

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM**

**Quorum noted**

**6:30 PM:** Meeting called to order by Chairman Moynahan.

**Roll Call:** Mr. Moynahan, Mr. Dunkelberger, Mr. Murphy, Mr. Beckert and Mr. Hirst.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**Approval of Minutes of Previous Meeting(s)**

**6:31 PM** Motion by Mr. Beckert, seconded by Mr. Hirst, to approve the minutes of April 11, 2013, as amended.

**VOTE**  
**3-0 (Mr. Dunkelberger abstained)**  
**Chair concurs**

Motion by Mr. Dunkelberger, seconded by Mr. Beckert, to approve the minutes of April 17, 2013, as amended.

**VOTE**  
**4-0**  
**Chair concurs**

Motion by Mr. Dunkelberger, seconded by Mr. Murphy, to approve the minutes of April 25, 2013, as amended.

**VOTE**  
**4-0**  
**Chair concurs**

**Public Comment:**

**6:37 PM** Mr. Fisher thanked the committee for the Senior Dinner; that he had a very enjoyable time; there was a good turn-out; that everyone seemed to have a good time and he appreciated it.

**Department Head/Committee Reports**

**6:38PM** Mr. Moulton discussed storm water Outfall Inspections. He said that the inspections had been completed; that four illicit discharges were discovered, which would be handled by the CEO, and a number of outfalls that needed reconstruction, which will be handled within the 5-year CIP budget. He added that the Town would be inspected by the Federal EPA this summer as it related to storm water discharges and the Town's MS4 Storm Water Permit, with a voluntary pre-inspection by the MEDEP the week of May 20<sup>th</sup>. Additionally, he said that sweeping the Town streets was a requirement of this permit and would be done with help from the Kittery Public Works Department. He added that he

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

was requesting, in case there should be a scheduling conflict or break-down in Kittery equipment, that he be able to utilize the rest of his catch-basin cleaning budget line for a sum not to exceed \$3,700.

It was the consensus of the Board for the DPW Director to be able to utilize his catch-basin cleaning budget line if the plan to utilize Kittery DPW fell through.

**6:40 PM** Mr. Blanchette had a note from Ms. Rawski, Town Clerk, regarding the MSAD #35 Warrant – Budget Validation Referendum. He added that it was required that the Board countersign the warrant; which allowed Ms. Rawski to bring the warrant before the Town for a vote.

At this time, the Board signed the two signature pages for the MSAD #35 Warrant Referendum.

**6:43 PM** Ms. Davis asked if it would be possible for the Town to confirm with the County whether the option to spread the payments for the County tax was still available.

Mr. Moynahan said that they could check but they did have a deadline when they had to make that commitment, whether lump sum or a payment plan; that deadline was February 15 and they communicated back to the County that Eliot would pay one lump sum. He discussed the confusion around this and reiterated that they would follow up to see if any other options were still available.

**New Business (Correspondence List):**

**6:44 PM**

**#1**

TO : Board of Selectmen

FROM :

REF : Business Development Committee (No correspondence)

Mr. Moynahan said that he had added 'Guidelines and objectives for tracking businesses', with regard to the sewer improvement project hearing, to consider if sewer improvement projects did occur and if they did not. He invited the EBDC in to discuss how to track businesses, to find out what their goals and objectives were, and what role the Board could play to help stimulate business development. He invited the EBDC to speak to this.

Mr. (John) Chagnon said that, with or without the sewer vote, they felt it was important to attract business to Eliot and would be glad to work with the Selectmen to do that. He suggested establishing communications and opening the doors if people did inquire at the Town Hall; that the EBDC would like to be able to respond to that; that they would like the assistance of the Board in showing prospective businesses around Eliot. He suggested the possibility of developing

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

brochures and creating a pro-active approach to attracting businesses, which might require staff time or other expertise beyond what the volunteers could give.

