

Ayer Board of Selectmen's Meeting

Tuesday, April 18, 2006

Ayer Town Hall, 1st floor Meeting Room, Main Street, Ayer, MA 01432

Name	Present	Absent
Faye Morrison, Chairman	X	
Cornelius Sullivan, Vice-Chair	X	
Pauline Conley, Clerk	X	
Frank Maxant, Member	X	
Paul Bresnahan, Member	X	
Shaun Suhoski, Town Administrator	X	
Janet Lewis, Secretary		X

Agenda Item #1. Public Input-Chairman Morrison requested if there was anyone present wishing to meet with the Board:

1. Selectman Conley re: Recognizing Selectman Maxant for getting quick response to Washington St. sidewalk repair and light repair on corner of Adams & Cambridge Streets.
2. Selectman Bresnahan, re: placing Veterans Agent's Appointment on Agenda this evening. The Board appointed Manuel Velez Veterans Agent for the term of April 2006 to March 30, 2007. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

- 3.
4. **Agenda Item #2. Citations-** -Chairman Morrison took this opportunity to thank William Oelfke upon his departure from the Planning Board for his ten years of service on the Planning Board by reading into the record a Certificate of Recognition to Mr. Oelfke on behalf of the Board of Selectmen. Chairman Morrison also requested Selectman Paul Bresnahan to step forward this being his last night sitting on the Board and introduced representatives from Congressman Meehan's Office, who presented Selectman Bresnahan with a Proclamation submitted by Congressman Martin Meehan recognizing Selectman Bresnahan for his nine years/3 consecutive terms of office as a Selectman. Chairman Morrison read the Proclamation into the record. Chairman Morrison also presented Selectman Bresnahan with the traditional gavel from the Board engraved with his term of office serving as a Selectman for the Town from Apr. 1997- Apr. 2006. Selectman Bresnahan thanked everyone for their support, especially his wife, during his term of office.

Agenda Item #3. Minutes- deferred.

Agenda item #4. Town Administrator's Report-

1. **DPW Supt. of Public Work's Contract Renewal-**Mr. Suhoski requested the Board vote to ratify Supt. Madigan's contract renewal. Selectman Sullivan moved the Board vote to approve Supt. Madigan's contract as presented in Executive Session, 2nd by Selectman Maxant. Selectman Conley advising to her concerns re setting precedent approving a five (5) year contract for Supt. Madigan and requesting having Town Counsel's opinion re same. Selectmen agreeing to 5 year control out of the ordinary but certainly not prescient setting.
2. VOTE: Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Maxant aye, Chairman Morrison aye, Selectman Conley no, 4-1 motion passes.
3. **Grove Pond-Expansion Plans-**Mr Suhoski presented Supt. Madigan's Grove Pond Replacement and the planned expansion for proposed Well #3 to the Town's public water supply. Mr. Suhoski advising to this requiring closing out of the prior Tata & Howard contract in favor of a new agreement to cover associated costs for siting a new well at the Grove pond facility, re-write and approve a new Tata & Howard contract reflecting the remaining funds approximately \$93,500 and remaining tasks from remaining contract, transfer \$70K previously approved at Town Meeting to cover additional cost approximately \$39,500 needed for the 3rd well at Grove Pond and cost of property survey, legal fees around the wells, proceed with MADEV and the MA National Guard to acquire 1. acquisition of land, permanent water easement, and use restriction. Selectman Sullivan moved the Board authorize Supt. Madigan and the Town Administrator proceed with above recommendations No. 1-4 as detailed in Supt. Madigan's Memo of 4-14-06, 2nd by Selectman Bresnahan, VOTE: unanimous, so moved. Selectman

Conley suggesting this language be added to Devens MOU. Selectman Bresnahan advising to DDEB talking about this buffer zone and ownership being initiated with the National Guard to be included.

4. CDBG Administration-Fy-05-Program Revision (No.5637)

Mr. Suhoski updated the Board to the need to transfer \$6,400 from line 4C to line 4A to the CDF Fy-05 Grant #5637 due to the higher than average number of emergency cases has led to lower unit cost.

Selectman Conley moved the Board approve Fy-05 Community Development Fund I (No.5637), 2nd by Selectman Bresnahan, VOTE: unanimous, so moved.

