

**TOWN OF HAMILTON
BOARD OF SELECTMEN
APRIL 11, 2011**

The Board of Selectmen met at Hamilton Town Hall at 7:00 p.m. on Monday, April 11, 2011 with William Bowler, David Carey, Marc Johnson, Jennifer Scuteri and Jeff Stinson present. Town Manager Michael Lombardo, Finance Director Deborah Nippes-Mena, and members of the EDC, Planning Board, Community Preservation Committee, Conservation Commission and Finance Committee were also present.

Accept minutes (March 1st and March 21st and March 28th, 2011)

For the March 1, March 28, and April 4, 2011 Board of Selectmen regular session minutes, not all of the Board members had responded with comments so these will be accepted at a subsequent Selectmen's meeting.

Public Comment (3 minutes on topics not already on agenda)

None.

Town Manager's report

None.

Application for Change of Manager – 15 Walnut

Board had to retake the vote related to state Form 43 that includes CORI requirements for the new bar manager Andrea Knight for Indigo Restaurant Corporation. Attorney Anthony Porcello representing 15 Walnut was present. Porcello has submitted an entertainment application and he will appear before the Board relative to that matter in two weeks.

Jennifer Scuteri entertained a motion to approve Andrea Knight as the bar manager for Indigo Restaurant Corporation. William Bowler so moved. Jeff Stinson seconded motion. VOTE: Unanimous.

Discussion of land related warrant articles for Annual Town Meeting

Hamilton Development Corporation

Economic Development Committee Bob Bullivant said concentration is on community development of the downtown via the Hamilton Development Corporation, non-profit. The tax-exempt holding company can hold land (pay PILOT in this case), buildings and other property conveyed to it by the Town.

A commercial development plan, required by statute, will integrate the downtown business district to become a more cohesive entity. The HDC would use financial tools such as right of first refusal on available parcels, leases, rental agreements, and mortgages as well as with approval of Town Meeting issue bonds.

Work will be done downtown and in commercial overlay districts voted by Town Meeting: landfill and northeast corner of Willow Street. Future commercial overlay districts would be added.

There would be a seven-member Board of Directors with three-year terms (2 for 1 year, 2 for 2 years and 3 for 3 years). Expertise on the board would include real estate law, finance, business and architecture. In the Home Rule petition for the Corporation, the residency requirement for board members would be waived so that business owners could serve. Other members could be government officials, Town residents and one person from the current EDC.

The Corporation would be funded through revenues from mortgages, rental agreements, and lease payments. Expenses would be shared with developers for site surveys, perc studies, etc. For Town-owned property, the Corporation would hold the developer responsible for fees.

State and federal grant development money is available that could be steered toward the Town. It is likely that the meal tax revenue would go directly to downtown development. Bond issuance approved by Town Meeting would be the responsibility of the Corporation. By law, the Corporation is required to have annual audits of its books and submit annual reports to the Selectmen and Secretary of State.

The benefit of the Corporation to the Town is the possibility of diversifying the tax base with commercial tax revenue since currently more than 95% of the Town's revenue comes from residential property taxes.

The Corporation could perform outreach to developers to bring businesses into Hamilton. Marketing activity would focus on publicizing doing business in Hamilton. It would help organize changes to the Town and provide a communication conduit to decision makers. The Selectmen appoint HDC board members and they would encourage developers to come to the Town.

The Home Rule petition for the Corporation would work similarly to the two petitions passed by the Legislature for Hamilton previously including the Town manager form of government and senior tax exemption.

If this petition were passed at Town Meeting, Senator Bruce Tarr or State Representative Brad Hill would sponsor the bill on Beacon Hill so it would be referred to a joint committee on municipalities and local affairs. Local officials would testify on the bill. If it is passed by Legislature it goes to the Governor for signature and becomes law. Changes can be made during the Legislative review. Potentially the HDC could be up and running by January 2012.

