

BOARD OF SELECTMEN'S MEETING
April 23, 2015 5:30PM

Quorum noted

A. 5:30 PM: Meeting called to order by Chairman Beckert.

B. Roll Call: Mr. Beckert, Mr. Hirst, Mr. Fernald, Mr. Murphy and Ms. Davis.

Public Hearing – Liquor License Renewal – Shipyard Brew Pub I, LLC

5:31 PM Public Hearing opened.

Mr. Lee said that neither of our Public Safety Chiefs had any negative comments, nor any of our staff.

Mr. Hirst asked if there were any changes from what it has been right along.

Mr. (Peter) Martin, representing the Shipyard, said that the only changes if that the Shipyard Brew Pub I celebrates 10 years at that location; that on June 26 and 27 they will have what they are calling the Shipyard Eliot Fest to kick off the summer; that they would have bands out on their deck for two nights and a pig roast.

5:34 PM Public Hearing closed.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen approve the Liquor License and Special Amusement Permit for the Shipyard Brew Pub I, LLC/Regatta Room located at 28 Levesque Drive.

VOTE

4-0

Chair concurs

At this time, the Board signed the pertinent documents.

5:36 PM The regular business meeting was opened.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Approval of Minutes of Previous Meeting(s)

5:37 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of March 17, 2015, as written.

VOTE

4-0

Chair concurs

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Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of March 26, 2015, as amended.

VOTE

4-0

Chair concurs

F. Public Comment:

5:43 PM There was no one from the public who wished to speak.

G1. Department Head/Committee Reports

Harbor Master, Draft Boat Lease, Spring Maintenance

Mr. Lee said that the Board had a lease in their packets with Mr. Buckley, who rents the boat to us for the Harbor Master each year, starting last year, for \$1.00 and other considerations (including boat information), requesting the Town to do hull maintenance every other year (\$672), carry liability insurance, and do winterization, fuel, and maintenance as may be required. He added that this matter was of some urgency because they would need to get the hull painted before the boating season started. He said that they do have some problems with the mooring field and inaccurate, lat/longs that need to be double-checked.

5:45 PM Ms. Davis asked why the numbers on the contract were different from what appeared in the budget books; that there were itemized expenses in the budget book – the boat lease is listed as \$500 and there was no mention of hull maintenance or painting there.

Mr. Lee said that it was mentioned in the budget document but is, perhaps, under a different name and, also, winterization. He added that when he discussed with the Budget Committee he came away thinking they were right about something and that was that we were going to pay \$500 for a lease, we would do the hull maintenance and winterization; that after some discussion with the Harbor Master, he wasn't looking for a lease payment, at all, but just the two maintenance pieces of it; that the dollar is all that he is looking for and take care of the bottom and take care of it when we are done with it. He added that he changed it, here, and if we wanted to, under Public Safety, we could scratch \$500 out of there.

Mr. Hirst asked Mr. Lee if he was looking for approval in the format it is in now, tonight.

Mr. Lee said ideally; that he acknowledged that Mr. Hirst had suggested we get some legal review on this; that he has sent it over to Susan Caston, MMA underwriter, to see if she concurs we need some other language, such as more

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clarification as to what he is insuring. He added that this is the same format from the first lease.

Mr. Hirst said that, in his judgement, it was lacking on some of the insurance stuff and it leaves us up in the air as to who is responsible for stuff other than hull insurance. He added that, typically, our underwriter likes to give us input into the lease and contracts. He said that he thought he was a little uncomfortable approving it tonight in the manner that it's set forth.

5:47 PM Mr. Murphy asked if the Town would pay the liability insurance premium.

Mr. Lee said yes. He added that it is in the overall insurance line item for the Town and is a very, very small amount.

Ms. Davis said that he is asking for the hull maintenance this year. She added that the Harbor Master's budget was left off and, as of her last report (March 4), it was already \$2,300 over budget and now we're adding this; so how is all of this being paid for.

Mr. Lee said that he has already issued some memorandums to departments about cutting back on various things; that he had a staff meeting this morning regarding the same thing – monitoring budgets through the end of the year. He added that we don't have it in the budget, it was left out; on the other hand we don't have a boat for our Harbor Master and the boat we are lucky enough to lease for \$1.00 the guy wants it painted before it goes in the water this year because it will do more damage if it isn't protected; that he's stuck between a rock and a hard place. He said that he's doing the best he can and we'll have to find it elsewhere, as he has discussed with the Harbor Master and others; that the Finance Director will have to find it before the end of the year, similar to where he was last year when he came in and we were very much running over.

5:49 PM Mr. (Charlie) Rankie, speaking as a resident of Brixham Road, discussed some historical facts regarding the Harbor Master, the forming of a search committee to find a Harbor Master for Eliot, and that four of the five candidates owned boats. He added that a member of the search committee offered to rent his own boat to the one candidate that didn't have a boat for \$1.00. He said that the position was advertised for \$7,000/year, with expenses that were roughly \$5,000 (historically for oil and fuel); that now this \$1.00 boat is also costing between \$600 and \$700 for painting; that engine or other maintenance is also proposed in this contract and above it says the boat has a 175hp Yamaha engine, which is worth a minimum of \$12,000, and is a liability to the Town if we are going to pay for a lease on that boat, he thought. He said that this contract proposes to lease the boat through June 30, 2016 and the current Harbor Master's term of employment is up June 30, 2015, not 2016. He added that the Deputy Harbor Master does have a boat. He

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said that a newspaper article said that all five candidates were excellent candidates and none were even remotely under-qualified, reminding the Board that four of the five candidates came with a boat.

