

TOWN OF AYER SELECTMEN MEETING MINUTES

Tuesday, July 16, 2013

The Selectmen's Meeting can be viewed in its entirety on the Town's Website at: www.ayer.ma.us

Chairman Conley called the meeting to order at 7:05p.m. advising to the Board of Selectmen's Open Session Meeting is video recorded by APAC

Present: Chairman-Pauline Conley, Gary J. Luca-Vice Chairman, Members- James M. Fay and Jannice Livingston, Town Administrator Robert A. Pontbriand and Janet Lewis Secretary. Mr. Hillman running late.

Chairman Conley requested if there were any amendments to the Agenda of July 2nd. Town Administrator Robert Pontbriand requested the Board's permission to add under his report the following item: reporting of wage re-opener re Fire Chief's contract, Selectman Livingston requested the Board take up the Surviving Spouse Health Benefits under Supt. Mock's Agenda Item.

Public Input: Chairman Conley requested if there was anyone present wishing to meet with the Board under Public Input. No one came forward. Chairman Conley requested status of Public Input Tracking system and advised by Mr. Pontbriand to all topics completed to date and a hard copy to be made available to the Board for their August 6, 2013 meeting.

7:10p.m. Selectman Hillman entered the meeting.

Supt. Carl Mock, ASRSD - waiving of water connection permit fee (\$35K) for High School Renovation Project. Mr. Mock advised the Board to local permitting fees not a reimbursable expense by MSBA and is common for communities to waive such fees. Mr. Mock also advising to the improvements is to the property and building owned by the Town of Ayer and hook-up is not a new or expanded service but rather replacement/upgrading of the existing system. The Board requested Supt. Wetzels recommendation which he advised the Board to his having no objection to a new service to make the existing connection better. Chairman Conley called for a motion. Mr. Luca moved the Board vote to waive the water connection fees (\$35K)for the High School Renovation Project for the ASRSD, 2nd by Mr. Fay, VOTE: Unanimous, so moved.

Surviving Spouse Health Benefits for Former Ayer Teachers-present for the discussion Mark Reich, Town Counsel. Mr. Luca opened the discussion by advising to his bringing this subject up due to being advised when Ayer and Shirley Schools regionalized this benefit was lost to Ayer teachers due to Shirley not having benefit. This was originally brought up by him when he was Chairman a few years ago, he recused himself from the discussion, having family members working at the school and not wishing conflict of interest. Mr. Luca stated this latest inquiry regarding continuation of this benefit for former employees of the Ayer School Dept. prompted new allegations re impropriety. Town Counsel reviewed with the Board his determination of no impropriety conducted, Mr. Luca property recused himself. Town Counsel advising to the District School Com. electing not to accept the provisions of S9D due to the former Shirley teachers not receiving surviving spouse benefits. Town Counsel advising to his being asked whether the law affords these individuals (former Ayer employees) the right to continuation of surviving spouse benefits due to the Regional School Com not accepting the provisions of GLc.32B, S9D due to the Regional School district establishing 42B of GL c71. Mr. Reich stating Ayer Teachers accrued a claim for surviving spouse benefits during their employment with the Town and case law confirms they may not be deprived of those benefits as a result of school regionalization and Town Counsel's opinion that former Ayer School Department employees are entitled to surviving spouse health benefits under GLc32B, S9D cost of those benefits to be borne by the Regional School District. Town Counsel advising to the Regional School Dist. being advised by their own counsel rendering a different opinion disclaiming same and Mr. Reich, Town Counsel stating he did not see opinion and requested to see letter. Chairman Conley advising to reaching out to the Chairman of the Regional School Com. when this information was disclosed requesting to have a Joint Meeting. Mr. Luca requesting to involve the Fin-Com 32-9A larger problem.

Scott Houde-Ayer Fin-Com-Financial Policies Discussion-Present for the discussion Brian Muldoon and Scott Houde. Mr. Houde stated the Fin-Com would like to update their policies. Last update done in 2010. Towards this effort Mr. Houde requested a working group be established consisting of: Treasurer, Collector, Town Accountant, two Board of Selectmen members and two Fin-Com Members. Mr. Houde advising to timeline for completion on fast pace-Phase I hopefully completed in September 2013, back to o Fin-Com in Nov. 2013 and Selectmen in December 2013. Ms. Livingston questioned meeting schedule and advised to early mornings a couple times a month (7:30a.m.@ Town Hall) Ms. Livingston expressed her interest as did Mr. Luca on serving. Mr. Pontbriand requested the Fin-Com's presence at the next Department Head Meeting scheduled for August.

