

BOARD OF SELECTMEN'S MEETING
November 24, 2009 6:30PM

Quorum noted

6:30 PM: Meeting called to order by Chairwoman O'Donoghue.

Roll Call: All present.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:38 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of November 12, as amended.

VOTE

2-0

Chair concurs

Public Comment:

6:40 PM The Chair recognized Jennifer Fox.

Jennifer Fox (Eliot Open Space Committee member - EOSC) discussed how the work they are doing may pertain to the Comprehensive Plan Implementation Committee (CPIC). She said that the EOSC started in July because the Town was successful obtaining a grant from the Estuaries Project, which provides us with a year of consultation from the Southern Maine Regional Planning Commission (SMRPC). She said that the EOSC will be addressing some of the goals in the Comprehensive Plan and happy to coordinate with the CPIC in any way they can. She clarified that the EOSC has been designated a subcommittee of the Eliot Conservation Commission (ECC) and they meet once a month.

The Chair recognized Tony Manero.

Tony Manero discussed that, in his 30+ years in business, he has found it always more advantageous to opt for negotiation versus litigation. In addressing the Consent Agreement (CA) discussed previously with this board, in his mind, if the BOS agrees to consider (and that is the key word) a CA, then that opens the door to negotiation, which could take place between the person who has a concern and wishes to present an appeal, application, whatever it might be, and the BOS. He added that, if there were a serious issue involved, then the procedure within the CA would take one down the trail of starting the negotiation, wherein both parties put forth their concerns. He said that, when the parties put forth what their concerns are, then the discussions and possible reconciliation points could be found and, if they were found, then the next step would be for the Town and the applicant to specify in written form exactly what the conditions would be that might satisfy both parties. Tony Manero said that, if the BOS and the applicant come to an agreement on those, then the next step would be to take that agreement, in principle, of what the terms would be of such a CA and then sent through the procedure approved by the CA policy process, which would then be reviewed by a Town attorney. He clarified that the Town would, then, have a document that has had a level of agreement by both parties and in legal form and able to be executed. He added that it is at that point that a vote upon approving or not approving the CA could take place. He clarified that, at that point, either party could say yes or no and, if that would be the case then, at least, every avenue of negotiation has taken place at the local level, which is why there are local boards in all their permutations. Tony Manero said that, if all that fails and no agreement can be found, then either party could pursue whatever legal course it might wish to pursue. He said that, considering that this is a process he is talking about and tonight is the next succeeding meeting from the prior discussion and decision, thus, reconsideration is a possibility in tonight's meeting if the member on the prevailing side might consider this as a possibility and an opportunity to move away from litigation and back toward negotiation, then this would be an ideal

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opportunity to do such a thing. Tony Manero commented that he was very concerned with the direction this issue might go in if it proceeds to go through the courts and the judicial process. He discussed his concern that, if that were to happen, then that would mean surrendering control to the courts and we all would have to accept whatever decision comes from the court. He talked about what that might look like. He said that, if the court decided in favor of the plaintiff (Walter Woods, etc.), then the court would reverse the decision of the Board of Appeals and the plaintiff would not be in violation. He added that a more dangerous course would be if the court found that the applicant, not the Town, prevailed, which would modify the pertinent Town ordinance(s) by court decree that says those lots are legally able to occur. He said that, if the Town were to prevail, then the Town would have to follow the path of taking further action because the Town would be faced with a situation where a violation persists. He added that the options the Town has, if the violations persist, are that they would have to go after Walter Woods, if they could "find" him through Superior Court, and Mr. Woods' position would be that he does not have the power to correct the thing for which he is being fined by the Town. He then added that the next step would be to go after the four owners, as they are in violation because they own lots, which do not meet Town standards. He said that the lot owner's position would always be that they did believe they were doing what was correct and did not understand that that could not occur and, moreover, the Town signed off on building permits, occupancy permits, and lasted for three years with no action taken, which creates a difficult position for the Town pursuing the four of them (landowners). He added that he didn't know, at that point, where the Town would go with this but that whatever happened would equate to more and more money, more and more delay, more and more time. Tony Manero said that his point and his suggestion was that the person on the prevailing side reconsider, at this point, and go into the negotiation to try to avoid the various expenses, time and impacts on people's lives that would take place and move toward a motion tonight to reconsider, seconded, then tabled, and set up to have Walter Woods come in at a later date to start negotiations to avoid litigation that has already been started, as well as the many financial impact to all parties. Tony Manero reiterated the desire to resolve this in-house, rather than allow an indeterminate result coming to everyone from the Superior Court, which may end up not benefiting anyone and is unpredictable.

The Chair recognized Gary Sinden.

Gary Sinden updated the BOS on the county budget committee and said that it is down from 15 to 13 members. He commented that all the county's troubles were caused by the Jail Consolidation Bill and it is really a snarled mess. He added that Senator Nass has entered a bill to reconsider certain aspects of the pertinent bill in this next session, although not hopeful. He clarified that, while 24 county employees have been laid off and jobs are frozen, the legislation requires them to continue to hire people for inside the jail and, in fact, requires them to continue to hire 8-10 new positions for inside the jail. He commented that the unfairness of that is just startling and is destroying moral throughout the county system. Gary Sinden said that they informed the Senate President of this situation, which she had not been aware of, and that she would take that back to the senate for discussion. Gary Sinden discussed the governor's announcement that Maine was \$62 million short for this fiscal year and may be \$400 million short for the next year. He commented that the governor sees fiscal problems coming and that they all need to be prepared at every level.

