

SELECT BOARD MEETING

August 10, 2023 5:30PM

Town Hall/Hybrid

Quorum noted

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

Roll Call: Mr. Donhauser, Mr. Widi, Mr. Shapleigh, and Mr. Trott.

Absent: Ms. Dow (excused)

A. Pledge of Allegiance recited

B. Public Comment:

5:31 PM There was no public comment

C. Approval of Minutes of Previous Meeting(s)

There were none tonight.

D. Public Hearing:

There were no public hearings.

E. Department Head/Committee Reports

There were no reports.

F. Board and Committee Appointments/Resignations

5:32 PM 1. Resignation Paul Shriner Planning Board (Alternate)

Mr. Donhauser moved, second by Mr. Shapleigh, that the Eliot Select Board accept the resignation of Paul Shiner as an Alternate Member of the Eliot Planning Board.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott – Yes

Unanimous vote to approve motion.

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2. Resignation James Latter Planning Board (Full)

Mr. Donhauser moved, second by Mr. Shapleigh, that the Eliot Select Board accept the resignation of James Latter as a Full Member of the Eliot Planning Board.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott – Yes

Unanimous vote to approve motion.

5:32 PM 3. Appointment Paul Shriner Planning Board (Full)

Mr. Donhauser moved, second by Mr. Widi, that the Eliot Select Board appoint Paul Shiner as a Full Member of the Eliot Planning Board to a term ending June 30, 2025.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott – Yes

Unanimous vote to approve motion.

4. Appointment James Latter Planning Board (Alternate)

Mr. Donhauser moved, second by Mr. Trott, that the Eliot Select Board appoint James Latter as an Alternate Member of the Eliot Planning Board to a tern ending June 30, 2027.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott – Yes

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Unanimous vote to approve motion.

5:33 PM 5. Confirmation Wendy Rawski Tax Collector

Mr. Sullivan said that I am asking you tonight to confirm the appointment of Wendy Rawski as the Town Tax Collector. Just as a point of explanation, recently Brenda Harvey retired as the Tax Collector. We looked at options and discussed it with Town Clerk Rawski, who does an incredible job in that position. She was always the Deputy Tax Collector so we've made her the Tax Collector. Her salary has been increased by \$10,000 to take on that role. The Deputy Tax Collector is going to be Lauren Small, who has been in that office for about eight months but has really grown in it and taken to both to the Deputy Clerk responsibilities and as Deputy Tax Collector. I would like to commend Ms. Rawski for the job that she does. I did recently nominate her as the Maine Town Clerk of the Year. We were informed this week that she wasn't successful but she should have been for her eighteen years of service and the work that she does. As I said at the last meeting, there has been a 100% change in that office and the training and caliber of staff that she is developing, once again, is really incredible. The Town of Eliot is very lucky to have Wendy Rawski working for them.

5:35 PM Mr. Donhauser moved, second by Mr. Widi, that the Eliot Select Board confirm Wendy Rawski as the Eliot Tax Collector for the fiscal year ending June 30, 2024.

DISCUSSION

Mr. Trott asked about certification for this.

Mr. Sullivan said that she is certified as a tax collector. Ms. Small is going to be certified, as well.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott - Yes

Unanimous vote to approve motion.

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G. New Business:

5:36 PM 1. Surplus Equipment/Material

Mr. Sullivan said that, as you can see in your packets, there are a number of surplus equipment pieces that the Department of Public Works (DPW) has decided that these are really not something they can use. While these pieces of equipment still have some life in them, we think it's in the best interest of the Town to, by electronic auction, put them up for sale. Listing the items to be sold, Mr. Sullivan said that this is part of a program we are working on to try to clean up heavy equipment we're not using, and not likely going to use. We did order another trailer, which some people will find odd, but the weight rating on the trailers that we were using for pulling equipment wasn't sufficient. Certainly, one might consider that some of these sales might offset that purchase. We want to make sure we have the right equipment. I'm recommending we do this by electronic bid, which has no cost to the Town. The winner of the bid pays the bid fee and that is how these companies make their money. It will be advertised for at least 30 days and, for anyone interested, we will make arrangements for them to inspect the items to be sold. I know there's going to be another group of pieces of equipment, furniture, and other items coming in September.

