BOARD OF SELECTMEN'S MEETING
December 23, 2010 6:30PM

Quorum noted

5:30 PM Meeting called to order by Chairman Fernald.

Roll Call Mr. Fernald, Mr. Moynahan, Mr. McPherson and Ms. Place.

Ms. O'Donoghue was absent.

Executive Session

Ms. Place moved, second by Mr. Moynahan, to enter into executive session as allowed by 1 M.R.S.A. § 405 (E) "Consultations between a body…and its attorney…".

VOTE
3-0
Chair concurs

6:14 PM Out of executive session.

Mr. Fernald recessed the meeting until 6:30 PM.

6:30 PM: Meeting reopened by Chairman Fernald.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:32 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of December 9, 2010, as amended.

VOTE
3-0
Chair concurs

Public Comment:

6:33 PM No one from the public spoke tonight.

6:34PM

Department Head/Committee Reports

Mr. Fernald recognized Mr. Muzeroll.
Mr. Muzeroll said that the fire department heads elected him to be the Fire Chief for another year and he believed that, with that, they have some legal obligation from the Board to appoint him for 2011 as the Fire Chief.

Mr. Fernald asked for a motion to have Mr. Muzeroll as the Eliot Fire Chief.

Mr. Moynahan moved, second by Roberta Place, to appoint Mr. Muzeroll as the Eliot Fire Chief for 2011.

VOTE
3-0
Chair concurs

Mr. Muzeroll, referring to the Eliot Community Services building, said that he had spoken with the Board, previously, about the demolition of the building and/or buildings (barn) as necessary. He said that he and Mr. Moulton had talked about it several times and they believe they can dispose of the building for a fraction of the cost – tear it down, put it in dumpsters, make it go away – it would be if it went out to a general contractor.

Mr. Moynahan said that he thought that was a logical approach.

Ms. Place asked if there was any hazardous material they had to be concerned about.

Mr. Muzeroll clarified that that has yet to be totally evaluated. He said that he suspected that there may be.

Ms. Place asked how that would be handled.

Mr. Muzeroll said that he thinks the biggest concern was that there may be asbestos wrapping on the heating system. He added that there are relatively inexpensive methods for removal that he and several of his men are qualified to do and give to Mr. Moulton for proper disposal. He said that, in the best interests of the ECSD and the Town, this could be handled economically and safely.

Mr. Fernald asked Mr. Muzeroll to write a memo explaining the steps Mr. Muzeroll had discussed for the Board in case they had any more questions. He said to move forward with it.

Mr. Muzeroll agreed that he and Mr. Moulton would do the write-up.

6:37 PM Mr. Marchese commented that he has been the CEO for three weeks, now, and has discovered that there have been some oversights that have occurred in the permitting process. He added that he has not had the opportunity to go back very far, yet, but these are recent permits that have been issued and oversights have been made. He said that he wanted to make sure that the code enforcement office treats all applicants the same. He added that he does not have the authority to allow a non-conforming use and he was hoping to get some direction from the Board as to how they would prefer he treat these cases. Giving examples, he said there was a permit issued allowing an accessory structure in the front yard and there is a note on the dimensional requirements that does not allow accessory structures to be constructed in the front yard. He said that the accessory structure is 90% constructed and he is in a quandary as to what he should do about that. Mr. Marchese said another example was an apartment being constructed over a garage and the lot does not have the appropriate frontage for an apartment – accessory dwelling – and the apartment is larger than the requirements for an ADU. He asked if the Board would consider going in to some type of mediation or C.A. with that applicant to find some middle ground.

Mr. Fernald clarified that, regarding the first example of the building in the front yard, a resident made a complaint.

Mr. Marchese agreed and he told the resident that they had 30 days from the issuance of the permit to file an appeal with the BOA and he does not believe that was done. He added, however, that he does know the structure does not meet the ordinance and was intending to write the owner a letter indicating to them that they have a non-conforming structure and advising them that they should go before the BOA to get relief from the requirements of the ordinance.

Mr. Moynahan clarified that it has all been permitted.

Mr. Marchese agreed.

Mr. Moynahan said that he doesn't think it is fait to go back in time and seek that type of relief. He added that he would think the first step would be to go to the BOA for those folks and it would be the Board's job to do something for these folks, as well. He said that they were pointed in a direction, albeit it was wrong, and one can't go back on that direction now.

6:40 PM Mr. Marchese said that one other issue the Board should be aware of is that there was a recent BOA meeting, in which a particular case was that a stop-work order was issued, the applicant did have a permit, however, the information that went with the permit was insufficient and, therefore, it was not recognized that they were building inside the

shoreland setback. He added that that wasn't recognized until the first inspection of the addition and the BOA upheld the CEO's stop-work order, so the applicant is going to file a new application permit for a different type of configuration that meets the ordinance.

Mr. Fernald clarified that there was wording on the building permit regarding meeting ordinances.

Mr. Marchese said yes, that there is wording on the building permit that each applicant endorses, which simply states that they would meet all the requirements of the local and state ordinances. He clarified that, even though it was an oversight of the CEO who issued the permit, it is still the responsibility of the property owner to make sure they are within the limits of the code.

Mr. Moynahan clarified that the person with the front yard issue – it would be their responsibility to know that wasn't allowed.

Mr. Marchese said yes.

Mr. Moynahan asked how they would know that.

Mr. Marchese said that it is in the ordinance, it is a footnote, and one has to read the ordinance in its' entirety.

There was discussion around what process to use to correct these current issues.

Mr. Marchese clarified that the examples he discussed had happened within the last few months.

Mr. Place commented that that was during the time the Town was without a CEO.

Mr. Moynahan said that they could not put limits on C.A.'s, as they all needed to be treated individually. He added that he believed the CEO would have to use some judgment on that and maybe present some suggestions to the Board on an individual basis. He added that all the examples given may require C.A.'s at some point in time.

Mr. Fernald clarified that the issue on the stop work order would have to go back through the process that is in place, i.e. PB or BOA.

