

## **SELECT BOARD MEETING**

**August 23, 2018 5:30PM**

### **Quorum noted**

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

**B. Roll Call:** Mr. Murphy, Mr. Lytle, Mr. Donhauser, and Mr. Orestis.

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

**E. Public Comment/Requests:**

There were no comments.

**F. Committee Resignations and Appointments**

**5:32 PM 1) Appointments: Clean Water Committee**

Mr. Murphy invited Ms. Karas to speak.

Ms. Karas said that they bought a house in Eliot about a year and a half ago and we are here for the long haul. She added that she has her Master's in Water Quality and Hydrology and she is currently a Waste Water Operator and an Environmental Safety Officer; so, she deals with regulations all day long. She said that she has a very strong background in environmental and water; that she was a geoscientist for about 10 years, so she's actually gone out and sampled, written reports; that she's worked for the City of Rochester as an environmental quality member. She added that she's very passionate about water; that it's going to be her first tattoo if she ever gets one.

Mr. Murphy thanked her for speaking with the SB.

**5:34 PM** Mr. Murphy invited Mr. Snow to speak.

Mr. Snow said that he lives on Debbie Lane and has been in Eliot since 2001; that he has spent some time on a few different boards and committees – PB, Sewer Committee, Business Development Committee. He said that he hasn't been involved in the past few years and is interested in getting involved; that his Bachelor's Degree is in Civil Engineering and he's always been interested in the water resources aspect. He added that he spent four years in civil engineering site design, doing a lot of stormwater work with that; that he is currently employed by the Shipyard (PNS). He said that, if anyone had any questions, he'd be happy to answer them.

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**August 23, 2018 5:30PM (continued)**

Mr. Murphy thanked him for speaking with the SB.

**5:36 PM**      There was discussion regarding setting the staggered terms for this committee.

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board appoint Rebecca Lower for a 1-year term (6/19) as a regular member, Erika McCreedy for a 2-year term (6/20) as a regular member, and Dwight Snow and Christina Karas for 3-year terms (6/21) as regular members.

**DISCUSSION**

Mr. Lytle discussed having these members have the longest possible terms in their appointments, as he thinks we should give these four members the maximum.

There was discussion to amend the motion to revise Rebecca Lower's term to 2 years and whoever applies to be the next member could be for a 1-year term.

**DISCUSSION ENDED**

Mr. Murphy amended his motion, second by Mr. Donhauser, that the Select Board appoint Rebecca Lower for a 2-year term (6/20) as a regular member, Erika McCreedy for a 2-year term (6/20) as a regular member, and Dwight Snow and Christina Karas for 3-year terms (6/21) as regular members.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**5:44 PM**      **H. 2) Appoint John Marshall as regular member on Board of Appeals**

Mr. Murphy asked if the SB would take this up now, as this is an appointment.

The SB agreed.

Mr. Murphy moved, second by Mr. Donhauser, that the Select Board appoint John Marshall as a regular member of the Board of Appeals to finish a term ending June 2019.

**Roll Call Vote:**

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**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

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

**5:52 PM** Motion by Mr. Donhauser, second by Mr. Lytle, to approve the minutes of June 28, 2018, as amended.

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**5:56 PM** Motion by Mr. Donhauser, second by Mr. Lytle, to approve the business meeting/workshop minutes of August 2, 2018, as amended.

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**H. Department Head/Committee Reports**

**5:57 PM**      **1) Fire Association: Fundraising Notice**

Mr. Murphy read the memo from Chief Muzeroll, “*The Eliot Firefighters Association will be direct mailing our fundraising flyers out next week to all Eliot addresses. All funding to support that are from the Firefighters Association. The funds raised through donations will negate any funding/budget requests for this project.*”

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Mr. Lee said that the project is a thermal imaging camera; that they are trying to raise funds so they don't have to do that through the budget. He added that he would like to thank Sam at Gateway Gas, as he held a fundraiser that was very, very nice, he did it out of his own volition and that was very thoughtful of him; that he raised \$5,200, including one \$1,500 donation from an individual. He explained that these imagers help to see bodies during fires, to see heat images through the walls and see anybody inside, or hot spots; that they are very important pieces of equipment for fire-fighting.

**I. Public Works**

**5:59 PM 1) Meadow Lane Further Consideration – (Tabled)**

Mr. Murphy said that this has been kind of a problem for us because the information has come in slowly and piece-by-piece and sort of incomplete; and, suddenly, we have a Town Warrant that has to be completed and it is the opinion of this Chair, and he would think of this Board, that we put this off until a time when we can calmly get all the ducks in a line and hold a public hearing, which should be held before it goes on the Warrant. He asked the Town Manager for his input.

Mr. Lee said that that was his biggest concern – the process – as it requires public hearing, with notice, and so forth; that he thinks the Town Clerk concurs with that.

**6:00 PM** Ms. Rawski said that she did because there are proceedings that the SB are required to go through; that there's legal description that has to be done and the public has to be notified, in advance, through public hearing method that the Town is considering to accept this. She added that she didn't know how involved the Public Works Director has been in reviewing engineering studies that have been done to determine whether that's been brought up; that those are all things that have to be taken care of.

Mr. Lee said that Mr. Burns did take the blueprints for the project, the as-builts, and he did put together the coordinates like we saw was done for Blueberry Lane and wrote up the required document for that, thanking Mr. Burns. He added that the only thing that concerns him is that we are supposed to have a public hearing, believing that that has to happen before this can be placed on the Warrant.

**6:01 PM** Mr. Murphy said that there is, generally, an informational hearing on the total Warrant closer to the actual election; that this is an important one to have the public input to actually be effective as to the possibility of changing things.

Mr. Burns, Meadow Lane, asked what the public hearing is and when is it held.

