monies from the Free Cash may be appropriated to finance the following:

1. Emergency, urgent or unforeseen expenses for which there are no immediate feasible or alternative funding sources;
2. To stabilize the municipal budget when variances are due to unexpected adverse economic conditions that is expected to be of short term duration;
3. To enhance fund reserves (such as the Stabilization Fund, Capital Stabilization Fund) in accordance with goals established by the Board of Selectmen;
4. To fund capital projects or other special projects for which there are no other identified funding sources and to reduce the need to borrow.
5. Paying previous year bills.
6. Retire debt that may decrease future burdens.

In all cases, use of free cash should be avoided for routine and recurring operational expenses.

Robert Pontbriand

From: Kevin Johnston <kjohnston@ayer.ma.us>
Sent: Thursday, June 18, 2015 4:22 PM
To: Robert Pontbriand
Cc: Carly Antonellis
Subject: RE: DRAFT PROPOSED Free Cash Policy FW: Free Cash
Attachments: Free Cash Policy Draft.docx.rtf

Good afternoon Robert,

I have attached a draft of a Free Cash Policy for the Town of Ayer for your consideration. Please let me know if you have any questions or would like to discuss this further.

Thank you.

Kevin

Kevin A. Johnston
Benefits and Payroll Manager
Town of Ayer
Office: 978-772-8248
Fax: 978-772-5968
kjohnston@ayer.ma.us

-----Original Message-----

From: Robert Pontbriand [<mailto:ta@ayer.ma.us>]
Sent: Tuesday, June 02, 2015 10:18 PM
To: fincom@ayer.ma.us; acct@ayer.ma.us; AyerBOS; Kevin Johnston; Stephanie Gintner
Subject: DRAFT PROPOSED Free Cash Policy FW: Free Cash

FOR INFORMATIONAL PURPOSES ONLY. NOT FOR DELIBERATION BY THE BOS AND/OR THE FIN COM

Dear All,

On Tuesday, June 2, 2015 the Ayer Board of Selectmen discussed a Free Cash Policy for the Town. This item and discussion was brought forth by Selectman Luca as put on the BOS June 2, 2015 Meeting Agenda.

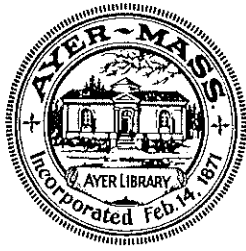
At his request and the BOS on June 2, 2015 I submit the two attached documents. The first document is from the DOR on Free Cash and the second is a DRAFT PROPOSED Policy as presented by Selectman Luca at the June 2, 2015 discussion.

Kindly review the DRAFT PROPOSED Policy and submit any suggestions/revisions/etc. by Friday, June 12, 2015.

The BOS will have a further discussion on this matter at their June 16, 2015 BOS Meeting.

Thank you.

Sincerely,



Town of Ayer Free Cash Policy

A. PURPOSE

This Policy outlines the use of Free Cash by the Town of Ayer after annual certification by the Department of Revenue.

B. POLICY

Free Cash will be allocated annually by majority approval of both the Board of Selectmen and the Finance Committee for following purposes:

1. Stabilization Fund 20%
2. Capital Stabilization Fund 20%
3. Other Post-Employment Benefits (OPEB) 20%
4. One-time Expenditures 20%
5. General Fund Balance 20%

The limit for any one fund may be increased by majority vote of both the Board of Selectmen and Finance Committee as deemed necessary based on the Town's annual financial position.

C. CONCLUSION

Allocation of certified Free Cash as outlined in Section B establishes a sound financial policy for the use of a non-recurring revenue source, provides a defined plan to build reserves and reduce unfunded liabilities, provides a revenue source for one time purchases or expenditures, provides a base to build free cash for subsequent years, helps to maintain the Town's bond rating, and will lead to an improved long-term financial position.

