

BOARD OF SELECTMEN'S MEETING  
MONDAY, JULY 27, 1992  
2ND FLOOR MEETING ROOM  
TOWN HALL, MAIN ST., AYER, MA. 01432

7:00P.M.            OPEN SESSION

The Board met with Chairman Jones, Selectman McKinney and Selectman Slarsky.

The Minutes of July 9, 1992 and July 20, 1992 were read and accepted.

The Weekly Warrant was examined and approved in the following amounts:    P/R:            \$37,134.62  
                 Expense:    \$41,050.38

Mr. Higgins presented to the Board the Town's Quarterly Report for the period ending 6/30/92 for the Town of Ayer's FY-1991 Mass. Small Cities Program. Mr. Higgins requested the Chairman sign off this report for submission to the Executive Office of Communities and Development. The Board approved the Chairman's endorsement of this report. Motion made by Selectman Slarsky to accept the report as presented, seconded by Selectman McKinney, VOTE: unanimous, so moved.

The Board approved a One Day Beer & Wine License for St. Mary's Lawn Party for September 11th and 12th, 1992. No consumption or sale of alcoholic beverages until 12:00 noon. Motion to approve One Day Beer & Wine License made by Selectman Slarsky, seconded by Selectman McKinney, VOTE: unanimous, so moved.

The Board met with Kent Montgomery of Montgomery Associates, Westborough, Ma. re: the proposal for the design and implementation of a section 125 plan (Cafeteria Plan) for the Town of Ayer. This plan will enable the employees of the town to utilize earnings on a pre-tax basis for payment of employees contributions for employer sponsored insured group medical/life coverages, and as applicable, certain non-insured medical expenses, and/or, dependent care expenses in accordance with Sections 79, 105, 106, 125 and 129 of the Internal Revenue Code.

Mr. Higgins explained to the Board three (3) options in the design and implementation of the section 125 Plan, and medical reimbursement and/or Dependent Care Plans as desired, which permits employee contributions for current group insurance plans (medical/Life) and payment of dependent care and/or non insured expenses, as applicable on a pre-tax basis:

- a. Section 125 Plan-Medical/Life insurance premiums:    \$875.00
- b. Option A benefits plus Dependent Care Plan:            \$1,750.00
- c. Option B benefit plus medical Reimbursement Plan: \$2,6235.00

The Board discussed all three options and agreed not to go with

the medical reimbursement plan due to risk and exposure the Town may be subject to later. Selectman Slarsky moved the Board accept the recommendations of the Insurance Advisory Committee and accept Options A&B of the Section 125 Cafeteria Plan, seconded by Selectman McKinney, Vote: unanimous, so moved.

7:15P.M. The Board took a five (5) minute recess.

7:20P.M. The Board re-entered Open Session.

Chairman Jones re-opened the meeting by reading off the Agenda posting-Open Session with the possibility of entering Executive Session pursuant to M.G.L. Chapter 39 section 23B re: continuation of the 7-9-92 Fact finding Meeting, complaint against the Historical Commission.

Chairman Jones stated, as he had in the past, that he is a Mason and is stepping down from the Chair, Chairman Jones also stated that Selectman McKinney is a Mason so the Chair passes over to Selectman Slarsky for the purpose of the meeting.

Acting Chairman Slarsky re-read the posted Agenda referencing above continuation.

Acting Chairman Slarsky requested if the Chairman of the Historical Commission was present. Mr. Frank Maxant stood and acknowledged his presence. Acting Chairman Slarsky requested if Mr. Maxant requested Open Session or Executive Session, Mr. Maxant stated open session.

Acting Chairman Slarsky stated this meeting is a continuation of the 7-9-92 meeting at which time dated, return requested notices were sent out to both the Historical Commission and the Masons. The letters are on record and will remain on record. At the July 9, 1992 meeting both Chairman Jones and Selectman McKinney declared they were Mason's and passed the chair to Selectman Slarsky. Acting Chairman Slarsky requested the members of the Historical Commission who were present to come forward and become part of the Hearing process. Historical Members present were: Pauline Hamel, Thomas May, Ida Naparstek, Josephine Wallace. Ralph Richardson unable to attend due to hospitalization. Chairman Slarsky stated that this Board is not concerned with the dispute between the Ayer Historical Commission and the Masons or any other bodies they may have leased space to, violations regarding the lease agreement should be held in a court of law.

