

Selectmen's Meeting  
Tuesday, July 12, 2005  
Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room, Main Street, Ayer, MA

7:00p.m. The Board met with Chairman Morrison, Selectman Sullivan, Selectman Conley, Selectman Maxant and Selectman Bresnahan.

**Public Input**

Selectman Maxant requested a brief public input item. Selectman Bresnahan moved and Selectman Sullivan seconded to accept agenda with the addition of one public input item. Vote – unanimous, so moved.

Selectman Maxant commended Chairman of the Board of Selectmen Faye Morrison and Vice-Chair Connie Sullivan for their sensitive and efficient handling of the Town's response to the community concerns in the wake of the death of Kelly Proctor. Selectman Maxant also thanked the Proctor family for response to the issues of community concern.

**Agenda Item 1. Reserve Fund Transfers:**

- 1) Communications Commission – Selectman Bresnahan moved and Selectman Conley seconded to approve a transfer to the Communication Committee account in the sum of \$320. Vote – unanimous, so moved..
- 2) DPW Fuel Account – Supt. Madigan stated he wished to withdraw his request for a transfer. It was determined not to be needed.
- 3) Ambulance Accounts – Selectman Conley moved and Selectman Maxant seconded to approve a transfer for ambulance accounts 64220/5300 and 64220/5500 in the total amount of \$1427.07. Vote – unanimous, so moved.
- 4) Public Buildings – Selectman Conley moved and Selectman Maxant seconded to approve a transfer for the public buildings account in the amount of \$3,329.51. Vote – unanimous, so moved.
- 5) Town Counsel Legal Services: Selectman Conley presented a summary of reduction she felt should be made to the transfer amount based on charges that should be charged to the Community Preservation account or to not be paid at all. Copy attached.

Selectman Bresnahan moved and Selectman Conley seconded to approve a transfer to the town counsel account in the amount requested minus the sum of funds that should be charged to the Community Preservation account, and minus the funds needed to cover the town counsel response to the PACE letter of concerns. No vote was taken on this motion.

Selectman Bresnahan moved and Selectman Sullivan seconded to approve the transfer for funds needed to cover the expenses appropriate to general legal expenses minus the funds to be paid by the Community Preservation account. No vote was taken on this item.

Selectman Bresnahan moved and Selectman Maxant seconded to approve the transfer in the not to exceed amount of \$2,433.23. Vote – unanimous, so moved. Note: this amount does not cover the CPC related expenses nor the expenses associated with town counsels response to the PACE letter which was voted by the board to be done at the previous board meeting. This expense will need to be revisited.

**Agenda Item #2. FY06 Appointments**

Selectman Conley questioned the process of appointing town employees each year. The Town administrator replied that this is a long standing tradition for Ayer that she was instructed to continue when she took the position. When asked, she stated there is no communication on file from town counsel relative to this practice.

Selectman Bresnahan moved and Selectman Maxant seconded to appoint the recommended individuals to the annually appointed positions of ADA Coordinator, Animal Control Officer, Auctioneers, Selectmen's Secretary, Joint Boards of Selectmen Voting Rep, MART Rep., MART Alternate Rep., Building Commissioner/Zoning Enforcement Officer, Asst. Building Inspector, Alternate Building Inspector– with terms to expire on June 30, 2006 as listed on Page One and Page Two of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Conley moved and Selectman Bresnahan seconded to appoint Roberta L. Chase to the position of Asst. Tax Collector for the term of July 1 2005 ending June 30, 2006. Vote – all yes.

Selectman Sullivan moved and Selectman Bresnahan seconded to re-appoint David Bodurtha to his position of Conservation Commission member, as recommended by the Conservation Commission, with the term end date of June 30, 2008. The Board asked various questions of Mr. Bodurtha relative to several complaints of actions he allegedly had taken as a ConCom member. There was statement of an email complaint sent by employee Susan Sullivan about Mr. Bodurtha to Selectman. Bresnahan and to George Bacon. Selectman. Bresnahan stated that he had met with the employee and the chairs of the other boards to resolve the complaint issues. Vote – 3 yes, 1 no, 1 abstention. Motion carried.

