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TOWN OF AYER

2014 SEP 12 AM 11: 29

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



Tuesday, September 16, 2014  
Open Session Meeting Agenda

- 7:00pm Call to Order  
Review and Approve Agenda; Announcements
- Moment of Silence In Memory of Ayer Firefighter Steve Mickle
- 7:05pm\* Public Input
- 7:10pm Director Jeff Thomas, Parks and Recreation  
1. Online Payment Contract
- 7:15pm Joint Meeting with Planning Board  
1. Joint Appointment to Planning Board
- 7:30pm Ayer Commuter Rail Surface Parking Lot Update  
1. Montachusett Regional Transit Authority (MART)
- 8:00pm Director David Maher, Economic and Community Development  
1. Update and Overview of Ayer's economic development activity
- 8:15pm Town Administrator's Report  
1. Process for Review and Update of Town's Comprehensive Plan
- 8:25pm New Business/Selectmen's Questions  
1. Update on Warrant Article #30 and M.G.L. C.32B§9A½ (Selectman Livingston)  
2. Grant Writer Position (Selectman Hillman)  
3. Property Enforcement Update (Selectman Hillman)  
4. Littering Pickup/Sheriff's Office (Selectman Hillman)  
5. Welcome to Ayer Sign (Selectman Hillman)
- 8:45pm Approval of Meeting Minutes  
August 19, 2014; September 2, 2014
- 8:50pm Executive Session Pursuant to MGL Chapter 30A, Section 21A  
Exemption #3 (Collective Bargaining) Police Superiors Contract MOA  
Exemption #3 (Collective Bargaining) DPW WWTP Tanker Driver MOA  
Exemption #3 (Litigation Strategy) *Gintner v. Town of Ayer* Litigation Strategy/Update
- Adjournment\*\***

*\*Note: Agenda Times are for planning purposes only and do not necessarily constitute exact times.*

*\*\*Note: The Board of Selectmen will adjourn from Executive Session not returning into Open Session for the evening.*

**AGREEMENT FOR THE PROVISION OF ONLINE TAX AND FEE  
COLLECTION SERVICES THROUGH UNIPAY GOLD**

UniBank For Savings (“UniBank”) and the Town of Ayer, a Massachusetts organization, with an office at 1 Main Street, Ayer, Massachusetts, 01432. (“The Customer”) hereby enter into the following agreement (“the Agreement”) effective as of \_\_\_\_\_ (the “Effective Date”) for the provision of internet-based tax and fee collection services here and after referred to as *UniPay Gold*.

**(1) Authority; Application of Massachusetts General Laws:**

The Customer represents and warrants that it has obtained all appropriate and necessary authorizations from any required committees, including any authorization required of the board of selectmen, the town council or any other municipal authority to enter into this Agreement with UniBank for the collection of certain taxes and other payments owed to the Customer and that the execution and performance of this Agreement by the Customer is consistent with all applicable general and special laws of the Commonwealth regarding the Customer.

The parties further represent and warrant that it and each person signing on behalf of such party has full legal capacity to enter into and perform the obligations of this Agreement without further approval and that entering into this Agreement does not violate any other obligation to which it is subject.

The parties acknowledge that payments received by UniBank pursuant to this Agreement shall be subject to the provisions of Chapters 44, 60 and 60A of the Massachusetts General Laws (the “MGL”) as stated in Chapter 60, §2A thereof.

**(2) System Requirements; Description of *UniPay Gold* services to be provided:**

The Customer acknowledges that it is the Customer’s responsibility to maintain its own operating systems, software, virus protection and security codes that are up to date to protect itself and its customers from system failure and data breaches. UniBank requires the following minimum standards in connection with *UniPay Gold*:

- a. Operating System: The operating system utilized by the Customer shall have registered software installed which is both serviceable and allows patches.
- b. Browser: Any browser used by the Customer shall be up to date (with one of the most recent publicly available version).
- c. Anti-virus protection: Anti-virus protections maintained by the Customer shall use up to date subscriptions and definitions and any “auto update” feature shall be enabled.
- d. Patching: all software utilized in connection with *UniPay Gold* shall have patching enabled and will automatically download and apply all patches made available by the licensor of such software. Third party applications requiring manual updating (i.e., *Adobe Acrobat*) shall be promptly and regularly updated.

- e. Passwords: Customer shall require that all system users obtain a password containing at least eight characters. Such password shall require at least one capitalized letter, at least one number, and one character (i.e., #@\$%^). Passwords must be modified at least every sixty (60) days.

The Customer acknowledges that the *UniPay Gold* service is an alternate payment system for its residents/customers using certain software and online functions accessed through the internet and developed by UniBank that UniBank agrees to make available to Customer pursuant to the terms and conditions hereof. Payment requests received through this online system shall be processed based on the options established by the Customer, and using the payment methods made available by UniBank. These methods may include credit and debit card payments or electronic ACH transactions from residents'/customers' bank accounts into Customer's bank account at UniBank. Payments made by credit or debit card are subject to the operating rules and regulations of the card issuer. UniBank shall not be liable to Customer for any changes to the services required by the card issuers or other intermediary processors, or for any inability to provide credit or debit card processing services as a result of the withdrawal of authorization from the issuing companies. In the event of any such changes or withdrawal of authorization affecting UniBank's ability to provide services under this Agreement, UniBank shall provide the Customer with written notice within five (5) business days of the receipt of such notice notifying Customer of either (a) such change to the services required by the card issuers or intermediary processors, or (b) termination of the Agreement by UniBank, which termination shall be effective upon receipt of such notice by Customer and the provisions of Section 5(b) shall apply.

To assist the Bank in the performance of its duties hereunder, the Customer agrees to provide the Bank, in a prompt and timely manner, with complete and accurate data and information for use in connection with the *UniPay Gold* service regarding (i) Customer residents and clients, (ii) Customer bank accounts, and (iii) all other data and information reasonably requested by the Bank in connection with its duties hereunder, and to promptly correct any errors in such data and information furnished by the Customer upon discovery thereof. The Customer further agrees to enter into and maintain any agreements and/or authorizations with credit and debit card issuers or intermediary processors necessary for the supply of the *UniPay Gold* services hereunder.

Fees for use of this service shall be established and collected by UniBank and are subject to change from time to time as UniBank may require. All fees for other services hereunder shall be as set forth in the Fee Schedule attached hereto as Exhibit A. In the event of a change in any applicable fee, UniBank shall provide the Customer with written notice of the change in fee at least thirty (30) days prior to the effective date of the change.

Funds received via ACH transaction shall be credited to the Customer's selected account at UniBank within two (2) business days. Funds received via credit or debit card transaction shall usually be credited to the Customer's UniPay account at UniBank within 3 or 4 business days depending upon the credit card processor. UniBank shall supply appropriate reporting and reconciliation information to Customer on a daily basis and shall process and credit such payments on the Customer's client's behalf in compliance with the

requirements of MGL Chapter 60, i.e., that payments shall be processed and credited by a third party provider to the Customer in the same manner as if the Customer's client's payment had been received that day directly at the office of the tax collector. However, payments to the Customer shall be deemed to be complete only upon final crediting to Customer by the card issuer or other intermediary processor. Prior to such final crediting, any amounts processed by UniBank and credited to Customer's account may be reversed and identifying information shall be supplied to the Customer within two (2) business days of UniBank's receipt of notice of the dishonored payment.

**(3) Additional Reporting:**

A report of fees charged and collected by credit and debit card companies, intermediary processors and UniBank will be provided by UniBank upon request and by arrangement between UniBank and the Customer.

**(4) Term of Agreement:**

This *UniPay Gold* Agreement shall be valid for a term beginning on the Effective Date and ending on [ ] (the "Term") unless Customer notifies UniBank of the termination hereof at least thirty (30) days prior to the conclusion of the Term.<sup>1</sup>

**(5) Termination:**

(a) In addition to the rights as stated in Paragraph (2), *supra*, each party shall have the right to terminate this Agreement with or without cause by notifying the other in writing of such termination (the "Termination Notice"). The parties' obligations hereunder shall terminate at the close of business thirty (30) days following the day on which the Termination Notice is received by the other party.

