

## **SELECT BOARD MEETING**

**August 25, 2016 5:30PM**

### **Quorum noted**

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

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

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

### **E. Department Head/Committee Reports**

#### **5:31 PM 1) Select Board: Public Participation Protocols – No Correspondence**

Ms. Davis said that, in order to promote the best public participation and productive exchange of ideas, the following standards for Select Board meetings have been developed. She added that the Chairman will introduce the agenda item, the Town Manager will expand on the agenda item, the Select Board will engage in preliminary discussion, a member of the SB will make a motion (and a second), if applicable; the SB will discuss the pros and cons and, then, at that time the public can be invited to participate. She said that when that occurs, please wait to be recognized by the Chairman, state your name and address for the recording secretary, attempt to limit comments as much as possible, and you must remain on topic of whatever the agenda item is under consideration at that time. She also said that, if comments become repetitive or personal, the Chairman will close the public comment and return discussion to the SB; that an effort will be made to let everyone speak at least once and, after that, a vote on the motion will be taken by roll call. She asked if there were any comments from the Board.

**5:32 PM** Mr. Murphy said that he had a point of order. He said that several meetings ago it appeared approval of the minutes had been moved to the end of the meetings; that he objected to that and he was not asked about it before it was done. He added that the format of our agenda is really a Board matter and, then, the Chair fills out the agenda structure. He said that it is not a trivial matter, when we do the minutes, because the minutes settle what has been done and where the Board stands with regard to that and, any time you have a set of minutes, which have not been approved, that means there are existing items and actions that are still in question – are they settled, or not; that that's the reason you approve minutes at the beginning of a meeting, to make sure that preceding business that has been taken up in previous meetings has been settled; that there are questions about what took place in those minutes – do we approve those minutes. He added that, granted, people in the audience may consider it a waste of time, but we may have continuing business from the last meeting, or before, and until we know that we actually settled the last meeting and agree on what happened, etc. He said that he

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really requested that we take the minutes out of order on this agenda and, in the future, move it back to the beginning so we can finish all that business before we add to it, which is new business.

**5:34 PM** Mr. Fernald asked if the Chair had taken the procedure from Robert's Rules of Order.

Ms. Davis said that she has been researching Robert's Rules of Order.

Mr. Fernald said that he was concerned if that should be a policy decision of the Robert's Rules of Order when it comes to public participation; that that should be followed.

**5:35 PM** Ms. Davis said that much of the procedure that goes on during the meeting is up to the Chairman to keep orderly conduct. She asked Mr. Fernald if there was anything in the procedure, as listed tonight, that he objects to.

Mr. Fernald said no.

Ms. Davis asked if he would like to formalize a procedure in writing.

Mr. Fernald said that he would like to see that.

Ms. Davis asked if she should work up a preliminary draft for the SB and, then, they can read it and make comments.

Mr. Fernald said yes, and approve it.

**5:36 PM** Mr. Pomerleau said that, regarding Mr. Murphy's comments about the minutes, he didn't disagree with him; that he thought it makes sense in the completion of past business. He added that he didn't remember why we moved it to the end other than, at the time, we were having such long meetings that we were trying to spare the public the agonizing pain of sitting through minutes. He said that he didn't have an objection to re-ordering the minutes, one way or the other.

Mr. Fernald said that he didn't have any objections; that it didn't matter to him where the minutes are; that maybe the public wants to hear the minutes of meetings past, maybe they don't.

Ms. Davis said that, in her view, the minutes are sometimes from a month, or more, in the past; that if we were depending on them each week, then she would think they should be done at the beginning but, since we are reviewing minutes that are sometimes 2 or 4 or 6 weeks back, then, to think our current meeting is dependent on approval of those minutes might not necessarily be as crucial,

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sometimes, as are others. She asked if she could take this under advisement and look at Robert's Rules of Order and see if there is any precedent for that; that, then, if there's no objection by the Board, and you guys want to put them at the beginning, then that's fine, too, because there's no real reason not to other than the last few meeting minutes have been 36 pages, or more, and it does tie up time right at the front end. She asked Mr. Murphy if we could take this up next week or would you like to settle it this evening.

**5:38 PM** Mr. Murphy said that he didn't really hear much discussion about the points that he made; granted, we have considered the length of them very good minutes but they are also complicated, and we do find quite a few small errors, many being just typos. He added that he could easily be out-voted as to whether they're at the front but there is a logical and sort of statutory reason, a legal reason, for getting that business settled before we begin adding to it.

Ms. Davis asked him if he would like to take this set of minutes out of order.

Mr. Murphy agreed that he would.

Mr. Murphy moved, second by Mr. Fernald, that the Select Board take these minutes out of order and replace them at the start and take care of them at the beginning.

Mr. Pomerleau reiterated that he had no objection, although, he felt that was Chairman discretion as to the order of the agenda.

**5:39 PM** Mr. Fernald said that we've always had them at the beginning and there may be a reason why we've had them at the beginning all these years.

Mr. (Charlie) Rankie said that your outline, Madam Chairman, is in accord with exactly what the Charter had intended; that you have clearly defined it, actually, rather well, where and what; that the Charter does leave it to the discretion of the Chairman to ensure (public) participation. He added that, in the agenda presented to us tonight, public comment, for what used to be called 'public comment for subjects not in the schedule', now is put in the bottom end of the agenda; so, a person, such as himself, who is here tonight, he wanted to talk to your first point but he also wanted to make a comment based on something that was not on the agenda and he doesn't have the time to sit here all night, tonight. He said that he would ask the Chair to rethink that and, perhaps, put a timeframe on what you would allow for public comment for someone who is quite busy and can't stay for, maybe, three hours. He added that the subject he intended to speak at has been brought up by Mr. Murphy so he asked if it is fair that he makes a comment on meeting minutes.

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**5:41 PM** Ms. Davis asked if the Board agreed that we will discuss Mr. Murphy's topic and, then, move on to public participation; that the minutes were not an agenda item and asked Mr. Fernald how we would normally handle that.

Mr. Murphy said that it is an agenda item.

Ms. Davis said that changing it from the published agenda is not an agenda item.

**5:42 PM** Mr. Murphy disagreed, saying that it's always an agenda item if the Board wants to change it; that it's a standard 'I move that we take this out of order now.'; that that's always an action the Board can take.

Mr. Fernald said that that is at the discretion of the Board but 'public' is different; that anything that is not on the agenda under 'public comment' should be done under 'public comment'.

Ms. Davis clarified that Mr. Murphy is allowed to request that this be taken out of order but Mr. Fernald is also stating that public comment on that is not permitted at this time.

Mr. Fernald said yes; that that's the way he sees it.

Ms. Davis said that there was a reason the agenda was set up tonight as it was; that it was because of the boisterous meeting that we had last time, interrupted much of our business and, therefore, our agenda is very heavy tonight. She asked if she could assume, as a Board, that you are unwilling to allow public comment out of order this evening.

**5:43 PM** Mr. Rankie asked to point out that his comment is based on the Charter item that he would like to point out about minutes. He added that, before you decide on that, he is citing, regarding public participation, section 8.7 (a)(2); that that actually gives you complete justification for your outline for public participation. He added that the other item, with respect to minutes, that he had intended to bring up and, then, leave is also something in the Charter that he believes we are not in compliance with. He said that he can't stay until the end of the meeting and the subject of minutes was brought up; that he was being an opportunist and asking if he can simply point that out at this point in time.

**5:44 PM** Ms. Davis said that she would have to bring it to the Board and find out if, as a group, they have an objection to Mr. Rankie bringing this up out of order.

Mr. Pomerleau asked if we could act on Mr. Murphy's motion and get that out of the way; that, then, we can deal with Mr. Rankie's request; that one really doesn't have anything to do with the other.

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**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**5:45 PM** Ms. Davis asked what the pleasure of the Board is regarding Mr. Rankie's request.

Mr. Murphy suggested we move 'public comment' back to the beginning, as it used to be, so that someone, for his reasons, doesn't have to wait through the whole meeting.

Mr. Murphy moved, second by Mr. Fernald, that the Select Board move 'public comment' to the front.

**DISCUSSION**

Ms. Davis said that the reason it was moved to the end is because we have been having very lengthy public comments and we had a considerable amount of business to conduct at this meeting; that this is an unusual circumstance wherein the Board needs to accomplish these things tonight.

Mr. Murphy said that it's important to hear from the public.

Ms. Davis agreed, but said that it is also important that we get these business items taken care of in a timely fashion. She asked for the Board's pleasure.

Mr. Murphy said that he made a motion.

**5:46 PM** Mr. Pomerleau said that that's not a proper motion, that's the Chairman's discretionary authority and he absolutely agrees we need to get through this; that we'll take public comments at the end and he suggested we make no exception because we then start opening it up to everybody who wants an exception.

Ms. Davis said that until such time we have clarification she would like to stay as closely as possible to this evening's agenda; that it was developed for a purpose by the Chairman; that the Chairman creates the agenda.

Mr. Murphy said that the Chairman fills the agenda that has been approved by the Board.

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**5:47 PM** Ms. Davis said that we should then take some time to research that and then, perhaps in the future, we can come up with an agreement.

Mr. Fernald said that we have a motion on the floor and a second and it needs to be completed.

DISCUSSION ENDED

**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – No**

**Mr. Pomerleau – No**

**Motion fails.**

Ms. Davis apologized to the public but the agenda was published seven days ago and that's the best we can do this evening; that we must get through our business. She added that we do have an approved change of the agenda, at least for the minutes. She said that we have minutes to approve for the July 14, 2016 meeting.

NOTE: Review of minutes was moved up on the agenda.

**K. Approval of Minutes of Previous Meeting(s): July 14, 2016; joint Workshop of Select Board and Budget Committee, Aug. 4 at 6:00 PM.**

**5:48 PM** Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of July 14, 2016, as amended.

**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**5:52 PM** Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of August 4, 2016, as amended.

