

Selectmen's Meeting with Frank's edits  
Tuesday, July 23, 2002  
Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room, 1 Main St., Ayer, MA

7:00p.m. Open Session

The Board met with Chairman Witherow, Selectman Fay, Selectman Maxant, Selectman Bresnahan.

Chairman Witherow opened the meeting by requesting a Moment of Silence for Town of Shirley's Administrative Assistant Thomas Linden who passed away on July 11, 2002, and for Ayer resident and former DPW Employee Donald Daven of Nashua St., Ayer, MA who passed away on Saturday, July 20, 2002, a 32 yr. Employee of the Dept. of Public Works.

**Public Input**

Chairman Witherow requested if there was anyone present wishing to meet with the Board under Public Input. No one stepped forward. Chairman Witherow called for a motion to accept the Agenda. Selectman Bresnahan moved the Board approve the Agenda as posted, 2<sup>nd</sup> by Selectman Fay, unanimous, so moved.

The minutes of 6-11-02 were amended to change Advisory Board to Advisory Committee. The Minutes were approved with the amendment. Motion to approve the 6-11-02 minutes as amended made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

The minutes of 7-9-02 were not approved and sent back to incorporate Selectman Maxant's statement re MADEV. Selectman Maxant wishing minutes record him being advised by Chair of Board of Selectman on Independence Day that if he didn't stop bad mouthing MADEV that he could be sued, not specific as to whom might be sued, Town was threatened by a law suit. Selectman Bresnahan requesting Mr. Maxant write down what he wants reflected in the 7-9-02 minutes and distribute to Board members. Selectman Fay arguing his feeling minutes were germane to motions/material of meeting agenda. A motion was made and 2<sup>nd</sup> to approve the minutes of 7/9/02 by Selectman Fay, 2<sup>nd</sup> by Selectman Bresnahan, VOTE: Selectman Fay aye, Chairman Witherow aye, Selectman Bresnahan no, Selectman Maxant no. Motion fails 2-2.

Selectman Sullivan entered the meeting.

**Agenda Item #1. Devens Open Space and Recreation Committee Appointment**

The Board met with appointee Ted Turnley, a seventeen-year resident of the Town of Ayer, who gave the Board a brief background of himself and why he wished to serve on this Committee. Mr. Turnley's background included his present profession as a minister, retired military, former Civil Engineer in N.C. Selectman Bresnahan moved the Board appoint Mr. Turnley to the Devens Open Space & Recreation Committee, 2<sup>nd</sup> by Selectman Sullivan, VOTE: unanimous, so moved.

**Agenda Item #2. Fy-03 Town-wide Appointments**

The Board appointed Shaun Suhoski to the Montachusett Area Regional Advisory Board, motion to approve made by Selectman Sullivan, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

The Board made one deletion on the blanket Fy-03 appointments -Page 4 delete Water & Sewer Commissioners. Motion to approve the edited Fy-03 Townwide Appointments made by Selectman Sullivan 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

**Agenda Item #3. Personnel Board , re: Performance Evaluation System**

The Board met with Chief Rizzo-Chairman of the Personnel Board and members Pauline Conley and Ted Hardy. The Board reviewed the Personnel Board's Draft Performance Policy. Mr. Hardy requesting the Board schedule a meeting with all Town Departments, Boards, etc. re: conducting a joint meeting to review the Performance Evaluation Program Proposal to get feed back from all officials who supervise non-union appointed staff to train them using the evaluation method. The Board set Monday, August 5, 2002 at 7pm in the Great Hall for this working session. Ms. Hegarty to get memo out to all Departments, Board, Committee & Commissions. The Board congratulated the Personnel Board on a great job putting the packet of information together.

**Chairman Witherow recognized Representative Robert Hargraves who was in the building this evening conducting Office Hours-inviting Town of Ayer residents to come in to meet with Rep. Hargraves if they have problems or concerns the representative could help them with.**

