

# **BOARD OF SELECTMEN'S MEETING**

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

## **Quorum noted**

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

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

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

**E. Approval of Minutes of Previous Meeting(s)**

**5:31 PM** Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of December 10, 2015, as amended.

**VOTE**

**4-0**

**Chair concurs**

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of February 9, 2016, as amended.

**VOTE**

**4-0**

**Chair concurs**

**F. Public Comment:**

**5:53 PM** Ms. Davis said that she did a review of the ED279's that are produced by Maine Education; that MSAD #35 is going to be down, unless it changes, by \$1 million this year. She added that it looks like Eliot's share has been reduced by \$371,000 and our piece of it has been increased by \$193,665; that if this remains fixed and the school budget was flat-funded, Eliot's share of school costs will be an additional \$564,670.

Mr. (Jim) Tessier said that the school board still believes there are some calculation errors and hoping to get some resolution on that.

**5:55 PM** Mr. Lee said that he thinks the Department of Education has already addressed what they know to be some errors in some numbers and granted a number of exemptions, Eliot's not being one of them; that we are on round 2 appeal and optimism is not real high.

**G1. Department Head/Committee Reports**

**5:56 PM** **1) Information Technology Committee: Disband the Committee**

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Mr. Lee said that the committee has not been very active the last couple of years; that there are two members who want to remain on-call should he need their input on any IT issues. He added that there was pretty much unanimous agreement by the committee to disband as the Town has Two-Way Communications and the committee isn't needed as it was when it was created.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen disband the Information Technology Committee as of February 25, 2016.

**DISCUSSION**

Everyone was in agreement that the IT Committee had had a good impact on the Town and that they deserved the Town's thanks, a great resource for the Town.

**VOTE**

**4-0**

**Chair concurs**

**G2. Public Works**

**5:58 PM 1) Legal Opinion Re: Stormwater Budget/Heating Fund**

Mr. Beckert said that the response has not come back from the attorney, yet, so we will continue to carry that until it does; that this is informational, at this point.

Mr. Lee said that Ms. Davis had some additional information and that she asked that she be allowed to send additional comment on our comments; so, that went over to our attorneys, as well.

**2) Sewer Ordinance Appendices – Sewer Standards**

Mr. Lee said that they are keeping a list of things that may need adjusting in the sewer ordinance and asked the Board to let him know of anything that stands out to them as they review the appendices.

**6:00 PM** Ms. Davis asked if Paragraph C – Foreclosure meant that we can foreclose on someone's house because of a sewer bill.

Mr. Lee said yes; that it goes through the same process as for a tax bill; that to his knowledge they have never foreclosed because of this.

Mr. Moulton added that there is an additional cost of \$300 to \$500 when processing a lien for a sewer bill.

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**6:03 PM** Ms. Davis said that it says no notice needs to be given for a pending sewer foreclosure and asked if this could be modified to bring it up to the same standard we have for property tax notifications.

Mr. Lee said yes, that's a very good point and is exactly the type of feedback we are looking for.

Ms. Davis discussed her concern that the ordinance requires that, when a house sells, the new owner has to hook up to the sewer, regardless of the condition of the septic system; that she wished we could have some discussion over this.

Mr. Lee said that we would look at that one, as well. He discussed the sample brochure from the York Water District he included in the Board's packets covering what to expect as a sewer user and intends to do something like that once we have everything else nailed down.

Ms. Davis said that there is no mention of the lien/foreclosure information in that pamphlet and suggested a paragraph be inserted.

### **6:05 PM 3) Tree Cutting Notification Policy (1<sup>st</sup> Reading)**

Mr. Lee said that we tried to keep this simple and we are looking for feedback.

It was asked that 'who' be changed to 'whom' and that Mr. Moulton's title be added.

**6:08 PM** Mr. Pomerleau commented that this seemed too generic and wondered if it could be more specific to be clearer so as not to create unnecessary questions.

