

Selectmen's Meeting

Tuesday, May 4, 2004

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

7:00p.m. Open Session

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

Chairman Fay took this opportunity to congratulate Selectman Sullivan upon his successful campaign and re-election on the 26th of April. The Board echoed Chairman Fay's comments.

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

1. James Williams-Re: formal request of the Selectmen requesting copies of all public records that are defined in MGL Chapter 66 S10 which are defined as confidential, questionable, or in any other way withheld from any citizen before and after the board adopts a classification policy and other applicable laws and regulations cited in a hand delivered document dated 5-4-04 presented to the Selectmen's secretary by Mr. Williams.
2. Leslie Tyler- Stating any and all information should be brought to the Town referring to recent newspaper article (April 27, 2004)
3. Chairman Fay announced Representative Hargraves conducting Office Hours this evening at the Ayer Town Hall fro 7-8pm encouraging Ayer residents to come in to meet with the Representative if they had questions/concerns he could help them with.
4. George Bacon, Chairman of the Historical Commission, updated the Board to Town Counsel advising to Pleasant Street School property must be declared surplus and transferred back to the Board of Selectmen. Mr. Bacon also updated the Board to the Historical Commission having two (2) proposals before them and at their meeting on May 4, 2004 selection will be made and negotiations begun. The Commission will be conducting a Working Session the end of May. Selectman Sullivan-Board's liaison to the Historical Commission to update the Board to these negotiations.

Agenda Item #2.-Public Hearing-Taxi License "About Town Taxi & Livery" Ann & Daniel Vaughn-49 Main St.

Chairman Fay opened the Hearing by requesting the Legal Notice be read into the record by the Clerk. Selectman Morrison read the Legal Notice into the record which ran in the Nashoba Publications the weeks of April 21 & April 28, 2004. The Board met with Ann Vaughn on behalf of "About Town Taxi & Livery". Present for the discussion Lt. William Murray of the Ayer Police Dept. sitting in on behalf of Police Chief Richard Rizzo. Lt. Murray read into the record the Chief's recommendation which described Ms. Vaughn's driving history citing eight traffic warnings, speeding violations, right to operate suspended on four occasions, defaulting on court payments. Lt. Murray advising the Board to the Chief's recommendation to deny request for Taxi License by Ann Vaughn on behalf of "About Town Taxi & Livery". The Board moved to deny the Taxi License based upon Ms. Vaughn lengthy list of motor vehicle infractions. Motion to deny the License made by Selectman Bresnahan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #3. Public Hearing-Beer & Wine License Application -Jeffrey Gendron-63 Park St., Ayer, MA

The Board met with Jeffrey Gendon applicant. Chairman Fay opened the Public Hearing by requesting the Legal Notice be read into the record by the Clerk. Selectman Morrison read the Legal Notice which ran in the Nashoba Publications the weeks of April 21, & April 28, 2004. The Board reviewed with Mr. Gendron his background re: prior experience in Fitchburg operating liquor establishment for twenty years. Leaving Fitchburg due to high crime rate. Mr. Gendron explained his plans to the Board to open upscale retail establishment serving Gourmet Food, Beer & Wine, bakery, coffee, produce/flowers. The Board reviewed Planning Board's concern re requiring site plan earlier and later retracting due to no change of use. Chairman Fay expressed his concern re traffic issues and Selectman Sullivan expressed his concern re number of liquor establishments presently in Town. Selectman Maxant requesting the Board re-look this

matter at a future Selectmen's Meeting to just how many alcohol establishments needed in Town. Phil Berry advised the Board to number of retail licenses determined by State ie. Package stores/restaurants. Selectman Bresnahan noted the Police Chief's letter of recommendation and Mr. Gendron's excellent record and reputation in Fitchburg. Chairman Fay requested if there was anyone present wishing to speak for or against the petition. No one came forward. Mr. Gendron presented the Board abutter notification mailing receipts. Chairman Fay called for a vote. Selectman Bresnahan moved the Board approve the Beer & Wine Alcohol License Application for Jeffrey Gendon, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda item #4. Appointments

