

HAMILTON FINANCE AND ADVISORY COMMITTEE  
Minutes of Meeting  
February 21, 2018

Members Present: Darcy Dale, John Pruellage, Phil Stearns, and David Wanger (Chair)

This Hamilton Finance and Advisory Committee meeting was called to order at 7:02 pm at the Council on Aging Building.

**Public Comments**

Bill Dery spoke regarding the two debt exclusions including the \$1.2M sprinkler system at Winthrop School. Mr. Dery indicated that Winthrop School had a fire suppression system including each classroom having doors that led to the outside for evacuation. Mr. Dery, who was on the School Committee when the requirement came into effect, said the last paragraph of the law outlined the appeals process, which the School Committee had not done. Mr. Dery suggested the Town not endorse the request and let the School Committee appeal because he believed it was an extreme waste of money. Mr. Dery questioned the second article for \$2.6M and assumed it would be for deferred maintenance and short term depreciation items, such as computers. Mr. Dery didn't think a 20 year bond should be for maintenance or short term depreciation items. Mr. Dery suggested that the repairs were overpriced but should have been part of the budget and not a debt exclusion. David Wanger responded that he was not sure the FinCom was any further enlightened than Mr. Dery and the matter would be a continued discussion.

**Discussion Regarding the Citizen Petition for Payment of Planning Board Legal Fees.**

Bill Shields said the petition asked the Town to fund the three Planning Board members who voted against the Varsity Wireless case. A valid decision was made by the Planning Board under 40A Section 9 of the Zoning Act, which required a 2/3's vote of the Planning Board to grant a Special Permit, according to Mr. Shields. The applicant could not obtain a 2/3's vote. No Special Permit was granted. Varsity Wireless appealed the decision. The Town Manager and the four Planning Board members who voted for the Special Permit all said the three members who voted against the Special Permit were acting unfairly. Mr. Shields said the three Planning Board members made good faith decisions. The decision appeal was filed in Federal Court. Mr. Shields asked who would represent the Town in pursuing the activity and defend the Town. The Town of Hamilton was named in the complaint.

According to Bill Shields, The Zoning Act specified that the Town and members of the Planning Board included the individuals. The Board of Selectmen hired Special Counsel because Donna Brewer had a conflict. Mr. Shields said the goal was to scuttle the valid Decision of the Planning Board. The three members were denied their right to counsel, per the letter from Michael Lombardo. Mr. Shields said four By-laws, including the legal affairs section and the laws of the Commonwealth, were being abused. Mr. Shields said the Board of Selectmen shall have authority to prosecute and defend litigation. The Town Manager did not have the ability to settle, but rather to coordinate with Town Counsel.

Bill Shields continued that Town Counsel shall prosecute cases brought to the Town and shall appear at any court in the common defense of all actions or suits brought against the Town or its officers in its official capacity. Mr. Shields said Town Counsel had an absolute duty to defend those members and to deny the duty would go against the By-laws of the Town. By the Board of Selectmen hiring Special Counsel, they were seeking to overturn a Planning Board Decision and they had no right to do that as the Boards were separately elected. Mr. Shields said the Board of Selectmen could take a position but could not deny the Planning Board a right to counsel.

Bill Shields said Varsity had sued the three individuals who voted against the proposal, while the four members who voted for the proposal did not want representation saying they would be happy if Varsity won the case. The Board of Selectmen would also be happy if Varsity won the

fairness may be perceived at Town Meeting with four Planning Board members' interests being represented by the Board of Selectmen and the Town Manager. Ms. Brewer was concerned about wasteful spending by paying for two separate lawyers. Ms. Brewer said the Town had a Planning Board Decision that the Federal Court would look at to determine if it was supported by the evidence for the Planning Board at the time. Ms. Brewer said once the Decision went to litigation, the members of the Planning Board became a cohesive unit for the purpose of the litigation. David Wanger asked if the Town had an obligation to defend the Decision, to which Ms. Brewer responded no, some Towns decided not to defend a case because it was indefensible.

John Pruellage said he found it hard to divorce the policy of whether any Decision by a Town Board had to be defended but wondered about spending good money after bad and if the Town were to lose the case, were they spending twice as much.

Bill Shields gave David Wanger a copy of the Town Manager's letter, which outlined the request for counsel fees and Mr. Lombardo's response. Donna Brewer said the Town needed to know the limitation of the article vote. The Town would be voting on the appropriation of money but could not force the Board of Selectmen to hire anybody. Bill Shields said there would be an action for Town Counsel to follow the By-law of the Town to defend the officers of the Board that had been sued. Ms. Brewer disagreed.

