

**TOWN OF HAMILTON  
BOARD OF SELECTMEN  
OCTOBER 9, 2012**

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Tuesday, October 9, 2012 with David Neill, Marc Johnson, Jennifer Scuteri and Jeff Stinson present. Town Manager Michael Lombardo, Finance Committee Chair John McWane, Finance Director Deborah Nippes-Mena, Town Clerk Jane Wetson, Town Counsel Donna Brewer and Town Moderator Bruce Ramsey also present.

**Call to order**

Chair David Neill called the meeting to order.

**Public Comment**

None.

**Town Manager's report**

Town Manager Michael Lombardo explained that he and Bill Melville had a meeting with attorney to address contract negotiations with Comcast and in next six months notice is expected from Verizon since contract is coming due. He added that the contracts expire in 2015 but negotiation hearings take time so hearing schedule is in place. Lombardo noted that Town would have to build a case for any proposed changes in the contracts.

Lombardo also mentioned that in conjunction with MMA, Town of Wenham and HWRSD they would be hosting two Pakistanis that are involved in government. They are visiting the U.S. to understand forms of government and possibly apply what they learn to their own government in Pakistan. He is working with Wenham Town Administrator on visit schedule that will include going through departments, attending various meetings and social events. Lombardo will keep Selectmen up-to-date on this visit so they can participate.

**Chairman/Selectmen reports**

Neill described how he attended a recent Myopia Hunt Club event and how he had sent a thank you note from the Board. Jennifer Scuteri thanked Lombardo for

following up regarding Pakistani event that begins on Tuesday afternoon, October 16. Jeff Stinson noted that he had assisted State Representative Brad Hill with a recent food drive that included Hamilton's Acord Food Pantry.

**CONSENT AGENDA**

Neill read the following items for adoption of the Consent Agenda:

Approval of Minutes:

- October 1, 2012 Regular Session

One Day Liquor License:

Friends of Winthrop for an event at Hamilton Gardens, Inc.  
545 Bay Road on October 19, 2012

Gourmet Delights Catering, Inc. for an event at the Community House on October 20, 2012; and for an event at the Community House on October 27, 2012

Permission to Erect Sign:

United Way Thermometer

Accept Donations

Patton Park Playground – General Donations

- Albert and Juliana Dodge, Jr. -- \$150

It was noted that the United Way campaign begins now and ends in April so the sign would likely be up in Town for that time period.

Neill entertained a motion to accept the Consent Agenda items as read. Stinson so moved. Scuteri seconded motion. VOTE: Unanimous. However, Marc Johnson abstained on the vote for the minutes approval since he did not attend the October 1, 2012 Selectmen's meeting.

**Vote to approve the collective bargaining agreements with**

- (1) AFSCME – DPW, and**
- (2) AFSCME – Dispatch**

Lombardo explained that after nearly two years of negotiations, the AFSCME contracts for DPW and Dispatch are ready to be ratified by Selectmen. He explained that this was bogged down in part due to union representative being busy serving many bargaining units so there were long periods of time between bargaining sessions.

He said at Special Town Meeting there will be a warrant article for a retroactive cola of 2% for last year retroactive to July 1, and for this year there will be 1% as of July and 1% in January for both contracts.

Lombardo described accomplishments including expansion and standardization of management rights clause outlining what constitutes management rights and the flexibility to make changes that fall within these rights. He added that there is standardization in the grievance process, elimination of compensatory time, vacation accrual was standardized to July 1 so employees are paid for vacation accrued and earned, and bereavement was standardized. Lombardo explained that there are still two AFSCME contracts under negotiation.

Discussion ensued about how a few positions throughout the Town may need salary market adjustments but by in large the Town is competitive with union position salaries. Also addressed was longevity component and how it is not consistent amongst the union contracts and that it would be difficult to bargain out of the contracts.

The Board decided it did not need to go into Executive Session to discuss the AFSCME contracts that Lombardo will sign after Selectmen ratify.

Neill entertained a motion for the Board of Selectmen to ratify the AFSCME contract for DPW from July 1, 2011 to June 30, 2014. Scuteri so moved. Johnson seconded motion. VOTE: Unanimous.

Neill entertained a motion for the Board of Selectmen to ratify the AFSCME contract for Dispatch from July 1, 2011 to June 30, 2014. Scuteri so moved. Johnson seconded motion. VOTE: Unanimous.

