

Town of Ayer
Board of Selectmen
Ayer Town Hall – 1st Floor Meeting Room
Ayer, MA 01432



Tuesday July 14, 2015
Open Session Meeting Minutes

Broadcast and Recorded by APAC

Present: Jannice L. Livingston, Chair; Gary J. Luca, Vice-Chair; Christopher R. Hillman, Clerk

Robert A. Pontbriand, Town Administrator
Carly M. Antonellis, Assistant to the Town Administrator

Call to Order: J. Livingston called the meeting to order in Open Session at 6:05 PM.

Executive Session: A motion was made by J. Livingston and seconded by G. Luca to enter into Executive Session pursuant to Massachusetts General Laws c.30A, sec. 21A Exemption #3 (Collective Bargaining) AFSCME 93 Planning Board Office Manager and Exemption #3 (Litigation Strategy) Officer M. Power 111F. J. Livingston stated that to discuss these matters in Open Session would negatively impact the Town's negotiating strategy. **By Roll Call Vote:** J. Livingston, Aye; G. Luca, Aye. **Motion passes by Roll Call Vote 2-0.**

Reconvene in Open Session: J. Livingston reconvened the meeting in Open Session at 7:00 PM.

Review and Approve Agenda:

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the agenda. **Motion passed 3-0.**

Announcements: J. Livingston thanked all those involved for another successful year of 4th of July festivities.

Public Input: Tim Shaughnessy, 24 Westford Road, stated his concern relative to the odor being produced by VitaSoy, USA located at 1 New England Way. Walter M. Riglian, Chief Executive Officer and Frank Si, Senior Director of Manufacturing and Project Management of Vitasoy International Holdings, Ltd. were both present to discuss the odor problems. VitaSoy, USA was at the Board of Health meeting the previous evening and has a plan to follow-up directly with that Board. Mr. Riglian said that the problem was being taken very seriously by VitaSoy, USA. Mr. Si spoke to the system failures and the company's plans to remedy them. R. Pontbriand said that information sharing would go a long way to help alleviate the resident's concerns.

Appointment of Animal Control Officer: Chief William Murray of the Ayer Police Department introduced Ms. Julie Thomas as the recommended candidate for the Animal Control Officer position.

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint Ms. Julie Thomas to the position of Animal Control Officer, effective immediately with the term to expire June 30, 2016. **Motion passed 3-0.**

Public Hearing – Application for Section 15, Beer and Wine License: C. Hillman read the Public Hearing notice as advertised in the *Ayer Public Spirit*. J. Livingston opened the Public Hearing at 7:32 PM. Mirosław Szelest, owner and manager of the under construction Shop ‘n Save (located at 22 Fitchburg Road) was in attendance. There were no objections from relevant Department Heads and no abutters spoke for or against the proposal.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the application for a Section 15 Beer and Wine License and to forward the application packet to the ABCC for review. **Motion passed 3-0.**

Motion: A motion was made by G. Luca and seconded by C. Hillman at 7:35 PM to close the Public Hearing. **Motion passed 3-0.**

Appointment of Zoning Enforcement Officer: Gabe Vellante, Building Commissioner introduced Mr. Charles Shultz as the recommended candidate for the position of Assistant Zoning Enforcement Officer. This is a non-union, part-time, non-benefitted position.

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint Mr. Charles Shultz as the Assistant Zoning Enforcement Officer effective immediately with the term to end June 30, 2016. **Motion passed 3-0.**

Nuisance Bylaw Discussion – R. Pontbriand presented a draft revision of the Zoning Bylaw, as modeled after the Town of Framingham and recommended an interdepartmental review by relevant Department Heads. R. Pontbriand is planning to bring the draft, with Department Head comments/edits, to the August BOS Meeting.

Mr. David Maher in lieu of Ms. Alicia Hersey, Office of Community Development: D. Maher presented a lien subordination request for 114 West Main Street (Case# 03-238).

