

**SELECT BOARD MEETING and PUBLIC HEARING
October 24, 2019 5:30PM**

Public Hearing on Ballot Questions #4 through #9 at 7:00 PM

Quorum noted

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

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:

There was no public comment.

F. Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Murphy, second by Mr. Lytle, to approve the minutes of May 23, 2019, as written.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Abstained (not present for this meeting)

Mr. McPherson - Yes

4-0-1 vote to approve motion.

Motion by Mr. Murphy, second by Mr. Lytle, to approve the minutes of October 10, 2019, as written.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

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G. Department Head/Committee Reports

5:32 PM 2) Adult-Use Cannabis Committee: Intent to Suspend Ad Hoc Committee

Note: This was taken up first while waiting for the Fire Chief.

Mr. Lee said that this topic is now on the ballot and, if the SB agreed, that Ad Hoc Committee feels it has done its work and suspended. If there should be issues down the road and we want to pull back a committee, they would not mind serving, again. Rather than dissolving, they are asking you to suspend it.

Mr. Donhauser moved, second by Mr. Orestis, that the Select Board suspend the Ad Hoc Committee, with the intent that, if we need them in the future, we can call upon them again.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

5:34 PM 1) Public Safety: Radio Repeater Estimate/Funding

Chief Muzeroll said he has spoken with the SB several times about the increased costs to use the cell tower and the length of time it has taken us to get approval to use that cell tower. This has been kicked down the road for several years and was hoping that we would find a way to finance this over a couple of year, describing the spotty communications impact to public safety with the Police and Fire. We are running short, with the \$35,000 already allocated. He is looking for suggestions for how to pay for this now.

Mr. Donhauser asked about the timeline.

Chief Muzeroll said that what he'd like to do, now that we have an approved site, we need to do some site work. If the equipment was ordered today, as it was supposed to be ordered today with allocated money, we are looking at a month to six weeks before that equipment is on-site and, if we're ready to go then, it's just a matter of scheduling with 2-Way Communications to get the appropriate technicians in place to install everything. Based on that, with six weeks for equipment and probably another six weeks to get everything installed, we are

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looking at a three-month period. We're at the end of October and I need to get a foundation in the ground, now, which is something the Fire Department is going to provide the manpower for. We try to reduce costs by doing work that we can but we aren't qualified to do a lot of the work. I have money in-hand and the see quote from Motorola is for around \$22,000. As I explained in the letter, I can no longer buy from the vendor but have to buy it direct from Motorola, which means they won't build the equipment until they have a check in hand. We have a current budget of \$35,000 but the total budget is around \$87,000 so we're looking at around a \$52,000 shortfall.

5:38 PM Mr. Lee said that we don't have many options for this. The Contingency Account has adequate funding and, in the past, we have used money from Contingency and, in the next budget, we put that money back into Contingency. However, the Contingency is intended for unforeseeable emergencies and requires all 5 Selectmen to vote in favor. I don't think this is necessarily unforeseeable but I do think it's a public safety emergency that's been kicked down the road a long time. I'm really worried about our police officers, in particular, because they are most reliant on that system. I think it rises to be able to use Contingency. Short of that, I don't really know what we would do.

5:39 PM Chief Moya said that I can't stress enough that this is a huge safety issue. We truly have problems getting out from our portable radios; that it's almost non-existent. This is a public safety emergency, as Mr. Lee said; an issue that just needs to be dealt with, I think, immediately. I think when dispatch was doing some upgrades some years ago, we kind of fell by the wayside. As things progressed, they forgot to put on some of our equipment, and here we are today. We have been operating hoping nothing bad would happen but, if we have the opportunity, now, to fix this, I think we really ought to jump on it. I do have one suggestion, and I don't know if it's possible or how we might be able to move funds around, but I do have CIP cruiser money and haven't ordered one, yet. If there was a way to re-purpose that to help this, I would jump at that in a heartbeat to make this happen. It's that important to me and to the guys over there, and truly to the safety of both police and fire and the residents.

5:42 PM Mr. Donhauser said that I think we should not use the CIP and, personally, I think the Contingency Fund is a better way to go, knowing that we will put that money back in the future.

Mr. Lee commented that, last year, the Police Department did a whole lot of outside activity work and we talked about enterprise activities where we're actually generating money; that we generated something like \$60,000 over what we ever thought we'd bring in for the Police Department. But it has to drop through to Fund Balance; so, that's the shame of it really. It was kind of an irony.

