

BOARD OF SELECTMEN'S MEETING
June 24, 2010 6:30PM

Quorum noted

5:00 PM: Meeting called to order by Chairwoman O'Donoghue.

Election of Officers

Nomination for Chair opened:

Mr. Fernald nominated Ms. O'Donoghue – she declined

Mr. Fernald nominated Mr. Moynahan – he declined

Ms. O'Donoghue nominated Mr. Fernald – he accepted

There were no other nominations.

Vote for Mr. Fernald for Chair:

VOTE

4-0

Chair concurs

Mr. Fernald accepted the Chair from Ms. O'Donoghue.

Nomination opens for Vice Chair:

Ms. Place nominated Ms. O'Donoghue - she accepted.

There were no other nominations.

Vote for Ms. O'Donoghue for Vice Chair:

VOTE

4-0

Chair concurs

Nomination for Secretary opened:

Mr. McPherson nominated Ms. Place – she accepted.

There were no other nominations.

Vote for Ms. Place for Secretary:

VOTE

4-0

Chair concurs

Executive Session

5:08 PM Ms. O'Donoghue moved, second by Mr. McPherson, to enter into Executive Session as allowed by 1 M.R.S.A. 405.6.E "Consultation...and its attorney...".

5:35 PM Out of Executive Session.

5:36 PM Mr. Moynahan moved, second by Ms. O'Donoghue, to authorize a Town Attorney to proceed with a proposed settlement agreement on the Bullis/Mills case.

VOTE

4-0

Chair concurs

5:37 PM Mr. Moynahan moved, second by Mr. McPherson, to enter into Executive Session as allowed by 1 M.R.S.A. 405.6.A. "Discussion or...of the employment...disciplining, resignation or dismissal of an individual...".

VOTE

4-0

Chair concurs

6:01 PM Out of Executive Session.

At this time, a recess was called by the Chair until 6:30 PM.

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Roll Call: All present.

6:30 PM: Meeting called to order by Chairman Fernald.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:31 PM Motion by Ms. O'Donoghue, seconded by Mr. Moynahan, to approve the minutes of May 27, 2010, as amended.

VOTE
4-0
Chair concurs

Motion by Mr. McPherson, seconded by Ms. O'Donoghue, to approve the minutes of June 15, 2010, as written.

VOTE
3-0
Chair concurs

Motion by Ms. Place, seconded by Mr. McPherson, to approve the minutes of June 16, 2010, as written.

VOTE
3-0
Chair concurs

Motion by Ms. O'Donoghue, seconded by Ms. Place, to approve the minutes of June 18, 2010, as written.

VOTE
3-0
Chair concurs

Public Comment:

6:35 PM Mr. McMullen asked if the BOS had chosen a road commissioner yet.

Mr. Fernald said that no decision had been made.

Mr. McMullen said that he thought the offer made by Chief Short at Town Meeting was an extremely generous offer to the Town, saving the Town probably \$60,000 to \$70,000 a year. He added that he wanted to know if that offer was going to be considered by the BOS because it was offered publicly to the Town at a tremendous savings. He asked if the BOS would be willing to consider the offer on a trial basis for a year to save the Town money.

Mr. Fernald said that Chief Short had been considered by the committee and reiterated that no determinations have been made yet.

Kristen Thistle asked if the BOS had received her letter of complaint regarding Paul White.

Mr. Fernald said that the Town had received her letter.

Ms. Thistle asked how the BOS plans to follow up with complaints.

Mr. Fernald said that there is a procedure the BOS must follow and that procedure is being done at this time.

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Ms. Thistle clarified that complainants will be notified of executive sessions when their exact complaints are discussed.

Mr. Blanchette said that, if it goes to executive session both the person being complained about and the person complaining has the right to be present.

Ms. Thistle asked how the complainant be notified.

Mr. Blanchette clarified that they try to do it by phone or whatever method they can.

Ms. Thistle asked if anyone on the Board had spoken to Jeff Kalinich From MDEP?

Mr. Fernald said no.

Ms. Thistle asked if anyone had spoken to Chris Hansen, Town of Raymond CEO?

Mr. Fernald said no.

