

## **SELECT BOARD MEETING**

**April 26, 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, and Mr. Donhauser.

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

### **E. Application for Alcohol-catered Function**

**5:31 PM** Mr. Lee said that the Police Chief and Fire Chief have no concerns about this application.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board approve the Qualified Catering Organization Application for Mainely Bartenders for a function to be held at the Raitt Farm on June 16, 2018 from 11 AM to 5 PM.

#### **Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**5:32 PM** Ms. Davis said that she would like to take up an item that is not formally on the agenda that came up during this past week.

Mr. Lee said that we recently foreclosed on two properties and one of them we were able to sell back to a park owner. He added that the second one went through all of the notifications and process and we didn't hear anything from the owner; that we didn't know that the mailing address we were sending it to did not forward to the proper address; that one of Mr. Martinez' neighbors saw the foreclosure notice in the paper, let him know, and Mr. Martinez called Mr. Lee; that, ultimately, his son came here tonight to represent his father to ask that the SB cancel the public sale of that property (5 Maddy Lane) and has brought a certified bank check in the full amount he had to have as a minimum bid. He said that nobody likes to displace a person from their house or sell something out from under them and, for that reason, he strongly recommended that we accept

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payment and return the property to Mr. Martinez and put a notice in the paper that the public sale has been cancelled.

- 5:35 PM** Mr. Murphy moved, second by Mr. Donhauser, that the Select Board approve allowing Mr. Martinez to repay back taxes on the property at 5 Maddy Lane and the Town will issue a quit claim deed back to Mr. Martinez.

**DISCUSSION**

Mr. Pomerleau said that this raises procedural questions; that the last thing he wants to do, as a Selectman, is take someone's property if they are willing to step forward and make the Town whole and correct it. He added that he would certainly want to look back at what went wrong and how it got to this point so that we have some insight as to what we can do to make this kind of a problem not happen.

- 5:36 PM** Mr. Lee said that we made an effort to go out to the property but, every time we were there, it looked as though no one was there; that the owner lives in New York.

Mr. (Chris) Martinez said that his dad is only at the house about once a month; that his dad was late on his taxes and he didn't know about it because he's not really involved in his affairs; that he grew up in Eliot and he knows his parents don't want to lose their home; that that is why he got involved, speaking to Mr. Lee, and he's here to make the Town whole. He clarified that, going forward, this is not going to be an issue.

- 5:37 PM** Mr. (Jay) Meyer, Odiorne Lane, said that he thought the Town could make an effort to notify a neighbor and he doesn't think that effort was made.

Mr. Lee said that we did have a party of interest that we did notify, Mr. Solufo, as he had asked to be notified, and was. He added that we always send first class mail as well as certified mail.

**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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**F. Public Comment:**

There was no public comment.

**G. Committee Resignations and Appointments**

There were no items.

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

There were no items.

**I. Department Head/Committee Reports**

**5:44 PM 1) Bussing Bid - ECSD**

Mr. Lee said that Ms. Muzeroll-Roy is asking for a waiver of the bidding requirement over a \$5,000 purchase; that last year we had a very hard time finding anybody who bid against MSAD #35 to do the summer bussing for our Kid's Play Program; that Ledgemere did put in a bid but it was much higher than MSAD#35's bid but they got angry because they didn't think the school should be participating in providing services that the private sector provides; that he doesn't believe they bothered to bid this year. He said that he doesn't think we're going to find another bidder and we've been with MSAD #35 for many years.

Ms. Davis said that we did this at the last meeting.

At this time, the SB took a very brief recess.

**2) Appointment of Election Clerks 2018-2020**

**5:47 PM** Mr. Lee said that this regarded the appointment of election clerks, both democratic and republican, clerks nominated by the Town Clerk, and a Voter Registration Appeals Board (VRAB).

Ms. Davis moved, second by Mr. Murphy, that the Select Board approve the three lists that the Select Board received for the appointment of election clerks for 2018 to 2020.

**Roll Call Vote:**

**Mr. Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

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

**Unanimous vote to approve motion.**

Mr. Murphy moved, second by Ms. Davis, that the Select Board approve the requested Voter Registration Appeals Board to approve the nomination of Grant Hirst as Chairman (4 years - 2022), Janet Saurman (Democratic member for 3 years - 2021), and John Marshall (Republican member for 3 years - 2021).

**Roll Call Vote:**

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

**Unanimous vote to approve motion.**

**J. Public Works**

**5:53 PM 1) Boat Basin Project Update/Bathroom Pricing**

Mr. Lee thanked Mr. Moulton for doing a thorough job on this, breaking down the earlier estimates he had provided by going to contractors, as Ms. Davis had suggested, to confirm those numbers.

Mr. Moulton said that he sought for bids to get estimates for the various components that he felt were needed to the bathrooms to make them safe and within ADA compliance; that it includes carpentry, electrical, and plumbing and, under each, he provided the SB with three bids per category. He added that he brought these forward because he feels they are not only necessary to do but, in some case, required as he has some concerns about liability issues. He said that we are looking for guidance and some kind of approval from the SB tonight.

There was some discussion regarding whether painting was needed.

**5:58 PM Mr. Donhauser asked where the funding would come from.**

Mr. Lee said from the Boat Basin Sinking Fund that is used only for improvements to the Boat Basin. He added that, based on State guidelines, we can use that fund for improvements, as needed, and we don't have to appropriate any

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money. He said that, as you can see from the photos, this structure needs to be repaired; that it is inoperable as it is.

