

October 26, 2011

Board members present: Walter Foskett(WF), John Ryan (JR), and John Stoddard (JS)  
General Manager: Paul Heanue (PH)

Attendees: Gus Bregnard, Panos Tokadjian, all members of the Board of Selectman,  
Town Administrator Ted Alexiades, Town Wire Inspector Bill Nickerson, Project  
Engineer Roger Fernandes, Attorney for The Town Susan Murphy, Clayton Handleman  
and members of the general public

JS: I'd like to call the meeting to order at 6:15 pm.

The first order of business was to approve the minutes from the September 21, 2011  
Board meeting. On a motion duly made and seconded it was:

VOTED, to accept and approve the minutes from the HMLP Board of Commissioners  
meeting held on August 4, 2011 in the form presented to the meeting with such revisions  
as the Secretary of the Board deems necessary or appropriate.

The next order of business is to consider expanding appliances covered for rebates  
PH: When we created the HMLP Is Going Green program about a year ago, there was a  
list of appliances that were covered for rebates. We did not include electric water heaters  
or freezers. Over the last couple of months there have been a few requests to include  
these. Given the experience I don't think it will add a lot to the cost of the program, so I  
am proposing that we add energy star rated electric water heaters and freezers to the list  
of eligible appliances for rebates.

WF- Do you think we should vote on approving the change?

PH- I do.

WF- Do you have a proposed vote?

PH – Yes, I propose that based on what they cost a \$75 rebate on the water heaters, and  
\$50 on the freezers. AC's for central air and room air conditioners are already included.

WF – I would like to make a motion that we approve the addition of electric water  
heaters and freezers to the Hingham Municipality Light Plants Energy Saving Program.

JR- I second the motion. All in favor

Next thing on the agenda is underground services.

PH: For the purposes of everyone here, just before the last meeting on September 21<sup>st</sup>, I  
received word that an issue had developed with a customer remodeling a house who  
wanted to install an underground service. The Town/DPW had refused to issue a street  
opening permit. At this particular house the pole line is on the short side of the street.  
Meaning the pole line is on the same side of the street as the customer's house and also in  
a public way. I made inquiries and I was told that because the light plant did not own the  
cable in the public way the DPW would not issue the permit. If someone, like the DPW,  
is going to dig in the public way Dig Safe (after being notified of same) notifies the  
utility owners for that town to mark out their lines. If there is a privately owned electric  
service in the vicinity of the public way area to be worked we would not be marking it  
out because it is not our cable. The current, and for many years, practice for an

underground service calls for the customer to dig from their house at the meter location, across their yard to a pole that we would direct them to. The Town's electrical inspector would inspect the trench to make sure it was deep enough, then the customer would put conduit and a cable in the trench, and run enough cable to the pole so that it could sweep upward, and they would leave it secured to the pole. The inspector would then inspect it, approve it, it would be backfilled, then we would go out and make the connection at the top. 99% of the time the poles are in a public way and the issue at hand became ownership and subsequent responsibility for that cable which is in the public way. The customer needs a street opening permit from the town to do this. Prior to this neither I nor my predecessor has ever heard of a customer being denied a permit. Now we have situations where people have applied for a street opening permit, they have not been received it and therein lies the problem.

Brian Tomaselli – I am the customer Paul has been talking about and I do not understand why all of sudden something that has worked a particular way forever has become a problem. I applied for the permit 2 months ago. This is causing great stress for my family. We are renting and the lease expires soon and we can't move into our new house.

Kevin Kester – I live at 47 Bradley Hill Road. I have conduit in the ground, backfilled in and ready to connect but the Wire Inspector won't give the light plant the ok to connect.

WF: Anyone else out there have a problem getting a permit?

(unknown resident) – I am at 15 Governer Avenue. My property line is 2 feet from the pole and they're saying they won't let me dig those 2 feet.

PH – I believe there is someone who went through the process, it was inspected and approved and has no connection.