Mr. Moulton said that, in some cases, we travel the length of the street on both sides; that this could be only a few impacted homes or an entire street.

Mr. Lee said that we will bring this back in two weeks and, if you have any comments or you think more deeply about what Mr. Pomerleau said, or something like that, please let us know.

### **G3. Administrative Department**

#### **6:10 PM 1) Town Manager Activities Report**

##### **a. Financial Reports**

There was no discussion.

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**6:11 PM      b. MSAD #35 Opiate Response Letter**

Mr. Lee read from Dr. Nash's memo regarding what the school district is doing regarding this issue, advising that on April 15<sup>th</sup> there would be two sessions for Marshwood students, with parents and community members welcome to attend. He added that we will be receiving a flyer and invitation to attend once the times are set and will keep the Board informed.

**6:13 PM      2) Workshop/Meeting on March 3, 5:30 PM "Sewer Funding"**

This is an informational reminder.

Mr. Fernald stressed getting the word out on this workshop; that this is very important and we need all the input and help we can get on this issue.

**6:15 PM      3) Reconsideration of Pursuing Business Assistance CDBG Grant?**

Mr. Lee said that present were Brian Doyle and Andrea Smith, Department of Economic and Community Development (DECD) and the owners of Modernist Pantry (Janie Wang). He reminded the Board that the last time they had discussed this they felt uncomfortable putting the Town's money at risk if the requisite number of jobs were not created. He discussed this with Mr. Doyle and Ms. Smith; that they offered to come in to discuss this and sent a sample Memorandum of Understanding that has been used by towns and cities and the company that receives the grant and is a type of protection used for this.

**6:17 PM**      Mr. Doyle introduced himself, saying that it's his job to support business needs in York and Cumberland counties, discussing that Modernist Pantry contacted him concerning the business they want to bring back to Maine and Eliot, pursuing options to help them. He added that one option was the CDBG (Community Development Block Grant) for businesses creating jobs; that the Board has raised some very good questions about the Town's responsibilities and mitigating risks and that is why he brought Ms. Wang and her husband in to talk about their business and Ms. Smith regarding some of the safeguards put in place to minimize the Town's risk factor. He said that he thought it was a good program and works effectively around the State; that he thought they should listen to the owners' passion about their business and, then, the Board would be in a better place to make a good decision.

**6:19 PM**      Ms. Wang gave the Board a handout that gave them an idea of what they do in their business, explaining that they started in York in 2011, moving to Eliot in 2012 and running the business out of their home for a year until they got too big for their home; that they ended up going to Portsmouth because there wasn't enough space locally. She added that they were able to secure and purchase land

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in Eliot and plan to move our business, and the jobs, to Eliot, which we would love to do. She said that, essentially, we sell specialty cooking ingredients online, we have customers all over the country and all over the world, and we've been mentioned multiple times in the media as a reputable source for different types of food ingredients. She added that we have a lot of respect in our particular industry, we have a pretty strong presence, and we'd like to bring that all back. She said that, in starting construction budgeting, the pre-assessment came in low because their new construction was compared to older, built construction. She added that they believe the CDBG is a good match because, by moving back to Maine, we are creating those qualifying jobs; that she has talked with all her employees and they are happy to move with us and, as of right now, 100% of our employees qualify for that LLI base they need to have.

**6:21 PM** Mr. (Chris) Anderson said that from our perspective the opportunity is, for the State, creating jobs and bringing in income tax revenue, sales tax and use tax revenue; that for the Town building something on Route 236 that looks nice, business property tax, and, from our perspective, we will have a facility that will meet our needs, both now and in the future. He added that we understand that the Board has some concerns and we are here tonight to try to address those concerns.