Department Head/Committee Reports:

Jim Marchese said that the Sewer Committee (SC) has two pieces of correspondence before the BOS. He discussed that his concern was for the committee's standing and correlating respect within the Town. He clarified that it was the committee's understanding that they were created as an ad hoc committee to the BOS, which could be extinguished at any time by the BOS, and that they wished to become a full committee and have greater standing in the public's eye, with appropriate term limits (suggestion was five-year limit). He added that the committee has revised their Vision Statement to add some things they could help the Town and Board with.

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It was discussed that this sewer committee would have staggered 5-year member terms, would have a maximum of nine members and would go through the budget process as all other committees in Town do.

Mr. Moynahan moved, seconded by Ms. Place, to recreate the ad-hoc committee into a standing committee for the Sewer Committee, to have a maximum of nine members having staggered 5-year terms and would submit an annual budget.

VOTE
2-0
Chair concurs

Old Business (Action List):

7:00 PM Carried over from October 8th BOS meeting

The Chair commented that A, B and C are active and ongoing.

D. Dept. Heads – schedule all reviews

The Chair said that the Board needed to schedule the two department head reviews even though there is still no final form to use. She suggested they could schedule the reviews sometime in January. She asked Paul White if there would be enough forms available to do the two reviews by the middle of January.

Paul White agreed there would and that he already has one set.

The Board agreed to meet at 5PM, prior to the regular meeting, to prepare for the first review.

7:05 PM E. New ordinance on Business Registration – Business Dev. See comments

The Chair discussed her concern with moving ahead on this without a full Board. She said that she was unsure how to enforce this ordinance and Wendy Rawski brought up several points that she felt needed to be discussed. She asked for input from the other Board members.

Ms. Place agreed with the Chair's concern about enforcement and how the Town would actually know a business was operating in Town unless the business said something.

Mr. Moynahan agreed and said that every time this is brought before this Board it seems there are more red flags, which raise more questions. He suggested having Wendy Rawski and Paul White take the current information and pull it together to clean it up, along with the Business Development Committee.

The Chair agreed and added that the assessor should be brought in, as well.

The Chair recognized Gary Sinden.

Gary Sinden said that, although enforcement is not an easy matter, the matter becomes clear if one has an ordinance in place. He clarified that that places the burden on the business when they start up and, if they don't come forward and are found out later, then they are liable for fines. He also addressed the issue around taxes that are not being collected that are owed to the Town, especially when most businesses are complying and paying their taxes. He felt this ordinance was something that should be put in place as soon as possible.

7:10 PM The Board agreed that this should be raised at the next regular meeting.
Carried over from October 22nd BOS meeting

F. 2009 Comprehensive Plan - makeup of implementation committee

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The Chair commented that she was pleased that they had received an application to get on this committee. She clarified that Russ McMullen had been a member of the Comprehensive Plan Committee, is well known, and would like to appoint him and asked for the pleasure of the Board.

Ms. Place moved, seconded by Mr. Moynahan, that Russ McMullen be appointed as a member of the Comprehensive Plan Implementation Committee.

VOTE
2-0
Chair concurs

The Chair said that a letter would be sent to Russ McMullen, informing him of the Board's decision.

Noah Lemire asked what the process was to apply for this committee.

The Chair clarified that all one has to do is send a letter/note or tell Barbara Thain that one would like to be considered for this committee.

7:12 PM G. Use of Town vehicles – see Attorney comments

The Chair discussed that the Board has been back and forth on this and no second to any motion. She added that they do have a lot of comments from the attorney, which doesn't appear very definitive and would prefer to wait until they have a full Board to discuss this.

Mr. Moynahan said that he had no problem waiting until they had a full Board. He commented that the current policy was not in place at the time of the hiring and that may change the attorney's thinking. He commented that he does not believe the BOS ever gave the authority to offer fringe benefits. He added that he does not have any trouble tabling this and leaving it as status quo until a full Board is in place.

The Board agreed.

7:14 PM H. Old police cruiser to be used by CEO

Paul White said that he went to Kittery to talk with Paul Connor about this. He said that Mr. Connor could not find the memo that he gave to the Council, which was the study they had done but did come up with a packet that showed the process they went through. He added that what the study showed was that an older vehicle was more costly to maintain and had increased fuel consumption. He added that Kittery, instead, went out and bought three more efficient high-mileage vehicles.

The Chair suggested waiting until the Town gets the new cruiser, as the old one will not be available until then, and then the old vehicle would have to go in for a mechanic's check.

Noah Lemire asked if the mileage was currently reimbursed when Paul White went out for site visits, etc.

Paul White said yes.

7:16 PM Carried over from November 12th BOS meeting

I. Warrant Article – special Town Meeting (Jan. 9th)

The Chair recognized Paul White.

Paul White commented on the process this draft article has gone through and said that the current one is one put forth by Chris Vaniotis after all the options were

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given to him. He explained that the current option has two articles, the first talks about the cost of the feasibility study and the second would decide on whether the Town would grant the BOS authority to enter into a contract with Kittery for the additional gallonage. He also said that Wendy Rawski told him that, if the BOS decides to go with this current option, then there is language that needs to be added to the bottom for the BOS to sign the official warrant article.