Mr. Moynahan discussed the 'how' of attracting businesses to Eliot and how the Board could assist the EBDC to help accomplish that, with or without the sewer. He asked what type of businesses was Eliot trying to attract, or did it matter. He added that he was just trying to prepare, especially if they did get sewer expansion, that they had a pretty good guideline set in place so that everyone was on the same page. He asked if they would work with the PB on development and any potential zoning changes, such as access to Route 236 and screening and signage; that if a business inquired about locating in Eliot at what point did the Board get involved to assist the EBDC. He asked if this required professional assistance in marketing or strategy, as volunteers could only do so much. He discussed what Eliot had to offer; that the Eaton Peabody report outlined quite a few things that would benefit potential businesses; that the Police Chief has talked about Eliot crime rates being some of the lowest in the country; that the school system was known for the education it offered.

**6:47 PM** Mr. Dunkelberger discussed that they had talked about having Mr. Dave Mullen from Pease at the May 28<sup>th</sup> presentation; that Pease asked many of the same questions; that it might be a good idea to pick his brain a little bit about how they got started. He added that, if sewer expanded, then that would open up other opportunities.

Mr. Murphy reminded the Board that this type of professional assistance was authorized as an expenditure of TIF Funds and would not require coming up with tax money.

Mr. Moynahan agreed that it was part of the economic development the Town has chosen to pursue.

**6:50 PM** Mr. McMullen said that he had spoken with Mr. Mullen, who said he would be happy to come speak with the Town about how they did this. He added that Maine & Company was willing to come down to explain to them how a town went about attracting businesses; how to set themselves up and what the thought process would be to properly attract businesses; that the Maine & Company suggested they have any Town committees invited to any discussion around this. Mr. McMullen discussed this company's expertise in matching businesses with towns all over the country; that they didn't charge town a fee for this.

**6:52 PM** Mr. Moynahan asked Mr. Chagnon if this was something his committee would be interested in; having a joint meeting to see if they could come up with some good parameters on how to move forward with this.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Chagnon said that they had Maine & Company in to an EBDC meeting and one thing they stressed was, in trying to attract businesses, it was a one-shot deal; that they got one chance to show off the Town; that the most important thing was that there be a succinct process for getting business approvals in the Town; that one thing the EBDC has suggested was to try to develop a pre-approval process with the PB, such as particular sites with an approval list in place waiting for a set of uses that might come along.

Mr. Beckert said that the PB has had conversation about that. He said that pre-approval of private property without the owner's permission or without the owner coming forward and asking was pretty much nil. He added that SMRPC told the PB that they could partner with the property owner but the Town could not do it as a municipality with private property. He discussed one private business owner who had gone through the Table of Land Uses to select businesses to streamline the approval process with the PB.

Mr. Chagnon said that that was what the EBDC was talking about; that they weren't suggesting the Town develop an industrial park.

**6:55 PM**

Mr. Dunkelberger said that there were ways the EBDC could work with the Planning Assistant to ensure a smooth flow; that they could utilize the PB Checklist with potential businesses to prepare themselves ahead of PB meetings; that the Planning Assistant and EBDC could help facilitate that process so that it flowed better.

Ms. Shapleigh discussed the lengthy approval process for business tenants that cost months of rental income to a business owner, suggesting changing some PB rules to allow approval by the CEO or Planning Assistant, if listed on the Table of Land Uses.

Mr. Hirst said he thought it was critical to involve the stakeholders, who were owners of parcels in the TIF area; to make them aware of what the Board was trying to do.

Mr. Dunkelberger reminded the Board that this was not just the TIF District; that it was Commercial/Industrial and the little cottage industries, as well.

Mr. Moynahan agreed. He said that maybe they should reach out to stakeholders to let them know about the potential marketing for Eliot and if those business owners would like to participate. He asked Mr. Chagnon if he thought it would be productive to set up a workshop with Mr. Mullen.

**7:00 PM**

Mr. Chagnon said absolutely; to just let them know and they would be glad to attend.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Dunkelberger suggested, since they were talking with the EBDC, that they take item #10 out of order.

