

SELECT BOARD MEETING
December 28, 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:

5:31 PM Ms. (Michele) Myer, Odiorne Lane, thanked the Town Manager for posting building permits to the Town website. She asked why fees were not posted, as well.

Mr. Lee said that he wanted to simplify the postings, showing where and what is taking place; additionally, when fees have been posted in the past, residents have questioned why fees were different for what seemed like similar projects (based on square footage, etc.) and that takes time, which we have little of. He also added that timeliness is an issue if a resident wants to appeal the issuance of a building permit.

Ms. Meyer asked how often permits would be posted in relation to the timeliness issue.

Mr. Lee has asked the CEO to post them no less than every two weeks, and that is their goal.

F. Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Murphy, second by Mr. Pomerleau, to approve the minutes of October 26, 2017, as written.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Abstained

Vote to approve motion 4-0-1.

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Mr. Donhauser said that November 16 minutes needed to be placed back on the agenda for approval, as they were tabled at the last meeting.

G. Public Works

There were no items.

H. Department Head/Committee Reports

5:43 PM Resignation of Jessica O'Donoghue, Aging-in-Place Committee (addition)

Mr. Lee read Ms. O'Donoghue's letter of resignation.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board approve, with regret, the resignation of Jessica O'Donoghue from the Aging-in-Place Committee.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

5:44 PM 1) Resignation of Richard Matlack, Eliot Energy Commission

Mr. Lee read Mr. Matlack's letter of resignation.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board accept, with reluctance, the resignation of Richard Matlack from the Energy Commission.

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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5:45 PM 2) Resignation of Jeff Duncan, Planning Board

Mr. Lee read Mr. Duncan's letter of resignation. He said that he did speak with Mr. Duncan and Mr. Duncan was firm that he needed a break from Planning Board work.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board accept, with reluctance, the resignation of Jeffrey Duncan from the Planning Board.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

Ms. Davis asked that a letter be sent for the service he has so faithfully performed.

I. Administrative Department

5:47 PM 1) Town Manager Report

Mr. Donhauser questioned the date on **Line 34 and 35**, regarding the next collaboration meeting.

Mr. Lee clarified that it was January 10th; that he wanted to let the SB know in case any wanted to attend.

5:49 PM a. Financial Report

Ms. Davis asked what funding account we took the ECSD bus from.

Mr. Lee said that he didn't know off the top of his head. He added that, in the budget book, it has a description of each of the two funds under the CIP tab, which will show the pertinent account.

5:50 PM 2) Review of ICMA-RC (alternate retirement plan)

Mr. Lee said that he was not looking for action on this tonight; that he wanted to familiarize the SB with the deferred compensation plan and trust document and ask if the SB had any questions. He added that they are sending down a

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representative to see him and the Treasurer January 29th to familiarize them with this plan.

Mr. Donhauser asked about fees.

Mr. Lee said that the Town pays .55% in administrative fees of the total amount of funds in that account.

There was discussion of the pros and cons of the alternate retirement plan and social security issues.

5:55 PM 3) Approval of Change of Duties

Mr. Lee read a memo that discusses that the DPW will have responsibility for all park, ballfield, and facility maintenance as of July 1st, which will decrease the ECSD budget and add a comparable increase in the Public Works Summer Roads budget, as well as streetlight issues. He added that, as Mr. Pomerleau pointed out, any change like this should go before the SB.

Mr. Pomerleau moved, second by Mr. Donhauser, that the Select Board approve this change in assignment of duties and the related shift in budgeted funded issues between the Public Works and Community Service Department and some minor notice issues for Police and Public Works, as outlined in the Memo of December 4, 2017 from the Town Manager.

DISCUSSION

Mr. Hughes said that the ECSD has been generating revenue, which has been used to cover some of these expenses, and that, as far as he can see, the DPW would bear the expense without any benefit of a revenue offset.

