

SELECT BOARD MEETING

February 28, 2019 5:30PM

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

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

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Public Comment/Requests:

5:32 PM a) Introduction of Officer Timothy Niehoff/Signature Required

Mr. Murphy said that Chief Moya and Police Officer Niehoff could not be here tonight but it is necessary for this Board to consider and confirm his appointment as a police officer, He read the confirmation as a motion:

Mr. Murphy moved, second by Mr. Lytle, that We, the Select Board of the Town of Eliot, Maine pursuant to the Charter of the Town of Eliot, Maine, Article 3, Sec. 3.3 (E), confirm the Town Manager's appointment of Timothy Niehoff as Police Officer.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

5:33 PM b) Southern Maine Gun Club – John Tuttle

Mr. Murphy welcomed Mr. (John) Tuttle, President, to the meeting.

Mr. Tuttle said that he is now the Vice-President and he has brought the President with him, Mr. (Norman) Shinard, explaining that we just had an election.

Mr. Murphy said that, over several years, we have had a growing concern with the amount of noise around the gun club. He asked for the Town Manager's comments.

Mr. Lee said that he has had a few different complaints, especially recently; that they tend to come in the wintertime usually when the leaves have come off the

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

trees and whatever baffling from the leaves is gone. He added that he has also had some complaints, and he has talked with Mr. Tuttle, about shooting going on after hours and Mr. Tuttle indicated to him that the gun club is aware that there are people, after hours, jumping the gate, if you will, and they are trying to do something about that. He added that the other issue was whether there were any plans by the gun club to erect any type of structures or baffling or noise constraint; that he thinks there are some plans in the works and he thinks they were here, in part, to talk to this topic.

5:35 PM Mr. Shinard said yes, that there are a couple things we plan to do with the club; that building a structure, or a fence, behind the actual shooting benches and, towards the backside of the range, what we plan to do is add a buffer; that it won't solve all the problem of the noise but it will dampen it a little bit. He added that, with the hours for our shooting range, we have modified them, particularly for the wintertime and the hours of sunlight, so, less shooting in the hours of darkness. He said that we try to police the range as much as we can when we have a complaint that somebody is shooting past those hours, outside of the hours we have established for our range; that we go out there, we will pull their membership, if we have to, because we strictly try to enforce the range that we have.

Mr. Murphy thanked Mr. Tuttle, saying that he has some personal familiarity with that gun club because his family moved to 1 Brixham Road in 1940 and there was a gun club, even at that time is his understanding, because we heard the pop-pop-pop; that those little pops, off in the woods, aren't what's there now; that it's far, far different. He asked if Mr. Tuttle was aware of one of the statutes that is being considered in Augusta, now; that it references a proposed statute about town authority to review existing gun club noise control, adding that the Town Manager is going to try to get a copy of that proposed ordinance.

Mr. Shinard said that he wasn't aware of it but he didn't know if Mr. Tuttle was.

Mr. Tuttle said that he hadn't heard about that.

5:37 PM Mr. Murphy said that it seemed unfair to him to have these huge, modern guns with 50 shots going off; that they could knock you out of bed at night, if it's that close.

Mr. Shinard said that we do have caliber regulations as to what kind of caliber can be utilized at the range. He added that we try to police it as much as we can; that it's often difficult if we have somebody, who is a paying member of the club, goes in and nobody else is around and shoots what they shoot; that if that is reported to us, we try to investigate that to see what the cause of that noise is and,

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

if it's outside the scope of what we have authorized on the range, then we discipline, as necessary.

5:38 PM Mr. Murphy said that that sounds good. He added that he remembers, in the past, the Town had very definite noise control ordinances and he doesn't know if they still apply but they must still exist somewhere in our ordinances.

Mr. Lytle said that he knows that they do.

Mr. Lee said that in the Land Use ordinance, there is some reference to maximum noise.

Mr. Murphy added the hours during which it applies, and so forth.

Mr. Lee agreed. He said that he isn't certain but the gun club may be grandfathered pre-land use; that it depends on what the SB would like to do but it could be that the gun club pre-existed before this came in. He added that the proposed statute that Mr. Murphy had referenced may well be that the grandfathering of gun clubs may no longer provide them the protection of noise ordinances; that this is what he believes we will find.

5:39 PM Mr. Murphy agreed, saying that a gun club's existence may be grandfathered but it's performance can be changed, as society changes and people's needs and requirements change; that it's generally the performance level that gets modernized.

Mr. Lytle asked if they had caught anybody down there that shouldn't be down there.

Mr. Shinard said that they had, recently, and pull their membership, is what we do. He added that, in order to access the range, itself, you have to be a member to have a code to that; that that would be pulled from them and we have to arrange for codes for everyone else, but it was something we are willing to do for people who violate those.

5:40 PM Mr. Lytle asked when there is any quiet time.

Mr. Shinard said that, right now in the wintertime, we are doing it from 8AM to 4:30PM then, Sunday, it's 9AM; that it is quiet from 4PM to 9AM in the winter, 7 days a week. He added that those are the rules that we established and, for those that break the rules, we try to police them as much as we can and try to solve that situation as soon as possible.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

5:41 PM Mr. Lytle said that he used that range when it first started, when they had the deer shoot, and it was a lot of fun. He added that, with the complaints he hears coming in now, it's getting ridiculous and you have to come up with something. He said that he didn't know if the shields were going to help, or not, but you have to come up with a quiet time somewhere.

Mr. Donhauser asked if they could outline the proper use of that range.

5:42 PM Mr. Tuttle said that the proper use would be to shoot during our shooting hours and we have certain caliber weapons that you cannot use; that the first that came to mind are automatic weapons, they have to be semi-automatic; that at no time should you be able to just pull the trigger, hold it down, and have 50 rounds go off. He added that you have to have a federal license to own one of those weapons, which he doesn't believe any of our members do. He said that we don't allow the 50-caliber full metal jacket bullet; that we do allow the 50-caliber front loaders, or in-line loaders, which is a ball.

Mr. Donhauser asked who are the members, are they people in Maine, any state.

Mr. Tuttle said that we have law enforcement as membership, which is Portsmouth, Eliot, Kittery; that he believes there's a couple of police officers from Rye.

Mr. Donhauser asked if they use the range for qualifications.

Mr. Tuttle said that the only police agency that has used our range for that purpose would be Eliot; that he believes they used it once two years ago.

5:43 PM Mr. Donhauser said that the reason he asked that questions is because there was some rapid-fire shooting, it was going on and on, and he drove down there; that it said 'no trespassing' and he walked in, anyway, and there were three very nice young men there. He added that he asked them how do you join the club; that they had an assault rifle-type looking weapon, not sure what type weapon, but not a hand gun. He said that, first of all, he noticed that there were no in-state license plates; that he asked them how he would become a member and they actually told him he could speak to Mr. Tuttle and he gave him your telephone number. He asked them where they lived; that one fellow was from Rye and one person was from Illinois and one person was from Massachusetts; that he supposed that one person was a member and asked if one member could bring a number of people.