**6:00 PM** Ms. Davis said that we've known for several months that this is coming from the ECSD to Public Works; that she guessed her real complaint in all of this is that we only have \$34,000 in the account; that, now, we want to take \$30,000 to do just the bathrooms; that tonight we did receive a capital improvement list but it's just not something that we've discussed and made some good decisions on. She added that she thinks she would have felt better about this if we had taken some time to really look and assess everything that needs to be done and then make some decisions; that to put \$30,000 into one project, with only \$4,000 left to do other fixes with, just doesn't seem like good planning.

**6:01 PM** Mr. Lee said to remember that we have money coming in each year that we collect from the launch fees.

Mr. Moulton said that we have already appropriated \$10,000 so we're only looking at the balance.

Mr. Lee understood what Ms. Davis was saying, adding that this came to him when we were doing budgets in December, and this is only April, and of course he had snow plowing January and February; that he's not had a great deal of time to get his arms around this thing and Mr. Lee thinks that he's moved pretty quickly because we're trying to open by Memorial Day.

Mr. Murphy said that it appears to him that this is basic and that it needs to get done.

Mr. Donhauser asked who would act as the general contractor.

**6:02 PM** Mr. Moulton said that he would oversee the project.

Ms. Davis said that there was a discrepancy between the details of the RFP and the bid detail, asking if they will be providing everything we see on the RFP for the price quoted.

Mr. Moulton said that every contractor came and looked at the project, physically, and were handed that RFP at that same time.

Mr. Lee added that that will form the basis of the contract with them.

**6:03 PM** Ms. Davis asked how many of these are somehow related to anyone who works in Public Works; that she sees the name McQuade, here.

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Mr. Moulton said that that person is a relative of his Administrative Assistant; that he believed he could accept that bid because they would be working for him, not her; that there is no direct communication or contact and he and Mr. Lee discussed this. He added that Mr. Robinson (carpentry bidder) is related to the DPW Mechanic; that, other than that, there is no one.

**6:05 PM** Mr. Murphy said that we have used Mr. O'Reilly many, many years and his work is very good, and he's the low bidder. He asked if Mr. Moulton wanted final approval tonight.

Mr. Moulton said that that would be nice; that some kind of direction if the SB wishes to deviate from what he brought forward; that it's totally up to the SB. He added that he's just trying to meet the schedule he was given and move this project forward.

**6:06 PM** Mr. Pomerleau said that those bathrooms are disgusting and, whatever is on the agenda for the Boat Basin, he can't imagine a higher priority than those bathrooms. He added that he wanted to make certain that there would be an absolute guarantee that nobody in these bids has a family relationship with the Public Works Director because, if there is, that person has to be out of the picture.

Mr. Lee said that he understood, asking if that included McQuade.

Mr. Pomerleau said no; that it's a small Town and there's always going to be connections; that beyond a direct connection, he's not concerned. He added that the point was to remove anyone who was in the family loop, not to preclude local vendors from working with the Town.

**6:08 PM** Mr. Hughes asked if he understood correctly that these bids do not include fixtures.

Mr. Moulton said that he was correct, for the plumbing; that \$3,700 is rounded up to cover that cost. He clarified that the total of \$30,453 includes those fixtures and we have \$10,000 appropriated so the total we are asking for is \$20,453.

**6:10 PM** Ms. Shapleigh said that she thinks you can take this 'conflict of interest' thing too far; that in a Town this size it is not fair to not allow people to do business with this community if they do it supervised in a way that has nothing to do with any of their relations.

Ms. Davis clarified that the purpose of the policy is not to preclude a relative from doing work for the Town, it is to appoint another person to negotiate contracts so that other contractors feels as though they are getting a fair shake when they're bidding a project.

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**6:12 PM** Mr. Fisher asked when the bid was presented.

Mr. Moulton said that it was about two weeks ago.

Mr. Lee said that, two weeks ago, the SB was surprised it would cost \$30,000 to do the bathrooms and asked that some contractors be consulted to confirm the numbers; that Mr. Moulton went out and discussed with a sampling of contractors to confirm the numbers he had developed on the basis of the RFP; that it was not a formal bidding process that went in the paper. He added that we were supposed to come back with a couple of examples of what contractors would charge and to see if Mr. Moulton's numbers were right.

Mr. Fisher said that he's kind of disappointed that he wasn't even called.

Mr. Lee said that he understood, saying that, because of the timeframe to get this open for Memorial Day, we've kind of had to fast track this.

**6:15 PM** Mr. Fisher said that he thought they should turn it back in and do it the right way.

Ms. Davis said that her concern is that, all told, this is a \$30,000 to \$35,000 project and it should have been bid out properly. She added that, according to our policy, if it's less than \$10,000, you can get verbal quotes.

Mr. Lee said that that's what we did.

Ms. Davis said that, technically, you did what was required to be done.

Mr. Moulton said that this was matter of putting feelers out to find people who would give him a number; that the bigger thing with going with three for each was seeing the number and that they exceeded the purchasing policy; that coming before the SB, he wanted to present the three bids so they could see the variation in bids; that we did meet the intent of the policy and bring it before the SB for approval so that we can get it done..

Ms. Davis asked what the SB wished to do.

Mr. Murphy said that he thought we ought to proceed; that that's the most important thing, to get it done.

Mr. Murphy moved that the Select Board approve, for carpentry, John O'Reilly Carpentry of Dover, NH in the amount of \$9,600; for electrical, CNC Electric of Berwick, Maine in the amount of \$6,000; for plumbing, Sturgeon Creek Enterprises in the amount of \$6,200; for painting, McQuade Painting of Cape Neddick in the amount of \$5,000.

