

**Final Selectmen's Meeting**  
Tuesday, September 5, 2000  
2<sup>nd</sup> Floor Town Hall, Main St., Ayer, MA

7:00p.m. Open Meeting

The Board met with Vice-Chairman Paul Bresnahan, Selectman Pena, Selectman Witherow and Selectman Fay.

Public Input: Chairman Bresnahan requested if there was anyone present wishing to meet with the Selectman:

1. Atty., Joseph Holms representing 7 C's Realty. The Board deferred this discussion until later in the evening.
2. Chairman Bresnahan announced Representative Robert Hargraves was present this evening for Office hours from 7-8pm urging residents to come in to the Town Hall this evening to meet with the representative if they have questions or concerns he could help them with.

Vice-Chairman Bresnahan called for a motion to accept the Agenda. Selectman Pena moved the Board approve the Agenda of 9-5-00 as presented, 2<sup>nd</sup> by Selectman Witherow, VOTE: unanimous, so moved.

**AGENDA ITEMS:**

**1. Welcome new Supt. of Public Works-Michael Madigan**

Vice-Chairman Bresnahan opened the discussion by presenting Michael Madigan the new Supt. of Public Works to the viewing audience --announcing Mr. Madigan began his employment a week ago. Chairman Bresnahan requested Mr. Madigan introduce himself and give the residents a brief update re: his professional background. Mr. Madigan gave the Board an informal background and stated he spent the last week meeting with his foreman's and touring the Town re: current projects in process. Mr. Madigan stated he is anxious to get on board and looking forward to challenge.

**Sewer Permits-**

**1. 68 East Main St.-** Mr. Kreidler updated the Board to the granting of 330/gpd to Mr. Carpenter at the last Selectmen's Meeting and gave Mr. Carpenter to this evening to determine whether he would like to take that 330/gpd flow or not. Atty. Joseph Holmes joined the discussion at this time. Atty. Holmes stated there was expectation that the permit would be granted for 1,540/gpd of flow based on formula in the sewer bank policy. Atty. Holmes stated the Planning Board approved the site plan in May. Mr. Carpenter submitted his applications for the permits on 6-29-00, and if that process had taken its customary course the permits would have been granted within ten days/two weeks of application. There is also issue re: infiltration into the system. Atty. Holmes referred to his letter of 8/22/00, stating he felt 7 C's were entitled to the 1540/gpd at the time of application and that didn't happen and why he is before the Board this evening. Mr. Holmes requested the Board vote in the affirmative re: his elaboration to the facts why the 1540/gpd didn't get granted as stated, and if not, to vote to table the 330/gpd of flow until he investigates what alternatives could be pursued stating the 330/gpd of flow does not help the development at all. Atty. Holmes requested the Board continue this request to their next meeting and allow him to speak on the matter again at that time. Selectman Pena stated 7C's put their application in on 6-29-00 and on 6-30-00 he met with DEP and was told the Town had a negative balance in our Sewer Bank so even if the Board acted on the application on 6-30-00, 24 hours later the Board would not have been allowed to grant anything. The 330/gpd you received came out of later meetings with DEP. Atty. Holmes stated his client is willing to co-operate with the Town and not looking for anything more than we're entitled to. Vice-Chairman Bresnahan called for a motion to grant the 1540/gpd, Atty. Holmes 1<sup>st</sup> option, no one moved the motion. Vice-Chairman Bresnahan called for a motion for the 2<sup>nd</sup> option requested by Atty. Homes to table/set aside the 330/gpd sewer permit. Selectman Pena moved the Board table/set aside the 330/gpd sewer permit for 7 C's Realty Trust until the next Selectmen's Meeting, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous.

**2. Sewer Permit-3 Sedgeway, Ayer, MA-David Rockwood-**Mr. Kreidler presented the sewer permit stating this is for 220/gpd -2BR for 18 Wright Rd.-new construction. Mr. Kreidler advised the Board to Nashoba Boards of Health not allowing "holding-tank". This is not a failed Title Five but is new construction and not exempt from the Sewer Bank Policy- and would fall under new construction for a reduction of 220/gpd. Selectman Pena requesting if there are back-taxes outstanding to the Town.

**BOSMIN9-5-00/PG.2**

Selectman Bresnahan stating his knowledge of applicant not owning property & would not have taxes issued. Selectman Pena moved the Board approve the permit contingent there are no outstanding taxes due to the Town, 2<sup>nd</sup> Selectman Witherow-Selectman Fay requesting if Selectman Bresnahan was an abutter, Selectman Bresnahan stating yes and would abstain. VOTE: Selectman Pena aye, Selectman Witherow aye, Selectman Fay aye, Selectman Bresnahan abstaining from vote 3-1 motion passes.

