

SELECT BOARD MEETING
September 12, 2019 5:30PM

Quorum noted

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

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

C. Pledge of Allegiance recited

D. Moment of Silence observed

Mr. Donhauser asked everyone to join him in remembrance of the 9/11 tragedy and the survivors that are still encountering problems today, the first responders. Also, the Adam Skelton Family recently had a tragedy, suffering a tragic fire on top of other recent family issues and he would like everyone to keep them in prayers. There is a GoFundMe Page and Facebook site to make donations in support of this family. People can also donate directly through Kennebunk Savings Bank.

E. Public Comment:

Mr. Donhauser asked people to restrict their comments to five minutes and, if it would go longer, to put it on the agenda for the next meeting.

5:33 PM Mr. (Jim) Tessier, Johnson Lane, said that you gave us a status update last month on what was happening with Mr. Moulton's 30-day appeal period and asked if there was a new update.

Mr. Donhauser explained that there was a FOIA request by Mr. Moulton's attorney of emails and text messages of all Selectmen and Town employees; that is being handled by the Town attorney and has taken time to put together so a 14-day extension has been granted by the SB to give Mr. Moulton's attorney time to review the documents. There has been no appeal submitted at this time.

5:35 PM **1) Melinda Longtin – Private Road Signs**

Ms. Longtin, Rogers Point Drive, said that currently the Town only places the first sign and discussed their request to have the Town replace missing (stolen or damaged) street signs on private roads, as they do on public roads, because it is a public safety issue – clearly marked streets for first responders - and all residents pay property taxes regardless of the type of road they live on.

5:37 PM Mr. Donhauser thought her request was worthy. He added that he thought we do need a new policy, suggesting that policy to include that the developer of that road is responsible for placing the first sign and, thereafter, the Town would be responsible. He personally feels Ms. Longtin is justified in her request.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

5:39 PM Mr. Murphy said that he was in favor of the request, also, and should approve it.

Mr. Lee said that he could not find a policy but has been told that it is “just the practice” to do it that way. He added that the funds would come from the Public Works sign budget. He also said that he is in favor of this request, as well; that as a matter of public safety he couldn’t see why we wouldn’t do it.

Mr. Donhauser suggested that, in the absence of a current policy, perhaps we could make a motion for this specific sign and, then, create a policy.

5:40 PM Mr. Lee that there are a couple of signs missing on private roads, suggesting that not only Ms. Longtin’s road but other private roads to be replaced now, pending the policy being put in place.

Mr. Robinson said that signs are between \$40 and \$60 a piece and does not include the post or the Town’s labor; that the total for all of that would be around \$220.

Mr. Lytle moved, second by Mr. Murphy, that the Select Board permit the Town Manager and Public Works Department to respond to requests to replace signs on private roads, as needed, pending the development of a written policy.

Roll Call Vote:

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

F. Approval of Minutes of Previous Meeting(s)

5:42 PM The minutes of August 22, 2019 were tabled.

Motion by Mr. McPherson, second by Mr. Orestis, to approve the minutes of May 9, 2019, as amended.

Roll Call Vote:

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

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. McPherson - Yes

Unanimous vote to approve motion.

Motion by Mr. Murphy, second by Mr. Lytle, to approve the Special Workshop minutes of May 16, 2019, as written.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

Motion by Mr. Murphy, second by Mr. Lytle, to approve the Special Emergency Meeting minutes of August 29, 2019, as written.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

G. Department Head/Committee Reports

5:47 PM 1) Eliot Conservation Commission Recommendation re: Wetland Transfer

Mr. (Tim) Pickett was present for this item.

Mr. Lee discussed the report from the Conservation Commission regarding the transfer of this property to Mr. Pickett. They have no issues deeding any interest of the Town to Mr. Pickett but noted that, due to the wetlands, they would like to review any future plans for this parcel that could impact those wetlands. He said that we have a corrected Municipal Quit Claim Deed that describes that small parcel of wetland to Mr. Pickett.