5:53 PM

Mr. (Robert) Fisher said that he had reservations about how we picked the Harbor Master to begin with; that he had concerns regarding the contract because it was made for the particular Harbor Master; that nobody else can run the boat, including the Deputy Harbor Master. He added that, if something should happen to the Harbor Master, then we have no boat and no Harbor Master; that he thought it should be taken into consideration that people have their own boats. He said that he thought the hiring decision was made too quickly in order to have a Harbor Master on schedule; so he thought they picked the wrong person. He said that he understood that the Deputy Harbor Master was well-qualified. He added that he found out we have all the blueprints, or whatever type of prints we use at sea, already in the Town. He asked what the current Harbor Master has done for us in the year he has been out there; that he hasn't seen any activity reports.

5:56 PM

Mr. Lee said that the Harbor Master has spent endless hours out there getting the lats and longs; in fact, the records were very, very incomplete and he has been very busy. He added that that was part of the reason he believed the Harbor Master deserved additional funds and part of the reason that he thought the Town needed a Deputy Harbor Master, who was also one of the candidates and did have a boat. He added that to say that this is just for him and this is his boat and he is going to party around on it, or do whatever, is very insulting to the Harbor Master; that he is going to stand up for him and say that he has done a lot of work to help get this system back in place, including gathering a data base so we can do automatic renewals, changing the forms, working with the Harbor Commission to enact an updated ordinance; that he really didn't like hearing that there is a sense that he isn't doing anything and this is just for his personal gratification; that the fact of the matter is that this is a Town with a harbor and no boat. He added that when he was interviewed, as Mr. Rankie pointed out, he did say he had full access to a vessel he could use; that he did not know at the time that that meant it was Mr. Buckley's but, as it turned out, it was Mr. Buckley's and it was for a year and that was fine; that we got started and it was an emergency situation. He said that he thought Mr. Rankie would acknowledge that; that we were without a Harbor Master, didn't want to fall in with Kittery, we had a lot of good, local candidates, and he was selected by the group. He added that he didn't know any of the candidates, with no bias, and the group was unanimous in their decision. He said that the Harbor Master has been doing a dynamite job, we still don't have a boat, and this is about the best he has been able to negotiate. He added that if somebody has a constructive idea to deal with it, otherwise, he is all ears.

Mr. Beckert reminded everyone we are here to discuss this item that is to lease the boat and nothing more; not personnel, not the position, so, that's what we're

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going to stick to and no further discussion on who was hired and how they were hired or anything else.

5:58 PM

Mr. Fernald said that it was mentioned that the assistant had a boat and asked if we would still be obligated, as a Town, to do maintenance on a boat that the Town was using.

Mr. Lee said that he would think so and, not only that, he didn't know if the assistant had one boat or two and he's getting paid zero to do this; that to further ask him to let us use his boat when we want it, not when he wants to go fishing, you really have to think these things through a little bit.

Mr. Fisher said that, if you read the contract, you find out that he is the only one who would drive the boat; that that is his contract, made for him personally; that he didn't say he might be running up and down the river fishing; that he didn't mention that, Mr. Lee mentioned that and that was not very nice.

Mr. Beckert said that the boat is being leased to the Town for \$1.00, not the Harbor Master.

Ms. (Roseann) Adams said that it says for the exclusive use of the Harbor Master.

Mr. Beckert clarified that it says Harbor Masters; that it's plural.

6:00 PM

Mr. Lee said that it has to be for insurance purposes; that it can only be used by the person who is appointed – the person who has the qualifications, the certifications, and is formally appointed by the Town; that it absolutely cannot be used by other folks and has to be used by the appointed Harbor Master, otherwise, we don't have liability insurance that will matter. He added that it is the Harbor Master and/or the assistant because they are both formal appointees.

Ms. Adams asked what we did for the previous Harbor Master, did we do any of the things that are now in the budget.

Mr. Lee said his understanding is that he did not go out on the water virtually at all.

There was disagreement on that from several in the audience.

Ms. Adams said that this included spring maintenance and that was why she asked. She asked what the compensation was for the previous Harbor Master.

Mr. Lee said that he believed it was \$7,000/year plus \$5,000 for operation of the vessel.

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Ms. Davis, addressing Mr. Rankie, asked if the bottom line he was saying is that we would be maintaining the hull in the springtime and that there is some possibility that there will be a different Harbor Master by the end of June and, therefore, we should not make this investment because there might be some kind of a change.

6:01 PM Mr. Rankie said that that would be the Board's choice; that he was pointing out, regardless of how you look at it, he didn't understand how it could not be a very significant conflict of interest for a person sitting on the committee to tell the employee to apply for the job and he would lease him a boat for a \$1.00. He added that this lease says that the term is for one year beyond the current Harbor Master's term (June 30, 2015); that this lease could almost assume that someone has made the choice to keep this Harbor Master because it specifically names a name.

6:03 PM Ms. Davis said that it is a consideration, then, that the term is up prior to the duration of the contract.

Mr. Beckert said that the Chair would offer the explanation that all appointed positions that are appointed by this Board expire on June 30; that an appointment by this Board is done in a list of appointees presented by the Town Manager or the Clerk for the ensuing year. He added that, in the Chair's opinion, the term of the Harbor Master appointment doesn't have anything to do with this lease, at this point.

Ms. Davis asked if it didn't if we do the maintenance on this boat and then, by June 30th, we have a new guy in there.

Mr. Beckert said that he was not aware we have a new guy being presented to us; that he thought that everybody was jumping to conclusions that don't need to be jumped to, to be honest; that he thought someone was making an issue out of things that don't need an issue made out of.

Mr. Fernald asked if the 175 HP Yamaha shouldn't be part of the insurance, itself.

Mr. Lee said that, if need be, we can postpone this for legal review and/or underwriting for our insurance company. He added that that would mean putting off some work for a couple of weeks but, if that means clearing this up, he was happy to do that.

6:05 PM Ms. Davis said that if, by some chance, more than one person comes up for Harbor Master at the end of June and we've already committed to this contract, but a different boat comes into the situation on July 1st then where do we stand; that it seems like we have a conflict, here, so how do we resolve that.

