

SELECT BOARD MEETING

May 12, 2022 5:30PM

Town Hall/Hybrid

Quorum noted

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

A. Roll Call: Mr. Donhauser, Mr. Widi, and Ms. Dow.

Absent: Mr. McPherson (excused).

B. Pledge of Allegiance recited

C. Public Comment:

5:34 PM Mr. (Gene) Wypyski, Creek Crossing, said that I got ‘this’ in the mail today and I just wanted to say thank you. It was a very good read, at least the first page and last. I’m not sure about the middle. I wanted to draw your attention to page 11, the comments from the Town Manager. I thought the comments were an excellent summary of the issues facing the voters in June. If nobody has time to read all 12 pages, please read page 11 because I think it sets the issues out very concisely and accurately. What personally makes me feel best about this letter is that it’s aspirational because it embraces things we think are precious in this Town. So, a good job.

D. Approval of Minutes of Previous Meeting(s)

There were no minutes approved.

E. Public Hearing:

1. Annual Town Meeting Warrant Public Hearing

5:32 PM Public Hearing opened

Mr. Donhauser invited public comment on the Annual Town Warrant at this time.

There was no comment.

5:33 PM Public Hearing closed.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept the June 14, 2022 “Annual Town Meeting Election/Referendum Warrant”.

Roll Call Vote:

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Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

2. Arcanna Retail, LLC dba/East Coast Cannabis (290 Harold L. Dow Highway) Renewal

5:34 PM Public Hearing opened.

Mr. Donhauser invited comments on this renewal.

Mr. Widi said that I have heard that they are sometimes so busy on a Saturday that they were backing up into Route 236. Has that been addressed.

Mr. Sullivan said that I think it has been addressed. Mr. Brubaker and I discussed it today and they did have a period of time in the winter. There were snow banks there, and other things, but they have that under control.

Mr. Brubaker said that we did express our concern about that during that winter period when we started to see spill-over onto Route 236. They did send an email saying that they would address it and monitor the parking to make sure that nobody was parking there. I, for one, have not seen the problem continue and I don't think I've received any more reports about that problem. So, it does seem to have been addressed to some degree.

Mr. Donhauser said that I believe the license application is complete.

Mr. Sullivan said that it is.

Mr. (James) Folan, East Coast Cannabis co-owner, said that we worked with the construction crew to move back the fences from where they had secluded off the area. That project is taking a lot longer than we had anticipated. A lot of the issues have been due to COVID, materials, contractors on-site, so we're doing everything as quickly as we can. We put down temporary pavement to help alleviate any further issues. And, indeed, we can always appoint people to take care of the traffic issues that are going on there. We don't foresee that continuing to be an issue because, as you said, the snow banks and other things were getting in the way. Please let us know if any issues do come up.

Ms. Dow said that you are building behind your current building.

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Mr. Folan said yes. The current structure is a temporary retail structure that we want to get out of there as soon as we can. Our initial proposed date for having this finished was March of this year. We're excited to have that finished and we really look forward to have our new retail spot open, with the 90+ parking spaces that are on the site plan. This number of parking spaces is much more than we currently have.

5:37 PM Public Hearing closed.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board approve the Arcanna Retail renewal application as presented.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

3. Sweet Dirt (505 Harold L. Dow Highway) Tier IV Manufacturing License Renewal

5:38 PM Public Hearing opened.

Mr. Donhauser invited comments on this renewal.

Mr. Sullivan said that you can see that the motion is a little bit different. This is a new facility. It has not received an occupancy permit, yet. Normally, we would like to wait until we have that occupancy permit but they have been held up by the power provider, CMP. They've been diligent trying to get the occupancy permit. So, you have a motion tonight, if you so choose, that will allow us to move forward, with your approval, once they submit all those necessary documents. Normally, we don't like to bring it in until we have a complete package but this was a special case.

5:39 PM Public Hearing closed.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board give conditional approval to the Sweet Dirt LLC Tier IV Manufacturing License application, as presented, pending issuance of an Occupancy Permit and compliance with any and all other requirements. Furthermore, this license will not be issued in final form until compliance is documented by the Town Manager.