Kevin Kester– Yes the inspector came out, approved the trench and we backfilled. Like we were told to do. Then we called last week, HMLP told us to put in the pedestal in, we put \$4,000 worth of service cable in the ground and now they say we can go overhead as an option?

Bruce Rabuffo – From a safety point of view I think it is a lot better underground, don't you think?

PH - So in the meanwhile I had several conversations with Randy Sylvester and Ted Alexiades- what this is all about? You're causing major headaches for my customers who are your residents and tax payers. It has come down to what is being described as a safety issue for people at the Department of Public Works. If they or a private contractor are going to dig for any reason, because the customer doesn't get notified for a dig safe, then the DPW or the contractors employees would have no way of knowing whether the service is here, there or wherever. The Town is saying that there is some measure of danger to them hitting an energized line. For the record going back 40 years, because I checked, nobody has ever been hit a service cable in the public way. For example, if the town is going to put in a fire hydrant or a no parking sign they call Dig Safe. Dig Safe notifies water, gas, electric and cable TV to come out and mark their lines so that whoever is digging does not hit their lines. In the case of an underground electric service in Hingham, and every other muni in Massachusetts, the customer owns the cable from the house across their private property and the public way- right up to the pole. Our ownership takes effect at the pole connection. So if the DPW is going to be digging and it is an overhead fed street, we do not have to mark it. At 350 Lincoln Street there is an underground service which means the customer owns up to the pole. In the case of a Dig

Safe call we would not mark it so that the DPW would not be tipped off as to where that service might be located in relation to where they want to dig.

JR– Are there any other problems with this change in direction?

PH – Yes, I am being told by the town that Massachusetts General Law does not allow a private party to own a service or line in a public way unless the town grants them an easement. I have spoken to our attorneys about this, and they are not of the same opinion. They say the statute that is being cited does not preclude a private resident from owning in a public way, even if the town does not give an easement. So there are 2 issues, whether or not a customer can legally own a public way and there is the safety issue. I have proposed to the town that for the conduit and cable that is in the public way, that we require the customer put concrete on it, along with “Caution Tape”. If somebody is digging in the area they will hit the caution tape/concrete which will warn them that there are electric lines buried there. I also suggested that if the town did not feel that a foot of concrete is enough protection, that a piece of steel plate be put on top of the concrete, which would give more protection prevent from a dig in. Neither of these suggestions seems to have satisfied the town.

JR – What is NSTAR’s policy in this situation?

PH - NSTAR requires a handhole at the property line. NSTAR owns the handhole, the connection and the cable up to the top of the pole. I checked with other munis and they do not use the handhole. They do it the same way as us. A handhole is like a small manhole. We priced this out and to go that route it will cost the customer around \$2,600.

Bruce Rabuffo – I live in a development, Twiggins Path, where at its initiation the electrical wires cross back and forth across the street. I have been there 18 years and no one has told me that I own them. I was under the assumption that they were owned by HMLP. When we had a failure last year the DPW were not allowed to touch it. HMLP came out and fixed it. We do not have concrete or a steel plate. There is a handhole. HMLP came to the property where the handhole is located and they fixed it.

WF – Were you charged for that? It sounds like you should have been.

Bruce Rabuffo- No

JR – Do you know if it is secondary wiring that goes directly into your house or primary?

PT – The failure was in the handhole which is why we repaired it.

Bruce Rabuffo- The issue from my point of view is that customers are coming to the town and are willing to pay extra for the underground service. There is now a policy question that affects both the town and the HMLP which is why we three selectman, Ted and our attorney are here tonight.

WF- I see all the selectman and Ted are here. Did you post tonight as a public meeting?

PH- And the wire inspector, project engineer and town attorney are here too.

Bruce Rabuffo- We are not here as board members.

Unknown Resident- What happened in the case of the newer projects in town, like the backriver Tommy Hastings project, the Shipyard project? What was the policy then?

