

- Town of Ayer
- Board of Selectmen
- Town Hall, First Floor Meeting Room
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Tuesday, June 19, 2012
Selectmen's Meeting on Town of Ayer Website www.ayer.ma.us
 7:00p.m . Chairman Fay called the meeting to order.

James M. Fay, Chairman	X	Christopher R. Hillman, Member	X
Frank F. Maxant, Vice-Chair	X	Gary J. Luca, Member	X
Pauline Conley, Clerk	X	Robert Pontbriand, Town Administrator	X
Janet S. Lewis, Secretary	X		

7:00p.m. Open Session

Amendments to 6-19-12 Agenda: Mr. Pontbriand requested to add one item under his report-a request received earlier today for a One Day Beer & Wine License for the Billiards Cafe for 6-30-12. Mr. Pontbriand announced the Fire Chief's finalized Employment Contract requesting the Board take up this up under Agenda Item #6 as item #2. Mr. Pontbriand advising the Board to it being imperative for the Board to take up the Treasurer's Sale of Bonds this evening. Selectman Conley suggesting the Board move Agenda 11 Sale of Bonds up before the Town Administrator's Report, 2nd by Selectman Maxant, VOTE: unanimous, so moved. Mr. Pontbriand also advising to the Fin-Com present this evening relative to discussion under Agenda #9 Fy-13 Compensation, Fin-Com meeting posted in accordance with the Open Meeting Law.

Announcements: Chairman Fay made the following public announcements:

1. Chairman Fay updated the Board to thank you letters going out from the Board & Memorial Garden Committee to Frank & Joyce Finney, David McPartlan, and Phil Berry for all their assistance with the repair to the Memorial Garden Plaque.
2. MIIA Reimbursement-Mr. Pontbriand announced the Town's receipt of \$25,504.00 in reimbursements as a result of the Town's excellent performance rate re Workman's Comp., Property claims, and employee participation in various MIIA seminars, workshops, and training which enhanced the Town's credit rating.
3. 4th of July Grand Marshall-Chairman Fay announced the Committee's selection of this year's Grand Marshall given to Peter Johnston. Chairman Fay stating Mr. Johnston is a man of many hats i.e. father, grandfather, scout-leader, firefighter, postman, Planning Board Chairman and presented him with an oversized "Uncle Sam" hat to add to his many hats. Mr. Johnston thanked the Board and Committee and stated he was honored to be chosen and paused for a quick photo.
4. 4th of July Update- Chairman Fay welcomed David Maher this year's Chairman of the 4th of July Committee who gave the Board a brief update of events: Date of Town's celebration, Saturday, July 7, 2012-rain date Sunday, July 8th, 2012 with parade starting at 2:00p.m. stepping off from St. Mary's parking lot on Shirley Street onto West Main, to Main St., and ending at Pirone Park. Park activities include: DJ Music, four large inflatable's for kids of all ages, petting zoo, food and craft vendors, Nashoba Valley Orchestra and Fireworks at dusk. Funding as of 6-5-12 Sponsorships-\$4,500.00 Vendor Fees: \$1015.00 total revenues \$16,392.73.
5. June 18, 2012-63Main Street Fire-Chairman Fay welcomed to the table Chuck King, President of the Town's Downtown Business Alliance and Mathew Field, owner of 63 Main Street, Fire Chief Robert

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Pedrazzi and Police Chief William Murray. Chairman Fay relayed the Board's regret on the loss of the Building to Mr. Field and thanked and applauded the Town's Fire Department with containing the Fire and preventing the loss of lives. Fire Chief Pedrazzi advising to fire being a five alarm which broke out around midnight into the early hours on Tuesday. Seven adults and two children, tenants of the two story building, escaped unharmed and have been left homeless. Chairman Fay stated we have one of the best Fire Departments in the area if not the best. Police Chief advised to his department securing fire area and assisting with traffic control during fire and with DPW water control, acknowledging work of DPW maintaining water capacity during fire, which lead to a round of applause from the room. Mr. King spoke to the Business Alliance sponsoring collection drive at the Classic Car Night on Wednesday, June 20, 2012 for the fire residents from 5:30p.m. to 8:30p.m. Bins for the collection of clothes,(multi-sizes) small furniture/appliances, etc. for the displaced residents will be placed there. Mr. King requested financial contributions be made out to the Downtown Business Alliance-Fire residents-63 Main St. After the Car Show clothing & other items to be dropped off at the Bicycle Shop (Fresh Ayer Sports) on Park St., Moore's & Hallmark Store. The Board all expressed their thanks to the Ayer Fire Dept., Police Dept., and DPW for their public safety/service and as well to the DBA for stepping up to assist the residents displaced by fire. Testament to Community service and public safety. Mr. Pontbriand pledged the Board's support to all Departments involved and requested continued updates.

