

**SELECT BOARD MEETING**  
**February 8, 2018 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.

**Absent:** Mr. Donhauser (excused).

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

**E. Public Comment:**

**5:31 PM** Ms. (Donna) Murphy, Budget Committee Chair, said that the SB should have the letter that the SB approved to sign on with the Budget Committee to send to MSAD #35; that it needs the Chair's signature.

**F. Committee Resignations and Appointments**

**1) Conservation Commission, Resignation, Ernie Bruneau**

Mr. Murphy moved, second by Mr. Pomerleau, that the Select Board reluctantly accept the resignation of Ernie Bruneau, with a letter of thanks.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**2) Conservation Commission, Resignation, Andrew LaForge**

Mr. Murphy moved, second by Mr. Pomerleau, that the Select Board accept the resignation of Andrew LaForge, with a letter of appreciation.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

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**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

NOTE: The next two items are tabled because the applicants could not be present this evening.

**3) Conservation Commission, Application, Sarah Plocharczyk**

**4) Conservation Commission, Application, Doug Warrender**

**G. Special Presentation: Investment Discussion with Sue Barnicle and Richard Elvidge of Key Bank**

**5:36 PM** Mr. Lee introduced Ms. Barnicle and Mr. Elvidge, saying that they were present to discuss SB concerns, the auditor's comments, and address the Chair's written questions.

Mr. Elvidge suggested starting with the questions, addressing those and, as we go through them, we can further explain some of the concepts that may be helpful to the process, as well.

Ms. Davis read notes from the last meeting: "The auditor had indicated that the Town has taken a loss for the past two years on its Key Bank investments. There are four levels of oversight on the investment account – Key Bank, the auditor, the Town Manager, and the Treasurer. Why wasn't the Board informed at an earlier date so that corrective action could have been taken? At the same Board meeting, it was agreed that a representative for Key Bank would attend a Select Board meeting to discuss this situation. At a minimum, the following information as it relates to the Town of Eliot reserve fund should be provided at that time. The starting balance at inception, additional deposits by the Town, total dividends, interest, and other income, total fees paid to Key Bank, other costs. Provide detail. Ending balance to-date." She added that that pretty much sums it up – where did we start, where are we now, and where has some of the money gone.

Mr. Elvidge said that, regarding losses the past two years, he passed out a report that he thinks addresses that directly. He reviewed the report, saying that it is as of June 30, 2017 and covers all the accounts that we manage for Eliot; that you need to look at a combination of both column numbers for income and loss and, for the two years in question, the Town made approximately \$78,000 as opposed to losing money, as the auditor suggested. He added that he is assuming that the auditor is looking at just one component of appreciation, growth, income, what-have-you, of the portfolio; that the portfolios are primarily invested for income but, also, the bonds do fluctuate in value on a regular basis. He discussed the

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steady, moderate return on investments and the fluctuating values in bonds. He also discussed another report – Summary Investment Performance – that covers everything since inception.

**5:48 PM** Mr. Lee said that one thing came up in budget discussions in budgeting for \$25,000 in interest earnings, then the auditor's comments; that that oversight, here, is they have been rolling interest earnings back into the investments and was never told by him (Mr. Lee) to send a portion of that to fulfill the budget item under revenue. He added that it looks as though we could draw about \$20,000 to \$25,000 and still have some extra earnings to roll back into continuing growth of the fund, as about \$30,000/year, on average, is earned over the period; that, theoretically, we could make up all the years and take some interest earnings, right now, go back to our original investments, and let them grow to a point where there's \$20,000 in genuine interest earnings and, then, have that deposited into our general fund to offset our expenses associated with the TIF and other activities. He clarified that his point was that we simply need to request that money come forward to us and they will issue the profits on our investments.

**5:50 PM** Ms. Davis said that she didn't think depreciation was a factor if you held the bonds until maturity.

Mr. Elvidge said that it is, discussing how bond values happen; that they price mark-to-market, which can cause the value to fluctuate, and enables for better decisions based on real time.

Ms. Davis said that she thought, based on a previous discussion, that we were a kind of buy-and-hold situation.