Acting Chairman Slarsky stated at the meeting of 7-9-92, as stated in the minutes, there was a clear and present danger, that was identified at that meeting. The danger was identified as a result of investigations requested by the Board of Selectmen. Reports by the Fire Chief, Building Inspector and Police Chief were made part of the record. Acting Chairman Slarsky requested

Fire Chief Wellman Parker report on his findings.

FIRE CHIEF: Chief Parker stated his first inspection was conducted on July 6, 1992 at the request of the Masonic Organization. Chief Parker stated he found debris which completely blocked the front entrance way into the Masonic quarters. Chief Parker stated he determined this blockage was in violation of the CMR's, the Fire regulations of the Commonwealth, specifically 5.07 CMR, 1.06. which eludes to the obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the Fire Department in case of fire. Egress to or into the Masonic Apartments or the building itself would be impossible for firefighters to make any entry into that front entrance and also it would be impossible for the Masonic Organization to gain access to their quarters, the only entrance they have is through the front door.

Selectman McKinney requested of Chief Parker if this obstruction created an emergency or a hazard? Chief Parker stated very definitely both to the public, if they were in the building, and to any firefighters he would send into the building.

Acting Chairman Slarsky requested Building Inspector, William Halligan to report on his findings:

BUILDING INSPECTOR, WILLIAM HALLIGAN

Mr. Halligan read into the record his letter to the Historical Commission dated July 8, 1992. (see letter attached). Mr. Halligan also presented pictures to the Board of his findings. (see pictures dated 7-8-92-8:45A.M.)

Mr. Halligan stated on July 8, 1992, he found the main entrance totally blocked with material such as chairs, oven, lumber, organ, paint cants, etc. The hallway leading into the main meeting hall not passible with this debris. Mr. Halligan cited violations of Mass. State Building Code Chapter 143 Section 3 CMR 780 Section 805 Maintenance of exits, subsection 805.1 and 804.1 owner responsibility. Mr. Halligan stated in accordance with Section 123.1 he posted the building as dangerous and unsafe to occupy. Mr. Halligan stated the Certificate of Occupancy issued to the Masonic Lodge was rescinded and not to be occupied until the main egress is cleared of all obstructions. Mr. Halligan stated on July 8, 1992, Mr. Frank Maxant, Chairman of the Historical Commission refused to receive this letter served by Officer Paul Cormier of the Ayer Police Department.

Acting Chairman Slarsky requested as a result of your investigation you posted the building. Mr. Halligan stated he posted the building on July 8, 1992 at 8:15A.M. as a dangerous building.

Mr. Halligan stated as a result of the July 9, 1992, Selectmen's Meeting he re-entered the building on Friday, July 10, 1992 with the Fire Chief, Police Chief, and members of the Department of Public Works and removed all of the debris in the entrance way and put it back in the room it was taken from. Mr. Halligan stated that on that morning, he called Mr. Maxant, Ms. Hamel, Mrs. Wallace and requested a key to the door & key to the building to avoid breaking down a door. Ms. Hamel told Mr. Halligan how to get in: climb-in go through the Mason's hallway, through the main meeting room, to the left up the stairway, cross over, down again, in the door that was broken into, all pried off, was open he entered and opened the other door to gain entrance, because the locks were changed. That Friday morning he purchased two (2) new locks, as directed by the Board of Selectmen and gave them to the Mason's to install. At approximately 9:30A.M. or 10:00A.M. Mr. Halligan removed the posting to the building and the building was ready to be re-occupied.

Mr. Halligan stated the entrance which was locked was the main entrance to the lodge, handicap entrance as well. Mr. Halligan stated a lot of the senior members of the Lodge use that entrance due to being at grade level.

Acting Chairman Slarsky stated the Board of Selectmen took action on the 7th of July, 1992, and again at an emergency meeting on July 9th, 1992. Acting Chairman Slarsky stated the Board of Selectmen have no interest in that building and the jurisdiction of control of that building, other than the fact that it is a Town owned building and should be maintained safe, as all other town owned buildings. As a result of actions taken on the 7th and 9th there was a time frame given to return the building back to a safe condition. The time frame was adhered to, under the control of the Building Inspector, Fire Chief, DPW and Police Chief to make the building safe.

Acting Chairman Slarsky stated there was also an investigation conducted by the Police Chief and Police Dept. regarding entrance into the building.

POLICE CHIEF, ARTHUR BOISSEAU: Chief Boisseau stated on July 10, 1992 at approximately 7:15a.m., Fire Chief, Wellman Parker, Building Inspector, William Halligan, members of the Dept. of Public Works and himself entered the school building, through the school as Mr. Halligan described. We came down the north side of the building and we found the door that goes to the particular classroom in question, several pry marks around the top of the door showing the pins had been removed from the hinges of the door and on the reverse side of that particular door the metal locking bar had been removed allowing us to enter the room. Chief Boisseau presented photo's of the door to the Selectmen.

