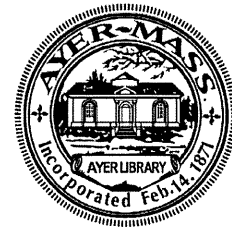


Town of Ayer  
Board of Selectmen  
Ayer Town Hall – 1<sup>st</sup> Floor Meeting Room  
Ayer, MA 01432



*Broadcast and Recorded by APAC*

**Tuesday November 13, 2018**  
**Open Session Meeting Minutes**

**BOS Present:** Jannice L. Livingston, Chair; Scott A. Houde, Clerk

**Absent:** Christopher R. Hillman, Vice – Chair

**Also Present:** Robert A. Pontbriand, Town Manager  
Carly M. Antonellis, Assistant Town Manager

**Call To Order:** J. Livingston called the meeting to order at 6:17 PM.

**Executive Session:** At 6:18 PM, J. Livingston made a motion, seconded by S. Houde, to enter into Executive Session pursuant to MGL Chapter 30A, Section 21A Exemption #3 Contract Negotiations to discuss negotiation strategy for the DPW, Fire and Police Superiors Contracts and to reconvene in Open Session at 7:00 PM. J. Livingston further stated to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye. **Motion passed by Roll Call Vote 2-0.**

**Reconvene in Open Session:** The BOS reconvened in Open Session at 7:00 PM.

**Pledge of Allegiance:** BOS members and meeting attendees stood and recited the Pledge of Allegiance.

**Review and Approve Agenda:** R. Pontbriand asked to move the Transfer Station Hours discussion to before M. Wetzel's report.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the agenda, as amended.  
**Motion passed 2-0.**

**Announcements:** J. Livingston made the following announcement:

- The winter parking ban will be in effect from November 15, 2018 – April 15, 2019. On street parking is prohibited between midnight and 6:00 AM and during active snowstorms.
- Town Hall will be closed on Thursday November 22, 2018 and November 23, 2018 in observation of the Thanksgiving Holiday.
- The 3<sup>rd</sup> Annual Downtown Ayer Candlelight Stroll & Tree Lighting will take place on Saturday December 1, 2018. Meet at the Rail Trail Lot at 5:00 PM.
- The FY'19 Tax Classification Hearing will be held on Tuesday December 4, 2018 at 7:15 PM during the BOS meeting.
- There will be a Special Town Election at the Town Hall on Tuesday December 11, 2018 from 7:00 AM – 8:00 PM regarding financing for the athletic field proposal.

**Public Input:** None

**Transfer Station Survey:** S. Houde went over his analysis of the transfer station survey; stating that 61% of the 321 residents that took the survey are not happy with the current hours. The survey was available for two weeks both online and in hardcopy at various locations throughout Town. 293 (92%) of the respondents are current Transfer Station users. The remaining 26 (8%) who are not current users were asked to provide information of why they do not use the Transfer Station; the majority of the comments site affordability as a deterrent to usage. Other comments range from convenience of curbside pickup, inconvenience of the hours, and inability to bring trash to the Transfer Station. S. Houde stated that the results will be further analyzed and placed on the Town's website.

**Superintendent Mark Wetzel, Ayer Dept. of Public Works:** *Solid Waste Fee Adjustment Recommendation:* M. Wetzel presented his results from gathering information from other Towns, as requested by the BOS. He made the following recommendation for Transfer Station Rates:

	Current Fees	Recommended Fees
Annual Permit	\$80.00	\$90.00
Senior Citizen Rate	\$50.00	\$60.00
Second Permit	\$20.00	\$30.00
One Day Permit	\$10.00	\$10.00
PAYT 15 Gallon Trash Bag	\$2.00	\$3.00
PAYT 33 Gallon Trash Bag	\$3.00	\$4.00
PAYT 50 Gallon Trash Bag	\$4.00	\$5.00
Bulk Tag	\$5.00 each	\$5.00 each

J. Livingston asked what the fees pay for. M. Wetzel stated that they cover fixed costs and also mentioned that the recycling and disposal costs are going up. J. Livingston then highlighted all the services offered at the Transfer Station.

