

**HOLDEN BOARD OF SELECTMEN
MEETING MINUTES
MARCH 17, 2014**

6:30PM

Memorial Hall

Present: Chairman Robert Lavigne, Kenneth Lipka, Anthony Renzoni,
Mark Ferguson, Jeremy Kurtz

Others Present: Jacquie Kelly, Town Manager
Elizabeth Helder, Recording Secretary

Chairman Lavigne opened the meeting at 6:30PM. The Board participated in the Pledge of Allegiance.

1. Licenses – Appointments – Permits

Motion by Sel. Sel. Renzoni, seconded by Sel. Lipka, it was **UNANIMOUSLY VOTED TO APPROVE AN ANNUAL COMMON VICTUALER LICENSE TO THIEN PHAN ON BEHALF OF FRUITTI FROZEN YOGURT FROM SUNDAY THROUGH SATURDAY, 11AM-9PM AS PRESENTED.**

Motion by Sel. Sel. Renzoni, seconded by Sel. Lipka, it was **UNANIMOUSLY VOTED TO APPROVE AN ANNUAL COMMON VICTUALER LICENSE TO STEWART J. GOODHILE ON BEHALF OF STEWART'S CHOCOLATES FROM MONDAY THROUGH SUNDAY, 9AM-5PM AS PRESENTED.**

2. Town Manager Evaluation

The Chairman announced that over the next several weeks, the Board would conduct the Town Manager's Evaluation. He handed out the criteria for the Board to conduct the evaluation.

Sel. Kurtz will compile the Selectmen's evaluation results and write a narrative to be discussed in open session and submitted to the Town Manager. In previous years, the Board has met in open session on a Saturday morning to discuss the results. After some discussion, the Board agreed to meet in open session on Monday, March 31.

Chairman Lavigne said the Town Manager has completed a self-evaluation which will be forwarded to the Board.

3. Sel. Subcommittees

Sel. Renzoni: Veteran's Advisory Committee: met on 3/10 to discuss Memorial Day activities. The Committee is still seeking members. Long term goals include implementing tax breaks for veterans.

Sel. Kurtz: Economic Development Commission: have not met. Sel. Ferguson once again asked for confirmation that plans to upgrade internet connections to Industrial Park customers is still on the spring schedule. Sel. Kurtz assured Sel. Ferguson that these plans will commence once the weather improves.

Memorial Day Parade Committee: will meet on 3/19 to finalize parade plans. A flyer seeking donations for the committee will be distributed in the next HMLD billing cycle.

Sel. Lipka: Agricultural Commission: will meet 3/18.
Affordable Housing: have not met.

Sel. Lavigne: Winter Festival: will meet in April.
EDC: has not met.

4. Town Manager's Miscellaneous

- a. Ms. Kelly said that Warrant Articles for Town Meeting are due by Friday, April 4, 2014 in the Town Manager's office. A list of Warrant Articles will be forwarded to the Selectmen for approval at their regular meeting on April 7, 2014.
- b. The Manager informed the Board that Section 15 of the Town's Charter specifies that the town manager shall designate a qualified officer of the town to perform her duties during any temporary absence or disability subject to the approval of the Selectmen. Ms. Kelly said that she was designating Peter Lukes, Assistant Town Manager, to act in her absence and recommended the Selectmen approve her designation. The Board discussed that as Mr. Lukes has no contract, the designation has no expiration date. Ms. Kelly added that if Mr. Lukes were no longer employed by the town, the designation would become null and void.

Motion by Sel. Lipka, seconded by Sel. Renzoni, it was **UNANIMOUSLY VOTED ACCORDING TO SECTION 15 OF THE TOWN CHARTER, THAT THE BOARD OF SELECTMEN APPROVE THE TOWN MANAGER'S APPOINTMENT OF PETER LUKES AS THE ACTING TOWN MANAGER.**

- c. Ms. Kelly said that based on previous discussions, she recommended that the Board adopt a vote to use when appointing Constables in the future. The Board reviewed the vote for discussion. Sel. Ferguson said he would like language in the vote that Constables will be responsible for paying fees to the town for any services they conduct. Sel. Kurtz said he thought Town Counsel said not to draw such a hard line in the sand regarding the collection of fees from the Constables. Sel. Renzoni said he recalled that Town Counsel said that language regarding fees must either be included in the policy established by the town or in the motion made by the board every time they approve a new constable in town. The Board agreed to include Sel. Ferguson's suggestion in the motion. The Board thanked the Manager for the work to craft the motion.