Approved By: _____

Board of Selectmen

Date: _____

Robert Pontbriand

From: Lisa Gabree <lgabree@ayer.ma.us>
Sent: Thursday, August 06, 2015 11:35 AM
To: Robert Pontbriand; Ayer FinCom; 'acct@ayer.ma.us'; AyerBOS; Kevin Johnston; 'Stephanie Gintner'
Subject: RE: REMINDER FW: DRAFT PROPOSED Free Cash Policy FW: Free Cash

Robert,
The only change that I would make is to add OPEB funding.
Lisa

-----Original Message-----

From: Robert Pontbriand [<mailto:ta@ayer.ma.us>]
Sent: Tuesday, August 04, 2015 9:37 AM
To: Ayer FinCom; 'acct@ayer.ma.us'; AyerBOS; Kevin Johnston; 'Stephanie Gintner'
Subject: REMINDER FW: DRAFT PROPOSED Free Cash Policy FW: Free Cash
Importance: High

FOR INFORMATIONAL PURPOSES ONLY. NOT FOR DELIBERTAION BY THE BOS AND/OR THE FIN COM.

Dear All,

FYI below and attached which was originally sent out on June 2, 2015 with a response date of June 12, 2015 per BOS. I have received comments from some of you, others I have not. Kindly send any comments and/or materials regarding the attached to me no later than this Thursday, August 6, 2015 at 12pm noon.

The BOS will be reviewing and discussion this matter at their August 11, 2015 BOS Meeting.

Thank you.

Sincerely,

Robert

Robert A. Pontbriand
Town Administrator

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

-----Original Message-----

From: Robert Pontbriand
Sent: Tuesday, June 02, 2015 10:19 PM
To: fincom@ayer.ma.us; acct@ayer.ma.us; AyerBOS; Kevin Johnston; Stephanie Gintner
Subject: DRAFT PROPOSED Free Cash Policy FW: Free Cash

FOR INFORMATIONAL PURPOSES ONLY. NOT FOR DELIBERATION BY THE BOS AND/OR THE FIN COM

Dear All,

On Tuesday, June 2, 2015 the Ayer Board of Selectmen discussed a Free Cash Policy for the Town. This item and discussion was brought forth by Selectman Luca as put on the BOS June 2, 2015 Meeting Agenda.

At his request and the BOS on June 2, 2015 I submit the two attached documents. The first document is from the DOR on Free Cash and the second is a DRAFT PROPOSED Policy as presented by Selectman Luca at the June 2, 2015 discussion.

Kindly review the DRAFT PROPOSED Policy and submit any suggestions/revisions/etc. by Friday, June 12, 2015.

The BOS will have a further discussion on this matter at their June 16, 2015 BOS Meeting.

Thank you.

Sincerely,

Robert

Robert A. Pontbriand
Town Administrator

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

-----Original Message-----

From: Gary Luca [<mailto:gluca@ayer.ma.us>]
Sent: Monday, June 01, 2015 3:07 PM
To: Robert Pontbriand
Cc: Carly Antonellis
Subject: Free Cash

Robert,

Attached are 2 documents related to our free cash discussion tomorrow night.

Thanks

Gary

Gary Luca
Ayer Board of Selectman
1 Main St
Ayer Ma 01432-1365

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY

AMENDMENT NO. 1 TO AGREEMENT FOR SERVICES

This Amendment to Agreement for Services (the "Amendment") is made and entered into as of ____ day of _____, 2015 by and between the Massachusetts Development Finance Agency ("MassDevelopment" or the "Agency"), a Massachusetts body politic and corporate created and established under Chapter 23G of the Massachusetts General Laws, having its principal place of business at 99 High Street, 11th Floor, Boston, MA 02110, and the Town of Ayer, Massachusetts, having a principal place of business at 1 Main Street, Ayer, MA 01432 (the "Town").

WITNESSETH THAT

WHEREAS, the Agency and the Town entered into an Agreement for Services ("the Agreement") dated as of September 1, 2012, whereby the Town is providing veterans services to eligible veterans residing in the Devens Regional Enterprise Zone (DREZ); and

WHEREAS, the Agency and the Town wish to amend the Agreement pursuant to the terms of the Amendment,

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with the intent of being legally bound, the parties hereby agree as follows:

1. The first sentence of Article 7A of the Agreement is hereby deleted in its entirety and replaced with the following language:

"The Term of this Agreement shall be from the effective date of this Agreement to August 31, 2016."

2. All of the terms of the Agreement, as amended pursuant to the terms hereof, and all representations made by the Town in the Agreement, including, without limitation, representations made regarding the payment of state taxes, are hereby restated, ratified and confirmed in their entirety as of the date hereof.

3. This Amendment may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment has been executed by the Agency and the Town and is effective as of the date first written above.

