

SELECT BOARD MEETING

April 11, 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 (5:36 arrival) and Mr. McPherson.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Public Comment:

5:31 PM Ms. (Cindy) Lentz, Creek Crossing, said that she would like the SB to explain what happened in this Town last Friday that we had to have a State person come down.

Mr. Lee said that, on Friday, they were setting a septic tank at the Transfer Station and a call was made by someone in to the Department of Labor (DOL) sensing that they may be violating a trenching rule. He added that the DOL person came down, did an inspection, met with himself and Mr. Donhauser (DOL wanted a Selectman present); that he hasn't received, yet, whether it will be cited and, at this point, he doesn't have a lot to work on until he hears more from the DOL lady who came down. He said that she is considering whether a citation is in order.

5:33 PM Ms. (Kathy) Vetter said that, through the Chair, she would like to ask Mr. Lee a question. She said that she wrote a letter January 28th and brought it down to Town Hall addressed to Mr. Lee and the Selectmen about the village condition, specifically about a blue house that is dilapidated; that something needs to happen with that – about some shrubs that stick out in the road. She added that, on a couple of occasions, she has contacted Mr. Moulton and she has heard nothing from him; that the recent drain system that was put in down there – the roads – they are in horrible shape; that there are, still, orange pylons on people's lawns, they've destroyed people's lawns, and nothing has been done about it. She added that she has heard nothing from Mr. Lee or the SB about this.

Mr. Lee said that he did speak to Mr. Moulton about the letter on her behalf and he believes that his plan is to be down there and doing more cleaning up when he returns from vacation.

5:35 PM Ms. Vetter said that she also has a letter that was given to her by a friend and asked if she could read it on her behalf at tonight's meeting. She read the letter from Ms. (Diane) Holt, dated April 3, 2019 (letter attached).

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5:40 PM Mr. Murphy said that this Board has been in receipt of that very letter, and been pondered, and, as a result of that, he thought this may be the time to make an action that we have considered.

Mr. Murphy moved, second by Mr. McPherson, that be it resolved that the Eliot Select Board instruct the Town Manager, in his capacity as Personnel Director, to conduct an internal investigation into the conflicts of interest as it may pertain to the Public Works Director, as required by our Charter. Such investigation to include at least the Police Chief.

DISCUSSION

5:42 PM Ms. Lentz said that she believed somebody independent and not connected with the Town should do this.

Mr. Murphy said that that may be under consideration but this Board will...

Ms. Lentz asked if we will be notified, will the public know who is doing this.

Mr. Murphy said that he didn't know because it hasn't been decided yet; that undoubtedly, they will with something as important as this; that they should be aware of who is doing it, and why, but that hasn't been set up yet.

Ms. Lentz said that she understood that and, again, strongly suggested it be an independent person.

5:43 PM Ms. (Donna) Murphy, Hanscom Road, said that she fully agreed with Ms. Lentz; that given the level that the Town Manager has ignored this, and the length of time, she doesn't trust, as a citizen, an internal investigation; that she thinks this needs to be an independent investigation to look to see how deep this goes.

Mr. (Robert) Pomerleau, Cedar Road, said that he would like to reinforce the comments he's heard, so far; that it's critically important that the SB maintain confidence of the citizens of this Town and the integrity of this government. He added that, because of the implications of more than one level of responsibility and malfeasance with this conflict of interest issue, that you'd be hard-pressed to have confidence in the public if you tried to conduct an internal investigation with only your internal resources. He said that he would strongly urge the SB to get an outside, independent investigator, much as we did when we had the PB issue; that we hired someone from outside to investigate and do the report so that nobody internally could be accused of bias in the investigation, or whitewashing it, or sweeping it under the rug. He reiterated for the SB to protect themselves, keep the confidence of the public, and get yourselves and independent, outside investigator.

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5:44 PM

Mr. (Mike) Dupuis, owner of Sturgeon Creek Enterprises and resident at Broadfields Road, said that he doesn't know if it's the appropriate time but not one person has come forward to him to ask him about the facts pertaining to a public segment that was made by Mike Moynahan, along with John Adams (representative of Morgridge & Son), in reference to 34 Blueberry Lane. He added that he doesn't know if this is the proper time to give facts that nobody has asked him but, more important than that, he had never any interest in working for the Town; that he was approached one night, at an emergency meeting, by Bill Shapleigh and Don Sylvester and that's how he got his start with this Town 21 years ago. He explained that he's a licensed operator, he has his Masters in Plumbing, Mechanical, Odor-Burners, and Electrical; that his operator's license allows him to operate a sewer station in this Town and that is something that is not had by a lot of people. He said that that was his introduction to working for the Town and he has worked loyally to everything he's done for the Town; that he has disclosed, publicly, at any time there was a conflict of interest once Mr. Moulton became Director of the Highway Department; that Mr. Moulton lives with his daughter, therefore, there is a conflict of interest there. He said that he has never, ever, at any time, taken it upon himself to make personal gains through working for this Town and he's kind of upset about the fact that it's laid out there and not one person came forward to ask him any of the facts that have been laid out...and shame on all of you for that. In reference to 34 Blueberry Lane, he that Mr. LaFrance contacted him on a Saturday mid-morning; that Mr. LaFrance's system was frozen up again and this is the second year in a row that this occurred. He added that Mr. LaFrance took no steps to fix the situation that was causing the problem, which was the watershed that was dumping a large amount of water on his sewer station, driving the frost into the ground, and causing the pipe to freeze. He reiterated that Mr. LaFrance did nothing at all for two years to fix that problem. He explained that we worked there Saturday, Sunday, and all day Monday to try to resolve his problem and the only way we could fix the situation was to dig at the sewer station, at his pump station, on his lawn; that he would not give us permission to do so; he refused to let us dig and was going to let it thaw. He further said that Mr. LaFrance came before the SB and asked them to get involved and we did; that after that meeting Mr. Lee and Mr. Moulton called him and asked him if he would work for the Town to resolve this issue and he said that he would; that he had no problem with Mr. LaFrance and would do his best to get the situation fixed. He said that, in reference to John Adams reporting in for L. W. Morgridge, three times during scheduled cleanings, six men all in safety gear and hanging around ready to do an entry to clean a wet-well that's 32 feet deep, John Adams cancelled...three times. He explained that two trucks are needed for a man to be safe in the confined space down there to get the grit out of that wet-well; that three times a crew of six men were cancelled out, standing around, and waiting hours for the trucks to get there. He added that Mr. Moulton did it right; that we contacted Jeremy (Hussey Septic); that Mr. Adams wanted to come back in and was sorry; that we kept Jeremy and only took one truck from Morgridge.

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He said that, at the following clean-up, Morgridge didn't show up again; that that was when Sturgeon Creek purchased their own vacuum truck; that we still use Jeremy from Hussey's Septic System; that we have to have back-ups and work together, we have no room for people who work apart. He clarified that all of you who think that his relationship with Mr. Moulton is the reason he works for the Town, you are wrong and should be ashamed of yourselves.