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Mr. Murphy said that it's held sometime during the process before it's completed and approved for the Warrant.

Mr. Burns asked if the public hearing was a Town Meeting or do you just hold a public hearing here; that this is the first we've heard of this.

**6:02 PM** Mr. Lee said that we are picking away at this as best we can; that we dug up all the stuff that took place with Blueberry Lane and that's where we found this; that we looked at how they did Blueberry Lane and in that "*Return of the Proceedings of the Selectmen, Having given 7 day's notice of our intentions by posting said notice in 3 public places in said town and in the vicinity of the proposed public way, to wit: at the Eliot Meat Market, Transfer Station, and Town Hall, being public places in said town, and on CMP pole #5 at the intersection of Greenwood Street and Blueberry Lane in the vicinity of the way and having in said notice described the way and having met in conformity with said notice, at the time and place appointed for that purpose and having examined the public way by agent, are of the opinion that there is occasion for a new public town way for the use of said town as proposed; we therefore lay out said way as follows:...*" and describes the legal description of the road. He explained that he believes, historically, that the reason this didn't advance back in 2004 and 2005 was that there was at least one family on that road that did not want it public. He said that we are obligated, per the Street Ordinance, to post that we are planning to ask that the Town accept that road as a Town way so that, if there was a resident out there, and there isn't in your case, he guesses, they could object to it.

**6:04 PM** Mr. Burns said, regarding Blueberry Lane, that that was posted more than seven days prior to the Town Meeting; that Blueberry Lane was accepted at a Town Meeting, not on a ballot, as we had Open Town Meeting back then; that that was posted nine days before the Town Meeting, asking if, now that we're on a ballot, is it totally different now.

Mr. Lee said that he doesn't think it matters whether we vote with our hands in the air or make a checkmark on a ballot in terms of when you do public hearings.

**6:05 PM** Mr. Murphy said that he thinks it does; that the ballots go out and they can be filled in instantly and voted and any public hearing we have is before that ballot becomes available for legal signature.

Mr. Lee agreed; that you can discuss it at an Open Town Meeting. He explained that this is part of what has the SB a little bit tepid on this because we're not feeling very certain, and there are a lot of critics in the Town of Eliot, and we want to make sure we do it right; that they are feeling a little bit rushed.

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Mr. Burns said that, under the Charter, §2.1.2, the SB can basically do what they want if it's for the safety and welfare of the community; that you could pass a motion to put it on the ballot.

**6:06 PM**

Mr. Lee said that we do have a member of the Charter Commission present, and he doesn't want to put words in Mr. Lentz's mouth, but he thinks that's subject to as long as you are following ordinances and he thinks that's the implied message, that we must follow our own ordinances; that, other than that, if not otherwise stated they (SB) has full authority to do what they need for public health and welfare. He added that, in speaking to some SB members, they are feeling reluctant to go further until we feel more certainty on the public hearing issue and we are up against the clock tonight to finalize the Warrant. He said that if we had started this even 30 days earlier it would have made a world of difference, in his opinion.

Mr. Burns asked if he goes out and gets 307 signatures, he knows he won't make the ballot for November – does that require a public hearing, also.

Mr. Lee said yes; but, you would be able to, by Citizen's Petition, put it on the ballot; that we would then still have to go through the process of posting it for seven days in advance, etc. He added that, in speaking with SB members that are feeling a bit reluctant, they feel you have put on your case very, very well and are looking forward to putting it on in June; that they just want to go through the files, themselves, look back to see if there is any other missing information that might shed some light on this. He commented that, in fact, he found a note that said that Article 53 (?) sometime back in 1965 that Meadow Lane was on to be accepted as a Town way; that he doesn't know what that is and hasn't seen minutes of that, asking if Mr. Burns knew what that was.

**6:08 PM**

Mr. Burns said no; that he just knows that on June 23, 2004 KBM Builders (Mr. Cullens) wrote a letter asking for acceptance of Meadow and Blueberry Lane and, on June 28<sup>th</sup>, there was a letter from the SB to the PB to handle it; that, then, it went into the deep abyss. He added that, all of a sudden, Blueberry Lane popped up in 2010.

Mr. Lee said that we have to go back to find out why it went into the abyss, asking if that was when the person showed up saying they didn't want this as a public road.

Mr. Burns said that he doesn't know of anybody that said that; that there are 11 residences on the street and he has 11-0 that want it a public road; that he talked to everybody in the neighborhood, meeting everyone, and they all said to keep up the work.

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**6:09 PM** Mr. Lee acknowledged Mr. Burns efforts. He said that he would not speak for the SB any longer on this issue; that he thinks that they ought to speak their own minds about what their reluctance is. He added that he was just trying to encapsulate what the feeling is he's gotten from at least a couple of members.

Mr. Donhauser asked what the impact would be going from November to June.

Mr. Lee said that it is one more year of chipping into your homeowner's association to pay for private plowing.

Mr. Burns said that his concern is that, if you wait another year, now the road is another year older and we've got to look at it again; that he is concerned that, if we delay, there will be more reasons for delay.

**6:10 PM** Mr. Lee said that, personally, he thinks Mr. Burns made his case very logically that this has been through every step that was required and that you are probably entitled to have that go on a ballot. He reiterated that, unfortunately, we started rather late and the SB is feeling a little bit tentative about the question of whether they have done everything correctly.

Mr. Lytle said that he is probably the one who has been most critical on this road but he feels very comfortable that you are on your way; that you should look good for June (Annual Town Meeting).

**6:11 PM** Mr. Orestis said that it seems there are a couple of issues going on here and he's trying to nail down exactly what the hold-up is; that, at first, it was the public hearing and to make sure there was enough time for the public hearing and, now, he's hearing that we want to make sure we're following the ordinance, which all makes sense. He asked what the #1 issue is – is it that we're following the ordinances and ensure we have enough time for a public hearing and, if that's the case, what would the timeline look like if we said tonight that we need to do that.

