

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

Tuesday September 15, 2020 – 6:00 PM
Open Session Remote Participation Meeting Agenda

Due to the ongoing COVID-19 Pandemic, Governor Baker issued an Emergency Order Temporarily Suspending Certain Provisions of the Open Meeting Law. 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 broadcast live on Channel 8, and on Zoom. The public may participate remotely by following the call-in information on the bottom of the live broadcast screen.) For the Zoom meeting information relating to remote participation, please contact Cindy Knox, IT Director at cknox@ayer.ma.us or 978-772-8252 prior to the meeting.

6:00 PM

Call to Order

Pledge of Allegiance; Review and Approve Agenda; Announcements

Public Input

Due to the unique and unprecedented circumstances of the COVID-19 Pandemic; individuals with public input and/or questions for the Select Board should call-in at this portion of the meeting and state their name and address when asked by the Chair. Any public input and/or questions may be sent to the Assistant Town Manager, Carly Antonellis at 978-772-8220 or at atm@ayer.ma.us

6:05 PM*

Superintendent Mark Wetzel, Department of Public Works

1. Wastewater Capacity Presentation

6:20 PM

Town Manager's Report

1. Administrative Update/Review of Town Warrant(s)
2. COVID-19 Update
3. Appointment – Alternate member for Minuteman Nashoba Health Group
4. Select Board Approval of Select Board Letter for UXO Study, Nashua River
5. Police Forum Date Selection and Update
6. DRAFT FY 2022 Budget and Town Meeting Calendar Review/Discussion
7. Special Fall Town Meeting DRAFT Warrant Update/Discussion
8. Approval and signature of Conservation Restriction for John Carroll Preserve (54 and 56 Littleton Road)

6:40 PM

New Business/Selectmen's Questions

6:45 PM

Approval of Meeting Minutes

August 18, 2020

6:50 PM**

Executive Session

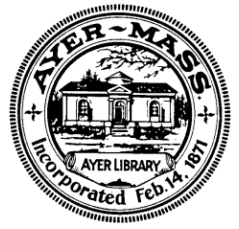
Executive Session pursuant to MGL Chapter 30A, Section 21A, Exemption #6 (To consider the purchase, exchange, lease, or value of real property) 211 West Main Street Parcel

**Agenda times are for planning purposes only and do not necessarily constitute exact time.*

***The Select Board will adjourn the meeting for the evening at the conclusion of the Executive Session.*

The next Select Board Meeting will be held remotely on Tuesday October 6, 2020 at 6:00 PM

**Office of the Select Board
Office of the Town Manager**



Town of Ayer| Ayer Town Hall| 1 Main Street| Ayer, MA 01432|978-772-8220| www.ayer.ma.us

MEMORANDUM

DATE: September 11, 2020

TO: Ayer Select Board

FROM: Robert A. Pontbriand
Town Manager

SUBJECT: Town Manager's Report for the September 15, 2020 Ayer Select Board Meeting

Dear Honorable Select Board Members,

I am pleased to transmit to you the following Town Manager's Report for the September 15, 2020 Select Board Meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly. Thank you.

Administrative Update/Review of Town Warrant(s):

- I will provide a brief Administrative Update at the meeting of the various activities, initiatives, and projects of the Administration since the Select Board last met on August 18, 2020.
- I have reviewed, approved, and signed the following Town Warrants since the Select Board last met on August 18, 2020:

Accounts Payable Warrant #21-03 in the amount of \$376,028.09 was reviewed, approved, and signed on August 8, 2020.

Payroll Warrant #21-04 in the amount of \$335,454.50 was reviewed, approved, and signed on August 26, 2020.

Accounts Payable Warrant #21-04 in the amount of \$2,353,313.38 was reviewed, approved, and signed on September 1, 2020.

Payroll Warrant #21-05 in the amount of \$330,970.93 was reviewed, approved, and signed on September 8, 2020.

COVID-19 Update:

- I will provide a brief update at the meeting of the Town's ongoing COVID-19 preparedness and related activities since the Select Board last met on August 18, 2020.

Appointment - Alternate Member for the Minuteman Nashoba Health Group:

- I am respectfully recommending that the Select Board appoint Ms. Barbara Tierney, Town Treasurer/Tax Collector as the Alternate Member of the Minuteman Nashoba Health Group. The Town's current Alternate Member is the Town Manager and Ms. Tierney would like to serve as the Alternate Member as her Office does play a role in health insurance/benefits for the Town. The Town's Primary Member is Mr. Kevin Johnston, Benefits and Payroll Manager.

Select Board Approval of Select Board Letter for UXO Study, Nashua River:

PACE (People of Ayer Concerned About the Environment) has requested that the Ayer Select Board send a letter to the U.S. Army in support of the request that the U.S. Army conduct a UXO (Unexploded Ordnance) Study of the Nashua River as the result of a recent incident involving the retrieval/disposal of UXO in the Nashua River. I have prepared a DRAFT letter for review and consideration of approval by the Select Board. (See Attached).

Police Forum Date Selection and Update:

- I will be joined by Police Chief Murray to meet with the Select Board to select a date and time for the upcoming Police Forum and to provide a brief update to the Select Board on the format/development of the forum.

DRAFT FY 2022 Budget and Town Meeting Calendar Review/Discussion:

- As the Select Board is aware, each year the Town develops a Budget and Town Meeting Calendar which is approved by the Select Board and serves as the Town's budget schedule for the year ahead. Attached is the DRAFT FY 2022 Budget and Town Meeting Calendar which was prepared by the Assistant Town Manager. This DRAFT is still missing several key dates. I would like the Select Board to review and offer input for the DRAFT. The goal will be to have the Finance Committee, Internal Finance Departments, and Executive Bi-Board do the same with the final version being approved by the Select Board at your October 6, 2020 meeting. (See Attached).

Special Fall Town Meeting DRAFT Warrant Update/Discussion:

- I will provide a brief update on the ongoing development of the DRAFT Fall Special Town Meeting Warrant to the Select Board. As the Select Board is aware, the deadline for all Warrant Articles and Citizens Petitions is Friday, October 2, 2020 at 12pm noon.

- As of September 11, 2020, the following are the Articles on the DRAFT Fall Special Town Meeting Warrant:

UDAG Replenishments in the Amount of \$230,000 (Deferred from June 15, 2020)

Forward Funding of the Town's Pension Assessment in the Amount of \$300,000 (Deferred from June 15, 2020)

Stabilization Fund in the Amount of \$949,139 (Deferred from June 15, 2020)

Establishment of the Ayer Housing Trust (Placeholder from Affordable Housing Committee)

Funding for the Ayer Housing Trust (Placeholder from Affordable Housing Committee/CPC)

Authorization for Water/Sewer Extension for Ayer Road in Harvard (Placeholder from DPW)

Authorization for Sewer Extension for Town of Littleton (Placeholder from DPW)

- I would like to update the Select Board on the development of our ongoing plans to improve Town Meeting due to COVID-19. Finally, I would like to also discuss with the Select Board, due to the ongoing COVID-19 Pandemic, the potential/possibility of delaying/deferring the Fall Special Town Meeting until the Annual Town Meeting in April 2021.

Approval and Signature of the Conservation Restriction for the John Carroll Preserve (54 and 56 Littleton Road):

- The Select Board are respectfully requested to review, approve, and sign the attached Conservation Restriction for the John Carroll Preserve (54 and 56 Littleton Road). This Conservation Restriction was approved by the Conservation Commission (5-0) at their September 10, 2020 meeting. The Conservation Restriction is a requirement of the Town's new Open Space Residential Development (OSRD) and a requirement set forth by the Planning Board in their Notice of Decision for this property which was approved by the Planning Board on October 10, 2019. (See Attached).

