

SELECT BOARD MEETING and PUBLIC HEARING
At Marshwood Middle School
May 10, 2018 5:30PM

Quorum noted

A. 5:30 PM: Meeting called to order by Chairperson Davis.

B. Roll Call: Ms. Davis, Mr. Murphy, Mr. Pomerleau, Mr. Hughes, and Mr. Donhauser.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Request for a Quit Claim Deed – Tim Pickett

5:33 PM Mr. (Tim) Pickett was present and gave a brief history (29 years) of the piece of property in question. He described an archaic deed, poorly written, and that the pertinent lot is oddly shaped, the impact of the CMP ROW, the payment of taxes over the 29 years by Mr. Bronson, and why he wanted to purchase this piece of property. He said that he was asking for either a property line amendment or this quit claim deed. He added that he put money down and is making payments on the pertinent piece; that he is signing a mortgage in the fall.

Ms. Davis said that she doesn't understand what Mr. Pickett is expecting from the Town; that it sounds like an agreement between Mr. Pickett and Mr. Bronson.

Mr. Pickett said that he thinks the pertinent piece came from the Town, originally; that he's quite sure it's part of the Brooks Cemetery; that he just doesn't have any proof that it was ever annexed to Mr. Bronson from Brook's Cemetery.

5:43 PM Mr. Pomerleau said that he didn't understand why it mattered, asking what the issue was with this little piece.

Mr. Pickett said that the land has been land-locked for thirty years; that he has tried to build a road through and is looking for an alternative route to build that road.

Mr. Lee said that he had told Mr. Pickett that it might not be granted but, on the other hand, it might be viewed as something that was in error when the power line went through and never recorded; that it is unknown, at this point, who might be able to claim ownership of the pertinent property. He added that he thinks Mr. Pickett is trying to make sure that the Town doesn't have an ownership right in this property.

5:48 PM Mr. Pickett said that his concern was not to trade away somebody else's land; that his thinking about that issue was that the Town has received 29+ years of taxes

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from that land; that it seems that they must have relinquished ownership of that at some point but he doesn't have any proof of that fact.

After further discussion, it was determined that the SB didn't know who owned the pertinent property, there was some concern voiced with a possible cemetery designation, and the SB could not take action until there was more clarity.

Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board table this until they could receive more information.

6:00 PM Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

F. Public Comment:

6:02 PM Jennifer Fox, Drake Lane, asked if the public would be able to comment on the York River Study during the presentation.

Ms. Davis said yes.

G. York River Study Committee Request

6:04 PM Ms. Judy Spiller, Kittery representative for the York River Study Committee, gave a brief history of the project and proposal to designate York River a Wild & Scenic River; that, as a Partnership River, it would be managed jointly by the four communities (York, Kittery, Eliot, South Berwick), there would be a voluntary management plan, it opens federal funding to support York River, if designated. She added that we are asking Eliot to consider placing a warrant article on their November ballot; that they will have their management plan completed in June or early July and would come back with that plan; that we are meeting with your Planning Board to present findings of an ordinance review and a build-out study.

6:11 PM Ms. Davis asked if Ms. Spiller was looking for a statement of interest from the SB that they are amenable to the idea of putting this on the warrant in November.

Ms. Spiller said yes.

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Mr. Pomerleau said that one thing that concerns him is that he has not seen anything regarding potential land use restrictions that would come with this, and land use restrictions for property that is privately owned today; so, before he would want to go down that road, he wants to see, specifically, what land use restrictions are going to accompany this designation.

6:12 PM Ms. Spiller said that what the committee believes is that it is in the interest of all four communities to have a coordinated approach to see what happens to this land; that we aren't saying that the land shouldn't be developed, as we can't say that private property can't be developed; that they might suggest to the PB that they have the same sort of ordinance that York, Kittery, and South Berwick have, but that would be a negotiation and not us saying you have to do things in a certain way. She added that there is no taking of land associated with this, it's all managed locally, and that's the beauty of these partnership rivers. She said that we have met with representatives of partnership rivers in New Hampshire, Vermont, Massachusetts, and Connecticut and they have all said what has happened is that there hasn't been a restriction on development, it's been an increase in stewardship and care in the use of the resource.

