

## **SELECT BOARD MEETING**

**July 13, 2017 5:30PM**

### **Quorum noted**

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

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

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

**E. Public Comment:**

No public comment.

### **5:31 PM a. Rosanne Adams: Local Food Governance Ordinance**

Ms. Adams said that she and her husband, Bob Fisher, were here tonight to present an ordinance called the Local Food and Community Self-Governance Ordinance (LFCSGO). She added that it harkens back to the days of the Charter Commission when a member of the community, Anne Sweeney, came to us with an ordinance, this ordinance, actually, and asked the Charter Commission to look at it. She added that the Charter Commission did look at it and determined it wasn't in their purview to be putting ordinances before the public; that that wasn't their mission and, so, she told Ms. Sweeney that it would be saved and we would do something later; not the Commission but talking about herself and her husband. She said that the Maine Governor just recently signed a bill into law, which affirms the rights of the cities and towns in Maine to regulate local food production. She added that we are asking the Selectmen to take a look at this ordinance, to work with it, and to present it on the November warrant for the people of the Town. She said that she would like to introduce Anne Sweeney to talk about her relationship with this.

Ms. Sweeney said that she and her husband have lived in Eliot for 10 years; that she works all over the country with PBS and loves coming home to Eliot. She explained that the reason why they moved here – they looked all over the country to find the best place in the country to live; that she grew up on Cape Cod, and Cape Cod is a lovely place to grow up, but she has seen what happens when people don't protect what they have; that when you love a particular character or about a place, you have to save it, you have to preserve it and nurture it. She added that, after looking everywhere, they decided that Eliot really is the best place in the country to live. She said that she loved going into the polls and being able to buy baked goods; she loves buying eggs and milk and cheeses from her neighbors, and she loves going to the farm markets. She said that it's really wonderful but, over the last couple of years, she has become very concerned as

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she's seen what's happening to a lot of our small family farms and the people just wanting to grow vegetables or have chickens in their yard. She added that, under the name of "Food Safety", you see a lot of these freedoms being taken away and this concerns her because, a lot of times, people are being fined and arrested under laws that are really supposed to pertain to huge organizations, like large, industrial-scale farming, not little family farmers, not the farm stands. She said that she saw this ordinance come up in Liberty, Maine about two years ago and she knew that the Commission was being formed; that she thought this is really good just to affirm that we, as a community, have the right to have bake sales, let our kids sell lemonade-stand lemonade, protect the family farmers, be able to buy eggs from our neighbors, because these things are being taken away. She added we could take a look at all the different places in the country where you can no longer even grow vegetables, if you can see it from the road; that that's ridiculous. She said that she thought this was a very common-sense thing; that it's sad that we have to make a rule and take a stand that says we love our community and want to preserve the traditional ways of living and feeding ourselves. She added that she just found out that we do have a seed-sharing program here in Eliot and she loves that; that she just spent the afternoon reading about other communities around the country, especially in Minnesota, where they've been told they can no longer have seed libraries because they can't afford the kind of testing on each seed and the specific labelling. She said that this is a very scary thing; that we need to preserve our traditional right to farm, and on a tiny scale. She thanked the SB for even taking the time to read this; that, again, it is kind of silly that we have to state something that should be such common sense. She reiterated her love for this community and her hope that we can preserve that.

**5:37 PM** Ms. Davis thanked her and said that the SB would take this under advisement; that if we have any questions, we know who to call.

Mr. Lee asked if the SB would like this on a future agenda for a decision, as we get towards the end of summer or early fall, to go on the November ballot.

Ms. Davis said yes.

**F. Status of Harbor Commission/Harbor Advisory Committee**

**5:38 PM** Mr. Lee read a letter received from the Eliot Harbor Commission on June 26<sup>th</sup> asking for this to be rescheduled.

Mr. Hughes said that he was a bit confused because he watched the June 19<sup>th</sup> Harbor Commission meeting and they openly discussed how they were going to address the issue of whether or not the Commission would go forward and what they should do to convince the SB that they do, in fact, have a mission, when they admittedly said they don't have a mission statement. He reiterated his confusion

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as to why they waited until July 5<sup>th</sup> to tell us they can't be prepared when they asked their secretary to prepare a letter to the SB on June 19<sup>th</sup>.

**5:39 PM** Mr. Pomerleau said that he watched that same meeting and confirmed what Mr. Hughes said; that Mr. Rankie made a motion to that group to prepare to state their case for their continuation, knowing that we needed to make a decision at this meeting and they actually identified this meeting to be prepared; so this is in conflict with this requested delay. He added that there is a member of the commission here; that the key issue of whether they continue to exist or not is in what form, as far as he is concerned. He added that he didn't argue that there was a value to have some knowledge and experience with people dealing with the waterfront in some capacity, which is why he proposed a committee. He said that the essential history of this, going back, is not pleasant; very contentious relationships there; that we had a workshop on it that was itself contentious, with one of the members walking out; that we managed to get together and rewrite the ordinance to everybody's satisfaction. He added that we then decided to hold off until after the election to see if the ordinance passed and we had a new Board; that we are at the date where we are supposed to be making decisions on board selections. He agreed that they have had plenty of time to submit their case to the SB and, again, the language of the ordinance doesn't recognize the existence of the Commission, whatsoever; that their by-laws would conflict with the absence of that standing in the ordinance; that he doesn't know that there's much to be gained by delaying this.

**5:41 PM** Mr. Murphy said that he felt, all along, that there was a place for some board or committee to represent the interests of using the river; that we have, for years, had a Harbor Master, who was in charge of the mooring applications, which can be complicated and we need to have someone who knows the river; that we have been successful over the years in supplying that need. He added that this Harbor Commission was asked to review the previous ordinance governing harbor commissions and, to him, that was the one thing they were supposed to do; that it took them a long time to do it and it came out sort of greatly enhancing what the Commission was going to do; that it essentially seemed like a sub-government; that they were going to be in charge of the Harbor Master, who is a hired employee of the Town under the direction of the Town Manager, so, there was a conflict of who was in charge and what was going to happen. He said that he favors the Town Manager being in charge of the employees of the Town; that he would like to see the Harbor Commission, having done the re-writing of the ordinance, which was adopted at Town Meeting, can now be set aside as something the Town can take care of. He added that the question is what the Harbor Commission would do, if they continued, and it seemed there were areas, such as races on the water, which could be done under the aegis of a committee, supervised by the Town; that all of the committees and commissions are supervised by the government of the Town. He said that he has said at several

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meetings that he wanted to hear from them what they thought a harbor commission could do that did not involve being in charge of the Harbor Master but he has not had a response; that he would love to get that so he didn't want to kill a body that has things to do; that he would like hear from them at a time when there isn't anger and disappointment involved.

**5:46 PM** Mr. Donhauser asked how many vacancies are on the Commission right now; that it's not a complete Commission.

Ms. Davis said that was correct; that she didn't think they were missing very many.

Ms. Rawski said that there are currently four members.

Mr. Donhauser said that one person wrote this letter and it appears to him that they had adequate time to respond, even by letter; that they could have responded by letter and it certainly was a contentious thing last meeting. He also agreed that having a Commission or not having a Commission may or may not be important but he also agrees with Mr. Murphy that the Town Manager should be the manager of the employees of the Town, which he believes the Harbor Master is an employee of the Town.

Mr. Murphy added that the Assistant Harbor Master, as well, is an employee of the Town.

Mr. Donhauser said that we have a letter stating they couldn't make this meeting but they could have, at least, stated some reason for being in existence; that at least one of them could have addressed what purpose the Commission is for.

**5:49 PM** Mr. Murphy said that he wanted to remind everyone that the purpose of a Town committee or commission or board is to serve the Town's needs or wants or uses and it's not to become a board to satisfy the needs or the gains of a small group; that such a board cannot select its own members; that its members are selected by the Town, by election, or appointment by the Select Board. He added that he would like to see if there are any members of the Harbor Commission here, tonight, who would like to speak.

