

BOARD OF SELECTMEN'S MEETING
May 14, 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.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of April 9, 2015, as amended.

VOTE

4-0

Chair concurs

F. Public Comment:

There was no public comment.

G1. Department Head/Committee Reports

5:40 PM 1) Mass Gathering Permit – Raitt Farm – America on Tap

Mr. Beckert said that, as a member of the Board of Trustees of the Raitt Homestead Farm, he would give the gavel to Mr. Murphy, recuse himself, and step down from the bench.

Mr. Murphy asked if Mr. Lee would like to speak on this.

Mr. Lee said that he would actually defer to Ms. Melissa Albert, Administrative Secretary, as she has been working closely with both applicants; that primarily what he thought they were looking for is for Mr. Brian Lang to make a presentation for the Townsquare Media.

Mr. Lang, Market President for Townsquare Media, said that he oversees our New Hampshire radio stations, including WOKQ, and our Portland, Maine radio stations. He explained that one of the businesses we have gotten into that has been very important in the markets we are in, and our company's purpose is to super serve smaller and medium-size markets like Portsmouth, this region, northern New England, is to bring lifestyle events to these markets and bring events that wouldn't necessarily tour into these markets. He added that America on Tap is one of those events that we own and tour throughout the country; that it is a craft

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beer event designed for adults to gather and enjoy craft beers, which is a growing trend in our country. He added that places like where we want to hold this are very consistent with where we have done this event throughout the country; that it has been a very successful event, both for us, the venues, and the places that we've brought it to.

5:42 PM Mr. Murphy said that it appears there may be questions and asked the Board for their comments.

Mr. Fernald said that our ordinance does require the Selectmen to decide the amount of a required performance bond and the sum cannot be less than \$25,000. He asked if Ms. Albert would speak to this.

Ms. Albert said that it's the Board's decision as to what amount they want this event to have a bond for and it can't be less than \$25,000.

Mr. Lee said that, in talking with Ms. Albert and others on the staff, we are looking forward to re-writing the Mass Gathering Ordinance; that it is antiquated and needs some updates; however, at present, it does require this and we have notified both groups.

Mr. Lang asked if we were talking about insurance.

5:44 PM Mr. Lee said that there is a performance bond that is required in the amount of no less than \$25,000, or more, depending on what the Selectmen would have you do. He added that he suggested that it probably would be no more than \$25,000, he thought; that he thought there was a reluctance even on the \$25,000, perhaps; that it is a performance bond, not being additionally insured. He said that should significant damages occur because of bad management out at the event, and so forth, and we get hit with a bunch of expenses we would call on the performance bond to make repairs to whatever got bunged up on the roads, the guy that hit the hydrant because he had too much, etc.

Mr. Lang said that that isn't an issue; that we would take care of that; that we will be insured for \$1 million and have \$2 million in liability insurance and, if we need an additional \$25,000 in the bond, then that is not an issue.

Mr. Murphy asked Mr. Lang if he had seen the ordinance.

Mr. Lang said that he had not.

Mr. Murphy read the pertinent section (1.8) of the Mass gathering Ordinance that related to the permit bond. He then said that that is what this Board is supposed to do; that Mr. Lang said that he could meet these requirements.

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5:47 PM Mr. Lang said that that's not the concern; that we can meet these requirements in terms of providing that bond; that our company is clearly capable of doing this; that we've done this in many, many markets.

Mr. Lee said that one of the difficulties is that the Selectmen should really be setting that amount prior to completion; that whatever action the Board may take, if approving this, should be contingent on the delivery of a suitable performance bond, or surety bond, to the staff in the amount of whatever amount; that this should be part of any motion to approve and that would be his suggestion for both applicants.

Mr. Hirst advised Mr. Lang that the bond has to be kept open for at least one year after the event to cover any claims that may arise during that period; that that would tie up \$25,000, or more, of Mr. Lang's ability to bond.

Mr. Lang said that he understood.

Ms. Davis asked Mr. Lang if there had been any problems associated particularly with beer event. She also asked, generally, if abutters have been notified and have we had any experience in the past of abutters being inconvenienced or unhappy about these events.

Mr. Lang said that ours was a single-day event and that these events have really gone off very effortlessly. He added that, when he has done this in other markets, he has talked to paramedics and security afterwards and the only thing that was issued was a bandaid; that part of that is that the numbers are limited and it is a daytime event; that the nighttime crowd you would normally get for these events - the event is already over. He said that he thought that gives us much better control than if this was a late, into the evening, type of event.

5:50 PM Ms. (Kristen) Verberren, Event Manager, said that she just wanted to note that the event goes from 3PM to 6PM, only for three hours.

Mr. Murphy said that in the past the Raitt Farm, to his knowledge, has never been required to have this Mass Gathering Permit for their summer activities. He added that this is a new thing for us to apply.

Mr. (Tom) Raitt said that we have been holding events, mainly the Eliot Antique Tractor Show, for twenty years this year. He added that he was pretty sure he could speak for most of the abutters; that they are all there at some point during the week, every one of them and, if they're not there, they are having yard sales. He added that he didn't think there was a problem and we try to keep it that way.

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Ms. Albert said that notifying abutters would probably be a nice gesture but there is nothing written in the ordinance stating that we have to do that.

5:52 PM

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen issue a Mass Gathering Permit to Townsquare Media at the Raitt Farm for the event known as America on Tap and that they, as required by Eliot ordinance, have a bond of \$25,000.

DISCUSSION

Mr. Hirst said that his concern was that he didn't have any idea how much of a bond there should be; that it would be measured by the potential damage caused to the municipality by those attending the event and he has no way to figure that out.

Mr. Fernald suggested we go with the minimum amount because there is no way for us to figure that out.

Ms. Davis asked if Mr. Lang knew if there were any standard bond amounts for an event such as this.

Mr. Lang said that this is the first time we've been asked to issue that type of bond. He added that, typically, our certificates of insurance have taken care of everything we've needed.

Mr. Fernald said that he would certainly like not to require a bond but it is part of our ordinance and something that needs to be done.

DISCUSSION ENDED

5:54 PM

VOTE

3-0

Acting Chair concurs

At this time, the Board signed the pertinent document.

Mr. Raitt asked if they didn't also have to appoint an agent for the service of process.

Mr. Murphy read the pertinent part of the ordinance: "...the applicant shall, in writing, appoint an agent for the service of process irrevocably for the term in which action may be brought before any permit is issued."

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Mr. Lee said that the long-and-short-of-it is that Mr. Lang would need to specify who the agent will be; that if we have to go notify someone that we've had a problem and we need to talk about your bond who is the agent we are going to be going to; that the Board needs that now. He asked Mr. Lang if he could verbally give that to us now.

5:57 PM Mr. Lang said that, at this point, he would give his name, as the market president.

Mr. Lee asked Ms. Albert if it would be suitable for Mr. Lang to name himself as the agent for this.

Ms. Albert said yes.

Mr. Lee asked Mr. Lang to bring that in writing when he brought in the bond.

Mr. Lang agreed.

2) Mass Gathering Permit – Raitt Farm – Whirling Thunder Memorial Pow Wow

Mr. (Ed) Bullock was present for this application.

Mr. Bullock gave a handout to the Board, saying that was the highlight of the list of due diligence that we've done since we've been working with the Raitts' for the past year and a half; that we've been to the Police Chief and Fire Department; that this is the first we've heard of this ordinance and apologized for not being in the timeframe. He added that this event is a family event; that it's a memorial pow wow for his father, who was a Native-American Indian and passed away a year and a half ago. He added that we have been looking for the right place to have an event; that his father was one of those people that knew lots of people and was a community man. He said that we chose the Raitt Farm because it fits in with what we are doing. He added that we are bringing in Native American people from all over New England and we have people flying in from Alaska and New Mexico to come to the Town; that they have a \$16,000 budget and have been raising the money for this event so that we can make this free to the public; that people can come and go and enjoy it as they will. He said that this event is non-alcohol, non-smoking, family-oriented, self-policing group and he can answer any questions that the Board has.

6:00 PM Mr. Fernald said that Mr. Bullock had heard the previous request and asked if he was prepared to do a similar thing.

Mr. Bullock asked if the bond was to protect the Town or is that to protect him.

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Mr. Hirst said that it is a promise to pay on behalf of the bonding company to any affected parties; a financial guarantee bond, not insurance; that if you read the ordinance it will tell you all about what it's intended to do.

Mr. Bullock said that that was over and above his liability policy.

Mr. Hirst said that the liability insurance information Mr. Bullock has provided is simply an indication that a quote has been done.

Mr. Bullock said that, according to the insurance world, you can't get a policy more than 30 days in advance; that that is his policy but they are waiting for that 30-day magic moment to set it in motion.

Mr. Hirst said that he thought that was between Mr. Bullock and the Raitt Farm because our ordinance doesn't require insurance; that it should but it doesn't. He clarified that the bond would cover damage to real or personal property throughout the Town, including the Raitt Farm and separate from insurance.

There was some discussion on how this bond would come into play.

6:03 PM

Mr. Bullock said that we are a non-profit organization and, at the end of our weekend, if anyone comes to our free event and puts money in our donation bucket and if we have one dime over our budget, then everything is going to be donated to the Mt. Kearsarge Indian Museum in New Hampshire; that we will walk away with less than what we went in with; that he would just ask the Board that if there is something that you think is really not necessary, he would really appreciate being able to donate that money to someone who could use it.

Mr. Fernald said that it wasn't that, at all; that it is something that we are wrestling with by ordinance; a mandate from the Townspeople that we must do.

Mr. Lee said that in his estimation, because of the nature of the event, there are exhibits going on, it is non-profit, a cultural event – that he believed they would not be required to pay the \$500 standard fee that goes with this, unlike the previous one. He suggested that, in their application, they not be required given the nature of what they're doing – it is non-profit, it is cultural, it is exhibition; that it is not for-profit and not anything related to that and should probably be exempt from our local fee.

6:05 PM

Mr. Murphy asked if our ordinance allowed us to do that.

Mr. Lee said that it specifically talks about when you can waive the fee; that it does talk about exhibitions, and so forth, and that's why he thinks they would generally fall under that; that that does not have to do with a surety bond. He

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added that he has some experience with performance bonds and he has actually had to 'pull' the bond in the past. He gave an example of a subdivision not being completed properly and having to 'pull' the bond on the developer's behalf to finish the subdivision. He said that it is basically in the event that you have made certain representations that the roads will not get damaged, anything around the farm will not get damaged, we will never know you were there, there will be no big messes but, if you did and didn't come back to honor the bond, that is when he would 'pull' the performance bond and have the damage paid for. He said that we are in the midst of rewriting this and he would welcome the Raitts' input because he thinks we could work with one of the very few property owners that have the right type of property for this to try to make this a bit more streamlined and friendly. He added that, for the moment, this is where we are.

Mr. Bullock said that he got it and we are here to do our due diligence; that we feel we are here to work with you.