6:13 PM Mr. Murphy said that there has been no assertion that ordinances will be forced to change; that the ordinances that a town has, now, they can keep; that it's up to the town to become educated and decide for itself; that we are always monitoring and changing our ordinances, bit-by-bit, as new needs go on within the town; that we have a wider view which we urge is looked at before the town makes a final decision in any direction.

Ms. Spiller encouraged SB members to go to their website, which has all their working documents and links to the enabling legislation; that she thinks if they read through that they will see that this is local control and not some outside group telling them what to do.

6:15 PM Mr. Hughes said that it seemed to him that this was like the third presentation on this topic and, every time presented, our collective interest in pursuing this further has been to endorse this to some extent to proceed from where we are.

Ms. Spiller said that we are trying to keep the communities abreast of what we're doing; that what we're coming to you with now is with the statement that we support designation, support the development of a stewardship plan; that the stewardship plan is now in draft form and will be in final format at the beginning of summer; that they will come back to you with that because she thinks Mr. Pomerleau's concerns about what will happen to private land, in particular, might be assuaged by that document.

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6:17 PM Ms. Fox said, in following up on Mr. Hughes' comment, that this SB has been supportive of this project but the question this evening is whether it will actually go to a warrant article in November. She added that Mr. Pomerleau has valid questions and she thinks those are things we can help get you educated on; but she doesn't think the SB should deny Eliot voters the opportunity to vote on what the SB is being asked tonight. She said that she thought the specific questions was whether the SB would continue their support of this project and actually move towards putting it on the warrant in November. She said that, as an Eliot resident and somebody who has participated in the Eliot Open Space Plan, she's very much in favor of this request and this project; that it supports many of the goals of the Eliot Comprehensive Plan and Eliot Open Space Plan; that it will bring resources or provide us the ability to tap into resources, to carry out some of those actions that have been identified in those plans that, for many years, we have been saying we haven't been able to move forward on them; that she would strongly recommend that we continue to support this project and that there will actually be a motion to put it on the warrant in November.

6:20 PM Ms. Davis said that the SB can express support this evening but we are having an election coming up; that anything we decide tonight could actually be countermanded by a change in the SB regarding any future actions to be taken by the new SB. She asked if it was the pleasure of the SB to vote, formally, in support of this.

Mr. Pomerleau said that it's going to be very important, from his perspective, to see the stewardship plan because he has no doubt there are going to be some proposed land use limitations; that once we see that plan that would then be the point for the SB to make that decision of moving it forward for the voters. He added that the voters need to know, as we do, what the devil in the details is; that it would probably require a public hearing.

6:22 PM Ms. Spiller said that what they are interested in, this evening, is to set this all in motion; that she would guess we will be back in the summer to make a more formal request, suggesting the Town craft the language in a way that works for you and, then, bring this question to the voters. She added that the development plan is really a stewardship plan; that part of that plan is, if this is approved by the towns, it then goes to Congress and would have to be an Act of Congress. She said that a new committee would then be formed and that committee would work to develop the stewardship plan although we have the skeleton of the stewardship plan.

Mr. Murphy said that it was his understanding that we expect this plan to make no demands on land use, other than laws that might exist at the State level or federal laws that exist now; but, he doesn't think we included anything about using any

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parts of the land in any particular way or taking away property rights; that there are no plans that require any change in land use in any of the towns; that that is up to the towns to look at and decide whether they want to change their land use, or not; that this organization isn't going to do that.

6:24 PM Ms. Spiller said that Mr. Murphy was correct; that she actually wrote that part of the plan and what it says is that the stewardship committee might make recommendations to towns but it would be the towns' responsibility, authority to change their ordinances, if they wish to; that the plans is a voluntary plan.

