

SELECT BOARD MEETING and PUBLIC HEARING
General Assistance Public Hearing at 6PM
September 24, 2020 5:30PM
Eliot Town Hall

Quorum noted

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

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

C. Pledge of Allegiance recited

D. Moment of Silence observed for individuals and families affected by COVID19.

E. Public Comment:

5:32 PM Mr. (David) Brodeur read the letter he submitted to the SB:

12 Sep 20

"Dear Select Board,

I request your action to direct enforcement of the BOA decision of 18 Jun 20 to uphold the appeal of Charles Pettigrew, Michael Christy, Kathryn Spellacy and myself overruling the decision of the Code Enforcement Officer regarding property located at 314 Beech Road, Map 38, Lots 10 & 46 in the Suburban Zoning District and determining that property owner is not operating as an "automobile Hobbyist" but is operating an "automobile graveyard" on tax map 38, lots 10 & 46. The Board of Appeals voted 5-0 to approve the appeal and directed a Cease and Desist letter be issued immediately to the property owner.

On 30 Jun 20, the CEO issued a letter of violation to the property owner directing, "all unregistered or unserviceable, discarded, worn-out, or junked motor vehicles, including all vehicles which cannot pass the state inspection test in their existing condition or are otherwise inoperable," except for two such vehicles, as referenced in the auto graveyard definition in Section 1-2 of the Town's Code of Ordinances. If you fail to correct this violation within 30 days of the date of this Notice of Violation, I [CEO] will refer this matter to the municipal officers for possible commencement of legal action in the Maine District Court or the Maine Superior Court pursuant to Section 45-101(b) of the Zoning Ordinance. If the Town is the prevailing part in enforcement litigation, you may be liable for the Town's attorney fees and costs plus civil penalties. Fines of between \$100.00 - \$5,000.00 per violation per day may be imposed pursuant to 30-A M.R.S. 4452

On 8/10/20, I received the following response to my request of status from the CEO: "Hi David, I have a site inspection scheduled this week to follow up on the Notice of Violation. Once this is complete, I will work on a report of findings to forward to Town Manager/Select Board."

On 8/18/20, I received the following response to my request of status from the CEO: "Hi David, I conducted a follow up site inspection last week at 314 Beech Road and Fernald Road properties owned by the Downs. Jace had a total of twenty vehicles on the properties and has registered thirteen of them with passenger car plates. Jace mentioned that the property at 314 Beech Road has been split into two lots. The seven remaining unregistered vehicles are going to be split up amongst the three lots - two unregistered vehicles on the Fernald Road property, and two on each of

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lots with the recent lot split. Jace intends to register the seventh vehicle with passenger car plates. I'm following up by the end of next week to verify the lot split, that there are no more than two unregistered vehicles on each of the three lots and that the seventh vehicle is registered or removed."

Mr. Brodeur added that I don't believe that that was the decision from the Board of Appeals and that there was also an issue that they had to be inspected.

On 9/2/20, I received the following response to my request of status from the CEO:
"Hi David, When I last spoke with Jace, he asked if he could store the trucks in an accessory structure on the lot. We received a response from Town Attorney the end of last week that there are no issues with this. I am following up with Jace this week to see if this is the direction he plans to go with the trucks. Once we discuss further, I can follow up."

On 9/13/20, I received the following response from the town manager:
"David, We are working with our attorney on Jace's request to consider putting them all in a building in lieu of removing them. We have to try and be fair and yet still resolve this mess. Please be patient. It never leaves my mind and Shelly and I discuss nearly daily."

On 9/9/20, I received the following response to my request of status from the CEO:
"Hi Charlie & David, When a violation is found to exist, we try to work with folks to gain compliance. My understanding is that fines are not imposed unless the violator is not working to gain compliance with a Notice of Violation. Jace has made efforts to gain compliance with the Notice of Violation by registering the vehicles. To date, most of the vehicles have been registered, however, not inspected. Jace had asked about the ability to install a large storage structure on the lot to put the vehicles into. We checked with Town Attorney and there is nothing prohibiting him from doing this provided he gets a building permit and meets the ordinance requirements for zoning, standards, setbacks, etc. When I followed up with Jace that he could add a structure to the lot to store the vehicles or get them inspected, Jace responded that he does not have to inspect the vehicles and requested a copy of the law that requires it. He stated that the Notice of Violation stated he had to remove unregistered and unserviceable vehicles but did not specify that he needed to inspect them. Per Jace's statement and request, I am requesting a copy of the law from the Towns Attorney, related to the requirement to inspect the vehicles."

The CEO has established a past practice of allowing the Downs to stall compliance with the towns ordinances through a myriad of attempts to find loop holes (Antique registrations, hobbyist, multiple lots, auxiliary structure). The appeal was filed and supported as she was not enforcing the town ordinance and is now still failing to comply with the BOA direction to order a Cease and Desist order immediately.

