

RECEIVED  
OCT 10 2019

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



11:45am

TOWN OF AYER  
TOWN CLERK

*Annunopland*

**Tuesday October 15, 2019**  
**Open Session Meeting Agenda**

- 6:00 PM** **Call To Order**  
Pledge of Allegiance; Review and Approve Agenda; Announcements
- Recognition of former Ayer Fire Captain Paul Fillebrown, Jr. & Retired  
Call Department Captain Richard Ressijac**
- 6:05 PM\*** **Public Input**
- 6:10 PM** **Chief Robert J. Pedrazzi, Ayer Fire Department**  
1. Fire Department Permit Fees
- 6:15 PM** **Superintendent Mark Wetzel, Ayer DPW**  
1. Proposed Transfer Station Fees for Calendar Year 2020  
2. Summary of Ayer Bridges (Requested by Selectman Livingston)
- 6:25 PM** **Director Alan Manoian, Ayer Office of Comm. & Economic Development**  
1. AOCED FY 2020 Budget Approval
- 6:30 PM** **Town Planner Mark Archambault**  
1. Ayer Zoning Bylaw Amendments Overview for Fall Special Town Meeting
- 6:45 PM** **Town of Ayer 4<sup>th</sup> of July Celebration**
- 7:00 PM** **Town Manager's Report**  
1. Administrative Update/Review of Warrant(s)  
2. Rescheduling of December 3, 2019 BOS Meeting  
3. Minuteman Nashoba Health Group - Ethics Disclosure  
4. Review of Special Town Meeting Warrant
- 7:10 PM** **New Business/Selectmen's Questions**
- 7:15 PM** **Approval of Meeting Minutes**  
October 1, 2019
- Adjournment**

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

# AYER FIRE DEPARTMENT

Robert J. Pedrazzi  
Chief

1 West Main Street  
Ayer, Massachusetts 01432  
Tel. (978) 772-8231  
Fax (978) 772-8230



October 8, 2019

## Fillebrown recognition of service

Paul Fillebrown Jr. joined the Ayer Fire Department as a Call Firefighter on March 6<sup>th</sup>, 1985 serving in that capacity until July 18<sup>th</sup> 1991 when he was hired as a fulltime Firefighter/EMT. Paul served in that capacity until he was promoted to Lieutenant on October 4<sup>th</sup> 1994 serving in that capacity until July 1<sup>st</sup> 2001 when he was promoted to Captain. Paul had major contributions to the department in the area of Fire Prevention serving as the Public Safety Life Educator administering the SAFE program in the schools. Captain Fillebrown was also served on the grant writing team for the department. Captain Fillebrown left the department on September 23<sup>rd</sup> to pursue a career as Chief of the Boxborough Fire Department.



# AYER FIRE DEPARTMENT

Robert J. Pedrazzi  
Chief

1 West Main Street  
Ayer, Massachusetts 01432  
Tel. (978) 772-8231  
Fax (978) 772-8230



September 24, 2019

Mr. Robert Pontbriand  
Town Manager

Re: Call Captain Richard H. Ressijac retirement

Dear Robert,

As discussed Call Captain Richard H. Ressijac reached his mandatory retirement for firefighters this month. Rick has been an integral part of the team here at the Fire Department for 47 years. I would like to honor him for his service to the Town at the Selectman meeting on October 1<sup>st</sup>. Below is something for the Selectmen to read.

“ Richard Ressijac has served the Ayer Fire Department for forty seven years. Rick started as a probationer on the Call Department April 4<sup>th</sup> 1973 at the age of eighteen. He was appointed a regular member of the Call Department the following year November 6<sup>th</sup> 1974. Appointed to the rank of Lieutenant on August 6<sup>th</sup> 1980; and to the rank of Captain on March 14<sup>th</sup> 2018. Rick served on many committees over the years at the Fire Department and is one of the founding fathers of the Fire Department Thanksgiving day 5K road race. Rick will remain to serve the Town as an EMT. Thank you for your service to the Town.”

Chief Pedrazzi

Type of Permit / Inspection	Fee	
<b>527 CMR GENERAL PERMITS</b>		
Alcohol Beverage license inspection (MGL Ch 304)	\$40.00	
Blasting (renewable every 30 days )	\$50.00	
Burning Permit (annual)	\$10.00	
Cutting Welding (job site)	\$25.00	
Dumpster Permit	\$25.00	
Fire alarm master box (connection fee)	\$100.00	
Fire alarm master box (yearly fee)	\$300.00	
Residential Plan Review	No Fee	
Commercial Fire alarm system ( plan review and inspection )	No Fee	
Fire alarm system repair (permit and inspection )	\$25.00	
Fireworks (permit and site inspection )	\$100.00	
Hood Fire System installation (permit and inspection)	\$50.00	
L.P.G. Storage Permit & inspection	\$30.00	\$50
New tank inspection above ground	\$50.00	
Oil Burner ( installation inspection, includes oil tank on new installation)	\$50.00	
Oil Tank inspection (275 gal, 330 gal )	\$25.00	\$50
Permit to Maintain Storage Tanks	\$50.00	
Residential gunpowder storage	\$25.00	
Storage of Flammable ( inspection and permit )	\$25.00	
Tank removal (above or below ground , includes inspection ) (commercial)	\$100.00	
Tank removal (above or below ground , includes inspection ) (residential)	\$50.00	
Tank truck vehicle Permit and inspection	\$50.00	
<b>SMOKE DETECTOR</b>		
Smoke Detector with out Carbon Monoxide Alarm (single family, electric heat)	\$25.00	delete
Smoke Detector with or without Carbon Monoxide Alarm (MGL 148 26F 1/2)	\$50.00	wording change
Smoke Detector& Carbon Monoxide Alarm(MGL 148 26F 1/2) (2 family)	\$100.00	
Smoke Detector & Carbon Monoxide Alarm (3 to 5 family)	\$150.00	
Smoke Detector & Carbon Monoxide Alarm (6 family and above)	\$500.00	
<b>SPRINKLER SYSTEM NFPA 13 (Plan Review)</b>		
Sprinkler System permit for repair	\$25.00	
Sprinkler System (review and inspection ) 1-9 heads	No Fee	
Sprinkler System (review and inspection ) 10-50 heads	No Fee	
Sprinkler System (review and inspection ) 51 to 100 heads	No Fee	
Sprinkler System (review and inspection ) 101 to 200 heads	No Fee	
Sprinkler System (review and inspection ) 201 to 300 heads	No Fee	
Sprinkler System (review and inspection ) 301 or more heads	No Fee	
Single Family Sprinkler System NFPA 13D	No Fee	
Multi Family NFPA 13R	No Fee	
<b>OTHER FEES</b>		
Fire report copy (owner of property or resident)	\$0.00	
Fire report copy (insurance company)	\$5.00	\$0
Review files for MGL 21e (per hour fee)	\$20.00	
Fees approved BOS 2/2/10		



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Fees approved BOS 10/16/19



# Recommended Transfer Station Fees

October 15, 2019

Ayer Rate Review Committee  
Department of Public Works

Town of Ayer, Massachusetts

fppt.com

## Overview

- Solid Waste Disposal / Transfer Station Operation is Enterprise Fund
  - Separate accounting
  - Fees and rates charged for solid waste services
- Revenue is based on permit sales and “Pay As You Throw” bag sales
- Current budget is subsidized by General Fund (taxes) – approx 40%



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## Town Transfer Station Operation

