

HAMILTON BOARD OF SELECTMEN

MINUTES OF MEETING

January 8, 2018

Members Present: Chair Bill Wilson, Shawn Farrell, Scott Maddern, Allison Jenkins, and Jeffrey Hubbard

Town Manager: Michael Lombardo

Members Absent: None

Chair Bill Wilson called the Board of Selectmen (BOS) meeting to order at 7:12 p.m. Seven members of the public attended the meeting. Mr. Wilson reported there would be a delay in the Hamilton-Wenham Community Access & Media (HWCAM) video production due to a late train for the tech handling it.

ANNOUNCEMENTS

Board and Committee Openings:

None

Public Comment:

None

Selectmen/Town Manager Reports

Jeff Hubbard reported he will attend a Council on Aging (COA)/Hamilton Development Corporation meeting regarding the idea of burying Hamilton's downtown electrical lines and a Finance Advisory Committee (FinCom) meeting, both on Wednesday.

Scott Maddern thanked the Department of Public Works (DPW) workers who plowed Christmas Day. He attended a neighborhood meeting concerning a dilapidated property and gave input to the proposed vacant and dilapidated building bylaw (to be discussed later tonight). Regarding the Turf Field project—he said there's been some miscommunication about next steps leading up to April Town Meeting, especially regarding expectations for fundraising and who is handling it. He hosted a meeting Thursday, which many School leaders attended, and they discussed potential kick-start fundraising using a professional. At its Jan. 31 meeting, the School Committee will discuss reconstituting a

working group for the project. Mr. Wilson commented somebody needs to own the project and drive it. It's scheduled to go to April Town Meeting as a debt exclusion minus funds raised. He suggested inviting the working group to a BOS meeting to build public awareness. Shawn Farrell asked Mr. Maddern if fundraising was done when the Library was built. His response was no, that a significant amount of State funding was received for that project.

Allison Jenkins presented an issue concerning the Planning Board. Two attorneys have given their opinion that the Town should remove the Conservancy Overlay District. (The topic is on tonight's agenda.) The Planning Board and Varsity Wireless have asked to meet with the Historic District Commission about the cell tower issue. Ms. Jenkins said the Historic District doesn't have any jurisdiction on that and questioned the meeting. Mr. Lombardo said their point was likely to demonstrate effort to resolve the issue in forming a response to the State. He understood why they wanted to meet, but nobody knew why the Planning Board was mediating it. Mr. Lombardo will look into it. Ms. Jenkins has investigated the number of students living on the Gordon-Conwell campus who attend the Town's schools (which is on tonight's agenda). She thanked DPW workers for their work at Christmas and during the storm. She expressed worry that the School Committee hadn't taken ownership of the Turf Field project and at its meeting said it wouldn't have anything to do with the fundraising. Mr. Maddern clarified the Schools are prohibited from handling the fundraising and are reconstituting a working group to handle it.

Mr. Farrell invited the BOS to the Community Preservation Committee (CPC) meeting Thursday at 7 p.m. The CPC will review funding applications—one for the Hamilton Affordable Housing Trust (HAHT) and another for the Patton Homestead (\$100K and \$200K respectively). Also, the Planning Board is seeking a 30K grant to start working on the housing part of its Master Plan. He reviewed CPC funds and current obligations. There is \$555,728.11 in General Reserves; \$10 in Community Housing Reserves; \$61.52 in Open Space Reserves; \$41,799.16 in Historic Preservation Reserves. The CPC anticipates it will collect \$450K from the State for FY2019, which includes the surcharge and State match. There are obligations of \$42,400 for the Donovan project and \$114K for the Sagamore Hill project.

Mr. Wilson said the Longmeadow Study Group still hasn't met; they are waiting for a letter from the School Committee about its position on the Longmeadow project and are currently laying out their report for April Town Meeting. The HAHT trust met Dec. 20. They discussed meeting protocol—how to make meetings efficient and respectful. They signed the Willow Street Project agreement with Harborlight Community Partners. There is another \$300K earmarked for a second project. The HAHT has requested a CPC grant for \$100K to have on hand after the \$300K is spent. They discussed the field next to the Library as a potential site for a second project of nine units; however, they have since found out there is a septic system under the field that can't be increased because it is a Zone 2 for