Mr. Shinard said yes, that they can bring guests; that we are trying to restrict that to two people; that the member is responsible for anybody he brings so, if a guest does something that's against our rules, it's the member that will be responsible for the actions of the other person.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

5:45 PM Mr. Donhauser asked who manages the upkeep of the range.

Mr. Tuttle said that we do – the Southern Maine Fish & Game members; that we have a range maintenance crew and they do a very good job of upkeep on the range.

Mr. Donhauser asked how they resolved disputes among the members.

Mr. Tuttle said that they would bring the dispute to a meeting the first Wednesday of every month; that it's addressed at the meeting and an individual that might have an issue can ask to speak to the executive board.

5:46 PM Mr. Donhauser asked, when people are down there shooting, who in your organization is responsible for safety.

Mr. Tuttle said that the member that is there is responsible, the member doing the shooting.

Mr. Donhauser said that Mr. Shinard said a moment ago that it's during sunlight hours that people shoot and asked if they allow people shooting in darkness.

Mr. Shinard said that we do not. He clarified that, as the hours of darkness change throughout the year, we modify it; that for the wintertime, for example, we bring it down to 4PM.

Mr. Donhauser said that, if a member brings guest, the member is responsible for those people shooting, asking if the safety rules are posted anywhere.

Mr. Shinard agreed the member is responsible and said that the safety rules are posted at the range and each new member receives a range safety book and they go through an orientation of the range – how to use it, what to do, and all that.

5:47 PM Mr. Donhauser asked for what type of shooting was the range used for, what type of weapon.

Mr. Shinard said that we have a hand gun range and, also, a rifle range; that they are target-practicing, fine-tweaking their scopes, etc.; so, we see an uptick in the fall.

Mr. Donhauser asked if 30 rounds in less than a minute accomplished something.

Mr. Shinard said that he couldn't be sure because he wouldn't know what each individual situation would be; that, if it's law enforcement, they could be training; that he was prior law enforcement so he had that experience.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

5:48 PM Mr. Tuttle said that that may be more than one person doing the shooting; that, if they are in pairs, you might hear one right after the other and could sound like automatic fire.

Mr. Donhauser asked who was responsible for ensuring that users follow the rules.

Mr. Shinard said that each member is and the executive board, ultimately.

Mr. Donhauser asked if they had ever had any type accident at that range.

Mr. Tuttle said that there have been none that have been brought to the board's attention.

Mr. Donhauser asked how frequently did they have complaints, have you recently had many or just from the Town of Eliot.

Mr. Tuttle said just from the Town of Eliot and it's mostly the folks that live near the range.

5:49 PM Mr. Donhauser discussed the maps he had made showing the proximity of the range to Rollingwood Road, asking if they were aware of the proximity.

Mr. Shinard said that we are.

Mr. Donhauser asked if they were aware that, within 50 yards of the range, there's a home.

Mr. Shinard said yes.

Mr. Donhauser asked if they ever had contests there.

Mr. Tuttle said that we have (more than 2 years ago).

Mr. Donhauser said that he doesn't know if it was last Easter or the Easter before but he had family at his house and it sounded like a war going on; that it was endless rapid-fire shooting and he is far away from it, with others that are even farther away and it sounds like it's in their backyards, too. He added that it appears to him that there has to be some type of mitigation of the noise in some fashion; that it's not that people don't believe you should have your gun range where it is; that it feels, in a sense as a collective community, that you're not being a very good neighbor in the response that you're getting all these complaints about noise and you allow people to shoot from early morning to late evening; that, in summer, it goes on even longer, with 12-14 hours where people

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

could be down there shooting. He also asked what they did about lead mitigation; that he doesn't believe the lead that's being fired into that area has not been removed. He asked if they have ever mitigated the lead.

5:51 PM Mr. Tuttle said no.

Mr. Donhauser asked if there was a reason to mitigate lead out of a shooting range.

Mr. Tuttle said that the water fall in and around the firing range has been tested for lead; that that water has been tested for lead and there hasn't been any lead detected; that the last test we did was three years ago.

5:52 PM Mr. Donhauser asked if they ever did gun safety classes.

Mr. Shinard and Mr. Tuttle said that they do.

Mr. Donhauser asked if it was sports shooting or was there a classification of shooting.

Mr. Shinard said that we are a fish and game club, so it's not particularly a gun club, but it's more for game and sport.

5:53 PM Mr. Orestis thanked Mr. Shinard and Mr. Tuttle for coming here; that we definitely appreciate you taking the time to speak with us. He said that you have mentioned that you are attempting or trying to police and asked them to help him through the policy on policing and how members are using the club.

Mr. Shinard said that we have a set of guidelines as to the timeframe when people are authorized on the range to shoot and, anything outside of that scope, if anyone complains, then a member will go down there to check the range; that if that member finds another member or somebody else shooting, that person is then reported to the rest of the club, or the executive board, for review.

Mr. Orestis asked if it was up to each member to report on other members.

Mr. Shinard said absolutely it is that, and it's also the public; so, as a complaint comes in, such as a neighbor that hears shooting outside the hours or hears what they might think is excessive fire, then they can call and it will be investigated by a member.

5:54 PM Mr. Orestis asked, as far as timeline for building that structure, what their timeline is.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Shinard said that we want to get it done this year; that we aren't sure when because we have to wait for the ground to thaw and dry out but it is one of our big agendas this year.

Mr. Orestis said that Mr. Shinard said that automatic weapons are banned because of the federal license, asking what about modifications or simulations, for example, a bump stock.

Mr. Shinard said that that would make it an illegal weapon so, therefore, it would not be authorized on the range.

Mr. Orestis asked if they had had any reports of that going on.

Mr. Shinard said that we have not.

5:55 PM Mr. Murphy said that they mentioned there was a number that could be called and asked for that number.

Mr. Tuttle said that the phone number is on the gate, and it's his phone number, which he believes Mr. Lee has.

Mr. Lee said that it is also available on their website, which is where he found it; that if you go to the Southern Maine Fish & Game Club website, you will find the contact information.

Mr. Lee asked if they have a design for these structures that they are thinking about putting in, is it woven, is it metal, is it cloth.

Mr. Shinard said that it's actually a little bit of both; that, in the materials that we have, we have a wooden fence and some thick, padded rubber; that the plan was to install that along the fence, as well, to be more of a sound barrier.

5:57 PM Mr. (Stan) Shapleigh, 61 Rollingwood Road, asked about the dimensions of the structure.