Mr. Marchese explained that, typically, the CEP issues a stop-work order and work stops that day. He added that it is then up to the applicant to go to the BOA to file an Administrative Appeal, if the applicant chooses.

Mr. Fernald said that, if the BOA denies the applicant, then that person would come back to the Selectmen for a C.A., but that is the process that would have to be followed.

6:45 PM Mr. Moynahan discussed what the Board could do about this moving forward to eliminate it from happening. He said that, footnotes aside on that, when residents come in for a permit or resolution about something, they are looking for guidance from the code office to do things correctly. He added that he does not believe these examples were intentional.

Mr. Marchese agreed and that is why he used the word "oversight" – he believes they were genuine oversights made when the permits were issued.

Mr. Fernald said that he thinks that, when residents come in for a building permit, then part of the CEO's job is to sit down with these folks to educate them to the particular requirements and that the Town would help them as much as possible to see that that happened.

Mr. Marchese agreed.

Ms. Shapleigh said that Mr. Moynahan said residents were looking for guidance and commented that, for the general public, the ordinances are not easy to read. She added that it is easy to say it's in the ordinance, saying she wasn't criticizing Mr. Marchese at all, but not everyone knows how to read the ordinances. She added that the general public coming in to the code enforcement office have a right to rely on the advice of the CEO and added that she believes Mr. Marchese should be very diligent in helping people, which residents have not always gotten.

Ms. Place said that she agrees that the process that was outlined is the process that needs to take place but she also agreed with what Ms. Shapleigh said and that Mr. Marchese should help these folks understand what the oversights were and, hopefully, that will ongoing.

Mr. McPherson said that he believes there should be stop-work orders on all these and see what could be worked out.

Mr. Fernald clarified that these issues needed to go through the right process and then, if it has to come back to the Board of Selectmen, then that was part of the process.

It was the consensus of the Board to direct Mr. Marchese to issue stop-work orders and allow the right process to go forward.

Mr. Marchese thanked the Board for their direction.

Mr. Fernald recognized Mr. Moulton.

6:47 PM Mr. Moulton discussed a possible Sewer Pump Station monitoring system upgrade that was looked at while considering alarm/security system upgrades throughout Town. He said that the current system gives an alarm for high water/low water, etc. but they looked into a system that would give them the capability of overseeing issues remotely and would incorporate a heat alarm and burglar alarm. He clarified that being able to remotely monitor would give them the capability of knowing the situation and dispatching the appropriate equipment/personnel. He said that there was a cost and asked if the Board would be interested in considering this upgrade. He discussed the savings, if the upgrade should be installed, and the cost to do the upgrade, including cost estimates and a sample of the information included in a computer readout. He concluded by saying that it was his opinion that the monitoring system upgrade would allow the Town to be more efficient with its' maintenance and monitoring as well as more responsive should there be a pump station failure, which would ultimately save the Town money.

Mr. Moynahan said that this was a sensible approach but they are going into a budget season, however, and believes this is something Mr. Moulton could present as a line item with his budget that would then be discussed further.

Mr. Fernald agreed with Mr. Moulton's proposal and also agreed that this should be presented as a line item in his budget. He commented that he knew Mr. Moulton had not been through this process before and recommended discussing the process with the Fire and Police Chiefs to aid his own understanding.

6:52 PM Ms. Place agreed with his proposal, as well – especially the savings in overtime and having the ability to check the system remotely.

Mr. Moulton discussed pavement management and extending the life of the existing Town pavement through resurfacing treatments. He asked the Board if they wished for him to include a plan for pavement management and surface treatment in the upcoming 2011-2012 budget season.

Mr. Fernald said that, once again, he would think this would be part of his budget process. He added that one of the things they try to have all department heads look at is not just what would be coming up for the next year but to plan for future years, as well.

Mr. Moynahan asked if, in Mr. Moulton's capital improvement plan with the roads the Town has, if there are currently any roads in Eliot that have been constructed recently enough that these treatments would be a benefit.

Mr. Moulton said that there were a few that would benefit.

Mr. Moynahan said that they could then get the mileage of those as a line item for paving…

Mr. Moulton said to get those extended to catch up with those things that have fallen by the wayside.

Mr. McPherson commented that he thought Mr. Moulton was headed in the right direction.

Ms. Place agreed.

Mr. Moulton discussed the Boom Truck purchase, saying that the truck has a list of repairs that need to be met to pass State of Maine inspection requirements, which he attached to the handout. He discussed the discount D & F Classics gave because of the needed repairs and talked about the need to have a safe, capable vehicle for maintaining trees and limbs along the roadways and that the costs would be shared between the departments. He said that some of the costs would be covered with recycled revenue from decommissioned roll-off containers.

Mr. McPherson commented that there might be trucks available in better shape at the auction site.

There was a discussion of the specific repairs needed.

Mr. Moynahan commented that they were looking to purchase this vehicle this year, in this budget, and the cost was being split between two departments. He also asked if there was still money available and what would be the total costs, outside the encumbrance.

Mr. Muzeroll said that this came about because he saw the need for the Town, as a whole, to utilize a safe vehicle (foremost for the Highway Department) to do their limbing and tree operations before they have an OSHA violation. He added that there are a couple of other departments that could utilize that type of truck for auxillary uses. Mr. Muzeroll said that he and Mr. Moulton have talked several times about this, talked to the dealer, talked to the auctioneers and doesn't think they would get a better deal. He said that he and Mr. Moulton would obviously like to see the money come from somewhere other than their budgets. He added that it would be used, predominantly, by the Highway Department but he would be willing to help purchase this vehicle from his budget.

Mr. Fernald asked if Mr. Blanchette had any suggestions.

Mr. Blanchette said that he did not.

Mr. Robinson (Highway Dept. Mechanic) said that the biggest thing, as far as the boys from the garage going out to trim trees, they would be doing it in a safe manner instead of instead of what they do now.

Mr. Fernald clarified that the Selectmen think this is a good idea but they have to have money to do it.