Public Input-

1. Town Treasurer's Letter -Chairman Fay read into the record the Chairs response to letter of June 4, 2012 re demand to comply with the fiscal warrant from the Town Treasurer. Chairman Fay opened by advising to the primary responsibilities of the Board of Selectmen is to provide financial oversight and in essence the letter implies that the Board intends to take action not in compliance with or in contravention to State and/or Town policy/laws and procedure. The letter goes on to state the actions the Treasurer may take as a result if such action is pursued by the Board. Chairman Fay advising to the Board under his Chairmanship has no intention of acting in contravention to established laws, policies and procedures. Chairman Fay advising to the assumptions made by the Treasurer under guidance of counsel are false assumptions in his opinion. Chairman Fay stating he reasoned the letter from the Treasurer to be privileged communication between Counsel for the Treasurer and Counsel for the Board. The decision by the Treasurer to announce the contents under Public Input was her decision and the Board permitted her to do so. Implied actions by the Treasurer in the letter are unwarranted and without merit.

2. Selectman Maxant-Complaint filed. Chairman Fay read into the record his response to strategy session held in Executive Session re property enforcements -actions to be taken per Town Counsel. Chairman Fay advised Selectman Maxant on appearance of Conflict of Interest on his part because he lives at one of the properties in question. As Chairman he felt it was his responsibility to advise him to this potential conflict. Chairman Fay stated he felt Selectman Maxant's fails in his responsibility in this complaint of Open Meeting Law and is in violation of same by releasing Executive cover material to the press and by his actions he pareses the communication and misrepresents the reason & rational of Executive Session. Selectman Maxants false accusations of senior abuse are on their face ludicrous and without merit implying the Board of Selectmen are in league with the Ayer Board of Health and Town Counsel are pure fictional if not criminal in their nature. Selectman asks for apologies where none are warranted a Selectman should never apologize for enforcing the laws of the Town of Ayer. Selectman Maxant's action in this matter prove beyond doubt that his goal is to further his personal philosophy on privacy, personal freedoms as he interprets them and should be working to enforce the laws, policies and procedures of Ayer and by

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- his actions fails again stating the people of Ayer are not well served in this matter and require Selectman Maxant to meet his responsibilities and stop pursuing his personal philosophy. Selectman Maxant stated he rejects everything said stating it was very clearly a violation of the Open Meeting Law, meeting being held in Executive Session violated the rights of the public. Selectman Conley stated she was in agreement with Selectman Maxant and requested Chairman Fay not speak for her.

Agenda Item #3 Old Business-

1. Asst. Treasurer-Administrative Supervision-Present for the discussion Treasurer Stephanie Gintner, her Counsel Daniel Gelb, Melisa Doig-Asst.Treasurer and her Counsel Peter Nicosia. Chairman Fay opened the discussion by stating Town Counsel was not present this evening due to his speaking earlier with Town Counsel who advised the Board they have the legal grounds to maintain the oversight of Ms. Doig and further stating the Board is not going to pay legal fees where we don't have to. Chairman Fay stated discussion would be limited to 5-10 minutes. Selectman Conley objecting stating this item was tabled from 6-5-12 to this evening and believed the Board should not go forward without Town Counsel present. Selectman Conley questioned private conversation(what was discussed) between the Chairman and Atty. Nicosia at a prior meeting. Chairman Fay advising being a private discussion and Atty. Nicosia stating nothing to do with subject matter. Selectman Conley questioned Atty. Nicosia how taxpayer needs have been served by the shifted supervision. Atty. Nicosia advising to substantive complaints against Ms. Gintner revealing Ms. Doig has been subject to a hostile work environment. Atty.Nicosia advised to the Town Administrator agreeing that taxpayers were better served with shifted responsibility. Atty Nicosia stated the town has a statutory duty to address Ms. Doig's complaints and to perpetuate that remedy and the Town's Counsel agrees with this analysis. Selectman Conley stated she did not agree with Atty. Nicosia's interpretation and requested Town Counsel's written opinion re Nicosia's claim. Selectman Conley stating Mr. Pontbriand's sole responsibility has only been to sign off Ms. Doig's time sheets stating Ms. Doig and Ms. Gintner work together on all other Treasurer's department functions questioning how that creates a hostile work environment. Atty. Nicosia presented a email from Selectman Conley to Melisa Doig suggesting Ms. Doig request all communication from Ms. Gintner be in writing or if oral be in the party of a 3rd person. Atty. Nicosia stating this email represents she was aware of discord. Selectman Conley stating this was effort only to help situation. Atty. Nicosia requesting the Board of Selectman keep Ms. Doig under the Town Administrator until the next election in April 2013. Selectman Maxant agreeing with Selectman Conley, stating he thought having Ms. Doig under the Town Administrator would serve as a cooling off period, now thinking that this may be a way of the Board grabbing more power. Chairman Fay stating the relationship between Ms. Doig and Ms. Gintner is irretrievably broken and repaired under the Town Administrator's oversight. Chairman Fay called for a vote. Selectman Luca moved the Board vote to keep Ms. Doig under the Town Administrator's supervision until June 30, 2013, 2nd by Selectman Hillman, Selectman Conley requesting to hear from Atty. Gelb, Chairman Fay stated discussion has ended and the Board was prepared to vote. VOTE: Selectman Luca aye, Selectman Hillman aye, Selectman Maxant aye, Selectman Conley no, Chairman Fay aye: VOTE: 4-1, motion passes. Atty. Gelb stated for the record that his client (Ms. Gintner) objects vehemently to how the matter was handled.

