

SELECT BOARD MEETING

April 13, 2017 5:30PM

Quorum noted

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

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

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 January 12, 2017, as amended.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the workshop minutes of March 16, 2017, as amended.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the workshop minutes of March 20, 2017, as written.

Roll Call Vote:

Mr. Fernald – Yes

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Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the workshop minutes of March 30, 2017, as amended.

Roll Call Vote:

Mr. Fernald – Yes
Mr. Murphy – Yes
Ms. Davis – Yes
Mr. Pomerleau – Yes
Mr. Hughes - Yes

Unanimous vote to approve motion.

F. Public Comment:

5:43 PM Mr. (Robert) Fisher asked for an update on an investigation of aggravation.

Ms. Davis said that that was something we would be discussing and finalizing this evening; that we will be moving forward after the executive session tonight..

Ms. (Michele) Meyer said that minutes have been a problem on the Planning Board; the timely posting of the minutes so that the citizens have a chance to review and educate themselves when public hearings, etc. come up; that she wondered if it was too much to have one person doing minutes for the SB and PB. She added that she wanted to read the first two sentences from the Charter preamble because she thinks it's important that our elected officials, appointed board members, and our paid staff are reminded of what our preamble says, which is: *"We, the citizens of the long-established Town of Eliot, Maine hereby approve and adopt this municipal Charter, for the purpose of preserving and enlarging our sense of community, and of creating a greater understanding of our responsibilities and opportunities in choosing and supporting our statutorily-required representative government. This Charter provides an organizational structure and general operational guidelines for our town government based upon the principles of stability, continuity, integrity, transparency, trust and, not least but most of all, citizen participation."*

G. Public Works

SELECT BOARD MEETING
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5:46 PM 1) Updated Stormwater Plan – CPI Application

Mr. Moulton developed four versions of the CIP Program for Stormwater projects (not including MS4 permit requirements) based on a Consumer Price Index (CPI) of 3%, 4%, 5%, and 6% to include the many factors involved that impact pricing. He recommended using a 4% CPI for this, which is anticipated to offset any increase in costs.

Mr. Lee said that, over the life of the plan, each percentage appears to equate to about \$100,000. He added that some construction standards, like paving, fire trucks, etc., are as much as 6% regardless of the overall CPI.

Mr. Moulton agreed, saying that a lot of it is economy-based.

5:48 PM Mr. Pomerleau suggested that it might be helpful, at some point, to do some comparative analysis regarding bonding it and getting it done, as opposed to incurring inflation fees over a period of time, and comparing the cost of bonding against the long-term inflation factor.

5:50 PM Mr. Fernald asked for confirmation that the difference between 3% and 4% is approximately \$100,000.

Mr. Lee said yes, pointing to the pertinent dollar figures on each of the four CPI charts. He suggested that he could ask Maine Bond Bank to run numbers on an overall plan at what the current rate is; that that would be a fair amount of work if it were just an academic exercise.

Ms. Davis said that she would like to see another workshop on this; that she thinks there are many outstanding questions and things to discuss before making a commitment.

Mr. Lee said that we have a couple of ideas for financing this, such as fees or bonding or flat-funding.

Mr. Murphy said that, with our tax anticipation note, we don't have to take it all and asked if the same kind of thing could be done with this kind of a bond.

5:53 PM Mr. Lee said that you can run these as a construction loan; that, as an example, you could bond \$2.5 million and use it as a line of credit.

Mr. Pomerleau said that, currently, he sees no rush for Mr. Lee to do this, as it can't impact our upcoming fiscal year budget, but we might review this again in several months.

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5:55 PM 2) Report of Stormwater Surplus

Mr. Lee said that Mr. Moulton put this memo together with the help of the Finance Director and it shows that the anticipated budget balance, year-end, is \$12,670.12, with an additional potential \$6,000+ that were out-of-scope items that were completed at the request of the SB and Budget Committee; that this would be available if we had to do an LD1 offset, bring it in as a revenue, or whatever.

Ms. Davis commented that it was too late to use it as an LD1 offset.

Mr. Lee said right but what he was getting at is if we were sent back to the drawing board by the voters, you could, as one of those changes, reduce the tax commitment by increasing your revenues – carrying forward \$13,000 out of the \$27,000; that that's another option for the SB.

