

Selectmen's Meeting
Tuesday, September 2, 2003
Ayer Town Hall, 2nd Floor Great Hall, Main St., Ayer, MA

7:00p.m. Open Session

The Board met with Vice-Chair Bresnahan, Selectman Morrison, Selectman Sullivan and Selectman Maxant. Chairman Fay absent due to illness.

Selectman Bresnahan announced the purpose of relocating the Selectmen's Meeting this evening to the Great Hall was to accommodate Agenda Item #5 Sandy Pond Truck Traffic residents who signed petition.

Public Input:

Selectman Bresnahan requested if there was anyone present wishing to speak under Public Input, no one came forward.

Minutes of 8-12-03. Selectman Morrison moved the Board approve the Minutes of 8-12-03. Selectman Maxant 2nd for discussion challenging the Col. Needham Fire Apparatus being the 1st piece of Fire Equipment in the Town of Ayer. Selectman Morrison stated the record echo Ms. Moore's research which indicated this history, with that Selectman Maxant rescinded his challenge. Minutes of 8-12-03 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Minutes of 8-19-03 Selectman Morrison moved the Board approve the Minutes of 8-19-03, 2nd by Selectman Maxant for discussion requesting to add the following language to the first page of the Minutes of 8-19-03, paragraph after item #5, last sentence-Selectmen Sullivan and Maxant returned to the table, quorum was confirmed, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #1. Jane Witherow-Sewer Bank Connection Fee

The Board met with Jane Witherow, Moore Drive resident re the Washington Street/Moore Dr. Sewer Main Project. Present for the discussion Supt. Michael Madigan. Ms. Moore stated she was back before the Board to clarify her request of 8-19-03 stating she felt there was some confusion among the Board Members re her request. Ms. Moore stated she was before the Board requesting the Sewer Bank \$100.00 application fee be waived plus the \$110.00/per bedroom due to Town lifting moratorium, sewer flows now to Devens so why charge? Supt. Madigan stated DEP letter has been written and Town should receive confirmation to the Sewer Bank being lifted any day. The Board reviewed with Ms. Witherow & Supt. Madigan the rate structure policy currently in place for Washington St./Moore Dr residents (14) who have paid fees to date vs. other areas in Town, new rate structure and proposed new fee for the Moore Dr./Washington residents tying into Town sewer requested by Ms. Witherow. The Board after a short discussion re: the Moore Dr./Washington Street new sewer project moved to have applicants wait until the Town receives the official notification from the State (DEP) that the Sewer Bank Moratorium is lifted, fee for these residents will be \$100.00 with the complete distinction between Sewer Connection fees and Sewer Bank Allocation fee. Any applications already submitted and not processed should be held until Town receives notification from DEP. Motion made by Selectman Sullivan 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #2. Bay Communications/Omni Point Holdings Inc. (OHI) re Cell Tower Lease Agreement

The Board met with representatives from Bay Communications Jim Riley-CEO and Carey Diehl, Site Development Mgr. and Tonia Dao, In House Counsel from OHI. The Board reviewed with all the above parties the Lease assignment, co-location rents, agreement, performance of obligations, default and remedies, indemnification and financial statement/obligations. Bay Communications is a tower development and acquisition company throughout the northeast United States. Bay will construct the tower and OHI will be the lead tenant on the tower at the Brook Street "DPW Facility" site (Ayer, 4BS-341-G). Bay will also pursue additional tenants on the tower which will provide the Town of Ayer an additional 20% of the sublease rent. Ms. Schiepers informed the Board to Town Counsel's recommendations that Bay satisfy all the RFP and lease requirements, provide financial information to assure the Town of its ability to construct the facility but also maintain the facilities for the duration of the lease. Town Counsel recommended a new lease be executed with the Town subjecting Bay to the same terms negotiation with OHI to demonstrate who would be responsible for complying with insurance obligations and other requirements outlined in the lease to better protect the Town by demonstrating Bay's ability to comply with the lease obligations through the execution of a lease directly with Bay Communications LLC. Selectman Morrison moved the Board allow the Town Administrator to work with Town Counsel to create contractual

Language to allow lease assignment from OHI to Bay Communications to include a Performance Bond Clause, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #3. Tony DiLuzio-KV Associates and Fire Station Building Committee