3. **David Canney-Lot 1 Shadow Lane-330/gpd-for a 3 BR home.** Mr. Kreidler updated the Board to their last meeting re: Shadow Lane being a three (3) lot sub-division, reminding the Board to approving at their last meeting 330/gpd for Mr. Collins who owns the sub-division. Mr. Canney wanting to buy lot 1 to build his own home-he wishes to buy the lot from Mr. Collins and apply for 330/gpd permit as individual under the policy. Mr. Kreidler explained he currently does not own the lot and explained to Mr. Canney that he would have to own that lot in order to qualify. Mr. Canney advised he would be willing to enter into a P&S contingent he would buy the lot from Mr. Collins if he received a sewer permit. Mr. Kreidler advising the Board to a motion being appropriate granting sewer permit for 330/gpd contingent upon Mr. Canney's proof of ownership of Lot #1. Mr. Kreidler also advising to Mr. Canney offering to build drive-way to end of road to meet frontage requirement on Groton School Rd. from his lot allowing a one-inch (1") line to be constructed for water & sewer through an ANR approved plan from the Ayer Planning Board. Mr. Canney would buy the street portion of the sub-division as well as his lot for an interim period so that he can build his house and when the sewerage issue goes away and the other flow is available he would sell that back to the original owner of the sub-division. Selectman Witherow stating her reservation setting a bad precedent manipulating the policy. Selectman Pena stated the Board granted 330/gpd at their last meeting why doesn't he use that 330/gpd? Mr. Kreidler advising to Robert Collins being granted the 330/gpd and he will do what he wishes with that 330/gpd. Selectman Pena requesting if Mr. Collins doesn't tell us where he wishes to use that 330/gpd can we then assign where we want? Mr. Kreidler stating the permit approval would have to be recinded. Selectman Bresnahan requesting if it was legal for the buyers of a lot in a subdivision to apply for permits to the Water Commissioners. Selectman Pena referencing Page 3 (footnote) the question to the Board is it an equitable allocation to assign more than one 330/gpd to a sub-division? Supt. Madigan requesting when sub-division is all done he would request the Board be sure the water/sewer lines are being built presently and completely in the sub-division to the Town's standards so when the Town takes that street over everything would be in place. Mr. Canney joined the discussion at this time and advised the Board to he & Mr. Collins agreeing to split the cost of the road and he would adjust the purchase price and get it in right the first time. Selectman Pena stating you want to put in the full size water & sewer lines now Mr. Canney stated yes. Selectman Pena stated the roadway also Mr. Canney stated yes according to the subdivision approved plans which consists of a 8 inch sewer line and 8 inch water line, hydrant & drainage the whole works. Selectman Pena Board moved to permit the 330/gpd pending Town Counsel's & Supt. Madigan's review and language to include contingencies- owning property (contingent upon Mr. Canney buying the lot contingent upon Mr. Canney doing the road & sewer/water lines to Town standards) this permit to be tabled until the next Selectmen's meeting for the Board review and approval, Selectman Bresnahan stepped down to 2<sup>nd</sup> the motion for discussion. Selectman Fay stating he would not be in favor to issuing permits to other than title holders. Selectman Witherow stating her concern re: frontage-putting in the road was approving the sub-division and issuing permits one at a time to buyers was in fact getting around the policy. VOTE: Selectman Pena aye, Selectman Bresnahan aye, Selectman Fay aye, Selectman Witherow no—3-1 motion carries.

**STREET OPENING PERMITS:**

1. 68 East Main St., Ayer, MA-The Board placed this street opening request on hold to their next meeting. Motion made by Selectman Fay, 2<sup>nd</sup> by Selectman Pena, VOTE: unanimous, so moved.
2. Littleton Line Apartments: 119 Littleton Rd., Ayer, MA-Dig Safe numbered and paid. Mr. Madigan requesting in the future Dig Safe #'s is checked/issued a day before start date. Selectman Pena moved the Board approve this permit subject to final approval of Supt. Madigan, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
3. Jeffrey Marquis-4 Pine St., Ayer, MA-Boston Gas Co. Dig Safe numbered. Selectman Pena moved the Board approve the permit subject to Supt. Madigan's final approval, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

4. Letter to Robert Kimball re: August Sewer Bank-Mr. Kreidler advising the Board to this letter being the last month going out under his signature stating Mr. Madigan will be taking this charge over.