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**DISCUSSION**

Mr. Pomerleau requested we take these up individually; that he absolutely agrees with Mr. Fisher that we have a local electrician that's donated a great deal of his time and work and why he isn't on this list or at least be given the opportunity; that he doesn't see, where we didn't follow the formal bid process, why we can't do that if Mr. Fisher wants to enter a bid. He suggested we hold off on the electrical until Mr. Fisher makes a bid.

**6:18 PM** Both Mr. Lee and Mr. Moulton agreed.

Mr. Murphy agreed to change his motion to not include electrical. He also agreed to add "not to exceed" to the motion.

Ms. Davis said that we are looking for a second.

Mr. Donhauser seconded the revised motion, which says, "that the Select Board approve, for carpentry, John O'Reilly Carpentry of Dover, NH not to exceed \$9,600; for plumbing, Sturgeon Creek Enterprises not to exceed \$6,200; for painting, McQuade Painting of Cape Neddick, Maine not to exceed \$5,000.

**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.**

**6:19 PM** At this time, Mr. Moulton gave Mr. Fisher the RFP.

Ms. Davis said that she can't stress enough that, next time we have a big-scale project like this, we take it under advisement before we get to this point.

Mr. Donhauser commented that Mr. Moulton actually took custody of the park at budget time so it's not as though he's been there year to year to year; that Mr. Moulton has been thrown into the mix of this.

**6:20 PM** **2) Pump Station Estimated Costs Update**



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Mr. Lee said that, in one of this document's notes, Apex/Underwood noted that two other bids came in over recently, and one in Berwick that came in under, but he has been noting, industry-wide, that these pump stations are coming in higher; that he has changed his assumptions that go into building his estimates in deference to seeing all these prices coming in higher than they've seen them before; that he's not really sure why prices are going up but he is seeing it as a trend, now.

Ms. Davis said that the SB will review this and, if they have any questions, we'll pull something together.

**6:22 PM**

Mr. Lee said that Mr. Moulton has given an update of the pump station construction and plans to give an update every two weeks on the project.

Mr. Hughes said that this isn't in the format we requested; that it seems they don't understand what we're asking for.

Mr. Lee said that one of the things Mr. Pratt said was that one of the things that's hard to do is, when they do their estimating, they use different language – different terms; that they don't have it broken down the same as Apex breaks it down; that one of the things that Mr. Pratt had to do was take that itemized schedule and determine where they go in comparison to how they think about these bids; that they (Underwood) had to sort of lump them together and say that 'these' are the items that compose what we call 'this' term, here, so all these go over 'here' – how far off were we.

Ms. Davis said that, personally, she would like to see that; that we were given lump-sum totals here that don't really allow us to make the comparison ourselves.

**6:24 PM**

Mr. Lee said that he could go back to him and have Mr. Pratt show us the detail work about how he got to these numbers.

Ms. Davis and Mr. Hughes agreed they would like Mr. Lee to do that.

**6:25 PM**

**3) Purchase of Replacement Waste Container**

Mr. Lee read the memo from Mr. Moulton regarding the deterioration of the floor of the box trailer that stores the E-Waste material and is becoming a hazard to both employees and residents. This memo included three vendor bids for a new 40' HC shipping container as a replacement and that Mr. Moulton intends to use his Transfer Station Tool Line for the purchase. He added that he is bringing this to the SB because it was a non-budgeted item.

**6:28 PM**

Mr. Donhauser asked how much the Tool Line had in it.

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Mr. Moulton said \$5,000, explaining that that money was set aside for a 20-yard open-top container that was under the \$5,000 limit for a brush can but feels this is a higher priority and more urgent; that we'd just swap things around for the next budget.

Mr. Donhauser said that this is exactly what he thinks Mr. Moulton doesn't need to bring to this Board; that Mr. Lee is the Manager and it's under the bid policy threshold; that we shouldn't hold your feet to the fire because you choose to do what you're hired to do.

Mr. Lee said that, for anybody that really holds our feet to the fire, they look back in the budget and say that that is not the container we asked about, it's a different container; however, it came up as an emergency.

Mr. Donhauser said that that is day-to-day management; that he understands why Mr. Lee brought it to the SB but he is saying that, as far as he is concerned, Mr. Lee doesn't have to do that; that he can make his own decisions under the parameter of \$5,000.

**6:29 PM** Mr. Murphy moved, second by Mr. Pomerleau, that the Select Board approve the Public Works request that we approve the use of the Transfer Station Tool Line to pay for a HC shipping container at the Transfer Station from Matthew Allen of Fall River, MA as the vendor in the amount of \$3,341.

**DISCUSSION**

Mr. Donhauser said that we're not really here to approve the purchase of a \$3,300 item; that we're here to approve utilization of the budget line item and we should recognize that that's what we're doing; that with a \$5,000 bid policy, they should be able to buy anything they want to buy under \$5,000 within reason and that makes good management sense.

**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.**

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**6:31 PM      4) Sewer Abatement Request – 11 Kings Highway**

Mr. Lee read the memo from Mr. Moulton regarding the fixed fee over-payment portion of a sewer bill at this address, with the resident being charged for two sewer connections when there is only one for the past 17 years and how the SB would like to resolve this. He added that the fixed fee billing has been adjusted to reflect only one sewer connection at this address as of the 2018 1<sup>st</sup> quarter billing cycle.

**6:34 PM**      Mr. Murphy said that he was wondering if the sewer bills, themselves, are deficient and not having a very clear indication of what this bill contained.

