

HOLLISTON BOARD OF SELECTMEN

January 23, 2012
8:00 P.M.

Selectmen's Meeting Room
Town Hall

Present: Jay Marsden, Chairman; Kevin Conley, Clerk; Paul D. Le Beau, Town Administrator and Andrea Minihan, Administrative Assistant. Lay Leary, Vice Chairman was absent.

MR. CONLEY MOVED TO APPROVE THE FOLLOWING WARRANTS:

12-31	GENERAL WARRANT	\$501,891.72
	STUDENT ACTIVITY (8030)	\$ 5,914.77
	CAPITAL PROJECTS FIRE TRUCK (3900)	\$ 363.83
	PAYROLL	\$ 88,861.54
	TOTAL WARRANT	\$597,032.86

ACCOUNTANT'S NOTE:

ACCRUED DEDUCTION LIABILITIES NOT PAID

\$ 28,998.49

TREASURER'S NOTE:

WIRE TO HEALTH INSURANCE TRUST

\$ 18,397.85

THE MOTION WAS SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. LEARY WAS ABSENT.

COMMENTS FROM THE BOARD

Mr. Conley congratulated the New England Patriots on their win.

Mr. Marsden reminded everyone that on January 26th, there will be a casino meeting at the Middle School at 7:30 p.m. Mr. Marsden said that this will be a regional meeting. He said that residents from surrounding towns are welcome to attend this meeting.

Comments from the public

Carl Damigella, 448 Underwood Street said that on February 4th, the Pantry Shelf is holding a Souper Bowl fundraiser in the Upper Town Hall. Tickets are \$15.00 for adults and \$8.00 for children under 11 and over 6. Mr. Damigella said that this event usually sells out fast. He said that tickets are available at Coffee Haven, Superette or you can contact him.

**ONE DAY ALCOHOLIC BEVERAGE LICENSE – ST. MARY'S CHURCH
MR. CONLEY MOVED TO APPROVE THE ONE DAY BEER AND WINE
LICENSE FOR A DINNER DANCE AT ST. MARY'S CCD CENTER ON
FEBRUARY 4TH, FROM 7:00 P.M. TO 11:00 P.M. THE MOTION WAS
SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. LEARY WAS
ABSENT.**

APPOINTMENTS – HISTORICAL COMMISSION AND YOUTH ADVISORY COMMITTEE.

MR. CONLEY MOVED TO APPROVE THE APPOINTMENT OF ELLIN AUSTIN TO THE HISTORICAL COMMISSION FOR A 3 YEAR TERM. THE MOTION WAS SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. LEARY WAS ABSENT.

MR. CONLEY MOVED TO APPROVE THE APPOINTMENT OF GRETCHEN POWERS TO THE YOUTH ADVISORY COMMITTEE FOR A THREE YEAR TERM. THE MOTION WAS SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. LEARY WAS ABSENT.

CSX LAND LEASE AGREEMENT

Mr. Marsden said that this is a portion of the rail-trail and will be from the Sherborn line to Cross Street. Mr. Marsden said that this project has been on going for thirteen years. Mr. Marsden said that this needs the Chairman's signature.

MR. CONLEY MOVED TO AUTHORIZE THE CHAIRMAN TO SIGN THE LEASE AGREEMENT WITH CSX. THE MOTION WAS SECONDED BY MR. MARSDEN. TWO IN FAVOR. MR. LEARY WAS ABSENT.

VETERANS BUDGET

Mr. Marsden said that this will be a little different this year because we are sharing an agent with several different towns. He said that our budget request for Fiscal Year 2013 is lower than the Fiscal Year 2012 budget because we are sharing services.

There were no objections to the Veteran's Budget.

SOLID WASTE BUDGET

Mr. Marsden said that there is a simple Solid Waste Services increase.

Mr. Le Beau said that there are two contracts for solid waste service and two different time frames. He said that the collection service that we have with Allied Waste and that the solid waste service index runs from July to July. Mr. Le Beau said that they are estimating a 1% increase. He said since July, the CPI is up 1/5th of 1%. He said that he would continue to monitor and make adjustments as needed. He said that on the tipping fee from Wheelabrator of Millbury the CPI is calculated March to March. He said that they estimate it about 1.4%. He said that it is an estimate based on the CPI March through December. He said that they plan on keeping the leaf collection in the fall. He said that they will still keep the recycling center open. He said that they will also have in the contract a few dumpsters to be used at different activities in Town. Mr. Le Beau said that the proposed budget is under the guideline. He said that they are continuing to see the tonnage of trash reduced as residents are moving more towards recycling. Mr. Le Beau said that the state rate of recycling is 35%, and that Holliston is at 46% to 48%. He

also said that we offer recycling bins free of charge. There were no objections to the Solid Waste Budget.

