

**TOWN OF HAMILTON
BOARD OF SELECTMEN
FEBRUARY 11, 2013**

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Monday, February 11, 2013 with David Neill, Marc Johnson, Jennifer Scuteri, Jeff Stinson and Jeff Hubbard present. Town Manager Michael Lombardo, Town Counsel Donna Brewer, Finance Director Deborah Nippes-Mena, Planning Coordinator Kristine Cheetham and Planning Board members Ed Howard and Claudia Woods, and FinCom Chair John McWane also present.

Call to order

Chair David Neill called the meeting to order at 7:00 p.m.

Public Comment

Ed Howard spoke to Planning Board's jurisdiction controlling stonewalls on scenic byways in Town.

State Representative Brad Hill summarized state budget process relative to annual formula for local aid that Town receives via cherry sheet. Specifically addressed was a proposal by the governor that could change the local aid formula to favor cities versus towns. Hill suggested that it would be unlikely that the new formula would be adopted by the House. He said that the lottery formula was most fair since it is based on population and economics. He described the governor's interest in generating \$871 million through tax increases, changes to capital gains, lowering of sales tax, and possibility of increase to income tax.

Discussion ensued about possibility of expansion of bottle bill that Hill did not support since additional revenue raised would go into general fund and not be designated for recycling program or directed toward citizen education or redemption centers.

Also addressed was governor's proposal to disband local Housing Authorities across state narrowing down Housing Authority responsibilities to six entities with boards appointed by Gov. Patrick to oversee operation. Hill was not in support of proposal as written but favored buying bulk services.

Another issue discussed with Hill was school choice where consideration is being given to raising tuition cost from \$5,000 to \$7,000 per student. Although no change on this is expected in FY'13 because communities where students leave to be educated elsewhere would impact their local budgets. FinCom Chair John McWane noted that HWRSD may stop school choice since it is not cost beneficial.

Town Manager's report

Town Manager Michael Lombardo mentioned that storm cleanup went well. He asked residents to notify him or DPW Director John Tomasz about any intersections in Town that should be addressed regarding difficult sight lines due to snow banks.

Chairman/Selectmen reports

Marc Johnson announced that he would be seeking re-election as a Selectman since his term expires this year.

Consent Agenda

Neill read the details about the items in the Consent Agenda:

Accept Donations for Patton Park Playground

- Brick Campaign \$200 representing 1 donor
 - Gatey & David Kagan - \$200

Neill entertained a motion to accept the Consent Agenda as read. Jeff Hubbard so moved. Jeff Stinson seconded motion. VOTE: Unanimous.

Approval of Town Manager's Contract Renewal

Neill summarized the items agreed to by the Selectmen and Town manager in executive session regarding Lombardo's contract renewal. The items include:

- Evaluation process where Selectmen would evaluate Town manager twice annually in April and October, the process used would be mutually agreed upon by the Board and employee with an agreed to format for the written evaluation, a discussion would occur and written summary prepared in 30 days,

- One-time payment of \$15,000 for moving expenses from initial contract was removed and request for consideration of what other employees get for opting out of health insurance benefit was agreed to for a one-time payment of \$3,700 equivalent to the annual cost for a family participating in health plan, this is included in first year of three year contract,
- Ongoing professional training/development was agreed to between the employee and Town related to ICMA credential status and interpersonal communication training,
- Severance pay related to if the employee was terminated for any reason other than cause or resigns before the term of the contract has been increased from three months to six months since finding a job in the Town manager's field can take upwards to a year. This would become effective the day of the termination of the agreement,
- The Town manager's contract term is for three years at a starting salary of \$130,000 and begins in February when the contract renewal is approved by the Board of Selectmen.

Discussion ensued about whether or not Town Counsel Donna Brewer should review the contract before Selectmen vote to approve it. Town counsel wrote the initial contract. Brewer opined that there was no harm in adding language to the contract. Neill noted that the Board was ready to approve the contract and invited Brewer to take a look at the contract to verify it as to form.

