

SELECT BOARD MEETING
May 23, 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, and Mr. McPherson.

Absent: Mr. Orestis (excused).

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Public Comment:

5:31 PM 1) Letter from Southern Maine Fish and Game Club

Mr. Murphy read the letter from Mr. Chenard, President, Southern Maine Fish & Game (document available at Town Hall).

Mr. Lee read a letter he just received from Ms. (Susan) Bacon regarding her concern with the potential use of chloramine with the Kittery Water District, the potential negative impact to people, wildlife, and the environment. She requested that the SB investigate and help prevent this from happening.

Mr. Murphy discussed his own concerns regarding this issue; that the negative impact to people and wildlife is hard to measure and potentially bad and he didn't understand why Kittery would go away from the use of ordinary chlorine.

Mr. Lee discussed the use of this product to reduce lead and copper leaching because chlorine was found not to work as well as the potentially negative impact to human health and the lack of safe alternatives.

5:37 PM Mr. Lytle asked if Mr. (Mike) Rogers (Kittery Water District) could be asked to come in to speak to this.

The SB agreed that they would like Mr. Rogers to come in and speak with them.

There was no public comment.

F. Approval of Minutes of Previous Meeting(s)

Approval of minutes was deferred until the next regular meeting.

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G. Committee Resignations and Appointments

5:39 PM Mr. Lee read a resignation letter from D. Casey Snyder from the PB.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board accept the resignation of D. Casey Snyder from the Planning Board, with regret.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

H. Department Head/Committee Reports

5:41 PM 1) Conservation Commission: Land Purchase Request – Land Bank

Mr. Murphy read a letter from Ms. (Kari) Moore, Chair, Eliot Conservation Commission, on behalf of the estate of Lillian Crowell, regarding an offer to sell a 10-acre parcel to the Town (\$18,600) that is adjacent to the Town Forest for future conservation.

Ms. Moore said that the CC believes this parcel is an important addition to the Town Forest and that part of the recommendations in the Management Plan was to consider opportunities around the Town Forest; that because this large wetland parcel is hydrologically connected, it would make sense from a conservation standpoint to consider adding this to that 30-acre parcel we already have.

5:45 PM Mr. Lee agreed it would be very valuable to acquire this property and a great opportunity. We put money into the Land Bank for this type of thing and this is consistent with the Comprehensive Plan/Open Space Plan.

Ms. Moore added that this 10-acre parcel is connected to the Great Works Goodwin Farm parcel.

Mr. Donhauser moved, second by Mr. McPherson, that the Select Board approve the purchase of the Lillian Crowell property, a 10-acre parcel, in the amount of \$18,600, with the source of funds to come from the Land Bank.

Roll Call Vote:

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Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

5:48 PM 2) SMPDC Planning Contract – Planning Board Recommendation – No Correspondence

Mr. Lentz said that he didn't have an issue with either of the folks supplied as Interim Planners by SMPDC but his concern was with going from 5 days a week to 1 day a week, especially with things that are on the horizon, and we will lose some effectivity from the PB standpoint.

Mr. Murphy agreed that one day a week would be a weakness for sometimes very important issues that can't wait for another week.

Mr. Lentz was assured that that wouldn't be an issue. Mr. Feldman assured hm that they could take care of any of those needs and he's okay with that.

Mr. McPherson asked if we didn't discuss postponing this until after the vote to see if the land use administrative assistant would be approved for full time.

Mr. Lee agreed, saying that, with the land use admin assistant being full time, he would feel more comfortable with the Planner being one, or a little over one, day a week; that he did see the emails from SMPDC and they will not leave us hanging on any of those things. We can continue to work with Ms. Sherwin through the month of June on an hourly basis, wait for the vote, then revisit this to see if a full-time land use admin and part-time Planner would be effective.

The SB agreed.

Mr. Lee will bring this back to the SB after the June vote.

5:53 PM 3) Bi-centennial Committee – Revised By-laws

There was discussion and agreement that this would be an ad-hoc committee.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board establish the Eliot, Maine Bicentennial Ad-Hoc Committee and approve the by-laws as presented.

DISCUSSION

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6:00 PM Mr. Lee said that Ms. Rawski is interested in serving as staff support for this committee and he thinks she would be wonderful in that capacity.

Ms. Cerabona said that their intent was not to exclude anyone and to have each group involved be responsible for their own activity/project for this celebration.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

6:06 PM **4) TIF Committee: Appoint Regular Member**

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board appoint Mr. Caleb Sloan as a permanent member of the Tax Increment Financing (TIF) Committee.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

There was discussion regarding appointments and how they are made.