MOTOR VEHICLE FUELS BUDGET

Mr. Le Beau said that this budget was significantly increased this year compared to last year. He said that the price for gas and diesel has gone up. He said that they increased the budget to \$140,000 for the current Fiscal Year. He said that in Fiscal Year 2013, they would like to increase the budget to \$142,100. Mr. Le Beau said that it is very difficult to predict what will happen with the cost of gas or diesel.

STREET LIGHTING BUDGET

Mr. Le Beau said that that the budget has been \$66,690. He said that the past few years we have spent is \$65,300 to \$65,800. Mr. Le Beau said that a few years ago, we did a study on purchasing the streetlights. He said that once we made an inquiry about the purchase of the streetlights to Nstar, they dropped our fee down several thousand dollars. He said that we were paying over \$100,000 at that time. Mr. Le Beau said that we provide information of lights that are out, and when Nstar is in Town they replace the bulbs.

WASTEWATER TREATMENT BUDGET

Mr. Le Beau said that the Wastewater Treatment facility is off Linden Street behind the Flagg Building. He said that it is ten years old and services the Placentino, Miller Adams schools and the Flagg Building. Mr. Le Beau said that after a short time in operation, we were seeing pump failures and a variety of other issues. He said that it is starting to show its age. He is recommending the guideline budget amount for the time being. He said that we could have a pump failure or a maintenance issue, the budget will not be able to cover it.

Mr. Conley said that maintenance is so important because if you do not keep it up it will cost more down the road.

Mr. Marsden suggested a preventative maintenance review of the facility.

At 8:20 P.M. Mr. Leary joined the meeting.

BUILDING INSPECTOR BUDGET

Peter Tartakoff, Building Inspector, was present. Mr. Tartakoff said that he reduced some numbers and did an evaluation of the surrounding communities on salaries and wages for clerical, as well as job descriptions. He said that they did a nine community survey. He said that the departments needs to make adjustments. He said that he was able to come in under budget. And some of the savings were from purchased services. He said that funds were set aside to pay for outside inspectors during vacations. Mr. Tartakoff said that they will be covering for other Town when they are on vacation, and they will cover for us. Mr. Marsden asked if Mr. Tartakoff is asking for a raise for himself and his clerical staff? Mr. Tartakoff said that he is hoping to re-class the clerical position from a grade 8 to a grade 11. He said that he has put together changes in the job

description. He said that there would be more responsibilities. He is hoping that the re-class of the position would happen before Town Meeting. Mr. Tartakoff said that if possible, he would like to talk about a contract renewal. He said that he wants to build the funds into the budget to show that he can still come in at guideline.

Mr. Marsden asked what would happen if we now have to pay for purchased services?

Mr. Tartakoff said that from past experience there would be enough in the budget to offset the expenses. Mr. Tartakoff said that the funds he is talking about is from the Assistant Inspector's line. There is no assistant any longer. He said that he has been fortunate that the surrounding Towns cover for each other.

Mr. Conley said that he is concerned about the cost going up. Mr. Tartakoff said that he has spoken with his Finance Committee Liaison about this and he is in full support of the step raise for the clerical staff.

Mr. Conley said that he is not sure how this will effect other departments trying to do the same. Mr. Conley said that with the Benefits Compensation Study out now, he does not think that this is the correct time. Mr. Marsden said that some of this may be picked up by the Compensation Study.

Mr. Tartakoff said that with the studies that they have done, the Town is considerably lower than the pay-scale of the surrounding communities.

Mr. Conley said that it is always a good benchmark to compare to other towns.

Mr. Marsden said that money goes into the budget, then it never goes away. Mr.

Marsden said that when the study comes out, they will have a better chance of following through. Mr. Leary said that if he were on the Finance Committee, he would tell Mr. Tartakoff to re-work the numbers. Mr. Leary said that building application fees are way down from last year. Mr. Tartakoff said that they have not had large scope projects come in.

ZONING BOARD OF APPEALS BUDGET

Henry Dellicker was present. Mr. Dellicker said that this is a simple budget. He said the part-time clerk does the applications and the minutes. Mr. Dellicker also said that the clerk drafts the decisions. He said that the clerk gets paid by grade and then step.

Mr. Dellicker said that he was able to make the guide-line. He said that the Zoning Board is fortunate to have several departments that help them, Planning, Building and Town Clerk.

He said that the only other expense that they have is postage, supplies and materials.

Mr. Leary asked if the Bullard Farm Solar project will have to go through Zoning.