5:39 PM Mr. Widi moved, second by Mr. Trott, that the Eliot Select Board order the following equipment to be sold by electronic auction or other means for the Town to receive the greatest return and as follows:

- **6X12 single axle trailer, black**
- **5X10 single axle trailer, green**
- **8X14 double-axle trailer, green**
- **Kohler 80KW Diesel Generator**
- **Skid Steer push box**
- **Aluminum diamond plate tool box**
- **Husky 8 drawer tool box**
- **2 exMark commercial 30-inch mowers with bag attachment**
- **Force 6500 Generator Motor**
- **Outback Brush cutter**

As listed in the agenda packet, dated August 10, 2023.

DISCUSSION

Mr. Shapleigh asked if there was a set minimum bid.

Mr. Sullivan said that we will set the minimum bid based on the value of each product.

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DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes
Mr. Widi – Yes
Mr. Shapleigh – Yes
Mr. Trott - Yes

Unanimous vote to approve motion.

5:41 PM 2. Littlebrook Air field Show

Mr. Donhauser said that Littlebrook is planning an air field show and it's my understanding that no vote is necessary to accept that because it doesn't meet the 1,000-person threshold.

Mr. Sullivan said that it correct. I have a letter here from Richard Little, who is the President of the group, and is working with Cystic Fibrosis. He did a great job of explaining that there's not a lot of air traffic coming in. It's going to be mostly displays, helicopters, and the like. To have anyone interested, come up. It is going to be the 26th of August at the air field. I appreciate that they said that they would be well under the 1,000-person threshold. This is a fundraiser for the non-profit is Flight4CF.

H. Old Business:

5:43 PM 1. Review of Planning Articles for November Warrant (Grocery, Park & Ride, Housing)

Mr. Brubaker, Town Planner, said that this is kind of the sneak preview for you. I think you will see it again at your second meeting. We've got three ordinance amendments coming from the Planning Board (PB) for the November election. The PB will be holding their public hearing next Tuesday. I will go through two simpler ones first, starting with 'Grocery Stores'. He said that Grocery Stores is pretty simple. It just basically enumerates grocery stores as its own use category in the Land Use Table (Table of Permitted and Prohibited Uses) in our zoning. Right now, you can seek to open a grocery store in the C/I Zone or, potentially, on Route 236 outside of the C/I Zone. But, you would probably have to go to the Land Use Table and use something like 'retail store' category or 'commercial establishment' category. This doesn't really change the allowability too much on grocery stores. It just specifies that grocery stores have their own use category in the Code. The definition proposed makes sure to carve out other things that look

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like grocery stores but we don't want all grocery stores. There is broad allowability everywhere in our Town for agriculture and locally-grown food sales, produce. So, the idea is to not have any of that be a grocery store because that has very broad flexibility and allowability. We're trying to actually focus the definition of what really is a grocery store. Also, a gas station/convenience store we're trying to parse that out of grocery store as well as a market that has a small amount of groceries. It has the same allowability, generally, as a retail store where you'd be able to apply for a grocery store in the C/I Zone or in the Rural or Suburban Zone if your property abuts Route 236. One change is that you would no longer be subject to the 5,000-square-foot limit like you would have on other retail stores when it's a lot that abuts Route 236 but it's outside of the C/I District, going past Arc Road, generally.

5:46 PM Mr. Donhauser asked about liquor licenses. Does a grocery store carry a liquor license.

Mr. Brubaker said that I am not familiar with that so I'm not sure I can answer that question.

Mr. Donhauser said that that doesn't play into this ordinance.

Mr. Brubaker said no. Liquor licenses would be separate. It's not a land use regulation type of thing.

Mr. Trott said that 5,000 square feet would be strictly for the one that fits in grocery not a gas station/convenience store, grocery type.