Thank you.

Attachment(s): DRAFT Select Board Letter for UXO Study, Nashua River
 DRAFT FY 2022 Budget and Town Meeting Calendar Review/Discussion
 Conservation Restriction for the John Carroll Preserve (54 and 56 Littleton Road)

**Office of the Select Board
Office of the Town Manager**



Town of Ayer| Ayer Town Hall| 1 Main Street| Ayer, MA 01432|978-772-8220| www.ayer.ma.us

September 15, 2020

Mr. Robert Simeone
Department of the Army
Base Realignment and Closure Division
U.S. Army Garrison Fort Devens
30 Quebec Street, Unit 100
Devens, MA 01434-4479

Subject: Ayer Select Board Support for UXO Study for the Nashua River

Dear Mr. Simeone,

We the Ayer Select Board are writing this letter in strong support of the recent requests made by the United States Environmental Protection Agency – Region 1 and PACE (People of Ayer Concerned About the Environment) to conduct a timely and comprehensive UXO Study for the Nashua River as a result of the recent retrieval of UXO from the bottom of the Nashua River by a private citizen on July 23, 2020. An additional UXO was retrieved on August 12, 2020 by an individual magnet fishing from a kayak on Nashua River.

Both events are concerning with respect to public health and safety as well as to the environmental conditions of the Nashua River. MassDevelopment, Devens Fire Department and the Massachusetts State Police are to be commended for their prompt response and resolution to these two events. It is now incumbent upon the U.S. Army to ensure the remediation of this dangerous situation to prevent any further incidents.

In the interests of the public health and safety on the Nashua River which is used by thousands of private citizens annually for various recreational activities including kayaking, fishing, and hiking; we are respectfully requesting that the U.S. Army conduct a comprehensive UXO Study of the Nashua River to further determine the potential extent of other UXO on the bottom of the Nashua River as well as for the purposes of developing the appropriate plan and remediation of this dangerous situation.

We trust that the U.S. Army will conduct the necessary UXO study; develop the appropriate remediation plan; and implement the remediation plan to resolve this situation. In the event that this does not occur accordingly, we will support the commencement of the informal dispute resolution by the Environmental Protection Agency. Thank you for your immediate attention to this important public health and safety matter. We look forward to your timely response and to continuing to work with you.

Sincerely,

Shaun C. Copeland, Chair

Scott A. Houde, Vice Chair

Jannice L. Livingston, Clerk

The Ayer Select Board



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1

5 POST OFFICE SQUARE, SUITE 100

BOSTON, MA. 02109-3812

August 19, 2020

Robert Simeone
Department of the Army
Base Realignment and Closure Division
U.S. Army Garrison Fort Devens
30 Quebec Street, Unit 100
Devens, MA 01434-4479

Re: MEC Discovery – Nashua River
July 24, 2020 and August 12, 2020

Dear Mr. Simeone,

On July 29, 2020, the U.S. Environmental Protection Agency (EPA) was notified by MassDevelopment of the July 24, 2020 discovery (and subsequent retrieval/disposal) of potentially live unexploded ordnance (“UXO”) from the bottom of the Nashua River. On August 10, 2020, I sent you an email requesting that Army, as the “responsible person” identified in paragraph 5.4 (e) of the Devens Federal Facility Agreement (FFA) for responding to such incidents, provide immediate notification of the discovery of potentially live UXO and imminent and substantial endangerment to human health posed by the disturbance and/or improper handling of munitions and explosives of concern (“MEC”).

Specifically, Army was required, pursuant to Paragraph 12.1 of the FFA, to provide immediate, oral notification of the MEC discovery to EPA (and the Commonwealth) and provide written notice to same within forty-eight (48) hours of discovery of the situation. Army was also required to take immediate action to notify appropriate Federal, State and local agencies and affected members of the public. Despite having failed to comply with either of these requirements, EPA granted Army an additional forty-eight (48) hours (from receipt of its August 10 email) to provide the required notification and provide the following information:

- Written notification (or confirmation thereof) to EPA, MassDEP and other appropriate Federal, State and local agencies and affected members of the public of the discovery (and subsequent disposal) of two, suspected live UXO items from the bottom of the Nashua River in areas adjacent to the western boundary of the former Fort Devens military installation;

- Maps/figures showing the GPS-verified locations of both UXO discoveries in the Nashua River and the locations of all known and/or suspected former training ranges and/or artillery storage facilities along the adjacent former Fort Devens boundary and the known and/or suspected military munitions used in conjunction with each; and,
- Written reports/statements from all witnesses and incident response personnel (i.e. State and local police and State and/or Devens Bomb Squads) identified on page 2 of the UXO Incident Report.

On August 12, 2020, EPA was once again notified by MassDevelopment that another potentially live UXO had been discovered by an individual magnet fishing from his kayak near the Hospital Street bridge in Shirley, southwest of the former Devens Oak and Maple Housing Areas. With respect to this August 12 incident, Army is required to abide by the same notification requirements set forth above and enumerated in paragraph 12.1 of FFA. EPA has not received notification or any communication from Army regarding the August 12, 2020 incident and has yet to receive any response to EPA's August 10, 2020 email/request for information.

While EPA commends MassDevelopment, the Devens Fire Department and the Massachusetts State Police for their prompt response to these two recent MEC incidents, it is extremely disappointed by Army's continued noncompliance with its responsibilities and requirements set forth in the FFA.

In accordance with paragraphs 12.3(c) and 19.3 of the FFA, EPA has determined that the recent discoveries of MEC at two different locations on the Nashua River and the likely presence of additional MEC, including UXO, discarded military munitions ("DMM") and munitions debris ("MD"), at other locations along the western boundary of the former Fort Devens pose an imminent threat and substantial endangerment to human health or the environment and that Additional Work is required to investigate the source and nature of the release, the magnitude of the threat, and to protect human health and the environment.

Army must immediately notify all State and local officials of the recent incidents, as required by paragraph 12.1 of the FFA, and place signage along all points of egress along the Nashua River to warn public recreators of the potential dangers present along the stretch of the River contiguous with the western boundary of the former Fort Devens military installation. Army shall also perform a Removal Site Evaluation as required by paragraph 12.3(c) of the FFA and § 300.410 of the NCP that shall include an evaluation of factors necessary to make a determination of whether a removal or other additional remedial action is necessary (see Section 300.415 of the NCP for a description of factors to be considered when determining whether a Removal Action is necessary). If EPA or Army determines, upon completion of the Removal Site Evaluation, that there is a threat, Army must take any appropriate Removal Action to abate, prevent, minimize, stabilize, mitigate, or eliminate the release or the threat of release. See FFA, ¶ 12.3(e).

EPA requests that, within twenty-four (24) hours of receipt of this letter, Army submit, for EPA review and approval, a proposed schedule for the commencement/completion of the aforementioned activities. Should Army fail to respond within this timeframe, EPA will initiate informal dispute resolution as required by the dispute resolution provisions set forth in Section

XIII of the FFA, for prompt resolution of this matter. Please feel free to contact Anni Loughlin or me at (617) 918-1273 or (617) 918-1393, respectively with any questions.

