

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



**Tuesday August 11, 2015**  
**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 at 7:00 PM.

**Review and Approve Agenda:**

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

**Ayer-Shirley All-Stars Baseball Team Recognition:** G. Luca presented a certificate of recognition to the Ayer – Shirley All - Stars Baseball Team for winning the 2015 Cal Ripken National Tournament Massachusetts State Title. The BOS offered congratulatory remarks.

**Public Input:** None

**Ms. Alicia Hersey, Office of Community Development:** A. Hersey explained a request to extend the FY' 11 Community Development Block Grant (CDBG) until November 30, 2015. A. Hersey stated that her department is currently in the middle of a home rehabilitation and was advised by the Massachusetts Department of Housing and Community Development to request the grant be extended through November, so that work on the home can be completed.

**Motion:** A motion was made by C. Hillman and seconded by G. Luca to extend the FY'11 CDBG grant until November 30, 2015 with signature by the Chair. **Motion passed 3-0.**

**Chief William A. Murray, Ayer Police Department:** Chief Murray introduced Ms. Amanda Belliveau, his recommended candidate for the Administrative Assistant/Office Manager position at the Police Department. Chief Murray stated that the position was advertised and he received 47 applications and that Ms. Belliveau's resume and experience made her the top candidate. He is requesting that the Board of Selectmen appoint Ms. Belliveau.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to appoint Ms. Amanda Belliveau as the Administrative Assistant/Office Manager for the Ayer Police Department effective August 31, 2015. **Motion passed 3-0.**

Chief Murray then introduced Mr. Christopher Herrstrom as the recommended candidate for the Full-Time Dispatcher position. Mr. Herrstrom is currently a per diem dispatcher and a call firefighter. Chief Murray is requesting that the Board of Selectmen appoint Mr. Herrstrom.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to appoint Mr. Christopher Herrstrom as a Full-Time Dispatcher for the Ayer Police Department effective August 25, 2015. **Motion passed 3-0.**

**Joint Meeting with Planning Board to Fill Planning Board Vacancy:** At this time (7:20 PM) the Planning Board did not have a quorum. J. Livingston said she would continue on with the meeting agenda and once a Planning Board quorum was present, she would take up the Joint Appointment.

**Consultant Bylaw Proposal from Planning Board:** J. Livingston read into the record a memo from the Planning Board regarding their request to invoke the Consultant Bylaw to hire a firm to peer review a proposed retail fuel station and convenience store at 15 Littleton Road currently in front of the Planning Board.

G. Luca asked if there was an adverse report filed by the peer review consultant what the next steps would be.

Planning Board Chairman Jeremy Callahan stated that the use is allowed, but more information is needed on traffic, noise and lighting impacts. The peer review will address these issues. He also stated that the Planning Board is working with both the neighbors and the applicant to address concerns from both sides.

J. Callahan said the Planning Board received two responses to an RFQ from Green Associates and VHB. VHB then withdrew. J. Callahan would like to enter into an agreement with Green & Associates, who have indicated they could complete the study within two weeks to meet the Town's timeframe.

Attorney George Watts from Fitchburg was in attendance representing the applicant. He stated that the applicant will be working with the Planning Board to address concerns.

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to approve the evocation of the Consultant Bylaw and to approve the agreement between the Town of Ayer and Green Associates for a sum not to exceed \$15,000, paid for by the applicant, with signature by the Board. **Motion passed 3-0.**

**Purchase/Acceptance of Deed of 0 Park Street (Per May 11, 2015 ATM):** R. Pontbriand stated that Town Counsel Katie Klein and the two sellers of 0 Park Street were in attendance and invited them to the table. R. Pontbriand then stated that in accordance with the passage of Article 35 of the Annual Town Meeting held on May 11, 2015 the Town was now ready to approve and enter into the acceptance of deed. The Phase 1 Environmental Analysis was favorable and now the Town and sellers can execute the closing sales documents.

**Motion:** A motion was made by C. Hillman and seconded by G. Luca to approve and enter into the acceptance of deed for 0 Park Street pursuant to Article 35 of the May 11, 2015 Annual Town Meeting. **Motion passed 3-0.**

**Joint Meeting with Planning Board to Fill Planning Board Vacancy (From Previous Item Above):** At 7:40 PM the Planning Board has a quorum.