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Mr. Beckert said he would ask why we are concerned that we are not going to reappoint the existing Harbor Master; that we reappointed the previous Harbor Master for however long he applied; that it wasn't a position we revisited on a yearly basis; that he didn't understand the current concern. He added that he would like to hear the concern, at this point, from the Board as to why we're concerned that we're going to reappoint another Harbor Master; that we are here to look at the lease.

Ms. Davis said that the lease outlives the appointment.

Mr. Beckert said that they were leasing the boat, the Harbor Master's position isn't in question, at this point, that he knows of so why are we questioning it.

6:06 PM Ms. Adams said that she thought it would resolve it if you took off the Harbor Master's name from the lease because nothing in the lease refers to the Harbor Master except that this is to the Harbor Master and the Town Manager; that if you changed the Harbor Master, even if he had his own boat, he would be using this boat until the term of the lease is up.

Ms. (Donna) Murphy said that there was a conflict with the language in the first two paragraphs – the use of the word 'in your capacity' in the first paragraph and not in the second paragraph.

Mr. Lee agreed that that might help. He added that, to Mr. Rankie's point about the engine, he was talking about routine maintenance and, if that's not clear here, then he needs to make that much more clear; that he would like to change that and run it through underwriting. He suggested they table this and Mr. Lee would come back in two weeks with it.

6:08 PM Mr. Rankie said that he would caution the Board that this is a very different step for the Town to take; that Mr. Morgridge was the Harbor Master for many, many years before Mr. Place; that Mr. Morgridge came with his own boat, maintained it, and took the liability for the boat; that with Mr. Place it was the same thing. He added that if the Board and the Town go in this direction, essentially, the Town is taking the position that you're going to own or be responsible for a boat and he thinks this step is something the Board should consider carefully.

It was the **consensus of the Board** to postpone this to have the changes made and the underwriting review then bring it back in two weeks.

G2. Administrative Department

6:10 PM 1) **Town Manager Activities Report**

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Ms. Davis asked for clarification regarding "Discussed a proposed mass gathering".

Mr. Lee said that a beer tasting would be going on at the Raitt Farm; that we have to hold a public hearing for a mass gathering.

Ms. Davis asked how discussion around regional dispatching was proceeding.

Mr. Lee said that South Berwick, in the meeting we had the other day, indicated that they needed to make a decision on what they're going to do with dispatching, whether they're going to attract other people to use their center or fold up their center and go in with somebody else; that South Berwick was looking at how other towns do this, how we might cost-share, looking at maybe getting down to one or two county-wide; that they are looking to control their costs by outsourcing or bring others in. He added that he discussed with them what we are paying currently, which went from \$70,000 to \$80,000 this year, part of which was to improve their (Kittery) consoles; that he believes South Berwick has up-to-date consoles but they thought the price Eliot is paying is a very good price compared to what is around us. He said that there is a lot of discussion around this right now with people in the area regarding how best to take this on.

6:14 PM

Ms. Davis said that Mr. Lee reviewed the budgets at 75% of the fiscal year; that the Police overtime budget is already over and asked if we are working towards keeping that under some kind of control.

Mr. Lee said that he and the Chief have spoken about it and spoke about it again at the staff meeting this morning about looking at that through the end of the year; that the response that he has had is that we do have a viable candidate, we need to fill that eighth spot, otherwise, every single week has a fair amount of overtime. He added that he believed the Police Chief was moving with some haste to try to find the right person to fill that; that right now we are still incurring overtime because we do not have that spot filled. He said that we do have a fellow at the academy; that doesn't help so there are two shifts a week; that the fellow is doing very well, which is good news.

Ms. Davis asked Mr. Lee if he could elaborate on the draft MOU that came in from Barrington Power.

Mr. Lee said that Barrington Power is the company that the Energy Committee selected as their vendor if we go forward with the solar array project; that the EC put them through qualifications, interviewed them, looked at pricing on a kilowatt and construction basis; that Barrington Power won that and sent us a MOU (memorandum of understanding) to confirm they were chosen.

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6:16 PM Ms. Davis asked how it impacted us that we're getting probably half the capacity that we originally anticipated; that it sounds like the school does not really want to cut a deal with us.

Mr. Lee said that this whole thing is very much in limbo, at this point; that he didn't know if the school was going to want to participate at all and, if not, that changes everything. He explained that it changes how big we need it, we can go with a much less expensive system; that we can't get into retailing it because that would make it a public utility; that if we don't have the school as a partner, which was the original vision, we have to go back to square one. He said that right now they are doing all the legwork and homework so they could present a thorough idea to the Board, reiterating that it's all up in limbo.

Ms. Davis asked if Mr. Lee could elaborate on a grievance received from the PD union.

Mr. Lee said that he could not give any great detail; that it is a compensation issue; that it is going through the motions at the departmental level and would be coming to him soon.

Ms. Davis asked for clarification regarding Punkintown and the 'new' legal understanding.

6:18 PM Mr. Lee said that he discussed this issue with the original source of the legal opinion and he reiterated what he said back in 1996 – that you've got to acknowledge your very limited ability to use Punkintown; that the use cannot be over-intensified from what it was before, which was essentially a residential property. He added that you can't park in the roadway, you need to basically put it into conservation, need to have covenants and a conservation easement, probably some off-road parking because Punkintown Road is nothing more than a glorified driveway shared by 11 other property owners, maybe one or two or three cars at time going in, no motorized vehicles, nobody after dusk or before dawn, no firearms, no campfires, etc. because it's a neighborhood there and they have a right to have it remain that way and not have a public park down at the end of the road. He said that this discussion helped put the Conservation Commission back on track to get conservation easements and covenants together and get the neighborhood together to explain that we do understand that we cannot do as much as we'd hoped; that he thought the message had to be clear that we are simply a neighbor down there.

