TOWN OF HAMILTON
BOARD OF SELECTMEN and FINANCE & ADVISORY COMMITTEE
MARCH 18, 2013

The Board of Selectmen and Finance & Advisory Committee met at Hamilton Town Hall at 7:00 p.m. on Monday, March 18, 2013 with David Neill, Marc Johnson, Jeff Stinson, Jeff Hubbard, John McWane, Charles Chivakos and Rick Sprenkle present. Town Manager Michael Lombardo and Police Chief Russell Stevens also present.

Call to order

BOS Chair David Neill called the meeting to order at 7:00 p.m. FinCom Chair John McWane called his Committee to order during the meeting at 7:35 p.m.

Public Comment

None.

Town Manager's report

Town Manager Michael Lombardo updated Board about contract negotiations occurring with police union and noted that there would be an Executive Session at the end of the meeting to discuss policy guidance related to collective bargaining and he expected that the contract would be agreed to soon.

He also mentioned that the Council on Aging was going to dedicate the Boston Post Cane on March 25 at noon. In addition, the Annual Town Meeting warrant is ready for pickup and distribution, and it is located online. Discussion ensued about candidates' breakfast at senior center on Wednesday morning.

Chairman/Selectmen reports

Marc Johnson noted that Town officials had met with consultant regarding the Patton property for six and a half hours and the individual thought the property was an excellent candidate to be a financially viable Bed & Breakfast.

Neill mentioned that there had been a meeting between Town officials and executives from the Gordon Conwell Theological Seminary. He said the meeting was excellent and that moving forward there would be a small group of

Hamilton officials rather than the entire Board of Selectmen who would continue to meet with the GCTS representatives. Jeff Hubbard thanked Neill for opening up the dialog with GCTS.

Lombardo reiterated that there is a winter parking ban from midnight to noon as was communicated to residents via Connect CTY call since eight inches of snow is predicted in the same time period.

Consent Agenda

Neill read the details about the items in the Consent Agenda:

Patton Park Playground Donations:

- Hamilton Wenham Youth Basketball League $250
- Amy Waterman $100
- Agawam Youth Hockey Inc. $500
- Sarah Locke $200
- J. Barrett & Company LLC $1,000

Approve and Sign Warrant to Establish Dates, Time and Polling Locations for Upcoming Special Elections

Approval of Minutes

- March 4, 2013 Regular Session

Neill entertained a motion to approve the Consent Agenda as read. Hubbard so moved. Jeff Stinson seconded motion. VOTE: Unanimous.

Action Items

- **Reopen Warrant, Close Warrant and Sign Warrant**

Neill entertained a motion to reopen the warrant. Johnson so moved. Hubbard seconded motion. VOTE: Unanimous.

Board Meeting

Lombardo noted that interim Public Works Director Dave Hanlon had been called away so he would be introduced to the Board at a future meeting. Hanlon will discuss the concept of renaming culverts as part of identification mapping and maintenance program.

Cutler Park Improvement Project Presentation – Marcie Ricker

Marcie Ricker presented a stroll garden landscape plan for Cutler Park that is located across Bay Road from Hamilton Town Hall. The park is 82' wide and is 380' long with views but not access to Cutler Pond. Ricker described how the park had not been maintained for 40 years so there was a lot of overgrowth that needs to be cut back to accommodate a path along the property as designed in the stroll garden concept.

Ricker said the improvement project would be implemented through fund raising and public effort. She explained how there were some existing plantings such as burning bush and rhododendron that could be pruned. Also, that vista pruning is allowed by the Conservation Commission and that work would occur well outside of 100' of wetlands.

Discussion ensued about relationship of garden to Discover Hamilton trail. The landscape plan incorporates an infinity design for the stroll garden that will contain a seasonal succession of blooming native and hybrid plants matching the Town Hall and cemetery plantings. Ricker mentioned ideas for the garden including a butterfly plantings component as suggested by Jim Hankin and Mike DeRosa, a natural to formal to natural theme, use of stone walls and walkways as well as a grassy path, statue of Cutler, and integration of local art.