6:07 PM Mr. Murphy read the pertinent section (1.11) Exceptions and asked for a motion if the Board agreed to not impose the \$500 fee.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen waive the \$500 fee to the Whirling Thunder Memorial Pow Wow, as allowed by Mass Gathering Ordinance § 1.11.

VOTE

3-0

Acting Chair concurs

Mr. Fernald said that we are still hung up on the \$25,000 performance bond.

Mr. Murphy said that, under Exceptions, it says; "*The fees specified...*" and asked if the bond was a fee.

Mr. Lee said no.

6:09 PM Mr. (Steve) Beckert, member of the Board of Trustees of the Raitt Homestead Farm & Museum, said that his question would be, "Is there an allowance in the ordinance, and we know it's an antiquated ordinance, to waive the bond?"

Mr. Lee said no.

Mr. Beckert said that the ordinance also says that in lieu of the \$25,000 bond that there could be 'other' and asked what are the other instances.

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Mr. Lee said that he believed that one of the other alternatives was, for example, to temporarily put money into an escrow that is co-named between whoever put it in and the Town of Eliot, which is essentially cash.

Ms. Albert agreed, adding that it could be cash or negotiable securities.

Mr. Lee reminded everyone that that would still tie up the money for a year and that seems much harder. He added that he believed these performance bonds cost about 4% of the value you are looking for; so, at \$25,000, you're looking at about \$1,200, which is a lot of money. He apologized for the difficulty. He said that he would add, and this is true of both events, that this ordinance is when you are positive that there will be at least 1,000 people for a two-hour sustained period; that they are not certain that that is even the case; that he is not certain that they need to be here with this. He said that he did not know if they were going to end up with a total of 4,000 over the whole weekend all kind of spread out, coming and going, or there will be one place in time there will be 6,000 people, maybe, on-site; that they don't even know and can't suggest how that is going to work out; so, at the end of the day, they are only here to cover themselves in the event and dutifully follow the ordinance; that they may not even get there, which makes it even more troublesome.

6:12 PM

Mr. Murphy asked if Mr. Bullock knew how many have expressed an interest in attendance.

Mr. Bullock said that he's not charging anyone; that he has no tickets, they will have a wide-open gate, and they will have programs to give people. He added that he has no way of knowing.

Mr. Murphy asked how many followers have expressed interest in coming.

Mr. Bullock said that we have a Facebook page that has about 700 likes on it and that's the only number he has.

Mr. Fernald moved that the Board of Selectmen not require the \$25,000 bond because he doesn't believe this event will meet the requirements of 1,000 people in a two-hour period to the Whirling Thunder Memorial Pow Wow.

DISCUSSION

Mr. (Bob) Fisher, Frost Hill Road, said that he has listened to this, read the newsletter, and seen Mr. Bullock's father in action a few times and he thinks this is more of a religious ceremony than it is a public meeting. He added that it is inviting everybody from the tribes, themselves, to come, there's no money involved; that we are looking at the same thing, if we had a bunch of people go

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down to the cemetery, of having them put a bond up. He reiterated that because he thought this was a religious ceremony, the bond ought to be waived and he thinks there is room in that ordinance to do that.

6:14 PM Mr. Murphy asked Mr. Fernald if that was consistent with what he was trying to say.

Mr. Fernald said that, yes, it is.

Ms. (Carol) Selsberg said that she didn't know if it was a religious ceremony but it is a cultural ceremony and that is really important; to bring that many Native Americans to our Town, she thinks, is a fabulous use of the farm.

Mr. Fernald said that if there is no second the motion will fail.

Ms. (Donna) Murphy said that she has attended several of his events and agree it was a cultural event; that she has not seen any issues in the times that she has been there; that it has been more of a family event and something she would bring her daughter to.

Ms. Davis seconded the motion.

Mr. Lee said that because our ordinance is quiet on having their insurance policy name us as an additional insured, in lieu of asking for the \$25,000 performance bond, could we ask that whatever insurance is being carried during the course of the weekend that the Town of Eliot be named as an additionally insured. He added that he thought that was what was more traditionally asked from these mass gathering permits.

6:16 PM Mr. Bullock said that that would be fine and we could certainly do that.

DISCUSSION ENDED

VOTE

3-0

Acting Chair concurs

At this time, the Board signed the pertinent documents.

6:20 PM **3) TIF Alternative Committee Minutes**

Mr. Lee said that the committee was going very well, they are making very good progress and we are going along very well; it's a good group.

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Ms. (Roseann) Adams asked if the minutes were going to be posted for that committee.

Mr. Lee said that they would be posting all the minutes; that he has to get them over to Ms. Rawski and get her caught up.

Mr. Selsberg asked if 'progress' could be defined a little more.

Mr. Lee said that the committee wanted to develop criteria, first, by which to judge projects and they had a public hearing and settled on criteria; that they got good feedback from the public that they were right on target with their criteria. He added that they decided not to weight criteria but looked to have a good project hit four or five or six of the criteria (there are seven). He said that they developed a matrix, put a series of projects into that matrix with the criteria and, at their next meeting, he thinks they are going to do a sample scoring on one or more of those projects. He added that they did brainstorming on several projects; that they are really focused and that information; that they are beginning to generate ideas and how they are going to measure those ideas. He said that he thought that was three or four positive steps over three or four meetings, including one round of public input and probably soon to be another one.

6:22 PM 4) Town Office Closure Request – June 9 – Election Coverage

Mr. Lee said that because this is going to be a fairly large election and we have two new clerks in the office, that we would like to get exposure for one of the clerks to a full-blown election as she has not actually seen that yet, and Ms. Rawski has to recuse herself because she has a relative in the ballots, themselves. He added that, thankfully, one of our new clerks was a town clerk in Lebanon and very familiar with all these proceedings. He added that, in essence, we will be down to no one or our least trained clerk to hold the fort during that entire day and, for that reason, we would like to close it down and use it as a training exercise and bring her to the elections so that she could be helpful in future elections.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen close the Town Hall on June 9, 2015 because of the election coverage.

VOTE

4-0

Chair concurs

6:24 PM 5) Eliot Energy Committee – Resignation – Monique Lillis

Mr. Beckert said that because of her obligations at college she regrettably needs to step down from her position on the EEC.

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Mr. Lee said that he was sure that the Board would want us to send her a thank-you; that she started out as a freshman from the high school, joined as an intern, and gathered all that data that the EEC has used to look at our electrical use; that she has been at it now for four or five years, even while she has been in college, and just a very, very nice young lady; that the EEC has the utmost respect for her and her work; that now her little brother is our intern and he is equally a very nice young person helping us out. He added that, without objection, he would like to send her a very sincere thank-you and accept her resignation with regrets.

The Board agreed.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen accept the resignation of Monique Lillis from the Eliot Energy Committee with regrets.

VOTE

4-0

Chair concurs

Mr. Beckert asked Mr. Lee to send her a letter from the Board, as well.

G2. Administrative Department

6:26 PM 1) Town Manager Activities Report

Ms. Davis asked, regarding the change from debit cards to P-Cards, what the difference was and if receipts would still be handed in on the warrants, as usual.

Mr. Lee said that P-Cards (purchase cards) are what Key Bank uses, whereas the debit cards currently used have had frequent overdrafts because we have to reload them manually; that we do get a printed receipt of whatever is put on those P-Cards just like you would with a credit card statement. He added that one of the things we need to do to use these as a commercial entity is that we have to find vendors who are willing to take these purchase cards as their primary form of payment for the first \$150,000, which he believes they have identified; that we have a couple of fairly large vendors we could probably do that with. He also added that the purchasing policy is going to have to be in play with this, too; that P-Cards cannot be used just helter-skelter and there would be cut-offs that have been discussed in the purchasing policy; that, if it is above that amount, you don't use the P-Card but come see him about it.

Ms. Davis asked what the outcome was on Lines 20 – 22; that it has a bearing on another agenda item we will be discussing tonight.

6:28 PM Mr. Lee said that he thought this was the way towns split the cost when they do actual sewer extensions; that that is where the percentages jump all over the place.

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He added that from what we have seen and what Mr. Pomerleau has said it is somewhat of a rarity when a town does use tax dollars in with sewer projects; that he called the Portland Sewer District because they got some fines; that it does come out of their improvement reserve; that a lot of these are formed around districts and districts are very stand-alone entities; that they are not a department of the town and that's when it gets a little fuzzy. He said that he thought in the case of this Town it might be good if, one day along the way, we actually had a sewer district; that he thinks that may be part of what we're missing here – we have 4,000 voters that are participating on the decisions that affect roughly 2,000; that in some cases the town does chip in, that it's not just the sewer district doing it and, in other cases, they don't; that it's all over the map in the State of Maine.

6:30 PM Ms. Davis asked what lines 23 and 24 meant.

Mr. Lee clarified that there is a bill that has received widespread scorn that requires us to publicize failures made by the Town Clerk – put it in the paper with her name, failure, etc. He said that it was in the MMA Bulletin and the article had exclamation marks.

Ms. Davis asked, regarding Ms. Beavers sponsorship of a bill around the MSAD #35 funding formula, if they could have her in for a discussion at some point.

Mr. Lee said that, if it was the Board's will, he would be happy to ask her to come speak at a meeting.

Mr. Murphy suggested they start by looking at the proposed legislation; that she is quite busy until the legislative session ends.

Ms. (Donna) Murphy said that Ms. Beavers spoke about this at her last session and it was Ms. Murphy's understanding that it didn't make it out of committee.

Ms. Davis said that the Fire Department sprinkler heads came in low and she was wondering if the Board would consider transferring the extra money over to alleviate some of the CIP for this year's budget; that this was something that she would like to bring up for future consideration. She also asked about the stormwater letter sent out to Pleasant Street residents.

6:32 PM Mr. Moulton explained that that was a letter to residents on Pleasant Street that would be impacted by the upcoming stormwater project over the next year or two to give back feedback or concerns they may have as it relates to the project and for any temporary construction easements the Town might need; that they sent out 34 letters and have received 2 responses so far.

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Ms. Davis said that line 65 discussed hiring temporary labor with two employees out with medical issues.

Mr. Lee said that they hired one temp, he showed up one time and thought he failed to show up the second time.

Mr. Moulton clarified that he has worked three different times at the Transfer Station because we didn't have coverage as people had personal injuries. He said that we have had no response from ads in the paper to hire someone full time regular or part-time as a fill-in; that we went the temp route so that we had adequate coverage at the Transfer Station.

6:34 PM Ms. Davis said that she was combining this with line 100 and wondering if we have three people out.

Mr. Lee said no; that the Worker's Comp issue turned out to be very minor; that it essentially turned out to be a non-claim but you have to report it just in case it becomes a claim.

Ms. Davis asked, regarding line 185, if the mystery check issue had been resolved.

Mr. Lee said that that was the \$5,000 from the Maine Coastal Grant Program and was reimbursement for our stormwater planning; that it went to ECSD but actually applied to the planning phase for stormwater.

Ms. Davis asked if there had been any outcome on the Schiller testing emissions and EPA mobile testing.

