

Minutes of 3/27/18 Sewer Commission meeting – Town Hall, 2nd floor Meeting Room, 17 Main St.

Attendees: Chair, Joe Anderson, Vice-Chair, Carl Luck, Clerk, Joan Pease, Members, Troy Daniels, John Reynolds, Business Manager, Barb Lefebvre, Minutes Clerk, Jane Ranley, BOS Liaison-Bob Ebersole

Guests: Adam Costa, Town Counsel, Dan Proctor

Joe A. opened meeting at 6:30pm.

ANNOUNCEMENTS – Town Caucus results – Ryan Stober was nominated. Troy is not planning on running again.

CURRENT BUSINESS

Open Meeting Law Complaint of 2/27/18 and extension – Adam Costa, Town Counsel (Mead, Talerman & Costa) explained the process involved in responding to an Open Meeting Law (OML) complaint. He passed out copies of a proposed response to the OML complaint received from Robert Ebersole, dated 2/26/18, related to the Commission's actions with respect to meeting minutes and further addressing certain e-mail communications. Adam summarized how e-mail communications can be in violation of the OML and what remedial action needed to be taken. He advised that revisions to minutes should be brought to a meeting for discussion and that minutes need to be approved within the next 3 public meetings or 30 days -whichever is longer. Commission discussed the draft of the response and Adam answered any questions. Adam's firm will be scheduling a OML training session for town employees and members of boards/committees. The Commission took remedial action by discussing the emails referenced in the draft response and have filed all minutes noted in the complaint. Carl asked if he personally had violated Open Meeting Law by sending the subject emails to Barb. Adam advised that this was not a violation.

Motion: Carl L.

Second: John R.

To approve the proposed response to the OML complaint of 2/27/18 as drafted.

Vote: Aye- Joe A., John R., Joan P., and Carl L. **Abstain:** Troy D.

Joe pointed out that the response extension was received 3/19/18 and Adam replied that he will file the response on 3/28/18.

Open Meeting Law Complaint of 3/13/18 – Adam passed out copies and reviewed the draft of his response to the OML complaint received from Troy Daniels, dated 3/13/18 related to alleged e-mail violation on 2/1/18 and he had concluded that no OML violation had occurred as alleged. Commission discussed the response draft and a modification was added.

Motion: Carl L.

Second: John R.

To approve the draft response as modified.

Vote: Aye- Joe A., Joan P., Carl L., and John R. **Abstained:** Troy D.

PUBLIC COMMENT - Dan Proctor inquired about progress in finalizing his restitution agreement. Barb replied that she had received the final agreement from counsel and has his check.

FY19 BUDGET – Joe and Carl gave the presentation to FinCom. Joe thanked Carl for all his help with the presentation. Carl reported that it was found that there was a deficit of \$ 39,000 in revenue from retained earnings and the capital reserve transfer. He added that the Fitchburg council is meeting and may be suggesting an 8% increase instead of the 30% that was first thought. Barb reported that with a correction to the formula by the Town Accountant in indirect costs and the lower Fitchburg rate, the deficit was cleared. Commission discussed the corrections to the budget and increased the amount of the Capital Reserve transfer to the desired 3% of revenues. The Commission agreed to have a discussion on setting up financial policies and Joe will add it to a future agenda.

Motion: Carl L.

Second: John R.

To increase the transfer to the Capital Reserve account from \$22,000 to \$29,000.

Vote: Aye- Joe A., Joan P., Carl L., and John R. **Abstained:** Troy D.

Motion: Joan P.

Second: John R.

To approve the budget as amended.

Vote: Aye- Joe A., Joan P., Carl L., and John R. **Abstained:** Troy D.

Tilton Ave update – Joe reported Tilton Ave. survey did not get 2/3rd of the street to go along with the sewer extension and the Sprague's will need to decide how to go forward.

Town Meeting Warrant articles – FY19 Budget – Timing of Stabilization Fund transfers – It was noted that the Town Accountant (Karen) would like the Stabilization transfers to be done at the Fall Town Meeting. Carl would like the \$10,000 in current funds to go back to the Reserve Capacity stabilization fund. **OPEB** -Barb reported that OPEB will be taken care of with the town article and the sewer portion will be treated as a sub-fund. **Tilton Ave** (articles 4 &5) – article 4 (adding Tilton Ave to the Sewer Service Area to Town Meeting) will remain but article 5 was the appropriation request to add the extension project. Commission discussed removing article 5.

Motion: Carl L.

Second: Troy D.

To remove article 5 if it is not too late or to pass it over if it goes to Town Meeting.

Vote: Unanimous

Minutes of 2/13/18 – Joan commented that she thought going through the minutes at the meeting was more efficient and would like to

continue to do this. Commission reviewed the edited minutes of 2/13/18

Motion: John R.

Second: Carl L.

To accept minutes of 2/13/18 as amended.

Vote: Aye- Joe A., John R., Troy D., and Carl L. Abstain: Joan P.

Minutes of 2/27/18 – Commission reviewed the minutes of 2/27/18 and discussed edits to the minutes.

Motion: Joan P.

Second: Troy D.

To accept revised minutes of 2/27/18

Discussion: Carl stated that he would like to amend the motion but it was not seconded. The vote was taken on Joan's original motion.

Vote: Aye- Joe A., Troy D. and Joan P. Abstain: John R. Nay: Carl L.

Town Charter Review – Commission reviewed and discussed the Charter revisions. Joe believed that they should meet to discuss after having time to review the draft of the Charter and will call a special meeting for April 3rd at 7pm to discuss changes and clarifications to the charter. **Bob Ebersole** came forward to clarify statements in the charter revision. He added that there will be a public hearing regarding the Charter on 4/5/18. Commission can email comments to the charter review committee for consideration at the public hearing.

Order of Assessment- 3 Rogers Way –Commissioners signed the Order of Assessment for the collection of privilege fees.

Members Agenda Inputs for Future Meetings – Suggestions for discussion put forward included: Financial policies, grease traps statuses, school interceptor and pumping, annual grease trap permit letters, billing outsourcing, maintenance plan, scope of work, irrigation meters, and minutes.

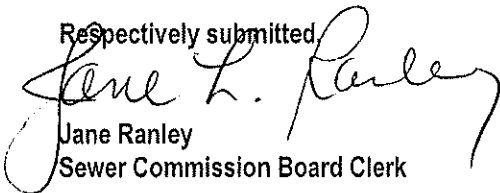
Public Comment – Bob Ebersole encourage residents to come to the April 5th public charter review hearing.

Joe read the Executive Session reason aloud.

The Chair requested a Motion to Enter into Executive Session at Town Hall for the Highfield Village agreement under MGL Chapter 30A, Section 21A(3) to discuss litigation strategy regarding Highfield Village and the Sewer Allotment and Payment Agreement between the Sewer Commission and the Robert A. Leverone Lunenburg Nominee Trust(LNT), based on the chairman's declaration that a discussion in an open meeting may have a detrimental effect on the litigating position of the Sewer Commission, with the Commission not to return to open session at the conclusion of the executive session. Troy so moved, John seconded. Roll call vote to go into Executive Session: Joe, aye, Carl, aye, Joan, aye, Troy, aye and John, aye.

Open meeting adjourned at 8:40pm.

Respectively submitted


Jane Ranley
Sewer Commission Board Clerk

RECEIVED & FILED

APR 17 2018

**LUNENBURG TOWN
CLERK OFFICE**

Documents:

- 1.) Draft Response Letter for 2/26/18 OML complaint – Adam Costa
- 2.) Draft Response Letter for 3/13/18 OML Complaint – Adam Costa