

**TOWN OF HAMILTON
BOARD OF SELECTMEN
JANUARY 12, 2015**

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Monday, January 12, 2015 with Chair Scott Maddern, Jeff Hubbard, Marc Johnson, David Neill, Jennifer Scuteri present. Town Manager Michael Lombardo, Town Counsel Donna Brewer, Town Moderator Bruce Ramsey, DPW Director Bill Redford also present.

Call to order

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

Public Comment

Town Moderator Bruce Ramsey described the functions of the Town moderator's position at Town Meeting. He reported on Legislature updating procedure according to statute when there is inclement weather and a Town Meeting has to be dissolved and rescheduled. The new procedure does not require moderator or Town clerk to be at scheduled meeting location during inclement weather to dissolve meeting if required. In addition, Ramsey notified the Town that he is stepping down as moderator and will not seek another term after serving Hamilton in this role for 20 years. Selectmen and Town Manager Michael Lombardo thanked Ramsey for an excellent job as moderator.

Bill Dery, 356 Chebacco Road, spoke to citizen's petition proposing site plan review authority be transferred from ZBA to Planning Board and associated hearings.

Bruce Wadleigh, 75 Blueberry Lane, suggested Hamilton investigate if City of Beverly that has withdrawn from Middleton ECC would be interested in joining the Town's ECO. Also, if this topic should be revisited with Wenham which is receiving dispatch service from Middleton facility.

Ed Howard, 10 Meyer Lane, speaking as a private citizen opined that civil rights are being challenged in Town by a selectman and two Planning Board members. Also described was his involvement bringing a circus to Town to help the Community House survive which was successful and this same circus was ultimately brought to Roxbury. He also spoke to Selectman Jennifer Scuteri's letter that she brought to recent Planning Board meeting where he opined that Board should consider infringement on citizens civil rights relative to 14th amendment.

Town Manager's report

Town Manager Michael Lombardo reported to Board about letter received from Annette Janes, president of the Hamilton Historical Society, where a grant funded digitizing Town reports from 1800s to 2006 which are available for perusal using digital archive non-profit site. The link will be on historical society's website. Up to date reports to 2013 will be added shortly. Also, the municipal phone system is being updated and software issues are being resolved to keep system up and running. In addition, Chapter 90 funds have been restored at the state level (\$100 million) and Hamilton's distribution will be increased. Draft report on potential for Patton Homestead to be used for a non-profit will be available soon. Draft Comcast franchise contract will be reviewed by Town manager and discussed with Board and Special Counsel Bill August. Also, water rate process will be discussed during public hearing at Board's next meeting.

Chairman/Selectmen reports

Marc Johnson discussed Government Study Committee and how helpful digital communication can be to research issues. Jeff Hubbard opined about Planning Board discussion about elected officials associating with special interest groups as protected by 14th amendment and how he has and will attend Hamilton Watchdog group meetings. Jennifer Scuteri mentioned ice skaters at Weaver Pond at Patton Park, and Hamilton Development Corporation's vision meeting where design standard guidelines for downtown were discussed and that the meeting was widely attended. David Neill described tour he and his family took of public safety building. Scott Maddern noted that Brad Hill is organizing meeting with Hamilton, Ipswich, Manchester, and Wenham to discuss possibility of joint dispatch capability. Also, that he is engaging with HW School Committee Chair Bill Wilson regarding GCTS and number of students attending HWRSD. In addition, that Bill Dery had resigned from the School Committee relative to protocols and code of conduct. That draft HWRSD budget information has been provided to the supporting communities, and BOS will have a working budget session with FinCom. In regard to Patton Park pool project, a two town presentation will be done on the project and information will be provided on CPC decisions from Hamilton and Wenham, and he gave kudos to officials involved. Also, HDC will summarize outcome of its visioning workshops at the BOS's January 26 meeting.

CONSENT AGENDA

- **Approve Minutes** – November 17, 2014 – Regular Session; December 15, 2014 – Regular Session and December 29, 2014 – Regular Session

Maddern entertained a motion to approve the November 17, 2014 – Regular Session minutes. Johnson so moved. Neill seconded the motion. Hubbard stated that he could not support the November 17, 2014 minutes with Scuteri's amendment. Neill stated that he needed to do more research on the one sentence addition in the minutes so the November 17, 2014 minutes were tabled subject to his review.

Maddern entertained a motion to approve the December 15, 2014 – Regular Session minutes. Neill moved to approve the minutes of December 15, 2014. Scuteri seconded the motion. VOTE: 3-0-2 with Hubbard and Johnson abstaining because they did not attend.