I request that you direct the Town Manager to enforce the BOA decision and force full compliance with the town ordinance and state law regarding the maintenance of an automobile graveyard on the property of Map 38 lots 10 and 48 owned by the Downs using all powers at their disposal. Fines should be identified and levied in short time to prevent further delays.

David L. Brodeur"

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Mr. Brodeur said that my feeling is that we're going to keep stalling and stalling and there has to be a deadline that you have to enforce compliance by in order to enforce resolution. Mr. Pettigrew wrote a letter, couldn't be here and wondered if I had permission to read it.

Mr. Donhauser said yes.

"Dear Eliot Select Board,

21 Sep 20

My name is Charles Pettigrew and I reside at 289 Beech rd. I am providing this letter in support of David Brodeur's statements to you tonight.

I have been assured by Dana Lee that my written statements will be read into the record and will be given as much weight as if I appeared in person, as provided by my reasonable accommodation dated 7 OCT 19 IAW title II of the Americans with Disabilities Act.

In the sake of brevity, I just want to point out a few concerns:

1. This property has been a public nuisance since 2015, and the owner's tactic to avoid enforcement has been to just wear down a string of CEO's with repeated excuses and loopholes. The town ordinances reflect the will of the voter, and the voters do not want junkyards and truck storage in the suburban zone.

The current CEO, Shelly Bishop, has repeatedly stated that she feels this is a "civil matter" and has not taken the necessary steps to prevent unlawful use. For the interested reader, the appeal mentioned by David Brodeur is 271 pages long and documents a sustained pattern of inaction by Shelly. On numerous occasions, she has been incorrect or unaware of the actual Eliot code or state statute, as is evidenced by the facts and the unanimous decision by the BOA and, most recently, the lack of "enforceable language" in her cease and desist letter. Notably the requirement for vehicles to be inspected, despite our concerns to her on this matter.

2. This "accessory structure", supposedly reviewed by the town attorney, presents two problems:

a. Once again, this is a delaying tactic..how long will an auto graveyard be allowed as the Downes "attempt to comply" by building a garage? Accepting this ruse as "attempts at compliance" is further enabling the property owner and setting the precedent that ordinances and laws will NOT be enforced in the town of Eliot.

b. Likewise, the CEO seems unaware of the Eliot codes she is obligated to enforce:

During 6/17/20 BOA meeting, at @ 3hr,9 min and 22 seconds, the Chair of the BOA, Bill Hamilton stated

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"Also, as I had previously mentioned, under Sec 24-290 of the Eliot code of ordinances, lists equipment storage AND TRUCKs, 3 or more, as a prohibited use in the suburban zone." Furthermore, sec 45 101 through 45-103 of the same ordinance state the CEO is to use appropriate action to prevent any unlawful use in the town of Eliot.

While town ordinance does not define a truck, state statutes does, and they further define that a pickup truck is a TRUCK, as opposed to a SUV, which is not. Many of these vehicles have not left the property in years, therefore, they are being stored. In correspondence between different CEOs and the Downes, the terms "truck" and "storage" have both been repeatedly used by both parties. As such, the CEO is actually encouraging an unlawful use, rather than preventing it.

Please take action to stop this auto graveyard from continuing, and to prevent an "equipment storage use."

Thank you for your time, Charles Pettigrew"

5:38 PM Mr. Brodeur continued that it seems a lot of the correspondence has been between the Town and Jace Downs, who is not a property owner. I believe that, if fines were imposed, they would go against the owner of the property. So, I would request that the Town conduct all business and correspondence between the property owners and the Town, as they are the ones responsible for the matter.

Mr. Lee said that I can certainly sympathize with Mr. Brodeur, Mr. Pettigrew, and Ms. Spellacy, as this has been going on a long time. I will say that one of the things that has been confounding that the BOA Notice of Decision of what the CEO was to do was not consistent with our zoning code, and our zoning code is not consistent with our State statute. I was always of the belief that the State statute could be administered by us and that does talk about inspections; ours says 'serviceable'. Finally, the attorney equated our use of the word 'serviceable' might just as well say inspected because how else would you know that it is serviceable unless it's inspected. I do have a recent update from September 17th and addressed to Jace and Kathryn (mom).

Mr. Brodeur said that she is not a resident.