Mr. Lee said that he thinks that's part of the issue in that we can't answer some of those questions with certainty.

**6:12 PM** Mr. Murphy said that he feels that some of the data that Mr. Burns has brought together actually has to be verified by the SB; that a letter written by Mr. Burns isn't the same as a copy of the document done by a certified engineer, and that sort of thing, because it seems to be part of the public record, official record, which we don't see. He added that we hear input from Mr. Burns, and it's very interesting, and may be almost enough, but it's not the documents.

Mr. Lee said that he has been asked to pull the Meadow Lane files for the SB's review.

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Mr. Burns said that we have provided engineered drawings.

Mr. Lee agreed that he did, saying that if that was the hold-up, Mr. Burns has solved that and he thinks that was a wise idea; that he does think that this will end up on the ballot in June.

Mr. Murphy said that it certainly should and he will do everything he can to make sure that that happens.

**6:13 PM** Mr. Orestis asked if we could just make sure that, if we're tabling this and we decide to go in that direction, we have a clear list of what needs to be done in plenty of time before that vote in June.

Mr. Lee said yes; that he's going to continue to work with Mr. Burns or anyone on Meadow Lane who wants to participate. He added that he wants to make sure he gets the wording right for the Warrant and that he'd like to run this by Attorney Saucier and he has; that he did run this by Attorney Saucier and he did say that he felt you could move forward with it; that the only thing that bothers him (Mr. Lee) is the public hearing notice regarding whether we have that before it goes on the Warrant or after, and he doesn't know that.

**6:14 PM** Ms. Rawski said that she's not well-versed in this but she wanted to say the reference that everyone needs to look at, and the process that needs to be followed, Chapter 37 Streets and Sidewalks Division 2 Platting Acceptance, Design, and Construction of a Road; that that clearly defines all the areas that need to be undertaken, including going before the PB for review, their report to the SB, and the SB proceedings that they need to then forward to the public through that notification/public hearing process. She read §37-63, "*Notice. The municipal officers shall post notice of their intentions to locate a public town way and to determine that the way is to be a public town way. The officers may locate the way personally or by agent. Notice shall be posted for seven days in three locations including the vicinity of the way and two public places in the town.*" She added that it then goes through locating and determining that public way; that we know that the road is there but it needs to be determined and the proceedings of such have to be drawn up, officially, the legal description has to be drawn up showing all of the deed references, and those types of things, that get recorded; that once we take acceptance of that road, that deed is recorded in Alfred so it becomes an official record.

**6:16 PM** Mr. Lee added that, regarding Blueberry Lane, there is actually a Report of Proceedings by Selectmen to the Town Meeting and it says, "To the inhabitants of the Town of Eliot, County of York, State of Maine. Greeting: The subscribers, the Selectmen of the Town of Eliot, County of York, State of Maine, upon the



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petition of KBM Builders, to lay out...”, and it goes on and on and it’s a statement signed by those Selectmen.

Ms. Rawski agreed, adding locating and determining the Town way and, then, the next step after that recording, “Municipal officers shall make a written record of their proceedings containing the bounds and measurements of the public Town way...and damages allowed...”; that there is probably a document that has to be drawn that is a transfer of ownership for \$1.00; that she has seen them say that. She added that she would be happy to make copies of the pertinent ordinance and the PB is there for assistance for the SB make their way through this.

**6:18 PM** Mr. Murphy asked the SB members if they were in agreement that we will postpone this and continue working to make sure it gets ready for the next Town Meeting in June.

The SB members were in consensus to table this and get it ready for June.

**6:19 PM** **2) Continued Use of Underwood Engineering – (Tabled) – No Correspondence**

Mr. Lee said that it was his understanding, regarding talking with Mr. Moulton about the last meeting, that the SB wanted to hear from him regarding confirming that we would be happy to continue using Underwood Engineering; that he wanted to confirm for the SB that we would. He added that it is very similar to the discussion we had about a new auditor; that one of the things about having Underwood Engineering, first off, is he believes they are treating us well in terms of what they cost us; that, secondly, there would be a lot of expense involved with them with a new company having to completely understand our new system, completely understand how we do budgeting, completely understand all of our rates and how those are structured; that he thinks you could spend the better part of six months of pretty intense work with an engineering firm trying to get them up-to-speed on what our system is and where the project stands and the agreements we have with Kittery, etc.; that it would be a lot of hours for them to get up-to-speed, which doesn’t mean that Underwood is our lifetime engineer but, at this point, he hasn’t found anything that would lead him to believe that they have done anything except serve us very, very well; they have a full familiarity with our system, they’ve been creative in trying to help get around the overprice problem, although some would say they were involved in the overpricing problem but he doesn’t see it that way. He said that he and Mr. Moulton would both be very comfortable continuing to use Underwood Engineering for our sewer projects; that that would not require any action from the SB.

**6:21 PM** Mr. Murphy said that he thought an expression of agreement would be in order, asking for SB input.

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Mr. Donhauser said that he agreed with the Town Manager.

Mr. Orestis said that he didn't understand the purpose of agreeing to continue to use them; that that was his question at the last meeting – what will happen if we do nothing – and he believes the answer was that things will just continue on. He asked if the Town Manager would explain to him the reason we are going to have this discussion of agreement.