**7:03 PM**  
**#10**

TO : Board of Selectmen  
FROM : Business Development Committee  
REF : Request for mailing to Eliot residents

This was an updated mailer to Eliot residents from the EBDC regarding the upcoming Route 236 Sewer Expansion vote.

Mr. Chagnon discussed this revision that was voted and approved by the committee as to what they wanted to send out to voters and they were asking for authorization from the Board to mail it out.

Mr. Moynahan asked Mr. Blanchette if he had reviewed this.

Mr. Blanchette said that he had reviewed it and that it did qualify, with the revision, as something that could be sent out to voters.

Mr. Murphy suggested including the May 28<sup>th</sup> referendum public hearing in the list of upcoming meetings.

Mr. Chagnon said that he would add that to the list.

Ms. (Roseanne) Adams suggested adding the time and place of the referendum vote, itself, as well, as an additional reminder.

Ms. Davis said that, in the interests of a more balanced approach, she wondered if they would consider combining this with the pros and cons from the Route 236 Sewer Expansion Committee.

Mr. Moynahan said that that was later on the agenda because the Board didn't have that from the Route 236 committee.

Ms. Davis said that there was still outstanding information that at least some of the committee people were wanting to hear. She asked if they could combine or, at least, put some caveats on this.

Mr. Moynahan asked if the Board wanted to combine two groups in one mailing.

Mr. Beckert asked how long it was going to take; that they had been waiting several months.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Ms. Davis said that they had to wait for information, with still some outstanding questions on the sewer fees; that they did have a lot of their points in writing and prepared to issue a report as soon as they could fill in the blanks; that combining would save tax payer funds.

Mr. Moynahan asked Mr. Chagnon if this mailing would be directly through his committee or would it be from other sources.

Mr. Chagnon said that their budget would handle this mailing; that the committee was planning to be the group sending out this mailing.

Mr. McMullen said that he thought Ms. Davis' request should be brought before the whole Route 236 Sewer Expansion Committee (R236SEC), first, before it was brought to the Board; that that should be a committee decision and not a single person's decision.

**7:10 PM** Mr. Dunkelberger said that he would like to see separate mailings and, again, they were adding another emphasis to the voters that 'this' is the day and 'these' are the issues; reiterating sending them out separately on their own merits.

Mr. Hirst agreed and that they should set a timeline for the EBDC's letter going out as they were starting to get low on time.

Mr. Murphy said that the EBDC mailing was ready. He added that the R236SEC should finish up; that he wasn't sure what answers they were waiting on and suggested the possibility that some answers just couldn't be gotten before Town Meeting. He suggested the R236SEC pull together their pros and cons, as the Board requested they do and was the purpose of their committee in the first place, and get them in.

Mr. Moynahan said that the Board would discuss this later in the meeting but asked if the Board if they wanted each committee on their own merits.

It was the consensus of the Board to treat each committee on its own merits.

**7:12 PM** Ms. Shapleigh discussed people not understanding the sewer expansion; that people were waiting to hear if the Selectmen would support it; that they had had some very good public meetings and they had provided all the information people needed and more to make a decision.

Ms. Davis said that it was her understanding, per the procedures, that generally speaking a balanced view should be presented and to her way of thinking this was not a balanced view.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Moynahan discussed review by the Administrative Assistant for all bulk Town mailings to assure that it was factual.

Ms. Davis said that she thought that 'balanced' or 'unbiased' that both sides would be presented on an issue; that his has only one side represented.

Mr. Moynahan clarified that that was from that specific committee so that would go out on that committee's merits, as would the R236SEC's report, so that people would have multiple views of this issue.

Ms. Davis said that, since the R236SEC would be providing pros and cons but don't have a budget, was the Board considering a mailing from that committee so that both sides could be presented to the public.

Mr. Murphy said that that was the whole purpose; that the Board was waiting for their input and the Board would send it out because the R236SEC was the Board's committee in presenting the two sides of the question.

The Board agreed.

