

SPECIAL BOARD OF SELECTMEN'S MEETING
September 18, 2014 5:30PM

Quorum noted

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

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

Pledge of Allegiance recited

Moment of Silence observed

G1. Department Head/Committee Reports

5:31 PM 1) Household Hazardous Waste Contract (HHHWD)

Mr. Lee said that he sent an email over to Kittery asking if it might be possible for Eliot to do a lease or doing cost+ using their facility and he didn't hear anything back; that he sent another one this morning asking if they had had time to consider it and the Kittery Town Manager had not but that she would talk with her Public Works Director today and there was no response back from her.

Mr. Fernald moved that the Board of Selectmen enter into a contract with Environmental Projects, Inc. of Auburn, Maine for Eliot's Household Hazardous Waste Day for a sum not to exceed \$12,000.

There was no second and the motion failed.

Mr. Hirst said that, even with the potential loss of the November 1st date he would still like to know if Eliot could get on board with Kittery. He asked if the date was critical.

Mr. Lee said that he didn't know enough to give him a definitive answer but did not think so; that he would like to know if working with Kittery is possible, as well.

Mr. Hirst said that he would like to request that, before we make a decision on this, we see if we can piggyback with Kittery somehow and evaluate the cost to see if it made sense.

Mr. (Phil) Lytle said that he thought it was a big mistake not to do it as it is something the Town has done for many years; that it was giving back, somewhat, to the Town and with all the budgets and stuff going on all this would do is press the people more. He discussed the paint program the State was working on to have residents bring paint to them at no cost and that should drop our HHHWD

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down; that it was a program the Townspeople liked and he was concerned that people would store rather than take things to Kittery.

Mr. (Jim) Tessier also discussed the State paint program; that the legislation has already been passed and should be implemented in the middle of next year. He added that a substantial percentage of our current HHHWD is paint and could potentially reduce the cost to the Town or we are getting more bad stuff out of the system because of the State program for the same dollars.

There was a discussion around the pros and cons of waiting as well as a request to canvass residents regarding the possibility of a spring date rather than doing this in the fall and if residents are opposed to collaborating with Kittery.

5:36 PM Mr. Beckert suggested the DPW and Solid Waste Committee (SWC) could canvas residents about this. He added that we will hopefully be able to discuss this with Kittery tonight when we recess and reconvene in Kittery for a collaboration meeting.

Mr. Lee said that in other towns he has been in, rather than making people pay for it, we would staff that day at Kittery, do a count, and still use our budgeted funds to pay Kittery for everybody who comes from Eliot. He added that he would like to see it here in Eliot but he thought that, if there is significant savings, somehow, and we delay it two weeks, that may not be the end of the world.

Mr. (Charlie) Bradstreet said that we budgeted for that this year, that it was the vote of the Town and he thought that they should do that.

There was further discussion of whether there would be any cost-savings and that doing it in another town would reduce Eliot's control of what was recycled as HHW and what was not, with the cost associated (water-based paint).

Mr. Lee said that the contract calls for a \$1,400 set-up fee and, if every other unit price stayed the same, that \$1,400 might be the only savings; that that is real money but it isn't 50% or something similar.

Mr. Fernald said that he thought it was very inconvenient to ask our Townspeople to go out to another town for HHW (other people in the audience agreed); that we ought to be utilizing our own facilities, that the people voted for it and we, as a Board are supposed to do what the Townspeople want us to do.

5:40 PM Ms. Davis discussed that we were wanting to make somebody a supervisor in the Police Department to save \$1,100/year; that Kittery accepts HHW on a more regular basis so people wouldn't have to save it for an entire year; that it wasn't

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just the cost-savings but the convenience, as well. She added that we just don't know right now.

Mr. Lee suggested that maybe on that one day people could take it at no cost and the Town would pick up the cost and, at any other time, people could take it to Kittery at their own cost.

The Board will wait for more information but it was not a consensus decision.

5:43 PM 2) Close Clerk's Office for MMA Convention: Wednesday October 1st

Mr. Lee was asking for the Clerk's Office to be closed on this day; that it is a half-day and we do have a new Customer Service Representative; that this convention updates the clerks with all the new regulations, etc. that they need and is their annual training.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen authorize the Town Manager to close the Town Clerk's Office for the half-day on October 1, 2014 so that the clerks can go to the MMA Convention.

VOTE

3-0

Chair concurs

5:45 PM 3) Finalize Warrant Wording

Mr. Fernald discussed his concern with the wording of the 5th Article. He said that he believed the Town should pay 100%, not 50%; that when the original bond was put out for the sewer project the Town paid 100%. He added that he thought that doing this would segregate the Town in that we are singling out sewer users on that sewer system (fire alarm going) but this is a Town program as not all sewerage in the Town comes from South Eliot; that it also comes from other parts of the Town and these people are paying for it. He said that the people on the sewer system were not on there by choice but were told they would have to be on this system so he thought there should be an article that gave the people the choice of the Town paying 100%.