Mr. Lee said that the revenue generated by the use of these parks would still be generated through ECSD, that the DPW would not touch any of that money; that it's just that we have a bit of a mish-mash when it comes to who does what facilities, when, and it's not simply orchestrated; that it is a duplication of efforts in some cases and both staff people are in favor of this; that there's no hit to income. He added that, under gross budgeting, it becomes a single source under which we pay all bills; that whoever is doing the work will be under the direction of Public Works.

There was discussion regarding how this might positively impact and clarify the ECSD budget.

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Ms. Murphy asked if the ECSD programs were paying for themselves and are they ensuring that they are self-funding.

6:10 PM

Mr. Lee said that they had a tracking mechanism in place, now; that we are going to give it another year to see where changes might need to be made and work towards better software to make better efficiencies in this department. He added that we are looking at ways to compensate for the program events offered to the Town that do not generate revenue, such as the Easter Egg Hunt and Christmas Tree Lighting, and finding an appropriate balance. He said that we have made some progress but it is a fairly big endeavor and will take some time to work through.

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.

Mr. Pomerleau suggested an e-alert go out regarding streetlight notifications; that if people see something, to contact Public Works rather than Police.

Mr. Lee agreed, adding that we get billed for those streetlights whether they are on or off.

6:17 PM

4) Police Cruiser Bids

Mr. Lee discussed the three bids he and the Police Chief received and recommended Quirk Auto out of Augusta at \$29,648, which is the lowest price, and we have adequate reserves to pay that. He added that they are comparable bids.

Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board award the bid for the new Ford Police Interceptor to Quirk Auto of Augusta for the amount of \$29,648.

Roll Call Vote:

Mr. Donhauser – Yes

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

Unanimous vote to approve motion.

6:19 PM 5) Public Approval of Warrants

Mr. Murphy moved, second by Mr. Hughes, that the Select Board approve Warrant #61 in the amount of \$915,095.04, dated December 13, 2017; and Warrant #63 in the amount of \$22,443.24, dated December 14, 2017; and Warrant #64 in the amount of \$289.00; and Warrant #66 in the amount of \$116,026.52.

Roll Call Vote:

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

Unanimous vote to approve motion.

J. New Business:

6:22 PM Mr. Lee discussed the memo from the Town Clerk that lists the **ordinances** that need to go out to be **codified**, some dating back a few years, and the costs, adding that some will be done in this year's budget and the rest will be done through the CIP, as funds allow. He added that the Charter requires that all new and repealed ordinances be codified; that we will be getting estimates and talking about that, year-to-year, in the CIP; that we were doing it and got away from it as the budget got tighter, but we are working to meet the Charter requirements. He also said that the Charter requires an **ethics panel** be formed regarding familial employment situations; that he has recently found and appointed a 3-member panel; that he will be meeting with them January 16th to get them acquainted with their duties and the three issues they may have to take up. He described the process he went through to find the three people that were selected for the panel.

6:30 PM Ms. (Donna) Murphy asked if the panel names will be made public.

Mr. Lee said that they would; that he was just getting this panel started and he doesn't have their names with him tonight. He added that he will get that list together and send it out to the SB and make it public.

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6:32 PM Additionally, Mr. Lee discussed the impact of the just-passed Congressional tax law and that people are coming in to pre-pay their taxes before the new law takes affect; that certain administrative issues have been acted on, annually, at Town Meeting that the SB is now authorized to act on, such as rates on abated taxes, rate of interest on late taxes, etc., but we don't have anything regarding interest paid on pre-paid taxes; that he suggested to the SB that we amend these administrative articles regarding the amount to be paid on pre-paid taxes to be zero. He added that the second item we've never addressed is if someone overpays their taxes, which State statute does address and having a range of 3% to 7%, with his recommendation being 3%.

There was discussion regarding abatement (assessment) payments versus over-payment 'refunds' for pre-paid taxes into the future, the difference, and the process for dealing with those. There was also discussion on setting the interest to be paid, if any, for 'refund' of overpaid taxes and how that would be calculated.

6:53 PM Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board amend the Select Board's authority to act on administrative matters acted upon at Town Meeting in the third paragraph to state, "To authorize the Select Board to set an interest rate of 3% to be paid on abated or overpaid taxes for the fiscal year 2017/2018."

