

**HOLDEN BOARD OF SELECTMEN
MEETING MINUTES
September 5, 2023**

6:30PM

Memorial Hall

Present: Stephanie Mulroy, Anthony Renzoni, Richard Bates (participating remotely), Thomas Curran, Geri Herlihy

Others Present: Peter Lukes, Town Manager
Steven Madaus, Town Counsel
Ms. King, Assistant Town Manager
Liz Fotos, Town Recorder (Participating remotely)

Chairman Mulroy called the Board of Selectmen meeting to order. The Board stood to recite the Pledge of Allegiance. Chairman Mulroy stated that Sel. Bates was participating remotely this evening and all votes would be taken by a roll call vote.

1. Citizens Address

Patty Jacobs, 90 Twin Brooke Drive, was present at the meeting. She stated the lack of multifamily housing is an issue that impacts everyone and it does not recognize municipal boundaries. She stated it is every town's problem. She stated many of us go to Worcester, Boston, or other places to work and earn a living all the while living in a beautiful town like Holden and not share the responsibilities of Boston. Holden enjoys the benefits of these great cities but only wants the benefits not the responsibilities. An issue like lack of multi-family housing is an issue for the state that affects everyone regardless of where you live. Holden needs to be a part of the solution, it is not an island on to itself.

Walter Crocket, 184 Brattle Street, was present at the meeting. He wanted to speak briefly on the MBTA Communities law. He stated a lot of us want to keep Holden the size it is now; he shares that feeling. He understands the desire to keep the door closed to new developments but that is like trying to hold back the tide. There are more people in the world now and less livable space. He stated that we need to adapt to cooperate with others and as part of the Commonwealth of MA, Holden has to do its part. He stated it is one thing to stand up for one's principals but something else to stand up for ones own privilege in a time of wide spread need. He stated finally as a senior citizen he is not in a position to waste money. He stated they can't waste money on law suits and throwing away state grants when those costs end up in tax bills or diminished town services. He asked the Board to think twice and change their position on this matter.

2. Recognition of Holden Baseball 11 Year Old All-Stars

Chairman Mulroy called the players and coaches up to honor them for their achievements; she noted their years of hard work and practice and told them how proud they made the Town. The Coaches shared memories of the season as did the players.

Chairman Mulroy called a two minutes recess. Chairman Mulroy called the meeting back to order.

3. **Vote: Authority to File Lead and Copper Grant from DEP**

J. Kenney, Water/ Sewer Superintendent was present at the meeting.

He stated the EPA regulates a lead service line inventory nationwide. He stated they met with consulting engineers Tighe and Bond and this paperwork was for a 100% grant to assist the Town of Holden and getting this to the EPA by the October 2024 deadline.

Sel. Curran asked if this was an inventory of town owned pipes.

Mr. Kenney stated that it was for town owned and private up to the home and up to the water meter. This project will id the material of every water service in Holden to make sure there is no lead or galvanized pipe in the ground. Every town needs to do this. He stated the state revolving fund and made it into a grant and this application should get us to the deadline.

Motion by Sel. Renzoni, seconded by Sel. Herlihy, it was **UNANIMOUSLY VOTED BY A ROLL CALL VOTE TO AUTHORIZE THE MANAGER TO FILE THE LEAD AND COPPER GRANT FROM DEP.** (Bates: yes; Curran: yes; Herlihy: yes; Renzoni: yes; Mulroy: yes).

4. **Sewer Appeals Process**

Chairman Mulroy stated that the final copy of the process was provided by Sel. Bates and red lined by Town Counsel.

Sel. Renzoni thanked the Water/ Sewer Advisory Board, DPW, and Water and Sewer who were all present at the meeting.

Mr. Lukes stated that the Water/ Sewer Advisory Board did take this matter up last week and voted on it.

Larry Kowalczyk, Water/Sewer Advisory Board, was present. He stated that he did not agree with the proposed changes for many reasons but mostly because they did not give the instructions if the superintendent rejects an application if he feels it is unsafe for the town. If the BOS overrules that because they believe a consultant is correct then who is responsible for writing the instructions on how to do the work. He stated the Superintendent can't write it because he disagreed with it, the consultant may do it for fee, but who would pay that. He asked if the BOS would hire a consultant; he stated they did not understand how the process would work.