6:20 PM Ms. (Donna) Murphy asked to jump back to when Mr. Lee was discussing the MSAD #35 officials expressing great doubt on partnering with Eliot. She asked what position or who are these officials that are expressing this doubt; that she understood it was a separate district but Eliot pays a significant portion of that and

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she would think that, if this money is going to save us some money, then we would have some say in it and not have somebody who was hired by the district nixing this.

Mr. Hirst said that they don't look at us as a dependable partner in this venture.

Mr. Lee said that he and Mr. Case presented their proposal to the Superintendent and Business Manager and there were two messages; one was that they operated off demand charge and asked us to redo for demand change, not just kilowatt hours, which was a legitimate technical point; that the second was that they looked upon Eliot and the decisions that have come and gone over the years and it looks like we have not had a very steady hand in our governance over the years, that we change our minds and if they enter into a contract there is probably no reason to believe that, if the people up here change, that we would honor that contract; that they don't believe that about South Berwick.

6:22 PM

Ms. (Donna) Murphy said that the Superintendent and Business Manager are hired by these two towns and asked what kind of leverage Eliot had if they are telling our Town what....she is mixed with the roles, here, because they are hired by these two towns.

Mr. Beckert said that the school is a separate entity that doesn't answer to the boards of the municipality, they answer to the voters.

Ms. (Donna) Murphy said that she thought that our representatives on the school board would be advocating.

Mr. Lee clarified that he was not sure that that meant we are not going to get to go before their finance committee and present our findings nor that we'll go before the whole school board and present our proposal; that he didn't think that was it all. He said that he thought they kind of wanted to really say that it makes them a little bit leery to go into contractual relationships when they've seen that we have great community disagreement upon things, at times, and kind of bounce around in kind of odd ways; that there's not a sense of stability for them that they see in South Berwick that has kind of been more predictable.

6:24 PM

b) May 20 ECSD Forced Closure

Mr. Lee explained that on that day there is a "Race for Education Day", is being held at the Eliot Elementary School (EES), and they close access to the back parking lot on that day for the race. He said that they will still be able to work that day but will have to park elsewhere and that will be true for the customers, as well. He reiterated that we will be open to the public but they would have to find other parking on May 20th.

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6:25 PM **2) Replacement of Article 12th**

Mr. Lee said that this agenda item and the next ((**3) Warrant Re-adoption as Amended**) are of the same ilk and suggested taking them up together. He added that they are up against the deadline to get the annual report to the printer, now, etc.; that it is essential that we complete this warrant this evening. He explained that, in the current draft before the Board, they would see the changes Mr. Murphy recommended and that, in most cases, they were not consequential in any kind of a numeric sense but more cleaning up and answering some unanswered questions. Using Article 12th, he discussed clarifying language to define from where money would come from and that this article is for next fiscal year as a safety net for the end of next fiscal year in the event that something unforeseen happens. He drew the Board's attention to Article 4th, which is the Town Meeting Referendum Ordinance, saying that Mr. Fernald said that he would like to reconsider whether we recommend passage of either Mr. Fisher's form of Town Meeting or what is in this referendum ordinance we have been working on. In Article 5th, he said that Mr. Hirst said he thought it would be helpful to voters to increase the amount of words we used under the Statement of Fact to break it down into the amount of taxes, annually, to non-sewer property owners and to sewer users, as well, so some additional language was put in there. Mr. Lee said that he wanted to make sure that the Board was comfortable – are they recommending, or not recommending, Article 4th and does the Board approve the language in the Article 5th Statement of Fact. He said that he added Article 40th, which would be required for York County taxes. He added that those are the things he saw as remaining articles but he was open to however the Chairman wanted to deal with it.

6:30 PM Mr. Fernald said that the language in the Citizen's Petition (Article 3) and the Town Meeting Referendum Ordinance (Article 4) is the same.

Mr. Lee agreed and said that that's a problem because they don't differentiate between the two very well.

Mr. Fernald asked, if one failed and the other passed, either one; what overrides what.

Mr. Lee said that he thought what would happen if they both passed was the question; that if one passes and the other fails that would make it pretty clear which direction we go; that if both pass then we have an issue. He added that this is a very good question and asked if we should put something in a Statement of Fact that 3 and 4 are exclusive of one another, if you vote yes on one vote no on the other – do you put that in there, can you put that in there. He agreed that it would be confusing for voters. He suggested that the Board could put in Article 4th that “a competing measure to Article 3rd is” but, with Article 3rd, they may

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have already voted yes before seeing the competing article when they might have wanted to vote for Article 4th, not realizing there were two.

6:34 PM

Mr. Hirst, addressing Mr. Fisher, said that when Mr. Fisher first presented this (Citizen Initiative) he thought he said that, if the Town came up with a similar measure that accomplished the same thing as his would have done, then he would withdraw his petition.

Mr. Fisher agreed but said that the Town's measure did not meet his qualifications.

Mr. Beckert clarified that once a citizen's petition has been presented to the Clerk, it can't be withdrawn, even by those that presented it.

Mr. Hirst asked if we were wise to put in a competing measure that could cause unknown problems if both pass.

Mr. Lee said that the other issue is that we've really not gone through this Town Meeting Referendum Ordinance more than a few minutes here or there at our meetings and he has not had a lot of feedback on it.

Mr. Murphy said that he thought they could both be voted for and Article 4th would simply be implementing what the Citizen's Petition is asking for in Article 3rd. He added that Article 3rd says, "Shall the Town change the method and time..." and doesn't provide the details on what it would change to; that B says, "Shall the Town change the method and time of a vote; that that is exactly what Article 4th does. He said that he didn't see that they were opposed to one another. He asked if there was something in the wording of Article 4th that is different.