John Canney-Office Supplies/Expenditures-Mr. Pontbriand opened the discussion re recent purchasing by Town Clerk/Tax Collector. Mr. Pontbriand advising to his serving as Chief Procurement Officer for the Town to assure compliance with 32B for purchases under \$5K. Mr. Pontbriand advising to no formal policy in place re purchasing authority rather disposition to him via the Town Government Study Committee's approved report in 2012. Mr. Pontbriand advising to TGSR delegated authority from the Selectmen to him too approve Town Hall purchases advising to his not being consulted re purchases citing ADA compliance issues re acquired item fitting into building. Mr. Pontbriand reviewed with the Board the Fin-Com's denial of purchases i.e. chair, stool, filing cabinet, vacuum citing via RFT stating file cabinet unnecessary, records should be computerized and other item run by the Bldg. Com.re approval. Mr. Canney stating he buys items to make his office run better and not aware of policies re purchase of furniture. Mr. Pontbriand requested a formal Town-wide policy be created re purchasing of software & hardware be run through the IT Director as well as a centralized system re purchasing of furniture, etc. Other issues discussed re expenditures/requests centralized upon Meetings attended by Town Clerk/Collector, purchases i.e. retirement party, calendars, mileage. Mr. Canney stating Town Meeting gives Departments the authority to purchase from their budgets, later rebutted by Town Counsel referencing the Chief Procurement Officer being the ultimate gatekeeper on spending for the Town. The Board invited Mr. Canney to reschedule further discussion with the Board through the Town Administrator if he felt the need in September. The Board requested if Mr. Canney had heard back from the legislature re the Town's Home Rule petition and advised not yet they have 90 days to respond.

Mark Reich, Town Counsel- Mr. Reich advised to his serving the Town for over eight (8) years. Mr. Reich advising to K&P serves the Town's Executive Body/s to advise, defend, prosecute, and enforce citing i.e. Zoning, BOH, Warrant Articles, Zoning Articles, etc. to 120 communities in MA. Mr. Reich stated new changes to the Open Meeting Laws, Public Records, Ethics of recent years has placed more scrutiny on Towns i.e. emails, texting, serial discussions urging all emails be achieved as they are treated as public record and subject to findings/violations of OML. Chairman Conley suggesting all emails be placed on web-site, Town Counsel disagreeing not subject to mandatory disclosure i.e. collective bargaining, strategy, etc. other ways around the OML re the Board communicating with each other via social settings, training sessions, other meetings, site visits. Mr. Pontbriand questioned if individual Board members could be fined and advised to OML fines go to the Town. Mr. Reich closed his update advising the Board to recent amendment to G.L.c.30B Uniform Procurement Act requiring Towns to get three quotes for the procurement of any goods and services where the estimated costs was greater than or equal to \$5K but less than \$25K. As a result of this amendment Towns may use sound business practice for the procurement of goods and services valued under \$10K raised from \$5K and the \$25K threshold re soliciting bids or request for proposals has not been altered. The Board thanked Mr. Reich for coming in to meet with the Board and Mr. Reich responding he was happy to be here to clarify the issues.

DPW Supt's Report-The Board met with Mark Wetzel.

1. Main Street Lighting Plan-Supt. Wetzel gave the Board a brief update re 18 month process and cost associated with lighting plan and replacement of three (3) street lights; two from accidents and one by Town plow. Maximum insurance coverage \$9K with one accident recoverable by insurance Town collects then pays Bartlett (\$14K/per light). The Board suggested looking into other companies i.e. under State Registry. Chairman Conley requested status re having company put up sample lights and

Board chooses which one they want. Supt. Wetzel advising Board to this not being offered. Supt. Wetzel reviewed VHB's Interim Street Lighting Plan to replace the fixtures not the poles along Main Street (\$50-\$60K for new light fixtures/bulbs) advising to it being a 5-part plan continuing to work towards a comprehensive plan- parts 1-4 to be completed for \$8,800.00 from Chapter 90 Funds if not he would fund from the DPW budget. The Board requested lights be included in Town's Capital Planning for May, advising to funding source once plan developed. Ms. Livingston moved the Board vote to move forward with VHB study & design in the amount not to exceed \$8,800.00, 2nd by Mr. Fay, VOTE: unanimous, so moved.