Wendy Rawski said that there has to be a Notice of Election and the Public Hearing would be the official notification to the public, which needs to be 10 days prior to the vote. She clarified that, if the Board chooses these two articles, then the Board needs to vote to take these before the Town for a vote. She added this is what needs to be added to the bottom and she needs it signed by tomorrow to officially get it on the ballot.

The Chair read the current warrant articles.

Paul White clarified that \$160,000 of the \$220,000 is for work done in Kittery and that would be deducted from the initial down payment of \$379,000 so, in essence, they are following through with the contract Kittery wanted to do. He added that the \$60,000 is what CLD has been authorized to spend in Eliot.

Noah Lemire (Budget Committee – BC) discussed that what money is going where is not clearly laid out in these warrant articles and would make it difficult for voters to make an informed choice.

Paul White said that that would be provided at the public hearing.

Gary Sinden discussed his concern for Article II that talks about entering into sewer contracts with Kittery. He asked which sewer contract.

The Chair said that it was the one they have been working on for over a year.

Gary Sinden said that that needs to be clarified. He commented that the only public exposure that contract has had was at the workshop the Board held this past summer. He added that no one at that workshop spoke in favor of that contract and, generally, was viewed as a bad deal for Eliot. He asked if anything had changed in that contract since that workshop.

The Chair said that one of the things this warrant would do is authorize the Board to enter into an agreement and does not specify which agreement. She added that the Board is not asking the Town to vote on the actual contract agreement until June.

Gary Sinden commented that the language “Intermunicipal Agreement” sounds like the Board is asking for that. He added that it would be hard for people to vote on a contract they haven’t seen.

Paul White commented that the Board could choose to only have Article I on the warrant and not have Article II. He added that this was prepared for the Board, tonight, so they could have some discussion and decide.

Bill Jacques (BC) discussed his concern that there were no dollar specifics in these warrant articles and he would like to see more detail on how the money is going to be spent.

The Chair said that they were going to hear about that from Joanne Fryer (CLD) tonight.

Shirley Jacques asked where the money was coming from.

The Chair said that the money was coming from the TIF District Account.

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Noah Lemire (BC) discussed that the Board, in response to Mr. Sinden's question about Article II, was not seeking permission to actually sign a contract. He asked what, exactly, was the \$220,000 for.

The Chair clarified that that was the cost to get the additional gallonage that Eliot would need.

Noah Lemire clarified that that would be paid through user fees by people who use the services.

The Chair said that that amount would need to be used to upgrade Kittery facilities.

The Chair introduced Joanne Fryer

Ms. Fryer (CLD) discussed the different studies and evaluations options for the TIF District. She said that they have a proposal that they submitted to the Board earlier this year for \$60,000 to study the TIF District and determine where they would be able to place the sewer service and how the sewer would be collected within the TIF District, itself. She added that that proposal was accepted by the Board and, obviously, signing the contract is contingent upon authorization of money from the TIF account. She said that two additional proposals were submitted tonight, one from them (CLD) and the other from SEA. She explained that the SEA proposal would look at a route going from the Kittery/Eliot town line and through Kittery to the Kittery Wastewater Treatment Plant that would look at the associated costs such as land, soils and wetlands. She said that an alternative to that would be to look at upgrading the existing system to accommodate the higher gallonage the limits of the force main that is owned and operated by Eliot. She clarified that the CLD study would be \$23,000 and the SEA study would be \$120,000 and would look at a wide variety of things, including how much capacity within this route would be given to Eliot and how much to Kittery, which would mean there would be some cost-sharing for construction. She added that, once this study was done, there would be a good idea of what the total capacity would be for Eliot and Kittery along the route and those different capacities would determine the cost sharing between the two towns. Ms. Fryer said that the study would include several public workshops, one at the beginning and one at the end, as well as five additional meetings throughout the study between the negotiation groups from Eliot and Kittery. Ms. Fryer discussed that, currently, they have a general idea of what the costs would be and that doing the engineering study would give them a more detailed cost estimate that would be more accurate. She added that they need to have a more specific cost in order to determine how much would be left in the TIF account to cover sewer infrastructure within the TIF District. She reiterated that the information they have now is general and is not looking at real numbers, so it is important to gather detailed data to put together cost estimates they can be reasonably sure accurately reflect the costs associated with the project. Ms. Fryer said that, between the studies, the cost is \$203,000, with the difference covering the legal and administrative costs.

Mr. Moynahan asked why the SEA study is so much more expensive for a much shorter route.

Ms. Fryer clarified that the CLD study encompasses the existing route so it doesn't require the same type of data collection such as wetlands and geotechnical borings. She said that CLD has a contract under SEA's contract to do survey collection, time to attend the meetings to help negotiate on behalf of Eliot, and time to review cost allocation and studies that have been prepared to make sure that all agree it is a fair assessment between Eliot and Kittery. She clarified that they chose to put it within their contract because whatever Eliot spends under their contract will directly offset whatever amount the Town of Eliot negotiates with Kittery to pay in.

The Chair reiterated that these articles are a first step to find out whether the project is fiscally possible.