Mr. Elvidge agreed, saying that that's the strategy, by and large; that that still doesn't change the fact that we're still going to turn around and price, based on the market. He added that we still hold the bonds to maturity but we show the difference in prices; that we position the portfolio to minimize that fluctuation in those prices.

**5:56 PM** Ms. Davis asked if the withdrawals included fees.

Mr. Elvidge said yes.

Ms. Davis said that \$120,000 is truly our net (income earned) yield.

Mr. Elvidge said yes; that that was what was generated by income but that is not your earnings, per se, as the earnings incorporate changes in the value of the securities (actual was about \$92,000).

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**5:58 PM** Ms. Barnicle said that the current fees are .485 basis points; so, less than ½ a percent; that when we started out the program we had a slight discount on the fees - .45 – and that was due to where the interest rates were at the time of the inception of this portfolio.

Mr. Hughes said that it would be interesting to know how much of that earning is in money we can't touch, such as the TIF where earnings stay in the fund, and how much is really available to us. He added that we're going to have to budget out what we're going to need money for and what earnings we can actually pull to put into operations on an annual basis.

**6:00 PM** Mr. Lee said that that is part of our next steps; how do we get some of that money to offset some of our expenses, especially the TIF expenses; that if it's just the Eliot Commons and the trust funds, he doesn't think that's a very significant portion of our portfolio; that he thinks the bulk of it is probably available to us. He added that we could have it transferred into our general fund every quarter, be noticed, and have up to \$25,000, possibly leaving some to build and grow a fund for the future.

Ms. Barnicle said that we will do it however you instruct us.

Mr. Lee said that our next step for this year is to make sure we pull in some of the interest earnings because we budgeted for it and, then, in the coming budget, he thinks we can legitimately leave the \$25,000 in as a revenue after this discussion.

The SB will review the portfolio reports and get any questions to Mr. Lee, who will forward them to Key Bank for clarification.

**6:03 PM** Mr. Pomerleau discussed the TIF and statute language; that as long as the TIF funds are in an uncommitted account, then the interest is available to us to send to the general fund; that once we have an actual approved project, then that money has to be transferred to a project fund and the interest in the project fund must remain in that fund.

Mr. Lee agreed, saying that, until we get an approved project, we will use that interest earning to help offset the cost of administering the TIF fund.

There was discussion regarding TIF fund expenditures, to-date. A printout of withdrawals will be generated as well as a breakdown of actual dollar amounts for fees.

**6:07 PM** Ms. Barnicle gave the annual fee amounts: 2015 - \$13,343.93 = .45 basis points; 2016 - \$17,440.12 = .47 basis points; 2017 - \$21,440.42 = .485 basis points.

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Mr. Hughes said that he thought it was a very good presentation and thanked Ms. Barnicle and Mr. Elvidge.

Mr. Elvidge said that any additional questions about how these things price, etc., he would be more than happy to talk about that.

**M. Old Business: (Taken out of order for the Treasurer's participation.)**

**6:09 PM ICMA – RC Meeting Follow-up**

Mr. Lee discussed a meeting with two people from ICMA Retirement Corporation (ICMA-RC) and Mr. Hughes; that after listening to what they said about 401's and 457's and how we can structure them, and it's very flexible, we reached out to the HR Director (Stephanie Weaver) in Wells; that they have just put one of these in and shared with us their analysis of how they felt it best fit in and how it could best be used.

**6:11 PM** Ms. Bergeron said that she was involved from an administrative standpoint as to how this would work and she has had past experience administering 401K's. She explained that, originally, the discussion was to create a vehicle for those non-participating Maine State Retirement individuals; that what she thinks we've developed is a pretty comprehensive alternative to encourage those that don't participate in Maine State Retirement an option to do so. She added that she thinks, as a Board and as management, saving for retirement is absolutely critical; that when we started this, we were going to go with a 457 Plan, which offered some wonderful flexibility for the employee, but there were some concerns and, after talking with Ms. Weaver who administers the program in Wells, they are in the process of trying to adopt a 401 to work in conjunction with their 457, and there are several benefits to that; that the 401 kind of safeguards against the employer contributions made with a vesting schedule; that there are some tax advantages on the employee side that can be recognized and, in offering it in conjunction with the 457, you get the flexibility on the employee side of being able to set your level of contribution, which would just be fixed in a traditional 401 program. She added that you also get the flexibility of taking all of that money with you upon separation and, again, after talking with Ms. Weaver it really made sense to try to offer those two complementing plans together.