(b) Upon such termination, the Customer agrees to remove any hyperlink, URL address, or other connection to the *UniPay Gold* services page or function from its website in cooperation with UniBank. Any payments received by UniBank after the stated termination date shall be credited to the Customer's UniPay account, notwithstanding the termination of this Agreement, and UniBank shall provide to the Customer such reporting and reconciliation information set forth herein.

(c) The party receiving such Termination Notice may request a meeting, within seven (7) days after receipt of the Termination Notice, to attempt to resolve any matter which may have led to the termination. Any adjustment, modification or renegotiation of the agreement terms shall require the mutual approval of UniBank and the Customer. In the event such negotiation is unsuccessful in changing the notifying party's intent to terminate, the Agreement shall terminate at the close of business thirty (30) days following the day on which the original Termination Notice is received by the other party.

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<sup>1</sup> [Note that under Massachusetts law, banks are limited to a three year term for tax-collecting services. The bank has the option of either making all contracts terminate on the same date, or there could be rolling dates dictated by each town's contract.

**(6) Signatures:**

By signing this Agreement, the undersigned acknowledge that they have read and accepted the terms and conditions of this Agreement, and agree to be bound by its terms. Any signature delivered by a party by facsimile transmission, or in "PDF" format delivered or circulated by electronic means, shall be deemed to be an original signature hereto.

**(7) Proprietary Rights:**

During the Term hereof, UniBank shall grant to Customer and its clients a nontransferable, non-assignable and non-exclusive license to use the software, subject to the restrictions and limitations set forth herein, including any subsequent modifications, enhancements, upgrades and derivative works of and to the systems and all physical embodiments of same ("Licensed Programs") and related material, whether in machine readable form or not, including any user's manuals and materials provided by UniBank in association with the Licensed Programs ("Licensed Materials").

All right, title and interest in and to any and all copyright, trade secret, patent, trademark and other proprietary rights in and to the Licensed Programs and Licensed Material, excluding any third party products embodied or utilized in the Licensed Programs, shall at all times belong to, vest and remain vested in UniBank. Customer agrees that it shall be a material breach of this Agreement for Customer to contest or dispute such ownership in any way.

**(8) Confidentiality:**

Each party agrees at all times to maintain the complete confidentiality of the competitively sensitive or secret business, marketing or technical information, technology, business processes or procedures and customer information ("Confidential Information") of the other party. Neither party shall permit or authorize access to, or disclosure of, the Confidential Information of the other party to any person or entity other than its employees or advisors who have a "need to know" such information in order to enable such party to exercise its rights or perform its obligations under this Agreement. Neither party shall disclose or supply the Confidential Information of the other party to any non-employee third party without the prior written approval of the other party, which approval shall not be unreasonably withheld, provided the requesting party can demonstrate a need for such disclosure in order to comply with its obligations hereunder. Notwithstanding the foregoing, each party may provide Confidential Information of the other party to its affiliates, processing intermediaries, contractors, and third party service or product suppliers to the extent necessary to provide or take advantage of the services to be provided to the other party hereunder, provided that such third party is subject to agreement including a substantially similar confidentiality provision to the terms hereof. Either party may disclose portions of the Confidential Information of the other party to the extent such disclosure is required by any rule, law, regulation, court, court order, or government or quasi-government agency, provided the party required to make such

disclosure notifies the other party of the applicable legal requirements before such disclosure occurs and assists the other party to obtain such protection as may be available to preserve the confidentiality of such information and/or to obtain a protective order narrowing the scope of such disclosure. In addition to the Customer's system requirements set forth in Section 2 above, both parties shall comply with any and all data protection and destruction requirements set forth under all federal and state laws, regulations, statutes and rules as may apply from time to time. Any breach by either party of such data protection requirements shall give the party suffering such breach the right to immediately terminate this Agreement and to pursue all remedies available to it.

**(9) Limitation of Warranties:**

UNIBANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE PROCESSING SERVICES PROVIDED HEREUNDER, AND EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF ANY THIRD-PARTY RIGHTS. IN ADDITION TO THE FOREGOING, UNIBANK MAKES NO WARRANTY OR REPRESENTATION THAT THE PROCESSING SERVICES WILL BE UNINTERRUPTED, SECURE OR ERROR FREE.

**(10) Limitation of Liability:**

UNIBANK SHALL NOT BE LIABLE TO THE CUSTOMER, OR ITS OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS, REPRESENTATIVES, OR ITS CLIENTS FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING LOST REVENUES OR PROFITS OR LOSS OF BUSINESS, IN ANY WAY RELATING TO OR ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY SUCH LOSSES RESULTING FROM A BREACH OF ANY TERM OF THIS AGREEMENT, EVEN IF UNIBANK WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**(11) Indemnity:**

Pursuant to MGL Chapter 60, §2A, UniBank shall indemnify and hold harmless the Customer, its officers, agents and employees, for any claims brought against it or them or losses sustained by it or them on account of the negligence of UniBank, or its failure to perform faithfully its duties and obligations pursuant to this Agreement.

The Customer, to the extent permitted by law, shall indemnify and hold UniBank, its officers, agents and employees, harmless, for any claims, liabilities (including without limitation reasonable attorney fees and costs) and damages incurred by it or them in connection with the breach of the Customer's obligations hereunder.

The parties each agree, to the extent permitted by law, to indemnify and hold harmless the other party, its employees, officers, agents, and directors from any and all losses, claims, expenses (including attorney fees), or other liabilities resulting from or in connection with any claim by a third party as a result of the indemnifying party's breach of its obligations hereunder. Losses subject to indemnification by Customer hereunder include, but are not limited to, any losses incurred by UniBank as a result of any withdrawal of authorization by any card issuers, inability to provide credit or debit card processing services as a result of a decision by the credit card issuer or other intermediary processor outside of the control of UniBank and resulting in losses, damages or charges to UniBank.

**(12) Force Majeure:**

Neither party shall be in default for failing to perform under this Agreement if such failure arises out of any act, event, or circumstance beyond the reasonable control of the parties hereto, whether or not predicted or foreseeable including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet or any telecommunications services, outside of its control, provided that the party so affected: (a) gives the other prompt notice of such cause, and (b) uses its reasonable commercial efforts to correct promptly such failure or delay in performance. The party whose performance is affected by such event of Force Majeure will resume performance as soon as reasonably possible.

**(13) Exclusivity:**

Customer shall not be required to utilize *UniPay Gold* as its payment processing system for internet-based tax and fee collection on an exclusive basis during the Term of this Agreement.

**(14) Miscellaneous:**

*(a) Governing Law; Venue*

This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and each party consents to the jurisdiction of its courts in all actions, proceedings and litigation arising from or related directly or indirectly to this Agreement.

*(b) Relationship of the Parties*

The parties are independent contracting parties and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between the parties. Each party shall bear its own costs and expenses in connection with the performance of its obligations under this Agreement. Neither of the parties will have the power to bind the other or incur obligations on the other's behalf, including the authority to enter into or modify contracts, letters of intent, term sheets or any other

agreements, whether oral or written, on behalf of the other party without the other party's prior written consent.

(c) Notice

All notices, requests, and other communications required or permitted to be given or delivered hereunder to either party must be in writing, and shall be personally delivered, sent by certified or registered mail, postage prepaid and addressed, or by a recognized national overnight courier to such party at the address listed herein, or at such other address as has been furnished by notice given in compliance with this section. All notices, requests, and other communications shall be deemed to have been given upon delivery as evidenced by return receipt, or courier records.