**6:22 PM** Mr. Fernald asked what the responsibilities of the Town were.

Ms. (Andrea) Smith said that the Town serves as the conduit for the funds; that the Town and business apply as a partnership; that if the grant was awarded the monies would flow through the Town to the business, with a public hearing, and other, requirements that have to be met. She added that, usually, the business tries to pick up some of the costs so that it doesn't fall on the community. She clarified that the Town would only have to repay the dollars if the company didn't create the required number of jobs. She said that, if the company is requesting \$150,000 from the CDBG (for example), then the company has to have \$150,000 of their own ready to do this project and, then, would have to create five jobs in support of that \$150,000.

**6:24 PM** Mr. Fernald said that, if the jobs are not created, then the Town has to come up with the money, asking if that was correct.

Ms. Smith said that that would be a last resort. She clarified that there is an extreme amount of monitoring that happens during the project; that if they are funded, they would have at least a year to create those jobs. She said that this situation was unique because we are starting with a business already in existence and, because this business is new to Maine, they are starting at zero; that anyone who comes through that door as an employee is new to Maine and counts as a new job; that the uniqueness is that, as soon as those people are here, we're counting those jobs. She added that it is her responsibility to make sure the

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company is spending their money appropriately and documenting those jobs; that in her opinion there are a lot of checks and balances that during the course of that period of time we allow them to create those jobs. She described an example where a company did not fulfill their obligation for job creation; that another company was found that would create the required jobs and we were able to write that money off and not have the Town pay it back.

**6:26 PM** Ms. Wang said that we don't want to put the Town's money at risk; that we are willing to fully indemnify any funds that travel through the program personally.

Mr. Fernald said that he understood and that this Town is pro-business. He said that his concern was for the Board's authority to go into this knowing that it's possible the Town may have to pay; that he didn't think this Board had that authority.

**6:27 PM** Ms. Smith agreed that the Board didn't because you are a Town Meeting form of government; that this has to go to Town Meeting. She added that the Letter of Intent is a very preliminary step that puts the company as placeholder to apply; that you have to have Town Meeting approval; so, it isn't just the Board giving approval, and we give you the warrant language. She added that we have had boards in support and towns that did not approve it. She also said that we have seen towns that don't release the dollars until we've signed off on the jobs; that the Town does have some control over this, reiterating that there is a lot of monitoring on these projects because the last thing we want is for communities to have to pay back money; that the whole purpose of this is community development and the business is the one who has to meet all the requirements in order to do it.

**6:29 PM** Mr. Lee asked if the business had to meet and stay at the employee threshold for 10 years, 3 years, or just hit it once and you sign off saying they did it. He also asked what the form of the security is because the worst-case scenario is that the business fails and leaves.

Ms. Smith said that the form of the security varies by community; it could be a performance bond in the amount of the grant, a memorandum of understanding; a junior lien on the property or equipment.

**6:31 PM** Mr. Lee said that a performance bond is pretty solid as a way to insure yourself; that they do get called and you do get paid.

Ms. Smith said that the difficulty with a performance bond is how cash-strapped a business might be and whether the business would have that amount to set aside to cover the grant.

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Mr. Lee clarified that a performance bond is about 4% of the amount; that if it was \$100,000, although it may vary, and for \$4,000 you can hold a \$100,000 note during the period until you get signed off.

**6:33 PM** Ms. Smith said that there was no requirement that the jobs remain in place for a period of time unless we were to put that requirement on a business, which we've done only on those businesses that are in a higher range (\$500,000 for example). She clarified that, once the jobs have been created and we sign off, then the Town is no longer required to pay those funds back, even if the business closes the next day.

**6:34 PM** Mr. Pomerleau discussed negative experiences with State-funded programs and not being terribly optimistic about State-funded job programs; that he was keeping an open mind. He said that he didn't see anything in the job criteria that required these jobs to be Eliot residents.

Ms. Smith said that they ask that the community where those jobs will be held is the community that applies but there is no requirement that those individuals have to reside within that community.

**6:35 PM** Mr. Pomerleau asked why the State involved the Town in the middle at all; that if the business folds up they can provide any kind of indemnity they want but, if they're gone and have no money, you aren't going to collect from something that doesn't exist.

