



# TOWN OF HAMILTON

2007

## TOWN MEETING MINUTES & ELECTION INFORMATION

Town of Hamilton  
Essex County  
Commonwealth of Massachusetts

Incorporated June 21, 1793  
Area 14.99 Square Miles  
Town Population 8,254

Sixth Congressional District  
Fifth Councilor District  
First Essex and Middlesex Senatorial District  
Fourth Essex Representative District

### **State Officials**

Congressman: John Tierney of Salem  
Senator: Bruce E. Tarr of Gloucester  
Representative: Brad Hill of Ipswich

### **Town Hall Hours**

Monday: 8:00 a.m. to 7 p.m.  
Tuesday - Thursday 8:00 a.m. to 4:30 p.m.  
Friday 8:00 a.m. to 12:00 p.m.



**TOWN OF HAMILTON  
ANNUAL TOWN MEETING**

**Held**

**Monday, May 7, 2007**

**At**

**Hamilton-Wenham Regional High School**

At the close of registration on April 17, 2007 there were 5,467 registered voters.

Precinct 1 - 2,030  
Precinct 2 - 1,832  
Precinct 3 - 1,605

Moderator declared a quorum being present (150) and the Warrant returned showing it had been properly served, opened the 214<sup>th</sup> Annual Town Meeting at 7:40 P.M. with 444 registered voters checked and present, this annual meeting of the Town of Hamilton is now open.

Moderator appointed the Deputy Moderator who was duly sworn.

Robert Poole --56B Moynihan Road

Tellers were appointed by the Moderator and duly sworn.

Janice Pappas -- 5 Bittersweet Lane  
Larry Warner -- 208 Woodland Mead  
David Thompson -- 103 Essex Street  
Leon Purington -- 32 Mill Street  
Robert Trussell -- 141 Railroad Avenue  
Kalil Boghdan -- 12 School Street  
Linda Mastrianni -- 23 Maple Street  
Richard Flynn -- 183 Linden Street

I have asked non-resident members of the regional school system, town officials and those assisting the Selectmen or Finance Committee to be present here so they may be available to answer questions. Members of the press [and the video crew] have also been allowed to be present. I remind those allowed here to do nothing which may influence the counting of a vote.

We have set up the cafeteria across the hall as overflow space. There is a closed circuit television set in the cafeteria and two tellers. All other non-registered visitors must be seated in the visitors' area in the cafeteria.

Another procedural note, we record these proceedings so as to have an accurate record of the meeting. Therefore, unless I recognize you by name, please use the microphones provided and give your name and address when you arise to address the moderator. People in the cafeteria desiring to speak to any article should contact one of the tellers and arrange to be brought to the microphones in the auditorium.

All registered voters have been given a distinctive voter ID card when checking into the meeting. Do not lose or destroy this card. You will need to show the card on any counted vote. If you can not show the card, your vote may not be counted.

The invocation tonight will be by the Rev. Dorington Little of the First Church in Hamilton.

## Announcements

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Selectman Bill Bowler recognized his colleague Bob Bullivant as this will be his last Town Meeting as Selectman. It has been a pleasure and a privilege to serve with Bob for his entire term. On behalf of the Board of Selectmen, Dick Low and myself, and the Town of Hamilton, we thank Bob Bullivant for his service and we wish him well. Remarks were followed by a standing ovation.

Bob Bullivant – I truly appreciate this heart warming sentiment. It has been an honor to serve you and this town which I love. Bob thanked Bill, Dick, Candace and Allison and all the volunteers who worked so hard dedicating their time on behalf of the Town without which we could not function, as well as the Town's employees whose loyalty and hard work all combine to make this such a wonderful place to live.

Moderator states they may have overflow voters in the space in the cafeteria and that he has appointed Robert Poole, the Town Constable, to be the Deputy Moderator to preside over the actions of voters in the cafeteria if necessary and to coordinate with the tellers during counted votes. If any seats open up, they will allow voters to move in and if necessary a recess will be called in order to do so.

Under Town By-laws the conduct of all Town meetings are governed by the Town Meeting Time. A handbook of Parliamentary Law and all Articles of the Warrant for the Meeting shall be taken up in the order of their arrangement unless otherwise decided by a two-thirds vote of the Meeting.

I will read or summarize the Article and then recognize a Town Official or other person to make a motion on the Article for the Meeting to consider. Assuming the motion is seconded, I will then recognize the person who made the motion to tell us briefly why the motion is before the Meeting and what it is intended to accomplish. Thereafter I will open the floor for questions, discussion and debate.

If you want to ask a question or be heard on a motion, please proceed to the front of the aisles to one of the speakers. Let me warn you however, that while we will try to accommodate everybody wanting to speak, if you do not move quickly your window of opportunity may get closed.

Again, when I recognize you before you speak your piece, please state your name and street address for our Meeting Minutes and so that everybody may know who you are.

When an Article has been acted upon and disposed of, any reconsideration requires a two-thirds vote under the Town By-laws. After they have taken up a new Article, the Moderator will not be inclined to entertain any motion for reconsideration of an earlier Article before all the remaining Articles have been taken up by the Meeting.

Special Rule Action on Articles 2-2 and 2-12, involving potentially multiple budget appropriations will not be considered final so as to require a motion or vote to reconsider until all action on this Article has been completed.

Materials relating to Warrant Articles and other Town matters are not to be handed out or distributed in the auditorium or in the overflow space except that they have extra copies of the Warrant Book and any Appendix correction sheets at the front of the auditorium. I assume most or all of you picked up one in the lobby if you did not already get one earlier. There is a table in the lobby outside the auditorium for informational materials. Voters are encouraged to pick up materials at the lobby table. In hand distribution of materials is limited to areas outside the building and as directed by the police.

This meeting is being televised and recorded for our cable television channel. I want to thank the students of the Hamilton-Wenham High School for their work in producing the program and their teachers, Mr. Chris Shailor and Mr. Bill Melville.

If you have a cell phone or other personal communications device with you please turn off the audible ringer or the phone. If you should receive a call that must be taken please leave the meeting hall before taking or returning the call.

If for any reason we are unable to complete action on the Warrant tonight this Town Meeting will be recessed until Tuesday night at 7:30 p.m. at this same location or until such later time as we are able to get a quorum.

I am informed that there are some corrections to the Appendices to the Warrant and rather than making the corrections now, we are noting them and I plan to note them by Article when the Article is taken up and before the motion is made.

At this time we can proceed to the Warrant.

Introduction of front table:

- Bruce Ramsey – Moderator
- Jane Wetson – Town Clerk
- Marsha Perkins – Administrative Assistant
- Donna MacKenna – Town Counsel
- Candace Wheeler – Town Administrator
- Allison Jenkins – Assistant Town Administrator

Board of Selectmen:

- Richard Low
- William Bowler
- Robert Bullivant – Chair

Finance and Advisory Committee

- Arthur Oberheim – Chair
- Dan Bukkhegyi
- Sandy Shaw
- June Prince
- Deborah Nippes-Mena – Finance Director/Accountant

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**ARTICLE 1-1 Election of Officers and Ballot Question**

Moved by the Moderator and duly seconded, that the Town vote to elect the following Town Officers and to vote for the ballot questions shown as Appendix A of this Warrant at the Annual Town Election on Thursday, May 17, 2007 from 7:00 a.m. to 8:00 p.m. at the Winthrop School.

- Town Moderator for one year
- One Selectman for three years
- One Assessor for three years
- One member of the Planning Board for five years
- One member of the Hamilton Housing Authority for five years
- One member of Hamilton Wenham Public Library Trustees for three years
- Three members of the Hamilton-Wenham School Committee for three years

The Moderator announced the vote on Article 1-1 will be by ballot on Thursday, the 17<sup>th</sup> of May, 2007 at the Winthrop School. The polls will be opened at 7:00 a.m. and will close at 8:00 p.m.

After reading the article, the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

**APPENDIX A**

**BALLOT QUESTIONS FOR HAMILTON ELECTION  
May 17, 2007**

**Question 1: Town Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the Town of Hamilton be allowed to assess an additional \$ 121,582 in real estate and personal property taxes for the purpose of funding the Town’s net operating budget for the fiscal year beginning July 1, 2007?”

**Question 2: School Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the Town of Hamilton be allowed to assess an additional \$340,121 in real estate and personal property taxes for the purpose of funding Hamilton’s apportioned share of the net operating cost of the Hamilton-Wenham Regional School District for the fiscal year beginning July 1, 2007?”

**Question 3: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)**

“Shall the Town of Hamilton be allowed to assess an additional \$28,500 in real estate and personal property taxes for the purpose of funding the purchase of a Police Department cruiser and related equipment for the fiscal year beginning July 1, 2007?”

**Question 4: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)**

“Shall the Town of Hamilton be allowed to assess an additional \$54,000 in real estate and personal property taxes for the purpose of funding the purchase of two Department of Public Works pick-up trucks for the fiscal year beginning July 1, 2007?”

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**ARTICLE 1-2      Reports**

Moved by William Bowler, Selectman, duly seconded that the reports of Town Officers and Committees be received and placed on file.

The Moderator called for the vote.

**VOICE VOTE:      MOTION PASSES**

Moderator recognized John Hale for an oral report.

John Hale – Public Safety Building: Most of you have seen by now the existing police and fire station has been taken down and by the end of the day tomorrow the site will be cleared. I would like to thank all of those who have supported this project. The project is 85% completed, the asphalt will be taken out and they will re-grade the front of the building. The ECO, the Fire and Police departments moved into the new building last month and are 100% operational. We see the completion of this building sometime in July or August. There will be an open house sometime in September with details to follow.

Gretel Clark – Recycling Committee: By mandating the recycling program it brought our trash down by 6% and it may be down by 10% by the end of the year. We are at 8% this fiscal year. So each month it goes down a little more and we're delighted that you are paying attention every time you throw something into that recycle bin. We've also saved over \$11,000. We are hoping when we get this program formally in place, which will be presented at the October Town Meeting that we are expecting to have a further reduction, somewhere between \$25,000 and \$35,000 or even more. Right now it is being done informally but once we take this really seriously, we expect to see a great deal more recycling take place. Waste reduction versus pay as you throw, in waste reduction taxes pay for the cost of trash collection, recycling collection, trash disposal for one bag or barrel per household and individuals pay for additional trash only if they have more than one bag or barrel. So for some it won't cost them anything and for others it depends. They will be required to put the extra solid waste into a large bag which will cost about \$1.20 or a smaller bag which will cost about 60¢. You will purchase the bags at your local store. You choose large or small according to your needs. Big items, such as couches, will need to have a sticker on them. The reason for the sticker is to encourage donation and ensure that non-residents are not bringing in bulky items. We're expecting a 25% reduction and that will be about \$50,000 to \$100,000 per year. It's smart, it's fair and only those who produce excess trash will have to pay for it. There will be a public meeting on May 21, 2007. There will also be group presentations upon request.

David Kerr – Landfill Steering Committee: The landfill committee has been meeting for the last 18 months and we have determined that we have a potentially beneficial property in the old landfill. The landfill is approximately 54 acres and was used for a relatively short period of time so there isn't a large amount of waste area that was actually used for disposal of rubbish. There are no encumbrances and the property is owned exclusively by the Town of Hamilton. Testing has begun in order to determine if the landfill will meet the standards for closure. Until the Department of Environmental Protection accepts closure of the landfill we essentially have a dump. Once the testing has been completed and the Department of Environmental Protection is satisfied with the results we then have a piece of property we can begin to develop. We anticipate testing results and a report to be completed by the summer of 2008. At this time the Landfill Steering Committee is an unfunded committee and we are applying for grants to fund marketing and research studies which will help us determine the best physical and environmental use of the land. They also realize that we will have to do some hand holding and tip toeing with the Town of Manchester to get them on board. They will be looking to the various boards and the public for their input. This is a long process which could take 3 to 5 years before soliciting developers.

David Carey – Capital Management Committee: The Capital Management Committee's mission is to coordinate capital management for both town and school district. They have completed a survey of all 14 towns and school buildings, about 400,000 square feet. We have identified a list of capital improvements that need to be made over the next seven years. The total is approximately 100 different improvements. We've identified that 15 of those need to be made in the near future. They were prioritized based on health, safety, operational impact and potential cost savings. They have contracted with an architect/engineer to refine scope and cost estimates which should come back within +/- 15% of the estimated cost and we think we need that level of accuracy. The next step is to prepare a capital line funding request for the two towns and the schools and we will simultaneously seek grants to assist in paying for these capital improvements.

David Carey – Housing Partnership Committee: I am the Chairman of the Housing Partnership Committee and as you may recall, the Master Plan identified the need for more affordable housing in Hamilton. You may be aware that we are subject to a statute known as 40B, which allows a developer to bypass much of Hamilton's zoning if we are not in compliance. A committee was formed about two and a half years ago. We have five committee members who all have different experience in housing and affordable housing. Our mission is to increase the affordable housing units in Hamilton. We have taken a two part approach to this. The first is to look at larger properties that might help us get into compliance with 40B because we do need quite a few units to comply. The second approach is to look at smaller properties and we certainly can do that. Lastly, I did make one comment on the 40B Junction Project that you've heard about; but, let me back up to the larger property status. As you may be aware we need to produce approximately 20 units per year for affordable housing or 200 units at once to be in compliance with 40B. The state requirement is that 10% of the properties in your home town have to be affordable which is around \$200,000 each and as you know the average price of property in Hamilton is around \$540,000. So it's quite a differential between the two. To see if we could in fact produce 20 units a year we contracted with a financial analyst who specializes in affordable housing and he came back and said that he didn't think it made economic sense to try to produce a 20 unit property but a 32 unit property would in fact more or less break even economically. His assumptions were that we'd pay about \$2,500,000 for the land that would be approximately three acres. All the legal and so-called soft costs and development to put it together would be another \$2,000,000 and the construction of the 32 units would be about \$6,500,000 for a total project cost of around \$11,000,000. In addition Hamilton would have to pay between \$1,000,000 and \$1,500,000 to make economics work for the developer. We asked about a small property because 32 units seems like a lot of units and the answer was if you go smaller and smaller all those fixed costs of development remain, so more or less the overall project cost goes up and up on a per unit basis. The analyst felt fairly strongly that we did need to produce a property with around 32 units to hit that break even point and as I said the town would still have to pay about \$1,500,000. We think it would be very hard to site such a large project but we don't see that there are any strong options to do otherwise so we sat down with an architect and asked him to design what he thought would be the most appropriate property of this type for the Town of Hamilton. We spoke to him about smart growth as well, which in Massachusetts means that you locate near transportation and the projects have a neighborhood feel to them. They would often be in a downtown area for access to retail environment. In addition the state will pay \$3,000 per unit one time and a design fee up to \$75,000 for this type of property. So we said let's make it a smart growth property and one of the key elements will be mixed use, that there be retail in it as well. We need 20 units per years; if we build 32 units we would have protection from developers of 40B for approximately 18 months. We would have to do one of these projects about every 18 months which would be very hard to do and we would have to pay \$1,000,000 to \$2,000,000 for each one of these properties. We cannot just tell the state we are going to do this; we have to file actual plans get the plans certified and then issue actual building permits so this can be constructed. This is a rather difficult position we are in with 40B but we will continue to work with the selectmen.



Brad Hill – State Representative: I want to briefly go over what went on in terms of your local aid for the Town of Hamilton and for the school district. Our expenses in the state have increased over the last fiscal year compared to what the projected tax revenues were going to be for FY 08 and that remains to be true. As we built the budget two weeks ago, we were looking at having a deficit of between \$600,000,000 and \$800,000,000 going into FY 08, considerably lower than Governor Patrick's \$1,200,000 but as the year has gone on we have seen that our expenses are not as high as first anticipated in January, but higher than our projected revenues. Despite that the legislature felt very strongly that we needed to keep the promise we made last year in terms of increasing local aid under a 5 year plan that would bring every school district in the Commonwealth to a maximum of 17 ½ percent of their budget. In year two the Governor did not adopt that proposal. We looked at his proposal and decided that what we had offered last year would benefit the Commonwealth a little bit better. Last year I told you as part of our proposal we were going to change the distribution formula and instead of looking at the town's ability to pay as being 80% assessed evaluation and 20% median income that we needed to bring that level to 50/50 and we did that in FY 07. The Governor chose not to propose that in his budget. He decided he would go back to the old way of distributing those figures. Under our debate we decided we would continue with what we had decided last year as a legislature. So I am happy to report that the distribution formula will continue to be 50/50 in terms of the way we look at the town's ability to pay. We also continue on our five year journey to bring everyone to 17 ½ percent. We're in year two. What does that mean for Hamilton-Wenham? In FY 07 you received about \$3,200,000 for your school aid. Under our proposal with an additional \$40,000,000 over and above what was last year's figure for the school aid you will receive an additional \$139,000 over FY 07. Under the Governor's proposal you would have received \$38,000 less. In terms of our municipal aid we also got some victories last year and we were fearful that they may not continue in terms of your lottery fund. As you know during FY 03 we had to cut back what we were giving to cities and towns in terms of our lottery. We pay a cap of 75% of all funds after prizes and after expenses to go back to cities and towns. I argued along with many of my colleagues that we had made a pledge to the cities and towns that when the lottery was adopted that you would get back 100% of those funds after expenses and prizes. Last year we adopted the uncapping of the lottery fund so that it would all go back to the cities and towns. We adopted that again in this year's budget and on top of that we are projecting an increase in revenue in the lottery aid. What that means for Hamilton is last year you got \$744,000 and this year you'll be getting \$757,000, which is an increase of over \$12,000 in the lottery aid. Another line item that is near and dear to all of us is the pay in lieu of taxes "PILOT Program" and this is the state owned lands line item. Where we believe if you have a property in your town you should be getting some form of funding to help with the particular running of that, state park, in this case or other properties. The Governor proposed an increase in that line item. We adopted that increase so that will be an additional \$12,000 for the Town of Hamilton. So we are going from \$104,000 to \$116,000 for that particular item, which I think is a major victory. I know this is something that MMA has been pushing for many many years and an issue the Board of Selectmen have been contacting me on for nine straight years. We also heard from your Department of Public Works director as well as your chairman and Candace that we need to do a better job with the infrastructure money you receive and we're talking about your CH 90 roadway program. In the past we had to cut back during the bad times to about \$100,000,000 to be distributed to all the cities and towns. About a month and a half ago we adopted a Bond Bill that put \$150,000,000 into our roadway program for our municipalities. That allows Hamilton almost \$191,000 for FY 08 and the construction season, which historically we have to wait until the fall because we don't know what the figure will be until the legislature passes something. This year we passed it early so you attack this spring and summer's construction season with that \$191,000 for your roadway projects. In closing I want to thank the local boards I work with. You are all a pleasure to work with you and assist you up on Beacon Hill. Thank you for the efforts of the Town and School. It has not been an easy few years with at the state and municipal level but we do see light at the end of the tunnel. Senator Tarr feels the same way; unfortunately he could not be here tonight.

To Chairman Bullivant thank you for your service and friendship you have shown me over the last few years, you will be sorely missed on the Board of Selectmen.

Arthur Oberheim – Finance and Advisory Committee: Some of you have seen these numbers before. I think the key take away here is when you have Proposition 2 ½ and 1% or less in new growth in a town with 3 ½ percent to work with you have these kinds of cost increases: Personnel 3.9%; Employee Health Benefits 7.5%; General Insurance 1%; Retirement 6.5%; Energy 6.0%; State and Local Revenues 0%, it does make it a challenging year. One thing that is different for this year is we have flat local and state revenues to support our budget. We also had a reduction in other revenue sources which I'll go into in a little more detail later. We had a decrease in new construction which would normally add to our tax base. Also to support the schools and the town we had a levy increase of \$573,000 which is relatively small when we are talking about an aggregate budget of over \$22,000,000. Proposition 2 ½ capital exclusions will be discussed tonight and we're asking for your support for a new police cruiser and two DPW pick-up trucks. The most challenging this evening is the town and school operating overrides. As we get into the budget highlights, the budget you will be looking at tonight represents a 1.5% reduction in revenue and a 4.4% increase in expenses and those expenses were driven by the tree removal, drainage, health insurance, energy, joint library and retirement. If you took those increases out of the budget the rest of the budget as actually a negative increase. There was also a 5.9% increase in our assessment for the schools. When we started the budget in January, we knew we'd have a long road to go and this year out of the requests we took \$518,000 of reductions which included two trucks, side walk plow, reduction of employee hours, two unfunded positions, alternate financing for \$103,000 of expenses that came from Chapter 90 and CPS. Other revenue sources, that we have benefited from in the past to help fund our budget have decreased from FY 06 and FY 08 by 46%. The school system represents the biggest portion of expenses paid each year with public safety and the DPW following. The gross budget represents a levy increase of 6.5%. The levy increase and tax impact budget are reviewed with a tax increase of \$.83 for FY 08.

