

SELECT BOARD MEETING

March 28 2019 5:30PM

Quorum noted

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

B. Roll Call: Mr. Murphy, Mr. Lytle, Mr. Donhauser, Mr. Orestis and Mr. McPherson.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Public Comment:

5:33 PM a) Request for Consideration – Ordinance – Agritourism – Bill Widi

Mr. (Bill) Widi thanked the SB for their time. He said that he is a farmer, with a farm on Goodwin Road; that he is one of two vegie farms in Eliot, one of two fruit farms in Eliot, and the only orchard in Eliot; that he is also getting into chickens for meat. He is one of a dying breed, explaining that the average age of a farmer in the US is about 58 years old, so seasoned individuals, and since 1935, the US has lost four million farms and part of that is cheap labor that we don't necessarily have here and that stuff can be produced in California and shipped here, go through several middle men and pay the freight to get here, and still be cheaper to produce than it is here. He added that if you are a fruit or vegie farmer, you are either not the smartest person or you really love it; that he thinks he's probably both. He said that you look for creative ways to make money; **that** and, if you're a farm, inviting people to come by the farm to pick your own apples and, by the time you're done, you may have spent \$15 or \$20 but, if he can open it up to possible hayrides or do a little apple festival and he could kind of bump that sale up to \$45 or \$50, then we're talking viable money that can be put into things like infrastructure, asking how many people have driven by an old, run-down barn in New England. He added that, if you're a farmer and you start going into debt, that's the beginning of the end; that at that point, you're already done and he thinks a lot of people are in denial about it. He explained that he has written an agritourism ordinance, because the ordinance restricts all undefined uses, this kind of picks up where the local food ordinance left off; that the local food ordinance essentially said that you can grow your own food and sell your own food in that regard and it opened it up for non-profits or charities to do events at functions and what he's asking for is to open it up for profit. He said that people might ask why farmers should get a special exemption and he asked how many people eat two or three times a day, that's why. He added that you didn't get your car fixed today, and hopefully, you don't do that every day; you don't go to the doctor every day; you don't go to the gas station every day; but eating is one of those things you do every day and he thinks farming should have a little special leniency there. He said that he would explain a little bit about what he wrote, and obviously he's up

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

for all input; that most of you will hear him rattle off this list and say just do it but he didn't write this for the reasonable people of the world and, as we know, not everybody is a reasonable person; so, kind of bear with him and, then, he would be happy to answer any questions at the end on kind of what his thought process is here. He said that it would allow for people who have engaged in commercial agriculture for three years, so you couldn't just say one day that you're a farmer and do whatever you wanted to do, or engaged in agricultural education; that that would allow for a place like the Raitt Farm that provides a service and pushes agriculture. He listed things that might be allowed: corn mazes, cross-country skiing, cut-your-own Christmas tree farms, farm tours, hayrides, sleigh rides, horseback riding for profit, maple syrup operations (NH Maple Syrup Weekend event, which was a huge hit.), temporary petting zoo - if he is doing an apple festival, etc., he knows most farmers in the area and could get a couple goats and pigs, somebody will learn a little bit about it, kids would have a good time; pick-your-own operations, so, pumpkin patches – that a gap in the local food ordinance is that it is all tailored toward eating the food, asking when was the last time that someone cooked and ate an actualy pumpkin; that he doesn't see how that would be allowed under the food ordinance; seasonal events and lighting displays – perhaps a winter carnival, saying he would like to make some money in November or December when you're not making any money, so, he thinks that would be kind of interesting; social events, such as a birthday party; winery tours and wine tasting – if somebody came along wanting to start a winery, that would be a nice service; other commercial activities in conjunction with farm or forest. He added that, as it is now, one half of one percent of people work on a farm in the US; that it was about 50% thirty years ago; that it's a dying industry, a lot of people don't understand where their food comes from and what it takes; that agritourism is a way to tie in eating local with some tourism aspect of it for the people who don't have a lot of exposure. He said that he would be happy to answer any questions.

5:38 PM

5:39 PM

Mr. Murphy said that he's looked through the proposed ordinance and came up with his own ideas, being an old farm boy, saying that we had honey bees; that there are also berries and nut trees – we would have the kids go out and collect nuts in competition with the gray squirrels. He added that it also seemed to him that a number of the things that Mr. Widi suggests could already be done, as there isn't any prohibition on not doing some of those things.

5:40 PM

Mr. Widi said that he could see that on the pick-your-own operations; that you could do a maple syrup operation but there is a maple syrup operation across the street and if he wanted to have a couple hundred people there for a Maple Syrup Weekend, it would create a little congestion and there might be some people upset about that unless there was a clear-cut...

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Murphy said that we do have ordinances governing population meetings like that.

Mr. Lee said yes, for mass assembly but that number is higher than a couple hundred. He added that what he thinks Mr. Widi is getting at is that the zoning ordinance, itself, is not clear on the ability to do these things; that it's silent, pretty much, on these types of things; therefore, if it's silent on something, it goes to a pretty high level of review and what he thinks Mr. Widi is proposing is that we put this into law, as an ordinance, that we encourage these activities on our remaining farms in the Town of Eliot. He said that, from his own perspective, he very much likes this, as he did the local food ordinance; that he thinks Eliot is beginning to get a reputation, between solar energy and LED lighting and some of the other things we've done as one of the more rural smaller York communities, that we are kind of the remaining green, pastoral, pro-agriculture and he thinks this would fit into that type of thing and help keep our farms vibrant. He said that he thinks that's important if we appreciate our open space and not being all crowded and not forcing him to sell his large parcel and divide into numerous little homes. He added that he thinks it's a good idea.

5:42 PM Mr. Widi said that, with the mass gathering ordinance, that would be if he knew exactly how many people were showing up; using a corn maze as an example, he said that he has an exceptional excellent weekend, with it having rained the two weekends before and rain coming for two weekends after, he doesn't know how many people might show up; that it might be crazy. He asked, if he has a small apple harvest during the day and a birthday party in the evening, are those two separate or one mass gathering; if he has too many people come for the apple-picking, does he have to cancel the birthday party because it would put him over the mass gathering. He said that this [proposed ordinance] makes it very clear.

5:43 PM Mr. Lee said that he agreed with Mr. Widi that the Mass Gathering Ordinance really needs to be re-thought out and re-adopted with much cleaner delineation. He added that it was originally put in place, he believes, because there was going to be some big rock-and-roll concert that people were against. He said that he thinks, for the most part, when the Raitt Farm has these events, they don't know how many people are going to show up; that he isn't going to presume how many will show up.

Mr. Widi said that it would be like saying our farm is too successful and we will have to cap you at a thousand; that that doesn't seem to make sense to him.

Mr. Donhauser asked if this was the proper forum instead of bringing it before the PB.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

5:44 PM Mr. Lee said that what he advised Mr. Widi was to go to the SB, first, to see if there was any will for this and, if there is a will to move forward with it, then this is probably not the form the ordinance would take in its final version; that we would probably take it to the PB for further work, development, and so forth, from now until August, or so, so it could go on the November ballot.

Mr. Donhauser questioned the “Repealer” clause that says “all inconsistent provisions of prior ordinances adopted by the town are hereby repealed, but only to the extent necessary to remedy the inconsistency.”

Mr. Widi said that he took that from the local Food Ordinance; that this proposal includes ordinances from across the country, saying that he did all the research on this.

Mr. Donhauser said that he thinks it’s a grand idea what Mr. Widi is proposing.

Mr. Lytle said that he thought it was great.

Mr. Orestis said that he thinks it’s fantastic.

Mr. McPherson said that he was in.

Mr. Murphy agreed with the SB members.

F. Approval of Minutes of Previous Meeting(s)

5:50 PM Motion by Mr. McPherson, second by Mr. Donhauser, to approve the minutes of January 10, 2019, as amended.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

Motion by Mr. Lytle, second by Mr. Donhauser, to approve the Special Select Board budget minutes of March 11, 2019, as written.

