



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

Broadcast and Recorded by APAC

March 19, 2024
Open Session Meeting Minutes

SB Present: Jannice L. Livingston, Vice-Chair; Shaun C. Copeland, Clerk

SB Absent: Scott A. Houde, Chair

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

Call to Order: J. Livingston called the meeting to order at 6:00 PM. J. Livingston further stated that this meeting/hearing of the Ayer Select Board (SB) will be held in-person at the location provided on this notice. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation via Zoom is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in a specific item on this agenda should make plans for in-person vs. virtual attendance accordingly. This meeting will be live on Zoom and Channel 8. The public may access the proceedings by joining Zoom (Meeting ID# 897 9080 0793) or by calling (929-205-6099).

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 S. Copeland and seconded by J. Livingston to approve the meeting agenda. **Motion passed 2-0.**

Announcements: J. Livingston announced that the 2nd Public Budget Forum will take place on Wednesday March 27, 2024, at 6:00 PM.

Public Input: Pauline Conley, 40 Cambridge Street, stated that she doesn't listen to music often, but she enjoyed listening to it at the Transfer Station and she is upset that the radio was banned at the transfer station after a complaint. She stated that this was one of the most of the "most inane" acts done by the Town. She then paraphrased the song "American Pie" by Don McClean. She would like the music to be restored. J. Livingston stated she was aware of the radio issue, but the Board was not a part of that decision, and that the supervisor made the decision based on the information available at the time.

Sara Withee, 11 Groton Shirley Road stated that she had interest in more graphs relating to the water and sewer rates. J. Livingston stated to Ms. Withee that if she had additional questions, she encouraged her to ask during the public hearing later in the evening.

Michael Pattenden, 42 Westford Road, stated that he was an abutter to Catania Spagna, located at 1 Nemco Way. He wanted to ask questions related to the public hearing on storage of flammable material later in the meeting. J. Livingston asked that M. Pattenden come up during the public hearing on this item.

Public Hearing – M.G.L. 148 sec. 13 – Amendment to Storage of Flammable and Combustible Liquids, Gases and Solids License - IAR Realty Corporation, 1 Nemco Way:

S. Copeland opened the public hearing to order at 6:11 PM by reading the public hearing notice. Dan Brackett, from Catania Oils was in attendance. C. Antonellis explained that the applicant is currently licensed to store 2,080,000 gallons of oil and is looking to increase that capacity to 2,500,000 gallons. The applicant has been working with both the Ayer Fire Department and the State Fire Marshal's Office. Ayer Fire Chief Tim Johnston stated that he had no issues with the application.

Michael Pattenden, 18 Westford Road stated he was concerned that if there was a fire it could spread onto his property. He asked if there was adequate insurance to cover any damage that may occur. D. Brackett stated that all tanks are constructed within applicable state standards with containment provisions to allow for any spills. He stated that they do not have insurance policies to provide compensation to the neighbors in the event of a spill/event. Chief Johnston stated that life safety is important to both the Town and the company. The Fire Department works with Catania Oils regularly on fire prevention.

Pauline Conley, 40 Cambridge Street said she is blown away that the applicant doesn't have insurance. She stated that the Town of Ayer is protected to the amount of \$10,000,000 in the event of an escape of oil. She said if the Town doesn't have an agreement with Catania Oils to name the Town as an additional insured that they should contact Town Counsel.

C. Antonellis stated that in any agreement that the Town has entered into with Catania Oils in the past, that Catania Oils has always provided an adequate certificate of insurance as required by a specific contract.

There was additional discussion.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to continue the public hearing until 6:00 PM on Tuesday April 2, 2024. **Motion passed 2-0.**

Public Hearing – FY '25 Water & Sewer Rates: S. Copeland opened the Public Hearing at 6:29 PM by reading the public hearing notice. Dan Van Schalkwyk, DPW Director and Kimberly Abraham, DPW Water and Wastewater Superintendent were in attendance and gave a presentation (included in the meeting packet) on the FY '25 proposed water and sewer rates. D. Van Schalkwyk noted that the system, though generally in good shape, does have aging pipes, numerous dead-end pipes, PFAS contamination (which is being remedied) and is tested regularly for over 100 quality parameters. Due to PFAS contamination pumping capacity has been reduced, which necessitates the need for a clear well storage tank. D. Van Schalkwyk presented the budgets for both the water and sewer departments. He noted that the Town updated the water and sewer rate model in FY '24 with Raftelis and consulted with them again in the development of the FY '25 rates. The Rate Review Committee is recommending a 2% increase in water rates and a 5% increase in sewer rates.