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Roland Fernald asked if Kittery would be putting any money into this project.

Ms. Fryer said that the Town of Kittery has invested some money in the route study already and thought that happened in 2005. She added that Kittery looked at a number of alternatives to provide sewer in the area to provide more service to their own community and also for Eliot to have additional capacity. SEA's engineers did some feasibility studies based on available information to select the route show on the map so Kittery feels that they have paid their portion of the study. She said that, once everyone has gotten through the study piece and go into the design and construction, then cost allocation would come into play.

Roland Fernald clarified that the proposed studies would include the studies Kittery has already done.

Ms. Fryer agreed.

Jennifer Fox said that what she realized tonight was that the Board was asking the Town to spend up to \$448,000, which she understands would come from the TIF. She commented that hearing that they may get through the study and find they cannot go anywhere with the project would cause her to decide against allocating those funds. She added that she was looking for something a little more convincing to agree there was good reason to spend that kind of money.

The Chair said that the Town overwhelmingly voted to establish a TIF District last year and this is the first step in creating that district and making it a reality. She commented that it might not happen but they don't know and the money has to be spent on TIF projects, else it would be turned back to those places used to shelter that tax money in the TIF.

Ms. Fryer commented that, regarding doing the study, one of the benefits, even if it is determined not to be feasible, is that Eliot would have a blueprint of what could be done. She said that if new money comes available Eliot would be far ahead of other towns because Eliot would have a detailed plan of what would need to be done and, in terms of rating for available funds, Eliot would be higher on the list to get available funds.

Jack Murphy commented that it was his understanding that Kittery would be proceeding with further extension of the plant, itself, and upgrading to meet additional federal and state requirements. He added that the additional size and cost to that plant would impact Eliot's contribution, also, which is really not part of the discussion regarding the TIF and Route 236. He said that Eliot is on the hook to reimburse Kittery for expenses which Kittery has spent for the upgrade, that Eliot's costs for the existing system will go up whether the TIF is done or not.

7:40 PM

Gary Sinden clarified that the TIF money is like a tax-sheltered annuity, if one pulls it out early then one has to pay the taxes saved by creating it. He added that, if they did not spend the money and undid the TIF, then the Town would get back 2/3 of the money into the general fund. He said that the thing that is not being mentioned is that, once all the studies are done, that line down through Kittery would not be built by Kittery but would be the responsibility of Eliot to build.

The Chair reiterated that there would be shared costs between the two towns.

Gary Sinden commented that it would be shared by the users and Eliot would be the only user until Kittery owns it, which means the minute it is finished Kittery would own that line. He added that Eliot would have no participation in betterment fees or connection fees, based on the contract that has been negotiated. He said that Kittery could do what they wanted after Eliot builds it but they are talking about millions of dollars over and above what Eliot would spend to build theirs. He said that he agreed with Ms. Fox that Eliot is talking about a lot of money for studies but that money is nothing compared to once construction begins. He also discussed that Eliot is nearing its current capacity has been talked about a lot but the April billing, which is the wettest time of year, has Eliot's daily flow at 125,000 out of 200,000, so that is not near the top. He added that Eliot has

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a very efficient inspection going on now for houses adding to clean water to the system and, as that is corrected that will improve Eliot's current capacity flow per day. He added that they need to consider all these based on actual data. He said that all this is going to cost a lot of money and it needs to all be put on the table for people to consider, instead of inching up on the project.

The Chair again reiterated that the Town cannot go forward without the numbers that the studies would define.

Nancy Shapleigh asked if Jim Marchese could speak to current Eliot capacity, as she believes it is considerably higher than Mr. Sinden mentioned. She added that she doesn't believe, if the TIF is dismantled that the Town would get back 2/3's of the money. She said that Eliot would be subject to more taxes from the state, the county and valuation taxes would go up that are now being sheltered.

Jim Marchese said that the Board has been kept apprised of exactly how the sewer system is working through the Sewer Committee. He added that, in their last memo to the Board, they estimated the current use to be 190,000 gallons because of the 40,000-gallon allocation to the senior housing, which has not been constructed yet but has been authorized that allocation. He added that, in his opinion as a citizen of Eliot, the Town has a terrific opportunity and ability, through the creation of the TIF, to spend 6 million on infrastructure improvements. He commented that they can't just not go forward because of the potential dollar expenditure but wait until the actual numbers come in to see what they are before making a decision.

7:47 PM

Gary Sinden clarified that he was not making numbers up but was reading from a memo date 4/7/2009 Eliot – actual flow based on recent billing of 125,000 gallons per day and Eliot's actual allocation is 200,000 gallons per day. He said that this memo is all he can go on and is a joint compilation of data from Kittery and Eliot. He agreed with Mr. Marchese that the people of Eliot voted for this TIF and it does provide an opportunity but what the people were not told during this TIF was that all of the construction would happen in Kittery and that wasn't raised during the discussion so the people have never had the opportunity to discuss or vote on whether they want all the infrastructure that would be built in Kittery. He added that that was his point.

Ed Strong suggested having Article I include a breakdown of the costs so that people know where the \$220,000 is going.

The Chair agreed that they could do that and they could have material available at public hearings, etc.

Paul White clarified that stating specific amounts would not commit the Town to spending those amounts on those items.

