

# HAMILTON BOARD OF SELECTMEN

## MINUTES OF MEETING

Memorial Room, Town Hall, 577 Bay Road, Hamilton

September 20, 2021

Selectmen Present at Town Hall: Chair William Olson, Rosemary Kennedy, and Shawn Farrell

Selectmen Present Online: Jamie Knudsen and Darcy Dale

Town Manager: Joe Domelowicz Jr.

Other Staff Present: Town Counsel Tom McEnaney

*The Board of Selectmen/\*Select Board meeting was held at Town Hall with an online/Zoom option offered.*

### **Call to Order – Memorial Room/Pledge of Allegiance**

Chair William Olson called the Select Board/Board of Selectmen (BOS) meeting to order at approximately 7 p.m. and took a roll call. Town Manager Joe Domelowicz Jr. and three of five Select Board members were present at Town Hall; Darcy Dale and Jamie Knudsen were present via Zoom. The Pledge of Allegiance was recited. *\*Note: The BOS voted informally to refer to itself as the Select Board pending a vote on the name change at the Special Town Meeting (STM) in October.*

### **ANNOUNCEMENTS & BOARD OPENINGS**

#### **Board and Committee Openings**

- Finance and Advisory Committee (FinCom)—two associate member openings
- Conservation Commission (ConCom)—two openings
- Hamilton Historic District Commission—one opening
- Open Space Committee—two openings
- Hamilton Planning Board—one associate member opening
- Hamilton Affordable Housing Trust (AHT)—one opening

#### **Public Comment (3 minutes on topics not already on the agenda)**

Robin Davis, 57 Lois St., (participating via Zoom) said she had sent info. to the BOS about six suggested beautification items for the downtown. Included was a short slide show. Her husband also said he wanted to comment on the guest flag-raising policy. Mr. Olson noted both topics were on tonight's agenda.

### **Selectmen/Town Manager (TM) Reports**

Mr. Farrell said the Shop Local HW Fall Festival was great with a good turnout. He said the Recreation Department just closed the pool after a good season and will be putting out its winter programming soon. He mentioned the Rec Center would also be installing a new scoreboard.

Ms. Kennedy said the ConCom met and many people are interested in the 133 Essex St. proposed development. She said she was glad to see people on all sides of the discussion feeling empowered to voice their opinions. She said the Senior Citizen Garden Party on Sept. 11 was a success and thanked sponsors Crosbys, Honeycomb, and Institution for Savings; entertainers The Shower Singers; and the many volunteers and departments involved. She worked the Master Plan Steering Committee table at the Fall Festival and was one of the three "Puppy Pawrade" judges.

Ms. Dale echoed that the Tea Party and Fall Festival were great. She noted the parade benefitted Sweet Paws Rescue. She said the BOS retreat on Unconscious Bias will be held this Saturday. She applauded the civic engagement of Professor Davis and Ms. Davis and talked about needing civic engagement in the context of Hamilton's Town Hall, which is the only town hall in the Fourth Essex District lacking ADA- [Americans with Disabilities Act] compliance. She said she and Nancy Stehfast (of the Human Rights Commission) had discussed the idea of a Peace Garden at Patton Park and she suggested pursuing Cultural Council and CPC [Community Preservation Committee] grants.

Mr. Knudsen, who was at the airport waiting to board a flight, reported that at its last meeting, the AHT unanimously awarded Essex County Habitat for Humanity the use of a little more than \$57K in Northshore HOME Consortium funds for Habitat's affordable housing project on Asbury Street. The HOME funds had been given to the Town to "use or lose."

Town Manager (TM) Mr. Domelowicz reported COVID cases in Town are down to just five cases. Approximately 73% of residents and 95% of Town employees are vaccinated. In the interest of safety, planning is underway for STM to be held in a tent in Patton Park. An easement from the Town is being required by National Grid to access equipment to supply power to the cell tower. The next three Town Master Plan public meetings will be held: Sept. 23, Oct. 14, and Oct. 28 at 6 p.m. via Zoom with a potential in-person component. The Town is working on securing grants to help with alternative water sources and water challenges, including applying for a Sustainable Water Management Initiative (SWMI) grant, and recently met with State Senator Bruce Tarr's North Shore Water Resiliency Task Force. The TM's bi-weekly e-newsletter will return this week.