Calvin Moore requested the Board take up his One Day Beer & Wine License. Selectman Luca moved the Board take up Mr. Moore's request for a One Day Beer & Wine License, 2nd by Selectman Hillman, VOTE: unanimous, so moved. Selectman Luca moved the Board vote to approve Billiard's One Day Beer & Wine License for Saturday, June 30, 2012 from 5pm to 1p.m. in

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the rear parking lot of Billiards on Washington St., 2nd by Selectman Hillman VOTE: unanimous, so moved.

2. Properties Enforcement-The Board met with Town Administrator who updated the Board to working with the Board of Health re potential concern re public safety/health and complaints re appearance. No addresses were disclosed Mr. Pontbriand advising to concerns actively being worked on. Mr. Pontbriand advising to this being a priority of the Board. Selectman Conley questioned status of the Board's authorization of \$10K for Town Counsel's assistance.
3. Main Street Speeding Update- present for the discussion Chief Wm. Murray-APD and Mark Wetzel Supt. of Public Works. Mr. Pontbriand updated the Board to status of 6-5-12 meeting re Mr. Berry's & Mr. King's request for assistance re speeding on Main Street. Mr. Pontbriand updated the Board to meeting with Police Chief & DPW Supt. Mark Wetzel. Mr. Wetzel advising to crosswalk painting to commence on 6-19-12 with traction-bead paint and DPW looking into procuring traffic cones to assist with slowing down traffic. Radar to be set up along Main & Park Street by Police Dept. this issue being taken very seriously. Business Alliance to assist financially with traffic signage. The Board suggested and looking into setting up speed bumps at foot of bridge to slow traffic. Mr. Pontbriand again stating this issue taken very seriously by Board.

Agenda Item #4 -Minutes of 5-10-12 and 6-5-12 set back for edits.

Agenda Item #5. Economic Development Report-the Board met with David Maher

1. Fletcher Building Easement- The Board met with Atty. Thomas Gibbons. Atty. Gibbons presented the Subordination Agreement for the underground electrical lines Fletcher Building-Bonnet Realty LLC and RCMS, LLC-(parking lot behind Fletcher Bldg.-retaining walls) which he is representing and mutually beneficial easements to their properties, which requires the Board's approval due to the Town having a mortgage thru the EDF Grant on 49 Main St. Selectman Conley moved the Board vote to approve the Subordination Agreement as presented by Atty. Gibbons, 2nd by Selectman Hillman VOTE: unanimous, so moved.
2. IDFA -Industrial Signage Approval-The Board met with David Maher who presented the Board a graphic design of the proposed sign and location/s for new business directory signs to be located at the beginning of N.E.Way and Nemco Way to give better direction & visibility to the companies located along those streets. The new signs would replace the worn out signs along and at the corner of Willow, Westford and Sandy Pond Rds. Mr. Maher requested the Board approve the request in the amount not to exceed \$4700.00 from the Industrial Development Finance Authority (IDFA) funding for this signage. Motion to approve made by Selectman Maxant, 2nd by Selectman Conley, VOTE: unanimous, so moved. Mr. Maher to work with DPW Supt. re sign placement.