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#### **ARTICLE 2-1 Compensation/ Classification Table**

Moved by Larry Warner, Chair, Personnel Board, duly seconded, that the Town amend the Personnel By-law, as recommended by the Personnel Board, by adopting changes to the classification and compensation tables, copies of which are on file with the Town Clerk and which are set forth in Appendix B of the 2007 Warrant Book, [with the corrections read by the moderator.]

Moderator recognized Bob Bullivant, Chair, Board of Selectmen.

Bob Bullivant: I want to personally recognize and thank our next speaker, Larry Warner, who is serving his 4<sup>th</sup> term on the Personnel Board. I had the pleasure of serving with Larry on three of those terms. He has been a beacon of fairness and a guiding light for our Personnel Policies development. He has served on several search committees to help hire key employees and bargaining committees for contract negotiations with employee unions. He, personally at home, has maintained classification and compensation system on his spread sheets for many years. I thank you Larry, we are retiring together, my friend.

Larry Warner: I thank you Bob and thought I would just be able to slip away quietly. My terms on the Personnel Board have been a pleasure working with members of the Personnel Board and Board of Selectmen. I had the opportunity to know and work with the employees of the town. Our employees are a talented and dedicated group and we are lucky to have them.

Keep up with inflation. The consumer price index for this area in calendar year 2006 recorded a slightly larger increase about 3.25%. I forgot about changes that I had recommended for the last Fall Town Meeting that we

ended up not having. For the most part they are fairly minor. The assistant to the Town Administrator and the Assistant Treasurer/Collector's salary schedules were raised somewhat to keep them consistent with market salaries for these positions. Other changes include in the assessor's office, the Director of Assessor's position has evolved into a greater responsibility including many of the duties previously performed by the Chief Appraiser.

A new job description has been approved by the Director of Assessing and the position has moved to the salary scale previously occupied by the Chief Appraiser. At the same time the position of Chief Appraiser has been eliminated and replaced by Evaluation Consultant which is a contract position. These changes have offset one another in the assessor's office and have had a zero effect. The salary scale for Assistant Town Accountant has been increased to the level of Assistant Treasurer/Collector reflecting similarities in duties and requirements of both positions and current market salaries in similar positions. The facilities repair and maintenance position which has saved the Town considerable sums of money in recent years has been increased from a four step salary scale to a seven step salary scale.

The Moderator called for the vote.

**VOICE VOTE:        MOTIONS PASSES UNANIMOUSLY**

**SEE FOLLOWING PAGES FOR THE COMPENSATION/CLASSIFICATION TABLE**

**ARTICLE 2-2      General Town Appropriations**

Moved by Arthur Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town raise and appropriate the sums for schools and all other Town expenses which are set forth in the 2008 Fiscal Year Budget appearing as **Appendix C** to the Warrant Book with the additions and corrections read by the moderator, on the condition that appropriation for the following items will be contingent upon passage of a motion pursuant to Article 2-8 of the 2007 Warrant: \$59,000 for drainage to fund an engineering study on water flow and the initial work related to repairing and replacing culverts, basin and discharge areas, \$25,000 for tree removal and associated costs and \$37,582 in departmental expenses shared by each department proportionately; and [excepting those items held].

The Moderator called for the vote.

**VOICE VOTE:      MOTION PASSES**

**SEE FOLLOWING PAGES FOR THE GENERAL TOWN APPROPRIATIONS**

**ARTICLE 2-3 Water Enterprise Budget**

Moved by Arthur Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town approve the Water Enterprise Budget set forth in Appendix D to the 2007 Warrant Book.

After a brief explanation by Arthur Oberheim, the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

**SEE FOLLOWING PAGE FOR THE WATER ENTERPRISE BUDGET**

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**ARTICLE 2-4 Water Enterprise Retained Earnings for Legal Expenses**

Moved by Arthur Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town transfer \$25,000 from Water Retained Earnings to the Water Emergency Fund to pay for FY 07 legal expenses.

Arthur Oberheim explained that this will have no impact on real estate taxes and they do not anticipate any change in water rates for FY 08. They found they had legal expenses exceeding what was approved in the budget. So they are asking for approval of \$25,000.00 to pay for legal expenses.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**ARTICLE 2-5 Water Enterprise Retained Earnings for FY 07 Capital Purchases** Moved by Arthur Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town appropriate \$19,360 from Water Retained Earnings and appropriate \$10,640 excess from the appropriation made at the 2006 Annual Town Meeting Article 2-4 to pay for the purchase of additional radio-read water meters for the Water Department in FY 07.

Arthur explained that they are about half way through replacing the water meters with radio-read meters which are more efficient and will cost less to maintain and read. In addition they hope to catch more water volume and bill it then they have in the past. There will be no impact on the real estate taxes and no anticipated increase in water fees at this time.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**ARTICLE 2-6 Water Enterprise Retained Earnings for FY 08 Capital Purchases**

Moved by Arthur Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town appropriate \$30,000 from Water Retained Earnings to pay for the purchase of additional radio-read water meters for the Water Department in FY 08.

Arthur explains that this is allocated from our Water Retained Earnings of \$30,000.00, again to help complete the radio-read water meter.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

**ARTICLE 2-7 North Shore Vocational Regional School District Budget**

Moved by David Ketcham, duly seconded, that the Town approve the gross operating and maintenance budget of the North Shore Regional Vocational School District and raise and appropriate \$144,617 for the Town’s assessed portion thereof.

David explained that this supports one of the public schools that some of us may be unaware of. There are 10 students that attend this school in Middleton.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**ARTICLE 2-8 Town Operating Override**

Moved by Bob Bullivant, Chair, Board of Selectmen, duly seconded, that the Town appropriate \$121,582 to be raised contingent on the passage of a referendum question pursuant to G.L. c.59, Sec. 21C (g), for operating expenses of the Town, such referendum question to be voted upon by **Question 1** ballot at the Annual Town Election to be held on May 17, 2007 at the Winthrop School from 7 a.m. to 8 p.m. The ballot question text is set forth in **Appendix A, Question 1** of this Warrant, and is incorporated herein by reference.

Bob Bullivant explained that in his 25 year memory of the Town of Hamilton this is the first year where the operating budget of the Town does not balance. He states that he wishes he could tell us this is an anomaly but after many reductions they could not find a way to make it balance. There was a ballot question last year for an operating override but the coincidence of that was the voters passed the override but the Selectmen did not ask for it. At the last minute they found some money and were able to balance the budget. This year they need to ask the Town for \$59,000 in drainage work to help with the flooding conditions, construction on Howard and Lincoln Streets for culvert repair and some channel dredging and on Essex and Appaloosa Streets catch basin and drain line installation. There is also \$19,000 going towards the Miles River Mitigation Project and a smaller portion of \$7,000 for small repairs on culverts throughout the town. They need \$25,000 for tree removal as the older shade trees are dying and pest infestations that are adding to the problem. They are hoping to remove the old ones and plant new ones and the last \$37,582 is for a miscellaneous category called "Departmental Expenses". They don't know exactly how all these are going to be rounded up if the override is not passed.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

**APPENDIX A**

**Question 1: Town Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the Town of Hamilton be allowed to assess an additional \$ 121,582 in real estate and personal property taxes for the purpose of funding the Town’s net operating budget for the fiscal year beginning July 1, 2007?”

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## **ARTICLE 2-9 School Operating Budget Override**

Moved by Laurie Wilson, member of the School Committee, duly seconded, that the Town appropriate \$340,121 to be raised contingent upon the passage of a referendum question pursuant to G.L. c. 39, Sec. 21C (g), and also contingent upon the Town of Wenham appropriating its **Question 2** proportionate share, for Hamilton's share of the FY 2008 operating budget of the Hamilton-Wenham Regional School District, as voted by the School Committee. A referendum question is included in the ballot for the Annual Town Election to be held on May 17, 2007 at the Winthrop School from 7 a.m. to 8 p.m. The ballot question text is set forth in **Appendix A, Question 2** of this Warrant, and is incorporated herein by reference.

Laurie Wilson: Mr. Moderator, I request permission to have Dr. Marinel McGrath make a presentation on this motion.

Moderator: I recognize Dr. Marinel McGrath, Superintendent.

Dr. McGrath: Before I begin the school budget presentation I would like to take a moment to introduce Mr. Paul Szymanski who is the new Assistant Superintendent for finance. Mr. Szymanski comes to us with private sector experience and as the school business administrator in regional, single and municipal school districts. I welcome him and look forward to the expertise he will bring to our district. I would also like to thank the school committee, Hamilton Selectmen and Finance Advisory Board for their work on the 2008 budget. I put the mission and district goal in front of us because this is the foundation upon which we actually build the budget as well as taking into consideration the physical constraints of the school district for the Towns of Hamilton and Wenham and the Commonwealth as key driving forces. Joint work with Hamilton and Wenham began in the fall of 2006 through the development of a level services budget which was actually presented to the community on February 1, 2007. Essentially while level services were the goal, it was not possible. Level services for the school district yielded an increase in expenses of \$1,947,000 or an 8.2% increase over FY 07. Given the current fiscal climate it was determined that the school could not maintain level services for FY 08. The challenges to the level services are the Town's health insurance, salaries and utilities and for the school district in particular, special education costs. Since those budget drivers are considered fixed costs or contractual mandates, existing services were then viewed for reductions. The funding gap for level services was \$1,451,035. So we said that the increase of 8.2% to maintain the level services could not be offset by traditional revenue sources. The projected revenue, as shown, our main areas are Chapter 70A and although it shows \$101,050 there, we have received notice that we should receive an additional \$37,000 in that particular category. In school choice we are going to have an increase this year due to the large number of students who are graduating as well as a small 8<sup>th</sup> grade class which allows us to take more choice students into the 9<sup>th</sup> grade. The circuit breaker is one of the funding areas where the state gives us some relief for special education funds and Medicaid reimbursement associated with special education. Overall you can see that we have a decrease in our revenues of \$133,000. Chapter 70 illustrates the state funding and you can see that it's down for the 8<sup>th</sup> consecutive year. Your school committee is working very hard to change this formula through lobbying the legislators to take the burden off the tax payers. People are always curious about where our reserve fund stands. In FY 08 the allowable levels underneath the regional school law and state law is 5% of the gross budget. For the last five years we've been able to offset our budget by using some of the reserve fund monies. This year we will not be able to because we have depleted it over the years and in FY 07 you can see we had to spend unanticipated costs on special education and regular education to the tune of \$215,000. Our balance as of May 1<sup>st</sup> was \$309,000 which is only 1.32% of the total budget and we estimate our year end savings at \$125,000. So we estimate that by June 30<sup>th</sup> we will have \$434,011 or 1.76% left in our undesignated fund balance. Our auditors strongly recommend that we have at least 3% in that area. In order for us to reduce the school budget we have to realize the funding back of the \$1,451,000 through program cuts and through personnel cuts or we can look at it through program cuts, personnel cuts and the school override. The summary of the reductions in the proposed reserve services reflects personnel and program reductions totaling \$1,451,000.

In the area of personnel you can see that there will be a reduction of 31.6 staff reductions totaling \$1,295,349 and a reduction of \$155,686 to non salary accounts for instructional supplies and technology. This budget also includes 100% user fees for all athletics and K-12 extra curricular activities and increased reliance on grants. Last year we were able to earn \$847,000 in grants. This is what the personnel reductions look like by level. The 31.6 positions that will be cut from this year's budget is 10% of our current staff. I would like you to think for a moment about the compounding affect that this has had on our total program. It's sobering to note that the elimination of these 31.6 positions, which equates to 10% of our current staff from this budget when added to the reductions that have been made in recent years, is a total loss of 89.4 positions in the district since 2001. The gains that we made in restoring staff services and programs through the FY 05 and the FY 06 budget are once again lost. With the impact of the \$1,400,000 reduction we know that there are going to be several realities that we'll face as a result of the personnel and the expense reduction. At the elementary level there will be higher class sizes, three to four students per class beyond the school committee class size policy and there will be redistricting in grades 1 through 5. If we are able to achieve the override we will only have to redistrict in grades 4 and 5. At the middle and high school levels class sizes will increase an average of three to six students beyond the class size policy. When we reviewed the impact of these reductions on the curricular program we found that to make all these reductions once again would be detrimental to our core academic program and would severely compromise our central mission for teaching and learning and it's for this reason that we are advocating for a school override to retain some of those core services that we gained in the FY 05 and FY 06 budgets. The proposed override would retain 9 of those 30.6 positions. It includes all academic classroom teachers. The override was constructed to maintain the lowest class size we could with the emphasis on our youngest learners in K-4. In summary the override will retain those nine positions but we would still lose 22.6. To recap the FY 08 budget on March 29<sup>th</sup> the school committee voted to adopt the gross operating budget at \$24,625,000, \$610,000 of which is offset by the state revenues totaling \$4,700,000 and the towns combined contribution of \$19,000,000 which is an increase of 3.3% over last year. The budget is balanced with the override request at \$494,000. This budget does not contain any funds for our strategic plan which is aimed at restoring and advancing programs and services for our students, which this year would have been two positions in the arts and academic areas. This budget is a no win. It has been criticized by our citizens as not being enough for our students. The school committee and I will tell you that the current level of funding does not allow the district to adequately address its needs. Instead there will be significant personnel and program reductions for the 6<sup>th</sup> consecutive year. How do our expenditures compare to the state? In FY 05 and the reason its 2005 is this, is the latest data available for year end reporting for the Department of Revenue and the Department of Education. Hamilton-Wenham spent an average of \$9,029 per regular education student while the state average was \$9,096.

The dollar amount proposed for the school override is \$494,938. Hamilton's total equals \$340,121 which is \$124 per median household. I'm going to ask you to indulge me while I talk about the human side of the numbers as they relate to our students. When I addressed the school committee in March, I began with saying that Charles Dickens began A Tale of Two Cities by writing, "It was the best of times, it was the worst of times." He was talking about 1775; this is how I feel in 2007. Despite yet another difficult budget year the faculty and the staff of our regional school district remain committed to providing an excellent educational experience for our students. Many years of hiring the best and brightest classroom teaches and administrator's leaves us with a strong foundation that I am confident can once again sustain the impact of these reductions. I believe that FY 08 will be the tipping point for our schools. With this promise, to do more with less, comes my hope that we can reverse this trend in the near future. The strain it lays on the district by several years of inadequate budget growth, is compromising the education of our students. Over the course of the last six years the town's ability to provide adequate levels of funding to school or municipal budgets has been eroded by rising costs in several areas such as special education, utilities and health insurance. All of this is exacerbated by a state government that has retreated from its financial commitment to fund public education in suburban districts. In the best of times our students have a long



history of achieving excellence, whether it's in the classroom, on the stage, on the playing field and in every arena in which they participate.

This didn't happen by accident, rather it happened because you, the residents, who have backed your pride in your public schools with the necessary financial commitment to adequately support them. Generations of Hamilton-Wenham students have had the privilege of attending our schools and were given countless opportunities to succeed.

Despite the ongoing economic hardships the school district remains steadfast in its commitment to fulfill its mission to educate our children to become knowledgeable, healthy, responsible and productive adults. It is for this reason that the school committee and I appeal to you for your support of the proposed budget and school override this evening and again at the ballot vote on May 17<sup>th</sup>. In closing and on behalf of the district thank you for your continued support and your careful consideration of this request.

The moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

### **APPENDIX A**

#### **Question 2: School Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the town of Hamilton be allowed to assess an additional \$340,121 in real estate and personal property taxes for the purpose of funding Hamilton’s apportioned share of the net operating cost of the Hamilton-Wenham Regional School District for the fiscal year beginning July 1, 2007?”

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#### **ARTICLE 2-10 Capital Exclusion Police Department Police Cruiser**

Moved by Walter Cullen, Chief of Police, duly seconded, that the Town appropriate \$28,500 to be raised contingent upon the passage of a referendum question pursuant to G.L., Ch. 59, Sec. 21C (i ½), to purchase a Police Department cruiser and related accessories, such referendum question to be voted upon by ballot at the Annual Town Election to be **Question 3** held on May 17, 2007 at the Winthrop School from 7 a.m. to 8 p.m. The ballot question is set forth in **Appendix A, Question 3**, of this Warrant, and is incorporated herein by reference.

Chief Cullen: In the current fiscal year FY 07, you heard the Chairman of the Board of Selectmen on how they balanced the budget this year. One of the ways they balanced it is we did not receive a cruiser this year. This is the first year I can remember that the police department did not buy a new cruiser. Right now we have a 2003 with 150,000 miles on it and will have 160,000 by July and we would like to turn this in and replace the cruiser. We try to run these cars for 3 years with 120,000 miles on them then turn them in. Any time they go over 120,000 miles it starts costing a lot of money for maintenance and we still have an old cruiser. In the last nine months we've spent over \$5,000 fixing this cruiser and that's above and beyond normal maintenance.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

## APPENDIX A

### Question 3: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)

“Shall the Town of Hamilton be allowed to assess an additional \$28,500 in real estate and personal property taxes for the purpose of funding the purchase of a Police Department cruiser and related equipment for the fiscal year beginning July 1, 2007?”

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### ARTICLE 2-11 Department of Public Works Capital Exclusion

Moved by Bill Bowler, Member, Board of Selectmen, duly seconded that the Town appropriate \$54,000 to be raised contingent upon the passage of a referendum question pursuant to G.L., Ch. 59, Sec. 21C (i ½), to purchase two Department of Public Works vehicles, such referendum question to be voted upon by ballot at the Annual Town Election to be **Question 4** held on May 17, 2007 at the Winthrop School from 7:00 a.m. to 8:00 pm.; the ballot question is set forth in **Appendix A, Question 4**, of this Warrant, and is incorporated herein by reference.

Bill explained that this is a capital exclusion for two pick-up trucks that are badly needed by the Department of Public Works. This would be a one time exclusion. It would not go on the tax levy permanently.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

## APPENDIX A

### Question 4: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)

“Shall the Town of Hamilton be allowed to assess an additional \$54,000 in real estate and personal property taxes for the purpose of funding the purchase of two Department of Public Works pick-up trucks for the fiscal year beginning July 1, 2007?”

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### ARTICLE 2-12 Community Preservation Committee Budget Approval

The Moderator stated that there is a correction to **Appendix F** of the Warrant Book. The fifth appropriation, the Pleasant Pond Landscape Improvement Plan, should be corrected by **deleting ‘parking lot improvements and sub-grade preparation’** and **substituting ‘materials for the stone wall and Gate House, landscaping and electrical work’**. I now recognize Tom Catalano.

Moved by Tom Catalano, Chairman, Community Preservation Committee, duly seconded, that the Town appropriate or reserve from Community Preservation Fund annual revenues the amounts recommended by the Community Preservation Committee for the administrative expenses of the Community Preservation Committee, community preservation projects, community preservation special and general reserve funds and other expenses in Fiscal Year 2008 as set forth in Appendix F to the 2007 Warrant Book, with the correction as read by the Moderator, and with each item to be considered a separate appropriation.

Tom Catalano: As you know this is the second year we've had the community preservation and we have projected revenues this year of \$600,000 between our town appropriation and our state matching grant. The community preservation is dedicated to acquisition and preservation of office space, which includes recreation, creation and support of affordable housing, and acquisition and preservation of historic buildings and landscapes. Hamilton voted to have a 2% surcharge and right now we are getting a 2% match by the state. The CPA is used to fund projects that are a long term priority. It is used to fund capital projects for public facilities that would otherwise be funded using tax revenues. We are going to set aside a portion of annual CPA funds to help acquire key parcels should they become available. We give preference to projects which qualify in more than one of those four categories. We fund projects that are consistent with the Master Plan and other long range town plans.