Mr. Olson asked for an update on recent Zoom webinar technical issues. Mr. Domelowicz said he hired a technical consultant to assist with meetings and provide training to Town staff.

**CONSENT AGENDA**

- **Approve minutes of the Aug. 2, 2021 BOS meeting**
- **Approve sale of cemetery lots to former longtime residents**
- **Approve use of \$6,120 in Perpetual Care Funds for cemetery improvements**
- **Accept gift of \$250 from the Institution for Savings for Senior Garden Tea Party**

**Decision:**

Mr. Farrell made a motion that the BOS/Select Board approve all items on the Consent Agenda. Ms. Dale seconded the motion.

**Further Discussion**

Mr. Domelowicz provided some details on the reseeded at the cemetery.

**Decision (Continued):**

A roll-call vote was taken with “ayes” from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

**National Grid Pole Hearing for Willow Street and Underground Power Facilities—  
Vote**

Mr. Domelowicz displayed the document onscreen detailing National Grid’s petition to run underground power facilities (conduits) for providing power to 56-63 Willow St. Sibhita Mahabier of National Grid explained they will be upgrading service in the area to allow for service to the new multiunit building. She said they will not be going on anyone’s property aside from that of 56-63 Willow St., and would be digging across the street underground.

**Decision:**

Mr. Farrell made a motion that the BOS approve the petition for burying power lines underneath 56-63 Willow Street. Ms. Dale seconded the motion.

**Further Discussion:**

Ms. Kennedy asked who would be responsible for the cost of and for repaving and repairing the road after work was completed. Ms. Mahabier said it would be the developer’s contractor doing the job at that location. Ms. Kennedy asked if it were included in this agreement and was told it was contained in the developer’s agreement. Mr. Farrell inquired on timeframe. Ms. Mahabier said that would be part of the Road Opening permit issued by the Town’s DPW [Department of Public Works]. She said National Grid would end up inheriting everything put in place by the developer who would incur the cost. Ms. Kennedy

said she would like to see that in the agreement as well as who pays for the police detail. Ms. Mahabier said that is outlined by the DPW.

**Decision (Continued):**

Ms. Kennedy amended Mr. Farrell's motion to include terminology that the developer be responsible for any costs incurred for opening the road, police detail, proper closing of the road, and all restoration required. Ms. Dale seconded the motion. A roll-call vote on the amended portion of the motion was taken with "ayes" from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

A roll-call vote was then taken on the whole motion with "ayes" from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

Select Board members will sign the document following the meeting.

**Decision:**

Mr. Farrell made a motion to close the Pole Hearing. Ms. Kennedy seconded the motion. A roll-call vote was taken with "ayes" from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

**Reopen STM Warrant to Add Article for One Unpaid Bill—Vote**

This agenda item was taken out of order.

**Decision:**

Mr. Farrell made a motion that the BOS reopen the Special Town Meeting warrant. Ms. Kennedy seconded the motion. A roll-call vote was taken with "ayes" from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

Mr. Domelowicz said a \$34 unpaid bill was needing to be addressed and will be included in Article 2021/10 2-1 - Prior Year Bills. Also, he was recently notified by National Grid that an easement is required for installing the conduit for powering the cell tower, which involves adding a warrant article, and had forwarded that info. to the BOS this afternoon.

**Decision 1:**

Mr. Farrell made a motion that the BOS include Article 2021/10 3-4 - Authorization to Convey Easement to National Grid - 577 Bay Road for the purpose of activating the cellphone tower. Ms. Dale seconded the motion.

**Further Discussion:**

Mr. Olson read the language drafted by Town Counsel concerning the easement for work done in, thru, over, under, and across. He said this specifically discusses "under." Mr. Domelowicz stated that granting the easement would also serve the Town in the future if Town Hall is upgraded. Ms. Kennedy noted that while the tower is located on Town property, the tower itself is owned by a private entity and said she was concerned with who would be responsible for costs associated with repairing the roadway. Mr.