- Municipal Solid Waste (Trash)
- Recycling (Zero-Sort)
- Food Waste Collection
- Yard Waste (Process and Haul to Brush Dump on Bishop Rd)
- Swap Shed
- Book / Textile / Metal Recycling



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## Current Fees

- Annual Permit: \$90.00
- Senior Citizen Rate: \$55.00
- Second Permit: \$30.00
- One day Permit \$15.00
- PAYT 15 Gal Trash Bag \$3.00
- PAYT 33 Gal Trash Bag \$4.00
- PAYT 50 Gal Trash Bag \$5.00
- Bulk Tag \$5.00 each



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## FY19 Final Budget Summary

- Expenses \$559,174
- Revenue \$573,499
  - Permits \$129,399
  - Bags - \$133,800
  - GF Subsidy \$282,540 (49%)



fppt.com

## FY20 Budget

- Total budget \$549,352
- Revenue is from Permits, Bag Fees, Bulk Tags, Grants, Scrap Metal
- General Fund Subsidy (43%) \$229,595
- **Permit and Bag Revenue needed \$285,000**
- Budget is approximately 70% fixed costs and 30% disposal costs



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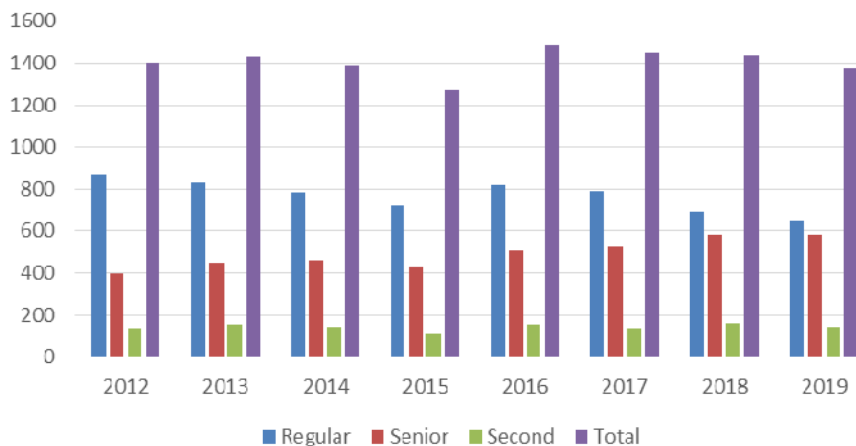
## FY20 Budget Issues

- Solid Waste disposal cost has increased from \$68.11 per ton to \$92.50 per ton
- Recycling costs are based on commodity pricing which has decreased significantly. Disposal of “zero sort” recycle costs are still high
- Total number of Transfer Station users is decreasing every year and senior permit sales are increasing
- Projected revenue from solar lease (\$20to \$25K) will start soon.



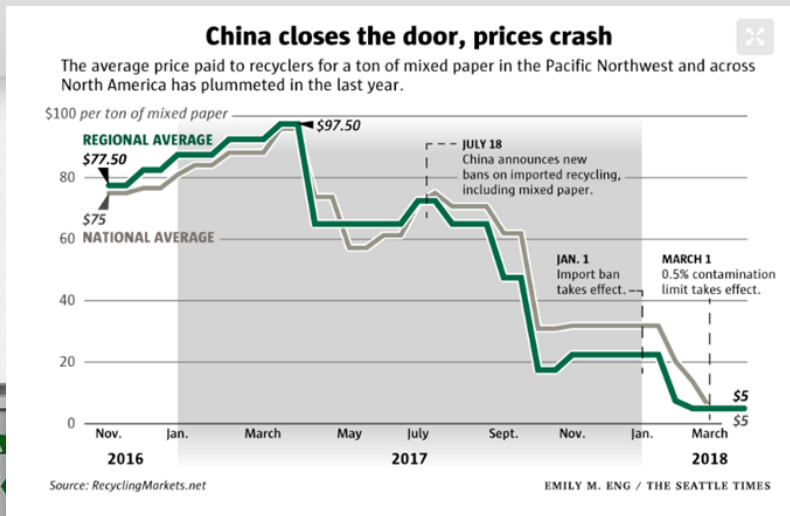
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Transfer Station Permits By Group



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## Recycling Commodity Market



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## Rate Model

- Rate Model used to estimate revenue generated from permit sales and bag sales.
- Assumed that fees would need to generate approx. \$285K based on FY20 budget
- Different rate scenarios for increases in permit fee and bag prices can easily be evaluated



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## Rate and Fee Discussion

- Evaluated 10 different rate scenarios for bag and permit increases
- Discussed “pro-rated” permit fee – currently 50% after July 1
- Discussed Senior Citizen Age – currently at 60 YO



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## Recommendations

- Increase the Senior Citizen Discount age from 60 years of age to 65 years of age
- No pro-rated Transfer Station Permits except for new Residents only
- Increasing the Regular Permit Fee and Senior Discount Permit Fee by \$5



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## Recommendation

- Annual Permit **\$95.00**
- Senior Citizen Rate **\$60.00**
- Second Permit **\$30.00**
- One day Permit **\$10.00**
- PAYT 15 Gal Trash Bag **\$3.00**
- PAYT 33 Gal Trash Bag **\$4.00**
- PAYT 50 Gal Trash Bag **\$5.00**
- Bulk Tag **\$5.00 each**



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## Cost to Residents

- **Current Cost**

Regular - Permit \$90 plus \$280 (70 medium bags) = \$ 370

Senior – Permit \$55 plus \$75 ( 25 small bags) = \$ 130

- **Proposed Cost**

Regular - Permit \$95 plus \$280 (70 medium bags) = \$ 375

Senior – Permit \$60 plus \$75 ( 25 small bags) = \$ 135



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# Town of Ayer

## Office of Community & Economic Development

Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8206 ♦ Fax: 978-772-8208



To: Robert Pontbriand, Ayer Town Manager  
From: Alan S. Manoian AICP, Dir. Community & Economic Development  
Date: 10/8/2019  
Re: Request Ayer BOS Vote on AOCED FY 2020 Budget

The AOCED requests placement on the Ayer Board of Selectmen's October 15<sup>th</sup> Meeting Agenda in order to present and request vote on the proposed AOCED FY 2020 Budget. The UDAG portion of the FY2020 Budget totals \$56,385.

### **AOCED FY 2020 Budget Breakdown as follows:**

FY 2020 Omnibus Budget	\$39,180
FY 2020 UDAG Budget	\$56,385
FY 2020 IDFA Budget	\$19,000
<u>Total</u>	<u>\$114,585</u>

# Ayer Zoning Bylaw amendments

October 28, 2019 Special Town Meeting

Presented by Mark Archambault, Town Planner

**Board of Selectmen Meeting**

**October 15, 2019**

1. Amend Section 10.1, **Open Space Residential Development**, by **a.** Striking out the word ‘only’ from the first sentence in the third paragraph of Section 10.1.1 Purpose, and adding the words ‘applicable provisions of the Ayer Zoning Bylaw’ after the word ‘Section’ in that sentence; and **b.** replacing the existing text of **Section 10.1.4 Maximum Number of Dwelling Units**, which describe a formula for calculating the maximum number of base units, with text specifying the requirements for and process of reviewing a **Yield Plan** to determine the base number of units.

The Reasons for this Amendment: **a.** Make it clear that all *applicable* provisions of the Ayer Zoning Bylaw also apply to OSRD subdivisions. These include dimensional requirements not otherwise exempted for OSRDs (*lot size, frontage, standard setbacks...*) and site development standards such as Section 9.6 Land Clearing and Grading. This will help to ensure that reasonable dimensional standards and environmental considerations are fully assessed in the subdivision review process.