**5:51 PM** Ms. Davis said that an issue that came up under our research is that there is a definition difference between a commission versus a committee; that a commission is a formal standing committee with structured duties and powers established by ordinance; that a committee is advisory in nature and can be either a formal standing committee established by ordinance or resolution or an informal ad-hoc committee created by the Select Board. She added that her sense this evening is that the Commission is no longer warranted by ordinance and that we

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certainly do not wish to discourage anyone from participating and, therefore, Mr. Pomerleau has taken on the work of defining a harbor committee that will allow citizens to have some input. She said that, this evening, she would entertain a motion to dissolve the Commission and, then, have the SB make a decision about when they would like to advertise and entertain applications for a committee.

**5:52 PM** Mr. Pomerleau said that, for the general public, he would like to say what he put into the general content of the committee, reading the duties of such committee. He added that he hoped they could see that, if there's waterfront talent, we can utilize it in the form of a committee; that the difference would be that the committee would be advisory, not empowered to implement or oversee the ordinances.

Mr. Donhauser moved that the Select Board abolish the Harbor Commission and establish a Harbor Committee with the thought that we will actually develop it, perhaps, on Mr. Pomerleau's writing.

Ms. Davis asked if he would like to take that up in two parts.

Mr. Donhauser moved, second by Mr. Murphy, that the Select Board abolish the Harbor Commission.

**DISCUSSION**

Ms. Adams asked if it was necessary to abolish the Commission, rather than just rename it.

Ms. Davis clarified, under the definition that a commission would be established by ordinance and have powers and duties and, thereby, we should abolish that one body and immediately turn around with the intent to creating a committee next. She said that yes, she thinks we should formally abolish the Commission.

Ms. Adams said that if anybody wants to speak to that they can speak now.

Ms. Davis said yes.

**5:55 PM** Mr. (Lee) Emery, Pleasant Street, said that he used to be the Chair on the Harbor Commission and resigned for a reason; that he didn't get an invitation to come tonight but came on his own. He added that one of the things that has bothered him right along is our reputation, whether it's individual members or Harbor Commission members; that he knew that the Town Manager has said in the past that he was very upset with us trying to make a decision and getting legal involved and, then, legal comes back and we didn't follow legal decision; that that is what he'd like to try to explain. He said that there is always two sides to a story

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and he didn't think we, as the Harbor Commission, ever got that chance to explain why we did what we did.

Ms. Davis asked Mr. Emery if he could hold on, as she would like to address the SB and see if they feel that that is germane to the decision that is before us right now and if they think there is some other time and method that should be used to address that issue.

**5:56 PM** Mr. Hughes said that he doesn't think it's germane at this point.

Mr. Pomerleau said whatever the SB wants.

Mr. Donhauser said that he had no interest in that at the moment.

Mr. Murphy said that he would like very much to hear sometime his whole story but we're deciding whether to vote on this motion.

Mr. Hughes said that, during their meeting on June 19<sup>th</sup>, they openly agreed that the original intent for the Commission was to write an ordinance that gave the Harbor Master some teeth in managing the harbor and the moorings; that that was done; their mission was accomplished, and they recognized that. He added that they all said, "Where do we go from here? We really don't have a mission right now. We should sit back and figure out what we can contribute." and, as a committee, he thinks they could contribute a lot; that they have some ideas. He added that he doesn't think we need the Commission, per se, to stand at this point; that he agrees we should abolish the Commission and form a committee.

**5:57 PM** Ms. Davis said that the SB does encourage opinions from the public; that, normally, what we like to see is a letter come to the SB and be applied to the agenda and be addressed as a specific topic; so, this evening, she thinks they are going to, unless there is any further comment, they are going to take a vote on this motion.

Mr. Emery said that he thought being here, as an existing Harbor Commission member, that he would be allowed to speak; that that was just his thought.

Ms. Davis said that he would be allowed to speak tonight on reasons why he feels the Commission, rather than a committee, would be beneficial to the Town and why they should stay in existence. She added that Mr. Donhauser's next motion would be to suggest the Harbor Committee.

Mr. Emery said that he wanted to go on record that he can see either way; that he thinks, personally, it's the SB's decision and a committee with the right people, experienced people with river knowledge, he thinks is probably better, in a way;

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that that's part of what he wanted to say because, as a Commission, there was a power struggle and that was the whole problem.

Ms. Davis said that the SB does highly commend the citizens who do wish to participate and encourage that.

DISCUSSION ENDED

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**5:59 PM** Ms. Davis said that, at this point, the Chair would entertain a second motion.

Mr. Donhauser moved, second by Mr. Murphy, that the Select Board form a Harbor Committee, using, basically, the outline Mr. Pomerleau has written, with review by the Select Board.

DISCUSSION

Mr. Hughes asked what we would be doing with the current members of the Commission.

Ms. Davis said that they would be encouraged to apply for the Committee.

DISCUSSION ENDED.

**6:00 PM** **Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

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Ms. Davis asked if we were going to take this up at the next meeting and discuss whether this is adequate to move forward with applications or if we need to add anything.

**6:01 PM** Mr. Lee said that he thought it would be helpful if he drafted a set of by-laws for this committee, similar to what we've done in the past, just as a starting point; that we could use much of what Mr. Pomerleau wrote and have the SB at least take a first look at draft by-laws, then open it up, as we will probably be pretty close to being able to finalize some by-laws for the committee.

Ms. Davis said that proposed by-laws would be drafted and we will address them at the next meeting.

Mr. Hughes said that he thought Mr. Lee would find some of the members of the commission will have some input on what the committee's charter should be.

Mr. Lee agreed, saying that he didn't have any qualms about sharing that with anybody and getting some good input; that he just wants to create a skeleton of the by-laws that meet our Charter's requirements.

**G. Appoint Committee Members**

**6:02 PM** Mr. Lee pointed out that they have the Town Clerk with us to assist if there are any questions.

Mr. Murphy discussed the list he made, to simplify the voting tonight, and said that he could start with the Board of Appeals.

**Board of Appeals**

**6:05 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board, for the 3-year regular term to end in June 2020 for the Board of Appeals, appoint Charles L. Rankie and, for the 3-year term to end in June 2020 for the alternate on the Board of Appeals, appoint John P. Marshall.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**



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**Conservation Commission**

**6:07 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board appoint, for regular members of the Conservation Commission, Lisa Graichen, Kari S. Moore, and Kimberley Richards, with terms to end in June 2020.

**DISCUSSION**

Mr. Pomerleau said that this is a great group of applicants; that he listed them the exact same way that Mr. Murphy did based on direct level of education backgrounds that lends itself to being on a Conservation Commission; that he had Elizabeth Anderson for the regular 2-year and Elizabeth Davis for the alternate.

**DISCUSSION ENDED**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**6:09 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board appoint, for the 2-year regular term to the Conservation Commission, ending June 2019, Elizabeth Davis.

**DISCUSSION**

Ms. Davis said that this is slightly in conflict with Mr. Pomerleau's recommendation so she would invite discussion.

Mr. Pomerleau said that he basically went on educational background; that Linda Anderson has a Master's Degree in Education and Elizabeth Davis has an Associate's Degree in Communication. He added that he thinks they both qualify to be on the Commission but he just went with the higher level of education, accepting there could be other factors.

**DISCUSSION ENDED**

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**6:10 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board, for the 2-year term ending in June 2019 for the alternate member to the Conservation Commission, appoint Linda L. Anderson.

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**Energy Commission**

**6:12 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board, for one 3-year term, to end in June 2020 as a regular member to the Energy Commission, appoint Christine Bennett.

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**Planning Board**

**6:13 PM** Mr. Murphy moved, second by Mr. Hughes, that the Select Board, for one 5-year term, to June 2022 as an alternate member of the Planning Board, appoint Christine Bennett.

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**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

Mr. Murphy moved, second by Mr. Hughes, that the Select Board, for a 3-year term, ending in June 2020 as an alternate member of the Planning Board, appoint Melissa Horner.

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

Mr. Pomerleau commented to the Chair and the Town Clerk that, if somebody is going to submit an application, with “refer to file”, then we should either have the file or we should have the applicant complete the application.

Ms. Davis asked if we could put the term on there so that, if there’s more than one choice, the applicant could express a preference; that it would be helpful to know who might like what.

**6:15 PM** Mr. Lee said that, at some time tomorrow, we will try to get all the appointment papers together and put them with the warrant for the SB’s signature.

