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TOWN OF AYER

2017 OCT 13 AM 11:12

*Siwanne Copeland*

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



Tuesday October 17, 2017  
Open Meeting Agenda

- 7:00 PM Call to Order  
Pledge of Allegiance; Review and Approve Agenda; Review of Warrant(s);  
Announcements
- 7:05 PM\* Public Input  
  
Ms. Alicia Hersey, Program Manager, Community and Ec. Development  
1. AHR Subordination Request/49 Main Street
- 7:15 PM Nasoya Odor Issue Update
- 7:45 PM Town Administrator's Report  
1. Administrative Update  
2. Appointments  
3. Declaration of Planning Board Vacancy  
4. Request for Special Town Meeting for Zoning Bylaw Update  
5. MBTA/Rail Update
- 8:05 PM New Business/Selectmen's Questions
- 8:10 PM Approval of Meeting Minutes  
October 3, 2017
- \*Adjournment

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

# Town of Ayer

## Department of Planning & Development

Upper Town Hall ♦ One Main Street ♦ Ayer, MA 01432 ♦ 978-772-8221 ♦ Fax: 978-772-8208



### MEMORANDUM

TO: Board of Selectmen

FR: Alicia Hersey, Director of Community Development Office

RE: AHR Subordination Request / 49 **Main Street**

DT: October 12, 2017

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On Sept 19<sup>th</sup> the BOS approved a subordination to the 49 Main St. Affordable Housing Restriction Agreement. This is an agreement between Bonnet Realty, DHCD and the Town, for 4 LMI units at the Fletcher Building. Unfortunately the Lawyers have made a change to the Subordination agreement that was approved and I am bring the amended agreement back to the BOS for your review.

I have attached a copy of the amended subordination agreement with the changes highlighted. The Town's lien and Affordable Housing Restriction is in force on this property until October 18, 2026.

**At this time it is the Board's decision whether to approve or deny the amended subordination of the Town's Affordable Housing Restriction on 49 Main Street. Signified by signature of the Board.**

## SUBORDINATION AGREEMENT

The Commonwealth of Massachusetts, acting by and through its Department of Housing and Community Development having an address of 100 Cambridge Street, 3rd Floor, Boston, MA 02114 ("DHCD") and the Town of Ayer, having a mailing address at One Main Street, Ayer, Massachusetts 01432 (the "Municipality"), the holder of certain covenants set forth in an Affordable Housing Restriction Agreement (the "AHRA") dated October 18, 2011 and recorded with the Middlesex South District Registry of Deeds in Book 57820, Page 461, as amended by document dated October 16, 2012 and recorded with said Deeds in Book 60593, Page 567 and as further amended by document dated \_\_\_\_\_ and recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ affecting a parcel of land located at 49 Main Street, Ayer, Massachusetts (the "Premises") hereby agree that said AHRA and the obligations secured thereby shall be subordinate and junior in right to a mortgage given to Fidelity Cooperative Bank, dated \_\_\_\_\_, 2017, in the original principal amount of \$543,750.00 and recorded in Book \_\_\_\_\_ Page \_\_\_\_\_, to the same extent as if said last mentioned mortgage had been executed and recorded prior to the said AHRA. Notwithstanding said subordination, nothing contained herein shall be construed as a subordination by DHCD or the Municipality of their rights as set forth in Section 16 of the AHRA.

The aforesaid AHRA and mortgage relate to property located in Middlesex County known as 49 Main Street, Ayer, MA 01432.

This Subordination shall serve as written consent by DHCD and the Municipality to Bonnet Realty, LLC refinancing the Premises as required by Section 9 of the AHRA.

NEXT PAGE SIGNATURES

Executed as a sealed instrument this \_\_\_\_ day of October, 2017

Town of Ayer

By: \_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

\_\_\_\_\_  
Selectman

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. \_\_\_\_\_, 2017

Then before me, the undersigned notary public, personally appeared \_\_\_\_\_, as Selectman of the Town of Ayer, proven to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person or persons whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose and further acknowledged the foregoing instrument to be his/her/their free act and deed and the free act and deed of the Town of Ayer, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. \_\_\_\_\_, 2017

Then before me, the undersigned notary public, personally appeared \_\_\_\_\_, as Selectman of the Town of Ayer, proven to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person or persons whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose and further acknowledged the foregoing instrument to be his/her/their free act and deed and the free act and deed of the Town of Ayer, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. \_\_\_\_\_, 2017

Then before me, the undersigned notary public, personally appeared \_\_\_\_\_, as Selectman of the Town of Ayer, proven to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person or persons whose name(s) is/are signed on the preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose and further acknowledged the foregoing instrument to be his/her/their free act and deed and the free act and deed of the Town of Ayer, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her/their knowledge and belief, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:

Executed as a sealed instrument this \_\_\_\_ day of October, 2017

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

by: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

On this \_\_\_\_ day of October, 2017, before me, the undersigned notary public, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the Commonwealth of Massachusetts, acting by and through the Department of Housing and Community Development, 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 signed it voluntarily in such capacity for its stated purpose.