Mr. Moynahan asked if Mr. Moulton had any money in his Vehicle Reserve Account.

7:03 PM Mr. Moulton said that there was some but he was unable to get the balance for this meeting.

Mr. Moynahan commented that, once the final balance numbers are known, then they would have a better idea of the actual dollar amount that was being asked for from the Board. He said it might be $1,500 or $3,000 and they don't really know at this point.

Mr. Fernald clarified that the business was holding the vehicle for Eliot.

Mr. Moulton said yes.

Ms. Place asked when they needed a decision.

Mr. Moulton said that D&F had not said.

Mr. Moynahan suggested they could find out what was in the vehicle reserve account, what would be left after the encumbrance and what they would really be looking for so that Mr. Blanchette and Ms. Spinney would have a better idea where the funds might come from to make this happen.

Mr. Muzeroll said that, in fairness to the person who owns the pertinent vehicle, he did not want to drag this out anymore than was necessary. He added that, if they could come to some sort of decision tonight, he knew he could gather $1,500 from his Truck Reserve Fund, if need be, to chip in to this. He emphasized that he believed they needed to come up with some sort of commitment to the vendor, either way, so that the vendor could put a yes or no and move forward.

Mr. Moulton added that the roll-off containers would bring in approximately $1,500 to $1,800, so there would be $3,000, and then would look at his Truck Reserve Account to see what he might have.

After some more discussion, Mr. Fernald said that he would entertain a motion to purchase the vehicle in lieu of making sure that the money is there coming from the departments and any excess coming from other sources.

Mr. Moynahan questioned from what other source.

Mr. Blanchette commented that the only thing he could think of that the Board would have was the Contingency Fund, which is for emergencies, and how often does something like this come up.

Mr. Fernald asked the Board if they wanted a consensus on this issue or does the Board want a motion.

Mr. Moynahan said that he thought consensus would be fine but thought it would be nice if they could find something other than the Contingency Fund, as they dipped in to that last meeting and they were doing it again. He added that he was not saying this was not worth it but that they needed to be more careful and creative with their financing.

Mr. Fernald agreed.

The Board agreed that consensus was appropriate.

7:09 PM Mr. Moulton discussed Single Stream Recycling. He said that he had set a tentative date to have the Concord CO-Operative come to give the Board an informational presentation, if that was acceptable to the Board. He added that there were venues within the State of Maine, if the Board should wish to pursue single-stream recycling after the presentation.

Mr. McPherson asked Mr. Moulton to clarify single-stream recycling.

Mr. Moulton said that, with this system, one could recycle plastics 1-7, all cardboard, all mixed paper, all tins, aluminum and everything essentially goes in to one container. He added that that would reduce the amount waste in the waste streams because more was

being taken out. He also added that it is simpler for residents to put it all in one container and it wouldn't have to be sorted and separated at the Transfer Station. Mr. Moulton said that single-stream takes everything and they sort/separate everything at their facility and, in some instances, towns get revenue back.

The Board agreed this would be good information to have.

Mr. Fernald asked Mr. Blanchette to put it on the January 27 meeting agenda.

7:12 PM Mr. Moulton gave a Forestry Truck update. He said that it was is the process of being converted in to a 1-ton dump truck to be used for maintenance work. Mr. Moulton was asking the Board to allow him to reimburse his budget from revenue gained from recycled materials out of this conversion project to complete conversion of three other vehicles.

Mr. Moynahan said that he thought it would be good to reimburse Mr. Moulton's budget for the reasons requested.

The Board agreed.

RFQ (Request for Qualifications) and RFP (Request for Proposal) criteria for the sewer TIF was discussed.

Mr. Moulton said that these criteria were to make sure that, when the Board went before the Town, they would have done due diligence and have the best-qualified engineer. He added that CLD has done a great job for the Town and this was no slight against them at all. He added that this was to assure the Board had done their homework, gotten solid answers and not relied on just one company.

Mr. Moynahan agreed and said that the bullet points would be included in the contract language for what the Board would do for requests for proposals, which clarification they were tasked to do.

Mr. Fernald agreed and asked if there were any other comments from the Board.

Mr. Moynahan said they were looking for guidance and asked if the Board wanted to send RFQ's to engineering firms, as outlined, to prepare…there are a list of items that would be part of the language they send out: company background, engineering design history, proposed design teams, similar project experience, list of references and limited to a number of pages. He added that, if they wanted to bypass the second age of recommendations, then they would still have to continue their RFP, whether it would go out to one or several. He emphasized that they needed some clarification on where the Board wanted them to go from here.

Ms. Place said that she thought Mr. Moynahan and Mr. Moulton should go forward with the RFQ. She added that, as Mr. Moulton said, the Board should have done their due diligence before they go before the voters.

Mr. McPherson agreed with Ms. Place.

Mr. Moynahan asked what number of firms.

Mr. Fernald asked Mr. Blanchette what they had done in the past.

7:14 PM Mr. Blanchette said that he does not think they have ever gone out for RFQ, in all honesty. He clarified that, generally, one advertises for RFQ's and sees what one gets. He added that the Board might want to send some out to specific engineering firms to see what they might get back. He said that the whole purpose of this is to see who qualifies and who might be interested. He suggested the Board might want to have a timeline, etc., so that individual companies could see whether they have the man-hours within that time-frame to be able to do the job.

Mr. Marchese said that CLD was chosen through either an RFQ or RFP process in 2002 to complete the feasibility study, so the Board may want to look at that to see what was done with that.

Mr. Moynahan asked if Mr. Marchese could find that RFQ for him and Mr. Moulton to review.

Mr. Marchese said yes.

Mr. Blanchette suggested the Board take up an executive session that included Mr. Moulton at this time.

The Board agreed.

7:16 PM Mr. Moynahan moved, second by Ms. Place. That the Board move into executive session, as allowed by 1 M.R.S.A. section 405 (6) (a) Discussions…duties…

VOTE
3-0
Chair concurs

7:30 PM Out of executive session. There was no decision made.

