

Selectmen's Meeting  
Tuesday, January 21, 2003  
Ayer Town Hall, 1<sup>st</sup> Floor Meeting Room-Main St., Ayer, MA

7:00pm Open Session

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

The Minutes of 1-7-03 were reviewed and set back for amendments.

**Public Interest:** Chairman Witherow requested if there was anyone present wishing to speak under Public Input:

1. Chairman Witherow requested to amend the Agenda this evening by moving agenda Item #4 to follow Agenda #2.
2. Selectman Maxant: taking this opportunity to advise Town residents to JBoS Public Hearing on Jan. 22<sup>nd</sup>, at the Ayer Town Hall-re Devens Redevelopment.
3. Selectman Fay: Updated the Board to his attendance at the MMA Annual Meeting held on Jan. 10-11th-as the Board's delegate. Selectman Fay stated he brought back a wealth of literature latest information re: legal issues, housing, budget, insurance etc. for distribution to Town Hall Offices.

**Agenda Item #1. Eagle Scout Brendan Hurley-Troop 3 Recognition**

The Board met with Brendan Hurley and his father Terry Hurley-Ass. Scout Master Troop #3. Chairman Witherow read into the record a Certificate of Recognition to Brendan for his Eagle Scout Project reorganizing, cleaning up the Laura S. Leavitt Auditorium stage area at the Ayer High School. The Board thanked Brendan for choosing his Eagle Project to the betterment of the Town and paused for a picture.

**Agenda Item #2. Fire Station Construction Committee**

The Board met with Fire Chief Paul Fillebrown, Tony DiLuzio-Project Manager/KVAssociates, Shaun Suhoski, Economic Development Director and SEA Consultant Terry Tolosko. Town Administrator Anita Hegarty opened the discussion by updating the Board to the Fire Station Project's need of environmental insurance for the clean up of the site oil release and asbestos. The Town believed the previous owner of the property had cleaned up to the satisfaction of DEP subsequent to acquisition. A portion of the Clean up cost is being funded through a state loan under the Brownsfield Redevelopment Access to Capital Program (BRAC) and an additional loan through MASDEV 50% cost share. Both of the loan programs suggests/require the town procure environmental cost-cap and pollution legal liability insurance as a condition to their providing cost-sharing through a Memorandum of Agreement. Mr. Suhoski presented to the Board a breakdown re opinions of Town Counsel, BRAC, MIIA and MADEV relative to this issue along with an example of a cost benefit analysis. Associated cost with Ayer funding cleanup without Environmental Insurance total cost \$360K - Ayer & MASDEV fund cleanup with Environmental Insurance \$186K includes cost cap & pollution liability insurance. SEA Consultant Terry Tolosko updated the Board to need for additional testing under the cement slab (foundation of former building at Park & W. Main Sts.) Known pollutants coal ash, oil contamination, asbestos were originally estimated at \$300K for removal has now been estimated at a cost of \$600K to encapsulate/remove the building soil/asbestos due to unknowns. Town Counsel recommended the Town discuss these issues with its environmental consultant to determine the extent of such off-site impacts, primarily with regard to oil or other hazardous materials entering into groundwater and to take appropriate measures to encapsulate the asbestos from releasing from the site. Town Counsel also recommended the Board consider bringing an action against the prior owner's insurance to the extent the insurer actually undertook the cleanup acting as the site operator. Town Counsel further recommended since BRAC obligates the Town to obtain a Pollution Legal Liability Select Cleanup Cost Cap Policy the Town should review the range of coverage limits to determine the extent of coverage to be obtained and the cost of that coverage as compared against a professional estimation of the likely exposure of the Town to costs and claims.

Selectman Bresnahan moved the Board approve to enter into negotiations with MASDEV to provide 50% cost sharing funds with the stipulation that \$250K be deferred payment loan 2<sup>nd</sup> by Selectman Fay. VOTE: Selectman Bresnahan aye, Selectman Maxant aye, Selectman Sullivan aye, Selectman Fay aye, Chairman Witherow abstained 4-1 motion passes.

**BOS/MIN1-21-03/PG.2**

**Agenda Item #3. Economic Development Director's Report-Poly One TIF Agreement**

The Board met with Shaun Suhoski. Mr. Suhoski gave the Board a brief update re Poly One move status. Building under construction presently will be moving into new building in March 2003. Job total reflects Town Meeting Warrant for a 10 year 50% TIF. Selectman Bresnahan moved the Board approve the TIF Agreement as presented by Mr. Suhoski, 2<sup>nd</sup> by Selectman Maxant. VOTE: unanimous, so moved.