*Call to Order Ayer Planning Board (Present: Jeremy Callahan, Jenn Gibbons, Rick Roper/Absent: Geoff Tillotson) - J. Callahan called the meeting the Planning Board to order at 7:41 PM. He explained that the appointment made this evening would be temporary position until the next election which is in April of 2016.*

Two citizens expressed interest in the position: Jane Morriss and Mark Fermanian. Ms. Morriss was introduced by J. Livingston. Ms. Morriss stated that she would be humbled to be appointed as member of the Planning Board.

J. Livingston then introduced Mark Fermanian. Mr. Fermanian said that he was previously on the Planning Board and would like to be reappointed to help out.

J. Gibbons stated that she was planning to vote for Ms. Morriss.

R. Roper stated that he was pleased the Board had two good candidates to choose from, but because he had previously served with Mr. Fermanian, he would vote for him.

J. Callahan read into the record an email from absent Planning Board member Geoff Tillotson stating that if here were in attendance, he would vote for Jane Morris.

C. Hillman asked about a potential conflict of interest, as Ms. Morriss is employed by the Town of Ayer's Board of Health. R. Pontbriand explained that Town Counsel has already advised that if Ms. Morriss was selected, she would need to file a disclosure with the Town Clerk's office.

J. Livingston stated that she thought both candidates were qualified but she thought Mr. Fermanian's experience was an added benefit.

J. Callahan asked if there was any public input. Carolyn McCreary, 6 Wachusett Avenue East said she had seen Ms. Morriss in action while the unloading facility was being built by Spec Pond. She was a great advocate for the Town.

J. Callahan stated that a majority of Planning Board was supporting Ms. Morriss' candidacy.

Barbara Wilson, 26 Littleton Road, asked if Mr. Fermanian would have to recuse himself during deliberations of the proposed gas station at 15 Littleton Road because he works for Gervais Ford and Gervais Ford owns the lot where the proposed gas station will be located.

R. Roper stated that because he is a developer he has to recuse himself at times.

M. Fermanian stated that he has no financial interest in the project.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to appoint to appoint Mark Fermanian to the Planning Board to fill a vacated seat until the next municipal election to take place in April of 2016. **By Roll Call:** J. Livingston, aye; G. Luca, aye; J. Callahan, no; R. Roper, aye; J. Gibbons, no; C. Hillman, aye. **Motion passed by Roll Call 4-2.**

*Adjournment of Ayer Planning Board*

**Motion:** A motion was made by J. Callahan and seconded by R. Roper to adjourn at 8:05 PM. **Motion passed 3-0.**

**Application for Common Victualler's License:** Mark DiCicco from Tipo Taco's was present to discuss his application for a Common Victualler's License. R. Pontbriand stated that it was brought to his attention by the Building Commissioner that an issue needed to be resolved before the license was issued and suggested that the Board approve the application contingent upon the Building Commissioner's sign off. Mr. DiCicco stated that he anticipates the problem will be resolved within the coming week.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to approve the application for a Common Victualler's License submitted by Tipo Taco's, 35 Main Street subject to the Building Commissioner's sign off. **Motion passed 3-0.**

**Superintendent Mark Wetzel, Department of Public Works:** M. Wetzel introduced Bob Rafferty from Environmental Partners Group to discuss a Memorandum of Understanding with the Town of Groton. This is relative to the Town of Groton's MassWorks application that they will be submitting to the State in the fall.

G. Luca asked about the costs associated with the project.

M. Wetzel said that the costs would be addressed in the Inter Municipal Agreement, if the Town of Groton is successful in obtaining the MassWorks grant and Ayer Town Meeting approval, pursuant to Bylaw XVII.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to approve the Memorandum of Understanding between the Town of Ayer and the Town of Groton for the 4 Corners project and the Town of Groton connecting to the Town of Ayer's sewer system with signature by the Chair. **Motion passed 3-0.**

**Opening of the Special Fall Town Meeting Warrant:** R. Pontbriand outlined the schedule leading up to Fall Town Meeting on October 26, 2015.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to open the Special Fall Town Meeting Warrant as outlined in the memo provided by R. Pontbriand dated 8/7/15. **Motion passed 3-0.**

J. Livingston added that the Annual Town Meeting is in the spring and that the Town Meeting held in the fall is a Special Town Meeting. She stated there was some confusion about these meeting titles. Special Town Meeting is the fall town meeting or when a proper request has been made to the Board of Selectmen for an additional Town Meeting, only if it is deemed necessary by the Board.

