

Selectmen's Meeting Minutes

July 10, 2007

Ayer Town Hall, 1st Floor Meeting Room, Main Street, Ayer, MA

Meeting recorded by AYERPAC made part of meeting minutes-CD available for viewing by written request to Town Administrator or by purchase from AYERPAC directly.

Present

Gary J. Luca, Chairman	X
Carolyn McCreary, Vice-Chairman	X entered meeting at 7:10p.m.
Cornelius F. Sullivan, Clerk	X
Frank F. Maxant, Member	X
Pauline Conley, Member	X
Shaun Suhoski, Town Administrator	X
Janet Lewis, Secretary	X

Chairman Luca took this opportunity to welcome State Representative Robert Hargraves to the meeting-Rep.

Hargraves advised the Board to his plans to attend the transportation work-shop on Friday, July 13th at 1:30 at the Ayer Town Hall re the MART downtown parking project presently before the Executive Office of Transportation re the release the Federal funds to State Transit account. Selectman Sullivan speaking to the Federal earmark of \$3.15 million dollars urging the Town's representative seek support re this release of funds so that Town can begin project. Selectman Conley questioning if work-shop is open/public meeting to residents. Town Administrator advising meeting is work-shop for State Officials to meet with the Town Officers re release of Federal Funds to be transferred to State Transit Account and meeting to be posted if more than 2 Board member attend and meeting will not be taking public comment. Selectman Conley moved the Board post meeting, 2nd by Selectman Maxant VOTE: Selectman Conley aye, Selectman Maxant aye, Selectman Sullivan aye, Selectman McCreary no, Chairman Luca no, 3-2 motion passes.

Public Input-Chairman Luca requested if there was anyone present wishing to meet with the Board.

Chairman Luca requested status of 2006 Town Report. Town Administrator advising to Report being on the Town's Web Site and to be made available for the next Selectmen's Meeting.

Selectman Conley moved the Board vote to approve the Agenda 2nd by Selectman McCreary, VOTE: unanimous, so moved.

Agenda Item #1. - Minutes-Selectman Sullivan moved the Board vote to approve the Minutes of 6-12-07, 6-19-07, 2nd by Selectman Maxant. Selectman Conley requesting friendly amendment to include the Executive Session minutes of 6-20-07, and requesting the Board amend minutes of 6-19-07 Public Input. Selectman Sullivan moved to withdraw minutes and table to the next Selectmen's Meeting. Selectman Conley moved to approve the Executive Session minutes of 6-20-07, no 2nd, tabled. Selectman Conley given protocol re minutes editing and submission to Selectman Sullivan or Town Administrator by fax prior to next Selectmen's Meeting

Agenda Item #2. Appointments-

- 1. CPA-citizen-at-large appointment-** Selectman Conley moved the Board re-appoint Pat Walsh to the citizen at large appointment on the Community Preservation Committee, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
- 2. IDFA appointment-Present for the discussion Robert Williams.** Selectman Sullivan moved the Board appoint Robert S. Williams to the vacant seat on the Industrial Development Finance Authority, 2nd by Selectman Conley, VOTE: unanimous, so moved.
- 3. MART Van Drivers-**The Board entered into a brief discussion with Karin Swanfeldt, Council on Aging Director re re-instating former employee and current part-time van drivers status. Ms. Swanfeldt requested the Board allow her to run her department advising to her following procedure guided by Town Counsel & MART and of dynamics of process changing earlier today re this matter. Selectman McCreary moved the Board empower Ms Swanfeldt, the Council's Board of Directors **and the Town Administrator** to work out a clear and concise recommendation re decision to the MART Van drivers position, 2nd by Selectman Conley, VOTE: unanimous, so moved.
- 4. School Committee Vacancy Announcement-**Mr. Suhoski updated the Board to Jackie Butler's resignation from the School Committee due to moving and announced a joint meeting on 8-28-07 with the Board of

Selectmen and the School Committee re the vacancy currently being advertised. Selectman Sullivan moved the Board approve a prepared letter of appreciation from the Selectmen to Ms. Butler thanking her for her service to the Town, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