Jennifer Scuteri moved that the Board of Selectmen approve the employment agreement between Town manager and Town of Hamilton, Mass. from February 11, 2013 until February 10, 2016 in acceptance of the form with the possibility that there might be some slight wordsmithing or changes performed by Town Counsel Donna Brewer. Marc Johnson seconded the motion. Stinson said the contract negotiation was positive overall and he is looking forward to continuing to work with Lombardo. VOTE: Unanimous.

Discussion of Gifford Road – discontinuance of a paper road

Discussion ensued about Board's recent approval of discontinuance of Harris Avenue paper road and need for Annual Town Meeting to approve Selectmen taking a vote to discontinue Gifford Road. More information is needed to determine property lines and frontage on Harris Avenue and Gifford Road. One

resident from the area is interested in selling his property so he would be responsible for research and survey rather than the Town. Town officials decided they would add this matter to ATM warrant as an article for Town Meeting vote.

Patton Advisory Committee – update and discussion of issuance of a RFP

Discussion ensued about issuing an RFP for Patton property, possibly for use as a bed and breakfast. Town officials addressed what the Selectmen's and Town manager's role would be in a B&B rental scenario. Scuteri noted that there is a company interested in the property with plans for B&B that could be a compliment to weddings. Neill suggested that the water should be tested to ensure this is a viable solution for the property. Lombardo explained that it appears that the abandonment of the Patton well is moving forward and he believes DEP has no reason to deny it. He added the Recreation Committee is using CPA money for playing field analysis.

Brewer explained that before an RFP could be issued relative to Chapter 30B and sale or lease, the Board of Selectmen have to declare the property surplus to clear the right to issue a contract.

Discussion ensued about how the RFP would provide for a broad range of proposals and be structured to guide management of a restaurant, event center, B&B or other ideas that might be presented by an interested party. Lombardo mentioned that the Town was not in the position to manage a bed and breakfast.

Also addressed was whether or not the advisory committee to the property should be repurposed. Stinson offered to write charge for committee that could assist in first review for issuing RFP which Scuteri thought should be done. Johnson was in favor of a revised charge for the committee that could be articulated in a meeting with Selectmen. Lombardo would write the RFP and post it with Brewer's assistance.

Hubbard suggested that clear direction should be given to the committee relative to assessing the public's interest in how the Patton property is used (i.e., through a survey monkey), and he suggested the Town's fiduciary responsibility for the site could include the option to sell. Scuteri said Selectmen are looking at options. She noted that there is increasing interest in stable use since Canterbrook Farm is closing. Hubbard also expressed interest in a complete vision for the property rather than focusing on the fields separately.

Neill noted that the advisory committee has said that the property is ready to go forward with a RFP and the Town needs to move ahead so it won't continue to cost Hamilton money (i.e., for repairs). He described how a former school building that was no longer needed by HWRSD was returned to Hamilton and managed by the Town where consensus on use was not reached and the building deteriorated and languished until joint library building was constructed.

Johnson mentioned that Zoning Board of Appeals and Conservation Commission would be involved with river walk access at Patton site and Essex County Greenbelt Association also has this access which is being discussed with Recreation Committee. The Board agreed to revisit how to move forward with the Patton property at its next meeting on February 25. Also, that advisory committee should weigh in on that discussion at that time.

Bill Bowler referred to the Willowdale property managed by the state that could be used as a model for uses in Patton site RFP with the Town having the right to reject all bids. He added that proposed uses would require zoning changes at the property and that the Town could get underway with that prior to getting a proposal. Johnson said the Town needs to understand what people want and not get ahead of a proposed use. Bowler recommended that broad zoning could be done similar to what was done with the landfill RFP. Discussion ensued about restrictions in gift agreement determining the use and zoning of the property.

Sale of Pirie Property – request for Executed Waiver

Selectmen considered a request from property owner's attorney for an executed waiver of Chapter 61 and 61A of the Pirie property that is for sale on Bay Road. Lombardo explained that there is a current signed purchase and sale agreement for the property. Because the bulk of the property is in Chapter 61 or 61A tax exemption, the Town has the first right of refusal and some Board members were interested in discussing matter.