**b.** Replace the *formula* used to calculate the number of lots/units in an OSRD subdivision with requirements for a **Yield Plan** to do the same because the formula is resulting in overcrowded subdivisions with a substantially higher number of lots than would be possible in a ‘conventional’ subdivision; resulting in increased traffic, stormwater impacts, loss of tree cover and over-use of common driveways, while making it more difficult to protect the most valuable land for wildlife habitat and open space due to the expectation of a certain number of lots.

In this example, a **Yield Plan** is on the left, and the resulting **OSRD Plan** is on the right.





# Examples of Yield Plan vs. Formula

Subdivision One: 10-acre tract of land. 2.6 acres of wetlands.

- Approximate number of conventional lots: **14 lots**
- **Formula** results in **26** lots, an 86% increase over conventional.
- Plan proposes **19** lots, a 36% increase over conventional.

Subdivision Two: 20-acre tract of land. 12.4 acres of wetlands and steep slopes.

- Approximate number of conventional lots: **22 lots**
- **Formula** results in **33** lots, a 50% increase over conventional.
- Plan proposes **23** lots, a 4.5% increase over conventional.

## **Using the formula results in significantly more lots than would be possible using a Yield Plan, resulting in:**

- Overcrowded subdivisions. Attempting to obtain the 'formula yield' results in smaller lots and over reliance on shared driveways than would otherwise be necessary.
- Increased traffic and wear and tear on town roads.
- Greater fiscal impact to the Town in terms of servicing the additional homes.
- Increase in stormwater runoff and potential drainage problems.
- Constraints in laying out the open space making it more difficult to protect the most important wildlife habitats and forested areas as called for in the OSRD section of the AZB.

# 'Existing' Section 10.1.4 - Formula

The maximum number of residential units in an OSRD is calculated by a formula based upon the net acreage of the property. This formula is intended to take into account site-specific development limitations that make some land less developable than other land. This calculation involves two steps, calculating the net acreage and dividing by the base allowed density.

A. **Net Acreage Calculation.** The factors named below are included in this subsection for net acreage calculation purposes only and do not convey or imply any regulatory constraints on development siting that are not contained in other applicable provisions of law, including this zoning bylaw. To determine net acreage, subtract the following from the total (gross) acreage of the site:

1. Half of the acreage of land with slopes of 20 percent or greater (2000 square feet or more of contiguous sloped area at least 10 feet in width); and
2. The total acreage of lakes, ponds, land subject to easements or restrictions prohibiting development, FEMA 100-year floodplains, and all freshwater wetlands as defined in G.L. c. 131, § 40, as delineated by an accredited wetlands specialist and approved by the Ayer Conservation Commission.
3. At the Planning Board's discretion, any of the information described above may be taken from current geographic information systems data available from the Massachusetts Department of Environmental Protection, Mass GIS, and other credible sources including delineations registered by the use of global positioning systems.

B. **Unit Count Calculation.** To determine the base maximum number of allowable residential dwelling units on the site, divide the net acreage by the minimum lot area for the applicable zoning district. Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up.

# 2. Accessory Apartments

**ACCESSORY APARTMENT:** a dwelling unit subordinate in size and accessory to a detached single-family dwelling, which may be located within an owner-occupied single-family dwelling or in a structure accessory thereto, such as in an attached or detached garage or barn, upon the issuance of a *Special Permit* from the Zoning Board of Appeals (ZBA).

## Benefits:

- Makes it easier for elderly residents to stay in their homes by renting out a unit to help with the mortgage, property taxes, etc. and for adult children to keep their parent(s) at home.
- Accessory apartments are designed to be compatible with the neighborhood, and must preserve the overall appearance of the principal residence.

## Key Features:

- The principal residence or the accessory apartment must be occupied by the owner of the property.
- Apartment shall not exceed 25% of the gross floor area or 750 sq.ft., whichever is greater.
- Must have a separate bathroom, kitchen and bedroom.
- Permitted by Special Permit from ZBA in all districts but Industrial, Light Ind. and Health Care Services.
- Special Permit recipient must file an affidavit with the Building Commissioner every year to state operations are in compliance with this section and conditions of approval.



