



Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432

Tuesday January 3, 2017
Meeting Minutes

Present: Christopher R. Hillman, Vice-Chair; Jannice L. Livingston, Clerk

Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator

Absent: Gary J. Luca, Chair

Call to Order: C. Hillman called the meeting to order at 7:00 PM.

Pledge of Allegiance: BOS members and meeting attendees stood and recited the Pledge of Allegiance.

Announcements: C. Hillman announced that the Senior Citizen Property Tax Work-Off Abatement Program will be available beginning this month and that the Winter Parking Ban is in effect.

Public Input: None

Review and Approve Agenda: R. Pontbriand asked to amend the agenda by removing consideration of the December 20, 2016 Meeting Minutes because they were not ready and would be by the next BOS meeting.

Motion: A motion was made by J. Livingston and seconded by C. Hillman to approve the agenda, as amended.

Motion passed 2-0.

Review of Warrants: C. Hillman stated that G. Luca signed the following warrant:

- 17-11 Accounts Payable \$637,931.36

Consideration and Action on the Declaration of a State of a Emergency Pursuant to G.L. C. 44 sec. 31 – McNiff Farm, 66 Westford Road: R. Pontbriand stated that with the unforeseen emergency situations at the McNiff Farm located at 66 Westford Road that pose an immediate threat to the health and safety of persons, property, and the public; the Town of Ayer responded immediately and effectively to ensure the public's safety and health. R. Pontbriand further stated that given the emergency nature of the situation, none of these expenses were foreseen as part of the FY 2017 Budget. The costs to date are considerable and vendors and contractors need to be compensated for the work/services they have performed (and in some cases continue to perform) at 66 Westford Road. R. Pontbriand then stated after considerable research and in consultation with the Department of Revenue and Town Counsel; that he and the Town Accountant/Finance Director are recommending that the BOS enact a declaration of a state of emergency pursuant to G.L. c. 44, sec. 31., which enables the Town to deficit spend as permitted to fund all costs related to the Town's abatement and remediation of the nuisances and dangerous conditions of 66 Westford Road as authorized by the Court.

J. Livingston read the Declaration of State of Emergency: Whereas, the property located at 66 Westford Road (the

“Property”) has been long operated as a farm primarily for the raising of animals, including cows, pigs, and fowl, for slaughter; and

Whereas, the Property is located in a neighborhood with adjacent residential properties; and

Whereas, the Property has fallen into significant decay and disrepair; and

Whereas, significant hazardous conditions exist at the Property, including, but not limited to, 100 sick and neglected animals, rodent infestation and rat burrows, dead pigs, calves with improper/inadequate shelter and no access to water that are suffering from communicable diseases, animal waste throughout the Property, non-functional heat and unsafe electrical wiring in the residential structure, large amounts of accumulated trash and debris and structural dangers, including collapsing floors and unsafe ceilings in the Property’s structures; and

Whereas, the failure of the owners of the Property to comply with the State Sanitary Code, the State Building Code and the Town’s Condemnation Orders present immediate and significant threats to the health and wellbeing of the persons and animals at the Property, area residents and the surrounding environment; and

Whereas, on December 16, 2016 the Middlesex Superior Court, upon complaint of the Town, issued an order authorizing the Town to take certain actions, including the removal of animals, animal food, and animal waste, as the Town deems necessary to abate the threat to public health and safety at the Property; and

Whereas, the Court order authorized the Town to enter the Property and take such actions as may be deemed necessary to exterminate any and all infestations of rats and other vermin; and

Whereas, the Court order authorized the Town to secure the Property in the interest of protecting public health and safety.

Now, therefore, based upon the conditions at the Property and the obligations of the Town to protect public health and safety, the Board of Selectmen hereby declares:

1. That the conditions at the Property constitute a major disaster and catastrophe which pose an immediate threat to the health or safety of persons or property within the Town;
2. That the Town shall undertake such measures as are necessary in accordance with all lawful authority to address the catastrophic conditions at the Property in the interest of protecting the health and safety of persons and property within the Town; and
3. That pursuant to the provisions of G.L. c. 44, sec. 31, payments of liabilities incurred by the Town as a result of this declaration shall be made, with the written approval of the Director of Accounts in the Department of Revenue, from any available funds in the Town treasury, and the amounts of such liabilities incurred shall be reported by the Town accountant to the assessors who shall include the amounts so reported in the aggregate appropriations assessed in the determination of the next subsequent annual tax rate.

Motion: A motion was made by C. Hillman and seconded by J. Livingston to approve the Declaration of a State of Emergency. **Motion passed 2-0.**

Ms. Susan Copeland, Town Treasurer stated that the property is currently in tax title and there is approximately \$25,000 in unpaid taxes. She is moving forward with the next step in the tax title process.

Ms. Elizabeth Edwards, 1 Orchid Lane stated that the homeowner was given an advantage because “he knew somebody”.

Mr. Paul Magno, 5 Rose Lane asked if the previous Building Inspector could be held liable. C. Hillman informed him no.

R. Pontbriand again stressed that the focus right now is working through the Court Order with the exterminators and the contractor to abate the rat infestation. He reported further that DEP will be onsite this week to do an assessment of the cars, barrels of liquid and an initial site assessment.

Ms. MC Stewart, 21 Loon Hill Road said that on the night of Thanksgiving she saw a Blood Farms truck at the property loading pigs.

J. Livingston expressed her concern about the quality of the animals going to butcher and who at the state was monitoring the process.

Mr. James Jones, 5 Lilac Drive asked if the DA's office was involved. R. Pontbriand stated that there are two tracks to the situation: criminal and civil. The DA's office is involved with the animal cruelty charges.

Mr. Ken Bishara, 1 Rose Lane asked where the exterminators were with the rat infestation. R. Pontbriand explained that 4-5 exterminators are on site daily and that the infestation is contained. Exterminators will be onsite daily for 5 weeks, then monthly.

Mr. Patel, 3 Lilac Lane asked if the exterminators were going to check all the houses in the neighborhood. C. Hillman stated that no, the rats are contained to the 66 Westford Road property.

R. Pontbriand then reiterated that the initial extermination is a 5 week process; all debris must be removed from the site except for the cars (by court order); there is a No Trespass Order still in effect; and the Town and the Property Owner are due back in Court on January 13, 2017 for a status hearing.

C. Hillman stated that he would like to explore any legal recourse with the state because he feels that didn't do their job inspecting the property. He then urged the residents to contact their legislators and news and media outlets.

Appointment of the Police Lt. as Police Department Records Access Officer – R. Pontbriand is requesting that the Police Lieutenant be appointed as the Police Dept. Records Access Officer in accordance with recently made changes in the Public Records Law. The Police Lieutenant will have jurisdiction as it pertains to records held solely at the Ayer Police Department.

Motion: A motion was made by C. Hillman and seconded by J. Livingston to appoint the Police Lieutenant as the Records Access Officer for the Ayer Police Department. **Motion passed 2-0.**

New Business/Selectmen's Questions: C. Hillman is requesting that the Police Dept., Building Inspector and Health Inspector come to the next meeting to make sure everyone is on the same page for nuisance bylaw enforcement.

Approval of Meeting Minutes:

Motion: A motion was made by C. Hillman and seconded by J. Livingston to approve the meeting minutes of December 8, 2016. **Motion passed 2-0.**

Adjournment:

Motion: A motion was made by J. Livingston and seconded by C. Hillman to adjourn at 8:20 PM. **Motion passed 2-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Date Minutes Approved by BOS:

Gay Lunn

Signature Indicating Approval:

minutes

1/17/17