

BOARD OF SELECTMEN'S MEETING
October 8, 2009 6:30 PM

Quorum noted

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

Roll Call: All present

Pledge of Allegiance Recited

Moment of Silence Observed

Ms. O'Donoghue discussed that, while Mr. Blanchette is out with surgery and recovery, she had asked Ellen Lemire to record the minutes of these meetings until Mr. Blanchette comes back, as it was not known how long he would be gone. The Board agreed.

Mr. Moynahan suggested an interim Administrative Assistant be seriously considered while Mr. Blanchette is out. He also suggested utilizing in-house personnel. The Board agreed.

The Board agreed to meet Monday, October 12, 2009 at 4:00 PM to discuss.

Approval of Minutes of previous Meeting(s)

6:35 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of September 24, 2009 as written.

VOTE
3-0
Chair Concurs

Public Comment:

No member of the public wished to comment.

Department Head/Committees Reports:

No reports

New Business:

1) Dennis Lentz – Planning Board Interest

#1 TO : Board of Selectmen
FROM : Dennis Lentz
REF : Interest to become Planning Board Member

Ms. O'Donoghue welcomed Dennis Lentz and asked him to discuss his background and why he wanted to join the Planning Board.

Mr. Lentz stated that he has been in manufacturing for 40 years, held a number of various management positions, and worked in half a dozen countries. He was in Corporate Management Materials, which oversaw a \$30 million budget, in Product Data Management and Plant Management. He said that he has a strong interest in giving back to the community and has the time to do it.

Mr. Moynahan asked Mr. Lentz if he understood the function of the Planning Board.

Mr. Lentz said that he had not sat through a Planning Board Meeting, yet, but he understood that the Planning Board dealt with ordinances and their application.

Mr. Sinden commented that Mr. Lentz had a strong background in applying rules and regulations and that is an asset needed on the Planning Board.

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Motion by Mr. Moynahan, seconded by Ms. Place, to appoint Mr. Lentz as an Alternate Member to the Planning Board with a term to expire in 2013.

VOTE

3-0

Chair Concurs

2) Bill Hamilton & Jeff Cutting, move from Alternate to Regular Members of the Board of Appeals

#2

TO : Board of Selectmen

FROM : Bill Hamilton & Jeff Cutting

REF : Both Alternate Members on Board of Appeals wish to be moved to Regular Members.

Bill Hamilton and Jeff Cutting were not present.

Ms. O'Donoghue said that, at this time, there was one regular opening and asked the Board members for input.

Mr. Moynahan said that he was very positive about the interest shown by community members for the various vacancies.

Motion by Mr. Moynahan, seconded by Ms. Place, to move Jeff Cutting from an Alternate to a Regular Planning Board Member.

Discussion:

Mr. Sinden asked if there was a specific reason Mr. Moynahan chose Jeff Cutting.

Mr. Moynahan said no, except that he was the first to submit his request.

Mr. Sinden said that these appointments include seniority as one criterion and that Bill Hamilton has been a member quite a bit longer.

Mr. Moynahan withdrew his motion.

Motion by Mr. Sinden, seconded by Ms. Place, to move Bill Hamilton from the position of an alternate to Regular Member of the Board of Appeals, term to expire in 2012.

VOTE

3-0

Chair Concurs

3) Ellen Lemire – Interest to be on Board of Appeals

#3

Ellen Lemire was present

Discussion:

It was discussed whether this was an appointment for Alternate and the Board agreed that it was.

It was discussed that John Marshall had also submitted a letter of intent and whether the Board should wait to appoint until both positions opened. One member said that there was no letter in the packet from John Marshall, that Ms. Lemire is present, her letter is submitted, and the Board should go ahead and appoint her as an Alternate. The Board agreed.

Motion by Mr. Moynahan, seconded by Mr. Sinden, to appoint Ellen Lemire as an Alternate member to the Board of Appeals, term to expire in 2012.

VOTE

3-0

Chair Concurs

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At this time, Paul White (CEO) asked for a couple of minutes of the Board's time.

Paul White clarified that he asked to speak with the Board to inform them that Ms. Corbin (present) was asking for a name-change for her Eliot Business from Eliot Recycling to Lucky Day Auto, LLC to separate her Lebanon Business from her Eliot Annex Business to lessen confusion. He added that she had received all necessary approval through the Planning Board three years ago and reiterated this was a name-change only. He added that this issue came up because she was renewing her Automobile Recycle License.