5. **Personnel Board**-Selectman Maxant motioned to have Selectman Conley fill on a temporary basis the vacancy on the Personnel Board to allow overdue and timely implementation for Over-time and new hire policy development and updates to the Personnel Policy procedures manual to be made 2nd by Selectman Conley. Discussion occurred re need to fill vacancy to allow for a quorum due to one member on Personnel Board unavailable through August 2007. Chairman Luca called for a vote: Selectman Conley aye, Selectman Maxant aye, Selectman McCreary aye, Chairman Luca aye, Selectman Sullivan no, 4-1 motion carries.

Agenda Item #3. Public Hearing-Beer & Wine License-Karen Ingle-Ingle PCO, Inc. - 31 Main Street 7:55p.m. Hearing Opened-Chairman Luca opened the Hearing by requesting Selectman Sullivan, Clerk of the Board read the legal notice advised for the weeks of 6-29-07 & 7-5-07 in the Nashoba Publications into the record. The Board met with Karen & Mark Ingle of 53 E. Main Street, Ayer, MA re their application for a Beer & Wine License for 31 Main Street, Ayer, MA d/b/a 31-Main Restaurant. Chairman Luca requested if there was anyone present wishing to speak for or against the petition. No one stepped forward. Ms Ingle advised the Board to taking recent TIPS Course and having a Culinary Arts Degree and strong background in restaurant-alcohol field. Ms Ingle advised to presently owning pastry shop at 220 W. Main Street-Devens Shopping Ctr. and moving to 31 Main Street to open a family style restaurant serving three (3) meals a day and would like to offer wine/beer/**cordials** with meals. The Board reviewed hours of operation 11am to 2am seven (7 days a week) and seating for eighty (80) people with a small bar to be located in plans depicting twelve (12) seats, restaurant not to be bar atmosphere but food related. Selectman Conley moved to approve the license application, 2nd by Selectman Maxant, VOTE: unanimous, so moved. The Board welcomed and wished the applicants much success. 8:10p.m. Selectman Sullivan moved to close the Hearing, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #4. Director of Planning & Development-The Board met with Chris Ryan

1. The Board appointed Margaret Scarsdale to the vacant CDBG Program Manager's position at Grade 9 Step 2 of the Fy-08 Compensation Plan (\$44,557.92) with salary increase to Grade 9 Step 3 upon successful completion of six (6) month probationary period per the recommendation of Mr. Ryan. Selectman Conley moved the appointment 2nd by Selectman Sullivan, VOTE: unanimous, so moved.
The Board took this opportunity to publicly thank Susan Provencher for stepping up and assisting Mr. Ryan during this transition.
2. The Board met with Susan Provencher re the Fy-05 (#5637) & Fy-06 (#00072) Community Development Fund I Request for Program Revision offering additional funding to downtown property owners seeking to rehabilitate their storefronts from \$15K to \$30K and not more than \$90K or 75% subsidy for any single property. Motion to approve and authorize signature by Chairman made by Selectman McCreary 2nd by Selectman Conley, VOTE: unanimous, so moved.
3. The Board approved a Lien Subordination for a new first mortgage of \$230K presented by Ms. Provencher for Case #04-271 -19 Pine Ridge Dr., Ayer, MA. Motion to approve and authorize the Chairman's signature made by Selectman Sullivan, 2nd by Selectman Conley, VOTE: unanimous, so moved.

Agenda Item #5. Fire Chief-Reserve Fund Transfer Requests-the Board met with Fire Chief Bob Pedrazzi.

1. **Ambulance**- Selectman Conley moved the Board approve a \$912.00 Reserve Fund Transfer to Acct. #6400 Ambulance Enterprise Fund dated 7-10-07 and authorize the Chairman's signature, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. **Fire Dept.**- Selectman Conley moved the Board approve a \$2,050.00 Reserve Fund Transfer to Acct. #01220 Fire Dept. dated 7-10-07 and authorize the Chairman's signature, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Chairman Luca took this opportunity to publicly thank all Town Dept.'s for their assistance on 6-30-07 for the Town's 4th of July Celebration. Special thanks given to the 4th of July Committee for wonderful job done.