If to Unibank:

*UniBank  
49 Church Street  
Whitinsville, MA 01588  
Attention: UniPay Gold Team*

If to Customer:

Town of Ayer  
1 Main Street  
Ayer, MA 01432

Such written requirement shall not apply to communication in the ordinary course of business in the performance of this Agreement.

(d) Assignment

The parties hereto may not assign their rights and obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld. UniBank shall, however, have the right to assign its rights and obligations hereunder to any parent company, subsidiary or affiliated companies or to UniBank's successor or the transferee(s) of all or substantially all of UniBank's stock or assets by reason of a merger, consolidation or sale or exchange of assets or other corporate reorganization upon written notice to the Customer.

(e) Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Agreement shall not be affected or impaired thereby.

(f) Waiver

The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

(g) Entire Agreement; No Third Party Beneficiary

This Agreement sets forth the entire agreement and understanding of the parties hereto and supersedes any and all prior agreements, arrangements and understandings, whether oral or written, relating to the subject matter herein. No alteration, waiver, amendment, change or supplement hereto shall be binding or effective unless the same is set forth in writing signed by a duly authorized representative of each party and may be modified or waived only by a separate letter executed by the party expressly so modifying or waiving such Agreement. The terms, conditions, provisions and other undertakings contained in this Agreement shall be binding upon, and shall inure to the benefit of, the respective successors of each party hereto. No person or entity other than UniBank or the Customer or their respective successors shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

(h) Counterparts

For the convenience of the parties, any number of counterparts of this Agreement may be executed by the parties hereto. Each such counterpart shall be, and shall be deemed to be, an original instrument, but all such counterparts taken together shall constitute one and the same Agreement. Any signature delivered by a party by a facsimile transmission, or in "PDF" format delivered or circulated by electronic means, shall be deemed to be an original signature hereto.

[Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the date first above written.

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UniBank  
By: Ryan Stolle  
Title: Assistant Vice President

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Town of Ayer  
By:  
Title:

## **Exhibit A**

### **Fee Schedule**

Until the conclusion of the Term, unless otherwise modified pursuant to the Agreement, the ACH fee per transaction shall be Twenty-Five Cents (\$0.25).

595437

## Exhibit A

### Fee Schedule

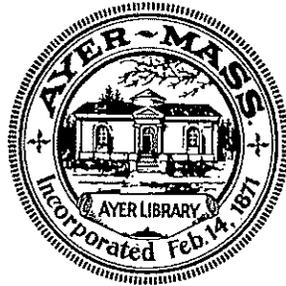
Until the conclusion of the Term, unless otherwise modified pursuant to the Agreement, the ACH fee per transaction shall be Twenty-Five Cents (\$0.25).

Until the conclusion of the Term, unless otherwise modified pursuant to the Agreement, the Credit Card convenience fees are part of the fees associated with the transaction.

VISA Debit – Flat Rate of \$3.95

Scale Based on Purchase Price		
From	To	Fee Amount
\$ 1.00	\$ 99.99	\$ 2.50
\$ 100.00	\$ 199.99	\$ 5.00
\$ 200.00	\$ 399.99	\$ 10.00
\$ 400.00	\$ 699.99	\$ 17.50
\$ 700.00	\$ 1,099.99	\$ 27.50
\$ 1,100.00	\$ 1,599.99	\$ 40.00
\$ 1,600.00	\$ 2,299.99	\$ 57.50
\$ 2,300.00	\$ 3,099.99	\$ 77.50
\$ 3,100.00	\$ 3,999.99	\$ 100.00
\$ 4,000.00	\$ 4,999.99	\$ 125.00
\$ 5,000.00	\$ 6,099.99	\$ 152.50
\$ 6,100.00	\$ 7,299.99	\$ 182.50
\$ 7,300.00	\$ 8,599.99	\$ 215.00
\$ 8,600.00	\$ 9,999.99	\$ 250.00
\$ 10,000.00	\$ 11,999.99	\$ 300.00
\$ 12,000.00	\$ 14,999.99	\$ 375.00
\$ 15,000.00	\$ 19,999.99	\$ 500.00
\$ 20,000.00	\$ 24,999.99	\$ 625.00
\$ 25,000.00	\$ 29,999.99	\$ 750.00
\$ 30,000.00	\$ 34,999.99	\$ 875.00
\$ 35,000.00	\$ 39,999.99	\$ 1,000.00

Convenience Fees shall be established and collected by UniBank and are subject to change from time to time as UniBank may require. If you choose to pay these fees, in lieu of a pass through to the end user, at the beginning of each month, you will receive an electronic invoice stating the amount of the fees and the fees will then be debited from your designated bank account.



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2014 SEP -4 PM 1:38 *J*

## AYER PLANNING BOARD VACANCY

The Ayer Board of Selectmen and Ayer Planning Board are accepting interested applicants pursuant to MGL Chapter 44, Section 11 to fill the vacancy of a 5-year, unexpired term (July 1, 2013 to June 30, 2018) on the Ayer Planning Board. **Interested applicants should submit a letter of intent to the Ayer Town Administrator, 1 Main Street, Ayer, MA 01432 or to [ta@ayer.ma.us](mailto:ta@ayer.ma.us) by 1pm on Friday, September 12, 2014.** Applicants will be interviewed publically by a Joint Meeting of the Ayer Board of Selectmen and Ayer Planning Board on Tuesday, September 16, 2014 at 7:15pm at the Ayer Town Hall. The successful applicant will be selected by a simple majority vote of the Joint Meeting of the Ayer Board of Selectmen and Ayer Planning Board. Applicants must be at least 18 years of age; reside in the Town of Ayer; and registered to vote in the Town of Ayer. For more information please contact the Board of Selectmen's Office at (978) 772-8220 or [ta@ayer.ma.us](mailto:ta@ayer.ma.us).

Posted: September 4, 2014

*Jennifer R Gibbons*

[REDACTED]  
*Ayer, MA 01432*  
[REDACTED]

Dear Chairman Hillman & the Members of the Board of Selectmen:

Many citizens, I among them, are aware of the dilemma that is presented by the current lack of administrative support for the Planning Board and Zoning Board of Appeals, as well as the immediate risk presented by lacking a clear quorum. However, this situation also offers an unprecedented opportunity to meet the needs of these boards in the best possible way. We have a chance to make Ayer a model for the 21<sup>st</sup> century and Ayer citizens and businesses deserve no less.

To help make that happen, I would like to express my sincere interest in being appointed to fill the present vacancy on the Planning Board. I bring unique credentials to the challenge of creating this advanced operating capability. I served eight years as the administrative support person for three Ayer boards—Planning, ZBA and the Conservation Commission. For nearly twelve years I have been employed as the Executive Assistant to the Town Administrator of neighboring Littleton. I served as an elected member of the Ayer Planning Board for more than 2 ½ years. I also have been a lifelong resident of Ayer and am a homeowner, taxpayer, parent of a child in the public school system, and a passionate advocate for all things Ayer.

Here are the things I'd like to work toward operationally for the Planning Board:

- 1) An environment where all documents and records associated with Board business is totally transparent and readily available to the public.
- 2) An all-electronic information system where public documents and plans are created, submitted, stored and distributed digitally, for maximum efficiency, speed and convenience; this is the norm in most other places. This should include use of free file sharing websites for uploading large packages of material for instant distribution, no matter how big the files.
- 3) A greater web and social media presence, to disseminate to the citizens and taxpayers more information in a much faster way, and encourage greater communications and transparency.
- 4) Submission of development permitting plans in digitized as well as hard copy form, to make internal distribution and public dissemination faster and more widespread.

I would also like to re-open a dialogue on restoring a professional planner. Having seen this situation from the inside for years, I believe that a full time planning professional, combined with a skilled administrative professional working less- than- full time for the Planning and Zoning Boards, could provide major benefits for the town. Ayer had a planning practitioner not that long ago but he did not receive the support he was due from the Board and the position went away. A planner in the long run can pay dividends for the town, putting in place the measures that will boost the economy, create a more attractive place to live and work, help meet a range of capital needs, and improve our quality of life.