Mr. Brubaker said that that's in our Code currently for any retail store that's called 'retail store, other'. And that's specifically for if your property is on Route 236 but not in the C/I District. If you want to open a retail store there it's got to be only 5,000 square feet of retail and it can only be one story of retail.

Mr. Trott asked if you are saying that a grocery store would be allowed to exceed that.

Mr. Brubaker said that since the grocery store is kind of being carved out, yes. But you would still need to meet lot coverage. For Rural along Route 236, you have 10% lot coverage. So that's a potentially pretty limiting size of the store.

5:47 PM Mr. Brubaker said that the second one is 'Public Park and Ride facilities'. Generally, this changes our Code to allow a public park and ride facility by site plan review (SPR) by the PB in the C/I District only. The 2009 Comp Plan does recommend that we allow public park and ride facilities in Town. These

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ordinance amendments make them allowable in the C/I Zone. They do have to be public so they have to be managed or owned by a governmental agency generally open to the public, primarily for the purpose of commuting. It would be a place to park your car so that you could either meet to car pool, van pool, catch a bus, or to park with your bike on your car and ride that the rest of the way. It's a pretty specific definition but we feel it meets the objective of the Comprehensive Plan. Currently, they are effectively prohibited because we prohibit off-site parking everywhere in Town. So, again, this is a carve-out where Public Park and Ride is a type of off-site parking that will be allowable but only in the C/I Zone.

5:49 PM Mr. Widi said that, if it's got to be government-owned anyway, why not allow it in the Rural Zone adjacent to Route 236 where we already have stores and gas stations. If it's going to be government-owned, anyway, you would think they would be stewards of having it in the proper location and not have a six-month delay if a good spot was found.

Mr. Brubaker said that that could be. That's a policy question for the PB and SB to put forward if you want to propose that change.

Mr. Widi said that I would like to propose that change.

Mr. Brubaker said that I will bring that up to the PB next Tuesday at the Public Hearing.

5:50 PM Mr. Brubaker said that the big one is 'housing'. With these ordinance amendments, I know that Ms. Bennett has given you a good background on LD2003 and what the State is requiring of municipalities so I won't re-hash that. I do have a pretty good background on the law so I can answer any questions you have. These ordinance amendments are proposed to continue to bring our Town Code into compliance with the mandates of LD2003 regarding housing opportunities and affordable housing. LD2003 has since been amended to extend the deadline for municipalities to comply to July 1, 2024. We do have another Town election after this November election to make any additional changes necessary but I think, if I may, the sense of the PB is that they want to try and get a lot done this election so that the June election next year can be left for other things that might need to be changed for compliance' sake. When voters approved ordinance amendments this past June, we primarily addressed the mandates related to accessory dwelling units (ADU) as well as the mandates for LD1530 that requires municipalities to allow 'tiny homes', pretty broadly. We've pretty much already addressed that and, so, these ordinance amendments focused on creating 'affordable housing development' allowability. So, the law basically states that municipalities shall allow affordable housing developments. We are required to allow them anywhere where we allow multi-family dwellings, which

