

TOWN OF HAMILTON  
BOARD OF SELECTMEN  
APRIL 23, 2012

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Monday, April 23, 2012 with Jennifer Scuteri, David Carey, Jeff Stinson and Jeff Hubbard present. Town Manager Michael Lombardo, Finance Director Deborah Nippes-Mena, Recreation Director Sean Timmons, Finance Committee Chair John McWane, Planning Board members Peter Clark and Rick Mitchell, Zoning Board of Appeals member Bill Bowler, Economic Development Committee member Bob Bullivant, Historic District Commission and Community Preservation Committee member Tom Catalano also present.

Call to order

Chair Jennifer Scuteri called the meeting to order.

Accept minutes (March 5<sup>th</sup>, March 12<sup>th</sup>, March 27<sup>th</sup> Regular and Executive Session, April 2<sup>nd</sup>, April 9<sup>th</sup>, 2012)

Board Clerk Jeff Hubbard entertained a motion for Selectmen to approve the Board of Selectmen March 5, 2012 regular session minutes. David Carey so moved. Scuteri seconded motion. VOTE: Unanimous.

Hubbard entertained a motion for Selectmen to approve the Board of Selectmen and Finance Committee minutes for March 12, 2012 regular session. Carey so moved. Scuteri seconded motion. VOTE: Unanimous.

Hubbard entertained a motion for Selectmen to approve the joint Board of Selectmen and joint Finance Committees regular session minutes with Wenham for March 27, 2012. Carey so moved. Scuteri seconded motion. VOTE: Unanimous.

Hubbard entertained a motion for Selectmen to approve the Board of Selectmen executive session minutes for March 27, 2012. Carey so moved. Scuteri seconded motion. VOTE: Unanimous.

Selectmen did not vote on April 2, 2012 Board of Selectmen regular session minutes since there was lack of a quorum of Board members who attended that meeting.

Hubbard entertained a motion for Selectmen to approve the April 9, 2012 regular session minutes. Carey so moved. Scuteri seconded motion. VOTE: Unanimous.

Public Comment

None.

Town Manager's report

None.

Chairman/Selectmen reports

Hubbard mentioned his attendance at Essex County Trails Association annual meeting and noted that ECTA has some interesting upcoming events.

Request from Tri-Rok to Hang Sign at The Meeting House May 1-12

Scuteri entertained a motion to approve Tri-Rok's request to hang a sign at The Meeting House from May 1 to May 19 with the understanding that from May 13 to May 19 the group may have to relocate its sign since the HW Garden Club is holding a plant sale at the site on May 19. The Tri-Rok event will be held at Patton Park on May 19. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Request from LWV to hang Voter Information Sign on Tennis Court fence

Scuteri entertained a motion to approve request from League of Women Voters to hang Voter Information Sign on Patton Park tennis court fence from May 7 through May 25, 2012. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Appoint Robert Preston to CPC

Scuteri entertained a motion to appoint Robert Preston to the Community Preservation Committee for a term to expire on June 30, 2012. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

One-Day Liquor License – Tour de Cure, Pingree School, May 20, 2012

This bicycle ride to raise awareness and funding towards finding a cure for diabetes has an expected attendance of 1,000 people and Police Chief Russell Stevens supports the event.

Scuteri entertained a motion to approve a request from the American Diabetes Association for a one-day liquor license for May 20, 2012, the company pouring the alcohol is Cape Ann Brewing Company, and alcohol will be on the premises from 6:30 a.m. to 4 p.m. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Request to adjust time for lights at Patton Park

Recreation Director Sean Timmons explained the request to adjust the timing for the lights at the Patton Park tennis and basketball courts as well as baseball playing field. Town Manager Michael Lombardo mentioned that this would go through an abbreviated site plan review process with Zoning Board of Appeals. Hubbard mentioned that neighbors should have input and he asked that the Weaver Pond lights be included in the request for the same time adjustment.

Scuteri entertained a motion for the Board of Selectmen to authorize a petition to the Zoning Board of Appeals to extend the time for the lights to be on at Patton Park until 10 p.m. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Request from HW Mothers Club for signage at Patton Park

Discussion ensues with Patton Park mothers' group that is interested in placing a three-sided 3' by 6' vinyl sign at Patton Park fence to publicize fundraising effort to improve play structures at park. Also discussed was Fast Chicks 5K where money raised would to support playground fundraiser.

Scuteri entertained a motion to approve the request from the Friends of Patton Park to hang various signage in accordance with Hamilton's sign bylaw in and around Patton Park and at The Meeting House for a time beginning when the signs are made and mounted until the fall when it is hoped that new playground will be built. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

ZBA member Bill Bowler mentioned that this sign request would have to come before the ZBA if sign was going to be up for a year.