In FY 08, we voted to set aside \$186,864 for a general reserve fund to be used in any of these three categories. This is to be used for open space, community housing or historic preservation. It could be used for bonding if a large parcel were to become available and the town wanted to act on it. It could also be used as a basis for matching grants with other sources and the funds are held in an interest bearing account. Over the course of the past winter and spring the community preservation committee received applications from many aspects of the community. We voted over the course of several meetings to come up with this list before you tonight. The first is to fund architectural and design work necessary for the repairs to the Community House. We voted to purchase a laptop for the Conservation Commission. We have voted to fund preservation of historic town documents. We'd like to fund a \$25,000 contribution for maintenance work on the Chebacco Woods Trail project. There is a \$50,000 grant the state has given to Chebacco Woods. Gordon College is going to be donating materials and services valued at \$1,700. The Essex County Trails Association will be donating \$250 and River Environmental Consulting has provided \$1,165 in pro bono work. So that is the example of how we can use the CPA fund to get other funding to move these projects ahead. As many of you know Pleasant Pond is an area used by Hamilton and Wenham. Last year the Wenham CPA gave \$10,000 and they're giving \$13,000 this year and we're asking for \$23,000 to bring up our end of that which will be used for a parking area, lighting, gate house and other improvements, including maintenance of a foot path that goes from Hamilton to the Pleasant Pond area. There is also a project for a public benefit proposed by a boy scout to build picnic tables, bike racks and trash receptacles to be located throughout town. The next project is for an energy audit and heating design for Town Hall for a cost of \$9,900. Last year we had wanted to appropriate monies for replacement of the HVAC system or repairs to same at Town Hall. The scope of the project grew beyond the initial appropriation and it was decided we would fund a design study and an energy audit to figure out the best way to get the system up to date. Last year we had voted to spend some funds on the repair of the historic vaulted ceiling in the upstairs room at Town Hall and again we were not able to get repairs in place. We are proposing to replace underground wiring at Patton Park which is in disrepair and install one additional light to light the playing field. The Zoning Board of Appeals voted unanimously on May 2, 2007 to approve this. The Woodbury Street Path is construction of a removable street crossing as part of the potential completion of Woodbury Street, which was applied for by the Road Safety Committee. A section of the path was built last year using some monies from a grant and many in kind contributions and services from volunteers and this is to build a removable crossing so the Department of Public Works can, when required, remove the bridge, keep it clear and prevent any problems with beaver activity. The landfill study cost \$179,000 as mandated by the state. This is \$113,000 of CPA money which is going to augment the \$66,000 the town has already committed to spend on this project. I think all of you saw the Model T on your way in, this is part of a project that's an adjunct to the new public safety building. The Model T was originally housed in a building you can see in the lower section of the slide which was built by fire department volunteers about 12 years ago and the building had to be raised as part of the construction of the new public safety building. The Model T is a significant part of Hamilton's history and the fire fighters are asking for \$35,000 for materials for construction of a new display building. They are going to supply all the labor. They also have the architect of the public safety building assisting in the design. We are asking to set aside 10% of the 2008 fund for potential community housing projects.

As part of the statute we are allowed to spend 5% of our funds for administration expenses. Part of that goes to pay Christine Berry our new administrative personnel and part goes to the membership for the community preservation coalition which previously had been privately funded.

Robert DeFelice, 341 Cutler Road: My question is related to the personal computer for \$1,200. Personal PC's are \$4,500, why do we need to spend \$1,200?

John Hamilton responds to the question and states that they will attempt to save money and further explains the benefits of the software for the Conservation Commission.

Esther Herdeg, 37 Howard Street: I have a question about the ceiling at Town Hall. Last time I was up there it is a bunch of offices with dividers and it seems to me one of the better suggestions would be to make a drop ceiling, which would be less difficult to heat. I don't know if you plan to put it back to the beautiful hall we had with the dome ceiling so that's my question.

Tom Catalano: We're required to spend or set aside 10% for historic preservation. The room upstairs at Town Hall is an architectural treasure piece and it would be a shame to cut that to a lowered ceiling. The repair cost is relatively small given the value of the building.

Beth Ganister, 150 Woodbury Street: I just have a comment about the Woodbury Street Bridge. I live next to this property. I am on a first name basis now with everyone at DPW. For two months Steve started his day at 7:30 a.m. cleaning the culvert of beaver activity every night. It's currently caused again from spring run off. The only bridge design we have seen virtually makes the culvert inaccessible and any time we've seen a back hoe come to clean out anything there was when the whole road had to be torn out to replace the culvert. Funding this project \$32,000 in the over all scheme of what our budget is doesn't seem like very much but it's \$32,000 that is ultimately going to cost more money because Steve is going to be there more often cleaning out this culvert. My husband and I go down there with rakes and we try to shovel it out as much as we can, but when we can't do it anymore we call Steve. This bridge is going to make it completely inaccessible to us. There are a lot of wonderful projects here. The town needs funding in other areas and I would ask that you allocate the \$32,000 somewhere else where it can be used better.

Robert DeFelice, 341 Cutler Road: I have one more question for Mr. Catalano. I'm curious about the \$113,000 for the study, did you say that's mandated by the state?

Mr. Catalano: It's part of a mandated state environmental report prior to getting the dump certified to be closed.

Charlotte Lidrbauch, 211 Sagamore Street: We seem to have this embarrassment of riches in the CPA fund and as a parent in the school district it's amazing that we have \$25,000 to build a trail but we're about to lose our school music teacher.

Tom Catalano: Unfortunately the way the CPA is set up, it is not regular town revenue, it's meant to augment our town spending and what we are getting by spending these things it's like \$113,000, for instance that we are mandated to spend on the landfill study, if that had to come out of town revenue we'd be adding that to the school override so we are actually helping the schools not harming them.

Unknown Speaker: I just need clarification on the expense for Pleasant Pond because I'm not clear about what part of it is in Hamilton. I'm certainly an advocate of working with Wenham but just from being on the finance committee and other issues I'm just not certain where this is going and if we build this what are the ongoing expenses we may incur.

Tom Catalano: Hopefully we have a member of the Pleasant Pond Association here tonight.

Virginia Baker, 2 South Street, Wenham, MA: I'm the President of the Pleasant Pond Association. To address the question there's an actual portion of the Pleasant Pond area where there is a division coming from the small area trail up to the back of the wooded area. The idea is that it's a shared property between Hamilton and Wenham and used by both Hamilton and Wenham residents. There are many components to the plan, the parking lot, there is a retaining wall and those are all things that we are striving to build and the engineering and landscaping design is to build it to last for generations. Maintenance does not come out of the CPA funds. That is something the DPW from Wenham will continue with. As Mr. Catalano explained this is a different set of funding,

Tess Leary, 20 Bay Road: My concern is the building of a new facility for the Model T. I would like to know where it is going and why it cannot be included in the structure that now exists.

Kalil Boghdan, 12 School Street: I am Chairman of the Building Committee. There certainly is more than enough space in the current facility to house the Model T. The firemen felt this was a piece of town history and they wanted a separate facility where the Model T would be on view for the citizens of Hamilton to see at all times.

The moderator states that the question is: Where do they want to locate the new structure?

Kalil Boghdan: On the drawings if you're looking at the former library it is going to be to the right of that in the rear and will be part of the landscaping and final public parking lot.

Kirby Brand, 42 Grant Avenue: The members of the fire company have spent lots of money on this piece of equipment to restore it and keep it in good shape. It was the first piece of motorized equipment that the town owned. If we leave it on the apparatus floor it will surely get damaged and dirty. We feel that this piece of equipment deserves to be maintained for the future of our town and we ask for your support.

Bob DeFelice: Mr. Catalano would you please explain once more the \$186,000 undedicated reserve?

Mr. Catalano: We have several types of reserves. We have dedicated reserves for which we're setting aside \$60,000 for our community housing and \$14,000 for open space. The \$186,854 is a general reserve which we can then chose to spend in any of the four categories. The idea is to give us some flexibility.

Esther Herdeg: Would it be possible to treat as wholes all the things that were questioned, vote on everything else and then vote on each of those individually?

The moderator responds by stating that they can vote on them as a group with just one motion for the entire batch as recommended or they can treat it the same way they do the town budget and go through and if anybody wants to vote on a particular item separately we can use the whole procedure vote on those that are not held and then go back and take each one that is held separately. He states that he would like to know what the will of the meeting is. He then states from what he can tell the will of the meeting is to treat the group as a package so that's what will be done.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

**SEE FOLLOWING PAGES FOR THE COMMUNITY PRESERVATION COMMITTEE BUDGET**

**APPENDIX F  
COMMUNITY PRESERVATION COMMITTEE BUDGET FY 08**

<b>SOURCE</b>	<b>PURPOSE</b>
ANNUAL REVENUES	To appropriate \$1,200 from FY 2008 Community Preservation Fund Revenues to fund the purchase of a laptop computer needed to carryout the Mass. Conservation Mapping Assistance Partnership Program.
ANNUAL REVENUES	To appropriate \$8,200 from FY 2008 Community Preservation Fund Revenues to fund the architectural and design work necessary for the repair of the HW Community House portico and underlying structural system.
ANNUAL REVENUES	To appropriate \$16,346 from FY 2008 Community Preservation Fund Revenues to fund the preservation and scanning of a variety of the Town's historical assets which are in need of conservation.
ANNUAL REVENUES	To appropriate \$25,000 from FY 2008 Community Preservation Fund Revenues to fund trail improvements on portions of the White Dot Trail at Chebacco Woods.
ANNUAL REVENUES	To appropriate \$23,300 from FY 2008 Community Preservation Fund Revenues to fund a portion of the Pleasant Pond Landscape Improvement Plan, specifically, parking lot improvements and sub-grade preparation.
	<b><u>CORRECTION TO READ:</u></b> To appropriate \$23,300 from FY 2008 Community Preservation Fund Revenues to fund a portion of the Pleasant Pond Landscape Improvement Plan, <b>specifically, materials for the stone wall and Gate House, landscaping and electrical work.</b>
ANNUAL REVENUES	To appropriate \$4,200 from FY 2008 Community Preservation Fund Revenues to fund the purchase of raw materials to construct a dozen picnic tables, bike racks, and trash receptacles to be placed in parks and various other public areas of town.
ANNUAL REVENUES	To appropriate \$9,900 from FY 2008 Community Preservation Fund Revenues to fund an energy audit of Town Hall.
ANNUAL REVENUES	To appropriate \$25,000 from FY 2008 Community Preservation Fund Revenues to fund an additional light and the replacement of the underground wiring at Patton Park which feeds various lights and poles at the Park.
ANNUAL REVENUES	To appropriate \$30,000 from FY 2008 Community Preservation Fund Revenues to fund the repair of the 1898 existing plaster ceiling of the 2nd floor of Town Hall.
ANNUAL REVENUES	To appropriate \$32,000 from FY 2008 Community Preservation Fund Revenues to fund the construction of a stream crossing needed to complete the pedestrian/bicycle pathway along Woodbury Street.
ANNUAL REVENUES	To appropriate \$113,000 from FY 2008 Community Preservation Fund Revenues to fund a study of the existing environmental condition of the landfill area and review the potential for its reuse.
ANNUAL REVENUES	To appropriate \$35,000 from FY 2008 Community Preservation Fund Revenues to construct the building that currently houses the Chemical I, a 1916 Model T/American LaFrance Chemical Truck, the first piece of apparatus purchased by the Hamilton Fire Dept.
ANNUAL REVENUES	To appropriate \$60,000 from FY 2008 Community Preservation Fund Revenues for the required 10% set aside for future Community Housing projects.
ANNUAL REVENUES	To appropriate \$30,000 from FY 2008 Community Preservation Fund Revenues for administration costs including, but not limited to, \$1,500 for the annual Community Preservation Coalition Membership Fees and salary for the part-time Community Preservation Committee Coordinator position.

**COMMUNITY PRESERVATION COMMITTEE BUDGET FY 08**

**Anticipated CPA Revenues of \$ 600,000 (including estimated state match of \$300,000)**

Summary of recommendations by Category		%
Community Housing	\$ 60,000	10.00 %
Open Space	\$ 114,200	19.03 %
Historic Preservation	\$ 99,446	16.58 %
Recreation	\$ 109,500	18.25 %
Administration	\$ 30,000	5.00 %
Undedicated Reserve	<u>\$ 186,854</u>	<u>31.14 %</u>
<b>Total</b>	<b>\$ 600,000</b>	<b>100%</b>

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**ARTICLE 2-13 Economic Development Studies**

Moved by Dick Low, Member, Board of Selectmen, duly seconded, that the Town appropriate \$55,000 from the remaining balance of the appropriation at the 2004 Annual Town Meeting, Article 2-6, to fund studies to foster development of net tax revenue to the Town, such sum to be spent by the Economic Development Committee with the approval of the Selectmen.

The Moderator recognized Bill Gisness, Chairman of the Economic Development Committee to make a presentation.

Bill Gisness: The Economic Development Committee was established by the Selectmen in 2004 to initiate ways to modify the land use policies to permit non single family uses. These types of projects are mainly to expand the tax base of the town and increase the net tax revenue. The Economic Development Committee initiated three initiatives to begin the process. One was to put together a mixed use by-law. Second was further uses downtown to promote the development of downtown. Several businesses have stated that they are interested in improving their development and their properties. Several studies are being conducted . The last was the development of the Hamilton landfill and their project became so complicated that another committee was established. The money is there but is only to be used for septic systems, but we would like to open it up so we can use it for other uses.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

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**ARTICLE 2-14 Annual Financial Actions**

Moved by Art Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town authorize the following financial actions:

- A. Transfer \$2,000 from the **Cemetery Sale of Lots and Graves Account** to be used for cemetery purposes;
- B. Transfer \$10,000 from the **Cemetery Perpetual Care Account** to be used for cemetery purposes;
- C. Transfer \$10,925.37 from the **Clark Property Account** to the Conservation Fund.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**ARTICLE 2-15 Certified Overlay Surplus Application**

Moved by Robert Trussell, Chair, Board of Assessors, duly seconded, that the Town appropriate \$30,000 of available certified overlay surplus to be used by the Board of Assessors to reduce the tax rate for the Fiscal Year beginning July 1, 2007.

Bob Trussell: The overlay account is set up in the recap with the supervision of the Department of Revenue. It's usually around \$80,000.00 to \$115,000.00 perhaps to take care of exemptions, abatements, senior work programs, foreclosures and things like that. The money we don't use is returned to free cash. We found that we could release \$30,000.00 to use this year to be used to reduce the tax rate.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**ARTICLE 2-16 Appropriation Excess FY 2007 Transfer**

Moved by Art Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town transfer \$30,000 from the Appropriation for the Finance Department to the Finance Committee Reserve Fund.

Art Oberheim: In our reserve account we have approximately \$19,000. We started the year with \$125,000.00. We know that we have bills that will exceed that that have to be paid this year. They fall into two categories, legal bills and some storm damage bills from this most recent storm. We also anticipated a longer gap in replacing the town accountant, which did not happen so we have \$30,000 in reserve that we would like to move to take care of the expenditures.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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The Moderator adjourned the meeting at 10:30 PM until Tuesday May 8, 2007 at the Hamilton-Wenham Regional High School starting at 7:30 PM.

**A TRUE COPY: ATTEST:**

\_\_\_\_\_  
**Jane M. Wetson, Town Clerk**



**TOWN OF HAMILTON  
ANNUAL TOWN MEETING**

**Adjourned Session  
Held  
Tuesday, May 8, 2007  
At  
Hamilton-Wenham Regional High School**

Moderator declared a quorum being present (150) and the Warrant returned showing it had been properly served, opened the Adjourned session of the 214<sup>th</sup> Annual Town Meeting at 7:41 PM with 310 registered voters checked and present.

Precinct 1 – 111  
Precinct 2 – 99  
Precinct 3 – 100

Moderator appointed the Assistant Moderator who has been duly sworn.

Tellers have been appointed by the Moderator and duly sworn.

John McWain	175 Woodbury Street
Richard Flynn	183 Linden Street
Robert Trussell	131 Railroad Avenue
John Gledhill	465 Bridge Street
Janice Pappas	5 Bittersweet Lane
Dave Thompson	103 Essex Street

We have set up the cafeteria across the hall as overflow space. There is a closed circuit television set in the cafeteria and two tellers. All other non-registered visitors must be seated in the visitors' area in the cafeteria.

Another procedural note, we record these proceedings so as to have an accurate record of the meeting. Therefore, unless I recognize you by name, please use the microphones provided and give your name and address when you arise to address the moderator. People in the cafeteria desiring to speak to any article should contact one of the tellers and arrange to be brought to the microphones in the auditorium.

All registered voters have been given a distinctive voter ID card when checking into the meeting. Do not lose or destroy this card. You will need to show the card on any counted vote. If you can not show the card, your vote may not be counted.

## **SECTION 3: PLANNING/ZONING ACTIONS**

### **ARTICLE 3-1      Senior Housing Special Permit**

Moved by Marc Johnson, Chairman of the Planning Board, duly seconded, that the Town delete the Elder Housing Special District provisions of the Zoning By-law, Section V-E, and replace it with a new Senior Housing Special Permit by adopting the language set forth in Appendix G to the 2007 Warrant Book.

Moderator recognized Marc Johnson to speak to the motion. Mr. Johnson requested David Santomena be allowed to present first. Mr. Santomena gave a brief history of the Senior Housing By-law process explaining how the current by-law, which has never been used, is out of date. He discussed the ways the Planning Board had reached out to the community over the summer of 2006 and throughout the year through open meetings, the Senior Housing Working Group, and informational sessions with concerned residents. Mr. Santomena thanked all those who participated in the process and recognized the hard work of the Senior Housing Working Group.

Mr. Johnson then addressed the Meeting to explain the purpose of the By-law. He explained the dual objectives of the by-law are: to allow the creation of senior housing and to generate tax revenue that does also generate education costs. The goal is to achieve both of these while protecting the character of the Town.

He said the Master Plan and events of the past few years have instilled the need to develop more senior housing and especially affordable senior housing. The creation of affordable senior housing is economically difficult, but would be addressed by this By-law. Mr. Johnson presented statistics that project the senior population will continue to grow in Hamilton over the next 20 -25 years. The goal of the By-law is to provide moderate and higher priced homes that will allow seniors who have lived in Hamilton all their lives to downsize and remain in Hamilton.

In his presentation Mr. Johnson stressed only a few permits would be issued for Senior Housing Projects in the initial trial phase. He carefully went through the provisions of the by-law and they way developers could increase the amount of units in their housing developments by providing affordable units or open space.

After a lengthy presentation in which he outlined all the provisions of the by-law and the work that went into creating it, Mr. Johnson asked the Meeting to support the By-law.

The Moderator then opened the floor for debate, questions, and comments. He requested those speaking introduce themselves by name and address.

Carol Bullivant of 101 Woodbury Street spoke on behalf of the League of Women Voters of Hamilton and Wenham. They did their own study on senior housing and concluded the need for more senior housing options in Hamilton is real and growing. She said Hamilton lacks effective ways to encourage elderly housing even though most residents say the Town should do more to help these residents.

To those who say they don't want any change in Hamilton, she emphasized change has already occurred with less variety in style, size, demographics and cost of homes than in the past. The majority of homes being built now are large, high-end homes.

She also said it was distressing to her to learn that there has been a behind the scenes smear campaign with hateful letters sent to elderly residents and people being told they would shunned if they vote for the By-law. She said while it is okay to disagree residents should consider the issues on the merits and not based on these tactics.

Jack Lawrence of 105 Rock Maple Road said he felt the by-law is better than last year's version. He recognizes the hard work the committees have put into it, but feels this by-law would allow too much density. His biggest fear is sprawl and in his opinion this would foster sprawl. Mr. Lawrence thinks the Town needs a by-law more like Open Space and Farmland Preservation or Cluster by-laws to meet the needs of the Hamilton community. He asked residents to vote no on the By-law.

Josh Learner of 278 Cutler Road said he is an economic professor. He feels the taxes are too high in Hamilton and something needs to be done. While he feels the process has been done very well, he thinks this by-law represents a worrisome, high-risk gamble. He says the risks involved with this by-law are too high and in his calculation, the rewards to taxpayers will only be about \$150 per year. Mr. Learner believes homes in Hamilton will actually lose property value if this by-law is passed.