\_\_\_\_\_  
Notary Public

My commission expires:

Office of the Ayer Board of Selectmen  
Office of the Ayer Town Administrator



Town of Ayer | Ayer Town Hall | 1 Main Street | Ayer, MA 01432 | 978-772-8220 | Fax 978-772-3017 | www.ayer.ma.us

MEMORANDUM

DATE: October 13, 2017

TO: Ayer Board of Selectmen

FROM: Robert A. Pontbriand  
Town Administrator

SUBJECT: Town Administrator's Report for the October 17, 2017 BOS Meeting

Dear Honorable Selectmen,

I am pleased to transmit to you the following Town Administrator's Report for the October 17, 2017 BOS Meeting. If you have any questions prior the meeting, please do not hesitate to contact me directly. Thank you.

Administrative Update:

- I will offer a brief Administrative Update at the meeting on the various projects, initiatives, and activities of the Administration since the last BOS meeting on October 3, 2017.

Appointments:

- Upon recommendation by the Ayer Historical Commission, I respectfully recommend that the BOS appoint Ms. L. Campetti of Ayer be appointed to an unexpired three-year term on the Ayer Historical Commission to expire on June 30, 2018. (Sec Attached)

Declaration of Planning Board Vacancy:

- I am respectfully recommending that the BOS vote to officially declare a vacancy on the Ayer Planning Board and to initiate the joint appointment process in accordance with MGL. The process for filling a vacancy on the Planning Board would follow the requirements of G.L. c. 44, sec. 11 as follows:

Section 11. As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person

so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.

- Upon BOS approval the Town will advertise the vacancy with a deadline for applications of Friday, October 27, 2017; there will be a Joint Meeting of the BOS and Planning Board as part of the November 2, 2017 BOS Meeting; all applicants will appear before the Joint Meeting for consideration of appointment; the Joint Meeting by total simple majority vote will appoint a Planning Board Member to serve until the next Town Election in April 2018. (See Attached)

Request for Special Town Meeting for Zoning Bylaw Update:

- As previously discussed with the BOS at your October 3, 2017 meeting, it is the recommendation of the Administration that a Special Town Meeting be called for a single item which is the consideration of the Ayer Zoning Bylaw Update. I am respectfully recommending that the BOS call a Special Town Meeting for this purpose to be held on Monday, March 19, 2018 at 7pm in the Auditorium of the Ayer Shirley Regional High School for the purpose of Town Meeting's consideration of the Zoning Bylaw Update. This will ensure ample time for the Town to do the necessary Public education and outreach and allow the Town to focus on this one significant matter at the Town Meeting on March 19, 2018. Thank you.

MBTA/Rail Update:

- I will offer a brief update to the BOS regarding the Town's ongoing work with the MBTA/Keolis/Pan Am regarding cleaning up the rail corridor; the commuter rail platform; Willow Road location; and the fence project in front of Town Hall.

Attachment(s)



September 24, 2017

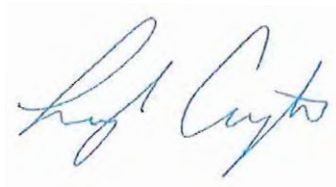
Mr. Robert Pontbriand  
Administrator  
Town of Ayer  
1 Main Street  
Ayer, MA 01432

Via email: [ta@ayer.ma.us](mailto:ta@ayer.ma.us)

Dear Mr. Pontbriand:

I would like to formally submit my name to be considered for appointment to the Ayer Historical Commission. As a new Ayer resident, I am keen to contribute my experience as an archaeological and cultural resources consultant to assist the Commission in its mission to identify, evaluate, and protect the historical resources of the Town through education and outreach. It is my sincere hope that the Commission and Selectboard will support my appointment.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read "L. Casey Campetti". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

L. Casey Campetti, MA RPA

Cc: George Bacon, Ayer Historical Commission via email: 

**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 3, 2017**  
**Open Session Meeting Minutes**

**Present:** Christopher R. Hillman, Chair; Jannice L. Livingston, Vice – Chair; Gary J. Luca, Clerk

Robert A. Pontbriand, Town Administrator  
Carly M. Antonellis, Assistant to the Town Administrator

**Call to Order:** C. Hillman called the meeting to order at 7:00 PM.

**Moment of Silence:** C. Hillman asked for a moment of silence for the victims of the Las Vegas shooting tragedy.

**Review and Approve Agenda:**

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to approve the agenda.

