

DRAFT Selectmen's Meeting Minutes

February 1, 2005

Ayer town Hall, 1st Floor Meeting Room, Main Street, Ayer, MA

7:00p.m. Open Session

The Board met with Chairman Bresnahan, Selectman Morrison, Selectman Sullivan, Selectman Maxant and Selectman Fay.

Agenda Item #1. Public Input- Chairman Bresnahan requested if there was anyone present wishing to speak under Public Input: Selectman Maxant-Snow removal By-law tremendously successful- Selectman Maxant congratulated and complemented the residents on doing an outstanding job this year clearing sidewalks of snow and reminding residents to dangers of walking in streets.

Town Administrator-re meeting with resident who had issues re shoveling snow from sidewalk and liability to home owners when they shovel walk and someone slips and falls-natural condition vs. Liability due to home owner shoveling walkway. Ms Scheipers advised to homeowner requesting Town place article on Spring Town Meeting Warrant re removing By-law. Selectman Maxant suggesting list be kept at DPW re Boy Scouts, Civic Interest Groups willing to shovel snow. Selectman Sullivan stating this is a legitimate complaint, re liability. The Board requested Town Counsel's review re liability of homeowners. Ms Scheipers requested the Board submit their comments to her.

Agenda Item #2. Minutes- The Minutes of 1-4-05 were read and accepted. Motion to approve made by Selectman Sullivan 2nd by Selectman Morrison VOTE: unanimous, so moved. Selectman Sullivan moved the Board approve the Executive Session Minutes of 1-4-05, 2nd by Selectman Morrison, VOTE: Chairman Bresnahan aye, Selectman Fay aye, Selectman Maxant aye, Selectman Morrison aye, Selectman Sullivan aye, unanimous, so moved.

Agenda Item #3. Public Hearing-Beer & Wine License-Gary Archer/Archer's Mobil, Main St., Ayer

The Board met with Gary Archer and his Store Manager. Chairman Bresnahan opened the Hearing by requesting the legal notice be read into the record. Selectman Sullivan read the Legal Notice which ran in the Nashoba Publications the weeks of 1-14-05 and 1-19-05. Chairman Bresnahan requested if there were abutters present wishing to speak for or against the application, no one stepped forward. Mr. Archer reviewed his application with the Board advising to garage being removed and building remodeled as convenience store for this location and of his intent to offset cost of remodeling by having a Beer & Wine License.

Mr. Archer stated the mechanical/auto mechanics will be transferred to his Littleton garage. Selectman Fay requesting if he had TIPS training, Mr. Archer stated both he and his store manager had taken training at Convenience Store seminar. The Board reviewed parking (15 parking spaces available)/traffic related issues with Mr. Archer. The Board reviewed restrictions placed on former gas station with Mr. Archer, editing the restrictions to conform to his business.

Restrictions:

1. No selling of Beer & Wine without proper documentation of proof of age, which is stored in the computer data base for each sale.
2. Minors (under age 21) are not allowed to be employed by this business.
3. All Alcohol products to be sold from locations located closest to pay point.
4. Security cameras to cover area where alcohol beverages are displayed and on cashier.
5. All alcohol beverages are not accessible by public during hours when alcohol is not for sale. Internal displays, etc. with alcohol to be covered and secured with grommets when alcohol is not available for sale.
6. No single/individual containers of beer, malt, or wine coolers to be sold, with the exception of large (750ML) and up bottles of wine.
7. No external signs/displays advertising alcohol beverages.

Mr. Archer agreed to all the above restrictions. Selectman Fay moved the Board approve the Beer & Wine License application for Gary W. Archer, 2nd by Selectman Maxant VOTE; unanimous, so moved.

Agenda Item #4. Public Hearing-All Alcohol License Transfer Autumn Wood Restaurant to Li C Yan-Mango Grill, 38 Littleton Rd., Ayer, MA