PH - For an underground development, it comes in overhead and goes underground. There will be padmount transformers. Coming out from the pad it will go to a handhole. From the padmount to the handhold is ours, and from the handhole in it is the customers. Unknown Resident – Are those in concrete and steel?

PH – Our stuff is in concrete the customers is not. Same thing for the Shipyard.

PT – All new subdivisions have underground. If it is a town approved road, there is an automatic 10ft wide easement for utilities that is granted on one side of the road where we lay out our infrastructure. We then give the contractor a map for his construction showing our handhole locations. From there the customer brings the wiring to the handhole from the house if approved by the wiring inspector.

Unknown Resident – So this seems like this is something that has been going on for a while?

JS – No, for an overhead street it has just been going right to the pole. But now the DPW wants the cable in this space to become property of HMLP. My suggestion is that we cover it with concrete and steel.

TA - Just to clarify the town's position on this, we are not opposed to that solution at all. What we have discovered here is we have live electrical wires in the town right of way, with no distinctive, defined ownership. Although you feel that the homeowner owns it, the homeowner may or may not know that, and when we call Dig Safe, they are not going to get notified and there will be no marking of that property. We can protect the wires in a lot of different ways, but without that marking the contractor and the DPW employees are exposed to the risk of hitting a live electrical wire. We cannot have that going on, regardless of past practice; our liability is through the roof now that we are aware of it. We do have to go back and figure out what we are going to do about the past, but right now we have to figure out what to do about the homeowners that are in this state of limbo. What we are suggesting that HMLP, like the private utilities, take ownership from the pole to the property line, and that you are responsible for Dig Safe as it comes along. The alternative is an untenable position, where 7,000 potential homeowners all have ownership of underground utilities, and individually have responsibility of calling and being involved in a Dig Safe operation. There are 7,000 properties in the town.

WF – What is the percentage of underground utilities right now?

PH - I don't have a count but I'm hearing about 10% are underground? They are unmarked, and the customer may or may not know they own it. But if that cable fails, when they call in that service failure, we do our diagnostic; we let them know if the trouble is in their service and that they are responsible for getting that fixed. They need to call a licensed electrician to do the repairs. HMLP employees that work in our overhead department are not required to be licensed electricians. They don't have licenses so we can't work on it. If it fails underground or on the pole up to the connection we can't fix it because of the license issue. But if the overhead service fails, before the point of demarcation at the house, we can work on it.

Bruce – But from the customer's point of view, they don't care. If their lights are out you can fix it up in the air, but not if it is in the ground?

PH – Correct, we are not licensed to do it. The only place we have handholes today are in new underground developments.

WF – What are you proposing Ted?

TA – We are not proposing anything, but I know the DPW would like going forward, and for new construction we would recommend this, but we are not suggesting that you dig all the existing 7000, we just want the HMLP to take ownership of them, so that you can digsafe them if we are in the right of way working on them, only in the right of way, not on the customers property.

PH – There's are 2 problems with that: If there is no break in the cable, and currently for all the existing underground services there isn't, and there is a failure there is no way of knowing where our ownership and the customer's begins and ends. Is the bad piece of cable in the public way which you want us to take over or is it on private property and the customer is responsible? Impossible to figure out. And as for the marking it, because it's owned by the customer we have no records for the cable's location so we can't accurately mark it out.

Bruce – May I make a suggestion that we only address the problem with the citizens here tonight, going forward. The going backwards piece is more complicated.

WF – So the alternatives for the going forward piece are what?

PH - Here are the alternatives as I see them. To address the safety piece, Option 1 is we could do the concrete and the steel plate if necessary. Option 2 is the handhole route. Option 3 is that basically we don't change the way we operate, whereby we place a pole on private property, keep the wiring in the public way above ground and the customer digs to the newly set pole which is on private property. The Town has no jurisdiction in that scenario.