Marc Johnson responded to Mr. Learner's comments. He said in similar communities in Massachusetts homes actually appreciated in value, not depreciated. This is because those towns are better able to afford the services they provide. He said it is possible homes could depreciate in value, but not very likely.

Bill Gisness of 3 Walnut Lane spoke as the Chairman of the Hamilton Economic Committee. He said the Senior Housing By-law is a smart and appropriate way for the Town to take small steps to meet some of the tax needs of the Town. This By-law represents a small step forward in the right direction. He referenced the Maples development in Wenham and the fact this By-law would only allow half the density of the Maples. Finally, he cited a statistic that thirty-six of these units would provide one and one-half times the annual revenue of the Hamilton Shopping Center. He asked the Moderator to allow former Hamilton resident Peter Twining to address the meeting.

Peter Twining of 88 Northridge Road, Ipswich was permitted to speak to the meeting. He explained he is still a member of the Economic Development Committee until June when his term expires. Mr. Twining lived in Hamilton for thirty-five years and was involved in Town government for twenty of those years. He asked residents to support this by-law, pointing out that the Hamilton tax rate is 75% higher than Manchester's, 30% higher than Ipswich's, 20% higher than Essex's, 15% higher than Boxford's, and 5% higher than Wenham's.

He said this problem is one Hamilton has had for several years, and will continue to have. Mr. Twining explained Ipswich has been building its tax base in ways the Town Officials in Hamilton are asking residents to consider and they have seen success with these models. He feels this by-law is a reasonable way to address the growing tax burden. He said not everyone can pay the increased tax burden and it is a serious matter that should be addressed. He said as a recent home-seller he can attest to the fact that in a slower market people compare the cost of taxes when deciding where to purchase a home.

Bob Gould of Gail Ave is opposed to the By-law. He feels the value of homes will be reduced by having these developments and that this By-law is a gamble. In his opinion, homes have already begun to depreciate in the area around Willow Bend Farm because of the uncertainty with what could happen to the parcel. Mr. Gould argues the gamble is too high because the economic impact is not good enough. He also said seniors selling their homes will bring in more school children.

Mr. Johnson responded to the comments of Mr. Gould by saying when a senior moves out of his/her home to senior housing that would have happened anyway but with the option to live in Hamilton their decision to move might be pushed up by a few years. He also said a family would purchase the property whether sold to move within Hamilton or outside. Finally he said the developer is not purchasing the Willow Bend property.

The Moderator pointed out the article had been under discussion for over an hour and he wanted to wind things up shortly.

Katrina Hart of 893 Highland Street said she is very impressed with the effort that went into forming the by-law. However, she would like to know how the ZBA, Conservation, Open Space, and other committees feel about this by-law. She also said that as a landowner, she does not know of many landowners who are in favor of this by-law.

Ronald Mason of 3 Paddock Lane wanted to know what will constitute a senior for purposes of the by-law.

Marc Johnson responded the age is 55+ and one person over the age of 18 can live with the senior. No school-aged children may live in the building.

Tom Ford of 609 Bay Road said that last year he spoke strongly against the By-law. He feels this year the Planning Board has done an extraordinary job and is very happy with the new By-law. He is amazed at the quality and thoughtfulness of the By-law. He feels the Planning Board has done very well being receptive to the people. Mr. Ford does not feel this by-law would detract from the value of the homes in the area and thinks the Planning Board and the By-law should be commended for their hard work. He said the maximum number of units, 150, will never be implemented in Hamilton because there are not any parcels to support that number. He isn't worried about the rush to judgment that others envision. Mr. Ford feels market rate elderly housing is an opportunity to keep Hamilton residents. Would like people to give this by-law a chance.

Moderator said two more comments allowed.

Jennifer Scuteri of 171 Essex Street said she moved to Hamilton seven years ago because of the good balance of moderate taxes and excellent school system. She recognizes there are people in Hamilton now who cannot afford the taxes and with the cuts the schools have faced she feels the value of homes have already depreciated 30% so this by-law represents a step in the right direction to fix the problems the Town is facing.

Joanne Ridinger of 15 Bittersweet Lane is happy with the by-law. She has been very involved in the process and feels there is a lot of misinformation being promulgated throughout the Town. She says this is a very good by-law that will help the whole Town, not just the seniors and landowners. This by-law would expire in 5 years with the purpose of maintaining the feel and look of the Town while allowing those residents who raised their families in the Town to remain. Ms. Ridinger asked residents to vote for the by-law so that something good can happen.

Moderator called for the vote, but more residents wished to speak.

Sarah Getchell spoke on behalf of the Conservation Commission and Open Space Committee. She said both committees are not in favor of the by-law because of wetlands, watershed protection, and open space. She says they recognize the need for and support the need for more housing and affordable housing options. They would rather see an amendment of OSFPD because it provides more protection.

David Sullivan of 60 Alan Road spoke on behalf of the Zoning Board of Appeals. The board feels there are many unanswered questions about the by-law and while it has lots of great features they would like to see a two-year term for the by-law. Anything anyone suggests at this point is just a guess and they would need to see the by-law in action to know how it will work.

Marc Johnson responded the two-year window would be too short for landowners and developers to seek each other out and properly plan any projects. Also, he noted the memo Mr. Sullivan discussed was received at 11:30 PM after the final meeting of the Planning Board.

Moderator called for the vote and reminded residents the motion requires a 2/3 vote.

**CARD VOTE: UNDECIDED**

Moderator called for a counted card vote.

**COUNTED VOTE: Ayes 180**

**Nays 118**

**MOTION DOES NOT PASS**

**DID NOT ACHIEVE THE 2/3 rds VOTE**

Bob Bullivant called for a vote for reconsideration, to amend the question and take a second vote. The Moderator said this motion requires a two-thirds vote. The motion was duly seconded.

Mr. Bullivant moved the by-law be amended to expire on April 30, 2010.

Walter Meibaum of Whipple Road. Feels it is inappropriate to amend a zoning by-law on the Town Meeting floor because it does not give the public time to consider what it means. He said a number of people on both sides had already left.

Marc Johnson responded and said the motion made by Mr. Bullivant addressed the major issue those opposed to the by-law suggested. He feels this is a very responsive amendment and did not deserve catcalls and disrespect from those in attendance.

A resident called for a check of the quorum, which was met.

Moderator called for a vote on the motion for consideration, which would maintain a discussion on the Senior Housing by-law. It requires a 2/3 vote.

**VOICE VOTE: UNDECIDED**

Moderator called for a card vote.

**CARD VOTE: MOTION DOES NOT CARRY BY 2/3 VOTE**

**Declared by the Moderator**

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## APPENDIX G

### SENIOR HOUSING SPECIAL PERMIT BYLAW

Delete **Section V.E.**, Elder Housing Special District, and replace it with the new Senior Housing Special Permit By-law language below.

#### SENIOR HOUSING SPECIAL PERMIT

##### 1. Purpose and Intent

###### The purpose and intent of this Bylaw are to:

.. permit the development of moderately priced, affordable, and market rate housing for individuals aged fifty-five and over, by allowing for a greater variety of building types at a higher density than would normally be allowed,

..allow greater flexibility in land use planning in order to improve site layouts, protect natural features and environmental values and utilize land in harmony with neighboring properties; and to encourage the implementation of “smart growth” techniques to reduce land consumption and sprawl, provide for open space preservation, expand housing options, and encourage re-use of existing structures,

..allow a type of development which has positive fiscal benefits to the Town,

..protect Hamilton’s rural New England character by permitting development of residential housing in clusters and villages, in a manner which is in harmony with Hamilton’s historic development patterns and is less demanding on its natural resources.

To effectuate this intent, a Senior Housing Special Permit may be granted for any lot(s) in the R-1a, R-1b, RA or B districts that meet the requirements of this by-law section and other applicable provisions of the zoning by-law.

##### 2. Administration

The Planning Board shall be the Special Permit Granting Authority for this Bylaw section. An Applicant may file an application with the Planning Board in conformance with M.G.L. Chapter 40A, (the Zoning Act) Sections 9 and 11, this Bylaw section, and Planning Board Rules and Regulations.

##### 3. Planning Board Rules & Regulations

The Planning Board shall adopt and from time to time may amend Senior Housing Special Permit Rules and Regulations to implement this Bylaw section. Such regulations shall include but will not be limited to Submission Requirements, Plan Requirements, such as size, form, number and contents; Development Standards, Site Standards, and Standards for Building Placement and Design. Such rules and regulations are required and authorized under M.G.L. Ch. 40A, s. 9, and shall be adopted after proper notice, posting, public hearing and vote by the Planning Board.

##### 4. Occupancy

Each unit in a senior housing development shall be owned and occupied by at least one person age fifty-five (55) or older. All other residents must be over the age of eighteen (18) years.

## **5. Limitations on Senior Housing Development**

The following criteria shall apply:

- A. A maximum of 150 senior dwelling units may be permitted town-wide under this Bylaw section.
- B. The effective date of this Bylaw section shall be November 1, 2007. Applications may not be filed before this date.
- C. Permitting Year Schedule:
  1. The maximum number of dwelling units permitted per year shall be in accordance with the following schedule. This twelve month period shall be called the "Permitting Year".

November 1, 2007 – October 31, 2008	a maximum of 31 units
November 1, 2008 – October 31, 2009	a maximum of 50 units
November 1, 2009 – October 31, 2010	a maximum of 50 units
November 1, 2011 – October 31, 2012	a maximum of 50 units
  2. Units shall be counted in the Permitting Year in which the special permit is granted, not the year in which the application was filed.
  3. If fewer than the maximum number of dwelling units is permitted in a Permitting Year the balance, up to 25 units, shall be carried forward to the next Permitting Year, and added to the 50 unit maximum.
- D. In the event that substantial use or construction of a Special Permit issued has not commenced within two years of approval (see Section 27.) and no extensions will be granted, the number of dwelling units shall be added back into the number of un permitted units, and available to be reallocated under Section 5.C.
- E. Project Size Cap: After the first Permitting Year where 31 dwelling units maximum may be permitted, a maximum of 50 dwelling units per project shall be allowed. Lots may not be divided to avoid compliance with this Bylaw section. Accordingly, any proposal on a lot divided after May 7, 2007, shall be considered one project for the purpose of this 50 unit per project limit.
- F. Once any Senior Housing project has been approved it cannot ever be further expanded.

## **6. Expiration of Bylaw**

The Senior Housing Special Permit Bylaw shall expire on October 31, 2012. It may be extended by a vote of Town Meeting in accordance with the provisions of M.G.L. Chapter 40A, Section 5. Any applications filed and/or under review by the Planning Board at that time will be exempt from this section.

## **7. Permitted Uses**

A Senior Housing development may include the following uses:

- A. Single-family detached dwellings
- B. Townhouse dwellings
- C. Multi-family buildings
- D. Open space and conservation areas
- E. Passive recreation
- F. Agricultural, equestrian, and horticultural uses
- G. Accessory uses, such as a tennis court, pool, community building, and other amenities, in the developed area
- H. Recreational fields
- I. In the Business District, a mixture of residential and business uses.

**8. Developable Acres**

“Developable Acres” is defined as the area of the tract of land, exclusive of the area of land lying in the Conservancy District and the area in wetlands subject to M.G.L. Ch. 131, Sec. 40, as mapped by the Applicant’s consultant and approved by the Hamilton Conservation Commission. In addition, land subject to a pre-existing Conservation Restriction, except for land area in a defined “building envelope”, shall be excluded from the total acreage. This net land area shall constitute “Developable Acres”.

**9. Base Senior Housing Density**

The Base Density per developable acre for a Senior Housing Special Permit shall be: four (4) dwelling units in the Business District; three (3) dwelling units in the R1-a District, two (2) dwelling units in the R1-b District, and one (1) dwelling unit in the RA District.

**10. Incentives to Increase Base Senior Housing Density**

See the following matrix for incentives which may be utilized to increase the Base Senior Housing Density:

**Senior Housing Density Matrix**

	A	B	C D E F G					H	I	J
	Zoning District	Base Senior Housing Density (BSHD) per Dev. Acre	Incentives to Increase Base Senior Housing Density for:					Subtotal of Base Senior Housing Density Incentives (C+D+E+F+G)	Incremental Density Per Developable Acre Rewardable by PB for Trails, Fields, Environmental, energy, water conservation & other public benefits	Maximum Density Per Dev. Acre
			Mix of Smaller Units (50% units under 1300 sq. ft.)	On or Off Site Construction of Inclusionary Housing Obligation (Affordable Housing)	Smart Growth, per Comm. of Mass. criteria (see PB Rules & Regs)	Additional 25% of Property as Open Space	Voluntary Cap on Appreciation of Units			
1	B	4	25%	25%	25%	N/A	25%	100%	1.0	6.00
2	R-1a	3	25%	25%	25%	25%	25%	125%	1.0	4.00
3	R-1b	2	25%	25%	25%	25%	25%	125%	1.0	4.00
4	RA	1	25%	25%	25%	50%	25%	150%	2.0	4.00

**NOTES ON HOW TO READ THE MATRIX:** The **Incentives to Increase Base Senior Housing Density** may be selected and utilized by an Applicant to increase the Base Senior Housing Density shown in Column B. The percentage shown in Columns C, D, E, F and G, and Column H would, if selected, increase the number of dwelling units per developable acre in Column B, up to the amount shown in Column J, Maximum Density per Developable Acre.

**EXPLANATION OF COLUMNS:**

**Column A:** The existing Zoning Districts in Hamilton.

**Column B:** The Base Senior Housing Density (BSHD) per Developable Acre. This is the base acreage that one may apply for in a Senior Housing Special Permit, without utilizing any of the Incentives in Columns C, D, E, F, G, and/or I.

**Column C:** Encourages the construction of smaller-sized dwelling units. For meeting this requirement, an



Applicant earns 25% more dwelling units than what is shown in Column B.

**Column D:** Encourages construction of affordable dwelling units. Section VI.G. of the Hamilton Zoning Bylaw, Inclusionary Housing, requires an affordable housing component for projects of 10 or more dwelling units. This column requires that the housing be constructed on-or off-site, rather than meeting Inclusionary Housing methods by other authorized methods. An Applicant earns 25% more dwelling units than what is shown on Column B if he fulfills this provision.

**Column E:** Encourages the utilization of “Smart Growth” or “Sustainable Development Principles”, some of which are listed in part in Section 1, Purpose and Intent, of this Bylaw section. See Planning Board Rules and Regulations for Smart Growth Principles issued by Commonwealth of Massachusetts, Office for Commonwealth Development. An Applicant who incorporates Smart Growth Principles into design of a plan earns 25% more dwelling units than what is shown in Column B.

**Column F:** Encourages the preservation of Open Space above what is required by the Bylaw section. If an additional 25% of the Open Space of a parcel is preserved, then an Applicant earns 25% more dwelling units than what is shown in Column B. See Sections 14 and 22 for Open Space requirements.

**Column G:** Encourages resale prices which will become more affordable for subsequent purchasers of the senior housing dwelling units due to a voluntary cap on the allowable rate of appreciation on sales in future years. A deed restriction, (also to be included in association documents), imposed by the Applicant, places a cap on appreciation of the resale price of dwelling units. An Applicant earns 25% more dwelling units than what is shown in Column B if he fulfills this provision.

**Column H:** Represents a sub-total of the incentives in Columns C-G.

**Column I:** Encourages other initiatives which provide a public benefit to the Town such as, but not limited to, preservation and enhancement of trails; creation of playing fields; environmental, energy, water conservation, green building design, and other public benefits. For one or a combination of these initiatives, an Applicant may earn one additional dwelling unit per developable acre in the Business, R1-a, and R1-b Districts, and up to two additional units per developable acre in the RA District.

**Column J:** Indicates the Maximum Density per Developable Acre which one may earn by using a variety of the incentives allowed. Incentives shall be allowed at the discretion of the Planning Board.

The final number shall be rounded to the nearest whole number.

## **11. Distance Between Projects**

- A. The Applicant is required to maintain a one-half (1/2 ) mile distance from any existing senior housing or Chapter 40B housing development, in order to minimize impact to the surrounding area. If the Applicant can demonstrate to the satisfaction of the Planning Board that the impact on the neighborhood and surrounding area is minimal, this requirement may be waived at the discretion of the Planning Board
- B. If a 40B housing proposal is filed and approved while an application for Senior Housing Special Permit has been filed and is under review by the Planning Board, that Senior Housing project shall be exempt from the distance requirement of this Bylaw section.
- C. The distance between projects shall be measured from the closest property boundaries.
- D. Senior Housing proposals in the Business District shall be exempt from this section, and a development in the Business District will not disqualify a proposal in the R1-a District which is less than one half (1/2) mile distance away.

## **12. General Requirements**

- A. General Compliance: A proposal must comply with all other applicable Town Bylaws, and the applicable rules, regulations, and requirements of all departments, boards, and commissions, including the special sensitivities of the Historic District and the Groundwater Protection Overlay District.
- B. Extension or Alteration of Pre-Existing Non-Conforming Use: To the extent that such a finding is required, that approval shall be granted before applying for a Senior Housing Special Permit.

- C. Inclusionary Housing: There shall be compliance with Sec. VI.G of this bylaw, Inclusionary Housing. The Town of Hamilton Local Preference Policy shall apply to affordable dwelling units created.
- D. Local Preference: The Applicant is encouraged to provide a local preference program for fair market rate units, for an initial limited duration, for the purchase of dwellings by those eligible under the Local Preference Policy.
- E. Low Impact Development: The use of low-impact development techniques is required, where applicable. The Applicant shall employ meaningful low impact techniques which will result in less impervious area, direction of roof runoff toward rain gardens and swales, and plantings indigenous to the area. The use of recycled or recaptured rainwater is encouraged. (A Low Impact Development Handbook and other references are available from the Planning Board Office.)
- F. Minimizing Disturbance: The Applicant is encouraged to maintain as much of the site as possible in its natural state. The Applicant is urged to incorporate horticultural and landscape design that reduces the need for supplemental irrigation and chemical fertilization, e.g. minimizing lawn area.
- G. Location of Wastewater Treatment: All wastewater shall be treated and discharged on-site. Off-site wastewater treatment is not allowed. An exception to this is for parcels located in the Business District, where wastewater treatment may be located off-site.
- H. Paths and Trails: shall be connected, preserved, and increased when possible.
- I. Further Subdivision: No lot on a plan for which a Special Permit is granted under this section may be subdivided so as to create additional building lots and a notation to that effect shall be shown on the plan.
- J. Conversion to Apartments: Dwellings constructed by Special Permit under this section shall not be eligible for subsequent conversion to add apartments under Section V.11.e.1, Conversion for Temporary Living Area, or V.11.e.4, Accessory Apartment, of this Bylaw.
- K. Reuse of Existing Buildings: Existing buildings and dwelling units may be reused and rehabilitated for the purposes of this Bylaw section, provided all standards and requirements are met.
- L. Homeowners Association and/or Condominium Documents: The Planning Board shall require copies of such documents, and shall review them to ensure that the intent of the Bylaw section and the decision of the Planning Board are incorporated into the documents.

### **13. Exemptions**

A proposal for a Senior Housing Special Permit shall be exempt from Section V.12, Open Space and Farmland Preservation Development, and Section VI.H., Site Plan Review.

### **14. Dimensional Standards**

The following dimensional and other standards shall supersede all dimensional standards in the underlying zoning district and shall be applied to any Senior Housing development:

**TABLE OF DIMENSIONAL REQUIREMENTS**

A Zoning District	B Minimum Parcel Size	C Min. Parcel	D Front Setback	E Side & Rear	F Vege-	G Min. Open Space Req'd of total acreage	H Max. Lot Cover-
	(sq. ft.)	Frontage Req'd. (feet)	(feet)	Setbacks (feet) from	tated Buffer		Age of entire parcel
	to be eligible for development	to be eligible for development	from perimeter property line	perimeter property line	(feet) around perimeter of parcel		
1 Business District	None	site specific	0	0 <sup>1</sup>	0 <sup>1</sup>	0	site specific
2							
3 R-1a	40,000	125	25	25 <sup>2</sup>	20	0	25%
4 R-1b	80,000	175	25	25 <sup>2</sup>	20	15%	25%
RA	80,000	175	50	25 <sup>2</sup>	20	25%	25%

<sup>1</sup> The Planning Board shall require a setback and a vegetated buffer where the parcel abuts a residential zone.