a public water supply well. The HAHT continued talk about its 10% Down program. There's much happening regarding the School budget and opportunity for board members and the public to comment. For the next six weeks the Schools will "drill deep" into their budget and validate what they will ultimately approve. On Jan. 3, the School Committee described a level-service budget, which funded all contractual services. It was a \$1.1 million increase over the FY2018 budget, which is a 3.56% increase. About \$750K of that \$1.1 million was for salaries. The BOS sent a request to the School Committee and Town of Wenham that employee contracts should be only increased by 2%, the same as for Hamilton's workers. Above the level services, the Schools want to add another \$400K in other services, of which half is for outplacement of students. They are looking at whether it might be better to invest in additional full-time employees and programs to reduce those outplacement costs. A meeting on that will be held Jan. 24. The School administration's recommended budget was approved with a 5-2 vote; it is a requirement to vote on it, although more budget work follows. The Schools have about \$129K in capital plans, which include the Winthrop School's sprinkler system, the new Turf Field, and various building safety and accessibility projects. Some of the debt from the middle and high schools will roll off the books (about \$715K) so they will consider whether to replace that with additional debt or realize the benefit. Mr. Wilson gave kudos to the School administration for putting together a fabulous budget presentation at its Jan. 3 meeting.

[Video production began at this point in the meeting.]*

Mr. Wilson read a letter from The Hamilton Foundation thanking the Hamilton Police Department and Shriners and everyone who participated in the successful stuff-a-cruiser toy drive. He also thanked the DPW workers, State workers, and utility companies for their work during the storm.

Town Manager Michael Lombardo noted the BOS will hold a joint meeting with FinCom on Jan. 20. His meeting with the Wenham Museum was rescheduled for this week due to the snow. He met with Spencer Boyd architects regarding plans for the Patton Homestead and is working with the Patton Homestead, Inc., board on refining those plans. There are two grant applications due at the end of the week: \$225K for capital at the Homestead and \$15K for assistance with architectural work. He met with Ray Whipple of the Historical Society about its move to the Homestead. He gave an update on the Federal lawsuit with Varsity Wireless. They are still waiting on the judge to rule on the Town's motion to strike.

Mr. Wilson added to his previous report that the HAHT decided not to co-sponsor the Master Plan for Housing because it's not specifically affordable housing-related. He raised a point about whether various entities seek other grants prior to approaching the CPC for funding. Mr. Farrell replied that the CPC does ask its candidates for grants to show other grants they've applied for and received.

Report from Mary Beth Lawton—Council on Aging Director

* Ms. Lawton was ill and unable to appear.

CONSENT AGENDA

- **Approve Minutes from the Joint BOS & FinCom meeting Dec. 4, 2017.**
- **Approve Minutes from the BOS meeting Dec. 18, 2017.**

Decision:

Mr. Hubbard made a motion to approve the Consent Agenda. Mr. Farrell seconded the motion. The BOS voted unanimously (5-0) to approve the consent agenda.

LICENSE RENEWAL

Entertainment License Renewal for 2018

- American Legion for Jukebox

Decision:

Mr. Hubbard made a motion to approve the Entertainment License Renewal for 2018. Mr. Farrell seconded the motion. The BOS voted unanimously (5-0) to approval the Entertainment License Renewal.

Curbside Textile Recycling Program—Second Reading and Any Related Action

Mr. Lombardo described the Waste Zero Curbside Textiles Recycling program as a win-win for the Town. The timing of its roll-out is yet to be determined, but it will most likely start the end of Jan./early Feb. Ms. Jenkins noted the van that picks up the textiles will come much earlier than the other trash and recycling trucks and the bags will need to be at the curb by 7 a.m. The Recycling Committee sent a letter of support for the program.

Decision:

Mr. Farrell made a motion to approve the curbside textile recycling program in Hamilton. Mr. Hubbard seconded the motion. The BOS voted unanimously (5-0) to approve the program.

Vacant & Dilapidated Building Bylaw: Update on Process and Board Input

David Smith, Chairman of the Board of Health, gave an update on what's occurred since he last appeared. The Board of Health will hold a hearing on the bylaw Jan. 25. He and Mr. Maddern had a meeting with some of their neighbors to solicit feedback. One neighbor

raised the point that the bylaw's title "vacant and dilapidated" might be interpreted to mean the building had to be both vacant and dilapidated. This isn't the case. Mr. Smith's meeting with COA Director Ms. Lawton was postponed. The purpose of that meeting will be to make sure the bylaw doesn't unfairly target elderly homeowners who may be unable to maintain their properties—either by formally or informally incorporating how to address that concern into the bylaw. Some Asbury Grove residents brought up the fact that many of their properties are seasonal, and the bylaw says a property can be interpreted as "vacant" if unoccupied for a six-month span. Mr. Lombardo will work on language to exempt seasonal properties from being labeled "vacant." Mr. Lombardo said in cases involving the elderly, he thought concerns should be funneled through his office and he would involve the COA as needed instead of the Building Inspector seeking input directly from the COA.