Modernized operations are not my only objective, however; things on the long-range planning front need a boost just as urgently. A few years back the widely-respected consultant Judi Barrett, then working for Community Opportunities Group, drafted some terrific zoning amendments as follow-up measures from the 2008 Comprehensive Plan and this valuable work was paid for with a generous state grant. These measures, among other things, would have: modernized downtown zoning to encourage further investment by the market in the central business area; provided exciting incentives to redevelop the tired Park Street corridor; upgraded some of the town's very old industrial zoning; and other initiatives. Unfortunately, the board did not move forward with these amendments. Zoning is not a static thing; businesses and technology are changing constantly, environmental and climate factors are increasing in importance, transportation issues must be addressed. A town's zoning—as well as its other regulatory and non-regulatory tools—must change with the times.

Anyway, these are the things I think about and the big priorities as I see them. I hope that you will consider my candidacy and I am available discuss my qualifications and thoughts at greater length with you.

Sincerely,

*Jenn Gibbons*

cc: Ayer Planning Board

# Board of Selectmen

MEETING TUESDAYS AT 7:00 P.M. • UPPER TOWN HALL • 1 MAIN STREET • AYER, MASSACHUSETTS 01432



Tel. (978) 772-8220  
Fax. (978) 772-3017

Town Administrator  
(978) 772-8210

## MEMORANDUM

**DATE:** September 12, 2014

**TO:** Ayer Board of Selectmen

**FROM:** Robert A. Pontbriand  
Town Administrator

**SUBJECT: Proposed Resolution to the Access Issue(s) for the Ayer Commuter Rail Station and an Update on the Ayer Rail Trail Commuter Surface Parking Lot**

Dear Honorable Selectmen,

As you are aware, on September 9, 2014, the MBTA and the Property Owner have reached an agreement that will not only resolve and improve access to the Ayer Commuter Rail Station but will enable the Ayer Rail Trail Commuter Surface Parking Lot to proceed and be completed.

The MBTA and the Property Owner have come to an agreement on a solution which will not only improve the public access to the Ayer Train Station but will clearly delineate the Property Owner's property from the public property and will now ensure commencement and completion of the \$4 million dollar Ayer Rail Trail Commuter Surface Parking Lot. Additionally, the offer by the Property Owner enables access to the train station to include not only an ADA compliant pedestrian access but also a proposed driveway with a vehicular drop-off and turn around (something that was not part of the original plan).

It is important to note that this proposed solution (often referred to as Option #1) has been reviewed and vetted by MART, MBTA, and the FTA and as a result meets all federal, state, and ADA requirements for access and for the construction of the surface lot. (See attached map)

The transfer of the land from the Property Owner is approximately 15,966 sq. ft. +/- and would be originally transferred to MART for \$1.00 and then permanently transferred to the Town of Ayer for \$1.00. *The Agreement per MBTA will include a permanent access to the train station replacing the current easement which was set to expire in 2061.* All other covenants on the Property Owner's property from the MBTA (i.e. providing a ticket station and bathrooms) would be removed upon transfer of the property.

Both the vehicular driveway and pedestrian access will not only be ADA compliant but will consist of appropriate lighting, landscaping, and other required safety features (Note: this design

phase will consist of a public hearing and input process organized and sponsored by the Town and MART).

At this time, MART will be working with the MBTA and the Property Owner to execute the necessary documents and transfers of the property. Additionally, on September 16, 2014, MART will provide the BOS with an update on the status of the entire project and what steps are underway.

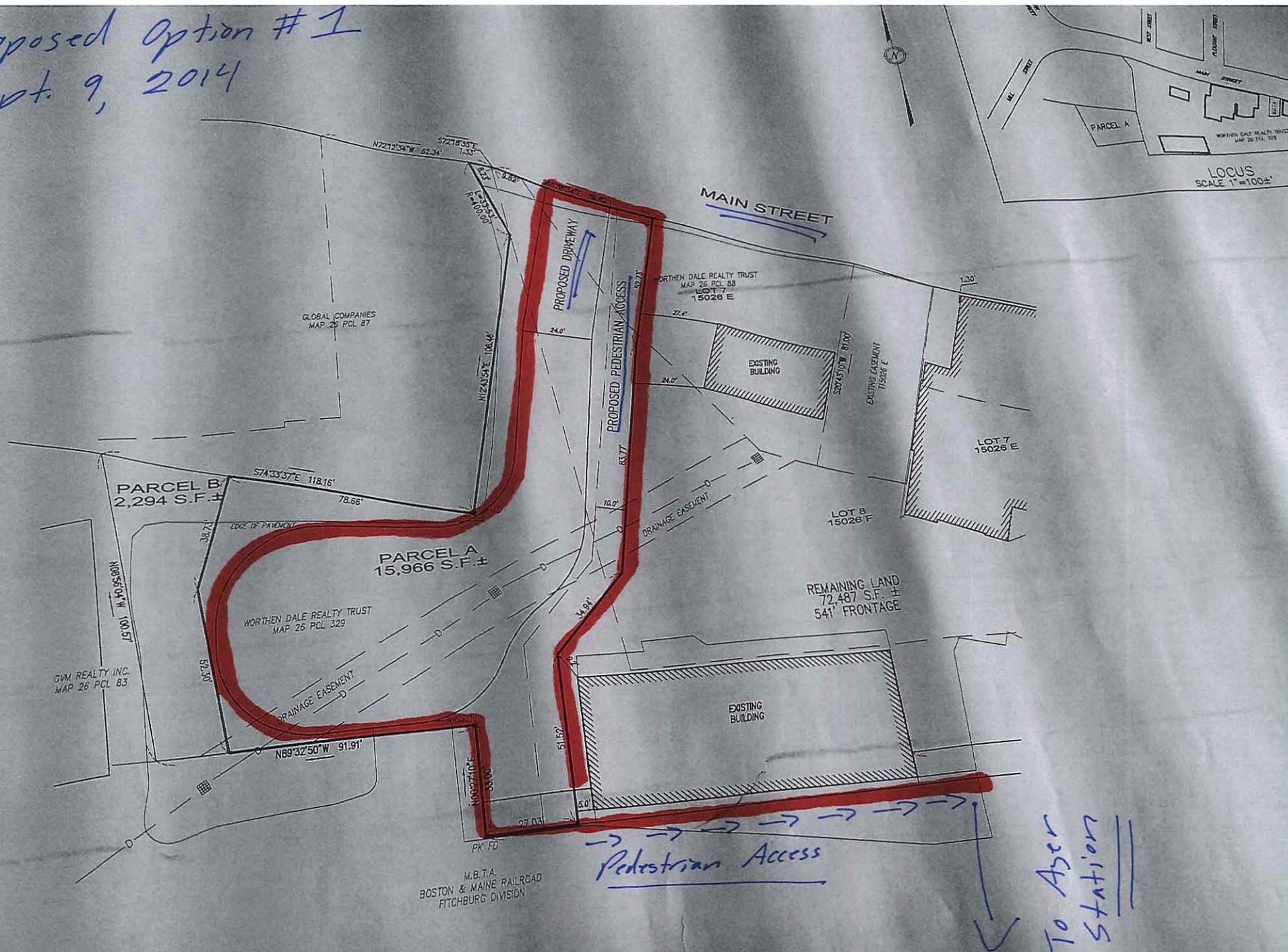
This is a true success story for the Town of Ayer as the result of the leadership of Selectman Hillman in bringing all parties to the table for resolution; to the ATSAC for organizing a most impressive public campaign to make this project a reality and for their continued involvement, input, and support; MART for their technical expertise; Senator Eldridge, Rep. Harrington, Rep. Benson, and our State Officials; Congresswoman Tsongas; the Ayer Board of Selectmen; the MBTA, especially Mr. Mark Boyle for ensuring a successful resolution; Mr. Phil Berry for working with the MBTA to resolve this issue; and most importantly all of the Citizens and Commuters who believe in the importance of the commuter rail station to the transportation and economic development needs of not only Ayer but the region and the Commonwealth.