5:49 PM Mr. (Kevin) Goodwin, DPW employee, said that he would like to ask Mr. Dupuis how much PPE we had on when we went into a septic station and dismantled the pumps, where were our rubber boots, our Tyvek suits, rubber gloves, air monitoring, asking again where was any of it if you are so safe worried about safety. He discussed the negative impact to himself and his concern for impacts to his family going down without proper protection.

Mr. (Brian) Holt added that he has respiratory problems from being in that environment and could have issues down the road; that that is why he left the Town Highway Department. He also discussed the level of stress he was feeling from department leadership.

5:51 PM Mr. Goodwin said that he went back after the first day to ask Mr. Moulton if that was a permitted confined space and Mr. Moulton said no because it was a State job; that he felt taken advantage of by Mr. Dupuis that a permit was signed by himself without his knowledge.

5:52 PM Mr. Lee said that he tends to agree with the folks who have spoken that, probably, having it be an independent investigation would be in the best interests of everybody.

Mr. McPherson said that, to form that investigation, his suggestion is to still include Chief Moya; that he thinks that's an appropriate point to start with, and go by his (Chief Moya) recommendations so this is transparent; that he is the Chief of Police in this Town and he believes the Chief should have a big part of the say in how this is investigated.

Mr. Murphy said that he would like to withdraw his motion and alter it slightly to change 'internal' to external'; that he thinks that one-word change will be sufficient. He asked for the SB's input.

The original motion:

Mr. Murphy moved, second by Mr. McPherson, that be it resolved that the Eliot Select Board instruct the Town Manager, in his capacity as Personnel Director, to conduct an internal investigation into the conflicts of interest as it may pertain to the Public Works Director, as required by our Charter. Such investigation to include at least the Police Chief.

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Amended motion:

Mr. Murphy moved, that it be resolved that the Eliot Select Board instruct the Town Manager, in his capacity as Personnel Director, to initiate an external, independent investigation into the conflicts of interest as it may pertain to the Public Works Director. Such investigation to include Police Chief Moya

FURTHER DISCUSSION TO AMENDED WORDING

5:54 PM Ms. (Janet) Saurman, Park Street, suggested a phrasing – ‘to be initiated and overseen by the Chief of Police’.

This would replace ‘Town Manager’.

Mr. Murphy asked if ‘conflicts of interest’ was too narrow.

5:55 PM Mr. (Jim) Schliestett, Main Street, suggested the words ‘including but not limited to’ and also ‘including but not limited to the Public Works Director’.

Mr. Donhauser asked if it would be appropriate to take a recess to discuss what the motion will be, collectively.

Mr. Murphy agreed that that was a good idea.

The SB members agreed.

5:58 PM **Chairman Murphy declared a recess to resolve the wording of this motion.**

The SB discussed the wording of the motion in the public venue.

6:17 PM **Chairman Murphy reconvened the SB meeting.**

Motion out of public SB discussion:

Mr. Donhauser moved, second by Mr. Murphy, that it be resolved that the Eliot Select Board initiate an external, independent investigation to be overseen by Eliot Police Chief Moya for the purpose of but not limited to:

- 1) conflicts of interest,**
- 2) improprieties or other violations of:**
 - a) the Town Charter**
 - b) the Town Personnel Policy, and**
 - c) other pertinent regulations or statutes.**

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DISCUSSION

6:18 PM Mr. Donhauser said that we tried to make this motion as broad as possible to allow an investigator, whomever that may be and overseen by Chief Moya, to go in any direction and review any employee, not limiting it to the Department of Public Works or any department; that it's an open-ended resolution that allows the investigator to determine his own area of investigation; that that was the thought behind this motion.

Mr. Murphy said that it was our thought that Chief Moya would recognize when it needed to come to an end; that we were trying to figure out how this would be stopped but Chief Moya is a pretty experienced man to know when he is spinning his wheels or when there's no more to be found.

6:19 PM Mr. Schliestett said that it seems it might be useful if it mentioned a starting point by individual.

Mr. Donhauser said that we tried not to make it specific to an individual but to anyone employed by the Town of Eliot. After further discussion, he asked for clarification from Mr. Schliestett.

Mr. Schliestett said that it's not so much about a specific individual so much as a starting point, such as what caused this.

Mr. Murphy suggested that it may be Ms. Holt's letter, which was just read.

Mr. Donhauser reiterated that he thinks we want to make this as broad as possible to allow an independent investigator not be directed and to go anywhere he or she wants to that may be wished, and for any amount of time. He added that he did understand the speaker's concern, adding that he thought the point of this motion is any violation of the Town Charter, Personnel Policy, or any regulation or State statute. He reiterated that we intentionally made it as broad as possible; that the more specific you make it, the more range you put on an investigator. He said that he thought that was a fair assessment and asked for the speaker's response.

6:21 PM Mr. Schliestett said that he appreciates that it's made broad; that he just thought there was something, attaching the letter, for example; anything that would indicate a starting point.

Mr. Lee said that he thinks it will be self-evident to Chief Moya how this began and how the investigator should start out because we have active concerns with one department already. He added that he thinks the motion is wise in the sense that he had in mind that there may be other conflicts of interest in other departments and we should get them all on the table, now, because the Charter

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commands it and, obviously, people are wanting to see if there are other violations.

6:22 PM Mr. Murphy asked where the money would come from to pay for this investigation.

Mr. Lee said that he believed that last time it came out of contingency.

6:23 PM Mr. Pomerleau said that he can certainly appreciate your efforts to satisfy the concerns that there may be other areas other than the complaint that was filed; that he's not sure you are on solid legal ground, in the absence of a complaint, to be investigating anybody; that it begins to take on the appearance of a witch hunt. He suggested that you might want to consult with the attorney as to what your limits ought to be on this investigation and it certainly should commence with an expressed complaint filed against the Public Works Department. He said that you may authorize the investigator to pursue other avenues that may be divulged in the course of that investigation; but to just broadly investigate any conflict they may find is a massive undertaking where they can look at every employee and every financial transaction that's ever been done in Town; that it could drag out forever. He said that you have a specific complaint and he believes that should be the foundation of this complaint, and not make it so broad.

6:25 PM Ms. Saurman said that, if she were a Town employee right now, and it's clear through the letter that was read tonight by Ms. Vetter that there is a department that some questions want to be asked about, and you've just said investigate anybody wherever you find it, she is thinking she can't imagine how that will be done and will employees go home tonight wondering if they are going to be the ones investigated where you don't have any complaints against anyone else right now; that she thinks some loyalty to the people on whom you haven't gotten complaints and seem to be coming to work every day and doing their job where , with this one, you do have an ongoing history of complaints....she thinks it's a real disservice to the whole group.

Mr. Murphy said that he thinks the Board will discuss this with Chief Moya quite a bit; that he will have a say in where this will go.

6:26 PM Mr. Donhauser said that he thinks the comments from the public make a lot of sense and, perhaps, we should include the starting point, as recently suggested, as centered around the Department of Public Works where the complaint has been lodged. He added that we could leave it open-ended so that it can actually leave the Department of Public Works, if it takes an investigator in that direction, but we should, perhaps, modify this amendment to the point that it's as a result of a complaint filed against the Department of Public Works. He said that he's prepared to amend that motion, which would just add some wording to the effect

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that the motion would read 'as a result of a complaint of the Department of Public Works'.