Mr. Smith sent the latest draft of the bylaw to the BOS. Revisions include the addition of the word "unsafe" in the title. The bylaw covers three attributes: dilapidated, vacant, or unsafe; any of these may trigger the bylaw. Mr. Smith wanted to know if the BOS would like to have final say in the decision-making. After the case is handled by the Building Inspector and has gone on to the Town Manager, should a homeowner have the right to appeal a case to the BOS? BOS members weren't sure about this. Other towns don't have an escalation up to the BOS, according to Mr. Smith. Ms. Jenkins said she thought that after consideration by the Building Inspector, the matter should go to Patrick Reffett, Director of Planning & Inspections, and then should stop with the Town Manager.

Mr. Maddern said he liked the changes made to the bylaw and was fine if the others wanted the Town Manager to have the final say. Historically the Selectmen haven't been involved in nuisance-related bylaws, he said. However, he wondered if people ought to have the right to go to their elected officials for a review. Mr. Hubbard said he was torn; going to the BOS would be like having a "jury of one's peers." Mr. Farrell said he can't see many cases escalating that far. Mr. Lombardo said having it end with the Town Manager removed the politics from it. Mr. Wilson said perhaps, upon request, the Town Manager could bring it to the BOS in cases of a gray area.

Mr. Smith said sometimes, in cases where fines are adding up, property owners come to terms with the fact that they can't keep up the property anymore and the solution is to sell it. Mr. Lombardo said his office would help the property owner find resources to address the problem. He suggested that the Town Manager hold a public hearing with the BOS if the property owners chose to "have their day in court." The others agreed this was a good plan. Jack Lawrence, 105 Rock Maple Ave., made the comment that the Town Manager shouldn't exist as a separate entity, but as an instrument of the BOS.

Water Abatements –Discuss and Vote

Mr. Lombardo requested taking this agenda item out of order so DPW Director Tim Olson, who's been putting in long days due to the storm, may go home. Mr. Olson provided information on three abatements he has approved without mentioning the names of the residents. One was for a broken pipe and the other two were for leaky toilets. All the accounts have gone back to normal readings. He mentioned the forms used to evaluate the situations can be modified. The BOS said they'd like to see account histories on the forms to make sure the incidents are one-time occurrences. The Town does ask for receipts for parts and plumbers to make sure the problems are addressed and don't reoccur. Mr. Farrell asked if they had ways to read the meters in real-time so there isn't a delay finding out about problems. Mr. Olson said no, but readings are done each quarter and the staff stays on top of them. A property owner can only get an abatement one time in 10 years. Ms. Jenkins asked about accounts that are estimated or "no-read." Mr. Olson said they get a list of "no-reads" and follow up on them; there are only a handful. Ms. Jenkins suggested Mr. Olson provide information on these in his reports to the Town Manager.

Decision:

Mr. Hubbard made a motion that the BOS approve the three water abatements discussed, which have been approved by the DPW Director. Mr. Maddern seconded the motion. The BOS voted unanimously to approve the three water abatements (5-0). Mr. Wilson as Chair will sign them.

Conservancy District Zoning Bylaw—Discuss Town Counsel's Input

Mr. Wilson referred to a letter from Town Counsel Donna Brewer regarding this matter. Ms. Jenkins reported that a few years ago, an attorney was hired and found the Conservancy District Zoning Bylaw to be "not legal" and not enforceable and recommended it be pulled. Ms. Jenkins only recently saw the letter addressing the issue, which nobody has acted on. Now the Planning Board Director is working with Town Counsel to address the issue. The Planning Board, she said, is hesitant to remove the bylaw because it may be protecting parts of the Town they're unaware of. Her opinion is that if there are two attorneys who say a bylaw is not legal, the BOS should propose to remove it at April Town Meeting. Mr. Farrell said the Conservation Committee typically doesn't weigh in on zoning bylaws, but their opinion was that it was a redundancy because things are covered under the Wetlands Act. Ms. Jenkins said she thought the bylaw's intent was to block building, so they are telling people they can't build when the Town has no legal right to do so. Also, it is her understanding that some Planning Board members might not want the bylaw removed because it may affect their personal properties. Mr. Hubbard and Mr. Maddern both said the BOS had a responsibility to remove the bylaw if they know it isn't legal.

