

SELECT BOARD MEETING
February 11, 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 for the families and victims of Covid-19

D. Public Comment/Requests: Atty. Matt Howell Re: Mr. Bruce Staples (Executive Session)

5:36 PM Mr. Donhauser moved, second by Mr. Orestis, that the Select Board enter into executive session as allowed in 1 M.R.S.A. §405(F) (Publicly Prohibited Discussions).

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

6:39 PM Out of executive session. No action was taken.

E. Approval of Minutes of Previous Meeting(s)

6:40 PM Motion by Mr. Widi, second by Mr. Orestis, to approve the Special Select Board minutes of January 19, 2021, 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.

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Motion by Mr. McPherson, second by Mr. Orestis, to approve the Special Select Board minutes of January 22, 2021, 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.

F.

G. Department Head/Committee Reports

6:42 PM 1) Sewer Dept. Sewer Allocation Request (Map 4/Lot 17)

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the sewer allocation request for Map 4/Lot 17 for 120 gpd.

Roll Call Vote:

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

Unanimous vote to approve motion.

2) Sewer Dept. Sewer Allocation Request (13 Spruce Lane)

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the sewer allocation renewal request for 13 Spruce Lane.

Roll Call Vote:

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

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Unanimous vote to approve motion.

6:45 PM 3) Aging-in-Place: Appointment: Ann Lukejord

Ms. Lukejord said that I just want to say hi and that it's great to be here tonight. Ms. Ceppetelli reached out for someone to help with the minutes a couple of months ago. I helped out and they had me in their web; that they are wonderful. I just came off taking care of my father-in-law, who has Alzheimer's, so I know well helping people who are a lot older and have issues and how to be a caretaker and what that means. I feel this group is a good fit for me. My husband and I bought a house on Rollingwood Road 2½ years ago and this is just another wonderful way to be part of the community.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board accept Ann Lukejord's appointment to the Aging-in-Place Committee for a term to end June 2022.

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

6:48 PM 1) Town Manager Report(s)

Mr. Widi said Mr. Lee mentioned the traffic circle on **Line 342**.

Mr. Lee said that, through our KACTS grant, that allowed looking at where we have traffic impairments where level of service at certain intersections is terrible; that Depot Road and Route 236 is one of those intersections, which can be cured with a single-lane round-about. This type of cure was previously rejected by the Town. It is in discussion and we've asked for more study on it. There will be a presentation to the SB on all the stuff regarding Route 236 improvements in the near future.

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6:51 PM a. Architect Search Update

Mr. Lee said that we had a mandatory walk-through for anyone planning to submit their qualifications to be the architect on any Town Office renovation/expansion. Eight people showed up for the walk-through and seven gave proposals. The CIP Committee is now reviewing the proposals to find the best qualified and we will meet next week to discuss selecting who we would like to interview and make recommendations to the SB.

b. Warrant Deadline

Mr. Lee said that everything has to be delivered to Ms. Rawski by April 9th. The Citizen's Option Meeting is scheduled for March 9th at 6PM. If we decide we can't do that meeting from a logistical standpoint, we will have to put something on the June Warrant asking for retroactive forgiveness for not holding a large gathering during a pandemic. I just wanted to let you know that late-February to the end of March is really the home stretch for budget finalization.

Mr. Orestis said that, if we fail with the Citizen's Option Meeting, there will still be time to get it on the ballot.

Mr. Lee said yes; that I sent out a memo explaining our options.

At this time, Mr. McPherson had to leave for a fire call.

6:55 PM c. TIF Timetable/Schedule

Mr. Lee said that a lot of folks have called him asking for the sewer/water timetable on Route 236 and I want you to have it so that, if people ask about it, you have a rough idea of what it looks like.

6:57 PM 2) Delinquent Property Tax Rate – Max. 6% for FY 2021-2022

Mr. Lee said that on or around the second meeting in July, you would approve the so-called administrative articles, one of which is the delinquent tax rate. Due, in part, to COVID and the Consumer Price Index, the State Treasurer said that towns can go as low as 4% on late taxes and up to 6%. Traditionally, we have set 7% and I just wanted to let you know we will have to go down to some lesser number. Additionally, the State Treasurer did not affect the amount we pay for abated taxes and that's going to be 3%, so, there isn't much margin between 4% and 3%.