**Roll Call Vote:**

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**Mr. Fernald – Yes**  
**Mr. Murphy – Yes**  
**Ms. Davis – Yes**  
**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**5:53 PM      E2) Scheduling of Special Select Board Workshop and Meeting: Sewer Funding**

Mr. Lee said that we've tentatively looked at September 14<sup>th</sup> at Marshwood High School, starting at 5:30 PM, to wrap up whatever decision this Board makes regarding how to fund the two sewer pump station repairs. He added that the school is capable of holding about 150 people, the acoustics are good, and it is inexpensive.

**5:55 PM      Mr. Murphy moved, second by Mr. Fernald, that the Select Board accept this arrangement.**

**Roll Call Vote:**

**Mr. Fernald – Yes**  
**Mr. Murphy – Yes**  
**Ms. Davis – Yes**  
**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**5:58 PM      3) Select Board: Meeting Locations Discussion – No Correspondence**

Ms. Davis said that this was on the agenda because the school thing did come up and raised some concerns about meetings that do experience overflow participation and what we would do at the last minute.

Mr. Lee said that one would be the Kittery facility, which is booked fairly regularly for a million different functions; that the school is going to be hit-or-miss depending on whether we are in school season or out of school season. He added that he had the Fire Chief do a total capacity check here; that we would still need remote displays for the overflow room (small conference room) and adding that room would add 25 to our capacity. He read a memo from the Fire Chief, *"Please pass this along to the boards who use the meeting rooms at the Town Office. The main meeting room capacity is calculated at 50 people; however, as the room continues to be used for storage, that has an impact on the room capacity. Recent observations by myself indicate that the exits are being*

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*compromised with chairs and people. The designated exits must be maintained free from people and objects. The small conference area has a capacity of 25 people. Again, chairs and people in the exit hallways must remain clear. The hallway leading to the main conference room is an exit path. The limit of people waiting for seating in the main room is limited to the bench seating. This should not be utilized as an overflow area. The vestibule is not an area for people or chairs to be used in support of overflow, either. It is considered part of the egress path of the building. If I can help further please let me know.”* He said that we continue to have some conflicts on where to find additional space and we did not budget for any space. He said that he did not believe the Grange was suitable because of the Americans with Disabilities Act (ADA); that there is a tripping hazard with the broken pavement, doesn’t hold that many more people, and the acoustics are not good. He said that he thought our best bet, because we do pay so much into the school system, is to try to use one of the different schools around here and use that facility for a nominal fee but the seats may be hard and the acoustics bad, with the exception of a couple of rooms.

**6:01 PM** Ms. Davis suggested we work up a written plan that would show what would happen in an overflow event; that we do try to anticipate this and, so far, have avoided problems. She asked if we had an old monitor that we could somehow wire up and get at least a certain amount of overflow into the conference room. She added that she thinks our planning has been good so doesn’t think this is a critical issue immediately, but something we need to develop as time goes by.

Mr. Lee said that we will begin to work on a protocol on overflow-type things – who to call, when to call, how to set it up, adding that you have to book it and, therefore, you do incur a charge whether you use it or not.

**6:03 PM** Mr. Fernald was concerned utilizing a monitor in the other room; that we need a place where the public can participate, not just see what’s going on.

Mr. Lee discussed the kind of system that was utilized at the State House, saying that we don’t have any money to do that type of thing; that with next year’s budget he was looking at doing some sound upgrades, etc., in here because the current streaming is not very good and we’ve had a lot of negative comments about it. He added that we’ve also talked about, when people are in meetings remotely, being able to see that person; that that kind of double-use monitoring capability would have to be a tech upgrade plan for another budget. He said that he would see if we can do something short-term; that, maybe, if someone from the overflow room wanted to speak, it would simply be a matter of coming in here, doing their speaking, and returning to the viewing room.

**6:04 PM** Mr. Pomerleau said to bear in mind that this is a short-term, temporary problem; that once the sewer issue is settled, we will be back to 4 or 5 people at meetings,



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and it won't be a problem. He added that we do need something in place in case it happens; that he agreed that the small conference room wasn't ideal but it might be a whole lot better than having to stop the meeting and relocate somewhere else.

Mr. Fernald commented that he hoped the public did not go away; that he hoped we encourage them to actually come and be more active and have a larger crowd at our meetings.

**6:05 PM      4) Harbor Commission Response to Ordinance Concerns**

Mr. Lee said that this memo was in response to questions the SB had regarding their draft ordinance; that they are still working on this to address SB concerns, adding that they will not make November so it will not be on the ballot.

Mr. Murphy said that he felt, as a blanket response to this, that some response to each of these 10 things ought to be inserted in the draft ordinance. He added that he believed the Harbor Commission was not the final word on this ordinance but that it will go through public hearings and to the SB for final approval.

**6:08 PM**      Mr. Pomerleau said that, regarding the inadequacy of the appeal process, they don't really address that; that he watched their meeting and they didn't really address it there, either. He added that he wasn't sure that they completely grasp the inadequacy of the appeal process, as it was defined in the ordinance, suggesting Mr. Lee clarify to them that it isn't just a timeline problem but that they don't have a process.

Ms. Davis said that they did clarify quite a few questions, though, and she thanked them for the work they put into this.

**6:10 PM      5) Sewer Committee: Application to Join: Kevin McCoole**

Mr. Lee said that Kevin McCoole is here tonight, is interested in serving on the Sewer Committee, and is here to answer any questions.

Mr. Murphy asked if he had attended any of the meetings, yet.

Mr. McCoole said that he has.

Mr. Fernald asked him if he was a sewer user.

Mr. McCoole said that he is.

Mr. Pomerleau said that Mr. McCoole commented in his application that he will *"always take an unbiased/analytical approach to determining the best solution for*

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*Eliot*” and the hard part about being on the Sewer Committee is that you are going to have to make recommendations to raise rates when they are needed, asking if that was any kind of an obstacle for him.

**6:11 PM** Mr. McCoole said no; that he has been a resident of Eliot at his current address (on sewer) for 11 years; that he isn’t planning on moving, this is his home; that he lives on the river, it’s a great life, and so any decision and recommendations he makes will be based on the long-term best interests of Eliot.

Mr. Fernald moved, second by Mr. Murphy, that the Select Board appoint Kevin McCoole to the Sewer Committee, term to expire June 2019.

**DISCUSSION**

**6:13 PM** Ms. (Nancy) Shapleigh, Sandy Hill Lane, said that she thought that Mr. Pomerleau was totally out of line with the statement he made about he was going to have to vote for a raise; that there are First Amendment rights and you’re supposed to have independent thinkers. She added that he certainly should never have failed to reappoint Dick Dionne; that he did a disservice to the board and to Dick Dionne.

**END DISCUSSION**

**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**6:14 PM** **6) Annual Administrative Articles**

Mr. Lee explained the only change was to correct the due dates for tax interest charges.

Mr. Murphy suggested labelling each item A. B. C. etc., for clarity, as well as adding a page closure, in the future.

Mr. Murphy moved, second by Mr. Fernald, that the Select Board approve the articles, as presented.

**Roll Call Vote:**

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**Mr. Fernald – Yes**  
**Mr. Murphy – Yes**  
**Ms. Davis – Yes**  
**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**F. Public Works**

**6:17 PM 1) 2016/2017 Salt Bids**

Mr. Lee said that our Public Works Director was here but he has an emergency sewer issue he had to attend to. He reviewed the memo and said that we are recommending \$51.73 Granite State Mineral be awarded the road salt bid.

Mr. Murphy moved, second by Mr. Fernald, that the Select Board approve the request of our Public Works Director for the purchase of road salt at the price of \$51.73 per ton from Granite State Minerals of Portsmouth, NH for the 2016/2017 fiscal year.

**Roll Call Vote:**

**Mr. Fernald – Yes**  
**Mr. Murphy – Yes**  
**Ms. Davis – Yes**  
**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

**6:20 PM 2) 2016/2017 Diesel Fuel Bids**

Mr. Lee discussed the fuel bid memo, saying that the recommendation was P. Gagnon & Sons with a current pricing of \$1.65.

Ms. Davis said that she was concerned that there was no ceiling listed by Gagnon and that the price from Jenkin's Fuel is essentially the same but a lower price over rack. She asked for Board input.

**6:22 PM** Mr. Murphy said that he felt we should go with the requested one, P. Gagnon, at .15 cents over rack and current pricing at \$1.65.

Ms. Davis reiterated her concern for no ceiling and asked if it was possible to get a ceiling.

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Mr. Lee said that he isn't sure Mr. Moulton asked for a fixed (cap) price but that some of them offered; that currently Gagnon appears to be a little under Jenkins but we don't have any security on the top end, if oil prices were to jump very high. He added that it was up to the Board how they would like to proceed.

**6:23 PM** Ms. Davis said that that is a 50% premium on the over rack price and no ceiling; that she would find it difficult to approve this without getting more information.

After further discussion, the **SB agreed by consensus** to have Mr. Moulton back at the next meeting to discuss this and have Mr. Moulton look into whether P. Gagnon can offer a fixed cap price.

**G. Administrative Department**

**6:25 PM 1) Town Manager Report**

Mr. Pomerleau asked for clarification regarding **Line 49**.

Mr. Lee said we became aware of a Department of Labor (DOL) requirement that we do Fire Department payroll at a minimum of 2 times per year, not once, as we currently do. He added that, also, if a volunteer firefighter works more than 40 hours in any one week, we must pay the overtime on the very next payroll; that we will be implementing this after November with a final yearly payment; that we will then proceed with this system.

**6:29 PM a. Financial Reports**

Mr. Lee said that the auditor has recommended that a number of our independent funds, anything with a taxpayer-raised appropriation and all revenues, will go through Fund 1 now that we have integrated ECSD; that that has complicated our ability to get our approved budget in because we have to make sure all those funds tie out and reconcile. He added that, today, we were within \$60 of getting it reconciled so we are very close. He said that you don't have any starting numbers, everything is in red, but that won't be the case next time you see it. He added that we are taking the time to do the final step of what the auditors have been asking us to do for quite some time.