Domelowicz said it would be National Grid for its equipment and the cellphone company for its equipment. However, in the event that Town Hall is renovated in the future, then the Town would incur the cost. It was noted that the work involved digging up blacktop and grass and not infrastructure.

**Decision 1 (Continued):**

A roll-call vote was taken with “ayes” from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

Mr. Domelowicz said in the interest of generating a quorum for STM that anyone interested in the cell tower should come out to vote on the easement.

**Decision 2:**

Mr. Farrell made a motion that the BOS add Article 2021/10 2-1 – Prior Years Bills and update the language in the placeholder on the warrant to add the amount of \$34 for the prior-year bill. Ms. Dale seconded the motion. A roll-call vote was taken with “ayes” from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

Mr. Farrell asked Mr. Domelowicz to fill in the expected request on Article 10 2-2 – Amendment to the Budget. He said he would after conferring with the Finance Department.

Mr. Domelowicz said the BOS was planning to hold a joint meeting with the FinCom on Oct. 4 to vote on all the warrant articles

**Review Draft Warrant Articles for Oct. 23, 2021 Special Town Meeting—Vote**

Mr. Olson noted Town Counsel Tom McEnaney (present online) had made some comments to the draft in the margins and suggested they review/discuss. Some highlights:

- Article 2021/10 2-3 - Election staffing: Mr. Farrell asked for clarification on how they rectify the amount after the fact as the exact cost is unknown. Mr. Domelowicz explained the Town would likely receive some amount of State assistance. The estimated cost was \$14K-\$19K, and the idea was to ask for \$14K and absorb the remaining cost not covered by the State.
- Article 2021/10 3-1 - General Bylaws Board of Selectmen Name Change: The Board was split on whether the name should be one word: “Selectboard” or two words: “Select Board.” Mr. Olson reviewed how names appeared in other towns. Two words was ultimately decided with “SB” used as the abbreviation. A redline version of the general and zoning bylaws will be provided with gender-neutral and grammatical changes noted.
- Article 2021/10 3-3 - Home Rule Petition to Refund Taxes – 550 Highland Street: Mr. McEnaney explained it was thought that the easiest way to do this was to make an amendment to the prior Home Rule Petition adding the words “or paid” regarding taxes so it reads “unpaid or paid taxes” regarding the abatement to the curators of the 550 Highland St. property. Previously the petition had only authorized abatement of “unpaid” taxes. The abatement (refund) amount is about

\$13K. Mr. Olson asked that the proponents be given the opportunity to review the language. It was noted that the BOS had previously voted to put the article on the warrant, but Mr. Olson suggested the BOS also vote to approve the language at the next meeting after the proponents have reviewed it and the exact dollar amount is inserted. Mr. McEnaney noted there was discussion at the last meeting regarding interest and that the thought was that they would agree to repay the tax but not any interest. Mr. Domelowicz said it had been suggested by the Finance Department to pay it in a lump sum (rather than staggering the repayment).

**Decision:**

Mr. Farrell made a motion to close the warrant for the October Special Town Meeting. Ms. Kennedy seconded the motion. A roll-call vote was taken with “ayes” from Mr. Knudsen, Ms. Dale, Mr. Farrell, Ms. Kennedy, and Mr. Olson, (5-0) unanimous.

**Draft of Special Liquor License/Permit—Discussion**

This agenda item was taken out of order. Ms. Kennedy had sent an email to the BOS asking whether a 12C caterer’s license could apply to events on Town-owned property. Mr. McEnaney said it would seem to him that a caterer’s license was OK; however, he noted the ABCC [Alcoholic Beverages Control Commission] website information was confusing as it says that whenever there is an event on public property, a one-day license is required. He said he needed to confirm it with ABCC’s general counsel. He noted that the ABCC is concerned with the sale of the service of alcohol and in the case of someone hosting an event with a cover charge where alcohol is served (even if there wasn’t cash bar), it would constitute a sale of alcohol. Therefore, a one-day liquor license would be required even if the event were private.

