

**SELECT BOARD MEETING**

**August 26, 2021 5:30PM**

**Town Hall**

**Quorum noted**

**A. 5:30 PM:** Meeting called to order by Acting Chair Donhauser.

**B. Roll Call:** Mr. Donhauser, Mr. McPherson, Mr. Widi, and Ms. Dow.

**Absent:** Mr. Orestis (excused).

**A Moment of Silence was observed for those individuals, military and citizens, who have lost their lives today in Afghanistan.**

**C. Public Comment:**

There was no public comment.

**D. Approval of Minutes of Previous Meeting(s)**

**5:32 PM** Motion by Mr. McPherson, second by Mr. Widi, to approve the minutes of August 12, 2021, as written.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**E. Department Head/Committee Reports**

**5:33 PM 1) Public Works Dept. – Liquidate Surplus Items/Purchase of Bucket Truck**

Mr. Robinson said that the bucket truck did not pass State inspection and basically condemned it. It is a 1994 and we have gotten our money out of it. We have \$7,500 in our CIP that would go towards another one. I would like to liquidate some of the surplus equipment that we no longer use and put it towards the purchase of this bucket truck.

Mr. Widi asked if Mr. Robinson could get a good-quality bucket truck for \$15,000.

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Mr. Robinson said in the vicinity of \$15,000 +/- . The old equipment will be sold. I do have one prospective buyer.

**Mr. Widi moved, second by Mr. McPherson, that the Select Board authorize the purchase of a bucket truck for a cost of up to \$15,000, which will be paid for with funds received from the sale of surplus equipment and the Reserve CIP account.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**5:35 PM      2) Public Works Dept. – Road Salt Bids 2021-2022**

Mr. Robinson said that the staff report explained and I would recommend the road salt bid to Eastern Salt of Portsmouth, NH at the cost of \$68.23/ton delivered.

**Mr. Widi moved, second by Ms. Dow, that the Select Board award the bid for road salt to Eastern Salt of Portsmouth, NH at a cost of \$68.23 per ton delivered.**

**DISCUSSION**

Mr. Donhauser asked how much we paid last year.

Mr. Robinson said that it was \$50/ton. He added that the salt shed is full right now.

**DISCUSSION ENDED**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

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Mr. Robinson said that I did, regarding road striping, reach out to three contractors and I didn't get any replies from any of them. So, I called four more contractors. Only one responded and he said he would probably not be able to do it because there is a shortage of paint right now.

**5:37 PM      3) Marijuana License Fees**

Ms. Granfield said that it was requested that we take a look at the fee structure that we've been charging. We took a survey and provided you with the rates of eight other municipalities. We are actually higher than the majority of them. This is informational at this point. It was also requested that we take a look at the time spent on the whole marijuana licensing process and fees by staff. I will tell you that, initially by a combination of the Planner, Administrative Assistant, and CEO, the first year was a significant amount of time because it was new to everyone. In speaking to everyone, at this point, it has greatly reduced because everyone is familiar with what needs to take place. I believe the Planner spends about a quarter of his time with associated marijuana issues and Code Enforcement maybe 5%. I'm actually recommending you take a look at this and, if you have other areas that you'd like us to explore, perhaps review it again in another 6 months to a year to see what has changed. If we're inundated again you may want to change it but, at this point, we thought it was good to bring you the information, seek any additional input you may have, and then we can further explore it.

Mr. Widi said that I understand our fees are higher because everyone considers that Eliot is a better place to do business than Berwick, Bethel, Farmington, Lebanon, Waterville, and Windham. So, at some later date, I may be requesting we tie those fees to inflation, which I think is fair and reasonable but I would leave it as is for now.

Mr. Donhauser agreed. As we experience what it costs, we can adjust it.

**5:40 PM      4) Certification of Proposed Ordinance Amendments for Placement on the Warrant for November 2021 Referendum.**

Mr. Brubaker said that we have six ordinance amendments and five of these were considered and recommended by the PB after a public hearing. There is one other that doesn't pertain to land use regulations so, per the Town Charter, it doesn't go to the PB. From each one, we'd like a recommendation and there is a motion template included. He went on to discuss each amendment.

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**Firewood Sales:** This is really simple. Firewood sales are allowed or allowable in all our zoning districts except Commercial/Industrial (C/I). So, this would change a 'no' to a 'yes' in the land use table and allow firewood sales in the C/I District.

**Mr. Widi moved, second by Ms. Dow, that the Select Board recommends approval of Firewood Sales Ordinance Amendment, to be placed on the November 2021 Ballot.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**5:44 PM**

**Shoreland Zoning Site Photos:** Mr. Brubaker said that our Shoreland Chapter is Chapter 44 of the Town Code and one thing that is different about that any changes that are made to it after approval by the voters has to be reviewed and approved by the DEP. After the June vote on Shoreland amendments, the DEP reviewed and approve them all and asked that another minor amendment be made. The purpose of this amendment is to require that Shoreland Zoning applications provide photos of the vegetation along the shoreline and include them in their application. Then, as a condition of approval, 20 days after they would have to provide post-construction photos of the same shoreline just to make sure they were protecting the vegetative buffer and not making any changes contrary to their site plan. So, it is a DEP-recommended change and the PB recommends it, as well.

