

Selectmen's Meeting  
Tuesday, February 4, 2003  
Ayer Town Hall-1<sup>st</sup> Floor Meeting Room, Main Street, Ayer, MA

7:00p.m. Open Session

The Board met with Chairman Witherow, Selectman Fay, Selectman Maxant, Selectman Bresnahan. Selectman Sullivan absent due to illness.

The Minutes of 1-7-03 were read and accepted. The minutes of 1-21-03 were amended to reflect vote of letters being sent to state representatives from 4 communities comprising Devens re: Downtown Devens - Page 4 -VOTE amended to read: Selectman Bresnahan recused, Chairman Witherow abstained, Selectman Fay aye, Selectman Maxant aye, (1 abstained, 1 recused, and 2 ayes) motion carries.

Chairman Witherow opened the meeting by requesting a moment of silence in respect for the crew of the Columbia-space shuttle tragedy. Chairman Witherow also took this opportunity to wish activated Ayer residents the Town's support & best wishes along with their families i.e. Mathew Callahan, Stephen Slarsky.

Chairman Witherow welcomed Rep. Hargraves to the meeting and announced Rep. Hargraves Office Hours at the Town Hall this evening for Town of Ayer residents from 7pm to 8pm.

**Public Input**-Downtown Ayer businessmen: Phil Berry, Edward Kelley, Robert Rakip and Shirley Selectman Lee Guercio re: proposed development/expansion Downtown Devens and petition to table/delay development until disposition & housing numbers known. Mr. Berry expressed his concern to project beyond needs of Devens & in violation of the Re-use Plan urging the three (3) Towns (Ayer, Shirley & Harvard) to issue temporary injunction. Mr. Kelley read from Re-use Plan-page 29 under business & community services-MADEV going against the intention of the Re-use Plan. Mr. Rakip stated the whole issue grew from liquor license legislation and why doesn't Ayer, Shirley, Harvard adopt their own legislation stopping all retail development at Devens. Calvin Moore stated his issue-tired of being lied to questioning why Re-use Plan can't be enforced urging the Board of Selectmen to stop what's going on. Rep. Hargraves suggested Town Counsel look at Chapter 498 to make intent clearer. Rep. Hargraves informed group to initial request for Liquor Licenses from MassDev being rejected by himself & Rep. Hall and that Sen. Resor filed new legislation last December re: proposed new licenses. Rep. Hargraves advising all if it reaches House we'll put it on ice. The Board after a lengthy discussion moved to request Town Counsel file a preliminary injunction to stop Robert Walker/Ryan Industries from proposing plans for Downtown Devens which exceeds the scope stated in the Devens Re-Use Plan. Motion made by Selectman Maxant and 2<sup>nd</sup> by Selectman Fay, VOTE: Chairman Witherow abstained, Selectman Maxant aye, Selectman Fay aye, Selectman Bresnahan aye, 3 ayes 1 abstained, motion carries. Selectman Bresnahan stating this matter much broader than the issue of the Devens Inn and Conference Ctr. and feels there is no conflict-of-interest regarding his voting on these issues tonight. Selectman Maxant moved to request Town Counsel file preliminary injunction to stop MADEV from submitting the plan for the zone (business/community service zone) for consideration by the Devens Enterprise Committee (DEC) 2<sup>nd</sup> by Selectman Fay, VOTE: Chairman Witherow abstained, Selectman Bresnahan aye, Selectman Maxant aye, Selectman Fay aye, 3 ayes, 1 abstained, motion carries. Selectman Lee Guercio of Shirley updated the Board to petition being circulated tabling/delaying Developers petition before DEC until the final disposition of Devens and the final number of houses to be built on Devens are known. The Board agreed to a letter of support re the petition be presented at the February 5, 2003 DEC Meeting. Motion to approve made by Selectman Maxant 2<sup>nd</sup> by Selectman Fay, VOTE: Selectman Maxant aye, Selectman Fay aye, Selectman Bresnahan aye, Chairman Witherow abstained. VOTE: 3 ayes 1 abstained, motion carries. Selectman Maxant requesting the Board adopt a resolution listing promises MASDEV has made and not kept imploring MASDEV to keep their pledge to the Re-use Plan. Selectman Bresnahan requested the Board review the resolution to decide its merit. Selectman Fay suggested the Resolution be placed before the JBoS. Chairman Witherow reminded the Board to the fear of business owners when Devens closed, urging the Board not to push the panic button.