Mr. Orestis asked Mr. Lee if we have clarification on our authority to do this.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Lee said that we do, subject to the Conservation Commission giving their opinion.

Mr. Lytle moved, second by Mr. Murphy, that the Select Board issue a Municipal Quit Claim Deed, without covenants, to Mr. Tim Pickett.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson - Yes

Unanimous vote to approve motion.

The SB signed the pertinent document.

5:52 PM 2) Bicentennial Committee: Draft Events Schedule

This was to make everyone aware of the draft events schedule for Eliot's participation in Maine's Bicentennial Celebration and to encourage participation.

Ms. (Jan) Cerabona said that she was looking for anyone who might like to drive a car in the Eliot Festival Day Parade for Fabian Drake winners, both current and previous winners.

5:56 3) Crushing Bids

Mr. Robinson said that we only got one bid of five sent out and recommends we award this to Hartman Enterprises.

Mr. Murphy moved, second by Mr. Orestis, that the Select Board waive the 3-bid requirement.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve the crushing bid to Hartman Enterprises.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

6:00 PM 4) Salt Bids

Mr. Robinson recommended we award this to Granite State Minerals of Portsmouth, NH for \$45.70/ton for the winter season of 2019/2020. There were three bids received.

Mr. Lytle moved, second by Mr. Murphy, that the Select Board approve the bid of Granite State Minerals.

DISCUSSION

Mr. Tessier asked if this price was locked in for the winter.

Mr. Donhauser said yes.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

6:02 PM 5) Tree Maintenance Bids

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Robinson recommended that this bid be awarded to Tom Chase & Sons, Inc. out of York, Maine for the price of \$1,500/day (removal) and \$650/day (grinding). There were three bids received.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board award the bid to Tom Chase & Sons, Inc.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

6:03 PM 6) Sole Source: Plow Gear

Mr. Donhauser asked for the reason for sole source.

Mr. Robinson said that, as he requested on the T-270 that is at the plow dealership currently; that the T-370 is on order that we will receive sometime the first part of December. We are going to repurpose the gear off the truck that this is going to replace, which is already HP Fairfield's equipment; that he felt with having their gear in our systems since the 1960's, and we've never had a lot of problems with, that he would like to get permission to get a price from HP Fairfield and have HP Fairfield do the work.

Mr. Lee agreed that we are seeking to sole source this from a vendor we've been with for 50 to 60 years. He added that in another town he worked in, we opted to go with someone else and had a terrible time with it.

Mr. Donhauser asked for an approximate price.

6:05 PM Mr. Robinson said approximately \$40,000 to \$50,000; that the State of Maine and the Maine Turnpike Authority sole source HP Fairfield exclusively.

Mr. Lee said that we are requesting this based on the purchasing policy section that addresses sole sourcing.

Mr. Lytle moved, second by Mr. Murphy, that the Select Board allow sole sourcing for this HP Fairfield equipment.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

6:07 PM 7) Catch Basin Cleaning/Street Sweeping Bids

Mr. Robinson recommended, out of 10 vendors, Nest & Sons of Kennebunkport, Maine at \$56.25/catch basin and Seabreeze Property of Portland, Maine at \$135/hour for street sweeping.

Mr. Lee said that we have the Seabreeze Property bid, which was the only bid we got in; that we tried to bid these together but six of those companies do street sweeping but didn't submit a bid. Just after the bids were due, Seabreeze Property sent an email with their bid of \$135/hour, received on Friday after the packets had gone out, and we would have to ask for a waiver of the 3-bid rule on that. He suggested they be done in separate motions. He added that it is frustrating to Public Works that we have to street sweep; that we use straight salt and a lot of towns do a sand/salt mix, which is when you need to do street sweeping, but because we are a stormwater (MS4) community, we are obligated to sweep up our streets. We are spending \$8,000, basically, to be compliant with the MS4 components even though, for any practical person, there's nothing out there to be swept.