1. **Devens Enterprise Commission Alternate**-The Board met with Martin Poutry of 10 Brook St., Ayer, MA. Mr. Poutry reviewed with the Board his background and interest upon serving on the Devens Enterprise Commission. Ms Scheipers updated the Board to position on DEC as alternate formally held by Eddy Hamilton who was promoted to "Regular Member" replacing Murray Clark who resigned. Ms Scheipers advised the Board to Mr. Poutry requesting to replace Mr. Hamilton as Alternate on the DEC and Mr. Hamilton's expiration date as alternate being 2005. Selectman Bresnahan moved Mr. Poutry be recommended by the Board for appointment by the Governor. Motion to appoint made by Selectman Bresnahan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. **Industrial Development Finance Authority (IDFA)**-The Board met with Timothy Madigan of one Madigan Lane, Ayer, MA. Mr. Suhoski, Community & Economic Development Director on behalf of the IDFA read into the record the Board of Director recommendation of Timothy Madigan to the IDFA. Ms. Scheipers updated the Board to Mr. Madigan replacing James Bridges who resigned last year, Mr. Bridges expiration term of office July 2005. Chairman Fay called for a vote. Selectman Sullivan moved the appointment of Timothy Madigan to the IDFA to June 30, 2005, 2nd by Selectman Bresnahan, VOTE: unanimous, so moved.

Agenda Item #5. Community & Economic Development Director's Report

The Board met with Shaun Suhoski who updated the Board to two matters before them this evening.

1. Ayer Drug Court Program Contract-

Present for the discussion: Judge Kilmartin of the Ayer District Court, Jim Kazeniac- Chief Probation Officer and Ken Bates, Director of behavioral health at Advocates, non-profit social service provider based in Framingham, MA who replaced Spectrum Health Systems. Mr. Suhoski reviewed with the Board the Grant authorized in November 2003 by the Federal Dept. of Justice in the amount of \$498,703. to implement the Community Treatment Program a three year program of enhanced treatment and monitoring of existing offenders in the Ayer District Court. This program coming about due to the Court not having time or manpower to administer Federal funding. Mr. Suhoski presented the Board Advocates Agreement to commence treatment and monitoring of clients under the direction of the Ayer District Court Probation Office. Mr. Suhoski advising to Town Counsel, the Court House and Town staff approving contract language. The Board approve the Agreement presented by Mr. Suhoski for Advocates, Inc. which delineated the Work Statement, Term of Contract May 2004 to August 2006, Time & Place of Performance, Compensation not to exceed \$453,366.00, Manner of Payment, Written Reports, Confidentiality, Liability of Town, Independent Contractor, Indemnification, Insurance, Assignment, Successor and Assigns, Compliance with Laws, Notice, Severability, Governing Law, Entire Agreement, Religious Activities, & attachments-ie. Letter of Award from US Dept of Justice dated 9-15-03, Application for Federal Asst. (Award # 2003-DC-BX-003), Position descriptions, Commonwealth terms and conditions form. Chairman Fay called for a motion to approve. Selectman Morrison moved the Board approve the Agreement with Advocates, Inc. and the Town of Ayer to implement the coordinated Community Treatment Program in partnership with the Ayer district Court, 2nd by Selectman Sullivan, VOTE: unanimous, so moved. Judge Kilmartin took this opportunity to publicly thank Mr. Suhoski and his staff for their support and commitment to the program.