Mr. Lee said that he has not heard from them. He added that they have been doing this fairly routinely and, in this particular case, it was a day when Schiller was specifically testing the new technology and the reduced emissions; that they were coming down to see if there were variations between pre-installation and post-installation; that they did some mobile testing in South Eliot and around the Village area. He said that they have been very good about getting back to him and publish their findings on their web site; that he thought there was a link to that on the Town web site, as well. He added that there has not been one violation at the temporary Sawgrass site, to-date, in excess of the SO₂ limits, not a single one thus far.

6:37 PM Ms. Davis asked Mr. Lee to elaborate on line 217.

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Mr. Lee said that the TIF Alternatives Committee had asked for information and Ms. Painchaud came in, we reviewed it together; that he found out there were a couple more things he needed and he sent her back to get those for him.

Ms. Davis asked about line 223 regarding Worster Road work.

Mr. Lee said that this was the reclamation and paving being done on Worster Road and that was with the money that is from the actual bond.

6:39 PM Ms. Davis asked about line 248.

Mr. Lee said that question came from Chairman Beckert asking me if he was absolutely certain that we could not require a person doing a FOAA to fill out a form and, just to confirm, he wrote to MMA and they said that they highly recommend it but it is not required. He added that he further discussed with MMA was that we use our own FOAA forms in the office so that, when he gets them by email or phone, we fill them out, keep track of them, and make sure we get the information back to people. He said that they would like people to fill out their own FOAA forms but we will not require it; that we will do it, if necessary, to keep track of it that way.

Ms. Davis asked if the situation with the Police Department still going on.

Mr. Lee said that he didn't know if they were at the end of it, or not; that we are involved peripherally and they continue to try to keep us involved. He added that he has some updates (confidential) he would be happy to forward to the Board; that we produced what we had to under a FOAA request and we've not heard back.

6:41 PM Ms. (Donna) Murphy, Budget Committee Chair, said that line 185 discussed her asking to delay printing and clarified that she did not request delaying printing for the Town Book; that there was some discussion on the timeline as to when the Budget Committee needed to discuss the matter of the referendum Tuesday night but she did not request to delay the printing. She also discussed line 213, saying that she hadn't received that letter and asked Mr. Lee if he would speak to that.

Mr. Lee said that, on behalf of the TIF Alternatives Committee, he did put a letter together asking for feedback and ideas from all committees but he doesn't believe it has gone out yet; that he sent it to the Chair for review by that committee.

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G2. b) Section 218 Agreement/Social Security Withholding

Mr. Lee said that we've recently learned that, for anyone working part-time, we do not have to pay the employer portion of SS so, effective immediately, we are not doing that.

Mr. Hirst asked if that could go retroactive so that we can get back what we contributed what we shouldn't have, if there is any.

Mr. Lee said that he has not looked into that; that he would find it hard to believe that he could go retroactive but he could certainly check for the Board.

Mr. Hirst asked if we have any idea how much it would be.

Mr. Lee clarified that we looked at it as a going forward basis and as good news; that anybody who is less than 1,040 hours/year we don't have to pay our portion of SS withholdings. He added that he thought it was a fairly small amount.

6:43 PM c) Draft – Newsletter for Sentinel

Mr. Lee said that there was some feeling that this should have been reviewed by the Selectmen or had public input or something like that; that he really didn't think of it in those terms. He added that he did go through this with the staff several different times; that some wanted it to be a little more firmly worded and others cautioned regarding potential bias; that if anything sounded biased we took it out, tried to keep it very vanilla and just informational. He said that, as the Board knows, when you type up something like this you get a lot of criticism because a word here or a word there is viewed as advocacy; that he honestly, in his heart, did not try to advocate a thing in this newsletter – just to get out what you're voting on, what the budget looks like, what else we are working on at the Town Office. He added that we have it printed, at this point, and it is ready to go into the Sentinel on the 21st; that we have 2,800 copies all made up. He reiterated that this is not an attempt to sway anybody; that it is an attempt to get everybody to come to Town Meeting with some level of information. He added that, that said, generally prior to Town Meeting there will be some effort to put out some sort of a counter-information sheet, if you will, and so if there is any bias in this, and he doesn't believe there's much of it, he thinks that whatever green sheet or other informational sheet comes out, they will have their opportunity, whoever from the community would like to participate, to put out their views of these things. He again reiterated that he didn't do it as an advocacy thing but did it just to get information about what's going on at the Town Office – where to vote, what's coming up, and so forth.

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6:46 PM

Ms. Davis said that she thought it was fairly well unbiased but did think there were some statements that were somewhat biased; that we should be providing an informational sheet. She added that she assumed that we were going to review it tonight and have an opportunity to discuss it; that she believes this is the first she has seen of it and she would have really appreciated an opportunity to see this; that she didn't know if any other Selectmen had had the opportunity to see this.

Mr. Lee said no; that this was not excluding you or anyone else; that we did it as an in-house thing trying to keep it real vanilla just to get some information out; we didn't have a lot of time to put it together; that we only meet every two weeks and have to get it in by May 21st, to be out on the 29th, trying to get the Town reports out, the warrant wasn't signed until May 6th when we had final information; that there really wasn't a lot of time to have this reviewed. He added that he really did his best to keep it very neutral because he knew there would be a lot of eyes on it. He said that he did speak with Ms. Albert today and, if he has done something that is so biased in this newsletter that, if you feel the need as a group to change it, he will change it and we will come in over the weekend and we will reprint 2,800 copies.

Ms. Davis said that there was a sentence on page two, "*The Selectmen strongly endorse the funding of the sewer pump replacements...*" and that is not true because she has grave reservations about the way this was done; so, to put this forward without saying a majority of the Selectmen or four out of the five Selectmen is not an accurate statement and it does seem as though it is intended to sway the voters without giving them a sort of balanced approach. She added that there are still some outstanding questions in her mind regarding the amount and the possibility of fines.

6:48 PM

Mr. Lee said that he didn't stress the fine piece in this.

Ms. Davis agreed but said that because of that concern, or reservation, she can't stand strongly behind this so it gives the wrong impression. She added that she has warned against this on some level and she still has some concerns about the fact that it's been raised that grants may not be available if sewer systems are partially funded with taxpayer money; that she could see situations where that could hurt the sewer users more than it would help them. She said that these were things that could have been put in here and weren't and, if we had had more discussion about what was going on, as a knowledgeable group, it would have been good for us to have some input on this.

Mr. Lee said that he has looked at strong majority as being being 80%, 4 out of 5 is a strong majority.

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Mr. Beckert said that, when the Board votes in a majority, that is the stand of the Board of Selectmen and, if you are in the minority, so be it.

Ms. Davis said that that would be true if it said 'the Board' but, when you have one person on a five-person team that doesn't agree and may potentially strongly disagree...that this says "*The Selectmen...*" and that implies five.

Mr. Beckert said that when the Board of Selectmen, or any other board, takes a vote and it is a majority vote, if you are in the minority, it is still a Board vote, as it stands, that was in favor of an item.

6:50 PM

Ms. Davis said that the intention of this is to put information out in an unbiased fashion for the Town to get a broad view of what the issues are; that she did think this was fairly well done but that some elements were left out. She added that she had one resident contact her with some suggestions in how to make it more balanced. She reiterated that there were some important elements that were left out and, because the other Selectmen do feel strongly in favor of this, that probably her chances of having a change made at this late date are slim; however, she would like to express her unhappiness over the way we proceeded with this.

Mr. Lee said that he understood; that he said from the outset that he may have screwed up in not trying to get it to you and calling a special meeting on this but writing by committee – for every person out there who would change a word, here and there, in this direction he would have somebody who would change a word in that direction.

6:52 PM

Ms. Davis said that we do our ordinances by committee, we do so much of what we are approaching here by committee.

Mr. Lee clarified that that is policy; that that is exclusively your domain – the policy stuff.

Ms. Davis said that this was a Town newsletter and it represents all of the Selectmen.

Mr. Lee reiterated that he would come in on the weekend and redo it if the Board would like him to do that.

Mr. Beckert asked what was the pleasure of the Board.

Mr. Lee clarified that, for those listening at home, he did mean the Board and he probably should have used the word 'Board' and not Selectmen because that sounds like all five of you and, really, it's the 'Board' – 80% of the Board

BOARD OF SELECTMEN'S MEETING
May 14, 2015 5:30PM (continued)

strongly endorse; that hopefully that can come out on some opposing sheet of information.

6:54 PM Ms. Davis said that, in future, when there are things like this coming up could we please have a copy.

Mr. Lee said that he would try never to do this again. He added that it has to be understood that timeframes on this stuff matter and it has to go out by a date certain; that if we continue to be at a topic so long that it becomes untimely we miss the point of the whole thing; that he didn't feel like he was in a good position, either way, on this to be candid with you.

It was the consensus of the Board to let it stand as it is.

Mr. Murphy said that he would like to thank the Town Manager for going to the effort of getting this as a public piece; that this is a learning curve and is an early edition of something he hopes will be more frequent.

Mr. Lee added that even Mr. Pomerleau and others who may be concerned about a word here or a word there, a tone, or whatever, might also agree that this is an effort to get better information out, inform the voters, excite the voters, and get them to the meeting – that was his intent and his sole intent. He added that, if this sewer bond doesn't pass, then we will have to come back to the voters in November, etc., and that has been said many, many times in many, many places; that this is not the only source of information they have to go on.

Ms. Davis asked if Mr. Lee said in the newsletter that, if the bond fails, it would be back in November.

Mr. Lee said no.

Ms. Davis said that there were major topics, regardless of beating the thing to death, that could have been discussed and she can't help but feel (excuse her for this) that, because you (Mr. Lee) are a proponent of the majority of the Board's opinion on this, that that weighed heavily on your decision not to let all of us see this before it was completed.

6:56 PM Mr. Lee said that he would respect that and he would say, alternatively, to the extent that we have a bunch of people writing it, he thinks that people who are strong opponents of a certain position are going to argue to include certain things that other Board members are probably going to think is very biased.

Ms. Davis said that may have made it more balanced.

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Mr. Lee added that we may have not got it done on time. He added that he will start these far earlier and fill in the blanks; that we can review the wording up to where he fills in the final numbers, or something.

Ms. Davis thanked the Town Manager.

Mr. Lee said thanks, as well, and apologized. He added that he really would be willing to do it over, reiterating that he really did not try to be biased; that he just wants people to come, participate, look at your sheet, look at this sheet, compare, make the good decisions, and let's move on as a community.

Mr. Lentz congratulated Mr. Lee; that it was a good first step; that he hoped it got better and he wished he would call it the Selectmen's Newsletter.

Ms. (Donna) Murphy said that she had an opportunity to read this and she did find it rather biased; that there were certain facts brought up repeatedly that were left out; that she would like to remind the Board that it is a policy in this Town that taxpayer money, when it's used to print any materials sent out to the citizens, it is to be sent out unbiased and balanced and she does not find that this meets that criteria.