John Riley – Currently you do not have to get a street opening permit to lay down a main run down the middle of the street.

PH – Legally we do not have to, but practically we do this.

John Riley - If you did have to do this we would have some sort of record as to where the lines are being laid down. There should be a policy, so that the HMLP will have a drawn record of where their lines are and how deep they are.

WF – Undergrounding lines is the way of the future and we need to address how we are going to do this in the future and implement some policy, but for now let's get these people sorted out.

JR – If handholes are required in underground developments, it would be consistent with that policy to put a handhole in, but the customer runs the conduit to our pole, provides the cable, and then once inspected and everyone is happy, make him responsible for the recording of it and getting the street opening permit. He could then turn over the record to us and ownership of the hand hold, which would be consistent with underground developments.

PH – The distance between the handhole and pole can be from 3 ft to about 10 ft. We have an obligation to serve; we are not obligated to provide underground service. The options for underground service are, the handhole box, securing so that the underground wires are safe or putting a pole on private property and going overhead from there.

Bruce – The town is trying to minimize the number of poles, so the last item is not an option.

WF – So for right now what is the objection to the concrete etc?

TA – No objection, provided that HMLP takes ownership of that, which brings up Paul's issue.

PH – If you don't have some sort of demarcation then you may as well own the whole thing, because if there is a failure, we are going to be on the hook for them.

Kevin Kester: I have a pole in the right of way, right on my property line 4 ft away is a pedestal meter all connected. Is that a point of demarcation, is that a substitute for a hand hold?

PH – It kind of is, as it is a way that you can isolate the customer's side from ours.

PT – I would like to suggest that before you start putting in hand holds, now we are getting into increasing our work scope and inventory. This is more electricians work.

JR – I would suggest that we make the customer take ownership of that.

PH – We would own the handhole, so we can test and isolate.

Bruce – I would agree with Jack's suggestion.

Mike Menten: Handholes can be difficult to locate, they may get buried.

TA – From a long term perspective, \$20,000 was paid some years ago by the HMLP to participate in our flyover for our GIS system, I'm not sure what you have used of it. You could certainly hire an engineering firm to create a layer, and you could have instantly on all of your computers in your office the ability to see where all of these services are right on the property line, within 2 ft.

PH – We have a mapping system, it is all populated. But for an underground service it shows a line but that doesn't accurately represent where that service might actually be buried. It simply demonstrates that it is underground vs. overhead. And you say we can easily create that but that would require somebody to go to each of those, guesstimate where they are buried, mark them up and then we are responsible for any errors in marking out down the road. Frankly I have no desire to assume responsibility for a cable that was put in the ground however many years ago. We had no say in how it was installed.

WF – What are approx distances between the hand hold and the pole?

PH – The gentleman on Bradley Hill is probably about 4ft from pole to pedestal.

Highview is even more complicated because of a drain, maybe 10 to 15 ft.

John Riley – This is a good example of Dig Safe. If you put that pipe from the pole down a steel riser and you pick it up with plastic and you go over the easement to the hand hold, and at some point in time there's a reason to dig through that easement by the DPW, you call digsafe, they come out marks a service that goes from the pole to the hand hold on his property line, and when the DPW does their work. I think this is what is lacking the ability for digsafe to go out and provide protection for contractors like myself. I should not be jeopardizing my operators. It is a lack of policy that creates a means to an end. Once you have this information you have it forever.

WF – What kind of costs are we looking at? After it is in and we take ownership?

PH - It would be the going forward maintenance costs.

WF - Why don't we have these guys do the handhole to get them in place and then we establish a policy.

JR – I think that makes sense.

PH – The cement and steel plate address the safety issue. Going forward if there is a failure in that it belongs to the customer up to the top of the pole.

JR – I don't see any other way out of it. I agree with John Riley. We don't want to take on something else but I don't see any other fix.

Unknown Resident – For clarification you are going to come from the top of the pole down to the hand hold?