Mr. Hirst said that it was his impression that in 1983 the Town did have to pay half.

Ms. Lemire said that it was her understanding that when the feds required the sewer they also paid 85% of its construction.

Mr. Bradstreet agreed, saying that the original amount was around \$4.3 million and the betterment fee was assessed at \$489,000, which the users paid through hook-up fees, etc. He added that we were forced to do it and had no choice; that

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the federal government told us we would do it; that we were also forced to tie in with Kittery and Kittery was forced to take our effluence from South Eliot. He said that every resolution he has, including M.S.R.A. 30, 44-51, 44-52, 44-53 and 44-54 indicate the Town does own the sewer system; that the users are assessed in the way of a betterment fee, user fee and a maintenance fee. He added that the ordinance indicates that the sewer users will maintain the current condition of and also, in some of the ordinances we have, it was indicated from day one that there was water infiltration and that has been an ongoing problem, which the users of South Eliot have been paying for dearly. He said that he would ask that this be curtailed or put forward for the Town, as a whole, that if the Town wishes to upgrade and expand the pumping for the purpose of expansion or extending the sewer that it be done by the Town, as a whole, and not on the backs of the users. He said that we are assessed a higher rate in taxes because of that and pay user fees; that he thinks South Eliot has had enough. He reiterated that he was asking that we do this as a Town or we go one as we are right now maintaining the current condition. He added that we have infrastructure, have capital reserve accounts that are dwindling; that he thought that the first 30% that was being asked for in increases the people in South Eliot would accept but to add the other 30% on he didn't think was legal for the Town to do.

5:52 PM

Mr. (Jack) Dougherty said he was of the same opinion. He said that we had no choice to hook up to the sewer and the Town had no choice but to accept the sewer; that from day one we have had infiltration issues, which is not the sewer user; that it is a Town sewer and the Town has responsibilities and should be covering them.

Ms. Davis said that discussion with the previous Administrative Assistant indicated that this as kind of a sewer district responsibility and asked if the Town Manager could state whether the Town is legally responsible for this.

Mr. Lee discussed paying to maintain the system versus doing upgrades or expansions and said that this has not been run by legal authority to see if it is true that the Town owns the system as a whole. He added that, theoretically, this could wait until the June Meeting and we could have a better review of this to know where the Town stands regarding responsibility.

Mr. Bradstreet clarified that we do not have a sewer district.

Mr. Dougherty said that he has lived in South Eliot since 1966/1967 and at no time was there any discussion about that being a sewer district; that from day one it has been a Town sewer.

5:55 PM

Mr. (Bob) Pomerleau said that he has been attending sewer meetings and TIF-related meetings for close to 2 ½ years and there has never been any evidence of

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or comment made that the Town was responsible for 100% of the sewer. He added that the previous Administrative Assistant clearly stated that the Town paid 50% of the original Town cost. He said that as far as repairs and upgrades to the existing sewer the responsibility is clearly the sewer users. He added that he thought there might be a case to be made if there was some capital improvement or some expansion but this was simply repairing the one we have.

Mr. Bradstreet voiced his strong disagreement.

Mr. Beckert said that the Board needed to decide whether to keep this article the way it is, to change the percentage wording tonight or to remove it in its entirety and readdress it in June.

Ms. Davis asked if Article 4 was in jeopardy if Article 5 was removed.

Mr. Lee said that both would have to come up as Article 5 is just a sub-article of Article 4.

Ms. Davis asked if we could proceed with Article 4, as it stands, so we can get moving on repairs.

Mr. Lee said that Article 4, as it stands, would have the entire debt incurred by the sewer users only.

Ms. Davis asked if we could reverse that if we find legitimate documentation to back up an alternate position.

Mr. Lee said that he did not think we can do that; that he didn't think we could reverse a vote.

6:00 PM

Mr. Beckert said that he thought that they would at least have the articles on, as written, change the percentage in Article 5 or take both articles off in their entirety.

Mr. Dougherty said that the contract was for the sewer users to maintain, not upgrade; that any upgrades to those pumps are not covered by your contract.

There was discussion regarding what costs applied to repairs and what applied to upgrades.

Mr. Lee clarified that to fix the pumps it would be \$1.16 million; that the \$1.5 million was to do part of Phase II to prepare these pumps for eventual expansion to handle greater amounts and was less expensive to do certain phases of expansion now while everything is torn apart. He said that the \$1.16 million

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should bring the pumps back to where they should be and anything above that would be an upgrade and beyond anything that system was intended to do.

Mr. Bradstreet read a portion of a letter from the DPW that said that new rate increases do not include another potential rate increase of 40% needed for the \$1.5 million upgrades. He added that those pumps are functional and were put in 6-7 years ago; that they have a 15 to 20-year shelf life; that we'll do what we've been doing minus the expansion and, if one breaks, we'll fix it; that they are alternating pumps and are cycled every day or every other week; that we have spare pumps in the hole and what else is wrong with them. He added that if a pump goes out (whether new or old) we rectify that, supposedly, with generators and he didn't think an imminent failure is what it was led to be.