Mr. Widi asked what would happen if the DEP rejected an amendment.

Mr. Brubaker said that the ordinance change would not go through and it would remain as written. The DEP has 45 days to review any changes. They do provide a kind of courtesy preliminary review before the ordinance is finalized and they have done that with this one. That really helps because it brings out any potential issues. The voters approve it, then the Town Clerk certifies the ordinance change, and we send that to the DEP. The DEP has 45 days to act on that and, if they don't do anything, then it's approved.

**Mr. Widi moved, second by Ms. Dow, that the Select Board recommends approval of Shoreland Zoning Site Photos Ordinance Amendment, to be placed on the November 2021 Ballot.**

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**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**5:47 PM**      **Stormwater:** This is a change to Chapter 35 – Post-Construction Stormwater Management. All development that disturbs and acre, or more, including stormwater management facilities, must commence to maintaining those facilities; that they work properly and continue to effectively manage stormwater so it doesn't cause issues with abutting properties or cause any environmental damage. Right now, our requirement is that only sites within the Urbanized Areas (UA) are subject to those post-construction stormwater management requirements. The UA is a census-designated area that only encompasses part of Town that generally runs along the river and includes the Village but excludes portions of Route 236. So, this change would go from that UA to Town-wide applicability for these requirements. A lot of other neighboring communities do town-wide so we would be consistent with a lot of those communities. The other updates that this amendment makes is adding a requirement for the property owner to file an inspection report. The way our ordinance is currently written those who are subject to these post-construction stormwater management provisions need to self-certify; that they inspect their own facilities to make sure they are working properly and they then certify that to the Town. They include with it an inspection report done by a qualified stormwater inspector so that we can verify that their certification is accurate that their stormwater facilities are working properly. This just enshrines that requirement. It also changes the fees to try to recover staff costs for reviewing that certification, reviewing that certification. The Town still does reserve the right to do its own inspections, like if there is a problem out there, and we would have updated fees to cover those inspections. Those inspections would only take place if needed.

**5:50 PM**      Mr. Donhauser asked how many properties could be affected by this.

Mr. Brubaker said that the current number of properties that have signed post-construction stormwater management agreements I think is about three and this would potentially add a few more. Again, it's only sites that disturb one acre, or more and, so, a lot smaller development would be exempt. We are trying to catch the bigger-sized properties.

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Mr. Donhauser said that the reason I ask is that I had a constituent that has had a water issue but I'm not sure it's related to stormwater. My information through them is that stormwater from other properties is eroding their property. Does this ordinance have something to do with that. They haven't altered their property, at all; it's that their property is being altered. It's Riverview Estates.

Mr. Robinson said that there was a stormwater drain put in at the end of Crescent Drive and it abuts their property, the discharge goes onto their property. Ms. (Kristie) Rabasca came down and walked the woods. As it disperses out of the discharge, it is not eroding the property; that she didn't see any problem with it. It is a wet area, anyway, but she tried to claim that it was washing her property into the river. Ms. Rabasca went over and walked the whole woods with her and it is not.

Mr. Donhauser asked if they might be particularly interested in this ordinance.

**5:52 PM**

Mr. Brubaker said that I believe that Riverview Estates is in the Urbanized Area already so nothing would change from switching from UA to Town-wide. In general, one of the core benefits of these post-construction stormwater requirements would be to prevent that type of situation. Where there is a big development site next to, let's say, a resident and they have stormwater management facilities and those facilities start to fail, like a bio-retention area that clogs up and doesn't drain properly, which causes flooding on the neighboring property. I do think the effect of this chapter is generally to try to protect abutting property owners from having those failing stormwater features affect their sites.

Mr. Donhauser said that, if I'm a developer and I have a large parcel of land with 50 lots, who is responsible under this ordinance.

Mr. Brubaker said that, for a new subdivision coming in like that, the developer would build the stormwater management facilities. Once built, they would sign a post-construction stormwater management agreement with the Town, which would be based on a stormwater management plan that they would be required to produce, and that plan would stipulate that they be kept in proper working condition by the developer. This would also apply to homeowner's associations once the developer has sold the lots. It provides not just for the developer but other entities, whoever would have actual control over the land.

Mr. Donhauser asked if ordinance this applied to the C/I Zone.

Mr. Brubaker said that part of the UA is in the C/I Zone and part of it is not. If this ordinance was adopted, it would apply Town-wide so, all parts of the Town, including the C/I District, would be subject to these requirements.

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Mr. Donhauser asked who would be responsible under this ordinance in a developed industrial park where the developer no longer controls.

Mr. Brubaker said that it would be the owner or the entity that's in charge of the stormwater management facilities.

**5:56 PM** Mr. Donhauser said that I'm trying to understand the impact. As an example, there are 10 parcels and I sell nine of them; that the stormwater is only going across three of those. Is it just those three parcels that are affected or is it the whole industrial complex.

Mr. Brubaker said that that would depend on the specific management structure of the industrial complex, I think. They would have to figure out who is responsible for different common areas, including the stormwater management facilities. I don't have the template of the agreement, which is in our ordinance right now, but I believe it would capture any kind of heirs and assigns where somebody would leave and somebody else would have to take over.