"Jace and Kathryn, I reached out to the Town attorney per your request for a copy of the law that requires the vehicles to be inspected. The requirement is found in the 'auto graveyard' definition stating the following: Town Ordinance §1-2 *"Auto graveyard means a yard, field, or other open area used as a place of storage for three or more unregistered or unserviceable, discarded, worn-out, or junked motor vehicles, including all vehicles which cannot pass the state inspection test in their existing condition or are otherwise inoperable."* State law 30-A M.R.S.A. §3752 Definitions. *"As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. 1. Automobile graveyard. "Automobile graveyard" means*

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a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations." The Town does have the authority to enforce the State automobile graveyard law, which clearly applies to 30 or more unregistered or uninspected motor vehicles. Further, the Town ordinance definition states, in part, "...unserviceable, discarded, worn out, or junk motor vehicles, including all vehicles which cannot pass State inspection tests in their existing condition or are otherwise inoperable." The Town has determined that the only way for the Town to verify that a vehicle can pass a State inspection test in their existing condition is to actually get the vehicle inspected. In order to remedy this Notice of Violation, you must do one of the following with the vehicles: Reflect a current and valid inspection sticker, apply for a building permit to construct a structure to park the vehicles, or remove the vehicles from the property. The Notice of Violation was issued June 30, 2020 and allowed 30 days to comply and remedy the violations. It appears you've made some efforts to comply with the Notice of Violation by registering the vehicles. The inspection requirement was questioned and, therefore, we needed to research this requirement further. We now have final determination related to inspection, in that the vehicles do need to be inspected to comply with the Notice of Violation. Please respond to this email with a plan and proposed timeframe request to remedy the violation within 7 days or I will forward this to the Select Board for further legal proceedings. Please let me know if you have any questions. Thank you, Shelly."

Mr. Lee said that, although it has been a long time coming, we are at the stage, now, where they have a certain number of days in order to do this. I don't think...I'm not really going to entertain this idea of building a building because, as Mr. Broder points out, that building would have to be enormous and would not happen as an accessory structure. At this point, I would offer my apologies that it has taken so long and the CEO is now moving in a proper direction, I think, and you'll see things resolve rather quickly.

5:44 PM Mr. Brodeur said, again, I would ask that, in the CEO's letters, she had put "or a building permit" and I don't feel that a building permit meets the BOA's order.

Mr. Lee said that I don't think so either.

Mr. Brodeur said that if there was a building permit for a football field, that building still wouldn't meet their need.

Mr. Lee added that it would take two years to build. I'm really not interested in that option. I think it's got to be Notice of Violation, start the fines, and get rid of the trucks.

5:45 PM Mr. Brodeur said that, in my view, if they built a legal structure, got rid of all the vehicles until that was built, then brought them back and was in compliance with the Town codes the whole time, that would be compliant. But not just "Here, I have a building permit."

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Mr. Lee agreed.

Mr. Donhauser said to Mr. Brodeur that I believe you stated that Mr. Downes (Jace) is not a property owner.

Mr. Brodeur said that that's my whole concern. This letter that the CEO sent with the attorney's opinions, and all that, was not written to anyone who is liable for the damages.

Mr. Donhauser asked who is the property owner.

Mr. Brodeur said Charles Downes and Mrs. Downes.

Mr. Donhauser said that Jace Downes is not the property owner.

Mr. Brodeur said no, he's not the property owner. On the BOA video meeting, the property owners never made a statement. It was just the daughter and the grandson. They are not the owners and not representing any title.

5:46 PM Mr. Widi asked, in the BOA Decision, does it say anything specific about the vehicles having to be inspected. My only thing is and as a matter of fact, I literally hear from 20 or 3 people a week, different people, and they always complain about the property. And I also do know Jace Downes so I hear both sides of it. My understanding is that, in putting all this together, the circumstances changed a little from the BOA Decision once he got them registered. So, my only concerns are did the BOA specifically say that they have to be inspected and, if they didn't, wouldn't that have to go back to the BOA to say specifically that they have to be inspected. That seems like a new decision because, in the ordinance, it says 'inspectable' or 'serviceable' but it doesn't say explicitly 'inspected'. That's my only concern. I totally empathize with you, this has been going on a long time but, also, we have one person's rights, and one person's rights here, and they both end at some point and the next one's begins; that for me and you and him, they are all different.

5:47 PM Mr. Brodeur said that I believe the BOA wrote a letter to the Town Manager, a report of findings. Am I wrong. At the very end of the tape, Mr. Hamilton said he would submit a report of findings, a notice of decision. What does that Notice of Decision say.

Mr. Lee said that I don't have it here in front of me.

Mr. Widi said that that was my question.

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Mr. Brodeur asked if that was not in the electronic record of the Town. We have five people with computers. Rather than leave this meeting and say well, we don't know what it says, the notice of finding was submitted to the SB.

5:48 PM Mr. Lee said that I can make it available. The Land Use Administrative Assistant can get it for us Monday. As I understand it, it did not say 'inspected' and that was part of the issue.