7:31 PM
Old Business (Action List):

Mr. Moynahan suggested the Board put off going through the Action Item List until the next meeting so they could finish the rest of the agenda in a timely manner.

It was the consensus of the Board to address the Action Item List at the next meeting.

It was the consensus of the Board to put discussion of the Action Item List off until the next regular meeting.

A. Solid Waste Alternatives – Solid Waste Committee

B. Wild Brook Lane

C. Department Head Meetings – Mr. Fernald to set up the first of the year.

D. Sewer Contract Committee – Mr. Moynahan, Ms. O'Donoghue, Mr. Murphy and Mr. Blanchette

E. PACE Program – for Town Meeting vote

F. Review CLD Contract (Design Stage) – Mr. Moulton and Mr. Moynahan

G. Employment Contracts

H. Job Reviews
- Schedule – Mr. Fernald to schedule
- Where job reviews are kept
- Comp Time – salaried vs. hourly: merit vs. steps

I. Mission Statement

J. Committee recognition – Ms. O'Donoghue, January 14th

K. Comp Plan Action Items

L. Update Personnel Policy to include progressive discipline – Mr. Blanchette, next meeting

New Business (Correspondence List):

7:35 PM
#1 TO : Board of Selectmen
FROM : CLD
REF : Town of Eliot Route 236 Sewer Extension Engineering Study

Ms. Fryer said that she was here tonight to respond to the last meeting they had where CLD had submitted a contract extension request and to update the Board with some additional information to give them an idea of where the projects was and, hopefully, to give the Board a better idea of why they were asking for the contract extension. Referring to the December 13th letter, she said the draft study was submitted to the Town in September, had a public meeting September 30th, then another meeting after that with a small group representing the negotiations committee to basically review where we were at and the things that were needed to go forward. She explained that one of the things CLD brought up that was an issue at that time, in terms of the review of the IMA, was technical review of how the flow allocations were being calculated. She said that they had suggested the Town seek additional expert review. She added that she assumed, initially, that the IMA was being reviewed by a Town attorney.

Mr. Blanchette confirmed that was true.

Ms. Fryer said that the comments were received earlier in that month and the issues brought up did not address the technical side in terms of how the cost allocations between Eliot and Kittery were being addressed in the IMA. She added that they had a firm they had worked with before and they made a recommendation that that be pursued. She said that she knew Mr. Blanchette sent an email to the members of the negotiating committee who were unable to be at that meeting the next day to give them a head's up about that particular issue. Ms. Fryer said that they then submitted a proposal for CDM to do the work the first week of October. She said that she believed the Sewer Committee was spending some time looking at some alternatives to that – if they had another firm to do that same type of work or an alternative to what CLD was suggesting. She said she thought that went for some discussions between the Sewer Committee and the Board but CLD received word the week of Thanksgiving that they were approved to go forward to do the work. She added that CLD coordinated with CDM and they started work the first full week of December. She explained that they have reviewed the IMA and provided to CLD an annotated version of the IMA, which CLD is currently in the process of reviewing and coordinating with the prior comments that the Town had and that information should be available to the Town hopefully next week. Ms. Fryer said that they could not finish their report until they had that information because that affects the cost break-down between what Eliot would need to pay for the share that is being constructed in Kittery, reiterating that that affects the overall costs of the project. She said that CLD was recommending that the IMA be presented at the same time as the final report to the voters so that the Town would be voting on everything at the same time to streamline the process. She said that, given the information CLD gets back, once CLD has that information CLD would need to review it with SEA, come to some type of agreement and revise their (CLD) report. She explained that SEA is in hold waiting to finish their report to get this information, as well, and then the reports could be finalized and the meeting scheduled. Ms. Fryer said that looking out at where they were at the time, where they expected to be, able to do a meeting and then to have any time to follow up from the meeting was why CLD asked to extend the contract to February 15th. She said that, at the time she wrote this letter, it was her understanding from the Town that the Selectmen had voted to proceed with CLD and there wouldn't be a RFQ process so, in the timing she wrote in the letter, she did not take that into account. She commented that she thought that, if the Board was going to do a RFQ, timing to get solicitation would push the schedule out a little bit but she thought they could adjust the schedule to accommodate that. She added that when they initially did the schedule with the report finalized in the fall they had planned some cushion time in there

for the Town to have time to make decisions to decide if they were going to go for RFQ and to have time to negotiate a contract for final design. She said that having the report extend, again knowing at the time when they were looking at it, CLD received word that or that was their understanding – she didn't realize the Board was still investigating that issue so they didn't raise the flag about the schedule at the time because they thought they would still be on schedule, with a meeting in late January and, after approval, be able to submit a contract for the next phase of the work. She added that that would give the Board an entire month to review, negotiate and then work would start in March, which is on track with where the schedule was in the report. Ms. Fryer said that, with the RFQ, the Board could certainly do that process layered on top of the process they were going through now and there was no reason they couldn't send out the RFQ based on the preliminary draft report rather than waiting until the Town votes for approval. She explained that, if they were going to advertise, they would need 2-4 weeks for people to prepare their qualifications and the Board would want time to review it. She added that this was a sizeable project, so, if the Board put it out for general advertisement, she would expect they would get a significant number of submissions. Ms. Fryer said that, looking at the overall process of the project, they do not feel that it is prudent for them to submit the final report until they know what the agreements are going to be in the IMA because it will affect the cost breakdown. She added that they could certainly submit their final report, they still have a piece of their work, which was presenting to the public meeting and that obviously won't happen until – the Board could choose to have multiple public meetings but the discussions they had earlier was that CLD would do one public meeting that would include the study, approval to move forward with the final design and, also, approval of the IMA. She explained that that way the public would have all the facts in front of them and could make a decision to proceed forward with the project.

Mr. Moynahan asked, referring to the flow calculations, what seemed to be the question mark now on that versus the start of working with SEA on the feasibility.

