

**Selectmen's Meeting- Tuesday, OCTOBER 16, 2012**  
**Ayer Town Hall, 1st Floor Meeting Room, Main St., Ayer, MA**  
**on Town of Ayer Website [www.ayer.ma.us](http://www.ayer.ma.us)**

James M. Fay, Chairman	X	Christopher R. Hillman, Member	X
Frank F. Maxant, Vice-Chair	X	Gary J. Luca, Member	X
Pauline Conley, Clerk	X	Robert Pontbriand, Town Administrator	X
Janet S. Lewis, Secretary	X		

7:05p.m . Chairman Fay called the meeting to order.

**Agenda Item #1. Announcements-Review and approve Agenda**

Chairman Fay announced the Selectmen's meeting schedule: Tuesday, October 30th, 2012, Tuesday, November 13, 2012 and Tuesday, November 27, 2012 due to the first Tuesday in November being the Presidential Election 11-6-12.

\* The Board approved a One Day Beer & Wine License for St. Mary's Church Supper on Saturday, October 20, 2012 from 5-9p.m. Motion to approve made by Selectman Luca, 2nd by Selectman Maxant, VOTE: unanimous, so moved.

\*4th of July Thanksgiving Basket announced by Chair to be displayed in Selectmen's Office and raffle tickets available at November Elections 11-6-12 & 11-17-12.

\*Last call for Memorial Garden Plaque Veterans Book -information collected by the Historical Commission to be housed at Ayer Library. Chairman Fay requested the Town Administrator draft letter for mailing to Memorial Garden Plaque Veterans. Selectman Maxant cautioning Board to violation of state statue re sending out letters.

**Agenda Item #2. Public Input-** Chairman Fay requested if there was anyone present wishing to speak with the Board under Public Input.

Kim Phrel-Sandy Pond Rd., resident, stated her concerns re tractor-trailer trucks turning onto Westford Rd. by the Historical Schoolhouse breaking down curbing/ hitting boulders and moving them, urging the Board to reduce speed by these vehicles. Chairman Fay advised to this issue a longstanding problem, everything is being done that can be done by the Board. Ms. Phrel suggesting not to allow trucks to take that right off Westford Rd. onto Sandy Pond Rd. Selectman Hillman clarifying Ms. Phrel 's concerns to be sure he understood, looking for the Board's assistance to not allow trucks to turn right onto Sandy Pond into oncoming traffic due to the trucks having to go into the other lane and sometime into yard of the house adjacent to Westford Rd. taking out street sign and rocks suggesting the Board have the Chief of Police at the next Selectmen's to give update and what it would take to make law re no right turn at this intersection. Selectman Luca stating back in 2004 Ayer/Littleton had investigated using Chapter 90 funds to redesign intersection of Willow Rd. & 110 to resolve this issue under Transportation Bond Bill. Ms. Spinner alluded to Board meeting back in late 2004-2005 with Senator Resor re this redesign, transportation funding lost in State Budget. Selectman Maxant urging Mrs. Phrel to contact the Town's Legislators to seek their assistance/support. The Board requested the Chief be notified to attend the Board's 10-30-12 meeting re this issue.

Edward Ouellette-Grot/Harv Rd.-Residents unable to attend Town Meeting questioning their ability to vote on articles thru absentee/proxy ballot. Mr. Ouellette feeling current system does not reflect/represent what the people want, requesting to update the Town's system to provide the opportunity for all the Town's residents to be able to vote, and suggesting secret ballot option as well at Town Meeting. The Board advised to the Town Moderator deciding upon Secret ballot and would advise him to Mr. Ouellette's concerns. The Board advised Mr. Ouellette to the Selectmen looking into holding Town Meetings on Saturdays from 10-4 with a break for lunch to attract larger population of residents. Mr. Ouellette left his letter for the Board's review.

Westford Road -residents- Property Enforcement-McNiff's Farm-Board was informed to recent accident on Westford Road involving cows in the road causing property damage raising concerns re public safety. Farm having gas cans, propane tanks, old cars/trucks on property leaking fluids, engine parts all along side of house/ buildings in disrepair, looks structurally unsound . Concerns re safety of animals-bull/ cows in roadway, safety of children in area and environment questioning if Police, Fire, Board of Health and Building Inspector have looked at. The Board requested update from all above re what is/ not allowed on property. Selectman Conley advising to new zoning by-law being a good reference. The Board requested to have the Building Inspector present and the property owner for their next meeting on the 30th.