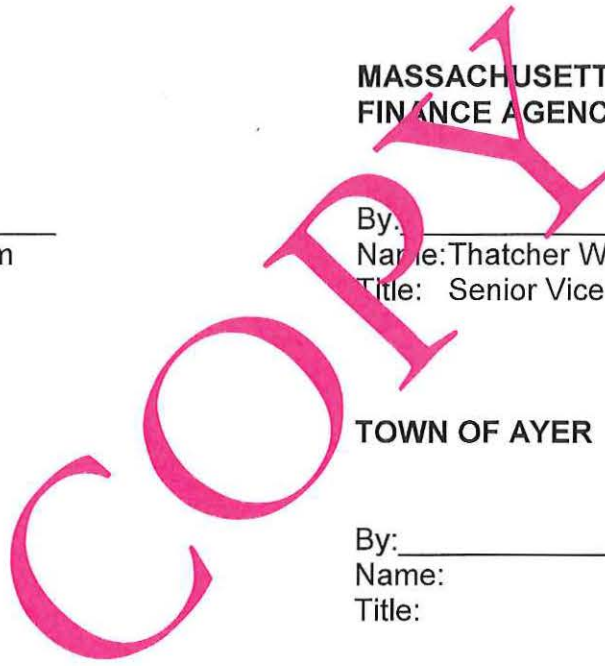
**MASSACHUSETTS DEVELOPMENT
FINANCE AGENCY**

Approved As To Form
Agency Counsel

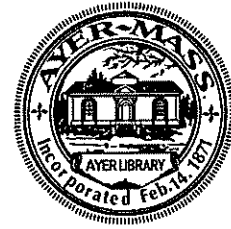
By: _____
Name: Thatcher W. Kezer III
Title: Senior Vice President, Devens

TOWN OF AYER

By: _____
Name:
Title:



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



Tuesday July 14, 2015
Open Session Meeting Minutes

Broadcast and Recorded by APAC

Present: Jannice L. Livingston, Chair; Gary J. Luca, Vice-Chair; Christopher R. Hillman, Clerk
Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator

Call to Order: J. Livingston called the meeting to order in Open Session at 6:05 PM.

Executive Session: A motion was made by J. Livingston and seconded by G. Luca to enter into Executive Session pursuant to Massachusetts General Laws c.30A, sec. 21A Exemption #3 (Collective Bargaining) AFSCME 93 Planning Board Office Manager and Exemption #3 (Litigation Strategy) Officer M. Power 111F. J. Livingston stated that to discuss these matters in Open Session would negatively impact the Town's negotiating strategy. **By Roll Call Vote:** J. Livingston, Aye; G. Luca, Aye. **Motion passes by Roll Call Vote 2-0.**

Reconvene in Open Session: J. Livingston reconvened the meeting in Open Session at 7:00 PM.

Review and Approve Agenda:

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the agenda. **Motion passed 3-0.**

Announcements: J. Livingston thanked all those involved for another successful year of 4th of July festivities.

Public Input: Tim Shaughnessy, 24 Westford Road, stated his concern relative to the odor being produced by VitaSoy, USA located at 1 New England Way. Walter M. Riglian, Chief Executive Officer and Frank Si, Senior Director of Manufacturing and Project Management of Vitasoy International Holdings, Ltd. were both present to discuss the odor problems. VitaSoy, USA was at the Board of Health meeting the previous evening and has a plan to follow-up directly with that Board. Mr. Riglian said that the problem was being taken very seriously by VitaSoy, USA. Mr. Si spoke to the system failures and the company's plans to remedy them. R. Pontbriand said that information sharing would go a long way to help alleviate the resident's concerns.

Appointment of Animal Control Officer: Chief William Murray of the Ayer Police Department introduced Ms. Julie Thomas as the recommended candidate for the Animal Control Officer position.