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Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

F. Department Head/Committee Reports

5:40 PM 1. Town Manager's Report

Mr. Sullivan said, again, I encourage citizens to go to the website and read it in its entirety. I was happy we got the sign up and thank-you for your approval at last meeting to declare May as Older Americans Month. Members of the Aging-in-Place group have been in and appreciate it, as well. As you can see in my report, we are making progress on our property task force. We've had some very interesting interactions with larger groups in Maine and actually had a senior group come in and pay the cost of addressing one of the properties that was most in distress. We're hoping to apply that to another property in another couple of weeks. All we had to supply were the roll-off containers from the DPW. They supplied the manpower, paid the manpower, and removed three roll-offs of debris. This past weekend, there was a clean-up that the Chair was up and he picked up along Route 236. This was coordinated by the Conservation Commission Chair, Kari Moore, and we thank her for that. It is going along very well.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept the Town Manager's Report.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

G. New Business:

5:40 PM 1. Mobile Screening Bid Three Bid Rule Waiver (Public Works)

Mr. Sullivan said that, as we do road work, some of the pavement is reclaimed, ground down, and used again. They need to screen that product and, so, the low

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bidder was Snooks Mobile Screening, LLC from Exeter, NH. The DPW Director, Mr. Robinson, is encouraging us to approve that this evening. There was one other bid that didn't fully qualify because they didn't give us all the information. We tried to solicit other bids and there was no interest. I think representatives from Underwood Engineering will tell you right now that getting anyone to do this type of work is at a premium because they have so much work right now.

5:42 PM Ms. Dow asked if we had a pile of this.

Mr. Sullivan said that we do have a pile but we're going to add to it. There are a couple projects coming up that were funded last year and, hopefully, if the budget is approved, we'll be able to fund more of these projects. We'll used that reclaimed product for not only roads but where we can grab some building of parking lots and parks; that we're looking at Murray Rowe as a place where we might be able to use some of that reclaimed material to cut down on costs of what we're trying to do there.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board waive the three-bid rule.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept the bid submitted by Snooks Mobile Screening, LLC of Exeter, NH for \$30,750 for the production of reclaimed gravel consistent with State of Maine Statutes and regulations regarding procurement, including suspension of the "three-bid" requirement, and authorize the Town Manager to execute an agreement with the contractor.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

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5:45 PM 2. Maine DOT 29-A M.R.S.A. §2382 Road repair request

Mr. Sullivan said that this is a standard practice. I am made to understand that once the State of Maine is doing projects in your town, they ask to be granted any permits that might have to occur because they are going to be putting equipment that's heavier than the load allows on certain roads and streets. There is language that protects us in State agreements, if there is significant damage, for us to recover those local road damages. Listing the three projects, Mr. Sullivan said that the State feels that this might cause some traffic on local Eliot roads.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board allow all necessary permits to be issued to allow equipment related to state road projects to exceed local road weight limits in the established "Construction Area(s)" related to Project Numbers 2412100, 2511900, and 2552700.

Roll Call Vote:

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

Unanimous vote to approve motion.

5:48 PM 3. MSAD #35 Budget Validation Warrant

Mr. Sullivan thanked Ms. Rawski, Town Clerk, for her work on this. This is an annual request and simply means that you're allowing the school district's warrant to appear on the ballot.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept and place the MSAD #35 District Budget Referendum Warrant and Notice of Election on the June 14, 2022 Town Meeting Ballot.

Roll Call Vote:

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

Unanimous vote to approve motion.

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H. Old Business:

5:49 PM 1. Sanitary Sewer Expansion Project Update (Underwood Engineering)

Mr. Sullivan said that Cole Melendy and Jeff Clifton are here from Underwood Engineering. Also here is Mr. Brubaker, who is very learned in this project, and I can't tell you how much I appreciate all three of these gentlemen's input on this. It has been a pleasure working with all of them.