Ms. Davis asked why we would not want to reimburse the owner the full amount of something she has not received for this many years.

**6:36 PM**      Mr. Moulton said that he made a recommendation and, after discussion with Mr. Lee, the discussion regarding two years came up; that we really have no clear abatement policy; that the Town and resident have some responsibility.

Mr. Lee said that, with property tax abatements, there is a three-year reach-back; so, if something is discovered and it's been like that for ten years, you can only grant a property tax abatement going back three; that that's why he suggested we talk in terms of two or three years; that we are also currently writing those administrative procedures that we need to put in there if there are going to be abatements; that, in a sense, this is precedent-setting.

Ms. Davis said that the sewer bill does not show the resident how many connections are being paid for.

**6:37 PM**      Mr. Lee said that, in this case, it is absolutely fine if the SB would like to give her the whole thing back; that, in going forward, we would do a better job, adding that we have a meeting coming up regarding how this process broke down, as well as whether there may be a better way to structure the bill.

Mr. Moulton said that the billing has been changed to show the number of connections being billed for.

Mr. Pomerleau said that, if you are going to make changes, then he would like to know what the ordinance has to say with respect to any appeal rights to a bill; that that kind of information should be on the bill.

**6:38 PM**      Mr. Moulton said that he will make a note; that the bills are limited in what we can put on them because there's only so much room. He added that this hasn't been discussed with Mr. Lee, yet, but researching this he suggested we may want

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to start doing the billing in-house so we can do a more informative bill. He said that we are doing some research to see if there is a better way to do things.

Mr. Lee said that there is nothing in the Sewer Ordinance that deals with abatements at this time; that the appendix that covered these procedures did not get done when the ordinance was passed.

Mr. Moulton added that it is almost done now.

It was discussed that it should be made clearer and that there should be a time frame limitation.

Ms. Davis moved, second by Mr. Murphy, that the Select Board grant an abatement in the mount of \$3,583.80 to Sara Butler for the second hook-up that was not in existence.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**K. Administrative Department**

**6:43 PM 1) Town Manager Report**

Mr. Murphy asked about Line 60 regarding ReVision checking the ‘sunny portal’ at the DPW,

Mr. Lee said that the ‘sunny portal’ is their name for being able to remotely read production at our solar array at the Public Works. He added that the portal went down but is now fixed; that data wasn’t lost.

**6:44 PM a. Financial Report**

Mr. Lee said that they are being careful as the budget is tight.

Mr. Hughes said that he would like to know what we have in salt inventory, currently, in terms of tonnage.

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Mr. Moulton said that he would get that; that his rough guess, currently, was that the salt shed was about 1/3 full.

**6:46 PM        2) Finalize TIF Development Agreement**

Mr. Lee said that we have everything pretty well locked down, except for two items; that one is a piece of property, Frost Tufts Park, which one could argue would be the secondary, or tertiary, location for the concept of some sort of an economic development center or rural development center; that if other parcels fell through that is one we have control over; that some on the SB believe it is important to have a fallback location and others don't understand why it is included, as it is non-taxable, non-revenue generating, and it's a Town park – recreational space; that it is still to be determined whether to include that, or not. He added that the second item is whether, or not, to allow TIF money to be used for Route 236 sewer expansion.

Mr. Donhauser moved, second by Mr. Murphy, that the Select Board include the use of TIF money for the purpose of sewer on Route 236 for the purpose of having it on the TIF Development Program Menu.

**DISCUSSION**

**6:48 PM**        Mr. Hughes said that there are five of us up here trying to represent over 6,000 residents in this community; that it's not an easy job and we try to do the best we can; that lots of times we have some pretty tough decisions to make and this one is a difficult one. He added that he thought long and hard about it and listened very carefully at the hearing we had last week; that it was a mixed bag of who wanted it and who didn't. He said that the thing is that we have had several votes over the years with varying costs associated with it, varying ways to finance it, all of which involved expanding sewer on Route 236. He added that, each time, it was rejected; that once it was very narrow and other times it was a bit more; that he thinks he has convinced himself that we need, with this effort, that we've tried to communicate more with the citizens about why we need to change this TIF because we can't do anything else, at all, and it's important that we have other options. He said that he also looks at the thing and says that everything to do with Route 236 sewer has been rejected so why would we put it on this. He added that he thinks he has to side with not putting it on this ballot question.

**6:50 PM**        Mr. Pomerleau said that he listened very carefully to the whole argument for putting it on that it's some potential change in minds down the road in the future because we don't know what's going to happen; that he can accept that rationale but he doesn't believe, for a minute, that that's how it would play out; that he doesn't believe the ink would be dry on those documents before those forces that have persisted in spite of all four votes. He added that to get this back on the

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ballot, we'd be right back at it and the divisiveness would just go on and on; that it's time for the community to come together on something we can get done that will benefit a whole lot of people; that the plan we have will do that so he will not support putting sewer back on the menu on Route 236.

**6:51 PM** Ms. Shapleigh said that the Town turned down spending the money four times but we brought a petition of over 300 voters and asked that it go on the ballot in June and it was turned down, again; that she doesn't know how other than a Charter that has proved to have a lot of problems. She added that the people of this Town have a right to vote on good information, which they have not had in the past, and she would like to ask how many people on the Board have voted for, and promoted, expanding the sewer with the money that we have in the TIF fund. She said that she'd like to ask each one of the Select Board members if they did, or would, vote for it and, if you are opposed to it other than it's been on the ballot before, what is your reason for not expanding sewer.