5:58 PM 3) Financial Sustainability Plan (Sewer) – Use of Sewer Reserves

Mr. Moulton explained that Task #13, and such, under ESR (Engineering Service Request) #26 were more operational sewer department items than construction engineering items for the FSP (Financial Sustainability Plan), such as municipal sewer standards, wastewater collection systems, sewer rate revenue with fixed charges, sewer rate options, and emergency pump station by-pass, doing these out of the sewer reserve account.

Mr. Lee clarified that the FSP was something we needed to agree to create in order to sign the commitment letter on the \$1.7 million. He added that the SRF is the State Revolving Fund and is where we are getting our money from; that the commitment letter gets us into the Maine Bond Bank through the SRF and the FSP is required in order to access the SRF.

5:59 PM Ms. Davis asked what Mr. Moulton's reasoning was for doing it this way.

Mr. Moulton said that the Task #13 in Underwood's ESR #26 is not an engineering item but more of an operational item; so the thought was that it should come out of the reserve and not Underwood's engineering capital costs.

6:00 PM Ms. Davis said that the FSP is required for the revolving loan, so it is part of that, and rather than dipping into our reserve accounts, which are not as healthy as we would like; that unless there is some real negative reason for taking it out of the bond amount, she thinks we should go that way.

6:01 PM Mr. Murphy asked if this would affect the way the State supplies the money.

Mr. Lee said that this was strictly an internal decision.

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Mr. Fernald said that he could agree with the Chair.

Mr. Hughes said that he thought there were going to be no surprises and the \$1.7 million was going to cover everything; that now we are asking for money over and above that.

Mr. Lee said that we could be but what he thinks Ms. Davis is saying is, from that \$1.7 million, try to make it work.

Mr. Hughes was in agreement with Ms. Davis.

Ms. Davis said that, under the information she found, there is a paragraph that says, *“The cost to develop and implement the FSP, including the purchase of computerized asset management software, staff training, or the use of consultant services are considered to be eligible expenses for a CWSRF loan reimbursement.”*, asking what that meant.

Mr. Lee clarified that the CWSRF is the Clean Water State Revolving Fund; that it means that all associated engineering, planning, design, these manuals, can all go under your loan; that it doesn’t have to be just construction because all these other things are required in order to get funding.

6:03 PM Ms. Davis said that these four specific items in this memorandum are also mentioned in this paperwork that they are required for this loan so it would be good to go that way. She asked Mr. Moulton to provide her copies of ESR #24, 25, and 26. On another item, she asked Mr. Moulton where we were at on the pre-qualified contractors for the sewer.

Mr. Moulton said that the engineers are still working on the 90% design portion and formulating costs associated with the project; that it’s on the schedule for some time in May; that we have not started the list.

H. Department Head/Committee Reports

6:04 PM 1) ECSD – Tennis Court Bids

Mr. Lee said that back late last summer we were trying to get three bids and just could not get that third bid; that she tried all over the place. He added that she went back out this spring and was able to get a third bid; that this is CIP funding approved in the current budget, therefore, we need to complete it by June 30th. He said that it was in the amount of \$18,000 and, as you can see, there are three companies and the one we were looking at is Vermont Tennis Court because they do both the tennis courts and basketball court.

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6:05 PM Ms. Muzeroll-Roy said that that would go up a tiny bit because they are also going to include pickleball, which is a new and upcoming sport, and include it for \$1,000 more, adding that she is still way under the \$18,000 request. She said they will do all that for \$15,748.

It was clarified that basketball would have to be included in the Maine Tennis and Track bid, so it would not be the lowest bid.

Mr. Lee and Ms. Muzeroll-Roy have worked with Vermont Tennis and agreed they are a very good company; that they are good for early June to begin.

6:07 PM Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board award the contract for the Frost Tufts tennis courts and basketball court, as proposed, to Vermont Tennis Court Surfacing in the amount of \$15,748.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

6:09 PM **2) Energy Commission – Solar Project/Next Steps**

Mr. Lee said that this was put together by Ed Henningsen (Energy Commission) and we are going to continue to work off a to-do list; that we are very carefully organizing what to do and when to do it so that, if and when the voters approve the solar array, we can have it completed and operational by December 31, 2017, which is critical.

Ms. Davis asked when he anticipated the revised contract.

Mr. Lee said that they have given the commission members until noon tomorrow to come back with any further comments; that he will send it over to Jack Bingham (solar vendor) tomorrow with our concerns; that that might take about a week and, then, probably send it out for legal review.

