

Selectmen's Meeting  
Tuesday, January 17, 2006  
Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room, Main Street, Ayer, MA

7:00p.m. Open Session

<b>Present and Attending- Chairman Morrison</b>	X
Selectman Conley	X
Selectman Sullivan	X
Selectman Maxant	X
Selectman Bresnahan	X
Interim Town Administrator Ed McCann	X
Selectmen's Secretary Janet Lewis	X

**Agenda Item #1. -Public Input** Chairman Morrison requested if there was anyone present wishing to meet with the Board under Public Input:

1. Jonathan Long-Representing Fruitlands Museum-re Proposed Pharmaceutical Mfg. Plant-Devens. Mr. Long expressed Fruitland's concern re Ayer's support to mitigate the dramatic irreversible impact that will be inevitably be done to the view shed. The proposed location of this project and the building height limits not being subject to modification of variance stating this restriction should not be circumvented lightly. Mr. Long stated the existing water towers and Federal Prison have already degraded the existing view shed. Mr. Long requesting every effort be made during the design phase to minimize production buildings on the landscape citing Zoning By-laws of the Devens Regional Enterprise Zone. Mr. Long proposed Fruitland and other affected institutions/organizations be partners in the design process to minimize the visual impact on this historical landscape.
2. Mary Spinner-Fin-Com urging the Board to open the Spring Annual Town Meeting Warrant earlier than proposed for 2-21-06 expressed concern only allowing four (4) weeks for articles to be submitted for inclusion.
3. Carol Bousquet of Save the Ayer Train Station Citizen Group-re Public Meeting to be held on January 24, 2006 at 7:00p.m. at the Ayer Town Hall re Ayer losing its train station and urging residents and officials to attend this meeting and to do everything they can do to keep the station in Ayer. Selectman Conley offering to post flyers along train route and suggesting the flyer also be placed on local Cable access station.
4. Michael Pattenton-Rate of Development By-law. Mr. Pattenton updated the Board to the Town Clerk advising him to the need for 200 signatures to call a Special Town Meeting. Mr. Pattenton advising the Board to his presenting 100 signatures as requested to the Town Clerk and time constraints necessary to secure and additional 100 signatures not adequate time to placing a new Rate of Development By-law on a Special Town Meeting prior to the Spring Annual Town Meeting in May 2006.

**Agenda Item #2. Minutes-** Selectman Conley advised the Board to September 2005 minutes being presented on the next Selectmen's Agenda of 2-7-06 and updating the Board to eight (8) sets of minutes readied for their review/approval.

**Agenda Item #3. Class II License Public Hearing (cont. of 1-3-06) Donald Buchikos-Bishop Rd.**

Chairman Morrison requested the Hearing be opened by having the Clerk read into the record the Legal Notice. Selectman Conley read into the record the Legal Notice of 12-14-05 & 12-21-05 in the Nashoba Publications. Mr. Buchikos advised the Board to Certified letters going out to all abutters. Chairman Morrison requested if there were abutters present wishing to speak for or against the petition. Jeff Emerson spoke on behalf of his Client Guilford Ind.. The Board advised Mr. Emerson to area of business not touching or impacting railroad. Mr. Buchikos also stating he has no plans to trespass onto railroad property. The Board reviewed with Mr. Buchikos the previous owner's restrictions to property and of Plan approved 5-00 being made part of approval. Mr. Buchikos stating he had no problem adhering to original license restrictions/requirements approved by Board of Selectmen for 9 Bishop Rd. for Jeffrey Mousseau in 2000. Selectman Bresnahan moved the Board approve a Class II License for Donald Buchikos for Bishop Rd., Ayer, MA, contingent upon original restrictions of Class II License issued to Jeffrey

Mousseau and Plan dated 9-5-00 to be made part of License approval, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.