Mr. Melendy said that the purpose of this update is to authorize Project #1 to start digging in the ground, to start implementing this project that's been over a decade in the making. You may be aware of this, the TIF was in 2009, established the sewer routing in 2012. We issued, in August 2020, the 70% design to pin down your alignments. In November 202 there was a Town Meeting authorization of \$22.6 million and, in March, we opened up Contract #1 to start the construction of the project. There have been some challenges but we are generally on track and on schedule. Referring to the powerpoint on the screen (overview diagram of project), Route 236 is at the top. There is a pumping station at the pink dot right in the middle that will then convey wastewater down Beech Road, across State Road, and ties into the white/green sewers at the lower right-hand corner then ties into your existing system and flows ultimately to Kittery. Water overview – there is about 5,000 feet of water in this section from the west side from where it ends at Passamaquoddy Lane to the end of the TIF District by Arc Road. The sewer extends along Route 236 to service the TIF parcels that then conveys the sewer from collectors on Route 236 to the pumping station (pink dot) and conveys it down that pink dash line down Beech Road and State Road. Regarding the warrant article, we had \$16.5 million in the overall budget, high level budget for infrastructure improvements. Kittery downstream improvements, including the IMA, at \$1.9 million. Eliot downstream improvements at \$3.5 million equaling \$21.9 million, and we had equated that at the time at \$22.6 million. Since we were in last, we did final design bid for Contract #1. The Town 0065 executed the IMA Agreement with Kittery so that you have a place for the wastewater to go. What is pending is authorization of Contract #1 to start digging in the ground. Regarding project sequencing diagram, the yellow shows the proposed Contract #1. It's the work on Route 236, basically from Julie Lane – east, plus the force main on Beech Road and State Road. We became aware that Maine DOT changed their sequencing and will be paving Beech and State so, it became more important to sequence that work in advance of the paving they are planning to do there. They are also replacing the culvert on Beech as there has been some collapse there. This summer they will be going out there and will put in a couple sleeves in for us so we can slide a possible future pipe for service on Beech Road. If it happens in the future, we will be prepared for that. Plus, a sleeve for a force main associated with the pumping station.

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5:53 PM Ms. Dow asked if the pumping station is going right where that culvert was or in that area.

Mr. Melendy said yes. It's kind of on the corner of the lot; that there is an easement where there is a little red house there right next to the brook. Right now, the approved project budget is \$22.6 million and we've expended about \$1.2 million between the Kittery IMA and design costs. The pending authorization is approximately \$7.7 million and that includes \$6.9 for the DeFelice Contract #1 bid. We also have a construction administration cost, which is having a full-time person out there observing the work. Then the remaining work is \$13.7 million. Tonight's actions – authorization of Maine DOT permits on State Road and Beech Road because they are Maine DOT roads so the need to authorize Mr. Sullivan to authorize those permits. Authorization of DeFelice Construction Contract #1, our engineering contract and then we have a few permitting items. We have the trunk lines on Route 236 and the collectors, with some of them going cross-country. There is a minimal wetland impact. Regarding schedule – we are looking to begin construction in early summer 2022. We've been talking with the contractor to determine pipe availability. I think with your paving reclamation, the material availability is challenging, but the pipe we're planning to use on Beech Road and State Road appears to be the most readily available pipe. In early summer 2022, authorize them to start ordering the materials. Summer/Fall 2022 will be the next phase to include a future pumping station and some of that. We're still on track for the summer of 2024 collector sewers work will progress to have the project complete and start hooking people up.

5:56 PM Ms. Dow asked what the collectors were for.

Mr. Melendy said that there are two types of sewers. There are gravity collectors that collect sewage from people's homes, businesses for each individual building. The, the force mains go to a pumping station; so, all those collectors collect the wastewater and goes to a single spot that has big pumps in there that then pump it down Beech Road and State Road to get to your existing system, which then flows by gravity along Bolt Hill Road and then along Main Street.

Mr. Donhauser asked if collectors were always gravity.

Mr. Melendy said no. Part of this on Route 236 are low-pressure sewers; so those are individual pumps. We have some ground where you can't get the gravity to flow without doing very deep cuts and, in that case, we use low pressure sewers. That is a small diameter force main that are little grinder pumps that the individual homes or businesses would have that pump into it and they kind of all work together to get it to the gravity then flowing by gravity to the pumping station.

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Ms. Dow said that there would be a few of those along Route 236 and some on Beech Road.

5:57 PM Mr. Melendy said no; that Beech Road is just a force main and that's just a pipe that's taking it from Point A to Point B. There is a section along the East side of Route 236 towards Kittery that has some low-pressure sewer.

Mr. Donhauser said that the existing sewer on that section is going to remain that's owned by Eliot Commons.

Mr. Melendy said that we are designing provisions so that that could be...we've designed the sewer such that that pumping station could flow by gravity. But it's going to remain in service and that would be one of the connections, perhaps, after the project is done that could be made.

