

**TOWN OF HAMILTON
BOARD OF SELECTMEN
JANUARY 26, 2009**

The Board of Selectmen met at Hamilton Town Hall at 7:03 p.m. on Monday, January 26, 2009 with Richard Low, David Carey and William Bowler present. Finance Director Deborah Nippes-Mena, DPW Director John Tomasz and Town Administrator Candace Wheeler also present.

The Community Preservation Act has funded part of the portico project at the Community House of Hamilton-Wenham.

Flags were half-mast in Town in honor of a Hopkinton sergeant killed in Afghanistan.

Letter of Commendation

Kalil Boghdan thanked Dan Parsons for the new sign at the public safety building.

MMA Annual Meeting

Governor Deval Patrick said there will be reductions in local aid this year and next. Chapter 70 funding for the schools will not be cut. The Department of Revenue will be releasing amounts to be cut in FY'09.

MIIA Insurance Proposal

The Town has received a proposal from MIIA regarding insurance for FY'10 and beyond. The Finance Committee has discussed it.

Richard Low entertained a motion based on the recommendation of the Finance Committee that the Board accept the MIIA insurance proposal dated January 9, 2009 for insurance provided under this policy for FY'10 and FY'11 that includes a rate decrease of 5% for FY'10 and flat renewal with no increase for FY'11. David Carey so moved. William Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to authorize his as chairman to sign and accept the MIIA proposal. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Medicare Provider Number

The Town received a notice of revocation of Medicare billing privileges for the police ambulance service from CMS Medicare Service provider (Medicare provider transaction number PTAN090359 effective September 1, 2008).

The revocation was based on information obtained by NIHC that Hamilton's ambulance has been suspended based on training and certification investigation of EMTs according to statute 42CFR.

Low has been in contact with Town counsel related to a reconsideration request and appeal that would be sent to NIHC. Town counsel recommends the Town request reconsideration of the date. The ambulance service was voluntarily suspended on September 24. The Office of Emergency Services (OEMS) revoked the Town's ambulance license on December 8. Consultant Pat Roselli and Acting Police Chief Robert Pomeroy have recommended the Town ask for reconsideration.

Ambulance runs haven't been billed prior to September 23, 2008. Historically the ambulance revenues have been as high as \$12,000 a month. An ambulance run occurs every day and a half. Hamilton can't bill Medicare and Medicaid until this is settled.

Low entertained a motion to instruct Town counsel to request a reconsideration of the effective date of the notice to December 8, 2008. Carey so moved. Bowler seconded the motion. The motion was amended to strike the date and the Board is applying for reconsideration of the revocation. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

FRA Quiet Zone Update

DPW Director John Tomasz said by February 28 the Town has to submit a form to the Federal Railway Administration in regard to maintaining Hamilton's quiet zone. Additional safety barriers and reflectors have to be installed. The Town will have to ask for a waiver for Bay and Walnut Roads due to restricted space. A traffic count will be done on these roads and Asbury Street (nothing probably has to be done here).

Train whistles are being blown now in the Bay and Walnut Road area. They will contact the MBTA to see why this is happening.

Tomasz expects to have the paperwork completed in two weeks. He'll review this with the Board at its meeting on February 9. Low will sign the documents as chairman.

DPW/Water Update

Two water treatment plant operators sent the Board a letter about their concern with the Miox system failure and filter beds are failing. The water rates were changed to help pay for work that has to be done next year. The operators are doing a great job especially monitoring the perchlorate treatment system. The employees don't want to be held responsible if there is a failure.

Stantech Engineering has inspected the plant to assess what has to be repaired. The carbon will cost \$150,000 to replace. If pumps were replaced there would be more efficient motors. Tomasz said they could wait until July 1 unless there is unanticipated capital expense that can be paid for from the emergency fund.

The Highland Street Bridge should be finished in March and opened shortly thereafter. Tomasz said the cantilevered walkway will be included and the state will do it. FEMA and MEMA owe the Town money in regard to the Winthrop Street Bridge but have been slow in responding.

The Woodbury Street path should be finished in the fall.

Tomasz described how overtime is off the charts for snow removal. More salt was delivered today.

The Town has disposed of 115 fewer tons of solid waste this year down 30% for a \$70,000 savings. Unfortunately the money saved by increased recycling will not pay for the snow removal costs.