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5:43 PM Mr. Lytle asked how this shortfall occurred.

Chief Muzeroll said that when I approached the vendor (2-Way Communications) about getting quotes, it was a couple of years ago and they came up with a total cost of about \$70,000 at that time. Because of how Motorola's corporate plans have changed, we can no longer buy at a discount through 2-Way Communications with a minimum mark-up. Motorola has decided that they want it all. That, in addition to price increases for the cost of equipment, the equipment has gone up about 8% to 10% a year (manufacturing costs. So, in a 2- to 3-year-period, it has gone from \$70,000 to \$87,000; the increased cost of what it will cost for the infrastructure to support that. The cost we thought was going to be for the stand-by generator that we budgeted for originally was much less than what it's actually going to end up costing.

5:45 PM Mr. Lytle said that we all agreed that we needed this and we still need this but the price has gone up.

Chief Muzeroll clarified that we were looking to do this over two years. That two-years period has passed because of the legalities of getting permission from the cell tower providers. So, that period we thought we'd have it funded has gone by the wayside and Eliot and our contractor have identified shortfalls in radio frequencies – where they can transmit from – we've got to make every effort to try to do it now and not postpone it another 6 or 8 months, trying to have it on the ballot for another line item. He explained that \$55,837 is the 2-Way vendor cost; that Motorola's cost is \$22,235.50. We need local costs. We need a portable stand-by generator and the rough costs for those is about \$7,500 to \$8,000 installed.

Mr. Orestis asked if we can use CIP funds for something like this.

Mr. Lee said no. CIP funds must be spent for what they are allocated for. But, really, I think Contingency under public safety emergency is legit. We fought with the Crown Castle company for over two years. Several years ago, we were thinking of putting in \$35,000 for two years to make \$70,000, which was Chief Muzeroll's original estimate, but with the 2-year legal fight and cost changes, we now need \$52,000 instead of \$35,000.

5:49 PM Mr. Orestis asked how much was in Contingency at this point.

Mr. Lee said it was a little over \$80,000.

Mr. Donhauser asked if the location of the generator was at the cell tower.

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Chief Muzeroll said yes. Just to clarify, I have had extensive conversations with 2-Way Communications about the cost to do something similar at the Fire Station, bouncing the signal off the cell tower, and using our generator but the cost ends up more.

There was discussion regarding how Contingency Funds have been used in the past and how much is normally in that account (\$80,000 to \$85,000).

5:51 PM Mr. Murphy explained that, years ago, the practice in this Town was to have a list of things that they don't know how much it will be called or, this year, whether we'll have to pay for 'this'. And, so all of their planned expenses were essentially unknown with any specificity. So, their funds for funding everything was a contingency fund for all the things we would be needing and not knowing what they'd be yet. Contingency isn't necessarily for an emergency but was something the Town needs and is a cost to us. Anything is a contingency. So, let's go ahead and do it. It doesn't have to be an emergency.

5:52 PM Mr. McPherson said that, being on the end of that radio on several occasions, I can tell you, as a firefighter, I think this is an emergency. This is something that needs to be done. Our communications in certain parts of this Town are non-existent. It's a pretty empty feeling when you're out there and I can't imagine being a police officer out there when you speak into that radio and there's nobody on the other end. If you're looking for an emergency, in my mind, this is an emergency. This is something that needs to happen. It's not if we do it, it's how we do it. We need to appropriate this money.

Mr. Murphy agreed.

5:53 PM Mr. Lytle said that, with this emergency fund, I'm the one who actually set it up a few years back and it was for this kind of a situation, an unforeseen something that came up. We have used it a couple of times. Not very often. It requires all five members of the Board to approve it. That part is critical and, so far, we have held to that. It appears that we are in that type of situation that we need to take those funds and approve it.

5:54 PM Mr. Orestis said that I am in no way opposed to doing this. I just want to make sure we are doing our due diligence on our end to make sure we know how much is in the account, what it's been used for, and those such things. I just want to be clear that I am not saying that I'm not in favor of this.

Mr. (John) Reed, Governor Hill Road, agree the contingency fund is for unforeseen circumstances and things that are kind of an emergency nature, which it sounds like this is. The communications into every nook and cranny has been a chronic problem in Eliot. The target for this fund has evolved to be on the order of

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\$75,000 but there have been times when it was \$20,000+/- . So, for money to be spent out of this fund and leave us with only \$20,000 has certainly happened before, for what it's worth.