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint Ms. Julie Thomas to the position of Animal Control Officer, effective immediately with the term to expire June 30, 2016. **Motion passed 3-0.**

Public Hearing – Application for Section 15, Beer and Wine License: C. Hillman read the Public Hearing notice as advertised in the *Ayer Public Spirit*. J. Livingston opened the Public Hearing at 7:32 PM. Mirosław Szelest, owner and manager of the under construction Shop ‘n Save (located at 22 Fitchburg Road) was in attendance. There were no objections from relevant Department Heads and no abutters spoke for or against the proposal.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the application for a Section 15 Beer and Wine License and to forward the application packet to the ABCC for review. **Motion passed 3-0.**

Motion: A motion was made by G. Luca and seconded by C. Hillman at 7:35 PM to close the Public Hearing. **Motion passed 3-0.**

Appointment of Zoning Enforcement Officer: Gabe Vellante, Building Commissioner introduced Mr. Charles Shultz as the recommended candidate for the position of Assistant Zoning Enforcement Officer. This is a non-union, part-time, non-benefitted position.

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint Mr. Charles Shultz as the Assistant Zoning Enforcement Officer effective immediately with the term to end June 30, 2016. **Motion passed 3-0.**

Nuisance Bylaw Discussion – R. Pontbriand presented a draft revision of the Zoning Bylaw, as modeled after the Town of Framingham and recommended an interdepartmental review by relevant Department Heads. R. Pontbriand is planning to bring the draft, with Department Head comments/edits, to the August BOS Meeting.

Mr. David Maher in lieu of Ms. Alicia Hersey, Office of Community Development: D. Maher presented a lien subordination request for 114 West Main Street (Case# 03-238).

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the subordination agreement as presented by D. Maher conditioned upon a new mortgage not to exceed \$90,500 with signature by the Chair. **Motion passed 3-0.**

Mr. David Maher, Director of Economic Development: Mr. David Maher presented the Urban Development Action Grant (UDAG) and Industrial Development Finance Authority (IDFA) budgets. The IDFA approved the amount of \$19,490 for Office of Economic Development at a meeting held on July 14, 2015 in the morning.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve both funding amounts for the Office of Economic and Community Development: \$19,490 from the IDFA account and \$43,196 from the UDAG account. **Motion passed 3-0.**

Petition for Street Acceptance – Crabtree Development, LLC: Mr. Steve Mullaney from S.J. Mullaney Engineering, Inc., on behalf of the Crabtree Development (Pingry Hill Subdivision), asked for consideration of a petition for Street Acceptance for a section of Hickory Way and Hemlock Drive. Mr. Mullaney stated that his client would like a petition for street acceptance to be included in the warrant for the October 2015 fall Special Town Meeting.

Motion: A motion was made by C. Hillman and seconded by G. Luca to approve the proposed acceptance process as outlined by applicant and to defer to Superintendent Wetzel’s discretion at the time of formal acceptance. **Motion passed 3-0.**

Chief Robert J. Pedrazzi, Ayer Fire Department: R. Pedrazzi presented the Purchase Order for the 2016 Ford Ambulance being purchased by the Town.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve Purchase Order 07092015FD in the amount of \$237,855.89 for a 2016 Horton Ford F550 4x4 Model 603 as defined in the July 7th, 2015 proposal submitted by Greenwood Emergency Vehicles, Inc. **Motion passed 3-0.**

Vote on Life of Ambulance – R. Pontbriand explained that per Town Bond Counsel, the BOS is required to take a vote in open session stating the life of the new ambulance in order to validate the borrowing amount.

Motion: A motion was made by C. Hillman and seconded by G. Luca that the maximum useful life of the new ambulance to be financed with the proceeds of the following borrowings authorized by the votes of the Town passed May 11, 2015 is hereby determined pursuant to G.L. c.44- Sec. 7(9):

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Town Meeting Article</u>	<u>Maximum Useful Life</u>
Ambulance	\$250,000	21	10 years

Motion passed 3-0.

Reserve Fund Transfer Request – R. Pedrazzi presented a Reserve Fund Transfer in the amount of \$3,500 for the Call Overtime Account for final FY' 15 encumbrances. The first RFT in the amount of \$3,500 was approved by the Finance Committee. Upon approval, it was then discovered that there was an accounting error and an additional amount of \$3,553 for total of \$7,053 would be needed in order to fund the account for July 1, 2015. The Chief recommended that the BOS approve both RFTs (the one for \$3,500 and the one for \$3,553) just in case to cover the account.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the RFT in the amount of \$3,500 into account 01220-51310 with signature by the Chair. **Motion passed 3-0.**

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the RFT in the amount of \$3,553 into account 01220-51310 with signature by the Chair. **Motion passed 3-0.**

Sandy Pond School Grant Agreement: Pursuant to the passage of Article 26 of the Annual Town Meeting held on May 11, 2015, R. Pontbriand presented the Final Grant Agreement as reviewed by Town Counsel and is asking the BOS for consideration of approval. Mr. Irving Rockwood of the Sandy Pond School Association said that the Association has made progress the process of hiring a consultant. They are hopeful to have the application in for the National Register of Historic Places by the end of the year.