FY2009 Goals and Objectives

The Board discussed FY'09 goals and objectives including five-year financial projection, mixed-use by-law, SEA report required testing at the landfill, healthcare insurance option analysis, pension fund performance review, Miles River infrastructure proposal including adding a new beaver deceiver at the New England Biolabs dam, revised Home Rule petition for Annual Town Meeting, whistle law and quiet zone, and what to do with old library building (Carey will speak to EDC and COA).

GCTS Contribution

There was a discussion about the \$80,000 the Town received last year from the Gordon Conwell Theological Seminary (GCTS) in regard to the 43 children of seminary students that attend the Hamilton schools. The Hamilton taxpayers are subsidizing these

children. Laurie Wilson from the school committee said the school district is legally responsible for educating the GCTS children no matter what the seminary might put in a lease. Carey thanked the seminary for the check and offered to discuss the topic with the representatives from the schools and other constituencies in Town.

Energy Services Procurement

Carey discussed energy services performance contracting approved under state law. This is being considered as a way to increase energy use efficiency for Hamilton, Wenham and the schools since the total bill for the three entities is approaching \$1 million. Carey will present to the Hamilton Finance Committee, Wenham Selectmen and regional school committee.

A specialty contractor would be selected to identify and make improvements and the contractor would be paid with some of the savings realized. Also factored in is the wind turbine that a feasibility study is being done on now for a possible location on Sagamore Hill. The Town will ensure its existing electricity contracts are only for a few years.

Evidence Audit – Pomeroy Report

Pomeroy has identified a consultant to help with an evidence audit at the police department for \$75 an hour. Policies and procedures will also be developed for controlling evidence. Bowler agreed that an outside person could help but he didn't want the Town to spend more than it had to so he planned to discuss this with Pomeroy. Pomeroy had said all evidence was found at the station.

Low entertained a motion to authorize Bowler in conjunction with Pomeroy to engage an appropriate consultant to do an assessment, conduct a facility check and audit of the department's property and evidence, draft procedures for the department and train personnel subject to a \$2,000 maximum expenditure. Carey so moved. Bowler seconded the motion. VOTE: Unanimous. Low said the Finance Committee would approve a reserve fund transfer to pay the expense. Town Administrator Candace Wheeler will prepare a form.

Disciplinary Hearings

Low recommended Wheeler and Labor Attorney Jack Collins notify Sgt. Donald Dupray and police union that a disciplinary hearing would be held by the Board next week to determine if there is sufficient cause to impose discipline for his actions as outlined in the Pomeroy report alleging false reporting in the handling of grant funds from the state.

Low entertained a motion that the Board proceed on that basis. He recommended this be done next Monday in conjunction with the Selectmen's meeting (February 2 executive session) at 8 p.m. Carey so moved. Bowler seconded the motion. Bowler said this is subject to the availability of Dupray and his counsel.

Labor counsel's fee would be the Town's expense. Bowler said it would prudent to ask MIA if they would pay for the hearing. The Town will ask Collins advice about if a court stenographer should be obtained. VOTE: Unanimous.

Intermunicipal Agreements

Town Counsel Donna Brewer said the Town's intermunicipal agreements are getting old for shared services with Wenham. Her counterpart in Wenham, Paul Weaver looked at the Recreation, ECO, library and Council on Aging van agreements. There are areas for discussion that could be amended including personnel policies and how much autonomy the boards have for the shared services. She and Weaver will develop a memo related to the agreements for the Selectmen in both towns to review.

There was discussion about reviewing fee arrangements and legal structure to discuss with Wenham. Cost share is based on both the administrative fee and valuation. Brewer offered to speak to Finance Director Deborah Nippes-Mena.

Minutes Approval

Low entertained a motion to approve the regular session minutes for December 12, 2008. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to approve the executive session minutes for October 20, December 10 and 12, 2008. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to go into executive session at 9:00 p.m. to return to open session to report the conclusion of the executive session minutes discussion (calendar year 2000), union contract negotiations, and non-union contract negotiations. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

The Board returned to open session at 9:59 p.m.

Low entertained a motion to release the executive session minutes from 2000 subject to redacting those portions discussed in executive session. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to adjourn at 10:00 p.m. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: _____

Clerk