David Wanger said his instinct was to try to find a way to avoid confrontation and cease the expenditure of money but parties needed to want to engage. Bill Shields said he was in touch with the three members of the Planning Board who said Varsity had to get all permits, but did not and the Planning Board did not complete everything needed. Varsity could return and say they could do that. Mr. Shields thought that could be accomplished quickly.

Bill Dery added that the Town did not do due diligence to investigate sites and referred to Brown's Hill. David Wanger responded that if there were two parties that were willing to solve the problem, there was some basis for a resolution, which would benefit the community.

**Discussion Regarding FY19 Budget, Including:**

**Discussion regarding takeaways from the joint budget workshop with the Board of Selectmen on February 13, 2018 and School Budget Items.**

The current proposed budget, without reference to the Schools, had an increase of .8%, and with the Schools current budget without the two capital projects was a 3.7% increase. The School budget went up by 5.4%. The School budget was in excess without considering the sprinkler system or \$2.6M for general safety, which was out of alignment in terms of the Town of Hamilton's expectations. The FinCom did not have an itemization of what was involved in the \$2.6M.

John Pruellage recalled the Capital Budget was planned for a year from the current time with debt exclusions of \$2.6M originally planned for 2020. They were moved to FY19 after the turf field was removed. David Wanger wanted to collaborate with the Board of Selectmen and Wenham. A table would be implemented that would represent the additional sums for the tax rates if the exclusions were adopted. The School Committee decision to change its policy regarding athletic fees, with Hamilton's 60% share, cost a little more than \$100,000, which was .07 on the tax rate. Phil Stearns asked why the parents needed to pay three times what other towns paid. Mr. Stearns added that for a family with athletes, it was another tax. David Wanger wanted to concentrate the burden on a rational basis and with a population that was aging, taxes were becoming a problem. As the FinCom was unable to view the budget details, it would be difficult to determine where else cuts could be taken to accommodate the increase.

Discussion ensued regarding the School OPEB obligation, which would become the Town's obligation. Phil Stearns indicated that it was important to match Wenham's articles to keep the two towns in sync. John Pruellage said he would have split the warrant articles between a level service budget and above that as a separate Warrant Article with the priorities plus the user fees.

Bill Dery spoke about the cost of educating a student three years ago (\$13,000 per student) compared to last year (\$18,000 per student). Mr. Dery suggested contacting the Manchester athletic department, who charged differently. It appeared that Hamilton paid more, when it actually did not, according to Mr. Dery. Mr. Dery questioned why the number of teachers increased while the student population decreased. Mr. Dery noted the 5% increase in teacher salaries. David Wanger said the items were outside the FinCom's reach for information and that

the School Committee had not responded to repeated attempts at collaboration. Mr. Wanger added that the Town valued education but also valued other public services. Mr. Wanger hoped having dual Warrant Articles would put pressure on the Schools to moderate their position.

John Pruellage questioned splitting the warrant because level services was where the budget should be cut. Mr. Pruellage noted school rankings and wondered how much needed to be spent to maintain the ranking.

Discussion ensued regarding sharing a pumper truck with Wenham, who apparently did not want to move forward with the shared concept. The \$10,000 study would be 50% funded by Wenham. Darcy Dale noted that the town still had chimney fires in the winter, fires that begin behind interior walls or in cellars and attics and in the summer, and there were grass fires. The fires do not become out of control due to the skill and training of the men and women of the Fire Department and their strong Chief. Ms. Dale also referred to comments by some in the community that Hamilton did not have fires anymore, so there was no need for a professional Fire Department. Ms. Dale wanted to disabuse them of this notion. The truck was the first to arrive at a fire with all the equipment. David Wanger suggested that the Town should move forward to borrowing \$550,000. Ms. Dale said a demo truck would cost \$400,000 to \$450,000 and that the old pumper truck could be sold.

According to Darcy Dale, the State would be taking over the Middleton ECO as it was not feasible due to poor record keeping.

#### **Discussion of Other Potential Warrant Articles for ATM Including Planning Board and CPA initiatives.**

David Wanger distributed current versions of the Warrant, but noted the School should remain the focus. Article 2-8 was a CPA article that included the Patton project with the costs being a concern. Article 2-3 was to raise and appropriate money for Schools for level services. Article 2-4 was for additional money for greater than a 3% increase. Article 2-5 was for indebtedness. Phil Stearns suggested splitting the indebtedness into two bonds as one might be more necessary than the other. If there was no resolution for the Winthrop School, a sprinkler system would be required, but the other was not clear. It was important to coordinate with the Board of Selectmen, then Wenham.