The Board met with Tony DiLuzio of KV Assoc., Wellman Parker of the Fire Station Building Com., and Fire Chief Paul Fillebrown Sr. Mr. DiLuzio gave the Board a brief update to the Town receiving only one (1) bid for the soil management and hazardous abatement work for the new fire station property located at the intersection of Park St. and Main St. Mr. DiLuzio advised to number of bids low due to original DCAM requirement. Mr. DiLuzio ran through the cost overrun directly attributable to the site hazmat remediation unforeseen at the time of the projects inception. SEA was requested to identify potential savings based on conservatively high quantities estimated in bid which reflected savings estimated at \$100K to \$125K. Mr. DiLuzio informed the Board to KV & SEA reviewing the qualifications and references of D.L. King the sole bidder and found no reason to disqualify the bidder. The bid reflects an anticipated cost overrun of \$1,722,785.00 for the project. Mr. DiLuzio updated the Board to the Building Committee meeting on 8-14-03 and of the Committees vote to endorse the bid award to D.L. King of Amherst, NH in the amount of \$869,745.00. Selectman Morrison moved the Board based upon the recommendation of the Fire Station Building Committee award the bid for the soils management and hazardous abatement work for the new Fire Station site to D.L. King of Amherst, N.H., 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #4. Economic Development Director's Report

The Board met with Timothy Hansen, Grant Administrator.

1. **Subordination Agreement**- The Board approved a Subordination Request for 47 Pleasant Street- Case #Fy98-104 of the Certification not to Encumber to new first mortgage in the maximum amount of \$113,000.00 based upon the recommendation of Mr. Hansen. Motion to approve made by Selectman Sullivan, 2nd by Selectman Morrison, VOTE: unanimous, so moved. Selectman Sullivan moved the Board approve the Vice-Chairman's signature on the Subordination Agreement, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. **Waiver Request**-The Board approved a Single Case Waiver for 12 Grove Street, Ayer, MA Case # Fy-03-209. The Board moved to waive the owner's match requirement for Housing Rehabilitation Case #03-209 based upon the representation of financial hardship detailed by the client. Motion to approve made by Selectman Sullivan, 2nd by Selectman Morrison, VOTE: unanimous, so moved.
3. **Program Income Proposal**-The Board reviewed with Mr. Hansen the Pilot Program proposal presented by Sue Provencher, Financial Mgr. re: 1st Time Home Buyers Assistance Program presented through the CDBG Housing Program Income. Goal of program was to target and promote affordable housing opportunities in the Town of Ayer. Ms. Provencher's proposal updated the Board to seminars beginning in June and finishing up this week, with good participation from Town residents. Five couples have completed the four-night seminars which took them through whole process of buying a home, i.e. Budgeting/financial planning, legal & realtor issues as well as qualifying them for access to funding from MA Housing Partnership & other agencies. The Economic Development Director's Office would like to offer qualifying couples up to \$2K to help with closing costs and to cap this offer/program at \$10K. A lien would be placed on each property to recover the funds for a specific time period should the homeowner purchase and sell within a short period of time. The Board applauded the efforts of Ms. Provencher. Selectman Sullivan moved the Board approve this pilot program for 1st Time Home Owners up to \$10K/\$2K/ea homeowner up to 5 couples/program participants to assist with closing costs to include a fifteen (15) year lien on the properties to be re-paid upon sale or refinance of each property, 2nd by Selectman Morrison, VOTE: unanimous, so moved. The Board requested a Policy Statement be prepared re: this proposal for the Board's next meeting.

Agenda Item #5. Sandy Pond Truck Traffic Petition

Vice-Chair Paul Bresnahan opened the discussion by addressing the assembly (25-30 residents) and advising them to this matter given thirty minutes by the Board to allow residents to speak and to hear Chief Rizzo's research/recommendations to issue. Vice-Chair requested all speakers to come up to the microphone set up for them and to limit their remarks to five minutes. Vice-Chair opened the floor to

Richard Harrison who gave the Board history/concerns re truck traffic on Sandy Pond Rd. specifically concerns to Sandy Pond being entirely residential area, new proposed beach Master Plan-children's safety issues- parking lot to be located across the street from beach, Guilford unloading facility to be operational soon adding more trucks to an already dangerous population. Gerald Millson also spoke re including Central Ave. in this truck traffic problem advising to trucks damaging/destroying berms/island/greenery along Central Ave. Alden Farrar also spoke re truck counts (volume of trucks from local companies, Devens-unnecessarily using this road) taken by him suggesting the possibility be explored to utilize access road located on NEMCO Way exiting the old SanVel Rd.(the former railroad ties storage area) to Spectacle Pond Rd. Vice-Chair Paul Bresnahan requested Chief Rizzo update the Board and assembly to his research and recommendations to this issue. Chief Rizzo advised the Board to his preliminary investigation into the process and feasibility of limiting Heavy Commercial Vehicle traffic on Sandy Pond Rd. Chief Rizzo advised to his conducting a weeks traffic count by "axle class" on Sandy Pond Rd., Willow Rd., and Westford Rd and assigned an officer to determine the class, name of vehicle during the hours of 10am to 2pm on 8-25-03. He contacted the District Traffic Engineer for MA Highway/Worcester to clarify the process before requesting a Section 10A-9 Heavy Commercial Vehicle Exclusion. Chief Rizzo stated a truck exclusion from a municipality may be authorized provided a suitable alternate route is available meeting width & structural requirements to accommodate truck traffic. In addition the alternate route must meet one of the following conditions:

