

## HOLLISTON BOARD OF SELECTMEN

October 18, 2010  
7:30 P.M.

Town Hall  
Selectmen's Meeting Room

Present: Andrew Porter, Chairman; William McColl, Vice Chairman; Jay Marsden, Clerk, Andrea Minihan, Administrative Assistant. Paul D. Le Beau, Town Administrator was absent.

### **MR. MARSDEN MOVED TO APPROVE THE FOLLOWING WARRANTS:**

11-17	MEDICARE (001)	\$ 818.20
	PAYROLL	\$85,822.90
	TOTAL WARRANT	\$86,641.10

### ACCOUNTANT'S NOTE:

ACCRUED DEDUCTION LIABILITIES NOT PAID  
\$29,036.10

### TREASURER'S NOTE:

WIRE TO HEALTH INSURANCE TRUST  
\$18,692.85

**THE MOTION WAS SECONDED BY MR. MCCOLL. TWO IN FAVOR. MR. PORTER ABSTAINED.**

### **COMMENTS FROM THE BOARD**

Mr. McColl said that the Knox Counsel is honoring Sylvia Stickney on November 9, 2010 at 6:30 p.m. at Pinecrest. She will receive the Good Scout Award.

Mr. Marsden thanked the police for his ride along time. He also said that Holliston will be participating in a Grant application. They will be working with seven local towns on the feasibility of regionalizing dispatch and lock-up. He said that they will be looking for consolidation of some services.

Mr. Porter said that Town Meeting will be on October 25<sup>th</sup>, at the High School, starting at 7:30 p.m. He also said that the over-night parking ban will start on November 1, 2010, through March 31, 2011. No on-street parking from 1:00 a.m. to 5:00 a.m. Mr. Porter said that the State Election will take place on November 2, 2010. All voting will take place at the High School from 7:00 a.m. to 8:00 p.m. Mr. Porter congratulated Holliston Walks Against Breast Cancer for the event that took place on October 17<sup>th</sup>.

Mr. Porter also express they sympathy of the Board in the passing of Jackie Sullivan. She was a member of the Historical Committee.

There were no comments from the audience.

### **TREASURER/COLLECTOR – BONDS**

See attached.

**MR. MARSDEN MOVE TO APPROVE THE BOND PRESENTED BY THE TREASURER. THE MOTION WAS SECONDED BY MR. MCCOLL. ALL IN FAVOR.**

**BOARD BUSINESS**

**MR. MCCOLL MOVED TO APPROVE THE MINUTES OF AUGUST 30, 2010, AS WRITTEN. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**MR. MCCOLL MOVED TO APPROVE THE MINUTES OF SEPTEMBER 7, 2010, AS WRITTEN. THE MOTION WAS SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. MCCOLL ABSTAINED.**

**WARRANT - STATE ELECTION**

No motion was required, only the signature of the Board.

**APPOINTMENTS**

**MR. MCCOLL MOVED TO APPOINT JAMIE CANAVAN AND BEN HART AS NON-VOTING STUDENT MEMBERS TO THE YOUTH ADVISORY COMMITTEE. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**BANNER REQUEST - LIONS' CLUB**

**MR. MCCOLL MOVED TO INVOKE THE RULE OF NECESSITY FOR THE BANNER REQUEST. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR. (Mr. McColl and Mr. Porter are Lions' Club Members).**

**MR. MCCOLL MOVED TO APPROVE THE REQUEST BY THE LIONS' CLUB FOR THE BANNER AT THE SECOND LOCATION FOR BREAKFAST WITH SANTA. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**PEJAMAJO CAFÉ' ALCOHOLIC BEVERAGE LICENSE HEARING**

Mr. Porter recused himself from this portion of the hearing. At 7:45 P.M., Mr. Marsden read the hearing notice.

Peter Savas, Manager, was present. Mr. Savas said that in order to be approved for a full liquor license they have to do the hole process over again and apply as a new license, even though they serve beer and wine now. Mr. Savas said that Pejamajo's has several Managers. He said that they have not, and never will sell alcohol with-out a Manager on duty. He said that all Managers are TIP certified, have registered with the Police Department and have an ID card. He said that when you walk into Pejamajo's you can tell who the Managers are, they stand out. Mr. McColl said that Pejamajo's has not had any conflicts or incidents.

**MR. MARSDEN MOVED TO APPROVE THE EXPANSION OF THE LIQUOR LICENSE AT PEJAMAJO'S TO A FULL LIQUOR LICENSE. THE MOTION WAS SECONDED BY MR. MCCOLL. TWO IN FAVOR. MR. PORTER ABSENT. (With the approval of the ABCC)**

**RAIL TRAIL GRANT**

**MR. MCCOLL MOVED TO AUTHORIZE THE CHAIRMAN TO SIGN THE GRANT AUTHORIZATION. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**APPOINTMENTS TO HCAT TV**

Mr. Porter said that two of the members Barry Simms and Phil Rubin who have been with HCAT for years are retiring. Mr. Porter also said that there is a new qualification to be a Board member, you need to live in Town. Mr. Hart has moved to Framingham so his position is up as well.