**H. Appointment of Town Officials**

**6:16 PM** Mr. Lee said that the document before the SB has some highlighted stuff, some in yellow, some in red, some scratched out; that there has been some disagreement between some of the staff as to the interpretation of the Charter but, after discussing it, we are willing to go with the SB’s interpretation on that. He added that we could do this as a ‘consent agenda’, based on the sheet, meaning that the following positions are to be appointed to these people, per this list or, just name them off separately.

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**6:18 PM** Mr. Murphy said that he would rather have this Board vote; that he doesn't like 'consent' on a lot of things but useful going down the list and identifying who is being appointed he thinks is the way to go. He added that some of the names on this list are not to be named and he thinks we should go over the list first. He suggested the Town Manager read the positions and names on the list to be voted on.

**6:20 PM** Ms. Rawski discussed the **E911 Municipal Coordinator/Addressing Officer**. She said that, after doing some research, found we had never appointed someone into that position; that she doesn't know if our current CEO has that built into her current job description; that, if that is the case, then we would be covered. She added that it is suggested from the Emergency Service Communication Bureau of the State of Maine that an Addressing Officer is appointed. She said that she wanted the SB to be aware of that and that that is why that one was included.

Ms. Davis asked if she wanted this full title, as shown, with both parts.

Ms. Rawski said that she thought that was the appropriate title.

Ms. Davis said that this would be voted on.

Ms. Rawski discussed the **Election Warden**, saying that that position is actually appointed by the Town Clerk and confirmed by the SB; that, generally, she comes to the SB before each State election as the Warden is only for State election purposes. She added that she thought this was a great opportunity to come to the SB for each one of those and ask for an annual appointment of the Warden that she has appointed; that, if a change should happen, she would come before the SB requesting a new appointment of someone if he is unable to serve.

**6:22 PM** Ms. Davis asked how the SB felt about that.

The SB agreed with the Town Clerk.

Ms. Davis said that we are modifying the Election Warden to be an annual appointment, only to be brought up during the year if there is a vacancy.

Ms. Rawski said that that was correct. She added that the **Fire Chief** is currently on the list and she is taking it off the list; that he was appointed by the SB back in January. She added that the election is done in December by the Fire Department so he was already confirmed and appointed; however, the one that does need to be done is the Forest Fire Warden, which falls under the Chief. She said that the Chief is the one to assume that but, with the appointment, it would have to be officially made. She added that her intent will be that, the next time we appoint

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Fire Chief, we will also include that Forest Fire Warden at the same time because that runs per the calendar period, not the fiscal period.

**6:23 PM** Ms. Davis said that, for this year only, we will be appointing the Forest Fire Warden.

Ms. Rawski discussed the **General Assistance Administrator**, saying that that is under State statute that, if you have somebody acting in your authority as overseers of the poor, you need to appoint someone, annually, into that position as Administrator because your Board changes annually.

Mr. Lee confirmed that; that he was General Assistance Administrator in three different towns and he was always appointed the G.A. Administrator; that due to the ordinance we have to pass, somebody has to be assigned to be that person, if it's not the overseers of the poor.

Mr. Murphy agreed, saying that that is what we used to do with Dan Blanchette.

**6:25 PM** Ms. Rawski said that the SB had a **G.A. Fair Hearing Authority** highlighted and she just wanted to revisit it, saying that, as the SB and overseers of the poor, the SB assumes those duties under that title. She added that, because you do, you have the option of an appeal board for that or appoint someone else, like Mr. Lee, to hear an appeal. She said that that does not need to be done.

Ms. Davis said that they would scratch that from the list.

**6:26 PM** Ms. Rawski said that others that were scratched that she wanted to speak on: the Road Commissioner, prior to the Charter, was appointed in June 2015 for an indefinite term; that a lot of these positions we brought forward, as this is really our first appointing period under the Charter, have conflicting things in the Charter speaking on appointments. She added that it's very unclear and she truly felt that a lot of these positions required a new appointment because of the requirements stated within the Charter; that if the SB wanted to leave that blanket there and the SB is good with that, then that's fine, but we brought this list forward because of the language in the Charter.

Ms. Davis said that Road Commissioner has not been scratched, only Public Works Director, which is a hired position.

Mr. Lee said that that would be consistent with the Code Enforcement Officer being scratched and just being called Building Inspector, per statute.

The SB agreed.

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**6:28 PM** Ms. Rawski said that the **Registrar of Voters** has already been taken care of; that Ms. Rawski was appointed in December 2016, to serve from January 2017 to December 2018. She said that, regarding the **Sewer Superintendent**, there is no State statute but we have an ordinance that refers to our Superintendent; that this falls under the Public Works Director's umbrella but, because he is working with an ordinance that references him, she felt that was something the SB would want to appoint on an annual basis. She said that the SB can scratch **Town Manager**, as he has been appointed for an indefinite period prior. She added that the other positions that were there and crossed out, such as **Assistant to the Planning Board, Administrative Secretary, Finance Director**, in reading the Charter...she thinks there's a lot of conflict in what it says for appointing people and her memo to the SB expressed her feelings on that; that there's lots of areas where department heads have to be appointed; that it says, "All other officials that are not discussed in the Charter or State statute need to be appointed and confirmed, annually, by the third meeting after the election." She added that that's why she gave the SB an inclusive list of every municipal official with the Town of Eliot that needed to fall within those different definitions. She said that she does feel that those other positions should be confirmed but that is totally the SB's call on the SB's interpretation of the Charter.

**6:31 PM** Mr. Pomerleau said that he would stay with the list that was crossed off; that we don't need to appoint staff employees in their positions; that the reference to the annual third meeting applies to Town officials, which are appointed committee and other board members; that the Town Manager has the appointment authority for department heads but he doesn't believe employees fit any of that category.

Ms. Rawski asked for clarification of the intent of the Charter when it was written. She read Article 4, Part E Appointed Officials of the Charter: "Town officials, in addition to those positions provided for elsewhere in this Charter or State Statute, shall be appointed by the Town Manager subject to confirmation by the Select Board. Said appointments shall be acted upon no later than the third (3<sup>rd</sup>) Select Board meeting after the Annual Town Meeting." She clarified that that says to her that anyone listed as a Town official, and if you look at the definition of a Town official, it encompasses all of those; that with that said, she would just suggest that, when we get to the point of cleaning up the Charter, that topic needs to be discussed and cleaned up; that there should be one area of the Charter that speaks to appointments, only, so she isn't going from Charter to State statute to ordinances to everything else to try to figure out what she is supposed to be doing.

**6:32 PM** Mr. Lee read the list of titles and names for appointment:

- Animal Control Officer – Kristina Buckley
- Assessor – Martine Painchaud
- Building Inspector – Heather Ross

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- Civil Emergency Preparedness Director – Jay Muzeroll
- E911 Municipal Coordinator/Addressing Officer – Heather Ross
- Election Warden – J. Peter Dennett
- Excise Tax Collector – Wendy Rawski
- Forest Fire Warden (one year term to December 2017) – Jay Muzeroll
- Freedom of Access Officer – Dana K. Lee
- General Assistance Administrator – Melissa Albert
- Harbor Master – Richard Philbrick
- Health Officer – Dana K. Lee
- Local Plumbing Inspector – Heather Ross
- Road Commissioner – Joel Moulton
- Sewer Superintendent – Joel Moulton
- Tax Collector – Brenda Harvey
- Town Clerk – Wendy Rawski
- Treasurer – Dana K. Lee

**6:34 PM** Mr. Murphy moved, second by Mr. Hughes, that the Select Board confirm the list of Town officials, as just read by the Town Manager, as being appointed by this Select Board for their annual appointment.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**6:35 PM** Ms. Davis said that we have the Mary Lizzie Spinney Trust.

Mr. Lee said that that person has already been appointed this year; that it's Jan Lytle. He clarified that, regarding the Public Health Nurse appropriated at Town Meeting, Ms. Lytle could not serve in that capacity; that we are going to have to reach out to try to find someone who would like to be the Public Health Nurse for the stipend proposed.

Ms. Davis asked if there was a conflict, as the trust specifies that it is a nurse hired by the Town, and that person may fill that slot.