Maddern entertained a motion to approve the December 29, 2014 – Regular Session minutes. Neill moved to accept the minutes of December 29, 2014. Scuteri seconded the motion. VOTE: 4-0-1 with Johnson abstaining since he did not attend.

AGENDA

- Town Manager contract renewal

Discussion revisited from last meeting was about Town Manager contract renewal and that Michael Lombardo is doing a fine job, that employment market is opportunistic (i.e., Lombardo was nearly recruited to new position in Danvers), and that it is a good business practice to make sure employees are committed so Maddern recommended early renewal of Lombardo's contract for a three-year term with no other contract changes.

Johnson spoke to the challenges that Town will be facing in the next few years and how Lombardo has strong skill set to manage those and that he is comfortable with proposal for early renewal. Lombardo's contract is up for renewal in spring of next year and would be renewed 18 months early. Neill spoke to the stability the early renewal could provide the Town. Lombardo noted that early renewal was not uncommon after many years of good performance reviews, and expressed his interest in staying, acknowledged the security through changing times and interest in moving forward with the contract renewal.

Maddern stated that he had support from Town Counsel Donna Brewer to move forward with extending the three-year contract. Scuteri moved that the Chairman Scott Maddern and Town Counsel Donna Brewer enter into negotiations with Town Manager Michael Lombardo to renew or extend the existing contract. Neill seconded the motion. Hubbard clarified that there are no financial ramifications associated with the extension. Johnson suggested that the period of time for the existing contract would have a financial piece and this would be addressed for the additional 18 months as part of the contract negotiation. Discussion was on how there would not be an early bonus associated with extension or renewal. Terms should be arrived at quickly. VOTE: 4-1 with Hubbard opposed.

- Patton Homestead sale of land, housing development

Discussion ensued about this top priority for Town Manager and Board of Selectmen, proceeds from sale of the parcel will be \$1.1 million, with recurring annual revenue of \$150,000 in real estate taxes once housing is developed on parcel.

Discussion addressed Freedom of Assembly and Freedom of Association that is restricted by state's Conflict of Interest law that seeks to prevent conflict between private interest and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job after hours and after leaving public service. Scuteri spoke to Section F, Appearance of Conflict, which is acting in a manner that would make a reasonable person think you can be properly influenced. In addition, a municipal employee (Planning Board and Selectmen) is required to consider whether relationships could prevent the employee from acting fairly and objectively when performing duties for city or town. Also, the appearance of affiliations and relationships creating conflict. Discussion was about not infringing on a person's Freedom of Assembly/Association but municipal employees sign Conflict of Interest rules and agree to abide by them.

Scuteri noted that EIE supports housing development at Patton property as well as some of the large landowners in Town. She stated that she does not want to be engaged in a process identifying individuals in certain scenarios with affiliations that are making the Planning Board Special Permit process questionable but emphasized the importance of informing public about what is occurring in community.

Scuteri read into the record a letter dated January 6, 2015 addressed to BOS Chair Scott Maddern:

Dear Scott,

I am submitting this letter to the Hamilton Board of Selectmen as well as the members of the Planning Board. Additionally I believe the general public needs to be made aware of actions being taken by certain residents including elected officials. As confirmed in the filing made by Attorney John Hamilton with the Mass. Attorney General on September 23, 2014, an anonymous group of indeterminate size who called themselves the Hamilton Watch Dogs have come together in a concerted effort with the apparent goal of challenging and thwarting the authority, decisions, and votes made by our Board of Selectmen and our Town Meeting with regard to the Patton estate and thus prevent the Town's receipt of \$1 million and an annual revenue stream of \$148,000.

The group appears to be quite small but also well pocketed as not one but two attorneys have been hired. Most alarmingly it appears that some of our elected officials have affiliated themselves with this group as documented in the Attorney General filing. From the outset it is important to note that the AG is not acting on the 100-page filing which is a somewhat nonsensical compilation of incorrect and irrelevant facts. The filing makes various accusations against our Town government. That the Town Manager did not have the authority to hire the Planning Board Director, the proper process wasn't followed in the selection of a Planning Board alternate, the proper process isn't being followed with the sale of the land for the Patton housing, and that the proposed Patton housing cannot be built under our zoning laws. In fact the unfounded accusations are all interrelated with one seeming goal: the delay and opposition to the Special Permit process for the Patton housing. Specifically this group appears committed to undermine the stated wishes of Joanne Patton. Which were specifically to develop a small portion of the Patton land which will then provide the financial stability for the remaining acreage to continue as open space and to help preserve the historic homestead.