There was a brief discussion regarding the pros and cons of leasing a generator. Also, it was stated that we are the sole user of the generator; a solar power battery bank would cost around \$83,000. The tower we have is not close to the height we would need for this and it would cost \$75,000 to build an adequate one.

5:58 PM Mr. Lytle moved, second by Mr. Murphy, that the Select Board approve \$52,000 for the cellphone tower project from the Contingency Fund and to be refunded back into the Contingency Fund the following fiscal year

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

H. Administrative Department

6:00 PM 1) Town Manager Report(s)

Mr. McPherson asked about **Line #74** regarding DPW generator inspections.

Mr. Lee explained that the DPW Director called in a generator inspector; that the Dixon Avenue pump station and generator that backs it up is undersized. If it ran for any length of time, the inspector told us it would burn up, which would be about \$1,400 to replace. As one of our cost-savings on the pump stations, one of the things we cut out was emergency back-up lighting, knowing we would have to do that after-the-fact and each one of those are about \$500. We need two sets of those – suitcase generators for LED lighting.

6:02 PM Mr. Orestis asked about **Line #109 regarding different waste companies and household waste versus private numbers.**

Mr. Lee said that, in deference to the Solid Waste Committee, I told Mr. Tessier that I would give him the data to look at in December, then come back and make a report on it. I'm still waiting for Shipyard Waste Solutions to give me their numbers but I do have five or six companies.

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Mr. Orestis said that I noticed a few times on here that Mr. Lee left messages for the Fish & Game club.

Mr. Lee said yes and that there has been no response, yet. I will call him, again, tomorrow.

6:03 PM Mr. Donhauser asked about **Line #41** regarding an ADA resident who could not attend meetings and wanted to be able to submit written statements.

Mr. Lee said that I let the resident know that we accommodate written statements to be submitted and read into the record.

a. Financial Reports

This was not discussed.

6:04 PM **2) Workshop – 10/31**

a. Draft Fee Memo

Mr. Lee said that this has to do with our Code Enforcement fees, building permit fees, etc. We are well-below what the surrounding communities look like and we always struggle at budget time. We aren't even covering our costs to go out and do this. For example, with a new house, there are at least six inspections and, in some cases, we're not even generating enough to make six trips out there. So, looking at those fees is going to be part of it to see if you folks would like to consider some fee increases to building, electrical, etc. The second part of that, if you remember I gave you each a hand marked-up copy of Selectmen's Policies, and that's the other one we wanted to review to bring that up-to-date. He added that the workshop would be at 5:30 PM.

Mr. Lentz, going back to the ADA conversation, asked if that pertained to all boards and committees and, if so, have you notified everyone. I know you notified me.

Mr. Lee said yes. I will make sure that all boards and committees are notified, as well.

6:07 PM **3) Holiday Town Office Hours**

Mr. Lee said that I wanted to confirm with the SB that because we're forming a collective bargaining unit, you can't change any conditions of work so you could not authorize this, even if you wanted to. What we ask to do is just to close the

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Town Office, per the previous request, and we'll have to use our own personal earned time off. We have to follow the Personnel Policy. No action is required.

6:09 PM 4) Late November Select Board Meeting

Mr. Donhauser said that I will be traveling out of the country from November 3rd until November 20th.

Mr. Lee said that the late November meeting falls on Thanksgiving. There was some suggestion today that instead of going the 2nd and 4th Thursdays we could use the 1st and the 3rd Thursdays.

Mr. Orestis said that I will not be here on the 7th.

Mr. Lee said that we will probably have one meeting for the month of November, if that works for you folks. The second Thursday (14th) would be a meeting date and we would not have the 4th Thursday meeting date.

Mr. Orestis said that he would be here for the 14th.

There was consensus of the SB to hold one November meeting on the 14th.