Mr. Lee said that they may but he doesn't think they have to be the same person; that one could be the Spinney Trustee, who has to be a nurse, and we are looking

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for a registered nurse to be our Public Health Nurse, which is a little different in the capacity of what they do, like going to do welfare checks on people, and so forth. He added that he doesn't believe we need to do anything, at this point, until we take applications for the Public Health Nurse and, then, appoint whoever that may be; that Ms. Lytle is more than capable, and willing, to serve as the Mary Lizzie Spinney Trustee; that he would like to leave her in that position, as she is good at it and we have a good understanding.

**6:36 PM** Ms. Rawski said that the reason she (Ms. Lytle) was on the list to be appointed as Trustee was because we had already appointed her; that we needed that because of a situation but we felt this was a good time to get them on this annual list of appointments to get the cycle moving so that we're doing all these appointments at the same time. She added that she would entertain that the SB still consider doing an appointment now so that she goes, from this point forward, for that 17-18 period; that, then, we have that appointment running in that same cycle with all of the other appointments, except for the Fire Chief.

Ms. Davis said that she doesn't know how they are getting over the specifics of the trust that state that it is a nurse hired by the Town.

**6:37 PM** Mr. Pomerleau said that he thought, probably, the intent, when that was written into the will if he understands correctly, in those days there was a Town nurse; that she probably intended that trustee to be the Town nurse. He added that he didn't think the language limited us to the Town nurse because it says, '...a nurse employed by the Town...'; that it's a little bit of a technical difference, and he thinks the intent is probably what you're thinking it is, but he thinks he agrees that they can be two separate people, although, in the future he suggested the trustee probably be the Town nurse that we...

Mr. Lee agreed that that would make sense down the road; that he doesn't know how much longer Ms. Lytle will want to serve as that trustee.

There was consensus from the SB.

**6:38 PM** Mr. Hughes moved, second by Mr. Pomerleau, that the Select Board appoint Janice Lytle as the Trustee for the Mary Lizzie Spinney Trust.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**



**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

**Unanimous vote to approve motion.**

**I. Annual Adoption of Administrative Policies (per Referendum Town Meeting Ordinance)**

**6:39 PM** Mr. Lee said that he thought this could also be done as a consent agenda, as there are several individual items.

Mr. Murphy moved, second by Mr. Pomerleau, that the Select Board adopt and approve the ability to act on the administrative matters usually acted upon at the Town meeting but now done by this action.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

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

**6:50 PM** Motion by Mr. Murphy, seconded by Mr. Hughes, to approve the minutes of April 27, 2017, as amended.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**6:56 PM** Motion by Mr. Murphy, seconded by Mr. Mr. Hughes, to approve the minutes of May 25, 2017, as amended, and vote added.

**Roll Call Vote:**

**Mr. Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

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**July 13, 2017 5:30PM (continued)**

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

**Unanimous vote to approve motion.**

Motion by Mr. Murphy, seconded by Mr. Hughes, to approve the Special Meeting minutes of June 15, 2017, as written.

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**6:58 PM** Motion by Mr. Murphy, seconded by Mr. Hughes, to approve the workshop minutes of June 29, 2017, as amended.

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**K. Public Works**

**6:59 PM 1) Paving Bids**

Mr. Lee said that we received three bids – Bell & Flynn, Pike Industries, and Libby-Scott Paving – and we're recommending Libby-Scott Paving, as they have the lowest unit pricing and lowest overall pricing. He added that Mr. Moulton did prepare the list if the SB would like to see the road-to-road thing.

Mr. Moulton clarified that this was to be done as two projects – Full Depth Reclamation with Injected Asphalt Stabilization (All States Asphalt, Inc.

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**July 13, 2017 5:30PM (continued)**

recommended) and Roadway Paving (Libby-Scott recommended), not to exceed the approved budget amount of \$470,000.

**7:03 PM** Mr. Donhauser said that, on all these bids, the shoulder aggregate is not included, and asked if that amount is included in the paving budget.

Mr. Moulton said no; that we do it with equipment of our own; that, with the crushing bid that you approved, it is our intent to use that crushing material to do the shoulder gravel; that that doesn't affect the bid numbers.

Mr. Murphy said that, in the work you do with road gutters, there's a lot of material that's been cleaned up and hauled off, asking what happens to that.

Mr. Moulton said that we generally try to recycle it - either screening it and making top soil or putting it into embankment stabilization, depending on the content of the material.

**7:05 PM** Mr. Pomerleau said that, with Pike Industries and looking at unit prices, they have 'varies', 'varies', 'varies', asking if we didn't make it clear when this was put out to bid that 'this' is the way we want their bid.

Mr. Lee said that representatives from Pike Industries and Bell & Flynn were there at the bid opening and he asked about that, too. He said that the way they do it is that they figure in the 'mobilization charge' into their per unit price; so, if they are doing a very short road, they have some sort of set mobilization fee that drives up the per unit cost; that if we send them out on a 3-mile road, their mobilization fee goes down to a pittance and you get a good unit cost. He added that he has never seen it that way and it clearly doesn't work because of the pricing, as the SB can see. He said that mobilization is one of the things we take into consideration, trying to not have that happen any more than necessary.

**7:07 PM** Ms. Davis said that different bidders picked up different roads and asked what made the difference if they're out there looking at the same thing.

Mr. Moulton said that, to be honest, he can't give an explanation; that he took them all out and showed them the roads; that they did a subset, on their own, to go out and measure. He added that they all had the same list, they all were shown the same roads, and explained exactly what was proposed to be done

**7:07 PM** Ms. Davis asked if all three were providing the exact same service.

Mr. Moulton said yes.

The SB thanked Mr. Moulton for the documentation details.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Ms. Davis moved, second by Mr. Murphy, that the Select Board approve Libby-Scott, in addition to All States Asphalt, Inc., to do the paving for fiscal year 2017/2018, not to exceed the amount of the appropriation.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7:11 PM      2) Eco-Maine Contract Renewal**

Mr. Moulton said that our contract with EcoMaine has expired as of June 30<sup>th</sup>; so, we are looking to renew a contract. He added that they have accepted more municipalities, adjusting their tonnage rates and looking to increase that to \$70.50 per ton for the cost of MSW disposal. He said that they are willing to hold what they quoted him this year (\$58.58) in some form of a contract, with incremental increases to \$70.50 over three years plus the CPI, if the SB wishes to. He added that he has looked at other disposal facilities and he believes EcoMaine is still the best choice, even though we do have to truck it up to Portland; that there is going to be limited landfill space but EcoMaine has an incinerator, with the Town getting an energy credit for the disposal, and it's a more sustainable disposal option than the landfill because landfills are filled up and everyone will be scrambling to get rid of their municipal solid waste (MSW). He said that they would be interested to see if we would be interested in doing a longer-term contract, like 10 or 20 years, to give us the better pricing and hold things better for the Town and, then, we would have a secured place for our waste to be disposed of. He recommended going with EcoMaine, saying that it was up to the SB how they wished to proceed with any contract. He clarified that keeping the \$58.58 for this fiscal year was dependent on entering into a longer-term contract with EcoMaine.

**7:16 PM**      Ms. Davis asked how the SB felt about the fact that our purchasing policy enters into this; that even at the lower number it's \$23,600 and at the higher number it's \$28,000; that, sometimes, it's foolish to go out to bid if you're on the cusp of a contract like this. She added that she didn't know how many other vendors we think we could price against to do this, asking him to address that.

Mr. Tessier said that Mr. Moulton had reference in his memo to even higher prices with the other vendors. He said that he talked to Northeast Resource

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**July 13, 2017 5:30PM (continued)**

Recovery Association (NRRA) and, currently, the number of landfills in the region will be experiencing reaching capacity over the next several years; that those landfills will have to get approval to expand or they will be shutting down. He added that, additionally, in New Hampshire, which affects us, last year they had 400,000 tons of material come up from Massachusetts and the year before that it was only 150,000 tons; that there's a lot more material moving north that is going to put pressure on the landfills that will be available to us. He said that he thought it made sense to potentially enter into a longer-term contract because it will help us with pricing and a place to take our material; so, he would agree with Mr. Moulton that a longer-term contract, in the range of three-to-ten years may be appropriate. He added that we have established a good relationship with EcoMaine and they've given us a better price than anyone around, based on Mr. Moulton's research; that even at the increased price, it's lower than anything available.