The Board met with Li Yan and Frank Hartnett Sr. of Hartnett Management Inc. R.E. present for the discussion Charles White-(owner Autumn Wood). Chairman Bresnahan opened the Hearing by requesting the Legal Notice be read into the record. Selectman Sullivan read the Legal Notice which ran in the Lowell Sun 1-18-05 and Nashoba Publications 1-21-05. Chairman Bresnahan requested if there was abutters present wishing to speak for or against the petition, no one stepped forward. The Board reviewed with Ms. Yan her business background and type of restaurant she will be operating. Ms. Yan stated the Mango Grille will not be typical Chinese Restaurant will incorporate Chinese, Korean, Japanese and Cantonese -4 Seasons-new cuisine with function hall, dinning rooms/private and public and bar to be relocated to right side of front doors to accommodate more tables and take-out area. Hours 11:30am to 9:00p.m. seven days a week. Selectman Sullivan questioning TIPS course being taken by employees. Ms Yan stated she will be taking refresher course along with night manager. Mr. White advised the Board to closing of Autumn Wood on 2-28-05 and Mango Grille approximate date of opening expected on May 1, 2005. Selectman Morrison moved the Board approve the Transfer of Autumn Wood Restaurant t, 38 Littleton Rd., Ayer to Li C. Yan of Medford, MA with the stipulation Ms Yan attend TIPS Training, 2nd by Selectman Maxant, VOTE: unanimous, so moved. Mr. Hartnett Jr. requested at this time for the Board's consideration to pro rate the Town's License fee given that Mr. White had paid the License renewal (\$3K) for 2005 in December 2004. Chairman Bresnahan questioning if Mr. White would be willing to rebate/pay fee or portion of. Selectman Sullivan moved the Board pro-rate the Alcohol License fee to \$2,500.00 based upon calendar pro-rate, 2nd by Selectman Maxant for discussion questioning the Town Administrator if fees were configured into budget revenues. Ms. Scheipers stated yes fees were calculated into revenues/operating expenses. Selectman Fay requesting to make amendment to Selectman Sullivan's Motion to waive fee (\$3K) for Ms Yan due to Mr. White renewing license for 2005 and paying license fee of \$3K, VOTE Selectman Fay aye, Selectman Maxant aye, Selectman Morrison aye, Chairman Bresnahan aye, Selectman Sullivan no, 4-1 motion passes.

Agenda Item #5. Supt. Madigan's Report- The Board met with Supt. Michael Madigan

1. **Grove Pond Contract-D.L. Maher-**The Board approved D.L. Maher's Contract for redeveloping of Grove Pond Well #1-using the aqua feed method of injecting carbon dioxide per the recommendation of Supt. Madigan for the contract sum not to exceed \$17,105.00. Motion to approve made by Selectman Fay 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. **DEP Closeout Certification- Project # CWSRF-77 (PRA98-82) SSES & I&I Evaluations/Study.** Supt. Madigan updated the Board to contract signed by Selectmen in October 1998 and work done 2002 through Revolving Fund \$100K. The Board moved to approve Supt. Madigan's recommendation to certify Supt. Madigan as the Town's legal representative to act on behalf of the Town as its agent in filing applications, executing agreements regarding and performing any and all necessary actions necessary for the applicant as may be available pursuant to provisions of the Clean Water's Act (MGL c21 section 27-33E inclusive as amended) and (MGL c29C) for the Inflow/Infiltration Study. Motion made by Selectman Morrison, 2nd by Selectman Fay, VOTE: unanimous, so moved.
3. **Fy-05 Snow Budget Over-run-** Supt. Madigan reviewed with the Board the Snow Removal Budget for Fy-05 advising the Board to \$24K+/- left in the Snow Budget and of the budget being depleted should an unexpected sizable storm arrive as predicted for the weekend. The Board approved a Deficit Spending (over spending) request from Supt. Madigan for the DPW Fy-05 Snow Budget. Motion to approve made by Selectman Morrison 2nd by Selectman Fay VOTE: unanimous, so moved. The Board recognized and thanked the DPW for an outstanding job by the DPW employees keeping the roads/sidewalks clean with the recent series of snow storms and putting in many extra long hours to do so.

4. **Shelley Lane Consent Order-Supt.** Madigan updated the Board to his meeting with Bob Kimball of MADEP in Worcester on 1-19-05 re the Shelley Lane Consent Order. Supt. Madigan advised to his attempts to get the monetary penalty of \$1K reduced but being unsuccessful. Supt. Madigan stated he also utilized Town Counsel who also had no comments. Supt. Madigan requested the Board's approval re authorization to pay the DEP penalty of \$1K. Selectman Sullivan moved the Board approve payment of the \$1K penalty fine to DEP, 2nd by Selectman Morrison, VOTE: unanimous, so moved.

Agenda Item #6. Conservation Commission The Board met with George Bacon, Chairman, Members: Keith Saxon, David Bodertha and Patrick Hughes.

1. Autumn Ridge Conservation Restriction and Public Trail Easement- Present for the discussion Steve Smith representing the Smith Family re-57.3 acres of natural and open space woodland and fields abutting existing conservation land of the Town of Ayer on a Plan entitled "Cluster Development"-Active Adult Community, Exhibit Plan-Conservation Restriction Autumn Ridge Groton Rd., Ayer, MA dated March 2004 prepared by Goldsmith, Prest and Ringwall Inc. to be recorded at the Middlesex South Registry of Deeds by the grantor. Mr. Bacon advised to Public Hearing held a month ago by Commission with Town Counsel present. Selectman Morrison moved the Board approve the Conservation Restriction and Public Trail Easement presented by the Conservation Commission, 2nd by Selectman Fay, Vote, unanimous, so moved. Selectman Maxant applauding the Agreement and cooperative effort of all parties.