**6:13 PM** Mr. Hughes said that, regarding 401's and 457's, we were very intrigued by the flexibility the Town would have in setting up employer contributions and that would be assigned to the individual because, in the plan, the tax benefits of it to the employee...it just made sense to pursue that. He explained that the big thing that brought him into it was that, in the 457, we can have the option for the employee to either do a ROTH plan or a pre-tax plan; that he wished he'd known more about ROTH when he was investing his money back then because it is

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impacting his tax earnings, right now, because he is taking it out and paying taxes on it now, where, if he had put it into a ROTH, he wouldn't be paying those taxes; he would have paid them back then. He said that he thinks this is something we ought to educate the employees on and that they should consider; that we can still do the traditional pre-tax, if they want, but there's plenty of options within this, including the vesting time period that we want to set up, the amount we want to set up for employer contributions, the minimum we would require the employee to put into the fund, and how much of that we would match as an employer contribution. He said that we had originally talked about targeting it similar to Maine State Retirement but he thinks we, as a group, said that that's not necessarily a good thing. He said that he thought we ought to at least pursue getting the documents and trying to set this thing up with some guidelines that we can present to the SB for approval down the road; that he thinks Ms. Bergeron and Mr. Lee are looking for approval, tonight, to proceed with this and he recommends that we do.

**6:16 PM** Mr. Pomerleau suggested that some don't participate in the Maine State Retirement is simply because they can't afford it; that he asked himself what would prompt someone to opt out of Maine State Retirement and join this one and the answer he think he just got was that they would have some flexibility on the amount they could put in, where they have no flexibility with Maine State Retirement.

**6:18 PM** Mr. Lee said that we would fill out the forms with the options we would recommend, such as vesting, minimum for matching and the maximum we would put in. He added that we have to get into the details but we love the flexibility of it; that he thinks working on the details would be the next step and get that back to the SB for consideration.

Ms. Bergeron said that one of the beautiful reasons to offering this as a complement to Maine State Retirement because, specifically, one of the individuals that is going to be affected by this probably wouldn't have entered into Maine State Retirement, anyway, being that she's already retired from Maine State Retirement; that this would be a beautiful vehicle for her to augment her Maine State Retirement. She added that one of the thoughts discussed in meetings with the ICMA people was perhaps this is something that we could actually open up to all employees as a vehicle for retirement savings; whereas, Maine State Retirement closed only to those full-time employees, this vehicle could be offered to anybody as an encouragement for retirement savings.

**6:20 PM** Mr. Lee said that we have some very young employees, we have some who aren't doing anything about retirement; that we wouldn't be able to match everybody, every part-time employee, but at least it would be there, they would be aware of it and they might begin to form some good habits for a long, successful life. He

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added that he thought it would be nice to offer it to them; that it would be up to them to put in their money, but, why not; that we don't offer them much and at least this is a managed benefit that they could participate in.

Ms. Bergeron added with pre-tax money or post-tax.

**6:21 PM** Mr. Hughes said that it's a hard sell for people who aren't earning \$80,000 or \$90,000/year to put away some of their paycheck; that a lot of people say that they can't afford even 1%; that those that can, should, and do, and especially if there's a matching contribution from the Town; that that's free money; that it's foolish not to participate in something. He added that the 401A, in this regard, is meant to be a supplement, not your sole retirement.

Mr. Lee commented that, while he may be in MePERS with a matching contribution, he might go with one of these other ones as a supplementary, without the match, with his own money.

**6:22 PM** Mr. Murphy said that he has read through all of this material; that the variability was very pleasing in the fact that personal wishes could be satisfied. He asked how Ms. Bergeron would do this, do the programs already exist to accept this kind of variability in individual people all through the employment and their ability to change their 457 amount and, when they do that, does the Town change its matching contribution.