**7:17 PM** Mr. Moulton said that even our bulky waste is at a much lower price than other places, even next door at ARC.

Ms. (Donna) Murphy, private citizen, said that even at the Budget Committee meeting the other night, Mr. Tessier gave an excellent presentation and discussion around this and she would have to support both Mr. Tessier and Mr. Moulton.

Mr. Lee also recommended that the SB enter into a 10-year contract; that he wouldn't go longer than 10 because things can change too much. He said that you would be lucky to have a place at a waste energy facility, as this trend has been happening for a while.

**7:19 PM** Mr. Tessier said that NRRA also suggested that, if we enter into a long-term contract and EcoMaine would agree, we enter into a dollar figure per year annual increase in the cost rather than a CPI because you don't know what would happen going forward. He added that it was his understanding from talking to Mr. Moulton that, if the SB would agree to going with a longer-term contract, then he would go back to them and negotiate a contract, coming back to the SB for approval.

**7:20 PM** Ms. Davis clarified that, tonight, we would have to agree to by-pass our purchasing policy, agree that the SB has the authority to explore a 10-year long-term contract, approve the \$58.58/ton for this year, and agree to have Mr. Moulton explore a contract to come up at a future meeting.

Mr. Moulton said yes.

Ms. Davis asked how the SB felt.

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**July 13, 2017 5:30PM (continued)**

Mr. Hughes said that he thought we should do it.

Mr. Pomerleau agreed.

Mr. Murphy agreed.

Mr. Donhauser said that the only reservation he had was the 10-year contract; that 5 years, in his mind is way out there but 10 years is really way out there because so many things can happen. He added that one thing that could happen is that the State of Maine could limit the amount of material coming in from out-of-state, which would extend the life of our landfills.

**7:21 PM** Mr. Moulton said that he could research that both ways and bring it back to the SB.

Mr. Lee agreed, suggesting we ask EcoMaine, if we go five what can they do for us and if we go 10 what can they do for us.

The SB agreed with that.

Mr. Donhauser asked if there was any benefit to consolidating with other towns, such as South Berwick, and trucking it up together.

Mr. Moulton said no; that we actually have the best rate in the area; that EcoMaine has given us \$1 to \$1.50 under what everyone else pays; that we've been very fortunate.

Mr. Donhauser asked if volume was an issue.

Mr. Moulton said no. He added that South Berwick has a 20-year contract with another vendor.

Mr. Lee agreed there was no economy of scale, per se, but what there would be is an economy of operational expenses, economy of facilities and replacement of waste cans, compactors, and so forth. He added that we would need a partner who had a very similar, if not identical, pay-to-throw system in order for it to work in any meaningful way and, thus far, we haven't found that.

**7:23 PM** Mr. Murphy asked Mr. Moulton why we have such a good rate with EcoMaine.

Mr. Moulton said that we got a good rate when we initially went with them back in 2011 and they have honored that lower number with a CPI every year. He added that we probably have one of the lowest tonnages for the size of the town going there because our recycling is so good.

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**July 13, 2017 5:30PM (continued)**

**7:24 PM** Mr. Lentz suggested that, perhaps from a total cost standpoint, the SB would consider what it costs us to get that to EcoMaine; that it is his understanding that we have a roll-back truck, which we pay for and maintain – diesel, driver back and forth – shouldn't that all be considered when you put that contract together and look at prices; that you may be better off to have someone do the whole deal with us.

Mr. Moulton said that we had that with Waste Management and we were paying astronomical trucking costs; that, as an example, we were paying \$220/truck back in 2010 just to go to Rochester. He added that he's looked at all those prices and found it's cheaper than even going to ARC, a ¼ mile up the street.

Mr. Donhauser asked what would happen if we used TIF money to buy ARC; that, in other words, we actually became a recipient of refuse, because it's coming here, anyway. He added that it would be a use of our TIF money that we can't seem to agree on but we could definitely agree to getting rid of our waste and not just in the sense of getting rid of our waste but having an income stream coming in.

**7:27 PM** Mr. Lee said that we need to soon have a workshop on what's next with the TIF and maybe that would be the time to talk about things outside the box. He clarified that the SB would be willing to allow us to bypass the purchasing policy, to go and do our best negotiations with EcoMaine for a 5- and 10-year period, and return and tell you the best pricing we could get for the two different types of contracts.

Ms. Davis said that the \$58.58 is contingent upon the promise that we will enter into a longer-term contract; is that what you're saying.

Mr. Moulton said that, depending on how this meeting went and what direction the SB was going to give, they are willing to carry forward with the \$58.58 for the year.

Ms. Davis said that we might express a willingness but asked if that would bind us.

**7:28 PM** Mr. Moulton said no; that we have already had these discussions; and how he presented to the SB is how he told EcoMaine he would present it and they were good with that.

Ms. Davis moved, second by Mr. Pomerleau, that the Select Board utilize the Purchasing Policy under Sole Source Provider, accept the \$58.58 for fiscal year 17/18, and authorize Mr. Moulton to explore a long-term contract for 5- and 10-year terms or any amount that is beneficial to the Town.

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**July 13, 2017 5:30PM (continued)**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7:30 PM            3) Pre-Qualified Contractor Scoring/Update**

Mr. Lee said that several SB members are following this project closely and had some concern about doing pre-qualifications; that he thought we ended up doing quite well, as we had five firms that submitted qualification statements and all five are deemed qualified, with scores between 79 and 85. He listed the companies – Apex Construction, Methuen Construction, Penta Corporation, Sargent, and T. Buck.

Ms. Davis asked if the State of Maine DEP was involved with this.

Mr. Moulton said yes; that they blessed everything.

**7:31 PM            4) Guardrail Expenditures – No Correspondence**

Ms. Davis said this was regarding concerns about an expenditure on warrant #122 for \$18,000 that did not apparently go out for bid, as required by the purchasing policy, and did not receive SB approval. She added that there is a secondary concern about the usage of money from the 2016/2017 budget to cover expenses that were appropriated and budgeted for 2017/2018 that, at the very least, might have been able to be approved but the request was not made and the SB was not informed of this transaction. She asked where we were at with this.

**7:32 PM**            Mr. Lee said that he thinks there's a couple places to start; that he thinks the SB needs to determine if they feel, indeed, the policy has been violated; that he knows Ms. Davis feels that way, having raised the concern; that, secondarily, Mr. Moulton came in from vacation to try to respond to this and he put together a memo, which is on the dais as part of your supplemental packet. He added that he didn't know how the Chair wished to begin; that there may be some members on the Board that do not feel it to be a violation, they find it to be normal and prudent, and other may say it's crystal clear it's a violation of policy; that, if it is, we have at least some type of response, here, that we would like to offer; that we're not sure it reaches the level of a violation of policy but we're looking more for what the SB feels about it and, if you want to hear an explanation of what was



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**July 13, 2017 5:30PM (continued)**

done and why it was done...and he thinks the third thing is that, whatever your determination is about whether this is a violation of policy, it would then turn into an internal issue between himself and his staff as to how that policy got violated and how to stop it in the future.

**7:34 PM** Ms. Davis said that, item one, per Eliot's purchasing policy, paragraph 4.2 §7, "A purchase of this amount (meaning an amount above \$10,000) is subject to formal bidding requirements." She added that the question was whether there was formal, sealed bidding was conducted for this project prior to the award.

Mr. Lee said that he did not believe it was; that we can't find any evidence of it.

Mr. Murphy asked if this wasn't part of a larger contract.

Mr. Lee said yes; that he believes it was, asking Mr. Moulton to speak to this.

Mr. Moulton said that, inadvertently, nothing was physically bid; that there is an explanation in the memo as to how he feels it got missed. He explained that we had discussions about the embankment project, which included the removal of the guardrail that is a big ticket item, which the Town took upon to keep costs down; that the Town took upon themselves to utilize Town forces to remove it but used a sub-contractor to reinstall it and that was part of a negotiation portion of the embankment project; that, then, moving forward, inadvertently he didn't bid anything additionally out. He added that, generally, he bids out guardrails in a year as one contract with a lump sum of projects and he didn't. He said that, for that, he apologizes; that there's nothing else he can say but that he's sorry and that he gave his best reasons why in that they are usually bid out as a lump sum, not individually, each year; that this is not an excuse, only an explanation.