6:10 PM 5) Approve Warrants

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve A/P Warrant #63 in the amount of \$50,033.16, dated October 3, 2019; A/P Warrant #64 in the amount of \$930,572.64, dated October 9, 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:

6:13 PM 1) Sewer Standards & Policies and Procedures

Mr. Lee said that these are the two appendices that would be adopted by this Board following the adoption of the new Sewer Ordinance on November 5th,

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which has an updated Sewer Ordinance on the November ballot. The Sewer Ordinance we're asking voters to pass references two different things. One is construction standards. If you are putting in a private sewer system in your subdivision, then there are standards you have to adhere to. The other one is the Administrative Procedure. For example, what interest rate on a late sewer payment, what's the process to abate, what's the process to connect, and things like that. What I want you to do, because it's fairly dense reading, I wanted to get these to you for your review before you adopt them November 14th, subject to the Sewer Ordinance passing. The other item we will be looking at November 14th with regard to sewers, and is part-and-parcel to the Administrative Procedure, is what we're going to charge for fees for things like connects, disconnects, reconnects, attachments to the mains, etc. He is also doing a cost analysis of what it will cost us administratively to do these various functions and I will get that to you, as well. I will also put these appendices up on the website.

There was clarifying discussion regarding the wording in the sewer article that lends people to think everyone in Town is responsible for the sewer. Generically, that is true but it is the sewer users that are responsible for maintenance and repairs.

6:17 PM Mr. Reed said, to be clear, I understand the words "the Town is responsible". It would have gone a long way if the statement was that the Town is responsible for the repair and maintenance but the sewer users are responsible for paying for that responsibility. I would really like to see the TIF funds be used for something constructive, like a sewer, and I know that this uncertainty has really gotten in the way multiple times. The take-away to me in all the different votes is that what people really do want to see is us all working together to move forward with the sewer but that, once they have the sewer, it's the sewer users' responsibility to keep things moving forward. I think that would be a really good model because it would actually leave more funds to build more sewer faster, if TIF funds didn't have to be set aside for support of repair and maintenance. I think this can be a win-win if this can all be made clear to the voters. It isn't yet.

K. Old Business:

There was no old business.

L. Selectmen's Report:

6:20 PM Mr. Lee said that I think you will see that the Aging-in-Place Committee (AIP) will be creating a document for you folks to consider about the different types of senior taxpayer assistance programs that are out there. We have some that are State programs, like Homestead and the Tax Fairness Credit, but a lot of towns are now generating their own senior taxpayer assistance programs to help people

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stay in their homes as they get on fixed incomes. I had a very nice meeting with them and a consultant they are working with out of Saco and I think you will find they will be coming forward to you over time. I put something in all your mailboxes a while ago on this and would like you to read through and become familiar with it ahead of the AIP coming in. I highlighted in that document the maximum age, number of years needed to be in the community, and the thing that everyone agreed on is that it should be on a sliding-scale basis, a need basis. We would want to help the least capable of paying their taxes.

6:23 PM Chief Muzeroll said that, because I wasn't here at the beginning, I just got notified today that the Eliot Fire Department was awarded a grant of \$5,500 from Maritime Northeast for the purpose of purchasing structural fire gear. That will allow me to get three sets of gear for those heavy users. I think the money has already been deposited and, in the next agenda, I think you'll see a memo from me requesting the use of that \$5,500 for that purpose.

Mr. Orestis said that we have determined from past instances that these grants can be used directly for committees and departments.

Mr. Lee agreed that we have. It's in the Financial Policies.

M. Executive Session

There was no executive session.

NOTE: At this time, the regular business of the Select Board was concluded.

6:24 PM **Mr. Murphy moved, second by Mr. Donhauser, that the Select Board recess until 7 PM for the Public Hearing.**

VOTE

5-0

Motion approved

7:00 PM **The meeting was called back to order and the Public Hearing for Referendum Warrants #4-8 was opened.**

Article #4:

Mr. Lee said that, in addition to medical cannabis that we allow in Town now, this would allow adult use recreational cannabis to be sold in Town, as well as testing laboratories, cultivation. It would be limited to the Route 236 corridor. It has some pretty significant setbacks from things like houses of worship, schools, public parks, public facilities. We believe it will be self-regulating in terms of the number that can be out on Route 236. Because it is so wet in so many areas on

