

rHAMILTON BOARD OF SELECTMEN

MINUTES OF MEETING

April 17, 2018

Members Present: Shawn Farrell, William Olson, Allison Jenkins, Scott Maddern, and Jeffrey Hubbard

Members Absent: None

Acting Town Manager: Chief Russell Stevens

Shawn Farrell called the Board of Selectmen (BOS) meeting to order at 7 p.m. About 13 people attended the meeting. He thanked poll workers, the Town Clerk, the Department of Public Works (DPW), the Police, everyone who helped with Town Meeting and the election. Out of 6,023 registered voters, 1,058 people turned out to vote—a 17% turnout. He welcomed new Selectman William Olson and acknowledged those who ran for board seats.

**ANNOUNCEMENTS**

- **Board and Committee Openings:** The Open Space Committee, Town Hall Building Committee, and Board of Health each have one open position.

**Public Comment**

Edwin Howard, 10 Meyer Lane, said he wanted to make a thoughtful suggestion that the BOS take the time to assemble a sophisticated search committee for the Town Manager and take the time to do it correctly. He recommended Bob Curry, 713 Bay Rd., as an excellent candidate to serve on the Search Committee.

Carin Kale, 36 Rock Maple Ave., commented the addition to the Town Warrant of the brief summaries and impact statements (about how a vote would affect the Town's tax rate) was fantastic and would like to see this practice continue.

Jerry Fallon, 38 Union St., questioned the wording "threatened litigation" in the notice about the Executive Session on tonight's agenda (pertaining to the Varsity Wireless v. Town of Hamilton and Planning Board lawsuit). He asked where the language came from. Chief Stevens said the wording was supplied by Town Counsel Donna Brewer. Mr. Fallon asked which counsel will attend the executive session and was told it will be Ms. Brewer.

Lynette Fallon, 38 Goodhue St., made comments about Warrant Article 5-4, which is on tonight's agenda. She read and distributed a handout detailing four requests of the Selectmen that involve suspending the collection of taxes for the Dodge House lease and ensuring the BOS review their decision against full facts. She offered to meet with the Assessors if helpful.

Jennifer Scuteri, 171 Essex St., noted voter turnout at the Rec Center was low. She said she wanted to encourage the BOS to move the polling back to Winthrop School, or at least revisit the conversation. She thinks it's good for the kids to see people voting and for the townspeople to be in a school. Mr. Farrell said he personally agrees, but the School did not want them there for safety reasons.

Rick Mitchell, 36 Rock Maple, added if the election can't be moved, the Town has to do a better job directing people to the site. He said the lettering on the signs couldn't be seen until one was on top of them. He asked if they might put a banner or prominent sign on Route 1A. Chief Russell Stevens suggested using the electronic signboards.

Allison Jenkins said she will advise the Town Clerk to watch this evening's meeting so she may hear these suggestions. Mr. Farrell said they may need to write a bylaw for signage. They also talked about using code red to alert people about voting.

### **Selectmen/Town Manager Reports**

Jeff Hubbard said the RFP (Request for Proposal) for the OPM (Owner's Project Manager) was completed and sent. They need another member for the Town Hall Building Committee if anyone is interested. The Gordon-Conwell group is formulating next steps. [Mr. Hubbell and a couple of Finance Advisory Committee (FinCom) members are in discussions with Gordon-Conwell Theological Seminary about ideas for P.I.L.O.T. (payment in lieu of taxes).]

Scott Maddern reported Patton Homestead construction will start in the fall. The scope is working on landscaping, the exterior of the building, and the central core of the building. The north and south wings are not in scope at this time. EBSCO has planned a large company outing at the site, and there's been a request for a wedding. The Historical Society has written their requirements [pertaining to relocating to Patton] and will be providing the information to the Town Hall Building Committee. The Special Act regarding the Patton Fund is moving ahead and should be voted on soon. The Host Community Agreement for a medical marijuana facility at Green Meadows Farm is underway. That's a Town Manager responsibility, but given the transition, he said he is happy to help with it. He said he attended former Town Manager Michael Lombardo's farewell event and wanted to give a shout-out to all the employees; they do a good job and deserve accolades.