**7:36 PM** Mr. Lee said that it was an honest oversight on the part of a very busy person and, then, when it was pulled out of the project, it became something we weren't thinking about anymore; that we were trying to reduce the cost of that project by taking on some of the guardrail work; that he guessed we kind of felt like we might be authorized just to go ahead and do that and use the sub.

Mr. Pomerleau said that you typically don't bid individual guardrail jobs, you do a total, and, in this particular case, when that bid went out and was approved, this particular part of it wasn't in that.

Mr. Moulton said that that was correct.

**7:37 PM** Mr. Pomerleau said, regarding the work involved, what you said was split up into two contracts – 16/17 and 17/18 – if he read your memo correctly, when you got done with the first half of those projects, you had enough money remaining in that

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**July 13, 2017 5:30PM (continued)**

fiscal year to do the second part of it, which is why you moved forward and spent the guardrail stuff.

Mr. Moulton said yes.

Mr. Pomerleau said that from this explanation it looks like it was, at the completion of this, money that was still in the account that got spent to push ahead the timeline. He added that where that leaves him is that it sounds like the work is done, asking how the amount ended up in the 2018 budget again; that his thinking is that you've got some amount in the current year that there's no place to spend it because that work is done.

**7:39 PM** Mr. Moulton said that the budget was done before the expenditure at the end of the 16/17 fiscal; so, there is, in this current budget, a paving project moving forward on River Road that we will have to do some guardrail work with; that there is an expenditure for that sum of money. He added that, now that that road list may change, and if he does that section of River Road as proposed, then we will have to replace the drainage and adjust the elevation of the guardrail in that area because of the reconstruction of the road.

Mr. Lee said that there is a project associated with this year's appropriation.

Mr. Pomerleau said that he understood that you can always find a place to spend money; that the point is that the budget contains an estimate for work in 2018 that's already been done; that had it followed some sense of accuracy it wouldn't be in this year's budget.

Mr. Moulton said yes and no.

Mr. Pomerleau said that, for that project, it wouldn't be in the 2018 budget; that he isn't saying you couldn't find another place to spend it.

**7:40 PM** Mr. Moulton said that, specific to that project, Mr. Pomerleau is correct.

Ms. Davis said that \$9,000 was appropriated for guardrails in 2016/17; then Cedar Road was done and \$10,000 was spent in November; that this was before your budget was done, so, you are \$1,000 over now; that then you do Beech Road at the end of June and you charged that against 2016/17, so now, you're \$19,000 over budget; that it's not like you had guardrail money left over to spend somewhere desirable. She reiterated that you were already over budget by \$1,000 and now you're over by \$19,000.

Mr. Moulton clarified per that line.

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Ms. Davis said that in your budget for 2018/19 you specified Cedar and Beech and Cedar was done last year; that there was no authorization from the SB to utilize the money for something that was specified in 2018/19 and charge it against 2016/17; that we should have at least been informed. She added that, at this stage of the game, we have no bid, we have no approval for the award, we have no money; that it came from some other part of your budget – for \$19,000.

**7:42 PM** Mr. Moulton said that there are other lines in his budget that were over-expended, as well, because of lack of funding, reduced funding, or unknowns; that that wasn't specific to the guardrail.

Ms. Davis agreed that that occasionally did happen but these were things that were specified in the budget appropriated by the taxpayers in 2018/19.

Mr. Moulton said that it was to be split over two budgets, as he explained.

Mr. Lee said, if he may, he would like to discuss the third point he discussed with the Chair, privately; that he thinks, simply, that it would be best if we handled this as the SB feels Mr. Lee has allowed an oversight in adhering to policy and they expect him to take care of it because these are personnel matters and doing it in public is really not appropriate.

Ms. Davis said that this is the public's money.

Mr. Lee said okay; that we sat with Attorney McGill just recently and heard that, live, so it isn't BS, it's true.

**7:43 PM** Mr. Pomerleau said to separate what you need to do about what happened and the financial accounting issues we have; that he's seeing it a little bit differently than the Chair. He added that he isn't saying that you spent money that was appropriated for 2018 in 2017; that he thinks the money was already spent in 2017, unless it was a specific line item in the approved budget, you had some flexibility there with leftover monies but the point, in his viewpoint, is that it should not have appeared, again, in the 2018 budget; that he thinks we have \$18,000 to strip from this budget to move us to LD1.

Ms. Davis said that he's now saying he would like to spend it on River Road.

Mr. Pomerleau said that that wasn't in the approved budget.

**7:44 PM** Mr. Murphy asked if it is needed by the Town.

Mr. Pomerleau said that everything the voters passed, was passed, so we can choose what we want to take it out of; that it seems to him that a point to be

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considered is that the money was put into the budget to do Cedar Road and Beech Road, and they are done, therefore, the money isn't needed for what it was appropriated for.

Mr. Murphy said that he doesn't want three Department of Public Works Directors, he just wants one, and he wants one Manager.

Ms. Davis said that we are the approving body for the financial transactions that occur in this Town.

Mr. Lee said that, if anything, it's an honest error, an honest oversight, and he would just like to find out if you believe that this is something that the Personnel Director, the Town Manager, should deal with with any staff that may have done something inappropriate, and should not be done in public.

**7:45 PM** Mr. Pomerleau agreed with Mr. Lee and absolutely calls that admin; that we still have to deal with budgets.

Mr. Lee said that that was fine; that we could deal with that under LD1.

Mr. Pomerleau said that that's all he's talking about right now - the 2018 budget; and we had an item in there that was appropriated for work that's already been completed; that part of the problem with the budgeting is the lack of tracking to what was spent. He said that whatever happened, happened, and the reality is that that money was in the 2018 budget for those two roads and it's no longer needed for those two roads.

Mr. Murphy said that he thinks this Board should direct our Town Manager to follow through and clarify that situation.

**7:46 PM** Ms. Davis said that when transactions of that nature occur she would think that the SB would be informed before they occur.

Mr. Lee said that the SB should be informed.

Ms. Davis said that it should be both on the bidding front and expenditure front; that, perhaps, that's enough said. She asked if any Board member felt we needed to take formal action other than the discussion we've had tonight.

Mr. Pomerleau said that he just wanted to be sure he was clear, from a budget standpoint; that the money was spent in 2017, from available monies and wasn't taken from projecting ahead, it wasn't spending 2018 allocations but 2017 monies. He agreed with the Chair that issues like that should be fully transparent before they're done; that it may well be, within the context of your discretionary

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authority within that budget, that you had some authority to move some things there but the clarity needs to be that we didn't spend it there and appropriate it again double up the money to the voters for it, so, the 2018 budget needs to be corrected.

**7:47 PM** Mr. Lee said that Mr. Moulton mentioned River Road coming up, asking if, out of your total \$20,000 appropriation in this current fiscal year and River Road ends up on our road list, what anticipated expense of that guardrail money will be associated with that road you now anticipate should have been in the budget.

Mr. Moulton said that it would probably be \$10,000.

Mr. Pomerleau asked if that was figured into the budget for 2018.

Mr. Moulton said no; that River Road just came up.

Mr. Pomerleau commented that now we're just pulling out of another place to spend the money that we never considered.

Mr. Moulton said no; that he wouldn't say it that way; that it's just another condition of a roadway that needs attention and this is part of that roadway attention..

**7:48 PM** Ms. Davis said that we have to drop \$60,000 or \$70,000 out of the paving budget, so, maybe River Road is that road if we have additional expenses that are going to push us over the amount.

Mr. Moulton said that he would have to look at the whole enchilada and let the SB know.

Ms. Davis said that we have LD1 to consider and, in order to be prudent, we probably need to remove more than the minimum \$26,000, in case we have an emergency come up throughout the year, because we're not allowed to spend anything throughout the rest of 18/19; so, if we're not looking to cut this right to the bone, we've got to have a little play. She added that she guessed it would be for the SB to decide if we can afford \$10,000 or \$20,000 out of that line item.