**6:53 M** Ms. Davis said that we have had informational meetings about this particular question. She asked if there was any member of the SB who wished to respond.

Mr. Donhauser said that he voted for it every time; that he is totally lost why having the ability on the menu, not the project but the actual ability to do it, is beyond comprehension of somebody just because they're afraid some project may occur on Route 236; that it's only on a menu, and it's not as though we're asking for money. He added that he spoke at the Public Hearing about leverage; that he thinks we can do a lot more than just \$3 million for the projects; that he thinks we can actually go to almost to \$10 million using leverage; that we don't need the leverage if we don't have the menu item; so, it's still beyond him why somebody can't comprehend that it's only a menu item and there's got to be some reason that sewer is viable and reasonable on Route 236; even in a short distance, maybe only 100 yards but, if you leave it off the menu, then what would happen is that we would have to come back to go through this whole process, again, and go through public hearings, put it back on the ballot, and we can eliminate all that cost; that not only that, we would have to go to the attorney to have the document re-written, go back to the State to have it approved, and, again, what's the big fear. He reiterated that it's beyond comprehension to him why it can't be on the menu; not to say it may not be a project in the future but he contends that we are really throwing the baby out with the bathwater if we don't at least put it on the menu. He stated, for the record, that he has no economic interest on Route 236; that, although he has owned property on Route 236, he doesn't own any now and has no interest in any property; that, in fact, the only property he owns in Eliot, at this moment, is his home on Goodwin Road. He said that he's a taxpayer, a Selectman, and he believes with all his conviction that it should be on the menu; that he didn't know how it could hurt to be on the menu and why is it so fearful. He added that he voted for it in the past and he will vote for it in the future; that

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he believes it's going to make it more difficult for this document to pass because that division is going to rise up for people who want sewer on Route 236.

**6:56 PM** Mr. (Robert) Fisher said that he was at that hearing and heard what Mr. Donhauser said about the menu about putting it into the menu; that he thinks the majority of the people agreed with him, at the time. He added that we also forget the whole background of the situation; that, the first time, it was a bond issue and everybody who was against it said that the gas company was going to go out of business, we aren't going to be able to pay for it, so we better not vote for it, so they didn't vote for it. He added that we had a couple more, same thing, then we had a citizen's petition put out and, with that, we wanted to do away with the TIF, altogether, and the people decided that we wanted to keep the TIF just like it is and they voted that down. He said that, so, the TIF is still floating around out there and he thinks it ought to be put on the menu so that, in case of an emergency, we can use it, and that's going to come up soon. He explained that a young lady in the audience said the other night that the sewer system was not working well down at the middle school and he can understand why because it is completely surrounded by water. He said that, then, Bobbi stood up and said that we were going to have to do something about stuff that was going from Eliot into the Piscataqua River and he agrees fully with her; that that is one of the sewer systems that is going to be contaminating the Piscataqua River and he thinks we're going to have to fix eventually.

**6:58 PM** Ms. (Nancy) Shapleigh said that her question wasn't completely answered; that she asked everyone, not just Mr. Donhauser.

Ms. Davis said that she asked the Board if there was anyone who wished to respond.

Ms. Shapleigh said that she didn't hear that but she hopes it's on the record that you don't want to respond.

**6:59 PM** Mr. Murphy said that he agrees with everything that Mr. Donhauser said; that he wanted to say, once again, that this is money that is not free to do anything with but money that is kind of taken away from the Town for a special purpose; that it's heavy-lifting money that does stuff that an ordinary developer coming into Town can't do or might do; that they can't afford it but the Town can in this special TIF method that the State set up 30 years ago in order to help towns to find the money to do the heavy lifting, and that means utilities - water, sewer, and so forth. He added that, with buildings, you can get a regular developer to do buildings or re-use buildings that we have already. He said that it's still going to be a problem for Eliot to satisfy, or solve, sewer problems along the river, with the small lots and, once again, as has been mentioned with the Middle School. He added that it should be on this menu.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

**7:01 PM** Ms. (Tina) Lane, Alden Lane, said that she's not understanding; that we just had a special meeting to hear what everybody thought of this proposal. She added that one of the questions was whether there would be any changes or was this already done by that meeting.

Ms. Davis said that the response was that it could be changed.

Ms. Lane agreed that that's what she understood; asking if it has been changed. She added that the fact that Mr. Donhauser is proposing this...this isn't meaning that that has to be done but it's there so that it incorporates the feeling of many of the people in the Town. Her question was what the harms is on having it there if it's not a project we are saying we're going to do, at this point in time, but it's there; so, we do incorporate the Town and it does come together instead of this "no, it can't be; yes, it can be". She commented that there has to be a vote on any of these things, asking if that was correct.

**7:02 PM** Ms. Davis said yes.

Ms. Lane said that it's just a case that it's there if, indeed, the Town decides it wants to have it done but it doesn't have to be done on Route 236.

Ms. Davis said, to answer Ms. Lane's question, this is strictly a matter of trust; that we have had four votes for sewer on Route 236 and she has heard from a very large number of constituents who are exceedingly fatigued by this issue coming back and coming back; that they said that they will not vote for this TIF program if Route 236 sewer is included because it does provide that potential for more votes on something that has already been decided by the Town; that that's the rationale and, whether people agree with it or not, that's the reasoning behind it.

**7:03 PM** Ms. Lane said that she understands and hears the reason why you are thinking the way you are thinking but the same issue is the opposite; that this may not go through because it isn't there.