6:40 PM Mary Fournier asked if anyone on the BOS tried to get the public records on the violations (of Paul White).

Mr. Fernald said that the BOS is looking into all violations and will get all the information before making a decision.

Ms. Fournier said that she had a copy of most of the record and that it was up-to-date as of last Friday. She added that she wanted to give the BOS a copy.

Mr. Fernald said that she could turn it over to Mr. Blanchette.

Department Head/Committee Reports

6:41 PM Mr. Blanchette said that the end of the fiscal year is approaching and, with that in mind, they would like to close the Town Office on Wednesday, June 30, at 11 AM in order to facilitate the reports

Mr. McPherson moved, second by Ms. O'Donoghue, that the Town Hall Office be closed at 11 AM on Wednesday, June 30, to facilitate year-end fiscal reports.

VOTE

4-0

Chair concurs

Mr. Blanchette said that they have two items that necessitate action. He explained that they went out to bid and received bids back on Monday regarding Tax Anticipation Notes and Auditor. He said that, for Tax Anticipation Notes, they received two valid bids – one from Citizen's Bank only for a lump sum at 1.98 per annum and, from TD Bank – an as needed at 3% and a lump sum at 1.75%. He explained that, in the past, the BOS has gone with the "as needed" so that it helps to facilitate the cash flow, etc. He gave the BOS a sample from the attorney on what needs to be voted in order to accept the bid.

Ms. O'Donoghue moved, second by Mr. Moynahan, that under and pursuant to Title 30-A, Section 5771 M.R.S.A. there be and hereby is authorized the issuance of up to \$4,500,000 principal amount of Tax Anticipation Note of the Town in anticipation of the receipt of taxes for the municipal fiscal year which commences July 1, 2010 and ends June 30, 2011, which shall bear interest at the rate of 3.000% per annum, based on 30-day months in an assumed 360 day year and shall be payable at TD Bank, N.A.

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VOTE
4-0
Chair concurs

6:44 PM Mr. Blanchette discussed the auditing bids. He said that they received two but that one, to him, doesn't qualify. He explained that, in the proposal for auditing services, they specifically said that all proposals must be sealed and received Monday, June 21st, at 4 PM at the Eliot Town Office and marked "Auditing Services for 2009-2010" and they received one that was not sealed. He added that they do have one that was sealed and properly documented and is from Richard Donhauser. He added that Mr. Donhauser's proposal was for \$12,900, which he believes is about what it was last year.

Mr. Moynahan moved, second by Ms. O'Donoghue, to hire Richard Donhauser for the sum of \$12,900 to do the Town auditing.

6:47 PM Mr. McPherson asked if there was any way to have the current figures available for the Town Report and not a year old.

Mr. Blanchette said that they would have to print the Town Report after the audit is received. He clarified that the fiscal year ends in June and they receive the audit anywhere from October to January, in a good year, so it is difficult to have those figures for the Report. He added that the Town could move Town Meeting earlier in the year so that the figures were more current. He added that he sees no way to do it when they have the Town Meeting in the year that the Town is operating and, if they have the Meeting later in the year, they would be operating part of the year before they had the Town Meeting.

VOTE
4-0
Chair concurs

Mr. Blanchette said that, generally at this time of the year, he reminded the BOS if they want to do anything with Comp Time paid out or not and that he usually recommends paying it out. He added that this year, however, with the tightness of the salary accounts he would recommend not paying it out but carrying it over into the next year.

Ms. O'Donoghue asked how that affected the staff.

Mr. Blanchette said that that is their choice, whether they want Comp Time or not and the way it is established allows them to carry that time over from one fiscal year to another. He added that any time the staff wants to turn that Comp Time into pay, he believes they have the legal right to do that.

Mr. McPherson moved, second by Ms. Place, to carry over the Comp Time for Town Hall staff into the next fiscal year.

Mr. Moynahan asked how that would impact next year's financial situation.

Mr. Blanchette said that there was a cap on Comp Time and that carrying the time over would only mean that some people would begin the year with an accumulation of Comp Time.