2. Groton School Road Wastewater Pumping Station Replacement Award-The Board approved the Low Bid Award to Grove Construction in the amount of \$370K Notice of Award moved by Mr. Luca not to exceed \$11k, 2nd by Mr. Hillman, VOTE: unanimous, so moved. Mr. Luca inquiring if Mr. Wetzel had made switch re TIP -Park St. -Supt. Wetzel advised to re-doing application and submitting back to State, advising to slow process.

Mr. Hillman applauded the efforts of Water Dept. re fixing the Hospital's water leak over the weekend. Supt. Wetzel elaborating stating the Water Dept was there from 10:30am to 4:00p.m. and assisted with materials. Materials and overtime to be reimbursed by hospital. Special recognition sent to Rick Linde for all his assistance.

Town Administrator's Report-

- 1. Fletcher Building Historic Preservation Restriction-present for the discussion-Robert France, President of Bonnet Realty owner of the Fletcher Building. Mr. Pontbriand advised the Board to the Historical Commission approving the Preservation Restriction at their meeting on July 10, 2013 and meeting again on 7-15-13 to notarize their signatures on the document. Mr. Pontbriand also advising to MA Historic Commission approving restriction. Mr. Fay moved the Board vote to approve the Fletcher Bldg. Preservation Restriction, 2nd by Mr. Luca, VOTE: unanimous, so moved. Mr. Luca advising to condition of CPC funding was to preserve the character of the building, repairs under guidelines of MA Historic.
- 2. MOA between the Town and Town Hall/Clerical Union AFSCME 93-Mr. Pontbriand presented the Board the Fy-2014 Wage Re-opener between the parties mutually agreeing to a two (2 percent base wage increase for 2014 retroactive to July 1, 2013. Mr. Luca moved to approve the wage re-opener article of the agreement to include a 2% base wage increase for Fy-2014, 2nd by Mr. Hillman, VOTE: unanimous, so moved.
- 3. Electrical Inspector Fees-Mr. Pontbriand advised the Board to the Building Commissioner's recommendation to increase the Electrical Inspector's fee. Advising to the Plumbing/Gas Inspector receiving 60% of the fee and the Town receiving 40%, the Electrical Inspector receives 50% of the fee and 50% goes to the Town. Mr. Vellante' unclear why discrepancy exists and wishing to increase the electrical Inspector's fee to 60% to be consistent with the Plumbing/Gas Inspector requesting this be retro backed to July 2012. (\$2,686.11). Mr. Luca moved to approve and retro back only to July 2013, and look into previous year/s re discrepancy 2nd by Mr. Hillman, VOTE: unanimous, so moved.
- 4. Home Rule Petition-Mr. Pontbriand advised to being notified by Legislators to Home Rule approved on 7-11-13, reducing the Board of Selectmen from 5 to 3, goes back to House for enactment, and then to Governor for signing. Mr. Pontbriand advising Board to process being completed by the end of the month. Process would be ballot and then Special Election in 2014. 10:05p.m. Mr. Luca moved to extend the meeting for ten (10) minutes, 2nd Mr. Fay, Vote: unanimous, so moved.

5. New Business/Future Topics-Mr. Pontbriand advised the Board to Town Counsel Greg Corbo not available to meet on 7-23-13 re joint session with the Board of Health re property enforcement, so 7-23-13 is open if the Board wishes to meet re other matters, i.e. Negotiations. Mr. Pontbriand advising to confirming with the Con-Com for the Board's 8-20 Meeting to approve the RFQ re Aquatic Weed Control Contract. Chairman Conley advising to other important matters presently before the Board: Dept. head Evaluations, GPS/Transponders, Town Management letter, Park St. crosswalk, Town-wide Code of Conduct, Board of Selectmen's Policies & Procedures as well as the Board's future meeting schedule. Chairman Conley suggesting the Board meets with the DPW re Negotiations on the 23rd one hour open and one hour executive, no quorum available.

Mr. Fay-Guilt by Omission- advising to being approached by residents re Selectmen should mind their own business, and responding if its regarding Town business the Selectmen have every right to investigate and keep on doing what you're doing it is correct for Selectmen to look into matters. 10:15p.m. Mr. Luca moved to adjourn the meeting, 2nd by Ms. Livingston, VOTE: unanimous, so moved.

10:15p.m. Meeting adjourned

Date: _____

Christopher Hillman, Clerk
AYER BOARD OF SELECTMEN