Selectman. Conley moved and Selectman. Sullivan seconded to re-appoint the recommended individuals to the Council on Aging staff positions of Executive Director, Housekeeper, Exercise Instructor, Dispatcher/Driver, Sr. Driver, Nutritionist, and Site Assistant, with terms to expire on June 30, 2006 as listed on Page Three of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Conley seconded to appoint the recommended individuals to the positions of Custodian, Devens Disposition Executive Board Selectmen's Rep., Devens Disposition Executive Board Citizens' Rep., and Dept. of Public Works Superintendent, with terms to expire on June 30, 2006, as listed on Page Three of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Conley moved and Selectman Bresnahan seconded to appoint the recommended individuals to the annually positions of Fire Chief, Fire Department Administrative Assistant, and Deputy Fire Chief, with terms to expire on June 30, 2006, as listed on Page Four of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Conley moved and Selectman Sullivan seconded to appoint the 12 recommended individuals to the Fire Department staff for the three year term ending June 30, 2008 as coincides with the Union contract and as listed on Page Four of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Bresnahan seconded to appoint the recommended individuals to the annually appointed positions of Economic Development Director, Grant Program Managers, with terms to expire on June 30, 2006, as listed on Page Five of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Maxant seconded to appoint the recommended individuals to the positions of Plumbing & Gas Inspector, and Asst. Plumbing & Gas Inspector, with the appropriate term end dates as listed on Page Five of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Maxant seconded to appoint the recommended individuals to the annually appointed positions of Police Chief, Police Lieutenant, and Police Department Secretary, with terms to expire on June 30, 2006, as listed on Page Five of the document entitled "FY06 Appointments". Vote-unanimous, so moved.

Selectman Conley moved and Selectman Maxant seconded to appoint the recommended individuals to the positions of Patrolmen for the three year term ending June 30, 2008, as coincides with the Union contract, and as listed on Page Six of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Conley moved and Selectman Sullivan seconded to appoint the recommended individuals to the annually appointed positions of Reserve Police Officers, with terms to expire on June 30, 2006, as listed on Page Six of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman. Sullivan moved and Selectman Bresnahan seconded to appoint the recommended individuals to the positions of Out Of Town Special Police Officers, with terms to expire on June 30, 2006, as listed in the May 26, 2005 from Chief Rizzo with copy of said memo to be attached to minutes of this meeting". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Conley seconded to appoint the recommended individuals to the positions of Dispatcher for the three year term ending June 30, 2008, as coincides with the Union contract, and as listed on Page Six of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Conley seconded to appoint the recommended individuals to the annually appointed positions of Part-time Dispatchers, with terms to expire on June 30, 2006, as listed on Page Six of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

Selectman Sullivan moved and Selectman Maxant seconded to appoint the recommended individuals to the positions of Sealer of Weights & Measures, Town Accountant, Asst. to Town Accountant, Town Administrator, Veterans Agent, Wiring Inspector and Asst. Wiring Inspector, with terms to expire on June 30, 2006, as listed on Page Seven of the document entitled "FY06 Appointments". Vote – unanimous, so moved.

#### General Issues:

Selectman Bresnahan moved and Selectman Conley seconded to ensure that the Board revisit the issue of whether the Sullivan email complaint regarding Mr. Bodurtha had been resolved. The Town Administrator stated she would send Ms. Sullivan a note asking if the issue was resolved and advising of the proper process that needs to be taken regarding such grievances per the personnel policy. No vote was taken on this matter.

Selectman Conley stated concerns regarding the "missing" minutes of executive session minutes as she did not see minutes from a number of meetings in the minutes book. Chairman Morrison stated that this issue is already being investigated and handled by the Town Administrator via secretary Janet Lewis being tasked with review of minutes and collection of missing or un-approved minutes to be properly processed.

Selectman Sullivan moved and Selectman Bresnahan seconded to require recording of only the motions and votes taken during all selectmen meetings, with no discussion points to be included to ease the taking of minutes and to avoid un-necessary dialogue in the formal minutes. Selectman Bresnahan stated he felt comments should be added if specifically asked to be placed on record. Selectmen Maxant and Selectman Conley both expressed interest in having discussion dialogue included in minutes to assist with historical understanding of votes taken. Vote: Selectman Sullivan aye, Selectman Bresnahan aye, Chairman Morrison aye, Selectman Maxant no, Selectman Conley no, 3-2 motion passes.

Selectman. Conley moved and Selectman. Maxant seconded to require an unedited copy of each meetings APAC recording be kept in the Board office as an additional record of each meeting. Vote – 2 yes, 3 no. Motion failed.