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are currently in the Suburban and Village Zones. What you get, if you develop an affordable housing development, is a density bonus of 2.5 times the density otherwise allowed in the zoning district. That means you can build 2.5 times as many units on a given acreage. What you are required to do if you build an affordable housing development (AHD) is have a majority of the units (51% or more) be long-term affordable and the income thresholds are defined. They have to be affordable at the time of initial occupancy and they have to stay affordable for at least 30 years. That means that we need to establish standards for monitoring and enforcing that, if one of these is built in Eliot, there is the ability to make sure they stay affordable the whole time. Those standards are in there, too, and I won't go through them in depth but I'd be happy to answer any questions you might have. Another thing that LD2003 requires is that anywhere where housing is allowed, you have to allow up to two units on a lot and anywhere housing is allowed in a designated growth area, you have to allow four units on a lot. We already allow single-family dwellings and 2-family dwellings in all three of our districts that allow residential structures so we're good there. LD2003 said that municipalities can continue to require additional acreage per unit but that means, in the Rural Zone, if you have a 3-acre lot, you can build a single-family house. If you want to build two units, as an example a duplex or two separate single-family houses, you need 6 acres. So that we're largely keeping. There aren't any kind of earth-shattering changes with regard to complying with that LD2003. Just know that it means that people can do single-family dwellings and two-family dwellings in any of our residential zones, which we mostly already allow. The next thing that it does is that it makes some technical changes to our Shoreland Zoning to try and comply with this law while still complying with the DEP's requirements of us for Shoreland Zoning. It makes some pretty minor editorial or technical changes to the ADU section. It makes some small changes to requirements for large engineered septic systems. An important point is that it does reduce the minimum lot size in the Village District from 1 acre to ½ an acre for lots and dwelling units that are served by both public water and public sewer. The Village district has some areas that are served by both public water and public sewer and it has some areas that are only served by public water. It does allow property owners who are served by both to seek to divide their lot or to build on a lot that's a minimum of ½ acre. With that, it also changes the minimum area per dwelling unit so that, if you're on a lot in the Village District and, as an example, you have 1 acre, then you can build 2 dwelling units if it is served by both public water and public sewer. So, that's the PB's approach to this law. There is a lot of work that the PB has done to try to right-size this for Eliot. Especially our Chair has done a ton of work – background, research, and communication with folks, State-wide, about what they're doing. We feel like we're in a really good spot with compliance. Again, I want to emphasize that a lot of these changes are mandated to us from the State legislation.

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5:57 PM Mr. Trott said that our Village District will be a ½ acre.

Mr. Brubaker clarified with water and sewer only.

Mr. Trott asked if that kept the road frontages, etc., the same.

Mr. Brubaker said that road frontage for water and sewer lots would go from 100 to 75.

Mr. Trott commented that changes in addresses would have to be done again for 911.

5:58 PM Mr. Donhauser said that you talk about two units, duplexes. Is an ADU considered a duplex.

Mr. Brubaker said no. If you want to build a 2-family dwelling, like a duplex, you would need the additional acreage. With an ADU, you don't. That has been a common practice. We feel that LD2003 would say to continue that practice. There is actually text in these ordinance amendments that memorializes that practice that says that, if you want to build an ADU, you don't need additional acreage.

Mr. Trott said that you are saying that you have done that before but our single-family zone never allowed multi-family buildings.

Mr. Brubaker said that 2-family dwellings are different from multi-family in our Code. So, 2-family is allowed in Rural, Suburban, and Village. Multi-family, which is 3 or more, is only allowed in Suburban and Village. So, if you have a 1-acre lot in the Village (vacant), today you would not be allowed to put a duplex on it. You could do a house with an ADU but, if these are adopted by the voters, then you'd be able to do a duplex. If it's the right shape lot, then you might be able to divide them into ½ acre lots but then you'd need frontage. If you split the lots, you could do one single-family dwelling on each lot if you met dimensional setbacks, and all that. But, you couldn't do two duplexes on each lot.

6:01 PM Mr. Widi asked if Mr. Brubaker could expand on the standards for the large septic a little bit.

Mr. Brubaker said that I think, if it's a large community septic system (2,000/gpd), then it needs to be an engineered system. I think a household is like 200 per day so it would be around ten units. That engineered septic system would need to be reviewed by the State DHHS. Then, the ordinance amendment specifies that any time that's proposed we would have third-party technical

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review of that system just to make sure that it's sound the way it's designed and built. We already outsource some of the technical reviews to consultants.

6:02 PM Mr. Sullivan asked if the Town would require a performance guarantee for a septic system that size.

Mr. Brubaker said that I think the PB would have the authority to do that.

Mr. Shiner said that the other condition is that there is a review, a maintenance clause, that not only was it an appropriate system when it was installed, it's being maintained because, if there is a failure with that, it's a big system and it would be a big failure.

Mr. Sullivan agreed, saying that there have been municipalities that have ended up footing the bill on those.

6:03 PM Mr. Widi said, hypothetically, if I own 6 acres in the Rural Zone, I could do a duplex on that. (Yes) I couldn't do a triplex (No). If I was a clever builder, I could split it, build them out to each have ADUs and then, essentially, have four residences on the same lot they had two on.