**6:31 PM** Ms. Davis said, if she is understanding correctly, we are having to make some changes to the way we are doing things and that is why this report is not reflecting our appropriations at this time; that in future years, these numbers will be available sooner.

Mr. Lee said that that was correct. He added that, in our financial policies, one of the things he has been asked to go over with you, when we wrap this up, is what is

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that number; that right now it is 30 days, he thinks, and the finance director would be more comfortable with 45 days, in that we only have one person able to do that and we aren't always in charge of our schedule; that whatever comes to our door, comes to our door. He said that we may ask for 45 days but it certainly won't be this delay; once this is done, it's done.

**6:32 PM** Ms. Davis said that she thought, at one time, when we had put all the budget numbers in excel, that it was going to ultimately end up in TRIO with various choices between the SB's recommendations versus the Budget Committee's recommendations; that when things got approved, it would more-or-less be the press of a button.

Mr. Lee said no, it's not really a press of the button, adding that we can input. He said that we have six funds and three of them are now going to be combined under Fund 1; that that's what slowed us down.

**6:33 PM** Mr. Pomerleau commented that this is all getting better step-by-step.

**b. Libbey/Falzone Legal Update**

Mr. Lee said that he got a note from Attorney Saucier that Mr. Falzone is dismissing the appeal; that the 80B appeal is over.

**6:34 PM** **2) CDBG Grant: Policies**

The following were taken together:

- a. Equal Employment Opportunity**
- b. Residential Anti-displacement & Relocation**
- c. Fair Housing Resolution**
- d. Standards of Conduct Policy**
- e. Draft Form of Guarantee/Legal Opinion**

**6:35 PM** Mr. Lee said that Ms. (Janie) Wang and Mr. (Chris) Anderson from Modernist Pantry. He explained the Community Development Block Grant (CDBG) Program; that it comes from the State of Maine through the Department of Economic and Community Development (DECD) and they have about 30 different programs. He said that one of those programs we discussed and determined that, maybe, we could help a business called Modernist Pantry, who is relocating to Eliot; that as part of that, when you accept a CDBG Grant, you need to have a series of policies in place guaranteeing that you understand the federal government guidelines of this stuff. He added that they don't want to give money to a place that is not an equal opportunity employer, not interested in the Americans with Disabilities Act, etc. He clarified that all these documents are a

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template that are amended for the particular town; that he is not nervous about any of this. He said that, unless the SB has problems with the wording or see something that's in error, he thought the policies could be voted as a consent agenda. He said that the one thing the SB recently got was a legal opinion from Attorney Katsiaficas with Perkins Thompson; that we went to him because Bernstein Shur has represented Modernist Pantry and the Town, which was a conflict of interest, and they are trying to provide wording that would guarantee the Town against any loss should they fail to meet the program requirements; which is the creation of eight jobs. He said that they already have these eight employees and, from the day they open in Eliot, they will be importing those and, literally, within a matter of 2 to 4 weeks somebody could sign off, saying you've met the employment obligation; we're off the hook; they're off the hook, and everybody's good' that in the meantime the SB expressed not putting the Town in any liability situation for potentially losing the \$240,000 that we have to receive on behalf of Modernist Pantry; that the drafted language was sent to Attorney Katsiaficas and he sent back a response with some suggestions. *"The proposed memorandum of understanding (MOU) between the Town and Modernist Pantry does not guarantee that the Town will never be responsible of repayment of CDBG funds. While there are measures the Town can take to reduce the risk of having to repay CDBG funds, none of these measures entirely eliminates the risk from being responsible for repayment. Ultimately, it is a matter of assessing the risk to the Town of accepting the grant and then deciding how comfortable the Town is assuming that risk."* He said that the attorney mentions that, *"according to formal guidance issued by DECD, communities participating in CDBG-funded programs must have a written agreement assigning responsibility for the job creation retention to the recipient business"*, which we do have. He further read, *"according to the policy statement, the OCD strongly recommends this agreement include a statement assigning responsibility for the repayment of CDBG funds if the job goal is not met to the recipient business. It is uncertain how useful such an agreement might be if the grant had to be paid and Modernist Pantry was unable to repay it but the DECD requires a written agreement and, therefore, the Town should have one. The MOU does attempt to serve as such an agreement but is not as complete as HUD's sample agreement"*, which he talks about. *"HUD has also published a sample agreement between the Town and the grant recipient that governs the grant recipient's use of CDBG funds. I note that the sample agreement, which is enclosed for your reference, contains an indemnification provision for claims arising out of the agreement, though not necessarily for repayment but does not offer much further in terms of a guarantee that the Town could rely on to be reimbursed. The Town might want to also consider other forms of security. For example, taking a security interest in the equipment purchased with CDBG grant money for requiring a personal guarantee from the individual members of Modernist Pantry, LLC. It is my understanding that a surety bond and an irrevocable letter of credit were previously discussed as options. These forms of security are difficult to obtain but, if available, would*

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*provide the Town better protection than the MOU.*” He said that Modernist Pantry is currently developing their business and ready to buy stuff and would like to see if, somehow, we could resolve this, either through additional language or additional depth of agreement, or something, and they are here this evening. He added that we might want to deal with the policies, first, and then talk about what additional steps you would like him to take to see if we could strengthen the guarantee.

**6:40 PM** Ms. Davis said that the problem she has is that this was on our desk when we got in tonight and she hasn’t had a chance to read it; that it sounds like you are needing an answer as soon as you can get one, asking how much of a problem would be a two-week delay, if we need to consider this.

**6:42 PM** Ms. (Janie) Wang, owner of Modernist Pantry and resident of Old Farm Lane, said that the items A through D we would like to have as soon as possible, as that has to go back to the State; that, also, that is really the non-complicated forms. She added that it’s not a huge deal for us to push back the other ones for two weeks because that’s really between your comfort level and us; that the State is not immediately looking for that, although we should try to get it to them as quickly as possible but, at the same time, it’s also the first time that we’ve read this and we would like an opportunity to review it.

Mr. Lee suggested we take up A through D tonight and, then, Ms. Wang, the banker, Attorney Katsiaficus, HUD, the DECD, and Mr. Lee will all try to work over the next week for the next agenda to see if we can strengthen the guarantee through some other methods that become more acceptable to our attorney.

**6:44 PM** Ms. Davis asked what if the Board has questions upon review of this document; how do we want to handle that because we don’t want to wait until two weeks from now to ask our questions.

Mr. Lee said that, although this is not protocol, he wouldn’t mind if each one of you individually emailed him, without talking to one another, with issues, questions, or language suggestions, as your advice for strengthening something you’d like to see that would be helpful.

Mr. Pomerleau had a question on the attorney’s recommendations; that what he had in his mind was which of those could we simply adopt that isn’t overly cumbersome for Modernist Pantry that provides us a more reasonable level of comfort.

**6:45 PM** Mr. Lee said that was the discussion he wanted to have; that if we could get an irrevocable letter of credit, for example, how good would that makes us feel – really good; what would be the chances that Ms. Wang can get that in lieu of the

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\$240,000 line of credit, for example; that there are those other HUD things that he wants to talk to (Jim) about that we could also put in to strengthen the guarantee. He added that he thinks we need a couple of weeks for you to think about it, for us to think about it, have a chat, and see where we end up two weeks from now and see if we feel more comfortable.

**6:46 PM** Mr. Pomerleau said that they don't actually have any money, yet, and the State hasn't got the money, asking Ms. Wang if the State has indicated to her when they'll expect to know whether they have money to award.

Ms. Wang said that she wanted to say they said September but we don't know how realistic that is; that, essentially, we never get any money as the money doesn't come to us but to the Town.

Mr. Pomerleau said that this is all contingent on the State receiving the federal money.

Ms. Wang said yes; that the way that it really works is that, once everybody is comfortable, the Town enters into a grant contract with the State; that at that point, the State will make the funds accessible to the Town and, then, whenever she would need to purchase something, she would submit an invoice to the Town, the Town would submit an invoice to the State and, then, the State would cut a check back to the Town and the Town would cut a check back to the vendor for whatever she is trying to buy.

**6:47 PM** Mr. Lee said that, in his experience, October 1<sup>st</sup> is the beginning of the federal year and, very often, it follows October 1<sup>st</sup>.

Ms. Wang said that the State of Maine has already been allocated the funds, even though they haven't received it, yet; that it becomes guaranteed once the Town enters into a contract.

Ms. Davis asked if they had a separate accounting system set up to monitor all of this.

**6:48 PM** Mr. Lee said yes; that one of the requirements is a separate non- interest bearing account through which only CDBG money will go and a separate file with their files, submittals, reimbursements, copies of State checks, etc. He added that he has done this several times so he is very good at setting them up and knowing the administrative procedures.

Ms. Davis said that the Town probably already complies with most of these policies, asking if there was anything unusual or prohibitive that we need to be concerned about.



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Mr. Lee said no, agreeing that we do comply with most of the policies.

**6:49 PM** Mr. Pomerleau said that he read through these forms and didn't find anything that bothered him, at all. He added that he is prepared to say yes to those.

Mr. Fernald, moved, second by Mr. Murphy, that the Select Board approve the documents the Town Manager has given the Select Board, namely G2a through G2d.

**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Unanimous vote to approve motion.**

The Board signed the pertinent documents at this time.

**6:54 PM 3) Boat Basin Launch Fees (2<sup>nd</sup> Consideration)**

Mr. Lee said that he was not vested in this except in so far as, anecdotally, he's had a number of people, both from Town and out-of-town, call to say they aren't going to use this facility anymore because you've priced yourself out of business. He added that the Finance Director put together a short memo of a three-year comparison; that the comparison shows a drop-off in August 2016 but that they won't know if this is a trend until they see the rest of the year. He added that it did work in 2015/2016 but he thinks people have found other alternatives. He said that if you want to leave it at the current level of \$10 and \$20, you can, and we could look at it next spring.