Ms. Bergeron said that the 457 would operate very similar to a 401; that in the 401 environment, it is all done either by phone or on a web site; that they (ICMA) notify the payroll department immediately of whatever organization the individual works for that there has been a change in contribution level. She added that, with a 457, you could change your contribution level every single month, if you wanted to; that if you are having a great month, you could contribute 6% and, if the next month you know you have taxes and insurance due and you want to drop down to 2%, ICMA would notify the payroll department of what the employee's contribution was and the Town would pick the appropriate match level, based on what the employee has contributed.

**6:24 PM** Mr. Murphy said that he was very much in favor of this.

Ms. (Donna) Murphy asked about the different vesting times – 20 years in her account versus 3 years here; that she would have to be with her employer for 20 years to get that matching contribution and, with this, it would be three.

Mr. Hughes said that that is only the amount that the Town contributes; that we were talking about five years in this schedule but those decisions are down the road and we need to discuss them later on and look at the impact. He added that

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the point, here, is do we have permission to pursue it to look for something to bring to the SB and Budget Committee showing what we'd like to do.

**6:27 PM** Mr. Lee said that we are looking for approval to proceed and start trying to fill out the details in those forms and run it by the SB to see if we've picked the right choices.

Ms. Davis asked how this would impact the work load.

Ms. Bergeron said that, depending on how often they are going to require contributions to be made and the number of employees who actually participate, when she's done them in the past it's been maybe a half hour, per payroll, if you do it weekly. She added that Ms. Weaver from Wells would be an exceptional resource with how to, within the accounting software, set these up, how often to transmit; that she will be working with her. She said that, regarding the frequency of changes by employees, she doesn't anticipate spending a great deal of time changing contributions or chasing contribution rates for employees.

**6:30 PM** Mr. Hughes said that an employee can do that themselves, online; that there's an app you can put on your phone; that it would not affect Ms. Bergeron, at all. He added that the initial setting up of the plan would be burden because there would be a lot of administrative stuff and putting it into the system for the payroll deductions; that, initially, there would be a time impact but, on an ongoing basis, he doesn't see it having a whole lot of impact, other than making sure the money gets transferred over to the trustee (ICMA) on a timely basis.

Ms. Davis said that the employers portion goes into the 401K, asking if that is a genuine retirement plan so that, even after they are vested, are they allowed to take that out without penalty.

**6:31 PM** Ms. Bergeron said that the 401 piece of it is a true retirement; that there would be a penalty for early withdrawal, early separation, unless they were rolling it into another retirement vehicle.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board approve their continuation.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**



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**Unanimous vote to approve motion.**

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

There were no minutes reviewed.

**I. Department Head/Committee Reports**

There were no reports

**J. Public Works**

**6:31 PM 1) Roll Off Truck Bid Results**

Mr. Moulton (DPW Director) and Mr. Robinson (DPW Mechanic) were present for this presentation.

Ms. Davis said that we are here to discuss the purchase of a new roll-off truck. She asked Mr. Moulton what happened to the other one, what went wrong; that she knew it was an electrical fire and asked if Mr. Moulton knew what the cause was.

Mr. Moulton said that he doesn't think it was ever completely identified except for something in the electrical system, itself, in or around the heater box; that he thinks it was hard to determine definitively exactly where but it was an electrical-related fire.

Ms. Davis asked, if it was mice or something like that, do we have a plan for protecting the new one.

Mr. Moulton said that he doesn't think it was mice; that we do have rodent control because of the proximity of the Transfer Station. He added that, as the SB knows, we've had a lot of issues with Internationals.

Mr. Robinson agreed, saying that it burned up the whole computer system in the truck.