Ricker explained that a design competition was a possibility, and that there were varying conditions at the site allowing for a variety of plants that would be donated. Bench sponsorship in the garden is also being considered. Selectmen commended Ricker for proposing a garden that is in keeping with the neighborhood.

Discussion ensued about how the work on the garden would be done in phases and strategy will be developed outlining what effort could be taken on annually. Lombardo thanked Ricker for the plan and interest in improving the Cutler Park

garden noting that the front entryway would be well marked identifying it for pedestrian traffic.

Community Preservation Committee – to present FY'14 project proposals to the Board of Selectmen and Finance and Advisory Committee.

Community Preservation Act coordinator Christine Berry spoke to the CPC's proposed FY'14 projects including: Open Space – appropriate $47,000 for payment towards Donovan land acquisition debt and $6,000 to fund removal of invasive species on public open space lands, Historic Preservation – appropriate $53,800 to fund exterior restoration of Community House (cupola and eyebrow windows – Wenham will contribute $20,000 toward total cost of $108,000 project), $57,000 to remodel Hamilton Senior Center kitchen, $2,000 to restore one of Liberty Road markers at Patton Park, $3,000 to fund restoration of rear steps of Town Hall, Community Housing – Reserve $43,998 of CPA fund revenues to CPA fund Community Housing Reserve, and Administrative Expense – appropriate $21,999 of FY'14 Community Preservation Fund Revenues for administration costs.

Discussion ensued about 10% set aside allowed in the various CPA categories and 26% state match to annual CPA 2% surcharge revenue on Hamilton property taxes beyond the first $100,000 of valuation with anticipated FY'14 CPA revenues of $439,978. The match amount from the state has dropped since inception due to fewer house sales and more communities in Commonwealth have adopted CPA. Also addressed was that CPA could be used for capital improvements (i.e., senior center kitchen but would not pay for appliances). Berry mentioned that there is a possibility of $25 million surplus from state that could be applied to CPA match for participating municipalities.

McWane entertained a motion for the Finance and Advisory Committee to recommend favorable action on all of the items recommended by the Community Preservation Committee. Charles Chivakos so moved. Rick Sprenkle seconded the motion. VOTE: Unanimous.

Neill entertained a motion for the Board of Selectmen to recommend favorable action on the Annual Town Meeting article regarding the Community Preservation Committee's FY'14 budget. Stinson so moved. Hubbard seconded motion. VOTE: Unanimous.

McWane entertained a motion for the Finance and Advisory Committee to adjourn at 7:51 p.m. Chivakos so moved. Sprenkle seconded motion. VOTE: Unanimous.

Pirie Property Review Work Group Status Update & Discussion

Johnson and Stinson summarized that working group has been meeting at Town Hall analyzing if Hamilton should consider acting on the Town's right of first refusal for $4 million, 87-acre Pirie property off of Bay Road. The group conducted a site walk and consensus was that it is a beautiful property and vistas should be protected which would influence the uses for the site. This would include tucking in development where there are 50 to 60 acres of upland and 20 to 30 acres in the river watershed. The working group is analyzing revenue, housing and site protection objectives.

Discussion ensued about how there are backup offers for the property after the developer purchases the land. If this occurs the Town could realize several hundred thousand dollars of revenue annually at most. In addition, 20 to 30 acre pieces would be owned and subject to Chapter 61A. Stinson mentioned that the carrying costs for the property if the Town were to purchase the site would be $70,000 a year while a BAN is used until a bond is in place. Town officials thought possible Town uses for the Pirie property are worth investigating.