Request for rides at Patton Park for Two Town Fourth

Discussion about rides being provided by All About Fun during Two Town Fourth on July 4, 2012 event at Patton Park and that state inspection of the rides is done the day of the event. The Board will vote on a sign for the event to be posted at or near the park at its next meeting.

Scuteri entertained a motion to approve the request for All About Fun rides at Patton Park for Two Town Fourth on July 4, 2012. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Appoint Phil Tocci to Recreation Committee

Scuteri entertained a motion to appoint Phil Tocci to the Recreation Committee for a term to expire on June 30, 2012. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Gift Acceptance Agreement from HW Little League & American Legion

Town officials will send a letter to Little League representatives who have done \$25,850 worth of work on Town playing fields.

Scuteri entertained a motion for the Selectmen to accept a gift from the American Legion Post 194 and HW Little League. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Request that Cemetery Commissioners allow additional cremations

The Town has received a request to allow four cremations in one cemetery plot. Lombardo explained that Town Counsel Donna Brewer had reviewed and was in support of special exemption for one use to Hamilton bylaw. A policy change could be considered at a later date to address bylaw specification for three cremations per cemetery plot.

Scuteri entertained a motion to approve a recent request by a resident to be allowed to have four cremations in a cemetery plot. Hubbard so moved. Carey seconded motion. VOTE: Unanimous.

Downtown Improvements

Discussion about interest in Town especially by merchants and HW Garden Club to improve downtown area, by installing trees with illuminating lights and replica gas lantern lighting on Railroad Avenue as well as upgrading downtown traffic islands with better plantings and planters. Hubbard has been driving this effort and all avenues of funding including the Community Preservation Act money have been exhausted with the exception of Meals Tax revenue that is currently at \$75,000.

Details about actual cost and labor to carry out the proposed improvements needs to be defined in addition to means to measure and pay for electricity although electrical installation costs are expected to be \$20,000. Also mentioned was if the Town plans in the future to dig up the downtown to bury utility lines this should be done in concert with proposed downtown improvement projects.

Discussion was about legislation for Hamilton Development Corporation moving forward at the state level. Economic Development Committee member Bob Bullivant noted the ATM vote taken last spring where there was agreement to save Meals Tax revenue for use by the HDC as part of a process to have a specific plan to address downtown improvements.

Town officials mentioned that once state approves HDC, then Special Town Meeting in the fall could vote to use the Meals Tax revenue for purposes that serve the Hamilton public. Planning Board chair Peter Clark concurred with this sentiment especially relative to the Town's Master Plan.

Town officials were generally supportive of improving Hamilton's downtown and helping the merchants but did not believe entire \$75,000 of Meals Tax revenue should be slated for this purpose.

Hubbard mentioned interest in purchasing \$10,000 of holiday decorations (i.e., artificial wreaths) and \$5,000 of traffic island planters. Discussion about how Town could buy these planting boxes and DPW could install for HW Garden Club to plant flowers but that ongoing maintenance and landscaping downtown should be considered, all subject to Hamilton complying with Chapter 30B procurement process for contracted services.

Town officials also discussed the possibility of another charrette in the fall to address downtown improvements relative to design standards and change of

use. Hubbard will create list on potential Town purchases to enhance downtown (i.e., trash cans).

Another issue mentioned was that Town would have to take action to attract a different caliber of merchants to downtown as some meeting attendees expressed dismay about recent development where Mike's Auto is selling used cars.

### School Budget Discussion

Finance Committee Chairman John McWane explained that School Committee had encouraged feedback on what Town could support regarding proposed HWRSD budget for FY13. He summarized that the HWRSD is going to use the FY11 Excess and Deficiency fund to zero with the expectation that it would be funded by FY12 funds and over time capital costs would be taken out of operating budget. Only decision to be made by voters at ATM is whether to support school district's operating budget that currently includes capital costs.

McWane described results of recent four board meeting that consisted of Chapter 70 and Chapter 71 number being higher by \$100,000 than budgeted also that school choice, pre-kindergarten and kindergarten funds are a revenue sources totaling \$720,000.

There is agreement with all HWRSD's expenses except for \$85,000 for incremental technology person to be funded from E&D, and capital projects incorporated into budget that would become part of base budget. Consensus has been support for a level services budget and some increases totaling \$148,000.

McWane outlined the certified E&D for FY11 as \$1.501 million, \$461,000 in kindergarten fund, \$60,000 in pre-kindergarten and \$71,000 in other funds. This could be applied to FY13 budget. Above the level services budget, the HWRSD has recommended \$148,000 consisting of \$28,000 for two IT people working through the summer, \$11,000 for Buker School library media specialist, \$11,000 for winter teaching assistant, \$85,000 for athletic user fees, \$5,000 for intercurricular and \$10,000 scholarship. This would become part of the base school district budget for next year.