Scuteri summarized that the reduction of taxes for part of the 87-acre parcel were for agricultural and forest land under Chapter 61 and Chapter 61A. She noted that because of the chapter land status the taxes for the property should have been \$100,000 a year but were \$75,000 annually. So the Town has lost \$1 million in taxes over the course of the time that a majority of the land has been in chapter status. When the property is sold and transferred to another use outside of Chapter 61 and 61A, Hamilton has the right of first refusal.

Discussion ensued about how the Pirie property abuts the cemetery and that conversation about different potential land uses that the Town needs such as recreation and schools should be considered beyond single family homes.

Brewer explained that the Board could assign the Town's right to a non-profit for agricultural or open space. She noted that \$4 million price for property includes two parcels not classified as chapter land and those might not be included in the purchase.

She described how 120 days is when everything would have to be completed by the Town, a signed contract to the seller and money appropriated through ATM if Town decides to purchase property. She added that there is an earlier deadline of 30 days to notify the seller that the Town believes there is a reason the notice was defective or there was not a bona fide offer due to contingencies. Brewer did not see any contingencies in P&S. Brewer noted that the Town has not received a price for just the chapter land that is associated with Town's right of first refusal so it could say the notice is defective.

Hubbard expressed interest in the Town not impeding the developer with the transaction. Scuteri mentioned that she believes there are currently no children living on the property, the Assessor's valuation for the property is \$5.8 million and development proposal is for six houses which would result in the Town losing money relative to tax dollars and cost of providing Town services. She agreed that the Town does not want to interfere with a development proposal but it does not address affordable or clustered housing at the site.

Lombardo noted that if there is a Town purpose for the property that is worth considering for the site that the Town is not a land developer. He said the Town should consider zoning for the property if the use was going to change from single-family development.

Scuteri cited the example of how Wenham exercised its right of first refusal with the clustered, 55-plus, Boulders development when the Dodge family sold land to a developer. The municipality receives \$300,000 in annual property taxes with no children participating in HWRSD.

Johnson noted that there are going to be other Chapter 61 and 61A properties coming onto market in the near future in Hamilton where Town will have to consider its right of first refusal. Hubbard thought the conversation was late on the Bay Road property to steer the development since the Piries have a buyer.

Other Selectmen thought the conversation should and could still occur. Discussion ensued about how the Town's interest in the Pirie property should be defined with Town board input (i.e., CPA and open space) in a concentrated amount of time.

Brewer explained that the Selectmen need to get going holding a public hearing about exercising or assigning the Town's right of first refusal where all of the Town's boards would weigh in on whether or not Hamilton should buy the chapter land. If the right were waived no public hearing would be required.

Scuteri inquired about if there could be a possibility for Town to purchase one of the three parcels at the site. Brewer said there is not a lot of guidance or definition in the statute. She noted case involving town of Grafton where community was not required to buy all of chapter land but what it needed. An opposite finding was found in a similar case in Newburyport.

Discussion ensued about how one of the three Pirie parcels was worth \$300,000. Also addressed was that Town would have to buy 30 acres if it was going to expand its cemetery but some of this property could be used for other purposes based on conversation with Town boards. In addition, if the Town would exercise its right it would likely hold STM.

Discussion addressed how Town has not received price for three properties. Hubbard reiterated his interest in not impeding developer. Johnson said Wenham moved ahead with a by-law that facilitated the Boulders within a similar timeframe. Lombardo said Wenham did not purchase Boulders property.

Discussion continued about how the statute specifies that the value for classified chapter land has to be provided to the Town. The \$4.25 million price includes parcels that are not classified as chapter land. Brewer said the Town in a letter can notify the property owner that says until that is done the notice of right of first refusal does not comply with the statute.