Mr. Dellicker said that he is looking into the state laws on that project.

Mr. Dellicker said that they are looking for two more members.

LIEUTENANT EDISON

Mr. Marsden said that Lieutenant Edison had requested to speak to the Board regarding his retirement.

Lieutenant Edison said that he has had a discussion about his severance package with Mr. Le Beau. Lieutenant Edison said that there is a question about his unused sick leave for a

buy-back. Lieutenant Edison said that his contract clearly states that he is entitled to 25% of his un-used sick time as a buy-back at retirement. He said that he will file his papers to retire by the end of this week. Lieutenant Edison said that he will be staying on the Town's health insurance as a retiree until he returns to work. Lieutenant said that he would be willing to negotiate on the buy-back of the sick time. He said that he may take employment else where he said that would be his plan. He is going to be the new Police Chief in Millis MA. He said that in section 105 of the General Laws states he must complete five years of employment, post-retirement, to get a recalculation of his retirement.

Mr. Marsden asked that if he did not complete the five years of the post-retirement job, what would happen? Lieutenant Edison said his pension would be based on the three highest year's average from Holliston and Holliston would be assessed his full retirement. He said that he would be refunded any and all funds that were put into the Norfolk County system.

Lieutenant said he has been offered a contract, but he has nothing in writing as of yet. Lieutenant Edison said that the Town of Holliston has no right to dictate to him what he can do or can't do post-retirement.

Mr. Marsden said that he understands what Lieutenant is saying. He said that Lieutenant Edison is retiring but not really, he will be retiring for one month then starting a new position.

Lieutenant Edison said that the Governing law of the Commonwealth is under Chapter 31. When he filed his paperwork, the date on that paperwork in the first paragraph in section 5 "upon the age of 55 can upon written application on form filed with the board and the employer as on the date that is specified in the application which is not more than 4 months away."

Mr. Marsden said that they do not have a problem and they are not arguing about the retirement benefit based on the number of years of service. What they are saying is that he is not retiring, he is taking another job. Mr. Marsden said that the retirement is not the issue, the buy-back sick leave does not apply because you are taking a new job.

Lieutenant Edison said that the Town is denying him a benefit because he is retiring and then taking a job one month down the road. He said that if he took that same job three months down the road how is it any different? He said that once you retire and you start collecting checks, and then you decide to go back to work, you need to pay back everything that you have received plus interest. Lieutenant Edison said the reason that there is a lot of money for the buy-back of sick time is that after 33 years of service, he has never abused his sick time. He said that he is an employee that has an excellent attendance record.

Mr. Leary said that if anything, it is a loop hole in the system that should be closed. He said that there are limits on what you can do. Mr. Leary said that Lieutenant Edison is manipulating the system, but saying that he is going to retire in one month so that he could collect his benefit, and then because it is allowed, he will pay it back. Suddenly he is not retired any longer and taking a position in another Town.

Lieutenant Edison said that the legislature has taken that into account and makes that employee different from another that travels from one job to another. He said that there are two areas that they can penalize you, one having to work for five years in order to vested in that next job. He said that if he leaves Holliston and works someplace for four years, he would not get the benefit upon retirement of that possible higher salary. He said that the second penalty that they impose is that they will require him to pay back 50% contribution on his pension. Mr. Conley said that Lieutenant Edison thinks that legally you are owed this benefit by the Town. Lieutenant Edison said beyond legal yes. Mr. Conley said that his thought is that it is a retirement benefit, but he is not really retiring. He said that is the conflict with us. He said that in his company if you don't use your sick time you lose it. He said that you use sick time when you are sick not for the benefit of the pay at the exit of the position. Mr. Conley said that they may need a legal opinion. Mr. Leary asked if we have an opinion from Labor Counsel. Mr. Le Beau said that it was the Lieutenant's intent to take another position in a municipality in another county. Mr. Le Beau said that the Lieutenant does not have to retire there is an option that would allow to put in for retirement but it is not something that needs to be done. He said by putting in for retirement, there are penalties on how his retirement will be treated in the future. Mr. Le Beau said that in talking with labor counsel, there does not appear to be any case law surrounding this issue. Mr. Le Beau said that in Lieutenant Edison's contract there was a clause for a terminal benefit for sick leave. Mr. Le Beau said that he does not support the sick leave buy back because he is not retiring. Lieutenant Edison said that the Town is dictating to him what he can do and can't do post retirement. He said that he has another employment opportunity, and it does not change what he has here. Mr. Leary asked Lieutenant Edison why don't you just resign? Lieutenant Edison said that there are positives and negatives. He said that he would be able to work longer and get more vacation time, more holiday pay and he would be owed more on other aspects of the benefits of the severance package. He said that the down side would be that he would not be entitled to the 25% buy back. He said that he has earned the right to do this as it is stated in the statute. He said that he has the right under the collective bargaining. Mr. Leary said that there are some positive points to retiring, he would not have to pay the higher percentage. Mr. Leary said that he is going to call your self retired so that he could collect the benefit when in fact he is taking another position in one month. Lieutenant Edison said that he planned on retiring long before he was offered this new position. He said that he has been up-front with the Town. He has kept nothing from them. Mr. Marsden said that they will not be coming to a solution tonight. Mr. Leary said that they want to talk about some alternatives. Mr. Marsden said that he will have a discussion with Mr. Le Beau and will get back to Lieutenant Edison.

