

BOARD OF SELECTMEN'S MEETING
March 24, 2016 5:30PM

Quorum noted

A. 5:30 PM: Meeting called to order by Chairman Beckert.

B. Roll Call: Mr. Beckert, Mr. Fernald, Mr. Murphy, Ms. Davis and Mr. Pomerleau.

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Public Hearing: Related to the Application for Community Development Block Grant – Business Assistance Grant

5:31 PM Mr. Lee said that the State of Maine Department of Economic and Community Development (DECD) has several business-type grants; that Modernist Pantry wanted to submit a Letter of Intent to ask for help putting in their business in Eliot. He added that the town has to receive the money and Ms. (Janie) Wang, Modernist Pantry owner, asked if the Town would be interested in being the sponsor for those grant funds to their business. He said that this was discussed two weeks ago to send the Letter of Intent; that the Letter of Intent has gone in and been approved by the DECD as complete and their business and the jobs to be created meet the intent of the program. He added that this means they have been approved to enter the competition for funding; that there are \$6 million worth of requests and there is only about \$2.7 million in actual funds, so it is very competitive. He said that the amount being sought is \$240,000, explaining that he had an initial concern that the Town has to assure Modernist Pantry does create the jobs necessary for this grant to be valid; that Ms. Wang and her husband (Chris Anderson) will be providing a security instrument guaranteeing the Town would not have to pay back the \$240,000. He read draft warrant language that would, hopefully, be in the Town Meeting Warrant; that it includes an agreement by Modernist Pantry, LLC "to indemnify the Town of Eliot against said losses (financial) or liability through an insured or secured instrument of credit".

5:35 PM The Public Hearing was opened.

Ms. (Janie) Wang (Modernist Pantry), Old Farm Lane, gave an update on where they are with the indemnification process. She said that we are speaking with our insurance agency and the bank and it looks like the two best options are either a surety bond or an irrevocable letter of credit issued by the bank; that either of those two instruments would satisfy the requirement to indemnify the Town; that because it is a competitive process and they may not award the full amount being asked for, that instrument would have to reflect whatever the final award amount is.

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Mr. (Denny) Lentz, Creek Crossing, said that he thought they were great people and it was a wonderful opportunity.

5:37 PM The Public Hearing was closed.

Mr. Beckert said that the Chair needed a motion to put the article on the Town Meeting Warrant, if that is the Board's pleasure.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve putting the grant article on the Town Warrant.

DISCUSSION

Ms. Davis asked if the letter of credit would completely cover any Town liability to pay back these funds.

5:38 PM Mr. Lee said that Modernist Pantry has even offered that, if we would like to run it by our attorney to make sure it offers full protection, then that would be a covered cost Modernist Pantry would be willing to do, adding that they paid for the Public Hearing advertisement. He added that, in his career time, we have had irrevocable letters of credit and they were valid, citing an example of a town being reimbursed by pulling this instrument where he previously worked.

5:39 PM Ms. Davis said that we were previously told that the DECD could sign off almost immediately on this but, in the paperwork in our packets, it has language that "jobs will be retained for a period of no less than two years from the date of the contract between the municipality and the State of Maine". She added that she was wondering about the difference and if the Letter will cover the two-year period.

Mr. Lee said that the Letter would cover the two-year period; that it would have to be structured that way. He clarified that Ms. (Andrea) Smith, DECD, said that you need to meet that National Objective within two years and Modernist Pantry, on Day One, will have met those National Objectives and, within a matter of a few months, DECD would sign off that Modernist Pantry has met those objectives, they could release the security, and we are out of it.

Ms. Davis said that this says jobs will be 'retained', not 'created'.

5:41 PM Ms. Wang said that, when you look at the application, there are two separate sections; that one section is for job creation and one section is for job retention; that the job retention applicant might have to lay off people if they don't get the grant and, so, that applicant has a two-year obligation to maintain those jobs; whereas, our application is for job creation. She also concurred with the Town

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Manager that we will create the jobs as soon as we move over (to Eliot); that, then, she would have Ms. Smith verify that Modernist Pantry had met the requirement, the DECD would do the audit and sign off on the paperwork; that, then, the obligation of the Town is released. She added that we would endeavor to get the obligation released as soon as possible.