Ms. Jenkins noted the Hamilton-Wenham Garden Club's planters look fabulous. She reported that Superior Court just ruled on Town Manager reviews and gave a different viewpoint from what the Attorney General (AG)'s office had previously said. Towns need to have more transparency and put out more documentation in their reviews of the Town Manager. It is a different process than that of someone in the private sector.

Mr. Farrell reported the Community Preservation Committee (CPC) will meet tomorrow night and discuss its new handbook for new CPC members, a review of Town Meeting, signage to publicize CPC successes, and the status of current projects receiving CPC grants. He talked about the Rain Barrel program, which is open to Hamilton and Wenham residents. Discounted rain barrels can be ordered through the Town website through May 13 at midnight. Pick-up is May 19 at the DPW. He thanked Chief Stevens for stepping in as Interim Town manager. He acknowledged Hamilton residents who braved the rain and ran the Boston Marathon, including his wife.

Acting Town Manager Chief Stevens said he met with all the department heads to review projects and also discussed boards and agendas. There are 15 boards. He wants to streamline how Minutes and Agendas are handled (where they are kept, posted, etc.) and is reaching out to the AG's office to find out what's required by law. Then he will hold a training. He met with the reps of the five unions in the Town; there are no issues pending and all contracts are up to date. The start date for the textile recycling program is May 23. The Town Pool will open June 9. A talk will be held at the Library on May 25 about coyotes. As a state-accredited agency, every three years the Police Department must be re-accredited. A team of assessors will be coming to perform an on-site assessment June 12-14. Anyone can go and ask questions of the assessors. (Only 48 police departments in the state are accredited out of about 350.) Financial Policies are being worked on. He is looking for a liaison from the BOS for working on the Community Host Agreement for the Medical Marijuana project proposed by Robert Patton.

### **CONSENT AGENDA**

- **Approve Minutes from the BOS meeting on March 5.**
- **Approve Minutes from the Joint BOS/FinCom meeting on March 12.**
- **Approve Minutes from the BOS meeting April 7.**
- **H-W Garden Club seeks permission to hang a banner April 20-28 at the Council of Aging promoting its "Books in Bloom" event on April 28.**

### **Decision:**

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

## **AGENDA**

### **Elect Board Chair and Clerk**

The consensus was to also appoint a vice-chair.

#### **Decision:**

Ms. Jenkins made a motion to elect Mr. Farrell as **Chair**. Mr. Maddern seconded the motion. The BOS voted unanimously (5-0) to elect Mr. Farrell as the Chair.

#### **Further Discussion:**

Ms. Jenkins said Mr. Farrell did an excellent job as vice-chair. She suggested it wouldn't be a bad idea to always go from vice chair to chair. Mr. Maddern said Mr. Farrell had a good working relationship with the Town Manager and with Town employees, and was a good liaison to the other boards and committees.

#### **Decision:**

Mr. Farrell made a motion to elect Mr. Maddern as **Vice Chair**. William Olson seconded the motion. The BOS voted unanimously (5-0) to elect Mr. Maddern as Vice Chair.

#### **Further Discussion:**

Mr. Farrell noted Mr. Maddern had been chair in the past and has good relationships with Town employees and the boards and committees. Being retired, he has the ability to attend meetings at Town Hall during the day. William Olson added he admired Mr. Maddern, who is always someone to go to for his breadth of information and ability to get information.

#### **Decision:**

Mr. Maddern nominated William Olson as **Clerk**. Mr. Farrell seconded the motion. The BOS voted unanimously (5-0) to elect Mr. Olson.

#### **Discussion:**

Mr. Maddern said it was an important job primarily involving working to make ensure Minutes are up to date and accurate.

### **April Town Meeting Debrief**

Mr. Farrell said Town Meeting turnout was about 402 at the beginning and only 150 at the end. The six-hour time frame was grueling. He posed questions about how to improve things and suggested putting a time limit on the meeting and shortening time for each presentation, as well as shortening the amount of time spent counting votes and running between the main room and overflow room for the counts.

