

**TOWN OF AYER SELECTMEN MEETING MINUTES**  
**Thursday, August 22, 2013**

**The Selectmen's Meeting can be viewed in its entirety on the Town's Website at: [www.ayer.ma.us](http://www.ayer.ma.us)**

**Ms. Conley called the meeting to order at 7:10p.m.**

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

Mr. Pontbriand requested to delete the Rex Trailer Event update advising that the matter has been resolved, to add a request from St. Mary's' for a Two-Day Beer & Wine License for September 6 & 7, 2013, and an item re the Board's future meetings.

Mr. Fay moved to approve the Agenda as amended, 2nd by Mr. Luca. VOTE: unanimous, so moved.

**Minutes:** Mr. Luca moved to approve the minutes of 8-6-13, 2nd by Mr. Fay, VOTE: unanimous.

**Public Input:** None

Mr. Pontbriand reported that the Public Input Matrix is now on the Town's Website for 2013

**Economic Development by Ms. Alicia Hersey:**

1. Housing LIP Unit Refinancing – Owner of 68 E. Main Street Unit #2 is requesting approval to refinance their mortgage at a fixed interest rate in the amount not to exceed \$92,900.00 which is within the guideline limits of EOOD. Motion to approve made by Mr. Luca 2nd by Mr. Fay, VOTE: Unanimous.
2. The Close-out Report for the Fy-11 CDBG Block Grant approved by the Board on 7-2-13 was misplaced in Boston and requested the Board's authorization to allow the Chairman to sign a new copy of the document. There was no objection.

**Thomas Horgan, Town Moderator:**

Present for discussion John Canney, Town Clerk/Tax Collector.

Mr. Horgan suggested the Board schedule the October 28, 2013, Fall Town Meeting at the Ayer Town Hall due to the renovation project at the high school. Mr. Horgan informed the Board of the historical background and of adequate seating available and parking utilizing spaces at the bank, Library, Central Ave., Main, Newton & Columbia Streets. The Board informed Mr. Horgan the location of Town Meetings are the Moderator's decision. Mr. Horgan then advised the Fall Town Meeting would take place in the Great Hall.

Mr. Horgan also reported on speaking with the Town Clerk re Special Election for the Home Rule Petition. Mr. Canney advised the Board that funding is available in his Fy-14 budget and provided a draft Election Warrant suggesting the vote be held on November 5, 2013 as this would meet the requirements stipulated in the Petition. Selectman Luca moved to approve the Home Rule Petition Election as presented by Mr. Horgan and Mr. Canney for November 5, 2013, 2nd by Selectman Fay, VOTE: unanimous.

**Town of Ayer's Financial Management Letter:**

Present for the discussion: Finance Manager Lisa Gabree, James Giusti, CPA, Giusti, Hingston & Co., Town Clerk/Tax Collector John Canney and Town Treasurer Stephanie Gintner.

Ms. Gabree opened the discussion by advising to no findings or irregularities in the annual audit and that the discussion was to hear suggestions that would be pro-active to make reconciling cash flow and other finances more efficient and timely.

Mr. Giusti reviewed a July 18, 2013 Update to the April 30, 2013 Audit Report. The update was prepared after meeting with Ms. Gabree, Mr. Canney and Ms. Gintner. (Both reports are attached)

The following areas of concern were discussed in detail:

- **Tax Collector's Depository Bank Account**

Mr. Giusti recommended closing the Tax Collector's account reopening it in the Treasurer's name so that all tax collections would be deposited into the Treasurers bank account in the same manner that all other department receipts are turned over to the Treasurer. Mr. Canney and Ms. Gabree agreed w/the recommendation. Ms. Gintner did not. Mr. Luca motioned that the Tax Collector close the account as soon as possible or by 9-25-13 when new policy will be in effect and have the Treasurer open an account so the tax Collector could deposit receipts directly to that account, 2nd by Mr. Fay. Ms. Gintner objected, stating the motion was not valid because the Board cannot tell an elected official what can/cannot do. Ms. Conley stated there is no change in process only name on account. VOTE: unanimous.

- **Ambulance Receipts**

Mr. Giusti recommended an analysis of this account be made as to why it set up and if there is a specific reason to keep it open. If not, Mr. Giusti recommends it be closed, the balance transferred to the Town's regular depository bank and future receipts be deposited into the regular account.

Ms. Gabree advised that the Fire Chief informed her that Medicare and MassHealth receipts are deposited directly into this account and that it could be cumbersome to change bank routing numbers/paperwork with the Federal & State governments. Ms. Gabree agreed with Mr. Giusti, subject to more information from Chief Pedrazzi, that there is no reason to retain the ambulance bank account

- **Health Insurance-Retirees**

Mr. Giusti updated the Board to an update to MGL Chapter 32B Section 9A 1/2 permitting municipalities to bill other municipalities for the percentage of a retiree's health insurance premium based on length of service. Thus, the Town of Ayer may bill for that portion of premium contributions that corresponds to the percentage of the retirees' service in Ayer.