Mr. Donhauser said, correct me if I'm wrong, that that sewer that's privately owned by Fred Forsley goes down Route 236 toward Bolt Hill Road and that's a small force main.

Mr. Melendy said yes; that it's a couple of different sizes.

Mr. Donhauser said that it then heads up Bolt Hill Road by pump and connects up on State Road.

Mr. Melendy said yes. It dumps into yours just at the top of Bolt Hill Road. That's where it enters and there are some connections. I think he's made some arrangements where people are connected to that force main. With one of the items in the contract, we don't want the contractor to hit it because they are going to be crossing it with the services that we're installing as part of the work on Route 236. So, we have an allowance item for the contractor to hire a locating company to locate that force main so that we make sure it remains in service.

5:59 PM Mr. Donhauser said that the reason I ask is that I want the public to understand that we're not taking that sewer over. That is not part of this TIF project. So, we're going to jump off the diving board and make a start.

Mr. Brubaker said that I have a procedural question. Should we also include a waiver of the three-bid rule when we vote on this.

After a brief discussion, the SB agreed that motion should be made.

Mr. Donhauser moved, second by Ms. Dow, that the Select Board waive the three-bid rule with respect to this issue.

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DISCUSSION

Mr. Sullivan said that Mr. Brubaker might clarify that we did circulate this widely and there was only one contractor that put in a bid.

Mr. Brubaker said that we had a fully public bidding process, bid opening, a pre-bid meeting and, as Mr. Sullivan said, we only got one bid.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow – Yes

Unanimous vote to approve motion.

6:01 PM Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept the proposed scope of the contract for Phase I of the Sewer and Water System Expansion project and authorize the Town Manager to endorse agreements, contracts, and permit applications for Phase I within the parameters and guidelines, including the \$7.7 million project cost presented, and within any and all laws or regulations governing this project. The final agreement should be reviewed by Town Counsel, within the parameters discussed this evening and within SRF requirements.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow – Yes

Unanimous vote to approve motion.

6:02PM 2. Voter's Joint Pamphlet

Mr. Sullivan said that I just wanted to make it clear that the pamphlet you annually send out for information for the voters is starting to land today in homes in Eliot. Obviously, we encourage everyone to get out and vote. This pamphlet should help you understand the process and the positions better. I just wanted to note that there was no edits or changes to the Budget Committee's submittal. After discussion with the Chair, we decided we were going to leave that out. I do think it's clear that the SB have the power and the duty to do edits on occasion

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but, in this case, the Chair and I decided we wouldn't go forward with that. There were no changes made.

Mr. Donhauser said that I received it and read it today. I would encourage anybody who has a question about it, especially the SB or Town Manager budget, I'd be more than happy to speak with them by telephone or email.

Mr. Sullivan said that there is more detailed information on the website.

6:04 PM Mr. Widi said I received it today and I like the way the pamphlet came out. The whole hullabaloo of the Budget Committee not liking the way...it was presented practically, fairly, and their concerns were without merit.

Mr. Donhauser said that I had one question. The Budget Committee was talking about the library and their recommendation was last year's budget.

Mr. Sullivan said that that is correct.

Mr. Donhauser added that as soon as they recommended it, they said not to vote on the recommendation but vote on 'none of the above'. So, 'none of the above' is last year's budget. It appears to me that, if you vote for 'none of the above' and vote for last year's budget they are actually getting 'two bites out of the apple'. The other thing that was curious, giving a mathematical example, was, if there are 299 people who vote and 50 people vote for the SB budget, 49 vote for the Budget Committee budget, and 49 vote for 'none of the above'. The Budget Committee (49) and 'none of the above' (49) are the same number but the budget would pass because of the SB's budget (50). So, it's not logical to me. It's sort of like they are recommending one thing then saying not to take this recommendation, move on to this other 'none of the above', which is quite confusing to me. And it's got to be confusing to the voters, because I don't think the voters understand, in general, that if you vote for 'none of the above', then we look back to the prior year's budget. What is confusing to me is that the numbers are the same - the number they recommended and 'none of the above' are the same. I'd also like to publicly state that I wrote a memorandum to the Budget Committee Chair and, in that letter, I said that 'none of the above' would appear on the warrant and that was wrong. It does appear and I stand corrected on that.