<sup>2</sup> Minimum of twenty-five (25') feet or the height of the building, whichever is greater.

**15. Building and Design Standards**

In order to achieve a development that reflects the residential character of the neighborhood in which it is located, the following minimum building and design standards shall be applied to all structures constructed in a Senior Housing development:

- A. No dwelling unit shall contain more than 2 bedrooms.
- B. Buildings shall be designed to be consistent with the residential character of the Town and shall be complementary in exterior design with each other and, where applicable, with the existing neighborhood in which the development is located.
- C. A mixture of small, medium, and large dwelling units is encouraged, in order to create a range of selling price levels, and to address the needs of various members of the population.
- D. A minimum of twenty-five foot (25') separation between buildings shall be provided and shall be landscaped.
- E. Accessory structures shall comply with all setback requirements and shall be designed with architectural detailing of similar nature to the principal buildings located thereon.
- F. Other Building and Design Standards in applicable Planning Board Rules and Regulations shall apply.

**16. Lighting**

All lighting fixtures shall be integrated into the architectural style of the development. All exterior structural and site lighting (not including access road lighting) shall be localized and of full cut-off design, with light which shall be retained on site and shall not create a nuisance to abutting properties and streets. All exterior light sources shall be appropriately shielded from off-premise viewing. Access road lighting shall be designed to prevent nuisance to abutting properties by reason of light and glare.

## **17. Signs**

The need for an identifying sign is very site dependent. Accordingly, the Planning Board shall determine if a sign is needed based on the size, location, and visibility of a project. If the Board determines that a sign is needed, one sign to identify the property, no greater than three square feet (3 s.f.) in size, and mounted on posts with total height of sign not more than four feet (4') above grade, shall be allowed at the intersection of the project's access road or driveway with the abutting public way. Signage may be illuminated with targeted lighting that minimizes light spill-over, but it shall not be backlit or internally illuminated.

## **18. Site Access, Roadway Design and Management**

- A. All structures located within a Senior Housing development shall be accessed by the proposed private access road. Direct access to any proposed structure from an existing public or private road shall be prohibited.
- B. The Applicant for a proposed development deriving its access from a private road shall submit a legal opinion, acceptable to Town Counsel, establishing the right of access from the private road to the development as proposed.
- C. All access roadways and associated infrastructure improvements shall be considered private, under the ownership of the property owner and/or a homeowners association established pursuant to M.G.L. Chapter 183A, and shall not be owned or maintained by the Town of Hamilton.
- D. Applicable Planning Board Rules and Regulations governing Roadway, Driveway, and Infrastructure Standards shall apply.
- E. The Planning Board shall pay special attention to the suitability of the location of the site access road relative to abutting properties when evaluating the Special Permit.

## **19. Stormwater Management & Erosion Control**

- A. The peak rate of storm water runoff from a Senior Housing Development shall comply with Department of Environmental Protection Stormwater Management Policy, and the provisions of a local Stormwater Management Bylaw.
- B. General soil erosion of the proposed development site shall be minimized by integrating the development into the existing terrain and by reasonably retaining natural grades and soil cover. During grading and construction of all improvements, including all structures and infrastructure improvements, erosion of soil shall be minimized using best management practices.

## **20. Parking**

- A. All Senior Housing developments shall provide for adequate off-street parking which will protect the health, safety and welfare of the residents and guests.
- B. A minimum of two off-street parking spaces shall be provided per unit. Each garage unit shall be counted as a parking space. Visitor Parking Spaces shall be provided at a rate of .2 per required parking spaces, and shall be clearly marked.
- C. A minimum of two parking spaces shall be provided for postal delivery accessory structures, if provided.
- D. In all parking areas, the use of low impact development techniques is required, as appropriate, in order to reduce impervious area and runoff.
- E. No parking spaces or parking lots shall be located within the required minimum yard setback requirements for principal structures from access roads and property lines except as allowed by the following sentence: The parking of vehicles shall be allowed within driveway areas providing access to a principal structure, as long as the driveway is designed at a proper width for parking.
- F. No parking areas, parking lots or access drives shall be located within the minimum twenty-five foot separation area between structures.

## **21. Setbacks and Landscape Buffers**

- A. Building setbacks shall remain vegetated and undisturbed to the extent possible in order to maintain the existing natural features. The Planning Board may require designated “No Cut Zones” in order to minimize disturbance and impacts to abutting properties. Buffering from the street and abutting properties in order to minimize visibility is desirable.
- B. See Section 14 for the Vegetated Buffer requirement for each zone. A landscaped buffer shall be provided along the perimeter of the property. For said landscaped buffer, natural vegetation shall be supplemented with the planting of evergreen trees and shrubs. A Landscape Plan will be required.

## **22. Open Space and Natural Resources**

- A. See Section 14 for the minimum Open Space requirement for each zone, which shall be set aside as common open space. A Senior Housing development which includes an open space component must provide that land area is permanently protected, usable, common open space that is functional for purposes intended by this Bylaw section. The common open space shall have no structures, parking, private yards, patios, or gardens that are restricted for the exclusive or principal use by residents of individual dwelling units.

The following standards apply to the common open space in a Senior Housing development:

- B. Ownership of the Common Open Space. Any common open space within a Senior Housing development shall be a. conveyed to the Town and accepted for park or open space use, b. and/or shall be conveyed to a non-profit organization, the principal purpose of which is the conservation of open space, c. and/or shall be conveyed to a corporation or trust owned or to be owned by the owners of lots or residential units within the plan, as provided by M.G.L. c. 40A, Section 9. In any case where the common open space is not conveyed to the Town, a perpetual restriction enforceable by the Town or the Conservation Commission shall be recorded providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway.
- C. Use, Shape, Location of Common Open Space.
  - 1) To the maximum extent feasible, the common open space shall be undisturbed, unaltered and left in its natural condition or existing condition. It shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, or where appropriate, a recreational area, and serve as a visual and natural amenity for the development and the Town.
  - 2) The common open space shall be contiguous and linked as a unit, to the maximum extent possible.
  - 3) Common open space shall be functional for wildlife habitat, passive recreation, resource preservation, agriculture, or equestrian uses.
  - 4) The location(s) and configuration of the common open space shall be subject to approval by the Planning Board.
  - 5) Each parcel of common open space shall be accessible to residents of the Senior Housing development.
  - 6) Land used for common or shared septic systems and required reserve area may not be counted toward the minimum common open space requirement unless authorized by the Planning Board.
  - 7) Not more than 50% of the common open space in a Senior Housing development shall consist of areas subject to the Wetlands Protection Act, M.G.L. Ch.131, Section 40, for reasons other than being subject to flooding, or the Conservancy District as defined by Section V.C. of this Bylaw.
  - 8) Existing utility easements may not be counted as common open space.

- 9) Up to five percent (5%) of the minimum required open space may be used for gravel roadways, pavement or structures accessory to the dedicated use or uses of the common open space. Principal or accessory structures and access roads essential to an agricultural use are exempt from this requirement, except for indoor/covered riding rings.

### **23. Senior Housing Special Permit Application Process**

- A. For applications which do not contain an Open Space element, an application may be filed with the Planning Board, in conformity with applicable Planning Board Rules and Regulations and this Bylaw section.
- B. If an application contains an Open Space element, then the requirements of Section V.A.12 of this Bylaw, Open Space and Farmland Preservation Development (OSFPD) Sections 5. Pre-Application Conference, and 7. OSFPD Special Permit Design Process, shall apply. Following the conclusion of this procedure, an application may be filed as in Subsection E. below.

#### **In either case,**

- C. If a Definitive Subdivision is proposed, a Definitive Subdivision Plan shall be filed in conformity with M.G.L. Chapter 41, Sections 81A-81GG, and the Town of Hamilton Subdivision Regulations, along with an Application for a Senior Housing Special Permit. To the extent possible, hearings will be held concurrently.
- D. If a Definitive Subdivision is not proposed, an application shall be filed which includes a Senior Housing Design Plan, which shall conform to Planning Board regulations. A Senior Housing Design Plan shall be considered neither a subdivision plan under the Subdivision Control Law nor a site plan subject to the provisions of Section VI.H, Site Plan Review, of this Bylaw. Such plan shall comply with applicable Stormwater Management regulations.
- E. Application Process:
  1. The Applicant shall furnish a copy of the application to the Town Clerk, which shall be time stamped as the official submittal.
  2. The Applicant shall furnish sufficient copies of the Special Permit Application to the Planning Board to distribute for review to the Board of Health, Board of Selectmen, Building Inspector, Conservation Commission and Open Space Committee, Department of Public Works, Fire Chief, Police Chief, Historic District Commission, Office on Disability, and Zoning Board of Appeals. The size, quantity, form, and content of plans shall comply with Planning Board Rules and Regulations.
  3. Reports from the above-named boards and officials are not mandatory, and if officials wish to comment, reports shall be submitted to the Planning Board within thirty (30) days of receipt by the reviewing party. In the event that the public hearing by the Planning Board is held prior to the expiration of the 30-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 30-day period
  4. Planning Board members shall conduct a site visit with the applicant prior to or during the public hearing.
  5. A Senior Housing Special Permit may be issued only following a public hearing held within 65 days after filing an application with the Planning Board.
  6. The Planning Board shall conduct a hearing and render a decision in conformity with M.G.L. Chapter 40A, Sections 9 and 11, and applicable rules and regulations.
- F. Once a Senior Housing Special Permit application has been submitted, no tree removal, no utility installation, no ditching, grading or construction of roads, no grading of land or lots, no excavation, except for purposes of soil testing, no dredging or filling and no construction of buildings or structures shall be done on any part of the site until the application has been reviewed and decided as provided by this Bylaw section.

## **24. Conditions of Approval**

The Planning Board may impose conditions, safeguards, requirements, and other standards as part of its approval.

## **25. Employment of Outside Consultants**

The Planning Board may employ outside consultants, at the Applicant's expense, under the terms of M.G.L. Ch. 44 Section 53G, and Planning Board Rules and Regulations Governing Special Permits, to assist in its permit decision, including but not limited to plan review, drainage and Stormwater analysis; to determine conformance with this Bylaw section and other requirements; and for construction inspection, etc.

## **26. Planning Board Findings**

In making its decision the Planning Board must make written findings on the following mandatory standards requiring that the proposed use, buildings and structures for a Senior Housing development will:

- A. Be compatible with adjacent land uses and with the character of the neighborhood in which it is located.
- B. Mitigate impact to abutting land and natural resources by reason of air or water pollution, noise, dust, vibration, or Stormwater runoff.
- C. Provide safe and convenient access to the site from existing or proposed roads, and to proposed structures thereon, with particular reference to pedestrian and vehicular safety, traffic flow and control, and access in case of fire or emergency.
- D. Provide for adequate capacity for public services, facilities, and utilities to service the proposed development such as water pressure and sewer capacity.
- E. Provide for visual and noise buffering of the development to minimize impact to abutting properties.
- F. Provide for the perpetual preservation and maintenance of open space and recreation areas.
- G. Demonstrate compliance with the intent of Open Space and Farmland Preservation Development, Section. V.A.12.7. OSFPD Special Permit Design Process, in order to encourage cluster development.

## **27. Duration of Special Permit**

A Senior Housing Special Permit is granted for a period of two years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause shown.

## **28. Annual Reporting**

The organization of homeowners established for the management of the development, or if none, the owners individually, shall annually file a written report with the Building Inspector listing the resident of each occupied unit. The format for the annual report shall be obtained from the Building Inspector. Said annual report shall include the names and ages of the owners and each person residing in each unit as of January 1st of each year, and any other information necessary to ensure compliance with and enforce any required conditions of special permit. The annual report shall be filed with the Building Inspector January 15th of each year.

**ARTICLE 3-2 Amendments in Conformity with Senior Housing By-law**

Moved by Marc Johnson, Chairman of the Planning Board, duly seconded, that the Town take **NO ACTION** on this article.

Moderator called for the vote.

**VOICE VOTE: MOTION PASSES  
To Take NO ACTION**

**APPENDIX H**

**AMENDMENTS IN CONFORMITY WITH SENIOR HOUSING SPECIAL PERMIT BY-LAW**

1. Delete the following line from **Section II., ESTABLISHMENT OF DISTRICTS**, Section A:

“EH Elder Housing Special District      Sec. V-E”

and,

2. Delete the following paragraph:

“The EH District is not shown on the Zoning Map, but shall be located on a case by case basis by 2/3 vote of Town Meeting, as set forth in M.G.L., Ch 40A. Sec. 5, following approval of a specific Elder Housing proposal under Sec. V.E. and Sec. VII of this By-law.”

3. Amend **SECTION VII. DEFINITIONS**, to delete the definition of Elder Housing.

**ARTICLE 3-3 Amendment to Accessory Apartment Zoning By-law**

Moved by Beth Ganister, Chair of the Zoning Board of Appeals, duly seconded, that the Town Amend the Zoning By-law, Section V. A. 11. (e) 4., Accessory Apartment by adopting the language set forth in **Appendix I** to the 2007 Warrant Book.

Beth Ganister explained this is a housekeeping item. They need to fix some language problems in a previously passed by-law.

Moderator called for the vote which requires a 2/3 rds majority.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**  
**Approved by the Attorney General – July 10, 2007**



## APPENDIX I

### AMENDMENTS TO ACCESSORY APARTMENT Zoning By-law

**Amendments to Section V.A.11. (e).4, Accessory Apartments**, to make minor revisions as requested by the Zoning Board of Appeals. The amended By-law will then read as in the following excerpt: (added language in italics):

#### 4. Accessory Apartment

1. Purposes. The purposes of the Accessory Apartment By-law are to provide for a variety of housing choices in Hamilton, and to encourage a more efficient use of existing buildings without substantially altering the appearance and character of residential neighborhoods or the Town.
2. Procedures. Application for a special permit may be made to the Board of Appeals under M.G.L. c.40A Section 9 and Section IX.D of this By-law. The Board of Appeals may grant a special permit for an accessory apartment provided the following conditions are met.
  - a. A plot plan and scaled architectural drawings of the existing dwelling unit, proposed accessory apartment, and proposed addition (if any) shall be submitted, showing location of the building on the lot, location of septic system, and parking.
  - b. The accessory apartment shall be located within a single-family dwelling or in an accessory structure on the same lot, such as an attached garage or a detached garage or barn, and shall clearly be a subordinate part of the building.
  - c. The single-family dwelling on the lot is at least ten years old at the time of the accessory apartment special permit application. ~~and no additions or alterations that would have created additional living space were constructed in the single-family dwelling or the accessory structure, as applicable, within three years of the date of application for special permit hereunder.~~
  - d. The accessory apartment shall not exceed 900 square feet of gross floor area
  - e. The applicant shall be an owner-occupant of the premises, and shall remain an occupant of either the principal single-family dwelling or the accessory apartment.
  - f. Not more than one accessory apartment shall be permitted on a lot.
  - g. The maximum number of bedrooms shall be one.
  - h. To the maximum extent practical, the accessory apartment shall be designed so that the exterior appearance of the building remains unchanged. Any building addition ~~or alteration~~ for accessory apartment space shall not exceed 15% of the Gross Floor Area existing in the single-family dwelling or accessory structure, as applicable, at the time of the application. Unless otherwise required by the Massachusetts State Building Code, any new exterior stairs needed to provide primary or secondary means of egress for the accessory dwelling shall be located on the side or rear of the building, and shall be enclosed.
  - i. There shall be at least one additional off-street parking space to serve the accessory apartment. ~~with access to the driveway serving the single-family dwelling.~~

Note: There are no amendments after section i above.

**ARTICLE 3-4 Amend Special Permit Requirement Zoning By-law**

Moved by Beth Ganister, Chairman, Zoning Board of Appeals duly seconded, that the Town Amend the Zoning By-law, Section V. A. 11. (d) by adopting the language set forth in **Appendix J** to the 2007 Warrant Book.

Ms. Ganister explained this is another housekeeping item needed to bring the by-law into compliance with Massachusetts State law.

Moderator reminded residents this motion also requires a 2/3 rds vote and called for the vote.

**VOICE VOTE: MOTION PASSES  
2/3<sup>rd</sup> MAJORITY DECLARED BY MODERATOR**

**Approved by the Attorney General – July 10, 2007**

**APPENDIX J**

**AMEND SPECIAL PERMIT REQUIREMENTS  
Zoning By-law, Section V. A. 11.**

**Current Language:**

11. Subject to a Special Permit by the Board of Appeals as provided in Section IX – D below, the following:
  - a. This section was deleted by Town Meeting vote May 8, 1995.
  - b. Hospital, Clinic, sanitarium, nursing home, cemetery, and camps of educational and charitable institutions in accordance with Site Plan Review; see Section VI.H.
  - c. Community or private club, not conducted for profit. This use requires Site Plan Review; see section VI.H.
  - d. The raising or keeping of poultry, horses, or cows, for other than the use of the occupants of the residence; maintenance of dog kennels or riding stables;

**Proposed language:**

11. Subject to a Special Permit by the Board of Appeals as provided in Section IX – D below, the following:
  - a. This section was deleted by Town Meeting vote May 8, 1995.
  - b. Hospital, Clinic, sanitarium, nursing home, cemetery, and camps of educational and charitable institutions in accordance with Site Plan Review; see Section VI.H.
  - c. Community or private club, not conducted for profit. This use requires Site Plan Review; see section VI.H.
  - d. For properties under five acres in size, the raising or keeping of poultry, horses, or cows, for other than the use of the occupants of the residence, or riding stables; and for any size property, for any maintenance of dog kennels;

**ARTICLE 4-1 Right to Farm Town By-law**

Moved by Peter Britton, Chair, Agricultural Committee, duly seconded, that the Town amend the Town General By-laws, by adding a new Ch. XXVIII "Right to Farm By-law" as shown in **Appendix K** to the 2007 Warrant Book.

Mr. Britton explained the Right to Farm by-law accompanies the creation of the Agricultural Commission, which was done during the 2006 Annual Town Meeting. This by-law addresses the concerns people have when they move into a community like Hamilton and don't understand what comes along with agriculture. He said this by-law is essentially the same as the one by the state, except that they have amended it to include the equestrian industry in Hamilton. He feels the main purpose of the Commission and the by-law is to help resolve disputes among neighbors.

Jennifer Scuteri of 171 Essex Street wanted more information on the expanded definition of farming and whether people who keep horses will be able to pay lower tax rate as a result.

Mr. Britton explained there is nothing in the Right to Farm By-law that changes anything in the legal structure in the Town.

Ms. Scuteri continued to press the issue and wanted to know if these people would be relieved of paying taxes.

Margo Koloran of 51 Sagamore Farm Road addressed the issue more specially and explained the only way to get a reduced tax rate as a farm is to apply for it through the Assessor's office. This by-law just brings Hamilton in compliance with the state to define what a farm is.

With no further questions the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**  
**Approved by the Attorney General – July 10, 2007**

**APPENDIX K**

**RIGHT TO FARM BY-LAW**  
**General By-Law XXVIII**

**Section 1 Legislative Purpose and Intent**

The Purpose and Intent of this By-Law is to state with emphasis that farm preservation occurs under the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9, Chapter 111, Section 125A and Chapter 128 Section 1A. We the citizens of Hamilton restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

This General By-Law encourages the pursuit of Agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Hamilton by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This By-Law shall apply to all jurisdictional areas within the Town.

**Section 2 Definitions**

The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose

of commercial agriculture, or accessory thereto.

The words "farming" or "agriculture" or their derivatives shall include, but not be limited to the following:

- Farming in all its branches and the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, horticultural commodities; composting;
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
- Raising of livestock including horses;
- Keeping of horses and;
- Keeping and raising of poultry, swine, cattle, ruminants (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purpose, including bees and fur-bearing animals.