Motion: A motion was made by C. Hillman and seconded by G. Luca to approve the agreement pursuant to Article 26 of the May 11, 2015 Annual Town Meeting. **Motion passed 3-0.**

Superintendent Mark Wetzel, Department of Public Works: M. Wetzel presented the Stony Brook Pumping Station Contract for Execution with Waterline Industries Corp. from Seabrook, NH per the June 16, 2015 Notice of Award by the BOS. M. Wetzel stated that the project construction should start in late September.

Motion: A motion was made by G. Luca and seconded by C. Hillman to execute the contract between the Town of Ayer and Waterline Industries Corp. for the construction of the Stony Brook Pumping Station in the amount of \$616,677 with signature by the Chair. **Motion passed 3-0.**

Out of Town Water and Sewer Interconnection Policy – Per the Board's previous request, M. Wetzel has begun the

process of updating the Water Rules and Regulations and Sewer Use Regulations to address out of town connections. There is currently a bylaw that addresses this issue, specifically Bylaw XVII – Extension of Water and Sewer Lines. He is recommending that the Water Rules and Regulations and Sewer Use Regulations be updated to include the wording from the Bylaw. He will present to the Board at the September 1, 2015 meeting.

West Main Street Stone Culvert Inspection – M. Wetzel made a presentation on the current conditions of the West Main Street Stone Culvert over Nonacoicus Brook. A preliminary inspection was done by M. Wetzel and Town Engineer, Dan Van Schalkwyk. They are estimating that the culvert is at least 100 years old and in poor condition. He is recommending that the Town hire a qualified bridge engineering company to perform additional detailed inspection and analysis and provide the Town with repair options and cost estimates. The DPW Engineering Inspection Revolving fund will be used for the engineering company.

Town Administrator's Report:

Administrative Update – R. Pontbriand thanked Town Accountant Lisa Gabree and Department Assistant Martha Riley for their hard work and diligence while closing out the FY' 15 budget. R. Pontbriand stated that he was working on the street acceptance project with the DPW and Town Counsel as well as pre-planning on the Comprehensive Plan to ensure a smooth rollout. He briefed the Board of the July 8, 2015 meeting with National Grid concerning Park Street. Also he put forth a proposal to the Personnel Board regarding the Non-Union Personnel Study. He is waiting for the Personnel Board to pick a date to convene.

Designation of Special Municipal Employee – Chairman Bill Daniels from the Conservation Commission was in attendance to speak about the Conservation Agent position. After an 8 month search the Conservation Agent, Ms. Michele Grenier appointed at the July meeting worked was offered a fulltime position in another community. As a result the Conservation Agent position is left vacant. Conservation Commission member Ms. Jessica Gugino has been filling in for the past 8 months. The Conservation Commission would like to be able to compensate her for her time. After checking with Town Counsel, there are two options: 1) Authorization of the individual as a Special Municipal Employee by the Annual Town Meeting or 2) the Conservation Member, in this case Ms. Gugino, would have to formally resign her position on the Commission for at least thirty (30) days to be then considered for the position as part of the hiring process. Chairman Daniels stated that it was the will of the Commission to re-advertise the position and stated that it is difficult to attract candidates for a part-time, non-benefitted position. R. Pontbriand stated he will follow-up with Counsel to inquire about compensation for Ms. Gugino.

Updated Policy on Valet Parking – Town Counsel finished the review on the Valet Parking Policy adopted at the April 21, 2015 meeting. They had suggestions on wording, nothing substantive. He is asking for adoption of the revised policy.