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Route 236, it's not suitable for development. If this passes, then the thing that might take place is existing businesses out there may be converted over to an adult use cannabis retail or cultivation or something like that. We had two committees working on that. The Planning Board on the zoning aspects and all the technical details of how you can qualify for it. It has a very extensive background check and some extensive rules and regulations that the State is putting out on it. The State is also currently trying to implement what they call a 'seed-to-sale system', which would track seeds all the way to the final sale of whoever is using the marijuana recreationally, and I think that will help how we see Maine implement adult use marijuana. There are already about 14-16 communities that have opted in, clarifying that all communities, by statute, are opted out when they start. You have to consciously opt in to allow the sale through an ordinance and there are a number of towns currently looking at it. Because the State, at this point, is not sharing excise taxes nor sales tax revenue with the host communities, that is a bit of a disincentive for any town to want this in their town. So, our cannabis committee, I think wisely, looked at the fees that we are going to charge locally. For example, what they call a Tier 4 Cultivation (20,000 sq. ft. canopy of plants) would have a local fee of \$15,000. There is a bill (Legislator Michele Myer) that is still in play that would share excise and sales tax with towns, and there's quite a hue-and-cry to do that. So, I do believe, down the road, we will see some portion of it. There are currently about 14 states that have legal cannabis and every one of them shares the revenue with the host community. I think, at some point, Maine will fall in line but, for now, we're going to try to do it through the local fees and pay for any safety support that may be called on – code enforcement or fire or police, etc.

7:04 PM Mr. (Peter) Billipp, Goodwin Road, asked if the fees would be paid annually or is that a one-time fee.

Mr. Lee said that they are annual fees.

Mr. Billipp said that 20,000 square feet is a half-acre, asking if that is as big as it goes.

Mr. Lee said yes.

Mr. Billipp said that that is a large operation so we probably won't see a lot of the larger ones; maybe smaller and the fees will go down.

7:05 PM Mr. Lee said that, basically, Tier 3 is \$7,500, Tier 2 is half of that, so that is how it goes.

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Ms. (Stacey) Wypyski, Adult Use Retail Cannabis Committee (AURCC), said that there was not a lot left. It goes down in very small increments. If you're in it, you're in it - \$15,000 and she wanted to say it dropped to maybe \$12,000.

Mr. Billipp asked if that would be the smallest amount for the smallest size.

Ms. Wypyski said that I think the smallest might have been \$10,000.

Mr. Lee said that we consulted with people actually in the industry and they said to bring it (fees) up.

Mr. Billipp said that that doesn't sound like a huge amount of money for the Town. I saw on the yellow sheet I got in the mail that you, the SB, voted 4-0. He asked why the SB feels this is good for Eliot.

7:06 PM Mr. Orestis said that that is not an endorsement of the warrant article. What it is is us putting it on the ballot for the residents of Eliot to make the determination. We were given sufficient information, as a Board, to vote it onto the ballot.

Mr. Billipp said that the vote was just to get it on the ballot. It's not an endorsement or is it an endorsement of passing the article.

Mr. Donhauser said that, in my case, it is not.

Mr. Orestis said that he didn't mean to speak for the Board but, in my opinion, it is to allow the residents of Eliot to make that determination. It takes a majority vote to put it on the ballot.

Mr. Billipp said that his question about State revenues not coming to the towns has already been answered.

Mr. Lee said that I believe that the State is going to have to change that in the legislature. He also said that the fees can be changed, at will. They're not in the ordinance. We kept them outside of the ordinance so, if deemed to be necessary, we could go back and increase those. If we find out it's a joke how little they are, we can add a zero and make it \$150,000 to see if we could stop the laughter.

Mr. Murphy asked if Mr. Lee was saying that that was a Selectmen's prerogative.

Mr. Lee said yes.

7:08 PM Mr. (Dean) Staples said that it is only by accident that I happened by here the other day and I happened to notice this marijuana thing on the bulletin. When I

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came in, I was talking with Ms. Rawski and I was totally shocked. He asked if marijuana possession was currently legal in Maine.

Mr. Lee said yes. It's been legalized by the voters of Maine. They legalized recreational marijuana about three years ago. They are supposed to have their final rule-making done early next year. Our ordinance, as I mentioned, has 500-foot setbacks from public facilities, etc. They must have a plan on how they will control smell, waste, security, etc., etc. It's going to be a pretty high bar in order to get your license here, locally, and we hope the fees are enough that it will cover any of our out-of-pockets. He clarified that that this would be voting in a section of ordinance that would permit us to license adult use recreational marijuana stores in our Town. A 'YES' vote would say yes, as long as it's well-regulated, do it along Route 236, if you want. A 'NO' vote says "I don't want to see any more of it."

7:10 PM Mr. Staples asked that they explain to me if you think Marijuana is a good thing for the Town why the PB recommends yes 5-0.