By way of example and not limitation "farming" shall encompass activities including, but not limited to, the following:

- Operation and transportation of slow-moving farm equipment over roads within the Town;
- Control of pests, including, but not limited to, insects, weeds, predators, and disease organisms of plants and animals;
- Application of manure, fertilizers and pesticides;
- Conducting agriculture-related educational and farm-based recreational activities, including agritourism, provided that the activities are related to marketing the agriculture output or services of the farm;
- Processing and packaging of the agricultural output of the farm and the operation of a farmers market or farm stand including signage thereto;
- Maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and
- On-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3 Right To Farm Declaration**

The Right to Farm is hereby recognized to exist within the Town of Hamilton. The above-described agricultural activities may occur on holidays, weekdays, and weekends by night or day and shall include the attendant incidental noise, odors, dust, and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community, and society in general. The benefits and protections of the Right to Farm By-Law are intended to apply exclusively to those commercial agriculture and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm By-Law shall be deemed as acquiring any interest in land, or as imposing any new land use regulation, but neither does it supersede or overrule any other requirements or restrictions on the use of land for the purposes covered hereby, whether by state, regulation or local by-law.

### **Section 4 Disclosure Notification**

The Agricultural Commission will provide to local realtors and make available at Town Hall in the Town Clerk's Office the disclosure notification below. The Town encourages sellers of property to make this information available to buyers.

"It is the policy of this community to conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors.

Buyers or occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances.”

The notification language required by this Section shall be included in the Town’s Annual Report in the Report of the Agricultural Commission. In addition to the above, the notification language required by this Section shall be posted in Town Hall with a current list of active agricultural sites provided by the owners/operators of these sites. Owner/operators who wish to notice their activities for the upcoming year will submit their names and a description of their operations to the Town Clerk on a form available at the Town Clerk’s Office by November 1 of each year.

**Section 5 Resolution of Disputes**

To enhance the prompt resolution of disputes that may arise between those engaged in the agricultural uses protected under this Bylaw and those who claim that the use or enjoyment of their properties is adversely affected by such uses, the following dispute resolution procedure is established as a means by which owners and tenants may attempt to resolve the dispute in a prompt, effective, and amicable manner.

Any owner or tenant who wishes to complain that farming or a farming activity is adversely affecting the use or enjoyment of the owner’s or tenant’s real property may file a grievance with the Board of Selectmen, The Zoning Enforcement Officer, the Board of Health, or the Conservation Commission, depending upon the nature of the grievance. Such Board, Commission, or official may forward the grievance to such other Board, Commission, or official whose jurisdiction may be more appropriate to address the grievance. A Board, Commission, or official may refer the grievance to the Agricultural Commission, which shall then undertake such efforts as it deems reasonable and appropriate to facilitate an agreement to resolve the grievance. The Agricultural Commission shall file a report with the referring Board, Commission, or official within 30 days after receipt of the referral, unless the referring Board, Commission, or official establishes a different deadline or the parties to the dispute agree to a different deadline. Nothing herein shall impair or limit any other remedy available to an aggrieved party, suspend the time within which any such remedy must be pursued, or impair or limit the authority of the Board of Health or any other government body or official to respond to cases of imminent danger or public health risk.

**Section 6 Severability Clause**

If any part of this Bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Bylaw. The Town of Hamilton hereby declares the provisions of this Bylaw to be severable.

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**SECTION 4: TOWN BY-LAW AMENDMENTS**

**ARTICLE 4-2 Quorum Requirements Town By-law**

Moved by Bob Bullivant, Chair, Board of Selectmen, duly seconded, that the Town amend the Town General By-laws, Ch. I, , Sec. 3 “Quorum”, to decrease from 150 to 75 the minimum number of voters necessary to constitute a quorum at the Annual Town Meeting and at all other Regular and Special Town Meetings.

Mr. Bullivant explained it has become clear during his term as Selectmen all of the Town business can’t be completed at the Spring Town Meeting. Because of this there will be a Fall Town Meeting each October. It has also become clear it is difficult for the Town to meet the quorum requirement each year. He said the Selectmen feel in fairness to those who work on and attend these meetings the quorum requirement should be lowered so that the meetings will be able to go forward.

Moderator called for the vote.

**VOICE VOTE: UNDECIDED**

Moderator called for a card vote.

**CARD VOTE: UNDECIDED**

Moderator called for a counted card vote and asked residents to stand.

**COUNTED CARD VOTE: MOTION PASSES**  
**YES 107**  
**NO 85**

*Approved by the Attorney General – July 10, 2007*  
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**ARTICLE 4-3 Criminal and Non criminal Disposition Town By-law**

Moved by Bill Bowler, Member, Board of Selectmen, duly seconded, that the Town amend the Town General By-laws, by deleting Chapter VII, Section 5 and Chapter XIII “Penalties For Violation” and substituting as the new Chapter XIII the language set forth in Appendix L to the 2007 Warrant Book.

Mr. Bowler explained the current by-law only allows for criminal fines for violations. The attorney general has requested the by-law have a civil option. He said the Board expects to bring a similar change for the zoning by-law in the fall.

With no comments from residents the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

*Approved by the Attorney General – July 10, 2007*  
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**APPENDIX L**

**CRIMINAL AND NON-CRIMINAL DISPOSITION**

**General By-law**

**Chapter XIII**

**Penalties for Violation**

**Current Language:**

Violations of these by-laws shall be prosecuted by the Chief of Police of the Town on his own initiative or on the order of the Selectmen. Any person who shall violate any of the provisions of these by-laws shall be subject to a fine for each offense in such sum as may be authorized by law.

**Proposed language:**

**Section 1: Criminal Complaint**

Whoever violates any provision of these by-laws may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense brought in such manner shall be three hundred dollars (\$300.00).

**Section 2: Non-criminal Disposition**

Whoever violates any provision of these by-laws may alternatively be subject to enforcement action by a non-criminal disposition as provided in M.G.L. Ch. 40, Sec. 21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department.

In addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, a municipal official or board identified as an enforcing person in any specific by-law shall also be enforcing person with regard to this section. Each day on which any violation exists shall be deemed to be a separate offense.

**Section 3: Penalties Enumerated**

In the absence of a specific schedule of penalties as provided for in a specific by-law, all violations to be enforced by the procedures of M.G.L. Ch. 40, Sec. 21D shall be subject to the following penalty:

General Schedule of Non-criminal Penalties:

First Offense – Fifty Dollars (\$50.00)

Second Offense - One Hundred and Fifty Dollars (\$150.00)

Third and Each Succeeding Offense - Three Hundred Dollars (\$300.00)

**ARTICLE 4-4 Winter Parking Ban**

Moved by Dick Low, Member, Board of Selectmen, duly seconded, that Town take **NO ACTION** on this article.

The selectmen feel the parking ban should be driven by winter storm events and not be an across the board ban throughout the entire winter. They have a little more work to do on getting the language correct and would like to propose it in the fall.

Moderator called for the vote.

**VOICE VOTE: MOTION PASSES TO TAKE NO ACTION**

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**ARTICLE 5-1 Bridle Path Easement - *Requires 2/3 rds Vote***

Moved by Susanna McLaughlin, duly seconded, that the town authorize the grant of an easement for a bridle path across Town land off of Bridge Street, on such terms as may be acceptable to the Selectmen, as set forth in a plan on file in the Town Clerk’s Office and in Appendix M to the 2007 Warrant Book.

The purpose of this is to formalize accept a brindle path that has already been used for many years near Gordon Conwell Theological Seminary.

With no questions on the motion, the Moderator called for the vote. He reminded residents that because an easement is a transfer in land it requires a 2/3 rd vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

\*\*\*\*\*

**ARTICLE 5-2 Mullin Rule**

Moved by Bill Bowler, Member of the Board of Selectmen, duly seconded, that the Town accept the provisions of M.G.L. c.39, section 23D for all boards, committees or commissions holding adjudicatory hearings which provides that a member of a board, committee or commission, holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing so long as the conditions set forth in the statute are met.

Mr. Bowler explained that when boards have meetings, if a member misses a meeting relating to a topic they cannot vote on it. If adopted, boards will be able to decide if they would like to allow members to miss up to one meeting provided the member learns of what has happened during that meeting.

With no discussion, the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**APPENDIX N**

**“MULLIN RULE”**

**M.G.L. c.39, Section 23D**

**Adjudicatory Hearing – Absent Member**

**Enacted as Chapter 79, Acts of 2006, effective August 10, 2006**

(a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.”

**ARTICLE 5-3 Town Hall Preservation Restriction - Requires 2/3<sup>rd</sup> Vote**

Moved by Bob Bullivant, Chairmen, Board of Selectmen, duly seconded, that the Town authorize the Board of Selectmen to execute on the Town's behalf a Massachusetts Historic Commission Preservation Restriction Agreement with the Commonwealth of Massachusetts on terms consistent with the proposed restriction appearing as **Appendix O** to the 2007 Warrant Book in which the Town grants certain perpetual preservation restrictions on the Town Hall property to the Commonwealth under the provisions of M.G.L. Chapter 184, Sections 31-33.

Mr. Bullivant explained this motion would allow Hamilton to qualify for grant money. Up to \$100,000 is available each time. At this time, the windows of Town Hall need to be replaced. He said new windows that will maintain the colonial look of Town Hall and are more energy efficient can be purchased. This authorizes the Selectmen to become loan eligible for these types of loans from the Massachusetts Historic Commission.



Moderator called for the vote and reminded residents that because it involves a land restriction it requires a 2/3 vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

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**APPENDIX O**

**PRESERVATION RESTRICTION AGREEMENT  
between the COMMONWEALTH OF MASSACHUSETTS  
by and through the MASSACHUSETTS HISTORICAL COMMISSION  
and the  
TOWN OF HAMILTON**

The parties to this Agreement are the Commonwealth of Massachusetts, by and through the Massachusetts Historical Commission located at the Massachusetts Archives Building, 220 Morrissey Boulevard, Boston, Massachusetts 02125, hereinafter referred to as the Commission and the TOWN of Hamilton, 577 Bay Road, Hamilton, MA 01982, hereinafter referred to as the Grantor.

WHEREAS, the Grantor is the owner in fee simple of certain real property with improvements known as HAMILTON TOWN HALL, thereon as described in a deed dated \_\_\_\_\_, from \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_, and which is located at 577 Bay Road, Hamilton, MA 01982, hereinafter referred to as the Premises. The Premises is also shown in **Exhibit A** attached hereto and incorporated herein by reference.

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on the successors to its right, title and interest therein, with respect to maintenance, protection, and preservation of the Premises in order to protect the architectural, archaeological and historical integrity thereof; and

WHEREAS, the preservation of the Premises is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. chapter 184, section 32, hereinafter referred to as the Act; and WHEREAS, the Commission is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept these preservation restrictions under the Act;

NOW, THEREFORE, for good and valuable consideration, the Grantor conveys to the Commission the following preservation restrictions, which shall apply in Perpetuity to the Premises. These preservation restrictions are set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises which have been listed in the National and/or State Registers of Historic Places, under applicable state and federal legislation. Characteristics which contribute to the architectural, archaeological and historical integrity of the Premises include, but are not limited to, the artifacts, features, materials, appearance, and workmanship of the Premises, including those characteristics which originally qualified the Premises for listing in the National and/or State Registers of Historic Places.

The terms of the Preservation Restriction are as follows:

- I. Maintenance of Premises: The Grantor agrees to assume the total cost of continued maintenance, repair and administration of the Premises so as to preserve the characteristics which contribute to the architectural, archaeological and historical integrity of the Premises in a manner satisfactory to the Commission according to the Secretary of the Interior's "Standards for the Treatment of Historic Properties." The Grantor may seek financial assistance from any source available to it. The Commission does not assume any obligation for maintaining, repairing or administering the Premises.
2. Inspection: The Grantor agrees that the Commission may inspect the Premises from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.
3. Alterations: The Grantor agrees that no alterations shall be made to the Premises, including the alteration of any interior, unless (a) clearly of minor nature and not affecting the characteristics which contribute to the architectural, archaeological or historical integrity of the Premises, or (b) the Commission has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor, or (c) required by casualty or other emergency promptly reported to the Commission. Ordinary maintenance and repair of the Premises may be made without the written permission of the Commission. For purposes of this section, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair is governed by the Restriction Guidelines which are attached to this Agreement and hereby incorporated by reference.
4. Notice and Approval: Whenever approval by the Commission is required under this restriction, Grantor shall request specific approval by the Commission not less than (30) days prior to the date Grantor intends to undertake the activity in question. A request for such approval by the grantor shall be reasonably sufficient as a basis for the Commission to approve or disapprove the request. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit it the Commission to make an informed judgment as to its consistency with the purposes of this Preservation Restriction. Within (30) days of receipt of Grantor's reasonably sufficient request for said approval, the Commission shall, in writing, grant or withhold its approval, or request additional information relevant to the request and necessary to provide a basis for its decision. However, should the Commission determine that additional time is necessary in order to make its decision the Commission shall notify the Grantor. The Commission's approval shall not be unreasonably withheld, and shall be granted upon a reasonable showing that the proposed activity shall not materially impair the purpose of this Preservation Restriction. Failure of the Commission to make a decision within sixty (60) days from the date on which the request is accepted by the Commission or notice of a time extension is received by the Grantor shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time.
5. Assignment: The Commission may assign this Agreement to another governmental body or to any charitable corporation or trust among the purposes of which is the maintenance and preservation of historic properties only in the event that the Commission should cease to function in its present capacity.
6. Validity and Severability: The invalidity of M.G.L. c. 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.
7. Recording: The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and file a copy of such recorded instrument with the Commission.
8. Other Provisions: None applicable.

The burden of these restrictions enumerated in paragraphs 1 through 8, inclusive, shall run with the land and is binding upon future owners of an interest therein.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

(name of grantor)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

\_\_\_\_\_ ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2007, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purposes.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

\*\*\*\*\*

**ARTICLE 5-4 Tax Deferrals for Military Personnel**

Moved by Dick Low, Member, Board of Selectmen, duly seconded, that the Town accept G.L. c. 59, sec. 5L providing deferral of property tax payment until 180 days after the end of out-of-state military service for Massachusetts National Guardsmen and Reservists or their dependents, pursuant to the terms of said law.

This allows for property tax deferrals for active duty service members serving overseas. The selectmen feel it provides a further way to support our military personal and their families while they are deployed.

With no discussion on the matter, the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

\*\*\*\*\*

**SECTION 6: CLOSING FINANCIAL ACTIONS**

**ARTICLE 6-1      **Free Cash Application****

Moved by Art Oberheim, Chair, Finance and Advisory Committee, duly seconded, that the Town appropriate and authorize the Assessors to use \$236,860 of available certified free cash to reduce the tax rate for the Fiscal Year beginning July 1, 2007.

Mr. Oberheim explained this is an annual event to reduce the tax rate for the next fiscal year.

Betsy Stoll of 48 Grant Avenue asked why this is done because she thinks it does not make sense.

Mr. Oberheim explained this does not affect the assessment of homes. Basically it is revenue to offset expenses and fund the budget each year.

With no further questions or comments the Moderator called for the vote.

**VOICE VOTE:      MOTION PASSES**

\*\*\*\*\*

**ADJOURNMENT:** At 10:29 p.m. Moderator Bruce Ramsey recessed Annual Town Meeting until May 17, 2007 at 7 o'clock a.m. at the Winthrop School.

**A TRUE COPY:      ATTEST:**

\_\_\_\_\_  
**Jane M. Wetson, Town Clerk**

**TOWN OF HAMILTON  
Annual Town Election  
Held  
Thursday, May 17, 2007  
At  
Winthrop School, Hamilton, MA**

The polls were opened at 7:00 AM by Moderator Bruce Ramsey.

At the close of Voter Registration on April 17, 2007 there were 5,467 registered voters.

	<b>Precinct 1</b>	<b>Precinct 2</b>	<b>Precinct 3</b>	<b>TOTAL</b>
Democrat	378	345	197	920
Green Party USA	0	0	1	1
Green-Rainbow	2	1	2	5
Inter. 3rd Party	4	4	1	9
Libertarian	8	3	5	16
Reform	1	0	0	1
Republican	374	430	570	1374
Unenrolled	1263	1049	829	3141
Totals	2030	1832	1605	5467

There were **1,854** ballots cast as follows:

<b>Precinct 1</b>	--	<b>683</b>
<b>Precinct 2</b>	--	<b>674</b>
<b>Precinct 3</b>	--	<b>497</b>

<b>Moderator</b>	<b>1 year</b>	<b>Precinct 1</b>	<b>Precinct 2</b>	<b>Precinct 3</b>	<b>TOTAL</b>
Blanks		132	130	86	348
<b>Bruce C. Ramsey</b>		<b>549</b>	<b>541</b>	<b>409</b>	<b>1499</b>
Write-ins		2	3	2	7
<b>Selectman</b>	<b>3 years</b>				
Blanks		48	37	32	117
<b>David S. Carey</b>		<b>367</b>	<b>423</b>	<b>324</b>	<b>1114</b>
John L. Hamilton		268	211	139	618
Write-ins		0	3	2	5
<b>Board of Assessors</b>	<b>3years</b>				
Blanks		153	181	136	470
<b>Gelean M. Campbell</b>		<b>528</b>	<b>493</b>	<b>359</b>	<b>1380</b>
Write-ins		2	0	2	4
<b>Planning Board</b>	<b>5 years</b>				
Blanks		208	186	131	525
<b>Peter B. Clark</b>		<b>468</b>	<b>483</b>	<b>364</b>	<b>1315</b>
Write-ins		7	5	2	14
<b>Housing Authority</b>	<b>5 years</b>				
Blanks		176	182	127	485
<b>Robert W. Poole</b>		<b>505</b>	<b>489</b>	<b>366</b>	<b>1360</b>
Write-ins		2	3	4	9
<b>H-W Library Trustee</b>	<b>3 yr</b>				
Blanks		128	149	117	394
<b>Madelyn C. Liberti</b>		<b>421</b>	<b>357</b>	<b>279</b>	<b>1057</b>
Virginia M. Cookson		133	168	100	401
Write-ins		1	0	1	2
<b>Regional School Committee</b>	<i>Vote for 3- 3 years</i>				
Blanks		878	762	488	2128
<b>Denise A. Bisailon</b>		<b>375</b>	<b>412</b>	<b>320</b>	<b>1107</b>
<b>Donald E. Gallant</b>		<b>403</b>	<b>416</b>	<b>329</b>	<b>1148</b>
<b>Lisa S. Gaquin</b>		<b>383</b>	<b>418</b>	<b>341</b>	<b>1142</b>
Write-ins		10	14	13	37
<b>H-W School Committee</b>	<b>TOTALS</b>	<b>Hamilton</b>	<b>Wenham</b>	<b>TOTAL</b>	
Blanks		2128	237	2365	
Denise A. Bissailon		1107	266	1373	
Donald E. Gallant		1148	257	1405	
Lisa S. Gaquin		1142	263	1405	

**Question 1: Town Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the Town of Hamilton be allowed to assess an additional \$ 121,582 in real estate and personal property taxes for the purpose of funding the Town’s net operating budget for the fiscal year beginning July 1, 2007?”

	Precinct 1	Precinct 2	Precinct 3	TOTAL
Blanks	15	5	11	31
<b>YES</b>	<b>335</b>	<b>362</b>	<b>276</b>	<b>973</b>
NO	333	307	210	850

**Question 2: School Operating Levy Limit Override, G.L. Ch. 59, Sec. 21C (g)**

“Shall the Town of Hamilton be allowed to assess an additional \$340,121 in real estate and personal property taxes for the purpose of funding Hamilton’s apportioned share of the net operating cost of the Hamilton-Wenham Regional School District for the fiscal year beginning July 1, 2007?”

	Precinct 1	Precinct 2	Precinct 3	TOTAL
Blanks	5	3	4	12
<b>YES</b>	<b>329</b>	<b>411</b>	<b>320</b>	<b>1060</b>
NO	349	260	173	782

**Question 3: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)**

“Shall the Town of Hamilton be allowed to assess an additional \$28,500 in real estate and personal property taxes for the purpose of funding the purchase of a Police Department cruiser and related equipment for the fiscal year beginning July 1, 2007?”