****Lien Subordination Requests-**

131 Oakridge Drive, Ayer, MA –Selectman Sullivan moved the Board vote to approve a subordination of the Town's lien conditioned upon a new second mortgage not to exceed \$30K, 2nd by Selectmen Bresnahan, VOTE: unanimous, so moved.

80 East Main Street, Ayer, Ma –Selectman Sullivan moved the Board vote to approve a subordination of the Town's lien conditioned upon a new first mortgage not to exceed \$80K, 2nd by Selectman Bresnahan, VOTE: unanimous, so moved.

- 5. D.C.R. Rail Trail Parking Request Letter**-Mr. Suhoski updated the Board to letter received from Tad Read, TOD Planning Manager of the Office for Commonwealth Development re the Town's request of the DCR rail trail parking lot for expanded commuter parking in Ayer. Mr. Suhoski advised to tour taken by MBTA, OCD and DCR of downtown Ayer per the Cecil Group Parking Study. Based upon this review the consensus was that the continued presence of the commuter rail in downtown Ayer is important to the downtown's economic viability but MART's study is looking towards siting a regional transit and parking facility on Ayer Rd./Walker Rd./West Main St./McPherson Rd. area catching out-of-town commuters who currently board in Ayer which would significantly reduce the need for commuter parking in downtown Ayer. Based upon this information TOD thought if more beneficial to address downtown improvements without additional commuter traffic i.e increase downtown capacity for housing, transit oriented development, or consolidate parking into a parking structure the Town should pursue funding under TOD Infrastructure & Housing Program would could provide up to \$2.5million.
- 6. Local Aid Resolution**-The Board reviewed Mr. Suhoski's letters to House/Senate re state budget cuts \$215K less than the Governor's and urging House/Senate Ways & Means to support the governor's proposed state aid contribution levels to include uncapping of Lottery Aid and distribution of Chapter 70 education aid. Selectman Maxant moved the Board approve the letters to be sent to House/Senate for full board's signature, 2nd by Selectman Conley, VOTE: unanimous, so moved. Letters to be on counter in Selectmen's Office for Board's signatures. Selectman Bresnahan requested copy of letter be submitted to Town Departments.
- 7. Litigation Update**-The Board reviewed the litigation strategy re two major civil cases-Waters/Mahers both involving recent DNA technology resulting in the release of individuals convicted and incarcerated for their alleged crimes. The individuals/family are now suing the Town for tens of millions for alleged damages. Mr. Suhoski reviewed with the Board the expected impact of these cases on the Town's budget for the remainder of 2006 and proposed Fy-07 budget. Mr. Suhoski proposed seeking to transfer \$50K from Fy-06 Reserve Fund to the Town Counsel line item at the Special Town Meeting-prior to Town Meeting 5-8-06. Selectman Conley moved to approve Mr. Suhoski's recommendation, 2nd by Selectman Sullivan, VOTE: unanimous, so moved. Selectman Bresnahan moved to allocate \$100K-\$25K from Reserve Fund and \$75K from Stabilization following the Fin-com recommendation towards new litigation line item in the Fy-07 Budget for defense costs associated with the two (2) cases to be earmarked Maher/Waters litigation. Motion to approve made by Selectman Conley, 2nd by Selectman Bresnahan VOTE: unanimous, so moved.
- 8. Non-Union COLA**-The Board approved a 2% COLA for non-union employees after a brief discussion involving reviews of surrounding Town surveys depicting between 1% & 2.5%, the Town of Ayer's Personnel Board recommendation of 3% and Town Fin-Com recommendation of 1% to-2%. Motion made by Selectman Conley, 2nd by Selectman Sullivan VOTE: unanimous, so moved.

9. Special Town Meeting-The Board reviewed the three (3) Special Town Meeting Warrant Articles:

1. Establish Revolving Fund for Inspection Fees-Department of Public Works for infrastructure improvement inspections not to exceed \$100K
2. Unpaid bills from prior year: Fire: Ambulance-\$12,900.00 from Ambulance Fund

Tree Warden: 128.05 from available funds

Plan., ZBA, Conserv: 168.05 from available funds

3. Town Counsel-ongoing litigation Waters/Maher: \$50K from Fy-06 Reserve Fund the Board requested Town Counsel's recommendation re this funding. The Board closed the Special Town Meeting Warrant for the acceptance of Articles. Motion to close made by Selectman Conley, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

10. Selectman Conley moved the Board call a Special Town Meeting 5-8-06 starting at 7:00p.m. 2nd by Selectman Sullivan VOTE: unanimous, so moved. Spring Town Meeting to follow at 7:15p.m. on May 8, 2006.