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Murphy – Yes

Ms. Davis – Yes

Mr. Pomerleau – Yes

Mr. Hughes - Yes

Unanimous vote to approve motion.

K. Old Business:

6:55 PM 1) Deed of Gift – York River Artifacts

Ms. Davis said that, in reading the emails, it sounds like, in order to offer South Berwick those artifacts, we have to contact them to consider this; so, could the SB discuss how we are going to go about that; that she was assuming that we would have the Town Manager contact the County House Museum, or Old Berwick Historical Society, and she believes Ms. Adams gave us some contact information.

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Mr. Lee said that he would be happy to contact them to see if they would be interested in the artifacts and if they would actually display them; that he actually does tend to agree that he can't see Kennebunk being terribly interested in these Eliot, Maine artifacts, whereas South Berwick well may be.

6:56 PM Mr. Murphy disagreed; that he thinks the museums are different and he doesn't know enough about the South Berwick museum; that The Store Museum meets the federal level for protection, covers a wider area, and has better collections, although he doesn't know enough about the South Berwick museum. He added that he doesn't want it stuck in a closet because the South Berwick museum doesn't have the display room; that he wants them truly recognized at a federal-level museum.

Ms. Davis said that that was why the Town Manager would be contacting them. She added that the federal thing was not mandatory; so, if we could find out their level of interest, as well as whether they meet certain requirements; that these are local artifacts and the Old Berwick Historical Society is a local society.

Mr. Lee said that he would be happy to do that.

Mr. Lentz suggested it was appropriate that the Eliot Historical Society weigh in on that decision.

Ms. Davis agreed, asking that the Town Manager coordinate those efforts and get everybody's input; that that would be much appreciated.

7:00 PM Ms. Davis said that the next item was **union formation** and that she would like to keep as much of this public as possible, asking how much of this could not be public.

Mr. Lee said that he didn't think there was anything that could not be public.

Mr. Pomerleau agreed, saying that we are not in any negotiations.

Mr. Lee said that we have two current unions – Police and Public Works – and the general government folks that work in this office, Police admin, administrative assistants, etc. have signed off to form their own union under the Teamsters. He said that we have been in the midst of updating personnel policies for the past couple of years and, in so doing, perhaps raised some concerns of those now trying to form this union; that he sent a query to legal regarding the legality of changing the personnel policy in light of this union forming and read the response, which discussed “maintaining the status quo” in these types of situations regarding certain provisions; that the response went on to say that this might not apply to the current situation where there is no approved bargaining

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agent and, therefore, no obligation to bargain, and no union to bargain with; that a 'breach of faith to bargain' (prohibited practice complaint) may not hold up in court; however, because this is a gray area in the law, there is risk involved in adopting changes to the personnel policy in the current environment. He added that, at this point, we don't know much about this but, with any further discussion on this, we would probably have to do that with the full Board, whether to go ahead or with a negotiating committee, whether to proceed and risk a prohibited practice complaint, or whether it is more prudent to wait a year, negotiate with them, then implement the policy.

7:07 PM Mr. Pomerleau said that, based on what he read from the attorney, there is absolutely nothing, here, for us to worry about; that there is always a possibility; that they haven't even formed a union, yet, and if that happens and they file a complaint, then we will deal with it then. He added that we are charged with managing the Town; that we should manage the Town and not take our direction from a potential union organization; that unless we are told by our attorney not to do this, we should move forward with implementation of our personnel policy, as we've already done and approved.

7:08 PM Mr. Hughes said that we have put in long, strenuous hours on this and he thinks we've put in place a policy that will stand the test of time; that he thinks we need to move forward with it.

Mr. Donhauser discussed an additional email following the one that has been discussed, regarding a PPC.

Mr. Lee said that PPC was a 'prohibited practice complaint' and discussed the one that was happening when he first came here, which this email referred to; that it had to do with LD1 voting and not giving proper notice to the union regarding LD1 impacts. He also discussed the length of time we have been working on the personnel policy, the difficulties the union is having establishing itself, and being unsure whether it will form at all.