Ms. Fox said that she wanted to add that there are other tools for land use protection; that it's not just an ordinance change but could be, for instance, a real estate transaction where the land owner is compensated for a part of his property he would sell. She added that looking at land use preservation doesn't necessarily lead us down the road of ordinance changes; that there are other tools this plan is promoting and we may have opportunity to utilize.

6:25 PM Ms. Davis suggested that we officially poll the SB for consensus that there is interest in pursuing this in the future.

Mr. Murphy suggested the SB have a vote because that was more meaningful to the public.

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve the intention of the York River Study Committee and the approach towards having it designated by Congress as a Partnership Wild and Scenic River for the York River and to have the opportunity to approve the stewardship plan after undergoing public review.

DISCUSSION

Ms. Davis asked if, because this is non-binding on a future SB, Mr. Murphy would like to make the motion that we just express this SB's interest.

Mr. Murphy said that that's all we can do.

Mr. Hughes said that he thinks that's what Mr. Murphy said.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

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Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

H. Approval of Minutes of Previous Meeting(s)

6:30 PM Motion by Mr. Murphy, second by Mr. Hughes, to approve the minutes of February 22, 2018, as amended.

Roll Call Vote:

Mr. Donhauser – Abstain

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

4-0-1 vote to approve motion.

I. Public Works

6:33 PM 1) Boat Basin Project Update

Mr. Lee said that we did get pricing from Mr. Fisher's electrical company; that we would intend to go forward with it; that the only thing he wanted to say is that we did put out material specs and did speak with Mr. Fisher to express a little bit of concern that it appeared he put down an amount for materials that was below what we thought they could be obtained for; that Mr. Fisher sort of said not to worry about it. He added that he wanted to be on record that he's a little worried about if we're going to use those specs, or not, but Mr. Fisher assured him that he will; that, if that's the case, we're going to go forward with Mr. Fisher's electrical quote. Additionally, he said that we decided that we would recommend that, once we paint and install the doors, we would take another look to see if the building does, or does not, need painting.

Ms. Davis said that, at this point, we are down \$5,000 on the paint and we have saved several thousand thanks to Mr. Fisher. She thanked Mr. Fisher.

6:35 PM Mr. Donhauser said that he has a comment related to this issue. He explained that it is regarding a series of emails that occurred just a few days ago, adding that he

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supports Mr. Fisher doing the work and has no problem with that; that the particular email was from Selectman Pomerleau to the Town Manager. He added that he brings this to the SB's attention because he believes it's actually directly in conflict with our Charter, where it reads, "Neither the Select Board nor an individual member of the Board shall, either publicly or privately, instruct, order, direct, or make any demands of any Town official or employee who is subordinate to the Town Manager regarding the delivery or procurement of town services or with respect to their duties as a town official or employee." He said that there was a series of emails and one, in particular, he found very caustic and was directed at the Town Manager. He added that everyone on the SB was copied on it and Mr. Moulton was also copied; that the email said: "Mr. Fisher's generosity to the Town is well-established. This is looking a gift horse in the mouth. Apples to oranges is the usual bid results we get from the Public Work. Move on and take the bid."; that to him that's directing one of our Town employees, because Mr. Moulton is listed here, to do something from a Board member, which he thinks is improper. He also said that he thought it was caustic because...he doesn't understand, and he hopes Mr. Pomerleau can explain this to him, what Mr. Pomerleau means by "Apples to oranges is the usual bid results we get from the Public Work; that he stands aside to ask Mr. Pomerleau to respond to that.