VOTE
4-0
Chair concurs

Mr. Murphy, Sewer Committee, said that, for the last two years, their committee and the CEO have been working to clean up the inflow infiltration problems, sending out letters to all sewer users asking them to make an appointment with the CEO to have their sewer connections inspected. He added that, at the present time, they have 567 users and 218 have responded to the three letters sent, with 19

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violations corrected and all but one (Baran Place) corrected. He gave out copies of a fourth letter to the BOS.

6:53 PM Mr. Fernald commented that he thought the letter was well done and his only concern was its length.

Mr. Murphy agreed there was some repetition but wanted to make sure the people would understand the message. He added that this letter would need to be sent to 349 users and they recommended it go out first class.

There was discussion regarding the cost to mail this letter.

7:07 PM By consensus, the BOS agreed that the letter should be sent out, reformatting to reduce the number of pages and adding "Official Notice" across the top of the letter.

Old Business (Action List):

7:09 PM

A. Job Review Form

A final review will be addressed at the next regular meeting.

B. Fire Arms Ordinance

Mr. Fernald said that he has contacted some people and he will have a request for interested parties to start a review committee be put on the Town website.

C. Consent Agreement Policy – Mr. Moynahan, Ms. Place, Mr. Murphy

Ms. Place said that they had not had the opportunity to meet.

Mr. Murphy said that he reviewed the history of C.A.'s in the Town and has put together a folder of all C.A.'s, whether successful or failed. He added that, after reviewing the current policy, he has a number of suggestions.

D. Solid Waste Alternatives – Solid Waste Committee - ongoing

7:11 PM Mr. Fernald said that there were several items under New Business he would like to take out-of-order, if the Board would agree, as that way they could send people back home because of the storm.

The Board members agreed.

New Business (Correspondence List):

#12 TO : Board of Selectmen
FROM : Dana Norton
REF : Request meeting with BOS

The Chair apologized to Mr. Norton for steering him in the wrong direction and added that it seemed Mr. Norton was going in the right direction and invited him to speak.

Mr. Norton discussed a letter he had from Larry Dow, one of the originators of the pertinent ordinance, that he believes sheds some light on the issue and he would like that letter to be considered. He explained that it says that, once the customer drops the car off and leaves it in the fenced-in area, it is then considered a product. He added that he is still working on the renting of the American Legion Hall. Mr. Norton said that in the Home Business Ordinance it doesn't say anything about off-site parking but does say it has to comply with article x, which says that off-site parking has to be within 100 feet of the main business and the

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American Legion Hall fits in with that perfectly. He added that it was suggested to him by the two previous CEOs that he get off-site parking.

Mr. Fernald said that the ordinance determines the actual number of vehicles that a person has and it doesn't matter if it is on or off the site. He added, however, that the concept Mr. Dow discusses in his letter is different and asked for suggestions from the Board. Mr. Fernald asked Mr. Blanchette if Mr. Norton had elapsed any "time" at all that would prevent him from presenting this to the BOA or would he have to go to the PB first.

Mr. Blanchette clarified that the PB is not the avenue because they cannot do anything different from what the ordinance says. He said that this would be an interpretation of the ordinance issue and that would go to the BOA because Mr. Norton has been told by the CEO that he will interpret the ordinance in a particular way (count all the cars) and what the letter is saying is that some of those cars should be exempt from the four count.

Ms. O'Donoghue, discussing the original conditions of approval from the PB, said that she believed those should be reviewed, as well, because Mr. Norton did agree to the original conditions of approval and said at that PB meeting: "between the two of them they could make a living, pay the taxes and provide a service to the Town folks". She added that she was holding off on her decision but did believe the avenue was to bring this interpretation issue before the BOA.

Mr. Norton said that, with the changing economic times and the debts from the past several years, it has become more difficult.

Mr. Moynahan reiterated that he believes they are still going in circles and Mr. Norton is, too. He added that he doesn't know what the answer is for this.

Mr. Fernald suggested that Mr. Norton, again, go to the BOA and asked the BOS if they would waive the fee required to be heard by the BOA this time.

The Board agreed by consensus to waive the BOA fee for Mr. Norton for this time.

Mr. Norton thanked the BOS and said that he would apply to be put on the next BOA agenda and then report back to the BOS.