Sel. Renzoni asked if he was speaking as an individual or if the Water/ Sewer Advisory Board was empowering him to speak on behalf of them. He asked if the Board was advising against this policy as it was written.

Mr. Kowalczyk replied he was representing the Board and they were advising against the policy as written.

Sel. Renzoni stated that he could give Mr. Kowalczyk his thoughts and then he would have to bring it back to the Board. He stated the process as it was now did not allow for a resident to appeal without retaining counsel and suing the town. That is their only course of action if they don't agree with a decision. He said he doesn't disagree that a rogue BOS could cause issue but that is not the intent of this change. He said the process in place right now is also not perfect. A resident can't go to their elected officials and appeal a decision. He said that is why town professionals and the water sewer advisory exists. He stated that the purpose of this is to give a resident a forum where they can argue with their elected officials as to why there is an injustice. He stated that the BOS would not just automatically side with a resident because they wanted to do it; it was giving them an avenue to be heard. Then they would debate and ask professionals and come to some agreement here.

Sel. Renzoni said this was not about overruling the professional staff it was more to give the resident a platform to appeal.

Mr. Kowalczyk said right now the resident can appeal to the Superintendents boss in writing. He can also appeal to the Town Manager.

Sel. Renzoni agreed but said that they were not elected they were all hired and there was no space for a resident to appeal to an elected official to hear their case. He said they needed to put the process in place that they could do it in public and only other space for that to happen was in court which was costly. He stated that he supported what was in front of them tonight but that if there was a better process that achieved this public appeal he was not opposed to going through and relooking at it. He stated that this has been in process for over a year.

Sel. Renzoni stated he did appreciate and value the opinion of the Water/ Sewer Advisory Board.

Mr. Kowalczyk stated that the Board was reachable by email/ phone.

Sel. Renzoni agreed but he said he had no recourse to make a change even if he did agree with an appeal that came through.

Mr. Kowalczyk stated there already is a process in place. He asked if this had been a problem in the past with a large number of people.

Sel. Renzoni asked him to explain the process to him as it stands today. He said the Board of Selectmen is the Water Sewer Commissioners so they should have more power to come to conclusions.

Mr. Kowalczyk replied if there is a particular problem and someone goes to the Board; they can look into it and get back to both elected officials and request to go to a Water/ Sewer Advisory Meeting and make suggestions. He stated no one has ever done that. He asked why they are changing something that has worked fine for over 100 years.

Sel. Renzoni stated that as it related to this the resident today does not have the ability to plead their case. He stated that he would like to hear from other professionals in the building.

Mr. Lukes stated that the take away was that the Water/ Sewer Advisory Board voted unanimously to not support this bylaw change.

Mr. Woodsmall, DPW, was present at the meeting along with Joseph Kenney, Water/Sewer Superintendent.

Mr. Kenney stated that the professionals in town are tasked with making sure that the water and sewer systems in town are maintained and in good working order. He stated that they have to comply with many codes. He asked that should the Board support this amendment as it stands today; who would be responsible for this and would any of this be in conflict with any of the regulations that were already in place. Could this appeal process expand or conflict with other codes and standards; MA Building Codes, Plumbing Codes, and Fire Codes? Would the Board entertain other bylaws? Do members of the Board have the technical skill set to make a reasonable justification?

Mr. Kenney stated these decisions are not made only by the Superintendent, many assist in this process. He stated that careful thought is given to each permit and the effect that the permit may have. The evaluation involves not only the Superintendent but the civil engineers and operations staff as well. He stated the amendment would negate those professionals and their decision making process. He stated currently the decision made are using practical, technical, institutional allowing the amendment would benefit the individual and not the welfare of the town or the system. It could potentially jeopardize the welfare and safety of the water and sewer users in the Town of Holden.

Mr. Woodsmall stated he provided a memo through the Town Manager. He stated that to recap some of the more important points, there is an appeals process that exist now. He stated that at any point a person aggrieved can speak to him for reconsideration. He stated he reports to the Town Manager; anyone that does not agree with him can complain to the Town Manager as well. He stated that while the Town Managers in the past have not directly told the DPW to do something if he is doing something that is unreasonable then the Town Manager is a place that can be explored.