Sara Withee, 11 Groton Shirley Road asked what the representation of this public hearing was at Town Meeting. R. Pontbriand stated that the rates as recommended by the Select Board this evening will be reflected in the proposed FY '25 Enterprise Funds for consideration at Town Meeting.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to increase Water and Sewer Rates as recommended by the Rate Review Committee effective July 1, 2024. **Motion passed 2-0.**

Motion: A motion was made by S. Copeland and seconded by J. Livingston to close the public hearing at 6:51 PM. **Motion passed 2-0.**

Dan Van Schalkwyk, Director, Dept. of Public Works - Change Order 1 – Pulpit Rock Drainage and Pathway Improvement Project: D. Van Schalkwyk presented Change Order 1 for the Pulpit Rock Drainage and Pathway Improvements Project which includes installation of drainage, granite curb, crushed stone path, grading, and landscaping improvements. The change order is for replacing the failed railings on the footbridge crossing over Grove Pond, and for raising the height of a hydrant in the work area. He is recommending approval.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to approve Change Order 1 as presented, including the time extension with signature by the Chair. **Motion passed 2-0.**

Main Street Reconstruction Project – Support Letter – D. Van Schalkwyk referenced a memo in the meeting packet by MRPC and is asking the Select Board to write a letter of support to the Metropolitan Planning Organization to support Main Street Reconstruction project.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to approve a letter of support to the MPO for the Main Street Reconstruction Project. **Motion passed 2-0.**

Stormwater Utility Advisory Workgroup Update – D. Van Schalkwyk stated that Stephanie Covino made a presentation to the workgroup on stormwater and climate resiliency which will be up on the Town's website. He reported that several members of the workgroup have made presentations to various Boards and Committees to bring awareness to the process. The workgroup will continue to do further outreach.

Water Supply Update – D. Van Schalkwyk stated that there is no change to the water supply update; the system is being heavily used with very few breaks for the pumps. He is not recommending any changes to any water use restrictions at this time.

Out-of-Town Wastewater Service Connection Application – D. Van Schalkwyk was joined by Chris Tymula from GPI who is the project proponent's engineer. The proponent is requesting a sewer service connection to the Ayer sewer collection system for the gas station located at 254-260 Ayer Road in Littleton. The proponent has plans to reconstruct the gas station to include 24-hour operation. He noted that a requirement of the Out-of-Town sewer application is for the application to be submitted 90-days prior to the Town Meeting warrant approval, and the second is for a public hearing scheduled by the Select Board. These two requirements were unfortunately an oversight through the coordination process with the Gas Station applicant. He is recommending waiving the 90-day requirement in this instance because the sewer connection application is not complex or a significant capacity request. He stated that at the purview of the Board, a public hearing could be held but for similar reasons does not appear warranted. C. Tymula said the overall project is being permitted through the Town of Littleton. J. Livingston stated that this would enable Ayer residents without sewer access on Willow Road to access it through this project connection if they chose to do so. S. Copeland pointed out that the Sewer Main will be installed at the project proponent's expense. The Board and C. Tymula discussed the project schedule. The project proponent is prepared to go before the Annual Town Meeting in April.

Sara Withee, 11 Groton Shirley Road stated that there is no way the Board should waive the public hearing.

Pauline Conley, 40 Cambridge Street stated she agreed with S. Withee and that the Board should not waive the public hearing.