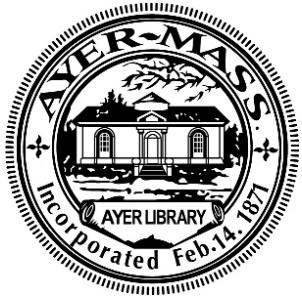
Sincerely,

Carol A. Keating, RPM
Superfund Federal Facilities and Information Management Section
Superfund and Emergency Management Division

cc: Tom Lineer, US Army
Jessica Strunkin, MassDevelopment
Dave Chaffin, MassDEP
Laurie Nehring, PACE
Doug Maddox, USEPA HQ/FFRRO
Margaret Leshen, USEPA
Cayleigh Eckhardt, USEPA
Anni Loughlin, USEPA

FY '22 Budget/Town Meeting Calendar
Items Needed to Be Added as of September 9, 2020

- FY '22 Capital Budget Directive Out and Date Due
- Start and End APPOA and Dispatch Negotiations
- Solid Waste Rate Public Hearing
- FY '22 Omnibus Directive Out and Date Due
- FY '21 Tax Classification Hearing
- Town Reports Directive Out and Date Due
- Target CPC Estimated Revenues
- Bi-Board Meetings
- Capital Planning Meetings
- Rate Review Committee Process
- Start and End Non-Union Negotiations

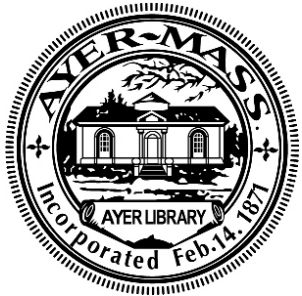


August 2020

Mon	Tue	Wed	Thu	Fri
3	4	5	6	7
10	11	12	13	14
17	18 BOS Open Fall Town Meeting Warrant	19	20	21
24	25	26	27	28
31				

Town of Ayer
FY '22 Budget/Town Meeting Calendar

DRAFT

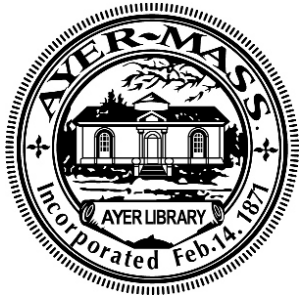


September 2020

Mon	Tue	Wed	Thu	Fri
	1	2	3	4
7 Town Hall Closed Labor Day	8	9	10	11
14	15 SB Meeting	16	17	18
21	22	23	24	25
28	29	30		

Town of Ayer
 FY '22 Budget/Town Meeting Calendar

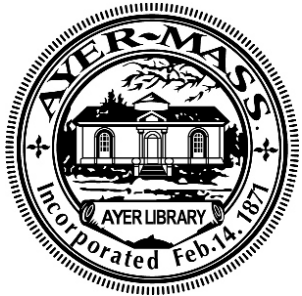
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October 2020

Mon	Tue	Wed	Thu	Fri
			1	2 12 PM Close Fall Town Meeting Warrant
5	6 SB Meeting to approve Fall Town Meeting Warrant	7	8	9
12 Town Hall Closed Columbus Day	13	14	15	16
19	20 SB Meeting	21	22	23
26 7 PM Fall Special Town Meeting, ASRHS	27	28	29	30

Town of Ayer
 FY '22 Budget/Town Meeting Calendar
DRAFT

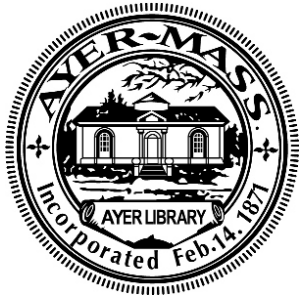


November 2020

Mon	Tue	Wed	Thu	Fri
2	3 Presidential Election SB Meeting Needs to be rescheduled	4	5	6
9	10	11 Town Hall Closed Veteran's Day	12	13
16	17 SB Meeting	18	19	20
23	24	25	26 Town Hall Closed Thanksgiving	27 Town Hall Closed Day After Thanksgiving
30				

Town of Ayer
 FY '22 Budget/Town Meeting Calendar

DRAFT

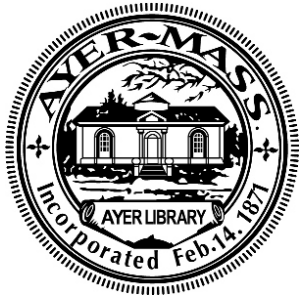


December 2020

Mon	Tue	Wed	Thu	Fri
	1 SB Meeting	2	3	4
7	8	9	10	11
14	15 SB Meeting	16	17	18
21	22	23	24 Town Hall Closed 1/2 Day Christmas Eve	25 Town Hall Closed Christmas Day
28	29	30	31 Town Hall Closed 1/2 Day New Year's Eve	

Town of Ayer
 FY '22 Budget/Town Meeting Calendar

DRAFT



January 2021

Mon	Tue	Wed	Thu	Fri
				1 Town Hall Closed New Year's Day
4	5 SB Meeting Call Annual Election	6	7	8
11	12	13	14	15
18 Town Hall Closed MLK, Jr. Day	19 SB Meeting	20	21	22
25 First Budget Presen- tation to SB and Fin Com	26	27	28	29

Tasks

Fin Com to meet with Dept.
Heads, if needed

Town Accountant

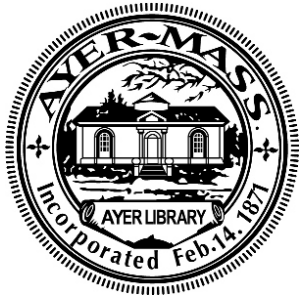
Revenue Projections
Water/Sewer Rate Model
Develop Ambulance and
Solid Waste Rates

Town Manager

Meet with Departments

Town of Ayer FY '22 Budget/Town Meeting Calendar

DRAFT



February 2021

Mon	Tue	Wed	Thu	Fri
1	2 SB Meeting Open ATM Warrant	3	4	5
8	9	10	11	12
15 Town Hall Closed President's Day	16 SB Meeting	17	18	19
22	23	24	25	26

Tasks

OPEB Meeting

Town Accountant

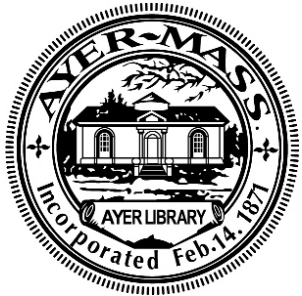
Revenue Projections
Water/Sewer Rate Model
Develop Ambulance and
Solid Waste Rates

Town Manager

Make COLA Recommendation

Town of Ayer FY '22 Budget/Town Meeting Calendar

DRAFT



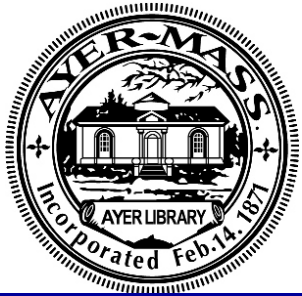
March 2021

Mon	Tue	Wed	Thu	Fri
1 Regional School Assessments Due	2 SB Meeting	3	4	5
8 Second Budget Presentation to SB and Fin Com	9	10	11	12
15	16 SB Meeting Public Hearing Water & Sewer Rates	17	18	19
22	23	24	25 Close ATM Warrant	26
29	30	31		

Town of Ayer

FY '22 Budget/Town Meeting Calendar

DRAFT

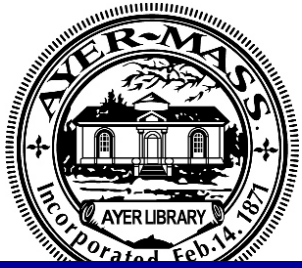


April 2021

Mon	Tue	Wed	Thu	Fri
			1	2
5	6 SB Meeting Approve ATM Warrant	7	8	9
12	13	14	15	16
19 Town Hall Closed Patriots Day	20 SB Meeting Approve Ec. Dev. Udag Budget	21	22	23
26 ANNUAL TOWN MEETING	27	28	29	30