**6:56 PM** Mr. Fernald said that he thought it was a shame that we can go to another town next door, as a non-resident, and get it cheaper than we would in our own Town; that it kind of tells a story about how Eliot is charging its residents, suggesting they go back to the old price structure.

Mr. Murphy said that it's nice to have more income, if people are willing to pay it or can pay it; however, it bothers him that we are pricing ourselves out of the business, or are we, and that's the question that hasn't been settled yet.

**6:58 PM** Mr. Pomerleau said that we got these numbers because we asked to show some evidence that the higher fees were harmful; that it doesn't show that and we will probably have to see the full, completed year before we have certainty. He added

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that he gets mixed information and he doesn't have a boat so he doesn't know if our rates are competitive. He said that that's a good revenue stream to give up and sacrifice it without some rationale behind giving it up; that he would be inclined to leave it as it is until we get a complete season to see what the numbers are.

**7:00 PM** Mr. Murphy asked if the monies we are collecting are useful to us with regard to keeping up the Boat Basin, and so forth.

Mr. Lee said that they will be, that it's a dedicated fund just for the Boat Basin; that there will come a day when we need to repave the roadway going in, or the large parking areas, and that money would be handy.

Mr. Murphy said that there is a fiscal reason for it.

Mr. Lee agreed that there was; that his goal, initially, was to make it self-funding; that when you look at the costs for the boat attendants and some of the maintenance costs of trash and bathrooms and so forth, we wanted to make sure we were breaking even, which is in the \$17,000 range, but we're at \$25,000, now, so surplus funds from that is put into a capital plan in case we need to do something at the Boat Basin.

**7:01 PM** Mr. Fernald said that he hoped that people didn't think that, just because you have a boat, that you are richer than somebody else and can pay a higher fee, as some people indicated. He added that the point was that we ought to be doing better for our own residents.

Mr. Lee said that we can't change it this season, anyway, because we are in mid-stream, suggesting they come back next March to this and, then, we'll have some comparative data, month-to-month-year-to-year, that will show a pattern; that he thinks we'll see it come down a bit but maybe not.

There was discussion regarding user fees and the wish list of Boat Basin improvements.

**7:04 PM** Ms. (Donna) Murphy, Hanscom Road, asked if the Harbor Master had provided written documentation showing the fees for area boat launches.

Mr. Lee said that there has been some limited documentation.

Mr. (Robert) Fisher said that we have one of the best boat basins in the area, easy to get to and well-kept; that he knows that because he has put over \$1,000 into the Boat Basin this year, at no cost to the Town, and he thinks you should leave it just like it is. He added that they will come back because this is the best.

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**7:06 PM** Ms. (Rosanne) Adams asked if we are talking about a new building to replace the one that's there now.

Mr. Lee said yes.

Ms. Adams said that she had a concern with that because it is not a living area and seems adequate for what goes on there; that it was just electrified and seems to be just refurbished in some respects; to then spend more money she doesn't think is justified when you have a pavilion up top, which definitely needs some maintenance.

Mr. Lee said that it was approved in the budget; that we may look to use that money to fix up what is there – insulate, a new roof, put in a couple of windows, a door that works, and that type of stuff; that maybe we will use the money to upgrade it as opposed to replacing it, especially with the electrical work that Mr. Fisher did down there because, previously, we didn't have lights down there; that they would show up in the pitch dark and could get robbed, which was not good. He added that, a couple of times, we wanted to meet with people in the shack, to have a place to come in, show them the map, talk with them, and there really isn't adequate room to do that. He said that we will figure that out as we go along. He agreed that the pavilion needs work and was on the wish list.

It was the **consensus of the Select Board** to wait until spring.

**7:09 PM**      **4) HVAC Report – RFP Needed**

Mr. Lee said that the Board had a bunch of information accumulated through the Energy Commission (EC) going back to 2011 covering several Town buildings. He added that this is a very complicated issue in terms of putting in proper HVAC systems – they are both at the end of their useful life; that we are having real issues with them, especially in this building; that we spent \$2,500 to do an investigation of where we are at and you have the report in front of you. He added that, at some point, we are going to have to deal with this and we are in the middle of putting together a capital improvement plan (CIP); that a previous proposal (2011) was about \$70,000. He clarified that these are expensive projects and, when the time comes, maybe soon, we will probably have to pay somebody to help us put together an RFP that is thoughtful and very knowing in energy efficiency, the options, etc.; that he cannot do it and he doesn't know who we have that could put this together, other than hiring the same Design Day Mechanicals. He said that the EC would be willing to put up \$1,600 of their \$2,000 budget to pay for an RFP so that we can plan properly in the CIP, whether it's this year or next, 3 years, 5 years, and have enough money put away so we can address this problem in the smartest, cheapest way. He added that we need to be very specific in our RFP so that we aren't comparing apples to oranges to

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grapefruit and choose the wrong one. He said that what we should probably do is spend some money, up front, and get to know what it is that we want in these two buildings for HVAC upgrades.

**7:12 PM** Mr. Murphy asked if this was for two buildings or three.

Mr. Lee said two, Police and Town Hall; that the Fire Station is okay, for now; that that was the first building we tackled; that we are now on to the Police Station this year; that we have known, since 2011, that we have trouble over there – at the end of its useful life, and it was done on the low dollar, as often government does. He added that, when we do this, we should probably do this correctly and he thinks we need a professional to say what is correctly and what is it that we really need, with pricing that is meaningful. He said that the EC will be at the next agenda talking about an RFP to put together a bid spec for these systems; that this is one of the main things in this building that we need to attend to. He clarified that he was providing all this as information of what we've done, what we've seen, and what we know about HVAC stuff, now, in preparation for the next meeting to talk about building a specification using EC money.

**7:13 PM** Ms. Davis asked how we are going to make a decision; that there must be different kinds of systems, asking how do we decide who is going to make that decision for us.

Mr. Lee said that we go by an independent contractor who doesn't install systems, who just advises and puts together technical specifications – the HVAC engineers; that they have no vested interest other than smarter, cheaper, current technology, etc.. He added that that is what we needed to advise us, otherwise, we will be guessing. He said that it may be \$1,600 but you may save yourselves \$10,000, \$15,000, \$20,000 when it comes time to do it because you've done it smarter.

**7:14 PM** Ms. Davis asked if we were going to advertise it and allow different people.

Mr. Lee said absolutely; that he just wanted to prep the Board for the fact that we have a couple of HVAC things and, if we get into fixing them, it's real money and real interruption, obviously; that we need to be thinking far ahead on this and that's why he is giving them this information now; that we may want to see if we can get you to approve the use of some funds from the EC to go out and get a good technical spec built so we can go out to bid and, at least, have an idea what we're going to be facing for numbers, when the time comes.

Ms. Davis said that their (EC) money must have been appropriated for something, asking what they are not doing, now, in order to do this.

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**7:15 PM** Mr. Lee said to let him see what we can do with working on them; that this was baseline information just getting you prepared to think about down the road.

Ms. Davis said that another concern, in addition to HVAC, he pointed out a leak in the floor.

Mr. Lee said that it's not just a leak in the floor, it's that the whole floor seeps; that water is coming up through the tile and we sit on a pad, basically, and water, over the last few years, has basically begun to seep up through the cracking tiles (bathroom); that that is another big issue we will deal with at some point; space issue has become an issue, lately, as we don't have storage – we are blocking exits, that we barely squeeze people in; that there are a lot of things we need to be thinking about, big picture, and that's why he wants to work on that CIP to open our eyes that, not only the sewer system may have gone 30 years trying not to waste a lot of money on it, but he thinks we've done that with our buildings, to a certain extent, too, and we're at the end of some useful lives around here; that he is inheriting a lot of 28-, 32-, 33-year-old things that aren't in great shape. He reiterated that he wanted to have the Board read through the material to get a sense of what HVAC systems encounter, how complicated they are, and that we are not in any position to decide what we want, yet.

**7:17 PM      5) Annual Budget Schedule**

Mr. Lee said that this is informational, asking the Board to hold onto the printed schedule, and reminding that the schedule has to be maintained very closely.

**H.      TIF Alternatives Committee: Resignations and Disposition of Committee**

**7:19 PM** Mr. Lee said that they requested this item be postponed; that they have chosen to withdraw any verbal resignations they gave and meet on August 30<sup>th</sup> to discuss the future of the committee and should resignations occur, or not; maybe a different approach to what they are doing; that they've taken a step back and calmed down a bit and decided to meet at least one more time to see where they stand.

Mr. Pomerleau said that that was fine with him, asking to provide the committee with a copy of an actual TIF application so they can see what we're asking for.

Mr. Lee said that he has.

**7:21 PM** Ms. Davis said that the standard of conduct during the last regular Board meeting on this topic was not acceptable.

Mr. (Ray) Faulkner said that he thought that was an uncalled-for comment.

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Ms. Davis said that the standard of conduct of that committee as regards the way they approached this Board and commented to this Board was not acceptable behavior during any kind of meeting and she hopes not to see it again.

Mr. Faulkner said that he thought they were giving what they got, in his opinion.

Ms. Davis asked if we had a consensus to allow the committee to meet on August 30; that she assumed they would come back with some kind of plan of action.

Mr. Lee said yes.

**7:22 PM** Mr. Pomerleau said that, as a Board member, they need some direction from us, too, and we have been a year-and-a-half, now, since they were formed. He added that he thought their original target date for a plan to the voters was June of this year; that that got pushed off until November. He said that what he would like this Board to seriously consider is that we give them a target date to have an amended plan before the voters by June of next year.

It was the consensus of the Select Board to allow the TIF Alternative Committee to meet on August 30<sup>th</sup>.