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the subordination agreement as presented by D. Maher conditioned upon a new mortgage not to exceed \$90,500 with signature by the Chair. **Motion passed 3-0.**

Mr. David Maher, Director of Economic Development: Mr. David Maher presented the Urban Development Action Grant (UDAG) and Industrial Development Finance Authority (IDFA) budgets. The IDFA approved the amount of \$19,490 for Office of Economic Development at a meeting held on July 14, 2015 in the morning.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve both funding amounts for the Office of Economic and Community Development: \$19,490 from the IDFA account and \$43,196 from the UDAG account. **Motion passed 3-0.**

Petition for Street Acceptance – Crabtree Development, LLC: Mr. Steve Mullaney from S.J. Mullaney Engineering, Inc., on behalf of the Crabtree Development (Pingry Hill Subdivision), asked for consideration of a petition for Street Acceptance for a section of Hickory Way and Hemlock Drive. Mr. Mullaney stated that his client would like a petition for street acceptance to be included in the warrant for the October 2015 fall Special Town Meeting.

Motion: A motion was made by C. Hillman and seconded by G. Luca to approve the proposed acceptance process as outlined by applicant and to defer to Superintendent Wetzels discretion at the time of formal acceptance. **Motion passed 3-0.**

Chief Robert J. Pedrazzi, Ayer Fire Department: R. Pedrazzi presented the Purchase Order for the 2016 Ford Ambulance being purchased by the Town.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve Purchase Order 07092015FD in the amount of \$237,855.89 for a 2016 Horton Ford F550 4x4 Model 603 as defined in the July 7th, 2015 proposal submitted by Greenwood Emergency Vehicles, Inc. **Motion passed 3-0.**

Vote on Life of Ambulance – R. Pontbriand explained that per Town Bond Counsel, the BOS is required to take a vote in open session stating the life of the new ambulance in order to validate the borrowing amount.

Motion: A motion was made by C. Hillman and seconded by G. Luca that the maximum useful life of the new ambulance to be financed with the proceeds of the following borrowings authorized by the votes of the Town passed May 11, 2015 is hereby determined pursuant to G.L. c.44 Sec. 7(9):

<u>Purpose</u>	<u>Borrowing Amount</u>	<u>Town Meeting Article</u>	<u>Maximum Useful Life</u>
Ambulance	\$250,000	21	10 years

Motion passed 3-0.

Reserve Fund Transfer Request – R. Pedrazzi presented a Reserve Fund Transfer in the amount of \$3,500 for the Call Overtime Account for final FY' 15 encumbrances. The first RFT in the amount of \$3,500 was approved by the Finance Committee. Upon approval, it was then discovered that there was an accounting error and an additional amount of \$3,553 for total of \$7,053 would be needed in order to fund the account for July 1, 2015. The Chief recommended that the BOS approve both RFT's (the one for \$3,500 and the one for \$3,553) just in case to cover the account.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the RFT in the amount of \$3,500 into account 01220-51310 with signature by the Chair. **Motion passed 3-0.**

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the RFT in the amount of \$3,553 into account 01220-51310 with signature by the Chair. **Motion passed 3-0.**

Sandy Pond School Grant Agreement: Pursuant to the passage of Article 26 of the Annual Town Meeting held on May 11, 2015, R. Pontbriand presented the Final Grant Agreement as reviewed by Town Counsel and is asking the BOS for consideration of approval. Mr. Irving Rockwood of the Sandy Pond School Association said that the Association has made progress the process of hiring a consultant. They are hopeful to have the application in for the National Register of Historic Places by the end of the year.

Motion: A motion was made by C. Hillman and seconded by G. Luca to approve the agreement pursuant to Article 26 of the May 11, 2015 Annual Town Meeting. **Motion passed 3-0.**

Superintendent Mark Wetzel, Department of Public Works: M. Wetzel presented the Stony Brook Pumping Station Contract for Execution with Waterline Industries Corp. from Seabrook, NH per the June 16, 2015 Notice of Award by the BOS. M. Wetzel stated that the project construction should start in late September.