# Pictures of Accessory Apartments



*Over the Garage*



*Garage Conversion*



*Stand-Alone Unit*



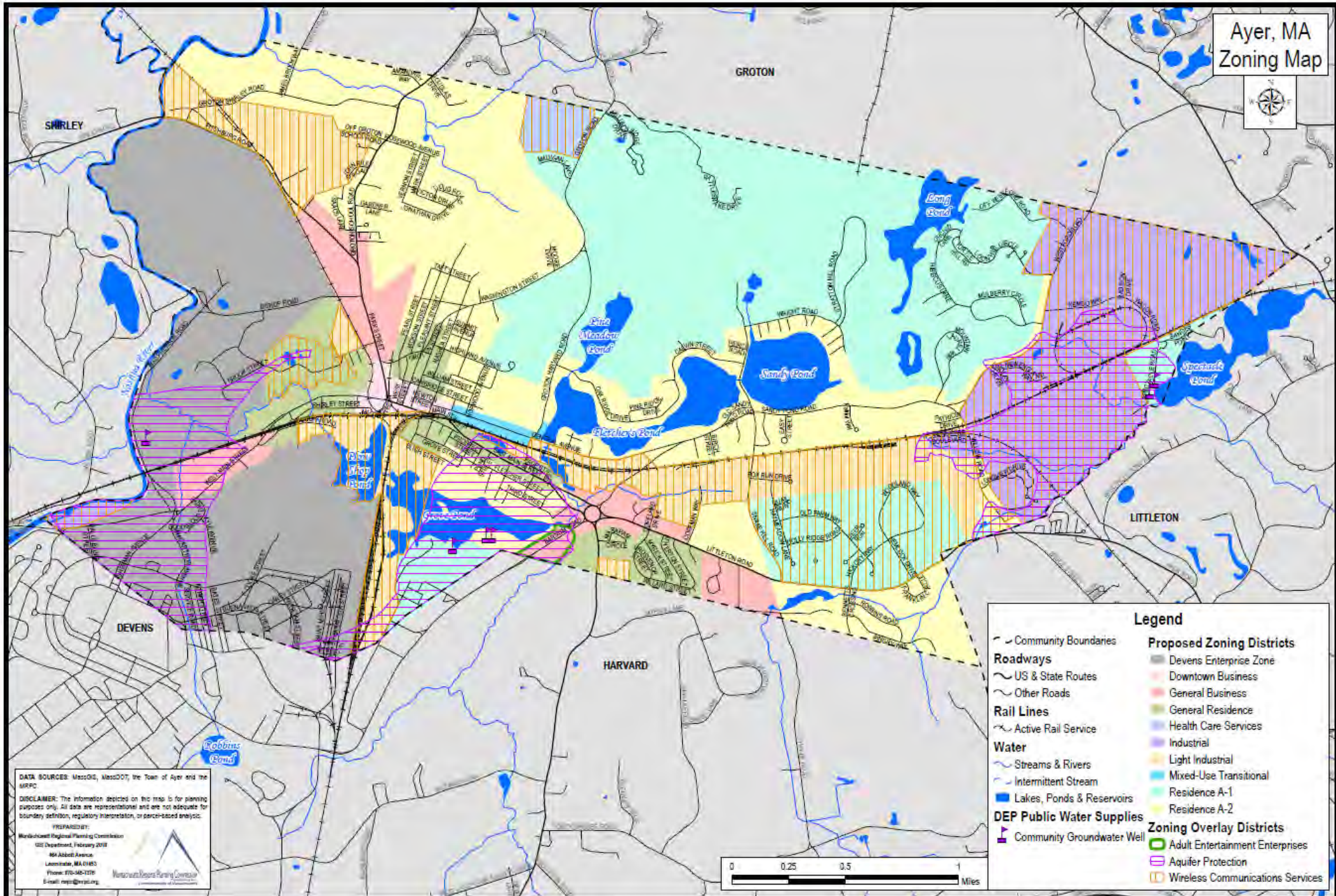
*Basement or Attic Conversion*

# 3. Amend Section 10.3 Affordable Housing

- Change the title of Section 10.3 to '**Inclusionary Housing**'.
- The density bonuses and other provisions of this section presently apply to townhouses or multi-family units approved by **Special Permit**.
- However, this type of housing is allowed '**by right**' in General Residence, the Downtown Form-Based Code district, and the Mixed-Use District as well.
- This amendment makes it clear that the provisions of this Section apply to **all** Townhouse or multi-family developments whether allowed 'by right' or Special Permit. This will help the Town more easily reach it's 10% affordable housing goal, which has benefits in terms of state-aid, grant awards and the ability to keep 40B development proposals at bay.
- No formulas, other requirements or standards have been changed.



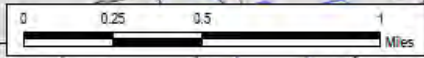
# Ayer, MA Zoning Map



DATA SOURCES: MassGIS, MassDOT, the Town of Ayer and the MRPC

DISCLAIMER: The information depicted on this map is for planning purposes only. All data are representational and are not adequate for boundary definition, regulatory interpretation, or parcel-based analysis.

PREPARED BY:  
 Massachusetts Regional Planning Commission  
 100 Department Avenue  
 Lowell, MA 01853  
 Phone: 978-462-1236  
 Email: mrc@mrpc.org



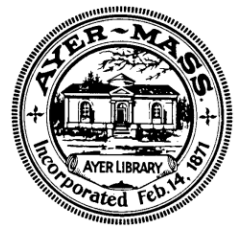
### Legend

<ul style="list-style-type: none"> <li> Community Boundaries</li> <li><b>Roadways</b> <ul style="list-style-type: none"> <li> US &amp; State Routes</li> <li> Other Roads</li> </ul> </li> <li><b>Rail Lines</b> <ul style="list-style-type: none"> <li> Active Rail Service</li> </ul> </li> <li><b>Water</b> <ul style="list-style-type: none"> <li> Streams &amp; Rivers</li> <li> Intermittent Stream</li> <li> Lakes, Ponds &amp; Reservoirs</li> <li> DEP Public Water Supplies</li> <li> Community Groundwater Well</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li> Devens Enterprise Zone</li> <li> Downtown Business</li> <li> General Business</li> <li> General Residence</li> <li> Health Care Services</li> <li> Industrial</li> <li> Light Industrial</li> <li> Mixed-Use Transitional</li> <li> Residence A-1</li> <li> Residence A-2</li> </ul>
	<ul style="list-style-type: none"> <li><b>Zoning Overlay Districts</b> <ul style="list-style-type: none"> <li> Adult Entertainment Enterprises</li> <li> Aquifer Protection</li> <li> Wireless Communications Services</li> </ul> </li> </ul>



**Office of the Board of Selectmen  
Office of the Town Manager**

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

**MEMORANDUM**

**DATE:** October 10, 2019

**TO:** Ayer Board of Selectmen *R.A.P.*

**FROM:** Robert A. Pontbriand  
Town Manager

**SUBJECT:** Town of Ayer July 4th Celebration Public Safety Discussion

Dear Honorable Selectmen,

It has been brought to my attention by several of the Town's Public Safety Departments (Police, Fire, and DPW) that there are some serious public safety concerns regarding the Pirone Park venue for the annual July 4<sup>th</sup> Celebration. I will be joined by Chief Murray, Chief Pedrazzi, Superintendent Wetzel, and Mr. Alan Manoian, Director of Community and Economic Development to discuss these public safety concerns with the BOS at your meeting on October 15, 2019.

It is important to note that these public safety concerns are not new; and the Town has been fortunate not to have any significant issues. However, in this age of increased violence at small local events these concerns can no longer be ignored. The further challenge is that there is no other viable or safe venue in the Town of Ayer to host the Pirone Park events and fireworks. A summary of these concerns are as follows:

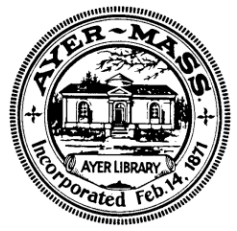
- Pirone Park only has one public safety access point, School Street, which must be shared with pedestrians.
- No secured entry of visitors to the park (no pat down for weapons; no search for alcohol; no bag restrictions or inspections).
- Limited available parking.
- Inability to hire enough Officers to patrol the event.
- Insufficient post event lighting of pedestrians leaving Pirone Park.
- Emergency access to the park has become blocked/problematic at times during the event.
- When the event is ending, due to the size of the crowd exiting, if there were to be an incident down at the Park it would take additional time to get resources to the incident.

We look forward to discussing these concerns in further detail with the BOS at your meeting on October 15, 2019.

Thank you.

**Office of the Board of Selectmen  
Office of the Town Manager**

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**MEMORANDUM**

**DATE:** October 10, 2019

**TO:** Ayer Board of Selectmen

**FROM:** Robert A. Pontbriand *R.A.P.*  
Town Manager

**SUBJECT: Town Manager's Report for the October 15, 2019 BOS Meeting**

Dear Honorable Selectmen,

I am pleased to transmit to you the following town Manager's Report for the October 15, 2019 BOS Meeting. If you have any questions prior to the meeting, please do not hesitate to contact me directly. Thank you.

**Administrative Update/Review of Warrant(s):**

- I will provide a brief Administrative Update at the meeting regarding the various activities, initiatives, and projects of the Administration since the BOS last met on October 1, 2019.
- I have reviewed, approved, and signed the following Town Warrant(s) since the BOS last met on October 1, 2019:

*Accounts Payable Warrant #20-06* in the amount of \$1,315,963.46 was reviewed, approved, and signed on October 1, 2019.

*Payroll Warrant #20-07* in the amount of \$378,587.22 was reviewed, approved, and signed on October 8, 2019.

**Rescheduling of December 3, 2019 BOS Meeting:**

- As previously discussed, the Special Election has been called on Tuesday, December 3, 2019 which is also the date of the BOS Meeting. Per the Secretary of State's Office, no public meeting should take place in an official polling place during an election. The BOS is respectfully requested to select a different date for the BOS Meeting.

**Minuteman Nashoba Health Group – Ethics Disclosure**

Please see the attached memo from Mr. Kevin Johnston, Benefits & Payroll Manager. At the direction of the Minuteman Nashoba Health Group of which Ayer is a member; all MNHG Board Members are required to file an ethics disclosure as required by the Massachusetts Ethics Commission. Attached are the disclosures for Mr. Johnston, the Town's Primary Representative and for Mr. Pontbriand, the Town's Alternate Representative.



