

Town of Ayer
 Board of Selectmen
 Town Hall, First Floor Meeting Room
 Ayer Massachusetts, 1432
 Tuesday, October 4, 2011



Meeting televised on Town of Ayer Website see www.ayer.ma.us

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

7:00p.m. Open Session

Agenda Item #1. Announcements-Chairman Luca opened the Meeting and welcomed Representative Sheila Harrington to the meeting, and requested if there was anyone present wishing to meet with the Board under Public Input:

Beverly Schultz-PanAm

Selectman McCreary announced the Green Communities Meeting Thursday, October 6, 2011 at 7pm at the Ayer Town H all

Agenda Item #2. Public Input-

Ms. Schultz spoke on behalf of the Coalition for Aquifer Protection and raised concerns re PanAm’s intermodal facility located over the Town of Ayer’s aquifer and of time being of the essence –to place monitoring wells in before paving begins. Ms Schultz stated this second phase will significantly increase the size of the transporting facility in Zone II of the public water supply in Ayer and Littleton. Ms. Shultz thanked Representative Harrington for coming into the meeting this evening to offer her assistance towards this effort. Ms. Schultz raised four (4) areas the Coalition wished to have the Board of Selectmen support:

1. Provide funds for Supt. Nason for testing Pan Am wells in Phase II-Phase I inadequate. Town of Littleton supports the testing of these wells on Pan Am property.
2. Stormwater mitigation-urging storm water receptors that were installed in Phase I be installed in Phase II. cc DEP/EPA/STB.
3. “What if something happens” –What to do in an emergency/worst case scenario Ms. Schultz read into the record Alex McCurdy’s, Littleton Board of Selectmen, letter suggesting the Town of Ayer and Littleton join forces re restricting Hazardous materials on tracks or on aquifer.
4. Send letters to Senator Kerry, Senator Brown make them aware of Town/s concerns re our aquifer and urge for Federal Legislation to be filed to prevent this from happening again.

Representative Harrington urged the Board ensure PanAm has a maintenance Plan in place re stormwater monitoring system and to make sure they are in place, follow up and be assured. Rep. Harrington advised to Congresswoman Tsongas aware of situation and promised support as represented in her 7-19-11 letter to Cynthia Scarano at PanAm Railways and has designated a staff member to work directly on this issue. Rep. Harrington suggesting to place work stoppage order –conjunctive relief order and ask for forgiveness later, until storm receptors are in place. Selectman Conley suggesting the Town demand PanAm pay for monitoring wells since the level of protection going with lower cost stormwater filtration system in Phase II is a real public safety concern. Selectman Maxant spoke to inviting the Town’s SIU’s to assist monetarily to effort and help pay for monitoring wells this joint effort being a stronger basis for Town of Ayer if companies join effort. Chairman Luca called for a motion. Selectman Conley moved the Board add an

Agenda Item to the Board's 10-11-11 Executive Session inviting Town of Littleton Board of Selectmen and Town's SIU's to meeting re strategizing Conjunctive Order and have all entities sign letter to Federal Representatives, including the four items requested by Ms. Schultz 2nd by Selectman McCreary, Vote: unanimous, so moved. The Board thanked Representative Harrington for coming into the meeting and Bev Schultz on behalf of the Coalition for Aquifer Protection.

Representative Harrington spoke to another issue wishing to clarify situation re confusion re the MWIP grant application –letter of support. Representative Harrington advised to not being privy to request re signing letter submitted by Selectman Maxant to her aid re the MWIP letter of support. Representative Harrington stated her aide signed the letter on her behalf because she was told it was time sensitive and a unanimous vote of the Ayer Board of Selectmen and Rep. Harrington found out later that it was not a unanimous vote of the Board. Representative Harrington requested in the future to please submit requests in writing to her office re endorsements. Selectman Maxant advising to speaking with Neel C. in Senator Eldridge's Office minutes before speaking with Sara (aide to Rep. Harrington) advising him to our Board firmly supports the project and asked if a new letter of support would be timely to Sec. Bialecki he felt it would and to reference MassWorks and Selectman Maxant repeated this message to Sara.

