

**VILLAGE OF HOLLY
COUNCIL MEETING
Minutes of January 12, 2010**

The regular meeting of the Village Council of the Village of Holly was called to order by President Clemens at 7:00 P.M. in the Village Council Chambers located at 315 S. Broad Street, Holly, Michigan.

Councilmembers Present

Tom McKenney
Sandra Kleven
Pauline Kenner
Don Winglemire
William Kuyk
Reisa Hamilton
Peter Clemens

Staff Present

Marsha Powers
Susan Nassar
Rollie Gackstetter
Marv Swanson
Mike Gildner

Others Present

See attached sheet

Council Members Absent

Clemens opened the meeting with the Pledge of Allegiance to the flag.

CONSENT AGENDA:

1. Agenda Approval
2. Approval of the 12/15/09 Council Minutes
3. Approval of Bills for Payment \$267,597.70
4. Routine Reports: DDA 12/14/09; Historic 11/19/09
5. Resolution 2010-1 Awarding the bid for tree trimming to Ronald's Tree Service
6. Resolution 2010-2 Confirming the appointment of Margaret Hejhal to the ZBA

Motion Winglemire, second Kleven to accept the agenda as presented. Motion carried by a voice vote of seven ayes and no nays.

PUBLIC COMMENT:

Jeff Miller of 318 E. Sherman:

- Discussed changes to the ordinance regarding water and sewer rates
- He asked Council not to change the ordinance

Mr. Torres of 708 Mary Ann:

- Residents should not have to pay for mistakes of the Village
- Charges could cost him to lose his home and force him out of the community
- Property values are down and he probably
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Larry Lilly of 110 Clarence St:

- Had outside meter for 8 years, and last year was the first time he got credit for outside water usage

Jackie Campbell of 807 Mary Ann:

- Attended Public Works meeting
- Felt Open Meetings Act was violated

Jeff Miller of 318 E. Sherman:

- 4 Council people in the room is not a quorum. Perhaps Council members should state they are there as a citizen

Council member Kuyk, speaking as a private citizen:

- A violation of the Open Meetings Act might have been committed
- According to the Attorney General, if someone is seated at the table, therefore being the 4th member, it creates a quorum according to the Ordinance
- Went to the Attorney General and O.C. office of the Prosecuting Attorney He filed the issue with the state police
- If resident used water without paying for it, they are being unfair to all their neighbors
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Gildner comments:

- Open Meetings Act requires a quorum of a public body and be properly noticed as such, where public comment is welcomed
- Deliberation must take place in a public session
- Whether four Council Members being together in the same room constitutes a quorum is beside the point under the Open Meetings Act, the Charter or any other law
- Business must take place in the open and be properly noticed which did

occur. There has to be an intentional violation of the act in order for there to be a criminal proceeding

- If a problem exists with the OMA and the committee meeting, the committee would simply need to meet again and hold the same discussion in compliance with the act to cure any illegality

Hamilton comments:

- Members are encouraged to attend the committee meetings
- Sat at the table to see a confidential piece of information, and did not comment or vote
- Clemens noted the information was sensitive, but not confidential

Chief Gackstetter comments:

- Discussions must be in the open, be properly posted and minutes taken of the meeting
- Charter allows sub-committees to make advisory recommendations only with members less than a quorum, the Open Meetings Act does not apply to sub-committees
- OMA does not apply to sub-committees of less than a quorum, that do not have authority to deliberate decisions and they are advisory only
- The staff does choose to follow OMA for sub-committee meetings even though this is not required.

McKenney comments:

- Public policy cannot be handed off to a sub-committee
- All requirements were met concerning the OMA. Citizens are free to

challenge whether the requirements were met

Doug Ducat of 802 Holly Bush:

- Adjusting from this year forward is the right way to address the problem
- Estimated billing is unfair

OLD BUSINESS:

a) Charter Amendments (*next available election August 2010*)

- Remained tabled

b) FY09-10 budget discussions

- Staff put together an ala carte list of possible reductions
- 8 items are listed for a savings of \$26,831.60
- Leaving \$23,386 in reductions remaining to balance the budget,
- Four day work week would only effect office staff, but would save on utilities and commuting costs, benefit to both employees and the citizens with extended hours.
- Another budget worksession is needed to resolve budget shortfall
- Decision on fireworks is needed

Fred Hopper of 112 N. First Street:

- Is fireworks contractor for Village and in 2nd year of 3 year contract
- He recommended looking for alternate sources of funding and made recommendations
- Fireworks bring 15,000 people to town and estimates the cost to be \$0.50 per person for the fireworks
- Always donates about \$1,000 of fireworks

- Powers said Village doesn't want to cancel the fireworks but it is one option for reducing expenditures

A budget worksession was scheduled for 5:30 Wed. in Council Chambers and will be after a Personnel worksession.