Mr. Hughes has some comments on the MOU that he will forward to Mr. Lee. Also, there will be a review by the SB before sending to legal.

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6:15 PM Ms. Davis asked if the Energy Commission has looked at contracts from other communities to make a comparison.

Mr. Lee said no, adding that that was a very good idea.

I. Administrative Department

6:16 PM 1) Town Manager Report

Mr. Fernald asked if Mr. Lee if he had an update on Mr. Staples.

Mr. Lee said no but his date is coming up at the end of April to have the fence removed; that he will get an update.

Mr. Fernald asked about **Line 100**.

Mr. Lee said that, over the weekend, Selectman Pomerleau had made some comments about some of the pay consultant's work and the pay consultant called Mr. Lee to discuss Mr. Pomerleau's concerns about management versus supervision and what to do; that he said that, whatever we end up doing, he would probably use program manager when there isn't someone actually being supervised; that he tends to agree with Selectman Pomerleau, as supervision means to him that there is actually another person involved being supervised. He added that he told the pay consultant not to make any changes, yet, as we still had to work through it.

6:18 PM Mr. Murphy said he was unsure if this was the place to ask but wondered if there was any luck in finding a replacement for Mr. Wing.

Ms. Davis said that that's what we will be going over in executive session tonight.

Mr. Pomerleau asked about **Line 125** regarding solar Town credit issue.

Mr. Lee said that there is an issue and it's not Revision's fault. He added that, after some analysis, what we have to do is when the CMP rate changes we have to notify them (Revision) of the rate change so that they can adjust what they are paying us. He said that it ended up being about \$1,400 or \$1,500 over the life of the time we've had that down there; that he sent them the analysis, they said they would make good on it but make sure to keep them posted when these rates change.

6:20 PM Mr. Pomerleau asked if there were going to be similar requirements on the next project.

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Mr. Lee said that one of the things Al Libbey (Energy Commission) is looking into is whether it might be putting what we will call a net meter in between the CMP meter and the solar array; that, with that, we could actually see the 'net' of what we are being charged and be more accurate when you see the bills.

6:22 PM Mr. Pomerleau discussed **Line 168** regarding timely legal notices, saying that this reminded him of a recent issue with the PB with the notice not being in the newspaper, as required, and the original TIF document also has that kind of requirement so we need to make absolutely sure this (TIF notice) doesn't get messed up.

Mr. Murphy asked about **Line 148** regarding a new scam at town offices.

6:24 PM Mr. Lee said that, when you re-license your radios, you can do it yourself; that you are just annually re-licensing your radios with the FCC but there are these 'companies', for the low, low price of \$199, that will do it for you. He added that it shows up on town manager's list serves and that was one that happened this past month.

Ms. (Donna) Murphy asked about **Line 189** regarding rumors of a new effort at regional dispatching, as to whether that would have a financial impact.

Mr. Lee said not any time soon; that Kittery continues to look at using the new, modernized dispatch center more regionally.

6:26 PM a. Investment/Rollover Response

This was a memo to clarify how maturing bonds are handled and its purpose as part of a total financial strategy.

Ms. Davis said her concern was to have a full grasp of what we are going to need, potentially, for the TIF over the next two years to make sure our investment amount align with that.

Mr. Lee said that Mr. Elvidge told him that most of what our investments are in short-term or able to be immediately liquidated.

Ms. Davis wanted to know if the price within those investments potentially being immediately wanted for cash fluctuated greatly over time.

6:29 PM Reserve balance sheets. (Not on agenda)

Mr. Lee gave this to the SB as an informational memo; that it was in the newsletter as well.

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6:30 PM 2) Release of CDBG Letter of Credit

This was a letter from Andrea Smith (Development Program Manager, State of Maine Department of Economic and Community Development) informing the Board that the Modernist Pantry had met its job creation goals and is signing off on the job creation requirement for this project. He added that Mr. Bob Nadeau (Bangor Savings Bank) needs a release of the Letter of Credit drafted for Modernist Pantry. He said that he drafted the Discharge of Letter of Credit that he would sign, with the Board's approval; that Mr. Nadeau approved that Letter of Discharge draft; that this is the full completion of this project as far as the Town is concerned.