Ms. Jenkins questioned why there was an overflow room when the auditorium was not full. She asked Ms. Scuteri, a former Town Moderator, for her thoughts. Ms. Scuteri noted the overflow room was mainly for parents and kids. She suggested appointing an Assistant Town Moderator to count the votes in the overflow room (instead of the Town Moderator needing to do it). Mr. Howard questioned the use of the overflow room at all since babysitting could be off by itself and not affect the meeting. Mr. Farrell noted the babysitting provided by the National Honor Society doesn't accept babies or young children.

Mr. Farrell said he priced an electronic system for counting votes and it was about \$8K - \$9K for 400 clickers. In the past they have had as many as 1,000 people attend, but he estimated they'd need to purchase about 600 clickers. Mr. Fallon noted how counts were done in the past and made some suggestions. The Selectmen talked about clickers and their potential for misuse.

David Wanger, Finance Advisory Committee (FinCom) chair, noted only 327 people voted on some of the earlier articles (including the School budget articles) out of about 409 people present; 82 people did not vote, which is about 20%. He said he hoped people weren't intimidated to give their views publicly in front of neighbors, but said it raises questions that trouble him.

William Olson said they had a good dialogue regarding the nuisance building bylaw and amended it on Town floor. Although he realizes they might want to curtail dialogue in some case, he cited this as an example where having that dialogue worked well.

Scott Maddern said while citizen's petitions may have inherent conflict behind them, the job of the BOS is to get them presented whether they agreed with them or not. The feedback he received from some seniors is there was too much information needing to be absorbed too quickly.

Mr. Farrell said one thought is to pick warrant articles out of a hat instead of having them in a specific order. This might make it fairer and keep people from leaving the meeting or only attending to vote on just a specific issue.

Duke Seaver, 402 Essex St., suggested all non-voters should go in the overflow room. Also, he didn't like that when they discussed an article, people were rushing out to get information from the lobby. The materials should be ready and read well before Town Meeting, he said.

Ms. Jenkins said the BOS needs to set a calendar and stick to it, and find a different way to educate voters. While they have a website, people aren't driven to look at it. Mr. Farrell suggested having Recreation Director Sean Timmons close down all the sports fields for the

day so parents, including both parents in a two-parent household, can attend. Mr. Hubbard said that the BOS could do a better job listening to the community. Two or three of the citizen's petitions could have been avoided and while Mr. Wanger did a good job trying to mediate some of them, he thinks had they listened better some could have been avoided.

Mr. Mitchell said he is looking forward to resetting, trying to have a more thoughtful discussion, and keeping it fact-based. He said they need to set a schedule and keep to it. Boards shouldn't be having meetings the day of Town Meeting. Also, he likes the idea of pulling the warrant articles out of a hat.

Mr. Curry noted some of the material on the tables was necessary and some was extraneous, and it wasn't collated. The BOS is looking at having packets next time. Also, Mr. Curry said they need to look after the creature comforts of those attending. If there is a complicated agenda, the meeting could be divided into two sessions, with one from 9 a.m. to noon on Saturday and a continuation the following Monday evening.

Mr. Wanger noted while citizen's petitions have to be in before the warrant closes, they are often reopened and voted on. Ms. Scuteri said that is State Law, but once the warrant goes to print, it can't be altered. The BOS discussed having the printing deadline earlier rather than so close to the Town Meeting date.

#### **Recommendation to the State for Warrant Article 5-4**

Mr. Farrell read the recommendation made at Town Meeting regarding Article 5-4 and opened up a discussion about how to implement it. Mr. Maddern explained the BOS hadn't supported this petition because they had been told it wasn't proper to support it. Now that the Town has spoken, it puts a different color on things. From what he has investigated, the House Bill regarding the issue has not been moved ahead for passage. Mr. Farrell noted some other issues need to be addressed, for example, back taxes owed on the property. Ms. Jenkins said they need more advice from Town Counsel and she isn't prepared to discuss it until they get that.

Lynette Fallon said what the State legislation seeks to do is to make all the DOR properties including businesses, as long as there's a public purpose, exempt from taxation. She said while writing to the Legislature might be good to do, it was not required to resolve the matter of the Dodge House. She recommended they find a new counsel to advise the Town on this matter. She said she witnessed Ms. Donna Brewer citing the Willowdale case as being similar, which is inaccurate. Willowdale is a business lease while the Dodge House situation doesn't involve a business. She said when Ms. Brewer was reading the Willowdale decision she stopped short of reading the part that said these should be reviewed on a case by case basis.