I am respectfully recommending that the BOS reappoint Mr. Kevin Johnston as the Town's Primary Representative to the MNHG and Mr. Robert Pontbriand as the Town's Alternate Representative to the MNHG; and further approve the Massachusetts Ethics Commission disclosures for each (See Attached).

Review of the Special Fall Town Meeting Warrant:

- As the BOS is aware the Fall Special Town Meeting Warrant for October 28, 2019 was officially posted on Friday, October 4, 2019. Since the posting of the Warrant, I appeared before the Finance Committee on October 9, 2019 to discuss Articles 1, 2, and 3 which are financial Articles on the Warrant. I would like to briefly review the Special Fall Town Meeting Warrant with the BOS and answer any questions that the BOS may have.

Thank you.

Attachment(s):           October 8, 2019 Memo from Kevin Johnston Re: MNHG Ethics Disclosure  
                                  Massachusetts Ethics Commission Disclosure(s)

# Town of Ayer

## Benefits and Payroll Department



1 Main Street – Ayer, Massachusetts - 01432  
*Kevin A. Johnston, Benefits and Payroll Manager*

Tel: (978) 772-8248  
Fax: (978) 772-3017

## Memorandum

**Date:** October 8, 2019

**To:** Robert Pontbriand, Town Manager

**From:** Kevin A. Johnston *KAS*

**Subject:** Minuteman Nashoba Health Group – Ethics Disclosure

During the Minuteman Nashoba Health Group (MNHG) Board meeting on September 24<sup>th</sup> the Board was informed of a legal opinion provided to another Municipal Health Group identifying a conflict of interest for Board members who receive health benefits from the Municipal Health Group they represent. A copy of the legal opinion is enclosed.

The MNHG Board directed that both the primary and alternate members of the Board of Directors from each MNHG member unit file the disclosure required by the Massachusetts Ethics Commission with their appointing authority. Completed disclosures are provided for consideration by the Board of Selectmen.

I recommend that the Board of Selectmen appoint Benefits and Payroll Manger Kevin Johnston as the primary representative and Town Manager Robert Pontbriand as the alternate representative to the Minuteman Nashoba Health Group, and approve the Massachusetts Ethics Commission disclosure for each.

I am available to answer any questions at your convenience.

Thank you.

Enclosures

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Leo J. Peloquin  
Tim D. Norris  
Melissa R. Murray  
Antoine Fares

Philip Collins  
*Of Counsel*

September 13, 2019

Carol G. Cormier, MHA, LIA  
Senior Client Executive  
Gallagher Benefits Services  
11 Midstate Drive, Suite 200  
Auburn, MA 01501

Re: CCMHG Request for Legal Opinion

Dear Carol:

**Issue/Summary of Opinion**

On behalf of the Cape Cod Municipal Health Group (“CCMHG”), you have asked for a legal opinion about whether a representative to the CCMHG for a Participating Governmental Unit (“PGU Representative”) who subscribes to a CCMHG health insurance plan violates Massachusetts’ Conflict of Interest Law (M.G.L. c. 268A) by participating in deliberations/votes that affect the costs of CCMHG health insurance plans without disclosing the “conflict” and obtaining the approval of the Representative’s appointing authority to participate.

For the reasons stated below, we advise any PGU Representative to the CCMHG who subscribes to a CCMHG health insurance plan not to deliberate or vote on matters that affect the costs of CCMHG health insurance plans until they obtain the exemption under section 19(b)(1) of c. 268A.

**Background**

M.G.L. c. 32B, § 12 authorizes municipal entities to form Health Insurance Joint Purchase Groups for the negotiation and purchase of health insurance, with the goal being to lower health

insurance costs for the Participating Governmental Units. Generally, these groups operate under the provisions of a Joint Purchase Agreement ("JPA") which requires each PGU to appoint a primary and back-up representative to a Board which administers the JPA. It is our understanding that most of the PGU Representatives to the CCMHG subscribe to health insurance offered by the CCMHG.

The issue addressed by this letter arose when a PGU Representative to the CCMHG, who we will refer to as "PGU Representative A," was accused by someone from PGU Representative A's community of having a conflict of interest. Although no complaint was filed with the Ethics Commission, the PGU Representative A reached out to the Ethics Commission's Legal Division for advice regarding whether PGU Representative A's participation created a conflict of interest. Like all other PGU Representatives to the CCMHG, PGU Representative A participates in deliberations and votes on what health insurance plans the CCMHG will offer to PGUs, including the premium cost, changes in plan design, etc. As discussed further below, the Ethics Commission advised PGU Representative A that the Representative must abstain from participating in deliberations and votes related to the cost of the CCMHG health insurance plans unless the Representative obtains an exemption under section 19(b)(1).

There has never been any suggestion that any actions, votes, etc. by PGU Representative A, or any other PGU Representative to the CCMHG, was motivated by personal financial interests. Rather, this comes down to the definition of "financial interest" in c. 268A. Although the position of the Ethics Commission is directed at PGU Representative A, its position raises the question about whether a similarly situated PGU Representative to the CCMHG---or, for that matter, similarly situated PGU Representatives to other Massachusetts Health Insurance Joint Purchase Groups under M.G.L. c. 32B, § 12---are violating c. 268A unless they follow the exemption process available under M.G.L. c. 268A, § 19.

#### **Pertinent Provisions of M.G.L. c. 268A**

M.G.L. c. 268A, § 19 reads as follows:

Section 19. (a) Except as permitted by paragraph (b), a municipal employee who participates as such an employee in a particular matter in which to his knowledge he, his immediate family or partner, a business organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 ½ years, or both.

(b) It shall not be a violation of this section:

(1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so

substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee, or

(2) if, in the case of an elected municipal official making demand bank deposits of municipal funds, said official first files with the clerk of the city or town, a statement making full disclosure of such financial interest, or

(3) if the particular matter involves a determination of general policy and the interest of the municipal employee or members of his immediate family is shared with a substantial segment of the population of the municipality.

The Ethics Commission's online Summary of the Conflict of Interest Law for Municipal Employees states the following about section 19:

- A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.
- A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

"Participation" includes giving advice and making recommendations, as well as deciding and voting on particular matters. M.G.L. c. 268A § 1(j). According to Ethics Commission decisions, financial interest may be of any size and may be either positive or negative. EC-COI-84-96. Further, the financial interest only need be "reasonably foreseeable" in order to be covered by § 19. EC-COI-86-25; 84-123; 84-98; 84-96.

#### **Ethics Commission Position with Respect to PGU Representative A**

With the permission of PGU Representative A, we spoke with the Ethics Commission Attorney who advised Representative A. That attorney advised that, as defined under § 19 of M.G.L. c. 268A, the Representative has a "financial interest" in the costs associated with the health insurance plans. The Ethics Commission Attorney also advised that the Representative was eligible to seek a § 19 exemption that would allow continued participation. The process involves filing a disclosure form with the Representative's Appointing Authority and obtaining from that



Appointing Authority a written determination that the financial interest is not so substantial as to be likely to affect the integrity of the Representative's services as the PGU's Representative to the CCMHG.

As the Ethics Commission sees it, a PGU Representative to the CCMHG who participates in deliberations and/or votes related to the costs of CCMHG health insurance plans is "participating" in a "particular matter" for the purposes of section 19. But the critical issue is whether a PGU Representative, by deliberating and voting on matters that affect the cost of CCMHG health insurance plans while subscribing to a CCMHG health insurance plan, has a financial interest that is "reasonably foreseeable."