Mr. Donhauser said that the ordinance is flexible enough to capture what we want to capture.

Mr. Brubaker agreed.

Mr. Widi asked, in general, what an inspection report and the certification cost.

Mr. Brubaker explained that when I came up with the added cost recovery for these fees, I estimated that it would cost a consultant \$900 to do the inspection, itself. That is for 6 hours at \$150/hour. That of course includes direct plus overhead for a consultant's fees plus expenses. So, I would imagine that if you use \$150/hour as a consultant hourly rate ballpark estimate, 6 hours to actually do the inspection and then probably another 6 to 8 hours to actually do the report, it could cost \$2,000, as a general estimate.

**5:59 PM** Mr. Widi said that I'm not terribly concerned with \$2,000 but we just added the emergency services fee for new construction, as well. Just so we're all aware. I'm going to vote in favor of this but we are adding considerable expenses on new construction, just so we all understand that.

**Mr. Widi moved, second by Ms. Dow, that the Select Board recommend the approval of the Stormwater proposed Ordinance Amendment, to be placed on the November 2021 ballot.**

**Roll Call Vote:**

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**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**6:00 PM**      **Definition of Public Facility relative to sensitive uses:** The Town has a number of sensitive uses from which certain marijuana establishments must be buffered by 500 feet, including a marijuana retail store, a medical marijuana dispensary, and a medical marijuana caregiver retail store; that one of them is ‘public facility’. This just clarifies the definition of public facility that would apply, in general, to buildings or lots that are owned, operated, or leased by a government body and are open to the public and regularly visited by the public. This is meant to remove interpretations where things like roads or lots that are owned by the public but not used or visited by the public would not be considered a public facility for the purposes of the marijuana 500-foot sensitive use buffer. Parks would still be included in that and buildings regularly visited by the public, as well.

Mr. Donhauser said that an example of this is a parcel on Route 236 that was not being used by the Town but owned by the Town as a tax-acquired property, I think. There were a lot of issues around how close marijuana could be to that. This amendment eliminates that problem. Is that correct.

**6:02 PM**      Mr. Brubaker said that, if we are talking about those two facilities, I would say that if this ordinance amendment is adopted, it would be a very reasonable argument to argue those facilities can be excluded from the sensitive uses.

Mr. Donhauser said that I actually think that’s fair. Holding bare land and then holding a business, no matter what the business is, saying you are too close to this facility when, in fact, there’s no facility at all. It makes some common sense, anyway.

Mr. Widi said that I think it’s fundamentally unfair that we make a change like this that only affects a handful of properties. And why someone can’t have a marijuana store across from the Transfer Station or the Salt Shed does not make any sense to me. If we’re going to be in the marijuana industry, either we go all in or we leave it how it is. I just think making this change for just a couple properties is unfair. That would be, for example, like me making an agritourism ordinance that says you can only do it on River Road. So, for me it is fundamentally unfair and I’m not going to be in favor of doing away with the restriction from a public facility because why should a place we drop our mail or we drop our trash or Mr.



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Robinson parks the new bucket truck be considered a public facility but not a swamp or a sewer pump station or something like that. So, I would ask that we just push it back to the PB. They did not agree with me. A couple of them, it was their second meeting and I think some of us have been here a long time. If there's anyone other than Mr. Brubaker that completely understands the marijuana ordinance, they're lying. I think delaying it for six months is reasonable and that's my request.

**6:05 PM** Mr. Donhauser said that I understand from Mr. Widi that a marijuana place can't be across from the Transfer Station under this ordinance.

Mr. Brubaker said that I think it's a matter of interpretation but I think you could argue that that would still be a public facility, as it's owned by a public entity – the Town, but it is regularly visited by the public to drop off trash, and so forth. It would seem to me that that would still be considered a sensitive use buffer requirement.

Mr. Widi said that, so, people have to drive by it, look at it, smell it because you can still grow within that 500 feet, but for some reason, they can't sell there. That's like you can have a farm but you can't sell anything from the farm. For me, it's a fundamental principle thing.

Ms. Dow asked if Mr. Brubaker could talk about why the PB thought this would be a good amendment.

Mr. Brubaker said that it's just to remove the ambiguity with regard to publicly-owned land that is not regularly visited by the public. The way that the current definition in §11-3 is written, you could interpret it that any property owned by a government body or operated by a government body would be a public facility. So, that could include vacant parcels owned by the Town and there was an argument previously given to the PB that that could be interpreted to mean 'road', as it is land that is operated by a governmental body. The idea was to remove a few instances of ambiguity from the definition.

**6:06 PM** Ms. Dow said that, with this wording change, are you only trying to keep it away from governmental buildings.

Mr. Brubaker said and lots, which would include parks and recreation areas. We're basically trying to create a filter on the definition of public facility.

Mr. Donhauser asked who makes that determination of public use or not public use.

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Mr. Brubaker said that that would be determined through the PB review process. Additionally, the PB could find the Transfer Station, as an example, as not being a sensitive use in their Findings of Fact and that decision could, of course, be appealed.

