

**TOWN OF HAMILTON  
BOARD OF SELECTMEN  
FEBRUARY 17, 2015**

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Tuesday, February 17, 2015 with Chair Scott Maddern, Jeff Hubbard, Marc Johnson, David Neill, Jennifer Scuteri present. Town Manager Michael Lombardo, DPW Director Bill Redford, HW Recreation Director Sean Timmons, HW Recreation Board members: Steve Ozahowski, Brad Tilley, Mary Buntin, Phil Tocci (also from Patton Advisory Committee), HDC President Brian Stein also present.

**Call to order**

Scott Maddern called the meeting to order at 7:00 p.m.

**Public Comment**

Darcy Dale, Woodbury Street, expressed concern about one or more Selectmen who have signed affidavits against the Town that has required a legal response. She also mentioned how Town Meeting voices have been heard about what the Town would like to see happen at the Patton property. Dale reiterated her concern about a group of Town officials working secretly and nefariously against the Town's wishes and that this was not correct and was disenfranchising the townspeople who vote at Town Meeting. She asked to know if there were other Town officials than Planning Board members Ed Howard, Rob McKean and Claudia Wood who have signed affidavits against the Town. Dale stated that this activity effects nearly any decision made at Town Meeting and takes away the power of the people causing a problem for the Town. Maddern explained how responses are not given during public comment period.

**Chairman/Selectmen reports**

Marc Johnson noted how public works has done a good job keeping up with snow removal in Town, and that CPC has been doing its job. Jeff Hubbard thanked public works, Fire Department noting importance of resident assistance for shoveling out fire hydrants, that he will be hosting coffees on Thursday mornings at Henderson's to discuss issues and get feedback on Patton Park pool project and Patton Homestead. David Neill thanked Police Officer Karen Wallace who helped him when his car was stuck in snow. Jennifer Scuteri acknowledged work by DPW. Maddern spoke to HW School Committee approving HWRSD budget with 3% or \$925,000 increase that was

approved and will go to Town Meeting. Hamilton will have a \$125,000 allocation increase due to declining enrollment in Town. Maddern said secondly, I need to apologize to Mrs. Patton and Georgina one more time for at our last meeting Mr. Hubbard alluded to a degree of self-interest by the entire Patton family and I tried to stop that and unfortunately it still was discussed. Also, that Hamilton CPC voted in favor of the Patton pool project and all indications are that Wenham will vote likewise.

### Town Manager's report

Town Manager Michael Lombardo mentioned that Patton housing project is an agenda item at the Planning Board meeting tomorrow night. C. P. Berry and Town will be presenting information. A joint FinCom meeting with Wenham will be held on Thursday night at Wenham Town Hall to discuss joint program budget (i.e., HW Public Library, HWRSD, and HW Recreation). Public works crew is doing yeoman's work on snow removal. DPW Director Bill Redford explained that the public works crew is working 15 to 24 hours at a time to manage snowstorms. Also, the crew as well as contractors have been diligent and resourceful. He thanked residents for their resilience. National Guard is making resources available to shovel hydrants and heavy equipment will be used to manage snow.

### **CONSENT AGENDA**

- Request from Bill Redford, DPW Director to increase the snow removal budget, as allowed under M.G.L. Chapter 44, Section 31B. Discuss and vote.
- **Approve Minutes** – January 17, 2014 – BOS and Finance and Advisory Committee; January 24, 2015 BOS and Finance and Advisory Committee; February 5, 2015 – Regular Session

Maddern entertained a motion to approve the Consent Agenda. Neill moved that the Board approve the Consent Agenda as stated by Maddern. Johnson seconded the motion. Scuteri noted that she did not attend January 17, 2015 meeting. Discussion ensued about the source of funds for \$100,000 request to increase snow removal budget (i.e., placeholder ATM warrant article, reserves, or next year's budget). The Town budgeted \$212,000 for snow removal and with the last storm this budget has been used. The increase should cover the Town until the end of the fiscal year. The Town has submitted paperwork for state of emergency funding.

The Board voted to accept the Consent Agenda with the exception of the January 17, 2015 minutes. VOTE: Unanimous.