Roll Call Vote:

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Donhauser – Yes
Mr. Lytle – Yes
Mr. Murphy – Yes
Mr. Orestis – Yes
Mr. McPherson - Yes

Unanimous vote to approve motion.

5:55 PM **Motion by Mr. Donhauser, second by Mr. Lytle, to approve the Special Select Board minutes (at 4:30 PM) of March 18, 2019, as amended.**

Roll Call Vote:

Mr. Donhauser – Yes
Mr. Lytle – Yes
Mr. Murphy – Yes
Mr. Orestis – Yes
Mr. McPherson - Yes

Unanimous vote to approve motion.

Mr. Lee asked if this was the point at which we would move up the quitclaim deed so that three of the staff could complete that and go home.

Mr. Murphy said yes.

Mr. Lee said that this regards a property, a piece of land that foreclosed; that he had a 60-day redemption period and did redeem it during that period so we need to sign a quitclaim deed and put it back into the possession of Mr. Murphy.

5:56 PM **At this time, Mr. Murphy turned the meeting over to Mr. Lytle to consider this and recused himself.**

Mr. Lytle asked Mr. Lee if he had any paperwork.

Mr. Lee said that we have a document that needs to be notarized

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve this quitclaim deed, without covenants, for John J. Murphy, Map 074/Lot 005-000.

Roll Call Vote:

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Donhauser – Yes
Mr. Lytle – Yes
Mr. Orestis – Yes
Mr. McPherson - Yes

Unanimous vote to approve motion.

5:59 PM At this time, Mr. Lytle turned the meeting back over to Mr. Murphy.

G. Committee Resignations and Appointments

There was no action.

H. Department Head/Committee Reports

Mr. Murphy said that he wanted to insert 5) for the Aging-in-Place Committee.

6:00 PM 1) CSD – State Licensing Expense/Benefits

Ms. (Heather) Muzeroll-Roy, ECSD Director, said that we are looking for thoughts and, hopefully, permission on not renewing our childcare license from the State of Maine for no other reason than it's not necessary. She explained that, when we took it over as Kid Care, we followed suit with it being a State-licensed program, not realizing that, being a municipality, we didn't have to have it; that several directors have said that we don't need this license, we're not gaining any insurance break. She added that it limits us on a couple of things as far as age goes; that, next year, we might want to make one big program and right now we can't because we are limited by this. She said that we will keep the same ratios, same exact staff training; that right now we have a lot of staff turnover, and every time that happens, she has to pay the State for another background check, so there would be some cost-savings in that.

Mr. Murphy said that it seemed to him that this might be a decision that might not even come to this Board.

6:02 PM Mr. Lee said that he thought that it should go to the Board just as an abundance of caution. He added that he recommends that we forego State licensing; that it has quite an expense to it because of the amount of turnover. He said that he called the insurance company and there is no benefit to us for having a State-licensed versus a non-state-licensed facility.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

- 6:03 PM** Ms. Muzeroll-Roy said that we still go through the whole entire Town process, background checks, and all of those things, so nothing will change; that this is just going through the proper channels to not renew it.
- Mr. Lee said that this seems a case of belt and suspenders and he doesn't think we need both.
- Mr. Murphy said that it sounds to him like this Board just needs a motion to approve her decision not to renew.
- Ms. Muzeroll-Roy agreed.
- 6:04 PM** Ms. (Donna) Murphy, Hanscom Road, said that she would just like to hear an explanation about what the background check difference is between the State licensing and Town licensing.
- Ms. Muzeroll-Roy said that there would be no difference with that; that the one less check will be Child and Protective Services, which she already goes through with Chief Moya and background checks from the State Police. She added that you have to literally spend money to send an additional check that we already do with the Police Department and State Police.
- Ms. (Donna) Murphy asked, if the State covers any childcare costs for children, does that prohibit the Director from accepting that State money.
- 6:05 PM** Ms. Muzeroll-Roy said that that was the only thing we are waiting to confirm; that it might but, in talking with other Rec Departments, they have had similar situations. She added that we only have three or four right now and we are giving them a head's up that that might happen; that the only possible downside to this is that we may not be able to take any State money for those kiddos.
- Ms. (Janet) Saurman said she had two thoughts – that the SB is clear that our children will still be safe, and it sounds like you're saying that they will be. She also asked, regarding the money that might come in from the State, if that is used to help supplement some parents who may not be able to afford childcare; that she wanted to know how not being able to accept State funds will affect the children.
- 6:06 PM** Ms. Muzeroll-Roy said that it actually should not because, without getting into specifics, we would never turn anyone away; that everyone has the opportunity to do financial assistance; that we are starting that process, now, with summer camp; that it would limit some of those parents but we would work with them to make sure that those kiddos are still coming in. She added that it only affects KidsPlay; that it's not affecting all of our other programing; that if a parent feels like they

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

are going to lose money then we would meet separately and offer some sort of scholarship, which we try to do, now, on a regular basis.

6:07 PM Mr. Orestis said that the only reference to dollars he sees on here are in reference to background checks. He asked if we know how much this is going to save the Town.

Ms. Muzeroll-Roy said that, looking into next summer, if she decides to go Kindergarten through 8th Grade as one big camp, she will eliminate some bus costs for the other camp; that she isn't going to combine Kindergarteners with 8th Graders but we will have one facility at one school; that we might also now be able to add pre-K, which will be a revenue source, as well; that we can't currently because our licenses only cover for K-5.

Mr. Orestis asked if she had any idea on dollar amounts.

Ms. Muzeroll-Roy said that she did not.

6:08 PM Mr. Lee said that we discussed that a little bit but we don't actually have a projection but we believe it will be a positive impact to the overall ECSD budget.

Ms. (Donna) Murphy asked if the Director knew the average number of background checks she does annually.

Ms. Muzeroll-Roy said that she does 15-20 a year; that for KidsPlay, specifically, there is a \$15 charge for before-and-after-school child care; that the rest of her staff goes directly through Chief Moya and the State Police.

Mr. Orestis said that it sounds like the cost is not necessarily prohibitive but what it's doing is prohibiting added revenues that could be generated, asking if that was what we're talking about.

Ms. Muzeroll-Roy agreed.

Mr. Lee said yes; that it also limits the structure of her programs; that she has to structure them in very specific ways, which if we can be more flexible with structure, he thinks she can do more with less.

Ms. Muzeroll-Roy said that, honestly, she's not doing it for the revenue part; that we're still going to be following all the mandates – Mandate Reporter training, first aid/CPR, require some of our staff to do training online; that none of those things are going to change; that it's just a matter of our turnover being so high that we're spending money on the CPS background check, and she would really like to expand with pre-K because we have quite a few people ask about why we don't

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

take pre-school kids and we can't, currently, because our license is only K-5. She clarified that there are a lot of differences right now; that she's had a lot of conversations with Directors who say they will absolutely never be a licensed program, as it is too much to deal with. She reiterated that she's not changing any of her rules in regards to keeping the kiddos safe.

6:10 PM Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the Eliot Community Services Director's recommendation that we not renew the childcare license as of May 1st.

DISCUSSION

Mr. Lee said that, in the brochures that go out, he believes that she mentions that there are scholarships available.