Mr. Shinard said that we don't have anything, yet, as to what the dimensions will be; that we are planning to build it behind where we have shooting benches at the back side of the range where shooters would sit, shooting away from the houses; to build it along that and around towards where the water is along the side of the range, as well.

Mr. Shapleigh asked if that was along the boundary of the houses in Rollingwood.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Shinard said yes, showing on the picture display the shooting direction and where the structure is to be built.

5:59 PM Ms. (Lisa) Kickhafer, Rollingwood Road, said that they state they don't allow any shooting before 9AM but she can tell you that every Sunday morning at 7AM, before we are getting ready for church and she has the dogs out, there is somebody out there with rapid-fire shooting – at 7AM on a Sunday Morning. She added that that is on Saturdays, it happens in the summertime; that there is really no time, in the summer, to be outside in your yard enjoying the outdoors without hearing that shooting going on. She added that we belong to the South Berwick Rod & Gun Club (SBR&GC), we are very avid shooters and we are gun owners but the South Berwick Rod & Gun Club is a very good steward of the surrounding houses; that there are townhomes, and that type of thing, literally going around that whole area; that they've had the NRA come out to have it looked at and inspected on how they can reduce the noise; that they have put up earth berms and gone above-and-beyond to be good neighbors. She added that we don't feel, right now, that that's happening for the neighbors in Rollingwood with the amount of noise that we have to experience on a daily basis.

6:01 PM Ms. (Cathy) Williams, 230 Rollingwood Road, said that she had a question about the sound barrier; that Mr. Tuttle came to her house and stayed in her back yard for a while. She asked if other gun ranges have used a similar type of sound proofing and are you sure that that's going to do it.

Mr. Shinard said that this is a design that other ranges have used; that it will not reduce the sound 100%, you will still hear it. He added that he didn't know what the decibel rating would be before and after as there is no way to tell at this point because of structures, the waterway, foliage in the spring and summer and not in winter; that those act as natural buffers so it is hard to tell without actually having it there.

6:03 PM Mr. (Frank) Conti, 330 Rollingwood Road, had two questions. He asked if any decibel levels were taken prior to these complaints to determine if a buffer was necessary.

Mr. Shinard said that he didn't even think it existed when the club was founded so he doesn't think that was taken into consideration.

Mr. Conti asked when the club was founded.

Mr. Tuttle said 1950.

Mr. Conti asked if there is lead deposited in that hill, then why haven't you guys had it tested, or remediated, because a lot of places do have to have lead

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

remediation; that he is an insurance auditor and goes to Sig Sauer occasionally, and they have a shooting range in Exeter; that periodically, because of the regulations even though it's in New Hampshire, it has to be cleaned out and tested. He added that this is near a residential area and, even though the lead is being deposited away from the residential area, it could leach into a waterway, an aquifer, who knows, asking what they're doing to try to mitigate any potential migration of this lead into potential residential areas, and if you did test aquifers and how often do you test the soil if there is, in fact, potential migration.

6:04 PM Mr. Shinard reiterated that we have tested the waterway in behind us; that there is a very wet area that comes down from the berms out in front of us during the spring and we've tested that water, as well, for lead.

Mr. Conti asked if this was a private gun club.

Mr. Shinard said yes.

Mr. Conti asked if they were exempt from any type of lead remediation for lead deposits in the soil.

Mr. Tuttle said that he wouldn't say we are exempt from it; that it is something we are conscious of and we did the lead testing three years ago; that we haven't done any since then because there wasn't any lead detected in the water at that time.

6:05 PM Mr. Conti asked why he hasn't tested it since; that that's a lot of bullets in three years. He asked if it's never been removed.

Mr. Tuttle said that we continue to build the berms. He added that, starting about 5 years ago, the range needed to be redesigned; that we have some very faithful members that have done a good job of reconfiguring the range to the present state it's in now, which is much better than it ever used to be. He said that the berms have been removed and rebuilt twice; that they are dirt berms, with sand in front, and the targets are set in front on the ground.

Mr. Conti said that he personally thought that that should be revisited and re-engineered, all because this area has grown; that he has lived here since 1995, and the population has grown, and that, to him at least, warrants it be looked at and re-engineered because that could be a potential problem, let alone the noise.

Mr. Tuttle said that he thought one of the reasons, also, that a lot of the noise has started reaching the houses even more so is because ARC cut all those trees two years ago and removed that sound barrier. He added that that was a tragedy for us

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

because, now, the sound goes out pretty far. He said that there are some things we need to address, as a gun range, and have been hearing it for two years, now.

6:07 PM Mr. Conti said that, personally, he would like to see them stop it on Sunday; that you could go to town during the week but Sunday is really annoying.

Mr. Tuttle said that he didn't know what to do about that.

Mr. Conti said he knew; that they had to play, too.

A member of the public said that you can't hunt on a Sunday so you shouldn't be able to shoot on a Sunday.

Mr. Tuttle said that that would have to be up to the legislators because there's a lot of gun owners that would definitely disagree with that.

A member of the public asked, with the amount of copper-jacketed bullets used, how does that affect with the lead, does the copper decompose and expose the lead. He also asked if most of the AR-15's use copper-jacketed bullets.

6:08 PM Mr. Shinard said yes but their casings are policed, now, after they are done shooting. He added that the bullet enters the berm, we've tested the water, and it's never leached to the water; also reiterating that we have taken the berms down and rebuilt them twice.

Mr. Murphy said that taking those berms down removes the bullets.

Mr. Tuttle agreed.

Mr. Murphy asked where that material is taken.

Mr. Shinard said that he wasn't sure where the range committee has taken it but he does know that it's taken off the range in trucks.

A member of the public asked how many members they have and how many can they have.

6:09 PM Mr. Shinard said that, currently, there are 240 active members; that he doesn't know of a limit to the number we can have but that seems to be the going rate for annual renewals.

The same member of the public asked, as an estimate, how many shooters are at the club at any one time.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Shinard said that it varies depending on the weather or the day, whether it's a weekday or weekend; that most people work all day and, in the winter, they can't get to the range but on a Saturday or Sunday.

6:10 PM Mr. Tuttle said that it also depends on which hunting season is coming up during which part of the year.

Mr. Shinard agreed, adding muzzleloader or long rifle or shotgun; that any time he's been out there, there's usually just himself and, sometimes, somebody else; so, you don't see a large crowd out there very often.

Mr. Tuttle said that he's experienced the same thing.

Discussed was that there are 4 long rifle shooting benches and 3 pistol areas; that the long rifle benches are covered by a metal roof but otherwise open.

It was suggested that they might put a covering over where they sit to shoot at the pistol range because it does help to reduce the noise a little.

Ms. Kickhafer said that they have covers at the gun club she belongs to and there aren't any complaints from the surrounding neighbors.