Mr. Olson said that in his research he found there was a Mass State one-day permit as well as a Hamilton permit needed. Mr. McEnaney said the ABCC was not involved in the one-day licensing; it was only involved in the licensing of caterers. Mr. Olson asked if someone would need two applications or just one application if there was a public event where alcohol was being sold, such as the Fall Festival. He wanted to know in which cases the Town had to abide by the ABCC. Mr. McEnaney said if one wanted to hold an event at a public park, it would need a one-day license with the Town. The ABCC is not involved with that. Mr. Olson asked what event needed to abide by the ABCC license. Mr. McEnaney said any restaurant in Town had to abide by ABCC regulations, but there was no ABCC one-day license.

In another attempt to clarify the issue, Mr. McEnaney said if a caterer is licensed under 12C to serve alcohol, they are covered for any type of alcohol. But if the caterer doesn’t have a 12C license and are only licensed as handlers of food, then you would need to hire a bartender and get a special one-day license. Where you wouldn’t need a license is when you have a cookout and invite friends over because there is not actual service of alcohol. If one is hosting a wedding reception where you are paying a caterer licensed under 12C, then the service is covered under the caterer’s license. But if the caterer is not a 12C, then

you would need to pay for bartender service and that would require a one-day license. He said in the case of a wedding, even though the guests aren't paying out of pocket for alcohol, the host paid for the alcohol service and so it still requires a one-day license unless the caterer they use is licensed under 12C.

Mr. Olson said the BOS needs help writing the policy to make it clear to a person renting the Patton Homestead. Mr. McEnaney said he has been drafting liquor licensing regulations for communities for years and can share with them a 25-page document covering everything that comes up at the local level. He said he can work with Mr. Domelowicz to come up with a policy to specifically address the Patton Homestead. Ms. Kennedy suggested the BOS decide under what circumstances they will lease out the Patton Homestead and set the boundaries rather than preparing for every scenario. Mr. Olson agreed. The topic of liability insurance was addressed. Mr. McEnaney was unsure whether general liability covered alcohol service. He said if an individual were renting out the Patton Homestead with a hired bartender, the bartender would have to carry insurance. He said the Town should not be involved in the service of the alcohol and was just providing the venue. Ms. Dale asked Mr. Domelowicz to discuss the matter with the Town's insurance rep. Mr. Olson said his question was about whether a person would be required to have liquor liability or just general liability.

Mr. McEnaney asked if his presence would be needed at the upcoming joint BOS/FinCom meeting on Oct. 4 and was told yes. He left the meeting.

### **Amended Guest Flag Policy—Discussion**

Mr. Knudsen was soon going to be boarding his flight. It was suggested the BOS table the discussion to the next meeting although Mr. Olson said he would entertain comments.

Mr. Jack Davis, 57 Lois St., said he had questions on the general principle by which an organization would be included or excluded from flying a guest flag as well as on pragmatics and administration, and jurisdiction relative to State and local municipalities. He suggested one principle was a distinction between a flag pole on government property vs. private property. He said historically, a flagpole in front of a town hall is for the purpose of displaying a flag representing a governmental body, whether Federal, State or Town, which is distinguished from a "billboard" where private organizations can exercise their First Amendment rights. The flag of the U.S., he said, is presumably a symbol of unity of all people. Regarding the issues surrounding human rights and advocacy groups, he offered the example of the Palestinian cause and two-state solution. Who would be charged with gathering the extensive amount of data on whether or not to support that cause? He said time stewardship was a concern. Also, he asked if there would there be a danger in the Town's weighing in on issues in that the Board might be seen as imposing its political preferences on the Town. Also, he noted a jurisdictional issue and raised the question that if the Commonwealth of Massachusetts approves a flag to be flown in front of the State House, would it be mandatory that the Town flies that particular flag?

Ms. Dale noted policy analysis by the BOS was very important because it was the job of elected officials to do their due diligence and make policy that serves people in the future. She reminded the BOS that, at Hamilton's Human Rights forum, one of the facilitators had said that in Dedham they had taken the human rights policy to the people for a vote at Town Meeting. She said if the BOS can't make decisions unanimously, the issue should go to Town Meeting, to the people.