Agenda Item #6. Supt. Madigan's Report-The Board met with Supt. Michael Madigan

GeoInsight-Informational only-Supt. Madigan updated the Board to additional well added to Scope of Work Groundwater Monitoring Plan Contract (PanAm) sampling cost to be \$450.00 extra.

1. **Sludge Incineration and Disposal Contract with City of Fitchburg**-Selectman Sullivan moved to approve Supt. Madigan's request per his memo dated 7-5-07 for a five (5) year period contract extension reviewed by Town Counsel from July 1, 2007 to June 30, 2012 for the disposal of sludge by incineration for \$290.00 per dry ton to be evaluated each year, 2nd by Selectman Maxant, VOTE: Selectman Sullivan aye, Selectman Maxant aye, Selectman McCreary aye, Chairman Luca aye, Selectman Conley no requesting adjusted rate in advance of new contract for budgeting purposes. Supt. Madigan advising to Sewer Dept. operating budget for sludge disposal having sufficient funds to pay slight increases. VOTE: 4-1 motion passes.
2. **Scrap Vehicle & Equipment Removal**-Selectman Sullivan moved the Board approve Supt. Madigan's recommendation per his memo dated 7-6-07 of scrapping miscellaneous obsolete vehicles and equipment to clean up DPW yard by soliciting quotes rather than conducting an auction. Supt. Madigan recommended the Board award the scrap metal & equipment removal contract to MJS Metals of Townsend, MA for the payment of \$100.00 per ton. Funds generated by the Scrap Metal operation to be distributed equally among the General Fund and the three individual enterprise funds, 2nd by Selectman Maxant, VOTE unanimous, so moved. Selectman Conley requesting assurances by Supt. Madigan verifying distribution approval of funds with Town Accountant. Supt. Madigan advising to receiving Town Accountant's approval.
3. **Water & Sewer Permits**-Selectman Sullivan moved the Board approve the following Water/Sewer Permits recommended by Supt. Madigan and authorize the Chairman's signature, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Pond View Estates-(Robert Hicks) 6A & 6B Turtle Hill Rd.-1" water line & sewer services

John Riley Rd. -(J. Giaimo) Lot 12 - 1" water line & sewer service

Willow Rd. Realty-Units 67, 68, 69, 70, 71, 72, 76, 77, 78, 79, & 80-1" water line & sewer service

Agenda Item #7. Board of Selectmen-Fy-08 Goals & Objectives-Selectman Conley's request re Selectmen's Policies & Procedures be updated to include Minutes Policy, Budget Policy -(Stabilization) and Ambulance Rate Setting Policy-(Medicare 30%) be implemented into Board of Selectmen's Policies. Selectman Conley suggesting the Board establish Sub-Committee to consolidate updates. Selectman Sullivan suggesting the Board wait until the Board defines their Goals & Objectives. Town Administrator suggested the Board write on current Policies & Procedures copies and remit back to him for consolidation into Selectmen's Policies.

