

Selectmen's Meeting
Tuesday, April 5, 2005

Ayer Town Hall, 1st Floor Meeting Room, Main St., Ayer, MA

7:00p.m. Open Session

The Board met with Chairman Bresnahan, Selectman Morrison, Selectman Sullivan, Selectman Maxant and Selectman Fay.

Agenda Item #1. Public Input

1. Chairman Bresnahan took this opportunity to publicly recognize and welcome Senator Resor to the Selectmen's Meeting. Senator Resor presented Certificates of Appreciation/Recognition from Congressman Meehan; and on behalf of herself-from the State Senate to the 13 U Boys Amateur Athletic Union (AAU) Basketball Team-Blazers based in Ayer. Certificates were presented to: Jordan Murphy, David Zagwyn, Michael House, Walter Lahood, Oliver Taylor, Patrick McKinney, Thomas McDonald, Sean Sullivan, Luis Ramos, Michael Silinonte, Hugo Alhonsi, Chris Lantagne and Tyler Strange. Senator Resor also took the opportunity to thank coaches Sean Murphy and Bruce Sullivan for their commitment to youth. Selectman Morrison read into the record a letter from Senator Kerry applauding the team for their winning season and accomplishments entering the AAU National Championship and finishing third in their group, certificates also on their way. Senator Resor's closing remarks were to inform the team to her sponsoring State Sport Legislation to have Basketball the State sport whereas Basketball was first introduced in MA.
2. Pauline Conley re- clear cutting by Tree Warden in area of Cambridge St-Nonacoicious Park requesting the Board investigate. Ms Conley advised the Board to police and Conservation Commission member David Bodurtha being aware/notified of situation and requesting update by Board at their next meeting.
3. Selectman Morrison advising the Board to Marilyn McMillian being recognized for her clean-up Work on West Main St. by the Toxic Action Center and presented an award re acknowledging her personal endeavor, by awarding her with an outstanding activist award.
4. Chairman Bresnahan took this opportunity to welcome the large gathering and advised those who were present re grievance by Town employee to that matter being taken up at 9:30pm by the Board in Executive Session (closed session)
5. David Berry re sewer back up to his property caused by DPW cutter being broken off and part remaining in his pipe during previous back-up. Mr. Berry stated he was before the Board to request assistance re cost of clean-up- advising to estimate he received very high. The Board requested Supt. Madigan be contacted re this matter if the town was responsible for clean up/should clean it up. Mr. Berry left the estimate with Town Administrator, advising to clean up not done to date and timeliness of request urgent.

Agenda Item #2. Minutes of 3-1-05 and 3-15-05

Selectman Sullivan moved the Board vote to approve the Minutes of 3-1-05, 2nd by Selectman Morrison, VOTE: unanimous, so moved. Selectman Sullivan moved the Board vote to approve the Minutes of 3-15-05, 2nd by Selectman Morrison, VOTE: unanimous, so moved.. Selectman Sullivan moved the Board approve the Executive Session minutes of 3-1-05 and 3-15-05, 2nd by Selectman Maxant for discussion-resolved, VOTE: unanimous, so moved.

Agenda item #3. Public Hearing-Transfer, Pledge of License, Change of Manager and New Officers/Directors-J.P. O'Hanlon's-9 Main Street, Ayer, MA to Kane & Jennette Inc.

Chairman Bresnahan opened the Hearing by requesting the Legal Notice be read in to the record. Selectman Sullivan read the Legal Notice which ran in the Nashoba Publications the weeks 3/23 & 3/29. Chairman Bresnahan requested if there were abutters present wishing to speak for or against the petition. No one stepped forward. The Board met with Liam and Roisin Kane, R. Bianca Jennette and John Hanlon owner of JPO's. Mr. Hanlon updated the Board to O'Hanlon's being a family restaurant with an Irish flair. Mr. Hanlon stated the Town of Ayer has been very good to him unfortunately his health is forcing him to transfer license-ownership. Mr. Hanlon stated new owners are his present employees having been with him between four to six years,

