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Town of Ayer
 Board of Selectmen
 Town Hall, First Floor Meeting Room



Tuesday, September 6, 2011

Gary J. Luca, Chairman	X	Carolyn McCreary, Member	X
James M. Fay, Vice Chairman	X	Pauline Conley, Member	X
Frank F. Maxant, Clerk	X	Robert Pontbriand, Town Administrator	X
Janet S. Lewis, Secretary	X		

7:05p.m. Open Session

Chairman Luca called the meeting to order- Chairman Luca requested if there was anyone present wishing to meet with the Board under Public Input, no one stepped forward. Town Administrator Robert Pontbriand requested to add an Agenda item under his report the opening the 10-24-11 Fall Town Meeting Warrant. Selectman Conley requesting to add under Town Administrator/Selectmen’s Questions-Light pole damage, Chairman Luca requesting to add under Selectmen’s Questions-Treasurer’s Office discussion. Chairman Luca called for a motion to approve the Agenda of 9-6-11. Selectman Fay moved the Board approve the Agenda as amended, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #1. Announcements-Chairman Luca made the following announcements:

1. Veterans Agent Mike Detillion changing the Veterans Office Hours from Mondays to Tuesdays effective October 4th, 2011.
2. 9-11 Observance to be conducted on Sunday, September 11th at 9:30a.m. at the Ayer Fire Department. Chairman Luca ran through the itinerary and encouraged resident’s participation.
3. Selectman Maxant advising to the Ayer/Shirley Drama Students presenting “We Remember” a theater production, on the 10th anniversary of 9-11, on September 9, 2011 at the Ayer/Shirley Regional High School/Washington St., Ayer, MA at 7pm.
4. Chairman Luca reminding residents to the Fin-Com survey available to residents to assist the Committee with the Fy-12 Budget. Surveys available at the Ayer Town Hall-Selectmen’s Office and the Library as well as on the Town’s Website for resident participation.
5. Chairman Luca took this opportunity to welcome back Brooks Maxwell from his tour of duty in the Persian Gulf-Afghanistan, thanking him for his service.
6. Chairman Luca announced the Eagle Scout Project - benches to the Memorial Garden completed at the Ayer Town Hall by Jordan Rodriquez in memory of his late grandfather Manuel Velez who served the Town of Ayer for over twenty six years as the Town’s Veterans Agent. Official Dedication Ceremony to be announced at later date.

Agenda Item #3. Conservation Commission-Vegetative Management-Set back due to Mr. Daniels not present for discussion at this time.

Agenda Item #4. Fire Station Re-Use Committee Feasibility Study Contract-The Board met with David Maher. Town Administrator Robert Pontbriand updated the Board to Town Counsel verifying funding re review of repairs and renovation necessary for the preservation and reuse of the building being within the scope of the Article and funds therefore may be used for the study. Mr. Maher presented the Board supporting documentation re Selectmen’s meeting minutes supporting the RFP. Selectman Conley stating she has serious concerns going forward with process. Selectman McCreary calling for “A Point of Order” stating the Board already voted to approve the contract and only someone who voted on the prevailing side could bring up further discussion. Chairman Luca requesting the Board’s .permission to allow Selectman Conley five minutes to state

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her concerns. Selectman Conley requesting the Board not approve the contract due to obligation the Town has to ensure process follows proper procedure under the Open Meeting Law and could be subject to A.G. investigation if questioned/examined. Selectman Fay stated his frustration to this being an insult to his integrity, and to stop “witch hunt” stating all meetings, minutes, and votes were taken properly. Selectman Maxant echoing Selectman Fay feeling confident that the process worked properly and in good faith. Selectman Conley stating for the record she did not support approving the contract with Kang Assoc.

Agenda Item #3. William Daniels-Conservation Commission-Vegetative Management Update-The Board met with Bill Daniels who presented the Board the Ayer Conservation Commissions Weed Treatment Timeline beginning in 1995 through 2011 (16 years). Mr. Daniels reviewed with the Board the Town’s five year plan for treatment of all Town ponds by Aquatic Control Technologies (ACT) which failed due to late spring rains in 2006 and budget constraints in 2009 & 2010. The Commission did not seek funding due to Budget constraints at the ATM during these two budget rounds. This year’s treatment was put on hold due to Beaver Dam being compromised and extreme flooding to both Flannigan’s & Sandy Ponds which unfortunately postponed the weed treatment for this year. Selectman Conley suggested the Board of Selectmen meet with the Conservation Commission to come up with a Management Plan for all the ponds and identify funding not at a regular meeting of the Commission or the Selectmen but an alternate date of both Boards and create a good Pond Management System. On another issue the Board requested if they were pursuing additional hours for their secretary. Mr. Daniels stated yes probably an additional five (5) hours/week.