Mr. Brodeur said that the discussion about inspections and registrations all came up in all the discourse. The finding that I quoted was just the finding that they're...because the last thing that the Town had proposed was that it was a hobbyist and, so, the BOA said that he's not a hobbyist, that it is an automobile graveyard in the condition it was, and that needs to be issued a Cease-and-Desist.

Mr. Lee agreed.

Mr. Widi said that, if he was a hobbyist, then they wouldn't need to be registered and/or inspected because they could just be there. The BOA made the decision that he's not a hobbyist, so, that's out. So, then, it would go to the point of where he had them inspected and/or registered.

Mr. Brodeur said no. They said that the Downes family is operating an automobile graveyard, period. So, they have to not operate an automobile graveyard.

Mr. Widi said that, at that time, they weren't registered, right.

Mr. Brodeur clarified that what they said was that, by Town ordinances, they are in violation of operating an automobile graveyard, so, they have to cease-and-desist operating an automobile graveyard. I don't think there's any rule about...it's just in our Town ordinances, that's what they're doing; that they declared that that property is an automobile graveyard. So, unless someone can make it not one, legally, then it is. You have to meet the State law and the Town law to make it not an automobile graveyard. They didn't decide on the inspection. They just said that it is an automobile graveyard. So, if you can enforce the Town ordinances to say that, as the SB, we think this is not an automobile graveyard because, and you meet our Town ordinances, then I would say that that's fine. But it's not to go back to the BOA. They've already made the ruling that that is an automobile graveyard.

5:50 PM Mr. Widi said that they made a specific ruling when they were not registered. The BOA does not survey the entire property. They say what was the complaint or

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what was the decision of the CEO and make the determination on a single thing. At that time, it was an automobile junkyard, which they said, and then they said there was a violation. Then, after that, he then registered them. In the State law, it says registered or inspected and the Town attorney, as I understand, said it is reasonable to assume that 'serviceable' would mean it has to be inspected. I know it's been a long, long time for you but I'm just saying a Town attorney is giving an opinion. The BOA also has their job.

Mr. Brodeur said that they have already done their job in saying that, in its current state, it is an automobile graveyard. They heard the testimony about how many were uninspected, how many were unregistered, all of these parts. There are more than three vehicles that don't have an engine in them or a front end. Just the word 'serviceable' is not there by any definition of the word 'serviceable'. So, my opinion is that they said it's an automobile graveyard and that an immediate cease-and-desist order has to be given. So, we have to have a cease-and-desist order saying that you cannot operate an auto graveyard with our Town; you must be compliant with our Town ordinances. There is no decision for the BOA in that.

5:52 PM

Mr. Lee said that I kind of want to point out at this point that, although it's been slow and tiresome trying to get the attorney to say black or white, which one is it, we have come down on the right side of this, now, and as I just indicated I don't want to hear about a building; that I either want them inspected or gone, and they can't be three.

Mr. Donhauser said that, regarding inspection, the decision was June 30th and he had 20 days to comply; that he's well beyond 20 days and asked why we are extending it.

Mr. Lee said that I think that's part of the frustration of the residents. I think the thought was that you give them 20 days and, if nothing happens, you start imposing fines to get their attention and don't give them any options.

Mr. Donhauser said that here we are in September and well beyond 30 days.

Mr. Lee said that he has said what about this option, what about that option, could I do this.

Mr. Orestis said that, according to the attorney's letter, the clock is ticking; that you (Mr. Lee) said 7 days from the receipt of that letter. So, withing the 30 days, something should have happened, new information came to light but, now, the clock is ticking and I believe the next step is to impose fines.

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- 5:53 PM** Mr. Lee said yes. That letter was dated the 17th, so, Monday will be legal action.
- Mr. Donhauser said that, in the case of the fellow with the fence, it was \$250/day.
- Mr. Brodeur said that I think our ordinance says it is between \$100 and something, per violation, so you would have to decide what a violation is. Is it every vehicle over three or is it just that they are operating an automobile graveyard.
- Mr. Donhauser agreed.
- Mr. Lee said that, on Monday, the CEO and I will be getting together, getting ahold of the attorney, and following up with some legal action and notification that fines are beginning.
- 5:54 PM** Mr. Donhauser said that I have a concern that the individual actually doing this is not the property owner.
- Mr. Lee said right; that he agreed with Mr. Brodeur on that point. This has to go to the owner.
- Mr. Donhauser said that I think that's quite problematic; that, also, it appears, from what I've heard and read, that there has certainly been delaying tactics. I'm 100% behind the abutters; that I know that if I had my house next to that house, I would be standing with Mr. Brodeur. The question I have is to make sure, as a Board member, that we don't step over onto Mr. Jace Downes' legal rights, but I don't see what those are. Do you (Mr. Lee) want a motion to make you move forward.
- Mr. Lee said no; that I am highly motivated and, now that this has gone out, I want this to end as quickly as possible. It did take our attorney a fair amount of back-and-forth and stalling was allowed to happen on my watch.
- 5:55 PM** Mr. Donhauser said that the next problem is that we can fine for days and days but, then, where does the money come from and he isn't a property owner.
- Mr. Lee clarified that this would go against the owners, Charles and Mrs. Downes; that that is who we would file against.
- Mr. Donhauser said that we need to make them aware that they are subject to a pretty substantial fine, asking who determines the fine amount.

