

BOARD OF SELECTMEN'S MEETING

May 12, 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 Comment:

There was no public comment.

F. Department Head/Committee Reports

There were no reports.

G. Public Works

5:32 PM 1) Reclassification of Roads and Bridges Expenses

Mr. Lee explained that two invoices were reclassified to their appropriate line items.

2) Paving Bids

Mr. Lee said that there are three bids that range from \$69.40/ton to \$74/ton; that we recommend the low bidder – LibbyScott.

Ms. Davis said that she didn't think this was a very vigorous attempt and asked why there were not more formal bids.

Mr. Lee said that the distance they would be traveling would have us need to have a quality control person on-site, as well, because of the temperature of the mix when it got here and, in some cases, it would be a fairly long drive, which would make the mix cold by the time it arrived; that it does not go down well if it isn't a certain temperature, so, proximity to where they are working is very important. He added that Mr. Moulton mentioned that he had worked with Continental Paving previously and they had a bit of a problem with them. He also said that these are principally excavating companies that have a small crew of pavers, not real municipal roadway paving companies; that he was surprised the State of New Hampshire would be using them.

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5:35 PM Ms. Davis asked if there was a reason we did not go directly to Pike Industries to ask for a direct bid.

Mr. Lee said that we did get one from Pike but it wasn't a direct bid; that it was done through GPCOG.

Ms. Davis said that we've gotten better prices going directly to them rather than GPCOG, citing the salt bid as an example of a much better price.

Mr. Lee said that, hopefully, we've met the policy; that in Mr. Moulton's professional opinion, those companies would not be practical, nor get the mix here at the right temperature, and additional costs would be incurred; that he got the three bids required to get.

5:36 PM Ms. Davis discussed her concern that, with our biggest annual line item purchase, it seems we do not make a good effort to get competitive pricing. She added that Mr. Moulton said that a lot of these companies get their asphalt from Pike, so, temperature is not an issue in some of these cases; that unless he's verified that they are getting paving from further away, he doesn't know for sure whether temperature is going to be an issue.

Mr. Lee said that Mr. Moulton told him they were getting their pavement from somewhere between Concord and Manchester and that is why Mr. Moulton felt it was too far away to be practical for us.

Ms. Davis said that she was disappointed that they didn't try Pike directly, as suggested at the beginning of this week, so you would have time to at least attempt that.

5:37 PM Mr. Murphy said that he somewhat objected to the implications from Ms. Davis' comments; that he thought she would be a little more respectful of our very experienced department head; that, granted, she has an issue she would like to follow and we are grateful for you following it up to a certain extent but, until she has a chance to talk with Mr. Moulton about this specific situation, he would be careful about implying that there was a dereliction of duty.

Ms. Davis disagreed. She said that we have only three bids for over \$400,000 and have this annual fight over the fact that we get only the minimum number of bids; that it does not appear that we are very enthusiastic about attempting to get competitive pricing.

5:39 PM At this time, Mr. Moulton arrived and Mr. Lee brought him up-to-date on the conversation.

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Mr. Moulton said that there were seven additional bidders to the Pike bid this year through SMRPC; that we go through them because it includes the surrounding community; that, generally, you get the best price because it is all-inclusive. He added that Libby-Scott and Bell & Flynn submitted their own independent, separate bids. He explained that he has had experience with Continental Paving as a QC, on-site engineer, the paver broke down; that we had QC issues with the asphalt not being hot enough to lay down; that on this particular project they laid the asphalt down and ended up tearing it up. He added that we have to QC it, with more time and expense for employees, or hire an independent QC, to sit on top of the paver, in his opinion, to get the best quality for the Town. He explained that the other two suggestions are excavating and paving contractors, not true paving contractors, and do not do a lot of roadway paving; that Libby-Scott has 20 employees and they do over \$5 million a year; that Pike has 100's of employees and does 100's of millions of dollars a year in excavation and paving; that Bell & Flynn is strictly a paving contractor. He added that a concern with Continental was how far the mix had to come; that it is 1 ½ hours away with no traffic. He said that the other two companies have fewer employees and only do \$2.5 to \$3.5 million annually so our \$500,000 budget is a large chunk of their capital receipts. He said that he didn't see this as an issue because we met the intent of the Purchasing Policy and for the reasons he explained regarding the suggested companies.

5:42 PM Ms. Davis asked why Mr. Moulton didn't go directly to Pike; that you got a better price for salt going directly to Pike.

Mr. Moulton said that he didn't go directly to Pike for salt; that we went through the GPCOG and Granite State doesn't bid the GPCOG; that we did an independent and Granite State is just across the river, so they are close. He added that Pike bids the GPCOG; that their representative came out and met with him and looked at all the roads; that Pike did everything that all the others did; that their bid was the highest and they sell the mix.