Ms. Fryer said that when CLD received their initial flow, and they have been raising this as a concern all along, the peaking factors that were being calculated were different. She explained that Eliot has their average daily flow (ADF) – 200,000 gallons per day (GPD) – and obviously every minute of the day it would not be that flow but would vary. She said that there is a peaking factor, which was governed by TR16, which is the manual one uses to determine what the peaking factor was and that was dependent on the flow volume. She said that, with Eliot's flow volume (200,000 GPD), they were using a peaking factor of 4.8 – multiply the GPD by the factor of 4.8, then coming up with the gallons per minute (GPM), dividing it by GPD by 24 hours and 60 minutes to get a peak flow rate of 667 GPM – and that was what Kittery would receive. She explained that in the pipeline they would be doing where they would be combining flows with Kittery, they were allocating cost percentages of that pipe based upon the peak flow. She said that Kittery, for their flows because they were contributing along the way, was using a peaking factor of 3 because they were looking at the total volume going to the wastewater treatment plant, which was, if one went by the TR16, a 3.0 peaking factor. She added that they were looking at the whole sewer shed but, if one looked individually, they were having very small flows that were being added in and not peaking them at the same rate CLD's was. She explained that, if each town had 100 GPD as a base flow, then CLD's peak flow would be 4.8 times that and Kittery's would be 3.0 times that and, if each had 200,000 GPD capacity, then Eliot would pay 60% and Kittery 40% because the peaking factors are not the same. Ms. Fryer said that that was something they raised to them every time CLD got the spreadsheet and they keep responding that they were using TR16. She added that was one of the reasons CLD asked CDM to get involved because they have significant experience in inter-municipal agreements on the side from the communities receiving the waste water and the ones that were contributing the waste water to give them better input on that particular piece.

Mr. Moynahan clarified that they would verify that either CLD or SEA was using the right peaking factor.

Ms. Fryer said that they were both using the right peaking factors.

Mr. Moynahan clarified that it was the volumes associated with the peaking factors.

Ms. Fryer agreed, clarifying that Kittery was looking at, overall, what would be coming to their treatment plant because that is their critical point they were concerned about. She added that Eliot had to look at their discharge point and they had to make sure – the IMA is set up at 200,000 GPD as a capacity and then they have maximum daily rate (MDR) and a peak flow, so Eliot needs to make sure that peak flow was above what Eliot thinks it was going to be or there may be fines associated with that. She said that that has not really been defined and was one of the comments that was raised by CDM, is that there needs to be some definition. She said that it just says that there could be - she could not remember the exact language – that if they were exceeded, then there could be a fine assessed to Eliot and the question was is it the second it goes over, is it a consistent overage or an extended period of time – some of those things were not defined in detail. She clarified it was not defined in the old contract, either, that there was a lot less definition. Ms. Fryer said that it may not mean Eliot would change what was in there but at least Eliot would understand the associated risks. She said it was the same thing with the peaking factor – when they designed the pipe sizes and the pumping, there were some flows they had to use minimum pipe sizes which does increase the overall peaking factor because the minimum pump size would be greater than what the flow was because the flow was so small. Ms. Fryer said that some of the factors Kittery has in there were anywhere between 4 and 3 but, again, it was not an equivalent amount. She added that Eliot may decide, looking at it overall, that it wasn't worth it to make sure that they have exactly the same number – Eliot may want to look at the cost they would pay for the gallonage and if that was a reasonable cost to pay. She said that that is something that, in terms of the negotiations with Kittery, there needs to be continual discussion by the Board or their authorized representative to negotiate with Kittery.

8:10 PM Ms. Fryer said she got a phone call from Mark Thompson (SEA) because he read the article in the paper, then he got a copy of CLD's letter and there was some concern from Kittery that there were negotiations done between Eliot and Kittery in good faith and now they feel that, perhaps, that Eliot was going backwards on what was said before. She said that she pointed out to him, as she does every time, that unlike Kittery where the Town Council was authorized to make certain decisions, all of the decisions associated with the IMA had to go before the voters. She added that the negotiating committee was coming together to provide the best document they could but, in the end, the decision-maker for this was the voters of the Town of Eliot. She added that she was sure that Mr. Blanchette had been in contact with John Carter (Kittery) about this issue and that would obviously need to continue. Ms. Fryer said that once they get the information reviewed that they had from CDM, the next step would be to sit down and go through the issues with the negotiations group or whoever the Board identified that they should do that with and, then, set up a meeting with Kittery to do a review. She added that they could then have the public meeting. She also said that, given some information from some other folks – the Sewer Committee and Negotiations Committee – she thinks there are some other questions about the IMA that would bear some more discussion with Kittery. Ms. Fryer said that the report, itself, is waiting until those issues are outlined. She said that, from her perspective in terms of the contract extension, itself, if the Board chooses not to extend their contract, they still have to finish the report and they couldn't finish it until they have the information. She added that the February 15 date was her best projection at the time as to when she thought all that information would be together, reiterating that she still felt it was on track with the overall schedule and that is why CLD didn't realize it was going to be such an issue for the Board. Ms. Fryer apologized for not coming to discuss it, letting the Board know she had a prior commitment and could not attend.

Mr. Fernald asked if they should continue to plan to have a Town Meeting in January.

Mr. Moynahan said that the contract extension request asked for a February 15 date.

Ms. Fryer explained that was to allow for two weeks after whenever the meeting was held to clean up any paperwork that had to be done. She added that CLD was expecting they would be doing a meeting near the end of January but she thought that would depend on

when they could schedule a meeting between the negotiations group and Kittery. She said that she thought the Board needed to pick a date for the internal Eliot negotiations group to meet and review.