Ms. Davis said that it didn't go through when it was there and, so, we are trying something new; that we are trying to vote that vast majority of voters that voted those four times. She added that you can take another run at it in November if this one doesn't pass.

**7:04 PM** Mr. Murphy said that he left off the Frost Tufts Park question; that he is very much opposed to considering that as a plot of land to be developed for commercial purposes, or something else. He added that it's a wide-open space for sports, in general, and it's also a dog park.



**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Ms. (Rosanne) Adams said that a point of fact was that the last vote for a menu of items took the sewer specifically off that item; that she believes she spoke to it, and so did several other people in the room that night, saying that if you take that off, it's going to fail, and it did. She added that the people she has talked to are either very confused about everything or they specifically voted against it because it did not have that in, and it was made an issue; that because it was made an issue, it really disturbed people that it couldn't be there, knowing that it was just a menu. She added that, to say that it was on there and people didn't vote for it, in the last vote it wasn't there and people didn't vote for it; that she thinks people are mad enough now to do the same thing, if it's not there; that she thinks people just want to see it there as an option in case we need it there so that we don't spend hundreds of thousands of dollars, which we have done over the past X number of years, to constantly re-work this and re-work it, check with the lawyers, check with the engineers. She said that we have wasted so much money because of a lot of misinformation at the very beginning of this process, as Mr. Fisher pointed out; that there were other things told to people that were false and she thinks they are asking for it to fail again. She added that she thinks people want it back on as an option just to make sure that, if something comes down the road, we're prepared to use that money for infrastructure to protect our waters.

**7:07 PM** Ms. (Roberta) Place, Spring Lane, said that she agrees with Mr. Donhauser. She added that this is a menu and sewer should be on that menu. She recognized that we've had problems with it before but this has been going on for nine years; that at the last meeting Mr. Pomerleau expressed his concern about the nitrogen in the river and the EPA is after Portsmouth, now; that there was a big article in the paper this morning about the nitrogen in the river; that Mr. Pomerleau expressed his concern that they would next be looking to Eliot, or this side of the river, to cure the problems and, specifically on River Road. She said that, nine years ago, if we had done what the TIF was meant to do originally, we wouldn't be worrying about the middle school or River Road because all of that would have been taken care of. She added that here we are, nine years later, with all this money sitting there, and not doing the right thing; that it was 'them against us' in South Eliot when we wanted the umps fixed and the TIF money would have taken care of that, asking what is going happen when we take this off the menu and, all of a sudden, the EPA comes after us because of the nitrogen on River Road.

**7:09 PM** Ms. Davis said that this program allows sewer on River Road.

Mr. Lee clarified that it allows sewer through this part of the Town toward that area.

Ms. Place said that we would be way ahead of the game if this had happened nine years ago.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Ms. Davis said that we had a public information meeting last week; that we are conducting Board business tonight and she would like to call the roll.

Mr. Murphy said that there was someone else who wanted to comment.

Ms. Davis said that she has closed the public comment and we are taking a roll call.

Mr. Murphy moved, second by Mr. Donhauser, to appeal the Chair's decision because we have a speaker out there who wishes to say something.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – No**

**Mr. Pomerleau – No**

**Mr. Hughes - Yes**

**Vote 3 - 2 to approve motion.**

**7:10 PM**

Mr. (Jay) Meyer, Odiorne Lane, said that he wanted to ask about the menu and how the menu came together and how many citizens were involved in helping that menu to come together. He added that he attended the meeting at the middle school last week, and there were quite a few people with a lot of different opinions, and he feels that if you were able to reach out and potentially ask for four more meetings and hold this off until the November ballot; that there was a debate among you folks and amongst people here at another SB meeting about trying to get it on the June ballot, in the first place, and he knows there was some disagreement about that and it just seemed like we're going to push it ahead, anyway, and we're going to let the public speak at the special meeting that we had last week. He said that the meeting was originally scheduled for a Tuesday night and, then, it had to be rescheduled for a Wednesday, so there was a bit of confusion regarding that meeting, as well. He proposed that the SB ask to involve the citizens to really work hard on this menu; that there are some other items that he knows that other people thought would be nice to have on the menu; that from what he understands there were just a few people putting the menu together and there was not a lot of citizen participation in putting that menu together. He asked the SB to consider taking this off the ballot and letting the citizens work together, with the SB, in a scheduled series of meetings to then work to get the citizens opinion on what could also be put on the ballot and to maybe explain sewer on Route 236 a little bit better so, perhaps, there wouldn't be this confrontation between different groups.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

- 7:12 PM** Mr. Lee clarified that it already is on the ballot.
- Mr. Meyer said that a couple of weeks ago that there was a discussion that you were going to talk to the public before you put it on the ballot.
- Ms. Davis said that the question is on the ballot; that the program has yet to be finalized.
- Mr. Lee said that the question we could have put on at any point; that it was 5-0 to put the question on but the details of the development agreement were still being worked out, after the fact.
- Mr. Meyer commented that it was a little bit backward way to do it.
- Ms. Davis said that that actually gave people more time for input because they had until tonight.
- 7:13 PM** Mr. Meyer asked when people had the opportunity to give input.
- Ms. Davis said that we have been in this process for nine years.
- Mr. Meyer said that he was talking about this particular item that's now on the ballot; that he doesn't feel there was a lot of input by the citizens.
- 7:14 PM** Ms. (Sharon) Magnuson, Pickering Drive, asked if Ms. Davis was saying that this is already on the ballot so there's no way to change it.
- Mr. Lee clarified that what appears on the ballot is a very generic-type thing; that there's no real detail to it but says do you approve of an amended TIF District; that it's long and very wordy because of the legal language; that, in essence, it says there is a development agreement, it's down at the Town Office, you can go read it, do you approve it; so, that is already on the ballot. He said that, when Ms. Lane asked the question regarding that it's already on there and can't change, that was the question; that the development agreement he just explained is the details that you are going to come down and look at; when we issue the absentee ballots, it's going to say to come see the details; that we don't have the details, yet; that we have to finalize the details tonight on the development agreement, the so-called menu.
- 7:15 PM** Ms. Magnuson said that part of her thought is that your minds are already made up so our speaking tonight is not going to do any good; that she thinks we still have to remember the sewer issue where the school is and that we do have the possibility of the EPA coming down on us. She added that, with people she has talk with, there has been a lot of confusion over the years as far as the sewer; that