Maddern entertained a motion for the Board to accept the January 17, 2015 minutes as written. Neill moved to accept the January 17, 2015 minutes as written. Johnson seconded the motion. VOTE: 4-0-1 with Scuteri abstaining.

## AGENDA

- Discuss updates to the Board of Selectmen **Code of Conduct**

Maddern summarized how Code of Conduct is similar to other towns, MMA has information on this topic related to running fair open meetings in accordance with ethics policy. He noted that to do a better job as Board Chair he should recognize individuals to speak to facilitate efficient discussions and effective debate.

Maddern mentioned that at the last four Selectmen's meetings he had to rule Mr. Hubbard out of order and Hubbard has continued to speak and made statements that have taken a long period of time to correct in minutes and other items. Maddern has done research with other municipalities on the matter and MMA recommends issuing warnings. He recommended next steps be considered to foster expeditious, effective Selectmen's meetings that are open where Board members listen to each other.

Hubbard opined that this is the first he is hearing about this concern that is obviously about him, he suggested there should be communication, was interested in hearing from the other Board members, and wanted to correct statements made. Maddern noted that this is not the first time.

Johnson stated that the existing Code of Conduct could work and it applies to all Board members, and fosters efficient action by the Board. Neill thought the existing Code of Conduct was good as determined three years ago. He emphasized importance of Board members treating each other civilly, fairly and honestly. Also, a Board member has to recognize that he/she might disagree with a Board decision but it is a Board decision. He suggested if there have been transgressions to the Code of Conduct they would be brought to the Board's attention, a period of time (i.e., two months) specified and if it occurs again something has to be done. Neill said he was not singling Hubbard out.

Scuteri concurred with Neill and suggested if a Board member violates the Code of Conduct that person should self-identify, corrections should not have to be made, and apologies should occur and behavior stopped. She read from MMA model of Code of Conduct where each member of Board of Selectmen should realize that he/she is one of

a team and should abide by and carry out all Board decisions once they are made, and this applies to Town Meeting decisions as well. Scuteri emphasized the importance of Board members carrying out the Board's decisions in public and in Selectmen's liaison positions and this could be a tweak to the Code of Conduct especially considering many Boards and Committees (i.e., Planning Board, FinCom, HDC, Recreation Committee, COA, Finance Director, and pool committee) have had issues with Mr. Hubbard. Also, that paperwork associated with ethic guidelines should be filed with the Town clerk by a Board member when there is an issue or that Board member would not discuss or deliberate on a related matter.

Maddern referred to comments from Darcy Dale regarding affidavits filed with the state, Patton property and appointments. He mentioned how he has not been approached by any attorneys regarding affidavits in opposition to the Town. Johnson, Neill and Scuteri responded likewise.

Hubbard stated that he did not know of any specific charges that had been discussed amongst the Board so it was difficult to respond. He opined that there is a fundamental difference in how the other Selectmen and he view their role as government representatives. He described how he was restricted from speaking at the head table at Town Meeting because he had a dissenting opinion compared to the other Board members and had to speak from the floor. Hubbard said he received public feedback about that incident from the people that elected him. He said he has an individual opinion about the Patton property. He described how he became involved with Hamilton Watchdog group (that was started before Patton property discussion) due to lack of information that was getting to community about what is going on in Town so neighbors could make good decisions. Hubbard stated that there has been no discussion by Watchdogs about opposing development in Town including Patton property. Also, the letter that went to AG contained six questions about the Patton property housing development process. Hubbard stated that he signed an affidavit that was not against the Town and acknowledged what he said at a meeting was contained in the affidavit. Hubbard opined that because people have a differing opinion does not mean they are wrong, evil or trying to cause trouble. He said that people know the Town got the Patton property but they don't know anything else about it to make a decision (i.e., that 12 condominiums being proposed on the hill is different than what was addressed at Town Meeting). Hubbard stated how he is often cut off from making his remarks at BOS meetings and if discussion is going to be fair each Board member should get a specified amount of time to talk. Hubbard opined that there is nothing associated with his involvement with Watchdogs and attendance at the meetings the intent of group is to help people learn information about Patton property and Patton Park pool project.

He added that accusations from Selectman Scuteri and Mr. Maddern about having to change minutes was not true. Hubbard opined that the Board would be more successful once it is understood that people have differing opinions and can be open to those opinions rather than stifling them and stating these are bad for the community.