**2. TOWN ADMINISTRATOR'S REPORT:**

1. **Selectman Policies & Procedures-** Mr. Kreidler requesting this item be put off to the Board's next meeting due to information getting to them late-E-mail from him had a virus. Mr. Kreidler bringing to the Board's attention the St. Mary's banner hanging presently over Main Street not coming before them nor being approved, how it was hung and under whose authority. The need for a policy is necessary to avoid this type of situation.
2. **Devens Housing preference-** The Selectmen's Office received a copy of Local Initiative Program (LIP) draft application today. Copies of concerns have been ear-marked and will be made available tomorrow for the Board. Two outstanding questions remain in this updated version re: affordable housing: 1. Is it legal to require someone be a registered voter? And 2. Is it legal that they be required to be current on all their fees, ie. taxes, water/sewer etc.? The Board to re-visit the two issues at their next meeting on the 19<sup>th</sup> pending Town Counsel's review.

**3. PUBLIC HEARING Continuation of 8-22-00-Class I License/Camper's Inn**

The Board met with David Hirsch of Camper's Inn. Selectman Pena read the legal notice into the record. Present for the discussion Fire Chief-Paul Fillebrown and Building Commissioner Gabriel Vellante. Vice-Chairman Bresnahan requested if there were any abutters present wishing to speak for or against the petition. No one stepped forward. Chairman Bresnahan opened the discussion by stating Mr. Hirsch had agreed to requirements set by Selectmen earlier this summer and if those requirements have not been met what actions the Board wishes to take. Fire Chief Fillebrown stated as of last week the debris on the east side of the building has been cleaned up advising that is was not cleaned as of a week ago. The fire lane agreed upon is not marked out and there are trailers parked underneath the over-hang now, something that has started again, and the striping has not been done. Mr. Vellante stated he stopped over there this evening about 7:30pm-Mr. Vellante stated there were two campers parked in front of the building and one large RV on the left side of building-it was his understanding at the last meeting the parking area was to be marked out and an inspection was to be conducted prior to area being striped out and neither has happened, it hasn't been laid out or striped. There is a chain link fence that opens to the rear service yard that has banners on it and the Ayer By-law prohibits any signs on fences as well as temporary signs being rotated into permanent signs. The Town Administrator read the motion into the record made at their last meeting-May 16<sup>th</sup>, with Mr. Hirsch (see Minutes of 5-16-00). The Fire Chief stated the eight foot path is there, trailer and debris is still there re: clean-up of the east side of the building stating the June 1<sup>st</sup> deadline has been met but not the August 31<sup>st</sup> deadline. Mr. Kreidler stating the motion was to clean that entire area by 8-31-00 which has not been done. The Chief stated he is tired of going down there twice a week and more. The chief stated he had given a note today to Janet stating there were 16 trailers on site but the ones that really bother him are the ones under the over-hang, something else always seems to pop up. Selectman Pena requested if we suspend the license what happens? Is there a fine? Mr. Vellante stated he would research fine if he continues to operate. Chairman Bresnahan stated what the Board is hearing is that there has been some work done but not in the spirit of what was agreed to. Mr. Hirsch stated he had felt pressured at the previous meeting to commit to things that he really felt were not really just. He did clean up the side of the building and felt he was limited to doing his business. He did decrease the units and was not aware of units under the over-hang. Mr. Hirsch stated he felt the Town was putting a burden on him to address fire access when the apartment building is accessing his property and feels he is being singled out. Chairman Bresnahan requested why he felt he was being picked on when fire safety was for his own facility and adjoining building. Mr. Hirsch stated the Town is inspecting him all the time. Changes were occurring as late as this evening regarding striping changes being made with the Fire Chief. Mr. Kreidler stated he has worked for the Town for six years and each season the Town has had issues with this license every year. Chairman Bresnahan stated for the record if the Town of Ayer, who you are having serious negotiations with sends you a certified letter, you/ your employee did not open letter, to wait two weeks to tell you about letter being very unusual. Chairman Bresnahan stated the date of delivery was 8-12-00 and signed as being received by D. Hirsch. Selectman Pena moved based upon the proceeding Findings of Fact the Board

suspend this license, until the Fire chief and Building Inspector approve of the re-issuance of it---- **Mr. Hirsch left the meeting stating "you will hear from my lawyer" at this time--- Motion continues:** and that the Building Inspector use whatever means he has available under the law to suspend the license in the interest of public safety, 2<sup>nd</sup> by Selectman Witherow, Vote: unanimous. The Board restated the Findings of Facts to be included in the Minutes for suspending the license