Town of Ayer
 FY '22 Budget/Town Meeting Calendar

DRAFT



May 2021

Mon	Tue	Wed	Thu	Fri
3	4 SB Meeting	5	6	7
10	11 ANNUAL TOWN ELECTION	12	13	14
17	18 SB Meeting	19	20	21
24	25	26	27	28
31 Town Hall Closed Memorial Day				

Town of Ayer
FY '22 Budget/Town Meeting Calendar

DRAFT

GRANTOR: LR Properties, LLC
GRANTEE: Town of Ayer by its Conservation Commission
ADDRESS OF PREMISES: 54 & 56 Littleton Road, Ayer, MA
FOR GRANTOR’S TITLE SEE: Middlesex South Registry of Deeds
Book 49125, Page 469

CONSERVATION RESTRICTION

LR Properties, LLC, of 450 Old Union Turnpike, Lancaster, Massachusetts, being the sole owner of the Premises as defined here, and for its successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to the Town of Ayer, acting by and through its Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, of 1 Main Street, Ayer, MA 01432, and its permitted successors and assigns (“Grantee”), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Ayer, Middlesex County, containing 5.45 acres, more or less (“Premises”), which Premises is more particularly described in Exhibit A and shown in the reduced copy of a survey plan of land in Exhibit B, both of which are incorporated herein and attached hereto.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to ensure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its conservation and preservation values (“conservation values”).

This Conservation Restriction is required by the following permit: John Carroll Reserve Open Space Residential Development Definitive Subdivision Plan Approval dated October 9, 2019 by the Town of Ayer Planning Board and recorded in the Middlesex South District Registry of Deeds in Book 75397, Page 239.

The conservation values include the following:

- Protection of Wetland and Wetland Resource Areas. The Premises includes the Bordering Vegetated Wetland, and 100-foot buffer zone on the Premises. The wetlands on the Premises consist of typical forested wetland species including: red maple (*Acer rubrum*), green ash (*Fraxinus pennsylvanicum*), high-bush blueberry (*Vaccinium corymbosum*), winterberry holly (*Ilex verticillata*), northern arrowwood (*Viburnum recognitum*), northern spicebush (*Lindera benzoin*), poison ivy (*Toxicodendron radicans*), cinnamon fern (*Osmundastrum cinnamomeum*), and sensitive fern (*Onoclea sensibilis*).
- Public Access. Public access to the Premises will be allowed for passive recreational activities.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report (“Baseline Report”) prepared by the Grantor, entitled “64, 56 & 54 Littleton Road Ayer, MA Conservation Analysis,” dated November 2, 2018 by Oxbow Associates, Inc. consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

A. Prohibited Acts and Uses

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;

- (7) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use, or for more than *de minimis* commercial recreation;
- (9) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows;
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (4) Wildlife Habitat Improvement. With the prior written approval of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (5) Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than 8 feet;

- (6) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;
- (7) Outdoor Passive Recreational Activities. Fishing, boating, hunting, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
- (8) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph II(B) shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph II(B), any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report;
- (9) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph II(B) shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued;
- (10) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph II(B) shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Drainage Area

Within the Premises there is a Drainage Area shown on the Plan in Exhibit B as “Drainage Easement”, and which Drainage Area is more particularly described in Exhibit A, in which the Grantor reserves the right to conduct or permit the following activities and uses in addition to the Reserved Rights described in Paragraph II(B) and otherwise subject to this Conservation Restriction:

1. The right to construct, install, use, maintain, repair, and replace drainage structures of all types, including, without limitation, drainage channels, sediment forebays and infiltration basins and to drain surface and subsurface waters therein for the benefit of the subdivision lots and subdivision way on adjacent unrestricted property.

D. Notice and Approval.

Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

Subject to any applicable law or regulation, failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

Grantor, on behalf of itself, its successors and assigns, including any homeowner's association that comes into ownership of the underlying fee, covenants and agrees to pay the Grantee up to Two Thousand (\$2,000.00) annually for the cost of a qualified consultant to inspect the Premises and report to the Grantee and the Grantor on the condition of the Premises and compliance with the

provisions of this Conservation Restriction. Grantor shall pay an invoice from the Grantee within thirty (30) days of the date of receipt thereof.

B. Non-Waiver.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

IV. ACCESS

1. To the Grantee. The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines. For the purposes herein described, the Grantor grants to the Grantee and its employees, officials, representatives, agents and contractors, a permanent access easement to pass and repass to and from the Premises over the following described adjacent unrestricted land of Grantor: Curley Circle and the area on Lots 13 and 14 described as "Access & Utility Easements" in Exhibit A and shown on the reduced size copy of the survey plan in Exhibit B.
2. To the General Public. The Grantor grants access to the Premises to the general public and agrees to take no action to prohibit or discourage access to and use of the Premises by the general public, but only for daytime use and only as described in Paragraph II(B)(7),

provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the purposes and conservation values of this Conservation Restriction. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises not authorized in Paragraph II(B)(7). The Grantor's right to grant public access across the Premises is subject to the restrictions described in this Conservation Restriction. Any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use the Premises for purposes described in Section 17C of Chapter 21 of the Massachusetts General Laws and the Grantor and Grantee hereto benefit from exculpation from liability to the extent provided in such section. The Grantee may require the Grantor to post the Premises against any use that may result in rutting or erosion or other damage to the natural resources of the Premises. For the purposes herein described, the Grantor grants to the general public a permanent access easement to pass and repass by foot to and from the Premises over the following described adjacent unrestricted land of Grantor: Curley Circle and the area on Lots 13 and 14 described as "Access & Utility Easements" in Exhibit A and shown on the reduced size copy of the survey plan in Exhibit B.

V. EXTINGUISHMENT

- A. Procedure for Extinguishment. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs.
- B. Grantor's Receipt of Property Right. Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, but does not entitle the Grantee to receive any proceeds that may result from any extinguishment or other release of this Conservation Restriction.
- C. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed to the Grantor.

VI. DURATION & ASSIGNABILITY

- A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Property, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

VIII. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this

Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. Any amendments to this Conservation Restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South District Registry of Deeds.

XI. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in a timely manner in the Middlesex South District Registry of Deeds.

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: LR Properties, LLC
450 Old Union Turnpike
Lancaster, MA 01523

To Grantee: Conservation Commission
Town of Ayer
Town Hall
1 Main Street
Ayer, MA 01432

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIII. GENERAL PROVISIONS

A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XIV. MISCELLANEOUS

A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. No Surety Interest. The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

C. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor

Grantee Acceptance

Approval by Select Board
Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Legal Description of Premises
Exhibit B: Reduced Copy of Plan of Premises

WITNESS my hand and seal this ____ day of _____, 2020.

LR Properties, LLC

By: _____
Timothy M. Madigan, Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Timothy M. Madigan, Manager as aforesaid, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT BY TOWN OF AYER CONSERVATION COMMISSION

We, the undersigned, being a majority of the Conservation Commission of the Town of Ayer, Massachusetts, hereby certify that at a public meeting duly held on _____, 2020, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from LR Properties, LLC pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby accept the foregoing Conservation Restriction.