Mr. Murphy said that the Sewer Committee has very much recommended that Eliot hire a lawyer to help in the negotiations. He added that the technical consultant from CDM was much more expensive if they want him to come to meetings so they didn't want to go that way. He added that he had called around and Bernstein, Shur has a couple offices and he knew their lawyer in the Augusta office has worked on similar IMA's – small town versus a slightly larger town and so forth. He said that he would very much like that this person be asked or who Bernstein, Shur in Portland would recommend. Mr. Murphy said that he thought the complications in Kittery may be rather different from the complications of small towns further up Maine, so Eliot may want someone who is not exactly a "country boy". He said that he had a name from calling around and this might be suggested in talking with Bernstein, Shur in Portland if the Board agreed to go along with this. He added that, in relooking at the proposed IMA, he was more and more unhappy with certain aspects of it and a particular one is the amount of money which Eliot would be paying for the use of a collection system in Kittery. Mr. Murphy said that there was only one formula and so the total amount of Kittery's collection system would be the denominator and that portion of it that Eliot uses would be the numerator and that ratio would determine the cost against the average daily flow (ADF). He added that, in fact, they would have two collection systems – the current collection system in South Eliot, which is really in Kittery at the top of where Eliot's force main enters that gravity line straight down to the pump station #7 and Eliot's portion of that flow as it goes from the pump station to the treatment plant, which is currently about 150,000 GPD and, then, there would be the new system up on Route 236, which would go a much, much longer route, not even costed out, and yet that total cost is sort of built in to this single formula, which has not been evaluated as to how it would work in the future. He said that he did not like that and believes there should be two systems because South Eliot would be penalized as if it were connected to a much larger collection system even though the ratios of how much might get used in that may be quite different. Mr. Murphy said that what he was saying was that there were questions and they needed advice and someone on hand to sort of slow down any attempt to instantly arrive at a quick agreement.

Mr. Moynahan commented that CDM is currently, for $4,000 and change, reviewing the IMA, then the Town should have a better handle on recommendations.

Mr. Murphy commented that he did not know to what extent they have nit-picked the entire proposal or whether they were concentrating on certain key things.

Mr. Moynahan said that they would have a better handle on the contract, in general, once they have done their review.

Ms. Fryer confirmed that they did review the whole IMA.

Mr. Moynahan said that he thought they would have to count on their negotiating team until they had that in hand, so the sooner for that to happen would be good.

Mr. Fernald asked if anyone from the Board had questions or comments.

Mr. Moynahan said that Ms. Fryer expressed a concern about timelines for RFQ's but with the February extension and all that, then the timeline would all happen within the timeframe.

Ms. Fryer said that, if they were able to get it out and get everything done within that timeframe, then that would be great.

Mr. Moynahan said that there was also a question as to an existing privately-owned sewer line in Eliot Commons and asked if there had been a response to that.

Mr. Blanchette said that there had been a response and that it should be in the Board's packets.

Ms. Fryer asked how the Board was going to proceed on the requested extension.

Mr. Moynahan said that now that the Board has gotten a detailed explanation that he would be comfortable granting that extension.

It was the consensus of the Board to grant CLD's extension request.

Ms. Fryer thanked the Board.

8:12 PM Ms. Fryer addressed the request from Attar Engineering regarding the existing force main. She said that CLD received this letter last week and did take a look at the letter that Attar Engineering sent regarding their recommendations. She gave a response hand-out to the Board members, set up a visual, and discussed the recommendation. She said that, as she understood it, the recommendation was to build Phase II here, take from the Commons up to Bolt Hill Road and use the existing force main that was currently in place and then construct a new force main from this point down to Martin Road where it would then be discharged into the proposed gravity sewer that Kittery would be building down Route 236 and down the rail corridor to the wastewater treatment plant – to Pump Station #7. She said that the overall length of the force main, if they did that, would be approximately two miles from the proposed Great Creek pumping station and the existing force main for the Commons that would be utilized – there would still be an additional force main cost for about 3,000 feet and that would be part of the Phase I cost. She said that one of the comment s in the letter was that the Phase I costs could be eliminated but there would still be some cost associated with that because the force main doesn't currently go all the way to Martin Road. She added that using the existing force main, which they understand the diameter is 4 inches, would require significantly more energy to convey the flows than the larger force main, so that would give Eliot higher operating costs at the design capacity. Ms. Fryer said the letter mentions an AFR of 150,000 GPD that the system was rated for from a 1989 report from SEA and CLD doesn't know exactly what that system is or what the limits where – the length of the force main, the pumps that are associated with it – that would all affect what the capacity is but, certainly, Eliot would have some significantly high operating pressures to pump the sewage for that distance and that might be a limiting factor on the existing force main. She said that CLD feels, based on their recommendation in the report, that two force mains should be installed, which allow flexibility for flow volume and provides a redundant system so, if there was an issue with one force main, it could be off line and repaired while the other one was operating. She explained that, initially at the beginning of the project when it comes on line, one force main would be operating based on lower flows and, as the flows increase, the second force main could be placed online with a second pump. She said that if they try to use multiple pumps on a single force main, one gets very little increase in the amount, then, because the pipe becomes the limiting factor and, if one has two force mains with two pumps, then one gets twice the capacity. She added that CLD feels that, if Eliot wants to try to use the existing force main, then they would need to put in a second force main to have that redundancy and the ability to the flows the Town was looking for of 200,000 GPD. She clarified that the cost-savings would really be related to the material cost of that one force main because they would still need to dig a trench and place a second force main. She added that she already noted they would have additional infrastructure cost in Phase I that would need to occur. Ms. Fryer said that typically for a municipal system one wouldn't connect the services from the properties connected to the force main but are typically directed in to a gravity sewer, which goes to the force main and the force main pumps to the discharge point. She said that the cost of the gravity line to do that is a significant portion of the Phase I cost and, if they did not do that, then the properties that are within Phase I would not be able to connect, accept for the properties already connected to the Commons force main. She said that there are limitations, that they did not do a detailed review of the design plans, as-built drawings, or maintenance records of the Commons' pump station or force main and, again, trying to incorporate a private system into the overall project presents reliability concerns and, if Eliot does only one force main, then there is no