Motion by Sel. Renzoni, seconded by Sel. Lipka, it was **UNANIMOUSLY VOTED THAT THE BOARD OF SELECTMEN HEREBY VOTE TO APPOINT _____ TO THE OFFICE OF CONSTABLE FOR A PERIOD OF _____ YEARS, SUBJECT TO THE CONDITION THAT HE/SHE ADHERE TO THE GENERAL LAWS, INCLUDING SECTIONS 95A AND 95B OF CHAPTER 41, AND TO REMIT PAYMENTS TO THE TOWN AND THAT FAILURE TO DO SO MAY RESULT IN A RESCISSION OF THE APPOINTMENT BY THE BOARD OF SELECTMEN OR A BASIS FOR DENIAL OF REAPPOINTMENT TO SAID OFFICE.**

- d. Ms. Kelly reported that the town has received further credits from its insurer the Massachusetts Inter-Local Insurance Agency. The town received a credit of \$3,096 from Workers' Compensation Insurance and \$13,753 from Property & Casualty. Both credits will be applied to future invoices. The Town's participation in the MIIA program has not only provided the town with cost effective coverage, it has allowed the town to benefit from its experience record through premium credits.
- e. Ms. Kelly announced that the Mass DOT will replace the bridge on Rt. 31 that spans the Quinapoxet River near the intersection of Manning Street. A pre-construction conference with town and other area officials was held at Mass DOT offices in Worcester on March 2, 2014. Once the bridge replacement project is underway, one lane of the bridge will remain open to traffic throughout the construction period. A temporary traffic light will be installed to control traffic over the single lane. The work will commence in the next few months and is expected to take two construction seasons. The project is being funded by the Mass DOT. Sel. Kurtz commented that trying to take a left off of Quinapoxet Street on a good day is difficult. He asked if the placement of the traffic light during construction been determined. Sel. Lipka suggested

- also placing a light on Quinapoxet Street as well Highland Street to help with traffic flow. Ms. Kelly will pass the Selectmen's comments along to Mass DOT officials in charge of the project.
- f. Ms. Kelly said that the 2013 Annual Town Report is currently being prepared. Suggestions on its dedication should be forwarded to the Town Manager's office.

The Board interrupted Town Manager's Miscellaneous to proceed with Citizens' Address at 7PM.

5. Citizens' Address

Mr. Ed Meyer, Fort Sumter Drive, passed out a hand-out to members of the press and to Sel. Ferguson and not to the remainder of the Board. Chairman Lavigne asked Sel. Ferguson to please give the handout to the Recording Secretary for the record. Sel. Ferguson replied while reading the handout "Yeah, when I'm done with it." Chairman Lavigne then asked that he pass the handout to other members of the Board so they could read it. Sel. Ferguson replied that "don't you know what it is? It's about water." Mr. Meyer said that the handout was only meant for Sel. Ferguson. Chairman Lavigne said that personal correspondence to an individual Selectman should be sent to the Town Manager's office and not at a public meeting. In fact, since it was distributed during a Board meeting, the handout was now a public document. He also said that Mr. Meyer had distributed this handout to members of the press which also made it a matter of public record.

Mr. Meyer addressed the Board about the Water/Sewer Enterprise Fund and unaccounted for water. Mr. Meyer addressed Sel. Ferguson by name during his address and the Chairman reminded him that Selectmen were not to be singled out by name during Citizens' Address. Mr. Meyer said he was addressing Sel. Ferguson as a private citizen.

Mr. Mark Ferguson, 244 Bailey Road, wished those present a happy St. Patrick's Day. He said as a resident of Holden, he was paying a lot of taxes in town. He spoke how the Administration set a goal to bring in the budget below 2 ¼%, but chooses to spend its money foolishly by placing a police officer at Board meetings. He said he still had not been given a reason why the police officer had been assigned to Board meetings from the old police chief or the new civil service police chief or the Chairman of the Board. He said that the Board should call 911 if there was trouble as "they are not better than anyone else." There is a feeling of intimidation at Board meetings and residents should not have to worry about someone taking their license plate number down or anything else. There is no turmoil, just a pure waste of money, and that money should be used to teach children in school about the role of the police. The police should not have to babysit democracy.