AYER CONSERVATION COMMISSION:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared _____, member of the Ayer Conservation Commission, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF SELECT BOARD OF TOWN OF AYER

We, the undersigned, being a majority of the Select Board of the Town of Ayer, hereby certify that at a public meeting duly held on _____, 2020, the Select Board voted to approve the foregoing Conservation Restriction from LR Properties, LLC to the Town of Ayer, acting by and through its Conservation Commission, in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

SELECT BOARD:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared _____, member of the Ayer Select Board, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from LR Properties, LLC to the Town of Ayer, acting by and through its Conservation Commission, has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2020

Kathleen A. Theoharides
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public: John Gioia
My Commission Expires: January 23rd, 2026

EXHIBIT A

Legal Description of Premises, Drainage Area and Access & Utility Easement

PREMISES

A parcel of land in the town of Ayer, Massachusetts shown as PARCEL A / OPEN SPACE on a plan entitled "CONSERVATION RESTRICTION – PLAN OF LAND in AYER, MASS" dated; June 30th, 2020 and recorded in the Middlesex South Registry of Deeds in Plan Book _____, Page _____,

Said parcel being more fully described as follows:

BEGINNING AT A Stone Bound, said point being the northwesterly corner of the parcel at land now or formerly Epic Enterprises, Inc., thence;

N 82°19'17" E and 274.40 feet to a Stone Bound, thence;

N 81°33'52" E and 229.32 feet through a Stone Bound, to a point in a stonewall, the last two courses by land now or formerly Epic Enterprises, Inc., thence;

S 10°26'33" E and 245.08 feet along a stone wall to a point, thence;

S 10°15'10" E and 237.65 feet along a stone wall to a point, thence;

S 10°12'41" E and 309.91 feet along a stone wall to a point, thence;

S 09°58'17" E and 21.09 feet along a stone wall to a point, thence;

N 70°25'16" W and 243.62 feet to a point, thence;

N 19°34'44" E and 150.00 feet to a point, thence;

N 70°25'16" W and 105.00 feet to a point, the last two courses by land now or formerly of Michael & Emily DeBlaisio, thence;

N 62°49'03" W and 104.23 feet to a point by Lot 16, thence;

N 12°55'23" E and 73.68 feet to a point by Lot 14, thence;

N 00°38'41" E and 21.48 feet to a point, thence;

N 44°35'20" W and 66.70 feet to a point the last two courses by Lot 13, thence;

N 32°44'07" W and 101.97 feet to a point by Lot 12, thence;

N 25°13'53" W and 31.57 feet to a point, thence;

N 67°43'54" W and 226.13 feet to a point the last two courses by Lots 9 thru 11, thence;

N 22°33'40" E and 90.69 feet to the **POINT OF BEGINNING**.

CONTAINING: 237,431 square feet or 5.45 acres of land, more or less.

DRAINAGE AREA

A parcel of land in the town of Ayer, Massachusetts shown as DRAINAGE EASEMENT on a plan entitled "CONSERVATION RESTRICTION – PLAN OF LAND in AYER, MASS" dated; June 30th, 2020 and recorded in the Middlesex South Registry of Deeds in Plan Book _____, Page _____,

Said Drainage Area being more fully described as follows:

BEGINNING AT A Stone Bound, said point being the northwesterly corner of the parcel at land now or formerly Epic Enterprises, Inc., thence;

N 82°19'17" E and 122.00 feet, by land now or formerly Epic Enterprises, Inc., to a point, thence;

S 28°29'25" E and 175.00 feet to a point, thence;

S 04°17'16" E and 50.00 feet to a point, thence;

S 37°15'46" E and 195.00 feet to a point, thence;

S 09°43'55" W and 30.00 feet to a point, thence;

N 77°04'37" W and 35.00 feet to a point, thence;

N 12°55'23" E and 11.84 feet, by Lot 14, to a point, thence;

N 00°38'41" E and 21.48 feet to a point, thence;

N 44°35'20" W and 66.70 feet to a point, the last two courses by Lot 13, thence;

N 32°44'07" W and 101.97 feet, by Lot 12 to a point, thence;

N 25°13'53" W and 31.57 feet, by Lot 13 to a point, thence;

N 67°43'54" W and 226.13 feet, by Lots 9 thru 11 to a point, thence;

N 22°33'40" E and 90.69 feet, by land now or formerly Epic Enterprises, Inc., to the **POINT OF BEGINNING**.

CONTAINING: 32,569 square feet or 0.75 acres of land, more or less.

CURLEY CIRCLE RIGHT-OF-WAY

A parcel of land shown as Curley Circle, in the town of Ayer, State of Massachusetts in accordance with a plan entitled "DEFINITIVE SUBDIVISION OPEN SPACE RESIDENTIAL DEVELOPMENT" dated; July 2019,

Said parcel being more fully described as follows:

BEGINNING AT A angle point, said point being in the northerly sideline of Littleton Road (a county layout a.k.a. Rt-110), thence;

N 67°08'16" W and 38.47 feet, to a point, thence;

Thence, along a tangent curve to the left with a radius of 25.00 feet, Thence along the arc of said curve for a distance of 39.82 feet to a point;

N 21°35'44" E and 225.68 feet to a point, thence;

Thence, along a tangent curve to the left with a radius of 230.00 feet Thence along the arc of said curve for a distance of 66.77 feet to a point;

Thence, along a compound curve to the left with a radius of 25.00 feet, Thence along the arc of said curve for a distance of 42.97 feet to a point;

Thence, along a reverse curve to the right with a radius of 60.00 feet, Thence along the arc of said curve for a distance of 269.12 feet to a point;

Thence, along a compound curve to the right with a radius of 270.00 feet, Thence along the arc of said curve for a distance of 187.44 feet to a point;

S 21°35'44" W, 224.76 feet

Thence, along a tangent curve to the left with a radius of 25.00 feet, Thence along the arc of said curve for a distance of 40.15 feet to a point;

N 70°25'16" W and 53.01 feet to the **POINT OF BEGINNING**.

CONTAINING: 27,103 square feet or 0.62 acres of land, more or less.

ACCESS & UTILITY EASEMENT

A parcel of land shown as EASEMENT (Over Lots 13 & 14), in the town of Ayer, State of Massachusetts in accordance with a plan entitled "CONSERVATION RESTRICTION – PLAN OF LAND" dated; June 2020,

Said easement being more fully described as follows:

BEGINNING AT A Stone Bound, said point being the northwesterly corner of the easement, being 10.00' northerly from the lot corner between lots 13 & 14 and on the easterly sideline of Curley Circle, thence;

S 89°43'01" E and 126.92 feet to a point, thence;

S 00°38'41" W and 10.00 feet to a point, thence;

S 12°55'23" W and 10.00 feet to a point, thence;

N 89°43'01" W and 309.91 feet to a point, on the easterly sideline of Curley Circle, thence;