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

many people think we want sewer there so we can have more businesses there and that's not the fact of it. She added that we voted as long time ago that we were going to develop that for the businesses; that there aren't that many businesses out there; that she had mentioned at that public meeting that a lot of that traffic, a majority, has nothing to do with those businesses; that it is the commuters, discussing the impact to State Road because of commuters trying to avoid Route 236. She added that she thinks part of the root cause of why it keeps getting voted down is because of the misconceptions out there. She said that she agrees with Mr. Donhauser that there's nothing wrong with having that on there as part of the menu; that people do change their minds, especially when they get new information of what was actually going to take place there, adding that she does think we do have to have serious consideration of the school; that we need sewer on Route 236 or we're going to end up paying a lot of money, if we're not careful.

**7:17 PM** Mr. Hughes moved, second by Mr. Pomerleau, to move the question.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7:18 PM** Ms. Davis asked for the roll call on the original motion: "Mr. Donhauser moved, second by Mr. Murphy, that the Select Board include the use of TIF money for the purpose of sewer on Route 236 for the purpose of having it on the TIF Development Program Menu."

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – No**

**Mr. Pomerleau – No**

**Mr. Hughes - No**

**Vote 2 – 3, motion fails.**

**7:19 PM** **Discussion of inclusion of Frost Tufts.**

Ms. Davis asked Mr. Lee about the acreage impact with this property.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Mr. Lee said that you can include it, or not include it; that we have acreage that we could still add.

Mr. Pomerleau said that there are at least three items in the menu that directly impact Frost Tufts Park and the basis for it; that not to include it as a backup for the building you want to build but it also allows us to maximize the length of sewer as far down that river as we can; that with this particular arrangement, why we would not do that makes no sense to him; that the issue that it carries no incremental value, compared to the big picture impact it would have in total money saved to residents, is petty. He added that there's a half dozen, or more, of lots down there, now, that haven't increased a dollar since 2009; so, to focus on that it's not going to generate a revenue is pathetic, in his view; that he doesn't see any reason in the world why you wouldn't want to add that to the district.

Mr. Pomerleau moved, second by Ms. Davis, that the Select Board include Frost Tufts Park in the TIF District Map and Plan.

**DISCUSSION**

**7:20 PM** Mr. Donhauser said that he thinks, in reality, we are taking one of the few parks in Town and putting it into a TIF District, which is sort of like spot zoning; that it's nowhere near the TIF, where revenue is actually being generated. He added that the revenue is being generated on Route 236 and the sole purpose of putting this parcel, which does not have the potential for any incremental value and doesn't even collect tax, is to give the feeling that you can bring the sewer back to that parcel because it has some use on that TIF parcel; that the real purpose is to get beyond that parcel to get down on the river; so, you are using economic development money to enhance personal property owners' property. He added that you should consider the impact fee to those property owners along the river, as sewer will not be free. Additionally, the fallback position of potentially building 'this' facility on the park and take away half the park, and we only have a few. He said that the reason some of the parcels in the TIF District haven't increased in incremental value is because they haven't been reassessed; that he sold two of them and it's been over 5 years that those properties have not been reassessed. He said that he would not vote to put Frost Tufts Park in the TIF.

**7:24 PM** Ms. Shapleigh said that Old Road (Frost Tufts Park) is a very narrow road and to add more traffic on that road she doesn't think is a good idea. She gave a little history of the development of the park, with tennis courts, pavilion, a soccer field, etc., and it is being used as a park, now, and as Mr. Donhauser said, we don't need to give away any of our parks.

Mr. Hughes asked if someone is proposing to take away the park.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Ms. Davis said that no plan has been advanced for that, as yet.

**7:25 PM** Mr. Donhauser disagreed; that there is a plan to utilize the park for a different purpose; that you take away that facility by placing a building on that facility; that, physically, you aren't taking the park away, you are taking the use of the park away.

Mr. Hughes said that he doesn't see any specific plan in place, right now, that dictates that that's going to happen; that all we're doing is including it in the menu.

DISCUSSION ENDED

**Roll Call Vote:**

**Mr. Donhauser – No**  
**Mr. Murphy – No**  
**Ms. Davis – Yes**  
**Mr. Pomerleau – Yes**  
**Mr. Hughes - Yes**

**Vote 3-2 to approve motion.**

Ms. Davis said that we need a vote on the program, as amended; that we don't have any distinctive marks on this particular program so we will make a motion on the program, as it stands currently, amended with the Frost Tufts Park added.

Mr. Lee agreed; that the one thing we would have to do is add Frost Tufts back in.

Mr. Pomerleau moved, second by Mr. Hughes, that the Select Board proceed with the amended TIF District with the addition of Frost Tufts Park, as presented to the Select Board in the copy tonight.