6:13 PM **5) Public Works: Plow Equipment Bid**

Mr. Lee said that we had two bids – one from HP Fairfield and one from Viking Cives; that Mr. Robinson had been in two weeks ago to say that they were using all HP Fairfield equipment and asked to get something consistent with all their other equipment. Their recommendation is HP Fairfield both for the quality and consistency of everything in our fleet. This includes painted and installed and ready to go.

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Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the HP Fairfield bid of \$59,399.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

6:15 PM 6) Public Works: Paving Bids

Mr. Lee said that they sent out five vendor bids. Two sent letters of regret, one didn't respond, and two came back from Pike Industries (\$697,968.00) and Libby-Scott Paving (\$527,737.00). He added that Mr. Sylvester wrote in his memo to the SB that, as the bids exceeded the budget of \$470,000, it is his intent to quantify and evaluate the roads in priority based on the existing condition and need and so not to exceed the approved budget amount of \$470,000.

Mr. McPherson said that Worster Road appears to be in very good condition and he doesn't know why we are paving it.

Mr. Lee explained that the tradition, here, is that we put down 2" of B-Mix in one year, let it settle for a year or two, then go back over it with C-Mix, which finishes it for 20 years; that it may be that it is only the B-Mix down there right now. He clarified that, when putting the projects together, we do it based on overall tonnage and unit price. Striping is done separately.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board award the bid to Libby-Scott under the stated unit pricing, not to exceed \$470,000.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

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6:25 PM 7) TIF Committee: Draft Minutes - FYI

This is informational.

I. Administrative Department

6:26 PM 1) Town Manager Report(s)

Mr. Lee mentioned that this Monday is Memorial Day and there will be a parade in Eliot. They line up at the Elementary School at 9AM and the parade starts at 9:30 AM. Mr. Norton asked for SB members to attend, if at all possible.

Mr. McPherson asked about Line 196 regarding a meeting with the Maine DOL.

6:27 PM Mr. Lee explained that we originally had a fine of \$3,500, 5 violations at \$700/each. We met with Steve Greeley, presented all the corrective measures we had done, he was very impressed, and the most he could do was a 90% reduction in fines, and he did that. Instead of \$3,500, we are down to \$350. He added that we haven't seen the letter for the other issue but we discussed it, and he did say that we would be challenging that as he doesn't think the DOL Inspector got it right. He thanked Ms. McQuade (Admin, DPW) for doing such a nice job.

Mr. Lee said that it just popped up on his calendar that his three-year contract is up at the end of June and, so, over the next 30 days or so we should plan on having some discussions about what the SB wants to do with any kind of contract extension, or whatever. During the month of June, we should probably start to discuss that in executive session, to start, then out in public with whatever we decide. He could put it on the agenda at the next meeting as an executive session.

Mr. Donhauser asked if we had an executive session this evening.

Mr. Lee said no. He keeps that on the agenda as a placeholder, as he doesn't know where the SB's investigation is.

Mr. Donhauser suggested we use that tonight to begin discussions on Mr. Lee's contract.

After discussion, the SB decided to wait until June after everyone had had time to think about what they wanted to do.

a. Financial Reports

There were no questions.

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6:32 PM 2) Private Sewer Workshop – Follow-up – No Correspondence

Mr. Lee updated the SB. He had a meeting today with Mr. Pratt, another person, and Ms. McQuade. Currently, we have a 2013 adopted Sewer Ordinance and, for quite some time, that ordinance has been in a state of being re-written and updated. In addition, the 2013 ordinance had two appendices, which were reserved for a later date; one was for construction standards and one was for administrative policies and procedures. When he got here those were not done; that we now have both of them done but we also need to get that new (updated) sewer ordinance. For example, instead of ‘betterment charge’, they have a ‘system delivery charge’, or something like that that is the current terminology. Also, this new and improved ordinance has a focus toward, if you have a private sewer system, this updated ordinance goes into exactly what that means and what you’re going to be obligated to do. The next thing you will probably see is a bid, an ESR (Engineering Service Request), for finalizing the new sewer ordinance to go on the ballot in November, and here’s why. If we are going to make ‘this’ offer to the subdivisions, we better have our ducks in a row, first. Two things are going to happen concurrently, one, we are going to try to bring home the updated sewer ordinance, with the appendices; that that will be before you for the summertime to get ready for November. Concurrently, we will use the summer to hold an introductory meeting, inviting people on private sewer to come learn about an opportunity that may lead them to be able to get rid of their private sewer system. The timing is perfect to update the ordinance and have these conversations with the 8 subdivisions who have private sewer systems, as well as Fred Forsley at Eliot Commons, with a couple others that serve only one person, using July and August to meet with different groups to explain what we’re offering. Over the summer, he would like to hold a couple of workshop meetings with the SB to look into what the new sewer ordinance has in it and he thinks that, by doing that, the SB will find we are in a much better position before we start offering to do anything with these private systems. He thinks we ought to wait until after November before we formally do any offerings but we can start having meetings with them and telling them how it would work. We will also have a document that lists the process and he thinks that will be on the next agenda, anyway, as there will be a sample letter that will go out to people and also a process that lists it step-by-step-by-step.