**I. Public Comment**

**7:23 PM** Mr. Faulkner, Maple Avenue, said that at the last Select Board meeting the issue of a beer garden was discussed; that it had been brought up that there had been a drop in attendance at Eliot Festival Day (EFD) over the last few years and, perhaps, this might bring other people to attend the event, it was noted that this is a family event, would it be appropriate, what kind of people would it attract. He added that activity has, perhaps, dropped off because there are a lot of activities going on at the same time. Addressing who it might attract, he said it could be his wife and him; that our children are grown, now, so we don't come with our kids anymore; that in the past we did and in the past we participated in parades. He said that the Eliot Revolutionary War Festival and the Kittery Block Party, both billed as family-friendly events, have outside areas where people can go in, sit down, and have a beer. He added that the police noted that they have no objections to this being held; that he saw no reason why this shouldn't be tried as there appears to be no inherent legal or safety issues. He said that what bothered him in the discussion at the time was that Selectman Pomerleau stated that he was "morally opposed" to it; that, as a Town official in the execution of your duty, could be opposed for legal reasons but to say you are morally opposed to something as an official and want to have that holier-than-thou my-way-or-the-highway attitude he didn't think is acceptable in a public official; that we should operate under the rule of law. He said that Mr. Pomerleau said to Mr. McCoole this evening that, if he's on the Sewer Committee, he would have to approach

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things with an “analytical, unbiased approach” so he thinks that Mr. Pomerleau should do the same. He added that, with all that said, the issue of the beer garden should be brought up, should be considered, and it might be a good addition to EFD.

**7:25 PM** Mr. Pomerleau said that he found it a little bit odd, he guessed; that he guessed Mr. Faulkner wouldn't have been opposed to the strip club coming in, then, because that was a moral issue; that there was nothing stopping it from coming here until the Town, on moral grounds, decided they didn't want strip clubs here and, then, wrote an ordinance. He added that whether there is room for some moral judgement up here, he thinks there is and he thought that, as long as he thinks there is, he'll exercise it.

Mr. Faulkner said that he thinks there is a major difference between having a strip club in the Town and having a Town festival with a closed-off area where adults can go in and have two beers.

**7:26 PM** Mr. Pomerleau said that, if he had some sort of knowledge that the Town, as a whole, was strongly in favor of it, he would change his mind.

Mr. Murphy said that he would be willing for there to be a beer garden at Festival Day.

Mr. Fernald moved to reconsider the beer garden.

**DISCUSSION**

Mr. Fernald said that he didn't think it had any ramifications, at all, as far as the Town goes; that we've had beer gardens before at Raitt's Farm and he thinks we should have it at EFD. He added that it cannot be revisited unless someone who voted against it brings it up, again, at this meeting.

**7:27 PM** Ms. (Donna) Murphy said that, as a resident, her concern when she saw the original proposal was the incompleteness of it; that there were many things missing on the written request; that, in recalling when the department head was here, there were a few questions she hadn't answered; that she would like to see a more complete request with specifics of where it is to be located, the hours to be open, is it a financial incentive or just to draw in more people, how is it going to be monitored, what is the cost.

**7:28 PM** Mr. Fernald said that none of those issues were a reason for it to be voted down at the time; that those issues never came up but it was the moral issue on which it was voted down.

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Mr. Pomerleau said that he will bring it up for reconsideration, if that's what it takes; that he doesn't mind further discussing it; and he said that, if the majority of this Town thought it was appropriate to have a beer garden at EFD, then he would bow to the will of the people. He added that he didn't believe that was the case and he doesn't know how anybody would know.

Mr. Faulkner said that it may be an abject failure but they did say, at the last SB meeting, say where it would be located and what the hours of operation would be.

**7:29 PM** Ms. (Donna) Murphy said that that was after she had asked that question; that she would expect that, if a request is coming in like that from a department head, that it would be a complete request and have that there for the Selectmen to ponder, look at, and discuss so the SB has the full information to make a decision.

Mr. Lee clarified that the request was not by a staff member, the information was not prepared by a staff member; that her opening statement was that she was here on behalf of the EFD Committee and the information she got came from the EFD Committee; that he has personally had to represent committees who gave inadequate information, not detailed, so this cannot really be laid at the feet of the staff member; that she was in there with what the EFD Committee thought you needed; that he doesn't think they ever anticipated that it would be a problem and he doesn't think they foresaw the need for an extreme amount of detail on it. He added that they asked if she would mind going in and seeing if we can have a permit to run a little beer garden and he doesn't think we looked at it as something that needed maps and times and in-depth descriptions about the bands and two beers, etc.; that he thought it was just a simple request and she had been put up to go in there and represent it.

**7:30 PM** Ms. (Nancy) Shapleigh said that something like that could be approved with contingencies that they answer all these questions; give them a list of questions and let them answer them, rather than just shut it down.

Mr. Fisher said that he thinks the people really wanted it, probably more than he did, but everybody had an opportunity to speak about it. He added that what he thinks we probably need for EFD is some divine guidance to have it rain hard.

**7:31 PM** Ms. Davis said that it would be good if we knew; that it always has been a family day; that she would be reluctant to change it in that direction unless she felt that the public was very largely in favor of it; that, at this time, she would not even want to take it under reconsideration.

**7:32 PM** Ms. Adams said that she doesn't particularly care but she doesn't drink; that one of the ways to find out if the public really is opposed to it is to do it and find out what the feedback is from the people.



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Ms. (Donna) Murphy asked if it would be acceptable for the Board to consider having the EFD Committee come in and answer those questions and do a reconsideration after more information is in.

Mr. Lee said that it may be approaching too late a date for that, at this point.

Ms. Davis said that she thought a suggestion was made on that night that there were other days when this type of thing could be introduced, other than EFD, and that that might be a better trial period; that that's really what she would like to see, to have it occur at some other point in time.

Mr. Fernald said that he made a motion, asking if the second also had to be...

It was said that it could be anybody.

Mr. Murphy seconded Mr. Fernald's motion to reconsider.

Mr. Pomerleau asked if anyone from the public wanted to weigh in (there was no one). He said that he is sure that there are as many opposed as there are in favor; that he doesn't know how we know. He added that he personally doesn't see all those kids running around at that kind of event with a beer tent needing to be there.

**7:34 PM** Ms. Lentz said that it must stay inside the tent to drink their beer; that it won't be a hazard to the children; that they are allowed two beers. She added that she doesn't see a problem with it. She said that this festival is dying in this Town; that it is absolutely dying. She added that they can't even get vendors anymore because they have to charge them so much; that the Eliot Historical Society used to have a table there and, because we were a non-profit, we got it for free, but we now pay \$30 to \$35 and the vendors are paying \$50 on up; that they are out-pricing themselves with the vendors and that's what brings people. She said that it's a Town spirit kind of thing; that when she first moved here, we had great parades; that it seemed like every neighborhood made a float and it was great; that that isn't the way it is anymore. She said that, if it brings more people to have two beers in a secluded area, she doesn't see that it would hurt the children.

**7:35 PM** Mr. Pomerleau asked if there was a potential liability issue here for us.

Mr. Lee said that the vendor carried the liability, as he recalled from the presentation. He added that if EFD is a sanctioned event of the Select Board and you sanction the activity, it falls under our Maine Tort Claims Immunity and Liability; that we would really not be on the hook for it.

**7:36 PM** DISCUSSION ENDED

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**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – No**

**Mr. Pomerleau – Yes**

**Vote of 3 for-1 opposed passes the motion to reconsider.**

Ms. Davis asked if there was an additional motion.

**7:37 PM** Mr. Fernald moved, second by Mr. Murphy, that the Select Board allow the Eliot Festival Day Committee to have a beer concession at Eliot Festival Day.

**DISCUSSION**

Mr. Fernald said that he doesn't drink beer.

Mr. Murphy said that he did not, either.

Ms. Lentz added that she didn't, either.

Ms. (Michele) Meyer asked who the vendor was that was coming in and what sort of experience does it have in a venue like this.

**7:38 PM** Mr. Lee said that one was The Shipyard Brewery and Rudder's, both with experience, good liability, and good reputations.

Ms. Meyer asked why not try it for one year; that, if there's trouble, then it's off the agenda for the following year. She suggested it would inject a little adult draw and really makes sure that whoever is going to bring it in has got people there to make sure there are no kids and teenagers and trouble happening.

**7:39 PM** Ms. (Donna) Murphy said that she isn't a drinker, either, and was initially opposed to this; that as she was looking at all the festivals in the area she really doesn't know any that don't have any; that with it well-monitored and, if there was trouble, then we need to look at that trouble to see if it is something that can be corrected or just something that isn't working..

Mr. Faulkner said that, if the Police Chief had been opposed to this, he would not have brought it up for reconsideration.

**7:40 PM** Mr. Pomerleau asked the Chair if she would indulge him in asking for a show of hands of those in favor of it from the public.

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There was no one from the public opposed.

Ms. Davis asked if the Board would consider amending the motion to include the fact that we need greater detail but we would be willing to approve this after we get more information; that there was some discussion that night of some outstanding questions, asking if there's anything important enough that we need to be talking about it before we approve this.

**7:41 PM** Mr. Pomerleau suggested we just go ahead and approve it and, then, ask them to answer those questions; that if we found something alarming, nothing stops us from rescinding that vote.

Mr. Murphy said that his feeling was that these producers are familiar with how to do it, and do it right; so, let them do it.

DISCUSSION ENDED

**Roll Call Vote:**

**Mr. Fernald – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – No**

**Mr. Pomerleau – Yes**

**Vote of 3 for-1 against passes the motion for the beer garden at Eliot Festival Day.**

Ms. Shapleigh said that she thought it was a major mistake to put Public Comment way down as it was; that she doesn't know why we changed it, other than the SB had a busy agenda, which has gone on for years and years. She added that when the public has had a chance to speak early and not have to sit through the whole meeting where they're often times not able to say anything; that she thinks you should put it back where it was; that change for change's sake isn't necessarily a good thing. She said that there are so many things that the people have lost the opportunity to speak in this community and she doesn't think you should take that away from people that can't sit here for three or four hours.