Acting Chairman Slarsky requested of Chief Boisseau, in his estimation was there forced entry into that classroom? Chief Boisseau stated yes, definitely so.

Building Inspector, William Halligan stated that door had a crash bar, is a locking device and when the Mason's first went into that building Mr. Halligan requested that device. Mr. Halligan stated he could not find that crash bar, obviously it has been removed by someone.

Acting Chairman Slarsky stated events leading up to the actions which were taken on July 10, 1992 by the Board of Selectmen was a meeting conducted with Mr. Higgins and Mr. Maxant.

EXECUTIVE SECRETARY, TIMOTHY HIGGINS,

Mr. Higgins stated on 7/2/92 he attempted to bring the parties together to mediate the dispute and requested Mr. Maxant & Mr. Dakin meet him at the Pleasant St. School. At the meeting both parties got into a big discussion re: lease. In an effort to cool down both parties Mr. Higgins requested Mr. Maxant contact the Historical Commission members re: the possibility of putting the material back into the classroom, and committing Mr. Dakin to sitting down with the Commission to resolve the issues. Mr. Dakin committed to putting a letter in writing that the Mason's would sit down with the Historical Commission to resolve the matter, the next day he did receive that letter from Mr. Dakin. Mr. Maxant took his message back to the commission and later notified Mr. Higgins that those terms were not acceptable to the Commission and that they would prefer to see that the material remain where it was.

Acting Chairman Slarsky requested who removed the material from the room.

Mr. Higgins stated at the meeting on the 2nd Mr. Maxant was accompanied by Mr. Massengill. Both Mr. Dakin and he asked Mr. Maxant who the responsible parties were who removed the material from that room. Mr. Massengill replied himself, Mr. Maxant and Ms. Hamel. Mr. Higgins asked Mr. Maxant if that was correct he also acknowledged that was true. Mr. Higgins referenced Mr. Maxant's letter to the Board on 7/1/92 whereas Mr. Maxant wrote the Commission recovered possession of rear classroom.

Acting Selectman Slarsky directed question to Mr. Maxant under the auspices of him being the Chairman, as public law requires minutes of meeting are kept, did he have minutes of meetings directing him to take the actions he took. Mr. Maxant stated yes he did. Acting Chairman Slarsky requested if there was a vote of the entire Commission authorizing the actions he took. Mr. Maxant stated there was a quorum vote. Acting chairman Slarsky requested if the Meetings were posted and where? Mr. Maxant

stated yes as public meeting requires they were posted on the main bulletin board of the Town outside the Selectmen's Office.

Acting Chairman Slarsky requested if the Historical Commission wished to speak on their on behalf.

Mr. Maxant requested of the Building Inspector to define what an unsafe condition is under the code. Mr. Maxant presented a floor plan of the Pleasant St. School depicting the area of obstruction. Mr. Halligan quoted it being unlawful to obstruct or reduce in any manner the egress required by this code. Mr Maxant requested Mr. Halligan explain where the main egresses from this floor are required by the code.

Mr. Halligan presented to the Board the plan which the Building Permit was issued on, the plan was drafted by Prestige Engineering, Val Press Engineer. Acting Chairman Slarsky requested who requested the plan. Mr. Halligan stated the Mason's for the renovation of the building the plan is the plan of record. Mr. Halligan gave a brief presentation regarding the floor plan depicting the school and three (3) egresses. Mr. Halligan pointed out the main entrance with the handicap ramp, where the blockage was. Mr. Halligan also pointed out other egresses to the building. Mr. Maxant requested of Mr. Halligan how many are actually required by the code. Mr. Halligan stated two (2). Mr. Maxant stating we were not talking about entrances only egresses.

Acting Chairman Slarsky requested if the handicap entrance was required by code, Mr. Halligan stated yes. Mr. Maxant stated their was no dangerous condition present in that building. Mr. Maxant stated their was two means of egress required by the code. Mr. Maxant requested of the Board which of the three egresses are the two required by code. Mr. Halligan stated the main entrance/egress. Mr. Maxant claimed entrances were completely irrelevant to the discussion. The Board of Selectmen stating they were not. Mr. Halligan stated the main entrance was blocked to the Mason's quarters and senior members not able to use handicap ramp. Acting Chairman Slarsky requested if there was a danger due to hallways being blocked? Mr. Halligan stated yes.