**Agenda item #5. Town Administrator's Report taken up at this time due to being ahead of schedule.**

1. The Board approved a Reserve Fund Request for Health & Life Insurance in the amount of \$26,580.00 submitted by the Treasurer's Office, motion made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved. Ms. Hegarty updating the Board to Town Counsel advising the Board to the Town not having a Finance Board thus requiring the Selectmen's approval on Reserve Fund Requests as well as the Advisory Board's support. The Board reviewed the Town Accts. Enclosure.
2. Cross Connection Violators-Ms. Hegarty presented notices for the Board's signature to be sent out to current violators giving them 30/days to comply with local & state regulations & past violations. Selectman Sullivan moved the Board approve the letter submitted re cross connection violators and direct the letter be issued, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous. Chairman Witherow requesting a friendly amendment having the letter go out on Selectmen's letterhead. Selectman Bresnahan requesting affirmative action be taken.
3. Ms. Hegarty reviewed with the Board a letter which ran in a local newspaper which stated that the Town of Groton wishes to establish an Intermunicipal Agreement with Ayer to purchase \$220K gallons of water for a new sub-division. Ms. Hegarty advised the Board to article being incorrect not providing water on a regular basis-but perhaps in an emergency basis through a formal request to the Water Commissioners re an intermunicipal agreement, not for planned development. No action needed. Letter sent 7-18-02 to Town of Groton's Supt. Thomas Orcutt.
4. Ms. Hegarty updated the Board to Devens (DEC) submitting Legislative request for four- (4) new alcohol license. Rep. Hargraves and Sen. Resor notified the Town to Devens seeking to file legislation re: this request. Selectman Sullivan moved the Board direct Ms. Hegarty to send letter to all Town of Ayer State Representatives advising them to the wish of the Ayer Board of Selectmen, Devens not be given additional liquor licenses above and beyond what they currently have. Selectman Maxant requesting friendly amendment be inserted to state the Board wishes to be consistent with legislation passed which states that the re-use will not compete with Downtown businesses, keep in spirit of legislation, 2<sup>nd</sup> by Selectman Sullivan, VOTE: Selectman Sullivan aye, Selectman Maxant aye, Selectman Fay aye, Selectman Bresnahan recused himself and Chairman Witherow abstained, Selectman Bresnahan recused and Selectman Witherow abstaining-3-0 motion passes.
5. Ms. Hegarty presented the Board the Pleasant Street School Roofing Contract. Ms. Hegarty advised the Board to the Historical Commission awarding the bid to SOM Const. For the bid award of \$51,470.00 to include alternates 1-4. Selectman Maxant addressing the Board's concerns re: quality of work, warranty, bonding, liability insurance etc. Selectman Sullivan moved the Board approve the Contract for the Pleasant St. School Roof repair to SOM Const. For the bid award not to exceed \$51,470.00, 2<sup>nd</sup> by Selectman Bresnahan, VOTE unanimous, so moved.
6. Ms. Hegarty ran through the Fall Town Meeting scheduled for October 28, 2002-calendar. Open the warrant on 7/23/02, close warrant on 9/3/02, finalize warrant 9/17/02, warrant to printer 9/27/02, mail warrant to residents 10/11/02. Ms. Hegarty requested the Board vote to open the Fall Town Meeting warrant this evening. Selectman Fay moved the Board open the Fall Town Meeting warrant this evening and approve the dates so stated by Ms. Hegarty, 2<sup>nd</sup> Selectman Sullivan, VOTE: unanimous, so moved. The Board requested all Town Dept., Boards, Commissions, & Committees and the general public are notified of the Fall Town Meeting Warrant being opened.
7. Ms. Hegarty advised the Board to all other items under her report being informational.

**Agenda Item #5. Supt. Madigan's Report**

1. Wastewater Pumping Station Upgrade/Force Main-Devens-design change Facilites Plan  
The Board approved of Supt. Madigan requesting a 90-day extension for submission of plans & specifications. Design plans to be submitted to DEP by 11/1/02, bidding to occur in Spring and construction May 2003. Supt. Madigan to advise DEP that he does not foresee completion of construction by 11/1/03 after being advised by Tata & Howard to delivery time period of 14-16 weeks re: equipment thus requesting a revised construction completion date of 2/1/04. Selectman Bresnahan

moved the Board approve of Supt. Madigan's amended letter to DEP re: 90-day extension request to DEP re: facilities plan for the Wastewater Pumping Station Upgrade/Force Main-Devens 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved. Letter to go out on DPW letterhead, under Supt. Madigan's signature.