advising the Board to being able to speak to their integrity, management. Mr. Hanlon advised the Board to no complaints/problems ever with the Police Dept. or neighbors. Mr. Hanlon closed his remarks by thanking the Board and Town for years of service/patronage. Mr. Hanlon introduced Roisin & Liam Kane and Ms. Jennette to the Board. The Board reviewed with the new owners their background, food management, TIP's Certification, Hours of Operation, changes to establishment, if any. The Board satisfied with the new owners background/management moved to approve the license. Selectman Morrison moved the Board vote to approve the Transfer, Pledge of License, Change of Manager and new Officers/Directors for O'Hanlon's Restaurant to Kane & Jennette Inc., 2nd by Selectman Maxant, VOTE: Selectman Morrison aye, Selectman Fay aye, Selectman Maxant aye, Chairman Bresnahan aye, Selectman Sullivan recused himself from discussion & vote.

Agenda item #4. Appointments-Communication Committee

The Board met with Hector Malave who gave the Board his background and basis for wishing to be a member of the Communications Committee. Mr. Malave advised to being an administrator with Bunker Hill Community College, and a former planner in Florida, Website Developer and Veteran serving in the Air Force. Mr Malave stated he was happy and honored to serve on Communications Committee. The Board thanked Mr. Malave for coming in to meet with the Board and welcomed Mr. Malave to the Communications Committee and thanked him for serving the Town in this capacity. Selectman Maxant moved to appoint Hector Malave to the Communications Committee, 2nd by Selectman Morrison, VOTE: unanimous, so moved.

Agenda Item #5. Supt. Madigan's Report- The Board met with Supt. Madigan

1. **Vitasoy Billing Abatement-SIU** Water/Sewer billing-Supt. Madigan advised the Board to billing for Vitasoy's sewer is based upon actual water consumption and is thus overstated. For this reason Vitasoy's Engineering Manager investigated the source of groundwater being discharged into the town sewer. Five areas of discharge were noted: Domestic, boiler blow down wastewater, scrubbing tower discharge, water filtration system backwash, and industrial wastewater treatment plant discharge. It was determined that 75% of the water volume through the six inch water meter ends up as wastewater the other 25 % of the water ends up in the product. Supt. Madigan stated Vitasoy is requesting a sewer abatement for the last three quarters (Mar-Dec 2004) representing the 75% of water consumption. Supt. Madigan based upon that request made the following recommendation to the Board:
 1. Sewer abatements be approved for the billing periods: (3-1-04/12-1-04 for a total amount of \$43,605)
 2. Future sewer billings on Acct. # 1400121100 is based upon 75% of the water volumes through the six inch meter.
 3. The 75% sewer estimate is adjusted when Vitasoy has a metering manhole and flow meter working properly. This system has taken a long time to install and postponed the request for the sewer abatements. This system must be operating properly by 6-1-05 or no further abatements be addressed.

Selectman Sullivan moved to approve Vitasoy's abatement in the amount not to exceed \$43,605.00 per Supt. Madigan's Memo dated 3-18-05 re sewer billing to Vitasoy, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

2. **Construction Inspection Services-**Supt. Madigan updated the Board to his October 2004 meeting with the Board to address need for proper inspecting and approval of full-time construction and installations of roadways, drainage facilities, water and sewer lines as well as services supporting new subdivisions and developments per the Water/Sewer Regulations. Supt. Madigan advised the Board to his meeting with the Planning Board on 12-2-04 re this matter. Supt. Madigan stated he developed two proposals for consultant construction services ranging from full-time to part-time inspections. Supt. Madigan updated the Board to five of the largest developments approved by the Planning Board which are either in construction or to begin in 2005: Pond View, Sandy Pond III, Ridgeview, Stratton Hill, and Autumn Ridge. Supt. Madigan reviewed with the Board his tabulations of utilities and facilities for the five developments that will be used to develop construction inspection options as well as the developments construction schedule and cost recovery options: two recovery options: full-time and part-time consisting of a cost per foot of utilities and/or facilities cost per housing unit. Supt. Madigan

recommended a \$1.00 per foot option which better reflects actual construction to rate inspection costs and a \$per foot rate somewhere between the part-time and full-time scenarios. Selectman Fay moved the Board approve Supt. Madigan's recommendations per his memo of 2-22-05, 2nd by Selectman Maxant VOTE: unanimous, so moved.