DISCUSSION

**7:27 PM** Mr. Lee reminded that, on the ballot, it's a 5-0 recommendation on the question because, at the time that we voted, it was 5-0 that we were going to put this on in June; so, it was a 5-0 to put the question before the voters; that all five of you supported that. He said that, if Mr. Donhauser is asked if he supported that development agreement with no Route 236 in it, he can say that he doesn't support that; that he supported putting a question out there but we didn't finalize the development agreement until afterwards.

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Ms. Davis said that that's the vote we're taking right now; that the results of this vote will go on the ballot...it's too late.

Mr. Lee said no; that that is his point. He discussed the confusion this might have on the public; that there's the question and then there's the menu and you all said that we might as well put the question on in June but, then, we won't get to the details of the menu and, maybe, some are not so happy they decided to put it on.

DISCUSSION ENDED

**Roll Call Vote:**

**Mr. Donhauser – No**

**Mr. Murphy – No**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Vote 3-2 to approve motion.**

**7:29 PM      3) Cable Franchise – Cable Committee**

Mr. Lee said that the cable franchise expires on October 31, 2021, and it's currently only 2018, so he thinks it would be premature to have a cable committee, at this point, as things could change a lot between now and 2021.

Mr. Pomerleau disagreed; that he thinks we're missing out, big time. He added that MMA just had an article that provided links to a recommended cable charter agreement; that it went into a great explanation as to how the federal law works and what the cable companies are required to provide us. He said that his reading of it is that, if we tell them we want a PEG station, they have to give us one; that that's aside and in addition to any franchise we may tell them we want, which can be up to 5%. He added that we were always under the impression that that was a cost that would be passed along to our cable users and we now have information to question how accurate that is; that it may be a pass-through regionally to all customers and, if there is, we are probably now paying some of all other communities shares of their franchise fees. He said that he thinks we are sitting on the outskirts of all the benefits of what we could be getting from the cable company, including a potential studio at the high school that could provide classes in studio production, so he doesn't think we should put it off; that he thinks we should pursue a cable committee and get the right answers to this.

**7:31 PM      Mr. Murphy said that, if Mr. Pomerleau's suggestions are that the cable company is bound to provide these benefits, then he thinks we ought to find out about it.**

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Mr. Hughes said that he thinks we've had enough information in the Townsman article to suggest that we ought to look into it.

Mr. Donhauser agreed.

It was the **consensus of the SB** to pursue a cable committee.

**7:34 PM      4) Extension of Marijuana Moratorium**

Mr. Lee said that we need to have a public hearing before the SB can extend it; that the current moratorium will run out May 6<sup>th</sup>; that we could have a hearing on May 10<sup>th</sup> and also pass the necessary motion to extend the moratorium after having that public hearing.

Mr. Murphy said that he thought we needed to extend it before it expired.

After further discussion, it was determined it was preferred to do it before the moratorium expires.

Mr. Lee will review and get back to the SB quickly.

**7:36 PM      5) Use of Streetlight Reserve/Legal Reserve**

Mr. Lee said that the streetlight budget will go over and the legal budget is already well over; that he is asking for authorization to use streetlight reserve and legal reserve, as necessary, through the end of the fiscal year for their designated purposes.

Mr. Murphy moved, second by Mr. Hughes, that the Select Board approve the Town Manager's request for the utilization of these funds, as needed.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**7:38 PM      6) Approve Warrants**



**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

Ms. Davis moved, second by Mr. Hughes, that the Select Board approve A/P Warrant #105 in the amount of \$183,524.73 and A/P Warrant #107 in the amount of \$925,286.49.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Ms. Davis – Yes**

**Mr. Pomerleau – Yes**

**Mr. Hughes - Yes**

**Unanimous vote to approve motion.**

**L. New Business:**

**7:39 PM ICMA-RC: 401 and 457 Plans (Draft agreements on T.M. table)**

ICMA-RC stands for International City Manager's Association.

Mr. Lee read a memo regarding a meeting between an ICMA representative, Ms. Bergeron, and himself, which led to Mr. Lee suggesting the SB consider offering a 457 plan and a 401 plan to eligible employees. He added that, since the meeting, we have put together the details in two documents, one for the 457 plan and one for the 401 plan, and have had them available to the SB for their review. He said that, if people feel comfortable with the decisions made on those forms, then we could adopt those plans in two weeks.

**7:45 PM** Mr. Pomerleau said that, after reading over the documents, he isn't sure we can do that without legislative body approval; that the documents say legislative body approval or governing authority.

Mr. Lee said that he will check on that as well as what the specific resolution language is.

**7:47 PM** Mr. Tessier said that, with 401 plans, a relatively new change allows a ROTH option and highly encouraged the SB incorporate that, as it has some great features.

Mr. Lee said that we did opt in on the ROTH option and thanked Mr. Tessier for his input.

**M. Old Business:**

**SELECT BOARD MEETING**  
**April 26, 2018 5:30PM (continued)**

**7:49 PM** Mr. Lee updated the SB on labor negotiations. He said that we are still in mediation with the Public Works Teamster's Union; that there has been a desire on their part to continue mediation to see if we can advance the contract and reduce the level of dispute. He added that, with the Police Union, he would say we are still advancing peacefully.

**N. Selectmen's Report:**

There were no Selectmen's reports tonight.

**O. Executive Session**

There was no executive session.

**P. Adjourn**

There was a motion and second to adjourn the meeting at 7:51 PM.

**VOTE**

**5-0**

**Motion approved**

**Approved: July 12, 2018**

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