Mr. Maxant stated Mr. Halligan's referenced letter was completely irrelevant in this discussion. Mr. Maxant pointed out vestibules which have sprinklers in them qualify as egresses. Mr. Maxant stated the two egresses which qualify under the code are the rear exit and side exit of the building. The Commission did not create a dangerous condition as required by the code.

Acting Chairman Slarsky stated the Board are not lawyers and either are you. Acting Chairman Slarsky stated written into the record are fire code violations as well.

Mr. Maxant stated after removal of the material from the room, which Mr. Maxant stated reinserted the Town's ownership to which the Mason's had absolutely no rights to, and negotiations were refused by the Masons he went to talk to the Fire Chief to be sure the Fire Dept. knew about the movement of the material and for Chief Parker to see the area. Mr. Maxant wanted the Chief to know about a condition that might be unsafe. Chief Parker stated he would go look.

Mr. Maxant stated he then went to the Town Hall to inform the Selectmen's Office of action taken by the Commission recovering possession of the rear classroom and to reassure everyone that no town employee was involved.

Mr. Maxant stated again that there was no significant danger, no violation of the code, the public safety was certainly not in danger, the public had no access to that building, the only access to that building was through a private club and to the Historical Commission. There was no danger we had just inconvenienced the Masons, we blocked their entrance as we intended to do.

Acting chairman Slarsky stated the only thing the Board is concerned with is not the opinions only investigations conducted. The investigations found an unsafe condition was allowed to be created. The situation has been identified and who created it in a public building in the Town of Ayer.

Acting Chairman Slarsky requested of the Board what their pleasure is at this time regarding the identification of violations and comments made by Mr. Maxant and comments made on the 9th, a clear record has been established here regarding who did what and how it was done.

Selectman Jones moved the Board go forward with a FOR CAUSE HEARING to determine if disciplinary actions should be taken to the persons on record who have created an unsafe condition at the Pleasant Street School that being Pauline Hamel and Frank Maxant.

Selectman McKinney requesting before the Board takes action to entertain any other members if they wish to make a statement.

Selectman McKinney seconded the motion for discussion.

Ida Naparstek requested if there is a possibility of any disciplinary action she would recommended an impartial board.

Ms. Hamel stated that we didn't do it without advising the Masons that we were going to remove the material, we asked them to do it. It was done for you people it was our understanding you wanted to use space in the school. Ms. Hamel stated as commented

by Mr. Halligan we did approve storage space for the Town Hall on the 3rd floor and for the flags on the first floor for easy accessibility by the downtown business people. Ms. Hamel stated she wanted to make it quite clear that Frank Maxant had nothing to do with it, he never moved a piece of furniture in that school you're after the wrong person if you're after Frank. Ms. Hamel stated what she did was to facilitate the Selectmen's move by moving out the Mason's material for Town Hall storage coming in on June 1, 1992 at 6:00a.m. by DPW employees.

Acting Chairman Slarsky stated the Board was never advised to the dispute the Commission had with the Masons regarding that area and if the Board had that information we would never have allowed anything be stored in the building.

Mrs. Hamel stated what it all comes down to is the lease, it is very important that the people know this building does not belong to the Masons, the Selectmen, the Historical Commission, it belongs to the people of the Town of Ayer. All we did was try to take back something that the Masons took away.

Selectman Jones stated that yes the building belongs to the Town of Ayer the issue is the safety of the building. Mr. Jones stated in as far as storage space, that is a big building, there was and is plenty of room for storage that room did not need to be utilized. The lease is not clear.

Selectman McKinney questioned Ms Hamel again re: her statement that Frank did not move anything in question. Ms. Hamel stated she did it herself along with Don Massengill.

Acting Chairman Slarsky stated the Board did make a motion and was seconded. Under Chapter 40 Section 18 a disciplinary hearing for any further action against Ms. Hamel and Mr. Maxant.

Seconded by Selectman McKinney, VOTE: Unanimous, so moved.

Acting Chairman Slarsky stated the Board will notify the Commission of the Hearing by letter, Posting and in newspaper. Hearing to be conducted on August 17, 1992 for disciplinary action and possible removal of Mr. Maxant and Ms. Hamel from the Commission.

8:17P.M. Acting Chairman Slarsky closed the Hearing.