NEW BUSINESS:

a) Public Works Committee Report

- Met on January 5, 2010
- Sewer and water billing was discussed
- Committee recommends the Clerk-Treasurer track the water/sewer billing back as far as possible, and to allow payment arrangements on a case-by-case basis
- McKenney asked to be excused from voting due to a family member and friend involved in the problem

Motion Winglemire, to excuse McKenney from voting. Motion carried by a voice vote of seven ayes and no nays.

Motion Winglemire, second Hamilton to allow the Clerk-Treasurer to track the water/sewer billing as far back as possible and to allow payment arrangements on a case-by-case basis.

- Kuyk said the six year time limit was as far back as legally allowed and asked the attorney's opinion.
- The Clerk-Treasurer would be responsible for deciding each case reviewing several months' usage to establish estimated usage

A roll call vote was as follows:
Voting for: Kleven, Kenner, Winglemire, Hamilton, Clemens
Voting against: Kuyk
Abstaining: McKenney
Absent: None
The motion carried.

- b) Adoption of Ordinance No. 405 amending the final billing language for water/sewer and public works employees not accepting payments**
- Discussed a change in the billing process
 - DPW employees were not allowed to accept any payment under any condition for water/sewer

Motion Winglemire, second Hamilton to amend Section 7-01-02-140 (5) billings to change the processing for a new application for water and sewer service at a location and to add a new section

Nassar explained this motion meant when someone moves out, a final bill will be estimated at that time and must be paid.

A roll call vote was as follows:
Voting for: Winglemire, Kuyk, Hamilton, McKenney, Kleven, Kenner, Clemens
Voting against: None
Absent: None
The motion carried.

- Winglemire said the comment that the VFW did not receive or pay a bill for water/sewer is not true.

- c) Request for the Finance Committee to meet to discuss current Village fee schedule**

- Fees established in 2000 do not cover current costs

Motion Clemens, second Kleven for the Finance Committee to meet to discuss the fee schedule. Motion carried by a voice vote of seven ayes and no nays.

- d) Fireworks scheduled for July 2010**

Motion Winglemire, second Kenner to table this discussion until after the budget worksession. Motion carried by a voice vote of seven ayes and no nays.

- e) Personnel Committee to meet to discuss department head vacancies**

Motion Clemens, second Winglemire for the Personnel Committee to meet to discuss department head vacancies. Motion carried by a voice vote of seven ayes and no nays.

- f) Public Works Committee to meet to discuss water/sewer rates**

Motion Clemens, second Kleven for Public Works Committee to meet to discuss water/sewer rates. Motion carried by a voice vote of seven ayes and no nays.

- g) Rental Inspection Changes – new law to include mobile homes**

- New bill allows for the inspection of mobile homes that are for rent
- 21 units have been identified in Holly

- Park owners have been notified to register the rentals with the Village
- Can only be inspected every 3 years vs. every 2 years on rental buildings
- Would like to inspect rental buildings every year
- Public Works Committee could be used as a last resort for resident concerns

Motion Clemens, second Winglemire for the Public Works Committee to act as a Board of Appeals in the water/sewer billing process. A roll call vote was as follows:
Voting for: Kuyk, Hamilton, Kleven, Kenner, Winglemire, Clemens
Voting against: None
Abstaining: McKenney
Absent: None
The motion carried.

REPORTS:

Village Manager:

- Received Arbor Day mini grant for \$200 to plant a tree
- Two troopers have been recalled to the Groveland post, staff of 10 there now
- \$750 was spent having the attorney review the OMA complaint

Attorney:

- George Young lawsuit is still pending
- A suit could be brought against a resident who has not yet hooked up to water/sewer, to force him to comply

Clerk – Treasurer:

- Working with Wren on NSP homes for the bid specs
- Working on correcting water/sewer billings

- Some meter readings were taken but resident did not receive a bill, so exact amount of usage is known
- Other usage will be estimated and will work with residents on a payment plan
- If a resident can prove they were away from their home for an extended period of time, that will be taken into consideration when estimating their bill
- Met with staff to discuss Village direction and what is required of the staff
- Staff had nothing to do with a letter that went out to residents
- Scope of the problem involves only about 1% , but can feel much greater to the 1% who are effected
- Village only wants residents to pay for what they are using
- If anyone has been over-charged, it will be rectified if brought to the attention of the staff

Council & Staff Comments:

- Trailer park fire investigation is still ongoing, It appears to be accidental

ADJOURNMENT:

With nothing further to discuss, Clemens adjourned the meeting at 8:30 PM.

Peter Clemens, Village President

Susan Nassar, Clerk-Treasurer

Sheri McGee, Transcriber