Mr. Robinson agreed.

Mr. Donhauser asked if there was any way to request a waiver.

6:09 PM Mr. Lee is going to look into that because this makes no sense. This year we are obligated to do street sweeping but he's hoping that, by this time next year, not to have this obligation.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board waive the 3-bid policy for street sweeping.

DISCUSSION

Mr. Orestis said that it makes sense to waive the 3-bid policy but asked if there was anything else we needed to do procedurally in this circumstance.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Lee said that this Board, like any board, is always within its right to accept or reject any bid it receives at any time, in whatever you believe to be in the best interest of the community. In this case, we are running out of time to do any street sweeping, as we have to do it in this 2019 calendar year. This applies to the 20 miles of urbanized roads we have with storm drains.

DISCUSSION ENDED

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board authorize the street sweeping bid to Seabreeze Property at \$135/hour.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

6:14 PM Mr. Orestis moved, second by Mr. Murphy, that the Select Board award the bid to Nest & Sons of Kennebunk, Maine for \$56.25 per catch basin.

Roll Call Vote:

Mr. Donhauser – Yes

Mr. Lytle – Yes

Mr. Murphy – Yes

Mr. Orestis – Yes

Mr. McPherson – Yes

Unanimous vote to approve motion.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

H. Administrative Department

6:17 PM 1) Town Manager Report(s)

a. Census Employment Opportunities

Mr. Lee said that if anybody is looking for full- or part-time work, the Census is paying between \$14 and \$16/hour, with .58 cents per mile, and do it as little or as much as one wants; that he has all the contact information and explained how it worked.

Mr. Lytle asked about **Line #9**, saying that it was very confusing because it isn't clear what the topic is and, with some, you may not want to be too specific.

Mr. Lee said that he got a tip about a drug dealer and he wanted to talk to the Chief about it.

Mr. Lytle asked about **Line #25**. He added that he brings it up because people will ask him certain things and he has no idea; that he depends a lot on this report.

Mr. Lee said that he would try to make each entry more thorough.

Mr. Lytle asked about **Line #35**.

Mr. Lee said that a practical issue with removing Mr. Staples' fence is what to do with it – leave it or haul it away, if it isn't re-usable. He called the attorney regarding this and he didn't have an answer.

Mr. Murphy said that that leads into **Line #236** regarding a conference call regarding Mr. Staples' fence and an unbelievable outcome.

6:22 PM Mr. Lee said that the unbelievable outcome was that neither Mr. Staples' attorney nor our attorney had ever been notified by the court that back in May some judge vacated the case because Attorney Orso (Staples' attorney) had filed an objection; that the court dropped the ball on that and never received his objection, therefore they vacated the case until they could hear the objection. We discovered this while live in the phone conference even as we've been getting other things saying we could remove the fence. There is going to be a 2-hour conference between the two attorneys; that our attorney believes, fully, that Attorney Orso's objection will be tossed out as we believe it was in the first case we had and we will still have the judgement to go in and remove the fence.

6:24 PM Mr. Lytle asked about **Line #63** regarding Spinney Creek Shellfish.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Lee explained that he receives calls from residents who are objecting to Spinney Creek Shellfish Company expansion; that one person believes it is a functional expansion and should be reviewed by the PB and that is being determined.

Mr. Orestis said that he believes the Kittery side of the project was dropped and was brought on the Eliot side; which significantly reduced the scope of the project.

6:26 PM Mr. Lytle asked about **Line #91** regarding Harbormaster issues.

Mr. Lee said that when we had the boat maintained, we had to dispose of old fuel so we used a 55-gallon barrel from Public Works to reduce the cost of disposal.

Mr. Lytle asked about **Line #130** regarding a resident complaint about the Pavilion at Dead Duck.