3. Appointment of CDBG Program Manager-

The Board met with Mr. Suhoski re: his recommendation to the CDBG Program Manager position. Mr. Suhoski updated the Board to ten day posting period closing on March 31, 2004 and the sole applicant being Susan Provencher the current Financial Manager and department assistant. Mr Suhoski stated based upon Ms Provencher's qualifications and experience Mr. Suhoski requested the Board approve the appointment of

Susan Provencher to the position of CDBG Program Manager at Grade 9 Step 2 of the Town's Compensation Plan. Selectman Morrison moved the Board appoint Susan Provencher to the CDBG Manager's position at Grade 9 Step 2 of the Town's Compensation Plan, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #6. Supt. Madigan's Report

1. **Appointment of Highway Dept. Equipment Operator**-The Board per the recommendation of Supt. Madigan appointed Mike Cullinan, present Utility Person for the DPW to the vacated position of Highway Dept. Equipment Operator formally held by Mark Dixon who resigned earlier this month. Motion to approve made by Selectman Sullivan, 2nd by Selectman Bresnahan, VOTE: unanimous, so moved.
2. **2004 Chapter 90 Program**-The Board approved of the 2004 Chapter 90 Program submitted by Supt. Madigan. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Morrison, VOTE: unanimous, so moved.
 1. Crack Sealing- \$10,000.00
 2. Paving-Sandy Pond Rd 120' \$ 2,500.00
 3. Paving-Harvard Rd. 60' \$ 1,500.00
 4. Westford Rd. drainage & paving improvements \$245,000.00
3. **Tata & Howard Contract Westford Rd.** The Board to revisit the Engineering Contract at their next meeting re: amendment to document adding Sandy Pond, Harvard Rd. and alternate School.
4. **The Board took up Paul McGuane's Request to review Water/Sewer Policy to reduce the Licensed Plumber Fees for Licenses Plumbers.** The Board took Supt. Madigan's recommendation under advisement re: reducing fees re: licensed plumbers. The Board requested Mr. Madigan study this proposal with help from one of the Selectmen and come back to the Board with a recommendation before July 1. Selectman Bresnahan moved that license fees of \$400.00 assessed against Paul McGuane Plumbing for Sewer and Drainlayer licenses for the years 2003 and 2004 be refunded to him since, as a State licensed Master Plumber, he is exempt from such license fees. Furthermore, it is agreed that this refund agreement will apply only to Mr. McGuane and not be a precedent for anyone else, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #7. Town Administrator's Report

1. **Ms. Scheipers updated the Board to Publisher of Town Warrant (Nashoba Publications)** Making error to 5-10-04 ATM Warrants mailed to Town residents incorrect page 6. Newspaper inserted Town of Groton's page 4 in Town of Ayer's page 6. Corrected page and apology to be sent out by Nashoba Publishing to all Town residents at their cost immediately.
2. **Reserve Fund Transfer Request-Town Insurance** in the amount of \$6,608.00 for 4th quarter invoice and changes to town vehicle endorsements-Fy04 budgeted amount was based upon best numbers available at time from agent. Selectman Bresnahan moved the Board approve Reserve Fund Transfer, 2nd by Selectman Morrison, VOTE: unanimous, so moved. The Board requested the RFT be processed to the FinCom for their review.
3. **The Board approved a request from the Planning Board for additional funding for Town Counsel re: the Kingsbury Sub-division** in the amount not to exceed \$3,600.00. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.
4. **The Board approved the sign request from the Ayer High School Capitalism & Democracy Class** to place signs at the Town Hall, Library and Transfer Station re the upcoming Voter Registration Drive "Rock the Vote" on Saturday, May 15, 2004 from 9-12pm at the Ayer Town Hall. Motion to approve made by Selectman Morrison, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.
5. **The Board approved the Town Administrator to work with Erick Everton of MunEnergy,** at no obligation to the Town re potential cost savings for the purchase of electricity. Motion to approve made by Selectman Morrison, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