BOSMIN7-12-05/PG.5

Selectman Conley moved and Selectman Maxant seconded to enter into executive session pursuant to MGL C39s23B Items 3 and 6 and to exit executive session to re-enter into open session solely for the purpose of adjourning the meeting. Roll call vote: Selectman Bresnahan – yes, Selectman Sullivan – yes, Chairman Morrison aye, Selectman Maxant – no; Conley – no; Morrison – yes. Motion carried 3-2.  
9:00p.m. Open Session concluded

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Date: \_\_\_\_\_

Pauline Conley, Clerk

AYER BOARD OF SELECTMEN

Conley edits in red and blue

Selectmen's Meeting with **Pauls edits of 7-21-05**

Tuesday, July 12, 2005

Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room, Main Street, Ayer, MA

7:00p.m. The Board met with Chairman Morrison, Selectman Sullivan, Selectman Conley, Selectman Maxant and Selectman Bresnahan.

**Public Input**

Selectmen Maxant requested a brief public input item.

**Agenda Item 1. Selectman Maxant moved to accept the agenda with the addition of one public input item, 2<sup>nd</sup> by Selectman Conley. VOTE: unanimous, so moved.**

Selectman Maxant commended Chairman of the Board of Selectmen Faye Morrison and Vice-Chair Connie Sullivan for their sensitive and efficient handling of the Town's response to the community concerns in the wake of the death of Kelly Proctor. Selectman Maxant also thanked the Proctor family for response to the issues of community concern.

**Agenda Item 2. Reserve Fund Transfers:**

- 1) Communications Commission – Selectman Bresnahan moved to approve a **request for a transfer from the Reserve Fund** to the Communication Committee account in the sum of \$320, **2<sup>nd</sup> by Selectman Conley. Selectman Conley requested the CommComm provide copies of the invoice and ledger sheet from the Town Accountant to be attached to the request prior to submission to the Finance Cmte. VOTE: unanimous, so moved.**
- 2) DPW Fuel Account – Supt. Madigan ~~stated he wished to withdraw his request for a transfer, stating it was not needed. was determined not to be needed.~~
- 3) Ambulance Accounts – Selectman Conley moved to approve a **request for a transfer from the Reserve Fund to the Ambulance accounts 64220/53000 and 64220/54000** in the total amount of \$1427.07, **2<sup>nd</sup> by Selectman Bresnahan. VOTE: unanimous, so moved.**
- 4) Public Buildings – **This is a resubmission as a result of the Finance Cmte's rejection of the RFT approved for submittal to them on 6-7-05.** Selectman Conley moved to approve a **request for a transfer from the Reserve Fund to the Public Buildings account # 01192** in the amount of \$3,329.51. **VOTE: unanimous, so moved.**
- 5) Town Counsel/Legal Services – **Town Administrator presented a Reserve Fund Transfer Request in the amount of \$5,544.98 to cover shortages in the Town Counsel budget. This request includes several invoices from Kopelman and two invoices from Paige and Pickett, Miyares & Harrington for Planning Board activity on the Kingsbury case. Selectman Conley moved to approve payment of \$3,630.53 to Pickett, Miyares & Harrington, 2<sup>nd</sup> by Selectman Sullivan. VOTE: unanimous, so moved.**  
Selectman Conley presented a summary of **reductions** she felt should be made to the transfer amount based on charges **from Kopelman and Paige** that should be charged to the Community Preservation Cmte account or to not be paid at all. Copy attached.  
Selectman Bresnahan moved to approve a transfer to the town counsel account in the amount requested minus the sum of funds that should be charged to the Community Preservation account, and minus the funds needed to cover the town counsel response to the PACE letter of concerns, **2<sup>nd</sup> by Selectman Conley.** No vote was taken on this motion.  
Selectman Bresnahan moved to approve the transfer for funds needed to cover the expenses appropriate to general legal expenses minus the funds to be paid by the Community Preservation account, **2nds by Selectman Sullivan.** No vote was taken on this item.

Selectman Conley pointed out that for a Reserve Fund transfer to be submitted to the Finance Cmte it must state a dollar amount.

Selectman Bresnahan moved to approve a transfer in an amount not to exceed \$2,433.23. **VOTE:**

**Selectman Bresnahan aye, Selectman Conley aye, Selectman Maxant aye, Selectman Morrison aye, Selectman Sullivan nay, motion carries 4 – 1.**

Note: this amount does not cover the CPC related expenses nor the expenses associated with town counsel's response to the PACE letter ~~which was voted by the board to be done at the previous board meeting.~~

**(A review the 6-7-06 minutes will show no vote was taken during the Public Input presentation by Ms. McCreary)** This expense will need to be revisited.