Mike Pattendon stated at a prior meeting of the Board they met with Charles Miller; Mr. Miller advised the Board to home owner’s living around Flannigan’s Pond owning property under water (deeded property) suggesting the Town should not pay for all cost exclusively re weed control the Pond Association should pay for one half of the treatment since they own the property. Selectman McCreary updated Board to Flannigan Pond not natural pond but flooded meadow created by Dam and suggesting Board wait for Dam Management Committee’s input before taking any action re funding proposals.

Agenda Item #5. Economic Development Director’s Report-The Board met with Dave Maher and Sue Provencher.

1. **Fy-12 Grant Application**-Ms. Provencher updated the Board to being notified that the Fy-12 Grant Application is due at DHCD by 12-16-11. Ms. Provencher gave the Board a brief explanation why the Town should not apply for the Fy-12 Grant. Ms. Provencher advised to Town receiving a Community wide score from DHCD of 28 stating when a Town is rated 25 or 26 they can apply under a CDF 1 or a CDF11 now the Town must apply as a CDF1 which implies the Town is now categorized as “needier” but at the lower end. The last two CDBG grants which the Town received were under CDFII removing the question of need. Ms. Provencher advising to the Town being very successful with the last two applications. DHCD’s pending budget cuts in federal funding are looking to make the CDFI grants available every other year instead of yearly. Ms. Provencher & Mr. Maher stating the Office of Economic Development has been very lucky to receive two substantial awards within the past six weeks and suggested the Town not apply for the Fy-12 Grant stating in all actuality the town would not be likely to receive funding due to the substantial two last rewards and new status given. Selectman Fay moved the Board not apply for the Fy-12 DHCD Grant round, 2nd by Selectman McCreary, VOTE: unanimous, so moved.
2. **Drug Court Grant**-Ms. Provencher advised the Board to receiving notification that the Town received an award for the third year from the Dept. of Mental Health in the amount of \$300K to be used to partner with Advocates to continue Drug Treatment Programs that have been running for the past three years. Ms. Provencher to submit to the Board at their next meeting signed contracts from Advocates and DMA for their approval.

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- 3. **Department Assistant**-Ms. Provencher updated the Board to Department of Planning & Development receiving two substantial grant awards and advising to the amount of work involved managing both of them. Ms. Provencher suggesting the hiring of a part-time assistant to work ten to twelve (10-12) hours a week as the two grants were written with a combination of sixty eight hours a week of Program Manager time. Ms. Provencher stated she feels the office does not need that many hours but does need someone part-time both helping and learning the whole grant process from beginning to end. Ms. Provencher reminded the Board to her pending retirement at the end of 2012 and the work involved re training someone up to her status. Selectman McCreary stated for the record position is subject to Grant funding. Selectman Conley stated Salary and Job Description should be discussed with Union and finalized as well re the designation of a Grade 6 & Step with the Personnel Board with respect to salary. Selectman Conley suggesting the Board meet with Union to discuss Grant Process and activities associated with re Department Assistant. Ms. Provencher reminding all to time line as Fy-11 Grant has already started.
- 4. **Lien Subordination**- Ms. Provencher presented Case #03-248E; 04-248 Ms. Provencher advised the Board to this lien presented and approved by the Board on 8-1-11. The property owners have come back with a revised- lien subordination at lower request. Ms. Provencher advising to original request coming in at \$138,695.00 now reconfigured at \$128,392.69 which includes a \$10,302.97 recapture of subsidy. Proposed new mortgage originally \$145K now reconfigured at \$132,595.00 with owner receiving no more than \$325.00 cash back. Selectman McCreary moved the Board vote to approve the new configuration re lien subordination for case #03-248E;04-248 at \$132,595.00, 2nd by Selectman Conley VOTE: unanimous, so moved.
- 5. **Rail Trail Business Director (sign)**-Mr. Maher presented the Board the proposed draft of IDFA's Rail Trail Sign which has been in the works for over 2 ½ years. Due to time constraints of members Mr. Maher has taken the lead on securing IDFA funding & approval of the proposed 37.5 sq. ft. sign to be located at the corner of Phil Berry's land and the rail trail. Selectman Conley moved to approve the request from David Maher on behalf of the IDFA for the Rail Trail Business Director Sign in the amount not to exceed \$4,798.00, 2nd by Selectman Maxant VOTE: unanimous, so moved.
- 6. **Waiting Station-Main St.**,-Selectman Maxant requested if a date was set re dedication of waiting station across from Town Hall. Mr. Maher advising to small bronze plaque to be erected on building thanking Shriver Jobs Corp for restoration of the building. Mr. Maher to invite Shriver students and downtown business to dedication and photo shoot, date to be developed. Mr. Maher took this opportunity to thank Mr. Berry and Calvin Moore for their assistance i.e. donating materials, feeding students during construction.