S. Houde asked about the number of users. M. Wetzel stated that there are approximately 700 regular users and approximately 580 senior users. The seniors, with a reduced fee rate are increasing, while the regular users decrease.

J. Livingston said that the Town could consider raising the senior age from 60 to 62 in the future. She also mentioned the idea of putting flyers about the transfer station in the tax bills to all households.

J. Livingston then asked if R. Pontbriand could have an analysis of the rates done up showing what a 60% general fund subsidy would have on the rates. The general fund subsidy is currently 46%.

S. Houde stated that he had concern with raising the senior rate because bag costs are also going up. He'd like to hold the senior rate at \$50 or increase it to \$55, not \$60. J. Livingston also suggested changing the One Day Permit fee from \$10 to \$15.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to adopt the new fee structure as presented, but amending the senior rate from \$60 to \$55 and amending the one day permit from \$10 to \$15. **Motion passed 2-0.**

*Approval of Change Order 1 for Waterline Industries* –M. Wetzel presented Change Order 1 for the Wastewater Treatment Plant Phase 1 Upgrade Contract with Waterline Industries. The Change Order is for \$43,124.68 for additional demolition work.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve Change Order #1 in the amount of \$43, 124.68 for Waterline Industries. **Motion passed 2-0.**

*Contract for Barnum Road Water Main and Meter Vault* – M. Wetzel presented the contract with J D'Amico Corp. which was the low bidder at \$193,903.68 November 4, J. D'Amico \$193,903. 68. They did the Pearl Street water main and other successful projects in Ayer. M. Wetzel recommend that the BOS execute the contract.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the contract for Barnum Road Water Main and Meter Vault in the amount of \$193,903.68 with signature by the Board. **Motion passed 2-0.**

**Alan Manoian, Director of Community & Economic Development:** *Commuter Rail Station Fence Wrap Design Project Funding* – A. Manoian presented a project proposal to wrap the recently installed fence at the Ayer Commuter Rail Station with a design treatment material with the images of the historic tiles on the Town Hall Building. This would present a "gallery wall" to the station and screen the visually-blighted area behind the Commuter Rail Station. The MBTA has installed the fence and the Town would be responsible for the fence wrap design treatment material.

R. Pontbriand stated that A. Manoian would be seeking \$6,000 and in order to commence with the project now, the funding would need to come from UDAG unrestricted funds subject to replenishment at a future Town Meeting.

S. Houde asked about issues of graffiti and replacement. A. Manoian stated that in the event that a panel is vandalized, individual panels are able to be replaced. Additionally, many of the businesses in Depot Square have cameras and we would be working with our law enforcement and other partners to monitor.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to authorize up to \$6,000 from the UDAG unrestricted funds for the purposes of the Commuter Rail Station Fence Wrap Design Project with the funds being replenished at a future Town Meeting. **Motion passed 2-0.**

**Town Manager's Report:** *Administrative Update/Review of Warrant(s)* – In the interest of time, R. Pontbriand referred BOS members to the meeting packet to review the signed warrants. R. Pontbriand also gave a brief administrative update stating that the FY'20 budget process underway and all capital requests have been submitted; budget requests are due 12/14/18 and the material will be distributed in January to BOS and Fin Com.