**L. Department Head/Committee Reports**

**7:49 PM 1) Eliot Energy Commission: Solar Array Presentation/Vendor Selection**

Ms. Davis said that this has been postponed to occur at a workshop next Thursday at 5:30 PM.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

**M. Administrative Department**

**7:50 PM 1) Town Manager Report**

Ms. Davis asked about **Line 35** regarding the Eliot Commons Reserve.

Mr. Lee said that the 5% that has been coming back to the Town from the Common's TIF has been going into a reserve account; that they consulted Attorney Fortin and she concurred that it should be going into the general fund, not a reserve, as those funds are tax dollars; that they will be making that change.

Ms. Davis confirmed that the **auditor** would be coming in soon.

Mr. Lee agreed, saying that would be two weeks from today.

Mr. Hughes asked what amount of money we were talking about (Commons TIF).

Ms. Bergeron said that it as in the vicinity of \$30,000, accumulated.

**7:52 PM Ms. Davis asked about Line 38 regarding an XNG plant in Pennsylvania.**

Mr. Lee said that they allowed the plant to go in on 'promises' to do 'this' and 'that'; that they allowed the plant to be built prior to any submissions (traffic study, etc.) and XNG never fulfilled those promises. He clarified to the county commissioner that Eliot hadn't had that much of a problem because we required them to do all that up front and the SB had to be completely satisfied before construction began.

**7:53 PM Ms. Davis asked about Lines 43 and 44 regarding the tech team doing IT work for the schools.**

Mr. Lee said that nothing was back yet; that we're waiting on some sort of proposal.

Ms. Davis said that that brought to mind that we are spending quite a bit on a **consultant for stormwater**; that if we go forward on anything there that also falls within our purchasing policy. She added that she is looking at some of the engineering numbers on past projects that have kind of slipped under the radar on SMPDC.

**7:54 PM Mr. Lee said that he thought they had discussed this in the past that they are subcontractors of SMPDC and he doesn't get to pick and choose.**

Ms. Davis said that we get to approve the amounts.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Mr. Lee said that we would have to discuss this as a Board, probably, because he thinks this needs some more thought put into it.

Ms. Davis said that there are some very, very large numbers in there and we are not at the mercy of our subcontractors.

Mr. Lee said no; that we could go out and try to do all of this on our own but we want to think about that carefully.

Ms. Davis asked about **Line 45** regarding meeting with Ed about HVAC Town Hall RFP.

Mr. Lee said that this was for budgeting next year, explaining that one of the things we need to do is know the actual real cost of what it would take to replace or update the HVAC in the Town Hall, both as it stands and if we ever expanded; that ultimately we will be receiving some bids so that we have a very strong estimate of what we should be planning for down the road.

**7:55 PM** Ms. Davis asked about **Line 96** regarding a meeting with the Town Clerk around the new website.

Mr. Lee said that the Town Clerk had her first meeting with the vendor; that it should be within three months for full implementation.

Ms. Davis asked about Line 125 regarding a CIP with parking lot estimate.

Mr. Lee said that, as part of updating our CIP, Mr. Moulton got an estimate for doing the Town Hall parking lot, which he has added for future planning.

**7:57 PM** Ms. Davis said that the Town Hall has had problems with water and ants, asking if Mr. Lee had explored that problem.

Mr. Lee said no; that he doesn't have the money and would probably need a structural engineer. He explained that the water comes up through the floor, as well as the ants.

Ms. Davis said that she was concerned that we are focusing our CIP money on an HVAC system for a building that's got a hydrostatic pressure system coming up through the floor.

Mr. Lee said that there is also a full renovation item in the CIP, which would cover that particular issue.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Ms. Davis asked about having a preliminary look by an engineer to see whether that is a more severe issue than the HVAC.

**7:59 PM** Mr. Lee reiterated that he had no money to hire an engineer to do that; that we looked at HVAC because we know that is shuddering and doesn't provide sufficient heat in many offices. He added that he thinks that, if you are going to put it in a slab, you're going to have to do a lot more than they did when they built this Town Hall.

Ms. (Donna) Murphy asked if this was an emergency situation that would fall under the contingency to fund an engineer to look at it.

Mr. Lee said that we've been living with this for several years.

Ms. Albert said that it is a safety issue as far as residents coming in; that, usually, during the wet months or when it's raining, she is usually out there with a mop; that we have signs and rugs out there but not all the rugs cover places where it is seeping.

Ms. Davis asked what we were going to do about that.

Mr. Lee said that that was a decision for the SB; that he did bring to the SB an offer by an architect to do a free design, however, that was turned down.

**8:01 PM** Ms. Davis agreed but said that we need engineering review; someone to look to tell us if we have a smallish problem or a biggish problem.

Ms. Rawski said that when the original building was done, the plans were far more extensive than it ended up being because budget cuts took place and they cut corners. She added that she thought there was a plan to have a basement underneath.

Ms. Murphy asked if the extent of the water issue was going to become a problem with a mold issue.

Mr. Lee said that it could well become an issue. He added that that is why we keep pounding the drum on doing something with the building because we're beginning to face entire structural and mechanical issues that are hitting 30 years of age. He said that if it was built on short money and cut corners, we maybe have to pay for it.

**8:02 PM** Ms. Davis asked if she could get a consensus from the SB that we place some emphasis on finding out what kind of problem we have here.



**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Mr. Hughes said that he thought we'd be foolish not to.

Mr. Lee said that he would see about finding a proper engineer who could do an affordable review to tell us what the problem is and what we ought to do to fix it; that we would have to find a way to pay for it, too, because his budget is very tight.

Ms. Davis said that we have money left over from the compensation study, asking if it was within the SB's purview to allocate those leftover funds.

Mr. Lee said that that was appropriated for a specific project and he would think she would want that money to drop through.

Ms. Davis agreed but Mr. Lee is telling them that they have a safety issue and a potential mold issue.

**8:03 PM**      Mr. Hughes asked about the validity of Ms. Murphy's suggestion.

Ms. (Donna) Murphy said that we have the November election coming up; that she doesn't know what the undesignated fund looks like but is there anything, even with LD1, to present a problem to go to the voters in November to request money.

Mr. Lee said that our undesignated fund balance went up by \$519,000 this year, so, we are at our target now. He added that we also have contingency, which we don't like going into, but could restore in a future year. He said that he thinks he needs to get an estimate of what it would take for somebody to come in and poke around, do some test borings, etc., find out what is going on and if there is a way to solve it, here and now, with the way we sit, short of a big, major project. He said that he would look into it.

**8:05 PM**      **a. Workshops through Summer/Fall**

Mr. Lee said that this is an updated list of workshops done, coming up, and old issues needing to be revisited.

After discussion, it was decided to focus on private sewer lines and add the Town Hall issues. Board members will bring priorities to get them into the workshop calendar.

**8:16 PM**      **2) Application for Catered Function**

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Mr. Lee said that Ms. Albert is here to answer questions on behalf of the applicant. He explained that the applicant is Eliot Festival Committee, Cindy Waters heading the group, for a beer tent for Eliot Festival Day, September 30.

Ms. Albert said that there will be two taps in the tent and a sort of guardrail at the entrance, with people having to show identification to prove age prior to being served, and will have to stay within that area while being served. She added that the Eliot Festival Committee didn't have a lot of consumption last year but did want to have it again because people really enjoyed it last year. She also added that it would be limited to two servings per person.

Mr. Murphy moved, second by Mr. Pomerleau, that the Select Board approve the Application for a Catered Function by Qualified Catering Organization, Shipyard BrewPub, LLC, to be held on Eliot Days September 30, 2017 between 11 AM and 3 PM at Dixon Road.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

NOTE: Agenda items 3) and 4) were taken together.

**3) LD1 Post-election Budget Reductions - \$26,762 (2<sup>nd</sup> Consideration)**

**4) Report on Stormwater End of Year Budget Status**

**8:21 PM**

Mr. Lee said, discussing the spreadsheet memo, that the excess stormwater number of \$15,486.45 is correct and could be used to meet LD1; that we've discussed guardrail money; Mr. Pomerleau did an analysis of which articles were least supported and most supported. He added that we need to get to at least \$26,762.45, although the Chair said that we should be prepared to go over that.