**6:35 PM** Mr. Moulton said that, during the process of figuring everything out, there was an option that came before him that he brought to the SB last meeting; that there was a 2017 Kenworth Truck available to the Town and enter into a lease-purchase; that because it wasn't within the purchasing policy, he went out to bid and obtained a number of bids for the trucks. He added that he and Mr. Robinson wrote the bid specs and have reviewed the bids; that we have given the SB a summary of things that we found on the submitted bids. He said that we received

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bids from McDevitt Trucks of Manchester, NH (Mac), Whited Truck Center of Auburn, Maine (Peterbuilt), Daigle & Houlton of Hermon, Maine (Western Star), and New England Kenworth of Concord, NH; that each one offered something stock, which was in their yard, and another option of ordering new (brand new 2019). He reviewed the four bid options, the prices, and pros and cons of each. He said that Kenworth meets the full intent of the spec, as does Mac (although Mac is having suspension problems) and that is leaving a bad feeling in recommending the Mac. He added that it is still our opinion that Kenworth would be the better value; that about a year ago we had discussed with the SB about changing brands from International to Kenworth because of the issues with the International brand.

**6:41 PM** Mr. Lee said that he wasn't as knowledgeable about this but what he has put up with for 20+ years is different trucks that have broken down and the one he would really caution the SB on is Western Star, as they have a weak frame.

Mr. Robinson agreed; that the double frame is a big deal; that that is a must and everything we have out there, now, has a double frame.

Mr. Moulton said that we are here to answer questions; that Mr. Robinson can answer any technical questions and he works on everything; that product support has always been a good thing from Kenworth and it is our recommendation that the Kenworth truck would be the better value.

Mr. Murphy asked Mr. Moulton which one he would prefer from Kenworth.

Mr. Moulton said that they were both new; that the 2017 is just a leftover; that the 2017 we could have within a day or two and meets the full intent of the spec. He added that the recommendation from us would be the purchase of the 2017 Kenworth, which is what we currently have as a dump truck in the Town Garage, as well. He said that they both have the same warranty and the wait for the 2017 is short.

**6:44 PM** Mr. Lee said that there is no reason to go with the more expensive one and, if the SB would accept the Kenworth recommendation, we would be happy with the stock truck; that the wait time is beneficial, too, as every week it is costing us money that we don't have in the budget (lease cost for temporary roll-off).

Mr. Hughes asked what value Mr. Moulton placed on buying a new tarp system.

Mr. Moulton said that buying new was about \$41,000 to \$42,000.

Mr. Hughes asked for confirmation that the Mac came with that already installed.

Mr. Moulton said yes; that the 2017 Mac does.

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**6:45 PM** Mr. Hughes asked how many hours a week did Mr. Moulton anticipate we'd be operating this vehicle.

Mr. Moulton said between 20 to 24 hours per week, on average.

Ms. Davis said that she felt this was headed in the direction of saying that we would get a bargain on the stock 2017 Mac.

Mr. Moulton said no; that the bargain is that it is fully set up and we would not have to do anything additional.

**6:46 PM** Mr. Hughes said that, even with the system installed on it, it's more expensive than the Kenworth would be; however, you have a maximum of six weeks you say it's going to take for you to retrofit this vehicle once it gets here.

Mr. Moulton said that, actually, we've started dismantling the 2005 International; that, depending on how long the SB wished to go, if you purchased the truck with the set-up on it, you'd want to sell the apparatus on the 2005 so we've started dismantling; that he thinks we're looking at 2 days to finish the dismantling. He added that if we had a truck sitting in the yard, if it was the 2017 Kenworth and we could have it within a week, that sometime next week, weather permitting, we could essentially take one and set it on the next frame and get it set up; that the Town would look to remove the current lift hoist off the 2005, set it onto the new cab and chassis; that the only thing we'd look for assistance with outside of what we would be doing in-house would be a \$2,000 expense and the people that would assist us would be willing to help with the layout and how the new one would have to sit on the new frame at no cost and even alluded to assisting us with their crane truck to pull from one truck and set it on the other at no expense; that the expense would be miscellaneous parts and 'plumbing' of the new truck. He said that the tank, the hydraulics, levers, etc. come with the hoist that we currently have.

**6:48 PM** Ms. Davis said that, financially, we would put down the insurance money, bringing the price down to \$90,275 and, then, we would discuss a 5- or 6-year loan term; that we have \$20,000 in the reserve account to make the next year's payment.

Mr. Lee said that that was what we discussed last time.

Mr. Moulton clarified that we would have to put the money down and the \$20,000 for the first payment.