4. Town Manager's Miscellaneous (cont.)

- g. The Board signed the Light Department's Annual Report to the MA Department of Public Utilities, known as the "Return." The report is for the period ending December 31, 2013. According to Jim Robinson, Manager, HMLD, copies of the Return and the Department's Annual Audit will be provided to the Board upon completion.
- h. Ms. Kelly informed the Board that the reception for Retiring Police Chief George Sherrill will be held on March 24th from 4PM-8PM at Val's. Tickets are available for purchase at the Town Manager's office.

6. Approval of Minutes

Motion by Sel. Renzoni, seconded by Sel. Lipka, it was **UNANIMOUSLY VOTED TO APPROVE THE JANUARY 27, 2014 MEETING MINUTES AS PRESENTED.**

Motion by Sel. Renzoni, seconded by Sel. Lipka, it was **UNANIMOUSLY VOTED TO APPROVE THE FEBRUARY 3, 2014 MEETING MINUTES AS PRESENTED.**

7. Follow-Up to Citizens' Address

Sel. Renzoni discussed a meeting he and Sel. Lavigne had on March 14, 2014 with Mr. Meyer to discuss Mr. Meyer's concerns with the Water/Sewer Enterprise Fund. Sel. Renzoni handed out a document which listed Mr. Meyer's concerns and the Administration's responses to those concerns (attached).

Sel. Ferguson said that something is inherently wrong with the town's cost center if can't deliver cheaper water to residents. He asked the Administration what it costs to deliver a gallon of water to a resident's door. He also discussed leaking that occurred at fire hydrants after flushing. He said he would like the town to adopt a policy to use listening devices to monitor leaking hydrants.

Sel. Lipka commented that when you pay for cellular service you pay a base rate that is factored into your monthly payment for cell structures and infrastructure upgrades. The town is charging a base rate in its monthly service charge to help pay for infrastructure improvements/upgrades. He said it was important that the town not run its W/S budget into the red again.

Sel. Ferguson said all he heard was excuses. He said that Holden does electricity well, why not water.

Sel. Lavigne said he wanted to give Sel. Ferguson the opportunity to present the Sel. Ferguson plan for the Water/Sewer Enterprise Fund. He asked him to present his plan to the Board.

Sel. Ferguson said that his plan included having staff recheck hydrants that have been opened to ensure they are not leaking, audit customer billing issues, evaluate customer water usages, and following the Mark Ferguson plan.

Chairman Lavigne asked what the Mark Ferguson plan was. Sel. Ferguson said that his plan includes the above plan plus monitoring what town wells produce. He also asked why the town sells water to Worcester cheaper than it buys it back.

Chairman Lavigne said the town has a 99-year contract with the City of Worcester for the purchase of water.

Sel. Ferguson said he would like to make a motion based on his plan.

Chairman Lavigne said that this was a follow-up to Citizens' Address and that no motions would be accepted because this discussion was not posted on the agenda. He said he was glad to hear Sel. Ferguson's plan so that now all five members of the Board could all be on the same page. Sel. Lavigne quoted from a 2013 memo from Water/Sewer Superintendent Mark Elbag which outlined solutions to Sel. Ferguson's plan suggestions. He said that the town is now in year one of a five year water/sewer plan. He said that the Board would let the professionals execute the plan and then review it in five years.

Chairman Lavigne commented on Sel. Ferguson's comments about police presence at Board meetings. He called Sel. Ferguson's accusations baseless and uncalled for.

Ms. Kelly called a point of order adding that she also disagreed with Sel. Ferguson's statements. She reminded the Board that they do not run the town. They appointed the Town Manager to run the town

in accordance with the bylaws of the town. She said the Board votes to approve rates - Period. They have no other role in making decisions. The Manager said she relies on a professional staff of engineers and a Water/Sewer Advisory Board appointed by the Town Manager to provide her with technical information to run the town. Any Selectboard representative to the Water/Sewer Advisory Board is strictly there in a non-voting position.

Sel. Renzoni reminded residents that no new rate increases are scheduled in 2014.

Sel. Kurtz said that the hydrant leaks that had occurred during the hydrant flushing process had been corrected by the DPW.

8. Selectmen's Miscellaneous

Sel. Lavigne: 1. Reminded residents that nomination papers for the upcoming town election are available until March 20th at the Town Clerk's office. Only incumbents have taken out papers. All positions are unchallenged.