**MR. MCCOLL MOVED TO APPOINT CHRISTINE QUISTBERG, FOR A THREE YEAR TERM, MARTY PERLMAN, FOR A TWO YEAR TERM AND JOE LORDAN FOR A ONE YEAR TERM. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**QUAIL RUN STREET ACCEPTANCE**

At 8:00 p.m. Mr. Marsden read the Hearing Notice

Mr. Porter said that in a memo from Fire Chief, Michael Cassidy, the Fire Department has no objections of Quail Run being accepted as a public way.

Mr. Porter said that in a memo from Acting Police Chief, Keith Edison, there are no safety issues and he sees no objection to the acceptance of Quail Run as a public way.

Mr. Smith, Highway Superintendent, had no issues.

Ms. Sherman, Town Planner said that the paper work just needed to be put together. She said that the road has been taken care by the Town for the past decade.

**AT 8:02 P.M., MR. MCCOLL MOVED TO CLOSE THE HEARING. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**MR. MCCOLL MOVED TO ACCEPT QUAIL RUN AS A PUBLIC WAY. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

**CDBG EXPLANATION**

Mr. Marsden went to the Grant Meeting with Mary Greendale. He said that the Town should consider a punch list of things to be done over the course of three years. He said that it was a broad range of things. He said that work at the Cutler Heights project, Andrews School and the Senior Center were all talked about. Mr. Marsden said that Ms. Greendale is in the process of applying for a grant with the amount that could go up as high as \$800,000. for a project. He said that in order to apply for this grant, the Town needed a Community Development Plan in place. He said that the Grant would have to go towards capital improvements. He said that they talked a lot about the Andrews School and possibly making it into senior housing. Mr. Marsden said that Ms. Greendale is taking comments and feed back.

Mr. Porter said that he attended the 495 Partnership Board Meeting and Governor Patrick addressed the meeting. He said next week Charlie Baker was going to address the partnership.

At 8:10 p.m., Mr. Porter said that they were going to take a five minute recess. They will return at 8:15 p.m.

At 8:15 p.m. the Board returned to open session.

At 8:15 P.M. Mr. Marsden read the hearing notice for Old Cart Path, Praying Indian Way, Tea Party Lane and portions of Mohawk Path Street for acceptances.

Mr. Porter said that there are a few submissions from Town Departments in relation to these roads. He also said that there were investigations.

Mr. Porter read the memo from Mr. Smith, the Highway Superintendent. He said that as a result of the inspection, house #104 and #106 on Mohawk Path had two man hole covers that needed to be repaired. He said that house #109 has a damaged driveway apron. He said that house #22 had a man hole that needs to be repaired. He also said that the street has exposed bolts on the light bases of the light poles that have not been installed.

He said that Old Cart Path, Praying Indian Way and Tea Party Lane are acceptable by Highway Department standards.

Mr. Porter said the Board received a memo from Fire Chief Michael Cassidy also the Emergency Management Director. He said that they reviewed the plans and said that several of the hydrants have extension sleeves added to them. All hydrants need to 18 inches off the ground. He said that this is problematic. If a hydrant is not placed correctly, it can cause damage when in use. Mr. Porter said that Chief Cassidy has been in touch with the Water Department and they have been made aware of the problem. Mr. Porter said that the street sign for Tea Party Lane is missing. Mr. Porter said that Chief Cassidy could not recommend acceptance of Old Cart Path, Praying Indian Way, Tea Party Lane and portions of Mohawk Path as public ways.

Mr. Porter said the Board received a memo from Acting Police Chief Keith Edison, saying at this time it is his recommendation that the Board deny the acceptance of Mohawk Path as a public way. It is lacking street lights and he said that it appears that there will not be a street light at the intersection of Mohawk Path and Mayflower Landing. Mr. Porter said that Acting Chief Edison said that he has no concerns about Tea Party Lane, Old Cart Path or Praying Indian Way being accepted as public ways.

Mr. Porter said that he received a letter from Mr. Cohen of Mohawk Path. He was concerned about buses. Mr. Buday said that buses are not allowed to go down private ways. Mr. Buday said that if these streets are not accepted, the bus will still go up Old Cart Path and turn around at the top, and not continue to Brook Street.

Ms. Sherman, Town Planner, in a memo said that the punch list has not been fully completed. Mr. Porter said that the Planning Board is holding several bonds.