Mr. Fallon mentioned there were seven other pure residential curatorship properties in the State and said, in those seven other cases, the towns involved were not taxing their residents. He said it takes a big person to admit a mistake, and it couldn't have been made any clearer at Town Meeting that this was an injustice. He said they didn't need to get into the legislation that is pending.

Mr. Maddern recommended they send a letter to the State, and have a follow-up meeting with Town Counsel and the BOS and one of the Assessors. Mr. Farrell agreed. He said this is on the front burner and will continue to be discussed.

Ms. Scuteri said attorneys can differ in their opinions and thought it would be acceptable to request a second opinion.

**Decision:**

Mr. Hubbard made a motion that the BOS ask for a second legal opinion on Article 5-4. Ms. Jenkins added they should consult a firm specializing in municipal financial law.

Mr. Hubbard amended his motion to state he recommended the BOS ask for a second legal opinion and that it be from a municipal attorney or law firm. Mr. Olson seconded the opinion. The BOS voted unanimously (5-0) to approve the motion.

**Process for Town Manager search: RFP, search committee, time expectation**

Ms. Jenkins said the procurement process has changed. For services from 10K-50K, it can't do an RFP. It has to go out bids and can only award to the qualified lowest bidder. This unfortunately limits them more to price. She asked a number of towns for information regarding their executive search and said the price appears to be somewhere between 9K and 15K, and it could take as long as a year. Community Paradigm Associates, LLC, is the frontrunner from what she has heard; its bid is under \$10K. She would like to recommend the Town use them. She recommended the Search Committee include someone from the Planning Board, a Town employee, a senior, etc., and get "buy-in" to the process. She said it isn't fair to ask Chief Stevens to do the Acting Town Manager job long-term; they need to move quickly.

Mr. Hubbard asked if keeping the price below \$10K was sacrificing services. Ms. Jenkins said she didn't think so. She hadn't heard of Community Paradigm prior to this, but they have an excellent reputation. Mr. Maddern thanked Ms. Jenkins for doing a wonderful job. He said he is comfortable with her recommendation. He said he spoke with someone in Ipswich who also recommended Bernie Lynch, the principal of Community Paradigm, who has been in the business for a long time and is highly regarded. He said the Screening Committee's job is not to come with a bias, but to present three or four qualified candidates to the BOS. Mr. Olson asked if the fee was based on a set amount of time or on achieving the

goal. Ms. Jenkins replied it was a set fee for the whole process no matter how much time it took.

Mr. Curry said he would be willing to serve on the search committee. He suggested they might form a citizens' screening committee as a subset of the group because one of the responsibilities of the Town Manager was to serve as the Town's liaison with residents and cultivate effective relationships with them. He said he knows that there are a lot of talented people in Town who are willing to speak up if given the right forum. He gave some thoughts on qualifications a Town Manager needed, including technical skills, character, relating to the community, dedication to work, and energy.

Mr. Wagner brought up the idea of the unions being included.

Mr. Maddern asked Ms. Kale for her thoughts since she had gone through this process in the past. She said the Town has to be really clear on what changes they're looking for and what the challenges are. She said Mr. Lombardo's position was a tough job and filling it is not easy. Ms. Scuteri also recalled some of her past experience and said the Interim Manager they hire can teach them a lot about what skills will be important for the Town Manager to have. Mr. Maddern added they should involve the Town of Wenham, as well as the School Committee.

**Decision:**

Ms. Jenkins made a motion that the BOS ask Chief Stevens to formalize a contract with Community Paradigm Associates, LLC. Ms. Maddern seconded the motion. The BOS voted unanimously (5-0) to approve the motion.

**Further Discussion:**

Ms. Jenkins requested that if someone wants to be on the search committee they should have the time to commit. Mr. Farrell suggested they each put the word out to the groups they have contact with.

**Decision:**

Ms. Jenkins made a motion that the BOS ask Chief Stevens to start negotiations with Community Paradigm Associates, LLC, regarding hiring an Interim Town Manager. Mr. Hubbard seconded the motion. The BOS voted unanimously (5-0) to approve the motion.