6:58 PM

Mr. Pomerleau said that he absolutely commended Mr. Lee on the fact that he was putting out the newsletter, delighted to see it and a long time overdue, a very positive step forward; that the whole point behind the newsletter was to inform. He added that the Town's policy on putting out printed documents is to give them factual information from which they can make an informed decision; that it is clearly intended to keep you away from persuasion or bias. He added that Mr. Lee referenced the fact that there will be a rebuttal to it in the form of our green sheet, and there certainly will be, but our objective in doing the green sheet was to someday become obsolete; that the Town should take over the responsibility of doing what we do in trying to provide taxpayers with both sides of the argument, not just the one you are proposing; that unfortunately he doesn't think this newsletter meets that standard and he was prepared to submit some corrections to it, which he felt were going to help you improve the points you wanted to make; that, in particular, there were some issues with the sewer that he thought were seriously left out – in particular, what happens if it doesn't pass – well, there will be another vote in November and he thinks that is a critical piece of information for the people to know. He said that the way some of the information was structured, a few line changes would have satisfied both sides of the neutrality issue but, lo and behold, it's printed. He added that the last time something like this happened, we all discussed it as a group and came to a consensus, the letter was modified and then it was sent out; that he was shocked to find out that the letter has been printed, with no discussion, no Board approval; that there is something terribly wrong with the process. He said that the timeline is a bogus argument because it doesn't have to be there until the 21st of next week; that it

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could have been discussed tonight, it could have been modified tonight, it could have been agreed to tonight; that we had plenty of time to get it to the Sentinel.

7:00 PM

Mr. Lee said, to clarify about the policy, that everything that has been said is true, including that he is the final arbiter of what is neutral; that that is not a fun place to be, frankly, when you have very outspoken, opinionated folks, and rightly so; that he isn't complaining about that but just saying that, at the end of the day, it's got to be his version of neutrality and he isn't trying to violate any policy; that he honestly did not try to put in words that would inflame; that he did this over and over again, making it more and more vanilla each time around.

Ms. Adams said that she may have missed it but asked if the Select Board has considered having a meeting on the budget, itself.

Mr. Lee said that that was coming up.

Ms. Adams clarified not on the referendum items but on the budget, itself, possibly with the Budget Committee; that she had no idea if the Budget Committee would want a joint meeting but it might be a good thing to have.

Mr. Lee said that that was coming up on the agenda.

7:02 PM

d) One Possible Foreclosure Public Sale – NO CORRESPONDENCE

Mr. Lee said that, originally, we had four and he has been able to clear up three of them; that people have reacquired their property and they have, or will have, received a quit claim deed. He added that, unfortunately, he has one, and that it is the biggest of the four, and he is not having any luck getting any further correspondence, the phone calls have stopped; that he has a bad feeling that the next time we meet we will be putting a property out for sale.

2) Personnel Policy Adoption

Mr. Lee said that he thought we are there on this; that he thought this had gone through five or six iterations and is a very much improved document and is consistent with the new form of government; that right now he is working with a document that is nowhere near consistent and almost unusable for him. He added that this may not be 100% but he thought, if this was adopted and, as the next few months go on there was something noted that was wrong, needs tweaking, etc., then we can do this here; that we don't have to go to Special Town Meeting; that in the meantime he really should have a document he can send out and say these are the new rules; that some of these rules are financially in the Town's interest. He said that he would really like to see if the Board could do that and finalize

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May 14, 2015 5:30PM (continued)

these so that he can get this out to the staff; that right now he has a policy that says you go to the Select Chair when you have a problem.

7:04 PM Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the Town of Eliot Manual of Personnel Policies, dated 5/14/2015, that is a 34-page document and is marked Correspondence # G2-2.

DISCUSSION

Ms. Davis said that she has a few things we had talked about at a workshop that have not been incorporated into this and there are two major issues that she would like to discuss on it. She added that the first was that the holidays went from 11 to 12/year and the suggestion had been in the workshop that one of the less important holidays be traded for the day after Thanksgiving; however, that has just been incorporated and increased in this policy. She said that the suggestion was to swap for either Columbus Day or Patriot's Day and keep the number at 11.

7:06 PM Mr. Lee said that he believed that, if you check back with the current policy in use, that said 11 but, if you counted them, it was 12. He added, however, if that is the case, it is not his intention to expand holidays and, if that is a mistake, then he wished he'd known earlier.

Ms. Davis said that he sent out an email on February 20th and the suggestion was to change the policy for those that don't take health insurance but that suggestion in the memo hasn't been incorporated into this; that the suggestion in the memo was to also eliminate health and dental insurance, found on page 13.

Mr. Lee clarified that it wasn't to eliminate it but to change the wording of it. He added that, if you want to postpone it, we certainly can; that it has been months and months and months anyway.

Ms. Davis apologized but she did not know how the rest of the Board feels about that benefit and whether you want to keep it in there.

Mr. Lee said that it would be ever so helpful if you could email me if you have two or three things in there that you think did not get changed; that he would love to see those because he would love to double-check those and make sure we have it right.

Ms. Davis said that she tried to scan it but it came out to 10 megabytes and she wasn't sure he could receive it; that she could give him her redline copy.

Mr. Lee said that that would be helpful.

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Ms. Davis reiterated that she didn't know how the Board felt; that it seemed extravagant and this is the opportunity to revise it.

7:08 PM

Mr. Lee said that he would recommend that the Board table this if she has a couple of significant items; that he would appreciate the Board moving forward as he requested but he just really needs any final comments because this is just going on a very long time and he would just like to put a wrap on it at some point. He said that anybody who has any final review or comments, please – please, please – get them in to him because he has been waiting to try to get them all incorporated; that he thought he did that and sent out multiple revisions.

Mr. Beckert clarified that this is a Selectmen's policy and we can change it at any time with a vote of this Board.

Mr. Lee agreed.

Mr. Beckert asked if we were any worse off if we adopted this, as written, tonight, and tweak what needs to be tweaked a year or two down the road; that we have the option to change it whenever. He added that Mr. Lee is working with a real antiquated document right now. He asked if two more weeks was worth the waiting.

Ms. Davis said that it has an impact on the budget and the way we approach...

Mr. Lee said that as long as he gets those final comments now and we kind of commit to getting it done in two weeks; that so far he has been lucky at rolling the dice in using the old document, but, it is hard to work with that document.

7:10 PM

Mr. Murphy said that any suggestions forthcoming at this time would have to come back to this Board and be voted on.

Mr. Lee agreed.

Mr. Beckert said that he thought it needed to be looked at if Mr. Lee is comfortable that we can get this done in two weeks' time.

Mr. Lee asked to double-check and requested Ms. Davis send him an email with whatever it is and be very specific, if you would, please.

Ms. Davis said that she would send him a color copy of the red lines.

At this time, Mr. Hirst withdrew his motion and Mr. Fernald withdrew his second.

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Mr. Murphy suggested that Board members keep the copies they have rather than have 34 pages printed out again.

3) Second Informational Meeting for Sewer Bond – Tues., May 26 at 6:30 PM

This is informational.

4) Public Hearing – Town Meeting Warrant (Referendum Ordinance) – May 28 at 5:30 PM

Mr. Lee said that this is to review the entire warrant, including budgetaries – a full review of everything. He added that it is informational and will not result in any changes; that it is a time to ask any questions people might have about anything on the warrant.

5) Memorial Day Parade, May 25 at 9 AM at EES – American Legion

This is informational.

G3. Public Works

7:13 PM 1) Sewer System Operations and Maintenance Manual – Revised – FYI

Mr. Lee said that it is a very thick document; that both he and Mr. Moulton went through it and the Sewer Committee has reviewed it. He added that it is an internal, administrative document; that it is not a policy document but, rather, almost a series of checklists in what we need to do, as staff, to make sure we are doing our due diligence and have the proper records in place. He said that, on a going-forward basis in this much more complex world in which we live, this is the type of thing we need to be using to make sure that we are crossing our T's and dotting our I's; that he is glad we have it and glad Mr. Moulton went out and got it, is taking it seriously, and is implementing it. He added that he thought it would treat us well in the years to come to manage our sewer system as well as we can. He also noted, in deference to a comment from Mr. Fernald, that recently a letter went out to sewer users about not putting 'biodegradables' down the sewer and, as part of it, he did mention to them that there will be a vote coming up on the two pump stations, etc. and he unfortunately used the term that the system had been 'mismanaged' in the past and he didn't think he should have said 'mismanaged'; that he thought it was a simpler time, the money was right and it was coming in; if it did begin to look funny and the numbers began to shrink, it wasn't at a level that it scared anybody and we didn't feel we had to overreact. He added that he thought that time went by a critical point at some place and we began to get ourselves in trouble; that that doesn't mean mismanagement but that

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May 14, 2015 5:30PM (continued)

the times changed and the need to react changed. He said that if he offended anyone he certainly did not mean to do that.

Mr. Lentz asked if the manual was specific to Eliot.

Mr. Lee said that it was very specific to Eliot.

Mr. Moulton said that it came through from himself and Underwood Engineering.

7:16 PM 2) Sewer Ordinance Clarifications – FYI

Mr. Lee said that at one point he went through the Sewer Ordinance, just for his own edification, to look at certain things to see what was true and not true; that he called the DPW Director and our engineer in and we talked about some of the questions that felt a little vague to him; that we developed a number of questions or what we believe to be true and, then, we ran it by the Planner who was responsible for putting together the ordinance, itself; that a lot of these questions are actually coming back from the Planner trying to weigh in as to what the ordinance says, what it was intended to say. He added that he thought there were some pretty important questions in here that he wanted to make sure he understood. He said that what happened with Mr. Sylvester caused him to go through and make his own checklist of 'what if' this happens or 'what if' that happens. He added that one of the things we are facing is that this ordinance is such that, if you buy a house in Eliot and you are at or near a sewer system and you have a functioning septic system, you don't have a choice but to swap over to the sewer system, whether your septic is in great shape or not. Mr. Lee said that he reached out to the York County Association of Realtors letting them know and called a couple of realtors that he knows that work in Eliot to let them know; that he has also told the staff to be paying attention and help people be aware of this; that he is trying to get the word out so that someone buying a home doesn't get caught by surprise.

Mr. Selsberg asked if there have been any homes that are required to be connected that have not connected.

7:19 PM Mr. Lee said that we are looking back from the time of adoption of this ordinance to see what homes have sold and whether those homes were close enough (within 250 feet) that they should have been made to convert over. He reiterated that these checklists become very important and getting those on your building permit applications – are you within 250 feet of a sewer line and, if you are, there are additional things to be talked about.

Mr. Selsberg asked if the sewer system was engineered so that the connection is an important part of the functioning of the system.

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Mr. Moulton said yes, that it is; that it requires an inspection.

Ms. Davis asked why that was put into this new ordinance; that it doesn't seem fair and not how most towns do that; that usually, as Mr. Lee said, it is when their system fails they connect.