Ms. Muzeroll-Roy said yes.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

6:12 PM 2) Additional Dispatching Efforts – Chief Muzeroll/Deputy Chief Cullen

Chief Muzeroll said that this basically started as a conversation with the Town Manager about a special project, or an improvement project, involving Kittery Dispatch and protocols of the operational plan that the emergency services department of the Town of Eliot (Police/Fire) are looking to negotiate, and re-negotiate, a contract with the Town of Kittery to provide dispatching services. He added that you've heard us talking about it and the frustrations, and everything else; that this is just kind of something on the side Deputy Chief Cullen would like to do, committed to do, to try to help this project move forward. He clarified that we are finding in research that a lot of the perceived problems that they (Kittery Dispatch Center) have may be operational issues, may be infrastructure issues. He added that when we had a brain-storming session, we agreed we would break off and take certain sections of what we perceive as a major detriment to a successful operation as we try to move forward with a new dispatch contract. He

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

said that, with that being said, it ended up being a little bit more than what he anticipated and what Deputy Chief Cullen had committed to do; that in order to understand the system and how it works, we may need to commit a certain amount of time – a week, a couple of weeks, a month – that is different than our regular administrative duties that we already receive a stipend for and what he's trying to do is keep this transparent; that we don't turn in a time card, per se, we turn in a fire call receipt at the end of the year but he and Mr. Lee felt, if he is going to be requesting additional pay for a short period of time, well within his budget, that we be as transparent as we possibly can; that you guys (SB) will see the time cards so there will be no questions from you or the public as to what we're trying to do. He said that he doesn't see it as a high dollar amount; that one week it may be a total of 8 hours between the two of us, another week it may be a total of 4 or maybe 12; that it will involve some sort of travel training, either to Augusta or to other dispatch centers to get a better idea as to what's going on in those places and how we can work to improve what we expect to be good service but we want to have good service and continue the service with Kittery. He added that he just wanted to make the SB aware, and everybody else, of how we're trying to move forward with this and it may just take a little extra time out of our ordinary administrative duties.

6:15 PM Mr. Murphy said that it seems to him that it's important that you should go forward; that you want that dispatching to work, clearly.

Chief Muzeroll said that he does.

Mr. Lee said that he wanted to mention, too, that Chief Moya has a couple officers that have dispatch backgrounds and he, too, is possibly going to incur some overtime, although he will try not to, and will have those officers join Deputy Chief Cullen and Chief Muzeroll in helping Kittery, especially with policies and procedures.

6:16 PM Chief Muzeroll said that he picked Deputy Chief Cullen because he is a lead dispatcher for the City of Portsmouth Dispatch Center so he is aware of the software and infrastructure issues and some protocol stuff that Chief Muzeroll is not aware of; that that is why it should be a two-man project.

Mr. Lee said that, next week, we have a joint meeting with the Town of Kittery regarding moving forward with improvements to the dispatching and, so, if we could resolve this tonight, he thinks it would be good for him to be able to go to that meeting to say we are willing to commit some manhours, as well, to developing good policies and procedures that will make us all better.

6:18 PM Mr. Murphy said that your question really is to get approval from this Board to expend part of your budget doing this.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Chief Muzeroll said that he thinks it's more information; that if the SB wants to make a motion to approve, that's fine but he thinks, as part of the transparency issue that, if you start seeing some time cards for himself and Deputy Chief Cullen, that that's what it's all about.

Mr. Murphy said that he thinks that's up to Chief Muzeroll, as department head, because he is solving a department problem.

Chief Muzeroll said that that's true but Mr. Lee has been talking about what we are trying to do with the dispatch contract, so, it's a good time to bring everything up, here, and get it on the table.

The SB thanked Chief Muzeroll for coming forward.

6:19 PM 3) Prescription Drug Drop-off – Police Office Lobby

This is a memo from Chief Moya to inform that there is now a prescription drug drop box at the Eliot Police Station, located in the Police lobby and accessible to the public during business hours.

Mr. Orestis said that he thinks we can't overstate how important something like this is for the Town; that, obviously, with the opioid epidemic as well as people flushing drugs down the toilet and ending up in our water sources, he thinks it's really important to make the public aware of safe ways to dispose of their prescription drugs.

6:21 PM 4) Sewer Dept. – Loan Pre-payment Options

Mr. Lee discussed that, as a result of the high bid costs, part of the solution to bring that down was to have the Public Works Department (DPW) use its manpower/equipment and do some of the associated work that didn't necessarily have to be done by the contractor. He added that, that said, we had residents and the general public reasonably concerned that, if the DPW is doing that type of work to benefit the Sewer Department and sewer users at some point, if there was money left over, there would be an expectation to have the remaining bond money returned to the general fund in the amount of the effort we expended through DPW. He explained that the spreadsheet that has been provided comes from the DPW and it summarizes DPW Force Account Labor, Force Account Equipment, Materials, and Contract Costs; that the total that's already been charged to sewer is \$23,532.50; the total left to be charged to sewer is \$28,113.56; that he wanted to report that out that that is our intent. He said that he did want to point out, specifically, that the DPW Director does not feel that it should include Force Account Equipment totals – the \$16,285.08 that was the FEMA-related expense, explaining that we use FEMA rates because we don't know what to charge on

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

these things; that this would have been the amount that FEMA reimbursed us for the use of the equipment. He added that he and the DPW Director discussed this and didn't feel it was very accurate to use FEMA numbers nor necessary to do that level of reimbursement; that at the same time, we reasonably owe the Town back some money for contributing to the project. He said that he's not sure that, essentially, depreciation of the equipment is a fair hit to the Sewer Account, which is already being hit over and over again for different things. He said that we recommend a total of those two numbers - \$23,532.50 that's already been charged and an additional \$28,113.56; that he thinks, when we made this decision, Mr. Moulton thought it would be in the \$30,000 to \$50,000 range and, indeed, it comes in at about \$51,000.

6:25 PM Mr. Orestis said that Mr. Lee is saying not to include the \$16,285.08.

Mr. Lee said that it would be our recommendation not to charge that against the Sewer Account but just the straight manpower and materials.

Mr. Orestis asked if there was a number that Mr. Lee and Mr. Moulton discussed that you would think would be a fair charge for the use of equipment.

Mr. Lee said that we did discuss using straight FEMA rates.

Mr. Orestis said that Mr. Lee is not recommending that.

Mr. Lee said that that was correct. He clarified that that was why we are before you, to decide whether we do, or do not, charge that against the Sewer Account.

Mr. Orestis asked if Mr. Lee could explain one more time why he felt it was important not to charge the rates to the Sewer.

6:26 PM Mr. Lee said that, first off, anyone who has been around doing FEMA stuff for a long time kind of knows it's a bit of a joke, explaining that the numbers that they use for the various pieces of equipment are kind of odd in their national numbers, they are very high, so we don't think it's fair and he doesn't have any other rate to charge against; that, furthermore, we feel it's a very negligible amount of wear and tear given what we did and the number of hours put in.

6:28 PM Ms. Saurman said, just to be clear, that Mr. Lee was saying that that \$16,000 was not going to be added the sewer; that the Town is saying that we didn't do that much work with our equipment that we need to charge our sewer owners.

Mr. Lee said correct; that it does effect taxpayers when our labor is doing something different than they should be and there's no need to buy these materials

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

or hire these contractors but for this project; that as far as the wear and tear and rates that FEMA has, he would hate to have to support that somehow.

Ms. Saurman said thank you.

6:29 PM Mr. Orestis asked how much we would have left over if that \$16,285.08 was left out.

Mr. Lee said that he did not have that number at this time.

Mr. Murphy said that he would admit that he is confused as to precisely what is best for us to do.

Mr. Lee said that he is making a recommendation on how to divide this fairly between the taxpayers and the sewer payers; that the only thing he could defend not charging off to the Sewer is the Force Account Equipment; that it was rather negligible, the rates were silly, and he thinks this makes the Town whole. He added that, if approved, he would direct the Treasurer to put these amounts from the Sewer Fund back over into our general fund and not the \$16,285.08.

6:30 PM **Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the Town Manager's recommendation and not move the additional Force Account Equipment amount of \$16,285.08 from the Sewer Account into the General Fund.**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

6:32 PM **5) Aging-in-Place Committee (AIP) – Grant Check**

This was a memo from Ms. (Ellen) Cepetelli asking that a grant check received from the Maine Community Foundation be deposited into their AIP account to cover mailing expenses to residents.

Mr. Donhauser said that we can't do that but it has to go into the general fund; that we can't appropriate money and they are asking us to appropriate that money;

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

that it's probably the right place to go, ultimately, but it needs to be appropriated and we can't do that.