6:36 PM

Mr. Lee said that there is; that he thought that Mr. Fisher said that the ordinance does not address everything that he wanted addressed; that it may be that we would just withdraw Article 4th; just pull it out of there and go with the Citizen's Petition but the problem is that there is a logistical issue, here, that he didn't know how we get around.

Mr. (Bob) Pomerleau said that he has done a thorough analysis of these two provisions and thought it was ill-advised to withdraw the ordinance because the ordinance, in the long run, does a better job; that it is more thorough. He added that there is one potential area of conflict between the two and that involves a third citizen option that the ordinance doesn't provide. He said that the bottom line is, if they vote pass on both, there is still time to amend the ordinance, if it had to be, to accommodate something in addition; that the ordinance is a better mechanism.

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6:38 PM Mr. Murphy clarified that Mr. Pomerleau meant that the ordinance should be amended, now, before it's adopted, or, wait until after it's adopted and it could then be amended to be whatever we need to have it recognize the differences and alter it for the following year.

Mr. Pomerleau said exactly. He added that it is a pretty valid point, as far as not withdrawing the ordinance, because you had a petition before – advisory – that said to the Town that citizens wanted a referendum budget; so, in good faith, they should be pursuing that with the ordinance and he thought that the ordinance is fairly well-written. He said that there is one area of conflict with the options, which they would have to vote for but, in his opinion, that could be amended and, especially, if we pass the charter, which could come up in November; that by charter you have some flexibility to override State statute conflicts. He added that there are a lot of factors in play, here, that could be smoothed out before we get to June.

6:40 PM Mr. Lee suggested an idea for formatting in that, after the first and second articles, we could put in a sub-header that says, "Competing measures" and do it 3A and 3B, just like we did 6A and 6B, because they're linked together, in a sense; that they could put in "Article 3rd and Article 4th are competing measures. Please read both.", and leave it at that; that maybe that would clarify.

It was the **consensus of the Board** to add, "The third article and the fourth article are competing. Please read both before continuing."

Mr. Lee asked if the Board favored their own ordinance; do they favor doing away with Open Town Meeting, or, are they just putting up an ordinance that addresses the citizens concern in a little more structured kind of way.

6:42 PM Mr. Fernald said that he is against this type of referendum vote; however, we did have a vote from the Townspeople that was non-binding but it is an indication of what they are requesting us to do and that is why we are doing it.

Ms. Davis asked if the Selectmen have to weigh in on a citizens' petition or on this one, since it seems to be a matter of preference by the people, what they want one way or the other.

Mr. Lee said that you don't and, in fact, you could put The Selectmen make no recommendation – on Article 4th, for example – you don't have to put it down, at all, really.

Ms. Davis said that she didn't think it was our business to weigh in on a Citizen Petition and she didn't know why we didn't just leave Article 4th to the people.

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It was the **consensus of the Board** to remove any recommendation on Articles 3rd and 4th.

6:43 PM Mr. Lee asked Mr. Murphy to explain Article 12th.

Mr. Murphy said that this kind of an article to look toward a possible need for special funds in the future goes back a long time to when we had our Town Meetings in March and it's March in the year for which we have not yet approved the funds; so, in March, we were going to be approving funds beginning in January so, how do you pay for the Town between January 1 and March 15, when you have Town Meeting. He added that this Town, and many other towns, had an article the preceding year saying that during that period they would approve that the Town fathers would go ahead in spending but at the rate of 1/12th of the preceding year, per month – 1/12th of the annual budget – just to give them legal backing for spending during that time before their actual budget had been approved. He said that, when we moved our Town Meeting to June and our fiscal year to begin in July, it looks as if we are going to be able always to approve our next year's budget, beginning in July, in June so it will be in place; that lawyers, and others, were concerned that sometimes something can happen – Town Hall could burn down or flood or civil dissent so that no one would agree and work with each other on major things so nothing gets done; that, suddenly, there you are in July and you haven't got monies approved yet. He said that this is an article that we do this year for next year's budget looking to the possibility that, at the end of next year, there won't be a Town Meeting and, so, the following year there won't be monies available; that for this year we voted last year to approve this so we are covered for this July; that if we don't meet in this June and, somehow, don't have a Town Meeting last year we've already approved that we have the expenditures. Mr. Murphy said that he clarified the language for this year to make it clear that the spending would be for an amount, per month, because it may go on for more than a month. He added that they have never specified where this money would come from and it suddenly hit him that, if we haven't specified where this money is coming from if the money has been spent that was approved for the fiscal year, and they haven't approved the next one, where is this money going to come from; so he thought it should say, *"To see if the Town will authorize the Municipal Officers to spend, from the Unassigned Fund Balance, an amount per month not to exceed 1/12 of the appropriated amount of the 2015-2016 annual budget during the period from July 1, 2016 to the 2016 Annual Town Meeting"*; that that might be in July or August or September, depending on what happens to cause the delay, *"in the event the regular June Town Meeting is required to be postponed or in the event there is no approved budget as of July 1, 2016."* He added that, for this thing that may not happen, the Town will be covered for next year.

BOARD OF SELECTMEN'S MEETING
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6:48 PM Ms. Adams asked why you would use the appropriated amount of a budget that hasn't been approved.

Mr. Murphy said no; that it would be the budget that has just been finished; that we do this a year in advance.

Ms. Davis said that we use two different terminologies, here, where we say *2016 Annual Town Meeting* and then we say, "*in the event the regular June Town Meeting is required*"; that they are both the same thing and asked if we could call them the same thing.

The Board agreed to use 2016 Annual Town Meeting in both places for clarity.

6:50 PM Mr. Beckert asked if there was anything else on Article 12th.

Mr. Lee said that the 40th was just an FYI; that that is the amount; that it is a flat amount; that because of changes in their valuations the County budget did go up; that because Eliot's valuation didn't change that much we have flat amount we're paying, year-to-year; that he thought it was a \$1,000 difference.