6:32 PM Mr. Murphy moved, second by Mr. Fernald, that the Select Board approve the Discharge of Letter of Credit, with regard to the advance of monies for the Modernist Pantry, LLC, to the Bangor Savings Bank in the amount of \$240,000, dated October 13, 2016.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

6:34 PM 3) Harbor Ordinance Final Review

Mr. Lee said that we have more comments, with a draft sent to the SB, asking the SB take another look at the Harbor Commission's final edits to see if the SB is in agreement with them. He confirmed that he is using the legally-reviewed copy from the attorney.

Ms. Davis asked if Mr. Lee would incorporate Harbor Commission suggestions as mark-ups in the legal copy the Board is working from.

Mr. Lee said that he would.

6:38 PM Mr. (Charlie) Rankie, Harbor Commission, gave a copy of Ms. Howell's edits to the Board.

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6:41 PM 4) Workshop to Review Final Report of Compensation Plan (5/4/17)

Mr. Lee said that he didn't know to what extent the Board would like Mr. Jacobs to return to further explain his work; that Mr. Jacobs said that he would be willing to come back with a step-type thing, if the Board wanted to have a step system, or if the Board wanted to handle this in-house at this point.

Mr. Murphy said that he needed more time to look through the final report.

Mr. Pomerleau said that our objective was to get a pay plan with a series of scales and steps, not unlike the one that was neglected for 15 years, which is common. He added that Mr. Jacobs' proposal for these three-tiered things is alien to him, as he has never seen that and doesn't totally understand what the final outcome of that would look like.

Mr. Lee said that Mr. Jacobs' approach is greater flexibility for all of you and himself (Mr. Lee) and, so, Mr. Jacobs doesn't work in terms of a 'grid', as the way he approaches the world is you want great flexibility and that having a wide pay range is an excellent thing because it gives you all kinds of room to make your own decisions; that he is taking from the Board that that is not how they view the world. He added that Mr. Jacobs' examples of comps was almost identical to what he did in Wells and Wells has used it successfully; that he thinks we had a different expectation going into it and it isn't necessarily the way he thinks about compensation; that we've got some good out of this but he doesn't know that we can do much more than to take what he has got and tailor it for what the Board wants.

6:47 PM Mr. Pomerleau said that his proposal is not the least bit clear to him; that he has been around many pay systems in his years with the Department of Labor and this Mr. Jacobs' proposal is not clear to him how it would work. He added that he needed a scenario that showed criteria for how someone would move 'up the ladder'; that the step system is pretty straightforward. He also added that he is not closed to what Mr. Jacobs might be suggesting but he does not understand it and Mr. Jacobs is going to have to explain it in greater detail than what we have got.

Ms. Davis asked how much work it would be to create a step grid for us.

Mr. Lee said that that was included in Mr. Jacobs' price; that he would be happy to do it, if that is how the Board wants to implement it.

There was further discussion regarding opposing views, municipal versus private, and how best to implement a pay structure.

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It was agreed that they would have the step grid developed ahead of time and, then, a possible workshop on May 4th, if not, the 18th.

6:56 PM 5) Draft Newsletter – April 28 Mailing

Mr. Lee said that this was currently being type-set; that he has incorporated the Budget Committee comments

6:59 PM 6) Report of Citizen's Option Meeting: LD1/Reconciliation Mtg? (No correspondence

Mr. Lee said that this is a non-issue, at this point, as there was no citizen option to reconcile to.

It was clarified that, if citizens want to pass/change something, they must be there prior to 7 PM.

7:02 PM 7) Review of Straw Poll Questions

These are non-binding questions on a couple of different subjects that will be on the ballot to get a better understanding of how the voters feel regarding the subjects to help direct the Town in the future; that one had to do with recreational marijuana (retail, public social clubs, etc.) and one to set tax money aside, suggested by the Conservation Commission, in the Eliot Land Bank Reserve for the purpose of land preservation.

7:16 PM 8) Finalization/Vote on Ballot Questions (4/20/17?)

This is informational.

J. Old Business:

7:17 PM 1) Clean Waters Committee By-laws - Revised

Mr. Lee said that he made all the changes suggested and that it is up to the SB to decide if those changes are acceptable.

After some discussion, several minor amendments were made.

Mr. Pomerleau moved, second by Mr. Fernald, that the Select Board approve the by-laws, as amended, for the Clean Water Committee.

