

SELECT BOARD MEETING
January 28, 2021 5:30PM
(remote)

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. Moment of Silence observed: Families and Victims of COVID-19

D. Public Comment:

5:31PM Mr. (Jim) Tessier said that at last night's Budget Committee Meeting we discussed the CIP budget format because the Town Manager had indicated that what we agreed to last spring was too difficult to use. So, we put together a revised format we feel is much simpler to use, it takes less time for the Town staff to implement, but is also more transparent and easier to track that we're adequately funding the CIP. The Budget Committee agreed to forward that to the Town Manager and Treasurer so I did that last night. I also forwarded to you today the attachments we forwarded to the Treasurer and Town Manager to keep you in the loop.

Mr. Donhauser said that I looked at that and it looked very good.

Mr. Tessier said that the Treasurer and Town Manager agreed to review it and we will schedule a meeting soon to go over it in more detail to see if they think it will work.

E. Approval of Minutes of Previous Meeting(s)

There were no minutes for tonight's meeting.

F. Department Head/Committee Reports

1) Aging-in-Place Resignation: Tracy Dunton

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board accept the resignation of Tracy Dunton from the Aging-in-Place Committee.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

Mr. Widi - Yes

Unanimous vote to approve motion.

Mr. Lee will send a letter of appreciation.

5:33 PM 2) Aging-in-Place Appointment: Melissa Layman, Regular Member (June 2021)

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board appoint Melissa Layman to the Aging-in-Place Committee, as a regular member, for the term ending June 2021.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

5:34 PM 3) Conservation Commission Appointment: Carol Castellan - Alternate

4) Conservation Commission Appointment: Doug Warrender - Alternate

These two appointments were taken together.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board appoint Carol Castellan as an alternate member to the Conservation Commission, term to end June 2022, and appoint Doug Warrender as an alternate to the Conservation Commission, term to end June 2021.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

5:36 PM 5) New Solid Waste Recycling Committee: Transfer Station Map

Mr. Lee said that the Committee did a nice job. I'm hoping to have it enlarged and laminated and put it up at the Transfer Station. Also, maybe hand it out with garbage bags or Transfer Station permit tags. Reiterating that he thought it was really good, he said that he wanted to give them credit on doing such a nice job.

G. Administrative Department

5:37 PM 1) Town Manager Report(s)

Line 39 regarding Sweet Dirt fees.

Mr. Lee said that they dropped it off yesterday.

Line 52 regarding covering Ms. Albert's duties while she is out.

Mr. Lee said that he and Ms. Albert discussed who would take over her duties while she was out.

Line 116 regarding attorney question around conversion of marijuana license to new ownership.

Mr. Lee said that I explained to her that there was a fee for that conversion. I was puzzled by it because I'm not of the opinion that any of our three marijuana facilities have any interest in changing ownership; that I didn't understand why she was asking about that.

Line 120 regarding the status of the audit.

Mr. Lee said that he has a critical staff member who has a serious health condition that prevents him from any exposure and has slowed things down a bit. We are back to pushing it and I think the Treasurer is planning to meet with him next Friday (2/5) to try to bring it to completion for 2019/2020.

5:41 PM Line 124 regarding Eliot Commons request to purchase their sewer line.

Mr. Lee said that we had called them because we could have modified the easement given to us back in 2012; that if they granted us a bigger easement, we could have helped them with sewer connections over to the residences in the Eliot Commons area, further bypassing their system, but they said no. We've now designed around it and we were very clear that they could keep their private sewer system. The only thing we could do is ask them to enlarge their easement and we

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

could put some additional sewer resources toward the back of their property, which they don't currently have.

Mr. Donhauser said that that was fine with me. I'm not really interested in buying that sort of system for the Town.

Mr. Lee agreed. It's in very dubious shape. It's the wrong size and we'd have to sleeve it. It just doesn't make any sense for us to obtain it. What's worse, in my estimation, is that we asked them for some information about that sewer line so we could make a determination if we could possibly want to put it into the design, somehow, and they're not even sure who is hooked up to it. They don't have diagrams of how these places are connected to the private system; that Dunkin' Donuts is the only one we can find any records for. We don't need that.

Mr. McPherson was interested in this, as well. I remember in the past that we wanted them to play and they refused to play. Now that we have a sewer project going, now, and all of a sudden, they want to cash in; that I know it's undersized, etc.

5:44 PM a. Harbor Master Update

We've been meeting weekly to develop procedures and protocols and I think soon we will be back to the interviewing and selection process.