Agenda Item #3. Town Government Study Committee (TGSC) Report-The Board met with Murray Clark, Chairman, and Steve Slarsky, Member of the TGSC. Chairman Luca thanked the Committee for their work over the past 12 months reviewing & recommending how well Town Government is providing services to the citizens of the Town of Ayer. Chairman Luca took this opportunity to publically thank Mr. Clark, Mr. Slarsky, Pauline Hamel, Thomas Horgan, James Pinard, Jr., Lisa White and Selectman Pauline Conley for serving on this committee. Mr. Clark distributed and reviewed The TGSC Report of the Committees recommendations to the Board (see attached). Mr. Clark stated the Committee reviewed the prior 1999 Government Study Committee's reports as well as the 2007 Financial Mngt. Review. Met with Town Officials, Department Heads, Committees, Commissions and Boards re organizational efficiencies to realize cost savings, organization, etc. The Committee met with representatives from DOR, reviewed By-laws, job descriptions, methods of government of surrounding Towns. Mr. Clarks advised to TGSC conducting a Public Hearing on September 28, 2011 and reviewed with the Board the Committees recommendations: 1. Town of Ayer Maintain an Open Town Meeting, 2. Town of Ayer adopt a Charter, 3. Town of Ayer amend bylaw and make Fin-Com a Committee of Town Meeting-membership to be appointed by Moderator, 4. Board of Selectmen be reduced to three members, 5. Town Administrator have the following area of authority added to current job: personnel to include disciplinary action, appointments-non-department head level positions- Boards/Committees that report to the Selectmen, Care & custody of Town Hall 6. The Committee recommended a Finance Dept, be headed by a Finance Manager who will report to the Town Administrator. The TGSC recommended to change the elected Treasurer's position to appointed and convert the elected office of Tax Collector to appointed position of Town Collector both positions to report to Finance Manager with the Town Administrator as appointing authority re the Finance Manager, Treasurer and Collector 's support staff as needed. Mr. Clark presented the TGSC binder containing all the TGSC minutes and documentation to Mr. Pontbriand. Selectman Conley volunteered to ensure follow through re TGSC recommendations. Mr. Clark advised to Committee laying groundwork-ready for the Annual Town Meeting Warrant in spring 2012. Selectman McCreary thanked the Committee for all their hard work and requested the Board read over and take under advisement before making a decision. Selectman McCreary volunteering her service if Town of Ayer goes forward with Charter.

Agenda Item #4. Sex Offender Residency By-law. Present for the discussion Chief William Murray Mr. Pontbriand reviewed the revised by-law from the 9-27-11 Public Hearing advising to Atty. Frank completing revisions that appear on the Fall Town Meeting Warrant before them this evening. Mr. Pontbriand reviewed changes with the Board which included expanded definitions and new provisions. Mr.

Pontbriand also advised the Board to tighter residency restrictions for Level 2 and Level 3 being incorporated Mr. Pontbriand advising to this bylaw the first step and town will continue to strengthen –not the final version, changes will come up along the way. Mr. Pontbriand ran through the revisions by Atty. Frank: SECTION 1.expanded upon -added four paragraphs. SECTION 2. Definitions expanded to 13. SECTION 6. Exceptions- added more than one (1) residence SECTION 9. Safety Zone-included school bus stop and elderly housing (for people over 60) added as a protected class under the By-law. Mr. Pontbriand stated as a result of the added protection zones a new map delineating the restricted areas must be drafted and put on file with the town clerk a week before the meeting. Loitering in excess of 15minutes within 500 feet of the protected areas would be prohibited which includes schools, day-care, passive/recreational areas, elderly housing/senior complex. First offenders would be ordered to move within 30 days of written receipt of violation and thereafter each day over the violator stays living within protected zone would be a separate violation of \$300.00/day fine with notices to landlord, registry board. Offenders presently living within the protected zone would be grandfathered/exempt from by-law. Selectman Conley looking to tighten/encompass bylaw to capture all recreational properties being protected and to include all sports as well. Selectman McCreary preferring language targeting those deemed offenders after the date the bylaw is enacted. Selectman Maxant looking for the adoption of both the old and new version of the by-law, the town could use the more stringent version unless it is challenged and in which case the former version would still be on the books. Selectman Maxant cautioning the stricter version makes the Town more vulnerable to legal challenges. Chairman Luca disagreeing stating we should have one by-law and a strong one and this one is stronger than the one we had urging to let the people decide if they like it or not. Brenda Gleason spoke to her disappointment of fear expressed by Selectman McCreary earlier that the stricter bylaw might cause the town to have to defend itself against a costly law suit, it may be one of the test cases of the ACLU and preferring a looser not as restrictive version favoring original version; which was just child offenders and not broadened to include elders centers. Ms. Gleason stating there is new stronger/protective language in the new version that was not in there before and not wanting to go backwards. Selectman McCreary apologizing and stated she is sympathetic to what was stated by Ms. Gleason but feels responsible for the ultimate health of this town financially as well as protecting its citizens and we do subject ourselves to a lawsuit, its going to be really tough. Michelle Lee feared Treatment Centers springing up which are exempted under bylaw urging to close loopholes as well as tightening up bylaw re offenders who lodge in roominghouses/hotels/woods. Ms. Lee also suggested considering adults not be able to enter a playground without a child. Laurie Nehring speaking against that stating that was going overboard. Mr. Pontbriand advising to Board of Selectmen meeting on Friday 10-7-11 at 7:30a.m. to make final decision on the bylaw and Town Meeting voters will vote on the 24th if approved the bylaw is then sent off to the AG for review before it would become effective. Chairman Luca thanked everyone for their input.