Ms. Fryer said that the proposals she talked about tonight is the Board's first glimpse. She added that it was her recommendation that Eliot should not approve the proposals, themselves, but that the next step is to go forward with the public hearing and warrant article and, if the Town does vote to appropriate the money then they could negotiate. She also said that she believes there is a process that should be undertaken that would break the study into steps to gather information, have a certain amount of money that has been spent, then begin to have more real numbers and they could begin to get an idea, if at any point in that process, it becomes a nonstarter because the cost would be too high or there would be no contribution from Kittery. She commented that, at the last meeting with Kittery, Jonathan Carter (Kittery) made it clear that if there is some ability for Kittery to utilize this line for sewer in their own community that they would have a cost-share in the construction of that line.

Paul White addressed the issue of the contract, itself. He clarified that he came into the negotiation of the contract late, looks forward to negotiating further and he doesn't believe it will be only what everyone sees today. He said that the Town has options to negotiate with Kittery to make the contract what Eliot wants it to

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be. He added that Kittery has indicated that they want the additional gallonage and they want to resolve the long-standing issue around increasing the rates in the Town of Eliot. He commented that the current contract was not set in stone.

The Chair agreed and added that the Town has the money and it has not come from the taxpayers.

Noah Lemire said that, as a financial warrant article, it was his understanding that there is supposed to be a Budget Committee recommendation. He asked how much time they would have to make that recommendation.

The Chair said that they had no time as the warrant has to be signed by tomorrow.

7:59 PM

Mr. Moynahan suggested just going with the one article addressing the feasibility study as he believes Mr. White was right that the contract is not what it will be in the future. He added that he doesn't think they are ready for the second article.

The Chair asked if Mr. Moynahan wished to make a motion to that affect.

Mr. Moynahan moved, seconded by Ms. Place, to have the warrant only included Article I.

VOTE

2-0

Chair concurs

Jennifer Fox asked if there would be follow-up on the suggestion that, before entering in on a contract with Kittery that the public needs more information.

The Chair agreed and clarified that the contract with Kittery was central to Article II and that would not be included in the warrant. She added that this was an ongoing process and that they would involve the public in that process.

Paul White clarified that the Board moved to approve Article I and the Board would put in the article, itself, an itemized list of costs or would that be done by an addendum to the article, as the school does.

Mr. Moynahan clarified that the vote was to go with Article I and was not approving the article. He added that he wanted to go with the feasibility study, which was Article I, and that there was still discussion going on regarding the language of that article.

The Board discussed the wording of the Article to be placed on the warrant.

Roland Fernald clarified that, regarding the breakdown of the individual amounts, the Town would be voting on the total amount and not the individual amounts.

The Chair agreed.

8:07 PM

Mr. Moynahan commented that the article should show the breakdown of expenditures.

The Chair was concerned that showing the specific amounts would add confusion for what the voters would actually be approving.

Mr. Moynahan suggested using the term "estimated expenditures", as has been done in prior warrant articles, for the breakdown to clarify that the numbers are not set in stone.

Ms. Place agreed that the numbers needed to be broken out as the voters need to see the details.

The Board agreed to the "estimated expenditures" language at the bottom of the article as follows:

Eliot (CLD) - \$83,000 (engineering study)

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Kittery (SEA) - \$120,000 (engineering study)
Legal/Admin - \$17,000

The Board said that they would have as much information available as possible for this article prior to and at the public hearing.

Mr. Moynahan moved, seconded by Ms. Place, to approve Article 1, as written by the attorney, with the inclusion of the breakdown as discussed.

VOTE

2-0

Chair concurs

Paul White asked if this was the appropriate time to poll the Budget Committee or ask them to make a recommendation.

The Board agreed.

The Budget Committee asked to be excused for a few minutes to discuss their recommendation.

The Board agreed.

The Board discussed setting a date for the public hearing. The Board agreed to hold the public hearing on December 10 at 7PM, with a short agenda starting at 6:30PM.

8:17 PM

Noah Lemire said that the Budget Committee does have a recommendation. He said that the Budget Committee voted to recommend \$220,000 be appropriated for Article 1.

J. Cable T.V. Report

The Chair said that they do not have a report.

K. Safety Committee – Appointees

The Chair asked Grant Hirst if he had a list of people who would be on this committee.

Grant Hirst said that no one has communicated with him, formally. He added that he assumed they would let the Board know who would be representing each department.

Paul White said that the only one who has responded is Bill Shapleigh and Phil Lytle was appointed from that department.

The Chair commented that the appointments need to be moved on to get the committee formed quickly.

Paul White said that he would volunteer to be the representative from the Town Hall. He added that he would follow up by contacting the other departments to get them to appoint representatives.

Grant Hirst recommended that, once the Board is notified who is going to be on the Safety Committee, that the Board have them appoint a Chair. He said that he should not be that person.

L. Police contract negotiations

The Chair said that they have two tentative dates for negotiations – December 16 and December 22.

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Paul White said that he talked with Sylvia Hebert, who told him that the shop steward needs to be present at the negotiations. He added that they have agreed that they are available on the two December dates.

The Board agreed to schedule the meeting for Tuesday, December 22 at 4:30PM.

