

TOWN OF AYER SELECTMEN MEETING MINUTES
Tuesday, October 15, 2013
1st Floor Meeting Room, Town Hall, Main Street, Ayer, MA

The Board of Selectmen's Open Session Meeting is video recorded by APAC.

The Selectmen's Meeting can be viewed in its entirety on the Town's Website at: www.ayer.ma.us

Chairman Conley called the meeting to order at 7:06p.m. Present: Chairman-Pauline Conley, Gary J. Luca-Vice Chairman, James Fay- Jannice Livingston Members, Town Administrator Robert A. Pontbriand and Janet Lewis Secretary. Selectman Hillman running late.

Ms. Conley requesting if there were any amendments to the Agenda.

Mr. Pontbriand requested to make brief announcement, Mr. Pontbriand announced per the Secretary of State's Office no meetings can be held at Town Hall on 11-5-13 the Town Election (Home Rule Election-reducing the number of Selectmen to three (3) and announced the Selectmen's Meeting dates in November 2013 as follows: 11-12-13 and 11-26-13. The Selectmen's Nov. 5, 2013 Meeting to be held on the 12th. Mr. Pontbriand also called the Board's attention to the new Town Hall Granite sign installed earlier and thanking Dan Sherman, Facilities Director for all his work with design/purchase and installation.

Ms. Conley took this opportunity to remind residents to the Special Fall Town Meeting on Monday, October 28, 2013 at the Ayer Town Hall, 2nd Floor Great Hall.

Ms. Conley called for a motion to accept the Agenda. Mr. Luca moved the Board vote to approve the Agenda as presented, 2nd by Ms. Livingston, VOTE: so moved.

EAGLE Scout-Joshua Richard-Ms. Conley welcomed Eagle Scout Joshua Richard to the meeting and requested he step forward along with family members in attendance. Ms. Conley read in to the record a Certificate of Recognition presented to Joshua for performing his Eagle Project for the betterment of his community; marking & re-stripping parking lot spaces at the Ayer Sportsmen's Club. The Board congratulated Joshua and paused for a picture.

Minutes-deferred to 11-12-13 Selectmen's Meeting. Motion made by Selectman Luca 2nd by Selectman Fay VOTE: unanimous, so moved.

Public Input-no one

Department of Planning & Economic Development-The Board met with Alicia Hersey, Financial Manager-re Lien subordination Case # 09-328-14 Grove Street, Ayer, MA Ms. Hersey recommended the Board approve Home Owner's lien request to consolidate loans to seek new mortgage interest rate not to exceed \$132K. Mr. Fay moved to approve the lien subordination conditioned upon new mortgage not to exceed \$132K, 2nd by Mr. Luca, VOTE: unanimous, so moved.

Fy-11 CDBG -Housing Rehabilitation Program Final Report- The Board approved the Fy-11 CDBG Final Report as submitted. Motion to approve made by Mr. Luca, and authorize the Chairman's signature, 2nd by Mr. Fay, VOTE: unanimous, so moved.

I.T. Systems Administrator-The Board met with Cindy Knox- Information Technology Acquisition Policy. Ms. Knox advised to policy updated from 10-1-13 incorporating the Board's recommendations into Policy. Mr. Fay stating inventory tags for all Town equipment not included in policy and Ms. Conley requesting I-Phones also are included in inventory. Mr. Luca moved to approve the IT Hardware/Software Acquisition Policy with amendments above, 2nd by Mr. Fay, VOTE: unanimous, so moved. Ms. Spinner questioned why allowing/approving I-Phones for employees/how authorized. Mr. Luca stating that is why he brought up who has and why. Ms. Knox advising to phones charged flat rate re voice/data. Matrix to be submitted to Mr. Luca listing employees, bills, etc.

Gabe Vellante-Building Commissioner--present for the discussion Alan Parker, Alternate Wiring Insp.

Resignation of Wiring Inspector-Mr. Vellante updated the Board to receiving Philip Horgan's resignation on 9-19-13 and his willingness to stay on until a new inspector is appointed and advising to the Alternate Wiring Inspector-Alan Parker requesting the Board's consideration of him for the Wiring Inspector's

position. Ms. Conley disclosing that Mr. Parker has/does work for her at her home. Mr. Luca moved the Board accept the resignation of Philip Horgan with regrets, 2nd by Mr. Fay, VOTE: unanimous, so moved. Mr. Luca moved to appoint Alan Parker as Wiring Inspector effective immediately, 2nd by Mr. Fay, VOTE: unanimous, so moved. The Board requested a letter of appreciation be sent to Mr. Horgan for his longtime service and welcomed Alan Parker to the position and looked forward to working with him. Ms. Conley requesting Mr. Horgan give notice to the Town Clerk of his resignation.