5:42 PM Mr. Beckert concurred that that was his understanding from the last meeting; that the jobs are there the minute Modernist Pantry moves into Eliot.

Mr. Lee agreed, saying that he, Ms. Wang, and Ms. Smith have all communicated on that very point; that he does believe that, within a matter of a month to six weeks after they move in, he would probably get a letter from the DECD saying Modernist Pantry did it.

Ms. Davis read, "*Applications supporting a retail business, or businesses, are required to certify that the development represents a new, overall gain for the region economy and not a shift from existing, established businesses to a new, or expanded, one*". She asked if we feel like this violates the intent.

Mr. Lee said no; that, in fact, the Letter of Intent sent in has all the information about what is going to go on, which they review to make sure it's appropriate and will meet National Objectives; that we did get back verification that it does meet all the requirements.

5:43 PM Ms. Davis asked if we could amend the motion to include an attorney review that we will be indemnified adequately and for the appropriate length of time.

Mr. Lee said that that would be up to the Selectmen on this end.

Ms. Davis said that we have received a lot of this information verbally but the actual paperwork included in this week's packets appears to say something different; that she would just like clarification that the interpretation about the job retention is accurate, that the two-year time period is not applicable, and the letter is acceptable and will cover the Town for any failure to comply with this application.

Mr. Murphy asked for Mr. Lee's feeling on this.

5:44 PM Mr. Lee said that his feeling was that that was prudent; that the voters of Eliot would feel better about it if they knew this had gone through legal review and we were 100% secured; that he thought that would actually help Modernist Pantry get the funds; that we don't want any question out there, if any, that we have exposure on this.

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Mr. Murphy moved, second by Mr. Fernald, to amend the original motion to include a legal review regarding the two-year retention requirement and that the form of the security is valid.

DISCUSSION ENDED

VOTE

4-0

Chair concurs

F. Approval of Minutes of Previous Meeting(s)

5:45 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of January 28, 2016, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of February 11, 2016, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of February 29, 2016, as amended.

VOTE

3-1 (Davis abstained)

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of March 3, 2016, as written.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of March 7, 2016, as amended.

VOTE

4-0

Chair concurs

G. Public Comment:

5:57 PM Mr. (Charles) Rankie, Brixham Road, said that he had a letter that he would like to read and have attached to tonight's minutes. (Letter available at Town Hall.) He read his letter and submitted it without any prejudice, whatsoever, but believes this is very, very serious.

6:01 PM Mr. Beckert thanked Mr. Rankie for his letter and said that the Board would take it under advisement.

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Ms. (Donna) Murphy thanked the staff, from the Budget Committee, for all the last-minute work done in the last few days.

H. Department Head/Committee Reports

6:02 PM 1) Harbor Commission: Request for Ordinance on November Ballot

Mr. Beckert discussed the recommendation, via the Town Clerk, from the State to keep the November ballot to a minimum.

Ms. Rawski, Town Clerk, said that it was strongly recommended at her Elections Conference to, if at all possible, keep the ballots at a minimum for the November 2016 election because of the anticipated history-setting participation. She added that it is going to be a very busy day and we'll be pushing absentee balloting. She said that this was just a request for the Board's consideration; that we have the option of special elections, if necessary; that she was just putting out there that the Secretary of State did say to use caution, if you could.

6:04 PM Mr. Lee said that the Harbor Commission felt that they could be ready this November; that their biggest concern is to have the ordinance in place come the following May for boat season. He added that, as Ms. Rawski suggested, if we had a spring special election to get this in place prior to boat season he thought we'd be in good shape. He also added that we may have other things we could put on that warrant, as well.

6:05 PM Mr. Pomerleau said that he could understand what the Secretary of State is trying to avoid but he dearly desires maximum voter participation and is critical for the Town if the ordinance is really important; that from his standpoint anything we can put forward where we can get the majority of the Town voting, that is good, but we'll have to wait to see what comes forward.

6:06 PM Mr. Lentz asked if there were multiple articles in contention to get on the ballot who would decide the priority.

Mr. Beckert said that the Board would decide.

There was further discussion regarding options but no decision at this time.