### **Agenda Item #3. DPW Change Order – WWTP**

Selectman Sullivan moved to approve Change Order # 4 for the Waste Water Treatment Facility in an amount not to exceed \$30,212.58, seconded by Selectman Maxant. Several questions were asked of Supt. Madigan. **VOTE: unanimous, so moved.**

### **Agenda Item #4. FY06 Appointments**

Selectman Conley questioned the process of appointing town employees each year. The Town Administrator **explained** replied that this is a long standing tradition for Ayer that she was instructed to continue when she took the position. When asked, she stated there is no communication on file from town counsel relative to this practice.

Selectman Bresnahan moved to appoint the ~~following recommended~~ individuals to the annually appointed positions of ADA Coordinator, Animal Control Officer, Auctioneers, Selectmen's Secretary, Joint Boards of Selectmen Voting Rep, MART Rep., MART Alternate Rep., Building Commissioner/Zoning Enforcement Officer, Asst. Building Inspector, Alternate Building Inspector, with terms to expire on June 30, 2006 as listed on Page One and Page Two of the document entitled "FY06 Appointments", **2<sup>nd</sup> by Selectman Maxant.**

**VOTE: unanimous, so moved.**

Selectman Conley moved to appoint Roberta L. Chase to the position of Asst. Tax Collector for the term July 1, 2005 **through** June 30, 2006, **2<sup>nd</sup> by Selectman Bresnahan. VOTE: unanimous, so moved.**

Selectman Sullivan moved to re-appoint David Bodurtha to the position of Conservation Commission member, as recommended by the Conservation Commission, **for the term July 1, 2005 through** June 30, 2008, **2<sup>nd</sup> by Selectman Bresnahan.** The Board asked various questions of Mr. Bodurtha relative to several complaints of actions he allegedly had taken as a ConCom member. **Selectman Conley raised concern over a** There was statement **complaint about Mr. Bodurtha in** an email sent by town employee Susan Sullivan to Selectman Bresnahan and **ConCom Chairman** George Bacon. Selectman Bresnahan stated that **he had met with the chairs of the other boards to attempt to resolve the complaint issues when it was agreed to not formally file a complaint.** (My recollection of this discussion was that the Town Administrator had been tasked with working with the chairs of the three cmtes that oversee Ms. Sullivan, not that Paul had met w/them. Also, it is my recollection that Ms. Scheipers said she had 'worked things out' with the three cmtes, to which Planning Board Chairman Bill Oelfke responded there was no agreement on anything.)

**Planning Board Chairman Bill Oelfke read a letter to the Board speaking against Mr. Bodurtha's reappointment. VOTE: Selectman Bresnahan aye, Selectman Sullivan aye, Chairman Morrison aye, Selectman Conley no, Selectman Maxant abstained: 3 – 1 – 1, 3-yes, 1-no, 1-abstention. motion carries.**

Selectman Conley moved to re-appoint the recommended individuals to the Council on Aging staff positions of Executive Director, Housekeeper, Exercise Instructor, Dispatcher/Driver, Sr. Driver, Nutritionist, and Site Assistant, with terms to expire on June 30, 2006 as listed on Page Three of the document entitled "FY06 Appointments", **2<sup>nd</sup> by Selectman Sullivan. VOTE: unanimous, so moved.**

Selectman Sullivan moved to appoint the recommended individuals to the positions of Custodian, Devens Disposition Executive Board Selectmen's Rep., Devens Disposition Executive Board Citizens' Rep., and Dept. of Public Works Superintendent, with terms to expire on June 30, 2006, as listed on Page Three of the document entitled "FY06 Appointments", **2<sup>nd</sup> by Selectman Conley. VOTE: unanimous, so moved.**

Selectman Conley moved to appoint the recommended individuals to the annually positions of Fire Chief, Fire Department Administrative Assistant, and Deputy Fire Chief, with terms to expire on June 30, 2006, as listed

on Page Four of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Sullivan**. **VOTE:** unanimous, so moved.

Selectman Conley moved to appoint the 12 recommended individuals to the Fire Department staff for the three year term **beginning July 1, 2005**, ending June 30, 2008, **to coincide** with the Union contract and as listed on Page Four of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Maxant**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the annually appointed positions of Economic Development Director **and** Grant Program Managers, with terms to expire on June 30, 2006, as listed on Page Five of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Bresnahan**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the positions of Plumbing & Gas Inspector and Asst. Plumbing & Gas Inspector, with **terms to expire on June 30, 2006** the appropriate term end-dates as listed on Page Five of the document entitled "FY06 Appointments". 2<sup>nd</sup> by **Selectman Maxant**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the annually appointed positions of Police Chief, Police Lieutenant and Police Department Secretary, with terms to expire on June 30, 2006, as listed on Page Five of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Conley**. **VOTE:** unanimous, so moved.