*Home Rule Petition Technical Change* – R. Pontbriand presented the technical changes that the State Legislature is requested be made with respect to the Home Rule Petition for the Vineyard's All-Alcohol License as approved previously by Town Meeting. These technical changes do not change the substance of the Home Rule Petition but clarifies language.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to adopt the technical changes to the Home Rule Petition (H4907) for the Vineyard All Alcohol License requested by the State Legislature. **Motion passed 2-0.**

*Ratification of Pirone Park Path Contract* – R. Pontbriand stated that the Pirone Park Path Contract was procured under MGL Chapter 30, 39M and as such the Town Manager's signature on the contract requires a vote of ratification. The contractor wanted to start the project on November 1, 2018 as it is a weather-dependent project.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to ratify the Town Manager's signature on the Pirone Park Path Contract between the Town and ANJ Construction Corp. **Motion passed 2-0.**

*Review of the October 22, 2018 Special Fall Town Meeting* – The BOS discussed with the Town Manager the recent October 22, 2018 Special Fall Town Meeting.

J. Livingston state that the meeting "was a mess" and this cannot happen again. The confusion created the illusion that "something nefarious was going on."

R. Pontbriand stated that the tone of the Town Meeting is set by the Moderator. There was no official welcome or introductory remarks explaining the evening; as a result there was a lack of professionalism at Town Meeting. The Moderator often times did not appear to know the rules of Town Meeting (i.e. whether something was 2/3 or simple majority). The Planning Board should have been on the stage but last time the Moderator did not like that. There is this "obsession" by the Moderator about how long Town Meeting will last and this "general tone" of rushing through. The Moderator does not like presentations at Town Meeting and has stated that all presentations must be pre-approved by him. The Town Planner should not have been reamed out five minutes before Town Meeting because he had a brief presentation on the Articles and the Moderator was not only told this in advance but it is required by law that the Planning Board (or their designee) give a report to Town Meeting on the Articles. This is contradictory to the BOS goal of increased transparency, information, and public participation. It is recommended that the Moderator consider going to professional Moderator training which is offered in Massachusetts. Additionally, in many towns, the Moderator holds office hours a couple of weeks prior to Town Meeting for residents to learn about Town Meeting and ask questions.

J. Livingston stated that she "cannot stand the excuse by an elected official; that they are elected and can do whatever they want." That statement is not acceptable.

R. Pontbriand continued by stating that there was confusion regarding the high school field project process from the beginning. Town Counsel sent another attorney not familiar with the issue(s) on the local level as the result of a last-minute, unforeseen emergency. Town Counsel has owned this, apologized, and will rectify. He further recommended the following actions to improve Town Meeting: moving forward all warrant articles will need to be signed off on by boards and committees prior to the BOS approving them on the warrant; the Moderator should offer office hours two weeks in advance of Town Meeting to answer resident's questions; and all zoning related presentations need to be visual in nature as opposed to text base for clarity of presentation.

Susan Copeland, Town Clerk approached the BOS table to discuss. She stated that speaking for all Departments, a lot of behind the scenes work goes into Town Meeting by professional Town Hall staff. People have the right to ask questions and the Moderator needs to facilitate an open and professional Town Meeting

S. Houde asked if the Moderator had been invited to come to the meeting (he had not); and asked that the Moderator be asked to come to a future BOS Meeting to further discuss these Town Meeting concerns.

*Cultural Council Appointment* – R. Pontbriand recommended that the BOS appoint Ms. Lauren Metzler-Baretta to the Ayer Cultural Council for a term to expire on June 30, 2019.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to appoint Ms. Lauren Metzler-Baretta to the Ayer Cultural Council for a term to expire on June 30, 2019. **Motion passed 2-0.**

*Discussion about potential RFP for Town Counsel Services* – R. Pontbriand stated that at the request of the BOS, the issue of issuing an RFP for Town Counsel Services was to be discussed. R. Pontbriand stated that Town Counsel is an annual appointment by the BOS. R. Pontbriand stated that KP Law has been Ayer's Town Counsel for many years and has served the Town very well. They are a leader in municipal law and their rates are very competitive. They have served the Town very well and they have all of the legal expertise in one firm. Additionally, there are many open legal items that KP Law is working on and to potentially switch Town Counsel would require them to stay on for a transition period.

J. Livingston stated that KP Law has been with the Town for a while and it is sometimes good practice to periodically issue and RFP.