6:12 PM Mr. (Ron) Kickhafer said that one of the things that really draws us to the SBR&GC is their enclosures so that you're covered when in there and in an enclosed area as you shoot out into the berms, which would also help reduce the noise. He added that earlier they said they try to police who's there and asked how they tracked who goes in and out.

Mr. Shinard said that it's not tracked.

Mr. Kickhafer said that, a couple years back, we went (SBR&GC) to a swipe (proximity) card to get into the gate; so, when they've had complaints, they can look at the computer list and know who was there when. He suggested they might consider that.

Mr. Shinard said that those were both really good suggestions, adding that we are a much smaller club than South Berwick and, sometimes, it comes down to dollars of what we can do and how we can do it and how fast we can move from project to project. He added that we want to be good stewards, we want to be good neighbors with you, and that is our intent and why we are here this evening. He reiterated that we are a much smaller club and we're trying to do things, especially this year, in trying to move forward and reduce this as much as we can.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

6:14 PM Mr. Kickhafer said that he didn't know how much an enclosure would cost to build as opposed to the barrier wall but that that might relieve some of the financial burden; that he doesn't know which would be better for sound or more cost-effective.

Mr. Shinard said that those are things we can address in our meetings; that they are excellent ideas.

A member of the public asked if they had set times when hours change, such as March 31st or September 1st, just so that we can keep an eye on when there is shooting outside of what you guys are trying to do to be good neighbors.

6:15 PM Mr. Shinard said that he doesn't think we've set the date for that, yet; that he thinks we're trying to do it with the time change difference – when the clocks change, we change. He added that 9AM is the standard year-round and currently the end-of-day time is 6:30PM.

The same member said that we don't know anything about guns and she bought a house in a neighborhood here there's a gun range, so she gets it; that we have always called the Eliot Police when we have complaints and she was wondering if the police came to you.

Mr. Shinard said that they have our number and will call us.

Mr. Tuttle said that they (police) also have the gate code so, if there is a real concern, they can get down in there and observe for themselves.

6:16 PM Mr. Lee asked if they had considered game cameras.

Mr. Shinard said yes, that they use them.

Mr. Tuttle said that we have caught two offenders that way.

Mr. Lytle said that he would like to see the Eliot Police monitor that area in the morning, especially the early morning.

Mr. Lee said that he would mention to the Police that we've had this meeting and there are those things, that the club would appreciate the help.

6:17 PM Mr. Tuttle asked if the Police observe someone down in there, could they contact some one of the people on the board, or himself, so that we can take care of that person and make sure that he doesn't go back down in there.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Lee said that he would make sure that that happens; that he would like to help them.

Mr. Tuttle said that, at some point, we might just prosecute one of these people just to get that word out; that if someone walks in there on the old railroad tracks, not a member, and started doing some shooting and was caught, we would prosecute that person for trespassing.

6:18 PM Mr. (Jim) Bingham, Rollingwood Road, thanked them for coming down; that most of us have been in the neighborhood for a very long time and we've been fine, kind of, over time; that he doesn't know if something has changed just recently, as it's definitely not the leaves on the trees that make the difference; that it's all year long. He added that he wanted to verify what Ms. Kickhafer said earlier about Sunday mornings; that this past Sunday, he believes, it was early and it was loud and it was frequent and it was rapid; that that's just an alarming way to start your day but added that we picked the house and the neighborhood. He said that he doesn't know how you can govern that better but it's crazy. He added that it was well before 9AM and he didn't realize the 9AM thing, as he would be much more diligent reporting that to somebody; that the 9AM thing is violated, probably, weekly, so that's a major problem. He asked if he was correct that they had only heard complaints from the Town.

Mr. Shinard said no; that we have been receiving complaints.

Mr. Bingham confirmed that the number on the website is a good number to call.

Mr. Shinard said yes.

6:20 PM Mr. Bingham asked if the hours, rules, caliber, all that stuff posted on the gate.

Mr. Shinard said that they are posted on the range, the gate has the hours.

Mr. Bingham asked if there was a 'no trespassing' sign.

Mr. Shinard said yes, on the gate.

Mr. Bingham said that the path that goes directly behind our homes is well-inside the 'no trespassing'.

Mr. Tuttle said yes; that there's also a 'no trespassing sign' on the gate at the range, so, on both gates.

Mr. Bingham asked how they stop people from using that path that crosses over the road into the range.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Tuttle said that that's not our property.

Mr. Bingham said that he didn't mean the club, specifically. He added that he sees a lot of people walking out there - walking their dogs, walking with their children – consistently, expressing his concern that people aren't aware of how close they are to the range and possible danger.

6:22 PM Mr. Tuttle clarified that, technically, they aren't trespassing until they go beyond the second gate (at the range).

Mr. Bingham said that he just didn't know if they knew how often that path is used.

Mr. Donhauser noted that there is no fencing around the facility.

Mr. Bingham suggested he could get a license plate number, if he sees a car outside of the posted hours, and call it in to the police.

Someone asked if they had considered putting in a timer with a cyber-lock.

Mr. Tuttle said that it got shot up.

6:27 PM Ms. (Chris) Chidester, 245 Rollingwood Road, said that she really appreciates them coming. She added that the problem is the noise and it's seven days a week; that most people work five days a week; that the shooting is seven days a week and it's really loud. She said that we can never plan on a break any time and that's really difficult; that Ms. Williams has a lovely back yard and it's hard to sit out there because it's so loud sometimes. She added that when people are being awakened because of the guns, that's not fair, and there's no day where we can have people over because it's going to be quiet. She said that she understands it's a hobby for them, at that's fine, but it would be nice to have one day when it wasn't going on. She said that we had met down at the club with you and we talked about things that could be done; that one was to put dividers between the benches and to put some kind of a deflector because it's a metal roof; that she knows it takes money, asking if the State had any money they could match for anything, are you willing to do any fundraising or get help in any other way so that this could get resolved.

6:29 PM Mr. Shinard said that we are exploring those avenues right now; that we've formed a committee to look into fundraising events, how we can start generating an annual revenue. He added that we talked about this at our last meeting for the purpose of being able to afford these projects so we can alleviate the issue that all of them are so concerned about.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Ms. Chidester thought that there was something with the government that, if you wrote a grant, they would have some money available.

Mr. Tuttle said that that might be the NRA.

Ms. Chidester asked if they needed help with grant-writing. She said that it's really loud and it's seven days a week and all we have is the weekend to enjoy our homes.

6:30 PM Mr. (Dan) Kimball, 165 Rollingwood Road, said that he's a retired military guy, a weapons guy, weapons instructor; that the noise is the biggest problem. He added that, if you lived where some of these people live (closer than him), you would be out here; that you would not tolerate it because it's ridiculous; that he's only been in the neighborhood for six years, and he loves the neighborhood, but it's unbelievable. He said that somebody moved out of the neighborhood because of that; that something's got to be done and he knows that they are talking about doing mitigation but he thinks that's pie in the sky and doesn't think anything's going to get done.