EXECUTIVE SECRETARY'S REPORT: (see report dated 7-27-92)

The Board met with Fire Chief Wellman Parker. Fire Chief Parker stated that he had been advised by the Retirement Board that his extension had been refused and stating his last day of work would be on Friday, July 31, 1992. Fire Chief Parker recommended to

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the Board the appointment of Paul Fillebrown Sr. at Acting Fire Chief until such time as the Board appoints a full time Fire Chief. The Board expressed their sorrow in the loss of fire Chief Parker and wished him well upon his retirement. Selectman Slarsky moved the board accept the recommendation of Fire Chief Parker and appoint Paul Fillebrown as Acting Fire Chief until such time as the Town hires a full time Fire Chief effective August 1, 1992. Mr. Fillebrown's salary to be \$43,000.00 during his tenure as Acting Fire Chief seconded by Selectman McKinney, vote: unanimous, so moved.

SUPERINTENDENT REDFIELD'S REPORT: (see report dated 7-27-92)

The Board met with the Ayer Recycling Committee regarding the Transfer Station trailer bid and organizational chart.

Present for the discussion was Edward Kelly, Andrew Burnham, Jane Reed and Superintendent William Redfield.

The Board after a lengthy discussion re: the Trailers and updates from the Recycling Commission re: used market. Selectmen Slarsky moved to purchase one new steel trailer from Steco Inc. of Sterling, Ma. for \$31,110.00 seconded by Selectmen McKinney, VOTE: unanimous, so moved.

The Board moved that the Revolving fund reimburse the UDAG Account for the purchase of the trailers, seconded by Selectmen McKinney.

The Board reviewed with the Recycling Committee and Supt. Redfield the organizational chart regarding DPW Solid waste recycling and disposal.

Mr. Kelly opened the discussion by stating problems the committee is having with the recycling program. Mr. Kelly advised the Board to latest problem being a trailer load of contaminated glass due to employees not being trained properly.

Mr. Kelly stated there is no clear training process or level of responsibilities with regard to the employees at the Transfer Station.

Mr. Kelly presented to the Board the Recycling Committees organizational chart depicting the Committees structure of what the chain of authority is. Supt. Redfield submitted to the Board his department's organizational chart. Both charts depicted separate job classifications with regard to the equipment operators.

The Board after a lengthy and heated dispute between the Recycling Committee and Supt. Redfield over issue of deployment and training responsibilities requested Supt. Redfield present a Operation and employee training manual of the Town's solid waste recycling and transfer station to eliminate the confusion

regarding the solid waste recycling and transfer operations to include as well job descriptions. This manual to be given to the recycling Committee and Board as soon as possible.

The Board authorized Supt. Redfield to hire the fourth assistant coordinator in an effort to efficiently perform and facilitate the recycling operations.

The Board moved to instruct Supt. Redfield to work with the Recycling Committee to accomplish goals that are attainable and that satisfies the Town of Ayer, Selectman Slarsky moved the motion, seconded by Selectman McKinney, VOTE: unanimous, so moved.

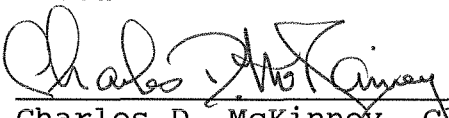
The Board met with Chief Arthur Boisseau of the Ayer Police Department regarding the appointing of Special Police Officers. This discussion was a carry over from the Board of Selectmen's Meeting of 7-20-92 in which the Board requested Town Counsel to rule regarding the Town's Liability to this appointment.

Mr. Higgins stated Town Counsel submitted a determination dated 7/27/92 stating so long as all the Special Police Officers of the four communities to be appointed Special Police Officers of the Town of Ayer be qualified police officers and academy trained.

Town Counsel stated he reviewed criminal law and any potential exposure to liability would be far outweighed by the efficient administration of law enforcement. Town Counsel stated the Town of Ayer's insurance carrier also represents Groton, Littleton & Shirley those officers would be covered by their respective town's insurance policy.

Selectman Slarsky moved the Appointments of Special Police Officers as presented by the Chief contingent all officers are academy trained, seconded by Selectman McKinney, VOTE: unanimous, so moved.

Selectman Slarsky moved the Board adjourn from Open Session to enter into Executive session pursuant to M.G.L. Chapter 39 section 23B re: Police Deployment to adjourn and re-enter another Executive Session pursuant to M.L.G. Chapter 39 Section 23B re: Dept. of Environmental Protection to adjourn and re-enter Open Session for the sole purpose of adjourning the Selectmen's Meeting, seconded by Selectman McKinney, VOTE: unanimous, so moved.

  
Charles D. McKinney, Clerk

DATE: 