6:33 PM Mr. Lee agreed that, based on the principles of gross budgeting, this has not been appropriated to be utilized and is a grant to the Town and, therefore, subject to audit; that it really needs to be in the Town account and brought up next year as a revenue and sent to AIP. He said that he thinks there's a problem from an accounting standpoint with doing this, as they requested, which is a real shame and he doesn't know what we will do otherwise. He added that he thought an auditor would have trouble with it and he sensed why Mr. Donhauser would have trouble with it.

Mr. Murphy said that it seemed to him that the Board should request a letter be sent to the AIP Committee informing them that funds like this must go directly to the Town and we will try to accommodate later on.

Mr. Lee clarified that they can accept grant funds; that we have broad authority to accept grant funds but, it is on behalf of the Town, therefore, it's subject to the Town's financial policy; that this would drop through to general fund, be earmarked, and come up again in next year's budget as a dedicated revenue/dedicated expense under the AIP Committee.

6:34 PM Mr. Murphy asked Mr. Lee to develop a letter to explain all this to the AIP Committee.

Mr. Lee agreed. He said that he probably will try to find, if necessary and if he has any money left over in Administration or something, some way to sort of front this money, if we can, to that committee because this may mess up their plans pretty badly; that he may be back in front of the SB with some alternate plan.

6:35 PM Mr. Donhauser said that he thinks Mr. Lee has to appropriate money; that it's his personal feeling that he is just going around the issue and he believes Mr. Lee shouldn't do that.

6:36 PM Mr. (Jim) Tessier, Johnson Lane, asked if this exact same issue didn't come up a year ago when they got a donation of \$400; that it surprises him that we're talking about the same issue when we should be following the right procedures.

Ms. (Donna) Murphy, Hanscom Road, said that she was a little surprised that the Town Manager would suggest taking money from Administration to use for a committee; that it was her understanding that you can't take money from one and put it into another.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

6:37 PM Ms. (Helen) Sullivan, Goodwin Road, said that she is on the AIP Committee and we've worked really hard for two years; that Ms. Cepetelli has written grants, she's worked with the State, worked with everybody, and she doesn't believe Ms. Cepetelli realized this; that we are having this event on April 10th and we desperately need money to make everything work out okay; that Ms. Cepetelli is going to be really upset, so is the whole committee; that we don't get much feedback from anybody and has been really difficult for us to work. She added that she hopes something comes up soon as the AIP is needed in Eliot.

Mr. Lee said that that is why he wanted to try to find something, some way; whether it's from Town committees, maybe, if there was some kind of surplus or something like that. He added that he just feels real bad for the AIP Committee; that they have done exactly what Ms. Sullivan just said and, because of these sometimes rather tragic gross budgeting rules, you get a grant that you actually can't use. He said that he thinks we may actually be able to, looking in the Administrative Articles, that it may say that we may be allowed to expend grants; that he will check the articles.

6:38 PM Mr. Donhauser said that he supports the AIP Committee, and he's not trying to restrict the money from them, but it is just not an appropriated amount; that it's not a large amount of money but opens the door to other situations where we do the same thing.

Mr. Murphy said that it seemed we've done this before.

Mr. Lee agreed, saying other grant funds; that he just has to find that language. He added that we've have done this before, with the \$400, so Mr. Murphy is exactly right.

6:39 PM Mr. Orestis asked, if the answer is no, what would be the appropriate forum; would they have to put into this year's budget what they would anticipate getting from a grant in the future and, then, we would have to have that approved.

Mr. Lee said yes. He explained that we went through that with the Police Department in projecting grants that we don't have any idea we will get; that the reason to do that is, if we get them, he wants to be able to expend them. He added that he didn't know, when putting together this budget, that there would be an effort to get grants. He reiterated that he will check the annual Administrative Articles and get back to the SB soon.

6:40 PM Mr. Orestis asked, if he cut a check, as a private donation, tonight for the AIP Committee, would that drop into general fund.

Mr. Lee said that he would think so.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Donhauser said that he believed it would.

Mr. Lee said except if Administrative Articles have exceptions to this, which he hopes they do, because this is kind of overkill.

6:41 PM Ms. (Donna) Murphy said that this conversation has come up before and Mr. Lee was a part of that conversation; that he was crystal clear that any money that was donated to this Town could not be expended in the current year because the legislative body didn't accept that as a revenue and it had to fall through to the general fund and be addressed the following year.

Mr. Tessier said that we have a Citizen's Option Meeting coming up shortly and somebody might propose amending the budget to add the grant money to make this work.

Mr. Lee said that that was a great idea; that that could be a Citizen's Option thing to add a grant revenue and expense that would have no net affect on the budget. He suggested we do that and asked Ms. Sullivan to report that back to the AIP Committee.

Ms. Sullivan said that she would tell Ms. Cepetelli.

Mr. Lee said that maybe he and Ms. Sullivan and Ms. Cepetelli could have a conversation and we'll find a solution on this.

I. Administrative Department

6:43 PM 1) Town Manager Report(s)

Mr. Murphy asked, regarding **Line 150**, what that acronym meant.

Mr. Lee said that it stood for Villages on Great Brook.

Mr. Murphy asked about **Line 135** regarding Mr. Lee not serving on the proposed mediation panel for Spinney Creek because of a conflict of interest.

Mr. Lee said that some people who border Spinney Creek have deeds that indicate that their land extends out under the waterways and they have brought that forward on an appeal of the license that was going to be granted to Spinney Creek Shellfish Company; that they are going to set up a new meeting on this to determine what those land rights are, how this can be worked out, some sort of a mediation because it's getting fairly intense with Spinney Creek and the Company, unfortunately. He added that one of the things that Representative Rykerson had recommended is some sort of a mediation panel and he doesn't

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

think it's an appropriate thing for him to get involved in ,as Town Manager, and he can see Spinney Creek from his window, so, he at least has a conflict of interest and should not be the representative in any matter like this. He clarified that that mediation panel has not been called but was just floated to different people on whether they would participate.

6:48 PM Mr. Murphy asked about **Line 72 and 77** regarding whether there were two receipts for \$3,750 or just one.

Mr. Lee clarified that he mentioned it twice but it was just one check.

6:49 PM **b. 34 Blueberry Lane Sewer Update**

Mr. Murphy said that he thinks we've heard all we need to hear about the excavation at Blueberry Lane; that that is all done and settled now. He added that he wondered about the cost to Eliot and how it's being paid for and have we submitted a bill to the landowner.

Mr. Lee read from the submitted report on Blueberry Lane, "I have not received final invoices from both vendors but the estimate for this repair is going to be between \$3,000 and \$3,300. Attached you will see pictures associated with the work completed for your review." He added that Mr. Moulton described what was wrong with their sewer and provided a number of pictures of what they did; that he did get an email today from the fellow who asked for our help, wanting an address of the SB because he wanted to send a thank-you; that he was very appreciative of all this and took Mr. Lee's advice to contact his homeowner's insurance; that we'll see where that goes.

6:50 PM Mr. Donhauser said that, essentially, it was on his property.

Mr. Lee agreed that it was.

Mr. Orestis asked if we could hold off on this as we still have financial reports to go through.

Mr. Lytle asked if he was going to work through his insurance and get back to us.

Mr. Lee said that there are still more answers to be had; that he's still working with the homeowner and this is just a week later; that Mr. LaFrance has just contacted his insurance company, he's grateful, the insurance company may very well, and he's going to be speaking to them, cover our outputs because it was on his property.

6:51 PM Mr. Lentz asked who the two vendors were that were involved.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Lee said that it was Shapleigh Construction and Sturgeon Creek Enterprises.

6:53 PM Ms. Saurman said that, regarding Blueberry Lane, she knows you have all been discussing it and she's only read a little bit about it in the paper; that she wondered if there was any attempt, and she's sorry if you have already discussed it, to see who actually owns that sewer because, if that sewer was put in badly, which is the suggestion by the developer, there are several houses down there and we can probably assume that they are having problems, as well. She added that it's just never been clear if Blueberry Lane is part of the Town sewer or isn't.