There is more work to be done but this marks a significant benchmark in moving this project not only to completion but to reality. There will be more public hearings, public meetings, and updates in the near future.

Thank you.

Attachment: Proposed Option #1 Map

Proposed Option #1  
Sept. 9, 2014



→ → → → →  
Pedestrian Access  
↓  
To Aser  
Station

LEGEND

# Town of Ayer

## Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



TO: Ayer Board of Selectmen  
FR: David Maher  
RE: Economic Development Update  
Cc: Robert Pontbriand  
DT: September 10, 2014

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Honorable Members:

I would like to come before the Board on Sept. 16 to offer an economic development update of my office's current activities in and around our Town.

Attached you will find an outline of some of the areas that I will inform you at that meeting. If you have additional questions about any project I have not listed please don't hesitate to call me so that I can be prepared with the information if requested at the September 16<sup>th</sup> meeting.

A handwritten signature in blue ink that reads 'David Maher'. The signature is fluid and cursive.

David Maher  
Town of Ayer  
Office of Community and Economic Development

# Town of Ayer

## Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



### Economic Development Update For Board of Selectmen Meeting September 16, 2014

#### Areas of Concentration

##### Ayer Rotary Area

###### Projects to include

- 6.2 acres current Maxant Property
- Wendy's
- Taco Bell
- Global Fuel and Convenience Location

##### Downtown

- Available property
- OpenAyer Fest
- Walking Tour/ Historic Commission Project
- Map and Legend of Downtown Services located at the Rail Trail for cyclers and walkers

##### Fitchburg Road 2-A

- New Chain Department Store on former car wash site
- Development at Merrimac Warehouse
- Support of Jiffy Lube employee efforts

##### West Main Road

- Update on Brighter Horizons new company office
- Update from Devens Shopping Center owner

##### Ongoing Projects to Complete

- Second draft of the local business director
- Continuation and completion of all real estate listings to be located and added to the Ayer Town website page
- CDBG activities: continuation of re-opened and new grant

##### Industrial Area Companies

- Support of Vitasoy remediation efforts

# Board of Selectmen

MEETING TUESDAYS AT 7:00 P.M. • UPPER TOWN HALL • 1 MAIN STREET • AYER, MASSACHUSETTS 01432



Tel. (978) 772-8220  
Fax. (978) 772-3017

Town Administrator  
(978) 772-8210

## MEMORANDUM

**DATE:** September 12, 2014

**TO:** Ayer Board of Selectmen

**FROM:** Robert A. Pontbriand  
Town Administrator

**SUBJECT: Process for Review and Update of the Town's Comprehensive Plan**

Dear Honorable Selectmen,

As the Board is aware, the importance of a Comprehensive Plan is fundamental to the Town of Ayer to help define its vision for the Town; goals and plans for the Town; and to serve as a guiding framework for the Town to move forward in a responsible, proactive, and organized manner.

Completed and updated in 2005, the Town of Ayer Comprehensive Plan should be reviewed and updated every ten (10) years. That time is upon the Town. Therefore, I am respectfully notifying and seeking support from the Board of Selectmen to commence with a review process to update the Town's Comprehensive Plan.

Therefore, I am respectfully proposing the following general plan:

1. The Town Administrator will meet with the original Comprehensive Plan Committee from 2005 to do an initial review of the 2005 Plan to determine what has been accomplished?; what has not been accomplished?; what is still relevant?; and general observations culminating in a summary from the Town Administrator.
2. Upon completion of the above a recommendation to the Board of Selectmen regarding the reconstitution of a new Comprehensive Plan Committee to include funding for a consultant to be put forth in the FY 2016 Budget.
3. Upon the reconstitution of a Comprehensive Plan Committee and institutional commitment for funding for a consultant, the Committee would put forth a timeline for the Comprehensive Plan Review (including significant public input sessions, hearings, focus groups, and other involvement; regular updates to the BOS and Public on progress of the Plan Review). The Comprehensive Plan Committee will have a web-page on the Town's web-site which will serve as a repository for all documents and materials related

to this project as well as video-links of meetings and minutes. The current Comprehensive Plan is on the web-site with its own page as well as a link from the BOS page.

4. The final goal being not only a public presentation of the final review of the Comprehensive Plan but adoption by the Town. Upon adoption, it is imperative that institutional support of the implementation, monitoring, and future review of the Plan exists. The BOS and Administration must be committed to the implementation of the Comprehensive Plan to ensure success.

On Tuesday, September 16, 2014, I am respectfully seeking BOS approval of my proposed plan to commence with the Comprehensive Plan Review and Update as well as a commitment from the BOS to make this project a goal of the BOS and Town Administrator and finally to consider support of funding for a professional consultant to assist in this effort.

I want to stress that this must and will be a very public process and as always this proposed plan is open to your suggestions, ideas, revisions etc.

Thank you for your time and consideration.

**Ayer Board of Selectmen  
Meeting Minutes For  
Tuesday, August 19, 2014, 7pm  
Ayer Town Hall – 1<sup>st</sup> Floor Meeting Room**

**BOS Attendance:** C. Hillman (Chair); J. Livingston (Vice Chair); G. Luca (Clerk)

**Also in Attendance:** R. Pontbriand (Town Administrator)

**Not Present:** C. Antonellis (Assistant to the Town Administrator)

**Call To Order:** The meeting was called to order in open session at 7pm by Chairman Hillman.

There were no amendments to the meeting agenda.

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve the meeting agenda. **Motion Passed 3-0.**

C. Hillman stated that he had one announcement that the Curbside Working Group would make its presentation to the BOS on Tuesday, August 26, 2014 at 7pm. This would not be a public input session but a meeting of the BOS to hear the report of the Curbside Working Group.

Resident(s) questioned why the meeting had been changed from August 19<sup>th</sup> to August 26<sup>th</sup>.

C. Hillman explained that as the BOS Chair he sets the Agenda and he made the decision to move the meeting from August 19<sup>th</sup> to August 26<sup>th</sup> due to the full agenda on August 19<sup>th</sup> and to allow ample time for the presentation. He offered apologies to any confusion or inconvenience this may have caused.

J. Livingston also offered apologies on the meeting change as she was the one at the previous Public Meeting of the Work Group to announce the meeting on August 19<sup>th</sup> but that the Chair does have the right under BOS Policies and Procedures to change the agenda.

C. Hillman stated that on August 26<sup>th</sup>, the Curbside Working Group would present to the BOS and that no decision on implementation would be made.

**PUBLIC INPUT**

Charles Miller (Resident): Mr. Miller asked if the meeting on August 26<sup>th</sup> would be in the Great Hall or the First Floor Meeting Room at 7pm?

C. Hillman stated that the meeting would be in the Great Hall.

Pauline Conley (Resident): Ms. Conley presented a Petition on behalf of Mr. Harvey Flagg containing 603 signatures of residents wanting to keep the Transfer Station. Ms. Conley read the Petition into the record and signed the document. She stated that there is confusion in Town that Town Meeting only controls the issue(s) of funding whereas the People have no say on the

decision unless the BOS gives it to them. Ms. Conley recommended to the BOS that they consider taking a formal vote either tonight or on August 26<sup>th</sup> to keep the Transfer Station Open.

J. Livingston stated that she wanted to clarify that she wants to see the financial numbers from the Work Group and for the Public to have that information as well. She has maintained from the beginning that she wanted to see the numbers. She is not in favor of closing the Transfer Station but if the numbers show significant savings then I would say to the residents to reevaluate.

Mary Spinner (Resident) asked the BOS about the Shirley Street Bridge and stated that Residents are concerned about the bridge being closed and the integrity of the road around the bridge as well as the issues of snow removal on that road.