Motion: A motion was made by G. Luca and seconded by C. Hillman to execute the contract between the Town of Ayer and Waterline Industries Corp. for the construction of the Stony Brook Pumping Station in the amount of \$616,677 with signature by the Chair. **Motion passed 3-0.**

Out of Town Water and Sewer Interconnection Policy – Per the Board's previous request, M. Wetzel has begun the

process of updating the Water Rules and Regulations and Sewer Use Regulations to address out of town connections. There is currently a bylaw that addresses this issue, specifically Bylaw XVII – Extension of Water and Sewer Lines. He is recommending that the Water Rules and Regulations and Sewer Use Regulations be updated to include the wording from the Bylaw. He will present to the Board at the September 1, 2015 meeting.

West Main Street Stone Culvert Inspection – M. Wetzel made a presentation on the current conditions of the West Main Street Stone Culvert over Nonacoicus Brook. A preliminary inspection was done by M. Wetzel and Town Engineer, Dan Van Schalkwyk. They are estimating that the culvert is at least 100 years old and in poor condition. He is recommending that the Town hire a qualified bridge engineering company to perform additional detailed inspection and analysis and provide the Town with repair options and cost estimates. The DPW Engineering Inspection Revolving fund will be used for the engineering company.

Town Administrator's Report:

Administrative Update – R. Pontbriand thanked Town Accountant Lisa Gabree and Department Assistant Martha Riley for their hard work and diligence while closing out the FY' 15 budget. R. Pontbriand stated that he was working on the street acceptance project with the DPW and Town Counsel as well as pre-planning on the Comprehensive Plan to ensure a smooth rollout. He briefed the Board of the July 8, 2015 meeting with National Grid concerning Park Street. Also he put forth a proposal to the Personnel Board regarding the Non-Union Personnel Study. He is waiting for the Personnel Board to pick a date to convene.

Designation of Special Municipal Employee – Chairman Bill Daniels from the Conservation Commission was in attendance to speak about the Conservation Agent position. After an 8 month search the Conservation Agent, Ms. Michele Grenier appointed at the July meeting worked was offered a fulltime position in another community. As a result the Conservation Agent position is left vacant. Conservation Commission member Ms. Jessica Gugino has been filling in for the past 8 months. The Conservation Commission would like to be able to compensate her for her time. After checking with Town Counsel, there are two options: 1) Authorization of the individual as a Special Municipals Employee by the Annual Town Meeting or 2) the Conservation Member, in this case Ms. Gugino, would have to formally resign her position on the Commission for at least thirty (30) days to be then considered for the position as part of the hiring process. Chairman Daniels stated that it was the will of the Commission to re-advertise the position and stated that it is difficult to attract candidates for a part-time, non-benefitted position. R. Pontbriand stated he will follow-up with Counsel to inquire about compensation for Ms. Gugino.

Updated Policy on Valet Parking – Town Counsel finished the review on the Valet Parking Policy adopted at the April 21, 2015 meeting. They had suggestions on wording, nothing substantive. He is asking for adoption of the revised policy.

Motion: A motion was made by G. Luca and seconded by J. Livingston to approve the revised Valet Parking Policy, originally adopted on April 21, 2015. **Motion passed 3-0.**

BYOB Policy – The Town does not have a BYOB Policy. R. Pontbriand and C. Antonellis formed a working group consisting of the Police Chief, Fire Chief, Building Commissioner and Economic Development Director to draft a policy, as recommended by the Massachusetts ABCC. The draft policy was reviewed by Town Counsel. R. Pontbriand is asking for adoption by the BOS.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve the BYOB Policy as presented by R. Pontbriand. **Motion passed 3-0.**

Chapter 61 Policy Discussion – J. Livingston stated that there has been an implication made that the BOS was not following Chapter 61 properly. C. Hillman agreed saying that this issue has come up from time to time. J. Livingston stated that as soon as a notice is received by the Town it is sent to Town Counsel for review. R.