Gary Sinden commented that he thought the best thing to do would simply to be in the room as a citizen and an advisor to the committee and gauge her reaction during the discussions and it is probably best that he step aside because that just adds an issue the Board doesn't need. He added that, if there isn't an issue, he would be happy to help in any way that he could. He also said that he would just show up that day and just see what happens.

Paul White clarified who where the members of the committee.

Mr. Moynahan said that he, himself, and Paul White and Gary Sinden had been a member. He added that he was not sure if two would be enough and asked if Paul White was comfortable with that number.

Jack Murphy clarified that the meeting was a public meeting.

There was discussion among the Board about this. They decided to get clarification as the negotiation discussion would most likely result in a change to the contract, if they agree.

M. December BOS meeting conflict with holidays.

The Board agreed to decide this on December 10th.

New Business (Correspondence List):

8:28 PM

#1 TO : Board of Selectmen
FROM : Chairman
REF : Portsmouth Wastewater Treatment Plant – Draft Letter

The Chair commented that this was a draft, only, and asked for input.

The Board agreed by consensus to accept the letter, as written, and signed the letter.

#2 TO : Board of Selectmen
FROM : Information Technology Committee
REF : Memo from Committee and Town Clerk

David Emery commented that the equipment at the Community Center is very tired and they never been set up properly, as far as a server. He added that the hard drive is out of space and they cannot do proper backups. After talking with Heather Roy, he said that the first step would be to get authorization to use the server the Town has that is not being used. He said that then Heather would obtain proposals for getting the server set up. Depending on what funding might be available, he added that the next step would be to get the proprietary software onto that server, to establish a network that is stable and is being properly backed up.

The Chair asked if there would be any cost to the Town.

David Emery said that Heather would have to handle that as Department Head, but before she can get cost estimates to get it properly set up, the first step was to get this authorization for the use of the server. He added that, once they have that,

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she would look at the other needs she would have. He commented that she should not be running as she is now.

Mr. Moynahan clarified that the server was in good shape and would be adequate for her needs.

David Emery agreed and said it was a replacement that Dell provided and is still in the box. He said that the server has not already been allocated to anyone else.

Mr. Moynahan moved, seconded by Ms. Place, to authorize the Eliot Community Services Department to use the backup server.

VOTE

2-0

Chair concurs

The Chair invited Wendy Rawski to discuss her memo to Paul White.

Wendy Rawski said that she had some general concerns in the office being the hub of the business part of the office and her concern for crashes in the system. She added that she believes a plan needs to be put in place by the Board and maybe with advising by the IT Committee on her ability to gain tech support, as she needs it. She clarified that, right now, if the system goes down during the day, she does not have the ability to call the IT company to gain that tech support. She added that she doesn't have the ability to even call David Emery to ask for his assistance. She added that the current protocol requires her to speak to Dan Blanchette or Martine Painchaud, who has been put in place to be authorized to make phone calls. Wendy Rawski said that there are many times when neither of them are available in the office and she would like to see a plan of action put into place so that she can keep the business office functioning.

The Chair asked how it occurred that Wendy Rawski is not allowed to do this and is this normal procedure.

8:35 PM

Wendy Rawski said that that is just really the way it has been. She talked about the history of the development of the IT Committee and that she was not on the formal committee that formed. She discussed that the needs of her office were great and that she needed to be informed about what is going on because her office relies the most on the computers functioning well.

Paul White commented that, having been in the office for the past two years, he has found that the system doesn't work real well and, quite often, he can't get a hold of Martine or Dan and he doesn't understand why the system needs to be set up as it is. He clarified that he has had conversations about this issue with Wendy Rawski and David Emery and feels their hands are tied.

Gary Sinden said that, typically in any organization, the primary users need straight access to relief whenever there is a problem. He added that there is no need for "gatekeepers" in an organization that is so small and these needs have to be addressed as they happen. He discussed the reason the Town moved to a content management system was because the more users the better. He added that a content management system was easy for anyone to access, as long as they have the rules, but to close them out again then the purpose has been defeated and money has been wasted.

David Emery said that the IT Committee discussed Wendy Rawski's memo at their last meeting and concurred with what Mr. Sinden just said.

Roland Fernald said that it has to go down through the echelon of who calls to bring the company in to service the computers and, when Dan is not there, then the next supervisor in charge would be Wendy.

Mr. Moynahan said that he believes this is as simple as Paul White and Wendy Rawski getting together and writing a protocol on the needs of the offices and how best to meet those needs.

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Paul White clarified for the Board that, if they do that, then there would be a change.

Mr. Moynahan said to create the protocol, present it to the Board and the Board would make the change.

Ms. Place clarified that it should not be structured to exclude Martine from access but to develop a chain with more than one person in the office having access.

8:40 PM

Wendy Rawski discussed that they don't actually have a contract with Daystar and that she thinks they are on-call, as needed, so no set maintenance agreement program to her knowledge. She said that the computer systems are the core of everything they do at the Town Hall and when she doesn't have that system her office is pretty much helpless. She added that she was looking for some preventative maintenance to be put in place, such as software updates and virus scans. She discussed that there are other options for companies that might have more knowledge of municipal government software and maintenance needs. She said that the Police Chief has opted away from Daystar but she doesn't know the specific reasons. She discussed her concern for backups being done on a daily basis and that copies are preserved off-site to protect the data.