Mr. Woodsmall stated that any person that does not like something with the town can come and speak to the BOS at Citizens Address. He stated that when it comes time for decisions to be made by non elected officials that is the history of the Town. He stated BOH, Con Com, Planning Board, and more are all appointed. He stated that if people don't like the decision of those Boards they have to go to court or a state agency. He stated there is a process and just because there is no appeals process to an elected official it does not make water and sewer any different than any other department in town. He stated that if this change is made it would actually make the Water/ Sewer different than any other department in town. He stated any sewer division decision could be appealed. He stated that this change would turn a technical review process into a political process and that won't work. He stated the decisions that they make are for the benefit of all the rate payers in the system. He stated that there should be confidence in the Town employee's decisions and that the way it currently stands it is not a political process.

Mr. Lukes stated that he just wants to state that this was not a debate between staff and Selectboard; Selectboard has to debate amongst themselves. He stated that staff was there to answer questions and provide their technical knowledge and experience.

Mr. Woodsmall stated he was disappointed that they are in this position and he respects the BOS but that there are decisions made each day that helps protect against hurting the rate payer, damaging the system and damaging private property. He stated their decisions are not made in a vacuum.

Sel. Curran asked in any given year how many disputes go to court.

Mr. Lukes and Mr. Woodsmall both replied they had never seen any.

Mr. Woodsmall stated there were certainly people unhappy with decisions.

Chairman Mulroy asked if they had ever reversed a decision.

Mr. Woodsmall replied there were instances of hardships that they gather more information and they change their mind. He stated there were instances where they recently paved the road; they typically would not allow them to cut into road; he said for health and safety there is always a reason to make it work.

Sel. Renzoni stated that Mr. Woodsmall is highlighting hardships but that the entire presentation was on technical so they have to take the health and safety question out of this. He asked if they had ever overturned a technical decision.

Mr. Woodsmall replied that he could not point to a formal decision in that matter. He stated that there were conversations provided daily.

Sel. Bates stated that he had the utmost respect for the professionals in town. He stated that it would cost money for an appeals process and his concern has always been if a resident disagrees, were they willing to spend the money for court. He asked if there was

a formal process in place that outlined how a resident would go through an appeals process; i.e. Water / Sewer Superintendent- DPW Director- Town Manager).

Mr. Woodsmall stated that they did not but that they could codify that. He stated the Charter says the Town Manager is empowered to make all operational decisions.

Sel. Bates stated that this was also compared to other departments in town but that this was unique because the Board is the Water/Sewer Commissioners so there is a duty attached to that.

Sel. Renzoni stated that saying these are technical issues that the Board could not understand is not appropriate because they could be advised by the professionals. He stated that an example of this was the court case that the town just went through. He stated he agreed that this is different because the BOS are the Commissioners. He stated there is implied responsibility.

Sel. Curran asked if there had ever been a circumstance where there was a disagreement but the town said if you did x, y, and z then we can move forward.

Mr. Woodsmall replied that yes that had happened.

Sel. Curran asked if it happened often enough.

Mr. Woodsmall replied that it was common practice and could happen almost daily. He stated that revisions are made often.

Chairman Mulroy thanked the DPW Director. She stated that the Board was clear that he did not support this appeals process.

Sel. Renzoni asked to discuss it amongst the Board and debate.

Sel. Herlihy stated that she agrees that they are not engineers but they are very involved and very aware of what is happening in the accounts. She stated that they do rely on their amazing staff of professionals but if a citizen is upset and feel as though they are not getting the answer they deserve, need, or want that they should be able to go to the Board of Selectmen. She stated they do go to the Board and that the way it is set up now the Board can not fix that. She stated that she is leaning towards having a mechanism that if there is a problem that a citizen can come and the Board can help. She stated of course the professionals would be included in that process as they are experts.

Sel. Curran stated that he understands that this has been on the calendar for a long time. He stated that he thinks they should codify the process that the DPW outlined before coming to the Board if the bylaw amendment was approved. He stated citizens should know that process. He stated that the Board has often spoken highly of the professional staff in town and he thinks that this may erode that trust and he does not like that idea.

He stated that there is a benefit to come to the governing body in town and for them to arbitrate a conflict but on the other hand they are a legislative body. He said he could be swayed either way and by doing this they are making a judicial body as well and he is not sure that that is the intention of what the Board should be.