**Town Administrator's Report:** R. Pontbriand stated that at a future meeting the Open Space and Recreation Plan Committee would be making a brief presentation on the final plan. He also stated that the Town Administrator's office was working on the Comprehensive Plan Review process, an Executive Session minutes management system and is working with the DPW and Town Counsel on the unaccepted public ways in town.

*Management Letter Discussion* – R. Pontbriand included the FY '14 management letter from Giusti, Hingston and Company in the BOS packets as a preliminary review. He will be inviting relevant Departments Heads to a future BOS meeting to discuss.

*Appointments* – R. Pontbriand stated that Ms. Susan Trudella was interested in serving on the Dam and Pond Committee.

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to appoint Ms. Susan Trudella to a 1 year term on the Dam & Pond Committee expiring June 30, 2016. **Motion passed 3-0.**

*Intern Policy* - R. Pontbriand presented a draft policy regarding interns that formalizes the current process used in Town. G. Luca added that he would like to see CORI checks being done to all interns. J. Livingston suggested adding interns making disclosures if a family member worked for the Town.

**Motion:** A motion was made by C. Hillman and seconded by G. Luca to approve the draft policy and to add an item 7 & 8 regarding CORI checks and disclosures respectively. **Motion passed 3-0.**

*Review of proposed Nuisance Bylaw Update* – R. Pontbriand stated that he had received input from relevant department heads/boards on the proposed revision to the Nuisance Bylaw, modeled after the Town of Framingham.

The Board reviewed the comments as submitted. R. Pontbriand stated that the BOS should give it some further thought but was very pleased with the progress being made. He said that if the goal is to put it on the Special Fall Town Meeting Warrant then October 16, 2015 is the deadline to have a proposal ready for Town Meeting consideration.

J. Livingston stated that she would like the Department Heads to give it some more review and that she'd prefer to take time and possibly put it in front of Town Meeting in the spring to ensure the proposed bylaw's strength rather than rush and have the bylaw be weak.

*Review of proposed Free Cash Policy* – The BOS discussed again creating a Free Cash Policy. G. Luca stated that if we have the cash available on hand, he would rather use it than pay to borrow for it. He said free cash can also be used to augment enterprise funds. The BOS delayed taking action on the proposed policy because the Finance Committee had not yet responded to the R. Pontbriand's request to comment.

*Agreement with Mass Development for Veteran Services* – R. Pontbriand presented the annual agreement made between the Town of Ayer and the Massachusetts Development Finance Agency for the Town of Ayer's Veteran Services Agent to provide services to Veteran's who live in Devens.

**Motion:** A motion was made by C. Hillman and seconded by G. Luca to enter into agreement with MDFA for Veteran Services effective upon approval with signature by the Chair. **Motion passed 3-0.**

**New Business/Selectmen's Questions:**

Compliance with MGL Chapter 32B 9 A ½ (Selectman Luca) – G. Luca again asked for this item, relative to retiree health insurance billing and receiving, be on the BOS agenda. G. Luca stated he is very concerned with potential litigation because the Treasurer refuses to pay and or bill for these costs. R. Pontbriand said that he and the Town Accountant encumber funds every year in the event that the Town is billed, but it is hard to determine how much because the Treasurer will not share the information. He stated that the Town Accountant has had to make a Public Records Request to get the information. R. Pontbriand stated that is unfortunate that it has come to this level, because we are all on the same team and should be working together.

**Approval of the Minutes:**

**Motion:** A motion was made by C. Hillman and seconded by J. Livingston to approve the meeting minutes of July 14, 2015. **Motion passed 3-0.**

**Executive Session:** A motion was made by G. Luca and seconded by C. Hillman at 9:16 PM to enter into Executive Session pursuant to Massachusetts General Laws c.30A, sec. 21A Exemption #3 (Collective Bargaining) relative to the AFSCME 93 DPW Union MOA. G. Luca 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; C. Hillman, Aye. **Motion passes by Roll Call Vote 3-0.**

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

Date Minutes Approved by BOS: September 1, 2015

Christopher R. Hillman, Clerk: Christopher R. Hillman