**Agenda Item #2 Public Hearing-All Alcohol License Transfer C.R.Pierce-J.Timothy Bresnahan to Prit Patel-1 Barnum Rd.** -Chairman Fay requested Selectman Conley, Clerk open the Public Hearing by reading the Legal Notice published in the Nashoba Publications the weeks of 10-5-12 and 10-12-12 into the record. Present for the Hearing, Atty. Roy Pastor representing Prit Patel, J. Timothy Bresnahan, his Attorney representing C.R. Pierce-Atty. Thomas Gibbons, and Atty. Richard Larking representing Traffic Circle Liquors, and numerous business owners in Town. Atty. Pastor opened the discussion by stating Mr. Patel is seeking the transfer of C.R. Pierce's All Alcohol Package Store's existing License to One Barnum Road and gave the Board a brief background re Mr. Patel's business history i.e. owns and operates Roux's Mkt. in Shirley, MA, for 15 years, citizen of the U.S. Selectman Hillman sought clarification re size of the building and advised to building being 1,500 sq. ft. Selectman Conley questioning if store would be variety combination retail package store and advised on a smaller scale. Selectman Luca stated his opposition to having another package store in Town feeling present businesses have enough competition stating he is not apt to give out another license. Selectman Conley stating you can't just say no without legal reason competition is not reason to deny. Selectman Maxant stating he falls back on basic principle. . .let market decide. Chairman Fay stating he felt Town was saturated enough with alcohol licenses, population only growing by 100 residents. Atty. Gibbons spoke to Chapter 39A citing reasons Licensing Board can only vote to deny and Mr. Patel's application not falling under. Atty. Pastor stating with the growing Devens population /Business Developments and along with new growth locally Ayer is gateway to growing area, criteria for Alcohol Licenses very specific to which his client has met. Chairman Fay requested if there were abutters present wishing to speak for or against petition before the Board. Atty. Richard Larkin stated he represented Traffic Circle Liquors d/b/a Jack-O-Lantern Inc. advising to Mark Fermanian, employee of Gervais Ford and stakeholder in Traffic Circle Liquors present and not participating in discussion recognizing him also as Chair of Ayer Planning Board. Atty. Larkin cited Section 23 of Chapter 138- 1st paragraph re provisions for new license i.e. public need, location, etc. challenging if license appropriate -is license still in operation or has it lapsed. Atty. Larkin stated location is in high water table area in the Flood Plain/ aquifer protection district and introduced Steve Mullaney of S. Mullaney Engineers who confirmed location being in the Town's Aquifer District. Atty. Pastor objecting to Professional Engineer being brought in, stating location is zoned properly in the General Business area. Mr. Mullaney concurred parcel is zoned General Business but history of parcel housed professional offices advising to retail store requiring double the parking for customers and delivery trucks i.e. drop off/pick-up service of goods, etc. stating a retail business at this location does not meet the parking space/s requirement. More arguments heard from Atty. Gibbons challenging change of use not being the Board of Selectmen that decides that, only if it's in the best interest of the public good. Selectman Hillman stated Mr. Patel met all the requirements, it is his investment if he feels he can operate retail store he has the right to do so. Selectman Maxant questioning if C.R. Pierce's license is still active seeking assurances before the Board acts on. Chairman Fay requesting the Board's pleasure to continue Hearing to clarify if license is still active. Atty. Larkin reiterating public need and parking issue/s also citing case law/s. Atty. Gibbons spoke to appropriateness of license still being active. Abutter Robert Hammond wished clarification why he and not his neighbor received abutter notice and assured to Assessor's Office certifying list of abutters. Selectman Conley moved the Board vote to approve the All Alcohol Package Store License transfer from C.R. Pierce-J. Timothy Bresnahan-30 Main St., Ayer, MA to Prit Patel to One Barnum Rd., Ayer, MA, Selectman Maxant 2nd by the motion for discussion requesting to add amendment: subject to license being verified by ABCC to still being active, Chairman Fay asked Selectman Conley if she would accept the amendment, Selectman Conley stating no, amendment lost, Chairman Fay called the Vote on the original motion by Selectman Conley: Selectman Conley aye, Selectman Hillman aye. Selectman Maxant aye, Selectman Luca no, Chairman Fay no, 3-2 motion passes.

**Agenda Item #3. Economic Development Director's Report**-The Board met with David Maher & Susan Provencher  
**1. Memo(Community Development Block Grant Program Monitoring Report)- DHCD Findings**-Mr. Maher updated the Board to monitoring report re Grant #528 Fletcher Building-in the amount of \$750K to which the Town has thirty (30) days to respond. Mr. Maher advising the Board to there being no findings of non-compliance as a result of the financial review. The Board reviewed the Town's response to DHCD Manager Mark Siegenthaler re corrective actions to the findings dated 10-16-12 per the Town Administrator's review and satisfaction. Selectman Maxant suggesting the Board correct the 2nd sentence in the first paragraph stating CDBG support over the years has been instrumental in helping Ayer become the thriving Town.....removing millions of dollars etc. and under Corrective actions #1.restatement. Mr. Maher to redo letter. Selectman Luca moved the Board vote to approve the letter as amended and authorize the Chairman's signature, 2nd by Selectman Conley, requesting changes be forwarded to her via email, VOTE: unanimous, moved.