6. The Board moved to support and authorize the Town Administrator for write letter re Middlesex Retirement System Fiduciary Reform. Motion to support made by Selectman Bresnahan, 2nd by Selectman Morrison, VOTE: unanimous, so moved.
7. Ms. Scheipers updated the Board to the Smith land sale public meeting scheduled on the Selectmens's Agenda of 5-18-04 to determine if the Town wishes to assign its right of 1st refusal to a non-profit ie Trust for Public Land, MassAuduon, etc.
8. Ms. Scheipers advised the Board to need of establishing formal committee for the Phase 2 Stormwater Management Plan with EPA & DEP. The five year plan requires a committee to ensure activities take place. Ms. Scheipers advising to need to get Conservation Com., and two citizens involved along with herself & Mike Madigan. Ms. Scheipers requesting the Board to advise her to their recommendations re interested parties for this committee.
9. Ms. Scheipers updated the Board to Town Counsel reviewing the draft motions of the Annual Town Meeting Warrant.

Agenda item #8 Selectmen's Questions/New Business

1. Amendment to Chapter 498-Selectman Bresnahan updated the Board to no proposed changes would be made to Chapter 498 without advising Town of Shirley, Town of Harvard, Devens and Town of Ayer.

Selectmen's Questions:

Selectman Sullivan-2 issues

1. Selectman revisited the Board's request to have Selectman Maxant contact State Representatives re: his issues re: Chapter 498.
2. Selectman Sullivan expressed his concern and disappointment re Selectman Maxant's phone call to Mohammed Khan MART Administrator re: illegal vote taken by Board of Selectmen re parking garage and that townspeople were against it. Selectman Maxant denied those allegations. Selectman Sullivan expressed his dismay with Selectman Maxant questioning his support and participation of project with State representatives to secure financing and then jeopardizing project as well as objecting to Selectman Maxant's defense of retailers. Selectman Morrison agreeing and stating report was preliminary feasibility study which was approved to go forward, part of a long process with no construction start up until due process stating Selectman Maxant giving the wrong impression unfair to MART & Mohammed Khan. Town Administrator Anita Scheipers read into the record the Board's vote taken on 4-6-04 which was copied to Mohammed Khan which reflected the full Board's unanimous approval of the Feasibility Study. Selectman Fay expressed his concern re: Selectman Maxant going out on his own again without Board consent.

Selectman Bresnahan

1. Selectman Bresnahan briefly reviewed information in the Board's 3 ring binder re Devens Disposition:
 - (a) Selectman Bresnahan reviewed the makeup of the (to be formed) Executive Disposition Committee. This will consist of 15 members, 60% from the three (3) Towns and 40% from Devens.
 - (b) Selectman Bresnahan explained a draft from Mr. Guercio that recommends expanding Section 23, Chapter 498 to include Devens residents and businesses as included in producing the final report. (The current position of the Board of Selectmen is not in favor of this).
 - (c) Selectman Bresnahan explained that the package also included the ACTION list for the new Executive Committee.

Selectman Guercio entered meeting. Selectman Guercio (Town of Shirley) stated he had just returned from Harvard Selectmen's Meeting and advised Ayer Board of Selectmen to Harvard and Shirley voting to support spirit of Devens Disposition Steering Committee amendment proposed by Selectman Bresnahan which identified stakeholders (15) identified in MOU which would require unanimous approval of group before final approval. Chairman Fay thanked Selectman Guercio for coming into meeting and told him the Board would take his 498 proposal under advisement.

9:30p.m. Selectman Morrison moved the Board adjourn from Open Session to enter Executive Session pursuant to MGL Chapter 39 Section 23B, Exemption #3 Contract negotiations to adjourn from Executive Session to re-enter into Open Session for the sole purpose of adjourning the meeting, 2nd by Selectman

Bresnahan, VOTE: Selectman Morrison aye, Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Maxant aye, Chairman Fay aye, unanimous, so moved.

9:30p.m. Open Session ended.

Faye L. Morrison DATE: 5/24/04

Faye L. Morrison, Clerk

AYER BOARD OF SELECTMEN