Agenda Item #6. Fire Chief-Robert Pedrazzi re Radio Contract-Chief Pedrazzi presented the Board the MA State Contract ITT40 –P.O.153082FD dated 8-31-11 Radio Contract to purchase Fire Department radios which passed the Capital Exclusion Warrant Article & Election Ballot at this year's 2011 Spring Election /Town Meeting in the amount of \$45,350.08. Selectman Conley moved the Board vote to approve the MA State Contract for the Ayer Fire Department Emergency radios as presented by Chief Pedrazzi in the amount not to exceed \$45,350.08 2nd by Selectman Maxant Vote: unanimous, so moved.

Hurricane Irene Update-Chief Pedrazzi advised to the Town of Ayer not having a lot of damage. The Town received 6" of rain which resulted in three flooding issues on Sunday. A few trees and power line came down resulting in the loss of power for three (3) hours in the Sandy Pond area and for one business being without power for three (3) days. The Ayer Fire Dept. will be submitting to FEMA email expenses reimbursement from Hurricane Irene. The Chief remarking the Town was very lucky to come out so lightly from Irene other areas in N.E. were not so lucky. The Board thanked the Ayer Fire Dept. & staff for all

their assistance and to the residents & businesses during the storm.

Agenda Item #7. Supt Nason's Report

1. **Water/Sewer Abatement Request-102 Autumn Ridge**-Set back for later in the meeting
2. **Pavement Management Study-Vanasse Hangen Brustlin, Inc. (VHB)** The Board met with Gordon Daring, PE. Mr. Daring conducted an overhead presentation re the Town's Roadway Pavement Maintenance Management-planning of pavement maintenance and rehabilitation with the goal of maximizing the value and life of pavement network. Mr. Daring reviewed with the Board the process identifying inventory of roads, distress, condition, treatment options, costs, budget scenarios, candidate projects, engineering and local judgment to define the town's annual road program. Mr. Daring reviewed with the Board pavement deterioration curve from excellent to failed quality of roadway, concepts; treatment options i.e. crack sealing, patching, preventative maintenance, structural improvement. Mr. Daring ran through budget analysis Historic—Chapter 90 restricted capital projects. Maintain PCI (Pavement Condition Index) adding \$115K in Town funds to Chapter 90 funding for maintenance and capital projects.

Improve PCI (Pavement Condition Index) adding \$250K in Town Funds to Chapter 90 that can be used for both maintenance and Capital Projects. Mr. Daring reviewed with the Board recommendations for the pavement management i.e. budgeting adequate funds to balance pavement funding needs with water and other infrastructure expenditures, expanding the maintenance program-to make timely repairs, provide for construction inspection at the plant and field to ensure quality material is provided and quality work performed and provide for adequate staff to support quality paving program. Mr. Daring recommended annual road program development using system to identify candidate projects (neighborhood), utilize GIS to coordinate project geographically i.e. utility co-ordination, adapt to funding opportunities and constraints (TIP). In closing Mr. Daring made the following system recommendations: update system to work that has been done, evaluate funding levels periodically, develop multi-year road programs and track specific and overall condition ratings at a minimum of every four years.

Selectman Maxant-stated his disappointment re photographs used in presentation were not Town of Ayer actual roads, stating determination scale being not to scale and to refine curve for more adequate report again stating his disappointment and not what he expected from professional firm.