Mr. Lee said that our official position is that it is not.

Ms. Saurman asked if the SB agreed to pay these folks the cost of their sewer; because she just had a big sewer bill for her house and, if you said yes to Blueberry Lane, she was going to be here next time to ask for her reimbursement.

Mr. Donhauser said, first of all, the people in question had been out of their home for two weeks, they couldn't live in their home. He explained the sewer layout and said that we didn't know where the frozen line was and they didn't, either, although they tried to unfreeze it. He said that we felt it was an emergency situation and we authorized sending our Town employees and their equipment to find what was the matter. He added that he thinks the landowner clearly understands who is going to bear the cost of it; that the Town is not.

6:55 PM Mr. Lee said that it was on the homeowner's property and it was also in the street right-of-way; that we had an overlay area, there, because we do own the street. He added that we maintain that the developer never conveyed that sewer to anyone; that that is our position and the position of the attorney. He said that this was a unique case and it was in the road right-of-way so we weren't on purely private land.

Mr. Orestis said that he thinks the concerns are valid and that was part of what we addressed here during that meeting – setting that precedent and making sure that we're not setting ourselves up for the future just to have this happen over and over again. He added that our position is that that developer still owns the sewer and he believes that that was the direction we were going in, should we need to.

6:57 PM Mr. Lee reiterated that it's been one week and he has a number of different things he needs to do to see where we collect from and how we collect; that he doesn't have all the answers, here, he's just reporting that it did get done, and we have a rough estimate of what it cost; that the developer, Mr. Cullen, that he could go after, potentially the homeowner's insurance who received the report with all the pictures. He added that he doesn't know how it will yet get resolved but he is

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

looking hopefully to getting compensated back here; that that would be his intent but he's not going to speculate tonight on how it ends.

7:00 PM Public Hearing for Shipyard Brew Pub and Regatta – Renewal of Liquor License and Special Amusement Permit

Mr. (Peter) Martin was present.

Mr. Lee said that he wanted to note that we checked with the Fire Chief and the Police Chief and they had no concerns about issuing either the license or permit.

7:02 PM Public Hearing closed.

Mr. Donhauser moved, second by Mr. McPherson, that the Select Board approve the license application for the Shipyard Brew Pub, LLC.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

7:03 PM I 1a. Financial Reports

Mr. Donhauser said that he had a question on page 2, line 15. Hearings/Elections, saying that there was now budget and asked if there normally was a budget for that.

Mr. Lee said yes and that he didn't know why it isn't entered there; that he will look into that.

Ms. Rawski said that it got moved and is its own category.

Mr. Lee said that it's a sub-category of Administration but something has been posted here so something is not right.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

c. HVAC Project Bond

This was taken up under New Business.

7:05 PM 2) Job Description Reviews/Approval

Mr. Lee said that these were for the SB's review and that they have a two-week window to get feedback and revisions to him.

3) Review of Planning Board Ordinance Submissions – Draft Provided; Final Versions to be Provided by 3/25/19

7:06 PM 4) Town Meeting Warrant - Draft

Mr. Lee gave the SB the current version, which is up-to-date as of 5PM today; that they are not entirely complete and we will be voting on the entire package April 11th at our next meeting. He added that we need to do a certificate for each of the ordinance pieces that are going to show up on the ballot and, then, also sign the entire warrant on April 11th. He explained that if anybody has any changes, and there may be changes because we have a Citizen's Option Meeting on April 1st at Marshwood Middle School. He said that on Thursday of that week, we have a reconciliation meeting if citizen recommendations cause either the SB or Budget Committee to change their support. He asked Board members to get in their changes, grammatical or otherwise, as quickly as possible to have a timely, finished document. He also thanked the Town Clerk for pulling this together, as a lot of work went into this; that Ms. Rawski does a great job and we are so blessed to have her.

7:08 PM Mr. Orestis asked how many citizens we needed to have at the Citizen's Option Meeting to have a quorum.

Ms. Rawski said 61 by 7PM; that they need to be signed in and seated.

7:09 PM Mr. Lentz asked if there was something else the Town Manager was looking for from the PB; that there is no other work as far as final reviews or final versions.

Mr. Lee said that the only thing is that there has been a decision to postpone the Marijuana Ordinance until the November ballot and, hopefully, have an opportunity for the PB and Planner to meet with the SB and himself in some sort of workshop just to talk it over, see who is responsible for what, how it will work, where's it located, where is it allowed and not allowed.

Mr. Lentz asked if there was a memo on that.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

7:10 PM Mr. Lee said that he sent an email out some time ago, and Mr. Lentz was in it, saying that if there are any objections or concerns about postponing this to please let him know.

Mr. Tessier asked if there was a procedure at the Citizen's Option Meeting that people have to follow in order to propose another number.

Mr. Lee agreed that there was a procedure; that they need to put their new number in writing and he would encourage people to go onto our website to Election Central, everything will be there so you know what's being proposed, and if you think something needs another \$500, as an example, write up "Mr. Moderator, I would like to amend Article __ to be increased by \$500 to 'this' number and the moderator will take that paper from you and know exactly what to read for the motion.

7:12 PM Mr. Lentz asked if they may also decrease the amount.

Mr. Lee said yes.

Ms. Rawski clarified that, if we get a Citizen's Option proposal, that number will be added as a third choice.

7:13 PM 5) Shoreline Survey Notice

Mr. Lee read from the memo from the Department of Marine Resources (DMR), *"The Maine Department of Marine Resources (DMR) will conduct a shoreline survey in your town from mid-March to November 2019. DMR staff will be visiting coastal properties, walking the shoreline, and making observations about potential pollution sources adjacent to coastal waters and shellfish beds. This survey is intended to assist towns in remediation efforts to maintain or re-open local shellfish harvest areas."* He said that, as a matter of note, our shellfish area has been closed for quite some time.

7:15 PM Mr. Lentz said that it seems to him that this group should be tied in with the Stormwater gang, if there would be sources of outfall pollution; otherwise, they're going to have two groups doing the same thing.

Mr. Lee said that that was absolutely true; that he did notify the Conservation Commission and Kristie Rabasca, who is well-aware of this; that he has distributed this pretty widely so that people who have an interest in this can participate.

7:16 PM 6) Private Sewers Workshop – No Correspondence

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Lee recommended that we hold a workshop in the not-too-distant future, possibly April 18th, on what we are going to do about these private sewers; that he would ask that we invite down our attorney to participate, and be boned-up on this topic, then resolve this once-and-for-all; that this is an issue that is going to come back to bite us, as he warned four years ago. He added that when one of these private systems goes bad and the pump fails, that sewerage is going to run downhill and we all know where that's going to end up. He said that he thinks we need to know how we're going to respond because, right now, he doesn't have a clue and we have a fair amount of liability, as the Town, because we aren't managing that, we aren't holding the developer responsible for maintaining it and sending us reports; so, we are going to be on the hook and, granted, these may not be great systems but we need to have some plan on what we're going to do – to drag the developers in and hold their feet to the fire, do something.

7:18 PM Mr. Orestis asked who else should be involved in that workshop meeting.

Mr. Lee said that the workshop is primarily for the Board to discuss amongst itself the direction we want to go; that there would certainly be time for public comment. He added that, certainly, he would want Mr. Moulton there, that he would think Mike Dupuis, having been the Chair of the Sewer for many years, would be a great resource in terms of technical stuff. He also added that he could reach out to the Maine Wastewater Association asking them if this has been tackled in the past and how do you go about doing it.

The SB agreed to hold a workshop on April 18th at 5:30 PM.

7:21 PM **7) Disband Cable Committee – No Correspondence**
8) Disband Clean Water Committee – No Correspondence

Both were taken up at the same time.

Mr. Murphy asked if we actually have that committee.