DISCUSSION

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Mr. Murphy discussed his concern for creating by-laws ahead of the creation of the committee and suggested calling then 'proposed' by-laws; that, normally, committees do make up their own by-laws and that is what the Ordinance Governing Boards, Commissions, and Committees says they will do.

7:24 PM Mr. Lee said that, respectfully, a couple of times Mr. Murphy has said that committees exist to do the work of the Town and that it is appropriate that the Select Board says this is the work we need done; that his view of it, if he is being consistent with Mr. Murphy's line of thinking, is that you would be doing everybody a favor to say what is expected of us, as a committee of the Town, working for the Town, and not just for our own existence.

Mr. Murphy said that he understood but he didn't want to pick on the new kid in Town when all the rest of them have done what they wanted to do.

Mr. Lee agreed, adding that by-laws can be amended and, if it isn't a Charter issue, the group would be free to make amendments.

7:25 PM Mr. Lentz said that what the Town Manager just expressed, he believes, are the goals and objectives that you want the committee to do and that's different from by-laws, in his opinion.

Mr. Pomerleau said that he actually thinks that the Charter says that committees should form by-laws; that he doesn't have a problem calling them 'proposed'.

DISCUSSION ENDED

Mr. Pomerleau amended his motion to accept the Eliot Clean Water Committee proposed by-laws, revised March 24, 2017, as amended. Mr. Fernald seconded the amended motion.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

7:27 PM **2) MMBB/SRF Bonding Agreement**

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Mr. Lee said that this is the commitment letter that needs to be signed so we can move forward with the actual bond council, which gets submitted to the Bond Bank. He added that he has the Finance Director and Public Works Director working on parts of it, as well as talking with the auditor about a 'single audit' – when you receive enough money from the federal government, there is a difference in the way you do the audit; that, out of his discussion with the auditors, one thing he thought appropriate is that whatever the difference is between our normal annual audit and the 'single audit', which has to meet a federal standard and can be a bit of money, really should be paid for by the sewer users, he believes, as part of this whole package, as the 'single audit' is made necessary, singularly, by this bond for the sewer system.

7:31 PM Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board authorize the Town Manager to sign the letter of commitment to the Maine Bond Bank for \$1.7 million for 20 years for the Eliot sewer pump project.

DISCUSSION

After some discussion, Mr. Lee will ask if this can be paid down sooner than the 20-year bond life.

DISCUSSION ENDED

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

There was a brief discussion regarding the potential for escalating stormwater costs and the need for further workshops to clarify that potential.

K. New Business:

There was no new business.

L. Selectmen's Report:

7:39 PM Ms. Davis said that she thought there was a conflict between this nurse we are planning to hire versus who will do the Mary Lizzey Spinney Trust; that we need

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to discuss how that's going to work because, if we employ a nurse that serves the Trust, the employed nurse would manage the Trust; that that should be on the radar for later discussion. She added that you asked for changes to the annual report of the Town Manager/SB but she doesn't recall seeing the final copy, asking if there was a final report.

7:40 PM Mr. Lee said yes.

Ms. Davis requested the final master spreadsheet in excel sent to the Board and Budget Committee. She added that she thought the audit was done or almost done.

Mr. Lee said that it would be in the beginning of next week (this was sent as a pdf email).

Ms. Davis said that she would like an electronic copy of the current account status report for last year and one for this year.

After some discussion, Mr. Lee said that he would send the audit pdf again to the SB.

7:43 PM Ms. Davis suggested they do an evaluation of the budget season while memories are still fresh.

Mr. Lee said that he and his staff are going to make some recommendations on a new budget calendar and get it out for people to consider.

M. Committee Vacancy Report

There was no report tonight.

O. Executive Session

7:45 PM Mr. Fernald moved, second by Mr. Pomerleau, that the Select Board enter into executive session as allowed by 1 M.R.S.A. §405(a) Personnel – fact-finding matter.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

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Unanimous vote to approve motion.

8:18 PM Out of executive session.

Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board waive notice requirements coming out of executive session and declare an emergency in order to make a decision tonight.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board award the contract for fact-finding services, regarding the Meyers' complaint, to Meredith Richardson of Meredith Mediates at \$100 per hour, not to exceed \$3,000 without prior authorization of the Select Board.

Roll Call Vote:

Mr. Fernald – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

P. Adjourn

There was a motion and second to adjourn the meeting at 8:20 PM.

VOTE

5-0

Chair votes in the affirmative

DATE

Mr. John Murphy, Secretary