**7:13 PM**

Mr. Pomerleau commented that he didn't care how many committees sent out information independently as long as the balance was presented. He discussed that they were on the hook for 16.7% of Kittery's capital improvement costs and they have no information right now, which could be a huge number; that he has seen no dollar figure plugged in to Kittery's capital improvement costs down the road. He said that that was an example of information they were still waiting for.

Mr. Murphy said that they would know Kittery's costs when Kittery put them together and let Eliot know.

**7:17 PM**

**#2**

TO : Board of Selectmen  
FROM :  
REF : Audit Report (No correspondence)

Mr. Moynahan said that they had the final RHR Smith & Company audit financial statements, adding that it looked like the Town was in good shape. He added that they had an Unassigned Fund Balance of just over \$2 million as of June 30, asking if the Board had any questions of RHR Smith and, if so, they needed to communicate that to them to get answers from them.

Mr. Murphy discussed minor errors he found and one significant error on page 28 under Revenue Recognition regarding tax installments; that he has gone through his comments with Mr. Blanchette on this; that he believed they should send a letter back noting whatever they found wrong with the report; that he wished they

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

had had more cross-referencing between the different sections. He added that he found nothing wrong with their numbers, with one exception that had to do with reconciling beginning balances.

Mr. Moynahan said to direct comments to Mr. Blanchette regarding this but, if there were big comments, perhaps they should have a joint conversation here.

**7:20 PM**

Mr. Hirst said that he had a number of questions that needed to be asked of the auditor, then some questions about some of the entries; that he would forward those on to Mr. Blanchette. He suggested they wait to send a letter until they got a management letter, which Mr. Blanchette said was due next week.

Mr. Blanchette clarified that it could be in next week.

Mr. Moynahan said that they would start compiling the information and, if the timing worked, then they could review that, also.

Mr. Dunkelberger discussed the bottom of page 7 – Revenues & Expenses – and that the numbers just above were just the opposite.

Mr. Blanchette will compile the discussed questions for the Board.

**#3**

TO : Board of Selectmen  
FROM :  
REF : Rt. 236 Sewer Expansion Committee (No correspondence)

Mr. Moynahan said that they had not heard much from them in a while and he was concerned and wondering what was happening. He asked Ms. Davis to fill the Board in on where their committee was with this, as they only had one public hearing left for voters on the sewer project that they were specifically working on.

Ms. Davis said that they had a get-up-to-date meeting on Monday since many of the presentations providing them information have already been held; that they should be able to pull their data together, discuss how they wanted to get their information to the Board, and get that information to the Board as quickly as possible. She asked if there was any specific guidance the Board wanted to put forth to the committee tonight.

Mr. Moynahan said that, at the last update, the committee was working on pros and cons so, they should formulate those and, as a committee, they provide something to the Board to be provided to the citizens that has a general overview or pretty specific overview of that project.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Dunkelberger said that they had talked, last time, about a one-page executive summary that the Board could send out as a mailing.

Ms. Davis discussed that they would go over everything at their meeting on Monday and she would bring any further questions to the Board on Thursday.

Mr. Moynahan said that they may not have a meeting next week.

Mr. McMullen discussed his concerns over this meeting; that he just received an email about it; that they have not had meetings for two to three months and most did not know why; that the pros were submitted months ago and have not heard anything from the Chairman regarding dealing with the cons; that how this was going to work needed to be discussed with the entire Sewer Expansion Committee. He added that, on that short a notice, he couldn't be there to represent his feelings; that he thought they needed to be given reasonable notice.

Mr. Moynahan suggested he express his concerns with her and potentially reschedule another meeting; that for the Board to get involved with the scheduling may be a bit premature. He added that he heard his frustration but would urge all of the committee members to work together to create a schedule that worked for everyone so the work could be completed.

Mr. Murphy suggested it could not be said too strongly that a committee must be a committee of all members and the Chair must not do things by him- or herself.

Mr. Dunkelberger said he hoped that all members of the committee would be able to sign their name to this that it did represent the whole committee.