In response to Planning Board chair Peter Clark, Bullivant said the most qualified Corporation board members would have experience in real estate, commercial development, be developers, and business owners who are in best position to market the Town and bring new developers to Hamilton. Marc Johnson said the Corporation would have the ability to implement projects.

Bullivant continued that the Corporation would encourage further development of existing buildings in the Willow Street (east side) and Bay Road areas that are zoned commercial and residential. There would be more mixed use downtown with residential apartments locating above retail storefronts providing opportunities for walkers to storefronts and train station. The Winthrop School site is not commercially zoned currently.

Clark mentioned that there are vacant spaces in Richard Lappin's Hamilton shopping center and there has been talk of expansion in that parking lot. As well as other development ideas in the downtown area.

Karl Swanson of the EDC said a study was done that analyzed increasing the density in the business district by 30% and that the square footage in the business district could be increased.

Bullivant said they could form a business owners group similar to a Chamber of Commerce. A breakfast will be sponsored in May with the business owners to get input as to how they would like to see revenue from meals tax spent. In response to Lombardo, Bullivant thought the board of directors would contract for services as a private entity versus using Town Hall employee staff support. Stinson thought the HDC should pursue a Chamber of Commerce but they should be separate entities complementing each other.

Bullivant also mentioned that the Town has to look into increasing downtown parking. Scuteri said people using the train are parking in the business district and that the train station parking is an under utilized asset. The MBTA might want to put a parking garage in the lot behind the shopping plaza, said Bullivant.

Lombardo noted that if on street parking downtown is preventing customers from parking near shopping a change could be made in the bylaw to limit parking (i.e., two hours) and authorize police to enforce it.

Meals Tax Revenue

Meals tax revenue received by the Town is \$37,736 through the month of March with an average quarterly receipt of \$16,000 and it will go up with the expansion of 15 Walnut.

Use of this revenue to beautify the downtown could include new street lighting, upgrading sidewalks, burying utility wires (this is expensive), build trail along gas line easement behind Gulf station and Winthrop School, improve area along train tracks, maintain flower boxes and planters, and add benches.

A shared septic system downtown has been analyzed and would be owned by the Town and have betterment fees.

To address the limited parking downtown, the possibility of paving the gravel road and turnaround that runs along the boundary of Patton Park near the tennis courts and baseball field has been considered.

Money could also be used to fund a planning director and/or grant writer for revenue generating site studies (Winthrop School). In addition, since the Town provides services downtown perhaps the revenue could be used to fund a police cruiser or snowplow. Also for land purchasing, offers to buy open parcels, seed money for HDC and options for rights of first refusal.

Planning Board member Edwin Howard has suggested branding the Town so Hamilton's business/commercial identity would be stronger.

Discussion about Town Meeting warrant article 2-10 requiring a two-thirds vote being cumbersome to use meals tax revenue for beautification when meals tax receipts could go into the general fund and to the HDC. A public hearing would be held on this. At the end of the fiscal year the money would roll from the reserves into free cash.

Scuteri recommended if there is support and no action on the article there should be an amendment to the HDC language and process put in place for a public hearing. Currently, the use of the money has been taken out of the public domain and goes to the HDC. There would be an approval process to spend the meals tax money. Bowler, Johnson and Carey said this shouldn't be made too complicated and there would be public posted meetings.

Lombardo said it is a small amount of money and that the HDC could manage spending the money in concert with managing a broader vision. Stinson said there could be trust in the HDC to accomplish the goal of beautification of the downtown.

Clark said similar to the CPA tax money surcharge that requires a two-thirds Town Meeting vote to spend funds the downtown beautification does need a public approval process.

Discussion about selling bench plaques to defray costs, ongoing maintenance required if trees are planted downtown and what could be done to prevent watering being added to DPW workload.

Bonding to Cap Landfill

The original cell at the landfill was capped in the late 1970s but repairs are needed and capping has to be done on the second cell to meet DEP requirements by 2015. This is a 24 to 36 month process to do engineering studies, get it capped

and closed. The Town plans to bond up to \$2 million but not all at once, this includes full authority to have the flexibility to move through each capping and closing phase quickly. The landfill needs to be fully capped in order for alternate uses at the site.