5:45 PM b. Ordinance Codification Update

Mr. Donhauser asked Mr. Lee to explain why we codify ordinances.

Mr. Lee explained that the main reason is that the Charter demands it. Getting it codified means that everything is digitally incorporated into a single book of ordinances, effectively, that are laid out in an orderly fashion. Every year we ask for some money for codification and also for records preservation and we are asking, again, this year. I wanted to show you a list of ordinances we are working on and a list of those not yet codified. We tend to put in the newest ones that have passed. Land Use takes precedence. We prepare the ordinances out of our office and send them to MuniCode, who formats them into the big book of codes. There is a link to the MuniCode website on the Town website.

c. Financial Reports

These did not get printed out for this meeting.

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

5:49 PM 2) American Legion Follow-up (Correspondence will follow.)

Mr. Lee said that I had the CEO and Fire Chief go through the American Legion building but the CEO had an illness this week and had to get caught up on permits first before writing a report of her findings. You can expect a report that shows the most egregious code violations that we will ask to be corrected before they start using that building.

5:50 PM 3) Notice from Kittery Water District

Mr. Donhauser said that this is pretty good news that Kittery Water District is going to expand their board and allow people in surrounding towns they service to potentially be on their board.

Mr. Lee agreed, that I think it makes a lot of sense. I wanted to let you know that they are looking at amending their charter and will go from 3 to 5, which will be much easier to work with.

5:52 PM 4) Upcoming Meetings: Joint Library MOU Meeting

The meeting is February 9th at 4:30 PM. There will be two from the Budget Committee, two from the Select Board, and two from the Library meeting in Zoom.

5) Approve Warrants

Mr. Donhauser moved, second by Mr. Widi, to approve A/P Warrant #87 in the amount of \$161,738.63, dated January 7, 2021; A/P Warrant #89 in the amount of \$973,339.78, dated January 13, 2021; Manual Warrant in the amount of \$201.00, dated January 12, 2021.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

H. New Business:

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

There was no new business.

I. Old Business:

5:54 PM 1) Revision to Inclement Weather Policy (2nd Reading)

Mr. Lee said that this draft is an attempt to clarify some language. The amendment is on page 2 and says “If, however, a staff person is forced to work remotely during an inclement weather office closure, those work hours shall be paid and may result in overtime pay.” I think that’s where Mr. Orestis was headed with his comments the last time we met.

Mr. Orestis said that this would be in addition to their normal work hours that they would have worked (with the office closure) and the additional remote work could count towards overtime.

Mr. Lee said that that’s correct. Also, if earlier in the week sometime, let’s say they had taken a half day for a medical appointment and, yet, they are hosting this meeting tonight for 1½ hours, for example, but it was an inclement day and we were closed all day, they would only get the 1½ hours and maybe that would go toward the four they had to take in sick time or vacation time earlier in the week and it wouldn’t result in overtime. But it may.

Mr. Donhauser said that this is the 2nd reading. Do we go one more meeting and then make a motion.

Mr. Lee said that, if anybody is uncomfortable, we can go to a 3rd or 4th reading. If Mr. Orestis, or someone, would like to work on the wording with me or suggest some wording, we can certainly postpone this another couple of weeks.

Mr. Donhauser asked if the SB wanted to vote on this tonight or postpone it one more meeting.

Mr. Widi said that, if we postpone it, inclement weather is that much further away. So, we’re going to get nasty weather in February and, if we push it back another meeting, then we’re in the middle of February. I wouldn’t want to short anyone but there was concern waiting much longer.

Mr. Donhauser asked if anyone had issues with the wording.

5:57 PM Mr. Orestis said that I don’t have any issue with it but I’m just thinking about this logically. The office is closed for the day. They get paid as if they worked a full day already. So then, let’s say that they have to come in to host a meeting on a

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

day that they may not have had to do any other work, anyways. I'm just playing devil's advocate making sure we're looking at all the angles. So, they're already getting paid for the whole day when the office was closed up. Then what we're doing is we are saying at 5PM, which would be after hours anyway, we're saying that the time they worked during the course of this meeting can, and may, result in overtime pay. That's what we're changing here. They already get paid for the day the office is closed, anyway. We're just saying that, if they work extra time outside of their normal hours, then they'll get paid overtime. That's what I'm hearing. It still doesn't quite say that but I'm okay with it.