Anne Gero, 180 Asbury St., said she spoke with the first attorney who had given his opinion and she has reviewed the bylaw's history. The Conservancy District was adopted in 1971 at Town Meeting, which was well before the Wetlands Act and Flood Plain Overlay District.

Charles Elliott (an environmentalist) came up with something good for the Town, she noted, well before these other laws. Towns have the ability to protect their flood plains and water sources, and that's encouraged, she said. The boundaries of the bylaw are set by elevation; some zoning bylaws are set that way. The problem is that there is no map with everything drawn, so it's hard to see what is protected by what legislation. She thinks it's worth looking at the bylaw to see if it's a value to the Town and perhaps tweaking it rather than throwing it out.

Mr. Maddern said it was voted at Town Meeting in 2015 to clean up and simplify the bylaws. He agreed with Ms. Gero's sentiment of protection for the Town, but said if the bylaw is illegal, they need to put a warrant article in unless someone can come back and fix the bylaw or provide a replacement for it by April. Mr. Farrell said he thought first more work should be done to get the maps overlaid so people can look at them. He wasn't sure what amount of staff and time would be required. If the bylaw is removed, they would perhaps need to change setbacks.

Mr. Lawrence said it was his understanding Mr. Elliott's concerns were other than just the wetlands. He suggested the BOS go to the Attorney General's office to identify what is illegal about the bylaw and get advice on how to fix it. Mr. Farrell said they did get some feedback regarding this and read a portion of Ms. Brewer's letter, which, he said, also covered things other than setbacks, such as the use of pesticides. It is bothersome to have a bylaw that the BOS doesn't know the purpose of, he said. Mr. Lombardo will speak with Ms. Brewer about contacting the Attorney General regarding the issue and the topic will be slated for the next agenda. As suggested by Mr. Farrell, Mr. Lombardo will ask Mr. Reffett for an update on Phase 2 of the bylaw revisions.

Payment-in-Lieu-of-Taxes (P.I.L.O.T.)—Discuss

Ms. Jenkins said Boston has taken a different approach to payment in lieu of taxes (P.I.L.O.T.) and has been successful. The issue in Hamilton concerns non-taxable properties, such as Gordon-Conwell Theological Seminary, and whether the BOS should initiate discussions with them since the Town pays to educate the children who live there although they do not pay taxes to the Town. When Gordon-Conwell built its married student housing, the college said it would pay for the children living on campus being educated by the Town. In the past, a small committee with the BOS and the Town Manager met with Gordon officials and negotiated an amount of \$100K that the college paid annually for a time. Then they stopped paying, and Mr. Lombardo appealed to their finance director and got them to agree to pay \$35K. This was for public safety services, as well as for education.

Ms. Jenkins received data that there are 45 students currently attending Hamilton-Wenham schools; 4% of Hamilton's share of the student base. She said typically the staff there are international and when they move out of the Town, their data stays on the books for a long

time, thus affecting Hamilton's numbers. Right now Gordon-Conwell counts for 15% of Hamilton's overall households, according to the census. That is an inflated number, but it affects the affordable housing ratio and other budgeting issues. Ms. Jenkins proposed that, at a minimum, the Town should apply a formula like Boston does. As another idea, she proposed they might investigate enacting special legislation. For example: "On all tax-exempt properties, you must be 18 to live there." Right now, the residents of Hamilton are spending about \$400 a month per household to educate the children of Gordon-Conwell, which means taxpayers are essentially making a donation to a charitable organization they might not choose to support. She noted the apartments at Gordon-Conwell bring in approximately \$2 million a year and yet the college balks at paying \$35K.

Mr. Hubbard pointed out the college would most likely not want to spend money on a matter affecting only a very small amount of its student body. (Only about 30 of its students have children). He said the college changed its lease agreement at one time, saying that it didn't allow anyone who wanted their children educated in the Town schools to live on campus. The kids who lived on campus could attend a private Christian school. Mr. Hubbard said looking for more money from Gordon-Conwell might not be the answer; they need a "work-around." He wondered what apportionment would look like if they were to reduce the Hamilton share by the 45 students. Ms. Jenkins calculated that if Hamilton applied the formula Boston uses, it would amount to Gordon-Conwell paying about a quarter of \$750K.