S. Houde stated that he would like a list of the current open legal items KP Law is working on.

R. Pontbriand stated that he would compile the list as well as do some preliminary research on the issue of rates, other law firms, etc. He restated that KP Law has and continues to serve the Town of Ayer very well.

*Amended Committee Charge for the Water/Sewer Rate Review Committee* – R. Pontbriand presented a proposed amendment to the Water/Sewer Rate Review Committee which would amend the charge of the Committee to include adding the annual review and recommendation of all Transfer Station Fees.

J. Livingston stated that by adding this to the charge of the Committee, it will allow a quarterly meeting and review of the rates and an annual formal recommendation to the BOS, thus taking the pressure off the DPW Superintendent.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to amend the charge of the Water/Sewer Rate Review Committee to include the annual review and recommendation of Transfer Station fees. **Motion passed 2-0.**

*Proposal for a Devens Disposition Study Committee* – R. Pontbriand presented a proposal for the creation of an Ayer – Devens Jurisdiction and Disposition Study Committee as requested by the Board at the October 16, 2018 BOS meeting. R. Pontbriand explained that the committee charge was largely modeled after the successful committee formed in the Town of Harvard. The Committee would be charged with planning for and initiating discussion with the appropriate parties with the goal of presenting a plan to the Town of Ayer Voters to resume jurisdiction over the land presently part of Devens formerly under the jurisdiction of the Town of Ayer. R. Pontbriand further detailed the Committee's Charge as set forth in his November 8, 2018 memo to the BOS. The Committee would be appointed by the BOS and consist of one Selectman; two Planning Board representatives; five residents (at least one of whom

lives on Devens); and the Ayer Director of Economic and Community Development. Additionally, the Committee would receive the professional support of the Town Manager's Office and all Town Departments. Finally, the Committee would be subject to the Open Meeting Law and Public Records Law with all meetings being public meetings.

J. Livingston stated that she would like to amend the membership of the Committee to include two residents from Devens.

S. Houde concurred. He also asked if there was a set appointment term. R. Pontbriand stated that at this time there would be no appointment term.

J. Livingston stated that the BOS would interview all potential appointments and the BOS can always address this issue later.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to form the Ayer-Devens Jurisdiction/Disposition Study Committee as set forth in the Town Manager's November 8, 2018 memo with the amendment of two of the five resident members being residents from Devens. **Motion passed 2-0.**

*Access Easement for Depot Square* – R. Pontbriand presented the Access Easement as drafted by Town Counsel for the purposes of legally allowing an access easement for truck traffic in Depot Square. This Access Easement had been previously authorized by the Ayer Town Meeting in May 2018.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the Access Easement for Depot Square with signature by the Board. **Motion passed 2-0.**

*License Agreement – Ayer Family Pharmacy* - R. Pontbriand presented a license agreement between the Town of Ayer and Ayer Family Pharmacy. The license agreement, as drafted by Town Counsel, would resolve an encroachment issue as part of the Ayer Family Pharmacy property is on Town of Ayer Land.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the License Agreement between the Town of Ayer and Ayer Family Pharmacy for signature by the Board. **Motion passed 2-0.**

**New Business/Selectmen's Questions:** S. Houde asked if there is any way that the Board could receive a DRAFT copy of the meeting agenda prior to posting so that the Board can see who is coming before the meeting as this may facilitate additional topics to be discussed.

J. Livingston stated that the Town Manager puts the DRAFT meeting agenda together and submits it to the Chair for review and approval prior to posting.

**Approval of Meeting Minutes:**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting minutes of October 16, 2018. **Motion passed 2-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting minutes of October 22, 2018. **Motion passed 2-0.**

**Adjournment:**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to adjourn at 10:02 PM. **Motion passed 2-0.**

**Minutes Recorded and Submitted by Carly M. Antonellis, Assistant Town Manager**

**Date Minutes Approved by BOS:** 12/4/2019

**Signature Indicating Approval:** Scott A. Houde