Mr. Lee said that I think that phrase "outside of normal hours" may be what is missing. It might be that we would put down "If, however, a staff person is forced to work remotely during an inclement weather office closure, outside of normal work hours, those work hours shall be paid and may result in overtime pay." If we included that phrase, as amended, could that work for everybody.

The SB agreed.

Mr. Orestis moved, second by Mr. Widi, that the Select Board accept, as amended by Mr. Lee, the proposed draft language under C. Compensation and Notification of the Inclement Weather Policy.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

6:00 PM 2) Earned Paid Leave Policy (2nd Reading)

Mr. Lee said that this is a policy that is the result of a mandate; that this is a prototype policy that's been kicking around the town manager's listserve. It was put together by a human resources group and is the prototype that a lot of towns are adopting. I recommend adoption so that we will be in compliance. The only other thing I would add is around union negotiations/personnel policy and I mentioned that if we allowed, instead of three sick days to be used as personal days, we made it four sick days to be used as personal days, all our full-time employees, unions, etc. would meet the intent of this law. It would just be four days off without any questions.

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

- 6:02 PM** Mr. Orestis asked Mr. Lee if he had any issues with that, as someone who manages that. In my life, when I've had sick days and called out, no one has ever asked me if I was sick but just said okay; that I'm just curious how you feel about that.
- Mr. Lee said that, in the policy, we can ask them to provide up to four weeks' notice to use this leave, so, there is a notice provision. You can't just, any time you want, take it. You have to plan it. It wouldn't be someone saying that they are just taking one of those days today.
- Mr. Orestis said that I thought that a personal day was just that, no questions asked – a personal day.
- Mr. Lee said not with earned paid leave; that that's a little different.
- Mr. Orestis said that, if we would switch the policy with what you just suggested.
- Mr. Lee said that that's a good question. I'm not sure I should answer that, here and now. I'm not positive.
- Mr. Orestis said that I am in favor of adding an additional sick day to it, per your suggestion. I just wanted to make sure you were okay with it. In order for us to meet the letter of the law, we should just make sure if that is an 'anytime day', does it have to be planned in advance, that type of thing. But I am in favor of it.
- 6:03 PM** Mr. Donhauser said that the net result is that we aren't giving any more benefit. It's just calling something a different way.
- Mr. Lee said that the way we structure our paid time off, now, is one of three categories but two primary categories. One is vacation and one is sick. The third category is a personal day, which is neither. And the earned paid leave law makes it very clear that this is time of for which you do not have to have an explanation. You don't have to call it vacation or sick; just 'my time', 40 hours in a year, with a bunch of caveats, including notification to your employer that you intend to use some of this time.
- Mr. Donhauser said that the issue comes up on termination, also, of an employee. What do they get paid for and how much can they carry forward from year-to-year. That isn't changing.
- 6:04 PM** Mr. Lee said no, that doesn't change. And if you don't use the 40 hours of earned paid leave in any given year, it goes away. Again, this is pretty much a prototype

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

law that is being adopted widely with this very language. I read it a number of times, I had staff look at it, especially our payroll folks, and we feel this is very-well written and it meets every piece of that new law.

Mr. Donhauser said that our negotiations with the current administrative staff will dovetail right into tis, is that correct.

6:05 PM Mr. Lee said correct. In fact, I've made Bob Bower aware about the policy and what we'll need to do and he's already contacted Tracy, I believe, and said that we probably going to have to look to flip a fourth sick day into a personal day to meet the intent of this law.

Mr. Donhauser said that, for the public, Tracy is the forming union representative.

Mr. Lee said yes. I would like to have a motion to approve on this as I don't think it's going to get any better than this.

6:06 PM Mr. Donhauser moved, second by Mr. Lytle, that the Select Board accept the Earned Paid Leave Policy, as presented to us this evening.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

J. Selectmen's Report:

6:07 PM 1) Seeking Committee Members

Mr. Lee said that we have a regular position open on the Planning Board right now. We have a regular member opening for the Capital Improvement Committee and we have a couple of openings on Aging-in-Place, as well. So, if people are interested in getting involve, I would encourage you to call the Town Office and tell us what you're interested in.

There were no Selectmen's reports tonight.

K. Executive Session

SELECT BOARD MEETING
January 28, 2021 5:30PM (continued)
(remote)

There was no executive session tonight.

L. Adjourn

There was a motion and second to adjourn the meeting at 6:09 PM.

VOTE
5-0
Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Mr. Robert McPherson, Secretary

Date approved: February 25, 2021