**Agenda item #1. Appointments-Fire Station Re-use Committee/Personnel Board.**

1. **Personnel Board:** The Board appointed Faye Morrison to the Personnel Board per the recommendation of Chairman Ted Harding. Motion to appoint made by Selectman Bresnahan 2<sup>nd</sup> by Selectman Fay. VOTE: unanimous, so moved. Selectman Bresnahan noting Ms. Morrison's enthusiasm & knowledge of the subject at the last working meeting stating she is a welcomed addition.
2. **Fire Station Re-use Committee-**The Board appointed the following people to the Fire Station Re-use Com: Zelda Moore, Robert Pena, Marvin McMiller, Jennifer Gibbons and Mary Spinner. Motion to approve made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved. The Board set the number of members to serve on this committee to nine to better serve the needs of community. The Board to develop mission statement. Substance/items requesting to be considered by Committee from the Board of Selectmen to be submitted to Town Administrator.

**Agenda Item #2. Library Trustees/DPW- taken off the Agenda matter resolved.**

**Agenda Item #3. Supt. Madigan's Report**

1. **Sewer Permit-Title V Failure-** The Board approved a sewer permit for 3 Wachusett Ave., Ayer, MA contingent the property owner install a water meter, from their private well, for the well water discharge to provide for billing of sewer usage. Motion to approve the sewer permit and Supt. Madigan's recommendation made by Selectman Fay, 2<sup>nd</sup> by Selectman Maxant, VOTE: unanimous, so moved.
2. **Shepley Hill Waste Water Processing Request-**The Board was appraised of a meeting with Dept. of Army representatives (BRAC Environmental Office) and Supt. Madigan to discuss the possibility of the Town of Ayer accepting groundwater from the Shepley Hill Landfill used to treat the plume of arsenic moving in groundwater through Ayer, north of the army's former landfill at Shepley Hill. The army would much rather discharge their groundwater into Ayer's system rather than install a very long force main to discharge into Devens Treatment Plant. Supt. Madigan advised the Board to this matter being brought to the Board's attention at this time for informational purposes only along with his recommendations. Supt. Madigan requested Mr. Goff submit a formal request and report to the Town to include the following: background, wastewater concentrations, wastewater volumes, possible affect upon Ayer's operation/condition- to sewer & wastewater systems/plant.
3. **Aluminum Truck Body Proposal-**The Board accepted the offer from local businessman Jack Madigan for the Town to try out a new aluminum sand & salt spreader box for two years, after which the Town would have the option of purchasing the box at a reduced cost. Cost of the box when purchased new \$10,000.00. Motion to approve loan of aluminum truck body made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Maxant for discussion. Selectman Maxant expressed his concern for Town Counsel to check into the risk of loss. Chairman Witherow called for VOTE on motion: Selectman Bresnahan aye, Selectman Fay aye, Selectman Witherow aye, Selectman Maxant no 3-1 motion carries.
4. **Transfer Station Tight Tank Engineering proposal-**The Board approved a contract with Duncan M. Brown, Boxborough, MA not to exceed \$3,400.00 to design a septic system for the Town's solid Waste Transfer Station to replace the present faulty system. If design exceeds the \$3,400.00 Supt. Madigan to report back to Board for Approval. Motion to approve made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, motion carries.
5. **Metal Picking-Implementation of MIIA recommendations-**Supt. Madigan presented copies of the signs installed at the Transfer Station per the recommendation of MIIA re liability issues. Board of Health to be informed of Metal Picking decision.

**Agenda Item #4. Public Hearing-Transfer of All Alcohol Beverage License UMAG D/B/A/Brew Locker, Tracey DeWolf to Sang Nam Bae/PYO, Inc. Boxborough, MA-Atty. Robert Casey representing buyer.**

The Board met with Atty. Robert Casey, Sang Nam Bae, Aesin Briggs and Alfred Zagani to be new Manager for the Brew Locker. Chairman Witherow opened the Public Hearing by requesting the Legal Notice be read into the record. Selectman Maxant read the notice into the record. Atty. Casey gave the Board a complete background-Korea & US, re Ms. Bae, President-sole owner of PYO, Inc. present owner of the two Oriental Markets in Ayer. Atty. Casey advised to all staff and supervisors including Ms. Bae enrolled in an Alcohol Beverage Sales & Service Class on 2-9-03 given by Alcohol