C. Hillman stated that this issue would be discussed later under the DPW Superintendents Report.

### **Veterans Agent Report**

Mr. Mike Detillion, Ayer Veteran's Agent appeared before the BOS regarding a proposal for a dedicated chair in honor of POWs/MIAs as part of a program sponsored by the organization Rolling Thunder.

C. Hillman asked if this could be integrated with the Schools.

M. Detillion said yes and that the POW/MIA Chair of Honor could be moved around the Town. He further explained that his department would pay for the Chair which is approximately \$126.00.

The BOS agreed that this was a great program and an honor and tribute to all POWs/MIAs.

### **Dr. Mary Malone, ASRSD School Superintendent and Mr. Pat Kelley, Member of the ASRSD School Committee appeared before the BOS to make a brief presentation.**

Dr. Malone announced that the new high school would open on September 2<sup>nd</sup> and thanked the taxpayers for their support. The project remains on time and on budget. She outlined her three themes/goals for the District: 1.) Retain and Attract New Students; 2.) Move ASRSD into the 21<sup>st</sup> Century; and 3.) Strengthen/Solidify the Partnership between Ayer, Shirley and the ASRSD.

P. Kelley stated that since regionalization in 2011 the ASRSD has been focused on creating a solid foundation to build the District upon. Hiring Dr. Malone has been a very positive move by the ASRSD.

Dr. Malone stated that a lot has been accomplished in four years: regionalization; build new high school/renovation; and the hiring of a new superintendent!

G. Luca stated that he wishes Dr. Malone luck and that he looks forward to working with her.

Dr. Malone invited the BOS to an August 27<sup>th</sup> Welcome Back event for teachers and staff at the ASRSD Middle school in Shirley. She also thanked C. Hillman for his efforts in coordinating the Middlesex County Sheriff's Inmates to do work at the Lura White School and they will also be doing cleaning and work at the schools over Christmas break, February break, and April vacation.

C. Hillman thanked Dr. Malone and said that she has an open invitation to appear before the BOS anytime.

### **Common Victualler's License for Subayer**

The Town Administrator provided an overview of the Common Victualler's License for Subayer and stated that the application was in good order. The owners of Subayer were also present.

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve the Common Victualler's License for Subayer. **Motion Passed 3-0.**

### **Ayer Package Store Inc. Request for Change Manager**

Attorney Roy Pastor and Mr. David Berry appeared before the BOS. The Town Administrator stated that the Form 43 Application to the ABCC was in good order.

**MOTION:** A Motion was made by J. Livingston and seconded by G. Luca to approve the Form 43 Change of Manager Application for submission to the ABCC. **Motion Passed 3-0.**

### **MRPC Hazard Mitigation Plan Presentation**

Mr. Sam Lawton of the MRPC appeared before the BOS to make a presentation on the Town of Ayer's Hazard Mitigation Plan. He passed out copies of the Plan to the BOS and made a power-point presentation. Ayer's Plan expired on July 2014. He asked the Town to review the Plan over the next two weeks and submit any changes to the MRPC. Upon receipt of the changes, MRPC will finalize the Plan and ask the BOS to sign a certificate approving the plan.

The Town Administrator stated that he would have the Chiefs and DPW Superintendent review the Plan and submit any changes to the MRPC.

### **DPW Superintendent's Report**

Superintendent Wetzel appeared before the BOS regarding the following items.

1. **Change Order for PJ Albert in the amount of \$44,000.**

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve the Change Order. **Motion Passed 3-0.**

2. Mountain Laurel Road Acceptance

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve acceptance of the Deed and Easements as modified for Mt. Laurel Road. Motion Passed 3-0.

3. Pleasant Street and Taft Street Water Main Bid Award.

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve the Bid Award for the Pleasant Street and Taft Street Water Main. Motion Passed 3-0.

4. Sandy Pond Traffic Proposal

Superintendent Wetzel discussed his findings and recommendations with respect to improving traffic control on Sandy Pond Road as previously requested by the BOS. He recommended the installation of two (2) solar powered radar speed signs on Sandy Pond Road. The signs cost \$4,000 each.

C. Hillman stated that he would like to see a third sign in the vicinity of the East Main Street Bridge.

J. Livingston stated that a flashing Stop Sign where Central Ave meets Columbia Street is needed as many vehicles fail to fully stop or have a rolling stop as they approach that intersection.

Superintendent Wetzel suggested that the signs be funded from the UDAG Recycled Funds.

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve \$15,000 from the Town's UDAG Account (Recycled Funds) for the purchase of two (2) solar powered radar speed signs for Sandy Pond Road with a possible third for the vicinity of the East Main Street Bridge on the approach coming into Downtown. Motion Passed 3-0.

5. Private Way Snow Removal Policy and Unaccepted Roads Work Group

Superintendent Wetzel discussed the issues of private way snow removal with the BOS. He stated that there should be a yearly inspection of each private way with notification to the residents of needed repairs and the establishment of a minimum clearance on each private way. He would start the process this year and finalize next year.

J. Livingston asked why snow removal on private ways is an issue now. She is aware of the Old Groton Road issues but stated that the Town has been maintaining the other private ways in terms of snow removal for years.

Superintendent Wetzel stated that the Residents of Old Groton Road have made this into a larger issue and that this would be a good transition point into the next topic of the Unaccepted Roads Work Group Proposal.

Superintendent Wetzel presented his proposal for the BOS to approve an Unaccepted Roads Work Group charged with looking at the issues and costs of transitioning unaccepted roads into public roads. He presented his Proposal Memo to the BOS.

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to approve the Unaccepted Roads Work Group as outlined in the Memo submitted by Superintendent Wetzel. **Motion Passed 3-0.**

Superintendent Wetzel provided an overview of the Shirley Road Bridge issue(s) to the BOS. He stated that in the second week of July 2014, a portion of the Shirley Road Bridge washed out. The abutment to the bridge is stable but there have been past problems with the bridge. The bridge is town owned. The corrugated metal underneath the bridge corroded and needs repair. The bridge is currently barricaded and there are signs up notifying the public. DPW will make a pedestrian path thru that area. The bridge being closed poses no public safety issues.

C. Hillman asked how long to repair the bridge.

Superintendent Wetzel stated that he will have a proposal for the 2015 Annual Town Meeting

#### **Economic Development Director's Report**

David Maher, Director of Economic Development appeared before the BOS regarding the following items:

1. **FY 2011 EDF Grant** (D. Maher presented a Memo to the BOS)

**MOTION:** A Motion was made by J. Livingston and seconded G. Luca to approve the FY 2011 CDBG Grant Extension and Budget for the purposes of re-opening the grant for funds in the amount of \$70,000 for signature by the BOS Chair. **Motion Passed 3-0**

2. **FY 2015 CDBG Public Input Process** (D. Maher presented a Memo to the BOS)

**MOTION:** A Motion was made by J. Livingston and seconded by G. Luca to authorize the Public Input Process for the FY 2015 CDBG Grant with public input session to occur on September 3<sup>rd</sup>, 9<sup>th</sup>, and 24<sup>th</sup>. **Motion Passes 3-0.**

3. **Proposal for the Expansion of Community Development Hours** (D. Maher presented a Memo to the BOS)

D. Maher proposed to the BOS that with the increase in work as well as grant funding related to the CDBG Program, he is requesting that the BOS increase the CDBG Program Manager's hours from sixteen (16) hours a week to twenty-four (24) hours a week. Of these 24 hours, sixteen will

be funded from the CDBG Grant and 8 hours will be funded from the Economic Development Department Budget.

G. Luca stated that he did not object to the proposal and that Ms. Hersey does a great job. He would like the proposal run by the Town Accountant; Impact Bargained with AFSCME 93 since it is a Union position and that it is clearly understood that funding of the position is subject to the availability of CDBG grant funds.