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Mr. Lee said that, generally speaking, the court would. In the case of the other fellow that wouldn't move the fence for 2 ½ years, the judge thought it was willful neglect so he said \$250/day. Generally, if it's not willful neglect, they'll start at \$100/day, per our ordinance.

5:56 PM Mr. Donhauser said that the next question is whether it is per vehicle or for the violation, itself.

Mr. Lee said that I believe it is for the violation, itself. I'm not sure it's per vehicle. I think our attorney would have to advise us a little bit on that.

Mr. Donhauser said that I think I would lean that way.

Mr. Lee said that I think it's the violation, itself, that has to be remedied. I don't think the court would view each vehicle as a violation.

Mr. Brodeur said that I have only one other concern. After the first letter went out, quite a long time ago, from the CEO, Mr. Pettigrew had a windshield smashed on one of his VW Vans. A little while ago, I had a swastika painted in front of my house on Beech Road. Another abutting neighbor made the mistake of telling him that he really loves the bees on the clover in the field, there, and they have been just non-stop mowing the same spot over and over and over just harassing him. I feel for the Downes parents' safety, my safety, and my neighbors when you start taking action. I can't prove anything but it's all in a circle in the same spot. I just wanted to let you know about it and tread very carefully as you go through this just for our safety.

Mr. Lee said that I don't disagree with that, either.

5:58 PM Ms. (Kathryn) Spellacy, Beech Road (directly across from the Downes), said that I am here to support Mr. Brodeur and Mr. Pettigrew. This has been going on for well over a year-and-a-half now. A lot of things have occurred. I've known Jace Downes, we've talked, made some inquiries, tried to make some compromises. Nothing worked. At 9:30 PM it wasn't uncommon for him to light up 4 or 5 vehicles with the high beams on the front of my house revving engines for 40 minutes. Or driving vehicles through that field with them chained to an expedition with cars that have axles on them. It's the noise factor as well. So, unfortunately, in trying to work this out, it has become a real unpleasant situation. And this is a suburb, this is a neighborhood and, like Mr. Donhauser pointed out, you do not want this across the street from you, or next to. One Easter Sunday, his vehicles went for 8 hours. I can't open the front windows of my house. And at one point, we had 41 vehicles. When I talked with Jace Downes, we got along for a long

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time; that I asked him what was the end game, what are you going to do with them, etc. But what he tells me and what happens are two totally different things. I feel for him. I know he loves vehicles but there's got to be a reasonable way. When I bought my house, somewhere around 2016, there were three vehicles. It was a long time coming to this, and we wish we didn't have to go this far, but it's been a lot. It really needs to be handled and finished. I really appreciate your time.

5:59 PM Mr. McPherson asked what relation is Jace Downes to the property owners.

Ms. Spellacy said that he is their grandson.

Mr. McPherson said that it seems that we are dealing with Jace Downes and not the grandparents; that it's almost that he's a name in this whole thing, right. He certainly has no authority at all. All the names I see are Jace Downes but I don't see the names of the people that actually own that land and why they're not being held accountable.

6:00 PM Mr. Lee said that we are going to remedy that on Monday. It should be going back to the owners. I don't know if she cc'd the owners as I just got the email of what was sent out. They are aware of what's going on.

Mr. Donhauser asked Mr. Brodeur if he had some satisfaction coming out of this.

Mr. Brodeur said that every time there's been a stalling action that has gained support from the Town, like when we went to the hobbyist, the number of vehicles instantly goes up. That is why I wanted to come up with not supporting the whole process of the building permit because I think we'll just see a flood of more vehicles there. Thank you very much for hearing us.

6:02 PM **Public Hearing for General Assistance Maximums Appendices**

Mr. Lee explained that there are several appendices (A-H) in this ordinance that are updated each year to different maximums and the purpose of this public hearing is for anyone who has questions about any increases. The changes are not significant, a few dollars in several categories.

There was no one from the public who spoke to this.

6:04 PM **Public Hearing closed.**

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board adopt the General Assistance Ordinance Maximum Appendices A through H.