Mr. Lee said that a resident renting the Pavilion complained about the condition and he had someone from PW go down to clean the floors and tables in advance of her party.

6:28 PM Mr. Lytle asked about **Line #175** regarding “Welcome to Eliot” sign.

Mr. Lee said that this has traditionally been in the South Eliot part of Town but in trying to put it back, they found the ground had changed, so we are looking for a new location.

Mr. Lytle asked about **Line #255** regarding the American Legion’s use of a Town building.

Mr. Lee said that they don’t have the funds, anymore, to support the building that they have leased from the Town for years, as they don’t have the membership, and will most likely have to break their lease and give the building back.

6:30 PM Ms. (Rosanne) Adams, Goodwin Road, asked if the SB would please consider, if it does come back to the Town, that there be some effort toward historical restoration since it is one of our earliest fire stations; that it could make a nice meeting building or some sort of shop.

6:31 PM Mr. Donhauser asked about **Line #69** regarding ‘foaming’ at the Spinney Creek gate, which is broken, and asked who would repair the gate.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

Mr. Lee said that MDOT would repair the gate. He called the Howell's to ask about the foaming and they said it is naturally-occurring and there are certain times of the year when there is a lot of foaming there.

6:33 PM 2) Voting Credentials: MMA Annual Meeting

This is to allow Mr. Lee to be the voting delegate for the Town of Eliot to the Annual MMA Business Meeting.

Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve Mr. Lee as the voting delegate to the Maine Municipal Association Annual Business Meeting.

Roll Call Vote:

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

Unanimous vote to approve motion.

3) Festival Day Notification – Saturday, September 28

This is informational.

6:35 PM 4) Public Hearing(s) Reminder – Oct. 22 TIF, Oct. 24 Other Items

This is informational. The TIF Public Hearing will be held at Marshwood Middle School and all other ballot items will be heard at the regular business meeting.

6:35 PM 5) Signing/Closing Documents: TAN

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, 2019 and ends June 30, 2020; and**
- 2. Said note shall be dated on or about September 18, 2019, shall mature on June 30, 2020, shall be signed by the Treasurer and countersigned**

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

by the Chairman of the Select Board, shall bear interest at the rate of 2.16% per annum calculated on a 365-day basis, and shall be payable at KeyBank National Association and otherwise be in such form and bear such details as the signers may determine; and

3. That said note is hereby sold and awarded to KeyBank National Association; and
4. Said Note is hereby designated as qualified tax-exempt obligations of the Town for the 2019 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. Murphy – Yes
Mr. Lytle – Yes
Mr. Donhauser – Yes
Mr. Orestis – Yes
Mr. McPherson - Yes

Unanimous vote to approve motion.

6:38 PM 6) Amend Use of Contingency Policy

This amendment adds the words “requires unanimous approval of the five Select Board members.” Mr. Murphy added three minor grammatical edits. This was to clarify that all five Board members must vote to approve use, not just a majority (if one or more members were not present).

Mr. Lytle clarified that he started this policy when he was Chairman and it required five Selectmen; that only if all five members agreed was the only way this policy was approved.

6:42 PM Mr. Donhauser moved, second by Mr. Murphy, that the Select Board amend our Contingency Fund Policy, with the minor changes to punctuation and adding the words “require unanimous approval of the five Select Board members.”

Roll Call Vote:

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

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

Unanimous vote to approve motion.

6:43 PM 7) Approve Warrant(s)

Mr. Donhauser moved, second by Mr. Murphy, that the Select Board approve A/P Warrant #48 in the amount of \$66,529.81, dated August 15, 2019; A/P Warrant #49 in the amount of \$25,444.01, dated August 20, 2019; A/P Warrant #51 in the amount of \$78,690.44, dated August 22, 2019; A/P Warrant #53 in the amount of \$100,115.28, dated August 30, 2019; A/P Warrant #121 in the amount of \$20,387.00, dated August 29, 2019.