PH – If we were to go the handhole route, after it gets energized, we own the cable down the pole into the handhold and the connection. Because we are assuming responsibility for the piece of cable coming out of the handhold we want to put it in our way, so that if something goes wrong later on we know who to point the finger at.

John Riley- For necessary future repairs, if I were to request a digsafe in an area, and an employee came out and hit your cable service, I am responsible for that.

JR - We are talking about having at some point a predictable maintenance cost.

Bruce – For the purposes of this evening I would like to get these folks an answer.

WF – I need more information. If we go with the cement and the steel, who owns it?

PH – The cable and conduit? The customer would own it.

WF – Even if it went in the public way?

The Board of Selectmen, Town Counsel and Ted Alexiades in unison– No

John Riley – Our counsel for the town, is advising us on who owns what in the public way. I would like to ask her to summarize what our researchers have told us.

Susan Murphy – I have been talking to HMLP’s lawyer, Diedre Lawrence, and she has told me that Chapter 166 Sec. 24 grants the selectmen the authority to give private rights in the public way. The problem with that is that, I believe, once it is constructed the town owns it. The town does not want to give permission for private lines to be installed on public ways and have a statutory requirement that now the town is responsible for it. There is a real difference of opinion between her and me as to whether or not a private person can own something in a private way without an easement granted at a town meeting. To keep saying the customer is going to own it, is begging the question as to whether that is even legal. Aside from the legal issue there is a fundamental safety issue for the town.

JR – The reason for the handhole v. concrete, even though you could do both, is you need a place to stop or divide responsibility. The handhold will have a set of connections where you open it up and figure out which side the problem is and that person takes care of it.

PH - If it is a straight run from meter to pole, then it is very clear if there is a failure who is responsible for it, the homeowner. That was the way it worked up until about a month ago.

Brian Tomaselli – So if we did not do the handhole, and the safety issue is taken care of by concrete and steel to the pole. You are saying that if it is above ground, you are responsible and if it’s underground it would be private. And if it’s private we would get an electrician to repair it. So if it went all the way from the house to the pole underground and we have the safety issue resolved, then ownership would be on the private individual, and if that were me, I would be willing to pay for the repair to get it all underground and safe.

PH – That’s correct. An overhead failure we take care of. Before this and if we go the concrete route- the underground repair is yours. By the way, it is \$2,600 for the customer to go the handhole route.

John Riley- If they have to go across the street to get to the pole that they need to get to for service. There should be some sort of requirement of how much cover over that pipe should be.

PH – Right now if they come across the long side, a pole is going to go on their lawn. We do not have secondaries, we do not allow private residents to own secondary cable services in the street. So what will happen, when it is on the long side, a pole will be set on their property, and they will dig to that.

JR – No customer owns stuff under the pavement.

Bruce – Our objective is to get rid of poles.

JR – Right now we are leaving it that Paul will work with these people, as long as they put a handhole in, or a pole on their property, to get service quickly.

Unknown Resident - Do you need a list of the people who are in this room, who are going to get approved? I put my electrician on hold right now.

PH – Bill, (to the electrical inspector) can you get a list of these people?

Bill – I won't issue a permit until it is clear to me that the DPW are ok with them putting in an underground service.

Bruce – We will do that. Bill- make it happen. Ok, it is 7:30 pm, when can we have the permits?

Laura Burns - I understand that we have 3 different kinds of cases here. People who are in the room who are waiting right now- Paul is going to work with them right away and the DPW to make sure that gets taken care of. Then you are going to write a policy for going forward, whoever might come in next month or after that you are going to make a policy for them. And the third is the lines that are already in. Bruce has told you what his goal is, my goal is to resolve the issue of ownership of those lines in some way because this board has just learned that from our counsels reading of the law, we own some number of wires that are in the public way and that probably don't get Dig Safed. The liability to the town is over the moon, so we have to resolve that.