**Agenda Item #4. Supt. Wetzels' Report**-The Board met with Mark Wetzel.

**1. Fy-13 Paving Bid**- Selectman Luca moved the Board award the Bid for the Fy-13 Paving to PJ Albert Inc, of Fitchburg, MA the low bidder, funded under Chapter 90 Funds based upon PJ Albert's unit prices bid dated 10-16-12 with the option to extend the contract period for two additional years, 2nd by Selectman Conley Vote, Unanimous, so moved. (see attached)  
**2. Grove Pond Wastewater Treatment Plant-Engineering Amendment for Onsite Engineering**-Selectman Conley moved the Board vote to approve Onsite Engineering Amendment #2 for the Grove Pond Waste Water Treatment Plant additional scope

of work not to exceed \$8,100.00 for the Grove Pond WTP redesign and authorize the Chairman's signature, 2nd by Selectman Luca, VOTE: unanimous, so moved. Supt. Wetzel stating the changes to the site design, chemical feed system and added instrumentation to the existing filters would save the Town approximately \$700K in revised plans.

3. Hoyle Tanner Associates General Services Agreement-Wastewater Collection-Supt. Wetzel updated the Board to Town of Groton indefinitely postponing the sewer tie-in intermunicipal agreement with the town of Ayer (Westford Rd. area) and of HTA's assisting the town of re this evaluation as well as performing I/I investigations related to high wet weather flows in this area. Selectman Luca moved the Board vote to approve HTA's Professional Engineering Services dated 10-16-12, 2nd by Selectman Conley who noted the professional liability indemnification changed to \$2million added with signatures by the Board, VOTE: unanimous, so moved. Selectman Conley moved the Board vote to approve HTA's Task Order No. 2012-01 dated 9-13-12 in the amount not to exceed \$7,500.00 with signature by the Chair, 2nd by Selectman Luca, VOTE: unanimous, so moved.
4. WasteZero Contract Amendment-Selectman Conley moved the Board vote to approve Addendum #1 to the Contract between the Town and WasteZero dated 10-16-12 per Supt. Wetzel's recommendation for 33 gallon bags at \$0.257 and 15 gallon bags at \$0.158 based upon the Massachusetts State Contract FAC55, 2nd by Selectman Luca, VOTE: unanimous, so moved. (Selectman Conley reminding Supt. Wetzel to change the date on the contract to 10-16-12)
5. Crosswalks/sidewalks Update-Supt. Wetzel reporting no change to his 8-12-12 update. Supt. Wetzel advising to his looking into different paving materials re sidewalks/curbing. Supt. Wetzel advising to his looking at the whole traffic pattern re crosswalks at Park Street. Selectman Conley stating her concerns re to there being no good place re putting a crosswalk in on Park St. and Groton St./Napa area horrible location but probably the best area to place one and advising to Police Chief being against. Atty. Gibbons spoke to area in need of a crosswalk and supporting one. The Board discussed the placement of signage warning motorist to crosswalk ahead along Park St. Selectman Luca advising to rail trail weekend traffic very busy causing concern re bicyclist crossing onto Park St. re beverage/food purchases. Another area the Board looked at was Pond St./E. Main St. area. Selectman Maxant commented on wrong cross-walk design at Pond & E. Main Sts. must'nt happen again. Jim Pinard questioned who decides where to place crosswalks and advised to design standards, traffic patterns and Police Chief re public safety.
6. Pingry Hill Street Acceptance Update-Supt. Wetzel gave the Board an oral update to his recommendation supporting the street acceptances for Pingry Hill: Fox Run Drive, Quail Run, Haymeadow Lane between Fox Run Drive and Old Farm Way, and Old Farm Way between Haymeadow Lane and Holly Ridge Road. Ms. Janine Nichipor of 95 Haymeadow Lane requested the Board reconsider this street acceptance and introduced Attorney Nicosia who advised to very little work being done on Haymeadow Lane and potential for liability stating Town needs to re-look at streets to ensure they have been complied with. Selectman Conley questioned S. Mullaney Engineering Maps presented at Selectmen's Meeting and as builds presented to DPW questioning if they are showing the same lines re street completion, challenged by Ms. Nichipor, wishing assurances both are depicting the same lines. Selectman Conley fearing non-completed roads will cost the Town thousands of dollars posing a tremendous liability potential. Selectman Luca stating it is the developers responsibility stating the Town has recourse/ holds bonds (\$180K).
7. Balch Pond Dam/Dike/E. Main Street Spillway Update-Supt. Wetzel updated the Board to Evaluation Report being reviewed and Fire Chief copied. Supt. Wetzel advising to Board of Selectmen to be copied for 10-30-12 meeting and advising Board to clean up completed re access to dam. Ownership of dam awaiting DOT's response.
8. Rotary and Public Lands Sign Policy Update-The Board reviewed Mr. Vellante's memo re placement of political/election signage on Town property/rotary. Mr. Vellante's recommendation to the Board was for no signage to be allowed feeling signage distracting /potential for accidents and to authorize the DPW to remove any such signs and further for the Board to establish a policy re signage.
9. Spillway-Selectman Conley encouraging the Board receive monthly reports from the Fire Dept., Con-Com and Park Commissioners citing serious public safety concern re parking on roadway, bridge over dam, urging the Board have a meeting with all the parties involved as well as the need to put up a new fence and to ensure Town owns.
10. Water Shut-Off Policy- Supt. Wetzel to present at the next Selectmen's Meeting.
11. Supt. Wetzel advised the Board to Shut-Off Policy to be submitted for Board's 10-30-12 Meeting.