7:21 PM

Mr. Lee said that he did not have the history of the creation of the sewer ordinance; that maybe Ms. Pelletier or Mr. Moulton could give an opinion on that and he does not know with what regularity that takes place in towns or does not take place in towns. He added that, if it is the will of the Board that we change it, then we would have to work on changing the sewer ordinance to amend it.

Mr. Moulton said that, as part of the new sewer ordinance in Town, we used a number of area ordinances to make a new Town ordinance and combine everything all in one.

Mr. Lee said that it would stand to reason, then, that you saw one or more where that was the law of the land.

Mr. Moulton said that he thought it was more common than not.

Mr. Lee said that he did not have any factual knowledge but he did believe it was more common than not.

Ms. Davis asked what would be the logic behind that.

Mr. Selsberg said it would be the engineering.

Ms. Davis reiterated that it didn't seem fair; that it seemed it would have a negative impact on the home's sale price because people are going to be unhappy that they have a good, working septic system.

7:23 PM

Mr. Lee said that, in another town where he worked, he thought the way that they did it was that, if you bought a house that had an operating septic system, then you were obligated to prove to the town that it was fully functional and then you could stay on it; that you did pay a fee to be near the sewer because, when yours failed, you wouldn't opt to put \$12,000 into that hole but probably just do a lateral and connect to the sewer.

Mr. Hirst said that, on the flip side, being connected to public sewer is an enhancement to the selling price, in value.

Mr. Lee added that, if you are on a septic system, then you don't know that it fails until it fails; that then it's a bit late because some environmental damage has

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already been done and it's probably in your interest not to report that failure because of the expense; that it is hidden for a couple of years until a neighbor reports the awful smell and we go out and find it; that that may be why; that we aren't going to wait for the system to fail but requiring they hook up now.

7:25 PM 3) 2015 Paving Bids

Mr. Lee said that Greater Portland Chamber of Governments (GPCOG) put out a paving bid for all the southern Maine communities; that that paving bid was adopted by our Southern Maine Regional Planning Commission (SMRPC); that they put out bids to seven firms, naming them; that locally we only had Libby Scott submit pricing; that Libby Scott did not respond to GPCOG and, in fact, of the seven they sent to only one responded and that was Pike Industries. He said that at this point we have two bids; that we did go through a recognized bidding procedure with a regional entity and they had no luck getting people to bid – and he meant town after town after town, except one – Pike Industries; reiterating that we had gotten the one locally we had been using submit to their own pricing to us and wait to hear from us on what we're going to do. He said that that is eight vendors, in total, and only two responded and he doesn't know of any other qualified municipal paving companies in the area; that a lot of them from other than this group get down into driveway paving or, perhaps, parking lot paving but they are not roadway paving. Mr. Lee reiterated that he has two bids and he knows that he's supposed to 'go to Hawaii to get the third plow bid'; that he doesn't have it and the only thing he can see us doing is individually going to Crooker and the others and asking if they would bid directly with us or did you forgo bidding with GPCOG because it's a big problem because you don't like doing municipal contracts or you have enough work – why aren't they bidding; that for some reason six out of seven wanted nothing to do with the work being offered.

7:28 PM Ms. Davis said that she took the liberty of contacting Continental Paving out of Londonderry, New Hampshire because she saw them working in Portsmouth; that they do a lot of work with Severino; that she talked with one of the drivers and then she called the company, itself, and they expressed an interest in bidding for the Town; that they have experience, largely in New Hampshire in the cities of Concord and Amherst, but they have also done some work in Maine as a sub-contractor for the Maine DOT on I-95 so they do have the qualifications and she has contact information for them. She added that she was also given a name – John Bell – from Bell & Flynn Paving; that she has seen a bid in the file for paving before that we've contacted them for work. She added that she didn't know if we gave them the project but she spoke with him and he gave me his additional contact information and said he would be interested. She said that there is another name – Belanger – out of Berwick; that she was unable to contact them but that was a name given to her by somebody saying that was a potential lead.

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She added that she has been trying to contact the City of Portsmouth to find out who does their paving work but she has been unable to get through to them. Ms. Davis said that our policy expressly says that *“each department head, in conjunction with the Town Manager, shall advertise and conduct competitive, formal, sealed bidding pursuant to specifications on file in his or her office for purchases of goods and services for \$10,000 or more in accordance with the purchasing policy.”* She added that we have \$485,000 worth of requested paving here; that a couple of days of research she found this information; that the company Continental has a good reputation; that she thinks we should go out and beat the bushes a little to try to not rely on sort of a government entity that does blanket bidding. She said that she did request that the quote from Libby Scott be put on the same forms as the government entity was using so we could compare apples to apples; that that, in a way, also guarantees what they are bidding for and the price they are bidding it for.

7:30 PM Mr. Beckert asked Ms. Davis who authorized her, as an individual member of this Board, to go out and seek information from bidding companies when you knew we were in the middle of a bidding process.

Ms. Davis said that there was no secret information.

Mr. Beckert said that he didn't say it was secret but just asked who authorized you, as an individual member of this Board, to go out and seek that information.

Ms. Davis said that, as a thinking member and an elected representative of the people and the fact that we have repeatedly seen the bidding contract go out based on this type information; that she has back-up documentation from a previous bid that was like this; that it went to the same entities and got the same results two years ago; that it's time that we take a little initiative and find out information and present it in a useful way so that the Town has the benefit of seeing more competitive bids on projects that are nearly \$500,000 worth of taxpayer money.

Mr. Beckert said that he thinks Ms. Davis missed his point altogether. He said that his point is that we are in the middle of a bidding process, you are an individual member of the Board of Selectmen and you aren't authorized to go do things on your own unless the Board gives the okay to go look at this information.

Ms. Davis said that she thought providing the Board with a list of names is a very...

Mr. Beckert said that that is not how the Selectmen form of government works under the Town Manager form and it wasn't the way the Selectmen form of government worked under the original Board of Selectmen form of government;

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that no individual member of this Board is authorized to go do anything unless the Board, as a whole, says to go research paving.

Ms. Davis said that it wouldn't need to be done if it was being done, would it.

Mr. Beckert said that we just saw these bids come back tonight; that we could have made a decision tonight that this is the fifth time we've only received two bids back and set up a subcommittee to go out and do that.

7:33 PM Ms. Davis said that she sent out an email.

Mr. Beckert said that she didn't send an email to him on paving.

Ms. Davis insisted that she sent one to everyone and she dropped it off at Mr. Murphy's house this morning.

Mr. Murphy said that the action was already done.

Mr. Beckert agreed that we need to come through the bidding process and our policy says that we need three bids; that we've all talked about rewriting the policy and coming up with a better bidding policy; however, individual members of this Board are not authorized, no matter what it is, to go out on their own, as a Selectman, and contact entities as a Selectman from the Town of Eliot unless this Board authorizes them to do that.

Ms. Davis said that no contract was being negotiated; that it was a list of names, only.

Mr. Beckert said that he understood, reiterating that she was missing the point.

Ms. Davis said that she firmly believes that the DPW Director and Town Manager need to be pursuing these things and that we were just going through the same old march we go through every year with only two bids and it's time that something changed. She added that she had to prove to herself that there was actually information out there; that since we didn't see the folders until Friday and the topic was coming up for discussion this Thursday, some initiative had to be taken to see if, indeed, the possibility existed and she believes it does but, of course, it requires further investigation.

7:35 PM Mr. Beckert said that he was not disputing that, adding that she was not getting his point.

Ms. Davis said that she thought that providing information to this Board does not require permission of the Board.

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Mr. Murphy said that he would like to redirect this conversation, asking if he could talk with Mr. Moulton.

Mr. Beckert said yes.

Mr. Murphy asked if Mr. Moulton had any familiarity with the companies that Ms. Davis has mentioned, have they been part of the bidding process of Eliot in the past.

Mr. Moulton said yes and backed up a bit. He said that GPCOG and SMRPC do sealed bids, following the sealed bid process; that they put out multiple bids for everybody and open it up to every contractor that is eligible; that it goes through the Dodge Reports, it goes through everything. He added that it is a public document and everybody sees it; that, if they choose not to bid on it, they choose not to bid on it. He said that F. R. Carroll has come all the way down from DOT into South Berwick and chose not to come to Eliot; that we go through this process through these because it's a certain square footage of pavement, a certain tonnage of 'this'; that it's not just throwing a number out there and saying he needs a number for paving; that there are certain different entities of the job that he knows, Mr. Lee knows, and those of us that are involved know how it's bid; that it goes through the COG for the purpose that it is fair, it's adequate, and it meets the intent of the Town's ordinance. He said that to go out and solicit a bid from every contractor, such as Belanger paving who is a driveway contractor from Berwick, Maine and doesn't have adequate equipment, doesn't work. He added that the majority of the paving contractors in this area use Pike Industries to buy their asphalt; that their prices are based on trucking time; that Libby Scott is the closest one in the general area that has the capability of doing road construction. He said that you can hire the guy down the street that does driveways but, when your project is done, the roads are going to fall apart because they don't have adequate compaction, they don't do adequate prep work, reiterating that the COG puts it out to those companies and opens it up to everybody by going through the Dodge Report; that it opens it up to everybody all the way to Hawaii, if they wanted to. He added that that is how it works, that it saved an extra step, which at this time, he does not have adequate administrative help to do and he doesn't have time; that he is hardly ever at the Town Garage; that this is something that every community uses in the area to help with the bid processing because they do all the labor and that's why we are a member of the GPCOG; that we pay a membership fee to them and they help us do this; that they've helped us with salt bids. He said that he can't control who bids and who paves. He added that he gave the Board back-up documentation that F. R. Carroll went to another community but did not come here; that you can't force people to come here, you can ask them but, to be honest, everybody talks to everybody and everybody knows who is local and they choose not to bid sometimes because everybody is so close; that F. R. Carroll, Pike Industries, and Libby Scott are the

7:37 PM

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closest and, because of trucking costs and other things, they can control their pricing better than Shaw Brothers or any of those. He added that all these companies that bid, they are from away and adequate; that Bell & Flynn is from Stratham. He said that John Bell called him wanting to know why a Selectmen was asking because that's not the normal process; that he had a discussion with Mr. Bell letting him know that we went through the COG and Mr. Bell said that he understood that; that he asked Mr. Bell who his paving supplier was and he said he used Pike Industries, just like everybody else in the general area. He added that it came down to trucking costs; that Mr. Bell might have been able to save the Town 10 cents on the tonnage and that might have equaled \$1,000/year but for him to travel that far it wouldn't be cost-effective and he didn't bid on it; that he chose not to bid on it; that Continental Paving comes from everywhere, they have their own asphalt plant, and they chose not to bid in Eliot. He said that he didn't know what else to do; that we followed the bid process and all the communities uses them; that he doesn't know why Eliot is any different. Mr. Moulton said, with respect, that he feels this is additional scrutiny on himself and his department for some reason and he would like to know why; that he is frustrated.

7:40 PM Ms. Davis said that it isn't scrutiny on Mr. Moulton's department but looking through our weekly folders and seeing that, yet again, we have close to a \$500,000 bid with only two bidders; that you can't know until you look.