Brian Tomaselli – Paul what is going to be the best way for us to figure out what is going to be more cost effective moving forward, pole v. hand hold.

PH – I can tell you that the cost of the pole, +/- \$900 or thereabout with the first pole free to you.

Unknown Resident – We will have to incur some costs with the electrician.

PH – The handhole cost will be +/- \$2600.

Next to be discussed is streetlight billing.

PH: Annually going back to 2004 in November we have been telling the Town what their streetlight bill was going to be. A few months ago a resident was having a problem with a streetlight. At the time I discussed with Ted doing an inventory of the streetlights. I had the inventory done. We have been charging them since about 2005 \$136,011 for their streetlights. After some calculations with the new inventory numbers, the amount that should be charged to cover the streetlights is \$183,000. There was an agreement between John and Charlie Cristello, that the light department would let the town know in November what their streetlight bill would be for the next fiscal year so that they would have time to start planning their budget. I need a vote from the Board on what to charge- \$136k or \$183k. On a motion duly made and seconded it was: VOTED, to charge the town the full amount necessary to cover our costs for the streetlights.

Next to be discussed is net metering.

PH – Since I have been here I have been getting calls about net metering. We do not have a policy. Net metering is where a customer has a solar array that is generating electricity and we measure the amount of electricity generated by them. The options are: You give credit only on the energy portion of the bill to the customer. Or another option is we will give credit on all parts of their bill. Right now there are only two customers in town that

we know of with solar arrays. One of the customers has not moved in yet and so they are building up a credit, because they are not using much electricity. I think that this will get more popular and I think we should give credit on only the energy portion of the bill.

That is what Braintree is doing.

Clayton Handleman – I would like to give some industry perspective on this subject. I have been in Solar Energy business for 20+ years. If you use the second option things are simplified a great deal because you only have to have a single meter. It is the most widely adopted option around the country. I have been looking at installing for customers in Hingham and the penetration of solar energy will be limited due to shade. We would love to work collaboratively with HMLP, and I would be happy to do research on your behalf. The reason for so many calls right now is that federal policy has improved the tax benefit, and the state has a NASREQ program now for solar energy. I would like to help you get a net metering policy written up, no matter which one you choose, but my preference would be the straight net metering.

WF – What is the cost difference between the two plans?

PH – It is \$.08 v. \$.15 per kwh.

JR – I would go with the energy only for now, and we can change in the future if we need to.

WF- What is the verification process?

CH – I am looking into that right now, and I would be happy to share that with you as I learn anything. I am ready to start doing systems, and would like to get a couple of pilot systems in, once the ice is gone from people's roofs. I would like to work with you all so that it is rolled out in a way that doesn't overburden what you are anticipating. There is a limited number of homes that are going to be able to take advantage of this, so you will be somewhat protected.

WF – Do we need to vote on this tonight?

PH – Yes, here is the net metering policy with both options.

JR – I'll move that we adopt this policy as written here for the energy portion only. On a motion duly made and seconded it was: VOTED, to adopt the net metering policy for the energy component only.

On a motion duly made and seconded it was: VOTED, to go into Executive Session.  
Present are John Ryan, Walter Foskett, John Stoddard and Paul Heanue.

Litigation:

PH: I am trading voicemails with GRS, but have not been able to talk with him yet. Regarding the MBTA, we did the appraisal, and the difference in the dollar value of the easement is a relatively small amount of money. I would expect we can come to an agreement on the value of it. John and Ken Barner met with an engineer for the T and their Attorney, and in the agreement we basically are back to square one. In terms of money are they going to try and squeeze more money out of us to reach an agreement that we can live with? The TRA gets some of what the T get, so it is in their best interest to get as much out of us as they can.

On a motion duly made and seconded it was: VOTED, to come out of Executive Session.

On a motion duly made and seconded it was: VOTED, to adjourn the meeting at 8:00pm.