

Selectmen's Meeting
Tuesday, January 7, 2003
Ayer Town Hall, 1st Floor Meeting Room, Main Street, Ayer, MA

7:00P.M

Open Meeting

Present: Chairman Witherow, Selectman Fay, Selectman Maxant, Selectman Bresnahan and Selectman Sullivan.

Chairman Witherow opened the meeting by welcoming Representative Hargraves and advising the viewing public to Representative Hargraves conducting Office Hours at the Town Hall this evening from 7-8pm.

Chairman Witherow called for a motion to amend the Agenda of 1-7-03 by requesting to add another agenda item after Agenda #2. That item being for the Board to meet with Town Counsel Mark Reich regarding licensing agreements with the Town of Ayer and MA Electric and Voice Stream/T-Mobil. Motion to approve this Agenda Amendment made by Selectman Bresnahan 2nd by Selectman Fay, VOTE: unanimous, so moved.

Selectman Sullivan requested to also amend the Agenda by correcting Agenda Item #3 changing Worcester County Retirement to read Middlesex County Retirement.

The amended Minutes of 12-10-02 were read and accepted. Motion to approve made by Selectman Bresnahan and 2nd by Selectman Fay, VOTE: unanimous, so moved.

The amended Minutes of 12-17-02 were read and accepted. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Public Input: Chairman Witherow requested if there was anyone present wishing to speak under Public Input, no one requested to meet with the Board.

Chairman Witherow called for a motion to accept the Agenda as amended. Selectman Bresnahan moved the Board approve the Amended Agenda as stated above for 1-7-03, 2nd by Selectman Fay, VOTE: unanimous, so moved.

Agenda Item #1. John Wareham, NASOYA Foods-Sewer Regulation Violations

The Board met with Operations Manager John Wareham of NASOYA. Present for the discussion Supt. Michael Madigan. The Board reviewed with Mr. Wareham the two (2) NASOYA Wastewater Treatment violations, which disrupted operation at the Town's treatment facility, one occurring in September 2002 and one in November 2002. Supt. Madigan addressed man-hours lost by employees taken away from normal duty to address improperly treated discharge from NASOYA's discharge tank. (25/hrs straight time and 25/hrs. overtime) and power consumption cost (electricity) and most importantly the improper discharge concern to river -which did not occur, and was self contained at plant. Supt. Madigan stated the DPW was not notified in timely manner when problem occurred requesting better notification to the Town from NASOYA when situations as stated occurred. Selectman Sullivan requesting justification from Supt. Madigan re \$5K cost associated with improper discharge, noting one failure was caused by Act-of-God lightning strike (power outage) and 2nd in man-hours during regular working hours. After a brief discussion the Board voted to assess the associated cost to \$2K acknowledging progress made by NASOYA and the company being a good and responsible corporate neighbor to the Town. The Board requested how NASOYA planned to avoid these kinds of problems in the future. Mr. Wareham stated an inexperience crew was responsible for September's violation, which is correctable with additional training, and as stated earlier-power outage responsible in November. Selectman Bresnahan moved the Board assess NASOYA \$2K, the direct cost to the Town of Ayer, 2nd by Selectman Sullivan, VOTE: Selectman Bresnahan aye, Selectman Sullivan aye, Selectman Maxant aye, Selectman Fay aye, Chairman Witherow no, feeling NASOYA should pay the full amount due to current budget constraints while acknowledging NASOYA as a responsible neighbor and thanking Mr. Wareham for coming in this evening to meet with the Board. VOTE: 4-1 motion carries.

Agenda Item #2. James Williams -Disabilities Commission

The Board met with James Williams. Present for the discussion Town Counsel Mark Reich. Selectman Maxant took this opportunity to request discussion this evening having ground rules due to each party having their own opinions and the tool to be used this evening be cooperation rather than adversary. Chairman Witherow requested the Board open the discussion with the Town Administrator's account of the incident in October 2002 resulting in tonight's discussion. Ms. Hegarty stated the Disabilities Commission had not posted an official meeting notice with the Town Clerk or reserved a meeting room with the Selectmen's secretary on October 10, 2002. The building was secured at 5pm when the last employee left the building; unfortunately, the historic Main St. door was left ajar. Mr. Williams and other members of the Disability Commission literally took measures into their own hands by entering the closed building and disarmed the door's locking mechanism on the handicap accessible door so that it could be manually opened, and conducted a meeting. The dangling wires and hanging box alarmed Town Hall staff in the morning and the police was called. Ms. Hegarty called Mr. Williams home after police investigation determined that Mr. Williams was the responsible party. Mr. Williams was not at home and his wife took the call. Mr. Williams took offense stating Ms. Hegarty shouted at his wife in an unprofessional/unbecoming manner during this conversation with his wife re possible cost of repairs to the door. Mr. Williams requested an apology from Ms. Hegarty which she stated she was not prepared to give stating she spoke forcibly but had not shouted, this being the rational for this matter being placed on the Selectmen's Agenda. Mr. Williams stated on the evening in October the Chairman of the Disabilities Commission had advised him that there was a meeting. He arrived at Town Hall to find the historic Main St. doors open, the lights on which gave him no reason to think the building was not open and found the new handicap accessible doors locked which Mr. Williams stated violates State law. Mr. Williams admitted to tampering with the automatic door electric panel and manually opened the handicap accessible automatic doors. Town Counsel stated to Mr. Williams what is permissible/acceptable re accessibility to buildings/just because a door is open doesn't mean building is accessible. The Board requested in the future should Mr. Williams find the doors locked **only if** they have posted and reserved a room to call the Fire Dept. or the Chairman of the Board of Selectmen. Selectman Sullivan moved the Board direct the Town Administrator look into having the bulletin board replaced and in the time being post meeting notices on the door to be seen from outside the building, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