Pontbriand added that Town Counsel is reliable in all land use matters, particularly Ch. 61. J. Livingston then stated that when, and if, the Town receives a viable intent letter then the Town will move forward in the processes pursuant to G.L. c. 61 Right of First Refusal. R. Pontbriand presented a draft response letter to the correspondence previously received by the Community Preservation Committee, Ayer Conservation Committee, Ayer Open Space and Recreation Committee and the Ayer Parks Commission. He also presented a Draft Policy on Chapter 61 for the Board's consideration.

Motion: A motion was made by G. Luca and seconded by C. Hillman to approve both the response letter to the above mentioned committees/commissions and to approve the Ch. 61 Policy, as presented by R. Pontbriand. **Motion passed 3-0.**

Planning Board Consultant Bylaw Discussion - R. Pontbriand advised the BOS that the Planning Board voted 3-1 on July 2, 2015 to invoke the Town's Consultant Bylaw for the Global Gas Station Project. R. Pontbriand advised that the Planning Board vote should contain which of five criteria in the bylaw the project meets; the name of the consultant to be used; and the dollar amount so that the BOS can then vote either to authorize or not. R. Pontbriand recommended that the BOS vote to refer the matter back to the Planning Board who will meet on August 6th and can take the appropriate actions and then return to the BOS on August 11th for consideration.

Matt King, an Ayer resident from Devenscrest stated that this project is forcing people out of the neighborhood and adversely impacting the quality of life and the neighborhood. The impacts are negative for this neighborhood.

Motion: A motion was made by G. Luca and seconded by C. Hillman to refer the Consultant Bylaw back to the Planning Board requesting that they advise on the exact criteria the Global Project meets; the name of a consultant; and the dollar amount and to provide this recommendation for the August 11th BOS Meeting. **Motion passed 3-0.**

Appointments – Pursuant to a memo from C. Antonellis, the Board made the following Committee Appointments:

Motion: A motion was made by G. Luca and seconded by C. Hillman to appoint the following individuals to the following committees:

Rich Guerriero	Water and Sewer Rate Review Committee	1 Year Term	Expires 6/30/2016
Robert Coleman	Cable TV Advisory Committee	3 Year Term	Expires 6/30/2018
Beth Sudemyer	Ayer Representative to the Nashua, Nissitissit & Squannacook Rivers NPS Wild & Scenic River Study Committee	Until Completion of Study	
Robert A. Pontbriand	Alternate Representative to the Nashua, Nissitissit & Squannacook Rivers NPS Wild & Scenic River Study Committee	Until Completion of Study	

Motion passed 3-0.

New Business/Selectmen's Questions: G.Luca again stated his frustration over the Town Treasurer not following state law, specifically MGL c.32B, sec. 9 ½A relative to retiree health insurance billing and receiving. J. Livingston and C. Hillman agreed. G. Luca said it was fiscally irresponsible and leaves the Town

exposed to legal action. G. Luca also asked if R. Pontbriand had received additional information from the Treasurer's office. R. Pontbriand stated that he has received bits and pieces. R. Pontbriand also stated that he followed up with Town Counsel about how the Town should proceed to compel its elected Treasurer to follow the State Law. Counsel advised the Town would have to take the Treasurer to court.

C. Hillman said that the issue was an embarrassment for the Town. J. Livingston said we have now started talking about a summons to take the Treasurer to court, we will be making that formal decision at the August 11, 2015 BOS meeting.

Approval of the Minutes:

Motion: A motion was made by G. Luca and seconded by J. Livingston to approve the meeting minutes of June 16, 2015. **Motion passed 3-0.**

Adjournment:

Motion: A motion was made by G. Luca and seconded by C. Hillman to adjourn at 9:42 PM. **Motion passed 3-0.**

Minutes Recorded and Submitted by Carly M. Antonellis

Minutes Approved by BOS: August 11, 2015

Christopher R. Hillman, Clerk: Christopher R. Hillman