**Agenda item #4. Supt. Madigan's Report**

1. **Metal Picking - Recycling Center** The Board met with Supt. Madigan. Present for the discussion John Sullivan-Foreman, Transfer Station. The Board reviewed with Mr. Madigan his concerns re: Safety-Liability issues allowing residents to pick through the metal recycling area. After a lengthy discussion -pro's con's tradition allowing residents to pick at the recycling center the Board moved to allow picking at the Metal Pile with the caveat to minimize risk the Town prohibit children from accessing the metal recycling area and enforce no parking in front of the metal recycling area. Motion to approve Metal picking at the Recycling Center made by Selectman Sullivan, 2<sup>nd</sup> by Selectman Maxant. Selectman Witherow requested to amend the motion by requesting MIIA review liability to allow residents to pick at their own risk, 2<sup>nd</sup> by Selectman Bresnahan VOTE: Selectman Bresnahan aye, Selectman Witherow aye, Selectman Sullivan no, Selectman Maxant no, Selectman Fay no 2-3 motion fails. VOTE: on original motion: Selectman Witherow no, Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Maxant aye, Selectman Fay no, VOTE: 3-2 motion passes
2. **Winterberry Lane-Sewer Permits**-The Board approved the five (5) Sewer Applications presented by Supt. Madigan for 1-5 Winterberry Lane. Ayer, MA for John Giamo contractor. Motion to approve made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Maxant VOTE: unanimous, so moved.
3. **DEP-ACO 4<sup>th</sup> Amendment**- Selectman Fay moved the Board approve the 4<sup>th</sup> Amendment to the Administrative Consent Order (ACOP-CE-97-1007) Paragraph 23.h and Paragraph 24 extending the construction deadline from Jan. 1, 2003 to April 1, 2003 for the diversion infrastructure to the Devens Regional Treatment Facility. And also extending the schedule for removal of identified sources of I/I from November 1, 2002 to November 1, 2003. Motion included Chairman's endorsement to the Amendment, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Selectman Witherow requested when the Environmental Assessment Prevention Manual would be complete. Supt. Madigan advised to report being completed and to be presented within two weeks.

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

1. **Planning Board-Special counsel Request-** The Board approved the request by the Planning Board to use Special Town Counsel Judith Pickett to handle a matter which Kopleman & Paige have a Conflict of Interest. Determining the right-of-way status of Shirley Rd. on the Town's tax maps. Motion to approve made by Selectman Sullivan 2<sup>nd</sup> by Selectman Fay, VOTE: unanimous.
2. **APAC Bylaws and Appointment of Directors-** Delayed until the next Selectmen's Meeting 2-4-03.
3. **Performance Management Plan**-The Board approved of Chief Paul Fillebrown's Employee Evaluation and Goals & Objectives as presented. Motion to approve made by Selectman Fay, 2<sup>nd</sup> by Selectman Bresnahan. VOTE: unanimous, so moved.  
Selectman Bresnahan requested to have the Department Heads meet with the Selectmen re their Goals and Objectives once a year.
4. **Crosswalk-Washington St.**-The Board voted to have a pedestrian crosswalk placed on Washington St. across from Fire Station when weather permits in the spring. Motion made by Selectman Bresnahan, 2<sup>nd</sup> by Selectman Sullivan, VOTE: Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Fay aye, Selectman Maxant aye, Selectman Witherow no, 4-1, motion passes.

**Selectmen's Questions/News Business**

Selectman Sullivan-requested follow up re: policy re: postings at Town Hall.

Selectman Maxant- Thanked DPW for efforts keeping sidewalks clear and residents as well.


Selectman Witherow-Patrolmen Mediation Delegate- Selectman Witherow willing to do if able to get time off, Selectman Bresnahan & Fay willing to rotate when Selectman Witherow unable to attend.

2. **Fy-04 Budget**-hard cuts ahead level & 5% reduction submitted by Town Departments.

Discussed possible other cuts, i.e. insurance, tax liens, posting overdue tax notices in paper.

9:10p.m. Selectman Fay moved the Board adjourn from Open Session-Executive Session cancelled, 2<sup>nd</sup> Selectman Sullivan, VOTE: unanimous, so moved.

9:10 Meeting adjourned,

  
Frank F. Maxant, Clerk  
AYER BOARD OF SELECTMEN

Date: FEBRUARY SEVENTH, 2003