The Planning Board plays an important role in the proposed Patton housing as the Planning Board is the granting authority for the Special Permit, and for a Special Permit to be awarded, five of the seven members will need to vote in favor. It appears that this watchdog group identified the significance of the Planning Board in this process and thus may have attempted to influence the Planning Board membership which if true is of course alarming. This summer alternates were needed for the Planning Board membership which requires the joint appointment of both the Board of Selectmen and the Planning Board. The Board of Selectmen voted to put forward two very qualified alternates to the Planning Board: Chris Lapointe and Matthew Tobyne who were then both confirmed by the Planning Board. The Board of Selectmen did not choose to affirm

Rosemary Kennedy a candidate that had been earlier approved by the Planning Board but without the other applications to consider. The Board of Selectmen felt the candidates they chose were stronger than Ms. Kennedy and in fact there was a fourth candidate who is arguably more qualified than Ms. Kennedy. Certain members of the public, some of who are also elected officials, were outraged that Ms. Kennedy was not confirmed. However, their level of outrage seemed oddly disproportionate and misplaced. Curiously many of these proponents of Ms. Kennedy who include Selectman Hubbard and William Dery have also been outspoken in their opposition to the Patton housing.

William Dery's comments provided at the July 15, 2014 Planning Board meeting which was a taped meeting proved to be quite telling. At such meeting Bill Dery stood at the microphone and stated that in his opinion and I now quote Mr. Dery "The reason the Board of Selectmen rejected our candidate by our candidate I mean Rosemary is because she is in favor of the GPOD superseding the other by-laws."

Incidentally despite both Town Counsel's and Special Legal Counsel's opinions the proposed housing is in compliance with our zoning laws violation of the GPOD is one of the scattered arguments being put forth by the Hamilton Watchdogs. Bill Dery then accused the Board of Selectmen of stuffing the Planning Board with members that think alike. By the way although it is apparent that Mr. Dery had spoken with Ms. Kennedy and learned her position on our zoning laws I have never spoken with either Chris Lapointe or Matt Tobyne on the interplay of the GPOD with our senior housing by-law. In truth it was apparently the Dery opposition group who are the ones trying to stuff the Planning Board with a member who they knew in advance to be in opposition to the Patton housing Special Permit. At the time Bill Dery made this reference to the "we" the question was who is this "we"? Apparently the "we" is the Hamilton Watchdog group.

Shortly after being presented as a candidate for Planning Board alternate Rosemary Kennedy stood up at a Planning Board meeting and introduced herself as the attorney representing the Hamilton Watchdog group together with John Hamilton a lawyer from Beverly. She then went on to attack the proposed Patton housing, the process that was being followed, and at one point even called Mrs. Patton's plan for housing reprehensible. She then submitted a letter in which she identified William Dery as the coordinator for Hamilton Watchdogs but identified no other members. Clearly the fact that Ms. Kennedy put forward an application to serve on the Planning Board without disclosing to the Planning Board or the Board of Selectmen her affiliation with and representation of a group opposed to a Special Permit in which she would be involved is disturbing. More important is that such an action also cast doubt as to whether the

Planning Board and Board of Selectmen could have approved her application at all as her application was thus fraught with both ethical and professional conflicts.

The AG filing contains other documents that create concern. Despite Selectman Hubbard's statement at the November 6, 2014 Board of Selectmen meeting that he didn't know about the 100-page AG filing we have learned otherwise. The filing with the Attorney General includes an affidavit signed by Selectman Hubbard opposing the Patton housing process. Ironically, Selectman Hubbard opposed the issuance of the RFP for the Patton housing stating as a reason that the opponents, who he would not identify, would make the process costly to the Town. Now recalcitrance and obstruction is a contributing factor for such cost.

There is also an affidavit from a Planning Board member Edwin Howard complaining about the appointment process in which Ms. Kennedy was not confirmed and what appears to be correspondence between another Planning Board member Claudia Wood and Hamilton Watchdog's other attorney John Hamilton on the hiring of the Planning Director. This correspondence and interaction between sitting Planning Board members and an attorney representing an opposition group to an application that is pending before the Board unfortunately calls into question the integrity of the Special Permit process.

The hypocrisy of the group should also be noted. They argue the need for the Town officials to be independent. Yet it appears they try to put forward a Planning Board candidate without disclosing affiliations. They argue the need for openness and transparency yet they have been hosting secret meetings doing secret filings and won't identify their membership. They argue the need to reduce our property taxes yet are circumventing a revenue opportunity that is only second to the school's operational audit with regard to property tax reduction. They argue that landowners should be able to decide what happens to the land but ignore the wishes of Joanne Patton. They argue that they are environmentalists but ignore that cluster housing is a far better use of our natural resources than large luxury homes.

I'm submitting this letter as I believe the public has a right to understand the actions involved with certain elected officials.