Paul White said that Norma Jean backs up the data and brings home a copy every day.

Wendy Rawski talked about protecting the hardware, such as the wires and connections, as well. As an example, she said that for a few years she has been asking for someone to come in to clean up the mass of wiring under the desks that poses a danger and needs to be cleaned up.

David Emery said that any time one gets involved in contracting for IT, it gets costly. He added that, currently, the only charge from Daystar is \$90/hour. He said that another company he just looked at has an hourly charge of \$110, with different maintenance plans after that, which is \$10 monthly per machine. He added that the IT Committee asked about the backups and they were advised that they were being done and the logs were being checked but he does not know if Martine is identifying failures. He added that she is backing up the Vision software daily. He said he knows that machine has some problems and should be replaced, as well.

The Chair suggested that the IT Committee, if they had time, could spend some time with the staff to help them with the issues.

David Emery said that they don't know how to do that. He added that they have talked about that and would like to do that but one has to be careful allowing that because one doesn't want too many people coming to do things that no one knows about. He said that there is no maintenance currently being on the machines, only the server gets weekly maintenance, which is \$20/week. He suggested that the IT Committee would be willing to help the staff if the Board developed a protocol.

8:50 PM

The Chair asked Wendy Rawski if that would help.

Wendy Rawski said that was a step in the right direction. She discussed a crash event that happened several weeks ago as an example of the need for someone that would be familiar with the system to gain stability and efficiency. She explained that Daystar was called in when the system crashed and they were able to get them back up and running but they were unfamiliar with how to restore the connections and she has to spend several hours reconnecting the printers, software, etc., which takes her away from her regular job duties. She said that that is where she feels there needs to be some help and, while she acknowledged that a contract is costly and the budget is an issue, the government of the Town relies on the system to run effectively and efficiently. She added that preventative help would make the equipment and the software last longer. She also said that she

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wasn't looking for a premium package but someone who would be familiar with the Town's system.

Mr. Moynahan asked the IT Committee if they could present a maintenance package that would define the Town's needs that they could go out to bid.

David Emery said that they could review several companies for their maintenance plans to see who might have the best plan for Eliot's needs. He did add that getting involved in a contract can become expensive.

Gary Sinden agreed that was most expensive on small businesses. He added that, in his own situation, he is there full-time, but they have 230 computers. He supported the idea of volunteers but agreed with David Emery about having too many hands doing the work causing issues. He said that his suggestion would hiring a municipal IT person shared among several towns.

The Chair commented that SMRPC is looking into hiring a regional IT person.

Paul White suggested Eliot look into that, as well.

The Board agreed that Paul White should look that possibility.

#3 TO : Board of Selectmen
 FROM : Grant Hirst
 REF : Report on Dept. Labor – Compliance from departments

8:58 PM Grant Hirst updated the Board. He said that he was getting quotes from three different alarm companies to alarm the Town Hall with fire, intrusion and panic. He added that he is also getting quotes for all other Town buildings to upgrade alarms and/or tie them into a central station. He said that a sprinkler system could be put in the Town Hall building as they could supply it from the 2" main that comes in from the street, per a conversation he had with the State Fire Marshal. He said that he has had the sprinklers at the police and fire stations tested and found a problem at the police station, which has been corrected already. He commented that, regarding the 50-60 MMA recommendations going back to 2003, they have notified the MMA of the status on those and that most of them are done. He clarified that one that still needs to be done is a fire alarm system in the transfer station recycling building and he has received two quotes for that and expecting a third. He added that, as part of the risk management of the Town, the Town should be getting certificates of insurance from all vendors that provide the Town a service. He requested permission to start asking for certificates from everyone who bids for Eliot and asking other vendors on a gradual basis to know they are financially responsible and have insurance. Grant Hirst said that he had submitted to the Board a number of changes he had for the schedules of property the Town insures and asking for the Board's input on what they would like him to do with those. He explained that most of them have to do with clarification of what properties are covered, changes of address, inclusions of classes of property not now covered and, in some cases, structures and one building that is completely uninsured.

The Chair asked what this would cost.

Grant Hirst said that, for the duration of the policy, there should be no cost. He added that, for the renewal next year, he is very hopeful that the improvements the Town will be making over the course of the next year will offset some of the costs of what is being done.

9:05 PM The Chair asked if these would be in the form of riders to the current policy.

Grant Hirst explained that, for the things that are being proposed, they don't use riders but simply annotate their files. He said that he is hopeful that, by next July

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1st, they will have accumulated sufficient credits with the improvements to offset any price increase, at least in part.

The Chair asked how urgent this was.

Grant Hirst commented that, as long as nothing that isn't insured doesn't catch fire, there is no urgency at all. He said that, since there would be no additional cost, should the Town do this for July 1, 2010. He added that, if it doesn't cost much more to do it then than it is now, then he doesn't believe that is a major issue, either. He clarified that what cannot be offset is the sprinkler system and buildings not currently alarmed.

The Chair asked which buildings are not currently covered.

Grant Hirst listed the items:

- Dixon Avenue Pumping Sewage Station electrical panel
- Any of the contents at 600 Main Street Sewage Pumping Station
- Shed behind the fire station
- Gazebo in front of Recreation Department
- Certain equipment existing on Town property, such as
 - Playground equipment
 - Flagpoles
 - Picnic tables

He said it doesn't cost anything to add a description of those kinds of property to the list of what is covered.