Mr. Smith said that the bond would cover the repairs that had to be done. He is concerned about the 5 inch bolts at the base of the light poles that are not covered.

His concern is, who would be at fault if there was an injury?

Attorney Paul Beattie and Scott Michelli were present to discuss this with the Board.

Mr. Porter said that the discussion is on the hydrants, the bolts and lights. Ms. Sherman said that there are street lights in phase 1 of this project. Mr. Smith said that all the work can be completed with-in two weeks. Except the light poles. Mr. Miccelli said that he will get everything done within 30 days, but the light poles (driveway apron, cover bolts, hydrants). Mr. Miccelli said that they have been waiting for Nstar since July for the light poles to be installed.

Ms. Sherman showed the map of the area to the Selectmen.

Richard Maccagnano, Board of Health, said that they have no problem accepting the roads.

Geoffrey Zeamer, Conservation Commission, said that his Commission has not voted on this because they just received notification today.

Attorney Joseph Antonellis said that the Conservation Commission is in litigation about an outstanding Order of Conditions. Attorney Antonellis said that order of conditions has expired. Attorney Antonellis said that they hired an outside consultant to review the area. Attorney Antonellis said that Faffard was giving all the information to the Planning Board and they forgot all about the Conservation Commission issues. Attorney Antonellis said that the Conservation Commission is not in a position to offer a recommendation until they have had a chance to review all the material.

Mr. Porter said that the Selectmen will have to make a decision tonight. Mr. Porter said that every Department has its own jurisdiction and decision to make. Attorney Antonellis said that the Conservation Commission was looking into a bond to cover the basin work that has to be done.

Attorney Beattie said that they have a bond with the Planning Board but the Conservation Commission could say not to release the bond until they are satisfied with the work.

Mr. Zeamer said that if you accept the roads, you are relieving the developer of his duties to maintain the streets and to finish them. Mr. Zeamer said that all the issues that they have been fighting for some have been resolved but others have not. Mr. Zeamer said that if you accept the roads, then the contractor will never finish them.

Mr. McColl asked why don't we have an order of conditions for the retention pond?

Attorney Beattie said that there is a notice of intent with the Conservation Commission for work on the basin.

Mr. Miccelli said that they believe that they have completed the work according to the approved subdivision plans and reserve a Certificate of Compliance. Mr. Miccelli said that they do not need an Order of Conditions for this project because they do not have to do anything to these basins.

Mr. Marsden asked how much will it cost and how long will it take? Can Faffard put money on the table to get this finished? Mr. Porter said that from the owners position, they have completed the project, but from the Town it is not finished. Mr. Marsden said that what we should say is that if the work is not done in 30 days by the contractor, then we should take all the bonds and get the work done.

Mr. Carnes, Conservation Commission, said that by the spring Town Meeting maybe all items would have been addressed and the litigation will be over.

#### Comments from the audience

Ellie Holman, 23 Old Cart Path, asked what road acceptance means to the residents and what does it mean if the roads are not accepted? Mr. Porter said that if the Town is satisfied with the requirements with the road to be a public way, meaning the Town owns the road then we are responsible for everything. He said that the Town would start plowing the road. All the concerns from the school for the bus would be gone. He said even if the road remains a private way or not accepted way, the fire, police and the ambulance will still go up and down the road.

Eric Cole, 11 Tea party Lane, said that he has called the Farrard office several times trying to get the street sign replaced. He said that the sign has been taken three or four times.

Craig Cohen, 107 Mohawk Path, asked if the Selectmen would consider leaving the article on the Warrant to allow the residents to vote on this at Town Meeting. He said that the developer wants the road accepted, but the residents want it more.

Michael Talmanson, 32 Mohawk Path, would like the Selectmen to consider the safety issues of having a bus stop as indicated on Concord Street. It is too dangerous. He said that in the next three weeks it looks like the punch-list items will be completed. He said that as residents should know what is on the punch-list.

Attorney Antonellis said that he was not aware that the residents wanted to know what was on the punch-list. He did not think that anyone was concerned about it. Attorney Antonellis said that the Conservation Commission issues have nothing to do with the safety of the road. They are concerned about the wet lands and the aquifer. He said that street safety concerns came from other departments. He said that both of those things play into each other. Mr. Zeamer said that it is critical that the basins are safeguarded, because this is the water that we drink.

Jason Israel, 104 Mohawk Path, asked about the bus. Mr. Porter said that that it would be between the Town and the property owner. Because if something were to happen on the road and the Town did not own it what would happen? Who would be responsible? Mr. Porter said that it can be done. He said that the Town does this when a road is plowed and it is not owned by the Town. It is still a private way.