**7:42 PM** Ms. Davis said that that was taken into consideration when the change was made for this meeting because we were interrupted at the last regular meeting and we had a considerable amount of business; that because we have one or two topics that come up at Public Comment, we could not afford to delay the business we had to conduct. She added that this is not necessarily going to be occurring every meeting but, just in the judgement of the Chair, when we need to get things done early on. She said that you probably won't see this occur very often.

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- 7:43 PM** Ms. Shapleigh said that, in years past, they would have had a special meeting of you people, or something different, but not disrupt what the public is used to having.
- Ms. Davis said that we will try to make sure that the public gets a fair chance at speaking near the beginning but, in our judgement, if it needs to be changed we will do as required; that she appreciated Ms. Shapleigh's comments, thanking her.
- Mr. Fisher said that he was concerned with what you haven't been doing; that he thinks the Charter Commission raised the question, at least a month ago, of how to fix the machines so that all the committees are operating under the same law; that they give the material (for meetings) to the people with enough time so that people going to the meetings can discuss it and it not being hid; that, right now, they are hiding it and keeping it away from us; that that isn't a good policy because they are not telling us what they are doing; that they do it behind doors, and the committees, themselves, are not even having the opportunity to read the material that they are getting and having to make a decision. He added that he thought that every committee should operate with the same rules and regulations that all the people get an opportunity to hear and an opportunity to discuss the items.
- 7:45 PM** Ms. Davis said that she agreed but we can't correct something unless we know, specifically, if something has been violated, asking if he had a specific complaint.
- Mr. Fisher said yes and that the SB will learn about it in the next couple of weeks.
- Mr. Pomerleau said to Mr. Fisher, just in general, is he talking about posting agendas in a timely manner.
- Mr. Fisher said that that was correct.
- 7:47 PM** Ms. Shapleigh said that our meetings are held on the first and third Wednesdays of the month; that there is nothing secret there; that people can come in and we've invited people to come in.
- Mr. Pomerleau clarified that agendas can be formally amended at a meeting; that you can have a published agenda and get to that meeting and modify that agenda; that he didn't know if that got into the territory; that we would see when he provided his specific issue.
- 7:48 PM** Ms. (Tina) Lane, Alden Lane, said that Mr. Murphy brought up a point on what is assigned on the agenda; that that was to be a Board decision and then, you as the Chairman, would provide the agendas. She asked if that was the way it goes or do you decide how the agenda goes; that she is trying to understand the procedure.

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**August 25, 2016 5:30PM (continued)**

Ms. Davis said that that was a good question and she needs to look it up under Robert's Rules of Order; that it's her understanding that the Chairman creates the agenda but she needs to formally look up the rules and regulations on that.

**7:49 PM** Mr. Lee said that he thinks, without splitting hairs too finely, that the Board, as a whole, tends to structure the agenda in terms of having minutes or public comments first, then deal with Public Works stuff next, etc.; that the Board sets that expectation of what that agenda will look like month after month but, within that, the items that go on the agenda, he believed, fall to the Chair Person, in conjunction with the Town Manager, of what is pressing and sort it around.

Mr. Faulkner asked if Mr. Rankie, earlier this evening, point out that in the Town Charter, it did state that the Chairman sets the agenda.

Mr. Lentz agreed that was right; that it is.

**7:50 PM** Ms. Davis said that we need to look into that and decide, as a Board, also; that if the Charter governs, then the Charter governs.

Mr. Murphy said that our Board governs what we do, in general, and this Board had decided before; that we have by-laws, which tell what we do at these meetings, including we are supposed to have a copy of the agenda order in which things are taken up in the appendix, although you won't find that appendix. He added that various forms of the agenda have been done over the years, like roll call, call to order, pledge of allegiance, was all decided by this Board; that once in a while, we need to change the departments, etc., and that exists now.

**7:51 PM** Mr. Pomerleau said that the Charter overrides any existing by-laws we have and the Charter clearly says that the Chairman shall set the agenda for all meetings, the schedule and the agenda.

Mr. Murphy said that his interpretation of that is that the Chairperson fills in the form; that, yes, she decides what are the things that are actually going to go in that slot that the Board has set up as a structure; that the Charter is not a finished document, he believes; that no charter ever is.

**7:52 PM** Ms. Davis said that the Chairman would like to be sensitive to the feelings of the Board and the reason some of these things have changed is because we have had some unusual circumstances over the past few weeks; that, quite honestly, she potentially sees some more unusual circumstances in the near future. She added that it is, of course, the Board's comfort that should govern and the Chairman is only here to facilitate the order when special circumstances dictate; that we can, as a group, work to determine under normal circumstances what the preferences will be.

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**August 25, 2016 5:30PM (continued)**

Mr. Fernald said that he would just like to point out that even to take any items, here, out of order, the Chairman has to get permission from the Board to do so for any meeting.

**7:53 PM** Ms. Davis said that that may occur after the agenda is set but she isn't sure that the agenda is set in concrete when there are special needs; that the Charter seems to indicate that there is some latitude for the Chairman to make some choices.

Ms. (Donna) Murphy said that she took exception to the comment that the Charter is not a finished document; that it is, in its current form, a finished document; that this Town voted overwhelmingly to approve that Charter and the Charter does take precedence over the policies of this Town. She added that that Charter is set until a new commission is brought forth for any changes to be voted on.

**7:54 PM** Mr. Meyer commented about public hearing notices; that he feels, specifically, that the PB public hearing notices aren't being handled appropriately. He said that on July 19<sup>th</sup> two public hearing notices were scheduled, one for August 16<sup>th</sup> and one for September 20<sup>th</sup>, and no notice went up; that he was here on August 15<sup>th</sup> and there was no public hearing notice available. He added that he found out from Ms. Pelletier that she didn't have the 13 days required to post that notice but she is in error with that statement; that she had 26 days to post that notice. He said that that public hearing is now rescheduled for September 6<sup>th</sup> and that notice is up; that he got confirmation from Mr. Lee's office, today, that there won't be a public hearing on September 20<sup>th</sup> and he is curious as to why that's the case.

Mr. Lee said that he didn't have an answer; that we just communicated later today and he has not looked into Mr. Meyer's rebuttal to what Ms. Pelletier did; that Ms. Pelletier did send Mr. Meyer an explanation of why things didn't work out time-wise and Mr. Meyer wrote back disagreeing with her, sending some more information, but he (Mr. Lee) hasn't had time to follow up.

**7:56 PM** Ms. Davis said that we have two issues running right now; that we were originally talking about agenda formation or creation and that's not something she is sure where we can go with, asking if it is yet another legal opinion that we have to get or can we just agree that we have some special circumstances that the Chairman would like a little latitude. She added that, if you (Mr. Murphy) say there is a template, could you provide a copy of that, because she doesn't have it.

Mr. Murphy said that it is supposed to be in the by-laws but we can agree on one, as a Board, and adopt it.

Ms. Davis reiterated wanting to be sensitive to Board member feelings but wanting to be able to reserve some latitude for special circumstances. She asked

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**August 25, 2016 5:30PM (continued)**

to be allowed to give some thought to this, provide me with information, and then we'll address this at a future meeting.

**7:57 PM** Mr. Murphy said that the form we had before had been agreed on by the Board and, so, that is fine; that to change it in the way that you changed it the last two meetings without getting our feeling about it was wrong, he thinks; that it felt very wrong to him.

Ms. Davis said okay, we will look into that issue. She asked if we were still in agenda; that she would like to introduce a comment that Mr. Rankie was here for weeks ago, she thinks, addressing this issue, asking if we have not resolved the PB agenda issue satisfactorily because there should be an agenda posted seven days before.

Mr. Lee said no, that it should not be.

Ms. Davis said although that may be, it needs to be there; that it is the rule so what is the problem.

**7:58 PM** Mr. Lee asked what rule.

Ms. Davis said that there be a seven-day posting prior to a meeting.

Mr. Lee clarified of the meeting – public notice of the meeting; that it's only three days when it's a regular meeting and seven days when it's a special meeting; that there is no reference to putting in an agenda; so, although we keep hearing folks talking about needing to put it up seven days in advance, it is simply not true. He reiterated that the notice of a public hearing, the notice of a meeting, is three days if it's a regularly-scheduled meeting; that if it's a special meeting, off base, like we are having September 14<sup>th</sup>, it's seven days' notice, but nowhere in that Charter does it say an agenda must go up. He added that he thought that was the Charter Commission's intention, or maybe implied, and he does try to comply with that, anyway, because it's the right thing to do but, for the people coming in saying it's required, it's the rule, etc., they are wrong.

**7:59 PM** Mr. Pomerleau said that he agreed 100%; that we went through this last time that it's just good practice to try to have the agenda up with the notice of the meeting but three days is what the Charter says for a regularly-scheduled meeting, like the Sewer Committee or the PB or whatever; that it doesn't specify in the Charter a timeframe that an agenda has to be posted. He added that that's not to say that State law on a public hearing on a land use matter before a PB may have other posting requirements that the Charter does not conflict with. He said that the State statutes on the legal requirements for PB public hearings would still stand.