9:00p.m. Agenda Item #8 Complaint against Public Official- Chairman Luca opened the meeting by advising all to informal meeting held and monitored by him with Chief Rizzo & Selectman Maxant re in an attempt to resolve this issue failing and thus the need this evening to conduct the meeting. Selectman Maxant opting to conduct meeting in Open Session. The Board met with Police Chief Richard Rizzo who was before the Board to make a formal complaint concerning allegations against Selectman Maxant. Chief Rizzo discussed Complaint #1. a letter dated 5-2-07 sent by Selectman Maxant to the Attorney General's Office, the District Attorney's Office, the Ayer Court Clerk's Office and the Ayer District Attorney's Office re a letter he wrote on behalf of Kellie Mansfield and signed by him as a Selectman from the Town of Ayer, which stated the Ayer Police Dept was interfering with job/employment opportunities (Coulter). Chief Rizzo stated this letter is a clear violation of the Board of Selectmen's General Policies & Procedures section 99-10 paragraph 2-B Selectman Maxant is acting on complaints as an individual outside the administration and as well as requesting course of action to keep Selectman Maxant from participating in the Coulter complaint process. Chief Rizzo updated the Board to his 2nd complaint also involving Ms. Mansfield advising to Selectman Maxant leaving a 'courtesy copy' of a letter re Ms. Mansfield with the dispatcher addressed to Kevin Barboza c/o Commission of Social Services which also violated the Selectmen's General Policies & Procedures Section 99-10, Paragraph 2-B Selectman Maxant again acting on complaints as an individual outside the administration. The letter from Selectman Maxant was a request to shield Ms Mansfield re alleged revenge, misconduct, cover-up, etc., by the Ayer Police Dept. Chief Rizzo advising Selectman Maxant's absurd and baseless statements concern him stating all legitimate complaints concerning members of his department have been dealt with fairly & effectively. Selectman Maxant stated the Selectmen are charged with the oversight of the Police Dept. and he is the only board member honoring that (inquires) speaking to complaints he's received re the department's

performance which led him to inquire and start on this course, coming to the conclusion that there was room for improvement. Selectman Sullivan stating it was not the will of the Board to interfere with Police Dept. investigations and that Selectmen Maxant had gone out on his own and inappropriately signed both letters as a Selectman appearing as though letters were sanctioned by Board. Selectman **Sullivan** advising to statute of Town's "Strong Chief" giving Chief authority to run his department. Chairman Luca agreeing letters should not have had "Selectman" signature unless approved by Board, letters should have been signed as individual, or used disclaimer statement. Selectman Maxant again stating there was room for improvement and he was leading that effort to have that improvement. The Board did not share that point of view. Selectman Sullivan moved the Board vote: uphold the chief's complaint, find the letters of 5-2-07 and 6-14-07 in violation of Section 99-10, 2B, formally censure Selectman Maxant for said letters and give a vote of confidence to the chief APD. 2nd by Selectman McCreary. Selectman Maxant pointed out that Section 99-10 refers to internal communications/chain of command and his letters have nothing to do with that his letters were external no relevance to 99-10 at all. VOTE: Selectman Sullivan aye, Selectman McCreary aye, Selectman Conley no, although agreeing with Board, feeling the Board could not prohibit Selectman Maxant's actions and violate his freedom of speech. Selectman Maxant not voting, Chairman Luca aye, 3-1-1 motion passes. Selectman Sullivan moved the Board make a public vote of Confidence in Chief Rizzo and the Ayer Police Officers, 2nd by Selectman McCreary, VOTE: **4-0-1** with Selectman Maxant not voting. Selectman Conley took this opportunity to ask Chief Rizzo about rumor floating around re recent resignations at the Dept. re misappropriation of money - that there was tens of thousands of dollars of missing money in the department and was there an investigation going on? Chief Rizzo declined comment.

Agenda Item #9-Town Administrator's Report-

1. **Town Administrator's Performance Review**-Chairman Luca to meet with Town Administrator on 7-13-07 to review and compile evaluations submitted by individual Board members. Selectman Sullivan requesting that items the Board is not in consensus/ don't agree with to be itemized -not aired. Selectman Sullivan advising to last evaluation not done in Open Session-Chairman on behalf of the Board also met with Town Administrator. Selectman McCreary stating personnel matter does not belong in Open Session.
2. **Meeting Dates**- Mr. Suhoski reminded the Board to upcoming meeting dates-
7-24-07 Tri-Board, 7-26-07 next JBoS Meeting and next 8-7-07 next Selectmen's Meeting.

Agenda Item #10 Executive Session-Town Administrator advised due to the lateness of the meeting to request dates from unions re their availability to meet and follow lead of Fin-Com re strategy.

Agenda Item #11 Selectman Conley inquired how Selectman Sullivan would distribute edits of minutes to other members.

10:10p.m. Selectman Sullivan moved the Board adjourn the meeting, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

10:10p.m. Meeting adjourned



Date: _____

7-18-07

Cornelius F. Sullivan, Clerk
AYER BOARD OF SELECTMEN