Mr. Pomerleau said that he didn't think we could legally go over the amount the taxpayers approved other than the amount required to meet LD1; that he doesn't think we have any authority to cut the budget that the voters just approved except to meet the law with LD1.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Mr. Lee said that the article, itself, had a number in it that was that number. He added that the memo shows how to meet that number.

**8:25 PM** Mr. Pomerleau said that we settled in on \$200,000 (for stormwater) as a reasonable plan but LD1 just altered that plan, in his philosophy, in terms of what we can afford, so one of his primary targets would be stormwater.

Ms. Davis clarified that the \$15, 486 takes unexpended money from 16/17 and moves into 18/19 so the amount spent on stormwater would still be \$200,000.

Mr. Pomerleau said that, with any remainder, he would look at the guardrail expenditure that was budgeted and already done. He added that, in the context in what the voters have approved for a budget, we're dealing with a budget with LD1 that the voters approved; that there was money requested that's not needed and he would take that remainder from the guardrail budget; that he wouldn't touch the rest of any of these. He added that he had problems with some of these, anyway, such as General Assistance, which was rather high on the voters' approval list.

**8:27 PM** Mr. Lee said that Mr. Pomerleau was suggesting to bring forward the \$15,486 as a revenue and hit the guardrail budget with the other \$11,000 that's need.

Mr. Pomerleau agreed that that is what he would recommend.

Mr. Pomerleau moved, second by Ms. Davis, that the Select Board take the excess stormwater appropriation revenues of \$15,486.45 and the remainder to come from the guardrail budget of 2018/2019.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**8:30 PM** **5) York County Delegation**

Mr. Lee read the memo from the York County Budget Committee regarding the budget impact of the new court house location on local municipalities and their request for York County municipalities to approve their resolution to help mitigate this impact.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board agree with the Resolution:

*“Whereas, the Judicial Branch of the Government of the State of Maine determined that it is advantageous to have a combined courthouse in York County; and*

*Whereas, the Maine State Legislature agreed and introduced a \$90 million bond with \$65 million designated for a combined courthouse in York County and the Governor signed that legislation into law; and*

*Whereas, the Legislature also introduced legislation that was signed into law by the Governor that created the Site Selection Commission to decide the location of a new combined courthouse; and*

*Whereas, the Site Selection Commission selected the City of Biddeford as the location for the proposed, combined courthouse; and*

*Whereas, the Site Selection Commission did not discuss any possible, financial impacts on the County; and*

*Whereas, the Site Selection Commission devoted little thought or discussion to the absolutely vital need to locate the York County Government office of the York County District Attorney in the new, combined courthouse; and*

*Whereas, the County of York estimates that the added, minimum, estimated costs to the County will surpass \$500,000.00 annually; and*

*Whereas, these costs will be borne completely by property tax payers in the 29 municipalities in York County; and*

*Whereas, not having the District Attorney of York County located within the combined courthouse will be a very significant disservice to the 200,000 citizens of the County and create the very large inefficiencies the \$65 million combined courthouse is supposed to erase; and*

*Whereas, the absence of the District Attorney in the combined courthouse will have a very significant negative impact and effect on the operations and efficiencies of the Maine State Police, the York County Sheriff and the 15 municipal police departments in York County; and*

*Whereas, our Eliot Select Board finds it totally unacceptable that the decision of one level of Government, the State Judicial Branch, will have a negative impact on two other levels of Government, the County of York and the 29 cities and towns of the County; and*

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

*Whereas, we have carefully reviewed letters to Chief Justice Leigh Saufley from the York County Commissioners and the York County Budget Committee, who are our elected representatives, and agree with their concerns.*

*Therefore, be it resolved, by the Select Board of Eliot that we formally request the Chief Justice of the Maine Supreme Judicial Court, the Honorable Leigh Saufley, and her colleagues seek meaningful dialogue with the County and associated stakeholders, identifying and discussing, jointly, and agreeing on reasonable action to mitigate these impacts to York County by default to Eliot. We further believe that the active participation by the Chief Justice in these negotiations is critical to successful resolution of any and all known impacts."*

**DISCUSSION**

Mr. Lee said that he did think this would add costs for traveling with prisoners, with two different locations; that he thinks it all needs to be in the same location.

Mr. Pomerleau discussed his concern for supporting this when he hadn't heard the other side of the argument on this; that all of these points must have been argued when the decision was made.

Ms. Davis said that what she thinks they are asking for is that we are formally requesting the Chief Justice and her colleagues to seek meaningful dialogue with the County and associated stakeholders; that she thinks, basically, that they are asking for further discussion before a final decision is made.

**8:35 PM**      Mr. Lee agreed

**DISCUSSION ENDED**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – No**

**Mr. Hughes - Yes**

**4 - 1 vote. Motion approved.**

**N.      Old Business:**

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

There was no Old Business.

**O. New Business:**

**8:36 PM** Mr. Donhauser said that he thought the SB should look at personal property tax; that it's his understanding that there are no collections being done on that and, if you look at the list that are mostly businesses, there are a number of them that have multiple years; that we could look at collection agencies or, at least, sending them a letter; that he doesn't think there is a way of putting a lien against them.

Mr. Lee agreed that you can't do that; that the only thing you can do is put a UCC-1 against the property but, in most cases, the property left town. He said that we have been actively pursuing the personal property accounts since he got here; that recently we sent out a bunch more letters and we did get several people who came in and paid on their personal property; that Ms. Harvey has done a really good job of pursuing them. He added that he would be happy for Mr. Donhauser to look at the receivables but he thinks that what he will find is that we are doing better now than has been done in a long time on collecting it.

**8:37 PM** Mr. Donhauser asked if they could withhold their licenses, if they require one.

Mr. Lee said that he didn't know if you could; that he didn't believe that, with the payment of taxes, you can withhold anything if someone doesn't pay because you have to go through the lien/foreclosure/seizure in the case of personal property.

Mr. Donhauser said that the flip side is to look at the actual assessed value; that if they've left Town then we ought to write them off.

Mr. Lee agreed and said that we have been; that he has had conversations with the Assessor and Ms. Harvey regarding this and directed those to be written off. He added that he would love to have a discussion with Mr. Donhauser if he was interested in that. He also added that we don't go into businesses to look at personal property; that it's still on a self-declaration basis. He said that we don't have a lot of accounts with large personal property inventory but, with the ones that do have large amounts, he does wish we were going in...not every assessor has the ability to do personal property, they are trained in land and buildings, and there are specialized people who do personal property.

**P. Selectmen's Report:**

**8:40 PM** Mr. Pomerleau reminded that we had the appeal hearing of the Harbor Commission case and we have 14 days to get that out; that he did a draft that he put out to everyone so that we could move on that. He added that we won't meet

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

again before that date comes so we ought to act; that he doesn't think it would take a vote, just someone to look at the language and get it done.

Mr. Lee said that he could work on the Notice of Decision and leave it for SB signature.

**8:42 PM** Mr. Pomerleau said that, at the next meeting, he will introduce the recommendation for the SB to consider establishing an Aging in Place Committee, which is an AARP program, that's beginning to be very common in Maine.

Ms. Davis asked if Mr. Lee needed any action on the Decision letter or does he want a consensus.

Mr. Lee said that just a consensus would work.

Ms. Davis asked if there was SB consensus to use Mr. Pomerleau's letter.

There was SB consensus.

**Q. Committee Vacancy Report**

This is being handled by the front office now.

**S. Executive Session**

**8:44 PM** Mr. Murphy moved, second by Mr. Hughes, that the Select Board enter into executive session as allowed by 1 M.R.S.A §405.A Personnel and 1 M.R.S.A. §405.D Labor Negotiations.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**9:35 PM** Out of executive session

No action was taken.

**SELECT BOARD MEETING**  
**July 13, 2017 5:30PM (continued)**

**T. Adjourn**

There was a motion and second to adjourn the meeting at 9:36 PM.

**VOTE**

**5-0**

**Chair votes in the affirmative**

**DATE**

**Approved September 14<sup>th</sup>, 2017**

**S: /Mr. Richard Donhauser, Secretary**