Motion: A motion was made by G. Luca and seconded by J. Livingston to approve the revised Valet Parking Policy, originally adopted on April 21, 2015. **Motion passed 3-0.**

BYOB Policy – The Town does not have a BYOB Policy. R. Pontbriand and C. Antonellis formed a working group consisting of the Police Chief, Fire Chief, Building Commissioner and Economic Development Director to draft a policy, as recommended by the Massachusetts ABCC. The draft policy was reviewed by Town Counsel. R. Pontbriand is asking for adoption by the BOS.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the BYOB Policy as presented by R. Pontbriand. **Motion passed 3-0.**

Chapter 61 Policy Discussion – J. Livingston stated that there has been an implication made that the BOS was not following Chapter 61 properly. C. Hillman agreed saying that this issue has come up from time to time. J. Livingston stated that as soon as a notice is received by the Town it is sent to Town Counsel for review. R.

Pontbriand added that Town Counsel is reliable in all land use matters, particularly Ch. 61. J. Livingston then stated that when, and if, the Town receives a viable intent letter then the Town will move forward in the processes pursuant to G.L. c. 61 Right of First Refusal. R. Pontbriand presented a draft response letter to the correspondence previously received by the Community Preservation Committee, Ayer Conservation Committee, Ayer Open Space and Recreation Committee and the Ayer Parks Commission. He also presented a Draft Policy on Chapter 61 for the Board's consideration.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve both the response letter to the above mentioned committees/commissions and to approve the Ch. 61 Policy, as presented by R. Pontbriand. **Motion passed 3-0.**

Planning Board Consultant Bylaw Discussion - R. Pontbriand advised the BOS that the Planning Board voted 3-1 on July 2, 2015 to invoke the Town's Consultant Bylaw for the Global Gas Station Project. R. Pontbriand advised that the Planning Board vote should contain which of five criteria in the bylaw the project meets; the name of the consultant to be used; and the dollar amount so that the BOS can then vote either to authorize or not. R. Pontbriand recommended that the BOS vote to refer the matter back to the Planning Board who will meet on August 6th and can take the appropriate actions and then return to the BOS on August 11th for consideration.

Matt King, an Ayer resident from Devenscrest stated that this project is forcing people out of the neighborhood and adversely impacting the quality of life and the neighborhood. The impacts are negative for this neighborhood.

Motion: A motion was made by G. Luca and seconded by C. Hillman to refer the Consultant Bylaw back to the Planning Board requesting that they advise on the exact criteria the Global Project meets; the name of a consultant; and the dollar amount and to provide this recommendation for the August 11th BOS Meeting. **Motion passed 3-0.**

Appointments – Pursuant to a memo from C. Antonellis, the Board made the following Committee Appointments:

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint the following individuals to the following committees:

Rich Guerriero	Water and Sewer Rate Review Committee	1 Year Term	Expires 6/30/2016
Robert Coleman	Cable TV Advisory Committee	3 Year Term	Expires 6/30/2018
Beth Sudemyer	Ayer Representative to the Nashua, Nissitissit & Squannacook Rivers NPS Wild & Scenic River Study Committee	Until Completion of Study	
Robert A. Pontbriand	Alternate Representative to the Nashua, Nissitissit & Squannacook Rivers NPS Wild & Scenic River Study Committee	Until Completion of Study	

Motion passed 3-0.

New Business/Selectmen's Questions: G.Luca again stated his frustration over the Town Treasurer not following state law, specifically MGL c.32B, sec. 9 1/2A relative to retiree health insurance billing and receiving. J. Livingston and C. Hillman agreed. G. Luca said it was fiscally irresponsible and leaves the Town

exposed to legal action. G. Luca also asked if R. Pontbriand had received additional information from the Treasurer's office. R. Pontbriand stated that he has received bits and pieces. R. Pontbriand also stated that he followed up with Town Counsel about how the Town should proceed to compel its elected Treasurer to follow the State Law. Counsel advised the Town would have to take the Treasurer to court.

C. Hillman said that the issue was an embarrassment for the Town. J. Livingston said we have now started talking about a summons to take the Treasurer to court, we will be making that formal decision at the August 11, 2015 BOS meeting.

Approval of the Minutes:

Motion: A motion was made by G. Luca and seconded by J. Livingston to approve the meeting minutes of June 16, 2015. **Motion passed 3-0.**

Adjournment:

Motion: A motion was made by G. Luca and seconded by C. Hillman to adjourn at 9:42 PM. **Motion passed 3-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Minutes Approved by BOS: _____

Christopher R. Hillman, Clerk: _____