McWane said there is reluctance to fund improvements to technology (i.e., \$600,000 for computers) and add staff until a proposal is received from HWRSD. Therefore, there is support for half of \$216,000 for replacement technology, \$16,000 and \$89,000 for lighting upgrades, \$90,000 for ADA accessibility and

\$220,000 for Ferrini auditorium upgrade. Other improvements were not supported since Town officials thought they could be addressed through a virtual DPW if it was implemented.

He explained that \$517,000 taken from \$2 million leaves a remainder of \$1.577 million to be applied to the HWRSD budget leaving \$629,000 to return to the towns (\$140 annual reduction in property tax for \$400,000 home in Hamilton). He reiterated that other than keeping capital expenses in the operating budget there is support for everything the HWRSD proposed. Three out of four Finance Committee members support this approach while one member thought HWRSD should take \$1 million out of spending.

Discussion about how in order for School Committee to spend funds in the HWRSD E&D fund (i.e., \$517,000) they have to alert the Boards of Selectmen from the two towns and if the Boards don't agree a Town Meeting is called and requires a two-thirds vote. McWane thought the School Committee wanted to retain 3% or \$800,000 out of FY11 E&D. He noted that FY12 has nearly \$1 million available that could be certified. There is no support for HWRSD to use FY11 E&D for FY13.

Discussion about how capital expenditures should be done when virtual DPW is in place to do \$500,000 of repair and maintenance as well as oversight of capital improvements. However, there is no agreement from HWRSD attorney on the virtual DPW. Lombardo noted that there had been a protracted process working with officials from HWRSD and Wenham to try and reach agreement to implement virtual DPW. Residents Bob Gray and Bruce Wadley expressed support for virtual DPW.

Discussion ensued where McWane said School Committee should follow audit recommendations especially to save money and improve programs at the HW Regional High School. Scuteri noted that parents wanted more languages offered and Advanced Placement courses added at High School. She emphasized her interest in the HWRSD buying staffing software to assist with identification of efficiencies.

Stinson reiterated the need to look at efficiencies to find savings, he thought HWRSD was overbudgeting and budget was mismanaged. He stated that he could not support the current budget because it included a significant increase from last year's actual school district budget. Lombardo suggested more thorough analysis should be done to understand funding and spending since

there is a pattern of overbudgeting with HWRSD evident in its ability to return sizeable sums to the towns.

Carey and Hubbard were in favor of Finance Committee's recommended approach on school district budget that would avoid potential conflict moving forward where more than one Town Meeting could be required to approve HWRSD budget. McWane will report to School Committee that three out of four Hamilton Selectmen support the proposed HWRSD FY13 budget, but with respect to Scuteri, this is contingent on the purchase of the staffing software.

Other business

Next BOS meeting is April 30, 2012.

Scuteri entertained a motion at 9:50 p.m. for Selectmen to go into Executive Session pursuant to M.G.L. c. 30A, Section 21 (a)(3) for the purpose of Litigation Strategy, as an open meeting may have a detrimental effect on the Town's litigation position, and to return to regular session. Roll call vote: Hubbard, yes, Stinson, yes, Scuteri, yes, Carey, yes.

Selectmen returned to open session from executive session.

Scuteri noted that the Board had authorized the Selectmen to move into open session for the purpose of approving the General Release and Settlement Agreement between Michael Marchand and the Town of Hamilton.

Scuteri entertained a motion for the Board of Selectmen to approve and adopt the General Release and Settlement Agreement dated April 5, 2012 in the case of Michael Marchand v. Town of Hamilton, et al., Civil Action No. 1:09-CV-10433-LTS, and hereby authorize the Board Chair and the Town Manager to sign all necessary documents pertaining thereto. Carey so moved. Hubbard so moved. VOTE: Unanimous.

Scuteri mentioned that decisions would now need to be made regarding the release of the Executive Session minutes and the Urbelis Report.

Lombardo read the following statement:

The Town of Hamilton was recently notified by MIIA (Massachusetts Interlocal Insurance Agency) that it and other insurance companies had reached a



settlement with former Hamilton Police Officer Michael Marchand for an amount of \$1,285,000.

After nearly three years of protracted discussions the parties agreed to the Release and Settlement of any and all claims related to the ongoing lawsuit against the Town of Hamilton and other defendants.

We note that the settlement is in no way an expression of liability or fault and that all costs associated with the settlement are attributed to the insurance companies and not the Town or other defendants. This agreement is final and closes the chapter on a very difficult time for all parties involved.

Discussion ensues about having Lombardo follow up with counsel about when executive session minutes related to the Marchand matter could be released and if Urbelis report remains attorney client privilege or released to the public. Lombardo will address in a couple of weeks. He will also issue a statement to local press on the settlement agreement.

Scuteri entertained a motion to adjourn at 10:05 p.m. Carey so moved. Hubbard seconded motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

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

Clerk