Dale opined that there is a remedy for people who don't agree with Town Meeting or Board's mission to carry out townspeople's vote by using Town Meeting process. She stated that individuals going outside of the Town Meeting process bothers her and other residents. Dale stated that the Board's role was to carrying out the bidding of the Town and any constituents who don't agree with Patton project need to go back to Town Meeting to go through the right channels. She added that the trust of the public has been violated by Town board members signing affidavits used in a lawsuit against the Town since the AG is not going to act on it. Dale referred to Code of Conduct and importance for Town officials on boards to act as members of a team. Dale recommended if the two positive votes taken by Town Meeting on Patton property are opposed then protocol should be followed. She suggested a mechanism (i.e., recall by-law) be created for removing officials for dereliction of duty, malfeasance, obstructing will of Town Meeting members and other unacceptable behaviors to protect the Town against unscrupulous officials. This would act as a deterrent and clarify that the Town will not tolerate officials who disenfranchise voters at Town Meeting.

Maddern noted that these topics were hard to discuss and Town is trying to run transparent form of government. Scuteri mentioned the importance of accurate information and corrected that affidavit Selectmen Hubbard provided was at the request of John Hamilton who is the attorney for the Hamilton Watchdogs and is clearly in opposition to the Patton housing project. The affidavit is part of a complaint filed with AG. On November 6, 2014 when Scuteri referenced this complaint and filing Selectman Hubbard said "what is this filing with the AG?" and he had already signed affidavit that was part of complaint and now Hubbard is denying his involvement in the opposition. She said that Hubbard is taking action with Watchdog group and being advised by their attorney and then denying that he participated in the filing that was a complaint against the Town (which includes BOS).

Hubbard said the complaint is not a lawsuit and acknowledged critical importance of Town Meeting. He opined that at Town board and committee meetings there are discussions about Patton housing proposal that is different than what occurred at Town Meeting. He added that six questions in complaint brought up to appropriate boards were refuted and unanswered so complaint was filed to see if Watchdog view was wrong. Hubbard described how response to six questions is not AG purview and

complaint was sent to Inspector General relative to process not within Town by-law that sets a precedent for future projects that no one wants. He has not denied going to Watchdog meetings and said group is not opposed to housing project it is concerned about process occurring relative to GPOD and how similar future projects could occur in Hamilton.

Johnson said complaint is the beginning of legal proceedings and Town has to address it. Also that Town Meeting was explicit about asking for 12 senior housing condominiums in location where they are proposed now. The by-law did not allow duplexes and there was a change that was properly discussed. Town Meeting approved giving Selectmen ability to act within certain rights, nothing changed from Town Meeting approval that impacts the housing development, the developer has listened to Planning Board input and changed project relative to Special Permit. Johnson stated that the Watchdog group did not go through normal channels with members speaking at meetings and waiting for board response when AG complaint had already been filed and he characterized group as disingenuous.

Discussion ensued where Maddern said Jeff I am going to have to rule you out of order for the fifth consecutive meeting if you don't let us proceed. Hubbard opined if Maddern does not allow differing opinions or a minority voice to be heard, a gentleman just made an accusation against me indirectly through characterizing the Hamilton Watchdog group incorrectly. If you are going to stifle that it says a lot about the leadership and goes to why there are groups like this that continue to pop up.

Maddern commented that the intent of discussion was to be fair and to be prudent about changes to make the Town work effectively. He clarified how the Town accepted the Patton gift that was signed by BOS, it has gone twice before Town Meeting including developing 12 houses. He made a personal recommendation to Mr. Hubbard that when legal advice is needed (relative to Town matters) that Town counsel be spoken to first especially when considering signing an affidavit. Maddern offered to create a draft to consider two areas for change in Code of Conduct.

- Update on the replacement of the **American Legion Pool** by the Hamilton-Wenham Recreation Board and Sean Timmons, Recreation Director

Public presentations have occurred on the Patton Park proposed pool project with drawings and visuals which are posted on both towns' websites. Milestones for the HW Recreation Board have been deciding to use Patton Park versus Fairhaven Field for pool site and not to exceed construction amount of \$2 million. That board has worked with a

pool designer on a design for regulation six-lane pool that is 42' by 70' and off of it is a smaller recreational pool 22' by 37' for the swim team, swimming programming, and children learning to swim (with wide-stair entrance).