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6:59 PM 3) American Legion Follow-up

Mr. Lee said that the Fire Chief and CEO went through the American Legion building and they didn't find much in the way of code violations. My next step would be to go to Mr. Norton (American Legion Commander) to let him know we're fine with letting him continue in that building but need to meet those fire codes. He had offered to have some folks paint the building, which is badly needed.

7:01 PM 4) Requiring Vaccines of Staff – Legal Advice

Mr. Lee read a portion of a letter from his friend who is a manager in Gardiner, Maine from their attorney:

"The City can mandate that employees get the vaccine, however it will most likely need to provide accommodations for individuals with ADA or religious exemptions should the City do so.

As noted, the EEOC indicates that employers must still provide accommodations and exceptions for individuals with religious or medical requirements. Potential accommodations could include additional personal protective equipment, moving the employee's work station to be distanced from other employees, a temporary reassignment, teleworking, or a leave of absence.

In terms of potential liability items, if vaccines are not mandated or encouraged it is possible reports or claims could be made to OSHA for unsafe work conditions or worker's compensation claims in the event an employee contracts the virus while at work.

To mitigate against this possibility, the City could encourage vaccination or mandate it, which could include a focus/emphasis for any employees in higher risk positions. If the City does proceed with mandated vaccination, it should provide a clear exception for individuals with religious or medical necessities and develop a policy for those individuals to request an accommodation."

Mr. Lee said that we can have everyone get a vaccination, up to a point. If they have an ADA or religious reason, we can't. We can encourage them. With those who don't have either of those conditions, you can mandate that they do; that those that can't for a specific legitimate reason, you need a policy for what you're going to do with those people that don't want to get the vaccination and how to keep them safely away from those who get the vaccination.

Mr. Widi said that my understanding is that the Pfizer vaccine doesn't affect transmission. It only reduces symptoms and hospitalization. So, if it doesn't reduce transmission, what is the point, asking if that isn't an individual choice.

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Mr. Lee said right. The question was asked in Gardiner if we can mandate it and the attorney's answer was "Up to a point. Up to ADA and religious exemptions." Other advice I saw was to encourage it but make people sign off saying "I'm refusing it." Or "I don't want it." It would be documented that we encouraged it and the individual said no; that that leaves it up to the individual.

Mr. Widi said that the latter would be my interest. I'm a farmer, and we have an accountant, a sales guy, a fireman, a Town worker. We're not qualified to be telling people what to do with their body. We should encourage getting the vaccine, make them sign off if they don't want to, but I don't feel comfortable telling somebody they have to do something.

Mr. Lee said that I just wanted to share the advice with you. My view of it is, and we've done this with other things, if you don't want it, you'll need to sign something that you are opting out, then I'm good with that.

Mr. Orestis asked what the Town policy is with other vaccinations.

Mr. Lee said that there is none and you make a very good point. So, I don't think you mandate this. I think you encourage it strongly. I've even made provisions... Kennebunk and Kittery reached out to all the York towns and all the York municipal employees that, if you want to send in a list of all your essential employees, we're going to be getting a shipment and it's going to be just for doing all the municipal employees, especially police and fire, and most everyone from our departments signed up for it.

NOTE: Mr. McPherson returned to the meeting.

7:06 PM 5) Approve Warrants

Mr. Donhauser moved, second by Mr. Orestis, to approve A/P Warrant #91 in the amount of \$71,460.09, dated January 20, 2021.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

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Mr. Lee said that last week, when we approved the Manual check, it was misstated as being \$201 and, in fact, the Manual check was \$210. We really should rescind the prior approval of \$201 for the Manual check and, instead, make a motion to approve a Manual check of \$210 be approved.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board rescind the prior approval of \$201 for the Manual check and approve the Manual check for \$210.