6:27 PM Mr. McPherson said that he agreed with modifying the amendment and suggested we attach the letter.

Mr. Orestis also agreed; that he thinks the idea in our brief workshop, here, was to make sure that we didn't limit the scope of the investigation or handcuff it. He added that he thought providing that starting point is a great idea and thinks 'to include but not be limited to', as some language mentioned earlier, is also a good way to start or amend the motion.

Mr. Murphy said that that sounds like a good idea.

6:28 PM Ms. (Donna) Murphy said that this Board should also note that included in that letter were some concerns regarding the Town Manager's behavior; so, perhaps, this should include the Town Manager and the DPW Director.

Mr. Donhauser said that that was a good comment, great observation, and now we're back to how broad we want to make this thing. He added that he thinks the point, and he thinks it's a great point, is that we need to start somewhere but let it go anywhere it needs to go. He added that, by Mr. Orestis saying 'but not limited to', it can actually go beyond and he thinks that would address the speaker's concern; that the purpose of this motion, again, was to be as broad as possible. He said that there's a number of people in here who all have great ideas, and he's sure you all have your own opinion, but we'll never agree on what this motion is saying; that he thinks that, if we leave it broad enough, an investigator, rightfully so, can leave the Department of Public Works and, as a result of some finding that that person has found, can leave that department and go to another department; that he thinks that's what this motion does. He said that that's the intent, and he's not an attorney, but that was the intent; that he thinks we need to have an investigation, clearly; we need to have it be independent, which is what this says; that he thinks it needs to start some place, which was added to it; that he also thinks it should go be able to go anywhere it needs to go, but he doesn't think we need to start naming every individual. He added that that letter will be attached to that complaint so it's going to be known by the investigation person.

6:30 PM Mr. Murphy said that this Board may be culpable, also, in that we oversee the management of the Town and why didn't we catch on to this earlier; that he would like to say that no one, except Mr. Moynahan saying something to him once but woefully unspecific regarding his concern, in Town in the last several years has come to him with a specific complaint until this very specific letter. Ms. Vetter said that she still wanted to know if the SB has a copy of the letter she brought to the Town Hall on January 28th, which was a specific complaint.

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Mr. Lee said that we do have her letter.

Mr. Donhauser amended his motion:

6:33 PM **Mr. Donhauser moved, second by Mr. Murphy, that it be resolved that the Eliot Select Board initiate an external, independent investigation to be overseen by Eliot Police Chief, Chief Moya, with respect to, but not limited to, a complaint filed against the Department of Public Works by Diane Holt for the purpose of 1) Conflict of interest, 2) Improprieties or other violations of the Town Charter, the Town Personnel Policy, and/or other pertinent regulations or statutes.**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve amended motion.

6:37 PM Mr. Donhauser said that he just wanted to make a comment to the public that are here; that he thinks that every member of this Board wants to do the right thing at the right time and, with the best information we have at this moment, we made a just effort to try to resolve an ongoing problem that's happening in the Town; that it's not that anyone is trying to ignore it and he thinks that we're all going in the right direction. He added that he thinks this independent investigation is going to do the proper actions and find a good solution to what our problems are; that the investigation should take place and whatever the result is, then we need to deal with that result, whatever it may be.

6:38 PM Mr. Murphy asked what if Chief Moya chooses not to take on this role for his own good and sufficient reasons.

Mr. McPherson said that it's his guess that Chief Moya will have somebody else investigate it, because he is the Chief in this Town, and to oversee it; that he's quite sure that's the way he would do it. He added that he trusts Chief Moya and thinks he's the perfect candidate for that and that we allow him to appoint somebody to investigate this while he oversees it.

6:39 PM Ms. (Wendy) Rawski, Town Clerk, kindly requested that the SB consider, because we have a lovely person who has applied to be a member of the PB and

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she doesn't want her to leave before we can do that, taking Item G. on the agenda out of order so this lovely lady can have her evening back.

The SB agreed.

G. Committee Resignations and Appointments

6:40 PM 1) Planning Board: Appointment – Carmela Braun

Ms. (Carmela) Braun was present for this appointment.

Ms. Rawski said that this is to fill an unexpired term (regular member) to June 2021.

Mr. Lytle moved, second by Mr. Donhauser, that the Select Board approve the application of Carmela Braun to a regular position on the Planning Board to fill out a full term, ending June 2021.

DISCUSSION

6:42 PM Mr. Orestis said that, typically in this situation, we'd have Ms. Braun come up and tell us a little bit about why she wants to join the PB and her background; that he would like to do that because, as we've heard over and over again, this PB position is very intensive and it takes a long time for somebody to get up to speed. He added that, not that it's a no, but he doesn't see any prior board experience or relevant work experience that's listed on the application. He invited Ms. Braun to tell the SB a little about herself.

Ms. Braun said that she is a new resident and has been here about 2 ½ years; that she formerly lived in York for about 40 years; that she raised her children in York and is currently a widow. She added that she feels that Eliot has the potential for growth and she'd like to see that happen. She added that, regarding her background, she is a retired banker, having been a commercial loan officer, consumer loan officer, and mortgage officer; so, in that respect, she does have the experience, as far as rules and regulations, and the rules of the Town of Eliot she is sure she can pick them up with all the right guidance, and so forth.

There was support for this appointment from the SB members.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

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

Unanimous vote to approve motion.

F. Approval of Minutes of Previous Meeting(s)

6:47 PM Motion by Mr. Donhauser, second by Mr. Lytle, to approve the minutes of January 24, 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.

H. Department Head/Committee Reports

6:48 PM 1) TIF Committee: Request for Liaison – Richard Donhauser

This is regarding a request from the TIF Committee for a SB liaison, specifically Mr. Donhauser.

Mr. Donhauser said that he's been attending the TIF Meetings and he would be more than happy to. He added that, initially, he owned property on Route 236 – two self-storage facilities and a 5-acre parcel directly across from the Eliot Commons; that he no longer owns those properties, or any properties in Eliot, other than his home on Goodwin Road; that he owns one other property that he has sold that he still holds a mortgage on, on Wisteria Lane. He said that he has always been, and always will be, pro-business and, so, he comes from that perspective; that his purpose is not to influence but only there to answer any questions; that he's not pushing any type of project on them, as that is not his intent, but he does have extensive knowledge of the TIF law and was the Chairman of the original TIF, when we formed the TIF back in 2009; that he's been part of the whole process and knows the trials and tribulations of what we're trying to do with this money. He added that he would like to be the liaison but he doesn't think that prohibits anyone else and he would step back if another Board

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member felt strongly about being the liaison; that he would still attend the meetings.

6:51 PM Mr. Lytle moved, second by Mr. McPherson, that the Select Board appoint Selectman Donhauser as the official liaison to the TIF Implementation Committee.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

**6:52 PM 2) TIF Committee: Removal of Michael Moynahan from Committee:
Attendance**

This was regarding a request to remove Mr. Mike Moynahan as a member of the TIF Committee due to lack of attendance.

Mr. McPherson moved, second by Mr. Donhauser, that the Select Board remove Mr. (Michael) Moynahan as a member of the TIF Implementation Committee due to lack of attendance.