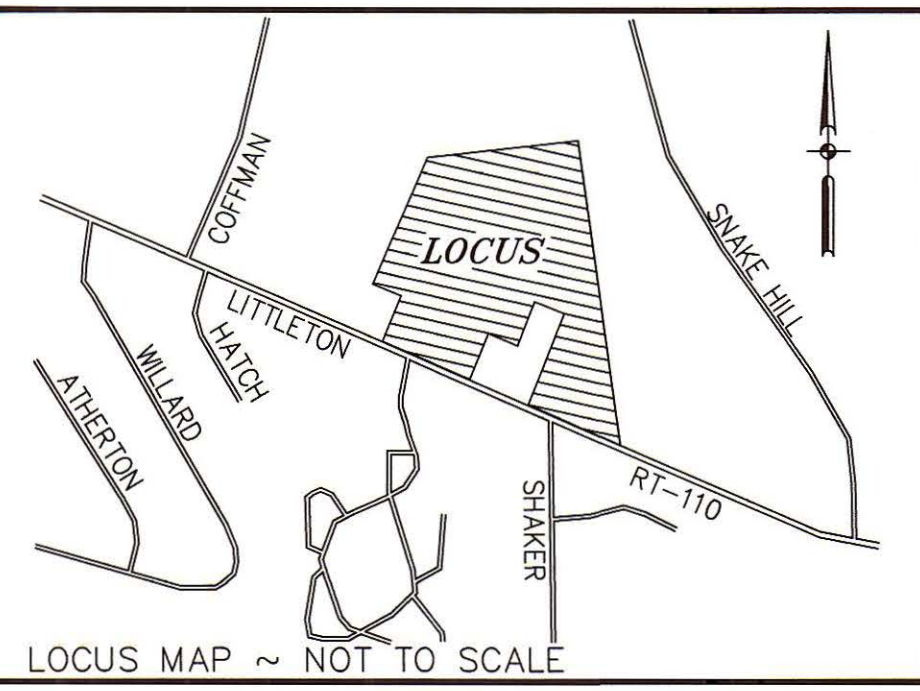
By a curve to the left having a radius of 270.00 for a length along the easterly sideline of Curley Circle of 20.00 feet to the **POINT OF BEGINNING**.

CONTAINING: 291.78 square feet, more or less.

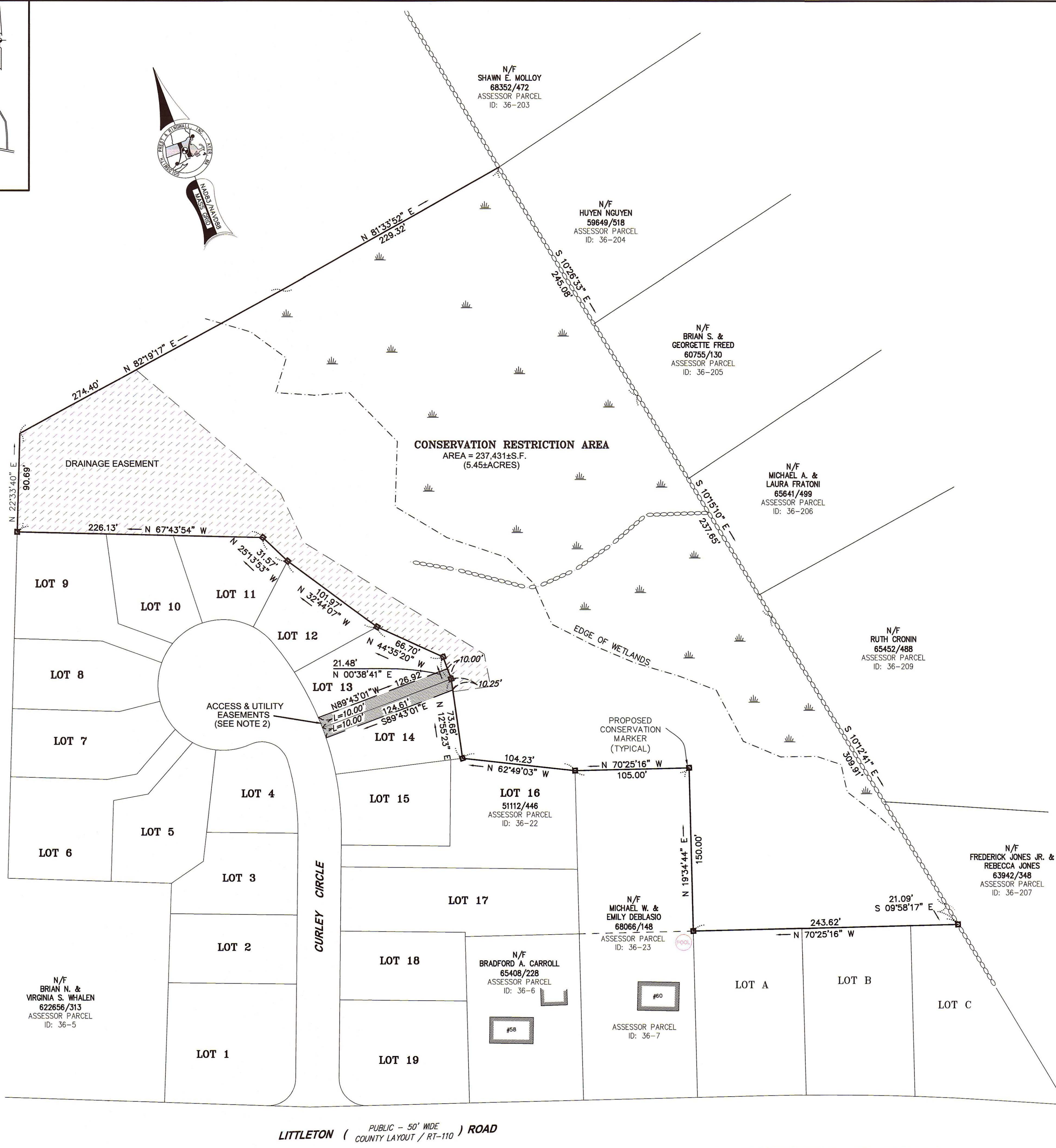
EXHIBIT B

Reduced Copy of Plan of Premises

For official full size plan see Middlesex South District Registry of Deeds Plan Book _____ Page



N/F
EPIC ENTERPRISES, INC.
11317/10
ASSESSOR PARCEL
ID: 35-1



LEGEND

- N/F NOW OR FORMERLY
- 1111/111 DEED BOOK/PAGE
- ∞∞∞ STONE WALL
- CONSERVATION MARKER TO BE SET
(PENDING STYLE/MATERIAL APPROVAL BY COMMISSION)

FOR REGISTRY USE ONLY

PLAN REFERENCES:

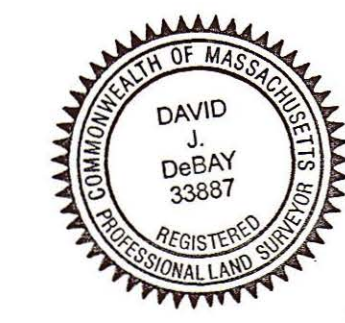
- 1) "APPROVAL NOT REQUIRED" PLAN OF LAND, PREPARED BY THIS OFFICE DATED MAY 2019. (PENDING RECORDING)
- 2) DEFINITIVE SUBDIVISION OPEN SPACE RESIDENTIAL DEVELOPMENT PLAN, PREPARED BY THIS OFFICE DATED JULY 2019, (REVISED SEPT. 4, 2019).
- 3) EASEMENT (DRAINAGE) PLAN OF LAND PREPARED BY THIS OFFICE DATED JUNE 2020. (PENDING RECORDING)

NOTE:

- 1) THE PREPARATION OF THIS PLAN IS NOT INTENDED TO BE A CONFIRMATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN, THOSE SHOWN HEREON MAY BE SUBJECT TO EASEMENTS, RIGHTS-OF-WAYS, RESTRICTIONS, RESERVATIONS OR LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.
- 2) ACCESS TO CONSERVATION RESTRICTION AREA IS TO BE PROVIDED VIA "ACCESS & UTILITY EASEMENT SHOWN HEREON & AS IDENTIFIED ON A DEFINITIVE SUBDIVISION PLAN PREPARED BY THIS OFFICE, DATED SEPTEMBER 4, 2019 (RECORDED AS PLAN 561 OF 2020).

THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.



David J. DeBay
DAVID J. DeBAY, P.L.S. # 33887 DATE 9/11/2020

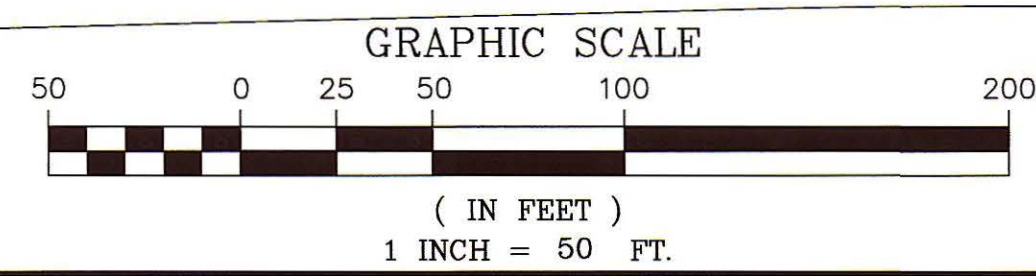
*REVISED (09/10/20) - NOTE 2 & EASEMENT ADDED

GPR Engineering Solutions for Land & Structures

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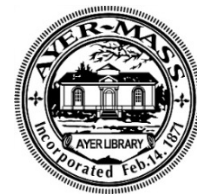
CONSERVATION RESTRICTION PLAN OF LAND IN AYER, MASS.

PREPARED FOR:
LR PROPERTIES, LLC
SITE ADDRESS:
54 & 56 LITTLETON ROAD - AYER, MA



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



Broadcast and Recorded by APAC

Tuesday August 18, 2020
Open Session Meeting Minutes

BOS Present: Shaun C. Copeland, Chair; Scott A. Houde, Vice-Chair

Not Present: Jannice L. Livingston, Clerk

Also Present: Robert A. Pontbriand, Town Manager

Call to Order: S. Copeland called the meeting to order at 6:00pm.

Remote Access: S. Copeland stated that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18 and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this meeting of the Ayer Board of Selectmen is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but every effort has been made to ensure that the public can adequately access the proceedings as provided in the Order.

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

Approval of Meeting Agenda: There were no amendments/changes to the meeting agenda.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the meeting agenda, as amended. **Motion passed 2-0.**

Public Input: There was no Public Input.

Superintendent Mark Wetzel, Department of Public Works:

Change Order #1 for the FY 2020 Main Street streetlights upgrade project in the amount of \$14,400 to Cullen Electrical Contractors, Inc. was presented and recommended for approval by M. Wetzel.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve Change Order #1 for the FY 2020 Main Street streetlights upgrade project in the amount of \$14,400 to Cullen Electrical Contractors, Inc. as presented and recommended by the DPW Superintendent, for signature by the Chair. **Motion passed 2-0.**

Spectacle Pond Wellfield PFAS Treatment Plant Funding – M. Wetzel provided an overview and update of the Spectacle Pond PFAS Treatment Plant project and requested that the Select Board vote to approve and sign the "Authority to File" which will authorize the Town Manager to execute various funding documents for this project.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the "Authority to File" for the Spectacle Pond Wellfield PFAS Treatment Plant funding for signature by the Select Board. **Motion passed 2-0.**

Agreement for Participation in the Central Massachusetts Regional Stormwater Coalition – M. Wetzel presented an overview of the Central Massachusetts Regional Stormwater Coalition which is administered by the Town of Spencer. The Coalition provides services which include reviewing/updating the Town’s stormwater bylaw/regulations; identifying illicit discharges; public education and outreach on stormwater management and inspection of outfalls. The Coalition normally charges annual dues of \$4,000 but the dues are now \$1,000. The Coalition will benefit the Town of Ayer’s ongoing stormwater management plan and efforts.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the Agreement for Participation in the Central Massachusetts Regional Stormwater Coalition for signature by the Select Board.
Motion passed 2-0.

Alan Manoian, Director of Community and Economic Development:

Master Plan Quarterly Update – A. Manoian at the previous request of Select Board Livingston provided the Select Board with a quarterly update of the Town’s ongoing implementation efforts of the Master Plan. He stated that the Town had held several successful working luncheons on implementation prior to COVID-19 occurring which has impacted the ability to conduct working luncheons and in-person implementation sessions. He outlined, that the next steps will be to conduct “synthesis sessions” with the Town’s Finance Committee, Capital Planning Committee, and Planning Board regarding the funding and implementation of some of the larger items in the Master Plan. He also stated that the Town would like to conduct a larger Master Plan Citizen’s Implementation Forum hopefully in the Spring of 2021 if COVID-19 conditions warrant.

S. Houde asked how far along the Town is with the implementation plan in terms of a percentage of goals completed?

A. Manoian stated that he estimated that between 30% to 35% of the Master Plan goals have been completed to date.

S. Houde asked what A. Manoian thinks is the next big item for implementation in the Master Plan?

A. Manoian stated that he believes that the transportation issues identified in the Master Plan are the next big items especially now with COVID-19 as the need for more transportation has presented itself. The Park Street Corridor in terms of the form-based code with on-street parking as well as the intersection of Main Street and Park Street.

S. Copeland asked what MassWorks grant the Town would be applying for?

A. Manoian stated that the Town will be applying for a \$3.5 million-dollar MassWorks Grant for the West Main Street Village Corridor project. This grant will enable the Town to address the various infrastructure and transportation challenges on West Main Street which will result in further economic development. The grant application is a joint effort between the Town of Ayer, the Devens Enterprise Commission, and MassDevelopment.

Approval of FY 2021 UDAG Budget for the Community and Economic Development Office – A. Manoian presented the FY 2021 UDAG Budget for the portion of the Community and Economic Development Office in the amount of \$75,128 and requested that the Select Board vote to authorize.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the FY 2021 UDAG Budget for the Community and Economic Development Office in the amount of \$75,128 as requested and recommended by the Director of Community and Economic Development. **Motion passed 2-0.**

Approval of Select Board Letter of Support for West Main Street MassWorks Grant Application - A. Manoian requested that the Select Board issue a letter of support for the Town's West Main Street MassWorks grant application which is a joint effort between the Town of Ayer, the Devens Enterprise Commission, and MassDevelopment. R. Pontbriand referred to the prepared, DRAFT letter in the Select Board Meeting packet for the Board's review and consideration.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve and sign the DRAFT Select Board letter of support for the West Main Street MassWorks grant application. **Motion passed 2-0.**

Town Manger's Report: Robert A. Pontbriand, Town Manager: *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 on July 14, 2020. He also provided the Town Warrants in the meeting packet which were approved since the Select Board last met on July 14, 2020.

COVID-19 Update – R. Pontbriand advised that the situation with COVID-19 remains status quo since the Select Board last met on July 14, 2020. The Town through its I.T. Department will be conducting an internal survey to further improve upon the Town's remote-work capabilities if the situation with COVID-19 should change requiring employees to work remotely. The Chiefs recently secured some additional PPE for first responders and employees. The Town continue to acquire PPE.

R. Pontbriand provided the Select Board with a Town Revenue Report prepared by the Town's Internal Finance Team which indicates that to date the collection of revenues remains slightly above target. At this time, the Town's revenues have yet to be impacted by COVID-19. The Town's Internal Finance Team will continue to monitor revenues and update the Select Board and Finance Committee monthly. He stated that he welcomes any feedback regarding this one-page Town Revenue Report from the Select Board.