Supt. Wetzel's Report- The Board met with Mark Wetzel

1. Main Street Light Improvements Contract-Blais Electric- Mr. Wetzel updated the Board to Bond/Insurance Certificates complete and in place. Mr. Fay moved the Board approve the Contract with Blais Electric for the Main Street Light Improvements in the amount not to exceed \$44,440.00 as stated in contract and authorize the Chairman's signature, 2nd by Mr. Luca, VOTE: unanimous, so moved. Mr. Wetzel to fill in contract date.

2. Epic Enterprises-Sewer Abatement-The Board approved a Sewer Abatement for Epic Enterprises Account #02338 for the bill period 3-1 to 6-12-13 in the amount of \$16,451.86 (July bill-2nd Quarter) false high reading per Supt. Wetzel, meter was malfunctioning-serviced and is now operating to their normal levels. Motion to approve Supt. Wetzel's recommendation made by Mr. Fay, 2nd by Mr. Luca, VOTE: unanimous, so moved.

3. Upper Blackstone Valley Wastewater Bio-solids Disposal Agreement-Mr. Wetzel advising to Town having Agreement presently for one year with Upper Blackstone as primary disposal site for Ayer's WWTP sludge with one year extension. Rate \$319.00 per dry ton mixed primary & secondary greater than 4.2 \$70.00 per thousand gallons. The Board held off on the award pending clarification re rate comparison. Mr. Fay stating he is not comfortable approving rate without seeing comparison from last year. Mr. Wetzel having data at DPW and to return to meeting later with rate comparison.

4. Willows Order of Conditions-Supt Wetzel gave the Board a brief update re looking into payment of g (\$250K) by "Willows Road Development" and advised to speaking with Planning Board and their having no knowledge re on-site improvement to provide the construction of a one and a half million gallon capacity water tower. Supt. Wetzel also sent off email to Mark O'Hagan (developer) to which he has no heard back from. Supt. Wetzel stating it is not his job to track money.

7:45p.m. Selectman Hillman entered meeting

The Board went off the posted Agenda due to not all of Planning Board Members and Mr. Canney being present.

The Board took up the Town Administrator's Report-

1. Proposed Policy for the Acquisition of Furniture, Equipment and Alternations for the Town Hall

Mr. Pontbriand reviewed his draft policy with the Board to ensure acquisitions to the Town Hall are done professionally, cost effective, efficient and in compliance with ADA, Building Codes, Public Health, and safety to ensure a pleasant environment for Town Hall employees and the public. Mr. Pontbriand reviewed items with the Board that were removed i.e. floor heaters, refrigerators etc. that were considered posing a threat to safety or unnecessary from the Building. Mr. Fay moved to approved the policy as presented requesting Department Head are copied and sign off, 2nd by Mr. Luca, VOTE: unanimous, so moved.

2. Draft Cell Phone Use Policy -Mr. Pontbriand reviewed his draft policy with the Board re employees who have Town-owned cell phones, I-Phones, Tablets, etc. being responsible for the proper care of their equipment and held responsible for the loss, damage, failure to return such equipment. Use re transmittal of inappropriate communication strictly prohibited and may be withdrawn for violation of policy and/or discretion of Department Head. The Board having the right to amend, suspend or revoke this policy. The Board continued this discussion to their 11-12-13 meeting re sign off/hand receipts to be incorporated, requesting inventory of employees who have cell phones, equipment, etc. Use of cell phones i.e. internet, social media, where phones have visited, bills, etc. to be compiled and transmitted to Board for their review.

Mr. Wetzel returned to meeting with WW Bio-Solids Disposal Agreement Rates-Supt. Wetzel advising to the rates being the same as last year no increase and under 4.2%. Mr. Luca moved the Board approve one (1) year extension Agreement with Upper Blackstone Valley for the disposal of bio-solids/sludge, 2nd by Mr. Fay, VOTE: unanimous, so moved.