The Select Board decided to hold the public hearing on Tuesday April 16, 2024 at 6:05 PM.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to approve the out-of-town sewer application and waive the 90-day submission requirement is waived with a public hearing to be held on Tuesday April 16, 2024 at 6:05 PM. **Motion passed 2-0.**

DPW Project Updates – D. Van Schalkwyk reported that the Sandy Pond Complete Street Project will be put out to bid tomorrow. He also reported that the playground equipment was delivered to Pirone Park and construction will start shortly. Relating to the Grove Pond Clear Well Project, the design funding was received from the Army and procurement of the pumps is underway. D. Van Schalkwyk said the West Main Street project continues to be delayed due to utility coordination. He has been working with Town Counsel to remedy the situation with an easement proposal to be considered at the Annual Town Meeting. The bid is scheduled to be released on May 1, 2024. He also reported that Congresswoman Lori Trahan was able to secure a \$700,000 federal earmark to assist with payment of the bridge project.

The Board recessed from 7:20 PM – 7:23 PM.

Chief Brian Gill, Ayer Police Department - Ayer Special Meeting, October 23, 2023: Articles Approved by Attorney General: Chief Gill reported that the dog bylaw update and the transient merchant bylaw have been approved by the Attorney General's Office. Relating to the Transient Merchant Bylaw, Chief Gill is looking to have the fees set by the Select Board. He is requesting that the Select Board set the fees associated with the application and duration of Transient Merchant Permits as follows: Application and Investigation Fee: \$25; Permit Duration Fees: 1 Day: \$5; 1 Week: \$25; 1 Month: \$50; 1 Year \$100.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to approve fees as described by Chief Gill for the transient merchant bylaw. **Motion passed 2-0.**

Town Manager's Report - Administrative Update/Review of Warrants and FY 2025 Budget Process Update: R. Pontbriand presented an administrative update on the various activities, initiatives, and projects of the Town since the Select Board last met. He referenced the Town Warrants that he reviewed and approved, as referenced in his written report. He stated that at this time the primary focus of the Town has been all things budget and Town Meeting preparations. The Second Public Budget Forum will take place on March 27, 2024, at 6pm. DRAFT #3 of the FY 2025 Omnibus Budget will be transmitted to the Select Board and Fin Com on March 22, 2024, and will be posted on the Budget webpage for the public. DRAFT #3 is the version that will be used at the Public Budget Forum and represents the final version subject to any final adjustments. The Select Board is scheduled to finalize and approve the Annual Town Meeting Warrant on April 2, 2024, at 6pm and will be joined by the Fin Com for a final review of the Budget and their positions on any financial articles on the Warrant.

71 Sandy Pond Funding Plan – R. Pontbriand advised that the total purchase price for the land at 71 Sandy Pond Road is \$700,000. On March 6, 2024, the Community Preservation Committee held a public hearing on this project application and voted unanimously to forward the project to Town Meeting for its consideration to authorize \$350,000 from CPA Funds from the Open Space Category. The remaining \$350,000 is to come from Town Funds and he presented a funding proposal which was reviewed by the Executive Bi-Board on March 14, 2024, of which there was a consensus to recommend that the Select Board authorize \$100,000 from the Town's ARPA Funds and that the Select Board authorize \$250,000 from the UDAG Fund subject to replenishment by a future Town Meeting(s). This would represent that Town's contribution of \$350,000 toward the purchase of the land. He advised that as of March 14 the current UDAG Fund balance is over \$3.1 million, and the balance of the ARPA Funds is \$423,900. R. Pontbriand asked that before the SB takes any action on this recommendation, he would like to first

present the next proposal which deals with the Minuteman Nashoba Health Group (MNHG) Dissolution Invoice, as it also impacts the Town's ARPA funds.

