

## **Water Commissioners' Meeting June 18, 2013**

Members present were: Dana Blais, Gregg Edwards, Chris Stewart

Employees present were: John Driscoll, Ron Davan

The meeting was called to order at 6:00 p.m. by Dana.

The agenda was approved on a motion by Gregg, seconded by Chris, 3-0 in favor.

### **Old Business:**

Two Templeton Sewer Commissioners, Chairman Mark Moschetti and member Tom Jelenewski, were present in the audience and wished to discuss with the Board the issue of turning off water for non-payment of sewer. Mark asked of the Water Commission to procure a fresh legal opinion from Templeton Water's attorney stating that it was in fact illegal for Templeton Water to discontinue water service to any customer because they were in arrears with their Templeton Sewer account.

The Board felt that this was reasonable to bring closure to this matter once and for all, and Chairman Mark Moschetti stated that the Sewer Department would be able to explore other options once they had in writing that Templeton Water's shutting off of water to get sewer money was unlawful. On a motion by Gregg, seconded by Dana, 3-0 in favor the Board voted to have the Manager obtain a legal opinion from Counsel on the matter. The Manager stated that he would comply with this request.

The Manager presented the Board with an updated FY14 Water Budget, noting the ACTUAL increases in salaries and wages are closer to 1.63%, NOT 13%, and further noted that should the exempt salaried employees receive no increases for FY14, the 1.63% goes to 0.83%, NOT 13%. Other notable changes were a decrease in the electric budget due to less water being pumped and an increase in the maintenance accounts due to water main breaks and aging distribution stations. On a motion by Gregg, seconded by Chris, 3-0 in favor the Board voted to accept the new FY14 Water Budget for \$1,413,860.17.

The Manager updated the Board on the status of the Water Capital Improvement and Water Rate Studies. He had been provided with a draft earlier that afternoon but was advised by Tighe & Bond that w/o the capital portion of their study being completed, all the values in the proposed water rates may still be subject to change. Tighe & Bond would come the following week to perform fire flow tests at several locations in town

which would enable them to complete the capital portion of the study. The Manager anticipates a complete study by the end of July 2013.

### **New Business:**

The Manager presented copies of the existing Water Plant Terms & Conditions to the Board and stated that he had sent them to Rubin & Rudman for a legal once-over. He had concerns that over the years some of the material within had possibly become obsolete and/or unlawful due to changing laws and/or regulations in the state of MA. Rubin & Rudman planned to red-line the existing document and present it to the Manager with their suggestions for change, at which time the Manager could present them to the Board for the purpose of a vote on any new changes required. He did not have a timeframe for completion on these.

The Manager gave the Board copies of the letter that he had written to the Town Coordinator, Jeff Ritter, including a basic sketch and a bill of materials required to make right the connection of Baldwinville Road to Maple Street. It was the Manager's understanding that Templeton Water would pay for all of the materials necessary but the labor could be covered by E.H. Perkins, the contractor performing the work for the Baldwinville Road Reconstruction Project. It only made sense to dig up that intersection once and put an end to the pressure trap created by emptying water from an 8" main into a 6" one.

The Manager informed the Board of the substance of three separate warrant articles that would be discussed and voted on at the June 27 Special Town Meeting. The first was Article #6, which was a proposed bylaw to "put" the water department under MGL Chapter 44 Section 53 1/2F. The Manager stated that in fact this warrant article was contrary to Chapter 93 of the Special Acts of 2000, which placed the town's water department under the direction and financial control of the light department under MGL Chapter 164. He stated that it is impossible for the water enterprise to simultaneously operate under two different statutes that conflict with each other.

The Manager further stated that Attorney Jack Ferriter, Templeton Water's Counsel, had in fact drafted the Chapter 93 Legislation deliberately to EXCLUDE any mention of Chapter 44 within as it would only lead to confusion amongst the town's voters and its water customers (ironically the very confusion that exists now). He reminded the Board that at the May 14 Annual Town Meeting Article #51 was in fact passed over, so he felt that there wasn't even enough interest to start a discussion on the matter, let alone a vote; what had changed in 6 weeks? The Manager stated that this article need be **defeated** otherwise it was going to cause problems with voters and water customers over which set of state statutes the water department is to operate under.

The Manager went on to speak about the next relevant warrant article, Article #7, which was submitted by the Board of Selectmen as a measure to get the town voters to approve only a third of the needed FY14 Water Budget, roughly \$469K. This was not going to work for Templeton Water, because all it does is push the uncertainty of what

the Selectmen may stop paying for Templeton Water from July, 1 2013 to November 1, 2013. The Manager expressed his frustration over how much turmoil has been generated over this non-binding vote for town's approval of the water budget which is not subject to appropriations like the highway or sewer budget is. He expressed further frustration that first, combining the usual low level of attendance at any special town meeting and second, having voters present who weren't normally but may have been just to vote a school budget down and third, having the voters told by Advisory that not enough detail was given to them by the Manager so 'please vote NO' was bound to produce an unfavorable result for Templeton Water.

The Manager felt that this warrant article, like Article #6, should be **defeated** roundly and no acceptance of any partial budget by the town's voters should be accepted here, as the voting results were in fact non-binding to the operation of the water plant. The Manager also reminded the Board that all of this was being done by the Town under the false premise that Templeton Water is governed by anything within MGL Chapter 44, simply because it is an "enterprise fund". To the best of the Manager's knowledge, an enterprise fund was a legal term for a municipal utility providing some type of product or service to its towns' residents, be that product or service electricity or water, whose operations are overseen by an elected board of commissioners (like TMLWP).

The last warrant article involving Templeton Water was Article #11. This particular warrant article was submitted via a Citizen's Petition and filed prior to 10:00 a.m. on Wednesday morning, June 12 by 172 registered voters. Article #11 called for discussion and a town vote on the approval of the water plant's entire FY14 Water Budget necessary, which is \$1,413,860.17. The Manager reminded the Board that Article #6 from the Special Town Meeting on March 6, 2013 required several weeks to get just 106 registered voters' signatures on it, compared to the 172 signatures obtained in roughly 36 hours for this citizen's petition, making the argument that unlike Article #6 from March 6, 2013, there was a legitimate groundswell of voter support for this measure.

The Manager stated that this Article #11 should be **passed** as it appears to be the only way for Templeton Water to be able to move forward to FY14 and not have to worry about getting its payroll and vendor warrants processed by the Town. He went on to state that it also wouldn't matter if a majority of either the Advisory or Select Boards were against Article #11; an affirmative town vote on the article would be the law of the land.

There being no other Open Session business to discuss, on a motion by Gregg, seconded by Chris, 3-0 in favor the Open Session Water Meeting adjourned at 6:30 p.m.

Respectfully Submitted,

John M. Driscoll  
General Manager