secondary force main as a back up redundancy. She said that the letter also talks about not needing to obtain permits – the project would still go forward and permits would still need to be obtained as, if they were not doing excavation or impacts within the wetland associated with or adjacent to that existing Commons force main, then some of the permitting might be reduced but there would still be the need to submit permits and that system would then be reviewed by DEP and they would have to approve it. Ms. Fryer said that she talked with Mark Thompson (Kittery) this morning to find out what Kittery's concerns might be associated with that particular proposal and they would be concerned with the composition of the wastewater that comes from that force main and, if it became septic because it would be pumped such a long distance, then there might be some residual material that is in the pipe that may change the composition of it, similar to the odor problem Eliot has had, which could increase the deterioration of the infrastructure receiving it. She added that Kittery would have to look at the design calculations and there would be a lot of information that would have to be reviewed to be able to determine that. Ms. Fryer said that, in their review, they did look at the existing municipal system in its' entirety and also reviewed the private system and it was their recommendation, given the issues associated with the system, what Eliot was trying to do and what that system is, that CLD does not feel that the cost-savings associated with it would allow Eliot to save the 3.6 million dollars by doing that because Eliot would still have to build a force main from Bolt Hill Road to Martin Road and would still need to put in a gravity sewer if Eliot wanted to collect the services in that section. She reiterated that there may be some cost savings taking on that force main but Eliot would also be accepting a significant risk and, at this point, they could not determine what that risk would be. She added that they are not sure the cost savings associated with assuming that are worth the risk Eliot would also assume.

Mr. Wood, Attar Engineering, said the 3.6 million dollars that he pointed out as a cost savings was, he believed, the portion that was in Eliot – because the portion that was in Kittery, which was Eliot's cost-share of that was either 2.1 or 2.6, so he would agree they would still have to construct the force main and the gravity system to Pump Station #7 but he did not believe those costs – Eliot's contribution of the system in Kittery – were part of the 3.6.

Ms. Fryer said that, according to the report, Eliot would be building Phase I from here to here (pointing to the visual) so this portion of the force main that is on Route 236 between the Town line and Martin Road, that cost was included in the 3.6.

Mr. Wood clarified that the force main was totally Eliot's contribution.

Ms. Fryer clarified that it was not totally Eliot's contribution but is like 98%. She added that they looked at a couple of different options – if the pump station were located here, at this point, there would be a small section in Kittery that they might collect and send this way – she thought it was like 10 gallons per minute – it was very small. She added that they looked at the possibility of having a secondary pump station on the Town line to dump into the pump station and then carry it on after that but, given the short distance, it wasn't cost-effective to do that. She said that what would happen was that Kittery would actually give a contribution back to Eliot for this section of force main for their contribution of that force main. She said that, then, this piece, here, represents the 2.7 million.

Mr. Wood asked how those properties were sewered between Martin Road and Bolt Hill Road – does Kittery end up putting in their own gravity system, if and when they want to sewer them.

Ms. Fryer said that he was correct.

Mr. Wood said that he thought he redundant force mains – the two 6-inch force mains – is a good idea but he just didn't know if Eliot spending whatever portion of that 3.6 million, maybe 2 million dollars, say, for the portion of the work between Bolt Hill and Beech…

Ms. Fryer said that she did not have the exact figure on that but it would probably be 2 million dollars.

Mr. Wood asked if that was the best place to spend Eliot's money – does Eliot really want to spend 2 million dollars putting in two force mains next to an existing force main. He added that he agreed with Ms. Fryer that the redundancy was good, which gives better control over the system, but he still thought they could use their money more wisely and expand northerly on Route 236. He added that he would agree that force main to force main connections are not the best thing but everyone on Route 236 has a force main to force main connection – the Commons goes to a pump station, Dunkin' Donuts has a force main to force main connection, when the Town approved the medical office building that was going to be a force main to force main connection, when the Town approved the Villages at Great Brook (which he thought they were rated at 30,000 GPD) – again, was another force main to force main. He said that he didn't know spending Eliot's municipal 2 million dollars to put in a gravity line and two new 6-inch force mains next to a force main that has been in the ground for 25 years but does have capacity – the Town hired Civil Consultants in 2004 to determine the capacity of the 4-inch force main, which was 95,000 GPD with a peaking factor of 5.0 using the same TR16 Ms. Fryer has been referring to – he thought the 4-inch force main should be given some consideration. He added that there were 68 properties within the TIF district, total properties on Phase I and Phase II. He said that the Commons was putting 10,000 GPD into that system and, even if the Commons was allocated 10,000 GPD, each one of those properties would be capable of supporting 70 employees – they are all commercial properties. He asked if Eliot believes they were going to bring in another 4,700 employees in to the Town of Eliot before they reach capacity of the line. He added that that was what that 4-inch force main was capable of handling. Mr. Wood said that, instead of spending the 2 million dollars between Beech and Bolt Hill Road, he thought it was worthy of some consideration extending the sewer system northerly on Route 236 within the Phase II district. He said that, as Ms. Fryer said, eventually the 4-inch force main would have to be replaced and that someday it would be at capacity, but he didn't think it was wise to replace it now and install two 6-inch force mains next to it. Mr. Wood said that he appreciated Ms. Fryer's answers to his letter and, as always, she did a great presentation and he agreed with the points. He said that he thinks the thing they differ on is where is the best place to spend that 2 million dollars.

Ms. Fryer said that she thinks it comes down to the issue the Town has to decide whether they want to assume the associated risks. She added that, right now, that force main is seeing flows and pressures that are significantly lower than it would see – that is a risk Eliot would assume and that is not their recommendation. She said that, in starting off this process, they would want to give the Town the best system the Town could have and could be expanded into the future. She added that if they try to put in some system now, whether Eliot adds gravity now or another back up force main to that one and come back later and replace it, the overall costs are going to be a whole lot more as, once they were in a place and started digging it up, then that's where the big bucks are. She said that Eliot should put in as much pipe as they can in the area they are in because that would give them the best cost overall. She commented that she thought that Mr. Wood's recommendation was not to necessarily to put in the other pieces at this time.