Agenda Item # 6. Fire Chief-Department truck-The Board met with Chief Robert Pedrazzi

1. The Board approved the Fire Chief's request for a 2012 Chevrolet Full Size K2500 4x4 Silverado Pick-up, P.O. #0701125-1 dated 6-14-12 from Liberty Chevrolet in the amount not to exceed \$35,599.00 funding recommended by Capital Planning Com and approved at the 5-14-12 ATM. Motion to approve made by Selectman Luca, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. Fire Chief's Contract-Mr. Pontbriand announced the successful negotiation of the Fire Chief's three (3) year contract effective 7-1-12 to 6-30-15 in the amount of \$85,217.00 to include 2% increase, 5 additional vacation days, clothing allowance, emergency Management Stipend in the amount of \$2,500.00 added to base pay. Mr. Pontbriand advising to Board & Fire Chief endorsing and requesting the Board ratify the contract approval. Motion to approve the Fire Chief's Contract made by Selectman Luca, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Resident Mark Coulter took this opportunity to congratulate Selectmen Luca & Hillman on their

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successful elections (Mr. Coulter ran for Selectmen in April 2012 & hospitalized with heart surgery and recently released from hospital). The Board thanked him & wished him good health.

Agenda Item #7. Supt. Mark Wetzel's Report-The Board met with Mark Wetzel

1. **Hydro Jetter/ Sewer Enterprise Fund-**Selectman Maxant moved the Board vote to approve P.O. #20686 dated 6-13-12 from Taylor & Lloyd (per State procurement contract) in the amount not to exceed \$78,042.00 approved at the May 2012 ATM -Article 19, and authorize the Chairman's signature 2nd by Selectman Luca, VOTE: unanimous, so moved.
2. **Balch Pond Dam Inspection Contract-**Selectman Luca moved the Board vote to approve Weston & Sampson Engineers Contract dated 6-1-12 for Phase 1 required by the MA Dam Safety Regulations. Inspections must be done every five years-last one done in 2006, in the amount of \$3,900.00 and authorize the Chairman's signature, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
3. **VHB Stormwater Utility Phase 1 Services Contract-**Selectman Maxant moved the Board vote to approve the 2012 stormwater services project #83656.11 in the amount of \$24,800.00 dated May 25, 2012 from Vanasse Hangen Brustlin, Inc. of Watertown, MA, 2nd by Selectman Luca, VOTE: unanimous, so moved.
4. **Victor Drive Culvert Replacement Design-**Selectman Luca moved the Board approve the Profession Services Agreement with Goldsmith, Prest & Ringwall, Inc. of Ayer, MA dated 6-13-12 Project #PC3296 in the amount of \$7,500.00, 2nd by Selectman Maxant, VOTE: unanimous, so moved. Selectman Conley requesting insurance documentation and advised to Mr. Wetzel to speak with Town Counsel re implementing into contract.
5. **Vitasoy USA Inc. Administrative Order-No.016-012-02,** dated 6-20-12 issued by Town of Ayer not in compliance with Industrial Discharge Permit #016 for average monthly flow from 6-11-11 to 4-12-12. Selectman Maxant moved to approve the board's endorsement, 2nd by Selectman Conley, VOTE: unanimous, so moved. Chairman Fay stated his concern re history of numerous violations. Supt. Wetzel to review draft agreements and report back.
6. **Reserve Fund Transfer-**Selectman Conley moved the Board to approve the Street Light Account #01424 Reserve Fund Transfer in the amount of \$4K, 2nd by Selectman Luca, VOTE: unanimous, so moved.

The Board reiterated their appreciation to the DPW for their support during the fire at 63 Main St.