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Mr. Lee said that the \$37,500 plus the \$20,000 would be the down payment and what the memo details are the remaining years after that.

**6:49 PM** Mr. Moulton agreed, saying that, if you went with a 6-year lease, it would be \$17,000+/year and a 5-year lease would be \$19,000/year.

Mr. Lee said that, as was noted, we would probably have to change some things out in the CIP plan to make room for this additional expense; that it's out of sequence of when we hoped it would come.

**6:50 PM** Ms. Davis asked Mr. Robinson if working on the Kenworth was the same as any other truck; that it's not going to be any additional problems or concerns, and are parts the same.

Mr. Robinson said that Kenworth is so much easier to work on, so mechanic-friendly, compared to any other brand he has worked on; that product support with them is huge; that they have a brand new parts depot and service manager in Lebanon, Maine – half hour away; that Peterbuilt would be a little over an hour away; that Western Star would be Hermon, Maine and we would be looking at two guys to take it down for warranty work for a day, no one knows how long it would be there, and two guys to go back to pick it up; that with Kenworth, product support is just outstanding, a sales rep stops by every week, a parts truck goes by every day, and everything's just readily available.

**6:51 PM** Ms. Davis said that, as far as the payment plan, this is the one we can more easily afford.

Mr. Robinson said that, looking at another aspect, you're probably looking at, at least, a 20-year truck, for the use it gets as opposed to the trucks we use for snow-plowing and construction work (15 years); that it might even go 25 years, if it's taken care of and maintained properly.

Ms. Davis said that you said the lift and hoist is \$1,996 but you think it's going to last.

Mr. Moulton said yes; that it's basically steel and cable and hydraulics, things that Mr. Robinson changes out all the time.

Ms. Davis said that it sounds like you are on track to move this quicker than you anticipated and that's going to save us money, as well.

Mr. Moulton said yes.

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Ms. Davis clarified that, tonight, we would be approving a purchase for \$127,500 and asked if there were any other things we needed to be concerned about.

**6:53 PM** Mr. Moulton said that you would want to pick the year or term for the lease.

Mr. Pomerleau moved, second by Mr. Murphy, that the Select Board authorize the Town Manager to purchase the New England Kenworth stock 2017 Truck for \$127,500 with a 5-year lease purchase.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**6:55 PM**      **2) Pump Stations Construction Update**

Mr. Moulton said that Apex Construction is requesting a winter shutdown due to the severity of the weather, with an anticipated start date of mid-March and final completion in December 2018. He added that they have done some submittals to be approved, the pumps have been purchased, and currently have a 21-day lead time.

Mr. Lee said that we have written a note to the residents in that neighborhood advising them that the traffic change is going to be affected for a while.

Mr. Moulton said that we are hoping to have that set up a week in advance so that people can get used to the change.

**6:57 PM** Ms. Davis said that, when Mr. Pratt was here, he mentioned that he was going to get us a breakdown of costs from Apex; that nothing was going to be paid until we received that breakdown and asked if that was on track.

Mr. Moulton said yes; that he would follow up as to when that would be forthcoming.

Mr. Lee said that, regarding a question from the public, we don't have the flexibility to go to the State to ask for an increase in the bond amount; that Portsmouth and Kittery, he believes, had their own bond rating; that anyone going to the Maine Bond Bank tends to be one of those towns where they aggregate your bond rating; that we have never gone through getting together all our

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financials to establish a bond rating. He added that, if we were to go back to the voters for more money, there would probably have to be issued a new bond for that additional amount to cover any over-budget costs.

**7:02 PM      Winter Roads Update**

Mr. Moulton said that, due to the severity of this winter's weather, we have expended 73.1% of our Winter Roads budget and have \$59,579. 44 remaining. He added that, given the date and where we're at, he is concerned that we won't have enough money in this year's budget for the remainder of the winter season.

Ms. Davis asked Mr. Lee what the solution would be; that we aren't technically allowed to go over budget.

Mr. Lee agreed, saying that that is why we brought this to you; that one might argue that that is what contingency is for. He added that we did not plan to expend this much money, we planned for it as best we could, there was more ice than we planned for; that he believes that is the only alternative.