5:43 PM Ms. Davis said that the fact that Continental is doing the Spaulding Turnpike means that they are going to get an inferior product on the Spaulding Turnpike.

Mr. Moulton said that he was not saying that; that they have QC; that New Hampshire DOT is on-site monitoring their paving and the company probably has one, as well. He explained that he doesn't have it in his budget to have an independent QC person and, to be honest, he doesn't have time to go out and check temperatures on every load; that if he designates someone, that pulls that person from his operating budget and, as he explained, he has had experience when their paver broke and they had to pull another one from a distance away from the project.

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5:44 PM Mr. Pomerleau said that it sounds like Mr. Moulton is pre-disqualifying people. He added that, if they put in bids, knowing they have to meet certain requirements for temperature and timing then there is some expectation on their part that they can do it. He asked, with Mr. Moulton's judgement of them and experience, why we wouldn't let them bid and then disqualify them after that, if it was warranted.

Mr. Beckert asked if there were other questions or concerns. He added that we have met the requirement of the policy; that if we want the policy to be more stringent, we need to change it but, tonight, we're dealing with three bids and the current policy, as it exists.

5:46 PM Mr., Murphy said that he was grateful that Eliot has such an experienced Department of Public Works Director.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the request for the Libby-Scott paving as the apparent low bidder in the amount of \$69.40 per ton.

VOTE

2-2 (Davis, Pomerleau)

Chair concurs in the affirmative

Mr. Beckert said that, if we need to discuss the purchase policy and bidding policy, again, then we need to do that but, until it's changed, they've met the requirement, just like any other department that comes in with three bids.

H. Administrative Department

5:48 PM 1) Town Manager Activities Report

Ms. Davis asked Mr. Lee to elaborate on **Lines 32 and 33** regarding the audit.

Mr. Lee said that the auditor had a ECSD starting balance that did not look right to Ms. Bergeron; that she asked the auditor to look at that but he doesn't think they've heard back yet.

Ms. Davis asked about **Line 122** regarding an interested bidder for the Moses Gerrish Farmer Road property.

Mr. Lee said that they didn't bid.

Ms. Davis asked about **Lines 53 and 54** regarding questions of sewer ownership.

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5:50 PM Mr. Lee said that he and Mr. Moulton had a meeting with Mr. (Keith) Pratt; that he has great concern regarding the status of some of our sewer lines that are "private". He added that Sawgrass Lane and Blueberry Lane have private sewers put in by developers and, after discussing those roads with residents, there is no documentation that they own those private sewer systems; that the Town does not own those systems and, apparently, the developers are liable for them. He discussed his concern if something should go wrong as to where the Town stood; that he thinks we are going to have to come up with some sort of strategy to address this very serious situation. He said that there is nobody willing to step up and take responsibility for this. He added that we are working on a draft report for the Board regarding this.

5:53 PM Mr. Murphy commented that this problem has existed for a number of years; that by now we ought to have had plans to amend our land use ordinances so that there is an explicit authority to control this at the time a subdivision is set up, such as the PB or CEO.

Mr. Lee said that, normally on a subdivision in the towns he has worked in, the developer is forced to create a homeowner's association, transferring their assets to that association, such as the road and sewer; that we didn't do that back then. He added that, going forward, he will ask if there are any utilities included and who will end up with them.

5:56 PM Mr. Beckert said that, originally, when the developers of Sawgrass Lane came in, they had septic designs for each individual lot, so they weren't forced to put anything in and was the developers decision to put the sewer line in. Additionally, he said that he thinks Mr. Lee will find in meeting minutes that there was discussion regarding the need to form a homeowner's association. He added that the Town has never, in any circumstances, taken any of the utilities, just the road and drainage.

Mr. Lee agreed that he has seen that where it was expressly excluded; that he talked to one of the developers who said that he didn't think he could prove that he transferred or that the Town accepted it but was unwilling to accept the responsibility. He also said that the developer raised the fact that the Town has been collecting all the maintenance and operation fees and allowed other people to hook into 'his' line so there is another side to this story, which is a good point.

5:59 PM Mr. Pomerleau said that he didn't know where Mr. Lee would end up in his investigation but it would seem to him the responsibility going forward would fall on the homeowners.

Mr. Lee said that the homeowner view is not that we own it; it's that somebody better tells us who owns it because we are not happy that the Town continues to

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say it must be the homeowner's responsibility; that there is no evidence that it is the homeowners' responsibility, nor the Town's.

6:00 PM Mr. Pomerleau said that that he understood but, if there is a violation, the sewerage would be stopped.

Mr. Lee said that he understood that; that, if they have a breach, etc., they will come to the Town about it; that we would probably have to subjugate the claim down to the developer, which could lead to court, violation fines, etc. He suggested sending a letter out to the developers that the Town believes and we are going to hold you responsible and, in our ordinance, this is what you are required to do with your system and, if you don't and if something goes wrong, we are prepared to hold you accountable.