BOARD BUSINESS

MR. LEARY MOVED TO APPROVE THE MINUTES OF NOVEMBER 14, 2011, AS WRITTEN. THE MOTION WAS SECONDED BY MR. CONLEY. ALL IN FAVOR.

MR. LEARY MOVED TO APPROVE THE MINUTES OF NOVEMBER 28, 2011, AS WRITTEN. THE MOTION WAS SECONDED BY MR. CONLEY. ALL IN FAVOR.

MR. LEARY MOVED TO APPROVE THE MINUTES OF DECEMBER 12, 2011, AS WRITTEN. THE MOTION WAS SECONDED BY MR. CONLEY. ALL IN FAVOR.

MR. LEARY MOVED TO APPROVE THE MINUTES OF DECEMBER 21, 2011, AS WRITTEN. THE MOTION WAS SECONDED BY MR. CONLEY. ALL IN FAVOR.

ELM STREET PARKING

Mr. Marsden said that the residents are asking for no parking in front of the building on Elm Street. Safety Officer Ward said that no parking here to corner signs should be put in place. Mr. Marsden said that he has a copy of a petition signed by several residents. Mr. Le Beau said that in general people are not to park with-in 100 feet of an intersection. Chief Moore said that they have added on to the Nursing Home and it requires more workers. He said that they park in the lot that is available to them but they also park on the street. Chief Moore said that he will contact the nursing home asking the workers to park in the lot. Mr. Marsden said that they will postpone a vote until they can talk to the Administration at Timothy Daniels House.

SNOW & ICE BUDGET

Mr. Marsden said that he is pleased that we have not had that much snow so far this season. Mr. Leary said that they can carry over the balance from year to year if the budget has not been depleted.

Mr. Le Beau said the current budget amount for this year is \$200,000 and he said that it has been the same since fiscal year 2005. Mr. Le Beau said that the average spent on snow & ice has been about \$300,000. His thought was to move the budget base up to \$250,000. He said that this would take some of the pressure off the reserve fund.

Mr. Le Beau said that the funds would go towards sand & salt, snow labor and contractors. Mr. Leary said that the sand, salt is based on a bid.

POLICE LIEUTENANT POSITION

Mr. Marsden said that they have been looking for a new Lieutenant. Mr. Marsden said that they had four candidates apply for the position. He said the Selectmen interviewed the candidates, after they were interviewed by three Police Chiefs from surrounding Towns. Mr. Marsden said that the Selectmen got the chance to look at the personnel records, but the three chiefs who did the first interview did not.

Mr. Leary said that he was happy with the process. He said that we have a wonderful Police Department. Mr. Conley said that the process was very competitive. Mr. Conley said that he was impressed with each and every one of the candidates.

Mr. Conley said that one candidate really stood out, Officer Shawn Moore. Mr. Conley said that he has the ability to manage multiple tasks. Mr. Conley said that Officer Shawn Moore would be an asset to the Town as a Lieutenant. Mr. Conley said that Officer Moore is a strong leader.

Mr. Leary said that after the interviews and meeting with the Chief he agrees with Mr. Conley. Officer Shawn Moore would be a valuable asset to the Town as a Lieutenant. Mr. Marsden said he followed up on the information from the three Police Chiefs who did the first set of interviews. He was impressed as well with Officer Shawn Moore. Chief John Moore said that it was a hard decision to make because all of the candidates were all so well informed. He said that his choice would be Officer Shawn Moore.

MR. LEARY MOVED TO APPOINT SHAWN MOORE AS THE NEXT LIEUTENANT OF THE POLICE DEPARTMENT. THE MOTION WAS SECONDED BY MR. CONLEY. ALL IN FAVOR.

AT 10:05 P.M., MR. CONLEY MOVED TO ADJOURN. THE MOTION WAS SECONDED BY MR. LEARY. ALL IN FAVOR.

Respectfully submitted,

Donna A. Muzzy

approved_____