2. Tata & Howard Amendment #2-remediation former underground tanks-DPW 6-6-97 & amended in 5-6-98. Supt. Madigan presented T&H Scope of Services which provides additional monitoring & testing, submittals to DEP and preparation of risk characterization of the site to follow a course of natural attenuation of contaminants for the contract amount of \$19K Chairman Witherow expresses her concern with deleting portions of a contract they had nothing to do with. The Board took no action on this matter.
  3. Weston & Sampson Const. Services Agreement-Washington St. Water Mains.  
The Board approved per Supt. Madigan's recommendation of the engineering services, construction administration, and resident project representative services for the Washington St. area Water Mains Project for the bid award of \$66K. Selectman Sullivan moved to award the project to Weston & Sampson per the recommendation of Supt. Madigan for the project award not to exceed \$66K, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
  4. Supt. Madigan updated the Board to recent changes to the Tata & Howard project re Wastewater Treatment Agreement with MADEV, re technical issues. Supt. Madigan apologized to the Board re: latest change with North Atlantic Constructors, Inc. re: sub-bid for electrical work. Supt. Madigan advised the Board to Ryan Co. informing No. Atlantic Const. They made mathematical error and withdrew their bid of \$202K. The 2<sup>nd</sup> low bidder was Richardson Elec. \$213K. -- \$11K difference. Supt. Madigan recommended amending the project total originally approved at \$849,501.00 to \$860,501.00 to allow No. Atlantic Const to award Electrical sub-bid to Richardson Elec. Selectman Sullivan moved the Board approve the recommendation by Supt. Madigan to amend the contract award for the Wastewater Treatment Agreement with MASDEV by \$11K to allow No. Atlantic Const. to award electrical contract to 2<sup>nd</sup> low sub-bidder Richardson Elec. for a difference of \$11K to project. Amendment not to exceed \$860,501.00 total project cost, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
  5. Chairman Witherow updated Board to requesting Supt. Madigan submit Grid of all current DPW Projects to Board of Selectmen with his monthly report.
  6. Selectman Maxant making recommendation via PACE that Town to solicit user's and work with Suipt. Madigan to compile consumption figures to build the case for user's to contribute.
- 8:15p.m. Selectman Maxant moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23b, Exemption #3 re: Contract negotiations, 2<sup>nd</sup> by Selectman Sullivan VOTE: Selectman Maxant aye, Selectman Sullivan aye, Selectman Fay aye, Selectman Bresnahan aye, Chairman Witherow aye, unanimous, so moved.

8:15p.m. Open Session adjourned.



Frank F. Maxant, Clerk  
AYER BOARD OF SELECTMEN

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**Agenda item #5. Town Administrator's Report taken up at this time due to being ahead of schedule.**

1. The Board approved a Reserve Fund Request for Health & Life Insurance in the amount of \$26,580.00 submitted by the Treasurer's Office, motion made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan VOTE: unanimous, so moved. Ms. Hegarty updating the Board to Town Counsel advising the Board to the Town not having a Finance Board thus requiring the Selectmen's approval on Reserve Fund Requests as well as the Advisory Board's support. The Board reviewed the Town Accts. Enclosure.
2. Cross Connection Violators-Ms. Hegarty presented notices for the Board's signature to be sent out to current violators giving them 30/days to comply with local & state regulations & past violations. Selectman Sullivan moved the Board approve the letter submitted re cross connection violators and direct the letter be issued, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous. Chairman Witherow requesting a friendly amendment having the letter go out on Selectmen's letterhead. Selectman Bresnahan requesting affirmative action be taken.
3. Ms. Hegarty reviewed with the Board a letter which ran in a local newspaper which stated that the Town of Groton wishes to establish an Intermunicipal Agreement with Ayer to purchase \$220K gallons of water for a new sub-division. Ms. Hegarty advised the Board to article being incorrect not providing water on a regular basis-but perhaps in an emergency basis through a formal request to the Water Commissioners re an intermunicipal agreement, not for planned development. No action needed. Letter sent 7-18-02 to Town of Groton's Supt. Thomas Orcutt.
4. Ms. Hegarty updated the Board to Devens (DEC) submitting Legislative request for four- (4) new alcohol license. Sen. Resor notified the Town to Devens seeking to file legislation re: this request. Selectman Sullivan moved the Board direct Ms. Hegarty to send letter to all Town of Ayer State Representatives advising them to the wish of the Ayer Board of Selectmen, Devens not be given additional liquor licenses above and beyond what they currently have. Selectman Maxant requesting friendly amendment be inserted to state the Board wishes to be consistent with legislation passed which states that the re-use will not compete with Downtown businesses, keep in spirit of legislation, 2<sup>nd</sup> by Selectman Sullivan, VOTE: Selectman Sullivan aye, Selectman Maxant aye, Selectman Fay aye, Selectman Bresnahan abstained Selectman Witherow abstained, 3-2 motion passes.
5. Ms. Hegarty presented the Board the Pleasant Street School Roofing Contract. Ms. Hegarty advised the Board to the Historical Commission awarding the bid to SOM Const. For the bid award of \$51,470.00 to include alternates 1-4. Selectman Maxant addressing the Board's concerns re: quality of work, warranty, bonding, liability insurance etc. Selectman Sullivan moved the Board approve the Contract for the Pleasant St. School Roof repair to SOM Const. For the bid award not to exceed \$51,470.00, 2<sup>nd</sup> by Selectman Bresnahan, VOTE unanimous, so moved.
6. Ms. Hegarty ran through the Fall Town Meeting scheduled for October 28, 2002-calendar. Open the warrant on 7/23/02, close warrant on 9/3/02, finalize warrant 9/17/02, warrant to printer 9/27/02, mail warrant to residents 10/11/02. Ms. Hegarty requested the Board vote to open the Fall Town Meeting warrant this evening. Selectman Fay moved the Board open the Fall Town Meeting warrant this evening and approve the dates so stated by Ms. Hegarty, 2<sup>nd</sup> Selectman Sullivan, VOTE: unanimous, so moved. The Board requested all Town Dept., Boards, Commissions, & Committees and the general public are notified of the Fall Town Meeting Warrant being opened.
7. Ms. Hegarty advised the Board to all other items under her report being informational.