**6:08 PM**

Ms. Dow asked if there are any other provisions in the ordinance to speak to not having facilities near those. I'm assuming there is something in there about schools. Is there another way that you could read that you can't be within 500 feet of a park or is that the only line that addresses this.

Mr. Brubaker said that that's the only line that addresses parks in respect to marijuana establishments. Schools is a special situation for marijuana. State law requires the 500-foot buffer for public and private schools. The State actually requires a 1,000-foot buffer but they allow municipalities to ratchet that down to 500, which we've done. In our ordinance it says, **"No marijuana establishment or medical marijuana establishment shall be sited within 500 feet of the lot lines of a public or private school. This standard may not be relaxed by variance or waiver."**

Mr. McPherson asked if Mr. Widi was looking to just postpone it until June.

Mr. Widi said yes, just postpone it. My thing is just do we postpone it as a PB to either open it up to more properties, not just a handful of properties or just not make a change. I'm just asking to delay it and let the two new PB members get their feet under them and then decide what they want to do.

Mr. Donhauser asked Mr. Brubaker how he felt about it.

**6:10 PM**

Mr. Brubaker said that I'm not here to advocate for or against it. I would just say that the PB has made its recommendation and the question is how that would work with the Charter if the PB has recommended and the SB were to ask for a delay. Would that then not go on the ballot at all. Because you guys are the ultimate certifiers for the ballot. I guess I would say that that's an option available to you. It's a policy decision for you. Another option for you would be to potentially approve with any recommended revision, if you feel wordsmithing on the spot. That would then be a question as to the different versions being represented differently on the ballot - the PB recommends 4-0; the SB recommends with revisions. I don't know how that would work exactly with the ballot question.

Mr. Widi asked, if we postpone it, is the sun going to fall out of the sky.

Mr. Brubaker said that the ordinance would just stay as it is.

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Ms. Granfield said that I would just indicate that there are differing opinions on it and perhaps you don't want to include it at this point and just postpone it, re-look at it, and then if there are any changes, post it for the June session. That would give time to further evaluate if it needs to be expanded or changed.

**6:13 PM** Mr. Donhauser asked if there were any other comments or questions.

Mr. McPherson said that I agree with that.

**Mr. Widi moved, second by Ms. Dow, that the Select Board delay the definition of a public facility relative to marijuana sensitive uses until the June 2022 ballot for further review.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**6:15 PM** **Demolition Delay Ordinance for historically/architecturally significant resources:** This ordinance amendment would establish a new section in Chapter 45, which would establish a 90-day delay period for reviewing demolition permits for buildings of a certain age, mainly 100 years or older, or buildings that are on the register of historic places. The effect of this delay period would be to encourage the seeking of alternatives to demolition. That would include restoring the building or moving the building to another property. It would establish a PB public hearing so that the PB could receive input from the abutting property owners and the public on whether a structure proposed to be demolished is historically or architecturally significant. It would also allow, at their discretion, advisory opinions to be submitted on historical significance by the Eliot Historical Society or the State Historic Preservation Commission. Both the Eliot Historical Society (EHS) and the State Historic Preservation Commission (SHPC) reviewed and provided really helpful comments on this draft ordinance. In fact, the EHS was initially the one who suggested that we adopt it. There's a bunch of examples from around Maine of other communities having this. So, after the public hearing and after written opinions by these entities and the PB, the CEO could decide to waive, or lessen, that delay period. For example, if everybody is pretty clear that the structure proposed to be demolished isn't historically significant, the CEO could proceed with issuing that permit. Just a couple important notes, here. It doesn't prohibit or indefinitely delay demolition of any building, even buildings

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that are either historic or architecturally significant but would only delay for other alternatives to be sought. There is an exemption for dangerous buildings and this established a new definition of dangerous building that's based pretty much verbatim on State law. So, for those buildings that need to be demolished immediately, in order for them to be demolished by the Fire Chief, the CEO, the SB, or by order of Superior Court because they are dangerous for life safety hazards, there would be no delay there and demolished immediately. The, if demolition is going to be the final result for a building, it would require that the property recordation must be done, which would be going in to take photos and doing sketches of the property so there is at least a paper record of the property before it's demolished for local research purposes; that the applicant would be encouraged to salvage as many building materials as possible before the building is demolished. The PB recommended with a few revisions. They did change the building age from 75 to 100 years of age, or older, and then they clarified that this would only buildings on the national register, not buildings on properties that are on the national register. When you get on the national register, you can actually say that 'these' buildings on the property are contributing to the historic status and 'this' building isn't.

**6:19 PM**

Mr. McPherson said, regarding local examples, you said there are examples in certain areas. We don't have anything here that is an issue or do we.

Mr. Brubaker said that, in terms of example of ordinances, the SHPC has a few on their website – one in Norway, in Searsport, and one other community.

Mr. Donhauser asked if he had a record of how many buildings are over 100 years in Eliot.

They discussed several that are that old, three being on the national register.

Ms. Dow said that those would be the only ones that this ordinance applied to, if they are on the national register or is it the 100 years.

Mr. Brubaker clarified that it is any building that's 100 years old.

Mr. Widi said that Mr. Brubaker was kind enough with the revisions from 75 to 100 years and excluding current buildings on a national historic site. He was kind enough to pitch those to the PB for me. So, thank you.