Selectman Fay echoing Selectman Maxant presentation misleading looking at streets not in Town of Ayer should be looking at current conditions in Town. Selectman Fay questioning accepted roadways only being included in study, not unaccepted roadways. Chairman Luca stressed need for budget discussion. Chapter 90 Funds not being sufficient and need for general funds for restoration plans. Supt. Nason disagreeing on presentation analysis advising to presentation only being a snap-shot, useful information re maintenance re overall Town roads. The Board thanked Mr. Daring for coming in to meet with the Board.

3. **Sludge Landfill Monitoring Contract**- Mr. Nason presented Stantec Consulting Services Inc. of Westford, MA contract for Engineering Services-Sludge Landfill Post-Closure Monitoring. Selectman Fay moved the Board vote to approve the Contract with Stantec dated 7-20-11 in the amount not to exceed \$23,170.00 broken out as follows: Fall 2011 –(Fy-12) \$7K, Fall 2012 (Fy-13) \$7,700.00 and Fall 2013 (Fy-14) \$8,470.00 for the total contract price of \$23,170.00, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Two-Way Radio Upgrade P.O.—Supt. Nason presented the Board P.O. #20143 dated 8-22-11 in the amount of \$15K to Beltronics of Hollis, N.H. for the radio installation, reprogramming to include base radio at the APD and updating all radios for the entire department, and antennas. Selectman Conley moved the Board vote to approve Supt. Nason's recommendation in the amount not to exceed \$15K and

authorize the Signature of Department Head, 2nd by Selectman Maxant VOTE: Selectman Conley aye, Chairman Luca aye, Selectman Fay no Selectman Maxant no, Selectman McCreary abstained. Motion lost. Selectman Fay moved the Board vote to authorize the amount not to exceed \$15K and authorize the Chairman's signature, 2nd Selectman Maxant, VOTE: unanimous, so moved.

John Deere Loader-Supt Nason presented the Ayer Solid Waste Divisions P.O. 20141 dated 8-22-11 from KAGE (Natural Landscape of Northborough, MA) for John Deere Loader plow to be used at transfer Station facility and also for snow removal by the Department. Selectman Maxant moved the Board vote to approve P.O. #20141 to Kage (Natural Landscape) dated 8-22-11 in the amount not to exceed \$13,113.68 and authorize the Chairman's signature, 2nd by Selectman McCreary, VOTE: unanimous, so moved.

Hurricane Irene-Selectman Maxant requested Supt. Nason read into the record his Memo dated 8-31-11 re planning & response to Hurricane. Supt. Nason read into the record his gratitude to all the DPW employees for their efforts leading up to Hurricane Irene and preparing for the event. Supt. Nason advised to tremendous effort put forth re planning & coordinating from respective departments including Water, Wastewater, Highway thanking them for their team effort both with the storm and post storm clean up. The Board echoing Supt. Nason's appreciation to All Town Departments & employees.

Stormwater Buttons- Supt. Nason updated the Board to new stormwater buttons to be attached to storm drains/catch basins throughout town which mounts to grid and are plow resistant, 400 buttons purchased for high traffic areas.

Surplus Property-Mr. Nason updated the Board to the recent surplus property sale at the DPW on 8-22-11 announcing the sale of fourteen (14) pieces of equipment brought in \$57,566.60.

Abatement Request-102 Autumn Ridge-Supt. Nason updated the Board to Water Dept. responding to address and advising to finding no problems associated with meter and checked for leaks i.e. sprinkler problem identified in letter. The Water Dept is not responsible for leaks on customer's premises per Town of Ayer Water Department Policy. Selectman Maxant questioned Supt Nason re Water Dept checking into sprinkler leak associated burst pipe. Selectman Fay moved the Board not approve the abatement request based upon information provided, 2nd by Selectman McCreary, VOTE: Selectman Fay aye, Selectman McCreary aye, Selectman Maxant aye, Selectman Conley aye, Chairman Luca no 4-1 motion passes.