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**August 25, 2016 5:30PM (continued)**

- 8:00 PM** Mr. Lee said that he would say, regarding Mr. Meyer's screen shot confirming what he was saying, and it does appear that we had almost a month, at least, just to post that we were having a public hearing so he still wants to look into this.
- 8:01 PM** Ms. Adams said that we do have a problem with the PB and the agendas because we've been told many times that, in order for something to be on the agenda, it needs to be submitted ten days before; that there are many things, such as public hearings, that are planned for the meeting before or two meetings before; that there's no reason why the public can't have an agenda to know what that Board is doing. She added that she doesn't know if it needs to be addressed in the by-laws of these committees; that things need to start changing because there just isn't a reason; that she hasn't heard a good reason, yet, why it can't be done because that board, like every other board, has their own set agenda structure and all you have to do is plug it in and, if something changes, okay. She said that the public is the one that suffers from that because we don't know, especially with the PB and BOA, what is going on in those committees and what they're going to be talking about. She added that the window for anything, whether it be coming to a hearing, asking for reconsideration, or planning an appeal, are time-sensitive things and the public deserves to know what the board is doing; that it only takes a minute to fill that in; that there's a template and it can be done.
- 8:03 PM** Ms. Davis asked if the BOA gets agendas out in a timely fashion.
- Mr. Lee said that that is per State statute.
- Ms. Davis asked what the timing was on that.
- Mr. Lee said that you have to have that stuff in to the BOA almost a month beforehand; that we have a lot more lead-time on that than we do with the land use codes; that the land use code gives all deferential treatment to people coming at the last minute getting on the agenda; that he's explained that many times.
- 8:04 PM** Ms. Davis said that he's explained it but, under normal circumstances, they understand it can change but you've got a lot of information up front, asking if there is any reason it can't be done for them; that we have interested citizens, here, requesting an agenda.
- Mr. Lee said that he is trying to work on it; that you may have noticed that we have a lot of other things on his list that he needs to do; that he will work on this, that he did meet with folks about it.
- Ms. Davis said that Mr. Lee doesn't have to do it, though; that this is the PA and Chair of the PB.



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**August 25, 2016 5:30PM (continued)**

Mr. Lee said that he understands how to run staff and get things done; that he also understands that we...he loves people that say there's no reason and, yet, they aren't here every day at the Town Office and he thinks it's ironic that they can say that.

**8:05 PM** Ms. Meyer said that Mr. Lee said that folks with land use issues come in at the last minute with information, asking how that squared with the 10 days that's necessary.

Mr. Lee said that it doesn't; that we are limiting on the 10 days; that, in fact, he thinks Ms. Meyer came down two days prior to the actual meeting asking to get on the agenda and she was told no; that we are consistent that you have to have it in; that it's bad enough that it's ten days out and there's a weekend in there.

Ms. Meyer asked about his statement about people coming in at the last minute, she doesn't understand why.

Mr. Lee clarified that he wasn't talking about coming in at the last minute after the 10-day thing; that he is talking about he's seen days when Ms. Pelletier has not had one moment without somebody either in her office or waiting to see her, not one moment; that he doesn't mean occasionally, he means a lot; that there is one developer, here, that comes in three times a day for 45 minutes at a time. He added that, if a person comes in and wants to talk to a government staff person, he considers it a pretty high threshold for him to say that he's sorry but go away, he's got an agenda to do and you've wasted enough of his time; that he can't say that to people and, so, we are at the whim of people who come in, abusively frankly, sometimes, especially with the PA, and consume the one-and-only person he has – their time; that they are supposed to be reviewing the application, by the way, and this is something that nobody seems to see; that some of these applications are very thick and cumbersome and they have to be gone through, you don't pop it up on the agenda; that you actually have to know what's coming up and research different elements that are going to need to be on that agenda before you can write it; that it isn't like people say it is and a simplified view of the world that doesn't exist.

**8:07 PM** Ms. Meyer asked if Ms. Pelletier was a consultant to the local developers.

Mr. Lee said no; that they come in and ask what they need to provide and she's already told them, told them three times.

There were several minutes of heated discussion around this.

Mr. Lee said that he has discussed getting a land use ordinance change or an additional staff person to resolve this.

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**August 25, 2016 5:30PM (continued)**

**8:10 PM** Ms. Meyer said that perhaps the developer that comes in three times to ask Ms. Pelletier over and over for more information, they just come to the PB and present their case, and if they don't have their own ducks in a row, it shouldn't be her job to get them in a row for them.

Mr. Lee said that the PB has a different view of her work of preparing them so, when they get in front of the PB, the PB is not wasting their time; that there is another side to all stories and there's a lot of pressure coming in from all avenues.

Mr. Pomerleau said, in Mr. Lee's defense because he thinks we've been through this so many times, and not just with Selectmen, because he's been at PB meetings with the issues; that he heard what Mr. Lee said earlier and agree with what was announced; that this is clearly one of those cases where the ordinance allows someone with something on the PB agenda to come in well inside the notice period and get something before the PB, which would fall into the context of the PB having the authority to amend their agenda because of the material that was provided two days before. He added that there is nothing wrong being done; that it is that you have two standards that currently just don't jive together very well. He said that, on one side, if you are going to try to back that timeline back for being able to produce material, then people are going to complain that the process of the PB business is going to be encumbered, no question, and, if you leave it the way it is, then you have some flexibility about being able to amend the agenda.

**8:12 PM** Mr. Lee said that he doesn't have either.

Mr. Pomerleau said that he doesn't see a happy solution, other than what Mr. Lee said – amend the ordinance so that they can't do it.

Mr. Lee said that the only solution he sees is that you've got to give us more time to process your paperwork so he can notify the public of what work it is that committee is going to do; that if you don't want to give him much time, you won't get much notice.

Mr. Pomerleau said that he understands that he is on the outside and Mr. Lee is on the inside and dealing with the details of it every day; however, if somebody gets so bothered by walk-in traffic, he doesn't care if it's the Planner or Treasurer or whatever, then you have to start setting some appointment times but it's going to be a process.

**8:13 PM** Mr. Lee said that, respectfully, we have tried to do that; that people don't necessarily care that they have an appointment; that they don't care and, when they are in front of your door, they are going to start talking about their subject, whether they have an appointment, or not; that short of saying get out and, with

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some people, and you know who he's talking about, you would literally have to hit them with a flyswatter to get them to go away. He added that it's great to sit out here and think you know what goes on but he is telling them it is not as simple as it appears, folks. He said that he is not trying to hide anything or get information out late; that that is not an intent in any way, shape, or form but it certainly feels like he is being accused of that.

Ms. Davis said that we realize that there are some things that come in under the wire after that, asking if there was any reason why.

**8:14 PM** Mr. Lee said that, with this public hearing, he doesn't, maybe, see a reason; that he has to look into it. He added that he thinks we can do better in some areas; that he thinks, maybe, we haven't pushed as hard as we can push and he still wants to deal with pushing it more; that we are trying to come a long way, here, in the short period of time he's been here on a million different fronts; that you aren't going to get perfection on every one.

Ms. Davis said that it is not a criticism, please don't feel that way; that what she is hearing from the audience tonight is that they want the preliminary agenda out.

Mr. Lee said that he has a solution for it; that it will seem a little snarky but he can put out a temporary agenda all the way out through the end of time; that it will say agenda, call to order, roll call, no idea, adjourn, and we will fill it in as we can.

**8:15 PM** Ms. (Donna) Murphy said that she was not saying this as a criticism because she hears what Mr. Lee is saying; that this Town, for as long as she has lived here, has been a pretty open-door policy; that she has come in many a time, not knowing what Mr. Lee is doing, and he has said to come on in; that it really is changing a habit and setting those kind of office hours and being firm with people, if people show up insisting on talking with Mr. Lee, of acknowledging the importance of that person's issue but that he is in the middle of something and let's set a time to talk, and also being respectful of the worker's times. She added that that is changing a mindset that has been for years and years and years but this Town has gotten bigger and it has changed. She said that she works with the public all the time and, if she wants to talk to somebody, she schedules a time and lets them know how much time she's going to need; that she works with various entities and that's just how it's done these days.

**8:16 PM** Mr. Lee said that he has put in writing to Ms. Pelletier that he needs her to find an hour or two each day and close her door and put unavailable, don't even leave it open. He added that she doesn't do that because of exactly what was said – we don't want to appear to...we will then have people coming in and saying they can't get in to see the Planner, she's always locked in her office; that it doesn't

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matter what he does, there is always someone else that will say how we are doing it wrong; isn't that clear.

Ms. Adams said that, if it's important to the Town, it's important for the Town to do that.

Mr. Lee said that an open-door policy is important, too.

Mr. Pomerleau said that the Town has outgrown the capacity for that and he is sure Mr. Lee knows that.

Mr. Lee agreed, and that's why he put it in writing the assistant to the PB, in particular, because she is going to need to shut her door, with no full access, and they can come see him about it because of people like we have here tonight that have certain expectations of timeliness.

**8:17 PM** Ms. Shapleigh said that it isn't just timeliness; that time is money to people and, if you've got a loan, if you're going to sell your house and somebody asks if they can do this or do that, and you think that you can but you've got to be able to get it in writing that you can; that, with a loan, you've got to use it within a certain amount of time. She added that she was saying that in Mr. Lee's defense.

Mr. Lee said that he got that, too; surveyors, realtors, etc.

Ms. Shapleigh said that they don't live up to their commitment, and you put back, and how do you give so many days' notice if somebody isn't delivering.

**8:18 PM** Ms. (Donna) Murphy said that she thinks people are probably going to complain and, then, they're not, because everybody complains when there's change. She added that there were complaints when the Town Office closed down on Wednesday afternoons and she never hears anything on that anymore; that people get used to it. She said that she thought that, out of respect for the work that has to be done, it is that they are doing the Town's business and they need uninterrupted time to complete certain work.

Mr. Lee agreed that they do. He added that he sees our Finance Director trying to do very complicated math and she has to answer the phone for the Town Office; that it's just beyond the pale.

Mr. Lentz said that, as a member of that PB for several years, he cherishes the thought of seeing new people coming in here and asking questions. He added that he thought a lot of the problem is people don't understand the complexity of what happens in Ms. Pelletier's office and what we demand of Ms. Pelletier in terms of information. He said that Ms. Pelletier tries to get stuff out piecemeal to him,

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**August 25, 2016 5:30PM (continued)**

electronically; that normally he sees a part of an application, or an application, maybe on a Thursday or Friday before the Tuesday meeting; that he'll spend four or five hours on every one of those applications and that is with the information that Ms. Pelletier has already sent. He added that it has become more and more complex - the relationship between the application and the ordinances, just the things they want to do in these applications; that some are a piece of cake but there's not many like that. He said that Ms. Pelletier has a lot of work and, he, for one, doesn't know how you say no to a couple of contractors who are standing there with drawings waiting to ask a question.