Mr. Lee said that there was a vote to create that committee (Cable), a vote to approve by-laws and, if you want to take the next item, it's exactly the same – the Clean Waters Committee. He added that he's had one application for the Cable Committee and two appointed to Clean Waters Committee; that he hasn't been able to come up with any others. He explained that the Clean Waters Committee was created by the former Board primarily, he thinks, to create a fee system based on impervious surface on your property, which would be a stable source of revenue that would come in, and would be another collection on folks instead of taking it right out of taxpayer money at \$200,000/year; that he thinks the idea was to have a committee that would look at various ways that towns are implementing these impervious surface fees, and there are a number of towns doing it. He said

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

that, at this point, he doesn't have enough people to even populate these committees and he doesn't know that this Board has, as its priority, another fee system to be put on people in Town. He added that, if he had enough people and start working on this, he doesn't even know if this is in a direction the Board would want him to go in. He said that, as it is, we need people on the PB and he would rather have some of these applicants participate on the PB than he would to create a new committee that he can't even populate. He said that he doesn't think it makes sense to have these, anymore, and he's asking for them to be disbanded.

7:23 PM Mr. Murphy asked Mr. Lee to describe what the possibilities were thought to be for this.

Mr. Lee said that, in 2021, we are going to be negotiating for another 10-year term and there is a group, much like the Maine Wastewater Control Association, called CTAM (Cable TV Association of Maine) and it's for the local cable operators who run PEG channels; that they have a couple of consultants that they can lend out, or you can hire, and these are people who have previously been on the other side of the table. He explained that one of the guys he has talked to that might be willing to work with us, when we go to negotiate, he used to negotiate against on two different cable franchises; that he knows what the consultant knows and, also, we have a member on this Board who knows a little something. He said that there aren't that many things you can even negotiate; that you're negotiating with a monopoly, largely; that there are a few things you can do but he doesn't think it warrants a committee and thinks you need a professional negotiator to get the most out of this.

7:25 PM Mr. Murphy asked who would take this forward, then, would this Board then decide that we must look into it and assign the Town Manager to do it.

Mr. Lee said yes; that he would bring forward to the Board a couple of proposals of people who might be able to come in to help us with the negotiations, see if one of you might be willing to sit in on those negotiations; that he doesn't mind having a member of the public sit in on those negotiations, especially a senior; that the main concerns that he has fielded are from elderly people who are really sick and tired of the little nickel-and-dime increases and not having an affordable package for people living on fixed incomes and having to pay for channels they don't want; that, by the way, there is a move afoot, legislatively, to kind of take away some of the strength of cable companies and, likewise, there's another piece of legislation afoot that is going to wipe out all franchise fees at the State level. He added that he thinks this is much trickier and much more regulatory than he thinks a lay panel is going to have good luck with.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

7:27 PM **Mr. Orestis moved, second by Mr. McPherson, that the Select Board disband the Cable Committee and Clean Waters Committee, the by-laws therein, and the notification of currently appointed members that it has been disbanded.**

DISCUSSION

Mr. Orestis asked if it would be possible to notify those that have been seated that we are looking for members for the PB.

Mr. Lee said yes.

Mr. Orestis said that, based on Mr. Lentz's comments last week, that that's probably our top priority at this point.

Mr. Lee agreed that it was.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

7:28 PM **9) Moose – Taxidermist? – No Correspondence**

Mr. Lee said that this moose has aged quite a lot; that it is losing its fur, its face is breaking apart; that he's had some say that it's just plain hideous, should come down, and be put into some historical storage, or something.

Ms. (Cindy) Lentz said that the Historical Society doesn't want it.

Mr. Orestis asked if Mr. Lee has looked into the cost to fix it.

Mr. Lee said that he has not; that he wanted to bring it to the Board; that it's been a running commentary from people; that he could look into a taxidermist; that there may be one in Town that would donate his or her services to fix it back up again.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

7:29 PM Mr. Murphy said that he would speak for a lot of citizens of the Town who like that old guy; that it's sort of part of Eliot and there's a story behind it all, several stories, in fact, and he can't see it well enough to see if it is falling apart but it looks like a moose to him from here. He added that he thinks citizens should be allowed to be aware and to just throw it away, he thinks, is not understanding.

Mr. Orestis said that, from what he's seen, mounts like that are quite valuable, as far as costs go; that, obviously, there are some things we can do on that front if it was decided that we wanted to move away from it.

Mr. Lee asked if the SB would even like him to pursue the cost or see about the presence of a taxidermist to give us a professional opinion on whether it is too far gone or an easy fix.

Mr. Lytle said that he would like Mr. Lee to do that and he would be willing to make a donation to it.

Mr. Murphy said that he would be willing, too.

The SB agreed that Mr. Lee would pursue getting repair information for the moose.

7:31 PM 10) Approve Warrants

Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve A/P Warrant #84 in the amount of \$972,910.41, dated March 14, 2019; A/P Warrant #85 in the amount of \$25,839.87, dated March 15, 2019.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

J. New Business:

7:33 PM Mr. McPherson said that he had three policy questions. He asked if part-time, non-union employees are covered under the clothing allowance (DPW).

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Lee said that, off the top of his head, he couldn't answer that; that he would have to look in the union contract. He added that, if Mr. McPherson could advise him in advance that he will have questions, he could be prepared for them.

Mr. McPherson said that his second question is whether the Town of Eliot has a comp time policy.

Mr. Lee said that he was going to discuss that in executive session.

Mr. McPherson agreed but asked for just a yes-or-no answer on if we have a comp time policy.

7:34 PM Mr. Lee said that he doesn't believe that we do; that we have a compensation plan, and some other compensation-type things, but no compensatory time.

Mr. McPherson said that his third question is whether the Town of Eliot has a conflict of interest policy.

Mr. Lee said yes; that the Charter has an in-depth conflict of interest section; that, as he knows, Mr. McPherson has a really strong belief, and he tends to agree with you, and we are working on a solution; that Mr. Moulton was off this week; that we intend to take this up on April 11th when he and Mr. Moulton can recommend how to get rid of these conflicts of interest. He added that it is in the Charter, explaining that one of the ways we addressed purported nepotism is that we have an ethics panel; that the ethics panel met and heard from each of the folks who might have had a family member that was also working for the Town and they made recommendations on how to avoid these conflicts of interest; that that may be one way to resolve it; that there may be a more straightforward way, which is just to be unable to work with certain vendors. He said that he's not prepared to speak to that just yet; that he was asked to put something together and Mr. Moulton went on vacation, so he's not prepared to speak to that, even in executive session this evening, on that. He added that he does have it on for the 11th, when he and Mr. Moulton will be there and, furthermore, Mr. Moulton is on vacation, not here tonight, and he would like to have him present when we discuss it; that he's legally allowed to be there.

7:36 PM Mr. McPherson said that that's okay but the policy has clear statements in it that we are not going by.

Mr. Lee said that he didn't disagree; that he wants to discuss it with the SB, then, be public with it, transparent with it, and figure it out and get it cleared up.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

7:37 PM Mr. Orestis asked, regarding the **loan pre-payment options** for the Sewer Department, if Mr. Lee was going to come back to us with those final options for pre-payment.

Mr. Lee said that we kind of skipped over it, he thinks – H 4) Sewer Dept. – Loan Prepayment Options. He explained that the HVAC bond and LED Streetlight bond were allocated at \$180,000.

Mr. Orestis said that he was talking about the Sewer, though, because at our last meeting we were talking about left-over, whether it was a bond or a loan and whether there was an opportunity, rather than pass that to sewer reserves, Mr. Lee was looking into options, asking if that was what he was getting to.

Mr. Lee said right, and he was not getting to that; that he does not have that information just yet. He added that that will be an April 11th thing; that he wanted to get this one out of the way to make sure we're on board because he can't answer B until A is resolved. Going back to the previous \$180,000 amount, he said that it came in at around \$151,122 and is the total that we're going to bond; that we aren't going to bond any more than necessary; that the LED Streetlighting was well below what we thought it would be.