1. lie wholly within community making application
2. lie partially in an adjacent community but only on a state highway
3. lie partially in adjacent community (Littleton) but have their approval

The Chief stated the volume of heavy trucks is approximately between 5&8% on a 5 day average. MA Highways will accept a 5-day average, last year there were 19 reported accidents on Sandy Pond Rd., none involving trucks. Signage is real issue, having proper signs installed along rotary, Rt. 110/111, Rt.2A, Westford Rd., Willow Rd. Central Ave., State could also help with this. The Chief presented to the Board his data study relative to zoning, proximity of proposed alternate route. Chief Rizzo stated a written statement from Town of Ayer could be written as to need for the exclusion and he will do so at the request of the Selectmen. The Board requested the Chief start process to restrict truck traffic on Sandy Pond Rd. and prepare the letter to MA Highways for their review. A citizen requested the Board also look at sidewalk improvements in this area as well. Selectman Bresnahan addressed the sidewalk issue advising that issue came before the Board a year or so ago, would help safety if placed on both sides of street. The Board requested local companies in Town be informed of Town seeking exclusion from State to restrict Heavy Commercial Vehicles on Sandy Pond Rd. and to invite them into next Selectmen's Meeting-conduct a Public Hearing at start of meeting at 7pm on October 7th and to notify the Town of Littleton of this exclusion being proposed by the Town of Ayer.

Representative Hargraves-Vice-Chair recognized Representative Robert Hargraves who updated the Board to his sub bill filed re the MADEV Liquor License Legislation that went before the House in an informal session last week. Two Licenses were requested 1 Full Alcohol License and 1 Beer & Malt License and any additional licenses sought would have a five year moratorium/and have to be approved by the three (3) Town's Boards of Selectmen as to where they want to go, until then he will be voicing his objection on behalf of his constituents. The Board thanked Representative for coming in.

Agenda Item #6-Town Administrator's Report

1. The Board met with Supt. of Schools Kevin O'Malley who advised to the School downsized by 7% and to Town Accountant statements being incorrect- school is loosing approximately between \$75K and \$100K in interest. Supt. O'Malley reminded the Board to his request submitted back in April 2003 to break out the School Dept. trust accounts specifically, School Choice, Tuition, and Athletic Revolving Fund Accounts so that the interest on these accounts may be credited directly to the School Department. The Board requested Lisa Gabree-Town Accountant, Denis Callahan-Town Treasurer, Supt. O'Malley and Robert Manning work together to investigate if interest generated by school in these Trust Accounts can be given back to School Dept. The Board requested Town Counsel be contacted and report back at the next Selectmen's Meeting on 9-16-03. Mary Spinner of the Advisory Committee updated the Board to the Advisory Committees endorsement of this request.

2. Town Hall/Police Station Custodian-The Board approved Town Administrator's Recommendation to increase Dan Sherman's hours to 40 hours effective immediately. Motion to approve made by Selectman Sullivan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
3. Merrimack Warehouse -95 Fitchburg Rd., Ayer, MA Ms. Schiepers presented two Water Permit Applications approved by Supt. Madigan for 8" service and 1 1/5" service for Merrimack Warehouse. Selectman Sullivan moved the Board approve the Water Permit Applications recommended by Supt. Madigan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
4. The Board approved the Electrical Upgrades Contract to Tata & Howard to the Spectacle Pond Well Site for the sum not to exceed \$8K per Supt. Madigan's recommendation. Motion to approve made by Selectman Sullivan, 2nd by Selectman Morrison VOTE: unanimous, so moved.
5. Institutional Controls-tabled
6. Ms Schiepers advised to Performance Mgt. Plans submitted for their review and approval for Town Officials/employees. Selectman Sullivan moved the Board accept the Mangement Plans submitted by the Town Administrator, 2nd by Selectman Morrison VOTE: unanimous, so moved.
7. The Board accepted the resignation of Julia McKinney from the Council on Aging with regrets. Motion to accept Ms. McKinney resignation made by Selectman Sullivan, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
8. Ms. Schiepers presented the Board the draft Fall Town Meeting Warrant for the Board's review.
9. Ms. Schiepers advised the Board to Shaun Suhoski's offer of assistance to replace the Elm tree on Main Street. Selectman Sullivan moved the Board accept Mr. Suhoski's assistance, 2nd by Selectman Morrison, VOTE: unanimous, so moved.
10. The Board reviewed the Spectacle Pond Water Associations letter re: Town water quality protection.
11. Ms. Schiepers reminded the Board to working session scheduled for September 30, @7pm.

10:00p.m. Selectman Morrison moved the Board adjourn from Open Session-Executive Session cancelled due to lack of documentation/information, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

10:00p.m. Open Session ended.

Date: _____

Faye L. Morrison, Clerk
AYER BOARD OF SELECTMEN