6:08 PM Mr. Beckert asked Mr. Lee how close the Harbor Commission was with the ordinance.

Mr. Lee said that he thought they were very close to sending a draft to the staff; that then it would go through legal review and have Ms. Pelletier tweak it; that he

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let the Chair know he would need it by end of summer to meet the timeline process.

I. Public Works

6:09 PM 1) CCTV Proposal - Rebid

Mr. Lee said that we put out four bids for the Riverview Estate sewer camera work, with three coming back; that the low bidder is Ted Berry Company out of Livermore.

6:11 PM Mr. Moulton explained that the large discrepancy between the third and first bidders was, he thinks, a misunderstanding of the scope of work. He said that this is the kind of thing we can't really budget for and are required to do because of our MS4 Permit. He added that we've had this on the radar for a year and done a number of things to get to this point; that we need the video, and time to review the video, to determine any illicit discharges. He explained that, if an illicit discharge is found in the system, the Town has the option of going to the homeowner's association to ask for reimbursement for funds expended to do this. He said that there is enough money in the current budget to do the work and the State has issued a letter saying that we have to deal with illicit discharges; that he would recommend we move forward with this to resolve the illicit discharge issue.

6:13 PM Mr. Fernald asked if it made a difference how far away the vendor is; also asking if he had to have them on call.

Mr. Moulton said no; that this is probably a 3-to-5-day project, explaining the process. He added that the Town owns the drainage system and the homeowner's association owns the sewer and they have given us permission to do the sewer because they want to find the illicit discharge, as well. He said that the first two vendors were local to the area.

Mr. Murphy said that they were also familiar with our system.

6:14 PM Mr. Lee said that we also responded to the request for more information regarding the stormwater budget.

Ms. Davis asked if the illicit discharge is sewage.

Ms. Pelletier said yes; that the bacteria found is only found in the human intestinal GI track.

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- 6:15 PM** Ms. Davis asked if the storm drain was close enough to the sewage system that that's the only place it could be coming from.
- Ms. Pelletier said that it could be that or a cross-connection.
- Mr. Moulton added that it could also be a broken sewer main leaking in through the drain line; that that's why we're looking to CCTV both utilities.
- Ms. Davis said that she really appreciated your response in explaining what was going on here. She said that, if this was the South Eliot sewer system, they would pay us to have this investigated, asking why the Town is doing this to a private sewer system in Riverview Estates.
- 6:16 PM** Mr. Moulton said that it was the Town's responsibility to find and resolve illicit discharges; that that is how the MS4 Permit is written.
- Ms. Pelletier said that, regarding the non-stormwater discharge ordinance we've adopted, we adopted it because the Town is on the hook should we be polluting any water of the State (Piscataqua River); that the ordinance allows us to pass along those fines to the person we identify as being the violator but we have to identify the polluter first.
- 6:18 PM** Mr. Lee said that he put a letter in the Board's mailboxes from David Ladd that has a whole bunch of information he thinks the Board will appreciate; that you will get a real flavor for how much of that MS4 permitting stuff is, frankly, driven done our throats to go do.
- Ms. Davis said that the bottom line is, if we do these investigations and it is a problem, the Town is going to be reimbursed for these expenses.
- Ms. Pelletier said we would have to seek that the same as we do for any code violation; that the ordinance allows us to take them to court should they refuse to reimburse the Town for costs; that we would absolutely seek reimbursement.
- 6:19 PM** Ms. Davis asked if they are keeping track of all the previous work they've done on this.
- Ms. Pelletier and Mr. Moulton said yes.
- Ms. Davis said that it sounded like we did get a grant that dropped through to fund balance, asking if there was a way to retrieve that money to offset these expenses or are we just going to use the stormwater funding.

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Ms. Pelletier said that, although we know now, we didn't know we had to request to save it; that we didn't know we had to go through a process to keep it.

6:20 PM Mr. Lee said that he thought we should use the grant for what it was intended; that it was a \$5,000 grant and, if the Board was so inclined, the Board might allow or vote to pull \$5,000 from the undesignated fund balance because it was a grant that was supposed to be utilized last year and have it utilized this year on this work.

Mr. Murphy said that, if it's in the undesignated fund, we would have to go back to the citizens to re-appropriate that.