Roll Call Vote:

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

Unanimous vote to approve motion.

I. New Business:

6:44 PM 1) Application Shipyard Brew Pub – Request for Extension of License on Premises on 09/28/2019

Mr. Lee said that they are going to do a half marathon, extend their deck with a canopy and have some outside activities, and they need SB permission to do that.

Mr. Donhauser said that we had a recommendation from the Fire Chief that an on-site inspection of The Commons parking area and event structures be accomplished by the Fire and Police Departments to ensure public safety matters are being met; that fire-retardant tent material is used and traffic control is in place. That can be accomplished Friday night before the event set-up or Saturday morning before kick-off.

6:45 PM Mr. Murphy moved, second by Mr. Lytle, that the Select Board approve the extension of the license on the premise for the Shipyard Brew Pub for

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

September 28, 2019, subject to the conditions of the Fire Chief, per the Fire Chief's memo.

Roll Call Vote:

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

Unanimous vote to approve motion.

6:46 PM Mr. Donhauser said that on Wednesday he was at the Transfer Station at 10AM to throw some items away in the bin; that the Saturday before that bin had been emptied and when the employees arrived on Wednesday there were several items – a microwave, a bag of recyclables, and 10-15 black trash bags full of trash; so, somebody came in between Saturday and Wednesday, probably through the Public Works Garage entrance, and dumped these items. He suggested we might put a surveillance camera at the end of the PW building, which would view the area where those bins are.

Mr. Lee said that Ms. McQuade looked for and found some cameras that are on rechargeable batteries, as well as solar recharging capacity, which was only around \$500 for a three-pack; that they are also motion-detecting. He will look into options for the SB to consider.

6:50 PM Mr. Lytle asked if the Solid Waste Committee could come in to give us an update.

Mr. Lee said that he will ask for them to come in to give us an update on what they're working on.

6:51 PM Mr. Tessier said that they would be happy to do that. As a quick update, we invited Mr. Bradstreet and Mr. Sylvester to our June meeting to talk about those things and we decided that no changes needed to be made at the Transfer Station in the way business is being done. Because the redemption center in Town closed, we are now doing business with the redemption center in Sanford, which is working out much better.

6:52 PM Mr. Lee asked if it isn't generally true that, even if we are paying to get rid of recyclables, we're paying less than we pay to get rid of MSW (trash); that if we treated everything as MSW, then everything would be going out at the highest price and that, where we are doing recycling, we at least still get rid of it for a reduced amount.

SELECT BOARD MEETING
September 12, 2019 5:30PM (continued)

6:53 PM Mr. Tessier said that the real big issue right now is the single-stream recycling for the larger communities because 30% of that single-stream recycling is coming out as waste that is going to the landfill; that of the 70% that is good, there is an awful lot of contamination because of the process these items have to go through and, then suddenly, China decided not to take it anymore and now there is no place to send it. The advantage we've had all along is that we source separate our material at the Transfer Station and the attendants do a good job of supervision around this and, as a result, the bales we make are really high quality, which always gives us a market for our material. We are still generating some revenue even though prices have gone down. He discussed the agreement to an extended contract with ECO Maine (MSW), where we pay \$70 to \$72/ton, and other people in the area are paying \$120/ton, so we are saving a lot of money. The composting is also saving us a lot of money because it keeps the MSW weight down. He clarified that the company we got the green composting bags from are no longer making them and so we now have a new vendor to supply those bags.

J. Old Business:

There was no old business.

K. Selectmen's Report:

There were no Selectmen's reports tonight.

L. Executive Session

There was no executive session.

M. Adjourn

There was a motion and second to adjourn the meeting at 7:00 PM.

VOTE

5-0

Motion approved

Respectfully submitted,

Ellen Lemire, Recording Secretary

S/ Mr. John J. Murphy, Secretary

Date approved: September 26, 2019