The BOS agreed.

Ms. O'Donoghue said that the Chair's idea of having Mr. Dow attend that meeting with Mr. Norton is a good one.

7:18 PM
#11

TO : Board of Selectmen
FROM : Eliot Community Service Dept.
REF : ECSD Building

Ms. Muzeroll-Roy said that she would like to know if there has been any decision made on a temporary solution for the building.

Mr. Fernald said that it has been talked about but there is nothing concrete, yet, about what to do with the building or temporary housing. He added that it was his understanding that the police chief had offered to house ECSD, temporarily, in his conference room. He discussed that there were things that needed to be done there to house her department and the BOS do not know that cost, yet.

Ms. Muzeroll-Roy said that she had just met with the police chief and that he is still on board with this and she believes expenses would be fairly easy, as they are just looking at a separate entrance to the front of that room and possibly a second door blocking the hallway to the conference room inside the building. She added

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that this looks like the easiest and quickest solution and she would appreciate a decision soon because they are getting into their prime season.

Mr. Fernald said that he understood but suggested they not go forward until they know the actual cost.

7:20 PM

Mr. Moynahan said that he helped Ms. Muzeroll-Roy with the cost estimates. He added that he provided a cost estimate for a portable office, 12X60, and is included in her correspondence. He added that the portable rental is \$4,133.12 and the work for the police department structure is about \$2,500. He said that there are pros and cons to both, that with the portable she would still need to have power, water, cable, phone, etc. and the police department has all that. He clarified that she would get a better bang for the bucks and, at this point, there is no guarantee that four months would be enough because of the building situation.

Ms. O'Donoghue commented that it certainly looked as though the police department would be the most economical at the moment. She said that they have a \$2,500 verbal estimate and asked if they had anything in writing.

Ms. Muzeroll-Roy said no.

Ms. O'Donoghue said that it would be nice to have a written estimate. She added that it isn't a permanent solution and reiterated it was much more economical and feasible.

Mr. Fernald asked Mr. Blanchette where the money would come from.

Mr. Blanchette said that, at this point, it would probably come out of the facilities account and estimates would need to be in written form. He added that he would think that within two weeks Ms. Muzeroll-Roy could get 3-4 proposals for the Board's next meeting.

Ms. Muzeroll-Roy agreed she could get those proposals in that timeframe. She clarified that the BOS wanted her to get three bids for the July 8th meeting and she would be able to move forward on this at that time.

The Board agreed.

7:22 PM

Mr. Blanchette said that, in that same correspondence, the Board would see the quote from EnviroVantage for taking care of the office building here and, as the Board will recall, they have a mold problem in this building, also. He added that their cost would be \$4,800 and asked the Board if they wanted to get some more bids.

Ms. Place said that she thought they should have at least two more bids.

Mr. Blanchette said that he would try to have that done for July 8, also.

Mr. Moynahan said that EnviroVantage's cost of \$4,300 was attractive but discussed some concerns he had. He said that descriptions for a couple of things don't match and they don't have any plans to put back things removed. He added that he was also concerned with the wording "EnviroVantage's maximum liability will not exceed the amount of the invoice", so if they do any damage, he was a bit concerned.

Mr. Fernald suggested Mr. Blanchette take all those things into consideration.