Ms. Smith said that we are federally-funded program and it's just administered State-wide; that we receive money from Housing & Urban Development (HUD). She added that new development block grant funds are utilized across the country and Maine is one of the few states that utilizes a portion of their money for economic development and projects; that most of those funds are used for housing and public infrastructure. She said that this program being federally funded dictates how it is administered and it dictates it to be administered through a community. She added that the original nature of the program was for funds to go directly to communities for projects and, now, we have other programs that allow funds to flow through towns to private entities.

**6:38 PM** Mr. Lee clarified that when CDGB came out 25 years ago there were only four or five programs and they all went through the community and, now, you can apply in a much broader spectrum through the community to private economic development projects within the community.

**6:39 PM** Ms. Smith said that there is a bigger focus on economic development and workforce and, so, there has been more money put into those programs; that

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interest in the programs have grown and, now, we are doing a lot more projects in those areas than we were ten or twenty years ago.

Ms. Wang suggested it might be helpful to voters not to focus on historical things, such as what happened with Eliot Commons; that that was a very specific situation and, in our particular situation, this is not a long-term liability for the Town, reiterating that as soon as we moved those jobs back to Maine they become qualifying jobs and the bond is essentially released. She added that they live here and they want to stay here; that unless a catastrophic event happened she doesn't think that would be a valid concern for this situation.

**6:40 PM** Mr. Pomerleau asked, with the eight employees Ms. Wang has, how many jobs would be required to be created.

Ms. Smith said that it's based on the request. As an example, she said that they have a \$300,000 project, they are coming to us for \$150,000; that we allow \$30,000 per job so they would have to create at least five jobs and three of those would have to be low-to-moderate-income (LMI) – 51% of five; that that meets the threshold of our program. She clarified that the number of jobs is dependent on the amount of the grant.

**6:41 PM** Ms. Davis asked how we would know the level of risk.

Ms. Smith said that the Letter of Intent (first step) outlines who the business is, the project timeline, how they will use the money, where their matching funds will come from, how much they are asking for in the grant application, and how many jobs they say they will create; that this is the placeholder to even be invited to submit a full application. She added that there is nothing binding about this document; that the application would be submitted in May and means the pieces to put that application together would need to be done ahead of that; that that includes the Town Meeting approval. She said that this is an extremely competitive program; that the \$2.7 million we have covers the entire State of Maine, adding that we had 20 applications in the first round last year with \$6 million to \$7 million in requests.

**6:43 PM** Ms. (Nancy) Shapleigh said that she thought it was an interesting program and we should look into it; that she thought it was worth learning more about and encouraging.

Mr. Lentz said that, in thinking about the TIF Alternative Committee and them looking at advocating bringing in economic development, this may be a good thing to really understand how all that stuff works.



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**6:44 PM** Mr. Lee said that when we looked at that TIF development program, there was a whole section on business incentives. He added that, on its face, Eliot doesn't seem that keen, sometimes, on these; that they're leery because of what Mr. Pomerleau was talking about in that we've seen a couple not work great. He added that he thought learning the ins and outs would be helpful. He said that the only thing being requested, here, is to submit a Letter of Intent to be able to submit the full application; that it does have to go to Town Meeting and that would be a measure of the level of support in the Town. He agreed there might be an uphill fight on this but he believed that if the information was very thorough at the public meeting, and widely distributed, it might stand a chance.

**6:46 PM** Ms. Smith said that the deadline to submit the Letter of Intent is next Friday in order to be invited to submit an application that would be due in May.

Mr. (Bob) Nadeau, Bangor Savings, said that he understood the Board's concern. He added that he has been doing business with Ms. Wang and Mr. Anderson for quite a while and they are fine, they pay us back well, and we are really excited about this company. He said that, if anything, they will be adding jobs based on the way they have been growing, and the product seems to be well-accepted. He said that this was low-risk as far as we are concerned.