**Agenda Item #4. Public Hearing- Class I License –Joseph Shaw-Toreku Tractor & Equipment -4 Littleton Rd., Ayer, MA** The Board met with Joseph Shaw who updated the Board to his moving his business from 264 Ayer Rd., Harvard, MA to 4 Littleton Rd., Ayer, MA advising to his holding a Class I License in the Town of Harvard. Chairman Morrison opened the Hearing by requesting the Clerk read the Legal Notice into the record. Selectman Conley read the Legal Notice which ran in the Nashoba Publications the weeks of January 6 and January 11, 2006. The Board reviewed with Mr. Shaw the restrictions applied to the previous owner re Plan of Land prepared for Camper's Inn of Ayer Inc. dated April 2000 by David E. Ross Assoc. -Job #14164 Sheet 1 of 1 Plan-S-6620 to be made part of license approval due to area having history of problems. Selectman Sullivan also expressing his concern for adherence to eye catching displays being limited due to area being a "gateway". Mr. Shaw wishing the Board's consideration re Sale signs i.e Washington Birthday be allowed. Selectman Bresnahan moved the Board approve the Class I License for Joseph Shaw contingent upon Plan of Land dated April 2000 be incorporated into License approval and Mr. Shaw be permitted to display signage "in good taste" and with great care in gateway zone, 2<sup>nd</sup> by Selectman Maxant, VOTE: Selectman Bresnahan aye, Selectman Conley aye, Selectman Maxant aye, Selectman Sullivan no, Chairman Morrison aye 4-1 motion passes.

**Agenda Item #5. Chief Richard Rizzo and Selectman Maxant (Continuation of 1-3-06 Hearing) –** Chairman Morrison updated the room to the Selectmen conducting Hearing re inappropriate action/queries taken by Selectman Maxant re conduct of the Ayer Police Dept. on 1-3-06 and at that meeting discussed what if any further steps should be taken re action/s by the Board of Selectman re Selectman Maxant. Selectman Sullivan reviewed with the Board "Findings of Fact" he prepared for the Board's consideration (see attached). Selectman Sullivan ran through each of the nine (9) Findings with the Board. Selectman Bresnahan requested Item #1 be used as a footnote on Page 2 for Items #'s 2&3. Selectman Sullivan moved the Board adopt the Findings of Fact dated 1-17-06 prepared by Selectman Sullivan, and as amended by Selectman Bresnahan, VOTE: Selectman Sullivan aye, Selectman Bresnahan aye, Selectman Conley no, Selectman Maxant abstained, Chairman Morrison aye, motion carries 3 aye, 1 no, 1 abstention. Selectman Sullivan moved to publicly censure Selectman Maxant for his behavior, motion not seconded-withdrawn. Selectman Maxant stated he did nothing wrong-motivation same as Chief's ensuring the Police Dept. was the best it could be and the administrative policies referenced in the Findings pertained to actions not inquiries. Chief Rizzo thanked the Board for time and encouraged Selectman Maxant to follow procedures and explore options available to him in the future.

**Agenda Item #6. Devens Disposition Executive Board (DDEB) Devens Update-**Selectman Bresnahan opened the discussion by reviewing with the Board the Request for Agreement on 2B (Mixed Use at Airport) Selectman Bresnahan advised to Scenario 2 proposal whereas Ayer gets the Airport back and Ayer is being asked to decide on this by February 16, 2006 and reviewed the key disposition elements for Ayer.

**Scenario #1 - MASDEV** strategy has focused on need for added housing-with target number of 1800 units broken out as follows: Devens/Harvard 1300 housing units, Devens/Shirley 300 housing units and Devens/Ayer 200 housing units. Selectman Bresnahan advising to the States having this as a very high priority and can probably be done with or with us and Harvard rejecting the 1300 units or anything close to that. Devens residents don't want to be part of Harvard they want to be a new Town and will accept the 1300 housing units. Shirley accepted the 200 housing units under Scenario 2 and supports Devens as a new Town Selectman Bresnahan adding five out of six stakeholders prefer Scenario 2 and reject Scenario 1. Selectman Bresnahan took this opportunity to publicly recognize Harry Zane, Pat Walsh and Shaun Suhoski for serving on the Devens Disposition Committee and supporting the Town's ReUse Plan through their participation. Chairman Morrison advised to the Board conducting a meeting on Tuesday, January 31, 2006 at 7pm at the Ayer Town Hall-2<sup>nd</sup> floor Great Hall to take comment from citizens re process and protect Ayer i.e. traffic, transportation, boundaries clearly defined. Chairman Morrison stated she would like Town Departments present i.e. Planning Board, Financial, etc. to do what is necessary to take care of Ayer. Selectman Sullivan requesting the Board look to North Post for recreational use and not share with Devens.

