

**TOWN OF HAMILTON
FINANCE & ADVISORY COMMITTEE
JULY 5, 2016**

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The Hamilton Finance & Advisory Committee: David Wanger, Nick Tensen, John Pruellage present met at the Hamilton Wenham Regional High School at 6:05 p.m. on Tuesday, July 5, 2016. Town Manager Michael Lombardo and Selectman Jeff Hubbard also present.

Call to order

David Wanger called the Finance & Advisory Committee meeting to order at 7:10 p.m.

Public comment

Discussion ensued with Robin Sears about the advisory role of Finance & Advisory Committee.

Discussion and deliberation with respect to FinCom's recommendation on the upcoming site plan review warrant article to be voted at the Special Town Meeting on July 5, 2016

Nick Tensen opined that he did not have an opinion either way as to which land use board (Planning Board or Zoning Board of Appeals) should have site plan review authority. John Pruellage described how he was in favor of the article since the majority of towns in the Commonwealth had site plan review with the Planning Board and the accountability of the elected positions on that board. Discussion was about the process when there is an appeal of a Planning Board site plan review decision it would go to Land Court versus the Zoning Board of Appeals.

David Wanger stated that he was troubled by the merits of the change of site plan review authority from the Zoning Board of Appeals to the Planning Board. He described how he did not know the history of site plan review authority residing with the Zoning Board of Appeals in Hamilton. In addition, he was not aware of any controversy associated with site plan review in Town other than the Cumberland Farms and Hamilton Gardens properties. He stated that the Zoning Board of Appeals had served the public interest. Wanger added that no matter which board manages site plan review there are legal requirements that have to be satisfied. He also mentioned that he believes appointed members of a board are appointed based on wherewithal intellectually and purposeful approach with issues. In addition, that elected board members can be elected for a variety of criteria not necessarily technical qualification or knowledge.

Wanger noted his main concern about the use of a citizens' petition to effect the change in site plan review although he commended the effort by the citizen group, and resulting policy associated with the citizens' petition process. He reported on his inquiry with the Selectmen which confirmed that there are no pending issues with site plan review at this time. Wanger stated that a citizens' petition should be reserved for matters of urgency that have a timeframe that require more immediate conclusion. Absent a project where site plan review is imminent, there is little risk since the Planning Board is reviewing the zoning by-laws, and the Planning Board already unanimously approved the change now sought by the warrant. If at the end of that review it is determined that site plan review should reside with the Planning Board this change

could be addressed at a regularly scheduled Town Meeting (fall or spring) and attendance would be enhanced giving a broader perspective of the community.

He expressed concern about if the warrant article passes it would encourage other residents with an isolated issue to use the new guidelines for citizens' petition to garner support and get a warrant an article passed that would be improvident for the welfare of the community. The chances of this happening are lessened at a regular Town Meeting. He stated that he did not see any urgency for using the methodology of a citizen's petition and that the warrant article item could be addressed at a regular Town Meeting. Also mentioned was the July 5 timing and how many residents are out of Town at this time.

Sears explained that the 45 days associated with this citizens' petition was specified by Town Counsel which resulted in the July 5, 2016 Special Town Meeting date. Sears opined if the Town Meeting vote in 2014 to change site plan review had passed there may have been a different scale outcome with Cumberland Farms site, and Institution for Savings proposal for Hamilton Garden site. She opined that there was urgency since the zoning by-law changes were likely not to occur until spring Town Meeting. Sears thought site plan review already done by the Planning Board is done thoughtfully. She opined that the Zoning Board of Appeals had not always agreed with the Planning Board, and ignored the Planning Board's recommendations.

Wanger responded that there is a mix of legal requirements/requisites, emotional aspects, and perceptions. He stated that he did not grasp the urgency. Bill Dery stated that this was being done since the first vote taken in 2015 was lost by a few votes. He opined that this was extremely important because this particular article has a direct outcome to the future in Hamilton. Wanger reiterated that his comments were about the methodology to effect the change not the merits of the change. Dery opined that the citizens thought the separate article would get direct input. Wanger stated that the methodology taints the underlying issue, and his suggestion is for deferral not segregated out to a Town Meeting on July 5, 2016, and the general public will not be represented.

Pruellage did not think the FinCom should vote against the article because of how it was filed and is properly allowed. Tensen concurred with Wanger about how the citizens' petition was filed since it does not allow for full citizen participation. Discussion was on how the citizens petition should be used.

Rosemary Kennedy, Rust Street, opined that beyond Cumberland Farms and Institution for Savings, there is another egregious issue which was allowing a second story on T&M Landscaping building in downtown Hamilton. She opined that there was no site plan review or ZBA meeting and a building permit was issued. Subsequently a cease and desist order was instituted and proper procedures were followed. Kennedy opined that zoning by-law review was a quagmire and may not be ready for spring Town Meeting.

Wanger entertained a motion to recommend the Town Meeting defer action either by voluntary withdrawal or rejection on the merits intended as a interim disposition pending the full Planning Board submission to Town Meeting of the zoning by-law. Tensen seconded the motion. Pruellage stated that changes to the zoning by-law requires working group which includes the Planning Board and Zoning Board of Appeals so having this issue in front of them could be distracting to other by-law changes and should be handled by the citizens of the Town before waiting for finished Phase II.

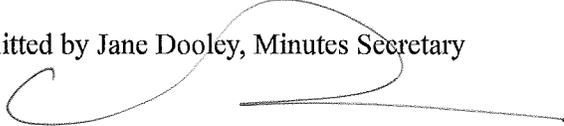
Wanger restated the essence of the motion to recommend deferral either by withdrawal or

rejection of the merits understood to be on an interim basis pending the eventual development of a full scale zoning by-law that will include this item. VOTE: 2 to 1 with Wanger and Tensen in favor, Pruellage opposed.

In response to Sears, Wanger stated that absent any urgency for the use of the statutorily sanctioned methodology of citizens' petition he is concerned that it sets a precedent encouraging other likeminded persons who have their own issue to by manipulation use lawful means to achieve results that tend to destabilize Town government. Sears described history and hope that the warrant article could have been voted on in April. Wanger stated that he did not ascribe any ill motivation. He reiterated that sanctioning the approach could well engender those not as well intended to utilize a methodology for purposes to destabilize, by virtue of having a relative select grouping of participants at a Town Meeting make a judgment on a policy that effects everybody.

Wanger entertained a motion to adjourn at 6:40 p.m. Pruellage so moved. Tensen seconded the motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: 
David Wanger, Hamilton Finance & Advisory Committee Chairman