Mr. Beckert said that the ordinance was updated to try to fix things like this from happening because there had been some issues that were not covered in the ordinance previously. He added that he didn't think the ordinance needed more work but that this issue needed more work.

6:03 PM Mr. Lee agreed, saying that implementation of the ordinance is what he thinks is needed; that we need to remind the developers what is required and enforce it.

Mr. Beckert said that Town attorneys have said that when the standards change, they change for everybody; that nobody is grandfathered for a performance standard change.

After further discussion, Mr. Lee asked for a bit of time to come up with some ideas and come back to the Board.

6:05 PM **a) Referendum Town Meeting Voting – Tues., June 14 – No Correspondence**

This is a reminder.

b) Absentee Ballots Available – Mon., May 16 – No Correspondence

Mr. Lee discussed the delays in getting absentee ballots for Monday, May 16th; that the single-vendor thing is turning into a difficult situation. He also discussed having election day on a different day to avoid this issue, using York as an example of a town who has decided to look at a date other than the June primary; that we might consider looking at the budget cycle and try to back that up; that we may have to add 2-3 weeks to this process because of all the stuff we are learning about in this process. He said that, additionally, it is such a big ballot it is taking them longer to format it.

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6:08 PM Mr. Murphy agreed that this was not the usual ballot regarding the formatting.

2) Senior Luncheon Report, May 11 – No Correspondence

6:09 PM Mr. Beckert said that there was a good turn-out (80+ seniors) and thanked all the Town departments, employees, committee volunteers who gave their time, food, and materials, especially the Fire Department for their food donations, who was out working for a day and a half and were understandably tired. He noted that this was our 20th year.

3) Appoint Election Warden for June State Primary

6:13 PM This is a memo from the Town Clerk requesting the appointment of J. Peter Dennett as Warden for the upcoming June Primary.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen appoint J. Peter Dennett as Warden for the upcoming State Primary Election to be held on Tuesday, June 14, 2016.

VOTE

4-0

Chair concurs

4) Request to Locate “Little Free Library”

Mr. Beckert recused himself from this item as he is a member of the library board. Mr. Fernald acted as Chair for this item.

Ms. (Lydia) Goodwin, Library Director, said that this would look like a big birdhouse and that she would like to place it outside at the Town Hall. She said that she talked with an Eagle Scout who needs a community service project and will raise the funds, build it, and install it. She added that we would keep it stocked with donations that come into the library and that people can bring a book to leave when they take one to read.

Mr. Lee suggested placing it next to the new sign to draw attention to both.

Mr. Pomerleau moved, second by Ms. Davis, that the Board of Selectmen allow the Library to place a “Little Free Library” at the Town Hall.

VOTE

3-1 (Beckert abstained)

Acting Chair concurs

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5) No Bids – Moses Gerrish Farmer Rd. (15-5-2) Sale of Town-owned Land – No Correspondence

6:17 PM Mr. Lee said that his recommendation to the Board was to see if they would allow him to offer it to Ms. Donovan at the previously-offered price of \$600.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen follow the Town Manager's suggestion and offer the lot to the adjacent owner at her offered price of \$600.

DISCUSSION

Mr. Pomerleau asked what the problem was with just holding it.

Mr. Lee said that there was none; that we have to insure it against liability but that's pretty low money; that it is taxable property and a small liability to have land that has no purpose. He added that he would prefer to get it back on the tax rolls.

6:19 PM Ms. Davis said that she thought it would set a bad precedent; that other people have had to pay the full amount of taxes on property in order to purchase it back. She suggested holding on to it if there is no offer per our policy.

Mr. Beckert said that, as Chair, he tended to agree; that his main concern when she offered less than what was due for taxes and fees was that we would be setting a precedent, and one that is not very good.

Mr. Pomerleau said that that little piece is worth no less than any of the rest of it so \$1,600 is a real bargain.

There was discussion regarding the procedure for purchasing Town-owned property.

6:23 PM Mr. Murphy said that he thought the Town erred enough in this by neglect, incorrect maps, and so forth; that to him this was a trivial amount to clear it up.

VOTE

2-2 (Davis, Pomerleau)

Chair concurs in the negative

Mr. Beckert said that he didn't want to set the precedent in selling property back for less than the fees and taxes owed.

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6:24 PM 6) ME Municipal Association Property and Casualty Pool Report

This report showed Eliot's total value of benefits was \$5,239 for 2015/2016.

6:26 PM 7) Draft Budget Informational Newsletter

Mr. Lee said that this was a long newsletter to discuss the articles; that it would take 2 full pages in the Sentinel at a price of about \$1,100 and he doesn't have that in the budget, per se. He added that he was hoping we could share resources with the Budget Committee and issue a joint, 2-page centerpiece in the Sentinel but he thinks they would prefer to do something with a flyer. He said that he was primarily looking for content input from the Board rather than how to distribute this.