C. Hillman concurred with G. Luca and stated that this was in no way a reflection of Ms. Hersey's work for the Town.

Alicia Hersey, CDBG Program Manager addressed the BOS stating that she would not be taking the Town's Health Insurance and that any fringe benefits would be charged to the CDBG Grant Program Income and not the Town and finally that the AFSCME 93 Union had no objection.

The Town Administrator recommended that the BOS could approve the proposal subject to the satisfaction of three criteria: 1.) Successful Impact Bargaining with the Union; 2.) Analysis of any Budget Impact; and 3.) Increase in hours subject to the availability of CDBG Grant Funds.

**MOTION: A Motion was made by J. Livingston and seconded by G. Luca to authorize and approve the increase in the CDBG Program Manager's Hours to 24 hours a week contingent on the successful impact bargaining with the Union; analysis of any budget impact; and subject to the availability of CDBG Grant Funds. Motion Passed 3-0.**

### **Town Administrator's Report**

The Town Administrator presented the following items for BOS consideration/approval.

1. **Report from Executive Session(s) per OML** (Oral Report)  
In accordance with the provisions of the Open Meeting Law, the Town Administrator reported on concluded matters of the BOS previous Executive Sessions to include successful negotiation of a three year personal services contract for the Benefits and Payroll Manager and final approval of the reclassification of the DPW Office and Business Manager Position
2. **MGL Chapter 61 Recommendation from Town Counsel** (Memo and letter provided to BOS)

The Town Administrator advised that upon review of Town Counsel it appears that MGL Chapter 61 was not followed by the Developer with respect to the Riley Jane Farm and Nashua Street Extension Projects in that the lands are classified as Forestry and that the Developer did not issue proper notice to convert from Forestry land to developable land nor has the Town been given the right of first refusal under MGL Chapter 61.

**MOTION: A Motion was made by G. Luca and seconded by J. Livingston to authorize Town Counsel to proceed in the manner outlined by Town Counsel in their letter dated August 14, 2014 to issue a demand to the Developer that the provisions of MGL Chapter 61 must be followed by law. Motion Passed 3-0.**

Beth Sudeymyer (Resident) informed the BOS about the issue as to whether the proposed development project had a Forestry Plan filed with DCR as well as the concern that the Town only has 120 days to make a decision regarding the Right of First Refusal.

Mary Spinner (Resident) stated that she talked to the Town Assessor and that the Town is supposed to have a Public Hearing on the matter.

Ruth Maxant (Resident) stated that the Planning Board should rescind its approval of the Definitive Plan for Nashua Street Ext.

Christa Maxant (Resident) stated that the community is disappointed in the Planning Board and that the issues including the Chapter 61 procedures are not being properly addressed by the Planning Board or the Developer.

3. **Award of Contract for Town Hall Windows Replacement Project** (Memo provided to BOS)

**MOTION: A Motion was made by J. Livingston and seconded by G. Luca to approve the award of contract to Renewal By Andersen for the Town Hall Windows Replacement Project in the amount of \$159,618.00. Motion Passed 3-0.**

4. **Opening of the Fall Town Meeting Warrant**

**MOTION:** A Motion was made by G. Luca and seconded by J. Livingston to officially open the Fall Town Meeting Warrant with a deadline for Citizens Petitions of Friday, October 3, 2014 at 12:30pm. Motion Passed 3-0.

The Ayer Fall Town Meeting will take place on Monday, October 27, 2014 at 7pm in the Great Hall of Town Hall.

5. **MJTC Appointment**

The Town Administrator advised the BOS that at the request of the Montachusett Joint Transportation Committee (MJTC) they have asked that each Member Community officially designate one primary voting member. The Town Administrator recommended Ms. Pauline Hamel.

**MOTION: A Motion was made by G. Luca and seconded by J. Livingston to designate Ms. Pauline Hamel as the Town of Ayer's primary voting representative and member to the MJTC. Motion Passed 3-0.**

**6. MNHG Appointment**

The Town Administrator recommended that the BOS appoint Mr. Kevin Johnston, Ayer Benefits and Payroll Manager as the Town's primary representative to the Minuteman Nashoba Health Group (MNHG) with the Town Administrator continuing to serve as the alternate representative.

**MOTION: A Motion was made by G. Luca and seconded by J. Livingston to appoint Mr. Kevin Johnston as the Town's primary representative to the Minuteman Nashoba Health Group (MNHG). Motion Passed 3-0.**

**7. Old Fire Station Real Estate Appraisal (14 Washington Street)**

The Town Administrator advised that in accordance with MGL Chapter 30B, the Town must have a real estate appraisal of the Old Fire Station prior to the execution of a purchase and sales agreement and the sale of the property. The Town Administrator recommended that the BOS authorize \$1,800.00 for the appraisal to be charges against the Town's UDAG Account (recycled funds) and the amount of \$1,800.00 to be replenished to the UDAG Account from the proceeds of the sale of the Old Fire Station.

**MOTION: A Motion was made by G. Luca and seconded by J. Livingston to authorize \$1,800 from the Town's UDAG Account (recycled funds) for the purposes of conducting a real estate appraisal of the Old Fire Station at 14 Washington Street and to replenish the \$1,800 back into the UDAG Account from the proceeds of the sale of the property. Motion Passed 3-0.**

**New Business**

**Planning Board (BOS Discussion)**

J. Livingston stated that Town Meeting voted on May 12, 2014 to zero out the Planning and ZBA Budgets for FY 2015. The BOS cannot override Town Meeting simply because four people on the Planning Board want them to. This is a Democracy and the People voted. No one to this date has ever asked the BOS to call a Special Town Meeting. A citizen's petition for a Special Town Meeting requires 200 signatures and no petition has come forward in over three months. The BOS cannot and will not override Town Meeting.

C. Hillman stated that if you do not like the verdict (the vote of Town Meeting) you cannot ask for a new jury.

J. Livingston stated that when the Planning Board was supposed to meet in July only the Chairman was present. It is not the BOS's fault that the Planning Board did not have a quorum. The BOS does not let our Chair hang. On this issue of meeting postings, the Town Clerk posts

all meeting notices and agendas. It is not difficult for someone to type up an agenda and have the Town Clerk post it.

Payment and Bills of the Town's MGL Chapter 32B 9 A ½ Health Insurance Bills (Selectman Luca)

G. Luca stated that the Treasurer refuses to do this in accordance with State Law.

J. Livingston stated that it is the law in Massachusetts and that just because the Treasurer "doesn't agree with the law" does not mean she does not have to follow it. She read the Oath of Office taken by all Ayer Elected Official into the records which includes the statement "to uphold all the laws of the Commonwealth of Massachusetts"

Town Audit Report and Management Letter (Selectman Luca)

G. Luca stated that it appears that many of the recommendations of the Town's Management Letter are the same recommendations and I would like this matter put on the Agenda of the next meeting and to have the Town Accountant, Town Treasurer, Tax Collector, and Mr. Giusti present. I have also heard recently of money in various draws of Town Hall because the Treasurer was away and also vendors waiting for payments due to the Accounts Payables Checks being delays by the Treasurer.

JBOS Update (Selectman Luca)

G. Luca stated that JBOS has put him on a subcommittee to look at the zoning issues in Shirley for a 55 and over housing project which may require a Super Town Meeting in the Spring of 2015.

Grant Writer (Selectman Hillman)

C. Hillman stated that he would like to revisit the issue of the Town looking into hiring a Grant writer. We are missing out on Economic Development Grants.

G. Luca stated we should get information from other communities.

Town Administrator stated that he would gather information on this for the BOS.

Approval of Meeting Minutes:

Jan. 8, 2013 Moved by J. Livingston, seconded by C. Hillman. Minutes approved 3-0.  
Jan. 22, 2013 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.  
Mar. 26, 2013 Moved by J. Livingston, seconded by C. Hillman. Minutes approved 3-0.  
Apr. 23, 2013 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.  
May 7, 2013 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.  
May 21, 2013 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.  
June 4, 2013 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.