Sincerely,
Jennifer T. Scuteri
Selectman, Town of Hamilton

Discussion ensued with Hubbard commenting that there is misinformation and wrong facts in the letter read by Scuteri and that the Planning Board could direct conversation with Scuteri about any inaccuracies. He corrected that the AG did not dismiss the complaint but said it was better suited for the Inspector General's office where it has been forwarded. He opined that the personal side of letter was disturbing with a leader attacking two citizens volunteering with viewpoints different from the Board, and that there is no right or wrong. Hubbard cited the reading of letter as a pattern of behavior of lack of respect related to difference of opinion causing special interest groups to remain anonymous. Hubbard opined that he will make the best decisions after listening to these groups when voting as a Selectman.

Johnson spoke to when items at Town Meeting are held, the Town Moderator asks the person making the hold to identify himself/herself. He added that Town Meeting form of government does not allow anonymous comments to shape public policy. Johnson noted that the Town's management of the Patton property was approved by Town Meeting and at public hearings conducted by Town boards, a person interested in speaking to an issue identifies herself/himself. He added that from statements made by Hubbard and Dery it is evident that the Hamilton Watchdog group is comprised of local residents but nothing more is known. So the Town is being asked to shape public policy by an anonymous group and that is not how Hamilton is structured. Johnson said he trusted the Planning Board to come up with a process to conduct itself accordingly when dealing with these issues.

Neill questioned the anonymity and acknowledged that there was a difference of opinion. Also, that Rosemary Kennedy was voted in process for Planning Board member and Planning Board had already voted on her months before the Selectmen. He questioned if the Hamilton Watchdog group had been in existence for a year and whether or not Kennedy was a member of the group when voted on by the Planning Board, if 100-page filing was nonsensical, and if any legal action needed to be taken relative to the opposition to the Patton housing project. Neill noted that the Mrs. Patton wanted the Town to benefit from her gift and this could include adding housing to a certain part of the property which Town Meeting voted for.

Maddern agreed with Neill that any large project would have opposition. He noted significance of project for the Town from a revenue standpoint. Also, that the Board has to assist and reinforce the work by Town manager and Town employees to move this project forward to achieve the goal given to them by the Board. He opined that Planning Board has been dealing fairly with related issues at its meetings, expressed how he would speak to Mrs. Patton about the situation and acknowledged what she has

done for the Town, that the Town as a co-applicant needs to have comfort in dealing with senior elected officials, and that two favorable votes were received at Town Meetings to accept gift and move forward with \$1.1 million land sale and housing project. Also, that the Board cannot influence Special Permit process by Planning Board on the project.

William Dery stated that Hamilton Watchdogs was put in place on July 6 since it is opposed to process being used to bring the Patton housing development forward not to suppress development. He opined that anonymity is the group's legal right (some will come forward) and its opinion should not be oppressed. He stated that there is no personal (financial) gain for the group. Dery said 70% of what was said in the Scuteri letter would be answered in another letter.

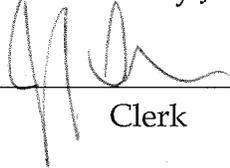
Scuteri described how anonymity was not the focus of letter and conversation. She stated that her concern is process with Planning Board operating in an objective manner. She referred to Dery's characterization of Kennedy on July 15 as "our" candidate and zoning by-laws not allowing for Patton housing and three Planning Board members campaigning for Kennedy's appointment when her concurring position on the zoning was known. Scuteri described how anonymity was not the focus of letter and conversation. She stated that her concern is the process with Planning Board operating in an objective manner and Ms. Kennedy not informing the Planning Board or Board of Selectmen of her position that our zoning laws do not support the Patton Housing before we considered her application. She referred to Dery's characterization of Kennedy on July 15 as "our" candidate and his statement that Ms. Kennedy would not support the Patton housing and despite this, three Planning Board members campaigned for Kennedy's appointment when her concurring position on the zoning was known. Scuteri also said that she wasn't sure when Hamilton Watch Dog Group came up with their name, but their opposition and efforts already were in place. Johnson stated that no one is suggesting the watchdog group is illegal. He suggested that the balance of the group's input should be proportional to who stands up and advocates for it. Also, that the process is not to stop the project by going outside to AG or threatening lawsuits. Points can be made at board/committee/Town meetings. Maddern noted that this is a difficult topic that has been well-researched and that Jeff Melick, Chair of the Planning Board, is dealing with this effectively, and he is looking forward to Patton development.

NEW BUSINESS

Consideration of topics for discussion at future Selectmen's meetings

The HDC, water hearing, FinCom budget update is on agenda at January 26 meeting, budget rollup at January 17 meeting with FinCom. Hubbard moved at 8:30 p.m. to adjourn. Scuteri seconded motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST:  _____
Clerk