Selectman Conley stating her concern re housing on Airfield not compatible with Chapter 498 urging Town to opt for more recreational/open space not comfortable with MADEV scenario. The Board requested the Town's Devens Enterprise Commission representatives, advertise on Cable-urging residents to get involved and share their ideas/concerns to attend the meeting on the 31<sup>st</sup>.

**Agenda Item #7. Supt. Madigan's Report**-The Board met with Michael Madigan, Supt. of DPW

1. **HTA-Industrial Pretreatment Program-Professional Engineering Services-NPDES Discharge Permit**-Selectman Bresnahan moved the Board approve HTA IPP changes to the Town's current Enforcement Response Plan, Regulation of Sewer Use, Slug Control Program in the amount not to exceed \$3,800.00 to be borne by the Town's four (4) Significant industrial users, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.
2. **HTA-Headworks Loading Analysis-Upgrade Wastewater Treatment Plant**  
Selectman Bresnahan moved the Board approve HTA for the preparation of the HLA not to exceed \$20K to be borne by the Town's four (4) Significant Industrial Users, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved.
3. **Water/Sewer Permits**-The Board approved Water/Sewer Permits for Canney Bros. Construction for Lot 1A 3BR Pheasant Circle, Lot 2-3BR Pheasant Circle, and Lot 3-4BR Pheasant Circle. Motion made by Selectman Conley, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.

On another matter Supt. Madigan appraised the Board to status of Autumn Wood and increase in snow shoveling for part-times increased \$1.00 from \$9.00 to \$10.00. Selectman Conley requesting if Supt. Madigan had sufficient funds in his budget to cover cost of increase stating Reserve Fund Transfer would not be approved for this issue.

**Agenda Item #8. Office of Community & Economic Development**-The Board met with Shaun Suhoski

1. The Board approved to ratify Gap Filler Grant -MA Lead Paint Assistance Program-\$73,895- fund 11 housing units occupied by l-w-moderate income households-gap fill funds are needed to offset escalating costs associated with lead abatement. Selectman Bresnahan moved the Boards approval, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.
2. The Board approved the Close Out Agreement Fy 03 Community Development Block Grant (CDBG) and authorize the Chairman's signature. Motion made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved.
3. The Board approved a Subordination Request of the Housing Rehabilitation Program's Lien position for Case # 04-285 for 9 Grosvenor St., Ayer, MA. Motion to approve made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.
4. Mr. Suhoski presented to the Board Nashoba Community Hospital's Proposed Changes to Town of Ayer Zoning Bylaw. Three warrant articles were presented to the Board re the hospital Expansion's Zoning draft Healthcare services overlay zoning district By-law for inclusion on the Town's Spring Town Meeting Warrant (May 2006). The Board moved to refer the proposed Zoning By-law articles to the Ayer Planning Board. Motion made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.
5. Mr. Suhoski updated the Board to upcoming meeting with State office for Commonwealth Development, MBTA and MART staff re site visit of Nashua River Rail Trail Parking lot. Mr. Suhoski stated a RFP recommended by the Cecil Group to be prepared for review by Board of Selectmen, schedule a Public Hearing re site criteria.
6. The Board awarded Design Services Contract to Mangel Architects, Inc. for the amount not to exceed \$20K to provide services to property owners in the downtown target area for the design, bid plans, bidding assistance and construction administration of sign and façade improvement projects. Motion to approve made by Selectman Sullivan, 2<sup>nd</sup> by Selectman Maxant, VOTE: unanimous, so moved.