Mr. Beckert suggested using the stormwater funds now if we want to re-appropriate the \$5,000 out of the general fund.

6:22 PM Ms. Davis said that there were two retainages for BREX; that they submitted two invoices, one for \$13,000 and one for \$1,900.

Mr. Moulton said that the \$1,900 got included into the \$13,000 for the second invoice.

Ms. Davis said that it has been close to six months, asking why they haven't requested that retainage.

Mr. Moulton said that we are probably going to hold it for the one year. He added that we can look at that and discuss it with the engineer; that there have been no performance issues with the drainage system so the Town has the right to release it early, if they choose.

6:23 PM Mr. Lee said that he thought we ought to resolve it prior to June 30th, if there are no performance issues.

Mr. Pomerleau moved, second by Mr. Fernald, that the Board of Selectmen approve the work requested by the Public Works Director for the CCTV proposal, with the bid award going to Ted Berry Company, Livermore, Maine for \$6,401.40.

VOTE

4-0

Chair concurs

6:24 PM **2) Surveying Proposal - Rebid**

Mr. Lee said that we got three bids back. He added that, when he was working up in the Oxford area, we used Davis Land Surveying, LLC (Oxford) all the time and they did very good work.

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6:25 PM Ms. Davis said that, looking at the schedule for stormwater work, this is not due until 17/18; that part of the reason she is trying to save money in the stormwater budget is that we have the embankment to pay for; that she would like to see any money not spent in stormwater this year rolled into the general fund to give the taxpayers a little break because they are ponying up for that embankment fix. She asked why the push to get this done a year ahead of when the project will need to be done.

6:27 PM Mr. Moulton said that the idea, and what was budgeted for, was to have the survey done in this current budget so the information is collected; that this entails a series of surveys – topography, utilities, etc. – that go along with the design. He added that this would be done in this next fiscal budget (16/17), which gives a year for the design to be developed, reviewed, and finalized; that, then, we would have a real number going out to bid for 17/18. He said that this is part of all the pre-planning and give the Board more factual information for budgeting.

Ms. Davis said that the original estimate on this was substantially lower and the scope has changed. She added that she was concerned that the costs just never stop on this and she wonders why.

6:28 PM Mr. Moulton said that in order to maintain a stable roadway you need proper drainage; that, as an example, down in the Village area around Staples and Wood, every time there's a storm, there is ponded water, the road is falling apart; that you have to have an outlet for this water to go. He added that this requires creating a drainage system; that there's nowhere to put ditches to transmit the water; that there are limited ditches there now so what we need to do is find the outfall portion of the stormwater and need to pre-treat this, just like we are on Pleasant Street. He said that we originally talked about outfall repairs but, when you incorporate drainage for road stability and people's properties because the sump pumps are now pumping out into the road, because it was extracted from the sewer with the I&I work, that adds to the stormwater issue that decomposes the road. He added that, in full, it's an outfall/drainage project that fixes the drainage issues and stabilizes the road.

6:30 PM Mr. Murphy said that he liked the idea of having the land surveying done in an unhurried manner so that it can really be looked at. He asked what the danger was, within the timeframe, of development or changes in the land.

Mr. Moulton said that it was very slight and almost nil because of the project area.

6:31 PM Ms. Pelletier said that another part of this is that we have to do individual, temporary construction easements with the people involved who live along this street, which can take a long time to negotiate; that what the survey company does is an individual survey for each property involved and shows the exact boundaries

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of where the easement will be; that we may need to change those, it may say we'll put the mailbox back or we'll replace something; that these things are negotiated and it kind of has to be done at least a year in advance.

Mr. Pomerleau moved, second by Mr. Murphy, that the Board of Selectmen approve the Public Works Director's request for a stormwater survey and award the bid to Davis Land Surveying, LLC, of Oxford, Maine, for \$5,200.

VOTE

4-0

Chair concurs

6:33 PM 3) Notice of Decision – Maine Labor Relations Board

Mr. Lee said that we had a grievance filed by the Public Works Union regarding the longevity pay scale; that we went before an arbitration panel and we won; that the Maine Labor Relations Board agreed that our interpretation was correct and the Public Works Union was in error.