6:28 PM

Mr. Pomerleau discussed Article 27 and Article 28 (sewer). Regarding Article 27, he said there was no reference in this as to any potential estimated cost; that he estimated that it might be close to \$9 million over 15 - 18 years to complete and he thinks the public should know that. Regarding Article 28, he said it sounded like this was telling people how to vote and you can't do that.

Mr. Lee disagreed; that the wording 'if you would like, then do this', 'if you would like, then do that' does not tell somebody how to vote.

Mr. Beckert said that the ballot will have a 'yes' or 'no' on the question, itself, anyway.

Mr. Lee said, regarding Article 27, that we will have some updated phase prices to put in there and will add them when they are available.

On Article 28, it was agreed that wording would be added: 'if you do not want to bond the repairs, vote no on Article 28, as well' – or something to that effect.

6:40 PM 8) Selectboard to Countersign the MSAD #35 Warrant and Notice of Election

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen countersign the MSAD #35 District Budget Validation Notice for the referendum to be held on June 14, 2016.

VOTE

3-1 (Davis)

Chair concurs in the affirmative

At this time, the Board signed the document.

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I. Public Safety

6:42 PM 1) Reception for Chief Moya, June 18 – No Correspondence

This is informational regarding a reception to be held June 18 for incoming Police Chief Moya.

Mr. Beckert reminded that the reception for retiring Police Chief Short will be May 20th at the Kittery Recreation Department from 3PM to 5PM.

6:43 PM 2) ACO Grant for Chip Scanner

Mr. Lee thanked the Piscataqua Obedience Club for donating a microchip scanner to the Town. He also thanked Ms. Tina Buckley, ACO, for her initiative.

Mr. Lentz requested a prescription drop box for the Eliot Police Station.

There was discussion on allocating money for this.

Ms. (Donna) Murphy suggested using the \$300 allocated for the microchip scanner for the drop box.

J. Old Business:

There was no old business.

K. Approval of Minutes of Previous Meeting(s)

6:47 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of March 24, 2016, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of April 21, 2016, as written.

VOTE

4-0

Chair concurs

L. New Business:

Mr. Lee said that Mr. Lippincott notified the Administrative Secretary that the **Memorial Day Parade** will start at 9AM at the Eliot Elementary School on

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Monday the 30th; that Mr. Lippincott is in hopes that the Board will attend and participate.

6:52 PM Mr. Lee said that we have an **Application for a Catered Function by a Qualified Catering Organization**, which is issued by the State of Maine Bureau of Alcoholic Beverages and Lottery Operations. He added that it is a private home on Tidy Road in Eliot; that they are holding a wedding on June 11 from 3 PM to 11:30 PM outside near their tennis court and would like this caterer, Dandelion Company, LLC. He added that they are expecting about 120 attendees. He clarified that it is the decision of the Board whether they want to hold a public hearing before considering the issuance of this license, or not.

Ms. Davis asked if there was likely to be push back from the neighbors in that they would like a public hearing or would we be remiss to not have the public hearing.

Mr. Pomerleau said that he didn't know what business it is of this Town with a private person who wants to have a wedding on their own property; that if there's an issue there's a police station.

Mr. Beckert said that we are involved probably because it is the caterer that carries the liquor license.

Mr. Lee agreed, adding that that is why the State requires us to approve it.

6:55 PM Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen forego the public hearing of this application for approval for a Catered Function by a Qualified Catering Organization.

VOTE

4-0

Chair concurs

At this time, the Board signed the document.

M. Selectmen's Report:

6:57 PM Ms. Davis, regarding **articles determined annually** by the Select Board, said that she didn't know if we ever finalized that and there is one article that really needs discussion, reading the article in question – *“To see if the Town will vote to authorize the Board of Selectmen to to surpluses from one warrant article to cover overages from another warrant article, so long as the total municipal expenditures do not exceed the amount of appropriations so voted at Town Meeting.”*

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Mr. Lee said that they didn't have to include that and could revise it.

Ms. Davis asked if having a **workshop** discussion about the **budget process** while it's still fresh in our minds will be done in the near future.

Mr. Lee said yes; that he is hoping to do that fairly quickly.

Ms. Davis asked if there could be some preliminary discussion on at least the **feasibility of hooking in to the sewer** on Route 236 where Kittery has brought it up to Martin Road.

N. Committee Vacancy Reports

There was no report tonight.

O. Other Business

There was no other business.

P. Adjourn

There was a motion and second to adjourn the meeting at 6:59 PM.

VOTE

4-0

Chair concurs

Date: June 23, 2016

S/ Mr. John Murphy, Secretary