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Town of Ayer
 Board of Selectmen
 Town Hall, First Floor Meeting Room



Tuesday, August 2, 2011

Gary J. Luca, Chairman	X	Carolyn McCreary, Member	X
James M. Fay, Vice Chairman	X	Pauline Conley, Member	X
Frank F. Maxant, Clerk	X	Robert Pontbriand, Town Administrator	X
Janet S. Lewis, Secretary	X		

7:15p.m. Open Session

Chairman Luca called the meeting to order- Chairman Luca requested if there was anyone present wishing to meet with the Board under Public Input, no one stepped forward.

Selectman Conley wishing to add under Town Administrator’s Report discussion re:

- APAC Meeting recordings
- Website
- Planning Board-Lap Top

Agenda Item #1. Agenda & Announcements Chairman Luca called for a motion to approve the Agenda.

Selectman Fay moved the Board vote to approve the 8-2-11 Agenda as amended, 2nd by Selectman Maxant.

VOTE: unanimous, so moved.

Chairman Luca requested “A Moment of Silence” for former Selectwoman C. Jane Witherow who passed away on July 28, 2011, at her residence in Homasassa, Florida. Ms. Witherow and her deceased husband (Richard) owned and operated Alpine Furniture Store in the Town of Ayer for many years. Ms. Witherow was employed by the Ayer Chamber of Commerce and Devens Park & Recreation and very active in the Ayer Shirley Lions Club prior to retiring in 2009 to Florida. Ms. Witherow was elected to the Ayer Board of Selectmen from 2000-2003 as well as being elected to the Ayer Board of Health.

7:30p.m. Agenda Item #2. Public Hearing-Earth Removal Permit-Emily’s Way-The Board met with Steve Mullaney representing MEMS Realty Trust of Littleton, MA seeking earth removal of up to 41,100 +/- cubic yards of common borrow, rock, possible topsoil and loam tailings from Emily’s Way Sub-division in Ayer, MA. Chairman Luca opened the Hearing by requesting the Selectmen’s Clerk-Selectman Maxant read the Legal Notice published in the Nashoba Publications the weeks of July 22 & 29, 2011 into the record.

Chairman Luca requested if there were abutters present, no one came forward. Mr. Mullaney conducted an overhead presentation depicting the sub-division’s earth removal operation proposed for 38 Groton Harvard Rd. consisting of 4.2 acres of land. Mr. Mullaney requesting to commence operation from 7:00a.m. to 5:00p.m. Monday through Saturday with start-up planned for late summer. Route of truck traffic to be hauled off site from Groton Harvard Rd to E. Main St. to Route 2 to Littleton with delivery to Acton. Selectman Maxant expressing concern re removal of trees along steep grade disturbs flow of water downgrade creating flooding and Mr. Mullaney advising to stormwater basins included both downstream and upstream due to regulations being much more stringent. Selectman Fay requesting daily monitoring of loam removal re trailing throughout Town. Selectman Conley addressing traffic safety concerns re removal operations i.e. ambulance, Fire and being concerned due to road heavily traveled on weekends by residents using Transfer Station. Resident Lauri Sabol expressed her concern re road south of Nashoba Park and advised to water line going through Groton Harvard Rd. to High Street having DPW access route with gravel surface.

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Chairman Luca called for vote. Selectman Fay moved to approve the Earth Removal Permit for Emily's Way as presented and applied for by Mullaney Engineering Inc. of Leominster, MA, dated 7-11-11, 2nd by Selectman Maxant. VOTE: unanimous, so moved.

7:40p.m. Selectman Fay moved to close the Hearing, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #4. Fire Chief Robert Pedrazzi-FEMA Contract-January 2011 Snowstorm Reimbursement Chief Pedrazzi presented FEMA 1959 DR VC60000191709 –Project Reimbursement Application Grant Report in the amount of \$27,161.07 for the Chairman's signature representing 75% reimbursement of labor, equipment and materials for the January 2011 Snowstorm. Selectman Conley moved the Board vote to approve the FEMA 1959 DR Project Application Grant Report Reimbursement dated 7-10-11 submitted by Chief Pedrazzi, 2nd by Selectman Fay, VOTE: unanimous, so moved. The Board thanked Chief Pedrazzi for all his labor intensive hard work preparing this successful grant application.