Mr. Murphy said that he would like to go down through each article, which we normally do, thinking it was good to say that the Board has looked at each of these and agrees to each of these.

Mr. Beckert clarified that the Board would not take comment from the public on this process and the Board would do this efficiently.

6:52 PM Mr. Fernald asked if we brought back this official vote.

Mr. Beckert said that this was only to look at recommend, non-substantive changes that clarify the wording of the articles; that these are clarification points, only, with no discussion.

The Board agreed to review each article, as presented:

Article 1st: No concerns.

Article 2nd: Clarification to say Overseers, not Overseer.

Article 3rd: Already discussed.

Article 4th: Already discussed. Notes in bold, no recommendations.

6:54 PM Article 5th: Agreed to changes in red.

BOARD OF SELECTMEN'S MEETING
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Article 6th: Agreed to recommend.

Article 7th: Approved.

Article 8th: Approved.

Article 9th: Agreed to changes in red.

Article 10th: Approved

Article 11th: Approved

Article 12th: Already discussed.

Article 13th: Approved.

Article 14th: Agreed to changes in red.

Article 15th: Approved.

6:56 PM

Article 16th: Approved.

Article 17th: Agreed to changes in red.

Article 18th: Approved.

Article 19th: Agreed to changes in red.

Article 20th: Approved.

Article 21st: Approved.

Article 22nd: Approved.

Article 23rd: Approved.

Article 24th: Approved.

Article 25th: Approved.

Article 26th: Approved.

Article 27th: Approved.

BOARD OF SELECTMEN'S MEETING
April 23, 2015 5:30PM (continued)

Article 28th: Approved.

Article 29th: Approved.

Article 30th: Approved.

6:58 PM Article 31st: Agreed to changes in red.

Article 32nd: Approved.

Article 33rd: Approved.

Article 34th: Agreed to changes in red.

Article 35th: Approved.

Article 36th: Approved.

Article 37th: Approved.

Article 38th: Approved.

Article 39th: Approved.

Article 40th: Already discussed.

7:04 PM Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen approve the ordinance for Town Meeting, namely Amendments to Chapter 29, Growth Management and Chapter 1, General Provisions, of the Municipal Code of Ordinances of the Town of Eliot to require the annual review of the rate of residential housebuilding and allow for greater citizen control over the number of growth permits allocated annually for new residential dwelling units.

VOTE

4-0

Chair concurs

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen accept the Amendments to Chapter 16, Waste Recycling and Disposal, of the Municipal Code of Ordinances of the Town of Eliot, Maine, to update waste disposal provisions.

VOTE

4-0

Chair concurs

BOARD OF SELECTMEN'S MEETING

April 23, 2015 5:30PM (continued)

Ms. Davis moved, second by Mr. Murphy, that the Board of Selectmen recommend Referendum Town Meeting Ordinance, dated March 19, 2015, for the Town of Eliot.

VOTE

4-0

Chair concurs

The Board signed the ordinances.

G3. Public Works

7:10 PM 1) Kittery 2016 O&M Budget/Schedule for Expansion (FYI)

This is informational.

2) Dixon Road Conversion – PW and CSD

Ms. Muzeroll-Roy said that the idea behind changing up some of the park is that Dixon Road is falling apart; that the idea to close the road and make it one big park has been brought up in years past; that she thought it might even have been part of the Comprehensive Plan. She reiterated that she was presenting this again and to give some options as to how, or whether, we can go forward. She explained that Dixon Road would be ripped up to the stone wall to the left side of the barn and would all be a grassed-in area; that at the front of the barn and to a little bit left of the barn we would gravel that all in and make that a graveled area all the way to the second driveway where the PD garage is; essentially making it a bigger park, shutting down the road and just making access to the barn, instead.

Mr. Murphy said that there wouldn't be parking there during Eliot Festival Day and things like that.

Ms. Muzeroll-Roy said that that was correct. She said that that was one option; that she had another option, which she liked better, was to make the left side of the barn all grass and then, to the right side of the barn make that grass, as well, with some gravel but actually cut from Hammond Park off State Road, to the right of the gazebo, and make the driveway directly to the barn that way. She added that the big wrench in things right now is the Skate Park; that she got some feedback (email) today from Land and Water Conservation (LWC) regarding how to handle repairs and construction of the Skate Park; that she found out they cannot tear it down. She said that she would forward the email to the Board; that when she first envisioned the park, here, the Skate Park was not in her mind and she was picturing a much different scenario and kind of eliminating parking but, now, with the Skate Park still in the picture, if we eliminate the Skate Park, somehow, it still has to be some sort of outdoor recreation facility. She added that if she can convince the LWC to put up a basketball court instead of a Skate Park,

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April 23, 2015 5:30PM (continued)

it still has to be a process which will not happen this year. She said that, short-term, she would still like to move forward with some kind of beautification in that park. She added that she and Mr. Moulton have spoken and he is on board with whichever avenue we would like to do; that she liked the second option better, which is to cut in from State Road.

7:15 PM Mr. Lee said that his only concern was that they would need to check with DOT to see if we can get a road opening.

Mr. Fernald asked if the second option cost more than the first option.

Ms. Muzeroll-Roy said no.

Mr. Moulton said that he thought it would be relatively close in costs because we could use existing gravel that is in Dixon Road; put that down as the base gravel and smooth it over with some crushed gravel on the top, all of which he has stockpiled at the Town Garage; that he didn't see that they would need to buy any extra materials because we've already bought them to be used for road work and projects, such as this, throughout the Town. He added that he has top soil screened, which is reclaimed from the ditching we do. He said that the only cost would be labor to haul and re-grade, etc.

Mr. Fernald asked about parking.

Ms. Muzeroll-Roy said that, until the Skate Park issue is resolved, they would come in from the PD side using the gravel area they would need to keep.

7:17 PM Mr. Murphy said that he wasn't sure he liked cutting Hammond Park. He asked if this was a way, in a way, to protect the police from public driving by in front of them.