Ms. Corbin agreed that this was just a name-change and that the business, itself, would remain the same.

There was unanimous consensus from the Board that this was acceptable.

Executive Session:

6:47 PM Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 M.R.S.A. Section 405.6.A. "Discussion or consideration of the ...compensation...".

VOTE
3-0
Chair Concurs

7:20 PM Out of Executive Session

At this time, Mr. Sinden discussed his concern about leaving the Board, especially with Mr. Paul's passing, with less than a quorum. His concern was that, if anything else happened, the Board could cease to function until the January Special Election. He added that he was not aware of Mr. Blanchette's absence until this evening, which made him more concerned. He also added that this was to be his last official meeting, but that he was reluctant to submit his resignation and suggested it might be well to push the Special Election up to cover this gap.

It was discussed that Hollis, at one point, was down to one Selectman and the Secretary of State stepped in to help keep the Town functioning.

Item H.B. Grant Hirst: A) Dept. of Labor Violations; B) Road Insurance \$15.00 per mile – 48.03 miles plowed.

Ms. O'Donoghue discussed the economic impact of Maine Department of Labor (MDOL) violations to the Town of Eliot. She said that the Town has already paid fines of \$5,000 for things not done, as far as she knew, and that two Departments were not present to give reports, the Fire Department with five violations yet to clear and the Community Service Department, with two violations not yet cleared as they were out of Town today. She discussed MDOL's kindness in giving Eliot three extensions, unheard of with MDOL, the last given May 30. She added that Eliot would be charged \$1,000 a day for each of the seven outstanding recommendations not acted on. She did add that some things may have been done but that they had not gotten confirmation from the Department Heads and that the Board of Selectmen needed a hard copy of the documentation to resolve this issue. She strongly urged that Department Heads need to report to the Board of Selectmen what they have done as it directly impacts Eliot's insurance premiums. She invited Grant Hirst to give an update.

Grant Hirst said that the Maine Department of Labor gave the Town recommendations in 2008 and that some have been done, some may have been done and some have not been done and that it is hard to comply with the Maine Department of Labor when the Town does not know what has been done. He also discussed that MMA gave recommendations back in 2003 and that some have been done, some may not have been done and some have not been done and

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that the Town has not been told where they stand on getting those recommendations accomplished.

The Board discussed the importance of Department Heads understanding the importance of the impact to the Town and getting the recommendations resolved as soon as possible. It was recommended that a strongly worded directive be sent to all Department Heads. It was also discussed that a timeline was needed, as money has been appropriated in budgets to meet compliance with the recommendations and failure to accomplish the recommendations should directly impact their specific budgets. The Board was concerned that Department Heads were not taking this seriously enough. The Board agreed that a letter needed to be sent out as soon as possible to all Department Heads regarding this issue.

Motion by Mr. Sinden, seconded by Mr. Moynahan, that the Board of Selectmen direct all Town Employees to make priority #1 full compliance with the requirements of the Maine Department of Labor citation.

Discussion ensued

Grant Hirst asked that the motion be amended to include the MMA failure (to get discounts, as Eliot did not implement a formal safety program.)

Jack Murphy discussed that, while he was Chair, he had been concerned with this issue, as well. He explained that he tried to get the Safety Program going with the Fire Chief, who agreed to make it happen. He added that the Fire Chief put it off, Mr. Murphy then gave him one week to comply, and the Fire Chief did not. Mr. Murphy said that he then asked the Administrative Assistant to head it up and that the Administrative Assistant agreed to take that on.

Nancy Shapleigh suggested that Phil Lytle would be a good person to tap for help, as he heads safety through EMA for Eliot.

VOTE

3-0

Chair Concurs

The Board discussed the Safety Program at this time that nothing had happened, so far, and that, per Mr. Murphy's testimony, the Administrative Assistant had agreed to Chair this.

Ms. Place asked if it was up to the Board to appoint each Department Head and have them meet regularly.

Mr. Moynahan suggested that, at least, each Department Head should appoint someone within each Department. He added that he had done this type of work and that it was neither hard nor time-consuming.

Ms. O'Donoghue asked if Mr. Hirst would be the Board of Selectmen's liaison for this matter.

Mr. Hirst said that he would.

Mr. Sinden added that the new Health Officer has a number of good ideas about this and might be available as a consultant for the Committee and that she should be asked.

Mr. Hirst thanked the Board of Selectmen for their support.