Mr. Moulton said that he did the due diligence through the COG.

Ms. Davis said that Continental said they were interested.

Mr. Moulton asked if they were interested why, didn't they go through the COG.

Ms. Davis said that she didn't know. She added that it is frustrating to continually see one bid, two bids on some of these larger contracts; that all she is saying is that we need to expand it out; that she wanted to find out what goes on, what these people do, and she just thinks there's an opportunity here to comply with our financial policy and our purchasing policy.

7:41 PM Mr. Murphy said that he thinks that Mr. Moulton has a lot of experience and Mr. Lee has lots more experience trying to find answers to this technological and building problem; that he doesn't exactly know what Ms. Davis' experience is.

Ms. Davis said that she has been involved in construction for twenty years.

Mr. Murphy asked if that involved roads and so forth.

Ms. Davis said no but we, as the management of this Town, require three bids and she doesn't know why he is arguing with her about this because last time Mr.

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Murphy was interested in getting the three bids and now we've got \$500,000 on the line and two bids.

7:42 PM

Mr. Murphy said that we have a process that involves many more than just two bids; that others are working together on the same problem and that is a different thing than us going out, one-by-one-by-one, to different companies and coming back, it seems to him.

Mr. Lentz asked if SMRPC could tell us why we are only getting two bids.

Mr. Lee said that he doubted they could; that unless they get a letter from one of the companies saying they are busy all season or they are shorthanded or whatever it might be but they generally don't know why people don't bid, either. He added that he has been in three other communities and using the regional council of government to do some of your bidding is very commonplace; that he always used for salt and sometimes used it for paving and he very often ran into the same thing, depending on where he was located people aren't interested – that they have better work, closer work, cheaper work and/or your community has a reputation for always complaining; that he was in one community where they complained on every single road project and no paving contractor wanted to do work in that town because the prior PW guy would find problems with everything and they ended up redoing everything; that there are different reasons – subs for the State of Maine have work all summer long, they're not in our region, the trucking is going to put them way out of price, everybody knows what Libby Scott charges us; that everybody knows and they aren't going to try to compete with it. He added that he thinks it's not worth their time to bid; that they find their time is better spent elsewhere. He said that he heard a few meetings ago, "Are you telling me that if you went to me as a business man and offered me work that I wouldn't respond?" "Yeah, that's what I'm telling you, depending." - depending on if someone doesn't have enough manpower or it's too far away or it's too inconvenient or you've got a bad reputation as a customer; that he isn't saying that Eliot does but just saying that has been the case in one town he was in. He said that people don't bid. He added that it's kind of like these fishing shows, they kind of know they all have their territory - you stay out of Eliot and Berwick, I'm going to do those two and you stay out of this area, I do those two – that it kind of breaks down that way.

7:44 PM

Mr. Hirst said that he thought it worth noting that there are many companies out there that don't like to bid municipal work because it's cutthroat and it's very low margins; that it has been his experience that many companies will decline to bid altogether for that very reason.

Mr. Lee agreed, saying that they know we're looking for the cheapest price and we're going to have the highest expectations because of public scrutiny.

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Mr. Hirst said that they know that there are companies closer and will almost certainly get the work.

Mr. Lee said that, if it's private sector, it's usually better money.

Mr. Selsberg asked if he understood that we must have, for anything over \$10,000, three bids.

Mr. Beckert said that that is what the policy says; that we've talked about the need to rewrite the policy.

Mr. Selsberg said that it hasn't been rewritten so we are stuck with it just like we were earlier tonight. He added that it is nice to have a discussion but we need three bids; that he understood the difficulty but we have to go get three bids.

7:45 PM

Mr. Lee said that, as far as he is concerned, we can go out; that we could delay this bid because it is the 2015/2016 paving bid (Mr. Moulton confirmed); that if it will make everybody feel better he will go out and beg and plead for somebody to submit a bid, even if they are not interested in doing so, and he thinks it's going to come down to that.

Mr. Selsberg said that's got to be done; that maybe it won't be a qualified bid but you've got three bids.

Mr. Lee said that that was why he didn't want to list anything off, up front, because he knows the rigidity with which this is viewed and, if that's going to be the case, then he is going to have to go beg somebody to put in a bid.

Ms. Adams said that she didn't think there was any harm in taking the information and asking for a bid and then we see what the process is; that she understands that people know more than we know about it but at least we would see that this is what happens; that if they don't want to bid then fine, then we know and end of discussion.

7:47 PM

Mr. Moulton said that the only concern he would have, and he cautioned the Board, is that the GPCOG bid is now a public document and has been put out to all municipalities who were involved. He added that anybody can have that and see the pricing of those that bid on the COG, reiterating that that bid has been opened and shared by all communities.

Mr. Hirst said that, even though you aren't disclosing it tonight, it's still disclosed.

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Mr. Lee said that he didn't think Libby Scott's is disclosed. He added that it doesn't matter; that if you want three bids, no matter what or whether it makes sense or not, he can get them the third bid somehow.

Ms. Davis said that what he's saying is that they are always going to trump us and we can never go for bids because they go for bids.

Mr. Moulton said, either that, or we don't use the COG; that we would have to do our own independent bidding and solicit bids from all these bidders plus whomever Ms. Davis might have talked to.

Ms. Davis said that he didn't want to use Pike, anyway; that his recommendation was to not use that bid, anyway.

7:48 PM Mr. Moulton said that was because they weren't the low bidder and that is why he recommended we don't use Pike.

Ms. Davis said that, then, the only person hurt by this would be the high bidder, anyway.

Mr. Moulton said that Libby Scott hauls from Pike; that Pike gets paid no matter who gets the job.

Ms. Davis said that Pike was a bidder on this, and they were the high bidder so, if we find somebody that is lower, we weren't going to use these guys, anyway.

Mr. Lee said that that was why he was saying he didn't think it was a big deal; that he thinks we go back out but he really just needs people to understand that there are times when bidders do not want to bid; that he wants to make one other thing very clear; that if he was to go to the Dodge Report and see that Eliot had half a million dollars in paving, as GPCOG did on our behalf – nobody came forward; that he's not sure how the outcome changes if he does it and spend our administrative time chasing these companies only to have them not respond. He said that, as you know, we have a shortage of administrative time for this department and, so, we try to use the faster, simpler route where we can and hope we get three bids; that when it comes back with just one bid, then he shakes his head, knowing where this is headed and, here we are. He said that, if it's important for him to go out and try Continental or Bell & Flynn; that he will try to find whoever else he can and come back in a couple weeks; that he'll ask them for a sealed bid as compared to the other two we already have.

7:49 PM Ms. Davis asked if Mr. Bell was offended by the phone call or wondering if he was missing business.

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Mr. Moulton said that no, Mr. Bell wasn't offended, it was that he knows the people in the area, he knows that people are closer, and it isn't worth his time to do it; that that is what he said to him ; that he doesn't know what Mr. Bell said to her. He added that he wouldn't want Continental to come all the way from Londonderry, NH because by the time they got here the asphalt would be a cold mix and you would have subpar roads; that he has had experience with Continental coming from Londonderry to Biddeford, ME on a project because he, too, has been involved in construction for many years, and he rejected thousands and thousands of tons of asphalt because it didn't meet temperature and because their paver broke down; that there are many, many things that make a contractor really think about whether they want to bid it and what the issues could be. He said that the COG was the better way to go because they do the whole sealed bid process and they put it out.

7:51 PM Mr. Beckert said to try to get a third bid; that the other thing the Chair would like to see, if possible, in two weeks is a revised bidding policy.

Mr. Murphy said that it was his understanding that all of today's set of policies can be set aside by a vote of the Board. He added that the legislature does that; that both the House of Representatives and Senate can stop time and change it in order to do a special thing and get it done, irrespective and against what are normal rules; that life is like that; that no set of rules will cover all circumstances of all cases. He added that we should have it in there somewhere that we could have a unanimous vote to set aside policy; that at least it would be on the record that they did it for a purpose in order to get things done.

7:53 PM Mr. Fisher said that he wanted to thank the Selectperson that picked up some bids; that he thought it was a pleasure to hear it come from this Board; that he thought it was nice to see a maverick go forward over and above the Board. He added that there is nothing wrong with other people thinking different ways of doing it. He said that he has roads he has to maintain and, while not as many as Mr. Moulton, he uses the same system for bids and he can get several bids on his \$250,000; that sometimes the big guys don't want the little jobs and the little guys don't want the big jobs; that we could split how many roads we really do by cutting down the overall bid of half a million dollars; that he thought that might be a way to look at it.

Mr. Fernald said that, if all five of us went outside the Board to get bids for paving for the Highway Department, that really is micromanaging that department and that is not our function; that we are a policy board and that's why we have a Town Manager form of government; that we shouldn't be trying to micromanage each department, particularly when we are not qualified to do so. He added that the Public Works Director is much more qualified in these matters than any of us on this Board.

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7:55 PM Ms. Davis said that she thought that if each of the Selectmen went out to at least find one, we would have five bids coming in; that it doesn't take a great deal of qualifications to go out and find names of companies that potentially would be both qualified and interested in bidding these jobs that, year after year, come in with only one or two bids, She added that it's in the interest of the people that competitive bidding be conducted, particularly, when you have a half million dollars involved.

Mr. Beckert said that he was going to move the subject on even though he thought his original point was lost to everybody. He added that he didn't disagree that we needed three bids, he doesn't disagree that it's good to look at different companies; that he thinks the way an individual Selectman goes about doing things without the Board's authority is against the form of government that we've had in the past and the one we've got now. He said that the thing to do would have been to come here, tonight, and discuss it and ask if we can set up a subcommittee to go out, myself and maybe one other Selectman, to see if we can obtain companies or can we work with Mr. Moulton to see if we can get three bids; that that would have been the way to do it, to get the Board to sanction you going out to do that. He said to go out and do it as a 'maverick', as Mr. Fisher said, is against our form of government; that it is against the principles of our form of government and the way it is set up. He added that there is a chain of command, a procedural step process that you have to go through and, if everybody did that throughout all departments, then the Town would be nothing but chaos, or any municipality, and that's why there are laws and procedures are set up that way.

7:57 PM Ms. Selsberg commented that they not confuse micromanagement with creative leadership; that one of the good things about Mr. Lee being here is that we have heard, since he has been here, some really good ideas; that he brings to the table wonderful ideas for better productivity and better transparency throughout our leadership; that information-gathering is not necessarily micromanaging and the public appreciates whenever any of you show that kind of initiative. She added that Ms. Davis didn't sign a contract with anybody; that she was just bringing more information out because there are always new people coming in to the field, and why not check on that. She said that, to her, that is creative leadership as opposed to micromanaging.

Mr. Lentz said that the root cause of this whole 45 minutes, again, stemmed from one thing; that you said it over and over again, come in here with three bids; that that's the issue, don't come in with one or two and say they need to go back out and make some more phone calls – come in with three.

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G4. Public Safety

There was nothing under this.