A PGU Representative who participates in discussions and votes that affect the terms and costs of the health insurance plans offered by the CCMHG is supposed to be representing the broader interests of the PGU and its health insurance subscribers, and we fully expect that is what these representatives do. While the Ethics Commission does not dispute this in the case of PGU Representative A, it points to the broad definition of "financial interest" under M.G.L. c. 268A as the basis for its position that the Representative also has a personal financial interest that is "reasonably foreseeable"---an objective standard that is not based on how the Representative acted or voted in any particular matter.

For this reason, the Ethics Commission advised PGU Representative A that the Representative must abstain from participating in deliberations and votes related to the cost of the CCMHG health insurance plans unless the Representative obtains an exemption under section 19(b)(1), which provides:

b) It shall not be a violation of this section

(1) if the municipal employee first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee,

The disclosure form used to obtain this exemption is enclosed.

Notwithstanding that there are similarly situated PGU Representatives to the CCMHG, as well as to other Health Insurance Joint Purchase Groups in Massachusetts, this is the first time that we know of that this type of c. 268A issue has been raised with respect to a PGU Representative to a Health Insurance Joint Purchase Group in Massachusetts. The Ethics Commission Attorney could not point us to any prior decision of the Ethics Commission that addressed the issue in this context.

## **No Regulatory Exemptions, Opinions or Cases to Challenge the Ethics Commission Position**

We note that the Courts give the Ethics Commission deference in its interpretation/application of c. 268A to particular circumstances. We may differ with the Commission's application of section 19 to PGU Representative A and/or other PGU Representatives, but our research has not revealed a regulatory exemption, opinion or case upon which to challenge the Commission's view.

We informed the Massachusetts Municipal Association ("MMA") of the Ethics Commission's position with respect to PGU Representative A, including to point out the negative impact it could have on the administration of the CCMHG and other Health Insurance Joint Purchase Groups in Massachusetts and to seek assistance before the Ethics Commission on behalf of such Groups. However, the MMA indicated that, several years ago, it was involved in a matter involving a municipal official who subscribed to the municipal health insurance while making cost decisions about the health insurance plans that would be offered. This official was advised by the Ethics Commission that the official was in violation of section 19 unless the official sought and obtained the exemption under section 19(b)(1). Ultimately, the MMA advised the official to comply. The MMA's response in this matter is essentially the same. Therefore, it appears that persuading the Ethics Commission to adopt a regulatory exemption and/or the Legislature to amend c. 268A are the only routes available to change the section 19 requirement for PGU Representatives to Health Insurance Joint Purchase Groups.

## **Conclusion**

As we understand it, all, or almost all, of the PGU Representatives to the CCMHG fit the definition of "municipal employee" under M.G.L. c. 268A. Section 19, in pertinent part, prohibits a municipal employee from participating as such an employee in any particular matter in which (to his or her knowledge) he or she has a personal financial interest unless the employee first receives an exemption. "Participation" includes giving advice and making recommendations, as well as deciding and voting on particular matters. M.G.L. c. 268A, § 1(j). According to the Ethics Commission decisions, financial interest may be of any size and may be either positive or negative. EC-COI-84-96. Further, the financial interest only need be "reasonably foreseeable" in order to implicate section 19. EC-COI-86-25; 84-123; 84-98; 84-96. In this instance, the cost of health insurance plans constitutes a financial interest for a PGU Representative who subscribes to a CCMHG health insurance plan.

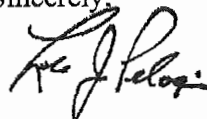
However, a PGU Representative so situated will not violate c. 268A if the PGU Representative:

... first advises the official responsible for appointment to his position of the nature and circumstances of the particular matter and makes full disclosure of such financial interest, and receives in advance a written determination made by that official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee. (M.G.L. c. 268Am, § 19 (b) (1)).

For the above reasons, it is our opinion that PGU Representatives who subscribe to CCMHG health insurance plans can only be involved in deliberations and votes that affect the costs of health insurance plans if they file a disclosure and get the determination from their Appointing Authority that it is acceptable for them to do so.

We have enclosed a sample disclosure form as well as a partially completed form that shows how it should be completed to seek the exemption. If you have any further questions or concerns about this matter, please contact me or Attorney Antoine Fares.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo J. Peloquin". The signature is written in a cursive style with a large initial "L".

Leo J. Peloquin

LJP/tmc

Enclosures

cc: Antoine Fares, Esq.

**DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE OF FINANCIAL INTEREST  
AND DETERMINATION BY APPOINTING AUTHORITY  
AS REQUIRED BY G. L. c. 268A, § 19**

<b>MUNICIPAL EMPLOYEE INFORMATION</b>	
Name:	Robert A. Pontbriand
Title or Position:	Town Manager
Municipal Agency:	Town of Ayer
Agency Address:	1 Main Street, Ayer, MA 01432
Office Phone:	978-772-8220
Office E-mail:	rpontbriand@ayer.ma.us
	My duties require me to participate in a particular matter, and have recently learned that I may not participate because of a financial interest that I am disclosing here. I request a determination from my appointing authority to proceed.
<b>PARTICULAR MATTER</b>	
Particular matter  E.g., a judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, or finding.	Please describe the particular matter.  I am the alternate member of the Board of Directors of Minuteman Nashoba Health Group. In this capacity, I may participate in discussion, deliberations, and votes that affect the benefits and costs of health insurance for the benefits eligible employees of the Town of Ayer, including myself.
Your required participation in the particular matter:  E.g., approval, disapproval, decision, recommendation, rendering advice, investigation, other.	Please describe the task you are required to perform with respect to the particular matter.  I may participate in discussion, deliberations, and votes that affect the benefits and costs of health insurance including the following: plan design, co-payments, deductibles, tiered provider network co-payments, and other cost-sharing and plan design features.
<b>FINANCIAL INTEREST IN THE PARTICULAR MATTER</b>	
<b>Write an X by all that apply.</b>	<input checked="" type="checkbox"/> I have a financial interest in the matter. <input type="checkbox"/> My immediate family member has a financial interest in the matter. <input type="checkbox"/> My business partner has a financial interest in the matter. <input type="checkbox"/> I am an officer, director, trustee, partner or employee of a business organization, and the business organization has a financial interest in the matter. <input type="checkbox"/> I am negotiating or have made an arrangement concerning future employment with a person or organization, and the person or organization has a financial interest in the matter.

Financial interest in the matter	Please explain the financial interest and include a dollar amount if you know it.  I am currently enrolled in the group health insurance benefits that may require my participation as an alternate member of the Board of Directors.
Employee signature:	<i>Robert A. Pothol, Town Manager</i>
Date:	<i>October 8, 2019</i>

**DETERMINATION BY APPOINTING OFFICIAL**

<b>APPOINTING AUTHORITY INFORMATION</b>	
Name of Appointing Authority:	Board of Selectmen
Title or Position:	
Agency/Department:	Selectmen's Office
Agency Address:	1 Main Street, Ayer, MA 01432
Office Phone:	978-772-8220
Office E-mail	
<b>DETERMINATION</b>	
Determination by appointing authority:	As appointing official, as required by G.L. c. 268A, § 19, I have reviewed the particular matter and the financial interest identified above by a municipal employee. I have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.
Appointing Authority signature:	
Date:	
Comment:	

Attach additional pages if necessary.