DISCUSSION

Mr. Murphy requested that there be more specific information concerning the lack of attendance – over what period of time, how many meetings missed, and for what reason.

Mr. Dupuis, TIF Committee Chair, said that Mr. Moynahan did attend our first organizational meeting; that he was voted to the position of Vice Chair and shortly after that he had contacted Mr. Dupuis to say that, due to personal reasons that had just come forth, he would not be able to attend the meetings anymore. He added that we've had ten meetings since then; that Mr. Moynahan has not, even though requested to, submitted a letter of resignation.

DISCUSSION ENDED

Roll Call Vote:

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

Unanimous vote to approve motion.

6:54 PM Mr. Lee said that, just today, he spoke with Ms. Cepetelli, Chair for Aging-in-Place Committee (AIP), and she asked him if they could request Mr. Lytle be their liaison, if he would be willing to serve.

Mr. Lytle said that he would be willing to be the AIP Committee liaison.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board appoint Selectman Lytle to the Aging-in-Place Committee.

Roll Call Vote:

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

Unanimous vote to approve motion.

I. Administrative Department

6:56 PM 1) Town Manager Report(s)

There was no discussion regarding this report.

a) Minor Repairs to Town Office - Funding

Mr. Lee said that there is a sheet in your packets on some small projects we're getting some pricing on; that he's not sure we have the money to do much, or any of them, but we won't know unless we get some pricing. He added that he's trying to get some pricing on these things to see if we can find some money to do some basic fix-ups around here before things get worse. He added that we have another opportunity now that the old boiler is out to use that area for storage, which is badly needed, so he wants to get some shelving in to get boxes that are up high down lower so they are safe to handle.

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6:58 PM b) Staples Fence Update

This was a memo from Attorney Brandwein regarding the Staples' Fence issue; that the court has had to schedule a second conference call due to some procedural issues and that Attorney Brandwein will let Mr. Lee know when that has been scheduled.

7:00 PM Mr. Lee discussed an update regarding collaboration meetings he attends with MSAD #35 and South Berwick; that he recently got an update from the school on which town is going to be paying what taxes in support of the school budget and this year South Berwick is going to be picking up a substantially greater portion of the funding where, normally, we have been the primary contributor. He added that some of that is due to valuation changes, population changes, etc.; that the good news is that we're only going to be on the hook for about \$187,000 where last year it was about \$370,000.

7:01 PM Mr. Lee said that he wanted to clarify some comments from the last meeting through a memo he wrote regarding Kittery Dispatch Service, which he read:

"I think it is important to clarify some recent comments and press reports about the quality of Kittery dispatch. The recent newspaper reports of Eliot's concerns were not fully reflective of our true perception of our contracted dispatch service.

Kittery has always offered and continues to offer its own residents and Eliot residents high-quality dispatching. The point of the recent criticism from Eliot was not about the core duties they perform which are admirable, but rather about some issues at the periphery which Kittery officials have now long acknowledged as improvements they are committed to make. Some existing policies need updating, we collectively need to decide proper protocols to apply to both towns, implement the new EFD / EMD mandates, and all chip in to make it even better. This is not and never was about the dispatchers, but rather us in management being clear on each other's protocols and expectation.

There have been some very positive meetings over the last two or three months between the two towns' officials, including just yesterday, where we have more fully developed a timeframe and steps to be taken to clarify what is to be expected from the dispatchers in Kittery. Both towns are committed to corrective actions to make the dispatching service not just good, but great. As discussed yesterday, it is Eliot's intent to stay with Kittery for at least three more years, because we have confidence in the process Kittery is forging under the new Town Manager and new Police Chief."

7:03 PM Mr. Lee gave an update on the Town Hall 'moose'. He said that he recently had a staff meeting in which they discussed the 'moose' and its need for either removal or taxidermy; that he actually wrote an RFP, with a bunch of pictures. He added that some of the staff had some mixed feelings about the 'moose'; that the majority of the feelings was that it may be time to retire the 'moose'; that, certainly, we don't want to throw away the 'moose' because it has value,

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suggesting the possibility of another location, possibly the Grange. He added that, before he gets pricing on taxidermy, he wanted to check back with the SB to see if they wanted him to go forward with an estimated cost to have this thing cleaned and repaired.

7:04 PM Mr. Murphy said that his personal feeling was yes, because it's been a part of Eliot's history.

Mr. Orestis asked Mr. Lee if he could be more specific on the staff comments regarding their feelings about the 'moose'. He said that he's in agreement that we should at least take a look at the cost but he was curious about staff feelings.

Mr. Lee said that, frankly, some people just have an opposition to seeing dead animals hung on the wall; that others fear that one day that may come off the wall - it is probably very heavy, it is leaning out away from the wall, and he wouldn't sit there; that there was some skepticism that it could even be fixed. He said that he just wanted to know if the SB wanted him to go forward with getting pricing.

The SB agreed **by consensus** for the Town Manager to get pricing.

7:05 PM Ms. Saurman said that the Town Manager, just 10 minutes ago, talked about the fact that we may not be able to find money to fix the doors and the frames (in the Town Hall) and we're now talking about, perhaps, finding money to fix the 'moose'; that she thinks we ought to get our priorities straight; if we have doors and sills that are rotting and we're worried about where that money's coming from she just hopes that, if it comes down to the 'moose' or the doors, you'll fix the doors.

Mr. Orestis said 10 times out of 10.

7:06 PM Mr. Donhauser asked, with respect to the earlier comment made by Mr. Lee on the allocation between South Berwick and Eliot, is that the estimated revenue or expenditure side of the budget for this coming year; that he just wants to know if it affects the budget for the upcoming budget.

Mr. Lee said that it doesn't affect our municipal budget but it does affect the overall tax commitment.

Mr. Murphy added that it affects the school budget.

7:07 PM Mr. Lee explained that for about every \$10,000 that we raise to fund something is about a penny on the tax rate and, so, if you think about how we had \$370,000 assessed on us last year, that would have been 37 cents on the tax rate; that if you think about what is happening this year where we've gone down to \$187,000+,

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instead of 37 cents, we might be looking at 18 cents or 19 cents coming out of the school. He said that they did get an increased share for special education but there is still a tax increase, overall. He added that the only explanation he got was that, due to enrollment, changes in valuation, special ed; that he just wanted to let the SB know that this year, unlike the last couple, we are not the lion's share.

7:09 PM Mr. (Brad) Hughes, State Road, asked if he understood that Mr. Lee was saying that our usual annual contribution to the school of about \$9,000,000 is now \$150,000.

Mr. Lee said no; that what he is saying is that the proposed increase that we will have to build into the tax commitment, instead of being around \$350,000 to \$370,000 like it's been the last couple of years, has gone down to about half of that.

Mr. Hughes asked if we were still looking at a \$9,000,000 expenditure.

Mr. Lee said yes. He added that he's just saying that the increase isn't as great as it normally is.

Mr. Hughes asked if Mr. Lee knew why that is.

Mr. Lee said that, as he stated, it has something to do with special education enrollment, valuation changes; that it is not due to a change in the formula.