Ms. Muzeroll-Roy said no, not at all; that she was trying to make the park look a little different; put more trees and picnic tables in the area.

Mr. Murphy said that by putting that road in it would sort of divided it into two different things and there's access already there; why would we need a different access.

Ms. Muzeroll-Roy said that she understood what he was saying; that her vision was that that actual road, that piece of driveway, would literally be for staff only. She added that she wasn't sure how she would stop that, except with signs, but that, yes, it would create another driveway.

7:20 PM Mr. Murphy said that he would like to see a better diagram with more detail.

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April 23, 2015 5:30PM (continued)

Mr. Hirst asked if we had any legal requirements of abandoning a public way.

Mr. Lee said that there is a process for that, including a hearing, notification of abutters, etc., so we will have to think about that before getting to far with this.

Mr. Hirst discussed his concern regarding police using Dixon Road when going on calls.

Ms. Muzeroll-Roy said that, because that road is in such bad shape, the Police don't use it anymore.

Mr. Hirst said that that red barn is pretty old and asked if she had any thoughts with respect to what this project would do if the barn was eventually removed.

Ms. Muzeroll-Roy said that if the barn was removed then it would just be another grassed-in area, unless we plan on replacing a building there; that that would be the only other thing that would go there.

7:23 PM

Mr. Lee said that whatever gravel roadway that went up to the barn, if the barn was taken down because it's beyond repair, he would assume we would just pull up the gravel and revert it to grass and make the park even bigger.

Mr. Beckert said that he thought the major question was what do we legally have to do to abandon an established public way.

Mr. Lee said that, in two weeks' time, we will have that before you as to what that process is so that we can do that process then proceed with the project.

Mr. Fernald said that he would personally not like to see Hammond Park cut in half.

Ms. Muzeroll-Roy said that she was kind of torn about it, too now, listening to Mr. Murphy; that the whole idea of shutting down Dixon Road was to shut down access to a parking area; that by adding that split it might actually cause more issues so she can understand that.

7:23 PM

Mr. Fernald said that we have talked about, in past years, making that whole area grassy.

Ms. Muzeroll-Roy said that she was okay with sticking with the original idea.

Ms. (Carol) Selsberg asked if the Skate Park couldn't be a roller-skating rink in the spring and summer and water and freeze it for a little ice-skating rink in the winter.

BOARD OF SELECTMEN'S MEETING

April 23, 2015 5:30PM (continued)

Ms. Muzeroll-Roy said that she has all of these guidelines she got this afternoon that she now has to review; that there was talk about taking down the big bowl structure and adding more ramps but she doesn't know if she can even take that down now; that whatever she does, she has to replace it with something recreational.

Mr. Murphy said that the ice-skating is already there and is separate from the Skate Park.

Mr. Lee said that he tried, in another place, making a multipurpose hockey/ice-skating rink inexpensively with pavement; that after a couple of years of purposely freezing and thawing pavement it was not good.

G4. Public Safety

7:25 PM Fire Department Sprinkler Replacement Bid (Due 4/21)

Mr. Muzeroll (Fire Chief) discussed the recall history on the sprinkler system at the Fire Station and how the RFP was developed. He added that it was sent out to six contractors licensed by the State of Maine and we only had two contractors that showed for the mandatory pre-bid meeting. He added that, during that meeting, one of the contractors pretty much could have not said anything but the man representing Simplex-Grinnell asked why we were replacing all of these heads because they don't all need to be replaced; that he took the time, and so did the other guy, to go through and count everything in that building that actually needed to be replaced because they weren't all recalled, which he wasn't aware of. He reminded the Board that, originally, the amount put aside (\$8,000) was to replace all 223 heads and, as it turns out, it's about 130, maybe 132, heads that actually need to be replaced. He said that the other heads are 50-year heads (all put in 1998) and he didn't think he'd be around when the rest of them needed replacing. He said that the bids were in and reviewed; that he asked them to do it two ways; that only one of the contractors adhered to that and that was Simplex-Grinnell; that he had asked for a complete replacement cost and a replacement cost for the 130 voluntary recall heads. He said that Maine Fire Protection Services only gave him one price to replace 135 heads, which came to \$50.96 each; that Simplex-Grinnell bid two prices and, to replace 130 heads, he would charge \$23.03 each and that includes labor for both of those jobs. He said that he is familiar with both contractors and are both reputable companies but based on his knowledge and the work order that was presented to him, it would be his recommendation that we would do Option 2 from Simplex-Grinnell for \$2,995.00 to replace 130 heads at the Fire Station.

BOARD OF SELECTMEN'S MEETING

April 23, 2015 5:30PM (continued)

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen accept Option 2 of replacing 130 heads for \$2,995.00, marked as Alternate 2 from Simplex-Grinnell, subject to getting half a dozen spares.

VOTE

4-0

Chair concurs

Mr. Hirst asked when that would be done.

Mr. Muzeroll said that it would start May 1st and will be done that week.

Mr. Lee reminded for a Certificate of Insurance and a contractor's W-9 and I-9.

H. New Business:

There was no new business.

I. Old Business

7:30 PM 1) Investments Information – 3rd Consideration

Mr. Lee said that he was recently in touch with the bank about our questions; that he has a conference call set up for tomorrow morning and suggested this be tabled until after that conversation.

Mr. Beckert agreed.

2) Purchasing Policy – 2nd Reading

Mr. Lee said that the only comments he had received was that the amounts seemed rather large; that he thought it went \$3,000, \$5,000, \$10,000, and over \$10,000 and the comment was made that, in the past, it was \$1,000, \$2,500, and \$5,000, or something like that. He added that he had some options around that but, mostly, he was looking for any feedback on this policy that the Board would like to see changed, revisited, reworded, etc.