2. Draft Wetlands Protection By-law- The proposed by-law to be presented to voters at the Spring town Meeting to simplify and make explicit what State law addresses making the State law specific to Ayer. Patrick Hughes stated such a by-law makes clear to developers what the standards are since most legal challenges arise from a Commission acting without a surface water by-law in place and to not make it stricter than State statute and be rejected by the AG. Mr. Hughes stated the Commission has been working with MA Assoc. of Conservation Commissions to be sure the provisions are in place so the AG would not reject. Groton's By-law works well with similar environmental issues especially in the Long Pond area and Groton's Bylaw was accepted by the AG. Ayer's By-law needed to have two tiers one for Ayer property lying within the area of critical environmental concern and one for lands outside of the ACEC. Chairman Bresnahan addressing his concerns for a provision for the small land owner with land along a pond shore who wants to build or expand a house or if land was willed to relatives who wanted to build a home on the tract. Selectman Sullivan also stated the by-law doesn't address undeveloped land -and exemption built in for smaller amounts of undeveloped land while seeking to protect the bigger tracts is needed. Selectman Maxant stating a balance must be struck allowing the individual property owner to what they would do previous to the by-law and having specifically spelled out protection in place. Mr. Hughes agreeing that such a bylaw would not work without protecting the little guy and present landowners would be exempt from provisions of the by-law. The Commission will meet with the Planning Board to review the By-law as a courtesy to get the Planning Board's input even though this is not a zoning by-law. Mr. Hughes stated the Conservation Commission will be meeting on 2-10 and 2-17 re this issue and seeks public input. The Commission's intent is to approve it by 2-24-05 so that it would be on the Spring Town Meeting Warrant. The Selectmen thanked the Conservation Commission for coming in to meet with them re this by-law.

Agenda item #7. Town Administrator's Report-The Board met with Town Administrator Anita Scheipers

1. MART Van Hours-Present for the discussion Karin Swanfeldt-Ms. Swanfeldt reviewed with the Board the COA's request to start the van service earlier in the morning to accommodate clients needing to meet 9:00am Dr's appointments. Ms. Swanfeldt stated she was before the Board to request an additional 2.5 hours a week at an additional \$2K /per year Assessment on the Cherry Sheet. Selectman Fay moved the Board approve the additional 2.5 hours a week for the MART Van, 2nd by Selectman Morrison, VOTE: unanimous, so moved.

2. Spring & Fall Blood Drives-the Board approved the COA's Blood Drives on April 5, 2005 and October 4, 2005 from 2-8p.m. at the Ayer Town Hall-2nd floor Great Hall. Motion to approve made by Selectman Morrison 2nd by Selectman Sullivan VOTE: unanimous, so moved.

3. Zelda Moore's donation to Ayer Library-The Board voted to accept \$5K donation from Ms. Moore for the Ayer Library for purchase of Historical items to be added to the Library's Historic room the "Gift" (\$5K) per the wishes set out in her 1-23-05 letter, to be called the **Jonathan Fitch Moore Gift**. Motion to approve made by Selectman Morrison 2nd by Selectman Fay, VOTE: unanimous, so moved.

FYI's

1. FY-06 Budget-Ms. Scheipers updated the Board to additional State funds: Lottery Aid \$42K and \$47K Supplemental aid being allocated for Ayer. Ms Scheipers reminded Board to Working Session March 9, 2005.
2. Sewer Rate Hearing-proposed for early March 2005
3. Memorial Day Parade-5-28-05 @ 10:00am from St. Mary's Cemetery.
4. Executive Session-Eastern General, Security Operations, Employee suit

Agenda Item #8. New Business/Selectmen's Questions

Selectman Morrison-DDEB-Joint Transportation & Finance Meeting 2-2-05 @Town Hall 7pm
Place holder request re: Selectman Maxant's Nuclear Waste Facility citing on North Post-the Board requested to get Selectman Maxant's documents before place holder is given.

Selectman Maxant -traffic by-pass issue critical matter MADEV has Dept of Transportation Reserve Funds ask MADEV for funds to assist the Town re traffic impact/study-New Fire Station. The Board stated it is up to the Town to request-start process.

Selectman Fay-OECD Property Blight- Programs helping property owners.

NEW BUSINESS-The Board awarded the 2004 Annual Town Report t Red Mill Graphics of North Chelmsford, MA for the bid award of \$2,825.00. Motion made by Selectman Maxant 2nd by Selectman Morrison, VOTE: unanimous, so moved.

9:30p.m. Selectman Sullivan moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23B, Exemption #3 to adjourn from this Executive Session to re-enter into Open Session for the sole purpose of adjourning the meeting, 2nd by Selectman Morrison, VOTE: Selectman Fay aye, Selectman Maxant aye, Selectman Morrison aye, Selectman Sullivan aye, Chairman Bresnahan aye, unanimous, so moved.

9:30p.m. Open Session ended

DATE: _____

Cornelius F. Sullivan, Clerk

AYER BOARD OF SELECTMEN