	Precinct 1	Precinct 2	Precinct 3	TOTAL
Blanks	14	5	8	27
YES	333	310	224	867
<b>NO</b>	<b>336</b>	<b>359</b>	<b>265</b>	<b>960</b>

**Question 4: Capital Expenditure Exclusion, G.L. Ch. 59, Sec. 21C (i ½)**

“Shall the Town of Hamilton be allowed to assess an additional \$54,000 in real estate and personal property taxes for the purpose of funding the purchase of two Department of Public Works pick-up trucks for the fiscal year beginning July 1, 2007?”

	Precinct 1	Precinct 2	Precinct 3	TOTAL
Blanks	15	7	8	30
YES	310	291	238	839
<b>NO</b>	<b>358</b>	<b>376</b>	<b>251</b>	<b>985</b>

Polls closed at 8:00 PM. Results were announced by Moderator Bruce Ramsey at 9:30 PM.

**A TRUE COPY:     ATTEST:**

---

**Jane M. Wetson, Town Clerk**

**TOWN OF HAMILTON  
SPECIAL TOWN MEETING**

**Held**

**Monday, October 22, 2007**

**At**

**Hamilton-Wenham Regional High School**

At the close of registration on October 12, 2007 there were 5,542 registered voters within the town of 8,362 residents.

Precinct 1 - 2,049

Precinct 2 - 1,839

Precinct 3 - 1,654

Moderator declared a quorum present (75) and the Warrant returned showing it had been properly served, opened the Special Town Meeting at 7:30 P.M. with 223 registered voters checked and present, this Special Town Meeting, constituting the regular fall Town Meeting of the Town of Hamilton is now open.

Precinct 1 - 83

Precinct 2 - 69

Precinct 3 - 71

Moderator appointed the Deputy Moderator who was duly sworn.

Robert Poole --56B Moynihan Road

Tellers were appointed by the Moderator and duly sworn.

Joe Hughes -- 7 Donald Road

Nicole Jacques Hughes -- 7 Donald Road

Laurie Gauthier -- 81 Lake Drive

Arthur Crosbie -- 215 Linden Street

Richard Flynn -- 183 Linden Street

Flag Salute – Pledge of Allegiance

I have asked non-resident Town officials and those assisting the Selectmen or Finance Committee to be present here so they may be available to answer questions. Members of the press [and the video crew] have also been allowed to be present. I remind those allowed here to do nothing which may influence the counting of a vote.

All other non-registered visitors must be seated in the visitors area located in the left rear section of the auditorium.

Another procedural note, we record these proceedings so as to have an accurate record of the meeting and to help everybody know who is speaking and hear what is said. Therefore please use the microphones provided and, unless I recognize you by name, please give your name and address when you address the Moderator.

At this time I recognize William Bowler, Chairman of the Board of Selectmen.

Thank you Mr. Moderator, before we begin I would like to recognize one town official who is here for the last time. As most of you know, Steve Kenney has been our Director of Public Works for 11 years and has



taken a new position as the Director of Public Works for the Town of Manchester. It is a little like Johnny Damon signing with the Yankees.

Steve has done a wonderful job for the town for 11 years and it was a very difficult decision for him to make both professionally and personally. He has bent over backwards to help us with the transition and he will continue to help. Please join me in thanking Steve for his 11 years of service. Steve received a standing ovation.

Announcements or other:

The Moderator states that he has appointed Robert Poole, Town Constable to be the Deputy Moderator and to coordinate the Tellers during the counting of votes.

Under our Town By-Laws the conduct of all town meetings are governed by town meeting time and all Articles of the Warrant for the meeting shall be taken in the order of their arrangement unless otherwise decided by a 2/3 rds vote.

The Moderator will read or summarize the Article on the Warrant and then recognize its town official or other person to make a motion on the Article for the meeting to consider it. Assuming the motion is seconded I will then recognize the person who has made the motion to tell us briefly why the motion is before the meeting and what it is intended to accomplish. I will then open the floor for questions, discussion and debate.

Speakers, if you want to ask a question or be heard on a motion please proceed to one of the microphones at the front of the isles. While we will try to accommodate everybody, if you do not move quickly, your window of opportunity may get closed.

The Moderator reiterates the importance of anyone speaking to state their name and address for the meeting notes.

When an Article has been acted upon it requires a 2/3 vote under Town By-Law and after we have taken up the new Article, the Moderator will not be inclined to entertain any motion for reconsideration of an earlier Article before all remaining Articles have been taken on by the meeting.

Materials are not to be handed out or distributed in the auditorium. There is a table in the lobby for informational materials.

The Moderator thanks the students at the Hamilton-Wenham High School for their work in producing the televised meeting under the direction of Mr. Shailor and Mr. Melville.

The Moderator asks those in attendance to turn off the audio on all cell phones and other devices and asks that anyone who must take a call leave the auditorium before taking or returning the call.

The Moderator states that if they are unable to complete action on the Warrant tonight this Town Meeting will be recessed until Tuesday night at 7:30 p.m. at the same location or until such further time as they are able to get a quorum.

The Moderator introduces those in attendance at the front of the auditorium:

Moderator:                   Bruce Ramsey  
Town Clerk:                 Jane Wetson

At the front table:

Town Counsel: Donna McKenna  
Town Administrator: Candace Wheeler  
Selectman: David Carey  
Richard Low  
William Bowler, Chairman  
Asst. Town Administrator: Allison Jenkins  
  
Finance Committee: Sandy Shaw  
Dan Bukkhegyi  
Jane Prince  
Arthur Oberheim

as well as other town officials who are in the audience.

**Procedural Motions:**

Moderator: I am advised by the Board of Selectmen that they want one article to be taken up later than its location in the Warrant. Under our Town By-Laws, such action requires a town meeting vote.

I recognize Bill Bowler, Chairman of the Board of Selectmen.

**Moved** by William Bowler, duly seconded, that Article 2007/10-1-3 not be taken up until Article 2007/10-2-5 has been considered and disposed of by this Town Meeting.

Moderator: Under our Town By-Laws, this motion requires a 2/3 rds vote. The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY  
Declared by the Moderator**

\*\*\*\*\*

*Please note we have made a change on our numbering system to put in the year and the month of the meeting to make it easier to keep track of the articles and town meeting actions.*

**SECTION 1: FINANCIAL ACTIONS**

**ARTICLE 2007/10 -1-1 Prior Year Bills - Requires 9/10 Vote**

Moved by William Bowler, Chairman of the Board of Selectmen, duly seconded, that the Town transfer from available funds \$5,082.50 to pay a bill incurred in a prior fiscal year.

The Moderator called for the vote.

**VOICE VOTE: UNCLEAR**

The Moderator called for another voice vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY  
Declared by the Moderator**

\*\*\*\*\*

**ARTICLE 2007/10-1-2 Dept. of Public Works Appropriation**

Moved by Richard Low, Selectman, duly seconded, that the Town take NO ACTION on this Article.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES to take NO ACTION**

\*\*\*\*\*

**ARTICLE 2007/10-1-3 Dept. of Public Works Appropriation**

NOTE: Per Procedural Motions, this Article will be taken up after Article 2007/10 -2-5.

\*\*\*\*\*

**ARTICLE 2007/10-1-4 Stormwater Phase II Study**

Moved by David Carey, Selectman and duly seconded, that the Town transfer from the Highland Street Bridge Project Account, Article 3-5 of FY 05, \$20,000 to fund a Stormwater Phase II Study to comply with EPA requirements and deadlines.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

\*\*\*\*\*

**ARTICLE 2007/10-1-5 Dept. of Public Works Pick-up Trucks**

Moved by Sandy Shaw, member of the Finance and Advisory Board, duly seconded, that the Town transfer from available funds \$54,000 to purchase two pick-up trucks for the Department of Public Works.

The Moderator called for the vote.

**VOICE VOTE: UNCLEAR**

The Moderator asked the voters to hold up their voter cards.

**CARD VOTE: MOTION PASSES  
Declared by the Moderator**

\*\*\*\*\*

**ARTICLE 2007/10-1-6 Public Safety Building Appropriation**

Moved by Arthur Oberheim, Chairman of the Finance and Advisory Board, duly seconded, that the Town take NO ACTION on this article.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY to take NO ACTION  
Declared by the Moderator**

\*\*\*\*\*

**ARTICLE 2007/10-1-7 Dept. of Public Works Holder Vehicle**

Moved by Arthur Oberheim, Chairman of the Finance and Advisory Board, duly seconded, that the Town take **NO ACTION** on this article.

Mr. Oberheim states that the equipment was critical to clear the sidewalks, particularly for the children over the winter season. He further states that they found out this day that a grant applied for by Richard Flynn came through and the equipment will be paid for by the grant. Mr. Oberheim then thanks those who made this happen on behalf of the town, including Debra Mena, Christine Barry and the schools.

Bill Bowler then thanked Richard Flynn who worked for three years on this project before applying for this grant. Thank you, Dick.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY to take NO ACTION  
Declared by the Moderator**

\*\*\*\*\*

**ARTICLE 2007/10-1-8 Community Preservation Act Appropriation**

Moved by David Carey, Selectman, duly seconded, that the Town appropriate \$40,000 from the Community Preservation Fund balance to increase the appropriation of a previously approved historic preservation project to improve the heating system at the Town Hall.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES by majority vote  
Declared by the Moderator**

\*\*\*\*\*

**SECTION 2: TOWN BY-LAW AMENDMENTS**

**ARTICLE 2007/10-2-1 Stormwater Management By-Law**

Moved by Marc Johnson, Chairman of the Planning Board, duly seconded, that the Town amend the General By-Laws by adding a new Chapter XXIX, entitled “Stormwater Management By-Law” by adopting the language set forth in **Appendix A** to the Warrant Book.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY  
Declared by the Moderator**

## APPENDIX A

### STORMWATER MANAGEMENT GENERAL BY-LAW XXIX

#### 1. PURPOSE AND INTENT:

The purpose and intent of this By-Law are to:

- A. protect water resources
- B. require practices that mitigate soil erosion and sedimentation and control the volume and rate of Stormwater runoff resulting from land disturbance activities;
- C. promote infiltration and the recharge of groundwater;
- D. ensure that soil erosion and sedimentation control measures and Stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
- E. encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
- F. comply with state and federal statutes and regulations relating to Stormwater discharges;
- G. establish the Town of Hamilton as the legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

#### 2. DEFINITIONS

**ABUTTER:** The owner(s) of land abutting the legal boundaries of the land on which the land-disturbing activity is proposed.

**AGRICULTURE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act M.G.L. c. 131, §40, and its implementing regulations.

**APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land-disturbance activity.

**AUTHORIZED ENFORCEMENT AGENCY:** The Planning Board, the Zoning Board of Appeals, and/or their respective employees or agents designated to enforce this By-Law.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of Stormwater runoff.

**CLEARING:** Any activity that removes the vegetative surface cover.

**DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction.

**EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

**GRADING:** Changing the level or shape of the ground surface.

**GRUBBING:** The act of clearing land surface by digging up roots and stumps.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops.

**LAND-DISTURBING ACTIVITY:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.

**LOW IMPACT DEVELOPMENT:** A set of strategies that seek to maintain natural systems during the development process. The idea is to create homes and businesses that are integrated into the landscape, not imposed on it. Natural areas and important features are protected, and Stormwater is managed with a distributed network of swales and rain gardens, rather than a centralized system of pipes and ponds.

**MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act M.G.L. c. 131 §40 and Massachusetts Clean Waters Act M.G.L. c. 21, §26-53. The Policy addresses Stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or municipal storm drain system:** The system of conveyances designed or used for collecting or conveying Stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Hamilton.

**OPERATION AND MAINTENANCE PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a Stormwater management system to insure that it continues to function as designed.

**OUTFALL:** The point at which Stormwater flows out from a point source discernible, confined and discrete conveyance into waters of the Commonwealth.

**OWNER:** A person with a legal or equitable interest in property.

**PERMIT AUTHORITY:** The Planning Board or the Zoning Board of Appeals, as outlined in Section 5.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**PRE-CONSTRUCTION:** All activity in preparation for construction.

**REDEVELOPMENT:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**RUNOFF:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**SEDIMENT:** Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

**SEDIMENTATION:** The process or act of deposition of sediment.

**SITE:** Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

**SLOPE:** The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

**SOIL:** Any earth, sand, rock, gravel, or similar material.

**STORMWATER:** Stormwater runoff, snow melt runoff, and surface water runoff and drainage.

**STORMWATER MANAGEMENT PLAN:** A plan required as part of the application for a Stormwater Management Permit. See Section 6 and Planning Board Rules and Regulations. A document containing narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction related land disturbance activities.

**VERNAL POOLS:** Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

### **3. AUTHORITY**

- A. This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §22.34

- B. *Nothing in this By-Law is intended to replace the requirements of any other By-Law that has been made or may be adopted by the Town of Hamilton.*

#### **4. APPLICABILITY**

- A. This By-Law shall apply to all activities that result in disturbance of one or more acres of land that drains to the Municipal Separate Storm Sewer System. A permit from the Permit Authority shall be required for any construction activity including clearing, grading and excavation, that results in a land disturbance that will disturb equal to or greater than one acre of land, or will disturb less than one acre of land but which is part of a larger common plan of development or sale which will ultimately disturb equal to or greater than one acre of land, draining to the Town's Municipal Separate Storm Sewer System.
- B. Construction activities that are exempt are:
1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulations 310 CMR 10.04 and M.G.L. Chapter 40A, §3;
  2. Maintenance of existing landscaping, gardens, or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, or alteration of drainage patterns;
  3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
  4. Normal maintenance of Town owned public land, ways, and appurtenances;
  5. Repair or maintenance of an individual subsurface septic disposal system, and related elements such as pipes, etc., provided that the post-repair condition drainage is equal to the pre-repair condition.
  6. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this By-Law section.
  7. Maintenance, reconstruction or resurfacing of any public or private way; and the installation of drainage structures or utilities within or associated with such ways that have been approved by the appropriate authorities provided that written notice be filed with the Planning Board fourteen (14) days prior to commencement of activity;

#### **5. RESPONSIBILITY FOR ADMINISTRATION**

- A. For the purpose of this By-Law section, as noted in B below, the term Permit Authority shall indicate the Planning Board or the Zoning Board of Appeals, as appropriate. Any powers granted to or duties imposed upon the Permit Authority may be delegated in writing by the Permit Authority to its employees or agents.
- B. To the extent that the Zoning Board of Appeals is the Permit Authority under M.G.L. Chapter 40B and for certain activity, development, construction or reconstruction under the Zoning By-Law for which the Applicant must also seek a Stormwater Management Permit, then the Zoning Board of Appeals shall also be the Permit Authority in that instance.
- C. For all other applications which fall under the purview of this By-Law, the Planning Board shall be the Permit Authority.
- D. Applications, plans and accompanying data under this By-Law may be filed simultaneously with and may be incorporated into those plans and documents required in other permitting processes.
- E. Planning Board Rules and Regulations. The Planning Board shall adopt, and may periodically amend Rules and Regulations to effectuate the purposes of this By-Law section. Failure by the Planning Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this By-Law. The Rules and Regulations shall include but shall not be limited to: the size, quantity, and distribution of plans; filing fee; required details for Stormwater Management Plan; Operation and Maintenance Plan; and Inspection and Site Supervision, etc.
- F. Stormwater Management Manual
1. The Permit Authority will utilize the policy, criteria and information including specifications and standards of the latest edition of the Massachusetts Stormwater Management Policy to execute the

provisions of this By-Law. This Policy includes a list of acceptable Stormwater treatment practices, including the specific design criteria for each. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Regulations, Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

2. Stormwater Credit System. The Permit Authority may adopt a Stormwater Credit System as part of the regulations authorized by this By-Law section. This credit system will allow applicants the option to use better site design practices to reduce some of the requirements specified in the criteria section of the Regulations. Failure of the Permit Authority to promulgate such a credit system through its Regulations or a legal declaration of its invalidity by a court shall not act to suspend or invalidate the effect of this By-Law.

## **6. PERMITS AND PROCEDURES**

### **A. Application.**

A completed application for a Stormwater Management Permit (SMP) shall be filed with the Permit Authority. The Stormwater Management Permit Application package shall include:

1. a completed Application Form with original signatures of all owners;
2. a list of abutters, certified by the Assessors Office (abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water);
3. Stormwater Management Plan and project description;
4. Operation and Maintenance Plan;
5. payment of the application and review fees;
6. one (1) complete copy filed with the Town Clerk, by the Applicant, which shall serve to establish the filing date.
7. A full electronic copy submitted by e-mail or on a CD.

See Stormwater Management Permit Rules and Regulations for additional filing requirements.

### **B. Entry.**

1. Filing an application for a permit grants the Permit Authority or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions, after proper notification to the Applicant at least 24 hours in advance.

### **C. Public Hearing**

1. If an application is filed concurrently for a Definitive Subdivision Plan approval, for a project under the Zoning By-Law, or for a 40B filing, the public hearing and decision requirements shall follow the requirements of the particular application.
2. To the extent possible, required hearings of the Permit Authority shall run concurrently with the Stormwater Management Permit hearing, and every effort shall be made to handle the permitting process expeditiously.
3. If an application is filed independently of other filings, the Permit Authority shall hold a public hearing within sixty (60) days of the receipt of a complete application and shall take final action within sixty (60) days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Permit Authority. Notice of the public hearing shall be given by publication in a newspaper of local circulation, public posting, and by certified mail at the Applicant's expense to abutters at least fourteen (14) days prior to the hearing date. The Permit Authority shall make the application available for inspection by the public during business hours at the Hamilton Town Hall.



D. Information requests.

The applicant shall submit all additional information requested by the Permit Authority to issue a decision on the application.

E. Waivers

1. The Permit Authority may waive strict compliance with any requirement of this By-Law or the Rules and Regulations of the Planning Board, where
  - a. Such action is allowed by federal, state and local statutes and/or regulations
  - b. It is in the public interest
  - c. It is not consistent with the purpose and intent of this By-Law.
2. Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the By-Law does not further the purpose or objectives of this By-Law.
3. All waiver requests shall be discussed and voted on at the Public Hearing for the project.
4. If in the Permit Authority's opinion, additional time or information is required for review of a waiver request, the Permit Authority may continue the hearing to a date certain announced at the meeting. In the event the Applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

F. Actions by the Permit Authority may include:

1. Approve the Stormwater Management Permit Application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this By-Law;
2. Approve the Stormwater Management Permit Application and issue a permit with conditions, modifications or restrictions that the Permit Authority determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this By-Law;
3. Disapprove the Stormwater Management Permit Application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this By-Law.

G. Failure of the Permit Authority to take final action.

Failure of the Permit Authority to take final action upon an Application within the time specified above shall be deemed to be approval of said Application. Upon certification by the Town Clerk that the allowed time has passed without the Permit Authority's action, the Stormwater Management Permit shall be issued by the Town Clerk.

H. Vote required. A simple majority of the Permit Authority shall be required in order to grant a Stormwater Management Permit.

I. The Permit Authority shall enforce all violations of the Stormwater Management Permit approval and conditions. See Section 12. below for enforcement of violations of this By-Law section which do not fall under a valid Stormwater Management Permit.

J. Appeals. A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this By-Law shall be reviewable in the Superior Court in an action filed within 60 days of filing a Decision with the Town Clerk, in accordance with M.G.L. Ch. 249 §4.

**7. FINAL REPORT**

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans, as outlined in Subdivision Regulations, Section IV.B.8.a), from a Registered Professional Engineer

(P.E.), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

## **8. CERTIFICATE OF COMPLETION**

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this By-Law.

## **9. EMPLOYMENT OF OUTSIDE CONSULTANTS**

The Permit Authority may employ outside consultants, at the Applicant's expense, under the terms of M.G.L. Ch. 44 §53G, the Zoning By-Law, and Planning Board Rules and Regulations, to assist in its permit decision, including but not limited to plan review, drainage and Stormwater analysis; to determine conformance with this By-Law section and other requirements; and for construction inspection, etc.

## **10. PERFORMANCE GUARANTEE**

- A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by Section 7 of this By-Law and issued a Certificate of Completion.
- B. The Planning Board Rules and Regulations shall establish reasonable criteria for assessing the Performance Guarantee.