6:41 PM Ms. (Donna) Murphy wanted to know if the Town has been reimbursed, yet, from when the town went down to fix the private sewer.

Mr. Lee said yes, less the \$500 deductible and the owner gave us a check for \$2,533 that came from his insurance company.

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Ms. (Donna) Murphy asked if he was going to pay the deductible to the Town. As he would be responsible for that; that if that is not paid, she is going to fully expect that, if anything happens with her septic system, that the Town will come down and fix it and accept her insurance money, less the deductible. She hopes that they would do that for every citizen in this Town.

6:42 PM Mr. Lee said that he hasn't discussed the \$500 with the owner.

Mr. Donhauser said that the reason that was done was that Mr. LaFrance and his family could not live in that house and, in Mr. Donhauser's mind, it was an emergency. The sewer issue appeared to be under the road and it turned out that it apparently wasn't. We certainly would not have let him dig up the road; so, it was sort of like we were in a dilemma as to who was responsible. We can't go on his property, he can't go on the road, we didn't know where the sewer was broken, and he has a family that can't live in the house. So, he thinks it only makes common sense that the municipality would step up and do repairs while making it quite clear that the homeowner would have to reimburse the Town. That issue hasn't been resolved, yet, and he thinks it's a little premature to say that, because we've that situation under that particular circumstance, that every Town resident should expect us to pay for their private sewer or septic system. He thinks it's done on a case-by-case basis and, if for some reason you are not allowed to go back into your own home, it would seem to him that it's incumbent upon the SB to make some accommodation to at least get you back in your home, initially, then let's resolve the issue later. We are talking \$500 and represents less than one penny on your real estate tax bill and, if Mr. LaFrance doesn't, he volunteered to pay the \$500 because he feels strongly enough that Mr. LaFrance had a family with children who could not go back in this home and he felt it was appropriate, and made common sense, that the Town do something to make him have accessibility to his home.

6:45 PM Mr. Lee said that he put it on his list that we still expect Mr. LaFrance to pay the \$500.

Mr. Donhauser said to Ms. Murphy that, if she could not move into her home, he thinks she should come before the SB and let us deal with it individually, on a case-by-case basis.

Ms. (Donna) Murphy said that the vendor who worked on the property came in and gave quite a different story of how that situation came up and whose responsibility it was; so, it wasn't 100% the Town's responsibility to do that. She's been in a situation where she's been without water for three days and, so, on her own without contacting the Town, and it cost her \$3,500, she resolved the issue on her own.

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Mr. Donhauser asked her why she didn't approach the Town or Kittery Water District.

Ms. (Donna) Murphy said that she has well water and she paid for it because it was her responsibility and not the Town's. She added that this is a principle issue, here; that the vendor came in and explained what the homeowner had not followed up on and how they got from Point A to Point B and, according to the vendor, had they done a few things they wouldn't have been at Point B. That doesn't make it the Town's responsibility.

6:47 PM Ms. (Carol) Selsberg agreed that it may be only \$500 but it is a bad precedent to start. She has a sewer and pays a substantial amount and doesn't expect anyone else to pay for it. It is tax money and, to her, it is precedent. His insurance paid most of it, he was covered for it and bless you if you do pay the \$500 but she thinks someone should.

Mr. Donhauser said that the information Ms. Murphy provided was found out after-the-fact. When we made the decision to actually help him get back into his home, that was before the vendor came in and told us what happened. We didn't know where it was frozen and that's why we made that decision. He thinks we made the best decision, at the moment, with the information that we had.

Ms. (Donna) Murphy clarified that she wasn't criticizing that decision but decision that he reimburse the Town for the full cost she thinks is the correct decision. She added that she doesn't think it's Mr. Donhauser's responsibility, adding that she thinks, for \$500, he got a pretty good deal.