Agenda Item #5 Fire Station Re-Use Committee-The Board met with Selectman Fay and David Maher. Mr. Maher introduced Kaffee Kang of Kang Assoc. to the Board. Mr. Maher opened the discussion by updating the Board to nine (9) companies taking out specs for the Re-use Feasibility Study and Committee meeting with five out of ten of them and Kang associates making the best presentation. Selectman Conley questioned where the \$10K would be funded from for this Study and being reluctant to proceed with a contract without confirmation that the funding source may be used for the study. Selectman Fay responding to Town Meeting approving going forward with study back in 2000. Selectman Maxant requesting the public be included re providing input for the reuse. Ms. Kang clarifying that her firm will not be finding a new use for the building but will be proving input re what is needed to save the building. Ms. Kang stating the most critical thing at this point is the exterior envelope i.e. flashing/window and if there is a significant delay the Town may not have a choice because you may not be able to fix it. Again, Selectman Conley reiterated that the funding source identified may not be able to be used for the study; stating the Town has already lost two chances to sell the building. The same Town Counsel is questioning whether we own the building and also advising Selectman Fay to proceed to use the \$10K and not being comfortable with that and wanting it to go to Town Meeting before we enter into a contract. It may be decided to sell it rather than spending more money on it. Selectman McCreary stating the Board has already been down this road and it is dishonest to her and the Committee to now change our minds. Selectman Maxant requesting a two week delay to get more information. Selectman Fay stating his frustration and finding discussion insulting stating he has worked on this a long time... dishonest it's disingenuous at best to this. Chairman Luca stating he had been mislead re a special Board meeting in February he couldn't attend and at that meeting the Board proceeded with the RFP focusing on re-use rather than a study into the stability of the building, arguing he had been told it would not be in the study and its back in there. Selectman McCreary moved the Board enter into the Contract contingent upon Town Counsel that the funds were authorized by the 2000 Town Meeting, Selectman McCreary aye, Selectman Fay aye, Selectman Maxant aye, Selectman Conley no Chairman Luca no 3-2 motion passes.

Agenda Item #6. Economic Development Director-The Board met with David Maher

1. Lien Subordination Request-Case #03-248E; 04-248 re 49E Pearl St., Ayer, MA
Mr. Maher reviewed the subordination request with the Board advising to homeowner seeking to obtain a new mortgage to pay-off her first mortgage to obtain a better interest rate. Mr. Maher advising to the outstanding liens are equal to 79.31% of the appraised value of the property. Mr. Maher recommended the subordination. Selectman Conley moved the Board approve the Subordination of the Town's lien conditioned upon a new mortgage rate not to exceed \$145K and owner receiving no more than \$345.00 cash back and authorize the Chairman's signature, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. Lien Subordination Request-Case #09-331 re 62 Central avenue, Ayer, MA

Mr. Maher reviewed the subordination request with the Board advising to homeowner seeking to obtain a new mortgage to pay off first mortgage to obtain a better interest rate. Mr. Maher advised to this request being over the 80% appraised valuation (107%). The Board reviewed among themselves the applicant's credit history and approve subordination based upon satisfactory history and the only equity being taken out of the home is the closing costs, the Town's position will not be changing. Selectman Maxant moved the Board vote to subordinate the Town's lien for a first mortgage in the amount of \$294,274.84, and authorize the Chairman's signature^{2nd} by Selectman McCreary, VOTE: Selectman Maxant aye, Selectman Fay aye, Selectman Maxant aye, Chairman Luca aye, Selectman Conley no 4-1 motion passes.

3. \$750.00 Recycling Grant-Mr. Maher requested the Board's approval to the Recycling Grant for the purchase of specific recycling bins to be used around Town. Mr. Maher deferred questions re this application to the Town's Recycling Committee Chairman Laurie Sabol. Ms. Sabol advising the Board to the purchase of ten (10) portable metal outdoor temporary container bins to be placed around town i.e. park, school, rail trail etc. which can store a combination of trash, bottles, cans and paper. Selectman Maxant moved the Board authorize the Chairman's signature on the Sustainable Materials Form Application, ^{2nd} by Selectman McCreary, VOTE: Unanimous, so moved.

Mr. Maher took this opportunity to announce the Town's award of \$877,895 FY-10 CDBG Grant for 49 Main St., (Fletcher Building) rehabilitation with residential component consisting of six, one-bedroom affordable rental units the commercial space to be occupied by a bakery and small grocery.

Agenda Item #7. Town Administrator's Report-

1. Mr. Pontbriand announced the CPC Public Hearing on 8-3-11 at 7pm at the Ayer Town Hall where he will be presenting the Town Hall Envelope to the Committee re funding. windows, generator etc.
Appointments: Selectman Conley reviewed with the Board the following updates to Fy12
 Appointments-List to be finalized for 8-16-11 Selectmen's Meeting.
Building Dept. James Bacum-Asst. Plumb/Gas Insp. -Philip Horgan Wiring Insp.
 vacant-Asst. Wiring Insp.- Vacant-Asst. Bldg. Insp. - Roland Bernier-Alt. Bldg. Insp.
Fin-Com-Michael Pattenton -3 year term
Fire Station Reuse Com.-set back – 1` vacancy-need to advertise
Memorial Garden Com- set back
Conservation Com. 2 candidates David Bodurtha & Warren Ball setback for recommendation by Con-Com to next Selectmen's Meeting.
Green Communities: Alan Wilson, Ted Staples, Faith Salter, Jeremy Callahan ex-Official's- Robert Pontbriand, David Maher And Selectman McCreary-(7 member Committee-1 year Appt.
Energy Committee: Permanent Appointments-Robert Pontbriand, Robert Pedrazzi, Lisa Gabree, Carolyn McCreary, Dan Nason, Dan Sherman, David Maher and citizen Alan Wilson (1 yr. appt.)
Dam Mngt. Committee- Patrick Hughes, Dan Rzass Citizens Permanent Appointments-Robert Pontbriand, Dan Nason, Robert Pedrazzi - 2 vacancies to be advertised-David Bodurtha requesting Job Description/Charge be prepared.
2. Weed Control-Ponds
 Chairman Luca advised to CPC meeting on 8-3-11 to take up Weed Control of ponds- being an allowable use- Town should take advantage of. Discussion followed re budget item "weed control" removed due to raise articles cut from budget. Selectman McCreary stating neighbors creating problem i.e. fertilizers, chemicals etc. Elizabeth Burdurtha volunteering to establish list of fertilizers/chemicals not to be used by property owners living on ponds. Selectman Maxant gave brief history of pond being