Ms. Stehfast of the HRC pointed out that the government does fly the POW/MIA flag. She said Hamilton's two flag-raising events this past summer were well-attended indicating a need for a policy. In paragraph 4, she said the minimum flag size was listed as 3 x 6, but should be changed to 3 x 5, which is a standard size.

Anna Siedzik, Hamilton Wenham Human Rights Coalition president, said she thought the public should be given more access to the draft flag policy. She agreed there should be a limit on the number of flag requests, but felt the Town should allow for flexibility to allow for raising a flag quickly, citing an example from Beverly. She said while it was fine to have a limit on the number of days for flying a flag, in some cases, a week might not be long enough, such as in the case of Pride Month. She said the precedent of government speech has been well-established and in many places, there is only one flagpole, which is at the place where the government meets. Speaking to the idea of requiring a unanimous vote to raise a guest flag, she said she couldn't think of any other situation where a unanimous vote was required. She said the Select Board was elected by the people to make decisions.

Ms. Dale interrupted, stating that in the human rights arena, one wants to prevent the tyranny of the minority. She said the issue should go to Town Meeting in the case of a 4-1 vote because the Town has a direct democracy. She said she would encourage people to talk about the issue and perhaps come up with a citizen's petition. Mr. Olson said he wasn't against a policy going to Town Meeting for a vote, but the Select Board still need to write the policy.

Ms. Kennedy did not like the policy saying that the BOS could reflect what was in the Town's image. She advocated making the policy as objective and inclusive as possible. She said in her opinion, they should either fly any flag requested of any citizen of the Town as long as it is not illegal or just only fly the American flag. Otherwise, it would be concluded that the BOS is biased and they can't be as they represent all the people in the Town.

Ms. Dale asked if they wanted to allow a Proud Boys flag because how can you say yes to one group and no to another. Ms. Stehfast said the BOS was elected and has the power to reason it out and it is the law. She said the draft language being discussed came from the Canadian flag policy and that anything can be edited. She said government speech is different from free speech.

Mr. Farrell said he felt the policy needed fine-tuning, such as some exceptions to the rule that could be added in to say something was up to BOS discretion.

Mr. Olson said he didn't want to focus on the philosophical discussion but rather on the specifics of the policy. He said he felt that people on Town boards and committees should not be limited in their amount of flags requests. He suggested requiring a person who wanted to fly a flag to get 25 signatures. Ms. Kennedy thought that was a nice suggestion. She said if there were 25 people who wanted to fly a flag, why would they say no? Mr. Olson said because it was their job to make decisions.

Ms. Stehfast said many small towns are working through writing their policies and it wasn't just an issue for Hamilton. Ms. Kennedy said there are towns that have a general policy that doesn't have any limitations. Ms. Stehfast said one reason for the policy to be written in this way was to protect the Town, stating that the BOS has the final say, and to make the rights and responsibilities of the guest requester clear. She requested that the interests of Town residents be considered as the BOS hammers out the rest of the details and cautioned them not to be afraid to use their power and authority.

Ms. Dale said policy is written to exist through the ages and again, she suggested taking it to Town Meeting. She asked: When there is such a highly charged political atmosphere, how are you going to say no to some and yes to others and be correct? And said it is not principled to do that. She said that if the five of them can't come to an agreement, it is a signal to take it to the people.

Mr. Olson said that they don't write policy at Town meeting, they discuss policy. Ms. Stehfast said she was available to speak to anyone who had questions. Mr. Olson said he thought that a super majority of at least 4-1 was best and that a petitioner should be required to get 25 signatures.

It was decided not to vote this evening. The suggestion was to look at other towns and how they are developing their policies in real time. Ms. Stehfast said she had connected with other towns over the course of her research and could share her spreadsheet.

Ms. Kennedy asked if she were to understand by the lack of affirmation she was receiving that the BOS didn't think everybody's voice should be considered. Mr. Olson said he agreed the BOS should vote on every single request and not deny that any request be heard as was stated in the current draft of the policy. He said he was OK with not every request being approved the first time and people having a chance to come back again to present their case. Mr. Olson said it was OK to be uncomfortable. It was the mutual agreement that the BOS keep talking until they reach a consensus.