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Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi – Yes

6:05 PM Mr. (Jim) Tessier, Johnson Lane (SWRC Chair), said I am here regarding several requests to make changes to the Household Hazardous Waste Policy. The SB had asked the Solid Waste Committee (SWRC) to review that policy and report back to the SB with a recommendation. He read the SWRC memo sent to the SB and Town Manager:

“For the third time in approximately 18 months, the Town Manager has proposed a change to the HHW policy. Current Town Policy – the Town pays the required set-up fee to the vendor for each HHW event and each resident that drops off material pays a disposal fee based on the amount of material dropped off. The Town Manager has again proposed that the Town pay all expenses related to HHW disposal. During the Select Board meeting where this change was proposed, the Town Manager also proposed allowing residents to drop off some amount for free. In March 2019, the SWRC provided a written recommendation to the Select Board (attached) stating “The Committee is not convinced that a change in policy is warranted. At the Select Board meeting, the Acting Public Works Director also recommended making no change to the established policy. The Select Board then decided to make no change to the HHW policy. At the most recent SWRC meeting, the Committee again reviewed the current HHW policy. All Committee members including the Public Works Director stated that they have received no complaints about HHW disposal costs nor are they aware of any illegal dumping. As a result, the Committee again recommends no change to the current HHW policy.”

6:09 PM Mr. Lee said that, at this point, I’m not going to continue to talk about this policy and I think it’s been made clear that this Town doesn’t view the policy the way that I would, as a person who has studied policy, but that’s okay. It’s what the Town would prefer to do and I’m not going to advocate it ever again.

Mr. Orestis asked Mr. Tessier how often he thought it would be good to review this policy. I think it would be interesting to just put it up once a year to see if anything has change or complaints made

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6:10 PM Mr. Tessier discussed his frustration that the Town Manager has tried to change some of these policies without getting approval of the SB and without discussing it with the Committee. If we keep it above-board and transparent, I don't have an issue. I don't have a problem with periodically reviewing this policy because, as you said, things change. If all of a sudden we see illegal dumping, I think we ought to address that point, and I agree with the Town Manager on that. That's the whole purpose of the policy. This policy has been around a long time and people have had the opportunity to drop off their HHW they've had stored in their garages. A lot of the HHW material being dropped off now is not as nasty as material people had twenty years ago.

Mr. Lee said that I accept and appreciate the Committee looking at it. I was in hopes that they would see a different view on it but that's okay. Apparently, that's how we'll leave it now. That will be the policy of the Town.

Mr. Orestis added that the next HHW Day will be held Wednesday, October 14th from 1PM to 5PM.

6:12 PM Mr. Tessier read portions of an article regarding what is happening in the recycling world. China will likely ban imports of cardboard and almost all other fiber grades in 2021; that they have upset the applecart by banning many recyclables worldwide, which has certainly caused big problems here in the US. If China does ban cardboard, I could easily see the recycling industry go through a tremendous amount of turmoil next year. He added that exports to China have dipped 24% in the first half of 2020 and domestic intake has risen 6%. There are a handful of recycling fiber mills projected to come online during 2020 and one of those mills is in Rumford, Maine. In many cases, as a result of the reductions, we are seeing a reduction in revenue, as well. We are also adapting, which is good news and we are still getting a revenue stream (especially in plastics – milk jugs), even though it has been reduced. The Committee is updating information on the Town website to make it more user-friendly

6:18 PM Mr. Tessier said that he would be interested in how the ACO compensation was resolved from the executive session.

Mr. Donhauser said that we addressed that in open meeting at the last meeting as a direct result of your memo asking for an update. The agenda had already been put out so we put it under Old Business.

6:20 PM Mr. Orestis said that it was in the minutes of September 10th, pages 11 and 12.

F. Approval of Minutes of Previous Meeting(s)

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6:21 PM Motion by Mr. Donhauser, second by Mr. Orestis, to approve the Joint TIF Workshop minutes of August 6, 2020, as written.

Roll Call Vote:

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

Unanimous vote to approve motion.

6:22 PM Motion by Mr. Donhauser, second by Mr. Orestis, to approve the minutes of September 10, 2020, as amended.

Roll Call Vote:

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

Unanimous vote to approve motion.

G. Department Head/Committee Reports

6:23 PM 1) Police Dept: Acceptance of grant

Mr. Lee read the memo regarding this that is included in the SB packet. This was a grant through the Department of Justice COPS Grant, which was to seek additional funds to support a school resource officer in Eliot Elementary and Marshwood Middle Schools. The award was a grant for \$125,000 for this position. The school board supports the grant and is adding funding to their budget for this position. He explained that this grant is a 4-year commitment to this program. The financial break-down is shown within the memo. We are asking, in cooperation with RSU #35, that we accept this grant. This position does include salary and benefits split between the school and Police Department. The memo stated that we were, at the time of grant application, that we would be funding a position in the current fiscal year, so we ask that the grant money pay

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95% of the salary and benefits for one year. Doing this would leave no federal share for year 3. Chief Moya strongly believes this position will be a resource for students, faculty, and parents.