7:25 PM
#1

TO : Dan Blanchette
FROM : Cheri Davis
REF : Wildbrook Lane, Eliot, Maine

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Matt Howell, attorney for York Law and retained by Wildbrook Subdivision homeowners, discussed the issue around Wildbrook Lane that accesses the subdivision off from Brixham Road. He explained that this was first presented to the PB as Wildridge Subdivision and approved back in 1997, then slightly reconfigured and approved as Wildbrook in 2000. He clarified that at issue in all the PB approvals was the status of Wildbrook Lane in that in none of the approvals was it written that Wildbrook would absolutely be accepted as a Town road. He added that that changed in 2002, as there was an escrow account opened by the then-developer JMACK, Inc. and the Town. He explained that what the escrow agreement contemplated to do was that JMACK would undertake three very specific things, as outlined in that agreement. He further explained that, after satisfactory completion (and by that he meant approval after inspection by the Town through its' engineer and the Road Commissioner) the money held in the escrow account - \$11,476 – would be released and the assumption was that it would only be released after successful completion and after the Town deemed the road to be acceptable as a public way. Mr. Howell explained that JMACK has since left the subdivision homeowners high and dry and \$10,000 in the escrow account has been released. He said that the assumption would be that the road was satisfactorily completed to Town specifications or the money was accidentally released. He clarified that use of the word accidentally because there are two required signees in order for any monies to be withdrawn from that account, which would mean a representative from JMACK and a representative from the Town. He said that they were able to track down the account with the assistant of the current CEO and the balance is a little over \$1,400. He explained that all his clients purchased their home lots in the subdivision with the understanding that this road was ultimately going to be accepted as a public way, with some of the owners having a copy of the escrow agreement as reference that this would, in fact, happen. He said that eight years later this is still not a public road yet monies given by two clients (Cheri Davis & Ron Bohanski?) is gone. He clarified that what they are asking the Board to do is one of two things: either replenish this account to help make this a public road or simply take on the road as a Town road and begin maintaining it. He added that, otherwise, it would be a completely inequitable result, not just for his clients that would be out a substantial amount of money but would also be without a public road. Mr. Howell said that his clients have been specifically maintaining it ever since they moved in at a substantial cost to themselves and, had they known they would be doing that, they certainly would not have moved in to and purchased in that particular subdivision.

Ms. O'Donoghue asked if the Road Commissioner had any comments or input regarding this road.

7:30 PM

Mr. Blanchette said that he spoke with the former Road Commissioner and he said that, as far as he could remember, there was a punch list left and, at the time, it would have cost around \$1,200-\$1,300 to do.

Mr. Fernald clarified that that punch list was listed somewhere.

Mr. Blanchette said yes and locating that list would mean finding the Road Commissioner's file. He explained that, generally speaking, when an escrow account is set up the developer can draw down on the account as the different steps are met and, in all likelihood, what happened was that the road commissioner signed off on the steps that were done, processed that through the treasurer and the treasurer then released those funds. He added that, generally in the past, that is what the Town has done with all escrow accounts.

Mr. Howell said that if, in fact, that is what happened, that Jeff MacKenzie accomplished the itemized tasks and the money was released, then the argument would be at that point the road should have absolutely been accepted as a Town road at that point. He added that the fact remains that there are a number of people that are active, engaged citizens in the Town of Eliot that would very much like this issue resolved.

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Mr. Fernald said that the Board understood that.

Mr. Moynahan said that he thinks that the first course would be to find out what that punch list is and Donnie Sylvester is sitting in the unenviable task of doing that. He added that they should put the builder on notice that those tasks still need to be done and emphasized that there is never a guarantee that a road is going to be approved by the Town – that is up to the people at Town Meeting. He asked Mr. Sylvester if he would be able to find that information.

Mr. Sylvester said he would look for it and that is the best he could tell the Board.

Mr. Moynahan said that he might even be able to just drive through and make an assessment of what issues may need to be dealt with.

Mr. Sylvester said that he drove through there a couple of weeks ago and the road looked fine.

Mr. Blanchette added that from what he was getting from the Road Commissioner was that it was more ditching and not the roadbed or the road, itself – what one would call minor work.

Mr. Moynahan suggested to the Chair that they could then have the normal procedure of the acting Road Commissioner, police and fire look at the road and put on for the next Town Meeting.

The Board agreed by consensus.

Mr. Fernald emphasized that he would like Mr. Sylvester to look into the file as the Board would really like to see that punch list to make sure that everything is completed and, if not, then complete it.

Mr. Blanchette suggested the Board should probably deal with appointing Mr. Sylvester as acting Road Commissioner.

Mr. McPherson moved, second by Mr. Moynahan, to make Donald Sylvester acting Public Works Director at Step 5 of that classification.