Mr. Wilson said FinCom has been wanting to address this issue for a long time and should examine an array of solutions. Mr. Farrell said they should also look at how this issue affects other places in Town, such as Pingree School. Wenham charges for emergency services at the school, for example. The BOS tasked Mr. Hubbard with charging FinCom to address the issue. Mr. Lombardo requested that FinCom do the actual work instead of enlisting Town staff.

Mr. Lawrence said the Town should calculate what the P.I.L.O.T. should be and perhaps take a chunk of land as payment. BOS members liked Mr. Lawrence's suggestion of exploring non-cash assets as an alternative to using a formula like Boston does. Mr. Maddern noted there might be vacancies in some of the buildings on campus that could be used for affordable housing, for example. Mr. Hubbard reminded them that the college is not likely to give up a valuable piece of property for a matter affecting just 30 of its students.

Ms. Jenkins lamented how hard it is to get information from the Town schools about this issue and other matters affecting the Town and said it shouldn't be that way.

Mr. Hubbard suggested holding a meeting with Gordon-Conwell to let them know the P.I.L.O.T. issue is on the front burner and to give them an opportunity to come up with a

solution. Mr. Lombardo will supply some contact names to Mr. Wilson for setting up the meeting. Mr. Hubbard said the agreement with Gordon-Conwell is in a binder at the Library's reference desk. Also, it was agreed that Mr. Lombardo will approach Ms. Brewer about pursuing a "special act," as was proposed by Ms. Jenkins.

Annual Town Meeting: Open the Warrant for the April 7, 2018 Town Meeting

Decision:

Mr. Farrell made a motion that the BOS open the warrant. Mr. Maddern seconded the motion. The BOS voted unanimously (5-0) to open the warrant for the April Town Meeting.

Town Manager Evaluation—Discuss Process and Timing

Mr. Wilson said Mr. Lombardo was due for an evaluation; it will be a year in March since his last one. He has asked Mr. Lombardo for a list of his goals and objectives, but wanted to talk about the process tonight, specifically about whether the individual BOS members wanted to use the format used previously. It was decided they should use the same format, but leave a line blank if they weren't comfortable commenting on it or didn't know an answer. Mr. Lombardo will send out the form to them.

Mr. Maddern said the form being used came from Lexington and other towns adopted it. His preference is to focus on Mr. Lombardo's goals and objectives, especially ones previously cited as needing improvement. He also suggested releasing the Executive Session minutes regarding the contract, which he thought was relevant for the public to know about. The BOS decided to hold up on that.

Mr. Lombardo stated that he didn't agree with the auto-renewal of his contract. The contract is up in February, he said, and he felt the BOS had an obligation to negotiate a new contract. Mr. Maddern reminded everyone that tonight's agenda item is about the review process only. He said each of them should do a one-on-one review with Mr. Lombardo. Mr. Lombardo said he would list his goals and objectives and distribute the form to the BOS by Wednesday. The BOS will hold individual sit-downs with him and complete their write-ups by Feb. 5. They will look at the goals and objectives and accomplish their review utilizing what they feel is relevant from the form.

New Business

The budget workshop is scheduled for Jan. 20 at 9 a.m. BOS members asked about televising it. They talked about getting the schools involved and having students run the video production.

Ms. Jenkins suggested a discussion about residency issues. She learned, for example, that three of the Town's school children don't reside in Hamilton from November to April, yet are counted for the full-year. She said other school districts have mechanisms to split the cost of educating a student between two towns in cases where a student resides in two places. Ms. Jenkins said it isn't her intention to single out families, but to look at issues like this that do affect the budget, especially when special education costs are involved.

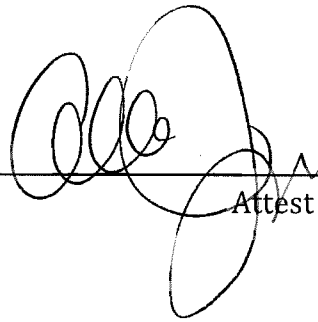
Mr. Maddern said in light of the Turf Field project and the Schools' desire to ask for a debt exclusion, he'd like to discuss the 500K reserve fund that has been set aside. The BOS suggested inviting the Turf Field fundraising group to a meeting (after it is reconstituted), as well as Director of Recreation Sean Timmons.

Adjournment

Mr. Farrell made a motion to adjourn the meeting at p.m. Mr. Maddern seconded the motion. The Board voted unanimously (5-0) to adjourn the meeting at 10:09 p.m.

Prepared by:

Mary Alice Cookson



Attest

3/12/18
Date