4. **Water & Sewer Permits** -7 High Street, Ayer, MA- Supt. Madigan recommended the Board's approval of a 4 bedroom house at 7 High street for a 1 inch water service and application to connect to sewer. Motion to approve made by Selectman Sullivan 2nd by Selectman Morrison, VOTE: unanimous, so moved.

Selectman Sullivan appraised Supt. Madigan to the Board meeting earlier this evening with Dave Berry under Public Input re sewer back up at his place of business caused by the Town, and cost of clean up extremely high and Mr. Berry appearing before the Board this evening for guidance. Supt. Madigan stated he met with Mr. Berry a few days ago, aware of situation and waiting upon report from sewer foreman before approval.

Agenda Item #6. FY-06 BUDGET

Ms Scheipers presented the latest Fy-06 Draft Budget for the Board's review. Prior to review of the line items Ms. Scheipers presented the Board the mutual Agreement formalized with the School Committee on 3-15-05 re the one time components for funding the Fy-06 School Budget for their endorsement to be submitted to School Committee for their endorsement at their meeting on 4-6-05.

- Allocating all of the 1998 over-ride amount (\$494,792) to the School Budget; including the share Normally allocated to the Town's Stabilization Fund (\$256,259)
- Allocating all estimated Medicaid reimbursements to the School Budget (est. at \$90K)
- Allocating all interest earned from the Tuition and Choice accounts to the School Budget (est. at \$10K)
- Allocating \$50K of the Fy-05 savings from Voc. ED expenses to the School Budget
- Allocating \$50K of the Fy-05 savings from Transportation expenses to the School Budget
- Allocating \$30K of the Fy-06 Transportation Funds to the School budget

It is further agreed that the override and Medicaid distributions are to be reviewed annually, and that the Tuition and Choice interest be available to the schools. The allocations from the Fy-06 transportation costs and from the Fy-05 savings are one-time solutions to balance the Fy-06 budget. Joint effort shall be made by both parties to address the requirements for a quality educational system and the means to handle ongoing budgetary issues. Motion to endorse the Fy-06 School Committee and Selectmen's Agreement dated 4-5-05 made by Selectman Fay, 2nd by Selectman Morrison, VOTE: unanimous, so moved.

Fy-06 Budget Tie-In –Numbers presented reflecting projected preliminary recommended Omnibus including Debt Exclusions-Interest, General Fund Subsidy adjustments, etc. Ms Scheipers updated the Board to the change in the Tie-In numbers submitted by Town Accountant Lisa Gabree due to estimated interest on new debt exclusion and capital exclusion adjustments being made after Selectmen's packets were made up.

Available for Appropriation: \$19,987,384

Fy-06 Preliminary Recommended Omnibus: \$18,932,945

Ms. Scheipers reviewed with the Board the Projected Enterprise Funds, Debt exclusion interest, General Fund subsidy, indirect expenses budgeted in Omnibus, Estimated expenses before raise articles and transfer to stabilization: \$19,081,023 Estimated revenues in excess of expenses per warrant: \$906,361.

Ms. Scheipers reviewed with the Board the raise articles: Capital exclusion: Town Hall Roof \$600K, COLA presented by Personnel Board 3% and estimated at \$35K, SHAVE Program \$10,200, Weed Control \$30K, Schools study of facilities \$25K, GIS system \$10K, Pirone Park survey \$10K, Citizens Petitions video equipment \$50K, Handicap parking & curb cut at Post Office \$5K. New Stabilization number after raise & appropriate articles estimated at \$95,101.00 The Board requested to take up the Omnibus Budget per line item:

Dept. 100 reductions: 02 Town Counsel reduced from: \$185K to \$150K Motion to reduce line-item made by Selectman Fay, 2nd by Selectman Sullivan VOTE: unanimous, so moved.

Dept. 200 reductions-

05-savings found by Town Accountant in staff reductions on Health & Life Insurance,
14- and FICA Medicare expenses-net reduction \$25K

Dept. 300

01- Police Cruisers, the Board after meeting with Police Chief Richard Rizzo and much discussion re Ms. Conley's request to exclude the two (2) new cruisers from the Spring Town Meeting Warrant decided to **not** reduce the recommended line item as presented.