Selectman Conley moved to appoint the recommended individuals to the positions of Patrolmen for the three year term **beginning July 1, 2005**, ending June 30, 2008, **to coincide** with the Union contract and as listed on Page Six of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Maxant**. **VOTE:** unanimous, so moved.

Selectman Conley moved to appoint the recommended individuals to the annually appointed positions of Reserve Police Officers, with terms to expire on June 30, 2006, as listed on Page Six of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Sullivan**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the positions of Out Of Town Special Police Officers, with terms to expire on June 30, 2006, as listed in the May 26, 2005 **memo** from Chief Rizzo (**copy attached**) ~~with copy of said memo to be attached to minutes of this meeting~~ **and as listed on Page Six of the document entitled "FY06 Appointments", 2<sup>nd</sup> by Selectman Bresnahan**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the positions of Dispatcher for the three year term **beginning July 1, 2005**, ending June 30, 2008, **to coincide** with the Union contract, and as listed on Page Six of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Conley**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the annually appointed positions of Part-time Dispatchers, with terms to expire on June 30, 2006, as listed on Page Six of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Conley**. **VOTE:** unanimous, so moved.

Selectman Sullivan moved to appoint the recommended individuals to the positions of Sealer of Weights & Measures, Town Accountant, Asst. to Town Accountant, Town Administrator, Veterans Agent, Wiring Inspector and Asst. Wiring Inspector, with terms to expire on June 30, 2006, as listed on Page Seven of the document entitled "FY06 Appointments", 2<sup>nd</sup> by **Selectman Maxant**. **VOTE:** unanimous, so moved.

**NOTE: We erred in appointing Manny Velez to a term expiring 6-30-06. The Veterans' Agent's term is April through March by statute. We should re-vote his appointment to make it proper.**

#### **General Issues:**

1. Selectman Bresnahan moved ~~to ensure that~~ the Board revisit the issue of whether the Sullivan email complaint regarding Mr. Bodurtha had been resolved, 2<sup>nd</sup> by **Selectman Conley**. The Town Administrator stated she would send Ms. Sullivan a note asking if the issue was resolved and advising of the proper process that needs to be taken regarding such grievances per the personnel policy. No vote was taken on this matter.



2. Selectman Conley **raised** concerns regarding “missing” minutes of executive session minutes as she did not see minutes from a number of meetings in the minutes book. **She also noticed there were multiple copies of minutes, some signed, and some not signed.** Chairman Morrison stated that this issue is already being **(investigated ?? and)** handled by the Town Administrator via secretary Janet Lewis being tasked with review of minutes and collection of missing or un-approved minutes to be properly processed. **Selectman Bresnahan suggested this issue needs to be resolved as quickly as possible. Selectman Conley suggested using a SHAVE worker in the office so that Mrs. Lewis could attend to the minutes.**
3. Selectman Sullivan moved to **limit** require recording of only the motions and votes taken during all selectmen meetings, with no discussion points to be included to ease the taking of minutes and to avoid unnecessary dialogue in the formal minutes, **2<sup>nd</sup> by Selectman Bresnahan.** Selectman Bresnahan stated he felt comments should be added if specifically asked to be placed on record. Selectmen Maxant and Selectman Conley both expressed interest in having discussion dialogue included in minutes to assist with historical understanding of votes taken. **VOTE:** Selectman Sullivan aye, Selectman Bresnahan aye, Chairman Morrison aye, Selectman Maxant no, Selectman Conley no, 3-2 motion passes.
4. Selectman. Conley moved and Selectman. Maxant seconded to require an unedited copy of each meetings APAC recording be kept in the Board office as an additional record of each meeting. **VOTE: Selectman Conley aye, Selectman Maxant aye, Selectman Sullivan no, Selectman Bresnahan no, Selectman Morrison no, 2 yes, 3 no. Motion failed.**

Selectman Conley moved and Selectman Maxant seconded to enter into executive session pursuant to MGL C39s23B Items 3 and 6 and to exit executive session to re-enter into open session solely for the purpose of adjourning the meeting. Roll call vote: Selectman Bresnahan – yes, Selectman Sullivan – yes, Chairman Morrison aye, Selectman Maxant – no; Conley – no; Morrison – yes. Motion carried 3-2.

9:00p.m. Open Session concluded

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Date:

Pauline Conley, Clerk

AYER BOARD OF SELECTMEN