VOTE

4-0

Chair concurs

Doria Kensler, Wildbrook Lane, said that they would certainly appreciate anything the BOS could do because it has created quite a hardship. She explained that her husband is retired and there are a couple of families who have not been able to work for a year or two, though all getting together and paying to keep the road maintained, which has been very difficult. She added that everyone at the time had a list of what needed to be done and, supposedly, that list had been completed. She said that something happened along the way and communication was lost, the funds were released and the road was not completed. She reiterated that any help from the Board would be appreciated.

Amelia McCarthy, Wildbrook Lane, asked who would be responsible for any items not completed on the checklist.

Mr. Fernald said that he thinks it would depend on what those items are that have not been completed.

Mr. Howell commented that there is still \$1,400 still in the escrow account and, according to the discussion tonight, the checklist would cost about \$1,200 to \$1,300 and so the money is there in that escrow account. He said that he would suggest that, if the items cost was above the \$1,400, the Town contribute towards the costs as money has been released under the assumption that items have been completed.

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7:40 PM Jeff Duncan, Wildbrook Lane, asked if JMACK is not cooperative who would be the second signator on releasing those funds.

Mr. Howell said that if JMACK or any corporate officer could not be located, then they could legally absolve the account and liquidate if he couldn't be served. He added that he has been told that Mr. MacKenzie cannot be located and, if that is the case, then there are some simple legal steps that can be taken to use that account to complete the road.

Ms. Shapleigh asked if any of these people are aware that acceptance isn't automatic but that they have to petition the Town and people have to go to Town Meeting and vote to accept a Town road.

Mr. Duncan asked how long they had to find the list.

Mr. Fernald assured Mr. Duncan that the list was there, somewhere, and the issue would not go away but would get resolved. He added that, if the list could not be found, then Mr. Sylvester would go out and inspect the road, himself.

7:46 PM
#2

TO : Grant Hirst
FROM : Susan Caston
REF : Maine Municipal Association Risk Management Services

The Chair asked Grant Hirst to speak to this.

Mr. Hirst suggested the BOS read the letter and he would comment on each point as they did.

As to #1, Mr. Hirst said that they would most likely not be able to reconstruct that building and so is a moot point. As to the second part of that is concerned, that is something that is up to the BOS as to what they want to do.

As to point #2, Mr. Hirst said that part of the problem is that they have a great many vendors in Town that provide goods and services but only a small percentage of them furnish the Town with a certificate of insurance. He added that they are working to get everyone that furnishes such things to give them a certificate of insurance. He said that, as far as the additional insured status is concerned, a lot of those are very hard to do because part 2 of the certificate says that if there is no contractual relationship between the Town and the vendor and the contract doesn't say that they must do that, then they don't have to do it. He clarified that that suggests the Town needs to be careful when crafting their contracts with anybody for anything.

As to point #3, the Board voted to delay any decision on motor vehicle record reviews. He said that he would very strongly suggest that the BOS reconsider and authorize us to proceed with that.

Mr. Moynahan said that that was starting to make more and more sense and he believed the main thing was to have one point person to be in charge of this and not rely on all the department heads. He added that he thought Mr. Blanchette would be the perfect person to do this and it is only once a year.

Ms. O'Donoghue clarified that Mr. Blanchette said that he could do that.

Mr. Blanchette agreed and said that they did have the software to accomplish the task.

Mr. Moynahan moved, second by Ms. O'Donoghue, that the Administrative Assistant oversee the motor vehicle records annual review for all Town

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employees that drive a Town vehicle as well as individual Town employees that use their own car for Town business.

VOTE

4-0

Chair concurs

As to point #4, Mr. Hirst said that this was perfectly okay. He reiterated that this would be a depreciated value, as neither would be reconstructed if they burned down. He clarified that part of the cost is in the demolition and hauling away, as, if it should burn down or blow up, etc., it would have to be hauled away and dumping fees are expensive, so that would be included, and the cost to insure both of those structures is probably under \$10 a year.

Mr. Fernald commented that the Eliot 5K road race is run and sponsored by the ECSD, so part of that point doesn't apply.

7:53 PM

As to point #5, Mr. Hirst said that he isn't sure her assertions are correct and that he has a call in to Mr. Lippincott to ask him if any of this is true and if he has any insurance. He added that he would get back to the BOS on that. Mr. Hirst pointed out that non-profit organizations that are not quasi-governmental are not covered under the MMA insurance. He went on to say that, therefore, if they don't have any coverage and are a non-profit, then they need to get coverage and furnish the Town evidence of that insurance.