Neill suggested that the Town needs an expert brought in to explain what would be best for the Town relative to development of the property. John McWane asked if any of the Piries had been approached for a donation of any of the land for a Town park since 87 acres is a lot of land for six house lots. Scuteri suggested the Pirie house on Bay Road that needs work could possibly serve for local preference for police, fire or a teacher.

Neill asked the Board if it was in favor of sending a letter asking for a break out of the cost of the chapter land. Stinson agreed that was in the Town's right.

After notifying Ed Howard that he was out of order, Neill summarized the question for the Board as whether or not it was going to notify the Piries that the Board does not accept its request for executed waiver until all of the property is priced out. This would result in a difference of two weeks in timing and Board needs the information to make a decision. Hubbard expressed his opposition to the Board interfering with a transaction between two private citizens in Town. Johnson said statute addresses form of notice required for right of first refusal.

Neill entertained a motion that the Board request of the Piries that they break out the price of all of the chapter land for the Town. As soon as the Town receives the information the clock will start ticking for the Board's decision. Johnson so moved. Scuteri seconded the motion. VOTE: 4-1-0 with Hubbard opposed.

Howard spoke to Planning Board meeting with developer purchasing Pirie land where board expressed interest in retaining amenities of property for Town including equestrian trails that have gone through property for 50 years. Developer refused to allow continuation of bridle trails through property.

Howard mentioned the Piries' two smaller houses on Bay Road where one is particularly rundown and could likely qualify for affordable housing and that the properties are in Town's Historic District. He added that the proposed subdivision would be negative financially for the Town so this is an opportunity to include cluster or cottage housing on the property since it would be revenue positive to Hamilton.

Claudia Woods described Planning Board discussion with developer about if the equestrian trails were not continued on the Pirie site it would cut off half of the trails in Town on the contiguous open space. The developer said the property would be marketed as horse estates and he did not want to encumber the real estate with an equestrian easement.

Howard said the Planning Board never got opportunity to discuss clustered housing based on the information from attorney. He raised the issue that the subdivision agreed to 14 years ago by the Planning Board could be altered. Lombardo described how the subdivision has a clause saying it could only be subdivided into six parcels but there is a provision for undoing that decision if a petition were received by the Planning Board. He noted that the Town would

have to have an ownership position by exercising the Town's right of first refusal before it could petition the Planning Board for a subdivision revision. Brewer concurred that the Town does not have a property right in its right of first refusal to petition.

Brewer said she was not familiar with the subdivision decision that occurred 14 years ago. She referred to the Chapter 41, Section 81W process that does not require anyone to petition Planning Board. The Planning Board on its own motion can schedule a public hearing with appropriate notices for approval for definitive subdivision to modify a definitive subdivision not ANR.

The limitation is that if anyone purchased a property or gave a loan based upon a prior subdivision plan then they are not affected by the change. She said courts don't fight 81W but recognize Planning Board authority. She added that any zoning changes would have to go through Town Meeting with two thirds vote of approval. Discussion ensued about Historic District Commission's input relative to properties in the Historic District as considered part of process.

Speaking as a citizen about 81W possibility, Bowler referred to all boards meeting and perception of Hamilton as not open to development, and that this could be a prime example when there is a subdivision that has been approved for 20 years and there could be potential proposal to modify it. Discussion ensued about how property is assessed at \$5.8 million and it is under agreement for \$4.1 million so the zoning is not allowing full capitalization of the property. Especially because the property was been on the market for over a year before there was a buyer.

Discussion continued about how Town should articulate possibilities that could be revenue positive and that Hamilton already has a lot of open space. Lombardo questioned the Board about the need to articulate to Town Meeting the potential uses for property and if it could be vetted ongoing. He noted protracted amount of time expended on Patton property and its uses.

Neill said Town Meeting would have to agree to purchase the Pirie property without defined options. Lombardo said some municipalities purchase land that has intrinsic value. Johnson said the property would be purchased with funds outside of CPA or through debt. Scuteri emphasized that when the estates in Town outside of the downtown are for sale this presents one of the best opportunities to get the Town more revenue.