Mr. Lee said that the previous Board, at some point, had indicated that we needed to refresh, possibly, who we do engineering with, rebid bank services, rebid audit services, etc., and we've done several of those things. He added that one of the things we had not gotten around to, and we were not going to get around to until this winter, when this project was complete with Underwood and everything was tidied up, was look for a new engineer based on the past Board's request to at least look around; that given what we have going and our level of happiness with Underwood...the reason it's on the agenda is because, if any of you looked back over the minutes, there was sort of an expectation that we would go out and do an engineering RFP. He said that he did not necessarily want to do that but, if it was the will of that Board, he would have done that, as would have Mr. Moulton; so, we're basically saying that we don't have an intention, unless told otherwise, to go out and do a bid to find a new engineer.

**6:23 PM** Mr. Lytle said that he agreed with much of what Mr. Lee was saying; that both of those stations are in modifications right now – upgrades – and, to him, after seeing it for the last 2 or 3 months, they look very unsightly. He added that they have been down there, recently, and he guesses it all depends on whose problem it is; that it looks like we are grading them up, right now so it must be our problem.

Mr. Lee said that there's a long history on these pump stations, including the fact that we had to cut \$102,000 and that we took on some of the work, and so forth; that if we had bonded enough money to turn the whole thing over to the contractor, we wouldn't be doing some of this work and that would be part of his responsibility; as it turns out, we have several pieces of responsibility in there and we and we can't get around to grading and finalizing around the buildings until they are done with all their mechanical work; so, it has looked pretty poor. He said that he doesn't think that has a lot to do with Underwood Engineering; that we have not had any change orders, at all; that the only change orders have been down, we are paying less, and they went to bat for us to do that. He said that he has worked with a ton of engineering firms over the years and, frankly, Underwood has probably been the most reliable in terms of not having those types of errors; that a good sign of a good engineer is when you don't have a lot of change orders on a very expensive project and we have had none; that they are very good to work with, they are responsive, he doesn't have any complaints.

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**6:25 PM** Mr. Lytle said that he went down there because he had a couple complaints right off the bat. He added that he doesn't know if it's Underwood's problem or the contractor's problem or our problem but the place, to him, looks bad.

Mr. Lee said that it was a construction zone; that, granted, they left some things here and there and it looked a little messy at times but, when you're constructing on such a small lot and you have to leave the other pump station, it's going to be kind of messy. He added that he would say this isn't Underwood; that, if anything, it might be the contractor that doesn't really pick up as well at the end of the afternoon as they might.

Mr. Lytle said that he has never seen people like Underwood, who is overseeing this project, to leave this type of mess. He did add that it is looking better, no doubt about it, and encourage Mr. Moulton to keep up his work.

**6:26 PM      3) Sole Source: Integrated Environmental – (Tabled)**

Mr. Lee said that we feel we get very good value going through Southern Maine Planning and Development (SMPDC) and sharing one stormwater MS4 expert with several different towns. He added that we are very pleased with what Ms. Rabasca does, how quick she is to turn things around, how responsive she can be, she's treated us very well and we have a very good relationship with DEP, we are praised for our work on stormwater reporting. He added that although, again, the previous Board may have questioned why it cost, what it cost, etc.

Mr. Moulton said that Ms. Rabasca is generally our MS4 Permit consultant; that she assists the Town with the MS4 side of things, the permitting, the reporting, what we need to sample; she keeps us in line to make sure we're in compliance with our permit and with what the State and EPA want. He added that what he thinks some of the confusion has been with the projects over what's necessary and what isn't necessary. He added that, in his opinion, all drainage is necessary if you're going to stabilize the road and do everything you need to do, and some of that involves treatment of your outfalls. He said that what we're working towards, as he mentioned at the last meeting, is a subconsultant to the Town or with some oversight with Integrated; that we're looking to do an RFQ/RFP, selecting three consultants that, whenever we have a stormwater project, we're going to put it out to bid to those three that the Town has agreed to utilize, get a bid price for their work and design, then move forward with the best project; that we will control costs better that way and he thinks that will be the better way to handle things and stay in compliance with our purchasing policy.

**6:29 PM** Mr. Murphy asked if that was still under Ms. Rabasca.

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Mr. Moulton and Mr. Lee said yes, to a certain degree.

Mr. Lee explained that he believes it was that Integrated always used Ransom Engineering as a subcontractor; that that is what the previous Board objected to. He said that Ransom has been fine and great to work with but we were going to do an RFQ/RFP and see if there was anybody out there to do our engineering/design work at a lesser cost than we've been paying; that that we were still willing to do and still think it's a wise thing to do.

Mr. Murphy asked if the RFQ/RFP has been done yet.

Mr. Moulton said that that is still in his hands to review, Ms. Rabasca is assisting him with that, and we will be bringing that to the SB sometime this fall, maybe when it slows down a bit.

**6:30 PM** Mr. Murphy said that this complex subject/document is an introduction to something that has to be greatly, more finely, delineated in order to understand just what's going on.

Mr. Moulton said that Ms. Rabasca has been our consultant for 15 years and that's one of the pluses; that she's worked at other various consulting firms and is now on her own. He added that the contracts continue to be the same, the budgeting is based on what is going to be required by the State and the EPA; that there isn't really anything new in there and is stuff we've been going over for the past 15 years. He said that it is just another 5-year contract with a cost per year for the SB to take a look at and, hopefully, give their blessing.

There was further discussion on the complexity of the MS4 Permit process within the five towns, with different populations and costs and with common issues of paperwork, formatting for the permit, and educational programs, as well as the efficiency of scale.

**6:33 PM** Mr. Moulton said that he knows it's been a hard pill to swallow and a hot topic but he thinks the way it is set up right now with a \$200,000/year allocation for stormwater keeps us where we need to be and somewhat ahead of the game. He added that the intent going forward is to plan one year, look at the cost of the project and whether it's phased or completed in one full budget cycle, working within the limits of the \$200,000 stormwater budget, and Ms. Rabasca is part of that \$200,000.