Mr. Hughes said that he knows that the mil rate went down, in terms of the allocation.

7:10 PM Mr. Lee agreed, saying that it went down to 2.82 instead of 8.28; that that is part of it.

Mr. Hughes commented that he was concerned that the people in the room were going to think that our tax commitment to the school system was going to go down dramatically and it really isn't; that the increase is not going to be as big.

Mr. Lee agreed.

7:11 PM **2) Finalize Town Meeting Warrant**

Mr. Lee said that he asked our Town Clerk to stay for this and thought she could guide us through this process. He added that there are two things we need to do; that one is to finalize the Annual Town Meeting Election/Referendum Warrant and the other is to do a Municipal Officers Certification of Official Text of a Proposed Ordinance; that there are several changes by the PB to the land use

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codes and those need to be voted upon, and signed and the actual warrant has to be voted on and signed.

7:12 PM Ms. Rawski said that the SB had draft copies in their packets and there were a few minor changes; that they were not substantive.

Mr. Lee agreed, saying that they were grammar changes on the ordinances. He explained that, in the language that was drafted, the PB often refers to 'he/they' when it came to the subdivider, the CEO, etc. and, for purposes of clarity, we took out the 'he/they' and just put in CEO, subdivider, or whoever that person is to whom 'he/they' referred; that those were the only changes.

Annual Town Warrant Vote:

7:13 PM Mr. Donhauser moved, second by Mr. Orestis, that the Select Board approve the Annual Town Meeting Election/Referendum Warrant for Tuesday, June 11, 2019.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

At this time, the SB signed the pertinent document.

7:15 PM **3) Certification of Ordinances on Warrant**

Mr. Murphy moved, second by Mr. Orestis, that the Select Board approve Article #26: Shall an ordinance entitled “Chapter 21, Buildings and Buildings Regulation” of the Municipal Code of Ordinances of the Town of Eliot, Maine, be amended by deleting the language in strikeover type and adding the underscored language to Section 21-2 “Designation, duties of building official.”

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

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Mr. Orestis – Yes
Mr. McPherson - Yes

Unanimous vote to approve motion.

7:16 PM **Mr. Murphy moved, second by Mr. Orestis, that the Select Board approve Article #27: Shall an ordinance entitled “Chapter 33, Planning and Development” of the Municipal Code of Ordinances of the Town of Eliot, Maine, be amended by deleting the language in strikeover type and adding the underscored language to Section 33-59 “Expiration of site plan approval.” Section 33-126 “Application for review.” and Section 33-128 “Application fees.”**

Roll Call Vote:

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

Unanimous vote to approve motion.

At this time, the SB signed the pertinent document.

7:17 PM **Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve Article #28: Shall an ordinance entitled “Chapter 41, Subdivisions” of the Municipal Code of Ordinances of the Town of Eliot, Maine, be amended by deleting the language in strikeover type and adding the underscored language to Section 41-36 “Filing, recording, & expiration of plan.”, Section 41-141 “Submission of application and required notices.”, Section 41-142 “Application fees.”, and Section 41-182 “Plan revisions after approval.”**

Roll Call Vote:

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

Unanimous vote to approve motion.

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At this time, the SB signed the pertinent document.

7:18 PM **Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve Article #29: Shall an ordinance entitled “Chapter 45, Zoning” of the Municipal Code of Ordinances of the Town of Eliot, Maine, be amended by deleting the language in strikeover type and adding the underscored language to Section 45-4 “References to ordinances, resolutions.”**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

At this time, the SB signed the pertinent document.

7:21 PM **4) Report: Conflict of Interest Concerns**

This was regarding conflicts of interest with the DPW Director and two vendors, as well as the definitions of conflicts of interest from our Charter (§8.4).

Mr. Lee read: *“As has been recently discussed, there is concern about the Director of Public Works (DPW) having two vendor relationships in violation of the Charter. Effective immediately, the Town’s Public Works Department and any sub-departments will be prohibited from using Sturgeon Creek Enterprises and Dover Motor Mart. Alternative vendors must be found and utilized (per bidding process) to avoid the appearance of conflicts of interest. It must be noted that finding an alternate vendor to assist with sewer tasks may take a couple of weeks. Further, the Director of Public Works will be on vacation starting April 11-April 22, which may delay swapping vendors a bit. All staff and municipal officials that make spending decisions will be required to immediately report any familial relationship that exists with a business with whom the Town is doing business. Any such relationships will likewise be required to stop and a new vendor found. A public report of other conflicts of interest may be expected by the end of May.”* He added that he has given each of the SB members the RFP that has been put together to find the alternate sewer service vendor and that is going out today. He also added that the DPW Director informed him about an item Mr. Lee forgot about, in case you are asked because it is a normal state of course item, Sturgeon Creek Enterprise (SCE) does weekly pump station checks for the three pump stations, is a service billed monthly, and has already been billed for, and paid, for

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the month of April. He said that, since this is paid, he is having SCE continue with the weekly checks until the end of April, at which time, no further checks will be performed by SCE. He also said that, in disallowing Dover Motor Mart, we recently had a motor job done there that is under a one-year warranty; that it came back, had some troubles, is going back to Dover Motor Mart, at no expense under warranty work, for them to simply do diagnostics; that they will not be doing any of the repairs.

7:24 PM Mr. Donhauser said that Mr. Lee mentioned that it is under warranty and it's for diagnostics but they fixed the motor, asking if they would repair that under warranty.

Mr. Lee said that if it's work they did, it should be under warranty, so we're taking it to them to diagnose it; that we won't pay then anything, as it would be covered under warranty; that if it's not work that they did, then it's going somewhere else to have the work done..

7:25 PM Mr. Murphy asked if he discussed this, in detail, with Dover Motor Mart.

Mr. Lee said that he discussed it, in detail, with Mr. Moulton.

Mr. McPherson said that, when we voted on that, we voted to change that block, asking if he was correct. He added that he received the letter but his focus was on the vote, believing that that was to change the block.

Mr. Lee said that Mr. Moulton had responded to himself, and he responded to the SB, that it was exactly the opposite of that.

Mr. McPherson said that his issue was with the potential of having an issue with that block 6 months from now, 8 months from now; if we have issues, how is the warranty going to cover something that wasn't changed.

7:26 PM Mr. Lee said that it wouldn't, obviously; that that would be on us; that that would be an error on our part, if you consider it that way.

Mr. McPherson said that the vote was to change it.

Mr. Lee said that the block would not be under warranty, obviously, because we didn't have it changed out there, and he thinks Mr. Moulton told him that that wasn't the intent; that that was in the memo. He added that, maybe, we should get those minutes and bring them to the next meeting.

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7:27 PM Mr. McPherson said that he didn't have them either; that if he remembered correctly, the vote was to put a new block in that truck and he doesn't believe it was changed; so, as far as warranty-wise.

Mr. Lee said that Mr. Moulton would be at that meeting so we could resolve that as to block or no block.

Mr. McPherson agreed.

At this time, Mr. Murphy read the section covering Conflict of Interest from the Charter. (Copies available at Town Hall.)

7:32 PM Mr. McPherson asked why the whole section wasn't included; that he thought that all of §8.4 should be in that memo.