Mr. McPherson said that there must be a lot that are 100 years old. The church across the road and I know my father's house is way older than 100 years old. There are a lot when you start thinking about it.

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Mr. Widi said that I'm not in favor of it as it is; that there is some terminology regarding additions. For example, if you blow a wall on the side of Mr. McPherson's dad's house, that would still have the 90-day delay, whereas, if he built a new garage, I don't believe it would.

Ms. Dow said that that could also be delayed by the CEO.

Mr. Brubaker agreed.

Ms. Lemire said that this is a pretty common ordinance around the country. Part of the reason it was created at all was because people, especially in the mid-west, were just knocking buildings down that were historically valuable to the culture, the area, and they were destroying all the contents, as well. So, this can protect the house and, as Mr. Brubaker said regarding recordation, going in and taking pictures and then the content of the house can be preserved or recorded, as well.

**6:21 PM      Mr. Widi moved, second by Ms. Dow, that the Select Board recommend approval of the Demolition Delay Ordinance for Historically/Architecturally Significant Resources, to be placed on the 2021 ballot.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**6:22 PM      Rooster noise:** This would modify §8, which is in the Animal Control Chapter that authorizes the Town to address frequent or persistent loud and unreasonable rooster noise that causes a disturbance on other properties. There is a clause in there that this would not supersede Maine Agricultural Act, otherwise known as the Right to Farm Law, which basically protects farms, as defined in State statute, and farm operations from being declared a public nuisance by the local ordinance. This ordinance tries to stay away from challenging the Right to Farm Law. But it would provide a basis in Chapter 7 for the Animal Control Officer (ACO) to regulate rooster noise. I can say that this has been discussed among a lot of staff, including our ACO. I talked with her earlier today and she was unable to make it tonight but she is aware of this change, as well as Chief Moya and our CEO. I think the only potential clarification I want to seek from the SB is whether you want to specify a specific duration in minutes, like 20 minutes, that the rooster would have to be crowing for action to be taken.

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Ms. Dow asked why you are proposing this one.

Mr. Brubaker said that we got concerns from residents about roosters on neighboring properties affecting their quality of life and just creating a lot of noise.

Ms. Dow asked how many complaints. Was it recurring, you have a lot of them, was it once.

**6:24 PM** Mr. Brubaker said that I know of two or three different situations where concerns have been raised.

Mr. Donhauser said that we had individuals come before our Board a few months ago pleading with us to somehow to deal with this specific issue. The woman that was here was almost brought to tears she was so distraught.

Ms. Dow asked if there is currently nothing the ACO can do for that person.

Mr. Brubaker said that it's a real grey area so this tries to add specificity and a more solid foundation for her to more specifically address rooster noise. The thing about this ordinance is that it doesn't forbid anyone from having a rooster. It really just addresses if the rooster makes a lot of noise so that would be up to the ACO, using her usual practices, to work with a potential concern, how does the owner address that.

Ms. Granfield said that, in addition to police, the ACO, planning, I have had some, in the time I've been there, calls from some residents. The ACO has worked with the different individuals, sometimes seeking the neighbor that might have it to see if the rooster could be moved to another area of the property or something. But it's been a continuing issue for several people and I believe the idea was of generating something; that I agree there should be some type of duration because what may seem bad to one individual is tolerable with another. If it goes forth with a modification such as that then ultimately the Town public can decide if they want to go forth with this, if it's placed on the warrant, or not. I think it gives the opportunity with those that are concerned and some that have gone to the SB at previous meetings and were advised it was being looked at and to be addressed and were satisfied with waiting for something to go forth, perhaps, in an ordinance proposal. Whether that would ultimately be approved, or not, that would be the ending result. From animal control, it's been a problem for her to deal with it, also, and thought if there was something a little more delineated, it would be helpful.

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**6:28 PM** Mr. Donhauser suggested we have a little bit of discussion about the duration. How long do you think a rooster should be allowed to crow.

Mr. Widi said, to start with, all the roosters at my farm are soup. I am sympathetic to both farmers and people that have an issue with the noise. I made the request of adding the duration of 20 minutes. If you look at §8 of the animal noise, it's about dogs barking for longer than a half hour. So, there is a specific amount and I think that's the most fair for the accused and the accuser; that 20 minutes is pretty measurable. If a dog is incessantly barking, a rooster will crow and maybe take a minute off then crow again and take a minute off then crow again and some of them do go all day. They shouldn't be next to somebody's home. A small thing I won't get too much into but I was approached by someone about a potential agriculture committee to handle situations similar to this because we do have a lot of homesteaders and farmers and a lot of people moving into Town from Massachusetts and New York that didn't grow up on a farm. So, there is going to be more and more conflicts like this and that will be a future pitch I make to hopefully try to resolve some of these issues.

Ms. Dow said that we've had lots of roosters. We usually get rid of them. I hear what Ms. Granfield said about letting the voters decide but, as a SB member, what is my responsibility to maybe not think that this should be a question. I'm not clear on what my responsibility is as a SB member or as a voter in the Town. Do you know what my question is...am I coming from a standpoint of personal interest, personal for the Town, or am I coming from the standpoint of...I agree wholeheartedly that the shift in our demographics are going to change and this could potentially put many people who are chicken owners in a position to not have their rooster that might be their future chicken-maker just because the neighbor doesn't like that the rooster crows sometimes for 20 minutes, which seems likely. I guess I'm concerned that we don't prohibit our rural Town from having roosters.