R. Pontbriand also provided the Select Board with a report prepared by the Treasurer/Tax Collector which shows the significant increase in usage of the Town's on-line payments due to COVID-19. The report illustrates that the public continues to use the Town's on-line payment system effectively to conduct various payment transactions safely and efficiently with the Town.

Appointments – R. Pontbriand stated that the Montachusett Joint Transportation Committee (MJTC) needs a representative from the Select Board. The representative is an annual appointment and would attend all MJTC meetings. The Town also has a representative from the Planning Board. The MJTC is involved with regional transportation planning as well as the administration of the Transportation Improvement Plan (TIP).

S. Copeland stated that he would be willing to serve as the Select Board Representative to the MJTC this year since he is currently the representative to MRPC.

Motion: A motion was made by S. Houde and seconded by S. Copeland to appoint S. Copeland as the Ayer Select Board Representative to the Montachusett Joint Transportation Committee (MJTC) for the year 2019-2020. Motion passed 2-0.

Update on Community/Police Forum with Chief Murray, APD – R. Pontbriand was joined remotely by Chief Murray to provide a brief update to the Select Board regarding planning for the upcoming Community/Police Forum. R. Pontbriand advised that he and the Chief have been meeting and propose that the forum due to COVID-19 be conducted remotely on the Zoom Meeting Platform. Additionally, the forum would be hosted/facilitated by the Select Board on a separate evening from the regular meeting. Chief Murray with the assistance of various officers in the Department would provide an overview of the functions and services that the Ayer Police Department provides to the Community. This presentation would also consist of an overview of

the Police Department Budget. Advanced questions from the public will be encouraged to be sent in and there will be a public participation component to the forum. The forum would conclude with next steps for continued dialogue between the Town/Police Department and the Community. The forum should ideally be scheduled to take place in September or early October at the latest.

Approval of Select Board Letter of Support for the Sandy Pond School Association's CPC Application – R. Pontbriand stated that the Sandy Pond School Association has requested a letter of support for their CPC application for Phase II of the Sandy Pond Schoolhouse historic restoration and preservation project. R. Pontbriand referred to the prepared DRAFT letter in the Select Board Packet for the Board's consideration for approval and signature.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the DRAFT Select Board letter of support for the Sandy Pond School Association's CPC Application for Phase II of the Sandy Pond Schoolhouse for signature by the Select Board. **Motion passed 2-0.**

Approval of Easement Deed for 0 Park Street – R. Pontbriand presented the Deed of Easement for 0 Park Street for approval by the Select Board and referred to the memo from the Assistant Town Manager regarding this easement which stated that This item is related to the confirmatory deed approved by the SB on June 30, 2020. F&P Willows Trust recently conveyed 16 Park Street to Bike Realty, LLC – at which time the Trust's failure to reserve the access easement was identified as an issue. Peter Knox, the attorney for the Trust, contacted the Town, and requested that the Town sign a confirmatory deed reserving the access easement. The Town had no issue with the easement, as it would not interfere with the Town's intended use of the Park Street property. This confirmatory deed was drafted, reviewed, and approved by both Attorney Knox and Mark Bourbeau, the attorney for Bike Realty, LLC. The Select Board executed the confirmatory deed on June 30, 2020 and it was recorded. Attorney Bourbeau subsequently determined that he would prefer, from a conveyancing standpoint, to have the access easement conveyed directly to his client, Bike Realty, LLC. It is the same access easement as contained in the confirmatory deed which the Select Board executed in June. The Deed of Easement states that it "supersedes" the confirmatory deed already recorded. The Town is not prejudiced by executing the Deed of Easement. The rights of Bike Realty, Inc., as the new owner of 16 Park Street, are identical to those reserved in the confirmatory deed.

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the Easement Deed for 0 Park Street for signature by the Select Board. **Motion passed 2-0.**

Execution of National Grid Easement – R. Pontbriand presented the National Grid Easement which was approved by Town Meeting (Article 35 of the June 15, 2020 Annual Town Meeting) for the installation of overhead electric equipment at the Ayer Rail Trail Parking Facility. The Select Board previously approved a license agreement on November 5, 2019 to allow for this work to proceed prior to the Annual Town Meeting to facilitate the opening of the facility. The execution of this easement by the Select Board is the final step in the process.

Motion: A motion was made by S. Houde and seconded by S. Copeland to execute the National Grid Easement as approved by Article 35 of the June 15, 2020 Annual Town Meeting for signature by the Select Board. **Motion passed 2-0.**

Reauthorization of Remaining UDAG Funds (Depot Square) for the Depot Square Landscaping – R. Pontbriand advised the Select Board that MART was able to continue construction of the Depot Square Project during COVID-19. Due to initial delays in the project, the money budgeted in FY '20 for landscaping is unavailable. According to the Town Accountant, there is \$7,450 remaining in the UDAG authorization for the Worthen Dale lawsuit relating to eminent domain. R. Pontbriand respectfully requested that the Select Board reauthorize the use of these available funds to pay for landscaping at Depot Square, for the planting of four trees and over 50

plants in the raised bed planters on-site. The type of plants selected will be very similar to the Rotary Island Plantings which can sustain drought and high heat.

Motion: A motion was made by S. Houde and seconded by S. Copeland to reauthorize the reaming UDAG Funds for Depot Square in the amount of \$7,450 for the purposes of the Depot Square Landscaping. **Motion passed 2-0.**

Opening of the Fall Special Town Meeting Warrant – R. Pontbriand respectfully requested that the Select Board vote to officially open the Fall Special Town Meeting Warrant. He advised that the deadline for all warrant articles and citizens petitions will be at 12pm noon on Friday, October 2, 2020 and that the Select Board will be scheduled to review and approve the Fall Special Town Meeting Warrant at the October 6, 2020 meeting of the Select Board. The Fall Special Town Meeting is scheduled to take place at 7pm on Monday, October 26, 2020 in the Auditorium of the Ayer Shirley Regional High School.

Motion: A motion was made by S. Houde and seconded by S. Copeland to open the Fall Special Town Meeting Warrant for the Ayer Special Fall Town Meeting to take place on Monday, October 26, 2020 at 7pm in the Auditorium of the Ayer Shirley Regional High School with the deadline for all warrant articles and citizens petitions of 12pm noon on Friday, October 2, 2020. **Motion passed 2-0.**

First Meeting of September Date Change (State Primary Election) – R. Pontbriand advised that the Select Board would normally meet on September 1, 2020. However, that is the date of the State Primary Election and per the Secretary of State’s Office there are to be no public meetings at a polling place (Town Hall) during an election. He suggested that the Select Board consider meeting on Thursday, September 3, 2020.

S. Copeland stated that he could meet on Thursday, September 3 but asked if the Select Board could meet earlier that day at 5:30pm.

S. Houde stated that he had no issues with meeting at 5:30pm on Thursday, September 3.

The Select Board agreed to meet on Thursday, September 3, 2020 at 5:30pm.

New Business/Selectmen’s Questions – There was no New Business/Selectmen’s Questions.

Approval of Meeting Minutes:

Motion: A motion was made by S. Houde and seconded by S. Copeland to approve the Meeting Minutes from July 14, 2020. **Motion passed 2-0.**

Adjournment:

Motion: A motion was made by S. Houde and seconded by S. Copeland to adjourn the meeting at 7:17pm. **Motion passed 2-0.**

Minutes Recorded and Submitted by Robert A. Pontbriand, Town Manager

Date Minutes Approved by BOS: _____

Signature Indicating Approval: _____