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:

7:10 PM Amend Personnel Policy/Consistency with Earned Paid Leave Policy

Mr. Lee said that I would ask that this be adopted. It is required to be consistent with the Earned Paid Leave mandate that you have at least 40 hours that you can use for anything. Right now, we only have 30 hours you can use for anything so it's important to convert one more sick day into a personal day to be consistent with that law. We're not adding anything but just giving more freedom with a sick day to use for anything. He clarified that this is a portion of the Personnel Policy.

Mr. Orestis asked Mr. Lee to refresh his memory to confirm that these are given at the beginning part of the year.

Mr. Lee that when you first start working for the Town, you have no sick time. After a month, you have a day. After two months, you have two days. At the end of each fiscal year, you can carry a number of hours forward into the next year and most do carry some sick time into the next year in case they are needed. Once you have four sick days on the books, all of them under this policy could be used as personal days, with any new ones used in the event you are actually sick.

Mr. Orestis said that his reason for asking was that it says in 4 b):

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“Should an employee leave the Town's employment, and has used all Paid Earned Leave, without completing enough work hours to have accrued or earned all four (4) days, the value of that paid time off is due and payable to the Town upon separation.”

Mr. Lee clarified that that has to do with the Earned Paid Leave law. So, people that are carrying sick time into the future, for example, could take four personal days immediately upon the new fiscal year, never having worked an hour at the Town Office, get the whole week off, get paid for it, then separate. The Treasurer explained to me how that might happen and we wanted to put in something that would prevent it.

7:13 PM Mr. Donhauser moved, second by Mr. Lytle, that the Select Board accept the amended Personnel Policy with respect to consistency with the Earned Paid Leave Policy.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Mr. Widi - Yes

Unanimous vote to approve motion.

J. Old Business:

7:14 PM Mr. Lee discussed the Citizen’s Option meeting. We’re not prepared to make a recommendation on where to do it or how to do it, necessarily. We’re still working on details. It’s early enough now that, even if we put together plans and we find that it’s really not achievable, we could still fall back on what we did last year. In June, we asked the retroactive permission to skip the Citizen’s Option due to the pandemic, which would be a fallback position, but the staff and I are really trying to pull this off. The other thing I would mention is that, in the event that the SB decided that it’s too dangerous in a pandemic or that the logistics are too crazy and we do the June Article to forgive us, the Citizen’s Option has largely focused on library funding these last few years; that my advice would be that the SB recommend the full amount the library sought in the first place. That way the need for the Citizen’s Option meeting is heavily abated and let the Budget Committee take the alternate position of the lesser funding.

Mr. Orestis said that the Budget Committee would put whatever they recommend, not necessarily what you recommend.

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7:16 PM Mr. Lee agreed that they can put any number they want to recommend; that I was just thinking that it probably won't be the full number that the library was after. In thinking about the MOU, if people vote for the SB's amount that would be the full library budget under my proposal and do it resoundingly, we do know that the Townspeople do want us more heavily involved in the funding of the library. If they reject it resoundingly, we will know that the way we are doing things now where they ask and we respond, with no guarantee anywhere of funding, that that's probably the way we ought to proceed and go more carefully into the MOU discussion with the library.

Mr. Orestis said that I think we should continue to explore all avenues to have the Citizen's Option meeting, as we've had quite a bit of time to prepare, and to give every effort possible. As far as a back-up, we could do something similar to what we did last year and put feelers out to see if there are any other issues, like conservation or hazardous waste issues that have come up in past years. I think the ideas Mr. Lee put forth in the memo are possible.

Mr. Lee agreed. I spent a fair portion of the day trying to discover costs, where we could get needed equipment, tents, etc., looking under every rock to see what our best potential is. We're going to continue to look and that is our first position; that we want to be able to pull it off. If we do run into an absolute wall on this thing, I wanted to tell you that that might be the best default position for the SB on that particular Article.

7:19 PM Mr. Lytle discussed his concern with the tile flooring at the Town Hall. The floors are lifting up pretty bad and someone is going to trip and get hurt. We have some money in the reserve. Mr. Lee had someone come in to look at them and had a proposal to replace them. I think we should look at doing that.