Agenda Item #5. Annual Town Meeting -Mr. Suhoski presented the Board the finalized 2006 Spring Town Meeting Warrant for their review depicting 48 Articles. Selectman Conley requesting to move the Omnibus Article up to Article 4, stating concerns from residents with Omnibus Article in rear of warrant in last few years and requesting to keep Omnibus Article where it has always been in the past..

Article 3-facture in 2% COLA

Article 4-Omnibus to be moved up after Article 3

Article 5-8 Enterprise Fund Articles: Solid Waste, Ambulance, Sewer, Water

Article 9-13 Revolving Fund Articles: Communications, Fire Alarm, Hazardous waste, DPW inspection fees, 4th of July

Article 14-Capital Budget Requests-DPW-Sewer, DPW-Water, Fire Dept., School Dept.

Article 16-19 Balance Transfers-Hilltop School roof, ¾ ton pick-up, well rplmt, new Grove Pond well

Article 20-Rescind borrowing authority-

Article 21-35 Raise & Appropriate Articles-

Article 36-Community Preservation

Article 37-39-General Business Articles

Article 40-41 Zoning By-Law Amendments-Board of Selectmen/Plan Board to co-sponsor

Article 42-48 Citizen Petition Articles- The Board requested Town Counsel's opinion relative to all the citizens petition articles prior to Town Meeting. The Board waived the Attorney Client privilege on the Right of Development-Article 48 Vote: Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Conley no, Selectman Maxant yes, Chairman Morrison aye, 4-1 motion carries.

The Board voted to accept the Warrant as presented and moved to close the Spring Town Meeting Warrant of May 8, 2006 starting at 7:15p.m. Motion made by Selectman Conley, 2nd by Selectman Maxant VOTE: unanimous, so moved.

Agenda Item #6. Devens Disposition-Selectman Bresnahan reviewed with the Board two page memo dated April 14, 2006 relevant to the draft MOU with recommended push backs (see attached). Selectman Sullivan moved the Board approve Selectman Bresnahan stay on as the Board's representative on the Devens Disposition Executive Board (DDEB) acknowledging Selectman's extensive knowledge and effort working through the years on related Devens issues and being that this is Selectman Bresnahan's last meeting on the Board, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

? Meeting adjourned

DATE: _____

The Ayer Board of Selectmen reviewed the proposed MOU at its April 18 meeting and offers the following items for inclusion or clarification:

- **Grove Pond Wellhead Protection** [Page 10, Section C(1)(b)]: Add jurisdiction or acceptable development restriction of the area encompassing the Zone 1 buffer for existing and any planned or potential municipal wells at Grove Pond.

This item has been discussed throughout the stakeholder review process. An adequate Zone 1 (400' radius) protection for existing and potential expansion of Ayer's municipal water supply is critical.

- **North Post Parcel for Future Well** [Page 13, Section D(2)]: The Town seeks the identification, and transfer of ownership including any required easements, of a suitable parcel of land to the town of Ayer for future development of a municipal well. The parcel shall be adequately sized to accommodate the well and necessary protection of the Zone 1 buffer zone.

This proposal is not new, having been raised in discussion with MassDevelopment as a counter to the agency's rejection of future transfer of the MacPherson Well to the town. The Town and MassDevelopment can work cooperatively to identify a suitable and appropriately-sized parcel of land.

- **Improve Language Concerning North Post Development** [Page 15, Paragraph (b) and generally where mentioned throughout document]: Revise language to include "up to" 200 residential units, a "minimum" of 20 acres of recreational space, to include 10 acres finished recreation space with basic men's and women's toilet facilities, and an additional 10 acres of so-called open space (including buffer zones). Also, all "smart growth" funding for residential development shall be allocated to the town of Ayer under this scenario.

This language is wholly within the parameters of North Post development as agreed by the stakeholders.