6:38 PM Mr. Pomerleau said that, for one thing, the Town Manager initiated the feedback; that he was obviously looking for feedback because he had some concerns about Mr. Fisher's bid and, if he didn't want feedback, then there would have been no purpose in sending that out to us. He added that there was no direction; that it was a response to something initiated by the Town Manager; that the Town Manager's concern was whether, or not, Mr. Fisher was aware of the requirements and he gave copies of materials quoted from somebody else and his (Mr. Pomerleau) response to this was, Mr. Fisher's generosity to this Town is well-known and he may well be providing them below cost, which would not have been unusual for Mr. Fisher and his generosity with his electrical services. He added that the point was why were they looking a gift horse in the mouth, that's the best bid, move on; that that was his opinion of the Town Manager's initiation of his concerns to us; that Mr. Donhauser is making a mountain out of a molehill, really personally targeting rather than sitting and looking at the actual elements of what the email was doing – specifically violating Select Board policies with personal attacks on another Selectman, number 1, if you'd like to read that, and number 2, if anybody has ever seen bid after bid of Public Works stuff, you're looking at the specs, the criteria, is mind-boggling to see if anybody's actually providing the same information; that he defies anybody to go back and look at some of these bids and think you actual know you're comparing apples-to-apples and why, all of a sudden, this one, was raised to this level of concern was just something that befuddled him.

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6:41 PM Mr. Donhauser said that Mr. Pomerleau didn't answer the question regarding "Apples-to-oranges is the usual bid result we get from the Public Work" and he believes that, normally, if you criticize an employee, you should do it in private, not on a public email. He added that he knows, personally, that Mr. Moulton took personal offense at that; that beyond that, it was brought to his attention that Mr. Pomerleau was approaching employees asking them questions about interactions with Mr. Moulton and his family members; so, he believes Mr. Pomerleau is actually going outside the SB and doing his own investigation and, for some reason, targeting Mr. Moulton; that that is what it appears to him, adding that he isn't attacking Mr. Pomerleau but just trying to get clarification on what it means when Mr. Pomerleau says "apples-to-oranges is the usual bid results we get from the Public Work." He clarified that this wasn't even a bid but merely a quote. He reiterated that he isn't opposed to the quote nor Mr. Fisher doing the work; that what he is opposed to is Mr. Pomerleau appearing to attack one of our Town employees that is a direct subordinate of our Town Manager; that he found the email caustic and that's his opinion; that Mr. Pomerleau still hasn't answered the question, in his mind, what he meant by "apples-to-oranges is the usual bid results we get from the Public Work."

6:43 PM Ms. (Donna) Murphy, Hanscom Road, expressed her concern about a Select Board member kind of cherry-picking a particular email and presenting that to the public as a representation of that entire email chain. She asked if the entire email chain would be provided so the public could see the entire context of that. She added that she would like to comment on one of Mr. Donhauser's remarks regarding Town employees and relationships; that there is mention in the Charter of that and there has been concern in this Town for many years of one of the department heads engaging in employing relatives; that she would hope, moving forward, that this SB would look into that more closely, take a look at the Charter and follow what the Charter says.

Mr. Donhauser said that he can read the entire email chain.

Ms. (Donna) Murphy said that her intent wasn't to take up the time in this meeting but she thinks, in the future, when you're taking pieces of something, it certainly takes it out of context rather than presenting the entire chain.

Ms. Davis said that she thought enough has been said about this topic this evening; that if Mr. Donhauser has a formal complaint to make, she suggested he pull his evidence together and handle it some different way.

6:44 PM **2) Pump Station Estimated Costs Update**

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Mr. Lee said that this was just an update; that we had a construction meeting the other day and right on schedule; that they are thinking they may be done with this entire project by August or September; that we've only had one change order and it was a deduct of about \$3,800, so good news.

J. Administrative Department/Department Head Reports

6:45 PM Mr. Lee said that the Town Clerk has requested the SB to countersign the MSAD #35 Warrant and Notice of Election for the upcoming district budget validation referendum on June 12, 2018. He added that this is an administrative process that we do every year.

At this time, the SB countersigned the pertinent document.

K. Town Manager Report

6:48 PM Mr. Hughes asked about **Line 134** regarding a data breach.