### Mike's Auto Class II License

Lombardo summarized that Zoning Board of Appeals made a recent ruling providing Mike's Auto approval to sell used vehicles from the company's location on Bay Road with some restrictions. He explained that the Town had

sent a letter at the Selectmen's behest indicating that selling used cars at the site was in violation of the Class II license. The letter instructed Mike's Auto to remove the cars and that was done.

He noted that Mike's Auto would be making a formal request to change the provisions of the Class II license. This would require a vote from Selectmen and there has to be a formal public hearing process and an abutter notification with 10-day lead-time.

Discussion ensued about letter Town had received today from Mike Auto's attorney relative to lack of handwritten condition on issued Class II license document for Mike's Auto stating that no used vehicles to be sold could be stored on premises according to Hamilton zoning.

Discussion continued on the evolution since 1954 regarding the Board's license restriction and today's interpretation by the ZBA that sale of vehicles could be done on premise in the business district with an auto sales room special permit with storage criteria specified as part of the issuance of a Class II license.

Lombardo mentioned that Town Counsel Donna Brewer was available to provide legal advice regarding the Board's discretion addressing the issue. Scuteri noted that Mike's Auto attorney's letter questioned the Selectmen's authority to restrict the license, also the bylaw that has allowed the Board to restrict the license, that the ZBA has interpreted the bylaw differently, and there is case law saying the restriction has to be on a license.

Discussion ensued about today being the last day of a 20-day appeal period of the ZBA special permit decision. The Town has not received any notice of appeal. Selectmen had asked Mike's Auto property owner to voluntarily stop selling used vehicles during the time period after it received the letter from the Town.

Brewer noted that two attorneys would have to be hired by Hamilton to address the situation since she has given advice to both the Board and to the ZBA. Scuteri said she thought the Selectmen were trying to work with the applicant in its letter and had not taken step to revoke his license.

Discussion ensued about Mike's Auto removing used cars for sale in June and putting five back after receiving the ZBA decision on special permit but that he also needed a valid the Class II license. Also addressed was the precedence this

sets for other Class II licenses, however, none of the other issued licenses are for properties in the business district.

Brewer suggested the Board decide if it wanted to discuss her advice in open session in light of the fact that the letter from Mike's Auto said the Town would be litigated. The Board had reason to convene in executive session to discuss the legal aspects and strategy and/or to preserve any attorney client privilege relative to her legal advice.

Neill entertained a motion for the Board to go into executive session to return to open session for the purposes of discussing potential litigation, and preserving attorney client privileges, where an open discussion may have a detrimental effect on the Town's position in litigation.

Johnson so moved. Scuteri seconded motion. Roll call vote: Johnson, yes, Scuteri, yes, Neill, yes, and Stinson, no.

The Board went into and returned from executive session.

Discussion ensued about proposed use of sidewalk in business district and how binding the ZBA decision is to the Town. Lombardo said ZBA discussed the flower boxes versus the sidewalk and determined the flower boxes are on Mike's Auto property and he did not believe the Town has an inherent right to sidewalk because it is not in the public way.

Discussion ensued about Town's interest in sidewalk in business district stopping in right of way that is 50 feet curb to curb on a state highway. Brewer suggested that Town inspector Charlie Brett could measure the area in front of Mike's Auto where there are planters located. She said if there was an easement for pedestrians in the area there could be a sidewalk where the planters are but that this would be a factual inquiry.

Neill explained that the Board had concluded executive session discussing potential litigation resulting from Mike's Auto Class II license and that the matter would be brought up in open session during a public hearing in the future. Neill suggested this could be brought up with the full Board at its meeting next week.

**Solid Waste & Recycling**

Lombardo referred to his memo that summarizes data from Hamilton and Wenham during five months of new trash program compared to the same time period a year ago analyzing solid waste, recycling and organic compost tonnage. He noted that recycling and organics composting is up considerably compared to last year.

Discussion ensued about behavioral difference in both communities since there is not the same incentive to compost when there is weekly solid waste pickup in Wenham.

It was noted that Hamilton is trending from 29% recycling before program inception to as high as 54% and that there is incentive with the every other week solid waste pickup. Johnson mentioned that there is a fifth more tonnage that Wenham throws out per household historically.

Total projected annual trash program savings for Hamilton is \$110,467 and \$18,411 for Wenham. Lombardo did not include the cost of bins in the calculation since they are a one-time cost. To maximize savings with one solid waste pickup week in Hamilton, residents are increasing recycling and composting so there is a fair burden to residents based on trash generated. Discussion addressed how the program is reducing cost of trash pickup compared to years' past and that revenue from blue bags is paying for the truck service during the off week for solid waste pickup in Town.