J. Administrative Department

6:35 PM 1) Town Manager Activities Report

Mr. Lee discussed the need to hire custodial help, as the current help has retired. He will send Roger and Diane letters of thanks. He added that he is currently doing evaluations. He added that the EPA is removing the SO2 monitor trailer on Sawgrass Lane; that it has not gone beyond its actionable limits in the 16 months it has been there and, in fact, hasn't come close; that the traveling air monitor didn't show anything, either.

a. Financial Report

Mr. Lee said that we are working on some items that may need to be classified

b. Quarterly Reports – Reserves, Investments (Feb report and Memo)

This was informational.

6:39 PM 2) Legal Advice: Contingency Accounts/Policy

Mr. Lee read the Memo from Attorney Saucier addressing contingency accounts and on-site training for the BOA and PB. He suggested that we workshop the question of when we can use this account for unforeseen expenditures and develop a policy for this, to be included in our financial policies.

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6:42 PM Ms. Davis discussed her concern that Attorney Saucier's response might be too broad in scope regarding utilization of contingency funds and the need to better define the limitations.

Mr. Lee agreed that, from an administrative viewpoint, he needed to know the boundaries of what is appropriate.

After further discussion, the Board agreed this needed a workshop to better define.

6:45 PM 3) Policies Related to Disbursements (1st Reading)

Mr. Beckert said that we need to have a policy in place in the event that the people who normally sign the checks aren't there.

Mr. Lee agreed, emphasizing that it was very limited; that it is not intended to replace the full authority of the municipal officers to act on any Treasurer's warrant but allows for payment of municipal employee wages and benefits, municipal education costs, and State fees by any one officer signing for those three specific conditions in the event we are short-handed and without a majority.

6:46 PM Ms. Adams suggested it should say that at the beginning because it doesn't say when you would use it, or why.

Mr. Lee agreed that was a good point. He added that this is a common template and is in addition to, and not in lieu of, majority power. He asked for feedback from the Board on how to re-draft this to reflect Ms. Adams' point. He added that this would have to be voted every year.

6:50 PM 4) Articles Determined by Select Board per Referendum Town Meeting Ordinance

Mr. Lee said that he wanted to make sure that this was the Board's understanding, as well; that the Referendum Town Meeting Ordinance specifies which articles will go to the Citizen's Option Meeting and which are not on the warrant any longer; that he believed these would be voted annually by the Select Board; that these are administrative articles, not budget appropriation articles.

There was clarifying discussion of the items that would come off the ballot as clarifying duties of the Board on an annual basis.

6:55 PM Mr. Lee explained that this would be an agenda item and would be posted; that about June 30 or July 1 every year we will be acting on this at a public meeting, which would give the public time to speak on any item they objected to.

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6:56 PM 5) Municipal Officer's Return: Citizen's Option Meeting

This is the public notice that has been posted and the Board can sign that return. The Board decided to act on Item J6 first.

6:57 PM 6) Citizen Options Appropriations Agenda to be Finalized – Correspondence to Follow

Mr. Lee said that the Board needed to approve the agenda for this meeting on April 4th.

Ms. Rawski added that you can't call it a warrant because it is not the official calling of a Town Meeting.

Mr. Lee said that the Finance Director checked all his numbers and that he will get updated budget numbers out as soon as they are available.

7:00 PM There was discussion of the need to review the solar array CIP.

Mr. Murphy said that this "final" budget can be altered at the citizen's Option Meeting.

7:01 PM Mr. Lee said that there needed to be discussion regarding clarification of the reconciliation process after the Citizen's Option Meeting. He said that his hope was that we pass this agenda tonight and, subsequently, talk about what people think is the intent of that referendum ordinance or, if you want, send it out for legal review for that determination.

Mr. Tessier pointed out a number discrepancy in Article Twenty-First that Mr. Lee corrected for the Board's signature.

Mr. Tessier said that, in this agenda, it is not asking for their approval of the solar array project but we are asking citizens to appropriate \$40,000 to put in a reserve.

7:06 PM Ms. Rawski said that the Referendum Ordinance is very limiting; that it lists 21 specific appropriation articles and no others. She added that you can come up with 5, 10, 20 more in a year, if you want to but they are not specifically named in that ordinance so does not require that they go to Citizen Option.