**The appointing authority shall keep this Disclosure and Determination as a public record.**



**DISCLOSURE BY NON-ELECTED MUNICIPAL EMPLOYEE OF FINANCIAL INTEREST  
AND DETERMINATION BY APPOINTING AUTHORITY  
AS REQUIRED BY G. L. c. 268A, § 19**

<b>MUNICIPAL EMPLOYEE INFORMATION</b>	
Name:	Kevin A. Johnston
Title or Position:	Benefits and Payroll Manager
Municipal Agency:	Town of Ayer
Agency Address:	1 Main Street, Ayer, MA 01432
Office Phone:	978-772-8248
Office E-mail:	kjohnston@ayer.ma.us
	My duties require me to participate in a particular matter, and have recently learned that I may not participate because of a financial interest that I am disclosing here. I request a determination from my appointing authority to proceed.
<b>PARTICULAR MATTER</b>	
Particular matter  E.g., a judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, or finding.	Please describe the particular matter.  I am a member of the Board of Directors, the Steering Committee and currently serve as Vice-Chair of the Minuteman Nashoba Health Group. In this capacity, I participate in discussion, deliberations, and votes that affect the benefits and costs of health insurance for the benefits eligible employees of the Town of Ayer, including myself.
Your required participation in the particular matter:  E.g., approval, disapproval, decision, recommendation, rendering advice, investigation, other.	Please describe the task you are required to perform with respect to the particular matter.  I participate in discussion, deliberations, and votes that affect the benefits and costs of health insurance including the following: plan design, co-payments, deductibles, tiered provider network co-payments, and other cost-sharing and plan design features.
<b>FINANCIAL INTEREST IN THE PARTICULAR MATTER</b>	
<b>Write an X by all that apply.</b>	<input checked="" type="checkbox"/> I have a financial interest in the matter. <input type="checkbox"/> My immediate family member has a financial interest in the matter. <input type="checkbox"/> My business partner has a financial interest in the matter. <input type="checkbox"/> I am an officer, director, trustee, partner or employee of a business organization, and the business organization has a financial interest in the matter. <input type="checkbox"/> I am negotiating or have made an arrangement concerning future employment with a person or organization, and the person or organization has a financial interest in the matter.

Financial interest in the matter	Please explain the financial interest and include a dollar amount if you know it.  I am currently enrolled in the group health insurance benefits that require my participation as a member of the Board of Directors.
Employee signature:	<i>Kem A Johns</i>
Date:	OCTOBER 8, 2019

**DETERMINATION BY APPOINTING OFFICIAL**

<b>APPOINTING AUTHORITY INFORMATION</b>	
Name of Appointing Authority:	Board of Selectmen
Title or Position:	
Agency/Department:	Selectmen's Office
Agency Address:	1 Main Street, Ayer, MA 01432
Office Phone:	978-772-8220
Office E-mail	
<b>DETERMINATION</b>	
Determination by appointing authority:	As appointing official, as required by G.L. c. 268A, § 19, I have reviewed the particular matter and the financial interest identified above by a municipal employee. I have determined that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.
Appointing Authority signature:	
Date:	
Comment:	

Attach additional pages if necessary.

**The appointing authority shall keep this Disclosure and Determination as a public record.**

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



*Broadcast and Recorded by APAC*

**Tuesday October 1, 2019  
Open Session Meeting Minutes**

**BOS Present:** Scott A. Houde, Chair; Jannice L. Livingston, Vice-Chair

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

**Call to Order:** S. Houde called the meeting to order at 6:00 PM.

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

**Approval of Agenda:**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the agenda. **Motion passed 2-0.**

**Announcements:** S. Houde announced that the Ayer Police Department will be hosting "Coffee with a Cop" tomorrow Wednesday October 2, 2019 from 10:30 AM – to 12:00 PM at the Ayer Public Library.

**Public Input:** None

**Public Hearing – Pole Petition – National Grid & Verizon - No. 23932888 – Groton Harvard Road/Washington Street:** J. Livingston opened the public hearing by reading the public hearing notice. National Grid and Verizon are petitioning to install a JO Pole on Groton Harvard Road beginning at a point approximately 0 feet southeast of the centerline of the intersection of Washington Street and Groton Harvard Road. This is related to the Transfer Station solar array. Mr. Harvey Morales was in attendance on behalf of National Grid. There were no questions or abutter input.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the pole petition for National Grid and Verizon No. 23932888. **Motion passed 2-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to close the Public Hearing at 6:05 PM. **Motion passed 2-0.**

**Public Hearing – Notice of Layout of Streets – Nashua Street Extension:** S. Houde opened the public hearing at 6:05 PM by reading the Public Hearing Notice stating that the BOS gave their intent to layout Nashua Street Extension on September 3, 2019. The Planning Board has also reviewed the request and has referred the matter back to the BOS for consideration at the Fall Special Town Meeting on October 28, 2019. M. Wetzel stated that they have inspected the street and is recommending approval.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the layout of Nashua Street Extension and to place on the October 28, 2019 Fall Special Town Meeting Warrant. **Motion passed 2-0.**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to close the public hearing at 6:07 PM. **Motion passed 2-0.**

**Public Hearing – Notice of Layout of Streets – Norwood Avenue within Elizabeth Estates:** J. Livingston opened the

public hearing at 6:08 PM by reading the Public Hearing Notice stating that the BOS gave their intent to layout Norwood Avenue within Elizabeth Estates on September 3, 2019. The Planning Board has also reviewed the request and has referred the matter back to the BOS for consideration at the Fall Special Town Meeting on October 28, 2019. M. Wetzel stated that they have inspected the street and there are several punch list items remaining. M. Wetzel said the road has been maintained by the developer since 2012. M. Wetzel stated that if the punch list items are not resolved before Town Meeting, he will recommend that the article be withdrawn.

A resident at 39 Norwood Avenue stated that he is petitioning against it because the road was recently damaged by a crane due to construction. M. Wetzel stated that the condition of the road didn't appear in bad condition, having been used as a public way for eight years. He is recommending approval.

S. Houde asked M. Wetzel to inspect Norwood Ave., prior to the Town Meeting and recommend withdrawal at Town Meeting, if the punch list items were not completed.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the layout of Norwood Avenue within Elizabeth Estates pending DPW review. **Motion passed 2-0.**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to close the public hearing at 6:19 PM. **Motion passed 2-0.**

A resident from Nashua Street Extension stated that the developer had not finished her driveway at Lot 1. M. Wetzel informed the resident that the issue is between her and the builder.

**Public Hearing – Notice of Layout of Streets – Hay Meadow Lane, Holly Ridge Road, Appleblossom Drive:** S. Houde opened the public hearing at 6:19 PM by reading the Public Hearing Notice stating that the BOS gave their intent to layout Haymeadow Lane, Holly Ridge Road and Appleblossom Drive on September 3, 2019. The Planning Board has also reviewed the request and has referred the matter back to the BOS for consideration at the Fall Special Town Meeting on October 28, 2019. M. Wetzel stated that this was part of Pingry Hill Phase 5. There is a sinkhole on Haymeadow Drive and some berm that needs to be replaced on Holly Ridge Road. M. Wetzel said he will monitor the progress of the improvements and if they are not completed, he'll recommend withdrawal at the Town Meeting.