Mr. Donhauser agreed that this was putting the cart before the horse in that, if the union is not there to negotiate with, then you can't prohibit them from doing something if they don't exist.

7:11 PM Mr. Lee asked if that was agreed, preferably by vote, by the whole SB, to implement the personnel policy, as planned, and risk the PPC.

Mr. Pomerleau said that we voted to implement the personnel policy already

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L. Selectmen's Report:

7:12 PM Mr. Hughes said that he was curious as to when we can expect the letter from Mr. Pratt on the questions we submitted to him at the end of November.

Mr. Lee said that Mr. Pratt's memo is largely done; that the way we broke up the task is that the Treasurer is doing the three years of financials because Mr. Pratt doesn't have that information; that Ms. Bergeron needs to find time to do three years of sewer financials, which was the request, then she is going to submit them to him and he will use whatever is found in that information to further explain the questions that were asked of him. He added that he had to get the budget books out by December 22, and that has held this up, as they didn't have time to do both. He said that, after the holiday, he and the Treasurer will make this and the letters to PB applicants a high priority; that his goal is to get the sewer response to the SB by the next meeting.

Mr. Murphy discussed his concern for having the time to get this by the next meeting.

7:15 PM Mr. Lee reiterated that Mr. Pratt has his memo almost complete and is only waiting to include the sewer financials for context.

Ms. Davis asked about door alarm codes.

Mr. Lee said that we have had three solid weeks of prepping budgets; that it is in the works.

Ms. Davis said that, in preparing for the budget, it would be very helpful to have an electronic copy of the current account status report, to-date, sent to her and the Budget Committee Chair.

7:18 PM Ms. Davis said that they would like to know when we will be able to talk with Mr. Chris Bachman.

Mr. Lee said that he will see if Mr. Bachman can make it to the January 11th meeting.

Ms. Davis said that she had a question about Raitt's Signs and it looks like you sent some sort of an answer, here; that she doesn't think this has anything to do with ECSD; that it was signed and authorized by Mr. Moulton.

7:19 PM Mr. Lee said that it began at ECSD; that he got that request today and wanted to respond but, sometimes, it takes a bit of time to give a full response. He added that we were approved by the SB to do this; that we wanted to put a sign up

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(replacement) in the new park over here and we asked Raitt's Signs what it would cost to do the sign; that he thinks we were given a cost of about \$3,500. He added that, at the same time, the Town seal we've used for years and years was done by hand, and it looks like a child did it; that every time we had a sign made, we had to have it hand-drawn again, as there was no jpeg of it. He said that, for the business cards, signage of Public Works vehicles, etc., we decided that we should have it turned into a jpeg so that it could be readily and inexpensively reproduced in the future.; that at the same time we had it done for the sign, we also had it done for the stickers that go on the side of the plow trucks; that it originated through ECSD in her capital budget for a sign in this park over here and, then, expanded beyond that to also make stickers that we have in inventory, now, for any all new trucks going forward for many year. He added that Mr. Moulton started working on this back in May 2016; that Mr. Raitt was busy, and we had to carry the money forward; that he will work to get more information regarding this.

7:23 PM Mr. Murphy said that he would like to commend our Town Manager for handling a longstanding problem in this way; that it's part of managing the Town, he believes.

7:26 PM Mr. Lentz said that, with Mr. Duncan's resignation, we need to have a posting for a regular member.

Mr. Lee thanked him and said that that may have started.

Ms. Meyer asked about the status for a Town Planner.

Mr. Lee said that we have had a few applications and he is interviewing three people for that position.

There was a brief discussion regarding the interview and hiring process.

M. Committee Vacancy Report

This was not discussed.

N. Executive Session

There was no executive session.

O. Adjourn

There was a motion and second to adjourn the meeting at 7:36 PM.

VOTE

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**5-0
Chair votes in the affirmative**

Date Approved: March 8, 2018

S/ Mr. Richard Donhauser, Secretary