Agenda Item #3-Town Counsel-Mass. Electric Easement License-DPW Property-Brook St./Voice Stream/T-Mobil Ground Lease Agreement

Present for the discussion Supt. Madigan. Supt. Madigan stated the license would allow MA Elec. to transfer high voltage electricity feeds to the site (end of Brook St.-near steamroller) for the two new pumps to pump excess wastewater along the new force main to the Devens Regional System. Town Counsel stated the license would grant access day to day and revoked at will until Town Meeting Vote in May 2003 when voters will be asked to grant the permanent easement. Selectman Bresnahan moved the Board approve the License prepared by Town Counsel for the MA Elec. Easement License for the DPW Property on Brook St. 2nd by Selectman Maxant VOTE: unanimous.

Voicestream/T-Mobil-Town Counsel presented to the Board the Executed Ground Lease Agreement with Omipoint Holdings Inc. (Voicestream/T-Mobil). For the lease of 5,625-sq. ft. together with a right-of-way located at Brook St. -DPW facility. Mr. Reich stated Voicestream/T-Mobil have executed their copies and presented to the Board the Lease Agreements (6) for the Board's signatures requesting the Board to endorse, keep one executed copy and remit back to Voicetream the remaining five originals for distribution purposes. Selectman Sullivan requested status of suit filed with ZBA & Voicestream and possibility of it being dropped now that the Lease Agreements have been approved. Town Counsel stated likelihood was good.

Agenda Item #4. Town Treasurer re: Middlesex County Retirement-proposed Changes

The Board met with Denis Callahan, Town Treasurer and Town Administrator Anita Hegarty. Ms. Hegarty and Mr. Callahan reviewed changes to the Retirement System with the Board. Changes: enlarging the number the Retirement Board from 5 to 7 members, balancing the number of community and employee representation on the Board, replacing the current management team with professionals, and changing the

Advisory Council to give communities who are assessed larger amounts a bigger voice. The Board moved to approve the Legislative changes #7. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Maxant, VOTE: unanimous, so moved. The Board expressed concern on how they are to handle payment re communities' individual liability assessment and requested the Town relay that and seeks clarification.

Agenda item #5. Supt. Madigan's Report: The Board met with Supt. Madigan.

1. **Washington St. Water Main Project Change Order-**The Board approved Change Order #1 with Tiffany Equipment & Construction Corp. in the amount not to exceed \$21,206.52 to cover additional time & equipment to install piping and fittings caused by unknown utilities, ledge, and interference with existing utilities amending the total award from \$409,005.73 to \$430,212.25. Motion to approve made by Selectman Bresnahan, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.
2. **Water Meter Testing/ Replacement Policies:** The Board approved Supt. Madigan's proposed policies for the Calibration, Installation and Replacement of Water Meters as presented (see attached) Motion to approve made by Selectman Bresnahan, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Agenda Item #6. Town Administrator's Report

1. **Town Report Award:** The Board awarded the Town's Annual Report to Picken Printing, Inc. of No. Chelmsford, MA for the Bid Award of \$2, 851.00. Motion to approve made by Selectman Fay, 2nd by Selectman Maxant, VOTE: unanimous, so moved.
2. The Board approved the Performance Mngt. Plans as submitted for the Following Department Heads: Anita Hegarty, Janet Lewis, Lisa Gabree, Richard Rizzo, Shaun Suhoski, Manuel Velez, Gabriel Vellante, Michael Madigan. Motion to approve made by Selectman Fay, 2nd by Selectman Maxant, VOTE: unanimous, so moved. Selectman Sullivan requested Goals & Objectives not completed in a previous year by Department Heads is included with their Goals & Objectives of new year. Selectman Bresnahan requesting to approve but also to discuss with Department Heads-have on going dialog.
3. The Board approved Chief Fillebrown's employment contract, which included items approved during negotiations with the Chief. Chairman Witherow requested typo on Page 2. under Insurance is corrected prior to Chief's endorsement. Motion to approve made by Selectman Sullivan 2nd by Selectman Fay, VOTE: unanimous, so moved.
4. The Board requested a meeting with William Burke of MADEV be scheduled in February re: ongoing meetings on regular basis. The Board to submit discussion items to Ms. Hegarty for this meeting.
5. Ms. Hegarty advised the Board to Patrol Officer's Contract negotiations reaching impasse and of the need to designate a member of the Board who would be authorized to make bargaining decisions and able to attend each mediation session. Ms. Hegarty requested the Board designate a member among themselves for this mediation. The Board took this under advisement.
6. SHAVE Ms. Hegarty advised the Board to the Fy-03 SHAVE Program positions all filled but advising residents she is still accepting applications for the new year beginning July 1, 2003 for Fy-04.