Town Administrator's Report (Cont.) -Electronic Posting of Town Meeting Minutes-

Mr. Pontbriand reviewed M.G.L. c.4, S7 (26) (Public Records Law) with the Board advising to all Town of Ayer Public bodies i.e. Boards, Committees Commissions etc. must keep official meeting minutes both in draft form and final form with exception of exemptions from Open Meeting Law (OML) and must comply with Public Records Requests. Mr. Pontbriand advising to the Town Clerk being the official repository and custodian of meeting minutes (Keeper of Records) Mr. Pontbriand advising to the legal responsibility of each public body to ensure their meeting minutes are filed with the Town Clerk with the exception of the Board of Selectmen's minutes to which the Town Administrator is charged as the official keeper of Selectmen's records. Official notices of meetings must be posted in accordance with the OML at least 48 hours in advance of meeting, stamped by the Town Clerk and placed on Town's Official Posting Board. Mr. Pontbriand advising to the posting of minutes, agendas & public documents on the Town's Web-site and/or Facebook Page **is not** a legal requirement or responsibility in terms of the Public records Law and OML it is a local service and a courtesy in the interests of transparency and open government. The Town Administrator is responsible for all official postings to the Town's Web-site/Facebook. The I.T. Director does the official scanning and posting of approved materials. Mr. Hillman stating the Web-site saves people from needless trips to Town Hall. Ms. Livingston stating technology is ahead laws. Ms. Conley stating Town Clerk is official repository, Keeper of Records has shifted to Chairman to ensure recording of minutes. Mr. Luca stating elected officials do not have to comply. Ms. Conley stating Town Administrator has created policy and Board may consider issuing policy to all public bodies to comply with the posting of minutes by a certain time frame before the minutes are officially finalized and accepted. the Board requested this policy be placed on Town Website and made available.

John Canney, II Town Clerk & Town Collector re Business Certificates-Mr. Pontbriand updated the Board to carrying over discussion from 10-1-13 meeting with Director of Community & Economic Development-Mr. Maher re responsibility of Business Certificates being maintained/updated. The Board agreed that Mr. Maher is to keep and update list of businesses in town, letters to be sent out by Mr. Maher re renewal/s and to be shared with Town Clerk. Mr. Luca expressed concern if businesses are complying with Liability/Enforcement -complying with law/s as well as safety/zoning; no requirements that business is compliant and Town Clerk has no authority re enforcement. Ms Conley read statute Title XV Chapter 110 Section 5 into the record prepared by the Town Administrator advising to the Town Clerk issues Business Certificate naming owner, address & tel. #, pays fee (\$25.00), violations up to \$300.00 fine. Town Clerk issues Business Certificates under oath does not expose Town to liability, if violations Town collects \$300.00 fine. Ms Livingston questioned why there is no packet of information prepared for new businesses coming into Town explaining how & what to do, no one wants to do. Mr. Canney stating there is no central office assistant. Mr. Canney to prepare draft procedures for Board's review. Mr. Fay stating this is revenue source Town has avenue for fines collection by Town Clerk per oath. Ms. Conley advising to system should be shared every month re business certificates about to expire. Ms. Livingston advising to data base should be developed and maintained on a weekly/monthly basis. Ms Knox suggesting to put into electronic format to turn over to Town Clerk to maintain and enforce responsibility is Town's Clerk per oath. Mr. Maher to send out documents with understanding that it is a joint endeavor with Town Clerk collecting documents and fees. This matter to be continued.

Ms. Conley on another matter requested if Mr. Canney received correspondence from AG Office re By-laws approved at the May 2013 Town Meeting. Mr. Hillman questioned and if they were posted Mr. Canney advised he had received and posted copies as required.

Planning Board/Board of Selectmen Joint Appointment-Planning Board Member-The Board met with Mark Fermanian-Chairman, James Luchessi and Rick Roper, of the Planning Board. Mr. Fermanian advised the Board to Planning Board meeting with Mr. Kyle Gordon and recommending Mr. Gordon a twelve year resident of Ayer, MA to the vacant Planning Board position. The Board interviewed Mr. Gordon and requested he give the Board a brief personal back-ground why he would like to serve on the Planning Board, acknowledging having received a letter of recommendation from Atty. Tom Gibbons in support of Mr. Gordon's appointment. Following a brief discussion Mr. Luca moved to appoint Mr. Kyle Gordon to the vacant Planning Board position, 2nd by Ms. Livingston, VOTE: Unanimous, so moved. Mr. Fermanian moved the Planning Board vote to appoint Mr. Gordon to the vacant Planning Board position until the next Town Election in April 2014, 2nd by Mr. Roper, VOTE: unanimous, so moved. The Board welcomed and thanked Mr. Gordon for volunteering his services.