H. New Business:

7:59 PM Mr. Lee said that he doesn't think he received this until after the packets went out. He added that MSAD #35 is asking the Board to counter-sign the Warrant and Notice of Election for the upcoming District Budget Validation Referendum to be held on June 9, 2015; that they need the Board to counter-sign this, if you would, please.

Mr. Beckert said that this is routine, by law.

At this time, the Board counter-signed.

I. Old Business

8:01 PM 1) Dixon Road project

Mr. Lee said that he thought the only thing they were going to do on Dixon Road was tear up that terrible pavement, re-grade it, and leave it a graveled public road. He added that the only way to abandon that road is to take it to Town Meeting next June; that they should prepare for next June to have a discontinuance article and follow the protocols for that.

Mr. Hirst asked if the Police Chief had weighed in on the whacking off of an end of Hammond Park

Mr. Lee said not thoroughly but one of the good things about this is that we are just going to tear up the pavement and that will give us plenty of time to continue the planning process to make sure the Chief either gets an easier way to get out of there or move that structure he was talking about; that we are going to slow it down and keep the Chief in the loop and he knows he is fully invited to participate.

8:03 PM 2) Investments Information – 3rd Consideration

Mr. Lee said that he was not looking for any final decisions. He added that he has a meeting on May 21st at 4 PM and what he is hoping to do is get the Board to appoint a subcommittee of two people to meet with him and the Key Bank officials to go over this question regarding their fees versus what our returns are. He said that, interestingly, we just got our April Investment Report and, where it appears that we lost money in January, February, and March, in April we are

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suddenly up \$8,500; that he doesn't really know what's going on and he thought it would be nice to have a couple of people that have some understanding of investments, in particular, Selectman Davis because she has been following this very closely and whoever else might want to be appointed.
Mr. Murphy volunteered.

It was the **consensus of the Board** that Ms. Davis and Mr. Murphy form a subcommittee for this task.

8:06 PM

Ms. Davis said that although the amounts went up, if you compare what is on the report for 4/30 versus 1/30, we are losing principal and she doesn't understand; that we would be better off if we were in a savings account and she didn't realize they had been authorized to put us into any kind of volatile account where we would run the risk of losing principal. She added that even though it went up \$8,500 we are still below where we were in January; that even though they reduced the fee it still brings it in at \$10,000 for a \$2.5 million account. She reiterated that they have not been authorized to put us in a volatile investment strategy.

Mr. Lee said that their answer to him was that they put it in the same type of thing that T.D. Bank North had it in before they ended up with it; that we were losing money there, as well.

Ms. Davis said that we are paying them \$10,000 to advise us and they're telling us they put us in the same accounts we were in before.

Mr. Lee said that that was only because we haven't pulled the trigger to let them move it into the stuff they want to put it in; that we do have a role in this, we have stalled and stalled and stalled and that's where they put it because they had to put it somewhere, he guessed.

8:08 PM

3) Purchasing policy – 3rd Reading

Mr. Lee said that he didn't have much to add; that it is self-explanatory and he hopes they have all read it; that if they do have comments he would hope they would get them to him in a timely fashion so that he can put them in and finish this. He added that it is going to require review and adoption, at some point, and it's going to be an overall set of financial policies; that he has also been working on an unassigned fund balance policy that he would like to get before them soon and, slowly, we will pick away at those financial policies. He said that there's a bunch of them but, given that there are so many and the complexity of them, we should pick them off, one-by-one, until we get to the internal control documents, which are most of them, and that he thinks they could do as one fell swoop because that has been recommended and reviewed by our auditor and staff; that

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he thinks the internal control documents are ready to roll. He added that these are more policy-based; that he believed the purchasing policy was a good policy and is ready for primetime and to be adopted; that it would have solved tonight's issue if it had been in place.

8:10 PM Ms. Davis discussed Section 6.1 regarding minimum purchase dollar amounts needing Board approval; that the policy, to-date, has always been all expenditures over \$2,000 and we are jumping to \$10,000 and, whereas, it is not our job to micromanage she thinks it would be good for us to stay informed of major purchases; that when we ramp it up to \$10,000 it can get big quickly and the only time we will see these purchases is when the thing is done and we go in to sign the warrant.

Mr. Lee asked if there was a number she had in mind.

Ms. Davis said that she liked \$2,500; that it doesn't take that much time and, usually, it's the Highway Department that is doing a lot of the major expenditures; that he is often here, anyway, to keep us up-to-date on what's going on; so, it doesn't seem there is any real harm in keeping that number a little bit lower so we stay informed.

8:12 PM Mr. Fernald asked why the \$10,000 figure was selected. Mr. Lee said that, primarily, because of the way these policies go they tend to be on a sliding scale based on the size of your budget. He added that, as an example, in Buckfield we were a little under 2,000 people and we had a \$2,500 limit there and our entire municipal budget was about \$1.3 million as opposed to \$5.5 million. He added that he has seen in Saco and other bigger communities where the amount is \$50,000 because they have a \$20 million budget. He said that when you are at a \$5.3 or \$5.4 million municipal budget, he thought from a sliding scale standpoint, you get out of the \$2,000 or \$2,500 limit because that harkens back to a day when it was Selectmen-driven and you didn't have a manager in the middle to check some other realities, you had to check all realities, so he thought it was time to move it out.

Ms. Davis asked if there should be a paragraph in here that says that the numbers we are looking at should be total project amounts; that if you are looking at changing this from \$2,000 to \$5,000 you should take all of the expenses of the project into account.

8:14 PM Mr. Lee said that that might be a good compromise position, too, because if the whole project comes in at an amount that triggers something then we should probably see it as a Board of Selectmen. He added that, with individual purchase, you do have an additional layer of review, at this point, where they do come to see him about things and that does make quite a bit of difference; that a benefit of a

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board hiring a manager is that you don't have to look at every single, solitary, little thing and is part of what you are trying to get away from. He added that a lot of those details fall to him but there is a point at which you have to make sure that those purchases make a lot of sense and what that point is is something you have to decide you are comfortable with - \$5,000, \$7,500, \$2,000, or \$10,000.

Ms. Davis said that we haven't seen department heads lined up outside the door every week; that, in fact, we very rarely see department heads, reiterating that a \$2,500 limit so that we can stay informed of the larger purchases and know kind of what's going on in Town in the departments really wouldn't place an undue burden.

Mr. Lee said that he would just like the Board to determine policy and adopt it.

8:15 PM

Mr. Murphy said that, in Section 4.1, there is a lot of activity that takes place at department/manager level in smaller quantities, whose history each time might be presented to us in conjunction with the larger \$10,000 approval; that we could see the elements of whatever the total cost is considered, asking if that would be part of it or would this information on the activity in 4.1 be lost at the time it comes us for approval at the \$10,000 or more.

Mr. Lee said that he really couldn't answer but he is making notes to see if they are in conflict or are incompatible.

Mr. Murphy said that he is trying to see if there is a history, which allows a lot of detail back and forth in smaller amounts, to let us see at the \$10,000 level what happened in order to get \$10,000.

Mr. Beckert asked what was the pleasure of the Board on the number.

It was the **consensus of the Board** to use the amount of \$5,000.

8:17 PM

Mr. Lee asked if each of the Board members to please take one final review through it, mark it up one last time, and please get to him any comments, individually, that they might have so that he can kind of summarize them for the Board that these are areas where that we still have questions for the next meeting.

4) Lease of Vessel for Harbor Patrol - Revised

Mr. Lee said that MMA did not have a lot to offer; that he forwarded it over to Mr. Saucier (Bernstein Shur) and he recommended some language, which he has included and pointed out what that language was – the lease is made out to the Town of Eliot, not the Harbor Master, and a definition was added to clarify 'wear and tear'.

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8:19 PM Ms. Davis said that, if she understood Mr. Rankie's concern two weeks ago, it was whether the Harbor Master would change in June and asked if we were pretty sure the Harbor Master was not going to change in June.

Mr. Lee said that the Harbor Master will be wanting to continue and he will be recommending it; that it is ultimately up to the Board to finalize the recommendation.

Ms. Davis said okay, adding that his concern seemed to be that, if the current Harbor Master did not continue and someone with his own boat might be appointed, it would make this an unnecessary expense.

Mr. Lee said that that could be, or, it could be that Bill would be just as fine leasing it to us and we put whoever the next Harbor Master is on to the end of that season and, then, no more thank you.

8:22 PM Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen approve the lease, dated May 14, 2015.

VOTE

4-0

Chair concurs

J. Selectmen's Report:

8:24 PM 1) Disposition of Questions for Public Works – Selectman Davis

Mr. Lee said that this was brought up, again, recently and so he put it on the agenda; that the Board has the list of questions that were posed back in February and the response that was received back on some of the questions. He added that he worried about something, early on, and he will mention it again; that you have been talking about what a board does and what an individual does and this, again, gets to the heart of the matter – this is an issue wherein the Public Works Director, whoever it may be, is his employee, his problem, responsible for his failures and, hopefully, part of his successes; that these questions are so many and so time-consuming to respond to that they border on an internal investigation, as he said before. He added that a calling of an internal investigation by a Board of Selectmen is absolutely appropriate; that you can do it when you see that there is a need to do so. He said that it is bothersome to him, and certainly bothersome to the employee in question, about being checked on at this level and expecting him to stop what he is doing and respond to so many questions, here; that he thinks that everyone is well-aware that when you answer one question you usually open up two more; that he can just see this really being a part-time job for Mr. Moulton to answer questions on this stuff. He added that he did think this was a way around an internal investigation, it's a private internal investigation, in his estimation; that he knows it won't be presented that way. He said that tonight he

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would like to see if the Board, as a whole, would like us to address all these questions and/or open an internal investigation because, otherwise, this is not the way business is normally done.

8:26 PM Mr. Murphy said that there are 45 questions here in nine different areas dealing with details going back months and years on everything that goes on in the Public Works Department from what he can see. He asked if we had a similar set of questions for the Police Department or the Fire Department or, even, for Town Hall. He added that, to him, this is the ultimate in sort of micromanaging – “What factors lead to \$22,486 worth of extra funds in the operating budget of the Transfer Station? Were other priorities shifted in order to afford paving?” – that’s the eighth question under Transfer Station Paving.

Mr. Lee said that a number of the more important ones we did think probably deserve some attention; that some of them were hard to understand, why did that take place, and Mr. Moulton responded to those. He added that some are almost just commentary, some we just don’t know what to do with and he is frustrated; that it makes it very hard to manage the Town in this manner and he doesn’t know what this is about.

Mr. Murphy asked Ms. Davis why she was going into so much detail, what led you in this direction, and what are your suspicions or concerns. He further asked if there was something wrong that needed to be corrected.