Mr. Beckert said that he felt this Board should not accept any report unless it was from the entire committee and with a recorded majority vote of the committee.

Mr. Pomerleau said that, in any given week, some may not be able to attend, so they should start with a meeting and go from there.

There was discussion on having a report to the Board by a date certain; that the report should be to the Board by May 23.

**7:35 PM**  
**#4**

TO : Board of Selectmen  
FROM :  
REF : Dept. Heads Monthly Reports (No correspondence)

Mr. Moynahan said that he added Safety Works Inspection to be included in the monthly reports to keep on top of it.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Hirst said that, after June 8, they were subject to fines; that the completion of items was mandatory.

Mr. Moynahan emailed a reminder to department heads today regarding the Safety Works items needing to be completed. He added that he would remind the department heads that the Board would be restarting the monthly reports and to refer to the policy for the required information.

**#5**           TO     : Board of Selectmen  
          FROM : Police Chief  
          REF   : Parking Ordinance

There was discussion regarding confusion with Section 2. g. and 2. h. The Board agreed to wait for a second reading until they had this clarified.

**7:45 PM**

**#6**           TO     : Board of Selectmen  
          FROM : Bernstein Shur  
          REF   : Use of TIF Funds

Mr. Blanchette said that Ms. Fortin felt that Eliot was correct in using the TIF Funds as they were proposing

**7:46 PM**

**#7**           TO     : Board of Selectmen  
          FROM : ISO  
          REF   : Notification of Publication of BCEGS Classification

Mr. Dunkelberger wanted to know what Class 5 meant and said he would ask the CEO for clarification.

**#8**           TO     : Board of Selectmen  
          FROM : Donna Baker, AAA NNE Claims  
          REF   : Claim #010836944 (Cemetery)

Mr. Moynahan said that this was an update on the cemetery repair work indicating a 10-year guarantee from the contractor on all repairs; that if repairs failed and no new damage occurred AAA would reopen and revisit the claim for the next appropriate steps.

Mr. Hirst discussed his concern with this; that he was uncomfortable with the scope of work, the likelihood that it would survive, and thought they should hold out for more money.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Ms. Shapleigh said a 10-year guarantee didn't make sense against how long those stones have been there and she didn't believe they could repair those stones; that they should do this right.

**7:48 PM** Ms. Adams said only one stone was included in the original estimate and was to replace that stone; that the others that were down were not included; that the \$10,000 was just to fix the granite posts and rods and replacing the stone; that she didn't think they could do that.

The Board discussed other avenues of getting this done and it was suggested that, if AAA didn't work with the Town, then they should go to the Maine Insurance Department and ask them to look into it.

Mr. Lentz said that he would feel more comfortable if the vendor who quoted would meet with the Eliot Historical Society to explain exactly what they proposed to do.

Mr. Moynahan suggested a first step could be to follow up with the insurance company to get a written guarantee and a complete break-down of the repair details, without signing the check, and get clarification from the vendor.

**Motion** Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen forward their concerns to the Maine Insurance Board, with the two quotes, and state their displeasure in the vast discrepancy between the two quotes and ask them to investigate.

After some discussion, it was suggested they move in both directions: forward their concerns to the Maine Insurance Board and, in the meantime, reach out to the proposed contractor to have the meeting Mr. Lentz proposed.

**VOTE**

**4-0**

**Chair concurs**

**7:55 PM**  
**#9**

TO : Board of Selectmen  
FROM : Comcast  
REF : Price adjustment as of July 2013

This is informational.

**7:56 PM**  
**#11**

TO : Board of Selectmen  
FROM : Phillip Saucier, Bernstein Shur  
REF : Eliot Shores – Final documents

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Blanchette said that the attorney wanted assurances that the Board was still in favor of the Consent Agreement (C. A.).

It was the consensus of the Board that they were in favor of the C. A. with Eliot Shores.

**7:57 PM**  
**#12**

TO : Board of Selectmen  
FROM : erics@shareinmyday.com  
REF : Town Hall Video-streams

Mr. Dunkelberger discussed problems they had with the modem dropping out and meetings not getting recorded; that he thought that they had gotten the problem fixed.