**6:34 PM** Mr. Murphy asked if Mr. Moulton knew if the next 5-year permit they might be involved more with York River, itself.

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Mr. Moulton said that he didn't know; that he does know that the next 5-year stormwater permit is going to be a lot more stringent than this current 5-year permit.

**6:35 PM** Mr. Donhauser said that what he recalls about why this was tabled was a little of what Mr. Moulton said but, more importantly, is that we're spending \$200,000/year and this is one element of it and we don't know what the rest of the elements cost.

Mr. Lee explained that we have a 5-year capital plan of the projects coming up and, as Mr. Moulton said, we are expecting just \$200,000, year after year, and the first \$20,000 +/- that comes off the top goes toward MS4 Permitting – Integrated Environmental – and the rest of it goes toward projects; that if we have a \$350,000 project, for example, we will either phase it or put the \$175,000 in the reserve account until next year when we get our second allocation of \$175,000, then we have \$350,000 and we go do the project.

**6:36 PM** Mr. Donhauser said that he hears what Mr. Lee is saying but, within this current year, we are going to spend, presumably, \$200,000 or a major portion of it; that Mr. Tessier's point was very valid from the last meeting, asking what are we going to do this year that we are approving in this element.

Mr. Lee said that that is actually coming up on the agenda tonight.

**6:37 PM** **4) Phase II of Staple, Wood, and Leach - Stormwater**

Mr. Lee said that, on the one above it, you wanted some sort of an affirmative agreement to go forward and he thinks that, on this one, you want to actually vote to enter into that 5-year contract, if you are in agreement.

Mr. Donhauser asked if the next item referred to what we're talking about regarding signing the contract.

Mr. Lee said yes; that we could talk about the next item and then come back to this, if that would be helpful.

**6:38 PM** Mr. Donhauser said that what he's trying to get his hands around is what are the total elements that are within the \$200,000 for this year that are potentially to be expended. He added that, at the moment, we know that Integrated Environmental is one chunk and he presumes this next item is going to be the next chunk of it.

Mr. Lee reminded the SB that we may only use a very small part of the \$175,000 +/- net construction piece of it for some portion of work this year and the rest of it

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goes into a reserve account because we have some very expensive projects coming up, down the road, that we're going to have to reserve for.

Mr. Murphy asked if that was something that was still to be found out.

**6:39 PM** Mr. Lee said no, we have that all laid out, suggesting he should give the SB the 5-year stormwater plan to review for another time.

Mr. Orestis asked that Mr. Lee provide that 5-year plan to the SB

Mr. Lee agreed.

**6:40 PM** Mr. Moulton said that he had discussed in previous budget talks the construction of Phase II of the Staples, Wood, and Leach Project, which is an element of that \$200,000. He added that we had the budget number from Integrated of \$22,080 and, when we bid this out, we got bids for two phases, which gave us a number to award the first year and a number to budget for the next year. He said that we awarded Shapleigh Construction Phase I and he is looking to discuss Phase II tonight, with a negotiated number that we've reduced by the Town taking out a portion of the work and doing some additional re-use of structures. He added that we would like to move forward with Phase II for the amount of \$170,566.00; that that would be a total budget of approximately \$193,000, which would leave around \$7,000 in the reserve if we don't need it for illicit discharges, or something like that. He also said that there's a potential to reduce this amount by another \$5,000 once we get the re-vamp of the structure.

**6:42 PM** Mr. Donhauser said that this makes clearer sense to him of what's going on.

Mr. Lee said that this year we do have a project that's been pre-bid – Phase II – we knew the number, we had to negotiate it down a little bit. He added that that generally means that next year we'll be doing planning for the coming years to phase in the next project.

Mr. Moulton added that that is why we're looking forward to do the RFQ/RFP process so we get the consultants on board so that, when we have the funding for next year, we already have a consultant so we can go out to bid and design the next project.

Mr. Murphy asked if this interacts with Spinney Creek.

Mr. Moulton said yes; that we did the outfall portion of the project last year and this second phase is the final phase of the area that created the illicit discharge. Mr. Lytle moved, second by Mr. Donhauser, that the Select Board approve Phase II based on the amount of \$170,566.00 for the Staples, Wood, Leach Road(s)

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

Drainage and Outfall Project and award the contract to Shapleigh Construction of South Berwick, Maine.

**DISCUSSION**

Mr. Orestis asked if he could get a copy of the original bid; that it wouldn't hold up the vote but he was curious to see what that actually looked like.

Mr. Moulton said yes.

**DISCUSSION ENDED**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**6:46 PM      At this time, the SB moved back to Item #3 regarding Integrated Environmental**

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve Integrated Environmental Engineering contract and allow the Town Manager to go forward with that contract.

**DISCUSSION**

It was clarified that every contract is for a 5-year MS4 Permit, a five-year contract; that this is required by the State and EPA and is the Town's first obligation under the MS4 Permit.

**DISCUSSION ENDED**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**6:50 PM      5) Surveying Unclear Roadways/ROW - RFP**

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

Mr. Moulton said that we have several incidental roads in Town that have unclear boundaries and the roads are in need of reconstruction; that before we do any of that, we want to note our limits of ROW to work within. He added that we had discussed at budget time to put a figure put in his budget to have arbitrary surveying done of these incidental roads to know our limits of work and not encroaching upon somebody's property illegally. He added that the budget request was \$5,000 and he thinks he got \$3,500; that two roads for this budget season were Aqua Avenue and Woodbine Avenue, did an RFP and gave the SB the results. He said that we are looking at awarding the contract, for the budgetary sum not to exceed, to Owen Haskell as the low bidder for a total combined of \$6,900 for both roads; that given budgetary restraints, we would do one of those two roads this year – Woodbine Avenue. He added that the amount for Woodbine Avenue was \$2,800.