Mr. Lee clarified that he copied the part he thought was most relevant to the situation.

7:33 PM 5) Report: Use of Comp Time Concern

Mr. Lee discussed the memo he created. He described the question to MMA legal regarding giving a salaried (40 hours) employee time off on a Friday after reaching 55 hours without having to use Sick or Vacation time. He added that Attorney McMahon responded by saying that State and federal law gives the option to towns, for both exempt and non-exempt salaried employees, to give additional compensation and that it would be largely governed by the local personnel policy. He also reached out to Attorney Freeman (Bernstein Shur) who said salaried employees are not entitled to overtime, although there is nothing in the law prohibiting an employer rewarding an employee, although it is important to have very clear policy guidance for when it occurs; that it might be better to call it 'flex time' to differentiate it from comp time paid to non-exempt employees. He said that he thought what we should do, if there is a concern about allowing flex time, as an example, for salaried employees, is to amend the personnel policy because it is quiet on that point; that this wouldn't be just Mr. Moulton as there are other employees (re: elections) this could impact. He added that amending would give him guidance on whether it is, or is not, allowed.

7:37 PM Ms. Rawski said that she is the salaried election worker being referenced by Mr. Lee and does not gain compensatory time; that she works however many hours she needs a week to get her job done and gets paid for 40 hours, period.

Mr. Orestis said that it seems to him that, sometime in July, this Board voted to give the DPW Director an extension on his vacation time because he couldn't possibly use all of that time. He added that he was curious as to why we are

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giving comp time to an employee who has more vacation time than they can spend.

Mr. Lee said that that is a very good question and that's why he wrote it the way that he did – did he make an error in doing this. He added that, since then, for example these 11 days, it's all vacation time; that there's no flex time built in there. He added that it is his intent, going forward, not to allow flex time; that he would recommend that we put it in the personnel policy so that it is prohibited now and going forward.

7:38 PM Mr. Murphy asked if we should have a workshop to develop that language.

Mr. Lee said that you can, or the SB members can simply contemplate that over the next couple of weeks and he could write up some language that the SB can consider to be added to the personnel policy.

Mr. Murphy agreed that it would be good to have text Mr. Lee could work with.

7:39 PM Mr. McPherson discussed how unfair it was to the other department heads, or any employee, for this one department head, with 207 hours of vacation time on the books, to ask for the time off. He asked if Mr. Lee knew of any other employee who had asked for comp time.

Mr. Lee said no; that as he stated, he is off the idea of flex time, altogether; that, in retrospect, it isn't fair and, in retrospect, Mr. McPherson makes a good point; that he needs to use his vacation time and that's what he should be doing. He added that he would recommend we amend the personnel policy to reflect that.

7:40 PM Mr. Pomerleau said that, having been 30 years with the Department of Labor (DOL), he's getting very confused about the use of comp time versus flex time. He said that comp time, traditionally and as it was in our personnel policy back in 2013, at which time we removed it, with the Town Manager's assistance because he didn't like comp time, is a way of compensating people for overtime; that, in lieu of being paid time and a half, they can opt to take comp time, so, take an hour and a half off rather than pay. He added that it no longer exists in our policy and it hasn't for years. He explained that flex time is allowing a person to vary their work schedule and there's a provision in the personnel policy that says the Town Manager and Board may allow those fixed hours to be changed based on special need; that flex schedules are typically a very positive thing to accommodate people when they can meet the demands of the public demand and alter their schedules to accommodate the employee's needs, as well. He said that there is no harm with flex time as long as the public service is not interfered with; that, typically, most businesses, especially with labor shortages, start to look at things like that as a way to retain and recruit people. He added that flex time and comp

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time have nothing to do with each other and the Town Manager can alter a schedule.

7:42 PM Mr. Murphy said that it still must add up to 40 hours/week.

Mr. Pomerleau said that, for the salaried, exempt people, this 40 hours/week is meaningless; that's the people who are subject to overtime provisions and, if you are exempt from that, as the attorney said, you are expected to get the job done, period, no matter how many hours it takes; that the flip side of that is there was a rare occasion where it didn't take 40 hours and that should be allowed, too, because they are getting their salary and getting their job done; that that's what you are shooting for. He added that he would not go down the road to sit there and try to remove flex time because of this issue with comp time; that comp time doesn't exist in our personnel policy.

7:43 PM **6) Report: Employment Side Agreements Concern**

Mr. Lee said that this was another question raised with regard to an employee with whom he entered a side bar agreement and that agreement was for the purpose of retaining that employee and not losing an employee at a time when we lost so many. He added that he wrote to Attorney Freeman about this and she responded. Mr. Lee read her response clarifying the legal impact to the employee and the Town. Her summary: "The Charter expressly requires the board to stay out of the day to day management of certain matters, particularly those related to employees and employee relations. See Section 2.8 of the Town Charter. So where there is no additional appropriation necessary which would have required Board approval, I believe that it is within your prerogative as the Town Manager to make these types of adjustments for employees. Furthermore, the Town went through a very comprehensive compensation study, the procedures and outcomes of which are contained, at least in part, within the personnel policies. I could not find anything in that policy which requires the Town Manager to receive prior approval from anyone (Board or Budget Committee) for any merit raises or other types of similar increases for individual employees." He added that he just wanted to share that with folks who had some concerns about that and, again, if it is the Board's wish to tighten that up, then he would suggest you tighten that up to say all side bar agreements must be approved by the Board. He clarified that, in this case for the one that we did, we did have an executive session; that you were all invited in to look at what he offered the employee and you were all in consensus that it was a reasonable side bar agreement to retain the employee; that we did not come out of executive session and vote on it. He said that this legal opinion seems to indicate that what he was doing was sort of a courtesy to make sure you folks were on board with what he was doing, but it was not necessary to do that, and it was not necessary for us to come out of executive session and take a public action.

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7:47 PM Mr. Murphy said that Mr. Lee said that the SB could not be the deciding position on what Mr. Lee wanted to do as Town Manager.

Mr. Lee said that, as it stands now, and both of those people referenced the personnel policies; and again suggested that, if the SB wanted something different, it probably should be put in the personnel policy – all side bar agreements must come before the SB and be publicly executed so everybody knows what's happening; that as it stands, he doesn't think he did anything wrong with regard to either of those things, although flex time he is certainly starting to second-guess himself on. He added that, with side bar agreements, if the SB wants to do it under a different structure, then he suggested the SB have him write up something for the personnel policy that would prohibit side bar agreements but for SB public approval.

7:48 PM Mr. Pomerleau said that he didn't know what the attorney was looking at when she said she couldn't find any provision in our Charter but, having the opportunity to read the side bar agreement, he asked if she had it when she commented on this.

Mr. Lee said that he could not say but he doesn't think so; that he didn't think he sent it to her as he thought it was more generic than that.