It being 10:00p.m. Chairman Morrison requested the Board continue the meeting for ten (10) additional minutes to 10:10p.m. Selectman Conley moved the Board continue meeting for ten additional minutes, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.

**Agenda Item #9. Interim Town Administrator's Report-The Board met with Ed McCann**

1. Mr. McCann updated the Board to 95% of Fy-07 Budget Process completed. Four remaining largest budget scheduled for 1-18-06 i.e. Fire, Police, DPW and Library. Mr. McCann took this time to publicly thank the Fin-Com and Town Accountant for their assistance.
2. The Board was updated to Town Accountant submitting memo re Robert Friedrich-Asst. Building Inspector's appointment ending on December 31, 2005 and need to extend. The Board deferred this to Building Commissioner for his recommendation.
3. The Board was updated to Town Counsel advising to cost to search history of Old Groton Rd. deeds/Titles estimated at \$1,800.00.
4. The Board was updated to Sick Leave Bank final language approved by Town Counsel for Ayer Police Dept.-Judith Hadley. The Board requested Town Treasurer be given contract agreement for processing.

10:15p.m. The Board moved to adjourn the meeting. Motion to adjourn made by Selectman Conley, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved.

10:15p.m. Meeting Adjourned

DATE: \_\_\_\_\_

Pauline Conley, Clerk

AYER BOARD OF SELECTMEN

TO: Board of Selectmen  
FR: Selectman Sullivan  
RE: Selectman Maxant  
DA: January 17, 2006

I submit to the Board of Selectmen the following proposed findings of fact for the Board of Selectmen to consider relative to the complaint made against Selectman Maxant by Police Chief Richard Rizzo:

1. That Ayer Police Department Incident Report (No. 93-659-OF) dated 10-18-93, which was prepared by Police Officer Terence McSweeney and which related to the removal of Frank Maxant from a public meeting of the Ayer Board of Selectmen for disturbing that meeting, was factually accurate;
2. That Selectman Maxant's comment on July 12, 2005 wherein he stated that "he had serious reservations about re-appointing an unnamed patrolman about whom he had personal experience with years ago signing a fraudulent incident report" was vindictive in nature and an abuse of his position as Selectman;
3. That Selectman Maxant's aforementioned comment on July 12, 2005 exhibited a disregard for the Town of Ayer's administrative chain of command when expressing concerns and questions about a Town department and/or its employees and constitutes a violation of the Ayer Board of Selectmen General Policies and Procedures 99-07 and 99-10;
4. That Selectman Maxant's aforementioned comment on July 12, 2005 was inappropriate and unbecoming of a Chief Elected Executive Official of the Town of Ayer and constitutes a violation of the Ayer Board of Selectmen General Policies and Procedures 99-10.
5. That Selectman Maxant's letter dated 10-7-05 to Judge Peter Kilmartin of the Ayer District Court wherein he states in part that "as one of Ayer's Selectmen, he shares with his colleagues the statutory responsibilities of Police Commissioner" is factually incorrect. The Board of Selectmen does not have statutory responsibilities as Police Commissioner;
6. That Selectman Maxant's reference to himself as a Selectman in the aforementioned letter of 10-7-05 served no purpose other than to give his letter the appearance of being sanctioned by the Board of Selectman and such was an abuse of his position as Selectman;
7. That Selectman Maxant's aforementioned letter of 10-7-05 exhibited a disregard for the Town of Ayer's administrative chain of command when expressing concerns and questions about a Town department and/or its employees and constitutes a violation of the Ayer Board of Selectmen General Policies and Procedures 99-07 and 99-10;

8. That Selectman Maxant's aforementioned letter of 10-7-05 contained statements for which there have been no factual justification to date, contained statements which were inappropriate and unbecoming of a Chief Elected Executive Official of the Town of Ayer and constitutes a violation of the Ayer Board of Selectmen General Policies and Procedures 99-10; and

9. That Selectman Maxant's "inquiry"/investigation into rumors of questionable performance of the Ayer Police Department violates the Town of Ayer's administrative chain of command and constitutes a violation of the Ayer Board of Selectmen General Policies and Procedures 99-07 and 99-10.