Mr. Lee said that when the Town W-2's were mailed, the special envelopes used from Hygrade Business Solutions allowed a person to see social security numbers if the envelop was held just right. He added that he reported it to the insurance company; that this was actually not a data breach but confidential information that could have been seen; that everyone who might have been affected will be allowed a year of credit monitoring.

Mr. Donhauser asked about **Line 138** regarding the KACTS acronym.

Mr. Lee said that that was Kittery Area Comprehensive Traffic Study, which is an organization that towns go through when they want to solicit special money from the Maine DOT for roadway studies to improve traffic flow, etc.; that the towns involved meet regularly to discuss regional transportation issues that need to be looked at.

6:50 PM Ms. Davis asked about **Lines 20 & 21** regarding paper street problem.

Mr. Lee said that a paper street was created back in the 1950's in a particular development and that the property owners found their well sitting in the middle of a paper street when they had a surveyor do some work; that the attorney helped us to resolve it and the paper streets are now gone.

6:53 PM Ms. Davis asked, regarding **Line 57 & 58** Kittery's sewer financing problem, if Mr. Lee was pulling together information he will ultimately present to the SB, also asking whether there was much need to go over that this evening.

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Mr. Lee said that there was not; that he has met with Kittery, written a memo regarding this, and asked Mr. Pratt to weigh in, as well. He added that this is not happening very soon and he would rather get it right than do it fast.

Ms. Davis said that, on Line 81, the salt inventory was mentioned that is a concern we are carrying over from last year; that she assumes he is working on that and will present something in the future.

Mr. Lee said that he just received the number of tons and Mr. Moulton is going to convert that into dollars.

L. Property/Casualty Report

6:55 PM Mr. Lee said that this was an annual report from MMA; that the total value to the Town for 2017/2018 was \$4,748.

NOTE: At this time, the Chair called a 5-minute recess until the Public Hearing.

The Chair called the meeting back to order.

7:00 PM Public Hearing for Annual Town Meeting Election/Referendum Warrant

Mr. Lee said that there are several articles of budgetary concern, as well as three relatively small bond issues (#26, #27, #28) and Amendment to the TIF Program (#29); that TIF information and handouts on the bonds are available. He added that there are two Citizen Options to add money to the Land Bank Reserve and to the William Fogg Library. He also discussed the LD1 options.

7:04 PM Mr. (Robert) Fisher, Frost Hill Road, asked where the money would come from if LD1 was not passed.

Mr. Lee said that that has not been determined, yet. He added that there was the potential to utilize reserve funds.

Mr. Fisher asked what we did last year.

Mr. Lee said that money came from the Guardrail line item, rolled over some revenue from Stormwater.

7:09 PM Mr. Murphy said that one of the purposes for the article (LD1) to approve an overage was to protect the Town against unintended overages.

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Ms. (Rosanne) Adams, Goodwin Road, said that, regarding street lights, she assumed we wouldn't own the poles but just the lights.

Mr. Lee said yes; that we just take over the fixtures and lights.

Ms. Adams asked if there was any amount in your calculations for the future, putting the money aside for when we have to hire lift trucks to change the lights.

Mr. Lee said yes; that we went to CMP and got the estimate of the buy-out value of the fixtures; that if anything fails in the first year, CMP will cover all the costs and, in subsequent years, due to the very low failure rate we have \$800 to \$900 built in, annually, to have a bucket truck deal with any lights.

Ms. Adams asked if the payment amounts included the cost of electricity as well as the cost of maintenance.

Mr. (Ed) Henningsen, Energy Commission, said that the \$4,600 includes the cost of the electricity and maintenance; that there is a bump in the seventh or eighth year in the maintenance for hiring a bucket truck to wash the lenses to improve lighting. Regarding York getting reduced pricing, it was discovered that they were going to lease the fixtures from CMP rather than buying them outright; that that would save them about 32% rather than saving more money by buying them outright.

7:17 PM Ms. (Jennifer) Fox, Drake Lane, said that she was looking for further explanation regarding the TIF Amendment where she believes it says the Town Manager has some option to modify certain projects.