Apr. 22, 2014 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.  
July 15, 2014 Moved by J. Livingston, seconded by G. Luca. Minutes approved 3-0.

**MOTION to adjourn made by G. Luca and seconded by C. Hillman. Motion Passed 3-0.**

The Board of Selectmen adjourned at 10:10pm.

Recorded and submitted by R. Pontbriand, Town Administrator

Approved by the BOS on \_\_\_\_\_

Signed by \_\_\_\_\_, G. Luca, BOS Clerk

DRAFT

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



Tuesday, September 2, 2014 – 7:00pm

MEETING MINUTES

Selectmen in Attendance: Christopher Hillman, Chair; Jannice Livingston, Vice-Chair; Gary Luca, Clerk

Also in Attendance: Robert A. Pontbriand, Town Administrator  
Carly M. Antonellis, Assistant to the Town Administrator

**Call to Order:** The Open Session Meeting was called to order at 7:00 PM by Chairman Hillman.

**Review and Approve Agenda:** R. Pontbriand amended the agenda by adding a Common Victualler application under the 7:15 PM agenda item (New England Flatbread & Ale Company, Inc.) R. Pontbriand also asked that the 7:55 PM agenda item (Online Payment Contract for Parks & Recreation Department) and the approval of the August 19, 2014 be tabled until the September 16, 2014 meeting.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to approve the agenda, as amended.  
**Motion passes 3-0.**

**Public Input:** Ms. Mary Spinner spoke on behalf of Ms. Ruth Rhomenus who was inquiring about the handbook the Town made several years prior for new town elected officials. Ms. Spinner also noted that the audio on the live video of the ZBA meetings was hard to hear. Ms. Spinner also inquired about the timeline for the new town hall windows. Lastly, she inquired about \$250,000 in an escrow account for the Willows Development.

**Appointment to Zoning Board of Appeals:** Ms. Christa Maxant was introduced to the Board. Ms. Maxant wrote a letter to the Town Administrator that expressed interest in serving on the Zoning Board of Appeals.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to appoint Ms. Christa Maxant to a three year term on the Zoning Board of Appeals, term expiring on June 30, 2017. **Motion passes 3-0.**

**New England Flatbread & Ale Company - Common Victualler License Application:**

C. Hillman made a note because Mr. Keith Leighton (Vice President) is his second cousin; he contacted Town Counsel and the State Ethics Commission. Both advised that he would not be in violation of State Ethics Law if he voted; therefore he did not need to recuse himself.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to grant New England Flatbread & Ale Company a Common Victualler License. (License 233-14) **Motion passes 3-0.**

**Public Hearing – New England Flatbread & Ale Company:**

**MOTION:** Motion made by G. Luca and seconded by J. Livingston at 7:15 PM to open the Public Hearing

regarding the petition by MarkKeith Corp. seeking an All Alcohol License for New England Flatbread & Ale Company located at 9 Main Street Ayer. **Motion passes 3-0.**

G. Luca read hearing notice that was published on 8/20/14. There were no questions or concerns from the audience. Mr. Keith Leighton and Mr. Mark DiCicco gave an overview of the proposed restaurant.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to approve request for an All Alcohol License. **Motion passes 3-0.**

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to close the public hearing at 7:18 PM. **Motion passes 3-0.**

**Superintendent Mark Wetzel, DPW:** M. Wetzel announced that the contract for the Pleasant Street & Taft Street Water Main contract has been awarded to Boucher Construction of Leominster.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to approve the contract between the Town of Ayer and Boucher Construction for the Pleasant Street and Taft Streets Water Main replacement contract. **Motion passes 3-0.**

**Public Way Street Acceptance & Timeline:** R. Pontbriand explained the timeline of accepting the following streets: Deer Run, Partridge Run and Portions of Hickory Way and Old Farm Way. The Selectmen must approve the intent of the layout. Then the Planning Board will review, and the BOS will deliberate again before going on the Special Town Meeting warrant.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to approve layout intent of Deer Run, Partridge Run and portions of Hickory Way and Old Farm Way as outlined by Mullaney Engineering. **Motion passes 3-0.**

**Town Management Letter and Audit Discussion:** Auditor James Giusti from Giusti, Hingston and Company gave an overview of the management and audit letter done by Mr. Giusti dated June 27, 2014. The Town Accountant Lisa Gabree and Town Treasurer Stephanie Gintner were both present as well. C. Hillman read Town Clerk and Tax Collector Susan Copeland's memo dated September 2, 2014. The following issues were brought up: Old Motor Vehicle Excise Accounts Receivable, Old Property Tax Accounts Receivable, Tax Collector's Depository Bank Account and Ambulance Bank Account, and Non-Sufficient Funds Checks. The Board and R. Pontbriand brought up their concern with the Treasurer's Office not implementing MGL Chapter 32B Section 9A ½. S. Gintner asked that counsel look into the matter.

**Director Dave Maher, Office of Economic and Community Development:** D. Maher presented proposal from business owners David Berry, Calvin Moore and Mark DiCicco regarding a Harvest Festival on Friday October 3, 2014 and Saturday October 4, 2014. Business involved will be Carlin's, Billards, Lucia's and Markoh's. The business owners have been working with D. Maher, the Ayer Police Department and the Fire Department to ensure they are meeting all requirements.

**MOTION:** Motion made by G. Luca and seconded by J. Livingston to conditionally approve one day liquor licenses for the event if the business owners meet ABCC regulations, Police Chief's approval, and provide a detailed design schematic. **Motion passes 3-0.**

**BOS/General and Selectmen's Policies Approval:** C. Hillman congratulated J. Livingston for the impressive work she had done to rework the policies. J. Livingston presented the final drafts of the documents.

**MOTION:** Motion made by G. Luca and seconded by C. Hillman to approve both the General Policies and the Selectmen's Policies with an effective date of September 2, 2014. **Motion passes 3-0.**

**New Business/Selectmen's Questions:** C. Hillman gave an update on the MART parking/access issue and thanked Representative Sheila Harrington for her help with the issue.

The Board and R. Pontbriand briefly discussed the Town of Ayer using a grant writer to help town departments. R. Pontbriand is currently getting information from other municipalities.

**Approval of Meeting Minutes:** As discussed earlier the minutes of the August 19, 2014 meeting are being tabled until September 16, 2014.

**MOTION:** Motion made by G. Luca and seconded by C. Hillman to approve the minutes of August 26, 2014. **Motion passes 3-0.**

**New Business/Selectmen's Questions- Part 2**

**MOTION:** Motion made by G. Luca and seconded by C. Hillman to authorize the Town Administrator to set a joint meeting of the Board of Selectmen and Planning Board to appoint a new member. **Motion passes 3-0.**

G. Luca inquired about "Pay for Performance" incentive program and asked the Town Administrator to look into it.

G. Luca also thanked DPW Employee Dan Scott for service to the Town, as he will be retiring in the coming weeks.

**MOTION:** Motion made by C. Hillman and seconded by G. Luca at 9:59 PM to enter into executive session pursuant to MGL Chapter 30A, Section 21A, Exemption #2 Non Union Collective Bargaining Re: Police Chief Contract Negotiations; and Exemption #3 Collective Bargaining Re: WWTP Tanker Driver and Re: AFSCME 93 Town Hall/Clerical Contract MOA and to adjourn meeting from Executive Session. To discuss these matters in open session would be detrimental to the Town's negotiations strategy. By Roll Call Vote: C. Hillman, Yes; J. Livingston, Yes; G. Luca, Yes. **Motion passes 3-0.**

**Minutes Recorded and Submitted by Carly M. Antonellis**

**Minutes Approved by BOS:** \_\_\_\_\_

**Gary J. Luca, Clerk:** \_\_\_\_\_