6:03 PM Ms. Davis said that it was unfortunate that neither Mr. Moulton nor Mr. Pratt were here to respond to whether the repairs are actually necessary at this time; that it sounds like we are in some doubt.

Mr. Hirst asked what timeframe we had to get this warrant approved and printed.

Mr. Lee said that we had no later than the 21st to have this to the Town Clerk and that would leave tomorrow night and Saturday morning that the Board could meet.

Mr. Hirst said that, having attended both breaks in the sewer main and seen the condition of the pipe, he was terribly worried about a failure of any part of the components of the system. He added that on the flip side he didn't know that we had enough information; that we aren't even sure what percentage of the repairs ought to be assumed by the Town, if any.

6:05 PM Mr. Lee said that, at the risk of stepping where he doesn't belong perhaps, it might be best to pull four and five, for now, and have legal review done right from the get-go of 1983 to make sure whatever we are doing is legit; that if we don't, there will always be questions and would tear the community apart unless we have a solid legal opinion on which to stand. He added that he agreed that we could, in the next six months, fix another pump and spend another measly \$12,000 compared to \$1.5 million to fix a hole in the line. He clarified that he is concerned about imminent failure; that it would be a disaster if the pumps broke at the same time but he thought that that was an unlikely scenario; that he thought that we should wait and do it correctly and legally and make sure we cross our 'T's' and dot our 'I's'. Mr. Lee said that he would have to advise the Board, after what he has heard tonight, that he had doubts, now, that we are doing the right thing.

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Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen remove the 4th Article and the 5th Article from the November Warrant.

VOTE

3-0

Chair concurs

6:08 PM Mr. Beckert discussed the 6th Article that has issues, as well. He said that this was the acceptance of a private sewer force main from Green Acre Baha'i and three structures (manholes). He added that it has been requested by several residents that we pull this off at this time and do more research; that there was the possibility of this going on the June Warrant if taken off tonight.

Mr. Lee said that one of the primary concerns of the people was how quickly this came up and how little communication there was. He added that the line is not going to do anything different between now and June; that they have already taken care of Mr. Donahue's problem; that an email from the facilities manager for all the national Baha'i properties was received saying that they actually thought they were doing a service to the Town by giving it you and did not mean to create disunity. He said that this may be one of those things that we should take our time over. He also added that there are at least three or four other sections of private sewer pipe that he is aware of and this is going to be precedent-setting, to some extent, and we may want to look at this on a more global policy level as to what we will do when people want to turn their private sewer systems over to the Town. He reiterated that this may be premature and he tended to agree with people who said that this was pretty fast and is a pretty big impact and why is the Town doing it to benefit essentially one person and one agency when you are hurting so many other people who have new septic systems and don't want to hook up.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen strike Article 6 from the Warrant altogether and wait until the Town has enough information.

VOTE

3-0

Chair concurs

6:11 PM Mr. Fernald asked what the law was that, if the Town puts a sewer up a road, required all people on that road to pay a fee.

Mr. Lee said that people would have to hire a professional septic installer to inspect your system and certify to us that it is working properly and, if it isn't, you would be obligated to hook up to the sewer. He added that, even if their system comes back okay, they will be paying \$79/quarter for the thrill of having a pipe out in front of their yard whether they want it or not.

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Mr. Fernald discussed his concern for those people who have established septic systems having to pay for something they didn't need or want and that they might want to change the ordinance regarding this.

Mr. (Frank) Thomas said that he lived right in the middle of where this is and seven years ago it cost me \$30,000 to put in a new system. He added that the people down in back of him on Spruce Lane really do need it but thought that this should be more inclusive into a sewer system, as a whole.

There was discussion regarding what the State statute obligates the towns to do regarding town sewer.

6:12 PM Mr. (Stephen) Brandon thanked the Town Manager for putting together an information packet about this; that this was what caused us to gather information and talk to each other. He added that it would be a hardship for his family to pay the access fee of \$79 quarterly and would for others, as well. He added that the pipe isn't going away and was concerned with jumping into something too quickly without considering all the impacts.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the Warrant with the first three articles as the Town Manager is going to amend them.

VOTE

3-0

Chair concurs

Town Yard Sale

6:17 PM Mr. Lee said that the staff are donating their time on Saturday, October 4th, to hold a big yard sale here and 100% of the proceeds will go into our Home Heating Oil Fund. He added that there are still a lot of people who struggle to get through the winter and General Assistance does not catch everyone. He said that we are looking for donations of gently-used, quality things, no clothing and you can drop them off October 2nd and October 3rd during business hours.

Adjourn to Meeting in Kittery with Council at 6:30 PM.

6:18 PM There was a motion and second to recess the meeting at 6:18 PM and reconvene at Kittery Town Hall.

VOTE

3-0

Chair concurs

DATE

Mr. Grant Hirst, Secretary