**6:47 PM** Ms. (Roberta) Place said that, with the school tax bill going up, we should certainly be looking into new businesses to bring in tax revenue for Eliot. She asked how many employees they were talking about.

Ms. Wang said that, currently, we have eight employees and we anticipate that number to keep going up. She added that not all of that will be LMI employment; that some of it will be higher paying so it will be a pretty good range; that they do all of their own manufacturing and shipping and will start doing a lot of R&D and video content productions; that it will be a fully-rounded facility regarding job types.

**6:48 PM** Ms. (Donna) Murphy asked if the grant was dependent on the business coming to Maine.

Mr. Anderson said yes; that if the grant is not approved, we will end up staying in Portsmouth and not continue with the project.

**6:49 PM** Mr. Murphy asked about the distribution of their product.

Ms. Wang said that everything is mail-order; that we use the post office and have Fed-Ex and UPS pick-up.

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**6:50 PM** Ms. Shapleigh commented that she was present when people were trying to put down the sewer extension and one reason given was that we couldn't count on the TIF money because the gas company might not be stable enough – the gas company that's put a couple million dollars into our TIF coffers, which we haven't spent yet. She added that we won't know how successful a company will or won't be; that we should be encouraging these people. She discussed the challenges of available land in Town not having adequate soils for septic and we keep tying people's hands that own property out there or want to buy property; that right now in this country we need jobs, and we need them in Maine.

**6:52 PM** Ms. Smith echoed that she thinks there are ways to safeguard the Town should the Town Meeting approve this; that nothing prevents you from putting something in place so that you're protected and that could include not releasing any of the money until they've signed off on the jobs or releasing the money in increments, as examples. She added that the risk is really reduced in this situation because the business is coming in with jobs the moment they open their doors.

**6:53 PM** Mr. Pomerleau said that he has heard some things tonight that certainly lessen his concern, in particular on the job creation because it almost seems as though they will meet the requirement as soon as they open; and the fact that Mr. Lee would rely on Ms. Smith to put in provisions that would help minimize the Town's liability.

Ms. Smith said that she thinks it's really important for the community to know that they really are in the driver's seat; that you can want to help a business and still protect yourself. She added that that, to her, is the important piece; that it's a partnership between the business and the Town that benefits both; that she thought this program can do really good things.

**6:55 PM** Mr. Tessier asked how long, if this company met the jobs requirement, it would be before the State released the Town from the liability for the program.

Ms. Smith said that, using her number example of coming to us for \$150,000 and they have to create five jobs (3 are LMI) then, when those eight jobs come through the door, they have already met the requirement and we would sign off. She added that, in theory, that could all be done because we won't have our federal allocation until at least July; that we don't wait for that, getting projects moving forward; that it may be that, by the time we can release any dollars, the business will have done what they needed to do and the liability has gone away.

**6:56 PM** Ms. (Donna) Murphy asked if the property was located in the TIF District.

Mr. Beckert said no.

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Mr. Lee said that that is real general tax revenue, not sheltered under the TIF.

Ms. Wang said that, regarding the Town's desire to get the business-friendly certification, she thought this would go a long way in showing your support of this opportunity for us to pursue this money. She discussed their unique business model and that they have top restaurants all over the world that are buying from them; that that is all coming from here and would be unique to Eliot.

**6:57 PM** Mr. Beckert said that he was impressed by the company's financial growth.

Ms. Wang said that the only thing she was hearing was whether these eight employees are sufficient to cover what we might be asking for and the answer is yes; that we are fiscally responsible people and understand what we can reasonably get and that is what we are pursuing.

**6:58 PM** It was clarified that this is not a loan but a grant. The applicant can only ask for up to half of their project cost. The applicant has to put in their own money; that this is a one-for-one match. The applicant is asking for less than one fifth of the project cost amount; that they will have 80% skin in this request. With an applicant who can take on more debt, the program ends up being a gap-funding program to fill in the missing pocket of funds needed to complete the project. The Town would only pay back money expended if the jobs were not created. Funds can be released incrementally; that the Town would be the last funder in the project. The Town is not obligated, even with Town approval, until the Board signs to accept the money on behalf of the business. The applicant is not intending to apply for more than what they can support with their current employees.