Mr. Lee said that I sent over to you a proposal I got from a flooring contractor. I've been very concerned that somebody is going to trip on one of these tiles, as they are popping up more and more. We've covered everything up we can with mats but I'm probably going to have to buy a bunch more. I don't know what flooring should, or should not, cost so I didn't know if this price proposal was a good one or not. It was to do all the tile and the three bathrooms. It's in excess of our bid policy. I don't know this fellow. He just had the highest Google star rating so I called them first. I'm concerned, though, because if somebody trips and falls, and we've had some close ones, I'm going to feel real bad about it and know that it was preventable. When I mentioned it to Attorney Saucier today, he really felt like we ought to move swiftly with this thing. If you have any feedback, I would welcome it. I've tried to call a couple of other flooring people and I have had a hard time getting them call me back. It took me three weeks to get this quote.

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Mr. Widi said that the price is a little high but not outrageously high.

Mr. Lytle said that I thought it was high until the Town Manager took me around to show me what would be replaced. There's a lot of area being taken up.

7:22 PM Mr. Lee agreed and didn't think the quote was too bad. We would need to get SB approval to use money from the Town Hall Reserve, which has more than enough available to do this work. It would require waiving the bidding policy and doing it as an emergency before someone gets hurt.

Mr. Orestis asked if Mr. Lee could continue reaching out and put this on the agenda for our next meeting. Work your magic and see if you can get another couple of bids.

The SB members agreed.

Mr. Lee said that I think, as I don't have much knowledge with this, I will use the proposal I have as a template, without amounts, and put it out and ask vendors how much it would be to do 'this' and when could they do it.

7:24 PM Mr. Widi said that I had a contractor deal with Ms. Bishop about an issue and he said it went awesome. I know, in the past, she's gotten some flack for stuff delayed, or whatever, and I just wanted everyone to know that he said it was a breeze and he had everything he needed within a day or two. The other thing was the ADU thing. I do understand the gut instinct to just let the committees do what they do. They're volunteering their time. The only exception I would say to that is that we spend an hour and a half on a library meeting over \$50,000 and we spend zero time dealing with property issues in Eliot when Eliot is valued at \$1 billion, or close to that. At the next meeting, maybe we could put it on the agenda. I just want to talk about it. I know that one of the things they wrote with the ADUs is that they would eliminate Airbnb-style rentals. That was put out on Facebook on one of the Town forms and it was 95% negative that they would do away with Airbnb-style rentals. My issue was more the square footage where we go from below average to maybe average. I just wanted to ask that it be on the next agenda.

Mr. Orestis asked if it would make sense to have a workshop on this stuff to share ideas and review with the Planning Board previous to having anything going on the ballot. I know we're tight for time but Airbnbs are a big deal locally and all over the country. We definitely don't want to rubberstamp something like that without a conversation.

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7:25 PM Mr. Lee discussed the very full Planning Board docket and suggested inviting the Planner to the next SB meeting to discuss our views and he could take that back to the Planning Board on our behalf. Mr. Lentz (PB Chair) might be willing to attend a remote meeting, too. I will put it on the next agenda.

K. Selectmen's Report:

1) Seeking Committee Members - Aging-in-Place, Capital Improvement and Planning Board are seeking members at this time.

7:27 PM Mr. Donhauser said that I and Mr. Orestis were on a recent Zoom call with negotiation team for the union. They were going to vote to ratify and he asked if Mr. Lee got any response from that. I haven't heard anything.

Mr. Lee said that because we were meeting at noon to go over the last 2 or 3 remaining issues, it was recommended to the Teamsters that they postpone their 2 PM meeting because we were to get back to the Teamsters' representative with answers on the last remaining issues. They have to be hammered out so they postponed that meeting.

L. Adjourn

There was a motion and second to adjourn the meeting at 7:28 PM.

VOTE

5-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Mr. Robert McPherson, Secretary

Date approved: February 25, 2021