Agenda Item #5. Supt. Nason's Report –Acceptance of Street layouts for Pond View Development for inclusion on the 10-24-11 Fall Town Meeting Warrant-the Board met with Dan Nason.

Supt. Nason presented Pond View Developments Street Acceptance Plans re the Layout of Roads in Pond View Estates. Supt. Nason presented the following layouts as public ways for Pond View: Loon Hill Road, Orchid Lane, Lilac Lane, Iris Avenue and Rose Lane. Mr. Pontbriand advising to plans on file with the Town Clerk. David Bodurtha stated his displeasure re Town incurring cost of accepting roads due to Planning Board releasing Bond. Selectman Conley moved the Board's intention to accept the street layouts for Pond View Development as presented and recommended by Supt. Nason and refer to Planning Board for their review 2nd by Selectman McCreary, VOTE: unanimous, so moved.

2. Public Works Mutual Aid Agreement for 10-24-11 Special Fall Town Meeting Warrant-Mr.

Pontbriand advised the Board to this Agreement not needing to go to Town Meeting Vote and only requires

Board approval. Supt. Nason recommending the Board approve. Selectman McCreary moved the Board vote to approve the Statewide Public Safety Mutual Aid Law (GL C.40, s4J) and Public Works Municipal Mutual Aid Law (GLC.40 S4K)2nd by Selectman Conley, VOTE: unanimous, so moved.

3. West Main Street Pump Station Replacement-Onsite Engineering, Franklin, MA-Professional Engineering services for the design and permitting for the replacement of the West Main St. Sewage Lift Station Alternatives Analysis. Selectman McCreary moved the Board vote to approve the Contract with Onsite Engineering for the West Main Street Pump Station Replacement in the amount not to exceed \$8,800.00, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #6. Fire Chief-Update on Ethanol Trains-Chief Pedrazzi updated the Board to being informed to start up of transport of Ethanol/hazardous materials being brought up from Worcester via trains commencing in September per newspaper article with no notification or frequency alerts. Trains to be placarded. Chief Pedrazzi advising to area chiefs along the commuter line meeting to train for spill/recapture plans in November; and try to prepare as best as we can. Mr. Pontbriand advising to Town of Ayer in a much better position that other communities re spill/recapture training. Chief Pedrazzi to keep Board apprised.

Agenda item #7 Town Administrator's Report-The Board met with Robert Pontbriand see report of activities 9-20-11 to 10-4-11.

Action Items:

1. Draft of the 10-24-11 Special Town Meeting Warrant presented to Board final draft to be presented for Board's review on 10-7-11 at 7:30a.m. at Joint Meeting with Fin-Com, Town Accountant, Supt. Nason, Chief Murray.
2. CPC Meeting on Wednesday 10-5-11 to act on Articles -3 Town Hall generator acquisition &4 Weed Control Treatment of Flannagan's Pond (aka Fletcher's Pond) \$35K and \$10K re Study of Town's Dam & Ponds to be administered by the newly created Ayer Dam & Pond Management Committee . Mr. Pontbriand advising if Article 4 passes Article 5. Stabilization Article request would be withdrawn. The Board requesting that Article 5 also include explanation re same. Article 6. Clarification re Public Hearing from Town Counsel requested -Does Board conduct Hearing re "Laying out of Roads"
3. Next Meeting of the Leadership Group 11-2-11
4. Executive Session Minutes up to date for tenure of Mr. Pontbriand. Work in Progress re former Administrator's Executive Session Minutes.
5. Contract for Town Accountant, Supt. of Public Works, Town Hall Union, Patrolmen, and Fire-fighters Ready for Board's signatures on 10-7-11
6. Personnel Policy work in progress incorporating all changes will be distributed to all town employees
7. Selectman Conley & Mr. Pontbriand to conduct town-wide training re Open Meeting, Ethics. Chairman Luca feeling it is not necessary for Mr. Pontbriand & Selectman Conley to go from Board to Board re this training.
8. Mr. Pontbriand introduced Sara an Intern from Fitchburg State, who was sitting in on the Meeting this evening, who will be working in the Selectmen's Office assisting Mr. Pontbriand and Ms. Lewis on Tuesday, Wednesday and Thursday from 3:30p.m. to 5:00p.m.