Mr. Pomerleau said that, if she had had the side bar agreement, she would have seen that everything in it is a deviation from our personnel policy. He added that, in the Charter, one section she may not have looked at was 4.9, which is specially classified positions; that the purpose of this was to identify, by Charter, who is subject to the personnel policy and who isn't and it specifically addresses people who are exempt from the personnel policy – elected officials, boards, committees, etc. and it goes on to say, *"All town employees not specifically exempted in this section shall be subject to the personnel policy and the rules and regulations pertaining thereto accept to the extent that specially classified employees has a written agreement with other terms and conditions."* He said a contract with the Manager is an example. He added that the last paragraph is what is pertinent here, *"In addition, the Select Board is authorized upon recommendation from the Town Manager to offer special employment benefits or conditions which vary from the provisions of the personnel policy."* He said that that would be the side bar agreement because everything in it is a deviation from the standard personnel policy; and not only that, with the large increase that was given, but there was a job change and additional duties added to it, which the personnel policy specifically says that the SB must approve all job descriptions and any reclassifications that amount to any increases in pay. He added that not only under that provisions should that agreement have gone to the SB, and he isn't arguing

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that Mr. Lee didn't take it to them, but the SB has to approve, by Charter, that special side bar agreement in public session.

7:51 PM Mr. Lee said that Mr. Pomerleau makes a good point on 4.9. He added that he would like to go back to Attorney Freeman to run that by her and see if that does cover it; that he did reach out for legal opinion and, if she omitted part of the Charter, and based on Mr. Pomerleau's reading of it, it sounds relatively clear to him now, he would like to ask her about 4.9, then get back to the SB.

The PB agreed.

7) Joint Workshop (May 7th at 7PM) with Planning Board re: Marijuana

This is a workshop to further examine the proposed ordinance for recreational adult use and gain a better understanding of what it does and does not do; that the Cannabis Committee would be there, as well. Mr. Lee encouraged all the SB members to attend.

7:53 PM 8) Job Description Reviews/Approval

This is the next five job descriptions for the SB to review and comment on for the next meeting.

7:54 PM 9) Additional LED Light Considerations

Mr. Lee said that we were approached by Marshwood Middle School regarding 8 traditional lights in their parking lot, of which about half are out; that they would like to change those over to LED lights. He added that the Library had a couple of lights they wanted to swap over to save some money up there. He said that we have one light in our parking lot, here, and one behind the Fire Station that didn't get changed over, either. He added that CMP told him that schools can't directly contract with them to change over to LED and neither can libraries, only towns can do that. He explained that he has had meeting with school and library officials letting them know that there will be a cost to them in terms of the net book value of the fixtures that are out here now. He added that some are so old that they don't have any book value but what would happen is that, for the school, theirs would be around \$2,000 to pay off the net book value, then an installation charge (about \$400/light) and what they have suggested is, because we are in gross budgeting, that would really hurt their budget to put out that kind of money for those two entities and, if they paid him back, that would be a stray revenue that would have to drop through to fund balance. He added that one idea, for example, was instead of giving the school department \$900,000 next month, he would give them \$895,000 and, then, the \$5,000 would be used to pay off their cost to change over their lights; that, similarly, we may want to distribute to the Library a reduced

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amount from the total amount and, therefore, they would be repaying us for something extra we did for them. He said that, other than that, the SB would have to allow him to pay for this through some other means and have the money come in, for example, directly into the reserve fund for the Town Hall. He concluded that we have a couple of lights out here, a couple of lights at the Library, and 8 lights at the Middle School that we would like to get converted; that it has to go through the Town under another contract, and then he has to figure out how the other two entities are going to repay us; that he wanted to advise the SB and see if they had any feedback on the best way for him to go about it. He said that his suggestion would be because, in part, it will pay for the municipal lights out here is that we use the capital reserve for the Town Hall and any money that comes in from the Library or Marshwood Middle School be put back in and restored.

7:59 PM Mr. Murphy said that that would keep it all in one place, one fund.

Mr. Lee agreed, saying that the only thing that would come out of that capital reserve that would not be reimbursed would be the cost for these two lights, which are our own cost.

Mr. Murphy asked for what action would be needed.

Mr. Lee said that what he is looking for is consensus and/or a vote that when and if you have a contract that would include the Library and Marshwood Middle School, that you can pay for that cost with the Town Hall Capital Reserve, provided that both the Library and school department fully reimburse every cent that goes into getting their lights up and running as LED lights and, then, that money will go back into the reserve.

8:00 PM Mr. Murphy said that that's not a hypothetical but Eliot's position, and that's what Mr. Lee is proposing.

Mr. Lee clarified that he's asking if that could be the SB's position. He explained that he didn't like the idea of netting out an expense to go to the school; that if we're supposed to allocate 9 million dollars and, for some reason, it comes up \$6,000 short, it's going to look silly; that he doesn't like netting things out, either, as that is not good. He added that we could use this reserve fund and refill it, all but his \$822 it would cost him to change these two.

8:01 PM Mr. Orestis said that he tends to have an issue with using contingency funds set aside for this building to replace lights at other facilities under the idea that we're going to get paid back at some point in the future. He asked if Mr. Lee has done things like this before, using contingency funds out of one account, specifically this building, to pay for something else.

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Mr. Lee said no and that's why he is before the SB; that he doesn't know if this is something the SB would be comfortable with or how you would be comfortable with it or tell them to go away because they missed the opportunity.

Mr. Murphy asked if Mr. Lee was talking about the contingency fund.

Mr. Lee said no, that he was talking about the Town Hall Reserve Account. He explained that the only thing that would come out, as we have already submitted the bond for all the expenses, is \$822. He said that that would be the only money that would officially come out of that reserve and the rest of it would be restored within a couple of weeks with a check from the Library and a check from the schools.

8:02 PM Mr. Donhauser said that he doesn't think we, as a Board, can spend unappropriated funds; that to take money out of a capital reserve don't we normally go to a referendum vote to the Town; that, as an example, we want to buy a fire truck and take that money out of the capital reserve account, asking if that is actually voted on by the Town.

Mr. Lee said that there were two schools of thought with that; that one is that, at some point along the way, voters were asked if they would like to reserve some money for someday repairs to Town Hall, and the voters said yes and, so, he thinks it has already been appropriated and subject to the SB's use of it.

8:03 PM Mr. Donhauser said that removing money from a capital reserve, in and of itself, doesn't require a vote by the Town; that he understands and that makes sense to him because it's been voted to be put in the capital reserve for expenditures of capital.

Mr. Lee added that it is then exclusively the SB's domain to decide when it's appropriate to pull from that reserve; that, as an example, if we've been asking the voters for \$50,000 over several years and we have \$500,000 in that reserve, and suddenly it's time to buy that fire truck, the money has been approved for that use. He added that what you can't do is take that \$450,000 that's been developed over those years and suddenly twist its purpose to put an addition on the Town Office; that it's purely for that fire truck or fire trucks. He explained that he doesn't think we're twisting the intent because this is the municipal complex, here, and he has two lights that we just want to change over to LED.

8:04 PM Mr. Donhauser said that we're going to replace lights at the school, spend money out of the capital reserve, and then have it put back.

Mr. Lee said that that is correct.

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Mr. Donhauser asked if that was not twisting it.

Mr. Lee said that he doesn't think so; that you are borrowing from it to achieve these LED lights.