Ben Kafka, 70 Mohawk Path, asked about litigation with the Conservation Commission. Mr. Porter said that the Conservation would not give Farrard a Certificate of Compliance, that is why Faffard is suing the Town. He said that the residents have been going to Planning Board meetings to get this pushed ahead, because nothing was being done. He said that the Conservation Commission has not shared any information with any other Boards, now all of a sudden they are. Mr. Porter said that information was all discussed in Executive Session with the Selectmen and the Conservation Commission, not in an open meeting. Mr. Kafka asked if the water was dangerous to drink. Mr. Porter said that the drinking water is fine.

Sam Anwar, 5 Governor Prence Way, he said that the neighbors are being held hostage. He said that he has been in an accident because the roads are slippery. He said that he does not want to send his kids out into unsafe conditions. He said that he may be looking at a new place to live.

Edward Maloney, 36 Mohawk Path, said that there is a bond in place. Mr. Porter said that the bond is not for the Conservation Commission. Mr. Maloney asked why has not the Conservation Commission done anything to get this moving and go forward. Mr. Zeamer said that it was just brought to the attention of the Conservation Commission. Mr. Kafka, 70 Mohawk Path, asked why did the Conservation Commission not put pressure on the developer and if they did not finish have the courts decide.

Mr. Porter said that Attorney Beattie may think that the bonds that are in place should cover the cost of fixing the items on the punch list. Attorney Beattie said that it was more than sufficient.

Mr. Porter said that the commitment would be that the Town would retain the two bonds in the amount of \$102,000. for two purposes. One to secure with-in 30 days the man hole covers and the driveway cut and the covering of the bolts. They will reserve the right on the lights at Mayflower Landing until that portion is up before the Board. He said that the remaining bonds will remain in place as the litigation is resolved.

Attorney Beattie said that he agrees with the statement the Mr. Porter just read.

At 9:30 P.M. The Board took a ten minute recess so that Attorney Antonellis and the Conservation Commission could discuss the conditions that Mr. Porter stated.

At 9:55 P.M., The Board resumed the discussion of the street acceptance.

Mr. Porter said that Attorney Antonellis and the Conservation Commission were able to discuss the Statement that Mr. Porter stated.

Mr. Zeamer said that he and his Committee voted not to accept the streets by a unanimous vote.

Sue Penchanshy, 22 Old Cart Path, asked if the owner of the development if any of the parts were not accepted would the liability fall on the residents?

Mr. Porter said that he did not understand the question. He said that that they are talking about the Town taking the roads. Ms. Penchanshy said that she was looking for clarification, because they are talking about wet lands. It is not a road surface.

Attorney Beattie asked if she was talking about the open space in the development. Ms. Penchanshy said yes. Attorney Beattie said that would not change it will still be owned by the Trust.

Craig Cohen, 107 Mohawk Path asked the Conservation Commission why they voted not to accept the streets.

Mr. Porter said that they are free to discuss it if they want. It will not impact litigation.

**AT 10:00 P.M., MR. MCCOLL MOVED TO CLOSE THE HEARING. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

Mr. Porter said that if they do not take action or do not take favorable action it will not be able to be approved at Town Meeting. He said that if they approve it, then it will go to Town Meeting and Town Meeting could vote it down.

Mr. Porter said that all the boards that are involved in this decision should of gotten paperwork a lot sooner than they did.

Mr. McColl said that he thinks that there was a miscommunication on what would be accepted. Mr. Porter said that there was no Order of Conditions, but there was a prior Order of Conditions and those two things are problematic. Mr. Porter said that there was no promise of an Order of Conditions from the Conservation Commission. That is why they voted not to accept. Mr. Zeamer said that with out an Order of Conditions, the Town has no control. Mr. Marsden said that there is still a lot of missing information. Mr. Porter said that he is uncomfortable over-riding the Conservation Commission. Mr. Marsden said that if they do not accept the streets, and the schools agree to continue busing, is this the biggest issue.

A resident said that yes the busing for the kids is a big issue.

Mr. Porter said that there should be a few conditions. Fix on the Public Safety list and the Highway Department list. Basins pending litigation and to hold back the bonds for security.

**MR. MARSDEN MOVED NOT TO ACCEPT OLD CART PATH, PRAYING INDIAN WAY, TEA PARTY LANE AND A PORTION OF MOHAWK PATH STREET. THE MOTION WAS SECONDED BY MR. MCCOLL. ALL IN FAVOR.**

**AT 10:15 P.M., MR. MCCOLL MOVED TO ADJOURN. THE MOTION WAS SECONDED BY MR. MARSDEN. ALL IN FAVOR.**

Respectfully submitted,

Donna A. Muzzy

approved\_\_\_\_\_