### **Creating Volunteer Effort for Downtown and Patton Park—Discussion**

This agenda item was taken out of order. Mr. Farrell thanked Ms. Davis and the volunteers for weeding in the downtown. He said a lot of people showed they cared about the Town.

Ms. Davis said she had sent the BOS a short YouTube presentation she had made about projects they could try or the DPW could do, for example, trimming the low hanging branch in front of People's United Bank, repairing sections of the split rail fence at Patton Park, and

cleaning the granite on the memorial monument in front of Town Hall. She also brought a safety issue to the BOS's attention. She said that the sign by the railroad is eye level and should be 12 feet high. Mr. Domelowicz said the DPW could do all of these, but he would need to find out whose sign it is because if it is not a Town's sign, they can't move it.

Ms. Kennedy asked about overflowing trash barrels on Railroad Ave. Mr. Domelowicz said it is a part of Casella's contract and the DPW will check on it. He suspects it was a new driver who was unaware it was part of the route.

Ted Acworth, 24 Rock Maple Ave., said he wanted to follow up on the Shared Winter Streets grant. He said he had ideas for Patton Park and the pond, but they were not included in the grant the Town received. He said he had worked with Pat Shannon, former CPC Coordinator and Assistant to the Town Manager, about making the pond more of a gathering spot. Mr. Domelowicz said when the proposal was prepared, it was paired with other elements, such as adding outdoor electrical outlets on Railroad Ave., a bike lane along Willow Street to Patton Park, and purchasing bike racks. Fire pits in the park were cut out of the grant, although they were going to buy some additional benches. Mr. Acworth gave some of his ideas, such as adding a webcam at the park so people can check on the condition of the ice to see if it were skate-able without having to leave their homes or a makeshift Zamboni for clearing off the ice that could be stored at the park and used by volunteers.

### **Recap of Shop Local HW Fall Festival—Discussion**

Mr. Olson thanked and congratulated Shop Local HW on a successful Fall Festival. He said he would be interested in the data about how it went and the lessons learned. Ms. Dale said she hoped they would do an event like that every quarter or at least twice a year. The next one will be at holiday time.

### **NEW BUSINESS**

- Recruitment of a high schooler to be a liaison to the Select Board.
- BOS retreat.
- BOS input about what makes a "portrait of a graduate." There will be a meeting on this topic on Oct. 6, 6-9 p.m.
- Follow-up on the reopening the HW Regional Schools Agreement.
- Status of staffing at the Hamilton COA and discussion on the possibility of combining officially or unofficially with the Wenham COA. Mr. Domelowicz said he informally offered the part-time position of Outreach and Program Coordinator to someone who will be starting at the beginning of October.

### **Adjournment**

Ms. Dale made a motion to adjourn the meeting at about 9:52 p.m. Ms. Kennedy seconded the motion. A roll-call vote was taken with "ayes" from Ms. Dale Mr. Farrell, Ms. Kennedy, and Mr. Olson, (4-0). \*Mr. Knudsen had previously left

**Cemetery Deed #1216**

Requires BOS signatures but was not discussed at meeting.

*Respectfully submitted as approved at the November 1, 2021 meeting.*

Prepared by:

Mary Alice Cookson, 11-1-2021

Mary Alice Cookson  
Minutes Secretary

Date

Attest:

Darcy Dale, 11-03-2021

Darcy Dale  
Board of Selectmen Clerk

Date

**Documents Discussed at Meeting:**

- Minutes of Aug. 2, 2021 BOS Meeting, Mary Alice Cookson
- Email from Faith Hassell to Joe Domelowicz Jr. regarding Grant of Easement to National Grid
- Willow St. Pole Hearing
- Donation for tea party
- Warrant for Special Town Meeting
- Town Manager Report, Sept. 20, 2021
- Estimate from Clark Hydroseeding & Lawn Care
- Unpaid bill, Schwaab, Inc. 070920
- Email request re: Gren Cemetery Lot

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