Ms. Gintner advised she has been aware of this new law for over a year and inquired of other municipalities what they are doing. Ms. Gintner is of the opinion along with many other Treasurers that the law is a poorly written and unworkable i.e. retirees who worked for towns that did not offer Health insurance vs. Towns that did, questioning who has to pay for the time worked in the Town that did not offer health insurance to its retirees.

Ms. Gabree stated she sent a Public Records Request to Ms. Gintner for copies of retiree bills the Town has received to which the Treasurer has to respond. Ms. Gintner stated she wanted assurance bills will not be paid until matter is settled, that it is her decision not to pay. Ms. Livingston questioned Ms. Gintner if someone in authority told her not to pay, i.e. State or the AG. Ms. Gintner stated again the law is broken because of the way it is written.

Mr. Pontbriand suggested it would be prudent to have a system in place regarding retirees' health insurance payments in order to know who to bill, to encumber funds and be prepared to pay incoming bills. Mr. Pontbriand disagreed with Ms. Gintner's suggestion to do nothing. Mr. Fay expressed concerns about having money owed to us which the Town is not collecting. Ms. Conley stated the Board should have a discussion with the FinCom to create a solution, suggesting Board run last three years Financials on the website.

- **Written Cash Investment Policy**

Mr Giusti advised that as of 6-30-12 a significant portion of the Town's cash was uninsured and uncollateralized. Mr. Giusti recommended the Town's investment policy be reviewed and a formal written policy be developed to include minimum ratings for investments vehicles (such as Moody's) must have in order for the Treasurer to invest in them as well as a policy for the maximum acceptable amount of uninsured or uncollateralized deposits in a particular bank.

Ms. Gintner responded that it is not a requirement by the state for municipalities to collateralize funds, that Towns funds are deposited in safe secure banks with high ratings by Veribanc with net assets more than enough to cover any losses should something happen to the solvency of the banks. Ms. Gintner also advised that as of April & May 2013 Town funds are in Sweep Accounts to cover collateralization with the exception of funds deposited to NMSB, which funds are covered by FDIC for \$250K and DIF for balances over \$250K.

- **Snow and Ice Removal**

Mr. Giusti recommended the Town review its policy & procedure on deficit spending for those expenses that are variable and unpredictable from year to year depending on the severity of the winter. Deficit spending is not authorized for expenses for regular, recurring DPW activities or salaries that are predictable.

Ms Gabree advised she is aware of recent guidelines published by the State and that the Town has reported snow & ice expenditures in accordance with these guidelines. Ms. Gabree suggesting that Supt. Wetzel and the FinCom establish a Snow & Ice Deficit Policy to be included in the Town's Financial Policies.

See Financial Report dated 4-30-12 for other areas reported on by Giusti, Hingston and Company/Georgetown, MA

**DPW** (Mr. Luca recused himself from the discussion)

**Appeal Request Water/Sewer Abatement-Marshall Trust 32 E. Main Street, Ayer, MA**

Present for the discussion Mark Wetzel, DPW Supt. and David Belanger, Trustee for the Marshall Family Trust.

Supt Wetzel stated that neither he nor anyone in the Water Department ever stated they would "fight him all the way" re this bill. Supt. Wetzel advised that the property has a new meter which never tests high always tests low.

Mr. Belanger presented the Board his bills from 2004, indicating his usual bill ranges between \$280.00 and \$380.00

while the bill from 12-8-11 to 6-12-12 the bill totaled \$1,305.09, the bill from 6-7-12 to 12-6-12 totaled \$1,482.19 and as of today he has paid \$2,700.00 for the last 12 months while he usually pays \$700.00 for the same period. The Board asked if the meter has been tested. Supt. Wetzel offered to do so. The cost is \$50.00. The Board continued the matter until meter has been checked out by DPW. Mr. Luca returned to table.

### **Conservation Commission**

Present for the discussion were Bill Daniels, Chairman, George Bacon, Jessica Gugino, Takashi Tada Conservation Commission Members.