6:48 PM Mr. McPherson said that, when we made that decision that night, we didn't know whose responsibility it was and, if it was our responsibility, our responsibility was to do what we could do to help them get back in their home. We didn't know, so, we as a Board, acted to help that family. As we find out, things are different; so, if you're looking for an apology, he will apologize but, at that time, we had that dumped in our lap and we made a choice to help somebody, not knowing if it was our problem and, if it was our problem, we wouldn't be having this discussion. We helped somebody and it cost the Town \$500 and we'll see if he pays it back. That's all we can ask.

6:49 PM Ms. (Donna) Murphy reiterated that she isn't criticizing this Board, nor is she looking for an apology. She guesses that the expectation is that that \$500, whether it is \$2, \$5,000, \$500, shouldn't be sliding over to all the taxpayers if it turns out, as it did, that it's the homeowner's responsibility, they should be on the hook for the full amount.

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Mr. McPherson agreed that he should be on the hook for the full amount. If he doesn't pay it, he doesn't pay it. We made that choice that night to help somebody. If we don't know whose responsibility it is, what would we look like, as a Board, to say no we won't help and, then a week later, we find out it's our responsibility. Our bill would have been a lot bigger than \$3,500 at that point.

6:50 PM Mr. Lee will approach Mr. LaFrance about paying the \$500 and he will report back to the SB.

Mr. Murphy said that it's an issue that is still before this Board, you see, and we will follow up on it.

Mr. Lee explained that it was about a week ago that he received the check from Mr. LaFrance; that he was glad about that and thanked him. He kind of put the \$500 under his hat for a week or so and he will go back to him and ask him for it. He understands the principle very well and he will be expecting Mr. LaFrance to pay it.

6:51 PM Mr. (Bud) Moynahan said that the night this happened he stood up and said that, if you do this, you will set a precedent. He was taught that about 30 years ago when he took a municipal job. You do not touch anything on private property, period, that's going to cost the taxpayers any money.

6:56 PM **3) Revised ESR for Sewer Routing Options in Village Area**

Mr. Lee commented that the pervious ESR from the TIF Committee referenced Route 236 and that request can't be paid for with TIF money, reading the two tasks included in this revised ESR. He did say that he didn't think it was practical to do anything at Frost Tufts Park because we're really getting into a residential area, it's a park, it's not taxed, whatever we put on it if we retain it won't be taxable, and we will be taking away part of a park. It would have to be individually owned, we would need a condo unit in the park, zoning would be an issue; so, he's not sure if we're ready for this ESR. The TIF Committee would like to do that. They feel it's their obligation to find out what it would take to get down to Frost Tufts, and he likes their thinking, but he's still not sure that the Frost Tufts piece is that important to us. He doesn't see that as being a real likelihood. He also discussed the potential easement work regarding the road off of Beech Road that runs parallel to State Road and part of the TIF Committee's view, at this point, would be that we might look at sewer routing that picks up the easement through there and make an easement road into the back of Map 20/Lot 54, run sewer that way or running both along State Road and into Beech Road so we can get the most bang for our buck on sewer and, depending what we put on Map 20/Lot 54, it may need two means of egress, anyway, due to planning considerations, such as any impact to the elementary school. The easement work

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is that work along the power line – how would we acquire what we need to acquire to put a new roadway in parallel to State Road and form a two-road Village area, if you will. He added that he doesn't know if that's terribly likely, either. Some work has already been done, a fair amount of easement work necessary on those properties in and under that power line has been done. He said that we have another TIF Committee meeting in June. If the SB wants to postpone this and ask them to comment on the level of reality of getting to Frost Tufts and putting anything of value there economically.

7:05 PM Mr. Murphy said that he has never been very happy about this proposed new Village area. People live in villages but he thinks this was intended to disrupt the long, long experience in Eliot to have a distributed town center where places to go for the citizens are far enough apart that you aren't crowded with everyone trying to get into two buildings side-by-side, which is the village center. He asked if the SB wanted to take any action on this, at all.

7:07 PM Mr. Donhauser said that he thought we could postpone it and talk with the TIF Committee to better understand what they want to do. Regarding the road Mr. Lee mentioned, he asked if it was down by the old Grover property.

Mr. Lee said yes, that it is the Grover property.