Sel. Bates stated that the roll would be as Commissioners not as the Board of Selectmen so he does not think that they are changing their role per se. He stated that they were not eroding the professional staff they were supporting residents and coming to a reasonable decision.

Sel. Renzoni stated that a few years back there was an advocacy group in town that came to the Board in order to put in place a Police Oversight Commission. He stated that some of these people are now saying that the Board is overreaching. He stated that you can't have it both ways and that he wanted to note that. He stated that the point of bringing up the recent case that went to trial was that it was people with no expertise who were presented with a complex problem and made an educated decision. He stated that he is confident in his ability to do that and he is confident in the rest of the Board's ability as well. Sel. Renzoni stated that this appeal process was not a rubber stamp; it would just give a resident the conduit to tell the Board that they were displeased. He stated that there were checks that could be put in place as well.

Sel. Renzoni stated that the question was asked who was liable and he replied that he felt that the Board and the Town were liable.

Sel. Renzoni challenged the management to come up with a better process if they were unhappy so that it satisfied everyone. He stated right now he was not satisfied with what was in place and that was what brought them to this point.

Sel. Renzoni stated that he wished to make a motion to adopt this bylaw as amended.

Chairman Mulroy stated that she wished to add in her thoughts to this discussion. She stated that she did not want this to turn into a political process nor did she want to see the erosion of trust of town officials. She stated another thought was with regards to the with who the liability lay. She stated that the difference that she feels is the fact that the Board of Selectmen are Water Commissioners and are sworn in and that is the difference.

Motion by Sel. Renzoni, seconded by Sel. Herlihy, it was **VOTED TO ADOPT THE SEWER APPEALS PROCESS BYLAW AS AMENDED BY A UNANIMOUS ROLL CALL VOTE.** (Bates: yes; Curran: yes; Herlihy: yes; Renzoni: yes; Mulroy: yes).

5. Chief Sherblom-Recognition of Nationally Certified Dispatch Training Program and for the SWAT Call out

Chief Sherblom introduced Deputy Chief of Police, Chris Noyes, to the Board. He stated that he also wanted to announce that the police department received state accreditation

from the MA Police Accreditation Commission. He stated we are one of only a handful to be fully accredited. He stated he is happy to announce that they are moving forward to become Nationally Accredited. He stated that the process has started and it will be a huge process but once completed they will be one of six communities in MA to be accredited and they are excited about that.

Chief Sherblom stated that they received an award that they are one of two communities in MA that have a certified training program for the dispatchers.

Chairman Mulroy congratulated the dispatchers and thanked them for their high standard of work that they kept.

Chief Sherblom told the Board about a situation that arose in town that SWAT was involved in and how integral dispatch was in this situation. He recognized everyone's professionalism and work in this event.

Chairman Mulroy thanked the Chief and his staff for his service, dedication, and degree of excellence. She stated that on behalf of the Board they make everyone incredibly proud.

Chairman Mulroy took a short recess to pause for a photo; the Board stood to recognize the Chief and the Dispatch employees.

Chairman Mulroy called the meeting back to order.

6. Town Manager Update

See attached

7. 2022 DPU Report

Barry Tupper, General Manager was present at the meeting.

Mr. Tupper stated that the DPU Report happens annually and they have to submit the report to the Department of Public Utilities and it is summation of the assets and its financial health.

Motion by Sel. Renzoni, seconded by Sel. Herlihy, it was **UNANIMOUSLY VOTED BY A ROLL CALL VOTE TO APPROVE THE 2022 DPU REPORT AS PRESENTED.** (Bates: yes; Curran: yes; Herlihy: yes; Renzoni: yes; Mulroy: yes).

8. Response to Citizen Address

Chairman Mulroy stated that they are unable to speak to the MBTA matter due to ongoing litigation but she stated that the Board is pro apartment buildings and the two phases of the Jefferson Mills Project will add this type of home into town. She stated that

Holden has a heart for welcoming these people into town it is just a matter of finding the right space in town.

9. Selectmen Minutes

None

10. Selectmen Miscellaneous

None

Motion by Sel. Herlihy, seconded by Sel. Curren, it was **UNANIMOUSLY VOTED BY A ROLL CALL VOTE TO ADJOURN THE SEPTEMBER 5, 2023 BOARD OF SELECTMEN MEETING AT 7:53PM.**

APPROVED: _____1/22/24_____