- **Clarify Zoning Freeze Language** [Page 17, top paragraph]: MassDevelopment BOD and 2/3 Town vote to amend zoning only required during freeze period (12/31/26 or

100/90 residential/CI buildout). Thereafter, zoning vests with underlying town jurisdictions only.

This area needs more clarity on language to reflect true intent.

- **Local Preference for Housing** [Page 19, Paragraph (vii)]: Language should be modified to include local preference for all age groups.
- **North Post Phasing / MacPherson Road Corridor Upgrades** [Page 20, Paragraph (iv) and Page 22, Paragraph (B)]: Language must include requirement for “substantial completion” of MacPherson Road corridor upgrades before any other development occurs at former airfield. Add language allowing phasing to be amended only by agreement between Ayer BOS and MassDevelopment BOD.

This item refers directly to Ayer’s key criteria under Scenario 2B, namely, secured commitment to complete the required MacPherson Road corridor improvements prior to development of the former airfield. This has been oft-stated throughout the disposition and stakeholder process.

- **Downtown Bypass / Route 2 Connection** [Page 26, Paragraph 1]: Add back Ayer’s original criteria concerning bypass route and corridor upgrades, namely,
 - *“Road upgrades on Ayer North Post, and on Devens proper, shall provide a direct connection between Route 2 and the Ayer North Post including MacPherson Road / Bishop Road upgrades.”*
- **Commuter Rail / Downtown Ayer Station** [Page 26, Paragraph 1]: Add back Ayer’s original criteria concerning the existing downtown rail station, namely,
 - *“MassDevelopment will work with the Town of Ayer to retain the commuter rail service in Depot Square in Ayer.”*
- **Barnum Road Access** [Page 26, Paragraphs 2 and 3]: Note only that these are contradictory statements concerning Barnum Road access.
- **Bridge Maintenance / Boundary Relocation** [Page 60, Paragraph 3]: The Town does not accept responsibility for maintenance of the bridge over the Nashua River near Grant Road other than costs of snow removal jointly with town of Shirley.
- **Transfer of Land** [Page 69, Schedule A, Ayer]: Add detail to the land being transferred to the town to include “minimum” of 20 acres, 10 acres finished with basic set of men’s and women’s toilets and 10 acres raw land for future expansion.

In addition, the following clarifications are sought:

- Page 11, Section 2, paragraph 3: A listing of all existing and proposed MOUs or inter-municipal agreements should be reported on Attachment ____.

- Page 12, Section 4: More refinement of the unified permitting process is required including the zoning freeze language.
- Page 20, Section 2, paragraph 2: Replace sentence with original criteria: “The pursuit of land ‘use swapping’ proposed to the DDEB by the Town of Ayer is encouraged, and may be used to offset some residential units at North Post.”
- Page 20, Section 3: Add language that limitations on development may be increased, “or decreased,” by mutual agreement.
- Page 22, Section J: Need to expand on disposition of utilities at completion of disposition (e.g., regionalize waste water, and distribute sales profits (surplus) of electric and gas to three towns). Also, consider language to allow future use of “net metering” for low-impact developments.
- Page 24, Section C, last sentence: Insert “up to” before 200 units, and replace the word “approximately” with the words “at least” before 20 acres of recreational playing fields.
- New Attachment: Incorporate terms of the Administrative Consent Order on file with Mass. DEP concerning liability for environmental remediation between the U.S. Army and MassDevelopment.

- Add back the following specific criteria:

Redevelopment plan for Ayer North Post shall include commercial-industrial development – the particular zoning uses allowed will include Ayer approval (e.g. - no “big box” retail) – together with a maximum of 200 dwelling units, a minimum of 20 acres of recreation space (including ten acres of finished recreational facilities with a “basic” set of men’s and women’s toilets, and ten acres raw), together with an additional 10 acres of open space. MassDevelopment shall agree with the following stipulation on phasing of work:

First: MacPherson Road / Bishop Road Corridor (downtown bypass between Routes 2, 2A and 111),
 Second: Start commercial development, and
 Third: Recreational facilities and housing component.
 (Phasing could be modified by mutual agreement.)

- Page 34, paragraph 3: Replace “the MassDevelopment and relevant Stakeholder” with “all affected stakeholders.”

The Ayer Board of Selectmen looks forward to reviewing a revised draft of the MOU.