**#13**

TO : Board of Selectmen  
FROM : Keith Pratt, Underwood Engineers  
REF : Eliot SRF Phone Log 5.1.13

This memo clarified the interest rate on the bond; that this information would be disseminated to the public.

**Old Business (Action List):**

**8:02 PM**

Mr. Moynahan said that he updated the list; that they were getting back to a normal schedule and would start taking one or two of these at a time at their meetings.

1. Route 236 Sewer Expansion Project reports, updates, and schedules – Questions from Route 236 Ad-Hoc Committee - Mr. Blanchette
2. Sewer Contract/IMA – Schedule IMA/Kittery Meeting for presentation - Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette
3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
4. Community Service Space: Relocation to Elementary School — fit up costs, service impacts, insurance, MSAD #35 contract – Mr. Dunkelberger, Mr. Hirst, CSD Director, & Mr. Blanchette
5. Town Manager – schedule workshop; include Comp Plan Implementation Committee; Job description – sample contracts

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

6. Dispatch Service/Ambulance Contract – Contract with Kittery, request from same, costs – BOS, Mr. Muzeroll, Mr. Short
7. Policy creation/review – debit card, video-streaming, website management, park ban ordinance
8. Employees – cross-training, charting earned times, job descriptions - BOS
9. Liaisons to boards, committees, and commissions – review existing members, try to fill open spots; Committee/Board – Mission Statement Review - BOS
10. Budget Preparation – fiscal year 2015 – goals, formats, etc. - BOS
11. Auditor – RHR Smith – BOS
12. Pay-per-bag Recycling – 6-month trial, Public Informational Sessions
13. Regionalization – explore areas of potential collaboration, cost reductions & enhancements to services – Mr. Moynahan, Mr. Hirst
14. Legal issues – pending and Consent Agreements – Eliot Shores - BOS
15. Sewer User Rates, reserved allotments, odor, maintenance– Sewer Committee, Underwood Engineers, Mr. Moulton
16. Department Heads – monthly reports, employee reviews, financial oversight, policy reviews, and department reviews - BOS
17. Research grant opportunities – AED's for Town buildings
18. Comp Plan follow-up
19. Pending - new unions

**Selectmen's Report:**

Mr. Moynahan said that the Memorial Day Parade was on May 27<sup>th</sup> at 9:00 AM starting at the Eliot Elementary School. It was determined that two Board members would be there and two that may.

Mr. Murphy said that Mr. Beers (Kittery) has responded, with very few minor changes, to the IMA; that they were waiting for the Kittery Council's response. Mr. Moynahan said that, with absentee balloting, this document would be made public, as it stood.

Mr. Blanchette said yes and that he would get it up on the website, as well.

**BOARD OF SELECTMEN'S MEETING**  
**May 9, 2013 6:30PM (continued)**

Mr. Moynahan said that he inadvertently put 6:30 PM as the start time for the last two meetings and that the Board has discussed 5:30 PM start times.

The Board agreed to have 5:30 PM as the start time for their meetings.

**Other Business as Needed**

There was no other business tonight.

**8:05 PM**  
**Executive Session**

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. § 405.6.C "Discussion or consideration of the condition, acquisition, or use of real or personal property...or disposition of publicly held property..." Disposition of tax-acquired property.

**VOTE**

**4-0**

**Chair concurs**

**9:07 PM** Out of executive session.

**9:08 PM** Mr. Dunkelberger moved, second by Mr. Murphy, that the Board of Selectmen sell to the previous owner Map 89, Lot 17 for the sum of \$10,000 to cover taxes, fees, and incidental expenses.

**VOTE**

**4-0**

**Chair concurs**

At this time, the Board signed the deed.

**Adjourn**

There was a motion and second to adjourn the meeting at 9:11 PM.

**VOTE**

**4-0**

**Chair concurs**

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**DATE**

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**Mr. John J. Murphy, Secretary**