**Agenda Item #6. Mohammed Khan (MART) and George Kahale (MRPC)**

1. Ayer Commuter Rail Surface Parking Lot Facility Update-The Board welcomed Mohammed Khan and George Kahale to the meeting. Mohammed Khan announced the Federal Transit Administration commitment of \$3.2 million dollars for the expanded commuter rail parking lot proposal for Park Street. Mohammed Khan advising to Congresswoman Tsongas presenting the check on Monday, October 22, 2012 at 10:00a. m. at the Rail Trail Parking lot. Mr. Pontbriand stated that the parking lot was identified as the number one priority when he was hired in 2010 noting that the lot remains a work in progress. Mr. Pontbriand reminded the Board to the Board voting on 5-17-12 to fund \$266,667 from UDAG, \$266,667 to come from Montachusset Area Regional Transit Authority (MART) from a 2%loan secured by MART and the Town to

repay over a six year period in annual parking lot revenues (\$50k). Mr. Pontbriand advising to the Town awaiting MA DOT's word on the money (\$266,667 )as the Town qualified for a MassWorks Grant to cover the funding. Mohammed Khan advised to 100 parking spaces to be added to the lot to bring the total up to 180 spaces. Mr. Pontbriand advising all to the Park Street properties to not be taken by Eminent Domain. Mohammed Khan advising to MART planning on buying six (6) properties. Mr. Kahale advising to property owner being contacted and willing to sell their property then appraisals of the properties has to be done along with a 21E (contamination study) before the final negotiation of price for the property. Selectman Maxant requesting properties 4&5 be removed from the plan, if that's not a condition for the lot he would be opposed to it. Mr. Khan stating then that would reduce parking. Selectman Hillman requested if Selectman Maxant would change his mind if all the Park Street property owners were willing to sell. Selectman Maxant sting he would be opposed to losing that many taxpaying parcels on Park St. Mr. Kahale advised to a hard copy of the FTA approval is in the mail and ensuring the Board that approval is in hand electronically to proceed. Mr. Khan stating the bottom line is you can spend money once the DCR signs over its land and negotiations with property owners can begin (a two month process) and an RFP for an architect can begin. Selectman Conley rebutted the money would flow into a Town bank account but rather the Board would authorize MART to spend it. Mohammed Khan agreeing stating MART will send bills to the FTA which pays contractors advising to the citizens of Ayer will not spend a penny in terms of principal, interest, anything. Ayer will simply be a beneficiary of the project. Mart will administer payments if that is the desire of the Selectmen. The Board thanked Congresswoman Tsongas she did an excellent job pushing the funding without her this project would never have moved. Selectman Conley asked if MART would promise there would not be 5 or 6 levels of cars . Mohammed Khan stated this is your property if you authorize it we can build a garage for you we do what you desire and dictate. Town Administrator requested the Board vote to authorize MART to commence to negotiations with the six property owners and procure architect and design services. Selectman Maxant moved the Board vote to authorize MART to commence proceeding with the property owners, procure architect and design services, 2nd by Selectman Hillman, VOTE: Selectman Maxant aye, Selectman Hillman aye, Selectman Conley no, Selectman Luca recusing, Chairman Fay aye, 3 aye-1 no -1 recusal motion passes.

10:00p.m. Selectman Hillman moved to adjourn the meeting, 2nd by Selectman Conley VOTE: unanimous, so moved.

10:00p.m. Meeting adjourned.

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Pauline Conley, Clerk

DATE: \_\_\_\_\_