Ms. (Ann) Lukejord, 239 Rollingwood Road, asked if they had called on anyone else to give them some ideas of things that could be done that might have more knowledge about how to muffle the sound.

6:31 PM Mr. Shinard said that we have a couple of members, one with a degree in engineering, helping us with ideas of what would be successful. He confirmed that their plan is to do this work this year regardless of budget constraints; that we have to wait for the weather and for it to dry out.

Ms. Kickhafer asked if they could just look to see what the difference would be in cost between putting up these fences versus putting up a covering over the shooting area; that at South Berwick, it's a three-sided and completely close in – a top, two sides, and a back, and the front is open; that all the noise stays toward the berms.

6:33 PM Mr. Shinard said that this fence we're talking about building is, in essence, that; that it wouldn't be directly up to the structure because there's some walking area back there.

Mr. Kickhafer asked if they'd had a chance to go to South Berwick to look at what they have.

Mr. Shinard said that he hasn't.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Kickhafer said that he would gladly take Mr. Shinard there. He added that the NRA would gladly work with you and send a team to come give you ideas on what's the best layout, etc., to help mitigate the noise; that being NRA-sanctioned they will do that and he believes it's free.

6:34 PM Mr. Orestis said that a simple search on the internet site shows they have all sorts of grants available so he would start there; that that's what they're there for and that's what they do.

Mr. Murphy thanked Mr. Shinard and Mr. Tuttle for coming and discussing this with the public. He asked Mr. Lee if he would get a copy of the proposed legislation that he referenced earlier.

Mr. Lee said that he would and he would also notify the Police to be expecting calls earlier than 9AM and that we want to help catch the people who refuse to comply with the rules.

6:36 PM The SB recessed.

6:40 PM The SB resumed the meeting.

F. Approval of Minutes of Previous Meeting(s)

6:42 PM Motion by Mr. Orestis, second by Mr. Lytle, to approve the minutes of December 27, 2018, as amended.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

G. Committee Resignations and Appointments

There were no resignations/appointments.

H. Department Head/Committee Reports

There were no reports.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

I. Administrative Department

1) Town Manager Report(s) – updated (includes 01/04-2/20/19)

There was no discussion.

a. Financial Report

There was no discussion.

6:45 PM 2) Job Description Reviews/Approval

Mr. Murphy gave his comments to Mr. Lee.

Mr. Orestis asked if Mr. Lee had a template for these job descriptions, asking Mr. Lee to explain the process he was going through to write these.

6:47 PM Mr. Lee said that when we had our pay consultant (Don Jacobs), he had three major components of what he was supposed to do for us, one of which was to fully update all the job descriptions; that we had an extensive list of questions every staff position filled out, basically everything they do, and Mr. Jacobs had a format based on these various criteria; that he's using Mr. Jacobs' template and it's consistent with the book when we score each position what grade level it should go into.

Mr. Orestis asked what if someone was doing more than their job required; what if they are doing tasks that are not part of what they're hired to do. He asked if you are writing the job description to include that or are you excluding that and putting it somewhere else for a different individual.

6:48 PM Mr. Lee said that he considers job descriptions to always be a work in progress; that when we had that discussion about the land use administrative assistant, one of the things that dawned on him was that there was a lot more coordination and communication going on for that position and, so, he is going to update that and bring it back to the SB for the coordination/intercommunication element.

Mr. Orestis asked what the process, going forward, is to update those.

6:49 PM Mr. Lee said that what we are supposed to do is look over the job descriptions annually; that he's actually gone through these job descriptions a couple different times; that he wanted to finish them up and get them complete, once, put a date on it, then mark out a year from now to see if he needs any updates.

6:50 PM 3) Automatic Payroll Process - Authorization

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Murphy read a memo from the Town Treasurer requesting to change the payroll process to an automatic system funded by an online transfer from the general fund to increase efficiency and save fees. He asked if this seemed reasonable.

Mr. Lee said that it does; that it is the more modern way of doing things these days and more and more towns are trying to move toward more of a paperless system, using the technology that we have; that, for example, instead of printing out and delivering pay check stubs to individuals, we have the technology within TRIO to issue a paystub automatically and email it employees. He added that, if the SB would like, he would like to move toward a more automated system; that it will have the same transparency, the same reports but just isn't a manual check that has to be transported down to the bank, and so forth.

6:53 PM Mr. Orestis said that he has his paystub emailed to him; that it is password-protected so no one can get into it and he's sure that's what will probably happen through TRIO. He asked if we know how much we've spent in fees on overdraft charges.

Mr. Lee said that he didn't have that with him.

Mr. Orestis asked Mr. Lee if he could think of any reason we haven't done this sooner.

Mr. Lee said that there was a reluctance from the time he has been here to do anything but have the printouts and he doesn't believe that the last Board was fond of the idea' he added that, as we have talked about needing more staff, he's been kind of challenged to come up with more efficient use of time; that payroll was one where, instead of stuffing envelopes and running checks down to the bank, we could automatically transfer it from the general fund payroll account.

6:54 PM Mr. Orestis said that nothing in the payroll process would change except for the fact that it will be an automatic transfer rather than writing a check out and bringing that to the bank.

Mr. Lee said writing that check, setting it on his table, and hoping he gets three signatures in time to get it to the bank in order to not get an overdraft.

Mr. Murphy asked for a motion if everyone was in agreement.

6:55 PM **Mr. Orestis moved, second by Mr. McPherson, that the Select Board approve Jordan Miles' request to allow payroll account funded by an online transfer from the general fund.**

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

Mr. Lee said that we are going to continue to look for other ways to find some efficiencies, as well.

6:56 PM 4) Mr. Staples Fence

Mr. Lee read a memo from Attorney Brandwein (Bernstein Shur) regarding the Order received from the York District Court granting the Town's motion to remove the fence and award attorney's fees. He added that the attorney suggested waiting until spring/early summer and then notice Mr. Staples. He said that on or after March 14th, Mr. Staples' 30-day appeal period will lapse and, once the ground gets better, we would plan to go in, ourselves, with the PW crew or, alternatively, hiring a fence company to go in on our behalf and adding that to the fee.

6:59 PM 5) Household Hazardous Waste Day Policy (HHW)

Mr. Murphy read a memo regarding fully funding the cost of Household Hazardous Waste Day, as from a policy perspective, charging residents is counterproductive to the real goal of not incentivizing people to wrongfully dump hazardous materials into our environment. He requested the SB endorse the policy of funding the full cost of HHW events, including disposal costs. He said that it seems like a sensible action to him; that he is all in favor of protecting our environment for the future and the ordinary, common sense health of people from unknown hazardous stuff scattered around. He asked for SB input.