The Board discussed salt pollution done by the Town to individual wells in relation to Road Insurance.

It was discussed that 48 Road Miles would cost the Town \$720/year and that they needed to evaluate exposure to decide the need for insurance.

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Mr. Moynahan said that the Town was being protective and needed to be proactive against future impacts that might occur.

Ms O'Donoghue commented that the Town might not have the money to afford as much salt this year.

Paul White commented that Mr. Shapleigh uses calcium chloride, not road salt, and that there had been only two occasions of salt complaints. He added that it was not clear that there was an impact directly due to salting.

Mr. Moynahan suggested the Board table this issue and introduce the issue during budget discussions this year.

Nancy Shapleigh said that she had three homes on River Road and all had salt-water wells, so there is an unusually high salt count. She added that, with her last home, she had to dig a shallow well to get fresh water.

Ms. O'Donoghue asked if the people who had high salt counts tested for road salt contamination, specifically.

Paul White said that there was no indication that they had tested for road salt, specifically.

4) 2nd Presentation of Policy for Consent Agreements

#4

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Policy for Consent Agreement

Ms. O'Donoghue said that this was the second reading and asked for input.

There was concern among the Board members that this could be used by people to circumvent the Planning Board and/or Board of Appeals process and whether this document breeched the established line of authority, with the executive having the potential to overturn the legislature. It was suggested that this might be better written as an ordinance that would allow people a chance to comment. The Board asked about the history of consent decrees.

Paul White clarified that the authority for consent decrees was given through the Home Rule Statute 30A 452 and was created as a common sense document to avoid costly litigation. He added that this was a way to expedite cases and avoid lengthy litigation.

There was concern that future boards might not utilize this tool appropriately and they wanted to know if there was any protection against improper use.

Mr. White clarified that boards are charged to apply this document with the best interest of the municipality, that the Board would need to sift the facts and that this would only be used for rare occurrences. He added that Attorney Chris Vaniotis believes this is an appropriate way to go.

Mary Fournier voiced her concern that, if someone were to go to the Board of Appeals and they were denied, then surrounding properties/abutters could be impacted if that party were given a consent decree from this Board and the only appeal would be to the Superior Court. She was also concerned that there would be no way to know what would be brought to this Board.

Ms. O'Donoghue clarified that this document would only be applied to ordinance violations.

Mr. Sinden said that the authority is created in the statute and there would be uniform handling in the future.

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Mr. Moynahan said that this document stemmed from several months ago when the Board made a Consent Agreement without guidance. He added that it is a very rare occurrence but that the Board needed a way to handle them, a missing piece of the puzzle. He said that he was comfortable with the second reading of this document. The Board agreed.

Motion by Mr. Moynahan, seconded by Ms. Place, to approve the Policy for Consent Agreements.

VOTE
3-0
Chair Concurs

5) York County Budget Committee

#5 TO : Board of Selectmen
FROM : York county
REF : Budget Memo & County Commissioners Memo

This was a memorandum to inform Towns on the procedure for electing or re-electing members to the York County Budget Committee.

Ms. O'Donoghue clarified that Eliot was already represented.

6) Public Hearing for General Assistance Appendices A,B,&C

#6 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Notice of Public Hearing on General Assistance Appendices

Ms. O'Donoghue opened the Public Hearing at 7:50 PM and clarified that this covered financial State allowances to Counties and Towns and decided the maximum allowances for food and housing under General Assistance.

Jack Murphy clarified that this Public Hearing was only a formal procedure to adopt these appendices.

Ms. O'Donoghue agreed and said that Towns had no choice in the matter.

Ms. O'Donoghue asked if anyone from the public wished to speak.

There was no public comment.

Ms. O'Donoghue closed the Public Hearing at 7:53 PM.

7) State Valuations

#7 TO : Board of Selectmen
FROM : York County
REF : Proposed 2010 State Valuation

It was noted that Eliot property valuations came down a bit from 54.4% in 2008 to 53.7% in 2009

8) Report on Welcome to Eliot Sign

#8 TO : Board of Selectmen
FROM : Business Development Committee
REF : Welcome to Eliot Sign Status

Ms. O'Donoghue said that the Business Development Committee had originally proposed two signs but that budget constrains only allow one at this time. She added that the sign project has already been approved and that this was an update to the Board.

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Mr. Moynahan commented that the Highway Department poured the concrete for this project to help with costs and suggested a note of support from the Board. The Board agreed.