06-Veterans Benefits after much discussion re reducing budget by \$23K requested by Ms. Conley the Board decided **not to** reduce line item from \$60,736

04A-Pop Warner -The Board voted to increase the \$2K recommended allocation to \$4K.

Dept. 600- The Board moved to allocate \$6,963,299 to the General Education Budget for Fy-06, per the Agreement so stated on Page 1 of the 4-5-05 minutes.

Dept. 700-

07 Management Support-The Board voted to reduce the Fy-06 Allocation from \$14,700 to \$10,700 and to include a \$1K stipend for Town Hall employee re computer support. Motion made by Selectman Morrison 2nd by Selectman Fay, VOTE: unanimous, so moved.

TOTAL OMNIBUS WITH AMENDMENTS: \$18,932,945

Agenda Item #7. Spring Town Meeting Warrant review

Ms Scheipers reviewed with the Board the Draft Town Meeting Warrant – May 9, 2005.

Article 2. Reports by Town of Ayer Officials/Boards/Committees/Commissions

Article 3. Salaries: The Board voted to approve a 3% COLA for Fy-06 recommended by the Personnel Board. Motion to approve made by Selectman Fay, 2nd by Selectman Maxant VOTE: unanimous, so moved.

Article 4. Omnibus Budget

Article 5.-8 Enterprise Fund Articles

Article 9-12 Revolving Fund Articles – one new Revolving Acct.-Communications Com. \$20K

Article 13-Union Contract Funding Numbers to be checked re accuracy

Article 14-19 Community Preservation Articles

Ms Scheipers updated the Board to the warrant article request for \$5K for downtown planning being removed due to Economic Development Director's report advising to funds already available.

Chairman Bresnahan requested a motion to continue the Spring Town Meeting Warrant review to the April 19th, 2005 Selectmen's Meeting, Motion to continue the Spring Town Meeting Warrant review to the 4-19-05 Selectmen's Meeting made by Selectman Fay, 2nd by Selectman Morrison VOTE: unanimous, so moved.

Agenda Item # 8 Town Administrator's Report

- 1. Nashoba Valley Medical Center-One Day Beer & Wine License**-The Board approved a One Day Beer & Wine License for Nashoba Valley Medical Center for April 6, 2005 from 5:30p.m. to 8:30p.m. for the Chamber of Commerce Business after Hours. Motion to approve made by Selectman Fay, 2nd by Selectman Morrison, VOTE: unanimous, so moved.
- 2. Town Hall Roof Repair Bid Opening**-Ms Scheipers updated the Board to S.O.M. of Dudley, MA for the low bid of \$433,777 plus alternatives of \$44K which Ms. Scheipers added is well below the \$600K even with contingency of \$26K.
- 3. Ms. Scheipers** updated the Board to the Board having 3 Executive Sessions this evening: Police contract negotiations, Eastern General and Employee Grievance. Ms Gabree questioned the Board as to which exemption the Board was entering re employee grievance advising she was not aware of any section of the law being cited. Lowell Sun Reporter registered her objection and advised to filing a complaint re violation of Open Meeting Law. Ms Scheipers advised to written notification of Executive

Session being more important than citing specific section of the law. The Board opted to defer this Executive Session to concur with Town Counsel re Ms Gabree's objection. Motion to defer made by Selectman Fay, 2nd by Selectman Morrison VOTE: unanimous, so moved

Agenda Item #9. Selectmen's Questions/New Business

Selectman Sullivan

1. Requested status of pot hole complaint at 126 Sandy Pond Rd. be addressed asap by DPW.
2. Time frame re street sweeping-and advised to beginning next week.
3. Downtown Planning/Program Income- need the amount re additional cost.

9:45p.m. Selectman Fay moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23B Exemption #3, to adjourn from Executive Session to reenter into Open Session for the sole purpose of adjourning the meeting, 2nd by Selectman Morrison, VOTE: Selectman Fay aye, Selectman Morrison aye, Selectman Maxant aye, Selectman Sullivan aye, Chairman Bresnahan aye, unanimous, so moved.

9:45p.m. Open Session ended.

DATE: _____

Cornelius F. Sullivan, Clerk

AYER BOARD OF SELECTMEN