

SELECT BOARD OPEN SESSION MINUTES OF WEDNESDAY, JANUARY 3, 2024

In attendance: Chair Katie Goldrick, Clerk Patty Conway, Associate William Watkins, Interim Town Administrator Peter Morin, Assistant Town Administrator Kara Nyman.

Absent: Vice Chair Pamela Campanella, Associate David Reilly

1. Call to Order – Chair Goldrick called the meeting to order in the Noel C. King Meeting Room and via Zoom.
2. Approval of Minutes – Chair Goldrick asked the Board to review and approve the meeting minutes of November 15, 2023, and November 29, 2023.

Mr. Watkins asked for an amendment to be made to the minutes of November 29, 2023 regarding wording of point number three.

MOTION to approve the open session minutes of November 15, 2023 and November 29, 2023 with the amendment as discussed by Patty Conway, 2nd by William Watkins.

Roll Call Vote: 3-0 with Conway voting yes, Watkins voting yes, and Goldrick voting yes.

3. Town Administrator's Report – Mr. Peter Morin had nothing to report at that time.
4. Interim Town Administrator Contract – MOTION to approve the amendment to the employment agreement between the Town of Holbrook and Interim Town Administrator Peter Morin by Patty Conway, 2nd by William Watkins. Roll Call Vote: 3-0 with Conway voting yes, Watkins voting yes, and Goldrick voting yes.
5. Assistant Town Administrator Job Description – Chair Goldrick stated that Ms. Nyman has accepted a new position and will be leaving the Town on January 19, 2024.

Mr. Morin asked the Board to consider incorporating some of the duties and responsibilities of Human Resources in to the new Assistant Town Administrator position. Mr. Morin stated that he "...believes [there will be] a broader spectrum of candidates if human resources duties are incorporated in to the Assistant Town Administrator position. If positions are combined, an adjustment should be made for a half time administrative position to help with some of the functions like phone answering, etc. that are inherent in the job." Mr. Morin stated he thinks, "... it would be more efficient and would attract a higher quality group of candidates."

Ms. Conway stated that, "Mr. Morin's suggestion was also something [she] had been thinking about as well. There is not a huge town staff that HR needs to oversee, and if the town were to go with Assistant Town Administrator with HR duties it makes sense."

Mr. Watkins shared that he has had thoughts on this since September of the last year. He stated the following:

“The town never had the authorization to create an Assistant Town Administrator’s position because of M.G.L. Ch. 44 Sec. 33 and I’ve been harping on this since that time. We’re actually misappropriating funds by doing so. Town meeting members have set the budget and there was no line item in that budget for an assistant town administrator. In order to change that budget, we [the Select Board] would have to wait until the next town meeting to do that. I know people would say, ‘well, we’ve had an Assistant Town Administrator before,’ but that was before, and this town had voted to have an Assistant to the Town Administrator and has put money in to that particular position. This body cannot unilaterally change the form of government, without having town meeting members involved in that discussion or decision. So therefore, one - It would be a change of the form of government in which we have voted upon the budget to support and two, the budget, that is the town meeting members way of saying what sort of government we want to have and where the spending is supposed to be. For the past several months we have been misappropriating funds. I would like to see an audit before we bring in another accountant. We were given different line items to pull this money from, and MGL Ch. 44 Sec. 33 does not allow us to do that. I’ve asked this body over and over, to give us the time to discuss this and so be it, we’re here now. So, to put before us tonight a description for an Assistant Town Administrator, that’s fine, but that can’t happen now. What we can do now, because the town meeting members said we could, is that there’s a budget, and a line item in that budget, for an assistant to the town administrator. That’s where I’ve been since September and that’s where I still stand, that we don’t have the legal authority to do it. I’ve asked this body to provide me, in writing, the legal authority that says that we can just cut through MGL Ch. 44 sect. 33. And so, I don’t see how we even move forward with trying to put someone in a position that the town has not said that we are one, funded for, and two, in position for, as it changes our form of government.”

Chair Goldrick thanked Mr. Watkins for his comments. Chair Goldrick stated, “one of the comments you made was, people have said, and you don’t agree with that. The people who have said this are our lawyers.”

Mr. Watkins replied that he has asked for it in writing.

Chair Goldrick continued, stating, “you have been provided their email addresses, their phone numbers, we have already run it by our legal team. You are welcome to reach out. We are the executive board of this town and we have the authority to make these changes.”

Mr. Watkins replied, “DLS had informed me that we are violating (M.G.L.) 44.33 in doing this. Because the town had already approved this budget and the transfers from that can’t even be done until about May or June. So, we cannot create, or unilaterally go in to a back room and come out with this position and say we are going to fund it with a budget that had already been approved by town meeting members.”