Mr. Pomerleau said that there is a section in there that, after it is passed, gives the Town Manager some authority to make modification to some of the criteria so long as it doesn't change the essential elements of what was approved.

Mr. Lee used water down State Road as an example, saying that he could change the side of the road the water is put in on, due to ledge for example, as long as it didn't change the essential character of the project; that they would be minor changes.

7:18 PM Ms. Fox asked if there was any dollar amount cap for those changes or does the Town Manager have complete authority to determine what a minor change is.

Mr. Lee said that it would probably go to an attorney, anyway, but it really is the 'reasonable test'.

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Mr. Pomerleau read the pertinent section of the Warrant Article (#5): “The Town Manager is authorized and empowered at his discretion from time to time to make such revisions to the amended development program for the amended district that the Town Manager may deem reasonably necessary or convenient in order to facilitate the process for review and approval of the amended district by the department and for any other reason so long as such revisions are not inconsistent with these articles or the basic structure and intent of the amended and restated program.” He added that, if it is approved, this has to go to the Department of Economic and Community Development (DECD) for approval and what this section is saying is that if they have some things in here that they need tinkering and changing to be in conformity with what they are looking for, then we are authorizing the Town Manager to make those changes so long as it isn’t inconsistent with the primary elements of the plan, the dollar amounts, the menu, etc.; that he thinks it’s administrative corrections and things like that without having to come back to the voters again.

7:21 PM Mr. (Jim) Tessier, Budget Committee, commented that, after review by the Budget Committee and Select Board, the overall revenue that needs to be raised by taxation is an increase of approximately \$125,000 last year; that, of that, at the end of last year’s budget review, the Budget Committee was a little bit concerned that we might not be putting enough money into the capital improvement program; so, at the end of last year, we asked the Town Manager to put together a more-detailed capital improvement plan (CIP) to look at what components needed to be replaced, when, and were we putting enough money aside. He added that the Town Manager did that assessment and put together a great, new program; that we did need more money in the CIP, putting in approximately \$67,000 in more money into the CIP. He said that, if you take that \$67,000 in CIP out of the \$125,000, we only increased other expenses by about \$58,000 for the whole year. He added that if you look at some of the surrounding communities, how much their taxes are going up, and how much money they are appropriating, he thinks Eliot has done a pretty reasonable job to try to continue services to the people and, yet, not overly burden the residents and try to keep the tax amount at a reasonable rate; that their goal was not to increase the mil rate and he thinks, at least from a municipal standpoint, we have accomplished that goal.

7:24 PM **The Public Hearing was closed and the Select Board returned to their business agenda.**

M. Issuance of Waivers – Legal Advice

7:25 PM Mr. Lee clarified that the BOA and our attorney are taking care of this, along with our Planner and CEO, so this isn’t something the SB needs to do anything with until we get something from the BOA/Planner that would recommend changes to

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an ordinance to clarify waivers. This is regarding a recent waiver request and that there are no guidelines or criteria by which to issue a waiver, so no legal basis. He added that Mr. Hamilton asked to get legal advice from Attorney Saucier and Attorney Saucier and the BOA are working through this issue.

N. Cable Committee: Discuss Mission Statement/Structure of Committee

7:27 PM Mr. Lee said that we are having trouble getting enough people to go on these committees and one bit of feedback he got was that it was too many people and maybe we would be happy with three committee people with alternates, or something like that, and not make it so big that we can't populate it.

Mr. Murphy asked what the committee would be doing.

Mr. Lee said that we will, coming up in a couple of years, be in the position of re-negotiating a cable franchise agreement; that we discussed during budget season whether a franchise fee could, or should, be applied, whether we should have some sort of a public education/governmental channel that's dedicated to Eliot's news and events, and how do we pay for it; that this group would provide advise to the SB about what you can get in those negotiations, how many other towns use PEG channels, what do they start with for equipment, do we have room for a PEG channel, etc. He added that he has drafted some by-laws and he will get them out to the SB for the next meeting, asking for their feedback.