**Agenda Item #5. Supt. Madigan's Report**

1. Wastewater Pumping Station Upgrade/Force Main-Devens-design change Facilities Plan  
The Board approved of Supt. Madigan requesting a 90-day extension for submission of plans & specifications. Design plans to be submitted to DEP by 11/1/02, bidding to occur in Spring and construction May 2003. Supt. Madigan to advise DEP that he does not foresee completion of construction by 11/1/03 after being advised by Tata & Howard to delivery time period of 14-16 weeks re: equipment thus requesting a revised construction completion date of 2/1/04. Selectman Bresnahan moved the Board approve of Supt. Madigan's amended letter to DEP re: 90-day extension request to DEP re: facilities plan for the Wastewater Pumping Station Upgrade/Force Main-Devens 2<sup>nd</sup> by

Selectman Fay, VOTE: unanimous, so moved. Letter to go out on DPW letterhead, under Supt. Madigan's signature.

2. Tata & Howard Amendment #2-remediation former underground tanks-DPW 6-6-97 & amended in 5-6-98. Supt. Madigan presented T&H Scope of Services which provides additional monitoring & testing, submittals to DEP and preparation of risk characterization of the site to follow a course of natural attenuation of contaminants for the contract amount of \$19K. Chairman Witherow expresses her concern with deleting portions of a contract they had nothing to do with. The Board took no action on this matter.
3. Weston & Sampson Const. Services Agreement-Washington St. Water Mains. The Board approved per Supt. Madigan's recommendation of the engineering services, construction administration, and resident project representative services for the Washington St. area Water Mains Project for the bid award of \$66K. Selectman Sullivan moved to award the project to Weston & Sampson per the recommendation of Supt. Madigan for the project award not to exceed \$66K, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
4. Supt. Madigan updated the Board to recent changes to the Tata & Howard project re Wastewater Treatment Agreement with MADEV, re technical issues. Supt. Madigan apologized to the Board re: latest change with North Atlantic Constructors, Inc. re: sub-bid for electrical work. Supt. Madigan advised the Board to Ryan Co. informing No. Atlantic Const. They made mathematical error and withdrew their bid of \$202K. The 2<sup>nd</sup> low bidder was Richardson Elec. \$213K. -- \$11K difference. Supt. Madigan recommended amending the project total originally approved at \$849,501.00 to \$860,501.00 to allow No. Atlantic Const to award Electrical sub-bid to Richardson Elec. Selectman Sullivan moved the Board approve the recommendation by Supt. Madigan to amend the contract award for the Wastewater Treatment Agreement with MASDEV by \$11K to allow No. Atlantic Const. to award electrical contract to 2<sup>nd</sup> low sub-bidder Richardson Elec. for a difference of \$11K to project. Amendment not to exceed \$860,501.00 total project cost, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
5. Chairman Witherow updated Board to requesting Supt. Madigan submit Grid of all current DPW Projects to Board of Selectmen with his monthly report.
6. Selectman Maxant making recommendation via PACE that Town charge all Companies in Town that contribute to contamination problems to include domestic/industrial. Also to solicit their contribution/donation to Town's litigation with Guilford. Selectman Maxant to draft letter for the Board's review.

8:15p.m. Selectman Maxant moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23b, Exemption #3 re: Contract negotiations, 2<sup>nd</sup> by Selectman Sullivan VOTE: Selectman Maxant aye, Selectman Sullivan aye, Selectman Fay aye, Selectman Bresnahan aye, Chairman Witherow aye, unanimous, so moved.

8:15p.m. Open Session adjourned.

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

Frank F. Maxant, Clerk  
AYER BOARD OF SELECTMEN