Mr. Lytle moved, second by Mr. Orestis, that the Select Board approve the expenditure of at least \$2,800, estimated, but up to a limit of \$3,500 in delineating Woodbine Avenue, to be awarded to Owen Haskell, Inc., 390 US Route 1, Falmouth, Maine.

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**6:54 PM**

**6) Diesel Fuel Bids**

Mr. Moulton said that he solicited four vendors and received two bids; that the low bid is from Heat Wave Oil, LLC of Eliot, Maine and, given the parameters of the Town's purchasing policy for local vendors and that the price difference was only \$0.17/gallon for a fixed price, Heat Wave Oil, LLC is his recommendation.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve Heat Wave Oil, LLC of Eliot, Maine for the 2018/2019 budget season to provide diesel fuel to our Public Works Department for \$2.5722 fixed or \$0.1712 over rack, whichever is less.

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**



**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

**6:59 PM        7) Transfer Station Retaining Wall Bids (Phase II)**

Mr. Moulton said that we bid for the second, and final, phase of the retaining wall/slabs for the Transfer Station; that we did the first phase in 2015 and have been saving money since; that we have enough now to complete Phase II. He added that the Town will purchase the concrete (Hisson Redi-Mix, Eliot, Maine for \$117/cubic yard) and reinforcing steel (A.H. Harris, Portsmouth, NH for a total of \$3,625) to reduce costs and save on mark-up of materials. He said that the total cost of the project for Phase II is estimated at \$21,500, with \$25,000 in the Retaining Wall CIP budget line. He added that he is looking for approval tonight to move forward with utilizing MEK Poured Foundations, Farmington, NH for a labor cost of \$9,000.00 to complete the retaining wall.

Mr. Lytle moved, second by Mr. Donhauser, that the Select Board approve the request for \$9,000 for the Transfer Station Retaining Wall/Slab from MEK Poured Foundation, Portsmouth, NH.

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**7:02 PM**        Mr. Lentz said that he noticed that the request that was in the CIP was for the year 2020, the same as the next one, asking, procedurally, what actually happens, there, when you move something from the 2020 slot to 2018; what happens to equal that budget out.

Mr. Lee said that we would adjust the whole CIP (money & projects) based on doing this project in an earlier year.

Mr. Lentz asked why we are moving that project up from 2020.

Mr. Moulton said that the projected cost, when we were budgeting, was \$35,000; that doing some research this year, and knowing that we had \$10,000 in the reserve plus we allocated \$15,000 this year to go towards that \$35,000, he put it out to bid to see where we are at and did some pricing because construction costs are elevating. He said that he estimated that we would come in below the \$35,000 and know that we had the money in the budget from last year and this year to do the project. He clarified that we won't request the money for anything further on this.

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

**7:04 PM** Mr. Lee added that the long and short of it was that we thought it would be around \$35,000 and, so, when we found we could do it for \$21,000 and we had the money present, why not save that money and just adjust the CIP.

**7:05 PM**      **8) Boat Basin Pavilion Roof Bids**

Mr. Moulton said that this is another budgetary item we had for this year; that we put it out to bid to 8 contractors and he received a low bid of \$6,200 for the asphalt (current) roof shingle replacement. He added that, based on some suggestions, he looked at what it might cost to get a sheet metal roof and the metal was \$10,000 versus the asphalt at \$6,200. He said that there were a number of trees around the pavilion that were deteriorating the structure; that we removed those trees so that, as we move forward with repairs and maintenance to the building, we will have fewer issues with trees causing rot. He said that we are recommending Hall Brothers Roofing, Inc. and requesting to move forward with this project.

**7:06 PM** Ms. (Donna) Murphy, Hanscom Road, said that she rented it this weekend and it seems to be in extremely rough shape. She asked, while we are spending money on the roof, what does the rest of the structure look like and is that going to be replaced. She also asked if it made sense to spend this money on a roof and, then, in two years have to take the roof off to replace the structure.

Mr. Lee said that he had the same discussion with Mr. Moulton today; that maybe we should start at the bottom and work our way up to the roof, and he thinks Mr. Moulton has a good answer.

**7:07 PM** Mr. Moulton said that, as far as the roof portion of the structure, that is pretty sound, except for the plywood that shows some rot where the trees were; that that's all part of the roof replacement. He added that there are some columns that need to be repaired/replaced; that the intent going forward is with a winter project that will support the interior of the building with his crew, put up some temporary studded walls, remove the columns, put in new columns and remove the temporary walls.

Mr. Murphy asked if they were going to replace just a portion or the whole of the columns.

Mr. Moulton said that we will be better off replacing the whole columns because the anticipated budget item for next year is to paint the structure; that we will do some of the maintenance on the interior and get it prepped for paint.

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

**7:08 PM** Mr. Lee said that the original request was to fix the roof and paint but, after further examination, we think we need to deal with the supporting structures, as Ms. Murphy mentioned.

Ms. (Cindy) Lentz asked if there was any money in the budget for landscaping to bring it back to some sort of a nice environment.

Mr. Moulton said that he does believe, at a previous meeting, there was a request for additional funding and the SB approved \$1,000 to be utilized for landscaping we will do before winter. He added that he talked to a landscaper today about landscaping around the pump stations and this building (Town Hall) and what bushes we can save and the ones we can't; that right now is a good time to get pricing on plants because it's the end of the season so he has been working with a local landscaper in Town to do that, as well.

**7:10 PM** Mr. Donhauser moved, second by Mr. Lytle, that the Select Board approve the bid of \$6,200 for the replacement of the asphalt shingle roof by Hall Brothers Roofing, Inc.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

Mr. Lee took a moment to thank Mr. Moulton for all the work he does, the bids he puts out, all the research he does and how he tries to save money; that he really appreciates that.