**BOSMIN2-4-03/PG.3**

Intervention Methods scheduled in Fitchburg, MA. Ms. Hegarty advised to background check (CORI) coming back negative on Ms. Bae reporting everything seems to be in order. Chairman Witherow expressed her concern re language barrier re Ms. Bae understanding the accountability and responsibility of having an Alcohol License requesting assurances Ms. Bae understood, reiterating on past experiences with the Board of Health re: understanding safety/sanitary issues. Ms. Zagani stated he will handle all issues relative to sales/consumption of alcohol and he plans to run a no-nonsense operation. Plans include new entertainment; American and Korean style restaurant in the near future. Chairman Witherow called for a motion. Selectman Bresnahan moved the Board approve the Transfer of UMAG Corp d/b/a The Brew Locker's All Alcohol License to Sang Nam Bae contingent upon the successful certification of Ms. Bae's and her Manager & staffs completion of a Alcohol Sales & Consumption Training Program, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.

**Agenda Item #5. Town Administrator's Report-**

1. **Local Aid-Shortfall Fy-03**-Ms. Hegarty informed the Board to loss of Local Aid for this Fiscal Year \$76,764.00 far less than was anticipated. The Board agreed to continue the Town-wide FREEZE on spending for the remainder of this fiscal year.
2. **Custodial position**-Ms. Hegarty updated the Board to 31 applications being received to date for the shared janitor's position for the Town Hall & Police Station. Ms. Hegarty stated she & the Police Chief would review the applications/resumes and narrow the field down to ten (10). Ms. Hegarty stated she was before the Board for permission to fill the position-due to the spending freezes. Ms. Hegarty reviewed with the Board cost savings benefits with the Board re hiring a part-time individual vs. the current cleaning services. The Board approved of filing the joint janitor's position for the Town Hall & Police Dept. Motion to approve made by Selectman Fay, 2<sup>nd</sup> by Selectman Maxant, VOTE: unanimous, so moved.
3. **Housing Rehab. Subordination Request**-Ms. Hegarty presented a Subordination Request on behalf of Timothy Hansen for Case #01-198/65 Shirley St., Ayer, MA requesting approval of this subordination of the certificate not to encumber in the maximum amount of \$82,000.00. Selectman Bresnahan moved the Board approve the recommendation by Mr. Hansen for the Certificate not to encumber not to exceed \$82,000.00, 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous, so moved.
4. **Great Hall Sound System**-The Board reviewed a proposal from G.Paul Music for a sound system for the Great Hall, demonstrated at the Town Hall two weeks ago in the amount of \$3,550.00. The Board recommended a committee be established to review the proposal consisting of the following: Shaun Suhoski, Town Administrator, Assessors, APAC, and Town Clerk.
5. **MIIA Loss Control Credit Program**-The Board approved of Ms. Hegarty to take the necessary steps to implement reducing loss control insurance premiums offered by MIIA.
6. **Park & Main Streets Intersections Design**-Ms. Hegarty informed the Board to MASDEV paying for the modifications re engineering design for traffic control at the Park Street and Main Street intersection but advised the Board to design falling short of improving level of service of vehicular traffic which would not be funded by MA Highway, the Town would have to pay for changes. The Board took this matter under advisement until their next meeting on the 18<sup>th</sup>.
7. **FYI's** - The Board was advised to Guilford Appeal court date scheduled for March 3, 2003 for the 1<sup>st</sup> oral arguments of the case requesting if the Board wished to attend.
8. **Executive Session-Patrolmen's Contract**

**Agenda Item #7. Selectmen's Questions-Selectman Maxant-**

1. Reminded residents to shovel snow from sidewalks -related tragedy re: friend hit by car when walking in street due to snow blocking sidewalk.
2. Requesting local representative be invited to next Selectmen's Meeting to discuss proposed resolution & petitions. Selectman Bresnahan requesting to review information (resolution) place in next Selectmen's packet for Board's comments.

10:15p.m. Selectman Maxant moved the Board adjourn from Open Session to enter into Executive Session pursuant to MGL Chapter 39 Section 23B Exemption #3 re: Patrolman's Negotiation strategy to adjourn from this Executive Session for the sole purpose of adjourning the meeting 2<sup>nd</sup> by Selectman Fay, VOTE: Selectman Fay aye, Selectman Maxant aye, Selectman Bresnahan aye, Chairman Witherow aye, unanimous so moved.

 Maxant, won 5/9/03