7:29 PM Mr. Murphy asked why we were setting up a committee to do this rather than the SB doing it.

Mr. Lee asked if there wasn't a consensus two weeks ago to set up a committee.

Ms. Davis said that she didn't think we formalized anything.

Mr. Lee said that this was simple enough to set up, asking if the SB wanted him to proceed with this. He did add that he suspected this would be a fairly significant workload and the SB's plates are fairly full; that it is rather specialized, as well, and requires a lot of research.

7:38 PM After further discussion, the SB agreed, by motion, to move forward with a cable committee.

Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board form a Cable Committee of three regular members and two alternates.

Roll Call Vote:

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Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes – Yes

Unanimous vote to approve motion.

O. Consideration of Sheriff's Sale of Property to Satisfy Liens

7:39 PM Mr. Lee said this was regarding Mr. Staples' fence and the ongoing litigation; that he recently reached out to our attorney; that a long time has gone by and Mr. Staples is racking up \$250/day. He added that the attorney wrote back that the Town has two judgement liens, one for \$3,800 (attorney fees) and one for \$36,000 (fines), with additional fines getting towards \$23,000 (fines); that the Town has two options: ask the court permission for the Town to move the fence and recover its expenses through a judgement lien, perform a Sheriff's Sale on any of Mr. Staples' non-exempt property. He asked which of the legal remedies would the SB like him to pursue or do we allow this to continue; that he feels bad about this situation.

7:41 PM Mr. Murphy said that this bothers him, asking how he cannot have a suspicion that Mr. Staples has become incompetent and how can we find out if that's the case; that this is not the Mr. Staples he has dealt with for over thirty years.

Mr. Lee said that he didn't know what else to do and that's why he's here.

Mr. Pomerleau agreed with Mr. Murphy that something's wrong but let's stop the bleeding, stop the fines. He suggested we exercise the first option and ask the court permission to move the fence; that he assumes that, once the fence is moved, the foundation for fines ends.

Mr. Lee said yes.

7:43 PM Mr. Pomerleau suggested that, then, we can look at what we need to recover attorney's fees; that he doesn't like the idea of taking Mr. Staples' properties.

Ms. Davis moved, second by Mr. Hughes, that the Select Board ask the court's permission to allow the Town to move the fence.

7:44 PM Mr. Murphy asked if we could add the reason is to remove the basis for continuing action against Mr. Staples.

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Ms. Davis agreed to amend her motion to say ‘in order to curtail further fines’.

Mr. Hughes seconded the amendment.

7:45 PM Mr. Donhauser said that when you receive a judgement lien, you aren’t receiving money; that you have to go back to court to ‘perfect the lien’; that he believes we are kicking the can down the street and it would seem to him we need to be a little more forceful. He added that he would prefer to perform a Sheriff’s Sale and, at least, start the statutory process and not incur additional Town expense, to just pick one non-exempt rental property; that if Mr. Staples feels that that will be sold, then Mr. Donhauser guaranteed he would pay.

7:46 PM Ms. Davis suggested that that could be step two; that the first step would be to staunch the bleeding and curtail the fines, then, we need to look at our second step of where we would go after that event in order to remedy the outstanding fines.

Ms. (Nancy) Shapleigh asked if the audience could be told where the property is and if there is any other legal action against Mr. Staples on any other property.

Ms. Davis said that the Assessor’s database lists Mr. Staples properties; that all she has are map and lot numbers, here, not any address. She added that she doesn’t believe there are any other actions against Mr. Staples, at this time, by the Town.

Mr. Lee agreed there was not.

Ms. Shapleigh asked if there wasn’t something about a cemetery, if that wasn’t part of his complaint about cutting a tree down in a cemetery that was on his property or is it a whole other issue.