Mr. Lee said that every town is struggling with this so the PB went through a long process, with lots and lots of workshops, etc., and I think their 5-0 vote was not necessarily that we encourage you to vote yes on it. It's that all five of them wanted it to go on the ballot; that someone on the SB, with the 4-0 vote, was missing the night of the vote so that was pretty much unanimous, as well. Often times, what will happen is that the SB sees a committee work hard on something and they want to give them backing. It's tough to have six or seven people work on something for a year and it gets to the Selectmen and they say, "Nope. We don't have any interest. We're not going to put it on." That's part of it, too, I think.

Mr. Staples said backing marijuana establishments is what you're saying.

Mr. Lee said yes. They think, with proper controls, it can be managed and should be allowed.

7:12 PM Mr. Staples asked if he was missing something. It seems I'm living in a new paradigm, or something, when we say we are going to have marijuana establishments in Eliot.

Mr. Orestis explained that we have had two non-binding referendum questions in regard to adult use recreational cannabis and the people of the Town have voted in the past to look into this and go forward with creating the ordinances, which then enables us to create the adult use cannabis committee, which has led us to this point. The Planning Board did the work; so, at this point, when it was brought before us to add to the ballot we, as a Board, decided with the time and amount of

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effort that's been put into this, with the backing of the majority of voters, we should move forward with putting this on the ballot. So that's where we are today.

Mr. Lee said that the two surveys, as Mr. Orestis pointed out, both came back in the affirmative. More people wanted to look into it than did not want to look into it; so, they are doing the will of the people.

Mr. Staples commented that he would think it would be a no-brainer to not want that in your town.

7:13 PM Mr. Orestis said that, rather than us make that decision, we're listening to the voice of the people and giving them the option that said they want the ability to vote on this. I'm not sure whether this is a debate on whether pot is good or bad. It's that the voters want the ability to make adult choices to buy it in Town and, again, giving that choice to the people in Town, given that it's legal in the State of Maine.

Mr. Lee said that, if you are against it, he would encourage Mr. Staples to vote no.

7:14 PM Ms. (Kim) Reed, Governor Hill Road, asked which proceeds what. The Town law or the State law.

Mr. Lee explained that the first thing that happens under this is that, if you wanted to open up some sort of adult use retail store, you have to apply to the State. The State will run a full background check. You have to be 51% Maine ownership so these out-of-state big corporations could not come in and set up shop; that this is really intended to be locally-owned in Maine. You need to have resided in Maine, I think, 4 years even to apply to the State. So, the State sets the big standards and will control the big standards. He clarified that Article #'s 4, 5, and 6 go together. If Article #4 fails, then Article #'s 5 and 6 necessarily fail because #5 is a piece of implementing legislation (odor control, etc., that you have to meet to get a local license) and #6 is the Table of Land Uses regarding where it will be allowed, which is only in the C/I Zone on Route 236.

7:15 PM Ms. Reed said that all the SB votes on the articles was 4-0 and asked who it was that didn't vote. Did you vote on all this at one time.

Mr. Donhauser said yes, in one meeting; and one individual was absent.

Mr. McPherson said that he was absent due to health reasons.

7:16 PM Mr. Reed asked if there was a limit on how many of these establishments there can be.

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Mr. Lee said no, not in either case – medical or adult use. He reiterated that we think the Route 236 corridor is wet and largely all been developed where it is not wet; so, we think it will be self-regulating in the sense that it will be hard to find something that is 500 feet away from a school or church or public facility. I think that you will find that, if you want to do something in this Town, you will have to buy an existing lot of record out there. In short, there is no limit in the number of medical or adult use you could have under this proposal.

Mr. Reed asked if there was any possible place on Route 236 that would qualify.

Mr. Lee said that we didn't go out and study that a great deal. The PB generally knows that it's very highly developed out there and what isn't developed is for a reason. It's too wet and they felt it was self-regulating and I think the SB concurred.

7:19 PM Article #7:

Mr. Lee said that we have an existing sewer ordinance but is a bit dated. It uses terms like 'betterment fees' and that's really not the right term for what we collect from people when they are on the Town sewer; that it's actually 'system development charge' that is the right term. It also had a lot of references to what we used to have that ran the sewer, which was the Sewer Committee, a long-standing committee that advised the SB on raising rates and how to save money, etc. They are no longer in existence. The Public Works Director now serves as our Sewer Superintendent so that had to be taken out. We also did not adequately describe what a private sewer system was; that we were about to embark on a project to go to these subdivisions that have private sewers to see if they could bring them up to standards and, once they were up to our construction standards, maybe turn them over to the Town and let us maintain them because we are very concerned that these little groups of 14 homes, for example, aren't going to get together and they aren't going to be able to maintain their pumps, etc. and we will end up with a discharge and the DEP will name us, the 14 people, everybody, and we will get fined. Those are the three big items in there.