9. Motion to Enter Executive Session

Motion by Sel. Lipka, seconded by Sel. Renzoni, it was **VOTED 4-1 WITH 1 OPPOSED TO ENTER INTO EXECUTIVE SESSION AT 7:54PM TO (i) DISCUSS STRATEGY WITH RESPECT TO LITIGATION, PROVIDED THE CHAIRMAN PUBLICLY DECLARES THAT AN OPEN MEETING MAY HAVE A DETRIMENTAL EFFECT ON THE LITIGATION POSITION OF THE TOWN, AS PERMITTED BY MGL C. 30A, SECTION 21 (a) (3); AND/OR (ii) TO COMPLY WITH OR ACT UNDER THE AUTHORITY OF ANY GENERAL OR SPECIAL LAW AND RECEIVE LEGAL ADVICE RELATIVE THERETO, AS PERMITTED BY MGL c. 30A, SECTION 21 (a) (7) AND IN ACCORDANCE WITH THE HOLDING IN SUFFOLK CONSTRUCTION CO., INC. v. DCAM, 449 MASS. 444 (2007) AS PRESENTED. (OPPOSED: FERGUSON.)**

The Board agreed to meet in executive session in the Selectmen's Meeting Room in the Starbard Building.

10. Motion to Adjourn

Motion by Sel. Lipka, seconded by Sel. Renzoni, it was **UNANIMOUSLY VOTED TO ADJOURN THE MARCH 17, 2014 MEETING AT 9PM.**

APPROVED: April 7, 2014 as amended

Date: Mon, 17 Mar 2014 17:05:50 -0400 [17:05:50 EDT]
From: Anthony Renzoni <arenzoni@holdenma.gov>
To: EMeyer8175@aol.com, "Robert P. Lavigne" <rlavigne@holdenma.gov>
Subject: Water & Sewer Enterprise issues
Headers: Show All Headers

Mr. Meyer, thank you for taking some time to meet with Chairman Lavigne and myself on Friday to discuss your concerns with the Water & Sewer Enterprise account. I had the opportunity to review your concerns and wanted to let you know where we stand.

Concern 1: Holden failed to bill and collect revenues from Worcester for water provided in FY12.

Response: Worcester paid the Town \$60,396.39 for water in FY 2012. Additionally, without spending too much time on it, Worcester regularly pays the bill for this account, having last paid on 3/13/14.

Concern 2: The liaison from the Selectboard has not attended the Water/Sewer Advisory Board (WSAB) meetings with great consistency.

Response: The Water/Sewer Advisory Board meets at the request of the Town Manager to report and advise the Town Manager on all issues water and sewer. The appointed Selectman has practically no role in the discussions of the WSAB. Furthermore, I have been assigned the position of liaison to the WSAB for several years and typically do not attend unless requested by the WSAB Chairman or the W/S Superintendent. It has been my experience that the Selectmen, acting in the capacity of W/S Commissioners, should be removed from most of the direct discussions among the Town Manager's advisory board.

Concern 3: Selectman Ferguson should be appointed to the WSAB due to his plumbing experience.

Response: The liaison serves at the discretion of the Chairman. Also, as explained in response two, familiarity with plumbing has little to do with the liaison's responsibilities. The liaison is intentionally removed from the advising as to remove politics from the process.

Concern 4: The town owns (but doesn't use) listening devices that have the ability to detect leaking hydrants.

Response: We do indeed own listening devices. However, we cannot use them at the time of the operating of the hydrants as we have to wait for the hydrant barrels to drain out. Going back after the fact to check on hydrants that we have operated is not an industry standard operating procedure, or considered a best management practice, due to the time and effort involved. But it could be done if we are operating a particularly problematic style of older hydrant.

Concern 5: The Water & Sewer Enterprise rate scheme is unfair.

Response: It might be tough for some to understand, but it is absolutely fair. Furthermore, this rate system was studied and debated for several years prior to implementation. It was necessarily adopted to salvage a dysfunctional system that failed the customers and tax payers of Holden for over a decade.

My hope is that in the future you can email your questions to a Selectboard member and one of us can forward on the actual concerns to the town professionals. I also want to thank you for your time dedicated to this study. Selectman Ferguson informed the board members that you spent over 200-hours working on these issues. As always, your opinion is appreciated by the Selectboard members.

Yours in liberty,

Anthony M. Renzoni

Holden Selectman