7:32 PM Mr. Murphy said that on page 3, section 2.12 Sole Source he would like the wording in the second line changed. He added that he believed the word 'only' should appear after 'Selectmen' (not before) and should read, "Sole source shall be authorized by the Board of Selectmen only when it decides..."

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Mr. Hirst discussed returned bid mail and suggested we go one step further and try to find them so that we have an opportunity to get more bids. He added that he didn't know if that needed to be in the policy but was just a due diligence issue.

Mr. Lee agreed. He did add that he went to the websites for addresses and was put off that they were incorrect and not especially interested in doing business with companies that didn't have accurate information available.

7:34 PM

Ms. Adams said that she had a problem with the competitive bidding process; that it says "*solicitations for bidding, which shall be sent to vendors, and/or by advertising...*" and "*The Department Head in conjunction with the Town Manager shall solicit at least (3) three vendors...*" and she would like to suggest that all competitive bidding be put in an advertisement because what she is seeing is that it is an individual saying that they know this person and this person and we'll get some bids from them but the public doesn't have the opportunity; that there may be people in Town, or out of Town, that could give a competitive bid; that she didn't think it should be and/or and that it should always be advertised, plus, go ahead and solicit; that that was just to give the public a chance to weigh in.

Mr. Fernald and Mr. Murphy agreed.

Ms. Davis addressed page 4, Informal Price Quote Requirements (4.1) and said that the last couple of lines seemed to conflict with 4.2 – "*when required by the Town Manager...*"

Mr. Lee said that that should not be there; that formal bidding should be employed by a department head whenever the purchase price is more than \$10,000; that they needed to talk about the amount, too. He added that he thought the Board would be more comfortable with going with up to \$2,500 in the first case, \$2,500 to \$5,000 in the second case and, then, over \$5,000 in the third case as opposed to the \$3,000, \$5,000, \$10,000.

The Board was more comfortable with Mr. Lee's suggested levels.

Ms. Davis said that, on page five, 4.3.4 jumps to 4.3.6 and thought that this just needed to be renumbered.

Mr. Lee agreed. He said that this would be brought back in two weeks, with changes in red, and asked the Board to keep looking at it and give him feedback at any time.

7:38 PM

3) MDOT Petition: Traffic Signal at Bolt Hill Rd./Rt. 236 – 2nd Consideration

BOARD OF SELECTMEN'S MEETING

April 23, 2015 5:30PM (continued)

Mr. Lee said that the only new information he has was the topic of how the cost of installing this would be shared, which was informally posed to the Kittery Town Council, and the response was to see if we could even get this approved, first; to see if it would even be approved before there was discussion on who pays what.

It was the **consensus of the Board** to try for the traffic light.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the Town of Eliot Resolution concerning the traffic light at Bolt Hill Road and Route 236, which is shown as I-3 and dated 4/23/2015, as written.

VOTE

3-1 (Ms. Davis opposed)

Chair concurs in the affirmative

J. Selectmen's Report:

7:42 PM Ms. Davis said that she wanted to bring up a Selectmen's Report that she originally submitted on February 12th; that they all received some responses from the DPW Director but they were not complete; that they did not address all the concerns and she didn't want to go into it tonight but, she felt that, as a Board, there are some fairly serious issues addressed in this report that were raised by both employees and residents that came to her attention and, hence, to your attention, and they need more serious consideration; otherwise, the people that brought this up did not feel like they were going to be addressed and, thus far, they have not really been addressed adequately. She added that she would ask them all to re-read this information. She added that if you are missing the accompanying documentation she has it available and she will print it for you, or, she will send it to them electronically; that she would like to bring this up, again, at the next regular meeting.

7:44 PM Mr. Murphy said that this affects the budget, which we just approved.

Ms. Davis said not really; that it is a lot of past issues that just need to be discussed; that it does shed some light on budgets but these are things that people have brought up and she knows that there are some employees that have concerns; that the Town Manager needs to talk with these employees; that there were other concerns that haven't been put into this report that need to be discussed.

Mr. Beckert said that the Board needed to take a look at that and go from there.

7:46 PM Mr. Hirst discussed that this is the first year of the Town Manager-form of government; that we have reviewed Mr. Lee fairly extensively and we all knew that this would have a learning curve to it; that what he was interested in knowing from Mr. Lee, from his convenience, was having him rate us on how we conducted ourselves based on the memo he sent out to us describing how the

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system worked. He added that there are things that he does that he wonders if he has over-stepped and he would like to know; that he thought that some of the others might like to know, too, how he rates us on that very issue. He also said that it came to mind, also, because the Townsman had an article, today, about public practices of ineffective councils and boards, and there are a bunch of things in this article that he would like to know if we have messed up on. He added that this was not something for tonight but for Mr. Lee to think about this.

7:49 PM Mr. Lee said that he would be happy to give the Board some feedback just for tonight; that, generally speaking, he has been generally very pleased; that he thought that the ability for this Board to adapt to unloading responsibilities and control, and so forth, has been remarkable and the Board has done a tremendous job. He added that he expected a lot more problems than he has run into; that there have been some misses, at times, when things have been a bit crazy and thinking we are not all on the same page, but it really has been a terrible minority of the time; that it has not posed any moments where any sleeplessness or anger or anything else has welled up because some Board member has really gone beyond the pale; that he means that for anybody he has served with. He said that he has felt very welcomed and is not in the slightest dissatisfied with elected officials. He added that he would give them some honest feedback if they would actually like him to do that and, maybe, just make some general observations and, maybe, some ideas for some improvements. He reiterated that it has been very, very good and he has not had a lot of problems over it at all.

K. Other Business as needed

7:53 PM At this time, the warrant was signed.

L. Executive Session

There were no executive sessions.

M. Adjourn

There was a motion and second to adjourn the meeting at 7:55 PM.

VOTE

4-0

Chair concurs

DATE

Mr. Grant Hirst, Secretary