7:48 PM Mr. Lee agreed that it was near a cemetery; that he thinks it’s on Fore Road. He added that he thinks it may have begun with a complaint about a tree in a cemetery; that he met Mr. Staples for the first time when he asked Mr. Lee to come down to look at this tree; that the neighbors got into some sort of dispute, as he understands it, the fence went up, he was advised to set it back two feet from his property line so that it could be maintained (zoning violation), he did not; that we asked him several times to move the fence, Mr. Staples’ attorney worked with him over and over again, asking for extensions on his promise that he would do it, we extended it many times and finally gave him a hard deadline; that it didn’t get moved and, so, we proceeded to take it to court.

SELECT BOARD MEETING and PUBLIC HEARING

**At Marshwood Middle School
May 10, 2018 5:30PM (continued)**

7:49 PM Ms. Adams clarified that it wasn't the property around that cemetery; that it was the property where Emma Shapleigh used to live.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

After some discussion, it was agreed that Mr. Lee would get additional legal advice from Attorney Saucier regarding the physical removal of the fence and the next step.

P. Approve Warrants

7:52 PM Ms. Davis moved, second by Mr. Hughes, that the Select Board approve Warrant #108 in the amount of \$69,306.99 and Warrant #111 in the amount of \$46,196.03.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes – Yes

Unanimous vote to approve motion.

Q. New Business:

7:54 PM Ms. Davis said that we had previously discussed a stormwater workshop for May 31st, asking if that was in the works.

Mr. Lee said that he met, today, with two staffers and Christi Rabasca and we are responding, in writing, to your questions; that he floated to those three people that, if he sent out the written responses to the Budget Committee members, that you want it to be a joint meeting because it has big financial implications, that if

SELECT BOARD MEETING and PUBLIC HEARING

At Marshwood Middle School

May 10, 2018 5:30PM (continued)

he could get something, in writing, that would explain those things rather thoroughly, if you felt that way that we didn't need a workshop...that it does cost money to bring Ms. Rabasca down here and, in fact, she reminded him at the meeting that, last year, we went over by a few thousand dollars on that piece of her work product because of the workshops we had back then.

Ms. Davis said that this is an internal workshop for us to discuss the direction we would take.

Mr. Lee said that Ms. Davis would not want her there, then.

7:55 PM Ms. Davis said no.

Mr. Lee said that we still are putting it in writing and plan on sending it out; that you can then either confirm the workshop, or not, but he still plans on having the workshop. He added that he did want to float the answers to see if there were any reasons to still workshop it.

L. Old Business:

7:56 PM ICMA-RC: 401 and 457 Plans

Mr. Lee said that we met with International City Managers Association Retirement Corporation (ICMA-RC) that specializes in municipal employees only; that we have worked with Selectman Hughes on a 401A (profit-sharing plan) and a 457 plan; that they are in your packet tonight and there is a suggested resolution for a legislative body related to a 457 deferred compensation plan. He added that a question that came up is if this needs to go to the voters because it does talk about the legislative body, and that is going to be a problem, he thinks; that he hasn't checked with Attorney Saucier on this; that he needs to get to him on that and find out if that's the way he reads it.

7:58 PM Ms. Davis asked, if it does, could it go on the November ballot.

Mr. Lee said that it could but we would probably have to agree to continue those payments until such time as we can offer them an alternative.

Ms. Davis said that he meant what was under contract now.

Mr. Lee said right because we were going to stop that as soon as we got these people signed up.

SELECT BOARD MEETING and PUBLIC HEARING

At Marshwood Middle School

May 10, 2018 5:30PM (continued)

7:59 PM Mr. Pomerleau said that the first move was to stop it, then we decided that we may look in to offering an alternative; that one was not contingent.

Mr. Lee said that he was going to find out about this as quickly as possible; that he has already scheduled the lady to come down and explain this thing to us.

S. Selectmen's Report:

There were no Selectmen's reports tonight.

T. Executive Session

There was no executive session.

U. Adjourn

There was a motion and second to adjourn the meeting at 8:02 PM.

VOTE

5-0

Motion approved

Approved: July 12, 2018

Mr. Richard Donhauser, Secretary