**6:31 PM** Ms. Granfield said that I would just say that it's based on the situation and the Town was looking to provide some options that might alleviate some of those concerns, not to eliminate roosters. There are other alternatives but it gives the option seeing there has been a variety of complaints that have brought in several departments – police, animal control, code enforcement, planning - that this would be an option. And I think it would create additional discussion and debate and then, at that point, it could be determined which direction. It could stay the same or it could have a modification to what's proposed. We felt it was incumbent on the Town to at least provide this as an option to consider and have further discussion.

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**6:32 PM** Mr. Brubaker said, just to add to that, when I was working on this ordinance amendment and talking with Ms. Granfield and others, in the back of my mind always was that Eliot has such a proud agricultural tradition in all different parts of the Town. Some communities actually try to zone away roosters entirely and I just didn't feel like it was a good zoning tool for rooster noise. I think that brought to me a sensitivity towards maybe more of a scalpel rather than a hammer with this. So, that's why I feel like, by regulating rooster noise, there would be more flexibility for people to continue to have roosters. Whereas, some other communities, based on their choice, restrict them entirely and I think that creates its own issues. So, I do hope that folks can still have roosters but this just responds to the concerns that Ms. Granfield has mentioned.

Mr. Widi asked Ms. Dow if she minded if he gave her some options on this.

Ms. Dow said yes.

Mr. Widi said that you can just vote 'no' and not put it on the ballot. You could vote to put it on the ballot but we would then separate our vote with our recommendations so they would be documented as a 'no', and I will probably join you, or we could make it a higher duration of time.

**6:34 PM** Mr. Donhauser said that I could tell you of an experience I had with some lovely neighbors I had. They had these two dogs, and I'm not kidding you, they would bark all night long and all day long. When we asked them if they could prevent them from barking, they said that they are guard dogs. I said that was great but we can't sleep. We then looked in the ordinances and we actually found the ordinance about dogs and we basically printed it off and took it to them. We told them we can do something about this; that we don't want to do something about this and they actually put their dogs in at night. We're still good friends and they have their dogs. It didn't restrict them from having their dogs but it did solve the problem. It was a solution that didn't even involve the CEO or the ACO. I think I would be in favor of some duration, maybe 20 minutes, and I think it gives some other alternatives other than just having someone suffer forever in having the rooster in their next-door neighbor's yard. Then you're not an adversary to a neighbor but trying to solve it together.

Mr. McPherson said that it's almost like you would want three boxes to check to go before the voters – 20, 40, 60 minutes. To me, I've never really had that issue so I really wouldn't know. But I wouldn't even know where to begin with a number. 20 seems a little low to me, sometimes. Maybe it isn't in certain areas but 60 might seem too high. If I had to vote on a number right now, I don't think I could because I don't know.



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**6:36 PM** Mr. Widi said that I'm in favor of putting a time in. I would prefer to defer to a higher number. Thinking about one half hour of intermittent barking of a dog, I think to be consistent with that I would make a motion that we add a duration of 30 minutes and we could vote on it, then vote our recommendations. I would like to put a recommendation of 30 minutes but I would probably still recommend 'no'. But if, for some reason, it passed then I would at least be [consistent]. It sounds like you (Ms. Dow) are in the same ballpark.

Ms. Dow said that we make this motion and vote but we don't really want this. What does that mean. Does it mean anything or does it mean we just go on the record.

Mr. Widi said that, on the ballot, it will say Select Board 2-2.

Mr. Brubaker said that the voters would at least know that there is a difference of opinion.

**Mr. Widi moved, second by Mr. Donhauser, that the Select Board make the duration of noise 30 minutes, to be consistent with the current ordinance.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. McPherson - Yes**  
**Mr. Widi – Yes**  
**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**Mr. Widi moved, second by Mr. Donhauser, that the Select Board place the amended rooster noise ordinance amendment on the November 2021 ballot.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. McPherson - Yes**  
**Mr. Widi – Yes**  
**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**Mr. Donhauser moved, second by Ms. Dow, that the Select Board members make their individual recommendations supporting or opposing the animal**

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**control ordinance amendment, to be placed underneath the ordinance amendment question on the November 2021 ballot.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – No**