**Findings of Fact-Class I License Suspension-Camper's Inn**

1. At a Public Hearing to consider suspension or revocation of the license held in May of 2000, at the recommendation of the Fire Chief and for public safety reasons, you agreed to clear an eight foot path on the easterly side of the building by June 1, 2000, and as of August 18, 2000 this was not yet completed, and:
2. At a Public Hearing to consider suspension or revocation of the license held in May of 2000, at the recommendation of the Fire Chief and for public safety reasons, you agreed to clear the easterly side of the building by August 31, 2000, and as of September 5, 2000 this was not yet completed, and
3. At a Public Hearing to consider suspension or revocation of the license in May 2000, at the recommendation of the Fire Chief and Building Commissioner for public safety reasons, you agreed to paint stripes on your property parking areas denoting customer parking, "for sale" vehicle parking, fire lane demarcation, and entrance and exit markings as per the plan prepared by David Ross and Associates dated April of 2000, that was provided by you to the Board. As of September 5, 2000, not only was this agreed upon striping not done, but also you stated that you had no intention of doing it.

Therefore, in the interest of public safety, and with the recommendations of both the Fire Chief and Building Commissioner, the Board of Selectmen voted to suspend your Class I License for the business known as Campers Inn located at Littleton Road, Ayer, MA until the Fire Chief and Building Commissioner agree that he has complied, and in the meantime the Building Inspector use whatever means are available to him under the law to enforce the suspension.

Selectman Pena moved the Board approve the Findings of Fact so stated, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

**4. PUBLIC HEARING CONTINUATION: CLASS II LICENSE-Jeffrey Mousseau 9 Bishop Rd.**

The Board met with Jeffrey Mousseau of Londonderry, NH. Vice-Chairman Bresnahan requested the legal notice be read into the record. Selectman Pena read the notice into the record. Vice Chairman Bresnahan stated this hearing was opened on August 22, 2000 and continued to tonight. V. Chairman Bresnahan opened the discussion by reading into the record a letter received in the Selectmen's Office from resident at 80 Sandy Pond Rd., Ayer, MA -Richard Harrison, seeking the Selectmen request the applicant seek another site stating being adjacent to a cemetery being inappropriate for a used car dealership. Present for the discussion Fire Chief and Building Commissioner. Mr. Vellante advised the Board to a site inspection being conducted last week by him, the Fire Chief and Mr. Mousseau and agreed upon recommendations being made to eliminate 3 out of 6 spaces in front of building and move those 3 spaces forward to parallel the other 3 which are 10 feet away from the building, which would give him 10 spaces for used car display and 3 spaces for customer traffic, employees parking in rear of building. Mr. Vellante providing the Board with a modified layout/map of area showing the new locations. Chairman Bresnahan requested Mr. Mousseau state how this area will look after business opens, addressing letter received by resident. Mr. Mousseau stated it would not look any different than it does now. Chairman Bresnahan requested if there were abutters present wishing to speak. Martha Craft & Father Gosselin representing St. Mary's Church/Cemetery who thanked the Board for recognizing them and having heard their concerns addressed wished the applicant success. The Board reviewed with Mr. Mousseau their concerns and following a lengthy discussion moved to approve the Class II License with the following 9 contingencies:

1. Sign to be erected on building no larger than 3' by 4'.
2. No lighting to be added in parking lot.
3. Descriptive writing permitted on car windows.
4. No flags, balloons, other eye catching paraphernalia
5. No mechanical work/repair work done on site.
6. No disassembled vehicles on site.

7. Maximum of nine (9) spaces for automobiles, at least two (2) spaces to be reserved for customer parking as shown on plan presented and dated 9-5-00.
8. Hours of operation 8:00am to 8:00p.m. Monday through Saturday.
9. Cars for sale to be no older than ten (10) years old. Motion made by Selectman Fay to approve the Class II License with the nine (9) contingencies read by Vice Chairman, 2<sup>nd</sup> by Selectman Pena VOTE: unanimous, so moved.

**AGENDA ITEM #2. Town Administrator's Report (continued from earlier this evening)**

**SHAVE Program**-Mr. Kreidler presented copies of MGL Chapter 59 advising to Town having this program for the past four (4) years and last year the state passed this law. When the Town received the bulletin it advised to running the program without an appropriation- through abatements through the Assessors Office. The Town did not as customary place an article on the Annual Town Meeting funding this program and as it turns out is funded through the Local Option Statute and its only good if your community accepted it. Mr. Kreidler stating this statute needs Town Meeting Vote, which didn't occur as for funding. Mr. Kreidler explained options available to the Board. 1. To have no SHAVE Program this year. 2. Have a Special Town Meeting to approve funding or 3. fund the appropriation individually by Department for this year only out of their budgets and if this creates a problem a Reserve Fund Transfer could be requested by departments. The Board moved to approve the SHAVE Program and implement it immediately to fund the SHAVE Program and direct the individual department to fund through their individual budgets which are involved, motion made by Selectman Pena, 2<sup>nd</sup> by Selectman Witherow, VOTE: unanimous, so moved.