Mr. Lee said that that is not a budgetary matter; that you'd have to defeat the budget.

7:08 PM Ms. Davis said that, at this point, asking for approval of the solar array project would just be a warrant article, not a budget article.

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Mr. Lee agreed we could put it on the ballot for the referendum, not the Citizen's Option tonight.

Mr. Beckert asked for the Board's pleasure on these articles; that a decision needs to be made tonight to meet the timeframe.

7:09 PM

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the proposed Citizen's Option Meeting Agenda, with Articles Third through the Twenty-Third, set for April 4, 2016 at the Eliot Elementary School at 6:00 PM.

VOTE

4-0

Chair concurs

At this time, the Board signed the Agenda document.

Mr. Lee clarified that these same articles will appear on the referendum ballot but these are the ones where a Citizen's Option recommendation can come forth; that these 21 articles may have a third option. He added that, after these 21 articles, we will have other questions, such as the solar array project and CDBG grant, beyond that.

7:11 PM

At this time, the Board moved back to discussion of Item J5.

Mr. Beckert said that there was a question on what could be changed after the Citizen's Meeting; whether the Budget Committee or BOS could change their numbers after that meeting.

Ms. Rawski explained that, after that meeting is held, there can be a dual meeting of the Budget Committee and BOS where they can opt to adopt the recommended citizen options passed at that meeting. She said that her interpretation of the ordinance is that that is the only change that can happen from this point forward. She clarified that the purpose of creating a citizen's option meeting is to give Town citizens the budget numbers the BOS are presenting and the Budget Committee recommendations of such. She added that, if the thought is there that you can change those numbers reviewed, debated, passed, or not, at the Citizen's Option Meeting afterwards, she would argue that fact; that the citizens may not have done what they did at that meeting; that you would be disenfranchising the voters' rights to make a decision based on what you are presenting.

7:15 PM

Mr. Pomerleau said that he absolutely agreed with Ms. Rawski that that is probably the way this ought to be done; that he thinks that was the intent of what was desired to be done but the language doesn't support it. He added that the language needs to be tinkered with down the road.

Ms. Rawski agreed there was a lot in this ordinance that needs to be looked at.

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Mr. Pomerleau said that he didn't think we should do anything until we've been through a year of some growing pains.

7:16 PM Mr. Lee said that he thinks that, as long as the Board and staff are in agreement regarding the intent, he doesn't think we need to go out for a legal opinion; that we run through a full year and, then, tweak it so that it says exactly what we want it to say. He suggested having a workshop on this sometime during the summer.

K. Public Safety

There were no items.

L. Old Business:

7:18 PM 1) Selectman Davis: Re: Stormwater

Ms. Davis said that she thought that, although Attorney McGill's Memo says that it appears that we've got some fairly good control over our budget when we vote because we have separate warrant articles, there is almost complete discretion of spending for the bottom line numbers. She added that the only way to put a type of control on that would be to have line items within the warrant articles, giving examples of what she meant. She said that dividing budgets up into line items would give citizens a greater say over what is being spent throughout the future year. She added that there was no line item within the DPW budget that related to stormwater when the citizens voted on it and, yet, stormwater funds were expended within that department; that even though, technically, it fell within his purview, we had a separate article for stormwater and for Public Works and the citizens were under the impression they were spending 'this' much for stormwater and 'this' much for Public Works. She discussed her concern for things being put off in that department when this kind of spending happens. She said that, clearly, there are advantages to this Board, the Town Manager, and department heads to be able to make some discretionary decisions throughout the year but citizens should decide how much control they want to exert on this; that things could be made solid so that money is not being spent against citizen will. She added that this is not something we can do this year but asked the Board to think about this for the future.

There was no discussion at this time on Ms. Davis' comments.

7:24 PM Mr. Beckert said that, regarding Attorney McGill's Memo on Ms. Davis' questions, we spent money on the auditor reviewing the questions, we spent almost \$3,000 on the attorney review and we have her opinion; that everything was done above-board and within the law; that there were no over-expenditures.

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He added that he would hope this is the end of the discussion on that stormwater issue.