7:21 PM Mr. Reed said I have a real problem with the wording in this; that the wording in the ballot article is very sparse. He went through the ordinance and found a final paragraph that has been added to §9, which contains some wording that I find really problematic. Through the course of trying to pass spending bills to utilize the TIF funds we've been collecting, the hang-up seemed to be no clear evidence of who was actually paying for what once somebody receives a connection to the sewers. My take on this, reflecting on past votes, is that the fundamental problem implementing the TIF and figuring out a plan everybody could work together on was not the TIF, itself, not the TIF sewer project, etc. What the problem is that, with the existing sewer ordinances for the sewer users and the sewer system, it's

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not clear who is paying for maintenance and upkeep. Paragraph F says, “Operation and replacement responsibilities: The Town of Eliot shall be responsible for the operation, maintenance, and repair of public sewers in the Town of Eliot.” That doesn’t really pass the straight-face test; that I do understand that the management responsibilities need to be through the Town but it doesn’t make clear who actually pays for the responsibility or the operation, maintenance, or repair. What makes it even more problematic is the next sentence, which deals with non-public sewers, and says: “All required operation, maintenance, repair, and replacement of building drains, building sewers, lateral lines, private waste water collection systems, private force mains or other non-public sewers shall be the responsibility of the owner.” The word ‘responsible’ is basically in both of these sentences. In the first you have confirmed that it’s not the Town that pays for the upkeep of the system once it’s billed, it’s the sewer users. And in the second sentence, the word ‘responsibility’ refers to an owner of a non-public sewer; that I think the implication there is that that owner needs to pay for whatever needs to happen until such time as it’s acceptable to the Town.

7:25 PM Mr. Lee agreed.

Mr. Reed said that words are really important, especially when they’re part of an ordinance. If this ordinance passes, as it stands, you have a conflicting statement within the two sentences, here, and what I would really like to see is, and I asked last Tuesday, if this question could be removed from the ballot; that Mr. Donhauser had said that that was not possible.

Mr. Donhauser said that that was his understanding.

Mr. Lee said that we have already received a lot of absentee ballots. The ballot was set a long time ago and it can’t be removed and we can’t change it at this point.

7:26 PM Mr. Reed said that, in his opinion, the background of this has been a recurring, bitter fight among the people of this Town. The guidance for this sewer system in Town was supposed to have two reserve funds, one to pay for Kittery’s treatment facility and the other for a Town capital reserve fund, which was allowed to languish over decades to the point where there was no appreciable money in it. If I were a sewer user and led to believe that I’m meeting my financial obligations for being connected to the sewer when, in fact, that wasn’t true, I’d be outraged. And, in fact, that’s what we’ve seen for a while now. I believe it needs to be really, really clear that sewer users pay for the upkeep, maintenance, and replacement of their equipment so nobody is led down the merry path and everybody understands where they’re at. Additionally, you can say to the non-sewer users that they are contributing through the TIF mechanism to the infrastructure of the Town and that’s a good thing and people should be happy to

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sign on to that, I think. The sticking point is that they don't want to pay for the sewer system out of their taxes or TIF funds for free equipment forever. As it stands, I don't believe this warrant article is written correctly; that I believe it's misleading and cause further aggravation and misunderstanding and I would like not to see that in this part of our Town regulations. So, I recommend to everybody to vote no on Article #7.

7:31 PM Mr. Lee clarified that TIF money cannot be used for operation or maintenance of any sewer mains that we may extend; that they can only be used for the actual extension, the construction of it. Agreeing with Mr. Reed, Mr. Lee said that I was shocked to see, when I got here, our sewer fund upside-down by about \$80,000 in the red. I have gone through a series of three or four rate increases because the sewer committee did not favor rate increases for many years and we gradually ran out of money, as I understand it. Now, we have a successful reserve fund for future maintenance; that I'd like to see it bigger but we are working on a budget with our engineers to make sure we do have adequate reserves down the road and we don't find ourselves where we were when we had to replace those two pump stations.

7:33 PM Mr. Reed said that I really feel bad for the sewer users that they had to go out for a bond to borrow money to do this when this could have been really easy; that they could have been putting \$6.50/month away and would have had the \$1.7 million to replace these things.