6:26 PM Chief Moya and Sergeant Lund attended at this time.

Mr. Orestis asked if the Chief could tell us a bit about the role of the Resource Officer.

Chief Moya said that, obviously, the SRO is there for the safety of the children, with children being one of our most precious resources. The goal of the SRO is to teach, counsel, and then just keep the school community safe. That comes with constant planning. You have a police officer there that is essentially a mentor and I think the challenge, here, is going to be finding the right person, the right fit for this position. I think that, if and when we do, the big thing with the SRO for us is the emphasis on resource. That's really what we envision. There's a lot of focus on training and the training goes beyond what I think people think; that the officer is in the school for an active shooter situation but it really is more than that. We really need to train this officer so that this isn't an armed guard at the door; that this is going to be more like a resource, somebody trained in de-escalation, bullying, that sort of thing, and we kind of want to use it in that role. I don't envision arrest of students. I don't envision us getting involved in the disciplinary part of that but, again, more of a resource. It's a tough time and I know there are ups and downs with it. In talking with Superintendent Caverly, I think we have a good vision of creating the right team. That will not only be us and people from the school but, also, people from the community. It's a big thing and I think a great opportunity

6:30 PM Mr. Tessier asked if this officer would come from your existing staff or are you thinking of planning another hire.

Chief Moya said possibly. I don't think that's out of the realm. I think we're going to be really careful in creating a team, not only to create a job description, policy, etc., but also a group that will do an interview process that will include school, community, and the Police Department. It may but it may not.

Mr. Lee said that it would have to be offered internally but we would also seek externally. I fully support it. I sat in on the conversation with the Superintendent, the Chief, and we talked about how this would be kind of a liaison to the families of students, helping with family issues, in some cases, even to make the students' experience better in whatever ways that we can. It's very much like the current debate going on in the nation, I think; the role of police officers being community

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helpers. Kids grow up fast these days; that even by the time they're in middle school there's some pretty good issues. So, I think it's much needed. I just saw in Kittery when they tried to get rid of the SRO how much they appreciated that SRO.

6:32 PM Mr. Donhauser said that, if I understand the table, the Police Department budgets will reflect the 50% split every year. It's a good program. He thanked the police for putting this together.

Mr. Donhauser moved, second by Mr. McPherson, that the Select Board accept the award of \$125,000, and the grant, for our School Resource Officer in Eliot Elementary and Marshwood Middle School.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

6:34 PM **2) Appoint Tom Phillips III as Interim Harbor Master**

Mr. Lee suggested taking agenda item H2 Update Harbor Master, as well.

The SB agreed.

Mr. Lee said that today I submitted to the Town Clerk an invitation for two panelists to sit in on an interview panel. The job description and the help wanted ad are now out and we are looking for people to apply to be Harbor Master between now and October 22nd. I'm looking for people who are very river-related, boat-related, who might want to serve as general members of the public to interview. Under this (G2) agenda item, the position is only interim until we select a permanent Harbor Master. I was advised by the Clerk that we really should have this person appointed just for purposes of liability, and so forth. I'm going to recommend we make Tom Phillips III Interim Harbor Master until our search and hiring is complete.

6:34 PM **Mr. Widi moved, second by Mr. Lytle, that the Select Board appoint Tom Phillips III the Interim Harbor Master.**

Roll Call Vote:

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

NOTE: Item #3 and #4 were taken together.

3) Sewer Dept: Sewer Allocation, 140 gpd, 4 Spring Ln.

4) Sewer Dept: Sewer Allocation, 140 gpd, 197 Pleasant St.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board approve the sewer allocations of 140 gallons per day for 4 Spring Lane and 197 Pleasant Avenue.

Roll Call Vote:

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

Unanimous vote to approve motion.

6:37 PM 5) Bicentennial Comm: Acceptance of grant funds

Mr. Lee said that the Bicentennial Committee has applied for, and received, a \$2,500 grant. We have pushed everything into 2021 for the bicentennial celebration because of COVID so they had a chance to apply for more money. Congratulations to the Bicentennial Committee.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board accept the Project Grant in the amount of \$2,500 for the Bicentennial Committee.

Roll Call Vote:

Mr. Donhauser – Yes
Mr. Lytle – Yes
Mr. Orestis – Yes

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Mr. McPherson – Yes

Mr. Widi – Yes

Unanimous vote to approve motion.

6:38 PM 6) Town Clerk: Public Hearing Notice – October 1 at 6:00PM, MMS

This is a required public hearing for the local ballot items to be voted on in November.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board conduct a Public Hearing October 1st at 6PM at Marshwood Middle School for the purposes of the ballot.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi – Yes

Unanimous vote to approve motion.