Mr. Brubaker said that you could. That's the trade-off with ADUs. You get to have it there without the additional acreage but you have to limit the size. That's one of the several standards for ADUs.

Mr. Trott said that, when you do the ADUs, y\we've already eliminated the parking question on something like that. But to go with the 6, if we were to do that as a development, how do you plan roads, and things like that to get to 6 different ADUs.

Mr. Brubaker said that if there's enough houses being built, it still a subdivision and we can apply all our subdivision regulation tools. If, in the hypothetical with the 6-acre rural lot, Maine law allows you to do the one to two lot division and it's not a subdivision. You could do that as long as you have the proper frontage, etc.

Mr. Trott said that they are not dividing, they are all ADUs.

6:05 PM Mr. Brubaker said that you could do, without dividing it, as long as it could potentially be divided in the future; that that's a clause that's in our Code. You could do your two houses with ADUs. Then, you have the ability to do different things with the driveway orientation and LD2003 actually gets into the weeds a little bit and says that municipalities cannot require ADUs to have their own parking spaces.

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Mr. Widi said that if I was a builder, you would do a subdivision for regular dwellings then, in each of them, you build an in-law apartment of 1,000 square feet, which I think is the current maximum for ADUs based on the size of the house. Then, you sell it saying that this in-law apartment meets the specifications for an ADU and then the second owner can then take that because they can't restrict an ADU at that point. Essentially, if there is a subdivision of 5 houses, it's really 10 residences because the State law says that you can't restrict ADUs. The PB could approve a subdivision of 5 homes but, ultimately, it's going to result in 10 residences.

Mr. Trott asked if the land owner would still be required to live in one of them.

Mr. Brubaker said that that is still in our Code

6:07 PM Mr. Widi added that it's attractive if I'm trying to sell you a house. You can buy this house, and you can even overpay, but I'm going to have a mother-in-law apartment for you.

Mr. Brubaker said that LD2003 did make one thing clear. It doesn't supercede HOA agreements. Let's say that a subdivision did want to come in, have 5 single-family homes and they wanted to keep it just single-family homes, they could put in the HOA a covenant that says no ADUs. Then, somebody couldn't come in to say here's LD2003 and supercedes the covenant. So, a subdivision can still restrict ADUs if it wanted to.

Mr. Trott said that the private sector can restrict housing but we can't.

Mr. Brubaker said that the Town would have the same ADU allowability as everywhere for that subdivision.

6:08 PM Mr. Widi said that I've known builders and realtors my whole life and that situation is going to happen.

Mr. Brubaker said that we sued to have a growth cap of 12 ADUs per year. We never reached that as far as I know. But, LD2003 basically required us to remove that growth cap. But, for a lot of landowners, it's a big investment. Even though Eliot now has what I would say is some of the most flexible ADU standards in the State, we're not seeing everybody rushing to the update to build an ADU.

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6:09 PM **Mr. Donhauser moved, second by Mr. Trott, that the Select Board approve Payroll Warrant #09 in the amount of \$53,387.88, dated July 27, 2023; Payroll Warrant #10 in the amount of \$291.24, dated August 2, 2023; Payroll Warrant # 12 in the amount of \$63,252.41, dated August 2, 2023**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh - Yes

Mr. Trott – Yes

Unanimous vote to approve motion.

6:10 PM **Mr. Donhauser moved, second by Mr. Shapleigh, that the Select Board approve A/P Warrant #8 in the amount of \$1,916.50, dated July 24, 2023; A/P Warrant #11 in the amount of \$164,157.44, dated July 27, 2023; A/P Warrant #13 in the amount of \$1,125,738.64, dated August 2, 2023.**

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh - Yes

Mr. Trott – Yes

Unanimous vote to approve motion.

J. Adjourn

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

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Widi – Yes

Mr. Shapleigh – Yes

Mr. Trott - Yes

Unanimous vote to approve motion.

The meeting adjourned at 6:11 PM.

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Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Lauren Dow, Secretary

Date approved: 08/24/2023