**Ms. Dow - No**

**Vote to support or oppose 2-2**

**6:41 PM      5) Town Manager Report**

Ms. Granfield said that I want to complement Mr. Brubaker on all of the good work he did with the ordinance amendments. It takes a lot and he's very thorough with it. Regarding the **feasibility study for the Town Hall expansion**, Port City reported to the Building Committee, who met this week and, at that point, Port City had interviewed all the employees and departments in the Town Office. Also, engineers came and evaluated the Town Office facility. In the initial discussion, she provided information that was provided from all those folks. They were asked what did they need and what did they think was needed in the future. Needless to say, space is a current problem. Not only for work areas but storage space and security. The more there was discussion about that, it appeared that the Building Committee was leaning towards having it make more sense to have a new building rather than an addition to the building. It is still preliminary. A request from that is that we have some test pits done looking at sites. In checking with past history, that hadn't been done in back of the current facility or to the side just to see if anything is feasible if you were to build or were adding on. There are funds that have been budgeted to do that type of work so that will be something that will happen down the road. Some of the items, not only from the staff and Building Committee, came of designing a facility that is multi-use, such as meeting spaces and, when meetings aren't occurring, using those for other services. Many places are doing this where they might use the space for voting and then recreation would use it the rest of the time; that Arundel is an example. I had built a community center and that is exactly what they did. They had a gymnasium and sectioned it off. They used it for voting, a gym, and three meeting rooms in there with dividers so you could have a PB meeting and a SB meeting going on and it was very soundproof. So, those are some of the things that they want to look at and look at the site to see if it makes sense. At this point, she (project manager) will be coming back to meet with the committee again and having some square-footage tied to it, showing some 'what-if's', and eventually it will be scaled down or modified. The **American Recovery Act** I'm talking about

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later in the agenda. Regarding the **budget**, the Treasurer and I did meet with the Budget Committee. They had wanted to see some projections we may have had for the next 3 to 5 years and we indicated that we can't project what is going to happen but we did tell them some things we see in the future happening that need to be considered. The status of the Fire Department – eventually the Chief will be retiring and the Town may have to look at having some full-time personnel, some other staffing needs, the Town Office. So those were some things discussed. We also talked about the timeline of the budget, which departments will receive their paperwork and have to have their budgets in by November 22<sup>nd</sup>. At that point it should be good timing because you'll have your new Manager who will then be able to meet with the departments, along with the Treasurer, to take a look at everything. I think that some of the things you'll see, because I've seen it with just a new set of eyes, is that there may be some items that are currently in the budget that may no longer be needed but can be replaced by something else that is now needed. So, while there may be increases, I would envision that there may be some decreases also. Although we do see now, inflation costs, social security is going up 6.7% that impacts everything, we don't have health insurance costs but there may be some modifications in that. Regarding the **union contracts**, we anticipate the Police contract should be finalized in the next few weeks. We think there's maybe one more session and then that should be coming forth to you. Public Works with Teamsters, we have our first meeting scheduled for September 7<sup>th</sup>. Mr. Robinson and I are going to be meeting with Kittery for the sewer expansion discussions; that Kittery suggested we sit down and meet with them. Regarding **COVID** and the status of masks, it changes from day to day, as you probably read about all over what communities are doing. At this point, the Fire Chief and I are in frequent discussions regarding any changes we might need to make. At this point, it's still moving forth that any employees that haven't been vaccinated need to wear masks if they are in a public area or with the public; that we have not mandated that all employees must wear masks at this time.

**6:48 PM** Mr. Donhauser said that, regarding the **audit**, I'm becoming more and more concerned all the time. I'll let you respond but it's important that the Town have an audit annually and that it's timely. I think, if the auditor can't provide a service, which they contracted to do, that we need to report them to the Maine Board of Accountancy and file a complaint. I think if we need to get an audit done by another auditing firm, we're going to have to re-do a lot of work and all those work papers they've already prepared for themselves should be transferred to another auditor. I don't know if you've had a response from the auditor regarding the 2020 audit.

Ms. Granfield said that I spoke with them this week because, initially, we were promised we would be receiving it last week. They are indicating that COVID had a lot to do with it. I don't think it's our fault as far as not moving forth, that they

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have had limited staff. So, unless we receive something in the next week, I'll be back in touch with them. We haven't talked with the auditors about it but they're contracted to continue with the next year's audit, or the upcoming audit and I think Mr. Miles and I both agree we should probably go out to bid for that next one because based on this history of how delayed it is, we don't envision that we would get any better service from them. We will take a look at that if we are not receiving it and may go forth with the Board of Auditors.

**6:50 PM** Mr. Donhauser said that they must have made progress invoices so we must have paid them something while they are working.

Ms. Granfield said yes.

Mr. Donhauser said that I might suggest that you might consider that you tell them that you are actually going to file a complaint with the Maine Board of Accountancy against their firm and that we may be looking for reimbursement for those funds that have already been paid for lack of professional services provided. I'm trying to give you some leverage. If I were the accountant, that would be something I would pay attention to.

Ms. Granfield said that that is definitely a good suggestion. I will look at going forth with that next week and contact them.

**6:51 PM**      **6) Citizen's Petition for November 2, 2021 Referendum – Pending Certification from Town Clerk**

Ms. Granfield said that this is a placeholder because the Town Clerk had received information that there was going to be a Citizen's Petition and it needed certification. As of today, I don't believe she had received the petition and it takes over 300 individuals that she would have to certify. If, in fact, it does come in and she certifies, you may see this on the next meeting.