The bathhouse proposed is slightly larger than the existing one and will contain private showers and changing areas. The service building will include the filtration room, lifeguard office area/sick bather location, and office space for park program.

In consideration of the not to exceed number of \$2 million, all of the cost estimates are under \$1.9 million to provide programming. This cost estimate will pay for pool construction and design documents. The Hamilton CPC approved 66.4% of the cost \$1,381,120 with a cash payment in FY'15 allocation and if favorable action is received at both Hamilton's and Wenham's Town Meetings it allows work to begin on design phase on construction documents rather than waiting for July 1. Wenham's CPC will be voting on that town's share of slightly less than \$700,000 and a favorable response is expected to move the project forward to a Town Meeting vote.

Discussion ensued about Hamilton CPC agreeing to fund Patton Park pool 8 to 1 and move it to Town Meeting vote on CPC warrant article slate since cash is being recommended to pay for the project. A hold could be put on this article item. Also addressed by Neill was importance of looking ahead to base bid for the project relative to not to exceed \$2 million. Scuteri described how CPC had a thorough discussion on the project and congratulated Recreation Board on effort on project. Maddern spoke to pool working group that has worked cooperatively in a two-town effort. Steve Ozahowski acknowledged Timmons work on project, importance of a Town pool for the park program enrollment and that pool design being proposed is bare bones.

Discussion was on how Selectmen will deliberate more on the project during upcoming Town Meeting warrant article discussion. The Board took a straw vote on the project with Johnson in favor, Hubbard said I would love to share where I stand on it but I would like an opportunity to discuss it if that is what we are being asked, Neill in favor for \$2 million at most cost, Scuteri in favor, and Maddern in favor. In response to Duke Seaver, Essex Street, Maddern explained that maintenance of pool would be paid for through Recreation Revolving Fund associated with user fee mechanism.

Communication to public is ongoing with presentations planned at Wenham CPC and American Legion building in March.

- **Update on Downtown Visioning Series by Brian Stein, President, Hamilton Development Corporation**

The HDC had three visioning meetings from November to January to understand what residents would like for Hamilton's downtown with as many as 40 attendees at each meeting. Topics addressed at the meetings included: zoning changes, use, additions to by-law, plans for HDC's 59/62 Willow Street property, parking.

The best discussion occurred in November on three-dimensional model of Hamilton's downtown between Linden and Railroad Avenues, Willow Street and Bay Road that illustrate what exists and what is allowed by current zoning (i.e., 35' height). Also shown was mixed scale to various properties downtown with a lower height that was well received. The allowed height of 35' throughout Hamilton would not be changed in the by-law but would be addressed in design guidelines. In the Willow Street overlay district buildings could potentially be higher than 35' with Planning Board approval in a Special Permit.

Also analyzed were possibilities for one-acre of land at 59/63 Willow Street and sketch of 20-unit building of apartments or condominiums with 35' height to allow for parking and septic system to illustrate what could fit on the lot. Although the proposal met setbacks many abutters thought it was too large. The proposal was for mixed use with commercial on the bottom and residential on top and there were mixed reviews from attendees.

At a subsequent meeting, mixed use was discussed which is not allowed much now in the business district. Firehouse Place is a mixed-use, friendly Chapter 40B. The by-law does not allow multi-family in the business district. A number of business owners have approached the HDC about interest in residential on the second and third floors of their buildings. There was some positive response to possibility of up to 20 unit mixed use building in the business district but it was dependent upon proposed uses. This discussion sparked conversation about parking that would be required with additional units. Some residents in the Willow Street area are already concerned about parking (i.e., people parking for commuter rail). The HDC plans to work with Town manager, DPW director, and police chief on this parking matter to reach a solution.

At the last meeting, the HDC focused on design guidelines incorporating outline from MAPC and adding details heard from the visioning meetings. The HDC will continue to meet every other Wednesday morning at 7:30 a.m. Design guidelines are being developed to foster a cohesiveness look downtown with height, scale, types of window, entry ways, roof types, awnings, street lighting, sidewalks. Developers have expressed

interest in design guidelines when determining what kind of project they would consider doing in Town. Stein noted that Cumberland Farms used the draft guidelines from MAPC when presenting its project to Town.