Mr. Lytle asked if a root near the bathroom could be removed.

Mr. Moulton said that it was supposed to have been removed but he would make sure it is.

**J. Administrative Department**

**7:12 PM 1) Town Manager Report**

Mr. Orestis asked about **Line 94** regarding the skatepark.

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

Mr. Lee said that we did do some soil sampling; that it is not sinking and we have to keep it there because we got it from a State grant and it is a dedicated recreational area. He added that the biggest liability we have is that the bowl is in bad shape; that he's had a discussion with the ECSD Director about at least getting the bowl out of there and what we might want to put in there instead. He said that we have had kids get trapped down in the bowl, we've had kids open the gate and go down under the bowl so the bowl is not a great idea; that there are 2-inch gaps in the structure, as well.

**7:14 PM      a. Mil Rate Revision**

This is informational.

**b. Acting Town Manager – Town Clerk**

Mr. Lee explained the discussion and policy developed should he not be available. He added that this is an internal policy and is informational for the SB.

**7:16 PM      2) Use of Insurance Reserve: Insurance – Claim Deductible**

This was regarding a storm taking out the Fire Department phone system and requesting the \$1,000 deductible from the insurance reserve to pay for that deductible.

Mr. Murphy said that this requires SB approval.

Mr. Lee said that it required the last SB's approval and believes it's a good policy that he comes before the SB when he uses reserves.

Mr. Donhauser moved, second by Mr. Lytle, that the Select Board use the Insurance Reserve in the amount of \$1,000 to cover the deductible for the phone system at the Fire Station.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**7:17 PM      3) Process Adoption – Town Clerk Memo**

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

Ms. Rawski, Town Clerk, said that her request before the SB is to place an article on the Warrant to see if the legislative body of the Town of Eliot will adopt what the State Legislature adopted for the write-in candidacy requirement to be a local-level requirement, as well. She added that she wrote a memo to the SB that includes a summary, current situation, facts regarding her proposed solution, and she has backup material. She read the memo. She clarified that the counting of undeclared write-ins would only occur if there was not a duly nominated candidate on the ballot. She also clarified that, if there is a nominated candidate placed on the ballot in the normal nomination process and declared write-ins filing in the required timeframe, they are counted; that any undeclared write-ins would not be. She added that if there's not a nominated candidate by the normal practice, then undeclared, even if there's declared, write-in candidates would be counted to see if that number would outweigh that of a declared candidate.

**7:23 PM**      The State statute reads, *"To be considered a declared write-in candidate, a person must file a declaration of write-in candidacy with the Secretary of State, on a form approved by the Secretary of State, on or before 5 PM on the 60<sup>th</sup> day prior to the election. The candidate must meet all the other qualifications for the office."* 21-A M.R.S.A. §722-A.

Ms. Rawski said that the towns can now legally adopt that same practice and we would reword that to the Town of Eliot. She added that the other part that made her come forward with this is that the Secretary of State's office has now updated the process in which ballots, with write-ins, are tabulated; that this is going into effect with the Gubernatorial November 6<sup>th</sup> election, which is going to be a huge election. She explained that, currently, when write-ins are on the ballot the machines have always been programmed in a manner that the machine knows that a write-in oval is filled in and it would kick that ballot to the right-hand side bin of the box that the machine sits on; that those are the stack of ballots that we have to tally at the end of the day by hand; that the diverter that diverted those ballots is gone and they are no longer being sorted out. She said that the machine will take a snippet picture of the write-in vote on each ballot that goes through and all the signature snippets will be on a report on what looks like calculator tape; that that time-saver was a consideration. She also explained that the State requires, when municipal and school elections are held in conjunction with the State election, as ours always are; so, the tabulation and return of votes cast for the State always have to be completed first so, when all of you are sitting there waiting, she is required and bound by law to do the tabulation of the State first before she can do the tabulation of any other election. She said that it's time-consuming and delays the result of local elections. She added that, with this change, voters would be informed in advance of the declared write-in candidates, as she would post a list of write-in candidates. She said that her solution is to adopt this to make this easier, to make this whole process uniform with the State and have everything go together; that she struggled with this when it first came out because she didn't

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

want to feel like she was disenfranchising anyone's ability to be voted into office. She added that, right now, for us to adopt this and get it in place so that we can potentially use it in June 2019, we have to go by the guidelines of the State because it's governed by the statute; that we would adopt it with that 60-day requirement and people would file their write-in candidacy with her. She said that we have the ability to shorten that amount of time, and she's all for that, but we'd have to do that with a Charter change ; that when we get to the point of doing some amendments to the Charter, including this write-in process in our Charter, we could reduce that Declaration of Write-in Candidacy down to as little as 10 days, which would give more people the opportunity to file.

**7:30 PM** Mr. Murphy said that it makes it possible for there to be more write-in candidates whose availability is known to the public and not have to guess and put down our neighbor because that neighbor would be a good candidate for that position; that there would be a list of people you could pick from that would be a good candidate.

Mr. Lee explained that there was no action required on this, just an explanation of what it is that we are doing, what we've put on the warrant.

Ms. Rawski agreed, saying that this is a memo for the SB realizing that for this to be in effect for June 2019 it needed to go on this November ballot; that it has to be approved 90 days before the election that it would go in effect for.

Mr. Lytle asked for clarification regarding, if we have a declared candidate that has 25 votes and an undeclared candidate that got 50, how you determine the winner.

Ms. Rawski said that if there's no nominated candidate through the normal process and there's only that one declared write-in candidate with 25 votes, she would count those votes of the undeclared write-in.