Mr. McPherson asked if we know how any of the area towns approach this.

Mr. Lee said that different towns do it different ways and he can only tell them his experience from the towns he has been in. He added that, in two of the three towns he's managed, we did it this way, we picked up all the fees for HHW and didn't charge residents; that in the third town he was in, they didn't even do HHW events, as it was too small a town. He discussed his concern for this material being dumped wrongly.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

7:02 PM Mr. McPherson said that one of his concerns was with us being free, we might end up with other area towns' HHW; that he actually agreed with this policy but reiterated his concern for others bringing it to Eliot for nothing.

Mr. Lee said that that is a risk; that anyone who comes into the station has to have one of those placards that say they are an Eliot resident and can use the Transfer Station. He added that one of the reasons he wrote what the disposal costs were in the memo was that, if that \$2,000 jumps up to \$3,500, one of two things may be true – either other people may be tacking on to your placard that allows you into the Transfer Station or, because we've removed the disincentive, people are suddenly bringing their HHW down; that it will be hard to tell from a policy standpoint, in his opinion. He did discuss keeping an eye on that possible eventuality during HHW events with the PW Director but he doesn't know whether we'll be able to police it accurately.

7:05 PM Mr. Lytle said that we started this program when he first went out to the Transfer Station and those first years were \$14,000 to \$15,000 to take this stuff; that over the years it has gone down lower and lower all the time. He added that he feels that this is something that's good for the Town.

Mr. (Jim) Tessier, Johnson Lane, said that he has a concern about the whole process, here; not so much the HHW but we've had a policy in place for the last several years that the Town pays for the disposal of HHW. He added that, somehow, this policy has changed; that he chairs the Solid Waster Recycling Committee (SWRC) and nobody approached the SWRC for their thoughts or ideas on this policy change. He said that, apparently, nobody has previously discussed it with the SB and it was not previously discussed with the Budget Committee. He added that the reason this came up was because, on the budget that was proposed, the cost for disposal doubled from \$5,500/year to \$11,000/year, so we asked why and the answer was that the policy is changed; that it was asked who approved the policy change; that nobody had, apparently, and that's why you are getting this memo. He added that it seems to him like we weren't following our own policy in making a policy change and he has an issue with that.

Mr. Murphy thanked Mr. Tessier for brining this to their attention; that the points he makes are wonderful – how this did get in here – and he just took it for granted that there was a reason.

7:08 PM Mr. Lee said that it's being rushed, quite frankly, because when we started doing budget reviews, Mr. Tessier and others were reluctant to just accept the fact that he was going to recommend that we change the way we do things, there are numbers that have to be finalized by March 4th for the Budget Committee, and he didn't feel like he had a lot of time and they asked him to make sure that the SB

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

does approve this policy; that that's why it was a sudden thing that showed up on your desk because, if you said no, we have to change some budget numbers.

Mr. Murphy said, so, we aren't actually changing the policy.

Mr. Lee said that the budget reflected a change in policy; that the budget did not have any revenue associated with HHW, as the revenue would come from the residents who would pay the \$10, \$20, etc.; that they noted there was no revenue, just a big increase in the expense side and they asked him what he was doing. He explained that he would like to change this policy back to one that doesn't incentivize people to dump illegally and they said he should probably go see the SB and make sure they agree with your policy before we lock these numbers in; that that's why it was hurried up and why it's here tonight.

7:09 PM Mr. Tessier said that it would seem to him that the policy gets changed first, then you propose a different budget and you change the numbers. He added that the SB agrees to what the policy is going to change to and then we change the numbers in the budget.

Mr. Lee said that he agreed with Mr. Tessier that this is not the perfect way to do it; that he would also point out that, within that enormous book, there must be 200 to 300 unspoken policies; that policies determine budgets, budgets determine policy; that they are kind of interactive and, so, he apologized that this wasn't the exact right way to do it but he was tired of the way it was being done, he thinks it's the wrong policy; that his background is a Masters in Public Policy, he thinks it's the wrong policy and he wanted to bring his knowledge to it. He added that he couldn't imagine people not agreeing with it but, thankfully, you are in support of it. He reiterated that he appreciates what Mr. Tessier is saying; that it would be good to go to the committee first, have the committee recommend, then go to the SB, you recommend, and he budgets accordingly; that it did not go that way and he apologized again.

Mr. Tessier said that it also would have been transparent.

Mr. Donhauser asked what the budget amount was.

Mr. Lee said that it was \$6,000.

7:12 PM Mr. Donhauser asked what would happen if the residents brought in \$7,000 in HHW.

Mr. Lee said that it would have to come out of some other area of the solid waste budget.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Donhauser asked if there was no way of knowing, as you take things in, when to stop.

Mr. Lee said that there would be, actually; that we could just have it go to a certain point; that we could go to \$3000/event and, once we reach \$3,000 in fees, we would shut it down. He added that he wasn't in favor of that, either, in shutting people down that have brought HHW in; that we would most certainly find it on the ground.

Mr. Murphy suggested setting up a fund in which any unspent funds go into the next year.

7:13 PM Mr. Lee said that each of those little reserves, with small amounts, have to be tracked and monitored and this is of an amount that is not like a salt budget but a relatively small amount; that, generally speaking, one of the budgets that we generally have surplus in at the end of the year is Solid Waste and, so, he's not too afraid that we're going to go over that we would have to limit somebody elsewhere; that we would probably pick it up elsewhere in the Solid Waste budget, if necessary.

7:14 PM Mr. Orestis said that it seems to him that Mr. Tessier isn't so much in disagreement with the proposal but how the proposal was brought and the memo was brought to light.

Mr. Tessier said that he sees both side of this equation; that one side is that, if you generate it, you ought to pay for it, as that makes sense from a budget standpoint; that he also sees the Town Manager's point that we don't want it dumped out there; that he doesn't object to the change in policy, he just wants to make sure that, with these kinds of things, that the SB is making the decision, not a decision made by numbers in a budget. He said that it was the Budget Committee asking the question that generated this whole discussion and, if we hadn't asked the question, the policy would have changed and the SB, Budget Committee, and the Solid Waste Recycling Committee would not have known this policy changed.

7:15 PM Mr. Lytle said that he was one of the ones who originally started this – HHW – and it was just right in with the Transfer Station budget; that it was never said, it was never told, we just did it; that there was never a policy for it.

7:16 PM Mr. Murphy said that, in his mind, this relates to unused equipment; that we don't want to find ice boxes dumped along the roadside or carried out into the woods.

Mr. Lee said that the other thing that should probably noted is that the way he went about this was probably backwards; however, the other thing is he didn't believe it was actually a policy that said four times a year or that residents would

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

be paying their own fee. He added that, in the absence of that in the past, the Budget Committee wanted to make it a pay-as-you-go and that's how the policy got fixed, in the first place, and then he had to live with it for the next couple of years and he's trying to undo it; so, there is no policy to be changed, per se, it was just that it seemed to happen during the budget process last time.