When an RFP was put out last summer the Town had hoped to have a business interested in using the site participate in the capping. That didn't happen but the landfill still has to be capped.

The debt exclusion payment would be outside the 2-1/2-levy limit and would be debt borrowing. Anticipation notes would be used to fund the project including engineering, RFP and permitting. It requires a majority vote at Town Meeting and at ballot. The ATM warrant article for the landfill debt requests an approval for a \$2 million bond, but it will only be drawn down as needed similar to an equity line. If the cost proves to be less then there can be a vote to rescind at Town Meeting and reduce the outstanding debt.

Bowler explained that at a meeting with DEP and SEA consultant it was noted that Hamilton is a year behind on scheduled closing of the landfill and action should be taken to avoid an Administrative Consent Order with DEP or ultimately a court order and fines.

In response to Stinson, Lombardo said DEP is not concerned about what they have required to be done with the landfill as politically popular or not. DEP has been accommodating because the groundwater testing has been good. The Town wants to avoid the ACO path at all costs because it can become costly and contentious. Scuteri thought the Board should take Lombardo's recommendation on the action for the landfill.

Lombardo said SEA has projected \$2.5 million to fully close the landfill. He added that there is another warrant article to move unused money from the bond for the regional library that should cover the amount above \$2 million. The Town could look at a supplemental financial article if necessary.

Bullivant suggested the engineering study would take a year to reveal the true financial cost required to cap and close the landfill. Lombardo said delaying bonding would be problematic to move the project forward and bonding would likely be done at a higher interest rate. Bowler said if there would be two-phase debt there would be additional cost of bonding.

Finance Director Deborah Nippes-Mena said the \$185,000 in bond proceeds from the balance of the library capital project could underwrite the cost for the engineering, permitting and analysis. Also once there is borrowing authorization she can do bond anticipation notes. When the costs are known costs the Town would then seek bonding. This process would provide flexibility to structure the debt. In response to Stinson, Lombardo said \$2 million is a responsible amount to ask for the landfill capping/closing project.

Betsy Spang of the Landfill Committee reiterated the need to have the landfill closed in order for commercial entities to develop the site.

Clark mentioned that there could be a wide range of costs and processes to close landfills that meet DEP requirements. Bowler said Ed Walsh is a developer in the solar industry that brings his expertise to the Landfill Committee. Lombardo and DPW Director John Tomasz are contracting the engineering services.

Lombardo said the Committee was working hard on the marketability of the landfill with an upcoming meeting on power generation and a solar project. The Town is participating in a fatal flaw analysis with the state to determine if Hamilton's landfill fits in with a bigger solar project.

Also being considered for the portion of the landfill being capped is an anaerobic digester to complement the organic recycling program. DEP is excited about the prospect of an upcoming state-planning grant. Also, the Town is about to launch a recreation master plan in the coming weeks and months.

M.G.L. c.43D – Expedited Permitting

If a town adopts this law, it can designate a particular parcel for expedited permitting as a priority development site, in Hamilton's case it would only apply to the landfill, then a state board specifies it as this designation. It provides a developer with a proposal to get a decision from all of the Town's land use boards in 180 days.

Bowler said the Landfill Committee has discussed this relative to solar developers that want certainty and to move fairly quickly. In addition, once a parcel has been designated some state agencies will provide free technical and regulatory assistance for the Town.

Scuteri said this law would only affect the landfill. Spang said she would like to see the wording in the law and know what would be given up, what are the checks and balances. Johnson said this would fast track a vote in the same approval process from all of the Town boards involved in 180 days. This would quickly assist the land use boards to understand if a proposal would be approved or not.

Planning Board member Rick Mitchell questioned how this improves upon 180-day requirement in the Planning Board regulations and if there is any additional benefit to get money since 180-day process was already in place and helped the Town become a Green Community. Clark said Planning Board is the special permitting granting authority.

