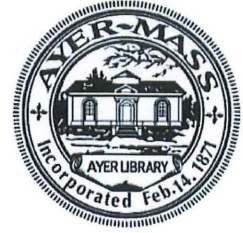


RECEIVED
OCT 12 2021

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



TOWN OF AYER
TOWN CLERK

11:45am
S. Copeland

Broadcast and Recorded by APAC

Tuesday September 21, 2021
Open Session Meeting Minutes

SB Present: Shaun C. Copeland, Chair; Jannice L. Livingston, Clerk

SB Absent: Scott A. Houde, Vice-Chair

Also Present: Robert A. Pontbriand, Town Manager
Carly M. Antonellis, Assistant Town Manager

Call to Order: S. Copeland called the meeting to order at 6:00 PM. He stated that members of the public are welcome to attend this in-person meeting and that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast.

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

Approval of Meeting Agenda:

Motion: A motion was made by J. Livingston and seconded by S. Copeland to approve the meeting agenda. **Motion passed 2-0.**

Announcements: None

Presentation of Boston Post Cane – Ms. Lillie Jackson: Town Clerk Susan Copeland joined the Select Board to present the Boston Post Cane to Ayer's oldest resident Lillie Jackson who is 99 years old. The Select Board presented Ms. Jackson with flowers and a certificate of recognition. The Town Clerk presented Ms. Jackson with a replica Boston Post Cane. Ms. Jackson was joined by her friends and family.

Recognition of Retirement of Mark L. Wetzel, P.E., Director, DPW: The Select Board and R. Pontbriand recognized retiring DPW Director Mark Wetzel is who retiring from his fulltime position on Thursday September 30, 2021. The Board presented Mr. Wetzel with a certificate of recognition and presented Mrs. Joan Wetzel with flowers. R. Pontbriand presented a gift to Mr. Wetzel and thanked him for his 10 years of service.

Public Input: None

Appointing Committee of the Nashoba Valley Technical School District – Alternate School Committee

Member: Town Moderator James O'Connor called the Selection Committee to order at 6:40 PM. Those in attendance were the SB members S. Copeland and J. Livingston, Ayer Shirley Regional School Committee Member Erica Spann and Town Moderator James O'Connor. Corey Prehl was in attendance and is seeking to be appointed as the Alternate Member to the NVTHS School Committee. Mr. Prehl stated that he has served on the Committee previously as a Student Representative while he was attending the school.

Motion: A motion was made by J. O'Connor and seconded by S. Copeland to appoint Corey Prehl as the Alternate Member to the NVTHS School Committee with a term expiring on March 31, 2022. **Motion passed 4-0.**

J. O'Connor adjourned the Selection Committee at 6:45 PM.

Select Board Update on Eviction Moratorium for Devenscrest: R. Pontbriand reported that in speaking with Town Counsel, the Town was advised an Eviction Moratorium for the Devenscrest neighborhood would very likely not hold up in Court. He explained that homelessness in Massachusetts is not a legal basis that would demonstrate a public safety or public health emergency. He also added that the State of Emergency relating to COVID-19 has been lifted and that eviction moratoriums have ended on both the state and federal level. He noted that he is also very hesitant about speaking about the Town's legal strategy in Open Session. He stated that if the Town were to move forward with the eviction moratorium, that the property owners, Brady Sullivan will file an injunction and sue the Town for damages. His recommendation is that proceeding with the eviction moratorium is not in the best interest of the Town. J. Livingston stated that what R. Pontbriand said was accurate and it is important to remember that he is just the messenger. J. Livingston stated that she was shocked that homelessness is not a basis for a public health emergency. S. Copeland was hoping to buy more time for the residents via the eviction moratorium.

Robert Vogel, 62 Central Avenue stated that he was disappointed in the Town as he is about to lose his home due to a no-fault eviction. He stated that the SB should not just look out for Devenscrest, but the entire Town. He stated low-income people are being forced out of Town.

Tara Fredericks from Acton stated the eviction moratorium is not illegal, but that Counsel is being conservative. She asked the Select Board to be courageous. J. Livingston stated that sitting in the SB seats was courageous some nights and she noted that there are many people in Town not in favor of the article. There was further discussion from Ms. Fredericks about a building moratorium and eminent domain.

R. Pontbriand stated that there was no question that this was a difficult situation. He has been asking Brady Sullivan to meet with the Devenscrest Tenant Association, but they are not willing to do so. He stated that he does not have the power to compel a private property owner to meet with anyone. He also noted that the property in question, is not for sale. R. Pontbriand stated that Brady Sullivan's legal counsel said there was no reason in meeting and that they are not interested in selling the property or partnering with a non-profit. He said that the Town of Ayer cannot insert itself into the matter between private property owners. He noted again his concern with talking about legal strategy in Open Session. The Town has provided resources and information and will continue to do so.

Sarah Withee, 11 Groton Shirley Road stated that the Town has many other projects to manage and that they need to discuss in open meetings. J. Livingston noted that the proposed 40B project on Fitchburg Road will be becoming before the Select Board at an upcoming meeting and she said she wants everyone to remember this evening and the folks that are losing their homes. She hopes it will help in supporting the proposed 40B project, knowing that it will benefit many people.

Alicia Hersey, Program Manager in the Community Development Office stated that Ayer has spent a lot of time trying to build more housing. She stated that at every Town Meeting in recent years the Town has made efforts to increase Affordable Housing in Ayer, but that it takes time, and the Town is committed to building all types of housing.