Mr. Wood agreed and said it was to improve the pumps, as they all know they would have to be improved. He said that they already answered the questions on pressures – it's a Class 100 pipe and they were prepared to test it. He added that Ted Berry would test the pipe for $1,000 to give them the operating pressure and the condition of the pipe. Addressing Civil Consultant's 2004 estimate of 95,000 GPD with a peak factor of 5.0, he said that was at a velocity of 7 feet per second, which was what they used to decide criteria. He added that they didn't put it at the maximum velocity but it was the maximum allowable.

8:17 PM Mr. Murphy said that Mr. Wood and a representative from Seadog Realty came to the most recent Sewer Committee meeting and, at that time, the committee listened to the same proposal and considered it. He added that it was the consensus of the committee that this proposal could not be adopted and, after some more discussion, the committee consensus

was that there was something funny about the proposal because there would be brand new infrastructure on either side of a 25-year-old force main to which everyone building in that section would have to connect to another forced entry. He explained that there would be pumps fighting each other or a complicated control system to sequence when people could pump, etc. Mr. Murphy said that that's why people use a gravity sewers, as it goes into a gravity sewer and all it flows to one point and one pumps that one well into the pump station at the point where it goes on to the next thing. He concluded that the committee felt unanimously that they could not support Mr. Wood's suggestion, attractive as it seemed, and they did not see the same amount of savings that Mr. Wood suggested might happen because a lot of the costs would go back to individual people trying to use the system. He asked who would be monitoring and maintaining all the different pumps.

Mr. Moynahan said that he thought that Attar Engineering was looking for an answer from CLD, that CLD had explored the idea of whether the suggestion could be considered as part of the design to attain cost-savings. He added that these were some of the questions the other evening when Ms. Fryer wasn't here and now that has been done and may stir up more conversation in her office.

Mr. Fernald clarified that none of that is going up Beech Road at all.

Ms. Fryer said no.

Mr. Fernald said that he was concerned about Baran Place - they would still have to go through the Commons.

Ms. Fryer agreed and said that there is no infrastructure proposed that is not on Route 236.

8:21 PM At this time, Mr. Fernald signed the contract extension for CLD.

#2

TO : Board of Selectmen
FROM : Public Works Director, Joel Moulton
REF : Would like to discuss a number of items

This was addressed during the discussion under Department Heads.

#3

TO : Board of Selectmen
FROM : Grant Hirst
REF : Boat Basin – insurance on structures

Mr. Hirst said the Town of Eliot has an exposure to loss at the Boat Basin, which is not covered by any insurance – the Pavilion, rest rooms and docks are not covered. He added that the State does not have insurance, either. He explained that the State says they are self-funded, which means that, if something happened, they would go to the self-funded account if they judged it important enough to do. He said that his purpose is to identify for the Board an exposure Eliot has. He added that Eliot derives income from the docks from launching fees and the Pavilion and rest rooms for rentals. He said that there is no insurance if Eliot should loose one of those structures and he believes the Board should consider what they would want to do about it. Mr. Hirst said that, if the Town insures those structures, it would cost about $300 a year – right now he was having a disagreement with the underwriter as to whether Eliot has an insurable interest and actually could insure them. He added that, if he could convince the underwriter otherwise, then he would come back to the Board and they could decide what they want to do.

Mr. McPherson commented that they belong to the State and the State would fix them. He added that they have replaced the pilings and the piers.

Mr. Hirst said that the State would do that if they had the money. He did agree with Mr. McPherson that they had replaced those things and added that they had replaced two of the

floats within the last couple of years. He added that, if the State didn't have the money then, as a practical matter, Eliot would not have the structures.

Ms. Place commented that Eliot doesn't even own those structures and asked if Eliot even had the right to insure something they don't own.

Mr. Hirst said that they could certainly justify doing it but their underwriter and he disagree on the matter. He added that he had asked her for a reconsideration and he hasn't heard back, yet.

Ms. Place said that she thought she would be more concerned about the liability to the Town with people using the property rather than the property, itself.

Mr. Hirst clarified that the liability to the Town is covered under Eliot's general liability policy.

Mr. Fernald asked Mr. Hirst to keep the Board up-to-date.
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#4
TO : Board of Selectmen
FROM : Worker's Compensation
REF : Experience Rating

Mr. Blanchette said that this was informational. He said that it was expected to go up to 1.07 and last year it was .72, so it could be a substantial increase for the Town.

Mr. Hirst said it was a roughly 35% increase from last year and there was supposed to be a 4% increase in payroll, which would also result in an increase.

Mr. Moynahan commented that they make sure they budget accordingly.

8:25 PM
#5
TO : Board of Selectmen
FROM : Sewer Committee
REF : Request CEO attendance at their meetings

Mr. Fernald said this was a memo from the Sewer Committee wanting the CEO to attend the meetings. He added that the Board voted at the last meeting that the CEO would attend all Sewer Committee meetings.

#6
TO : Board of Selectmen
FROM : Mt. A2C
REF : Regional Meeting

This was informational.

#7
TO : Board of Selectmen
FROM : Southern Maine Regional Planning Committee
REF : Town Dues

This was to inform the towns of a dues increase.

8:30 PM
#8
TO : Board of Selectmen
FROM : Dan Blanchette
REF : Progressive Discipline

Mr. Blanchette said that this packet had guidelines on progressive discipline that includes several samples. He added that he thought they could certainly use any one of the examples and adopt it to the Town's needs.

Mr. Moynahan suggested waiting to discuss this until Ms. O'Donoghue was back and he and she could get together and discuss suggestions to the Board.

The Board agreed.

Mr. Murphy said that there were three or four that would easily adapt and three or four others that would not.

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

There was no other business.

8:34 PM
Executive Session

Mr. Moynahan moved, second by Ms. Place, to enter into executive session as allowed by 1 M.R.S.A. § 405 (6) (a) "discussion in consideration of employment…compensation of an individual…"

8:40 PM Out of executive session.

Adjourn

There was a motion and second to adjourn the meeting at 8:41 PM.

VOTE
3-0
Chair concurs

_____ _____
DATE **Roberta Place, Secretary**