The Committee discussed whether the debt exclusion would apply to the 2.5% formula. The amount could be appropriated at Town Meeting but if not voted at the ballot, it would fail. If voted down at Town Meeting and approved at the ballot, the appropriation would fail. The appropriation language indicated that it was contingent upon the ballot vote. If the debt exclusion passed in one town but not the other, it would not pass, as it was part of one School budget.

550 Highland St. would be an article. The Community Preservation Committee (CPC) articles were discussed. There was a balance of \$57,500 with revenues from the 2% surcharge of \$185,000 listed as uncollected revenue. Interest and anticipated state grants totaled \$555,000 for June 30, 2018. It was noted that the CPC was committing anticipated revenues. The Affordable Housing Trust had requested \$100,000 from the CPC. Carin Kale, Tom Catalano, Dorr Fox, Patrick Reffett and Russ Tanzer would be invited to a future meeting. John Pruellage suggested asking the CPC where the accounts stood currently as well as for the next two years.

Planning Board articles were discussed. John Pruellage said Article 3-1 would be the removal of the Conservancy District. The By-law was deemed illegal or redundant due to the passing of the Wetlands Protection Act. The other two By-laws were for Vacant and Unsafe Buildings and the Demolition Delay By-law. The Demolition Delay By-law was hosted by the Historic District Commission and delayed for one year, the demolition of historic properties that were constructed prior to 1940. Mr. Pruellage thought it was well intentioned but wondered if it would impose needless restrictions. The Vacant and Unsafe Buildings By-law was a nuisance By-law, proposed by the Board of Health. Darcy Dale recalled Mary Beth Lawton was interested due to senior population concerns. The Planning Board Zoning rewrite Phase II By-law items would not be ready for Town Meeting.

Article 4-4 was the Solicitor By-law, which charged a fee for canvassing neighborhoods. John Pruellage thought it might be part of the Municipal Modernization Act. David Wanger would ask for clarification from Donna Brewer.

Article 6-1 was discussed. The free cash increased to \$375,000 to maintain the same tax rate when the School budget went up. The \$375,000 was an increase from \$250,000 previously considered. The target tax rate of 16.49 was just a placeholder as the current tax rate was in effect through calendar 2018. The FinCom would revisit the topic after financial policies were in place. Phil Stearns recalled that at the previous Town Meeting, the Capital Stabilization Fund was tabled. The FinCom said they would return at ATM after policies were made. The FinCom agreed to explain to the residents that the Department of Revenue had drafted the policies and were reviewing them but the policies would not be available by Town Meeting. The Capital Stabilization Fund would be proposed after the policies were in place.

David Wanger mentioned an article to reduce the Town Manager's salary would be forthcoming based on a Citizen's Petition. Darcy Dale said she heard at last Board of Selectmen's meeting that the Town Clerk amendment might be proposed. Phil Stearns said if the agreement was not being honored it would be appropriate but if the agreement was honored, it would not. Ms. Dale noted an assistant Town Clerk had not yet been hired and that when the Town Clerk was absent for a conference, the office needed to be closed. Ms. Dale thought people should be aware that personnel was still missing.

**Committee Member Comments/Reports**

The Town Hall Study Committee would meet, according to Phil Stearns. Funding for the Owner's Project Manager was complete. Members discussed the validity of a \$10,000 study for a shared pumper truck when Wenham was not interested in a shared program. Darcy Dale suggested asking Gordon Conwell to contribute to the pumper truck, especially as the fire department was a frequent visitor to the Seminary. Jeff Hubbard was the liaison. Ms. Dale thought Pingree School should be asked for a donation as well as they benefited from the acquisition of a new truck. David Wanger added that they could contribute to the athletic fields or fees as well.

**Review and approval of any available minutes**

List of dates yet to approved were offered to include 12/4, 12/6, 12/7, 12/20 of 2017 and 1/10, 1/20 and 1/24 of 2018.

**Adjournment**

Darcy Dale made motion to adjourn the meeting.  
Seconded by Phil Stearns.  
Vote Unanimous to adjourn at 9:02 pm.

Prepared by:

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Marcie Ricker

Attest

Date



A large handwritten signature, possibly 'C. Dale', is written across the middle of the page. Below the signature, the date '5/10/18' is handwritten.