M. New Business:

7:25 PM Mr. Lee said that he and the Chair, at least, received a certified letter from Clifford Emery, Interim Chair York County Budget Committee (YCBC) – Buxton, regarding York County Committee Caucuses. He added that the election to elect municipal and public representatives to membership on the YCBC are scheduled for April 13th at 6:30 PM in the York County government building in Alfred.

Mr. Fisher submitted his recommendation regarding bonding for the sewer repairs in a Memo to the BOS at this time.

The Board thanked Mr. Fisher.

N. Selectmen's Report:

7:28 PM Mr. Pomerleau said that, regarding Mr. Rankie's letter, there may be some valid points there but he fails to see that it violates anything since there was no action taken and no vote; that you can't be in conflict of interest if you aren't voting on something. He added that, whether or not, in the strictest sense of the law, it would prohibit someone from that potential bias, not conflict, can even be in the room to listen, he doesn't find that causation as long as there was no participation, if that was the issue. He said that, because he was not there, he didn't know what the attorney said and the level of involvement or lack of it; that he didn't know if the Board wants at all to entertain revisiting that in executive session; that he isn't personally compelled to think that's necessary because of any issue of bias or conflict of interest because no action was taken.

7:30 PM Mr. Beckert said that the citizen that raised the question the night of the meeting was Mr. Fisher and he explained to Mr. Fisher that the State statutes determined that being on the BOS and PB are not called a conflict of interest; that it's called incompatible position; that that was checked by the Town Clerk, Town Manager, and himself before he stayed on both boards. He added that he felt there was no conflict there; that there may be in Mr. Rankie's opinion in the appearance of it but it's not considered a conflict of interest by law. He added that there was no action to take that night based on what we discussed.

7:31 PM Mr. Fernald said that the fact was that we listened to our attorney and that was the whole purpose of that meeting.

BOARD OF SELECTMEN'S MEETING

March 24, 2016 5:30PM (continued)

Ms. Adams said that she disagreed because you have someone who voted in the opposite of how it turned out; that the PB Chair voted for and the BOA overturned that decision. She added that it is one thing to do it in public but it's another to do it behind closed doors where the public cannot judge if the person has bias or a conflict. She said that, along with the PB Chair, the BOA Chair should have been there and, in that way, there would be the feeling of fairness to it.

7:33 PM Mr. Pomerleau said that in the strictest legal sense, when that's applied and especially at a quasi-judicial level, you recuse yourself because you have a potential conflict so that you don't participate in the execution of a decision. He added that there can be no decisions executed while you are in executive session and he's not sure that an outside person can be allowed in the room.

Mr. Lee said no.

Mr. Pomerleau said that he generally sees the potential rub between a PB Chairman and being a Chairman and that Chairman of the board acting on a decision that he has participated in on the PB; that he thought that would be a potential situation for recusal.

7:35 PM Ms. Adams said that she knew no decisions are made in executive session but you do discuss; that there is nothing to preclude you from discussing and, then, coming out and someone making a motion and deciding.

Mr. Murphy said that he thinks it was mostly just listening to our lawyer.

Ms. Adams said that she understood that it was in this particular case; however, it could have been a different outcome; that you could have come out and made a decision after that person participated in the private discussion, asking if that would be a conflict.

7:36 PM Mr. Murphy discussed the 38 statutory situations in Maine law that require keeping things secret, giving some examples. He added that this joint position, to him, is trivial; that executive session is far more important than that.

After a bit more discussion, Mr. Beckert pulled the discussion back to the Board.

Ms. Davis said that this is a citizen concern, perhaps, that you were exerting influence.

7:37 PM Mr. Beckert said that there were three other BOS members at that meeting, asking them if he said one word during the discussion with the attorney.

BOARD OF SELECTMEN'S MEETING
March 24, 2016 5:30PM (continued)

The three other Board members said that he did not.

Mr. Fernald said that there is a certain amount of trust that you have to have; that that's why you vote for them.

O. Committee Vacancy Reports

There was no discussion.

P. Other Business as needed

There was no other business.

M. Adjourn

There was a motion and second to adjourn the meeting at 7:40 PM.

VOTE

4-0

Chair concurs

DATE: May 21, 2016

S/ Mr. John Murphy, Secretary