James O'Connor, Town Moderator – Discussion on Town Meeting: J. O'Connor reported that he had recently met with the Town Manager, Town Counsel, the Assistant Town Manager and the Town Clerk regarding the upcoming Town Meeting. He reported that Bridgette Braley, the Town's Sanitarian, said that the setup that Ayer uses for the Town Meeting was very safe relating to COVID-19 precautions. He asked that S. Copeland make a motion in the beginning of the Fall Special Town Meeting (STM) to allow for the meeting to go two nights, should that be necessary. J. Livingston stated that the request for a second night would come from the Moderator. She stated that the Board in

the past has never made the motion and that it has always come from the Moderator. J. O'Connor stated that he will be calling for a 10-minute bathroom break at 8:30 PM. He then stated that he ran his campaign to allow for the residents of Ayer to be more knowledgeable about the warrant articles and voting. He stated that the Town Manager said that sometimes the votes aren't final until the last moment. J. Livingston said she didn't understand what he was talking about. R. Pontbriand clarified that he was talking about the motions made by the SB during Town Meeting, stating that most are done ahead of time, but sometimes they change even sometimes on Town Meeting Floor. J. Livingston stated that the motions are the SB asking the Town to approve whatever it says in the article and that members in the audience are welcome to make amendments. J. O'Connor stated he would like the motions printed on the website ahead of Town Meeting. J. Livingston stated that the explanatory notes provide more information but thinks they could be more clearly written. R. Pontbriand clarified that the Moderator was looking to have the motions published in advance of the meeting. J. O'Connor confirmed yes. J. Livingston is hesitant about publishing the motions ahead of time, as it may confuse folks. S. Copeland stated that almost 100% time the motion is verbatim the written article. J. Livingston stated that she sees a flaw with the system, because if people see a motion publicized ahead of time, they would be less inclined to come to Town meeting because it appears like a decision has already been made. There was additional discussion about voter education. J. O'Connor asked if there were any additional questions. Board members had none.

Continued Class 1 License Application – JP Rivard Trailer Sales, Inc. -15 Westford Road: Attorney Tom Gibbons was in attendance on behalf of JP Rivard Trailer Sales, Inc. who has applied for a Class 1 license application. This was continued from the September 7, 2021 SB meeting, pending a zoning review from Town Counsel. The Board must make certain findings in this case relating to issuing the Class 1 License pursuant to MGL c. 150 sec. 58. All findings have been met except for whether the place of business is suitable for trailer sales, if sales are not allowed in the Industrial District. SB members agreed with T. Gibbons in stating that the storage, service and repairs of trailers was a preexisting non-conforming use. The current issue on the table was that the addition of sales to the property. T. Gibbons stated that the sales were an accessory use to the storage, service and repairs of the trailers. He noted that the SB has issued 9 Class 2 licenses and the majority of them are an accessory use: for example accessory to a gas station, or repair shop. He noted that two existing Class 2 licenses Central Ave. Auto Repair and Rt. 2A Auto Sales have sales in the Industrial District. He noted that the Building Commissioner/Zoning Enforcement Officer classified sales as an accessory use. In reviewing the matter Town Counsel referenced in their review letter, the impact on the neighborhood with increased traffic and potentially the need for additional building construction. Attorney Gibbons pointed out that was not applicable because trailer sales are inherently different than a normal new car sales lot.

Motion: A motion was made by J. Livingston and seconded by S. Copeland to approve the Class 1 license application to J. P. Rivard Auto Sales, Inc. **Motion passed 2-0.**

Town Manager's Report: *Administrative Update/Review of Town Warrant(s)* - R. Pontbriand provided the Select Board with an update on the various activities, initiatives, and projects of the Administration since the Select Board last met. He also provided a list of signed Town Warrants in the meeting packet.

Discussion on Remote Participation for Public Meetings – R. Pontbriand stated that recently a public body met in the Select Board Meeting Room and did not adhere to the mask advisory. He is asking that the SB consider issuing an order for all Boards and Committees meet remotely through March 31, 2022, in accordance with Chapter 20 of the Acts of 2021 effective Monday September 27, 2021. Board members agreed that they preferred in-person, but understand the need to be remote through the fall and winter.

Motion: A motion was made by J. Livingston and seconded by S. Copeland that all Board and Committees have remote only participation from September 27, 2021 – March 31, 2022. **Motion passed 2-0.**

Review/Discussion of DRAFT #3 2021-2022 Budget Schedule – R. Pontbriand is proposing that the final draft of the FY '23 budget schedule be approved at the Tuesday October 5, 2021 SB Meeting. SB members agreed.

Update on the Proposed Transfer of the Woodlawn Cemetery to the Town – R. Pontbriand and M. Wetzel gave an update on the Woodlawn Cemetery Transfer pursuant to the Annual Town Meeting Vote in April of 2021. There will be 3 warrant articles on the upcoming Fall Special Town Meeting warrant relating to the transfer. R. Pontbriand, M. Wetzel and Finance Manager Lisa Gabree are putting together a report that will be available prior to Town meeting relating to financial management and day-to-day operations.

Pauline Conley, 40 Cambridge Street asked if it was possible to get a copy of the draft report. M. Wetzel stated that there are still a lot of holes in it, but it will be available prior to Town Meeting.

Town Meeting Warrant Update – R. Pontbriand reported that the Fall Special Town Meeting will be held on Monday October 25, 2021 at the Ayer Shirley Regional High School. The overflow room will be set up like previous Town Meetings with COVID precautions. There are 8 articles and 1 citizen's petition.

New Business/Selectmen's Questions: None

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

Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager

Date Minutes Approved by SB: 10/15/2021

Signature Indicating Approval: 