ConCom co-chair Richard Luongo said it would be good if the application went to all land use boards at the same time. Scuteri said they are trying to develop a revenue friendly community but perhaps the land use boards should weigh in more on this so the warrant article could be postponed until the fall Special Town Meeting.

Johnson said 43D is all about marketing to developers that if they come to Hamilton they will get a decision on their application quickly. Clark said that was done in the first RFP for the landfill and it didn't do anything to get a developer. EDC chair Bill Gisness agreed with Johnson that it is a marketing tool and allows a community to post its site on websites used by developers in the state. Stinson said there is a state department dedicated to marketing priority sites for the use as business parks.

Johnson said for consideration of a solar park at the landfill it is not as critical to have the site on the state websites. Scuteri said money is not available from 43D and it doesn't change the Town's permitting process. Johnson said he would build a table to compare the existing landfill overlay district to show what 43D does to be presented at Annual Town Meeting.

Future Land Use

Facility Assessment Committee update

The Committee is establishing the scope of the long-term use of the school facilities and analyzing mix and condition of the buildings to determine if there are issues (i.e., need for three elementary schools and repairs required for

auditorium at High School). In addition, the Committee is in the beginning stages of determining how the school buildings will be used.

Potential Study of Winthrop School property

Money from the Depot Square property sale by the Town a few years ago could be used to assess the future use of the Winthrop School site that is zoned residential. Johnson said studies have been done on the school and it was found to be in better shape than expected.

Understanding whether or not commercial development of the site is a benefit to the Town is supported by the EDC, said Gisness and would provide growth for the downtown and make the old library site more valuable. The EDC recommends a study be done of the site for an anticipated cost of \$8,000. Gisness said what is proposed for the site is market driven as a multi-use site defined in the charrette.

Stinson said \$200,000 in studies has been done and he didn't see the opportunity at Winthrop School since it is a slab property in a wetlands situation. Gisness said information defined so far for the school was related to renovating the site to bring it up to code and address state issues versus what it is worth from an economic development standpoint. Funds for studies are sitting in the general fund. Lombardo will work with Gisness to draw up an RFP that the Board can review in a short time.

Sale of Town-owned parcels

Scuteri explained that tax title land doesn't have to get Annual Town Meeting approval to be sold. Scuteri, Margo Killoran and Johnson have identified Town-owned parcels and appraised values. Some are buildable lots and could be suitable for affordable housing (i.e., Habitat for Humanity) or slivers that abutters could add to their lots to increase acreage.

A few of the many parcels available that were discussed included:

Gregory Island Road (Map 60/71/72 nearly an acre) has a water view with wetlands and has a clear title that could be of interest to the neighbors or the Community Preservation Committee for recreation (ConCom approval would be needed if a boat dock were installed, ConCom Coordinator Jim Hankin will discuss with his committee),

Off Highland Road (presented at Town Meeting in 2005 and didn't get approval for sale) is an odd-shaped, one-acre two-piece parcel that is non-conforming to new standards, has lots of abutters and could be used for a neighborhood park owned by the neighbors. David Carey said a friendly Chapter 40B could be considered as an option for the Town. In response to Planning Board member Evelyn Shuman, Johnson agreed to provide information to the Planning Board about the parcels at Central and Baker with a paper road that could be divided up for use by individual landowners,

Lincoln Avenue (Map 47/24) is an uneven, wooded wet lot that is unbuildable. The property has been assessed at \$200,000 (Killoran thought that was high) and there are houses in the area built into the wetland. Scuteri said she would send an email to Hankin about setting up a site walk.

Municipal Affordable Housing Trust

Carey said Hamilton needs 200 more affordable units to comply with Chapter 40B. The Affordable Housing Committee decided that it is very difficult to develop that number of units costing \$200,000 a piece. The CPA has \$125,000 that could be used as seed money for an affordable unit. The Town could give Town-owned land if there is a buildable lot to Habitat for Humanity.

The Municipal Affordable Housing Trust oversees this process and has met with Jack Meany from the YMCA, Isaac Ross from Habitat, and Harbor Light Community Partnership that is developing the affordable units at the Acord Food Pantry site on Willow Street.