Minuteman Nashoba Health Group (MNHG) Dissolution Invoice – R. Pontbriand advised that the Town received a FY 2024 invoice from the Minuteman Nashoba Health Group (MNHG). R. Pontbriand advised that the Town began the process of looking to leave the MNHG in August of 2023 due to ongoing increasing assessment costs and concerns about long term sustainability. In October 2023 on recommendation of the Town's Insurance Advisory Committee, the SB authorized the Town to leave the MNHG. Additional member unit of r the MNHG initiated similar actions resulting in the MNHG voting in December 2023 to formally dissolve the MNHG as of June 30, 2024. Per the terms of the MNHG Agreement all member units are responsible for a proportionate share of their estimated run out claims past June 30, 2024. The Town just received the FY 2024 Invoice from MNHG in the amount of \$310,512.90 for the Town of Ayer's portion of the dissolution. R. Pontbriand further advised that the March 14, 2024, Executive Bi-Board meeting, the Bi-Board reviewed and discussed recommended proposal to pay this invoice. There was consensus among the Bi-Board to recommend that the Select Board authorize \$310,512.90 from the Town's ARPA funds. R. Pontbriand stated that this proposal was based on the following: the Town has been advised to expend its remaining ARPA funds as soon as possible before the deadline of December 31, 2024 to avoid risking potential federal claw backs of the funding; the Town has completed all of its major infrastructure projects subject to funding by ARPA; by using the ARPA funds to pay this invoice, the Town's Free Cash does not have to be used; and by using ARPA funds there would be no direct tax impact to the Ayer taxpayer at the local level.

J. Livingston stated that in terms of paying the MNHG Invoice with ARPA that is fine. In terms of funding the Town's portion of 71 Sandy Pond instead of just applying \$100,000 from ARPA with \$250,000 from UDAG, the Town should pay the MNHG Invoice with the \$310,512.90 from ARPA as presented and then whatever is left in ARPA funds apply to the purchase of 71 Sandy Pond Road which will lower the amount, needed from UDAG. S. Copeland concurred.

Motion: A motion was made by S. Copeland and seconded by J. Livingston to authorize \$310,512.90 from the Town's ARPA Funds to pay the FY 2024 Minuteman Nashoba Health Group (MNHG) Dissolution Invoice and to further authorize that the Town fund its portion of \$350,000 for the purchase of 71 Sandy Pond Road to come from the Town's remaining ARPA funds with any remaining balance to come from the Town's UDAG Fund subject to a future replenishment by Town Meeting. **Motion passed 2-0.**

DRAFT Annual Town Meeting Warrant Update – R. Pontbriand presented an update on the DRAFT Annual Town Meeting Warrant. He advised that the Warrant remains under development with some information including final funding amounts left from the DRAFT subject to verification. He advised that the deadline for Warrant Articles and Citizens Petitions being at 12pm on March 29, 2024, per the Town's Budget Calendar. The Select Board is scheduled to approve the ATM Warrant on April 2, 2024. Once the Select Board approves the ATM Warrant it will be publicly posted by April 5, 2024, and at that time sent to printing to be mailed to all households in advance of the Annual Town Meeting on April 22, 2024. R. Pontbriand provided a brief overview of the twenty-eight Articles on the DRAFT ATM Warrant and advised that there will be at least two more Articles because of tonight's meeting, one for the out-of-town sewer connection and one regarding the Town's Senior Tax Work-off Program which he just received today.

New Business/Select Board Member Questions: None

Approval of Meeting Minutes:

Motion: A motion was made by S. Copeland and seconded by J. Livingston to approve the meeting minutes of March 6, 2024. **Motion passed 2-0.**

Executive Session Pursuant to MGL Chapter 30A, Section 21A:

Motion: At 7:58 PM, a motion was made by S. Copeland and seconded by J. Livingston to enter into Executive Session pursuant to MGL Chapter 30A, Section 21A, Exemption #2 (Non-Union Personnel) Finance Manager Personal Services Contract; Exemption #2 (Non-Union Personnel) DPW Director Personal Services Contract; Exemption #2 (Non-Union Personnel) Police Chief Personal Services Contract; Exemption #3 (Collective Bargaining) Ratification of Dispatchers Contract MOA and to adjourn at the conclusion of the Executive Session. S. Copeland further stated that discussing these items in Open Session would be detrimental to the Town's negotiating strategy. **By Roll Call Vote:** S. Copeland, aye; J. Livingston, aye. **Motion passed by Roll Call Vote 2-0.**

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

Date Minutes Approved by SB: 4/16/24

Signature Indicating Approval: 