Agenda Item #8. Town Administrator's Report-

Regional School Budget Leadership Team- Mr. Pontbriand presented the request from Dan Gleason dated 8-17-11 re proposed options for improved communications between Ayer, Shirley and the Regional District. Mr. Pontbriand advising to Shirley Board of Selectman appointing their representatives and looking to Ayer to appoint the same. Mr. Pontbriand suggesting the following from Ayer be appointed: from the Board of Selectmen-Gary Luca, Finance Com.-Brian Muldoon, a member from the Board of Assessors, Town Administrator-Robert Pontbriand and the Town Accountant-Lisa Gabree as backup-Town Accountants would not be setting policy. Selectman Maxant voicing his approval being an excellent framework for the Towns to work together and supporting concept. Selectman Conley expressing her concerns re Town Accountant being on "Advisory Group" having not sent out feelers to School Region re way we process/allocate funds. Chairman Luca feeling Tri-Board meetings having good open discussions and looking to this new group having same open and clear shared information going into Fy-13 assessment process, and being very optimistic. Mr. Pontbriand advising to Lisa Gabree meeting twice re participation with Mr. Berry and him as well as her counterpart in Shirley. Selectman Maxant endorsing enthusiastically, support of concept. Motion to approve made by Selectman Maxant 2nd by Selectman Conley, VOTE: unanimous, so moved.

Energy Committee-Mr. Pontbriand praised the effort put forth from this Dynamic Group meeting application deadline of 9-6-11 and Town realizing real savings in fuel consumption and financial savings through the conversion of the main pumping station’s conversion to natural gas, investigation of Town Solar Field-Constellation Energy and moving forward with IT Energy Plan.

CPC Letter of Support-Mr. Pontbriand updated the Board to CPC Meeting on 9-7-11 requesting a letter of support on behalf of the Energy Com. seeking CPC Funding under the historic category to acquire the Town Hall generator and its conversion to natural gas and Town Hall automated controls. Selectman Maxant supported both projects, but expressed his concern re natural gas conversion being a mistake opposed to diesel. Selectman Conley moved the Board authorize letter of support, 2nd b y Selectman Fay, VOTE: unanimous, so moved.

10:00p.m. Selectman Fay moved the Board vote to continue the meeting to 10:30p.m., 2nd by Selectman Conley, VOTE: unanimous, so moved.

Public Hearings-Mr. Pontbriand updated the Board to the need to conduct Public Hearings re two issues before the Town: Shade Tree Removal –entrance to Emily’s Way- new subdivision advising to entrance being located at Lucchesi driveway on Groton Harvard Road and five (5) trees located in the driveway obstructing the direct line of sight creating safety hazard. Planning Board, Conservation, DPW have all reviewed area and concur need of trees to be removed. The Tree Warden has investigated and tagged trees for removal. Mr. Pontbriand advised to Resident expressing concerns re removal of the “shade” trees and requested Public Meeting on issue the other Public Hearing involves the Sex Offender Residency Bylaw the Chief met with the Board back on 8-16-11and presented to the Board the city of Fitchburg’s by-law which is the strongest enforceable By-law for adoption by the Town. The Board requested to have Town Counsel review bylaw for the hearing.

Fall Town Meeting-Selectman Fay moved the Board announce the Fall Town Meeting to be held on Monday, October 24, 2011 at the Ayer/Shirley Regional High School, Laura S. Leavitt Auditorium on Washington St., at 7:00p.m. and the warrant now open for articles, 2nd by Selectman Conley, VOTE: unanimous, so moved.

Agenda Item #10. New Business/Selectmen’s Questions

Selectman Conley –Requesting training sign off forms be given to all new appointments re ethics, public records, and Open Meeting Law now that Fy-12 Appointments have been finalized.

Chairman Luca opened the discussion re what direction to take upon evidence gathered re alleged unauthorized use of town computers and access of protected data. Chairman Luca stating public official was found to be deleting emails and using access ID’s to do other work. Chairman Luca questioning if this is something they can discuss without person being present. Criminal charge and 30 days in jail could be in the offering if this is the case. Selectman Fay feeling should tread carefully issue is more manager/employee problem. This is done absent a policy and training but felt the Board has authorization to investigate when there is a concern about a computer security violation. Selectman Maxant feeling if management problem public has the right to know. Selectman Fay moving to authorize the Board to make inquiry into situation based upon internal investigation/audit, 2nd by Selectman Conley for discussion. Selectman Conley stating employee violated has not submitted a report/letter to Board and other pending. Two employees need to initiate process. Once reports are in Selectmen can convene Executive Session to receive more information and act upon. VOTE: unanimous, so moved.

10:30p.m. Selectman Fay moved the Board adjourn the meeting, 2nd by Selectman McCreary, VOTE: unanimous, so moved.

date: _____

Frank F. Maxant, Clerk

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