Neill said the Town has a definite interest in the Pirie property. Stinson said a development such as the Boulders is plausible. Discussion ensued about how multiple uses including clustered housing with some affordable housing, and an equestrian trail easement, were possibilities for the site.

Brewer said if the Town bought the property it could be rezoned by bringing it to Town Meeting. Discussion ensued about \$150,000 rollback that has to be built into financial equation resulting from the loss of \$25,000 a year in property taxes.

Neill suggested Town manager manage this process with input from land use boards rather than form a specific committee to move forward with vision for next step for Hamilton. Discussion ensued about how 120 days from when clock starts is when a decision has to be reached by the Town and could require a STM.

Hubbard said this is an important conversation but the Town has not figured out what to do with the 35 acres of the Patton property. Discussion ensued about how much time Town manager and Town boards should expend and citizen interest in spending \$4.1 million on the Pirie property in continuing tough financial times while the Town is facing the necessity to raise revenue to keep Hamilton sustainable.

Lombardo said next steps are to work with Brewer on letter for property owner, define ideas for Town regarding Pirie property in a memo with input from Finance Director Deborah Nippes-Mena and Planning Coordinator Kristine Cheetham, and gather information on potential for other types of housing at site.

P.I.L.O.T. program

Discussion ensued on amendments to letter that Board wants to send to non-profit organizations in Town regarding P.I.L.O.T. The letters would be personalized to appropriate persons in organizations and notify them that Hamilton is seeking 100% participation similar to what was done in Beverly. Stinson accepted amendments to his draft P.I.L.O.T. letter and agreed to send the amended letter to the Board for review.

Hubbard initiated discussion on Gordon Conwell Theological Seminary relative to P.I.L.O.T. mentioning that this was a separate discussion that should occur between officials from GCTS and the Town. He noted that the seminary children are costing the Town as much as \$8,000 per child and the slots they are occupying in the HWRSD could be used for choice students.

Hubbard suggested the Board reignite the discussions that were conducted with the seminary several years ago on the matter. Scuteri said it costs \$500 on the average Hamilton tax bill to support the school ratio and capital costs for Hamilton with the GCTS students included in the student quota for the Town in the regional school district.

Discussion ensued about how the seminary children living in Town by state law are to be provide the option of public school education and that the private tax-exempt entity is not required to pay the Town for public services ((i.e., police, fire, (GCTS had historically paid Hamilton \$35,000 for these services), and education)). The seminary has paid the Town \$100,000 a year in the last few years although the cost to the Town is greater than that amount annually to educate the seminary's children.

Discussion also addressed when Town agreed to allow married student housing to be built at seminary site the acting president at the time agreed to pay \$5,000 tuition per seminary student educated in the HWRSD. But there was no follow up by GCTS on that agreement.

Discussion continued on the matter where the Board reiterated that this issue needs to be addressed in person by the Town officials and GCTS administrators. Hubbard offered to write a one-page document on the matter that could be used for discussion. Neill said GCTS needs assurance from Town officials that solution arrived at on matter would satisfy both parties with both sides compromising. He agreed to invite GCTS representatives to a meeting with Town officials.

Consideration of Re-Opening and Closing the Warrant

Neill entertained a motion to open the ATM warrant to include an article about discontinuance of Gifford Road as a paper road. Stinson so moved. Scuteri seconded motion. VOTE: Unanimous.

Neill entertained a motion to close the ATM warrant. Johnson so moved. Scuteri seconded the motion. VOTE: Unanimous.

Consideration of topics for discussion at future Selectmen's meetings

Selectmen agreed that agenda set for their next meeting on February 25 included topics such as Hamilton Development Corporation, Town Hall reorganization

proposal, nuisance by-law for discussion after ATM, and adoption of Town manager evaluation option for use when these reviews occur twice annually.

Neill entertained a motion for the Board of Selectmen to adjourn at 9:57 p.m.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: _____

Clerk