**7:09 PM** Mr. Doyle said that when he was approached by this organization he thought it was a sweetheart deal; that they would be moving back to Maine with jobs already created that meet the criteria; that they have clients all over the world. He added that he thought this would be a very interesting business opportunity to pursue.

Mr. Beckert called the discussion back to the Board and asked for a motion, if the Board was so inclined.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen allow Mr. Lee to move forward, with Mr. Doyle, Ms. Smith and the Modernist Pantry owners, to file a Letter of Intent.

**VOTE**

**4-0**

**Chair concurs**

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**G4. Public Safety**

There were no items.

**H. New Business:**

There was no new business.

**I. Old Business**

There was no old business.

**J. Selectmen's Report:**

**7:11 PM** Ms. Davis said that, regarding Town Manager goals, she would like to have some discussion around a policy for property abatements.

Mr. Lee discussed the statutory foreclosure process, saying the Town was going above and beyond that process as it stands now, including reminders and phone calls the last couple of days to prevent foreclosures. He added that he didn't mind workshopping it more but believes it would be for the purpose of everyone understanding the foreclosure process and what we do to help people avoid it.

**7:12 PM** Ms. Davis discussed her concern that abatements seem to come just before imminent foreclosure and wanted to know if we could develop some other options, such as payment plans well before it comes to foreclosure.

Mr. Beckert said that he thought those opportunities are in place now.

Mr. Lee agreed, adding that some residents come in when they get the Notice of Lien and ask what they can do for a payment plan; that we do set up payment plans. He reiterated that he would be happy to workshop this but he thinks there's a whole other side that needed to be discussed about the negative perception should we be contacting people too soon or too often.

**7:14 PM** Mr. Murphy discussed the difficulty of assigning additional work on the staff; that that would take additional planning and he didn't know if that might be considered harassment. He also said that maybe a personal call might be done.

Mr. Beckert said that regardless of what we might like to do we have to be careful on what we are required to do by State law so that we don't step on somebody's toes outside the statute.

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**7:15 PM** There was discussion regarding the frequency of abatement approvals and the authority the Board has to deny abatements; that each case is taken on its own merits; that there was also the possibility to grant a partial abatement versus a full abatement.

**7:17 PM** Ms. Davis said that, whether we deny or approve, we are still at the eleventh hour; that she wonder if, at ten months, we could say that partial payments are going to incline us to be a bit more understanding; that they're not given that chance to know that.

Mr. Lee suggested that, at six months before foreclosure, send out a letter saying that if the person has any intention to file an 'inability to pay' abatement, they might want to start now to make payments and, if they wait too long and put us in a last-minute situation, they are betting on a full 'yes' or a full 'no' and that is not prudent.

**7:18 PM** Ms. Davis said that that was 100% it.

Mr. Pomerleau agreed, saying that timing was important; that any efforts to mitigate it will weigh heavily on the final decision.

**7:19 PM** Mr. Lee said that he would work with staff to amend the process to include that, six months prior to foreclosure, there would be an invitation to come in and discuss the plan in these final six months leading up to foreclosure or the ability to get an 'inability to pay' abatement; to start working with us now and you will be viewed in the best possible light, don't start working with us now and it might not help your cause at the end.

Mr. Fernald asked if the Board could be involved in that, as he thought it would have a bigger impact.

**7:20 PM** Mr. Lee said that, yes, it could be sent from the Board of Selectmen, with the Tax Collector or Treasurer.

### **K. Other Business as needed**

There was no other business.

### **L. Executive Session**

There were no executive sessions.

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**M. Adjourn**

There was a motion and second to adjourn the meeting at 7:22 PM.

**VOTE**

**4-0**

**Chair concurs**

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**DATE**

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**Mr. John Murphy, Secretary**