**GUILFORD Update:** Mr. Kreidler referred the Board to legal documents in their packets, which were distributed to the State Delegation on August 30, 2000. Mr. Kreidler stated it was a good and productive meeting.

**Historical Commission Update:** Mr. Kreidler updated the Board to his discussions with Historical Commission's longest standing member and most recent appointed member advising that the Historical Commission Members have never been appointed by the staggering required in the by-law they have all been appointed for three (3) year terms and any new person appointed to the commission has always been appointed to a three year term. Mr. Kreidler referred the Board to spread sheet-depicting terms of office for each member beginning in 1980 through this year and if staggering had occurred where each member would be today. Using the staggering option if it had occurred..... this past June 30, 2000 Frank Maxant would have been the member who would have been up for re-appointment using both options 3/yr & staggering. These dates/years worked out with the Town Clerk's Office. The Board took this matter under advisement for further review until their next meeting.

**Devens Five Year Review Discussion:** Mr. Kreidler advised the Board to the Joint Boards of Selectmen JBoS voted unanimously to support a plan for a five year review of the reuse of Devens. This plan broke out into several phases. Public information, a co-ordination of information phase, and a presentation of proposal phase. The plan the JBoS approved called for a \$90K budget of which \$75K will be funded by the state and \$15K from Ayer, Harvard & Shirley-\$5K/ea. Harvard & Shirley appropriated their \$5K last year Ayer did not, Ayer waiting to see if the \$75K came through which it did last week. Mr. Kreidler advised to RFP being prepared and of funding by JBoS being used to pay for a consultant to put the RFP together the JBoS wished to have someone who was familiar with plan be hired to put the RFP together and requested Shaun Suhoski be hired as this consultant due to his familiarity of the issues at an hourly rate on his own time for a amount not to exceed. The Town of Ayer would administer this grant money. Selectman Fay moved the Board approve the \$5K-Ayer's portion of the JBoS budget with the remainder to be returned to UDAG in the event services are provided in kind, 2<sup>nd</sup> by Selectman Witherow, VOTE: unanimous. The Board approved the additional outside services to be provided by Shaun Suhoski for an amount not to exceed 50 hours or \$1,077.50. Selectman Pena moved the Board allow Shaun Suhoski to complete the RFP process for the hiring of a consultant, re: Devens Five Year Review Process he shall do his work on his own time and he will be paid his regular hourly rate for actual hours spent but not to exceed \$1,077.50 funds to come from the administrative funds from the Devens Five Year Review Project, 2<sup>nd</sup> by Selectman Witherow, VOTE: unanimous, so moved.

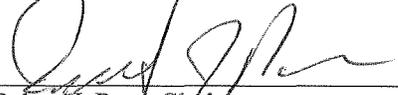
**Housing Rehab Case Waiver Request:** Present for this discussion Shaun Sushoski. Selectman Pena moved the Board approve Case Waiver regarding the owner's match required under the Hous.Rehab.

Case #99-169 per the accompanied financial documentation demonstrating financial hardship, 2<sup>nd</sup> by Selectman Selectman Fay, VOTE: unanimous, so moved.

**NEW BUSINESS:**

1. The Board moved to appoint Susan Provincher part-time assistant to the Town Treasurer and Town Accountant. Selectman Pena moved based upon the recommendation of the Town Accountant appoint Susan Provincher as part-time department assistant to the Town Treasurer and Town Accountant for 20 hours/week, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
2. Mr. Kreidler advised the Board to the Local Initiative Application (LIP) available in the Selectmen's Office.
3. Hotel/Motel Room Tax-information to be made available for next Selectmen's Meeting as well as updating the tax title accounts/revised list. The Board requested Selectman Bresnahan to meet with the Treasurer to get update. Selectman Witherow moved Selectman Bresnahan meet with the Treasurer 2<sup>nd</sup> by Selectman Pena. VOTE: unanimous, so moved.
4. The Board was updated to meeting with architect designers for the renovation of the interior of Town Hall and updated to modifications i.e storage, walls Veterans Agent office relocation.
5. **Executive Session:** Selectman Pena moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23b Exemption #3, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

**10:35p.m. Open Meeting adjourned.**

  
Robert J. Pena, Clerk  
Ayer Board of Selectmen

Date: Nov 20, 2000

*approved 10/19/00*