9) CMP Pole Permit Application

#9 TO : Board of Selectmen
FROM : Central Maine Power
REF : CMP Pole Permit Application

Ms. O'Donoghue clarified that this was to replace one pole on State Street. She clarified that this application was a formality.

Mary Fournier requested a copy under the FOIA.

10) Excise Tax Resolution

#10 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Excise Tax Resolution

Ms. O'Donoghue discussed that the "Act to Decrease the Automobile Excise Tax and promote Energy Efficiency" sounded nice but the end result would be a severe cut to municipal income and might directly impact property taxes. She added that excise taxes are 25% of the Town's income. She added that the Board was not trying to tell anyone how to vote, but the Board wanted to state their opposition to this formally. She read the document for the benefit of the public.

Mr. Sinden stated that this should not conflict with material policy. He suggested posting on the Town Website and in the Town Hall.

The Board was in agreement.

Jack Murphy stated that he was in favor of this being posted.

Mary Fournier commented that it was beautifully written.

11) Tabor II Resolution

#11 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Tabor II Resolution

Ms. O'Donoghue read the Board Resolution for the benefit of the public.

Mr. Sinden said that he has been a very strong advocate of budget cutting throughout the cycle. He commented that, while he lived in California he saw extreme deterioration with such restrictive tax laws and that the people had given up the right to govern themselves under Proposition 13. He added that he has seen some of that same restrictiveness in LD 1 but that Tabor II would be much more restrictive.

Ms. Place asked if this would take away the Town Meeting.

Ms. O'Donoghue commented that some are concerned that might happen. She said that she is very concerned that this would take away the Town's spending flexibility. She added that Colorado scrapped most of their law because they were going broke.

There was a consensus by the Board to post this to the Town Website and at the Town Hall.

12) Keys Grant

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#12 TO : Board of Selectmen
FROM : KEYS
REF : KEYS Grant

This was an informational update to the Board regarding their Energy Efficiency Project Grant.

13) Holiday Schedule

#13 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Holiday Schedule

This was a request for employee days off for the following dates: November 27 (day after Thanksgiving), December 24 and 31 from noon (Town Hall closed at 11:30 AM).

Motion by Mr. Moynahan, seconded by Ms. Place, to give employees the requested days off.

**VOTE
3-0
Chair Concurs**

Mr. Sinden commented that the board was responsible to meet on those days.

Mr. Moynahan suggested waiting until they were closer to that time looking at the heaviness of the schedule.

The Board agreed

14) Blueberry Lane – Was not approved, subject to keeping it a private way

#14 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Blueberry Lane

This was informational for the Board to let them know where this is in the process

15) Superior Court filing – Mary Fournier v. Eliot

#15 TO : Board of Selectmen
FROM : State of Maine Superior Court
REF : Case: Mary Fournier v. Town of Eliot

Ms. O'Donoghue clarified that this was notification only and could not be discussed.

16) Action List

#16 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Action List

There was discussion by the Board for the need for more timely Department Head Reports and that this needed more management by the Board. It was agreed that the Board would remind Department Heads of the need to follow through with their reports.

ACTION ITEM – Letter from Paul Schumacher regarding Coastal Access Program and that this might lead to more access to the waterfront.

Ms. O'Donoghue said that she would pass this on with the new information.

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Selectmen's Report:

- Ms. O'Donoghue discussed a draft letter from Linda McGill, attorney, and Sylvia Hebert regarding Union #340 10 day notice of wage impact. She read this draft aloud.
- Mr. Sinden said that the draft looked fine and the next step in the process. He added that it has been vetted by the Town Attorney and shows the Board's intent.
- Mr. Sinden and Mr. Moynahan agreed to review.
- Ms. Place discussed that, regarding the Grants Action Item, she was looking for a grant writer.
- The Board members offered some suggestions.
- Ms. O'Donoghue read a letter from 6th graders discussing their willingness to help raise funds for sidewalks.
- The Board was very appreciative of their action and input.
- The Board agreed to send them a thank-you letter.

Item H.C. Executive Session as allowed by 1 MRSA Section 405.6.A
"Discussion or consideration of the ...evaluation..."

Ms. O'Donoghue said that the person for this Executive Session was not present and the session was not held.

8:37 PM Motion by Mr. Moynahan, seconded by Ms. Place to adjourn the meeting at 8:37 PM.

DATE

Roberta Place, Secretary