The Chair asked Grant Hirst what he would like from the Board tonight.

Grant Hirst said that he would like the Board to approve the changes he has recommended in the memo he gave the Board tonight. He also discussed that they have no coverage on the records stored at Iron Mountain in Milton, NH. He added that he did not know the value of those records. He said that, as long as the location and a value is declared, paying a small premium for it, then there would not be an issue.

Ms. Place clarified that they are paper documents.

Wendy Rawski agreed and said that some of the documents there need to be kept forever. She added that it is very inconvenient having those records stored so far away and she would like to discuss that in the future with the Board. She clarified the documents are irreplaceable and that some of those need to be gone through as the retention period has probably been reached on some documents.

Jack Murphy asked how many boxes and/or material is being stored there.

Wendy Rawski said she does not have that information with her but could get back to him with that information.

Ms. Place asked Wendy Rawski if there was a central file that listed what was in each box.

Wendy Rawski said that they do but it is a very rough outline of what is in each box. She added that she and Norma want to start working to define what is in each box and removing anything that has expired.

The Chair asked the Board if they would give permission to talk with Norma to determine if there is enough money to cover the small amounts they are being asked for to increase the coverage.

Grant Hirst clarified that the changes he was asking for would generate no additional cost before July 1st. He added that the only charge that may occur is if a building or structure or contents in a structure or building that is not now covered. He said that in no case would it be very expensive and would be prorated for the duration of the year.

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The Board agreed, by consensus, to approve the recommended changes requested by Grant Hirst.

Grant Hirst said there was one item that might cost more but he didn't know, yet. He commented that a doubling of the fire department's marine property from \$98,000 to \$180,000 because they have \$90,000 in fire gear that goes out of the state. He commented that they may not charge the Town for that for the duration of the year. He said that, if there were a charge, it would be roughly \$400.

The Chair requested Grant Hirst find out.

Grant Hirst said that they started off with seven Maine Department of Labor (MDOL) requirements that needed to be met. He clarified that the two for the Rec. Dept. have been done, five of them were for the Fire Dept. and he was still working with the Fire Chief and MDOL to get them face-to-face or a conference call to get those resolved. He explained that there are a couple of things the Fire Chief doesn't know how to do because he doesn't have the records they need. He added that nothing has changed regarding the assessment of fines, which are \$7,000/day. He said that, as a matter of fairness, he doesn't think they would charge the Town, after the requirements are met, a quarter of a million dollars in fines but would assess the Town a nominal fine because the Town is now showing an interest in getting this done. He added that he could not promise, as he doesn't know what the MDOL will say, and these fines are imposed by law.

The Chair commented that they have been neglected for a number of years.

Mr. Moynahan commented that some of them were not enforced. He clarified that things that should have been enforced in the past were only started with the new inspector. He told Grant Hirst he was doing a great job.

There was discussion around scheduling conflicts causing delays and that this happened in many fire departments, not just in Eliot.

The Chair said that the Board could not thank Grant Hirst enough for his work and he has the Board's full support.

#4 TO : Board of Selectmen
 FROM : Administrative Assistant
 REF : Job Review Form

This was not discussed.

Selectmen's Report:

The Chair recognized Nancy Shapleigh.

Nancy Shapleigh commented that Tony Manero came in and made his presentation and there was absolutely no comment. She added that she thought he was asking Mr. Moynahan to reconsider and absolutely nothing was said. She said that it was like he hadn't even spoken and she wondered if that was how the Board looked to handle that.

Mr. Moynahan, speaking for himself, said that he does not choose to reconsider that issue. There is more to it than should be in front of the Board. He added that, if they had kept consistent with the plan that was approved when the permits were issued then there would not be a problem. He said that the minute the deeds changed it changed the whole intent of that plan. He reiterated that he would not decide the issue. He added that the BOA was asked and now the law court is being asked and if the BOS is at fault, so be it, but he does not think it is fair for

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him or the Board to say yes or no on this issue. He said that, until a month ago, they did not have a CA policy.

Nancy Shapleigh commented that there have been CA's for years.

Mr. Moynahan clarified that the Town has had no guidance or formalities until the policy was approved.

Nancy Shapleigh said she didn't mean to argue with the Board. She said that, sitting in the audience and having nobody say "Thank you, Tony" or they would not consider it now, there was nothing and she thought that was a little strange.

The Chair said that she did thank Tony.

Executive Session

9:20 PM Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 MRSA Section 405.A. "Discussion or consideration of the...compensation..."

VOTE

2-0

Chair concurs

9:40 PM Out of Executive Session

Mr. Moynahan moved, seconded by Ms. Place, to appoint Wendy Rawski as the Web Administrator.

VOTE

2-0

Chair concurs

9:41 PM Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 MRSA Section 405.A.(1) "Discussion or consideration of ...general assistance..."

VOTE

2-0

Chair concurs

9:49 PM Out of Executive Session

Other Business as Needed

There was no other business.

Adjourn

Motion by Ms. Place, seconded by Mr. Moynahan, to adjourn the meeting at 9:50PM.

VOTE

2-0

Chair concurs

DATE

Roberta Place, Secretary