Crabtree/Willows Development-The Board questioned the Planning Board re Willows Road Development and advised to this being a Zoning Board of Appeals Decision (Order of Conditions) not Planning Board matter. Mr. Roper feeling \$250K release expired two (2) years ago and to check bond release, the Board to look at agreement. Mr. Hillman suggesting Town hold up sewer permits & water/Sewer releases until matter is investigated.

Town Clerk/Tax Collector -John Canney returned to the meeting to present and advise to letter received on 9-18-13 from Atty. General Coakley re May 2013 Warrant Articles 36, 37 & 38 posted in five places on the 18th of September, 2013, and in effect on 9-18-13 re Anti-Littering, Unregistered Vehicles, & Enforcement Bylaws.

Town Administrator's Report (Cont)

Remote Participation-Mr. Pontbriand reviewed his proposed policy for the Board's consideration advising to an adopting authority such as the Board of Selectmen may establish restrictions on the use of remote participation i.e. how many times a public body can use a year, cannot violate State or Federal Law, stating there are ten (10) general points for consideration i.e. the adopting authority may adopt a policy due to geographic distance must be a certain distance. The Board questioned how to enforce, potential for more litigation, Mr. Fay feeling he doesn't see need. Mr. Luca stating remote participation is vetted by A.G. Office- another tool. Committee, Commission, Dept. should have ability to communicate how member of Board, committee etc. feels. Ms. Livingston advising to participant must be alone i.e. if in Executive Session how do you police. Mr. Hillman agreeing valid point being alone. Ms. Livingston suggesting each member list their pros and cons and Board go through each and establish policy going forward. Ms. Conley expressing her concern re electronic equipment used during public meeting questioning ability to communicate. The Board set this matter back for another meeting.

BOS Policies & Procedures Review

The Board decided to Keep Selectmen's Policy 99-27 as is.

The Board reviewed and agreed Policy 01-01 Department Head Reports are important/informative and to be enforced on Monthly basis. Mr. Pontbriand to bring forward at next Department Head meeting. On another matter Mr. Pontbriand reminded all to Annual 2013 Town Reports due on 2-1-14.

BOS Open Discussion-

Electronic Devices-Mr. Luca requesting Board look at IT Budget for ATM Meeting to purchase either, tablet, Nook, Lap Top for Selectmen and speak with Ms. Knox re same. Ms. Conley reminding Mr. Luca to write on pad being considered Public Record. Ms. Livingston suggesting Kindle to down-load packet gets rid of paper. Ms. Conley stating cost vs. need discussion needs to be held stating Mondopad should eliminate Board needing electronic devices.

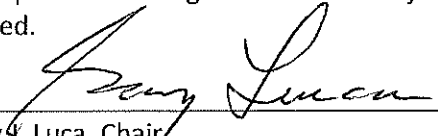
Street Lights -Mr. Luca urged the Board consider contacting MRCP re the Town's plan to purchase their own street lights and reminded Board to discussion held back in June and DPW going to look into possibly doing something regionally along with curbside. Mr. Luca requesting to get all the information see if it works.

HRA/FSA-Mr. Luca questioning remaining funds disbursement to employees/retirees. Town Counsel to look into, remaining balance has not been disbursed Board needs to make decision. Mr. Pontbriand advising to Town Counsel here on 22nd will request financial update re IRS ruling status.

Ms. Conley reminding all to Joint Bos & BOH Meeting on November 18, 2013 @ 7p.m.

Ms. Livingston took this opportunity to advise all to this being Selectman Luca's Birthday and sang a moving rendition of 'Happy Birthday' to him, much to his delight.

10:10p.m. Ms. Livingston moved to adjourn the meeting, 2nd by Mr. Luca, VOTE: Unanimous, so moved.

 Date: January 7, 2014

Gary S. Luca, Chair

AYER BOARD OF SELECTMEN