K. Old Business:

7:39 PM Mr. McPherson said that he's still looking for the answer to the question on the 2008 International; that the parts list that we paid was approximately \$12,000 and, referring back to the meeting of January 10th, he questioned the labor cost from Dover Motor Mart, and Mr. Moulton said that it was on the page at \$7,060, new, under Work to be Done; that on the 10th of January, we approved to have a re-built/remaned engine put in that truck. He added that we ended up with a new parts bill, we paid that, and it was over \$12,000; so, there is \$5,000 he can't seem to find where it's gone; that he asked about this two weeks ago and Mr. Lee was going to get back to him.

7:41 PM Mr. Lee said yes, adding that we've also been trying to finalize the warrants, finalize the budgets, etc., and Mr. Moulton's been gone one of those two weeks; that he's not going to put this off but he needs Mr. Moulton present to answer it.

Mr. McPherson said that this didn't start off good from the beginning and, in his mind, it continues to snowball because of the \$5,000; that it might be there but nobody can explain to him where it is. He added that it just so happened that it appeared the very next day, after we voted, and it was approved to go by that Dover Motor Mart price; now, all of a sudden, we've got a new parts list.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Lee said that he understands the suspicious look of it but he doesn't know the answer for it just yet; that it does need to be investigated but he just needs more time to get these things off his plate; that he needs Mr. Moulton present so he can talk to him about it. He added that he is sure that, by April 11th, we will resolve these things with you.

7:43 PM A member of the public asked, regarding Blueberry Lane, who the contractors were.

Mr. Lee said Sturgeon Creek Enterprises and Shapleigh Construction.

The same audience member asked if they got any quotes from anybody else.

Mr. Lee said no; that it was an emergency situation.

The same audience member said that there are two sewer contractors in Eliot, not just one; that when he first started working for them, it was 1960, so they've been in Town for quite a while. He asked if they got called.

Mr. Lee said no; that we did it...

The same audience member asked why; that he knows that they did it in an emergency but you can make two phone calls at the same time you can make one.

Mr. Lee said that he's sorry we didn't do that.

The same audience member said that he is, too. He added that we just said conflict of interest and we've got to be very careful; that it sounds to him like we might be stretching down that road.

Mr. Lee said that he understands his point...

The same audience member asked, since about four years ago, who does all of the septic tanks in the Town and does it go out to bid.

7:44 PM Mr. Lee said that it doesn't qualify to go out to bid because it's under the amount stated in the financial policies.

Mr. (John) Adams, employee for LW Morgridge & Son, said that we have maintained it for this Town for as long as he can remember, the past 30 years. He added that he does believe there is a conflict of interest ever since Sturgeon Creek got their septic truck; that he spoke with Mr. Moulton to get on the next agenda for the seasonal pump and Mr. Moulton said that he was all set and he was all

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

done with us. He said that we have been working with you guys in good faith for all of these years.

Mr. Lee said that he did not know that.

Mr. Adams said that we have always been on-call for you guys; that Sturgeon Creek has been doing them all ever since Mr. Moulton and it's a major conflict of interest; that he thinks the SB knows where we're going to go with this.

7:45 PM

Mr. Lee said that he understands.

Mr. Adams said that if people knew where their tax dollars were going and that Mr. Moulton has a vested interest...

Mr. Lee said that he understands the sentiments, here, and he tried to explain that we are going to address this, it will be on April 11th; that he also wants to caution people about talking about personnel matters in a public setting; that if the SB allows this, then you are putting us in legal peril. He added that he does understand the frustration but we do need to give everyone their rights in terms of being present, if being accused; that we're not doing that at the moment and he would urge the SB to not allow this any further until we can discuss it on April 11th properly, legally.

Mr. Murphy asked if the SB agreed that this will appear on April 11th for us.

7:46 PM

Mr. McPherson asked if people were going to have a chance to speak their case on April 11th; in what forum does the public have so that their input can be heard.

Mr. Lee said that, generally on personnel matters, they report to the SB that they think there is a conflict of interest and, then, the SB will say that they will look into it; that you go into executive session, you make a determination if there is, you come back out, you make a motion and say we can no longer do this, we can no longer do that, and that is how it's resolved. He added that people can go to an individual SB member if they think there is a conflict of interest and ask them to look into it; that that's how it goes but we don't do it publicly; that we have to go through a process that is detailed under personnel laws.

Mr. McPherson said that it has obviously come to a head so it's a major issue in the Town of Eliot and the people have the right to speak on in some particular way; whatever that way is, but to do it sanely; that he guesses it's the Charter...it's almost impossible to talk about some subjects because we're handcuffed in ways. He said that they can come to him and then he has to go into executive session to talk about it, where even people have point and counterpoint to things - that they want information and we can't provide it because we can't

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

provide it out of executive session. He said that he's been asked numerous times and his reply is that he is aware of it and he can't speak on it; that that's what he's said for weeks now.

7:48 PM Mr. Lee said that he has not misled this SB in five years and, when he says April 11th he wants to put an end to it, he means April 11th he wants to put an end to it; that he's not trying to postpone it, he's not trying to dodge it, he's not trying to put lipstick on a pig, he wants to deal with it; that he also needs to have some time, with Mr. Moulton not on vacation, to address these things with him and to have him available to be in that room because he has a right to be in that room. He added that he will check with the attorney if other accusers can be in that room; that he doesn't think so but he will get a legal opinion so that the SB doesn't have any questions about what can happen in an executive session and what cannot.

Mr. McPherson said that you have to remember that we still have a Charter, we can't change the Charter; that if we're going to change the Charter, we're going to have to do it as a Board.

Mr. Murphy said not only as a Board but as a Town; that the Town votes for the Charter.

7:49 PM Mr. (Michael) Moynahan said that he just wanted to point out, earlier, that the first personnel name was mentioned by the Town Manager not from any of the public or the SB members. He added that, second, the Charter or personnel policy clearly state, if there is something being done improperly, it is the responsibility of the people sitting here; that there are no second guesses with that, so, that means that someone's got to do their job that, if there's a conflict of interest, and it's instant and immediate, it's not negotiable; that he just wanted to remind everybody of that.

Mr. Lee said that, in fact, that it's not on the agenda but he believes the Board could, in fact, make a motion, now, to cease any conflict of interest and make some sort of a statement on it but he thinks you ought to go into executive session, wait until April 11th, the world won't stop, and we'll deal with it in there and come out and deal with it publicly and transparently.

7:50 PM Mr. Murphy said that he has been very much interested in Eliot affairs, of course, for many years and he's been surprised in recent years at how rarely anyone in the citizens come to him and speak to him; that it's only like in the last year-and-a-half that he's begun hearing things, which astounded him, and he is beginning to hear many more of them.

Ms. (Donna) Murphy said that the Charter is clear on conflict of interest; that she doesn't know anyone in this Town that she speaks to that hasn't been clear on

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

what the relationship is about what everybody in this room is talking about. She added that it has never been brought forth to this Board and stated – that relationship, which she understands is required. She added that her question is that these are the people that are responsible for this; that the only one she hears speaking up and bringing this forth is Mr. McPherson; that that is your responsibility if you're looking at these conflicts; that this has been well-known for years and, yet, it's never been addressed. She said that she would ask this Board to take a look at the many conflicts that are of concern.

7:52 PM Mr. Murphy said that, regarding discussing matters of this kind, we walk through very narrow doors all the time and can do only certain things.

Ms. (Donna) Murphy said that her expectation, as a citizen, would be any department head that has any conflict and is making financial decisions or engaging any vendor to work and take taxpayer money, that they disclose publicly any conflict of interest; that she comes to every Board meeting, doing that for over 10 years, and she has never heard this particular department head come forth and publicly state what his relationship is and she would have expected people in charge...this is a well-known relationship and she would find it hard to believe that this Board and the Town Manager wasn't aware of it and why it hasn't been questioned in the past.

7:53 PM Mr. Murphy said that the SB has to be careful not to become the Town Manager by State law and, in fact, we cannot tell a department head what to do; that it's only when it's recognized, or suspected, that there is a problem that we can set up a committee and investigate, etc.; that that takes time and you have to be very careful.