Larger affordable projects would be challenging to do in Hamilton since a breakeven point is 40 units. The best opportunity for the Town could be developing individual units on lots such as single-family and duplexes at \$100 a square foot with a 20-year restriction. There is an ATM warrant article to fund the MAHT with \$125,000 of CPA funding.

Update on development opportunities

Hansbury property

Hansbury is coming before the Planning Board to move the lot line for a more saleable lot.

Canterbrook project

A Planning Board hearing is continuing a public hearing at its meeting on April 26 at the old library building. The design has been redeveloped for the proposed Canterbrook 43-unit senior housing project. The developer has done a traffic study that is going to be reviewed related to traffic pattern and how heavily traveled Highland and Asbury Streets will be. Also under review are engineering, runoff and septic system. The Planning Board expects the development project to have a final design review and be ready for a vote in May or June timeframe.

Sign letter in support of CPA legislation

Discussion was on letter from Board in support of CPA legislation that would raise the match from the state to 75% and allow more flexibility with recreation to include more than new structures.

Bowler expressed skepticism about how the state's sliding scale funding model could match more than 30%. He said to fund as high as a 75% match the fee would be raised or the money would have to be found somewhere else. He added that some cities and towns are spending 33 cents to the dollar that Hamilton is contributing to CPA to get the match from a surcharge on the property taxes.

Bowler also wasn't convinced that CPA is creating jobs for the state. He said the Town is going to be raising the fees to the maximum and state will come back later for Hamilton to make up the shortfall. Hamilton will never qualify for more than the first tier of CPA funding since it is linked to what the Town generates in the property tax surcharge.

Stinson said CPA allows preservation and maintenance although he agreed that fees are a huge issue. Scuteri said this is costing the community less with the match and there have been benefits realized in the Town's public buildings. She said last year residents were made aware that they could have voted the CPA down after participating for five years but there was support to continue.

Clark noted that there are fewer real estate transactions in the state funding the match money. Carey said for a little bit of additional tax the Town is able to fund recreation, preservation, etc.

Scuteri entertained a motion for the Board to send a letter to the Legislature in strong support of "An Act to Sustain Community Preservation (SB1841/HB765). Carey so moved. Johnson seconded motion. VOTE: Unanimous.

Place landfill referendum question on ballot for election on May 26, 2011

Scuteri entertained a motion in accordance with M.G.L. Sec 42C and M.G.L. Ch. 59, Sec. 21C(a) to give notice to Town Clerk Jane Wetson that the Board voted to place the referendum question (financing closing and capping of Town landfill) on the ballot for an election to be held Thursday, May 26, 2011 at the Winthrop School from 7:00 a.m. to 8:00 p.m. Bowler so moved. Carey seconded motion. VOTE: Unanimous.

Vote recommendations on Town Meeting warrant articles

The Selectmen took the following votes on recommendations for Town Meeting warrant articles:

Article 2-2 – General Town Appropriations – Discussion on how the Hamilton Wenham Regional School Committee voted for a different school budget than what was imbedded in the expected request for this warrant article. Johnson recommended a motion be made for the Board of Selectmen to change its recommendation for favorable action to make a recommendation on Article 2-2 at Town Meeting. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Discussion was on Board holding posted meeting at 8:30 a.m. at Town Meeting for opportunity to make decisions on warrant articles based on the Finance Committee's recommendations. FinCom chair John McWane said his Committee is prepared to not approve the school budget.

Article 2-1 – Compensation/Classification Table – The appendices are not ready yet. Scuteri entertained a motion to make a recommendation at Town Meeting regarding Article 2-1. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 2-6 – Community Preservation Committee Budget – Scuteri entertained a motion to recommend favorable action on the Community Preservation

Committee's budget, as it will be presented at Town Meeting set forth in 2-6. Carey so moved. Stinson seconded motion. VOTE: Unanimous.

