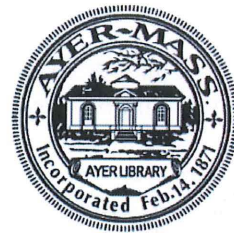


RECEIVED  
OCT 21 2021

TOWN OF AYER  
TOWN CLERK



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



*Broadcast and Recorded by APAC*

**Tuesday October 5, 2021**  
**Open Session Meeting Minutes**

**SB Remotely Present:** Shaun C. Copeland, Chair; Scott A. Houde, Vice-Chair; Jannice L. Livingston, Clerk

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

**Call to Order:** S. Copeland called the meeting to order at 6:02 PM. Due to the ongoing COVID-19 Pandemic, in accordance with Chapter 20 of the Act of 2021, suspending certain provisions of the Open Meeting Law (OML), public bodies otherwise governed by the OML are temporarily relieved from the requirement that meetings be held in public places, open and physically accessible to the public, so long as measures are taken to ensure public access to the bodies' deliberations "through adequate, alternative means." This meeting will be live on Zoom and Channel 8. S. Copeland stated that all votes will be taken by Roll Call.

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

**Approval of Meeting Agenda:**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting agenda. **By Roll Call**

**Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Announcements:** S. Copeland announced that Trick-or-Treat will take place on Sunday October 31, 2021 from 6:00 PM – 8:00 PM.

**Public Input:** None

**Change in Manager Application – Bar 25 – 25 Main Street:** C. Antonellis presented the Change in Manager Application from Bar 25. She explained that Bar 25 was looking to change their current manager Mojgan Amini to Sydney Wyman. This has been reviewed by all Departments with no concerns.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the Change in Manager application for Bar 25. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Application for Entertainment License – 38 Main Street - Digital Cloudz, LLC for Automotive Racing**

**Simulators:** Chad Fox was in attendance requesting an Entertainment License for 38 Main Street. He currently owns a vape shop at that location and is looking to change his business model, offering automotive race simulators. This has been reviewed by all Departments with no concerns.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the Entertainment License for 3 automotive simulators for Digital Cloudz, LLC, 38 Main Street. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Presentation on Proposed 40B/Comprehensive Permit Project - 65 Fitchburg Road:** Phil Giffie from NOAH, Frank Valdes, Architect and Annika Lambert, Project Manager were in attendance to give the SB an overview of the 65 Fitchburg Road 40B Comprehensive Permit Project. He said that the project will consist of six buildings in two phases: the first phase will be 64 units and the second phase will be 42 units. The project will be mixed income levels.

Frank Valdes showed the site development plan and site plan. He noted that the buildings in the front of the development on Fitchburg Road are two stories. There will be a 3-story building in the rear of the site. He noted the 100' wetland buffer line and stated they are trying to minimize building impact in that area. In Phase 1 there will be 18 1-bedroom; 38 2-bedroom and 8 3-bedroom units. There will also be a community center on site with a community room, leasing office, pet spa, wellness facility, centralized laundry, and mail. All units are being developed as passive house units, therefore will be highly energy efficient.

S. Copeland asked about the encroachment on the 100' buffer for Phase 2 of the project. F. Valdes stated that no buildings will be built in the buffer, but some roadways will.

Denise Perrault asked what AMI (area median income) percentage units will be built. A. Lambert stated that 9 units will be 30%, which would be project-based voucher housing; 33 units at 60% AMI, 22 units at 70%/workforce with no market rate housing in Phase 1.

Laurie Nehring asked for a summary of the funding sources and timing of the project. P. Giffie stated that he is hopeful that the project can be submitted for financing next year, but he is unable to give exact timelines at this point. He is estimating that the project will take between 14-18 months once construction is started. Timelines and funding sources were then discussed.

Alicia Hersey asked about the timeline for keeping the units affordable. He said that the tax credits mandate at least 15 years, but as long as NOAH owns the project, it will remain affordable.

Sara Withee asked if there will be a back entrance after Phase 2. F. Valdes stated that there will be only one exit and entrance on Fitchburg Road. Ms. Withee asked about drainage easements from the 1990s. F. Valdes stated he would have to check with the civil engineer.

Janet Providakes asked if the owner will be paying lower taxes to the Town and if there would be a building manager on site. P. Giffie stated there will be a project manager on site, somewhere around 40 hours per week. He also said that NOAH will likely be applying for a property tax abatement in the future.

Ken Diskin asked if NOAH was looking for a vote from the SB to endorse or support the plan. P. Giffie stated that they were not looking for a vote this evening.

Robert Vogel, 62 Central Ave. asked about the AMI % for all units and whether the Devenscrest tenants would get preference. P. Giffie stated that there is local preference for all town members who apply.

Beth Suedmeyer, Nashua Street asked about the timing between Phase 1 and Phase 2 as it relates to environmental permitting. F. Valdes stated that the permitting will be submitted for the entire Master Plan.

Denise Perrault asked about keeping the units affordable in perpetuity. P. Giffie stated that NOAH had no interest in selling the property or changing the income level requirements.

Sara Withee asked how close to the Fitchburg Road the front units would sit. F. Valdes stated that they will be about 30' off the road.

Ken Diskin asked if NOAH had control of the site. P. Giffie stated that NOAH does maintain site control.