## **11. DURATION OF STORMWATER MANAGEMENT PERMIT**

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

## **12. ENFORCEMENT of VIOLATIONS Which do not Fall under a Stormwater Management Permit**

- A. In any instance where a SWM Permit has not been applied for or granted, a disturbance of earth equal to or greater than one acre of land shall constitute a violation of this By-Law section. The Planning Board, or an authorized agent of the Planning Board, shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- B. Orders
  1. The Planning Board or an authorized agent of the Planning Board may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include:
    - (a) a requirement to cease and desist from the land-disturbing activity until there is compliance with the By-Law and provisions of the land-disturbance permit;
    - (b) maintenance, installation or performance of additional erosion and sediment control measures;
    - (c) monitoring, analyses, and reporting
    - (d) remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.
  2. If the enforcing person determines that abatement or remediation of erosion and

sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town may, at its option, undertake such work, and the property owner shall reimburse the Town expenses.

3. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Hamilton, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Planning Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Planning Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in M.G.L. Ch. 59, §57, after the thirty-first day following the day on which the costs were due.

- C. Criminal Penalties. Any person who violates any provision of this By-Law, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.
- D. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40 §21D and General By-Law Chapter XIII, *Penalties for Violation* in which case the Planning Board shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2nd violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- E. Appeals. The decisions or orders of the Planning Board shall be final. Further relief shall be to a court of competent jurisdiction.
- F. Remedies Not Exclusive. The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

### **13. SEVERABILITY**

If any provision, paragraph, sentence, or clause of this By-Law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

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### **ARTICLE 2007/10 -2-2 Illicit Discharge Detection and Elimination By-Law**

Moved by William Bowler, Chairman of Board of Selectmen, duly seconded that the Town amend the General By-Laws by adding a new Chapter XXX, entitled "Illicit Discharge Detection and Elimination By-Law" by adopting the language set forth in **Appendix B** to the Warrant Book.

The Moderator called for the vote.

**VOICE VOTE: MOTION PASSES UNANIMOUSLY**

**APPENDIX B  
ILLICIT DISCHARGE DETECTION AND ELIMINATION BY-LAW  
GENERAL BY-LAW XXX**

## **1. PURPOSE**

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the town's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. The objectives of this By-Law are:

1. to prevent Pollutants from entering the town's municipal separate storm drain system (MS4);
2. to prohibit illicit connections and unauthorized discharges to the MS4;
3. to require the removal of all such illicit connections;
4. to comply with state and federal statutes and regulations relating to Stormwater discharges; and
5. to establish the legal authority to ensure compliance with the provisions of this By-Law through inspection, monitoring, and enforcement.

## **2. DEFINITIONS**

For the purposes of this By-Law, the following shall mean:

**AUTHORIZED ENFORCEMENT AGENCY:** The Board of Selectmen, as the Board of Public Works, with the Director of Public Works as its Designated Agent.

**BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of Stormwater runoff.

**CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as hereafter amended.

**DISCHARGE OF POLLUTANTS:** The addition from any source of any Pollutant or combination of Pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

**GROUNDWATER:** Water beneath the surface of the ground.

**ILLICIT CONNECTION:** A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this By-Law.

**ILLICIT DISCHARGE:** Direct or indirect discharge to the municipal storm drain system that is not composed entirely of Stormwater, except as exempted in Section 8. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from fire fighting activities exempted pursuant to Section 8, of this By-Law.

**IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and rooftops.

**MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) or MUNICIPAL STORM SEWER SYSTEM:** The system of conveyances designed or used for collecting or conveying Stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Hamilton.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of Pollutants to waters of the United States.

**NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of Stormwater.

**PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth.

Pollutants shall include without limitation:

1. paints, varnishes, and solvents;
2. oil and other automotive fluids;
3. non-hazardous liquid and solid wastes and yard wastes;

4. refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations;
5. pesticides, herbicides, and fertilizers;
6. hazardous materials and wastes; sewage, fecal coliform and pathogens;
7. dissolved and particulate metals;
8. animal wastes;
9. rock, sand, salt, soils;
10. construction wastes and residues; and
11. noxious or offensive matter of any kind.

**PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

**RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

**STORMWATER:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**SURFACE WATER DISCHARGE PERMIT:** A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of Pollutants to waters of the Commonwealth of Massachusetts.

**TOXIC OR HAZARDOUS MATERIAL or WASTE:** Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under M.G.L. Ch. 21C and Ch. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

**WATERCOURSE:** A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

**WATERS OF THE COMMONWEALTH:** All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, costal waters, and groundwater.

**WASTEWATER:** Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

### **3. APPLICABILITY**

This By-Law shall apply to flows entering the municipally owned storm drainage system.

### **4. AUTHORITY**

A. This By-Law is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §122.34 and the Phase II ruling from the Environmental Protection Agency found in the December 8, 1999 Federal Register.

B. Nothing in this By-Law is intended to replace the requirements or authority of any other By-Law, state, federal, or superseding authority.

### **5. RESPONSIBILITY FOR ADMINISTRATION**

The Board of Selectmen shall administer, implement and enforce this By-Law. Any powers granted to or duties imposed upon the Board of Selectmen may be delegated in writing by the Board of Selectmen to the Designated Agent or to another authorized agent.

### **6. REGULATIONS**

The Board of Selectmen may promulgate Rules and Regulations to effectuate the purposes of this By-Law. Failure by the Board to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this By-Law.

### **7. PROHIBITED ACTIVITIES**

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged any Pollutant or non-Stormwater discharge into the municipal separate storm drain system (MS4), into a watercourse, or into the waters of the Commonwealth.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of Stormwater into or out of the municipal storm drain system without prior written approval from the Designated Agent.

## **8. EXEMPTIONS**

- A. Discharge or flow resulting from fire fighting activities.
- B. The following non-Stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a Pollutant to the municipal storm drain system:
  1. Waterline flushing;
  2. Flow from potable water sources;
  3. Springs;
  4. Natural flow from riparian habitats and wetlands;
  5. Diverted stream flow;
  6. Rising groundwater;
  7. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
  8. Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
  9. Discharge from landscape irrigation or lawn watering;
  10. Water from individual residential car washing;
  11. Discharge from dechlorinated swimming pool water (less than one ppm chlorine), provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
  12. Plowing, sanding, and salting, and other measures during snow and ice conditions;
  13. Discharge from street sweeping;
  14. Dye testing, provided verbal notification is given to the Designated Agent at least 7 days prior to the time of the test;
  15. Non-Stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
  16. Discharge for which advanced written approval is received from the Designated Agent as necessary to protect public health, safety, welfare or the environment.
  17. Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Town Administrator, the Board of Selectmen or the Board of Health.

## **9. EMERGENCY SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS**

The Designated Agent may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of Pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

## **10. NOTIFICATION OF SPILLS**

- A. Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of Pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment, and cleanup of the release.
- B. In the event of a release of oil or hazardous materials, the person shall immediately notify the municipal Fire and Police Departments and the Designated Agent. In the event of a release of non-hazardous material, the reporting

person shall notify the Designated Agent no later than the next business day. The reporting person shall provide to the Designated Agent written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter.

C. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

#### **11. ENFORCEMENT**

A. The Board of Selectmen shall enforce this By-Law, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

- B. Civil Relief. If a person violates the provisions of this By-Law, regulations, permit, notice, or order issued thereunder, the Board of Selectmen may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- C. Orders. The Board of Selectmen may issue a written order to enforce the provisions of this By-Law or the regulations thereunder, which may include: (a) elimination of illicit connections or discharges to the MS4; (b) performance of monitoring, analyses, and reporting; (c) that unlawful discharges, practices, or operations shall cease and desist; and (d) remediation of contamination in connection therewith.
- D. If the enforcing person determines that abatement or remediation of contamination is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the town may, at its option, undertake such work, and expenses thereof shall be charged to the violator.
- E. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board of Selectmen within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Board of Selectmen, affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in M.G.L. Ch. 59 §57 after the thirty-first day at which the costs first become due.
- F. Criminal Penalties. Any person who violates any provision of this By-Law, regulation, or permit issued hereunder, shall be subject to fines, civil action, criminal prosecution, and tax liens, as appropriate and as lawfully established by the Town of Hamilton.
- G. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Hamilton may elect to utilize the non-criminal disposition procedure set forth in M. G.L. Ch. 40 §21D and General By-Law Chapter XIII, in which case the Board of Selectmen shall be the enforcing person. The penalty for each violation shall be \$100.00 for the first offense, \$200.00 for the second violation, and \$300.00 for the third violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.
- H. Entry to Perform Duties Under this By-Law. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board of Selectmen may enter upon privately owned property for the purpose of performing their duties under this By-Law and regulations and may make or cause to be made such examinations, surveys or sampling as the Board of Selectmen deems reasonably necessary.
- I. Appeals. The decisions or orders of the Board of Selectmen shall be final. Further relief shall be to a court of competent jurisdiction.
- J. Remedies Not Exclusive, The remedies listed in this By-Law are not exclusive of any other remedies available under any applicable federal, state or local law.

## **SECTION 12. SEVERABILITY**

The provisions of this By-Law are hereby declared to be severable. If any provision, paragraph, sentence, or clause, of this By-Law or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this By-Law.

## **SECTION 13. TRANSITIONAL PROVISIONS**

Property owners shall have 90 days from the effective date of the By-Law to comply with its provisions or petition the Board of Selectmen for an extension provided good cause is shown for the failure to comply with the By-Law during the specified period.

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**ARTICLE 2007/10 -2-3 Disposal of Refuse and Garbage By-Law**

Moved by Gretel Clark, member of the Recycling Committee, duly seconded, that the Town amend the General By-Law XIV, "Disposal of Refuse and Garbage" to authorize the Board of Selectmen to establish a charge for municipal rubbish collection, disposal services and recycling, which may include but not be limited to a Pay As You Throw Program, by adopting the language (**PAYT**) set forth in Section 5 of **Appendix C** to the Warrant Book as a new Section 5 to Chapter XIV of the General By-Laws, and that the Town accept the provisions of G.L. c. 44, § 53F ½ to establish refuse and garbage collection charges as an enterprise fund effective fiscal year '08.

The Moderator recognized Gretel Clark.

Gretel Clark presented a power point presentation to the audience and showed that this motion enables the Selectmen to 1) To finalize and set fees for a Waste Reduction Program, 2) to establish an Enterprise Fund and 3) to change/adjust to the trends in waste management without need for new town vote.

The Board of Selectmen and the Finance and Advisory Committee recommend favorable action.

The Moderator recognized Timothy Maciejowski of 17 Sharon Road. Mr. Maciejowski believes this to be an admirable article and that recycling should be encouraged. He would like to amend the language in **Appendix C** the Proposed Language, Section 5 to strike the words in the first sentence (and recycling) and in the following sentence (and/or recycling).

The Moderator clarified the motion to amend the major motion.

Moved by Timothy Maciejowski, duly seconded, that in **Appendix C** of the Warrant Book under Proposed Language, Section 5, that the language (and recycling) of the first sentence be deleted so that the first section will read: The Board of Selectmen may establish a charge for municipal rubbish collection and disposal services, ~~and recycling~~ in the Town of Hamilton. The second part of the motion to amend will be to delete the words (and/or recycling) at the end of the second sentence, so that the second section will read: Such charge shall be limited to the costs associated with such collection, services ~~and/or recycling~~. The rest of the section will remain unchanged.

The Moderator called for the vote to amend the major motion.

**VOICE VOTE:        MOTION PASSES TO AMEND UNANIMOUSLY**

The Moderator called for the vote of the main motion as amended under Section 5.

**VOICE VOTE:        MOTION PASSES as amended  
                             Declared by the Moderator**

**APPENDIX C  
CHAPTER XIV  
DISPOSAL OF REFUSE AND GARBAGE**

**EXISTING LANGUAGE:**

**Section 4.** The following materials are prohibited from collection at street side by the town's regular refuse collection contractor.

- Leaves, yard waste, branches, tree limbs, shrubs, or tree stumps of any kind or other quantities of organic waste.
- Recyclables, which are defined as: newspapers, magazines, phone books, clear and colored glass bottles, aluminum or metal cans, and plastics codes 1 and 2, clear and colored.
- Toxic materials, tires, car batteries, oil, oil base paints or other hazardous wastes.
- White goods/appliances, heavy metal items.
- Construction or demolition materials.
- Large quantities of commercially originated food, food products, or other organic or liquid wastes.

**Section 5.** The Board shall establish rules and regulations as from time to time are necessary to insure that recycling of specific waste materials is encouraged throughout the town, and shall procure the services of a recycling contractor to collect recyclable products (as defined in Section 4). One recycling container will be supplied at no cost to all residents in town, and will be used for the purpose of curbside recycling.

**PROPOSED LANGUAGE**

**Section 4.** A listing of materials prohibited from collection at street side by the town's regular refuse collection contractor may be obtained from the Town Website or the Department of Public Works.

**Section 5.** The Board of Selectmen may establish a charge for municipal rubbish collection, and disposal services ~~and recycling~~ in the Town of Hamilton. Such charge shall be limited to the costs associated with such collection, services ~~and/or recycling~~. The Board of Selectmen may amend said charge from time to time in order to recover the cost of providing for some or all of the costs for disposal or collection of municipal rubbish.

**AS AMENDED**

**Section 5.** The Board of Selectmen may establish a charge for municipal rubbish collection, and disposal services in the Town of Hamilton. Such charge shall be limited to the costs associated with such collection, services. The Board of Selectmen may amend said charge from time to time in order to recover the cost of providing for some or all of the costs for disposal or collection of municipal rubbish.

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**ARTICLE 2007/10 -2-4 Disposal of Refuse and Garbage By-Law**

Moved by William Bowler, Chairman of the Board of Selectmen, duly seconded that the Town amend the General By-Law Chapter XIV, "Disposal of Refuse and Garbage" by deleting existing Section 4 and replacing it with a new Section 4 by adopting the **(Prohibited Materials)** language set forth in **Appendix C** to the Warrant Book.

After a brief explanation, the Moderator called for the vote.

**VOICE VOTE:        MOTION PASSES**

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**ARTICLE 2007/10 -2-5 Winter Parking Ban By-Law**

Moved by Walter Cullen, Police Chief, duly seconded that the Town amend the General By-Law, Ch. X, "Ways," Sec. 9, to regulate the parking of motor vehicles on public ways during the winter months by replacing the current language with the proposed language set forth in **Appendix D** to the Warrant Book.

After a brief explanation by Chief Cullen, the Moderator called for the vote.

**VOICE VOTE:        MOTION PASSES**  
**Declared by the Moderator**

**APPENDIX D**  
**WINTER PARKING BY-LAW**  
**CHAPTER X**

**WAYS**

**Current Language:**

**SECTION 9.** The parking of any vehicle on any public way between the hours of 1:00 AM and 6:00 AM during the period from December 1<sup>st</sup> until April 1<sup>st</sup> of any year is prohibited and shall be punishable by a fine of Twenty Dollars (\$20.00). The parking of any vehicle on Town property at Depot Square on the west side of the railroad tracks for more than two (2) hours between the hours of 8:00 A.M. and 6:00 P.M. is prohibited and shall be punished by a fine of fifteen dollars (\$15.00).

**Proposed Language:**

The Chief of Police, in consultation with the Director of Public Works, shall have the authority to declare a winter storm-parking ban on all public ways. The public will be notified of a winter storm parking ban by notices carried on the local access cable TV station, local radio station and by flashing lights and signage that will be activated in advance of predicted storms at locations determined by the Chief of Police and the Director of Public Works. Parking on streets during the parking ban is prohibited, and shall be punishable by a fine of \$20.00, and any vehicle so parked may be subject to towing at the expense of the owner.

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**ARTICLE 2007/10 -1-3 Dept. of Public Works Appropriation**

Moved by Walter Cullen, Police Chief, duly seconded that the Town transfer from available funds \$2,000 to pay for the Highway/DPW Departmental budget to cover the costs of purchasing signs and lights to signal emergency parking bans.

After a brief explanation, the Moderator called for the vote.

**VOICE VOTE:        MOTION PASSES**

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**ARTICLE 2007/10 -2-6 Dog Licensure Fees**

Moved by Jane Wetson, Town Clerk, duly seconded that the Town amend the General By-Law, Chapter XVIII, "Dog By-Law" by amending Section 4 to increase the fees for the issuance of licenses for dogs by adopting the fees set forth in **Appendix E** to the Warrant Book.

After a brief explanation by Jane Wetson, the Moderator called for the vote.

**VOICE VOTE: MOTION PASSES**

**EXISTING LANGUAGE:**

Notwithstanding the provision of Section 139 of said Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town of Hamilton for the issuance of licenses for dogs shall be:

<b>Males and Females</b>	<b>Ten Dollars</b>
<b>Neutered Males and Spayed Females</b>	<b>Ten Dollars</b>

For kennels, if not more than four dogs are kept in said kennel, Fifty Dollars; if more than four but not more than ten dogs are kept in said kennel, One Hundred Dollars; and if more than ten dogs are kept in said kennel, One Hundred Fifty Dollars, said kennels to require Special Permit as per the Hamilton Zoning By-laws, Section V.A. 11d.

For Previously licensed dogs, the Town will charge a late fee, in addition to the license fee, as follows:

On or after June 1, a late fee of \$10	<b>Total Due = \$20</b>
On or after June 16, a late fee of \$25	<b>Total Due = \$35</b>
On or after August 1, a late fee of \$50	<b>Total Due = \$60</b>

The owner, or keeper, of a dog registered in Hamilton shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk' Office.

**APPENDIX E  
CHAPTER XVIII - DOG BY-LAW**

**Amend the By-Law to read as follows:**

**SECTION 4.**

Notwithstanding the provision of Section 139 of said Chapter 140 or any other provision of law to the contrary, the annual fees to be charged by the Town of Hamilton for the issuance of licenses for dogs shall be:

Males and Females	Fifteen Dollars
Neutered Males and Spayed Females	Fifteen Dollars
All Dogs Whose Registered Owners are Older Than 60 as of January 1 of the Year of Licensure	Ten Dollars
All Dogs Whose Registered Owners are Older than 70 as of January 1 of the Year of Licensure	No Fee

For kennels, if not more than four dogs are kept in said kennel, Fifty Dollars; if more than four but not more than ten dogs are kept in said kennel, One Hundred Dollars; and if more than ten dogs are kept in said kennel, One Hundred Fifty Dollars, said kennels to require Special Permit as per the Hamilton Zoning By-Laws, Section V.A. 11d.

For Previously licensed dogs, the Town will charge a late fee, in addition to the license fee, as follows:

On or after June 1, a late fee of \$10	Total Due = \$25, per dog
On or after June 16, a late fee of \$25	Total Due = \$40, per dog
On or after August 1, a late fee of \$50	Total Due = \$65, per dog

The owner, or keeper, of a dog registered in Hamilton shall cause it to wear around its neck or body, a collar or harness to which shall be securely attached a tag in a form as prescribed by the Town Clerk and available at the Town Clerk' Office.

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**ARTICLE 2007/10 -2-7 Schedule of Fees**

Moved by Jane Wetson, Town Clerk, duly seconded that the Town amend the General By-Law, Chapter XXI, "Schedule of Fees" to increase certain fees by adopting the fees set forth in **Appendix F** to the Warrant Book.

After a brief explanation by Jane Wetson, the Moderator called for the vote.

**VOICE VOTE:        MOTION PASSES**  
**Declared by the Moderator**

**EXISTING LANGUAGE:**

For furnishing certificate of a birth	<b>\$8.00</b>
For furnishing a certificate of death	<b>\$8.00</b>
For issuing a certificate of marriage	<b>\$8.00</b>

**APPENDIX F**  
**CHAPTER XXI - SCHEDULE OF FEES**

Amend fees as follows:

For furnishing certificate of a birth	\$10.00
For furnishing a certificate of death	\$10.00
For issuing a certificate of marriage	\$10.00

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**ARTICLE 2007/10 -3-1 Free Cash Application**

Moved by Arthur Oberheim, Chairman of the Finance and Advisory Committee, duly seconded, that the Town take **NO ACTION** on this Article.

After a brief explanation by Arthur Oberheim, the Moderator called for the vote.

**VOICE VOTE:        MOTION PASSES to take NO ACTION**

**The Moderator declared the meeting closed at 9:02 pm.**

**A TRUE COPY:        ATTEST:**

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**Jane M. Wetson, Town Clerk**