Discussion ensued about whether a decision for the Town on the Pirie property was rushed relative to the right of first refusal and if it could have been looked at earlier when property was on the market in the last two years for $5 million. Johnson noted that 61A properties can be sold in scenarios where the uses are not changed, and in those circumstances the Town's right of first refusal would not be triggered. The suggestion that we are late in planning for this property ignores the fact that for the last 2-3 years the existing owner has been trying to sell the property without a change of use and at higher prices. We could have spent a great amount of time planning to purchase property which would not necessarily have been available to the Town and at prices that were higher than the actual price. He said that the 120 day timing is a function of state law and we need to accept that our decisions on 61A properties need to be made under short time horizons. There are many concurrent conversations occurring now on land use, traffic, and with real estate developers and brokers to determine what action the Town should take relative to the Pirie property. He added that the intent is to reach a decision by mid to late April as to whether or not the Town should move ahead to purchase the property.

Hubbard expressed another view saying a municipality getting involved in purchasing properties is not where they are most efficient. He said he was speaking for the constituency that elected him and that the interest in the property could be resolved by the Town providing guidance on the sale and purchasing 20 acres of the property for a High School soccer field. Discussion ensued about how there probably would not be a huge difference in the $70,000 in taxes the Town currently receives from the property. Town officials reiterated that there is a large amount of interest in investigating Hamilton's options for the property.

Dog Hearings – Appoint Town Manager as Hearing Officer for dog complaints – M. Lombardo, R. Stevens

Neill summarized how in the past the Board of Selectmen had held dog hearings in the public arena when there was an issue with a dog and they could become animated. Lombardo stated that both he and Police Chief Russell Stevens had held many dog hearings in the course of their careers. He added that Hamilton's dog by-law being put before the Town at ATM includes updates from state law relative to appointing a dog hearing officer permanently. With Hamilton's Town manager form of government Lombardo would be authorized to hold the dog hearings and follow process.

Police Chief Russell Stevens noted that there have been a lot of changes in state law and Town officials have been working with Town Counsel Donna Brewer regarding Hamilton's current dog by-law that needs to be updated. He added that municipalities can no longer banish dogs out of Town and the hearing process is a lot more involved. Town officials are interested in having a process for dealing with situations where dogs bite people or break leash law and go after other dogs.

He explained that a first step the Town takes when there are violations is a conversation and education with the dog owners. If violations continue, citations with minimal fines are issued and followed by a dog hearing, if necessary. Two situations are currently occurring in Hamilton where one dog is leaving his property boundary line and biting people and another dog is leaving its property and biting other dogs. Stevens noted that Hamilton has a leash law and that victims have the right to petition the Board of Selectmen for a dog hearing. He said that Hamilton's dog by-law will be updated to be current with the state mandate and more dog hearings are expected as a result of complying with the state law.

Stevens said based on his experience it is important to have a continual dog hearing officer in consideration of transition of Board of Selectmen members where new officials would have to be educated on the dog hearing process. He noted that the Town has to be mindful of how passionate dog owners are about their dogs, victims are about being bit or if their dog is bit. Stevens said each case needs to be heard separately and a decision reached by weighing facts for the best outcome for dog owner, victim and Town.

He also mentioned how he could not be dog hearing officer since he oversees animal control and may not be viewed as an independent hearing officer. In response to Hubbard who expressed concern about dog hearing process and possible final decisions (i.e., euthanize), Stevens said the dog hearings conducted by appointed dog hearing officer would not change from the Board of Selectmen holding the hearing.

Discussion ensued between Hubbard and Lombardo about whether or not an appointed dog hearing officer represents the community interest as well as the Board of Selectmen might. Lombardo said he would be current on state law and mentioned his 20 years of experience dealing with these matters that would enable him to consistently execute the law.

Neill described how in his role years ago as a Selectman he believes the Board did not have the expertise when conducting dog hearings and they depended upon experts to reach a solution. He noted that today municipalities are adjudicating law and he thought dog hearings could be best executed by a consistent Town manager versus changing Board of Selectmen.