Mr. Murphy agreed that the contingency fund used to be used in that way.

**7:05 PM      Mr. Pomerleau said that this would be a public safety issue and would clearly fall into the definition for the use of contingency; that he still has concerns whether this would end up exceeding LD1 and whether we would have to go to the voters.**

Mr. Lee said that he would look into that.

There was discussion regarding other possible options.

**7:11 PM      K6) Stormwater Questions/Concerns**

Mr. Lee said that we have done our best to respond to the questions we've received; that, hopefully, they are satisfactory and helpful. He added that we constantly try to read a full understanding of this; that we aren't a fan of stormwater, either, but has been thrust upon our community; that we try to keep the costs down but we all know that it's probably going to be going up in the future because they are about to follow Massachusetts' and New Hampshire's new standards, which New Hampshire is protesting.

Ms. Davis said that she has some extra information on a CD; that she would like to get it out to the rest of the SB and over to the Budget Committee so that they can get up-to-speed on everything included here.

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**7:12 PM** Mr. Moulton discussed their efforts to have a link on the Town website that would lead to the meeting minutes; that he will let the SB know when that happens.

Mr. Pomerleau said, regarding the Riverview Estates update, specifically tracking expenses for reimbursement, that reading State law and ordinance, it looks pretty clear to him that the end result would determine whether or not Riverview Estates would be charged; that if that is the case, then he thought it was clear that that would include investigation costs. He added that the authority is in ordinance and State law and he thinks it would be wise to track Riverview expenses if we end up there; that the standard of proof is a 'preponderance of evidence' or more likely than not.

**7:16 PM** Mr. Lee asked what the SB thought of notifying the residents of Riverview Estates that we are tracking expenses and, if they are found liable for this, that we will back charge them for these things, consulting an attorney whether that is all legal to do. He added that this would just be to put them on notice that we are spending a lot of money and, if at the end, it is proven that it is their issue, he would want advance notice.

Mr. Moulton said that the homeowner's association is expending their funds to do some of this work to remediate some of the issues that we've found; that they are cooperating with the Town, we are continuing with the investigation, and communication is still open.

Mr. Hughes said that, hopefully, the association is keeping its members informed of what they're spending on this and are aware of this ongoing issue and we wouldn't probably have to send a letter to residents but to the association.

Mr. Murphy said that they do understand that you are going to keep looking until it is solved and not go away for a little amelioration here and there.

**7:18 PM** Mr. Lee agreed, saying that if they work with us cooperatively, that will probably work best.

Mr. Moulton said that we will compile all the costs associated with Riverview Estates, to-date, and have that available for the SB.

**K. Administrative Department**

**7:21 PM 1) Town Manager Report**

Mr. Hughes asked when the Staples fence issue was going to be resolved (**Line 124**).

**SELECT BOARD MEETING**  
**February 8, 2018 5:30PM (continued)**

Mr. Lee said that there was no answer to that; that he did reach out to our attorney and put another lien on the property - \$36,000 this time; that they are not responding. He added that we are keeping the other neighbors informed.

**7:23 PM** Ms. Davis asked, regarding **Line 71**, if Mr. Lee could give us some of the new Planner's history.

Mr. Lee said that he would not want to give any backgrounds information off the top of his head; that he doesn't have the resume with him and is not sure he'd feel comfortable talking about it in public, in any event. He did add that she comes from a community in Connecticut and served as the Planner for that town; that she is currently pursuing a graduate degree and will continue but he wouldn't want to say much more than that. He said that he thinks she's going to be an excellent fit.

**7:25 PM** Ms. Davis asked, regarding **Line 88**, if setting up a meeting was just the ongoing coordination of our dispatch.

Mr. Lee said yes; that Kittery was clearing the air that, despite rumors, they are still going to be in the dispatch business.

**a. Foreclosure Report**

Mr. Lee said that there have been two foreclosures and 60-day redemption letters have been sent.

**2) Ethics Panel Waiver Guidance Criteria**

Mr. Lee asked if anyone had any additional thoughts or if they wanted him to use the criteria discussed two weeks ago.

Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board adopt the Eliot Ethics Panel Guidance criteria to be used for Select Board consideration when we get a recommendation from the Ethics Panel on a nepotism issue.

**DISCUSSION:**

Mr. Lee suggested striking the last line, as the SB is adopting this with this motion.

The SB agreed.

**DISCUSSION ENDED**



**SELECT BOARD MEETING**  
**February 8, 2018 5:30PM (continued)**

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7:28 PM      3) Use of Contingency for Labor/Insurance Reserves**

Mr. Lee said that it came up in discussion that we do have some issues with putting it into contingency; that Mr. Pomerleau contacted him about it with a suggestion for modifying the definition. He asked, regarding “Funds may be added and used...”, if that meant it does not require a unanimous vote to use them.

Mr. Pomerleau said no; that it would still be required, that we aren’t changing the use of contingency policy.

Mr. Lee posed a question, “What if I’m a new member of the Board, I don’t like the union contract, it looks like it’s going to go 4-1 against me, and I block the use of contingency funds to settle because I can’t block you any other way?”

**7:30 PM      Ms. Davis asked why this issue was even coming up; that we have reserve accounts to cover both of these contingencies. She added that they were separate warrant articles.**

Mr. Lee said that they were put in the contingency fund for storage; that he will double-check on that.

Mr. Pomerleau gave a history of how this happened.

There was further discussion regarding changing the wording and why this was in contingency to begin with.

Mr. Lee asked if it was the SB’s position, though, that maybe we just ought to have these in separate reserve accounts and break them out from contingency.

There was some agreement.

Mr. Lee said that he would confirm in what account the money is.

**SELECT BOARD MEETING**  
**February 8, 2018 5:30PM (continued)**

Mr. Pomerleau discussed the LD1 cap criteria put out by the State, whether the State cap or the local cap, and that exceeding it has to go to the voters for the authority to exceed.

There was discussion regarding the possibility of setting up a SB reserve fund for emergencies.

Ms. (Donna) Murphy suggested a Winter Roads reserve account shifting, if enough, some of the contingency to set that up.

**7:41 PM      4) Spirit of America Nominee**

After discussion, the SB agreed by consensus to nominate the Eliot Boy Scouts as a potential recipient of this honor award.

**7:45 PM      5) Waiving of Fees Associated with Use of Mary Lizzie Spinney Trust Fund**

Mr. Murphy moved, second by Ms. Davis, that the Select Board approve reimbursement of \$531.18 to the Mary Lizzie Spinney Trust Fund for interest and fees associated with Waiver #1 for 2018.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7) Public Approval of Warrants**

Ms. Davis moved, second by Mr. Murphy, that the Select Board approve A/P Warrant #78 for \$303,874.26; A/P Warrant #79 for \$4,674.35; A/P Warrant #81 for \$50,870.55.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**SELECT BOARD MEETING**  
**February 8, 2018 5:30PM (continued)**

**L. New Business:**

**7:50 PM** Ms. Davis discussed the process for closing Town Hall; that we be thinking about a policy that everyone can follow.

Mr. Lee said that he would work draft something up for the SB.

**7:53 PM Old Business**

Mr. Hughes said that he was anticipating answers to the financial report questions that he had.

Mr. Lee said that he would check on that.

Ms. Davis said that we haven't heard from the auditor.

Mr. Lee will follow up on that.

**N. Selectmen's Report:**

**7:55 PM** Mr. Pomerleau (liaison) gave an update on the Aging-in-Place Committee and where they are, including a conference in March and a seniors survey.

**O. Committee Vacancy Report**

This was not discussed.

**P. Executive Session**

**8:07 PM** Mr. Pomerleau moved, second by Ms. Davis, that the Select Board enter into executive session as allowed by 1 M.R.S.A §405.D, Labor Negotiation, and §404 A, Personnel.

**Roll Call Vote:**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**8:49 PM** Out of executive session. There was no action.

**SELECT BOARD MEETING**  
**February 8, 2018 5:30PM (continued)**

**Q. Adjourn**

There was a motion and second to adjourn the meeting at 8:50 PM.

**VOTE**

**5-0**

**Chair votes in the affirmative**

**Date Approved: March 22, 2018**

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