**F.      New Business:**

**6:52 PM**      **1) Placement of the Time Capsule and the Number of Years.**

Ms. Granfield said that I know, at your last meeting, there was a lot of discussion about it and it was determined that the decision needed to be made but it wasn't going to be made at the last meeting. So, what I've done is just provide you with an overview of what you talked about as far as location. I believe the Bicentennial Committee wants to know where they should put it, is it going to be buried, and I know several of you had different opinions regarding both length of time and burial. Based on discussion, what I suggested was to have the location at

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Hammond Park and it be opened in 50 years. Now that can change; that that's just a suggestion to the SB. I think the Bicentennial Committee would like a decision made by the SB so that they can publicize when and what's going to happen with the time capsule.

**6:53 PM** Mr. Widi said that I like 50 years because it will be opened in 2070, according to my math, and that's a little bit before this country's tri-centennial, which hopefully I'll be alive for. I think it will be kind of cool and add some excitement to see something from 50 years ago.

Ms. Dow said that I can agree with 50 years. I first thought 100 years but Mr. Widi is right that potentially some people who are currently here will still be alive in 50 years and might make it a little more relevant.

Mr. McPherson said that 50 years from now I probably won't be around but Mr. Widi has a pretty good chance so I think that's reason enough right there. I think 50 is a good number and Hammond Park is a great idea.

Mr. Donhauser said that I agree with everything that's been said.

Mr. McPherson said that, if you check with the Police Chief, that camera out in front of the Police Station might be able to guard that thing 24/7.

**Mr. Widi moved, second by Mr. McPherson, that the Select Board authorize the Bicentennial Committee to bury the time capsule on September 25, 2021 at Hammond Park and be opened in 50 years.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**6:55 PM 2) American Rescue Plan Act**

Mr. Donhauser said that this allows the Town to receive quite a sum of money if we have plans for it. Is that right.

Ms. Granfield said yes. We will be receiving the money, which is \$688,714 over a period of two years. I received an email this week that I should be receiving an

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email on how to apply for the funds by Friday. There is a process that you actually have to apply for it and they have a portal, which they haven't issued as of yet. As soon as we receive that, we'll make the request. I've had several discussions with other communities, all of our departments, the Treasurer and what we anticipate doing is that, when the funds come in, he will place them in a separate account; that it doesn't need to be determined exactly now what's going to happen. There is a variety of areas/categories where you can utilize the funds and it's still questionable if any or all are qualified. Every community is putting in everything and then some, depending on what their needs are. Based on the different categories, one is water/sewer/broadband infrastructure. Another is providing reduction in revenue, which is a key one we did receive; less in particular by several departments but the majority was Community Service during COVID. There is also response to health emergencies, protection for individuals. With that, we provided just as an idea and nothing you need to decide tonight. We wanted to see if these things are what you may be interested in doing. When it comes the time that we have the funds, we can come back. We had anticipated revenue loss - \$170,000 to \$200,000. We also had Beech Street (Road) infrastructure improvements of \$50,000 to \$75,000. With local cost share, the Maine DOT with its Route 236 overlay project, there are some things they would provide but there are some things we would have to provide and some of the items we've talked about are light emitters so that when the fire trucks come through it will start flashing, which is one piece, as well as some turn lanes that are cheaper when they are doing the work to use the construction mobilization. We had also listed the Boat Basin meter system. So, those are some of the ones we came up with and it's placed on here for you to either indicate your support of these, if qualified within the ARPA guidelines or if there are others. Needless to say, some are TIF-related and we can use some of the funds towards that but we do have TIF funds. So, it's really to bring up to you to say in an initial review to support these or are there some you clearly do not want, look at in the future, or do you have some others we should take a look at.

**6:58 PM** Ms. Dow said that I did a little bit of research on it and found some resources talking about the funds of having a guideline for being used to promote equity in the Town. That was one of the really large things that popped up a lot in the governmental handouts. So, promoting equitable outcomes. It talked about sort of getting a snapshot of what happens to the community in the pandemic, which I would really like to hear about, and I don't know how we get that information. I don't know if that is reaching out to the school board or the Fire Chief to find out what some of our community's real impacts were. Not so much the Town but what happened in the community. I would like to find out how the money could be used for not so much Town financial bolstering but more about how individuals in our community could benefit from the funds. I don't think that the boat launch metering system would necessarily be something that is an equitable

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use of the funds. Not that I don't think it's something we should look into but it doesn't seem to fit in those guidelines in my mind. Stormwater and sewer seem to fit right in. I found an interesting part about health...there's a lot of different categories and some talked about child outcomes

**K. Old Business:**

There was no old business.

**L. Approval of Warrant(s):**

**7:04 PM Mr. Donhauser moved, second by Mr. McPherson, that the Select Board approve A/P Warrant #11 in the amount of \$322,516.46, dated August 9, 2021; A/P Warrant #13 in the amount of \$1,048,490.45, dated August 12, 2021.**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

**L. Selectmen's Report:**

There were no Selectmen's reports tonight.

**M. Executive Session**

**7:08 PM Mr. Donhauser moved, second by Mr. McPherson, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405.6 E, legal**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. McPherson - Yes**

**Mr. Widi – Yes**

**Ms. Dow - Yes**

**Unanimous vote to approve motion.**

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**8:30 PM      Out of executive session. There was no action taken.**

**N.      Adjourn**

**The Select Board meeting adjourned at 8:31 PM.**

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**

**S/ Robert McPherson, Secretary**

**Date approved: September 23, 2022**