Stevens reiterated that there are two dog hearings pending in Town now, and he spoke to importance of consistency and discipline with the hearings that could potentially vary with changing Boards of Selectmen. In response to Stinson, Stevens said it is highly likely with research that he could identify other municipalities with Town manager form of government that have appointed the Town manager as dog hearing officer. Lombardo said in a dog hearing the police chief would represent the Town's perspective and dog owner would come and present information where dog hearing officer would make a decision based on totality of information. Stinson was in favor of appointing Lombardo based on the Town manager being accountable to the Board and consistency of Town manager in the dog hearing officer position.

Hubbard mentioned the constituency that elected him as Selectman saying the Board members changing reflects change in the community and that the Board should be involved in a subjective decision. Lombardo said the proposal to appoint him as dog hearing officer is an extension of his daily decisions in the administrative process. Johnson stated that this is a situation where the Town should have an objective standard presented consistently not subjective. He didn't believe the Board had the skill set to make decisions on dog hearings and noted that the Town manager is managed by the Board.

In response to Neill who inquired if the Town manager would want to make a decision on a big issue or come to the Board, Lombardo said on the dog hearing officer issue it is execution of state law and that it makes sense for the responsibility to reside with him. He said he would notify the Board of upcoming dog hearings and emphasized that the proposal to appoint him as dog hearing officer is intended to depoliticize the process so it is consistent, fair, equitable and replicable over time.

Discussion ensued about how Board took simple majority vote in the past at dog hearings. Also, that policy direction on matter comes from by-law updates in compliance with state law. Lombardo suggested there could be a working session with the Board to discussion the matter further. Also addressed was that dogs could not be banished from Hamilton but Stevens noted that there are alternatives to euthanizing a dog by installing fence or a kennel. He described situations in Hamilton where there would be violations: since there is a leash law if a dog leaves its property, if a dog bites another dog or if a dog bites a child. Stevens said there are progressive steps with a biting dog where it is required to wear a muzzle if it is walked.

Discussion ensued reiterating that Town could not banish a dog but a dog owner could sell their dog to someone out of state. Stevens said the dog hearing consists of one officer listening to victim and dog owner similar to court hearings with one court officer listening to both sides of a case. Neill thought Town manager was better suited to follow the law than Board of Selectmen and that having Lombardo serve as dog hearing officer would streamline the process. He said in the past the Town paid Town counsel to come to dog hearings to advise Board.

Neill entertained a motion to appoint Town Manager Michael Lombardo to be the hearing officer for dog complaints. (The dog by-law will be updated at ATM. Lombardo is working with Town Clerk Jane Wetson and Town Counsel Donna

Brewer on the revisions). Johnson so moved. Stinson seconded the motion. VOTE: 3-1-0 with Hubbard opposed.

Pool Committee Status Update and Discussion

Hubbard acknowledged Patton Park Pool Committee fellow members in attendance and updated Board on status of pool analysis stating that 600 people had responded to the pool survey and two public forums were held where 10 people attended. He summarized that residents consider the Patton Park pool a valued asset. Survey responders expressed interest in improvements such as upgraded bathhouses, a larger pool, and more aesthetically pleasing decking. Also, that a nice to have amenity was a concession stand.

Hubbard described how the Committee was considering three options that would be presented to the Recreation Committee for feedback and then presented to joint boards. He said there is consideration of building in phases with add-ons if funds are identified. Hubbard said Wenham Selectman Patrick Wilson has joined the Committee.

The options under consideration include keeping the existing pool structure, a larger rectangular pool with racing sized lanes, and a larger pool with upgraded bathhouses. Hubbard noted if the pool were expanded this would require improvements to the septic system that could cost $200,000. Discussion ensued about how the bathhouses do not meet code, they are not handicapped accessible, and pool complex does not meet other state usage laws.

He mentioned that the Committee was interested in hiring architect/engineer for a four hour period to provide guidance and determine if existing pool structure is viable. It was noted that the pool will need some work to use it during this upcoming season.