**Further Discussion:**

Chief Stevens recommended the BOS put the 16 steps of the hiring process online so the public can see it. Mr. Maddern said they needed to figure out the timeline for how long the Interim Town Manager would serve. On the short end, he thought about three months. The Chief would also need to help with that transition. Chief Stevens will reach out to Mr. Lynch to inquire.



### **Key priorities for Town Manager during transitions**

Mr. Farrell said loose ends need to be tied up before July 1, the end of the fiscal year. In some cases money allocated might be lost if programs aren't finished by then. He spoke with Finance Director Marissa Batista about meeting with Chief Stevens and the department heads to see what the priorities are. Chief Stevens said they do have a list of ongoing projects in various stages of completion. .

Mr. Maddern noted the Medical Marijuana project and Financial Policies should be high on the list. Chief Stevens added the audit report. Mr. Farrell added working with Ameresco on the solar project at the landfill and resolving issues with the cap.

### **Decision:**

Ms. Jenkins made a motion that the BOS approve Mr. Hubbard to be the liaison between the BOS and the FinCom in reference to the Financial Policies. Mr. Olson seconded the motion. The BOS voted unanioulsy (5-0) to approve the motion.

### **Further Discussion:**

Mr. Maddern noted Ms. Batista is the Town accountant, as well as Finance Director. He cautioned the BOS to be careful about overburdening her and follow the protocol that all requests of her time be funneled through Acting Town Manager Chief Stevens.

### **Decision:**

Ms. Jenkins made a motion that Mr. Maddern be approved as liaison regarding the Medical Marijuana project. Mr. Hubbard seconded the motion. The BOS voted unanimously (5-0) to approve the motion.

The BOS discussed the two tasks: the Community Host Agreement and a letter to the State saying the Town either gave its support for the project or was not going to fight it. They decided the Host Agreement should come first.

### **NEW BUSINESS**

Ms. Jenkins said she wants to make a tweak to the Personnel Policies. While she supports the idea the BOS should not assign tasks to employees, she doesn't think it was intended that the BOS can't reach out to department heads directly for something simple, such as obtaining a document. Chief Stevens said he doesn't disagree with the idea of the BOS being able to go directly to employees, but sometimes small requests coming from a number of board members at once can add up. Ms. Jenkins said that is why she just wants to make a small tweak to the wording and wanted to discuss it on a further agenda. Her other

suggested agenda items were: the Patton Park project with the Little League (She supports it, but says it needs a BOS vote); the Whistleblower Policy (which needs finalizing); an email address that goes to all employees at Town Hall, but *not* the BOS (She thinks the BOS should be added); utilizing code red (She knows someone who knows code red inside and out and will speak to this person for getting advice and information.).

Mr. Maddern added to the agenda: Financial Policies and updates on the Medical Marijuana project. Also he said they need to update liaison roles.

Mr. Olson added to keep momentum going on improvements for Town Meeting, they should review a few issues at a time (such as whether to purchase the clickers).

**Adjournment/Entered into Executive Session**

Mr. Farrell read the legal notice:

*"I declare that going into Executive Session is in the best interest of the Town. I will now entertain a motion to go into Executive Session for the purpose of discussing strategy regarding Varsity Wireless v. Town of Hamilton and Planning Board based on threatened litigation and Town Meeting votes."*

Mr. Olson made the motion to enter Executive Session at 9:30 p.m. Ms. Jenkins seconded the motion. The BOS voted unanimously (5-0) to adjourn the regular meeting and enter into Executive Session. A roll call vote was taken with "ayes" from Mr. Hubbard, Mr. Maddern, Ms. Jenkins, Mr. Farrell, and Mr. Olson.

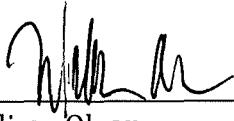
Per the advice of Ms. Brewer, the BOS re-voted all of the above adding the language: "*And not to return to open session.*"

A roll call vote was re-taken with "ayes" from Mr. Hubbard, Ms. Jenkins, Mr. Farrell, Mr. Olson, and Mr. Maddern.

Prepared by:

Mary Alice Cookson, 6/18/18  
Mary Alice Cookson Date  
Minutes Secretary

Attest:



William Olson  
Board of Selectmen Clerk

6/18/18

Date