**Motion passed 3-0.**

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

**Announcements:** None

**Review of Warrants:** G. Luca stated that he signed the following warrants on behalf of the BOS:

- 2017-9-19      Accounts Payable      18-05    \$2,059,166.72
- 2017-09-26      Payroll                              18-06    \$295,837.12

**Public Input:** None

**Nasoya Odor Issue Update:** Mr. Elvin Moquette and Mr. Daniel Jung updated the BOS on the progress made at Nasoya since the last BOS meeting. R. Pontbriand stated that the Town has provided a list of abutters to Nasoya so the company could directly communicate with their neighbors.

C. Hillman expressed his continued concern because the odor issue was evident again this evening. He also stated that it has smelled several times since the last BOS meeting. C. Hillman further stated that he wants to revoke Nasoya's license to do business in Town.

Mr. Moquette stated that Nasoya has been conducting air quality test and have been continually

checking samples. He reported that Nasoya, Town officials and the Dept. of Environmental Protection are meeting in the next week to go over results of the testing.

J. Livingston stated that she appreciated Mr. Moquette and Mr. Jung both coming to the meeting. She then asked if the DEP has been to the Nasoya plant since the last meeting. Mr. Moquette said no, but they have been in regular contact both via phone and email.

**DPW Superintendent Mark Wetzel:** *Request for Sewer Connection Fee Adjustment* – M. Wetzel stated that Crabtree Development Corp., the developer for Pingry Hill, recently applied for a water and sewer server connection for the final phase (phase 4) of their project. In between phases of the project, the BOS voted to increase the connection fees and they are requesting a reduced sewer connection fee. Rick Roper from Crabtree Development stated that the Town had given them a reduced rate for the water and he thought both rates were in tandem.

G. Luca stated that he understood the request because the costs went up before the completion of the project.

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to reduce the rate for sewer connections for Phase 4 to \$2,000/connection and to reimburse for the overpayment made for the first connection. **Motion passed 3-0.**

*Sandy Pond Rd/Wright Rd Water Main Contract Change Order* – M. Wetzel is requesting a contract Change Order in the amount of \$44,810.64 to install 3 insertion valves on Sandy Pond Road. M. Wetzel stated there is sufficient funding in the project budget for the change order.

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to approve Change Order #1 in the amount of \$44,810.64 between the Town and J D'Amico & Sons with signature by the chair. **Motion passed 3-0.**

*DPW Administration Building Funding* – M. Wetzel made a presentation stating the Town Meeting had approved \$900,000 for a modular DPW Administration Building and the project was put out to bid pursuant to GL c.149, sec. 44E for Modular Construction. 3 bids came in ranging from \$1,100,526 to \$133,447. M. Wetzel explained that under MGL, the Town is unable to negotiate the bid until after the award. He stated that there was money available from other projects and he would be submitting a Special Town Meeting Warrant article to transfer funding from other available projects.

**Ms. Alicia Hersey, Program Manager, Community and Ec. Development:** *CDFI 1 FY'15 – CDBG Final Quarterly Report* – A. Hersey stated that her office has prepared the final quarterly report for the CDBG FY'15 grant and is requesting the BOS approve the final quarterly report of the CDF1 FY '15 grant with signature by the Chair.

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to approve the final quarterly report of the CDF1 FY '15 grant with signature by the Chair. **Motion passed 3-0.**

**Town Administrator's Report:** *Administrative Update* – R. Pontbriand thanked Ms. Cindy Knox, IT Director for live tweeting and Facebooking the meeting. R. Pontbriand also reported to the BOS that the Town's longtime facilities director retired effective October 2, 2017 and that the new Conservation Agent, Ms. Jo-Anne Crystoff had recently began working for the Town. R.

Pontbriand stated that the annual tax classification hearing will be held at the November 21, 2017 BOS meeting. Also upcoming is a Public Information Forum at 6:00 PM on Tuesday October 10, 2017 regarding the proposed Government reorganization articles.

*Appointments* – Per Police Chief Murray’s recommendation, R. Pontbriand is requesting that Dunstable Officer Steven Bulger be appointed as a Special Police Officer for the Town of Ayer.