Article 2-7 – Annual Financial Actions – Scuteri entertained a motion for a favorable recommendation on Article 2-7. Carey so moved. Bowler seconded motion. VOTE: Unanimous.

Article 2-9 – OPEB Trust Fund – Trust established last year for accruing funds to pay for long-term liability related to retirement benefits. Scuteri entertained a motion to recommend favorable action on Article 2-9. Johnson so moved. Bowler seconded motion. VOTE: Unanimous.

Article 2-10 – Meals Tax Revenue to Stabilization Fund – Nippes-Mena recommended action be taken on this at Special Town Meeting in the fall. She'll check with Town Counsel Donna Brewer to understand conditions of the meal tax revenue relative to the Hamilton Development Corporation. The least complicated process is to have the funds flow to free cash. Scuteri entertained a motion for the Board of Selectmen to recommend no action on Article 2-10. Stinson so moved. Bowler seconded motion. VOTE: Unanimous.

Article 2-11 – Debt for capping landfill – Scuteri entertained a motion to recommend favorable action on Article 2-11. Bowler so moved. Carey seconded motion. VOTE: Unanimous.

Article 2-12 – MUNIS contract – Conversion of financial ledger to cloud computing so servers no longer have to be maintained. Scuteri entertained a motion for favorable recommendation on Article 2-12. Stinson so moved. Bowler seconded motion. VOTE: Unanimous.

Article 2-13 – Transfer from Capital Library to Capital Landfill – Money was leftover from building regional library since the project was completed under budget. This is the balance of bond proceeds. According to statute, it will not be used until it is voted for another capital project of like size for like term. It is conditional on the passage of the referendum at ballot. Scuteri entertained a motion to request a favorable recommendation on this transfer understanding it is contingent upon the passage of the referendum question the Board just approved to go on the ballot. Bowler so moved. Johnson seconded motion. VOTE: Unanimous.

Article 2-14 – Transfer to Stabilization Fund – Discussion on replenishing Stabilization Fund with transfer of \$100,000 to improve Moody’s bond rating of the Town. Scuteri entertained a motion to recommend favorable action to Article 2-14. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 2-15 – Transfer from Recycling Receipt fund to Waste Enterprise Fund – Scuteri entertained a motion for a favorable recommendation to Article 2-15 noting that it is contingent upon the proposed amendments to bylaw. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 4-1 – Delete Chapter X, Sec. 9 of the General Bylaws – This would be withdrawn from bylaw and Town Manager Michael Lombardo and Police Chief Russell Stevens will devise a winter parking ban policy to be approved by the Board that is enforceable. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 4-2 – Amendment to Disposal of Refuse and Garbage General Bylaw (Chapter XIV) – All rules will be incorporated into procedures and all authority given to the Board of Selectmen. Scuteri entertained a motion to vote a favorable recommendation to Article 4-2. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 5-1 – Hamilton Development Corporation -- Scuteri entertained a motion to vote a favorable recommendation to Article 5-1. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 5-2 – Acceptance of M.G.L. Chapter 43D and Landfill as Priority Development Site -- Scuteri entertained a motion for the Board to vote to make a recommendation at Town Meeting on Article 5-2. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 5-3 – Electrical Easement at Patton Park – Lights have been replaced at Patton Park and ground based transformer used. The easement language from National Grid will be double checked with Town counsel. Scuteri entertained a motion for the Board of Selectmen to vote favorable recommendation to Article 5-3. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Article 5-4 – Petition to Legislature concerning Group Insurance Policies – Language to be put forward to the state to notify them that Hamilton is a proponent of more flexible health insurance plans. Scuteri entertained a motion

to recommend favorable action to Article 5-4. Bowler so moved. Stinson seconded motion. VOTE: Unanimous.

Other business

Next Selectmen's meeting is scheduled for Monday, April 25.
Scuteri entertained a motion to adjourn at 10:25 p.m. Bowler so moved. Carey seconded motion. VOTE: Unanimous.

Respectfully submitted by Jane Dooley, Minutes Secretary

ATTEST: _____
Clerk