### **RFQ Town of Ayer Comprehensive Pond Study**

Mr. Daniels advised that the Conservation Commission received three (3) proposals: Aquatic Control Technology of Sutton, MA at \$18,255, GEOsyntech for \$31,944 and NEE \$41,175. The last RFQ was eight (8) years ago. Mr. Daniels that once awarded an article needs to be on the Town Meeting Warrant for funding. He is concerned it will not make the FTM in time and Commission looking at the Spring ATM in 2014. MS. Conley asked if the Dam & Pond Cmte had seen the RFQ. Supt. Wetzel joined the discussion and indicated he had not seen it yet. Mr. Daniels asked for clarification of the role of the Dam & Pond Com and Con-Com. MS. Conley explained she thought the two committees were working together on all matters relating to the pond and suggested they have a joint meeting to review the RFQ and prepare a summary for Selectmen's next meeting. Ms. Conley also asked if the RFQ was available electronically so that it could be put on Town's Website.

### **Kohler Place**

Mr. Pontbriand advised that the Board received correspondence from the Cornellier Family regarding the purchase of 22-26 acres of land along Sandy Pond known as Kohler Place for the purpose of open space and conservation. Mr. Pontbriand advised that the CPC is interested in making this purchase. Ms. Conley declared the discussion in Open Session was exempted under Exemption #6 of the Open Meeting Law, specifically that "To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have detrimental effect on the negotiating position of the public body" (read into the record). Mr. Pontbriand requested the Board authorize the Town Administrator and Mr. Luca to negotiate a Purchase & Sale Agreement for the property for consideration at the Fall Town Meeting. Mr. Fay stated that an email reference to Exemption #6 on 8-22 by the Chairman was not appropriate. Mr. Daniels also disagreed, advising that ConCom met with CPC re this purchase on numerous occasions. Ms. Conley explained her position, stating she has no knowledge of communications of Board re this property. Board members disagreed, referring her to media reporting as far back as 2012. Ms. Gugino advised the Con-Com met with the CPC six (6) times re this property. Mr. Fay requesting the 8-22-13 email be recorded into minutes. Mr. Fay moved the Board authorize Mr. Luca and the Town Administrator to seek information re acquisition of Kohler Place, 2nd by Mr. Luca, VOTE: unanimous. Ms. Conley requested copies of the Con-Com minutes related to the meetings with the CPC be copied to the Board.

### **Town Administrator's Report**

1. Building Department Staffing -Mr. Pontbriand advised Mr. Vellante was unable to be present this evening and referred Board to Mr. Vellante's memo of 8-20-13 relating to the Assistant Building Inspector. Mr. Fay moved to advertise for a part-time Asst. Building Inspector for three (3) days a week-six (6) hours a day for office coverage and field work per the AFSCME Contract, 2nd by Ms. Livingston, VOTE: unanimous.

2. Electrical Wiring Inspector Permit Fees-Mr. Pontbriand requested the Board's consideration of the Electrical Inspector's request for a change to a 60-40 split on permit fees to bring him into parity with Plumb/Gas Inspector and that the change be retroactive to July 2012 for a total back pay of \$2,686.11. Mr. Fay moved to approve the Electrical Inspector's retroactive 60-40 fee split retroactive to July 2012, no 2nd motion fails.

3. 10-28-13 Special Fall Town Meeting Warrant-Mr. Pontbriand reviewed the proposed articles for the FTM Warrant to date including a FinCom place holder for the financial policies, street acceptances, Kohler Place, APD Mutual Aid Agreement, Fire Station RFP, funding articles for street lights, pond RFQ, Town Hall Maintenance Fund for benches, roof, etc.

4. St. Mary's Lawn Party- Mr. Luca moved to approve Two (2) Day Beer & Wine License for St. Mary's Lawn Party, September 6 & 7 2013, from 5-9pm, 2nd by Ms. Livingston, VOTE: unanimous.

10:00p.m. Mr. Fay moved to extend their meeting for ten minutes, 2nd by Mr. Luca, VOTE: unanimous.

5. Employee Recognition Program- Mr. Pontbriand reviewed an Employee Recognition Program outlined in his 8-21-13 memo. The Board agreed to take this up at their 9-3-13 meeting.

6. Town Counsel's Review of Personnel Board appointments-Mr. Pontbriand reviewed Town Counsel's opinion the Board acted appropriately on its Personnel Board appointments of 8-6-13 and Bylaw terms of office. Mr. Luca rephrased his question and requested this be sent to Town Counsel.

7. Selectmen's Policy Procedures-Mr. Pontbriand presented the Public Input Policy #13-01 to the Board for inclusion in the Selectmen's Policies. Mr. Luca moved to approve the Public Input Policy #13-01, 2nd by Mr. Fay,

VOTE: unanimous. Ms. Conley indicate that policies numbered 99-27 and 99-26 are the same depending on what year of the policies one was using. They both pertain to Meetings with Chairman's of Boards, Commissions, Committee's being twice a year.

10:10p.m. Ms. Livingston moved to adjourn the meeting, 2nd by Mr. Luca, VOTE: unanimous, so moved.

Date

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Christopher R. Hillman, Clerk