6:08 PM **3. Fire Department Command Vehicle Bid Approval**

Mr. Sullivan said that we had spoken about this several times before. It is included in our lease with All American. So, what we are doing tonight is hopefully just approving the bid, Again, you should suspend the three-bid rule. I should have had that one there. Then, if you could allow us to move forward with

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the command vehicle. I don't know if the Chief wants to make any remarks about it. It won't be ready for six months, or so.

6:09 PM Chief Muzeroll agreed it would take several months and said that we are under the constraints of the manufacturing world. Something as simple as a safety item may be held up in China, or somewhere, that precludes or prevents the timely completion of the vehicle. We have some time constraints and, basically, the earlier we get on the list for manufacturing, the earlier we stand the chance of receiving the product at the end. The more vehicles they see in this type of spec basically is a police package. They just push production because they want to get into regular consumer production at that point. Hopefully, we can get it a little bit sooner than that. This was put out to several people and put out to the GM New England rep, as well as other reps, to push it to their dealers and this is the only bid we got back. O'Connor Motors has a pretty good history throughout the State for products for emergency services.

6:10 PM **Mr. Donhauser moved, second by Ms. Dow, that the Select Board waive the three-bid rule, with respect to the O'Connor bid.**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

Mr. Donhauser moved, second by Ms. Dow, that the Eliot Select Board accept the bid from O'Connor Motors for Fire Command Vehicle Special Service Vehicle in accordance with the request for proposal, submitted April 26, 2022, by O'Connor Motors for \$50,497 and authorize the Town Manager to execute agreements necessary to add this vehicle to the All-American Lease agreement previously approved by the Select Board.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

6:11 PM Mr. Donhauser asked for a **Pease update** regarding the proposed air cargo warehouse project. Have we done anything, as a Town about that. Have we signed a letter.

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Mr. Sullivan said that we were actually the first town to send a letter. The SB voted on it and we sent a letter to Pease Development; that other communities actually copied our letter. In February, I believe, you were out in front of it. It has taken on a life of its own since and a number of other communities have signed on. We are now part of a coalition with Newington and Rye in New Hampshire and I think Berwick and Eliot here. We're actively trying to seek other communities to join. There is a link that gives you regular updates. I will get that out and, if the SB thinks it's appropriate, I can certainly ask to have it put on our website, as well, so people can get information. It's called the Center for Responsible Development.

Mr. Widi said that we waived the three-bid rule three times tonight. I just wanted to publicly say because I know you will probably get some emails from unhappy people, that this is an extraordinary time. In my business, even buying Christmas lights, I couldn't get three bids. I couldn't even get a response from two different people. Those are Christmas lights that are sold all over the country, not to mention fire vehicles or pipelines or construction work. So, when those complaints do come in, please direct them to [inaudible].

Mr. Sullivan said that I'll be coming in, probably at the next meeting, because we put out the bids for the repairs at the **Police Station** and we've gotten **one bid** back. The bid was \$40,000 over what we had budgeted for. I have some ideas that I will try and clean up and explain at the next meeting. Those are the repairs to the roof. There's some rot on one of the porch pillars. There is another area that the siding has been damaged. There is so much work out there and people are not getting bids. So, we'll keep on trying and, hopefully, I'll come with a strategy at the next meeting. But, to your point, you just can't get people to bid on things.

I. Approval of Warrant(s):

6:13 PM Mr. Donhauser moved, second by Ms. Dow, that the Select Board approve A/P Warrant #98 in the amount of \$117,094.89, dated April 28, 2022; A/P Warrant #100 in the amount of \$112,204.62, dated May 4, 2022.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

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J. Selectmen's Report: Seeking Committee Members List

6:15 PM Ms. Dow said that May 21st we're going to try to have a 'Get Out the Vote Day' from 9 AM to 12 PM at Hammond Park. There will also be the Eliot Garden Club Plant Sale. We're hoping to have people who may have questions about the upcoming vote come by. We'll have a cornhole game and we'll have the ability to take voter registration cards home and register to vote on their own; that we'll be there to help those who need it. So, please come join us.

K. Adjourn

Mr. Donhauser moved, second by Ms. Dow, that the Select Board adjourn.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Ms. Dow - Yes

Unanimous vote to approve motion.

The meeting adjourned at 6:17 PM.

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Robert McPherson, Secretary

Date approved: August 11, 2022