Mr. Lee said that that is water over the bridge. They didn't do it and we didn't have it. We can change it now.

Mr. Reed said that I think it's really bad policy to get rid of this sewer committee. Whatever the prior sewer committee's transgressions, the sewer is going to be a big project in this Town. So, for the sewer users, the existing ones especially, to not have a seat at the table and the management and how it's going to work, I think is a really bad thing for the Town of Eliot and a bad thing for the sewer users. Eliot has many committees and boards that work to make the Town a good place to live and I think a working, good-functioning sewer committee is going to be really important to this Town going forward. I'd like not to see the baby go out with the bathwater and, again, for that reason I believe this question needs work. So, I urge people to vote no on #7 until we can get a better thing in place.

7:36 PM Mr. Lytle said that I'm a little discouraged that you are bringing this all up tonight. There have been meetings for the last three months and a lot of this stuff has been discussed and I have not seen you there at one meeting.

Article 8:

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7:38 PM Mr. Lee said that we are recommending to the voters that they allow up to, but no more than, 24 growth permits to be issued, which are required in order to build a new residential unit. If this article does not pass, it will drop back to the previous (average of the past 10) years and that number would be 16.

7:39 PM **Article #9:**

Mr. Lee said that Mr. Widi was with us tonight to answer questions, if needed. Mr. Widi took it upon himself to create a citizen petition, get signatures, and the SB put his work on the ballot. An agricultural ordinance would function very much like you have here as farm overlay districts in other towns. If you're in a farm overlay district, which was the PB's approach with how to work with Mr. Widi on this, but was going to take months and months and months and Mr. Widi wanted to get going, as he has a new season coming up and wants to make the most of his farm. It would allow farmers to enhance what they can do with their farm without a lot of zoning nonsense standing in the way. If you want to have a pick-your-own-apples, a corn maize, a petting zoo, show how maple sugar is made, some of our zoning would prohibit that and, for farmers, it's very hard to get by, anyway. You all know how many farms have gone out of the nation and Maine, in particular. So, in Mr. Widi's mind, and for several other farmers we luckily still have here in Town, this would give them a lot more options on how to generate another dollar from that farm; that that's important so that we can keep these farms open and running. In the meantime, it may be that the PB will work on a farm overlay district because the only downside to this is that we may run into some conflicts with existing zoning ordinances; that I think the way we will view it is, if this passes, we're going to waive that and this will supersede, I suspect.

7:41 PM Mr. Orestis said that this is another example of work from a resident who comes to us with signatures on a petition where we have a decision to add it to the ballot. So, just like the work that the PB and cannabis committee did, we had a resident put in the same amount of work, written petition, to us in order for us to put it on the ballot and put it in front of the voters.

7:42 PM **Advisory Survey – Non-binding Referendum:**

Mr. Lee said that the Kittery Water District (KWD) was proposing to add chloramines into the public water supply where they previously been using chlorine. A number of people came to us very concerned because, with chloramine, you are also adding in ammonia to the chlorine; that they've done a lot of studies that fish, in particular, and humans in some cases have bad reactions; that this is just an advisory survey. That said, KWD suspended that thought. They are not putting ammonia in our water; that there was a big, active campaign against it and they listened and pretty much sworn they are not going to. This group that asked us to put this citizen advisory question on here just

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wanted it for just in case KWD wanted to change their mind, then they will have vote results from the Town of Eliot, who they provide water for, to say that one of KWD's biggest customers voted overwhelmingly against this and we do not want chloramines, It won't have an impact one way or another but will give a gauge of the feelings of the people of Eliot. He explained that the ammonia extends the potency and the lifespan of chloramine, itself.

7:43 PM Mr. Orestis said that when the individuals were here from the KWD, I believe their major concern was mixing water with the districts should we need to.

Mr. Lee said yes. For example, if KWD has to shut down their plant to do something, they take water from York. York uses chloramines and the KWD wanted to be consistent with the other systems that they have to sometimes draw from. When they use York water, we get York water and that will have chloramines in it. The KWD will have to shut down for about 4 weeks in the spring to do some water treatment plant repairs but, other than that, they have said they will not add any themselves.

7:44 PM **Public Hearing was closed.**

N. Adjourn

There was a motion and second to adjourn the meeting at 7:45 PM.

VOTE

5-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Richard Donhauser, Chairman

Date approved: December 12, 2019