7:17 PM Mr. Tessier said that he doesn't have all the history of how it changed but there was a policy because there was a specific sheet handed out that told residents that they would pay so much per gallon or half gallon or per pound. He added that that was a specific form and he believes it was presented here.

Mr. Murphy said that there is a page in the Town Report for those special costs at the Transfer Station.

Mr. Tessier said that he thinks so but it was definitely a sheet that specified the cost so that, if anyone showed up at the Transfer Station with the material, they were presented this and told they would have to pay a certain amount for that.

Mr. Lee clarified that that just came from the vendor of what they would be charging everybody for what they bring down; that it wasn't a policy, it was a fee sheet.

7:18 PM Mr. Murphy said that he thinks this Board is in agreement that we want to protect the Town from hazardous waste being just thrown away by this method of taking over the costs or at least letting the citizens know that they are not on the hook for that because we want to protect the Town. He asked if he heard objection to that...he heard no objection.

Mr. Lee asked if we should vote on this; that it is not really a policy but it is a memo that would outline the intent of a policy. He asked if that is something the SB wants to vote on or is it just by consensus that you are going to concur with the way it's been budgeted.

7:19 PM Mr. Murphy said that having a policy at this time is, of course, much clearer for the future rather than searching through to read the minutes to find out if it was voted or by consensus.

Mr. Lee said that he could write it up as a policy instead of as a memo, now that he knows what position you have; that we could make it more formal.

Mr. Murphy suggested that, maybe, the non-hazardous waste could be identified; that he didn't know if there was still a problem with junk being thrown out, asking if we know anything about that.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

7:20 PM Mr. Lee said that he thinks that's a whole separate issue; that this issue is just about HHW; finding an air conditioner or refrigerator out in the woods because we charge fees, he has not had a lot reported to him. He added that, in the town we didn't do HHW collection, we found tires and stuff everywhere and spent a lot of time cleaning up hunting paths.

Mr. Murphy said that he doesn't know that this Board has to wait for Mr. Lee to develop a fully fleshed-out policy but we could approve this action within that policy. He asked if we could have a motion to approve this policy that the Town will take over the full cost of HHW material disposal costs.

7:21 PM **Mr. Lytle moved, second by Mr. Orestis, that the Select Board approve this policy that the Town will take over the full cost of Household Hazardous Waste material disposal costs.**

DISCUSSION

Mr. Orestis said that, while he agrees that this would be a good policy, moving forward, not to charge individuals to dispose of their hazardous waste, he's in agreement with Mr. Tessier that the way that it was done was probably not the best way. He added that, in the future, we have committees that are responsible for these things and it would be much better to have them bring something to us as a recommendation rather than finding it in the budget.

7:22 PM Mr. Murphy said that, if the budget actually discloses things like that, then the budget is presented as a useful way of identifying these problems that we haven't recognized before so we might want to allow it to occur even if we would prefer a better way.

Mr. Orestis said that if we have a Solid Waste Committee, their job is to make recommendations for things like this to the SB so that we can take action on it.

Mr. Lee agreed, that it should have been referred to them.

7:23 PM Mr. Donhauser said that he had two concerns; that one was the amount of hazardous waste we collect is unlimited under this policy; that the second one is that it is an open-ended policy in the sense that there's no end date. He added that he would recommend that we actually say, if this is the policy we want to adopt, it's to one year and, then, we have to re-visit the next year; that we then have a history of exactly what happened.

Mr. Lee suggested he revise this for the next agenda, add some more detail to it, and bring it back before the Board knowing that the policy meets with your

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

approval, he thinks, but let's just do this for the one year and, then, that there is some type of limitation might not be a bad idea.

7:24 PM Mr. Donhauser said that he doesn't know how, when you reach that limitation, how you would stop; that tuning someone away is probably not the best arrangement. He added that at least re-visiting it next year, if it turns out to be \$8,000 this year, we might say we don't want an open checkbook.

Mr. Lee said that he thought that was very reasonable.

Mr. Donhauser said that, at least, it forces this Board and, perhaps, the Solid Waste Committee to re-visit it, again.

Mr. Murphy said that he thought it would be useful to delay this because it would allow input from the public who he doesn't think were aware we were going to go into this in this amount of depth tonight.

DISCUSSION ENDED

Mr. Lytle withdrew his motion. Mr. Orestis withdrew his second. The motion is withdrawn.

7:25 PM **6) Approve Warrant(s):**

Mr. Murphy moved, second by Mr. McPherson, that the Select Board approve A/P Warrant #77 in the amount of \$1,102,957.12, dated February 14, 2019.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

J. New Business:

7:27 PM **Salt reserve proposal (Budget Committee recommendation)**

Mr. Lee said that we will try to do is budget at \$180,000 for salt; that in a good year, when we don't use all of our salt, we are going to set up a reserve account

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

and any additional money that had been appropriated for salt will go in for a bad year. He asked if the SB was in favor of that proposal.

Mr. Murphy said that it sounds like a very sensible thing to do and he's glad the Budget Committee brought it up.

Mr. Lee said that the SB could, by consensus or vote, set up a reserve for any monies left over at the end of the fiscal year and put it in, and do that year after year.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board establish a Salt Reserve Account to accomplish the purpose just outlined by the Town Manager and the Memo from the Budget Committee.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

7:32 PM Re: Letter from Brian Holt

Mr. McPherson said that the SB received a letter from Mr. (Brian) Holt, suggesting it be read aloud y the Chair or Mr. Holt.

Mr. Lee asked if this was going to be an open-discussion personnel matter because that's not allowed. He added that Mr. Holt has been advised that he can have an exit interview with the Town Manager; that he requested an exit interview with the Select Board and that is not permitted.

Mr. Lytle questioned why that was not allowed.

Mr. Lee said that, by Charter, he's the Personnel Director for the Town and he does the exit interviews; that he has advised Mr. Holt of that.

7:33 PM Mr. Lytle said that he didn't know of any reason a Town employee can't talk to the Select Board.

Mr. Lee said that, when you go to a Town Manager-form of government, it changes everything, and it's in the Charter; that, in fact, there's another part of the

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Charter that talks about the powers of the Personnel Director and it's even greater than he thought. He added that he's a little dismayed that Mr. Holt would by-pass what he had said and go directly to the Select Board.

Mr. Orestis said that the information presented in this letter is now, and has been, presented so, where do we go and what's the appropriate channel to address the concerns that have been presented. He added that he won't go into any detail, if that's not permitted but the information has been presented.

7:34 PM Mr. Lee said that he wasn't even shown the courtesy of getting the letter.

Mr. Murphy said that his concern, also, is that Mr. Holt is no longer employed.