8:28 PM Ms. Davis said that, looking at the Transfer Station Paving, she thinks what started the questions was that we spent \$22,000 to pave it; that she looked at that and questioned it because it wasn’t in the budget and it wasn’t in the CIP. She added that she did a search of the minutes and discovered that, on July 26, 2012, \$40,000 was appropriated for paving the Transfer Station, based on an estimate of \$39,000; that less than two years later we are spending \$22,000 to pave the Transfer Station. She said that it just raised questions of, if we allocated \$40,000 to do that work, why are we now spending \$22,000. She added that you can get your back up about these questions but this is a legitimate question. She said that it may be perfectly fine but she doesn’t know the answer and the only way she can get an answer is to ask a question. She discussed other questions; the bonding – there is nothing in the financial reports that delineates these two separate bonds; so, she sees questions, here. She said that it raises issues when she sees \$50,000 – 36, 24 – things don’t add up. She added that they may add up if they were in the financial report in a manner that discloses how the money came in and how the money went out; that when she looked at the reports they didn’t add up. She reiterated that the only way she could find out what was going on was to ask the questions. Additionally, she said that she wondered why the previous Chairman resigned his position and, to some degree, some of these outstanding questions were concerns of his; that, as far as she knows, they have never been answered;

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that some of the responses that she has received to these questions are inadequate. She added that there are eight questions on the Transfer Station Paving and the response was that it needed paving because the people were tripping; that that is not an answer to these financial questions of where did the money go that was originally allocated. She said that you can make a big deal out of this and that's okay; that it wasn't intended as such; that she can't know what's going on unless somebody tells me. She said that this is how many questions she had; that they were easy to come across; that when she reviews the warrants every week she looks to see where the money comes in and where the money goes out; that when she starts looking at receipts she wonders why it doesn't add up. She added that she still has an outstanding question about the bond; that she was unaware that Hawkeye Construction had a \$50,000 bond; that it was all mixed in with the Public Service bond in the financial reports and there was no way to tell what was going on; that it should have been in there.

8:31 PM Mr. Lee said that it was in there, just not in the way that she was seeing it.

Ms. Davis said that the question was a valid question.

Mr. Lee said that he offered up that this is a shortcoming of his, then, if there are that many questions and he apologized. He added that he didn't know that his goals were to make everything such that each of you go through and basically do an independent accounting of how we are doing things; that he isn't that person; that he thinks he might be the wrong person for the job; that you may need an accountant or an auditor run the job. He added that he is not going to focus on this kind of stuff, that is not what he does as a manager; that he has Ms. Bergeron to do that and he trusts his staff; that he knew where their stuff is and he checks on things that he needs to check on; that he pushes on the electric fence when he needs to push to get zapped to make sure it's all right. He said that we are really in a pickle when we're asked...imagine if each of you came up with 45 questions; that he is just going to stop what he's doing, ask the staff to come in, they can spend all eight hours every day, we'll just answer questions about accounting. He added that we need to be a little bit practical here; that if there's a big question somewhere he is happy to answer them and he has tried to do that for Ms. Davis – "Dana, where did that money come from for the Transfer Station?" – that our expenses were lower than we thought, you've been asking about this for a couple of years; that we don't know about this Pay as You Throw thing, how it's actually going to come out – it is a budget; that we are hoping that we know what's going to happen but sometimes it doesn't. He added that sometimes we're short, as you have seen, and sometimes we're over; is this the opportunity we've been looking for to pay for that and get rid of the safety concern; that he and Mr. Moulton said yes; that it was allocated and we saved in other areas and we should probably fix the safety concern because, when the guy comes from MMA, we aren't only going to have a teetering wall and this and this and this, we're also going to have

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a driveway he will say to pave and why don't we get one knocked off the list. He said that he makes those decisions all the time every day, hundreds of them; that if you would like to be involved in all that, you're really trying to get back to being a Board of Selectmen with an administrative assistant; that he is really beginning to get very frustrated with it and wanted to share that with you; that he respects the questions and we try to answer them and he tries to find a balance of time between question, question, question and getting stuff done we have to get done.

8:33 PM Ms. Davis said that Mr. Lee, personally, hasn't answered any of these questions so he hasn't spent any time.

Mr. Lee explained that that was because the Board has not asked him to answer them.

Ms. Davis said that we come in every Friday to sign off on expenses; that if we were not necessary and we were not expected to know what we were signing off on, then you would be on very firm ground, but you are not on firm ground; that these are outstanding questions. She added that you may go through and say 'these ten' are not legitimate and he doesn't want to answer them because they are too picayune, fine, but you haven't attempted to answer any of them, which was the crux of the problem with the last chairman, and the fact that no action was taken on some of these things, is a problem.

8:34 PM Mr. Lee said no, that she was quite wrong.

Mr. Beckert said that he was not going to let discussion enter into the last chairman or why he resigned; that we've all wondered, we've all asked, we've received nothing from him. He added that, as far as reviewing the warrant, we all review the warrant every week before we put our signatures on that piece of paper; that if four of us sign it and understand what is in front of us and the fifth one doesn't then, okay, you need to ask some question.

Ms. Davis asked if it was possible that the four didn't and don't care.

Mr. Beckert said no; that he didn't think that's a fact at all; that he has reviewed warrants for over twenty years, here, and he knows exactly what to look for and where to look and what areas to scrutinize..

Ms. Davis asked then where did our \$40,000 for paving go.

8:35 PM Mr. Beckert said that he would like to hear from the other members of the Board, at this point, because, again, this is a Board decision as to whether these are looked into further, or not; not an individual Selectman's decision to say these need to be looked into.

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Mr. Fernald said that his personal opinion of this is that he has very much confidence in our Public Works Director and our Town Manager and we have a management form of government and that's what we need to focus on.

Mr. Murphy agreed; that this, to him, is a sort of demonstration of distrust of elected management and hired management.

Mr. Hirst said that that is why we hire and review a Town Manager and why he reviews the Department of Public Works; that we have to have a level of trust; that he has that level of trust and doesn't think it's necessary to go any further with this. He added that if, at some, point that trust dissolves, then that's a whole different matter; that he doesn't expect that to happen.

8:37 PM Mr. Beckert said to Ms. Davis that those are the comments from the Board.

Ms. Davis said that she would break those questions down into smaller bites but there is missing information on a lot of these issues and she will begin to submit them weekly, in written form; that if all of you choose to disregard and ignore outstanding questions...

Mr. Beckert said that he didn't think anyone was choosing to disregard and ignore; that people are choosing not to look at items that you have requested to look at simply because we probably understand what's already in front of us.

Ms. Davis reiterated that she would like to know where the \$40,000 for paving went, then.

Mr. Moulton said that the Transfer Station paving was done in three sections; that \$40,000 was paid for one year, \$22,000 for another year, and there was another sum paid another year; that \$40,000 was spent on paving but the Transfer Station was paved in three different years; that she could come out and see the three different sections.

Ms. Davis said that that was all he needed to say, right.

Mr. Moulton said that the reason was that people were tripping and falling; that the Town would have a lawsuit that would cost more than \$40,000 because he didn't adequately do his job; that Mr. Lee didn't have to have him do his job, he did his job.

8:39 PM Ms. Davis said that she sent out an email this week of questions that went to the school regarding the new garage they are wishing to build; that the reason the questions are being asked is because the school budget is over \$1.2 million over last year and the \$600,000 for the anticipated garage brings it up to over \$1.8

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million. She added that it isn't clear, unless you read it closely, that the school intends to use the money in their General Fund to collateralize a loan for that, which we won't see the payments being requested until the following budget year. She added that she realizes that it was maverick of her to ask them to explain what their plan is for this but she will keep the Board in the loop with answers she receives from the school.

Mr. Hirst said that he wanted to be sure we send letters of thanks to those recently retired from our employ.

Mr. Lee said that he would make sure that was done and apologized that it hadn't been done yet.

Mr. Murphy asked if exit interviews were done.

8:41 PM Mr. Lee said that he did not do them; that he didn't know if Mr. Moulton had done them, or not; that he did think there was an exit interview with Mr. Lytle but was unsure of the others.

Ms. Davis asked if that wasn't part of our Personnel Policy for the Town Manager to conduct exit interviews with employees who are leaving.

Mr. Lee said no; that our Personnel Policy calls for an administrative assistant, who has no supervisory responsibility at all. He added that our new Personnel Policy will, though.

Mr. Beckert said that he would like to make sure we thank all the Town employees, committee members, and staff that worked on the Senior's Luncheon on this past Wednesday at the Congregational Church; that this was the 18th or 19th annual event and we must have served 70+.

Mr. Lee agreed, saying there were 15 to-go boxes, as well; that it was very nice.

Mr. Hirst said that we should thank the church, as well, for the use of their space.

8:43 PM Ms. Selsberg said that months ago she suggested that we needed an emergency manual and, after this past winter, when there were so many crises, we really need it. She said that she was wondering if this could be something at the Town Meeting or in some mailing asking for a volunteer to put something together.

Mr. Lee said that he would follow up with REMA in Town.

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Ms. (Donna) Murphy said that the Budget Committee did not receive a request to help with the Senior Luncheon and asked that they be added to the list for next year.

Mr. Selsberg asked how they were doing getting numbers from the ECSD.

Mr. Lee said that they were at a place where they have been able to do a profit and loss statement but he wants to fully integrate all their finances into our finances and just make them a department of the Town, not call it an enterprise fund, anymore, as it really isn't. He added that they bring in certain revenues but, to think they are fully a stand-alone enterprise fund is not accurate; that it is going to take a bit but we are getting those numbers, now, and we are tracking revenues and expenses; that we're heading in the right direction.

8:45 PM Mr. Selsberg asked if we would then conduct discussions with Kittery, perhaps.

Mr. Lee said that they would wait to see what we look like and then we will have to determine what the future of our department looks like.

Mr. Hirst said that they couldn't express an opinion on collaboration because they didn't have the financial information but they will get it; that then we will re-evaluate the collaboration.

Mr. Pomerleau said that he had a serious legal question the Board might want to explore. He said that he looked at the Town's policy regarding Selectmen signing warrants and it quite clearly allows any individual Selectmen the right to ask questions and challenge a warrant, requiring a written response within five days. He asked if that was a throw-back to the actual form of government of Selectmen/Administrative Assistant and is that still an appropriate and legal requirement in a Town Manager form of government. He added that it would seem to him that, with a Town Manager form of government, it may not be because, if the Town Manager form of government took over all the administrative and financial criteria, then it would seem that policy wouldn't be appropriate.

8:16 PM Mr. Lee asked, given the lateness of the evening and the complexity of your question and comments, could Mr. Pomerleau email that to him so that he could focus on it.

Mr. Pomerleau said that he thought that Selectman Davis is on firm ground and within her rights under the policy, as written, to probe, ask questions, and take responsibility for what she's signing. He added that the question follows, as he said, is that a throw-back.

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Ms. Davis said that as long as a person has to put their name and sign the warrants and there is a necessity to sign the warrants then all questions are open for discussion.

K. Other Business as needed

There was no other business.

L. Executive Session

There were no executive sessions.

M. Adjourn

There was a motion and second to adjourn the meeting at 8:47 PM.

VOTE

4-0

Chair concurs

DATE

Mr. Grant Hirst, Secretary