Lombardo had heard from Committee members where some feel as if they had met their charge to develop options based on community input and the Recreation Master Plan. He added if those options have been identified, it is not for the Committee to work with an engineer that is an administrative process. Then it is time to hand the project over to staff and Recreation Committee to finish compiling numbers and present options with prices, logistics and timing on changes so the Board of Selectmen can vette this and come to a decision about next steps.

Hubbard said the Committee has not arrived at its three options and Committee needs pending information from the Town so it can present three viable options. He said cost is going to be a factor and is part of the consideration and reality of project.

Discussion ensued about what entity decides on the final project and if it would go to Town Meeting for funding or if CPC funds were going to be used. Lombardo summarized there is work that has to be done with the existing pool, a second option is to enlarge or modify existing pool, bathhouses do not meet code so new construction could be done or rehabilitation, and concession stand is a distant option, other amenities such as splash pad and kiddie pool are options that could be considered. He reiterated that the Committee would not develop pricing or work with engineers.

Discussion ensued about base components that the community has prioritized such as bathhouses. Hubbard said considerations are comprehensive addressing decking and grass area relative to options that would be presented to the Selectmen. Stinson said he would like to see more information from Committee and stated interest in consistency of responsibilities across committees in Town (i.e., Patton property).

Committee member Mary explained that there was not much community interest in a splash pad but mentioned that a zero entry pool dealt with handicapped issues but she said less than 50% of respondents expressed interest in this aspect. Also, that the existing Patton Park pool is too deep for children that cannot swim so there is no place for them to play. Other low priorities were chairs and umbrellas for pool area. Johnson suggested the Committee should present options on the pool that citizens want and features defined in Recreation Master Plan. Neill read the charge for the Committee stating that the Committee would work with joint Recreation Board, Recreation director and Town manager to develop and review the options. Town manager and Town departments will be responsible for roughing out the approximate costs of the various scenarios and helping the Patton Park Pool Committee to propose approximate budgets for their reports. Lombardo said if the options have been identified, the Town's staff would develop costs estimates to present to Committee.

Discussion ensued about $150,000 from Community Preservation Act funds for engineering and evaluation and how Town manager should be involved in process. Hubbard reiterated Committee interest in spending $5,000 for three conceptual illustrations depicting the options that could be presented to Town

boards. Lombardo reiterated that he had received calls from Committee members saying they had met their charge and they expressed frustration with the process. Stinson suggested the Committee come up with and give options to Town staff so they can determine estimated costs and possibly conceptual drawings that they agree to present to Town boards so a decision can be reached on a pool option.

Hubbard said a battle on the Committee has been Gale Associates plan for a rectangular pool and conservative buildings and improved parking done in September 2012, and another plan by Aquatics Corp. that is being promoted by Recreation department. Discussion ensued about if a year round building should be considered or not. Stinson suggested that the most important items to the community be included in the options. Discussion ensued about if the Town was going to support public use of Patton property pool. Johnson said that pool would be considered as part of Patton property resolution (i.e., bed & breakfast). Neill commended Hubbard and Committee for work done to date and emphasized the need to work with Lombardo.

Next meeting: March 25

Lombardo offered to confer with Selectman Jennifer Scuteri on her availability to attend the next Board meeting on March 25 versus April 1 in consideration of April 6 ATM warrant hearing. Stinson informed the Board that his last meeting as a Selectman would probably be before ATM. Johnson agreed to provide Neill with forms for Town manager's evaluation by midweek. Neill recused himself from attending Executive Session since his son is a police officer in Town. Johnson then took over running the meeting.

Johnson entertained a motion for the Board of Selectmen to go into Executive Session at 9:15 p.m. pursuant to M.G.L. c. 39, Section 23B(3) for the purpose of discussing strategy with respect to collective bargaining agreement with Hamilton Police Benevolent Association as an open meeting may have a detrimental effect on the Town's negotiating position – not to return to regular session. Stinson so moved. Hubbard seconded the motion. Roll call vote: Hubbard, yes, Stinson, yes, Neill, recused himself, Johnson, yes.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: _____
Clerk