

**TOWN OF HAMILTON
BOARD OF SELECTMEN
APRIL 13, 2009**

The Board of Selectmen met at the Hamilton Town Hall at 7:02 p.m. on Monday, April 13, 2009 with Richard Low, David Carey, and William Bowler present. Finance Committee member Bob Bullivant, Finance Director Deborah Nippes-Mena and Town Administrator Candace Wheeler also present.

Emergency Fund Transfer from Water Enterprise

Richard Low entertained a motion to approve the request for transfer from the Water Enterprise Emergency fund (65450570022) in the amount of \$7,500 to be transferred to the Water Contract Service account (65450520008) for the purpose of a pilot study at the water plant and authorize Low as chairman to sign the transfer as chairman of the Enterprise Board. David Carey so moved. William Bowler seconded the motion. VOTE: Unanimous.

Appointment of Town Election Officers

Low entertained a motion to authorize him as chairman to sign the letter addressed to the Hamilton Democratic Town committee and other Town committees dated April 13, 2009. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Police Regionalization

The Board received a letter from Wenham (April 10, 2009) Selectmen Chairman John Clemenzi. It said the Wenham board didn't want to continue to pursue the exploration of a combined police department including sharing services between Hamilton and Wenham.

Carey said Wenham wasn't under any time pressure but Hamilton was because a decision had to be made in regard to the police chief search. He and Wenham Selectman Larry Swartz developed a staffing plan and by combining the departments an annual savings of \$450,000 could potentially be realized. He was disappointed it couldn't be taken to the public but buy-in from Wenham is necessary.

Low thanked people for their efforts. Both he and Bowler were supportive of the idea of exploring regionalization of the police departments.

Form A Application – Chebacco Woods

There was an inadvertent encroachment on the Chebacco Woods property a few years ago. To resolve this two parcels will be given to the Woods in exchange for the land that was encroached upon through clearing and well installation.

From reviewing the plot plan, Low said the proposed land swap for the four parcels appeared to be in order. Town Counsel Donna Brewer has reviewed this. The town of Manchester has been involved in the process.

Low entertained a motion to authorize him as chairman to sign the Form A application for endorsement of plan believed not to require approval to be sent to the Planning Board to begin the process of the land swap of the parcels described in the plans. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Wind Turbine Feasibility Study Contract

The Town has been working with the Massachusetts Technology Council for a \$40,000 grant for a feasibility study related to a wind turbine proposed for Sagamore Hill. Meridian Associates is prepared to do the study for \$48,000. An additional \$8,000 will come from a reserve fund transfer or Mass. Clean Energy fund reimbursement grant.

Low entertained a motion to authorize him as chairman to sign the Meridian Associates proposal dated April 7, 2009 to provide the Town of Hamilton a feasibility study for a commercial scale wind turbine at Sagamore Hill U.S. Air Force base. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to authorize him as chairman to sign the matching grant applications relating to the wind turbine study. The source of funds being Clean Energy Choice and authorize Low as chairman to sign those documents subject to review and confirmation that the documents are in satisfactory form by Town counsel. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Volunteer Award, May 17, 2009 and Senior Care Award

The Community House of Hamilton-Wenham has asked for a volunteer to be named for its recognition award by May 1. Hamilton resident Betty Gray suggested the Meals On Wheels drivers be recognized.

Low entertained a motion to nominate Senior Care drivers for the Rosemary F. Carey Community Service Award offered by Senior Care and Annette Janes for the volunteer award from the Board of Selectmen sponsored by the Community House of Hamilton and Wenham. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Open Space Plan Letter of Review

Low entertained a motion to authorize him as chairman to send a letter similar in form and content to the Planning Board to the Suzanna Colloredo-Mansfeld, chairman of the Open Space Committee for the Town of Hamilton, stating the Board of Selectmen have reviewed the open space and recreation plan and recommend adoption thereof. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Scope of Work – Thomas Urbelis

Low and Town Administrator Candace Wheeler met last week with Attorney Tom Urbelis who was retained to review actions taken by Town counsel as recommended in the Hayes Report.

Urbelis is clarifying that the scope of the report and recommendations should be related to legal issues. Urbelis can assume the facts in the Hayes and Pomeroy report are true and accurate. If in his review of other documents Urbelis has reason to question the accuracy he would bring that to the Board's attention. The Board isn't trying to move forward with another investigation they are looking for legal advice on known facts.

To the extent Urbelis reviews executive session minutes, he would ask the Board to allow him to quote from or refer to portions of the executive session minutes, as he deems appropriate for his report to the Selectmen.

Bowler said since Urbelis is rendering legal advice his report to the Board would be confidential as covered by the attorney/client privilege. With respect to the Hayes and Pomeroy reports the Board chose to make those public. The Board might choose not to make the minutes public that Urbelis refers to in his report. He thought Urbelis was asking for a blanket vote from the Board so the discretion would be taken out of the Board's hands and given to counsel.

Low said they don't know if the report would or would not be public record. The Board has committed to moving forward and reviewing this matter. He thinks the Selectmen need to give Urbelis the breadth and discretion to do the report he is being asked to do. Similar to the Hayes and Pomeroy reports. When the time comes the Board can deal with if there is a basis for making the report information public or protected.

Bowler said if there weren't the underlying assumption that this report would be might be made public Urbelis would not ask for or need the Board's permission. Urbelis has been given the right to look at the minutes having been engaged as the Board's attorney. If Urbelis is making a confidential report as the attorney for the Board he doesn't need a vote from the Selectmen to include them in the report.

Low said if the conclusion is that the report should be public there is a degree of circularity. He said the Board has a specific purpose it is trying to deal with and this is a necessary part for dealing with that.

Carey said if the information hasn't been released to the public and Urbelis is going to quote it in his report that should not be made public. He agreed with Low that they should consider it when the time comes. Low said they shouldn't conclude what the report is or isn't until they see it.

Low entertained a motion to allow Tom Urbelis to quote from and refer to portions of the executive session minutes, as he deems appropriate for his report to the Board. Carey so moved. Bowler seconded the motion. VOTE: 2 to 1. Bowler nay.

Landfill Study Lead Shot Investigation

The Town is going through a Department of Environmental Protection (DEP) investigation and testing at the landfill. Because the Town leases a portion of the landfill to two gun clubs DEP wants lead shot testing done for an additional cost. The gun club leases contain an indemnification provision that was reviewed by Town counsel who said the cost the Town has to incur was a loss within the indemnification clause.

A letter was sent to the gun clubs asking them to reimburse the Town for the additional charge of \$5,000. Low said it seemed as if the indemnification costs are incurred because of what the gun clubs have done. He thought the clubs were obligated severally dependent upon how the expenses should be apportioned. Bowler said in the letter to be sent by the Town each club is responsible and liable for the entire amount jointly and severally. It was agreed that the clubs could work out an arrangement to pay the \$5,000.

Low entertained a motion to authorize the Town administrator to forward a letter to the Hamilton-Wenham Rod and Gun Club and Miles River Marsh Rats Gun Club essentially in the form of the letter before the Board dated April 13, 2009 requesting reimbursement for the lead shot investigation that is part of the SEA study and report. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Approval of Cemetery Deeds

Low entertained a motion to sign three separate cemetery deeds dated April 13, 2009. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Minutes Approval

Low entertained a motion to approve the regular session minutes for January 5 and 12, 2009. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to approve the executive session minutes for January 12, 2009. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Low entertained a motion to go into executive session not to return to open session at 8:27 p.m. for the purpose of continuing the Pomeroy Report Hearings in relation to Officers Hatfield and Wallace. Carey so moved. Bowler seconded the motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: _____
Clerk