Mr. Lee said that that undeclared candidate would win with 50 votes; that if they went the normal course and they were nominated, then the undeclared write-ins don't get counted.

Ms. Rawski said that she was asking for this article to go to the Town to see if they are even interested in adopting this process. She added that several towns around us have already adopted this, including Kittery and Sanford.

**7:34 PM**      **4) TIF Ad Hoc Committee By-laws (Draft)**

Mr. Lee said that there were some comments from the 1<sup>st</sup> reading that have been incorporated; that this is the 2<sup>nd</sup> reading and he is suggesting the SB add other

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

edits or approve it so that we can get the word out that we are looking for people; that we already have a couple of folks that have volunteered and we would like to get going with this.

**7:35 PM** Mr. Donhauser moved, second by Mr. Orestis, that the Select Board approve the by-laws, as drafted July 30, 2018, for the Eliot Tax Increment (TIF) Financing Ad Hoc Committee.

**DISCUSSION**

Mr. Lytle said that he thought by-laws were put together by the committee.

Mr. Lee explained that the way we have been doing it, which started with the last SB, and also with the Charter that has certain requirements for committee by-laws, is that he put together a by-law template to help our existing committees to come into conformity and, also, he's been using it to draft by-laws consistent with the Charter; that he can also show volunteers what they would be getting into. He added that there is a way, in the by-laws, to amend the by-laws, so, this is just a starter set of by-laws.

**DISCUSSION ENDED**

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**7:38 PM**      **5) November Warrant Items**

Mr. Lee reviewed the warrant articles with the SB, including the previously-discussed article from Ms. Rawski, the York River Wild & Scenic Designation, and a non-binding referendum regarding adult-use recreational cannabis and whether the Town would allow that use within the Town. He added that it would be his hope that the SB would be ready to vote to approve the Warrant.

Mr. Lytle moved, second by Mr. Donhauser, that the Select Board approve the Special Town Meeting Election and Referendum Warrant, Tuesday, November 6, 2018, and certify the official text of the amendments of each article, therein.

**Roll Call Vote:**

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**7:51 PM      6) Approve Warrants**

Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve A/P Warrant #14 in the amount of \$111,739.54, dated August 9, 2018.

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis – Yes**

**Unanimous vote to approve motion.**

**7:52 PM      7) TAN Bid Award for 2018-2019**

Mr. Lee said that the SB received a memo from Ms. Bergeron; that we sent out seven requests for TAN quotes and got back two, one from Key Bank for 2.63 and the other from Bangor Savings Bank for 2.95. He added that they requested a waiver from the 3-bid requirement and recommended Key Bank for the lowest interest rate and the ability to keep the automatic sweep function.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board so vote:

1. That under and pursuant to Title 30-A, §5771 of the Maine Revised Statutes, as amended and supplemented, there be and hereby is authorized the issuance of up to \$2,000,000 principal amount of Tax Anticipation Note of the Town in anticipation of the receipt of taxes for the municipal fiscal year which commenced July 1, 2018 and ends June 30, 2019; and
2. Said note shall be dated on or around September 6, 2018, shall mature on or before June 30, 2019, shall be signed by the Treasurer and countersigned by the Chairman of the Select Board, shall be issued on an as-needed basis, shall bear interest at the rate of 2.63% per annum calculated on the basis of actual days elapsed in an assumed 365-day year, shall be payable at Key Bank N. A. and shall otherwise be in such form and bear such details as the signers may determine; and



**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

3. That said note is hereby sold and awarded to Key Bank N. A. in accordance with its proposal dated August 13, 2018; and
4. Said Note is hereby designated as a qualified tax-exempt obligation of the Town for the 2018 calendar year pursuant to the Internal Revenue Code of 1996; and
5. That all things heretofore done and all action heretofore taken by the Town, its municipal officers and agents in the authorization of said Note is hereby ratified, approved and confirmed and the Treasurer and Chairman are each hereby authorized to take any and all action necessary or convenient to carry out the provisions of this voting, including delivering said Note against payment therefore.

**Roll Call Vote:**

**Mr. Donhauser – Yes**

**Mr. Murphy – Yes**

**Mr. Lytle – Yes**

**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**K. New Business:**

**7:58 PM** Mr. Lee said that we have recently appointed a new Code Enforcement Officer – Mark Mitchell, explaining that Mr. Mitchell now lives in Kittery, had been working in Scarborough, and saw this opportunity to cut some drive-time and expense off from commuting. He added that Mr. Mitchell is working out very well and has been diving through a bunch of permits building up on us. He added that he would need the SB to confirm the appointment (by Mr. Lee) of Mr. Mitchell as the local plumbing inspector, building inspector, and 911 Addressing Officer.

Mr. Murphy moved, second by Mr. Orestis, that the Select Board confirm the Town Manager's appointment of mark Mitchell as the local plumbing inspector, building inspector, and 911 Addressing Officer.

**DISCUSSION**

Mr. Orestis asked what happened with the temporary appointments.

Mr. Lee said that, of the temporary appointments made, he would most likely drop Ms. Amber Harrison and keep Ms. Heather Ross.

**DISCUSSION ENDED**

**SELECT BOARD MEETING**  
**August 23, 2018 5:30PM (continued)**

**Roll Call Vote:**

**Mr. Donhauser – Yes**  
**Mr. Murphy – Yes**  
**Mr. Lytle – Yes**  
**Mr. Orestis - Yes**

**Unanimous vote to approve motion.**

**L. Old Business:**

There was no old business.

**M. Selectmen's Report:**

There were no Selectmen's reports tonight.

**N. Executive Session**

There was no executive session.

**O. Adjourn**

There was a motion and second to adjourn the meeting at 8:01 PM.

**VOTE**

**4-0**

**Motion approved**

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**

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

**Date approved: October 25, 2018**