Mr. Moynahan said that, as a point of fact, we moved to a Town Manager-form of government for this reason, so that the SB did not have to deal with personnel; that the Town Manager is responsible for anyone, whether they do a poor job or a good job or they're breaking rules; that the pressure from this Board is not from us, the pressure from this Board should be to management; that that's how the structure works.

7:54 PM Mr. Orestis said that it seems to him that we've brought up the issue, there are concerns among the residents of this Town; that the issue is now with the Town Manager, who has stated that we are going to come to a resolution at the next meeting where we will go into executive session to talk about a personnel matter, coming back out here and, using the Town Manager's words, to be open and transparent with everyone. He added that seems, at this point, the plan we are working towards resolution; that he thinks that's as much information that we can give at this point; that he knows that's probably not what everyone wants to hear, at this point, but we are working towards a resolution.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

7:56 PM Ms. Lentz said, addressing what Mr. Orestis just said, is good, in theory, and she agrees with him, asking what happened when they went into executive session last week with that young man; that there was nothing reported to the public.

Mr. Lee said that, first off, after you go into executive session, technically speaking based on the Charter, when you come out you aren't supposed to take action but put it on the next agenda; that the absence of anything on this agenda coming out of that executive session means that there was no resolution or action to be taken; that there's nothing on here because there was no consensus, necessarily, coming out of that executive session as if an action was to be taken.

Ms. Lentz asked if the Town Manager didn't feel that the public is entitled to know why that young man wanted it to go public and had something to state.

Mr. Lee said that he did state it publicly, wrongly, but he did state it publicly.

There was disagreement from the public; that he said he would like it to go public but that was all.

7:57 PM Mr. Lee said that he did get to speak quite exhaustively in the executive session to the Board directly, which he believes is a violation of the Charter; that if you want him to look after the Charter, he would have a lot of things to be concerned about from a lot of people. He added that we'll take one at a time and, on April 11th, we'll deal with the one that is sitting in front of us that everybody's discussing.

Ms. Lentz said that it seems like the last one was being pushed under the rug.

Mr. Lee asked if that was because something bad was supposed to come out of it.

Ms. Lentz said no; that she feels, as a citizen of Eliot, that that man had a problem with this Town and she doesn't see why...if it was settled, wonderful, then tell us; that if he was that concerned, and he came here two or three times, and something should have been resolved and told to us; that you just go into executive session and, poof, we never hear about it again.

7:58 PM Mr. Murphy said that there are laws and we're not allowed to talk about private things; that when they are in executive session, they are private and personal things.

Mr. Lee said that he could bring an attorney in here and have him explain to you Personnel Law; that the reason you hire a Town Manager, in part, is to keep you out of legal trouble and he's trying to do that tonight.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Mr. Orestis said that it is walking that line of what we're allowed to talk about in public and report that information without getting into legal trouble; that he can understand how it can feel awful when there is someone sitting here for three meetings, we go into executive session, and you hear nothing about it; that there are matters that are talked about that could put us, as a Town, in legal trouble that we can't bring out to the public. He added that it's navigating what information we can give out and what information we can't; that he's still working through that process and trying to figure out exactly what we can and can't do.

7:59 PM Ms. Lentz said that she hopes what you are going to do on the 11th comes through to this room.

Mr. Lee said that he said that very thing; that it will be public and transparent when it's resolved.

Ms. Saurman said that we've heard two dates tonight; that one is January 11th and the SB has been waiting for that answer of where that \$5,000 went; that the second date we heard was from Mr. Lee, which is the 11th; that it can't be any clearer to anybody in this room, or to folks watching at home, that if this is not addressed on the 11th, there are going to be a lot of people who have a lot of questions about and a lot of answers; that this particular citizen is willing to wait, we've got some dates, somebody has been waiting for an answer since January 11th and that's a long time to look for \$5,000; that we have a Town Manager who says that the answers will be available to us on April 11th. She said that she is willing to wait and hold people to their public word at this meeting.

8:01 PM Mr. Lee said that, coming up next, we have an executive session on two things – a personnel matter and labor. He added that, because Mr. Moulton is on vacation....here, we do have 'this' big packet and he just wants to reveal to people a little something to maybe put you a little bit at peace, here; that he can't discuss much about what's in it but the executive session packet related to the safety stuff, the MDOL citation, also the item from that young man who came here two or three meetings, etc, has all been put together; that we have information 'that' thick that has been presented to the Board. He asked people to please trust him; that he has not misled people; that he appreciates the thoughts, it does need to be resolved and, if he may say, he's fed up, too.

8:02 PM Mr. (Bud) Moynahan asked if, in executive session, you take minutes.

Mr. Lee said no; that it is prohibited and that, if you do, it can become a public document.

Mr. Moynahan said that that's why he's asking, because that's the transparency of it; that personnel matters he understands and the public doesn't need to know,

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

unless it's going against the Charter for some reason. He added that nothing was recorded at that executive session so nothing was transparent at that executive session.

8:03 PM Mr. Lee said that executive sessions are for the purpose of not making it public because people have protected rights; that it's always been advised by every municipal attorney in the universe that you do not take minutes in executive session because it thwarts the very purpose of going into executive session, which is that it needs to be kept private because two parties have rights – one is the accuser and one is the accused. He added that it just doesn't work the way people think it works; that he has been doing this for a long time and he thinks they need to believe him that he's trying to keep everyone out of legal trouble in trying to resolve this issue, and it's not easy.

8:05 PM Mr. Murphy said that there are 38 different places in State law showing what this Board, or many citizens, cannot talk about and cannot disclose. He added that several options can be formulated in executive session but it is not decided until we are out of executive session and we don't know what it might be until a Board member makes a motion.

8:06 PM Mr. Lee said that there are a number of things – for example, if we were negotiating to buy a piece of land with TIF money, we would do that in executive session and asked if people would be surprised about negotiating a price in executive session; additionally, should we negotiate a labor contract publicly and have you all involved. He added that there are certain things under 1 M.R.S.A. §405 A., B., C., D., etc. that are just prohibited information that have to be done in executive session; however, please note, if there is consensus or if leaving that executive session there's a lot of nodding about thinking we've got problems, you do come out here and the outcome of the executive session is made public, not the messy means of how we made sausage but that a sausage has been made or a sausage is going to be destroyed; that you do not do all of that in public and he's trying to make you believe that those things are legit, and not for any other reason, and he did give his word about April 11th and he assures you he wants this resolved.

L. Selectmen's Report: Seeking Committee Members

There were no Selectmen's reports tonight.

M. Executive Session

8:07 PM Mr. Murphy moved, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405 D Labor Negotiations and 1 M.R.S.A. §405 A Personnel Matters.

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

DISCUSSION

Mr. Lee said that, if the person is not present, we cannot do personnel matters.

Mr. Moynahan said that you can't go into one executive session for multiple purposes; that you can go into one, then come out and go into another one because it's a different MRSA.

Mr. McPherson said that he was going to state, now, that two weeks from now a personnel matter...that this is the third time he has asked and it's not been on the agenda, and we both know what he's talking about, and it still hasn't been addressed and, so, it's going to go another two weeks; reiterating that this is the third time he asked for a session that he and Mr. Lee both know what he wants to talk about and it hasn't happened; that he's not happy about it.

Mr. Lee said that he was clear on that point.

DISCUSSION ENDED

Mr. Murphy amended his motion at this time.

8:10 PM Mr. Murphy moved, second by Mr. Orestis, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405 D Labor Negotiations.

Roll Call Vote:

Mr. Donhauser - Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

8:36 PM Out of executive session

There was no action.

N. Adjourn

There was a motion and second to adjourn the meeting at 8:37 PM.

VOTE

4-0

Motion approved

SELECT BOARD MEETING
March 28, 2019 5:30PM (continued)

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Richard Donhauser, Secretary

Date approved: June 27, 2019