Additional Item

1. Wellman Parker requesting Selectmen be updated to FEMA initiating a Citizens Corp. re: anti Terrorism and advising Mr. Parker will be coming before the Board with his recommendations.
2. Letter from citizen re: suggestions for signage on Washington St. which injured Town resident being forwarded to Chief Rizzo, Chief Fillebrown and Mike Madigan for feedback.
3. Ms. Hegarty informed the Board to Snow Budget now in Deficit Spending due to unforeseen/extraordinary winter weather this year, showing a deficit balance of \$697.27 or 101.6% expended to date. The Board approved of the Deficit Spending for the remainder of this season. Ms. Hegarty to submit Deficit Spending authorization to the Advisory Board.

Selectmen's Questions/New Business

1. Selectman Sullivan

1. Selectman Sullivan took this opportunity to thank resident for decorating the water fountain and requested the Board authorize \$50.00 for the remainder of this year, or to establish a Gift Acct. with the Treasurers Office.
2. FloodLights covered with snow-have DPW shovel them out and have fixed by electrician.
3. New sign in front of Town Hall peeling have contractor fix.
4. Establish policy re notices taped (not be allowed) on Town Hall walls. Motion to approve made by Selectman Sullivan 2nd by Selectman Fay, VOTE: Selectman Bresnahan aye, Selectman Fay

aye, Selectman Sullivan aye, Selectman Witherow aye, Selectman Maxant no, VOTE 4-1 motion carries.

5. Resident complained Supt. Madigan not allowing residents to take materials from Scrap Metal Pile feeling it was an extension of re-use shed. The Board to follow up discussion with Supt. Madigan at later date.

Selectman Fay:

1. Selectman Fay stated in an attempt to resolve differences/misinformation among veterans groups re the possibility of adding a new Veterans plaque at the Town Hall Memorial Garden, he will discuss this issue on the next Town Crier program. The Board suggested perhaps inviting one or two of the veterans into this discussion.
2. Safety Issue-Hatch St. /110-2A view of traffic hindered by snow banks.

Selectman Maxant:

1. Town of Ayer becoming a member of STAR
2. Requesting letters being sent to State Senators, Representatives of all four Devens Host Communities (Ayer, Harvard, Lancaster & Shirley) and to Speaker of the House Finneran, re: Devens Issues-Towns opposition to liquor licenses, Downtown Devens, etc. Selectman Maxant moved the support this request, 2nd by Selectman Sullivan, VOTE: Chairman Witherow abstained, Selectman Sullivan aye, Selectman Maxant aye, Selectman Fay aye, Selectman Bresnahan recused himself, VOTE: 1 abstained, 1 recused, 3 aye -motion carries.
3. Sidewalk Clearing contest: most snow removed Gervais Ford, best neighborhood: lower Nashua St.. Cleanest removal Park St.-- Suggesting Pedestrian Safety Award.
4. Guilford Update Meeting held by PACE had people from Cains & NASOYA present and advised to their products being international and how important it is to have pure water adding their support to the Town's effort-opposing Guilford.

Selectman Bresnahan:

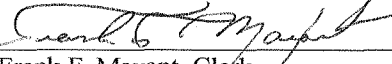
1. Wished to have complaint action documented from earlier discussion this evening concerning James Williams. Selectman Bresnahan moved the Board vote to agree that complaint made by Mr. Williams did not rise **to the level of** Ms. Hegarty being unprofessional and no further action be taken, 2nd by Selectman Sullivan, VOTE: unanimous, so moved.

Chairman Witherow:

Stated any changes to the Selectmen's 2002 Annual Report Draft see Janet who has the original disk for editing-all edits were made that were submitted prior to this evening
10:00p.m. Selectman Maxant moved the Board enter into Executive Session pursuant to MGL Chapter 39 Section 23B Exemption #3 re: Guilford to adjourn from this Executive Session for the sole purpose of adjourning the meeting. Town Administrator stated the Board did not have to enter in to Executive Session re: this matter it was merely to advise the Board to the Selectmen's Office having received copies of briefs filed by Guilford, and another one filed on its behalf from the American Railroad Assoc. as well as the brief filed on the Town's behalf advising the public may view these briefs.

10:05p.m. Selectman Maxant moved the Board adjourn the meeting, 2nd Selectman Fay, VOTE unanimous, so moved.

10:05 Open Session Adjourned.


Frank F. Maxant, Clerk
AYER BOARD OF SELECTMEN

DATE: FEBRUARY SEVENTH, 2003