Mr. Lee clarified that he is for the next two weeks.

Mr. Murphy said that he believes the Department of Public Works killed that by saying that Mr. Holt would leave now and not take up the extra two weeks.

Mr. Lee said that he was going to caution the Select Board, again, about doing personnel matters in public; that we're going to get ourselves in legal hot water, and perhaps that's the intent tonight, but we are going to get into legal hot water; that he can certainly get the Select Board a legal opinion that will definitely confirm that.

Mr. Donhauser agreed with the Town Manager; that he thinks we should be speaking about this in executive session.

Mr. Murphy agreed.

Mr. Donhauser said that, then, whatever results from that executive session we can bring back out.

Mr. Orestis said that that was the direction he was going in, looking for some guidance on the best way to...

Mr. Donhauser said that this is clearly a personnel matter.

7:35 PM Mr. Lee agreed, saying that he is the Personnel Director and he (Mr. Holt) should have appealed it to him and done it in his exit interview, as directed; that it shouldn't be out in public. He added that he can put it on the next agenda for executive session, if that would be the pleasure of the Board.

Mr. Murphy said that Mr. Lee thinks we cannot do that tonight.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Lee said that he is not prepared to do it tonight, he doesn't even have the courtesy of having a letter. He added that he isn't going to be very happy about doing this; that he thinks you're undercutting him, he thinks you're in violation of the Charter if you do this.

Mr. McPherson said 'violation of the Charter' – that's a great subject and maybe we ought to go into executive session tonight and we can talk about violating the Charter; that he thinks that's a great idea.

7:36 PM Mr. Lee said that, in reference to what you're saying, there is a way to resolve these things, especially the one you are concerned about. He explained that we have had, in the past, what they call an Ethics Panel; that the Ethics Panel was called to determine if there were any nepotism issues at Public Works or at ECSD or at Fire; that he was going to suggest to Mr. McPherson that that's the way we should probably handle the one that you are primarily concerned about; that it may go to this letter, as well. He added that he would not like to be side-swiped on this; that he's had no knowledge of what is in the letter, and he's not prepared to go into executive session. He said that he thinks we could put it on for two weeks and he could be more prepared; that he could maybe even see what the letter says; that he thinks this may even be some sort of a violation of the union contract but he will look into that tomorrow.

Mr. McPherson said that, somehow, in some way, it's freedom of speech and he ought to be able to speak his peace at some point to somebody.

Mr. Lee said that there is a way to do that; that this is not the way to do it and he advised Mr. Holt of that. He explained that after you go through him, which is the next level in the chain of command, if you are dissatisfied, he (Mr. Lee) would bump it up to the Select Board in executive session.

7:37 PM Mr. McPherson said that he would have that right if he is dissatisfied with the meeting he has with you (Mr. Lee); that he then has the option to bump it to us.

Mr. Lee said yes but there is a chain of command and you don't go from 'here' to 'here' and by-pass everyone in your way.

Mr. Murphy said that it was his expectation that we would have an executive session tonight and you would become informed of the situation because it's complicated and there are a number of levels and a number of issues.

Mr. Lee said that he would then like some time to think about that.

Mr. Murphy said that Mr. Lee doesn't know what they are yet.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Lee said right. He asked if he got the courtesy of knowing.

Mr. Murphy said that we do need to go into executive session sometime.

Mr. Lee said that he had nothing more to say.

7:38 PM Mr. Donhauser said that he would encourage the Board to allow the Town Manager the two-week period of time to understand what's in the letter.

Mr. Murphy asked how he was going to understand it without the letter.

Mr. Lee said that someone could share the letter with him.

Mr. Donhauser reiterated that it's clearly a personnel matter and he believes we should be in an executive session.

Mr. Lee warned the SB to be incredibly careful.

Mr. Murphy said that there may be other issues.

Mr. Lee agreed that there's always two sides to every issue; that he would like to have a chance to know what's in the letter and think about how accurate it may, or may not, be.

Mr. Murphy suggested that we go that route, then.

The Select Board agreed.

K. Old Business:

7:39 PM Mr. McPherson discussed the **bills regarding the DPW truck repair**. He said that he gave each one of the SB a copy of the bills that were presented; that from the Town Manager, he got a letter and it's actually from Mr. Moulton about the bill being underbudget – terrific. He added that what was voted on, and what was supposed to happen to that motor, didn't happen; that the SB voted on putting a re-built motor in that truck – he believes an inline, however the technical term is – so the block was never changed in this truck; that in the bids we got, the SB approved a re-built engine and a re-built engine was not put in that truck; that the block was not changed.

Mr. Lee said that he didn't know that.

7:40 PM Mr. McPherson said that it's terrific that it's underbudget, as it should be, but what does that do to the warranty.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Lee said that that's a very good question.

Mr. McPherson said that the first vendor suggested that that block be changed to be re-built or a new engine in there and he doesn't know who made the decision to not do that.

Mr. Lee said that he didn't, either, and would have to look into this; that he is surprised to hear this.

Mr. McPherson said that, in the copy of the bill, nowhere does it say anything about the block being changed.

Mr. Lee asked if he could have the opportunity to look into it.

Mr. McPherson agreed.

Mr. Lee said that he would check on that and it would be on the agenda in two weeks to clear that up.

Mr. McPherson said that they called it an 'in-frame rebuild' but the old block is still in that truck according to this bill.

7:42 PM Mr. Murphy said that the SB each had a copy of a letter from us to be signed by this Board, if they are still willing to verify Eliot's support of pursuing the **Partnership Wild and Scenic River designation** for York River and its tributaries. He added that the National Park Service is preparing the proposal that will go to Congress and this letter will be one of the supplementary supporting letters to persuade Congress to approve such a designation. He asked if this Board was willing to sign this letter.

Member of the SB agreed that they would sign the letter.

7:45 PM At this time, the Select Board signed the letter in support of designating the York River and its tributaries as a Partnership Wild and Scenic River.

L. Selectmen's Report: Seeking Committee Members

7:46 PM Mr. Donhauser said that he didn't have a report but that there were two memos from Attorney Freeman (Bernstein Shur) that were provided to us and the subject line for one was "Compensation/Sidebar Agreements". He asked if we were supposed to discuss that tonight.

SELECT BOARD MEETING
February 28, 2019 5:30PM (continued)

Mr. Lee said no; that he gave it to them so that they would know what the legal opinion was on this should it come up tonight.

Mr. Donhauser asked if the second memo – “Question re: Salaried Employees” was that also.

Mr. Lee agreed. He added that we would discuss them in executive session in the future.

M. Executive Session

There was no executive session.

N. Adjourn

There was a motion and second to adjourn the meeting at 7:49 PM.

VOTE

5-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Richard Donhauser, Secretary

Date approved: May 9, 2019