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- meadow purposely flooded and land beneath pond private property which led to Mr. Jeremy Callahan, present for discussion, addressing his concern for Town money being spent on private property.
- 3. Commuter Rail Surface Parking Lot-Mr. Pontbriand advised Board to attending 7-20-11 MPO Meeting where it was voted unanimously to place the Commuter Rail Parking Facility on the TIP. Mo Khan and George Kahale preparing FDA application and documentation-deadline for application the end of August 2011.
- 4. Fy-12 Town Administrator Goals-Mr. Pontbriand addressed the creation of Town Hall Official Calendar –to be used as planning tool depicting benchmarks i.e. Town Meeting Warrant openings and closings, appointments, etc. Mr. Pontbriand reminded Board to get their individual goals into him for insertion into master document.
- 5. Fy-11 Audit Report and Mngt. Letter-Selectman Maxant suggesting having Fin-Com review and comment back to Board with their recommendation/s. Selectman Conley citing stature re Selectmen’s authority. Selectman Maxant stated Elected Board is requesting another Board to audit report. Selectman Conley citing stature again re obligation of Board to make Department Heads do their jobs. Selectman Fay advising to Selectmen’s handbook agreeing it is the responsibility of the Board of Selectmen. Chairman Luca stating his concern re lack of response by management team.
- 6. Fy-11 budget line item transfers- Mr. Pontbriand advising to meeting with Town Accountant being scheduled for joint meeting with Fin-Com and Selectmen re transfers. Mr. Pontbriand to advise.
- 7. Selectman Conley’.
 1. APAC Recordings of Selectmen’s Meetings-Selectman Conley updated Board to late response from APAC re tape of Selectmen’s Meeting she requested on 7-14-11 and of tape dropped off yesterday. Requesting letter be sent to APAC re tape being delivered no later than one (1) week after meeting.
 2. Website-urging all Boards/Committees/Commissions remit agendas, minutes to Town Clerk and IT Director for inclusion on Website, and have IT look into having packets scanned to website also.
 3. Planning Board-Laptop-Selectman Conley advising it has been brought to her attention to laptop purchased by Planning Board brought home by secretary and not secured with Town serial #'s. Requesting laptop be returned to Town Hall immediately and request copies of minutes approving purchase of laptop and use of lap top at home by secretary. Selectman Conley stating this is Town property and no employee is authorized to work from home. Selectman Conley requesting the Town Administrator send letter to employee and Planning Board 2nd by Selectman McCreary, VOTE: Selectman Fay aye, Selectman McCreary aye, Selectman Conley aye, Chairman Luca aye, Selectman Maxant no 4-1 motion carries.

Agenda Item #8 JBoS-Selectman Fay opened discussion by stating JBoS at crossroads-Selectman Fay stating Town of Harvard is requesting to have Town Administrators of three Towns take over role on JBoS. Harvard taking over meetings and either it’s their way or nothing. Selectman Fay stating that he is not inclined to place Town Administrator on Board feeling the elected officials have more influence. Selectman Maxant feeling JBoS is critical can’t be on last leg-personal mission sharing between Ayer, Shirley & Harvard share strengths together. Chairman Luca stating Harvard talking about sharing services i.e. DPW, Police, Fire and there isn’t even a road from Harvard to Devens. Selectman Maxant stating Vicksburg Square abandoned, Harvard’s plans based upon nostalgia and not in best interest of the Town of Ayer.
9:50p.m. Selectman Fay moved the Board adjourn in five (5) minutes. Selectman McCreary 2nd for discussion and moved to adjourn in ten (10) minutes, Selectman Fay withdrew his motion and 2nd Selectman McCreary’s Motion, VOTE: unanimous, so moved.

Agenda Item #9 New Business/Selectmen’s Questions

• 8-2-11

Selectman Fay-requesting Town's representatives to the Devens Enterprise Commission (DEC) report to the Board each month re what is going on at Devens.

Selectman Conley- Announced the one (1) year anniversary of Town Administrator Robert Pontbriand and asking him if he plans on staying and Mr. Pontbriand starting definitely "the Town of Ayer is a wonderful town".

Chairman Luca-announced the closure of P.O. Box 308 (Town Clerk's box).

Agenda Item #10. Minutes –The Minutes of 6-14-11 and 6-28-11 set back

10:15p.m. Selectman McCreary moved to adjourn the meeting, 2nd by Selectman Fay, VOTE: unanimous, so moved.

_____ Date: _____

Frank F. Maxant, Clerk

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• 8-2-11