Mr. Donhauser said that one of the subsidiary benefits would be that, if you put sewer and water down an access road like that, the tendency is that the lots along that road then become more valuable to the owner and there could be commercial development on that. In many municipalities, they make parallel roads to major roads and the purpose of the parallel road is to get traffic off that highway, like Route 236 in our case, and have people come over onto a side access road where you have smaller businesses. He knows the TIF Committee was discussing that when he was there; that there's a benefit to that but it was also to make a circular sewer-type arrangement, which is better than going down one, stopping, and having to come back. That is true of water, as well. There are all kinds of alternatives that open up when you build an access road.

7:10 PM Mr. Lee agreed. He said that he thinks the TIF Committee should weigh in a little more on this before we spend money on a study that may lead to nowhere.

Mr. Lentz said that he thinks we'd all be a little suspect of what we could do at the ball field, asking why not stop at the Library. He added that we did a site walk on that Grover property, maybe two years ago, and it's all been filled and loaded with big tree stumps; that part of that was wetland so it bears a little watching before you make arrangements to use that area.

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- 7:12 PM** Mr. Lee discussed the meetings he would be having with the Planner, the TIF Committee, and the consulting Planner and, then, we should have a much better handle in two weeks on what's doable and what we should study.
- Mr. Donhauser said that it was discussed at TIF Committee meetings that we could potentially re-locate Frost Tufts Park to this other property, as well, to free up the park property for economic development.
- 7:14 PM** Mr. Moynahan said that our biggest cost and concern at this time is sewer along the river. He added that we have, in the past, discussed using Dead Duck for additional development and asked if we couldn't buy it from the State.
- Mr. Lee said that we did try to purchase the Boat Basin a few years ago without success. He will try again. He loves the idea of the Boat Basin and the sidewalks that would give us a nice, walkable community, which is what everyone wants. Sadly, TIF money is for economic development; so, in order to get your community facilities, you have to be a little smart about it and he thinks this plan was thinking that way, moving toward the water.
- 7:18 PM** **4) Personnel Policy & Flex Time (3rd Consideration)**
- Mr. Lee said that the SB had only one change. The staff had approached the SB about potentially doing the vacation system for non-union people, as we do for Public Works and the SB was favorable to that. That is included in here on page 27, explaining the change. The only other thing we've been working on is 'Flex Time' for salaried employees, which isn't included in this document. He will get that done and get this back to the SB, asking for SB feedback over the next two weeks on 'Flex Time'. He added that you could adopt the Personnel Policy tonight, as amended, then revisit 'Flex Time' at a later date.
- Mr. Murphy thought that was a reasonable thing to do.
- 7:20 PM** Mr. McPherson said that note we got before is that 'flex time' is comp time, it was a paragraph on comp time and that is not part of this.
- Mr. Lee agreed, saying that we should be putting in the comp time, at some point, too, but that remains to be discussed regarding what we do with 'flex time' and comp.
- Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the Manual of Personnel Policies, as presented, subject to an amendment in the future regarding comp time and 'flex time'.**
- Roll Call Vote:**

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

Unanimous vote to approve motion.

7:23 PM 5) Feedback/Informal Bids on Moose Repair

Mr. Lee said that he asked people, informally, for taxidermy proposals on what they would do with the moose and how much would it cost and discussed the proposals he received, with costs ranging from \$600 to \$4,000; that it was based on pictures sent.

The SB took no action at this time.

7:26 PM 6) Approve Warrants

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve A/P Warrant #100 in the amount of \$90,173.04, dated May 2, 2019; A/P Warrant #102 in the amount of \$970,120.49, dated May 5, 2019.

Roll Call Vote:

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

Unanimous vote to approve motion.

J. New Business:

There was no new business.

K. Old Business:

7:28 PM 1) Crown Castle Contract

Mr. Lee discussed the new proposed language for 10. Indemnification and 11. Insurance because municipalities are under the Maine Tort Claims Act. He is looking for SB approval of this new language tonight.

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Mr. Donhauser moved, second by Mr. Lytle, that the Select Board accept the legal opinion of our attorneys with respect to Paragraph 10, Indemnification and Paragraph 11, Insurance to be included in the contract.

Roll Call Vote:

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

Unanimous vote to approve motion.

L. Selectmen's Report:

7:33 PM 1) Seeking Committee Members

There are openings on almost every committee and the Town could use people who would like to be involved. There are 12 positions open and they are listed on our website.

M. Executive Session

There was no executive session tonight.

N. Adjourn

There was a motion and second to adjourn the meeting at 7:35 PM.

VOTE

4-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Mr. Richard Donhauser, Secretary

Date approved: 10/24/2019