H. Administrative Department

6:40 PM 1) Town Manager Report(s)

Mr. Lytle asked about **Line #35** regarding how marijuana licensing will work in Eliot.

Mr. Lee explained that the designated drug police officer had some questions around how it would work and be handled, with concerns about marijuana licensing, generally, as well as some things he knows about taking place in the community that he wanted to share with us that I'm not at liberty to talk about.

Mr. Lytle asked about **Line #37** regarding a meeting with the Chief and Town Clerk around security for the exterior of the Town Hall.

Mr. Lee explained that we will be putting in a concrete slab-mounted ballot box out in front of the building where the drop box is located. We wanted to make

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sure we had adequate security cameras looking at that ballot box and recording what is going on there.

Mr. Lytle asked about **Line #141** regarding concrete bids for Police ADA problem.

Mr. Lee said that our Police Station is not ADA compliant (the ramp). Mr. Robinson got one quote that I thought was unreasonably high and I asked him to get another quote; that we are awaiting that quote now.

6:43 PM a. Financial Report

Mr. Donhauser asked Mr. Lee how he felt we were budget-wise.

Mr. Lee said that our revenue is doing well. The only one that is an issue is municipal revenue sharing, which went down by about \$100,000 but I had budgeted for around \$170,000 less than what we were initially told we would get, but I didn't believe, so we are in good shape there. The only other cut that we have noted is with the Road Assistance Program; that they only sent us about \$30,000 and we will take about a 10% cut, there, but that is only around \$3,000 and is relatively minor.

2) Update: Harbor Master

This was taken up earlier.

6:45 PM 3) Findings from Compensation Study

Mr. Lee said that he was not looking for any action on this. This is regarding non-union staff positions, reaching out to several towns asking them for their criteria in these positions. We have finally compiled the results of that compensation survey for you to peruse in anticipation of us getting together some time in October regarding this. I want to thank Ms. Albert; that she took the reigns with this and did a dynamite job.

Mr. Donhauser agreed that it was a very good job, very well done.

4) Approve Warrants

Mr. Donhauser moved, second by Mr. McPherson, to approve A/P Warrant #52 in the amount of \$199,333.97, dated September 2, 2020; A/P Warrant #54

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in the amount of \$940,097.44, dated September 9, 2020; A/P Warrant #56 in the amount of \$99,020.71, dated September 16, 2020.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

I. New Business:

6:48 PM Mr. Lee said that a letter has been created in hopes that all York County towns will sign on to it. He read the letter (available at Town Hall) regarding fully adhering to CDC guidelines.

Mr. Donhauser asked how we are to sign on.

Mr. Lee said simply by making a motion to endorse the letter and I would notify them. It is a political message, in a sense, the way it's playing out in the world today. But I think as your local health officer, I certainly support this entirely. It is entirely up to you, as the policy-making Board, if you want to put our name on that.

Mr. Donhauser asked what was the wish of the Board. Does any member wish to make a motion.

Mr. Orestis moved that the Select Board endorse the letter.

There was no second and the motion fails.

It was asked who the letter was from.

Mr. Lee said that the letter was initiated by one of the elected officials in Biddeford, if I remember correctly, and they wanted to see if they could get all the towns in York County to sign on to this letter so that we were all in it together. I think the idea was to use this letter as a Letter to the Editor, a letter to the Governor's Office, to elected representatives, etc. It came from the Biddeford

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Superintendent and he went to the Biddeford Town Council, who agreed with him.

J. Old Business:

6:54 PM 1) Discuss Workshops: Property Maintenance, Others

Mr. Lee said that, given what is happening now with the election, holidays coming up, we would push these off until the winter; that I think the whole Board was in favor of that. It isn't that it's not important; that it's just the timing isn't great right now. We might also want to have a workshop about the pay study we did. We also have to put together municipal budgets, now.

Mr. Tessier said that it was mentioned, regarding the ACO, that the Town Manager indicated that some of the issue was related to the personnel manual with inconsistencies. Are those being addressed to correct them so it wouldn't potentially happen again in the future.

Mr. Lee said not at this point. There is a workshop in play after the November election regarding hours at the Town Office and we will be back in union negotiations; that at that point, we will jump back into the personnel policy, depending on what is said about different things. It hasn't been broadly accepted in the personnel policy. This was a unique change to it that was accepted by both parties.

K. Selectmen's Report:

There were no Selectmen's reports tonight.

L. Executive Session

There was no executive session.

M. Adjourn

There was a motion and second to adjourn the meeting at 6:56 PM.

VOTE

5-0

Motion approved

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Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Mr. Robert McPherson, Secretary

Date approved: 10/22/2020