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to appoint Dunstable Officer Steven Bulger as a Special Police Officer for the Town of Ayer. **Motion passed 3-0.**

*Review and Approval of 2017 Special Town Meeting Warrant* – R. Pontbriand recommended starting with Article 5 while they waited for Town Counsel to arrive for a discussion about articles 1-4, the government reorganization articles. R. Pontbriand went through the October 23, 2017 Special Fall Town Meeting warrant articles with the BOS. Town Clerk, Treasurer, Collector Susan Copeland also joined the BOS for the discussion.

Attorney Lauren Goldberg, Managing Partner at KP Law joined the BOS for a discussion about government reorganization.

S. Copeland explained that Articles 1 and 2 will make the current Elected Clerk/Collector and elected Treasurer two separate appointed positions combining the Treasurer/Collector and making the Town Clerk a standalone full time position. Both S. Copeland and R. Pontbriand stated that by making the positions appointed, the Town has the benefit of additional accountability and increased professionalization of the positions.

R. Pontbriand stated that Article 3, establishing a Town Manager form of government, is the result of over seven years of experience, recommendations, and is intended to codify the duties and responsibilities of the Town Manager (many which are the same as the Town Administrator). R. Pontbriand explained that the major changes are as follows:

- The Town Manager will be able to hire and fire Department Head level positions with the consultation and approval of the Board of Selectmen. The Town Manager will be able to hire and fire non-department head positions in consultation with the respective department head but will not require Board of Selectmen approval.
- The Town’s personnel system will be centralized under the Town Manager. The Town Manager will be responsible for the maintaining and administering the Town’s personnel policies; rules and regulations; personnel by-laws and collective bargaining agreements. This section would abolish the appointed volunteer Personnel Board and centralize the personnel system under the professional Town Manager in consultation with the Department Heads, Board of Selectmen, and Finance Committee. The Town’s existing personnel policies would remain in place at this time as would the Town’s classification and compensation system. Additionally, the majority of Town Employees are governed by existing collective bargaining agreements.
- The Town Manager will be authorized to fix the compensation of all appointed officers and employees within the limits established by the budget and Town Meeting. Additionally, compensation of all non-union employees will continue to be governed by the Town’s Classification/Compensation System and all union employees will be governed by their respective collective bargaining agreements. The Town Manager will consult with the Finance Committee and Board of Selectmen regarding all financial matters in terms of compensation and/or employee financial benefits.
- The Town Manager will have full jurisdiction over the rental and use of all Town facilities. Currently the Town Administrator has authority over Town Hall per the Board of Selectmen. The Town Manager

having full jurisdiction will delegate authority of the Fire Station to the Fire Chief; Police Station to the Police Chief; and DPW Facilities to the DPW Superintendent. Additionally, Parks Commission retains jurisdiction over Parks property.

- The Town Manager will have authorization to procure and execute all contracts under MGL Chapter 30B without Board of Selectmen approval. All contracts are still subject to the budget and Town Meeting Approval. Additionally all contracts remain governed by applicable MGL and are subject to review and verification of funds by the Town Accountant. The Town's Capital Planning process remains in place.
- The Town Manager will be authorized to sign the Payroll Warrant and Accounts Payables Warrant. Please note that both Warrants currently are and will remain public records and the Town Manager will issue a biweekly report on both Warrants at the BOS meetings.

R. Pontbriand also explained that the Town Manager may delegate authority to a qualified subordinate in the event of a temporary absence. He added that from a procedural matter, the Article if adopted by Town Meeting would then be submitted to the State Legislature for approval. Upon Legislative approval the Article will go into effect. All elected incumbents will be the first appointed to their respective positions.

**Motion:** A motion was made by J. Livingston and seconded by G. Luca to approve the 2017 Special Fall Town Meeting Warrant. **Motion passed 3-0.**

R. Pontbriand and BOS members thanked Attorney Goldberg for attending the meeting.

*MBTA/Railroad Update* – R. Pontbriand reported that the fence replacement project across from Town Hall is underway.

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

**Approval of Meeting Minutes:**

**Motion:** A motion was made by G. Luca and seconded by J. Livingston to approve the meeting minutes of September 19, 2017. **Motion passed 3-0.**

**Executive Session:**

**Motion:** A motion was made by G. Luca and seconded by C. Hillman to enter into Executive Session at 10:08 PM pursuant to G. L. c/ 30A, sec. 21(a) Exemption #1 (charges or Complaints Against Municipal Employee) for the acceptance of a resignation letter and to adjourn at the conclusion of Executive Session. G. Luca further stated that to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy. **By Roll Call:** C. Hillman, aye; J. Livingston, aye; G. Luca, aye. **Motion passed 3-0, by Roll Call Vote.**

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

**Date Minutes Approved by BOS:**

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**Signature Indicating Approval:**

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