Town Administrator Peter Morin shared the following: “I’ll be happy to, once again, ask for the opinion of Town Counsel to be put in writing and I’ll be happy to provide it to Mr. Watkins. Respectfully, looking at Mass General Law Chapter 44, Section 33 that has

been previously cited, it states, 'In case of the failure of the mayor to transmit to the city council a written recommendation for an appropriation for any purpose not included in the annual budget, which is deemed necessary by the council, after having been so requested by vote thereof, said council, after the expiration of seven days from such vote, upon its own initiative may make such appropriation by a vote of at least two thirds of its members, and shall in all cases clearly specify the amount to be expended for each particular purpose, but no appropriation may be voted hereunder so as to fix specific salaries of employees under the direction of boards elected by the people, other than the city council.'

Referring back to section 1, of Chapter 44, it defines the word city as to not include a town. As a former town solicitor, I interpret section 33 to not be applicable to a town and would only be applicable to the actions of a counsel. Moreover, it has been my experience that once town meeting has appropriated money for certain departments in the structure of budgets and accounts, the chart of accounts that has been adopted by this town and I have worked with in two other towns, it is appropriate and has been approved by the division of local services by the department of revenue repeatedly 15 years of putting budgets together, of moving money within a budget, for purposes of changes in salaries and job descriptions.

Mr. Watkins interjected and said "Town Administrator, with all due respect, we're not just talking about moving monies from one area to the next, we're talking about changing our form of government, that has to go before town meeting members, we can't say tomorrow that we're going to add these different positions and we have to talk to the people to say hey this is the reason why we're changing our form of government and this is what cost is going to be. We can't do that once our budget has been ratified by town meeting members, we can't therefore say, oh, we're going to add this position on, or this position on. Now moving monies from one-line item to the next, that might happen, but that generally happens towards May or June and that's to fill any gaps that were left open that we need to fill to make a balanced budget. But we can't unilaterally come in here, the three of us, and say oh, we're going to create a position today."

Mr. Morin replied that, "this should have been previously approved by a previous town meeting and is part of the personnel."

Mr. Watkins said, "the position was never approved."

Chair Goldrick replied, "the position was approved," and Mr. Watkins said "the position was never approved."

Mr. Watkins said, "...if it was approved, we would have a line item stating..." and Mr. Morin interjected and said, "you can have a personnel line item and you can have a number of positions under it. If the organizational chart reflects that at one time town meeting had created the position of assistant town administrator and it had subsequently become vacant and not filled, and that personnel org. chart had not removed it, it still exists and the funds can be used to fund it. It is not a misappropriation of funds."

Mr. Watkins said that: “I can tell you, having talked to DLS, they told me, and I would ask you, to reach out to them, get something in black and white. I’ve asked this over and over since September. I just cannot, even begin to bare, that town meeting members, can go to town meeting, set a budget, and then three of us show up and all of the sudden the three of us usurp the power from the town and we’re going to have an assistant town administrator or we’re going to have senior clerk x, y and z because that’s what we feel we need. No. We need to go back to the town, if that’s the will of the town, that we change our form of government, because for whatever reason, if it was there before, and vacant, it must have been the town that said, ‘we don’t need an assistant town administrator or we don’t need a senior clerk, we need five members of the select-board vs. three members of the select-board.’ But the town has the right to say that. Not us unilaterally usurping the power of this town’s residents.”

Chair Goldrick said “...thank you, Mr. Watkins, I’m going to wrap this up. I’m going to ask the Board instead of making a motion or any decisions today, that we table this for a future discussion, future vote. And Assistant Town Administrator, if you can please email all five board members to include whatever the most recent draft of HR Manager job description, I’d like to have the Board review both.”

6. Temporary Accounting Services – Mr. Morin has communicated with Eric Kinshurf, who works in the capacity of temporary accounting services. Mr. Kinshurf will be providing the Town with a proposal. The role will potentially be hybrid on-site/remote.

Mr. Watkins wanted to know if the new accountant would be conducting the audit and Mr. Morin replied that it is not in the typical duties of a temporary accountant.

7. Taxi/Livery License Renewal: Colonial Livery Service of Holbrook –

MOTION to approve the Taxi/Livery license renewal for Colonial Livery Service of Holbrook by Patty Conway, 2nd by William Watkins. Roll Call Vote: 3-0 with Conway voting yes, Watkins voting yes, and Goldrick voting yes.

8. Citizens’ Forum –

Danny Lee from Precinct 1 shared his opinions regarding the trash services.

Cindy Brennan shared that someone from Troupe Waste & Recycling would be available to answer questions at the COA on Thursday, January 11th at 1pm and the information will also be posted on HCAM.

9. Adjourn – MOTION to adjourn by Patty Conway, 2nd by William Watkins. Roll Call Vote: 3-0 with Conway voting yes, Watkins voting yes, and Goldrick voting yes.