10-24-11 Special Fall Town Meeting Warrant Review- The Board met with Evan Katz, Asst. of Ayer/Shirley Regional School District who reviewed with the Board Articles 1 & 2 re School Department Amendments to the Regional School Agreement. The Board requested explanations be included on the Warrant re both articles:

Article 1: " It is the view of the Regional School Committee that public input from the member towns via public hearings should be sought before the Regional School Committee proposes to the respective Town Meetings an amendment to the Regional School Agreement. This change would not obligate a public

hearing if the proposed amendment was initiated by a petition of registered voters, which is the option under the Agreement”.

Article 2. “The vast majority of the students who attend each of the District’s elementary schools reside in the town which the school is located. Thus it is the view of the Regional School Committee that debt service payments attributable to the elementary schools should be assessed 3ntirely to the host town unless and until the number of students enrolled in that school who reside in the host town equals or exceeds 15%of the resident enrollment of that school, at which time the non-host town will be assessed a corresponding percentage of the debt service payments attributable to that school. By contrast, the enrollment of the secondary schools of the district is much more of a blend from each member town. Thus the Regional School Committee feels that the debt service payments attributable to these should be assessed based on a combination of “foundation enrollment” data and building enrollment data as set out in the amendment language.

Selectman Conley questioning what happens re Page/Hilltop improvements who decides what to do and why Ayer would solely incur cost of improvements-cost should be shared in Agreement.

Article 6. Media Filter Replacement-pulled from warrant

Article 3. 4. & 5. CPC Articles –Article 5. Stabilization (if necessary)Discussed earlier-see action items

Article 7. Street Acceptance/s-Board voted to accept Loon Hill Rd., Orchid Lane, Lilac Lane, Iris Avenue, and Rose Lane as public ways for inclusion on the Warrant. David Bodurtha expressed his concern re Town spending money due to another Town Board’s action-allowing bond to be released –before roads completed. Planning Board did not do their job.

Article 8. Grant of Easement-Fletcher Building-Handicap ramp-To be addressed at Town Meeting

Article 9. Sex Offender Residency by-law-addressed earlier in meeting by Board..

9:50p.m. Selectman McCreary moved the Board vote to extend the meeting for ten minutes, 2nd by Selectman Maxant. VOTE: unanimous, so moved.

Mr. Pontbriand advising to Planning Board meeting on Thursday, October 6th and may add zoning article.

Selectman Conley requesting to an Article Ten be placed on 10-24-11 Special Fall Town Meeting Warrant to sell the former Fire Station located on Washington St.-cautioning Board to spending money on assessment for a building we may not own-supposedly built part of new addition to station on private property. Selectman McCreary feeling Selectman Fay not present this evening to speak on this request and Fire Station Re-use Committee not prepared to put article on warrant with evaluation of building go on right now not right time to do this. Selectman Maxant agreeing not to place this on the 10-24-11 Warrant.

Chairman Luca called for a vote: Selectman McCreary no, Selectman Maxant no, Selectman Conley aye, Chairman Luca aye, 2-2 motion fails. Chairman Luca suggested to bring this up again on Friday morning when the Board finalizes the 10-24-11 warrant.

Mile Pattenden requested the Board’s review of the Town’s by-law as written re Town Meeting run under Demetrius and currently the Town Moderator runs suggesting to run under Robert’s Rules. Selectman Maxant speaking to past Town Moderator Ralph Richardson and advised to Town Moderator runs Town Meeting. The Board requested Mr. Pontbriand run this by town Moderator & show Mr. Swanfeldt the By-law.

10:25p.m. Selectman Conley moved the Board adjourn the meeting, 2nd by Selectman McCreary, VOTE: unanimous, so moved.

Date: _____