Next steps for the HDC include for fall Town Meeting adoption of design guidelines as well as proposed by-law changes for mixed use and multifamily downtown. This will be vetted by BOS and Planning Board before going to Town Meeting. In addition, the HDC is going to work with Urban Land Institute on an economic analysis of what zoning changes would mean financially for the Town resulting from more density of mixed use and multifamily. Stein noted that the second commercial space at 63 Willow Street and house at 59 Willow Street have been rented to tenants.

Discussion ensued about transition from residential to commercial district that would be addressed with scale, importance of a delicate balance between residential and commercial development as it relates to required infrastructure downtown based on what people want to see downtown as it applies to ULI's financial study, septic study and cost/benefit that ULI could assess, that tenants in commercial and residential space on HDC property are local, need for well-crafted design guidelines that would be flexible, how LWV visioning is being done for Town, how mixed use would allow commercial and residential use as needed and should be adopted by Hamilton.

- Discuss **Patton Advisory Committee** recommendation re the Patton Homestead study

Johnson described how the Patton Advisory Committee had discussed mission of a non-profit, that non-profit would have to be properly charged for formation, and Committee was in favor of recommendation from feasibility study to form a non-profit to manage the property, accepted initial Board of Directors with others added at inception, and Committee advised Town to form non-profit.

Scuteri noted the next steps to transition to non-profit including challenges and pitfalls and how Town will still manage 21 acres of Patton property. Also, that grants are likely to be available for capital needs of the Homestead as well as some of the funding from sale of housing development land. The expectation is that the Homestead would become sustainable in a three to five year timeframe but with the housing the amount of property taxes will more than triple from when it was a single home.

Discussion ensued about how revenue and partnership opportunities would be able to move faster as a non-profit versus the Town. Johnson suggested the Town should

articulate mission: support from Town and economic self-sufficiency as well as benefit to Town. Lombardo has made inquiries with Town Counsel Donna Brewer on legal aspects of non-profit. Scuteri noted that Homestead could be a forum for weddings and revenue generating ventures while non-profit has tax-exempt mission. Hubbard opined that it is difficult to make an analysis of a non-profit when the associated costs are unknown (i.e., preparing house and \$250,000 from sale of land would not be enough money to get it ready) to assess cost/benefit and ongoing maintenance costs of probably \$40,000 a year. He added that a significant amount of total revenue received from land sale should be directed to the Homestead.

Discussion was on need to have a well-formed charge with tactics to follow later, creation of non-profit mission and guidelines including check points to get progress updates from non-profit, and gauges for assessing success (i.e., rent from secondary non-profits to make Friends of Patton Homestead non-profit self-sufficient). Also addressed was how property tax revenue on 12 housing units would bring more revenue to Town than a single family house on the site.

Discussion ensued about a management agreement for the FPH setting expectation for more and more self-sufficient as it manages operation. Capital needs would have to be paid for with rent or payment in lieu of taxes. Phil Tocci concurred with support for non-profits, Town should not take on non-profit itself, and maintenance costs for the Homestead need to be known. Discussion reiterated importance of defining charge to work out specific action guidelines for founding a non-profit. The Committee will remain in place as other uses at the Patton property evolve. Johnson will work with Lombardo to define action guidelines for forming non-profit.

Maddern moved to accept the Patton Advisory Committee recommendation to accept the recommendations of the Patton Homestead Study. Neill seconded the motion. VOTE: 2-1 with Hubbard opposed. Johnson and Scuteri abstained as co-Chairs of Patton Advisory Committee.

- **Set date of next Selectmen meeting**

The next Selectmen's meetings will be held on Monday, February 23 and March 9.

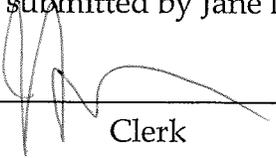
**NEW BUSINESS**

**Consideration of topics for discussion at future Selectmen's meetings**

Topics will be cable franchise agreement, and warrant article on BOH proposed by-law.  
Neill moved to adjourn at 9:01 p.m. Scuteri seconded motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

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

  
Clerk