Discussion also addressed how neighboring communities (i.e., Manchester) does a full Pay As You Throw program with no free barrels of solid waste pickup. In addition, that diapers are likely disposed of in the blue bags during the off week of solid waste pickup in Hamilton. Scuteri suggested that bags could be discounted for seniors. Discussion continued about how serious Hamilton is about controlling its tax rate (i.e., full PAYT) and that Styrofoam recycling would be an added benefit.

**North Shore Magazine Promotional Ad**

Discussion about if Hamilton should consider paying for an advertisement that would promote the Town in a broad sense in North Shore magazine, for \$3,000 for one issue and it is unclear if this covers design costs, with money from the sale of land where Community Package Store is located. That money can only be

used for studies not promotional ads. Town officials agreed that an ad should be tied to a broader economic and marketing strategy. Board thought this would be a good idea if the Town had a campaign promoting Hamilton as a good place to live and if there is something to showcase (i.e., Patton property event).

An article in the magazine will be promoting Hamilton. But a broader community discussion is needed to address how the Town sees itself growing in the next five to ten years so at this point it is unclear if the strategy is about promoting Hamilton as a desirable place to live or to be attractive to businesses. The Board agreed promotional campaign should be addressed in the future.

### **Warrant Hearing**

Town Moderator Bruce Ramsey explained that hard copies of the Special Town Meeting warrant and appendices are available around Hamilton and on Town website.

#### *Article 2-1: Approval of Hamilton-Wenham Regional School District Borrowing – Cutler Elementary School Roof Project*

Ramsey explained that the reimbursement percentage is 43.3%, and since this is debt exclusion, it will require a two-thirds vote and Proposition 2 ½ override. If School Committee member Bill Dery doesn't make the motion, then Johnson will make the motion.

#### *Article 2-2: Approval of Hamilton Wenham Regional School District Borrowing – Various Capital Projects*

Dery or Johnson will make the motion on this article. Ramsey noted that on the national election ballot on November 6, these two debt exclusions will be addressed in questions #4 and #5. School Committee Chair Roger Keubel and Superintendent of Schools Michael Harvey will do a slide presentation at STM.

#### *Article 2-3: CPA Project Appropriations*

The appropriations are \$25,000 from FY'13 CPA funds for Patton Park playground, \$150,000 for engineering study for Patton Park pool, and \$7,500 for ceiling repairs and new railings at The Meeting House building. Slide presentations will be done. Tom Catalano will make the motion.

Article 2-4: Council on Aging Appropriation Increases

Theresa "Mimi" Fanning will make the motion. COA Director Marybeth Lawton, who is a resident but unregistered voter, will explain basis for appropriation increases.

Article 2-5: Appropriations to Hamilton Development Corporation

Bob Bullivant will make the motion.

Article 2-6: Compensation/Classification Table

Scuteri will make motion.

Article 2-7: General Fund Appropriation Increase – Retroactive Cost of Living Adjustment

Lombardo will summarize the numbers for Articles 2-7 and 2-8 especially since there are other bargaining units that have unresolved union contracts. The expected amount is \$12,000. John McWane will make motion.

Article 2-8: General Fund Appropriation Transfer – Cost of Living Increase

The expected amount is \$30,400. McWane will make motion.

Article 4-1: Adopt By-law to Provide Water through Mutual Aid Agreement

Stinson will make motion.

Article 5-1: Beech St. Easement

Neill will make motion.

Article 5-2: Drainage Easement

Neill will make motion.

Article 6-2: Free Cash Application

McWane will make motion to take no action.

Schedule Next Meeting – October 15

The Board will hold its next regular Selectmen's meeting on October 15.

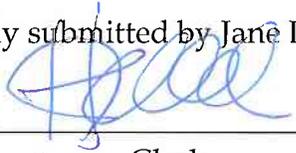
Other business

Lombardo reiterated that the threat level of disease carrying mosquitoes in Town had been raised from high to critical by DPH and the Board of Health has banned all organized outdoor activities from 5 p.m. until 8 a.m. until the threat level is lowered or until a hard frost occurs.

Neill entertained a motion for the Board to adjourn at 9:30 p.m. Scuteri so moved. Stinson seconded motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: \_\_\_\_\_



10/15/12

Clerk