**8:20 PM** Ms. Davis said that, in the City of Portsmouth, certain departments say that they have open public hours between 9AM and 11AM.

Mr. Lentz agreed, saying that they have multiple people working in those departments; that it's not a one-man band.

Ms. Davis said that it's even more important for Ms. Pelletier to be saying that and, with expectations, people will get to know she is busy between certain hours.

Mr. Pomerleau said that he spent years with the public, and lots of them, and having to manage people that want to come in on-demand; that when it gets to the point where her time gets that pressed, there's no option but to set appointment hours. He added that, plain and simple, her priority is her Town's business.

**8:21 PM** Mr. Lee said that we were going to have to; that he wanted to make sure he had the backing of the Board.

Mr. Pomerleau said that letting the Town's business go undone is not an option.

Mr. Lee said that he understood, but, there too, at one point we sat down and talked about improving customer service and he thinks shutting the door on people isn't a good start; however, it may be a necessity and he needs to make sure he has the backing of the Board that we can't get our work done with this level of staffing and your level of expectation, it doesn't meet.

Mr. Pomerleau said that it sounds like you may have some particular individuals over-relying on Ms. Pelletier doing their work.

**8:22 PM** Mr. Lee said that, frankly, many, if not most, of the developers that are participating in anything in this Town have an overwhelming need to occupy her office non-stop and it is because, in some ways, they're trying to find the least amount they can do – a work-around, what can they avoid, if they do 'this' can they avoid it then – that's a lot of what takes place.

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**August 25, 2016 5:30PM (continued)**

Ms. (Sharon) Magnuson said that, with all the information that Mr. Lee has shared, and others, it sounds to her, with the growth that is happening in our Town, it seems to her that we need at least one more full-time person to help carry the load that is going on.

**8:23 PM** Mr. Lee said that even a part-time person would be a blessing; that part of that is that a lot of us spend so much time doing diddly work; that he has seen Ms. Pelletier stand at that copier for an hour doing \$10/hour work, or less, because we don't have anybody else. He added that he copies his own stuff because his secretary is doing general assistance; that it's thin, folks, it's thin.

Ms. Davis said that she knows in the past Mr. Donhauser recommended cross-training because there were periods of downtime.

Mr. Lee said that we've done a lot of cross-training, actually.

Ms. Davis asked if they could be of some assistance or help.

Mr. Lee said that he has done that, as well; that, with regard to the BOA, where the CEO was doing all of her own photo-copying, the abutter's letters, etc., he asks her not to do that now; that he goes in and finds the least busy counter clerk and use her to do administrative work on this particular task; that we've cross-trained two people on payroll, two on sewer billing, because, before, we had nobody backing each other up ; that he's really started with precious little.

**8:24** Ms. Davis asked if there was consensus on the Board that Mr. Lee can start to implement some of these changes as he sees fit.

Mr. Lee said that he thought that was within his purview, anyway.

Ms. Davis said that he was looking for some agreement.

Mr. Lee said that he is and he's just glad he has support that it may require us to be a little bit more firm and greedy about our own time.

Ms. Adams asked if there has been any headway to use people who are on general assistance or, perhaps, need help.

Mr. Lee said that there are some things we could do; however, many of these things are of a somewhat confidential nature and we'd have to be a little bit careful with that; that we are close to implementing a work fair policy but the work we would have general assistance recipients do would be quite limited.

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**August 25, 2016 5:30PM (continued)**

**8:25 PM      I2) Correspondence: Granite State Wheelmen, Inc.**

Mr. Lee said that this is a short memo about a bicycle club; that they don't have conflicts in coming back to Eliot on their long group bike rides and gave a couple of dates in 2017, 2018, and 2019 when they would be coming through our Town, again; that they haven't been here since 2012 because they had some conflicts with some of our activities.

**8:27 PM      I3) Correspondence - Paul Sycamore**

Mr. Lee said that Mr. Sycamore's letter is very directly related to what we're going to discuss on September 14<sup>th</sup> and his intent would be to bring this letter as part of the submittals the Board has received, with regard to decisions the Board is facing on September 14<sup>th</sup>, when he thought it would be more pertinent.

**J.      Old Business:**

**8:28 PM**      Mr. Pomerleau said that, regarding the Eliot Festival Day discussion, he saw something in the TIF statute that allowed local festivals like that to be funded as economic development to promote the Town.

Mr. Lee added Business Afterhours or those shows where the business people in your community do a trade show; those are eligible activities, as well.

Mr. Pomerleau said that Mr. Lee sent around on something that MMA had sent out on resource for opiate actions that a town could take; that there was one thing in there that seemed to him immediately beneficial was a resource sheet if you need help, showing what's available in the surrounding towns.

**8:30 PM**      Mr. Lee said that he did share it with the Police Department but he will look at that resource sheet and try to get it out in circulation

**L.      New Business:**

Ms. Davis said that we did receive a letter from the DEP and she knows Mr. Lee is working on that, asking if he could just expand on that.

**8:31 PM**      Mr. Lee said that he received a draft response this afternoon and it's on his desk; that he has not even reviewed it, at this point. He added that we are responding with all the different steps we are taking and do not think we are sitting back and waiting for this thing to fail. He added that, by the way, that sewer main break turned out to be a water main and what was coming up was water. He explained that the DEP letter said that we are aware that you have still not come up with a solution to what appears to be imminent failure and we've warned you before that

**SELECT BOARD MEETING**  
**August 25, 2016 5:30PM (continued)**

you need to do something; that we're warning you, again, and these warnings, if you ever do have a discharge, are increasingly putting you in a position where you are going to get fines.

**8:32 PM** Ms. Davis said that, when Mr. Moulton is here, she would like an update on Pleasant Street and an update, ultimately, on how the stormwater is progressing, as there is a budget item for that.

**M. Selectmen's Report:**

Mr. Fernald said that it must have been a month, or more, ago that we talked about the vote coming up at a Selectmen's meeting; that we had voted at a past Selectmen's meeting, he believed, to put on the ballot a 90/10 split and he voted for it; that he was not happy with the vote he made. He added that he talked to the Town Manager about that and told him he was upset with his vote and he was thinking about reconsidering the vote. He said that he told the Town Manager he wouldn't reconsider unless he knew that it was something the TIF could do legally, as far as the pump stations were concerned; that he didn't directly ask the Town Manager to contact legal but, with that statement he made to him, he would have assumed he (Town Manager) would have done that; that if he was in his position, he would have taken it as he needed to go get a legal opinion; that that was wrong in his part (Mr. Fernald) and he will try not to do that, again. He clarified that why he was bringing that up is that this whole Board needs to stop doing that; that it has to come from the whole Board; that we need to bring everything out in the open so the public can see what we're doing, no assumptions. He said that he thinks that, as a Board, we need to make those decisions and not instruct, in any way, our employees to do something outside of this Board.

**8:35 PM** Ms. Davis said that there is a certain amount of latitude that Mr. Lee has in trying to address questions that we may have on upcoming meetings where there's an issue of timeliness and that becomes problematic; that if, tomorrow morning, she thinks of something we're really going to need for the meeting on the sewer and we don't have a meeting coming up until then and we can't get together, as a Board, we need to resolve, then, how we can address that situation.

Mr. Fernald said that he understood that, asking if Mr. Pomerleau would like to speak on the subject.

Mr. Pomerleau said that, not miles apart, but apart on what that all means; that, as the Town Manager, he has a lawful area of responsibility and we have no authority to impose on him any actions that are his call to make; that that doesn't preclude the Town Manager from having a discussion with anybody on this Board to come to the conclusions he needs to come to. He added that, if we are going to



**SELECT BOARD MEETING**  
**August 25, 2016 5:30PM (continued)**

function, as a Town, waiting for one of these meetings every time detailed stuff needs to be talked out that is short of a direction or a policy or an action, we'd never get anything done. He said that he doesn't think there's anything particularly wrong with any of us talking to the Town Manager on a subject matter; that if it crosses the line with directing him, then he has the lawful authority to say no and he needs to be the arbiter of that line. He added that he thought that Mr. Fernald was almost going to the point of suppressing effective communication amongst Town officials that come short of action.

**8:37 PM** Mr. Fernald said to Mr. Pomerleau that, in an email Mr. Pomerleau sent, he cc'd our lawyer and some employees of the Town and that is inappropriate.

Mr. Pomerleau said that it came that way.

Mr. Fernald said that he didn't care how it came, you sent it.

**8:38 PM** Mr. Murphy said that Mr. Fernald included him in those that he was desiring to hear what he was saying; that he heard it but he also says that he is not on email; that he knows an awful lot about this Town and the way it kind of used to run and hoped to do and he is very concerned about where we are now and what's going on; that when he thinks about this whole situation, it kind of resolves itself into different problems or possible actions, and so forth. He added that rather than calling this Board together regarding an idea or a worry, he's learned all his life to ask the questions of himself and, so, he will do an awful lot of work on his own to decide whether there is a problem and what kind of problem; that no one knows he's working on it, at all; that he isn't using anyone's time, he's using public information where it is possible, and he's certainly not talking to lawyers.

**8:40 PM** Ms. Davis thanked Mr. Fernald for his comments and she does believe that it is something that could potentially get out of control and she thinks we need to give some thought to, maybe, if there are certain problems or roadblocks that we feel are in the way, we need to discuss what procedures we could develop to go around them...so that we could do it appropriately and make everybody more comfortable.

**N. Committee Vacancy Report**

**8:41 PM** There was no report tonight.

**O. Other Business as needed**

There was no other business.

**P. Adjourn**

**SELECT BOARD MEETING**  
**August 25, 2016 5:30PM (continued)**

There was a motion and second to adjourn the meeting at 8:42 PM.

**VOTE**

**4-0**

**Chair votes in the affirmative**

**Approved     10-25-16**  
**DATE**

**S:/**  
**Mr. John Murphy, Secretary**