Agenda Item #8. 20 Year Net Metering Contract with EPG-The Board met with Carolyn McCreary,

Jeremy Callahan and Michael Borkowski of EPG Solar LLC the Green Communities presented the 20 Year Contract with EPG Solar which they have been working with for over 6 months. Ms McCreary advised to the contract meeting procurement requirements in accordance with MGL re energy contracts and has been reviewed by Town Counsel. Mr. Pontbriand updated the Board to 5-15-12 ATM approving authorization for the Board to negotiate and enter into 20 Year Net Metering Contract. Mr. Borkowski was present to answer questions re long term contract to provide net-metering credits or PPA for the Town to reduce taxpayers expenses for the Town's electricity bills. Which will leverage Federal/State incentives for municipalities to partner with solar energy partners. Ms. McCreary advising to Energy Committee and Finance Committee support the EPG proposal. Selectman Conley requesting to see other proposals presented to Green Committee for Board's review only seeing one proposal, would like opportunity to compare. The Board expressed their concerns re : potential changes & effects, 3rd party owning facility, what if company goes out, would like to hear from Dan Sherman & Mr. Wetzel & Town Counsel no history to make decision on, how many competitors. Ms. McCreary stating net metering contract is 100% guaranteed and explained credit process to the Board. Chairman Fay called for the vote. Selectman Luca moved the Board approve the Contract with EPG Solar, LLC 2nd by Selectman Conley, VOTE: Selectman

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Luca aye, Selectman Hillman aye, Selectman Maxant aye, Selectman Conley no, Chairman Fay aye, 4-1 motion passes.

Agenda Item #9. FY-13 Employee Compensation-Present for the discussion: Fin-Com, Personnel Board members : Lisa White and Kathleen O'Connor, John Kilcommins, Town Accountant Lisa Gabree.. Mr. Pontbriand updated the Board to the Board deferring discussion re Fy-13 Compensation from 6-5-12 Meeting to this evening. Mr. Pontbriand advising to issue before the Board is the ATM did not free up the steps in Article 3 instead approved a 2% increase in employees wages. Mr. Pontbriand reviewed the Fin-Com Memo to the Board dated 6-1-12 and acknowledged their presence this evening. Ms Gabree advising to Arguments heard from others that in addition to granting of the steps from Article 3 that those receiving steps on the Compensation Plan should also receive an additional 2% while others advise if the employees receives a step they should not receive an additional 2%, those employees maxed out on the Compensation Plan would receive 2%, all Union employees will receive 2% as a result of Contract Negotiations. Ms. Gabree stating decision must be made so that payroll can be properly made up and finalized for 7-1-12. Selectman Conley stating the Fin-Com received no guidance. Scott Houde, Chairman for the Fin-Com advised to 5% increase (w/Steps) not in line with town finances. Selectman Luca stating you cannot treat two groups of people differently i.e non-union, union. Scott Houde stating 2% increase is all that has been budgeted for Fy-13. Selectman Luca moved the Board vote to approve all non-union employees receive 2% increase in addition to steps, 2nd by Selectman Hillman, VOTE: Selectman Luca aye, Selectman Hillman aye, Selectman Conley no, Selectman Maxant no, Chairman Fay aye, 3-2 motion passes.

Agenda Item #10. Town Administrator's Report-see Administrative Update 6-6-12 to 6-19-12

1. Fy-2013 Appointments- deferred to 7-17-12 Selectmen's Meeting. All appointees to serve until 7-1-12.
2. Reserve Fund Transfer-Veterans Services-Selectman Luca moved the Board vote to approve the Reserve Fund Transfer in the amount of \$32,262.50 (-deficit caused by Devens residents including June 2012), 2nd by Selectman Maxant, VOTE: unanimous, so moved.
3. Reserve Fund Transfer-IT Dept.-Selectman Luca moved to approve the Reserve Fund Transfer in the amount of \$535.30 to cover 53 week payroll on 2012, 2nd by Selectman Hillman, VOTE: unanimous, so moved.

Agenda Item #11. Town Treasurer-Stephanie Gintner-Sale of Various Bonds Ms. Gintner requested the Clerk of the Board -Selectman Conley, read into the record the certification clause advising to quorum of Board meeting on 6-19-12 and not secret ballot cast notice of meeting was posted with place, time, and agenda of meeting was filed with Town Clerk and visible to public and remained posted at the time of the meeting with no votes in connection with the sale of the bonds in the amount of \$2,501,657.95 dated 6-28-12 to Robert W. Baird & Co., Inc. were taken in Executive Session all in accordance with GL c30A ss 18-25 as amended. (see attached list of sale of bonds). Motion to approve made by Selectman Luca, 2nd by Selectman Conley, VOTE: unanimous, so moved.

10:00p.m. Selectman Luca moved the Board vote to adjourn, 2nd by Selectman Conley VOTE: unanimous, so moved.

10:00P.M Meeting adjourned

Date: _____

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Pauline Conley, Clerk
AYER BOARD OF SELECTMEN

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