**Dan Van Schalkwyk, Director, Dept. of Public Works:** *Award of Ayer West Main Street Infrastructure Project (MassWorks)* – D. Van Schalkwyk was in attendance to recommend that the award of the West Main Street MassWorks infrastructure project go to Oynx Corp. from Acton, MA. The Town received 9 bids ranging from \$2,380,282.50 to \$3,197,575.00 for the base bid. There are 4 add alternates. D. Van Schalkwyk is recommending awarding the base bid and add alt 1&2.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the notice of award with Onyx

Corporation for the West Main Street MassWorks Infrastructure Project. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

*Approval of Change Order 1 for Westford Road Sewer Replacement Project* – D. Van Schalkwyk presented Change Order 1 for the Westford Road Sewer Replacement Project. The change order amount is for a credit of \$5,241.95. The changes are from the addition of time required to find the sewer force main, unknown utility locations, and a credit from actual quantities lower than estimated quantities.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve Change Order 1 for the Westford Road Sewer Replacement Project with signature by the Chair. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

*Approval of Change Order 1 for WWTF Alum Pacing Improvements* – D. Van Schalkwyk presented Change Order 1 for the Wastewater Treatment Facility Alum Pacing Improvements. The Change Order amount is for a \$12,000 credit for the removal of excess submittals required by the specifications and reduction in training requirements.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve Change Order 1 for the WWTF Alum Pacing Improvements. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

*FY '22 Paving and Road Treatment Contract Amendment* – D. Van Schalkwyk stated that the 2019 through 2021 Road Paving and Treatment Contract with PJ Albert is a 1-Year Contract with the option of extending the contract for two additional years. This amendment is for 2021 (through June 30, 2022). This is for Chapter 90 projects and includes paving and sealing of roads. D. Van Schalkwyk is recommending executing the contract with PJ Albert, Inc.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the FY '22 Paving and Road Treatment Contract. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Susan Copeland, Town Clerk - Approval of Re-Precincting Map – Census 2020:** S. Copeland reported that in the 2020 Census, Ayer had 8,479 residents. The increase in population will result in the addition of a 3<sup>rd</sup> voting precinct. She noted that the 3<sup>rd</sup> precinct will go into effect at the May Annual Town Election.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the 2020 Re-Precincting Map as presented by the Town Clerk. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Approval of October 25, 2021, Fall Special Town Meeting Warrant:** R. Pontbriand went briefly over each warrant article and took questions. Relating to Article 7, Town of Ayer Fertilizer Use Bylaw, R. Pontbriand noted that Town Counsel was concerned that the Article as written would not pass the Attorney General's screening process for new bylaws. Chapter 262 of the Acts of 2012 gives the Commonwealth's Dept. of Agriculture sole authority to regulate the use of fertilizer in non-Cape Cod communities. He reported that the Conservation Commission felt strongly about presenting this at Town Meeting for an opportunity to educate the public. Conservation Commission Chair Jon Schmalenberger stated that the Commission met with Town Counsel, and they were only presented with only 1 example of a proposed bylaw not passing the Attorney General's Office. He is asking that this bylaw be given a chance between Town Meeting and the new Attorney General's Office. J. Livingston stated that things have passed at Town Meeting and the Attorney General's Office and has then been turned down by the Courts. Her recommendation is to put the article forward to Town Meeting. She'd like the explanatory note on the article to note that if passed it would still need to go before the Attorney General's Office for approval. S. Houde supports bringing it forward to Town Meeting.

Laurie Nehring from PACE, People of Ayer Concerned for the Environment, stated that they would like to see this go forward at Town Meeting. She noted that the public education piece was of importance. Marion Stoddard stated she would like to speak in support of this article moving forward.



Jim O'Conor stated as the Town Moderator he will do his best to make clear that the final decision belongs with the Attorney General but he supports the premise of this article.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the Annual Special Town Meeting Warrant with suggested changes by J. Livingston. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Town Manager's Report:** *Administrative Update/Review of Town Warrant(s)* - R. Pontbriand provided the Select Board with an update on the various activities, initiatives, and projects of the Administration since the Select Board last met. He also provided a list of signed Town Warrants in the meeting packet. R. Pontbriand thanked Alan Manoian and all Town Departments for hosting the first Heart of Hometown Fall Festival. He noted that FY '23 Capital Planning will go out Friday October 8, 2021. He reported that Dan Van Schalkwyk has now assumed the role of DPW Director.

*Approval of DRAFT #4 FY '23 Budget Schedule* - R. Pontbriand stated that most everything has been populated on the calendar, with the exception of the Capital Planning Meeting Dates. R. Pontbriand stated he will check with the Capital Planning Committee and then add meeting dates the calendar.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve DRAFT #4 pending the addition of the Capital Planning Committee Meeting Dates. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

*2022 License Fees* - R. Pontbriand presented a memo from the meeting packet done by C. Antonellis. He is looking for direction on whether the SB would be waiving fees for 2022 License Renewals. Reducing the fees by 75% equals about a \$37,000 loss of revenue.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to reduce the Select Board 2022 License Renewal Fees by 75%. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**New Business/Selectmen's Questions:** None

**Approval of Meeting Minutes:**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting minutes from August 31, 2021. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the meeting minutes from September 7, 2021. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, abstain. **Motion passed 2-0-1.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting minutes from September 21, 2021. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the meeting minutes from August 31, 2021. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

**Adjournment:**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to adjourn at 8:00 PM. **By Roll Call Vote:** J. Livingston, aye; S. Houde, aye; S. Copeland, aye. **Motion passed 3-0.**

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

Date Minutes Approved by SB: 19 OCT 2021

Signature Indicating Approval: [Signature]