Mr. John Duci, 171 Haymeadow Lane had a question for the DPW relating to the condition of the street.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the layout of Haymeadow Lane, Holly Ridge Road and Appleblossom Drive. **Motion passed 2-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to close the Public Hearing at 6:27 PM. **Motion passed 2-0.**

**Public Hearing – Notice of Layout of Streets – Hickory Way & Hemlock Drive:** J. Livingston opened the public hearing at 6:27 PM by reading the Public Hearing Notice stating that the BOS gave their intent to layout Hickory Way and Hemlock Drive on September 3, 2019. The Planning Board has also reviewed the request and has referred the matter back to the BOS for consideration at the Fall Special Town Meeting on October 28, 2019. M. Wetzel stated that there were a few items to be completed by the developer on the punch list.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the layout of Hickory Way and Hemlock Drive. **Motion passed 2-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to close the Public Hearing at 6:30 PM. **Motion passed 2-0.**

**Conservation Commission – Wetland Bylaw Overview:** The BOS was joined by Conservation Commission members

George Bacon and Jess Gugino who gave a brief overview of the proposed wetland bylaw for consideration at the Fall Town Meeting. J. Gugino stated that about 13% of the Town is water and that the Town is fast approaching build out. The current bylaw relating to wetlands is “woefully” out of date. Though the Conservation Commission enforces the state’s wetland protection act, the purpose of updating the local wetlands bylaw is to provide more oversight over local concerns. The new bylaw will increase protection for vernal pools; expand abutter notification from 100’ to 300’; add a “minor activities” category for homeowners and increase coordination with other Town Board and Commissions. The new bylaw will not impact existing conditions or structures or allow the Conservation Commission to enter your property without prior notification and consent.

BOS members thanked the Conservation Commission for the presentation.

**Review and Approval of 10/28/19 Fall Special Town Meeting Warrant:** R. Pontbriand presented the DRAFT Fall Special Town Meeting Warrant and suggested that he’ll go over each article and if there were questions or anyone would like to further discuss articles to say “Pass”. R. Pontbriand stated that he will be meeting with the Finance Committee on 10/9/19 to go over the Warrant.

On Warrant Article 3, R. Pontbriand explained that the Parks Commission recently voted to endorse the article which will authorize an additional \$250,000 for the Parks Commission Building at Pirone Park. S. Houde asked what the original appropriation for the Parks Building was. R. Pontbriand reported that the original appropriation was \$600,000.

Relating to Articles 14 and 15, R. Pontbriand asked the BOS what the preferred implementation date was, either effective immediately or effective July 1, 2020. BOS members agreed to make the implementation date effective July 1, 2020, as to not affect the FY’21 budget process.

J. Livingston stated that the Bylaw I relating to Articles 14 and 15 is messed up. She was concerned with a consistency issue relating to what Bylaw I reads versus what the Town has done for years, which is to have the Town Election on the 4<sup>th</sup> Monday in April and the Annual Town Meeting on the 2<sup>nd</sup> Monday in May.

S. Houde asked if Article 15 fails, would the Town Meeting schedule be changed moving forward because Bylaw I would still state that the Town Meeting would be the 2<sup>nd</sup> Monday in May, which, if Article 14 passes, the Annual Town Election would be the 2<sup>nd</sup> Tuesday in May. He then asked if Article 15 would be subject to amendments on Town Meeting Floor; R. Pontbriand stated that assuming the Town Moderator allowed it, it would be subject to an amendment.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the Fall Special Town Meeting Warrant as presented. **Motion passed 2-0.**

**Town Manager’s Report:** *Administrative Update/Review of Warrant(s)* - R. Pontbriand provided an administrative update of the various activities, initiatives, and projects of the Administration since the BOS last met. He also referenced the Meeting Packet for a list of Payroll and Accounts Payable Warrants that have been signed since the last meeting. R. Pontbriand reported that the new chiller system for Town Hall will be installed in October. R. Pontbriand also reported that he met with Dr. Malone to discuss the outcome of the field vote in Shirley.

*Appointments – Cultural Council* – R. Pontbriand is requesting that the BOS appoint Mr. Peter O’Clair to the Ayer Cultural Council for a three-year term expiring June 30, 2022.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to appoint Mr. Peter O’Clair to the Ayer Cultural Council for a three-year term expiring June 30, 2022. **Motion passed 2-0.**



*Rescheduling of December 3, 2019 BOS Meeting* – R. Pontbriand stated that with the calling of a Special Election by the BOS to take place on Tuesday, December 3, 2019, the December 3, 2019 BOS meeting needs to be rescheduled. S. Houde will look at his calendar between now and the next meeting, so that a meeting date can be selected.

*Recertification of Acceptance of Child Legacy Account* – R. Pontbriand was joined by Treasurer/Tax Collector Ms. Barbara Tierney regarding trust documents that were found in her office from 1998 for a Child Legacy Account. In 1998, the BOS approved the acceptance of the account pending Town Counsel review, but it appears the trust documents were never sent to Town Counsel. Town Counsel has since reviewed, and it is respectfully recommending that the BOS vote to recertify the acceptance of the Child Legacy Account.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to recertify the acceptance of the Child Legacy Account. **Motion passed 2-0.**

*Reduction in Number of Seats on Disability Commission* – R. Pontbriand stated that the Town has struggled to reach a quorum of appointed members on the Ayer Disability Commission. Currently there are only two members. The current composition of the Commission is nine (9) appointed members by the BOS. R. Pontbriand is requesting that the BOS vote to set the membership of the Ayer Disability Commission at five (5) appointed members by the BOS.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to reduce the number of members on the Disabilities Commission from nine members to five members. **Motion passed 2-0.**

*One Day Beer and Wine License – St. Mary's Parish* – R. Pontbriand presented a request from St. Mary's Parish for a One Day Beer and Wine License for their Oktoberfest Supper on Saturday October 19, 2019 from 4:30 PM to 9:30 PM.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to approve the One Day Beer and Wine License as requested. **Motion passed 2-0.**

**New Business/Selectmen's Questions:** *Shirley Vote on the ASRSD Fields Discussion (Selectman Houde)* – R. Pontbriand reported that the High School Field Debt Exclusion failed in Shirley by 12 votes over the weekend. He has met with Dr. Malone to discuss next steps. He is under the impression that a Shirley resident is asking for a recount of the votes. R. Pontbriand reported that the School Committee was meeting tonight to discuss the vote outcome. The ADA compliance issues remain, and the School Committee will be discussing how to address those. S. Houde stated that the conditions at the field and track were deplorable and that he is hopeful the School Committee will come up with a resolution.

*Coordination of Regional Leadership Meeting with Shirley and ASRSD (Selectman Houde)* – S. Houde stated that former ASRSD School Committee Member Dan Gleason recently brought up the idea of having regional leadership meetings, which were commonplace during regionalization. The goal of the meetings was to open communications between the two towns and the school district. S. Houde stated that Ayer has a desire to invest in education and believes it important to understand what the Town of Shirley and the School District's long-term plans are. S. Houde asked R. Pontbriand to organize a meeting between the two towns and the School District to first discuss the next steps on the field project, then to coordinate capital plans. He'd really like to see an increase in communication.

**Approval of Meeting Minutes:**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to approve the meeting minutes from September 18, 2019. **Motion passed 2-0.**

**Executive Session Pursuant to MGL 30A, sec. 21A:** At 7:31 PM, J. Livingston made a motion, seconded by S. Houde to enter into executive session pursuant to MGL c. 30A, Sec. 21A Exemption #2 Non Union Personnel Contact Negotiations for the Deputy Police Chief, Assistant Town Manager, IT Director and to adjourn at the conclusion of the Executive Session. J. Livingston further stated that to discuss these items in Open Session, would be detrimental to the town's negotiating strategy. **By Roll Call:** S. Houde, 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 BOS:** \_\_\_\_\_

**Signature Indicating Approval:** \_\_\_\_\_

DRAFT