Mr. Donhauser clarified that he was only asking to make sure everybody understands whatever we do; that he understands the intent, and what Mr. Lee is saying has merit but it's just that we have to make sure we don't get hit in the back of the head with a 2X4 when it comes back around by doing it this way.

Mr. Murphy said that Mr. Lee said that the school is not allowed to do that because the PUC won't do it for them because it's the school.

8:05 PM Mr. Lee said that they won't contract with schools; that what we got back was that the only entity they will do business with is a town and part of that is because, when we change these 8 LED lights over, whether it's at the Library or Marshwood Middle School, they....he doesn't know how to explain it as it was hard for him to understand in the first place; that the bottom line is that CMP said it will have to go through the Town's contract; that CMP only contracts with towns and if Eliot wants to do something with the school or this independent library, then it's got to go through the Town. He added that he then began thinking about how he could achieve this, financially, in gross budgeting and that's why he is here tonight; that there are a couple ways to do this but he doesn't know how the SB wants him to proceed.

8:06 PM Mr. Donhauser said that he personally liked the argument that we take it out of the capital reserve with the intent of putting it back, as long as everyone understands exactly what we're doing and, in fact, as long as the money from the school does get put back in the reserve within a proper amount of time.

Mr. Lee said that the requirement would be by June 30th at the very latest, he would need to have that money back in that account to close because he wants to close the fiscal year with the auditor. He added that we met with school officials and they were prepared to write him a check any time he needed it; that he just needed to get the contract; that he thinks it's the same with the Library.

Mr. Murphy said that he was in favor of Mr. Lee's suggestion.

8:07 PM Ms. Vetter asked if there was a reason we couldn't get the money from them first and then do this project all together.

Mr. Lee said that there isn't; that he could find out how much it's going to be, invoice them, and, once we receive the money, we will sign the contract and then go forward.

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Ms. Vetter said that that way there would be no question about where we're getting the money and why we're taking it out of our funds.

Mr. Lee said that that is not a bad idea.

8:08 PM Mr. Pomerleau said that that was a great solution because, generally speaking, when these ambiguous paid expenditures come up and are not clear by Town policies, is that they have to be spent for public purposes. He added that he was comfortable with having the money in advance so that the money the Town is expending is not previously-appropriated Town funds.

Mr. Orestis said that that would make him more comfortable, as well, in having money come from the Town Hall Reserve.

Mr. Lee suggested that he go to them, then, to say he is going to need X number of dollars to pre-pay this stuff and, once pre-paid, he will sign the contract and arrange for installation. He added that that's a wonderful way to go, with no risk there.

It was the **consensus of the Select Board** for Mr. Lee to move forward with his suggestion.

8:09 PM **10) Approve Warrants**

Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve A/P Warrant #87 in the amount of \$41,605.10, dated March 21, 2019; A/P Warrant #89 in the amount of \$55,411.89, dated March 28, 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:

8:10 PM Mr. Lee said that the next Household Hazardous Waste Day will be on Wednesday, June 19th from 1PM to 5PM; that he believes it will be posted on the Public Works website.

SELECT BOARD MEETING
April 11, 2019 5:30PM (continued)

8:11 PM Mr. Lytle said that two or three people expressed concerns about different things going on in Town that he isn't aware of and he's sure some of the other people aren't either. He added that we've got to come up with a way for the public to interact with us because of the way the Charter is written; that he's just not sure how to do it, suggesting we might have a box in here.

Mr. Lee said that we do have mailboxes here and somebody could just stop by and drop off a handwritten note and ask that it be given to one or all the SB members; that it would then be put into the mailbox.

The SB agreed that was good.

K. Old Business:

8:12 PM Reschedule Private Sewer Workshop

Mr. Lee said that we need to reschedule the workshop and recommended May 16th, which is an off Thursday night for us. He added that we had previously wanted to have a workshop on these 6 or 7 private sewer lines in Town that we can't identify who is responsible for them, the scheduled meeting fell through, and he is suggesting May 16th as the rescheduled date, with our attorney in attendance.

Mr. Lytle requested the information regarding the number of private sewers be given before the meeting.

Mr. Lee agreed.

The SB agreed to the suggested date.

8:14 PM Mr. Lee said that there is a copy on the dais of the new **Kittery Dispatch Contract**. He explained that we have now had a couple of meetings with Kittery and we've worked out what we believe to be any and all issues in this three-year contract. He added that we can opt out at any time that we are dissatisfied, with notice; that we have changed the language in the contract so that the items that are kind of on the periphery – what our expectations are going to be, joint protocols, etc. – we have meetings scheduled, a timeframe laid out, and moving in a very positive direction. He said that he thinks the contract with Kittery is now in a form that we should probably enter into. He added that Kittery is anxiously awaiting what we're doing and they have reached out to him to see if we could finalize that contract.

SELECT BOARD MEETING
April 11, 2019 5:30PM (continued)

8:16 PM Mr. Orestis said that, if his memory serves him, it seems that our previous concerns were around the ability to terminate the contract and it seems like that language has been fixed in this, asking if Mr. Lee was looking for a motion.

Mr. Lee said that he was; that everybody is comfortable with this, now.

Mr. Lytle asked about the Public Works Department.

Mr. Lee said that it was his understanding that Kittery Dispatch reaches out to the DPW only intermittently; that once relayed to the DPW, the DPW takes it on their own radios

Mr. Sylvester agreed.

8:18 PM Mr. Orestis moved, second by Mr. McPherson, that the Select Board approve the agreement for the Town of Kittery to provide dispatch services for the Town of Eliot, Maine.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

8:19 PM **RFP Request for Wastewater Collection System**

Mr. Lee explained that that is the RFP we have developed in order to find a replacement vendor for Sturgeon Creek Enterprises; that he just wanted to show that we are earnestly moving forward to try to find an alternate vendor; that it's just an FYI.

L. Selectmen's Report: Seeking Committee Members

There were no Selectmen's reports tonight.

M. Executive Session

8:20 PM Mr. Murphy asked if we had an executive session tonight.

SELECT BOARD MEETING
April 11, 2019 5:30PM (continued)

Mr. Lee said that, given the motion that the SB worked so hard on to have an independent investigation, he thinks that probably that's going to be the method to resolve these along with his spoken statements about the two vendors and also not doing business with Dover Motor Mart anymore, he doesn't know there is a need. He added that he does feel he has been given pretty clear instructions on what Chief Moya will be doing in terms of initiating, finding an independent party, and moving forward with an investigation that would start with the Public Works Director's potential conflicts of interest, and other matters.

8:22 PM Mr. McPherson said that he thinks it's very important that we have an executive session.

Mr. Lee asked if that would be to discuss things with the Town Manager.

Mr. McPherson said yes.

8:23 PM Mr. McPherson moved, second by Mr. Murphy, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405.A Personnel matter.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

8:40 PM Out of executive session.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board authorize and instruct the Town Manager to seek out labor attorney guidance on how best to proceed with the independent investigation.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

SELECT BOARD MEETING
April 11, 2019 5:30PM (continued)

N. Adjourn

There was a motion and second to adjourn the meeting at 8:42 PM.

VOTE

5-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Richard Donhauser, Secretary

Date approved: June 27, 2019