As to the final paragraph, Mr. Hirst said that this information was something he asked Ms. Caston to provide to demonstrate that what they have done, to date, has earned the Town roughly \$3,500 in reduced premiums. He commented that, unfortunately, what they have done to increase the insurance over the year has eaten that up. He added that it is, however, an indication of what the Town can do if they keep at this, doing what the MMA asks the Town to do, keep watching out for claims.

At this time, Mr. Blanchette requested that a person who missed the public session be allowed to speak very briefly.

The Board agreed.

7:55 PM

Dan Bogannam said that the BOS wrote, many months ago, to the attorney general to ask whether Eliot would be considered an abutter to Public Service and he knew that an answer came back. He added that he just wanted to let the BOS know that a lot of people have been working with Public Service relative to the noise at the Schiller Plant and, during their April shutdown, they had come up with a possible solution, which they installed, and has been very successful. He added that the noise has been taken care of and everyone in the area can talk to each other on their properties, which is a huge difference compared to what it was. Mr. Bogannam said that he had a meeting with them, along with some neighbors, this afternoon and they told them what they had done and that they would continue working to be as invisible as possible, sound-wise. He added that since they have taken care of the major noise issue, they have discovered other sounds that were drowned out, so will continue to work for resolution.

Mr. Fernald commented that that was a really positive step compared to the negative issues they have had in the past 10 years.

The Board was very pleased.

Mr. Bogannam commented that he thought it was great that a corporation like that actually listened to someone who wasn't even in the same state. He added that he believes it was a major accomplishment for them and everyone involved. He thanked the Board for sending the letter out.

7:58 PM

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#3 TO : Dan Blanchette/Board of Selectmen
FROM: Diane Brandon
REF : Town Meeting Notices

The Chair said that Ms. Brandon made several suggestions about Town Meeting in her letter about notification, Town Reports not being mailed out, a different fiscal year being considered and "Friday Updates" on the website via an RSS feed.

Ms. Shapleigh commented that a lot of people were unhappy that Town Reports were not mailed out this year, recognizing that mailing is a cost to the Town, but there are other things that cost and she thinks it is very important that the people have that book. She added that something needs to be done so that people know if the Town is not going to send the books out and that they can be picked up at Town Hall.

8:04 PM Ms. Rawski said that the front page of the Town website had everything about Town Meeting and the elections – school, local and state – in very bold print and was on there at least 30 days prior to the elections. Ms. Rawski said that people really need to take on some responsibility as residents of the Town of Eliot. She discussed that she has served the community as an employee for 23+ years and that the staff in the Town Hall do an awful lot for the people of Eliot with a very small staff. She said that she couldn't make that personal phone call to every person as there are 6,500 residents in Town and it's just getting to be too much. She added that she press releases everything to the papers, she put it on the website and she sent it to the Free Press and Sentinel. Addressing the Town Reports, she understood the difficulties and clarified that that was a budget issue and if people could only see the number of books at the transfer station within three days of them mailing them out – it's really sad the money that is being spent to produce them, print them, mail them and, then, they literally have crates of Town Reports that the guys pick out of the recycle bin and it seemed like a place to cut. Ms. Rawski commented that she understood Ms. Brandon's letter but wasn't sure a post card out would be effective and she believes the Town really advertises it and the Town Meeting in Eliot is at the same time every year. She added that responsibility as a citizen in one's Town is to be aware or make a phone call.

Ms. Shapleigh reiterated that she thought it was a mistake not to mail it out this year and, if the Town wanted to save money, then they should have done it next year, with wording in the book to let people know of the change. She commented that she has Town Reports dating back to the 1800's when they were six pages. She added that to not get a Town Report without any warning caught people by surprise and some folks don't have computers and others, like herself, are blind.

Ms. Rawski said that not mailing the books was discussed during the budget meetings and it was mentioned that the Town Hall would be willing to do deliveries and/or mail to those that couldn't get to the Town office to pick them up and maybe that is something they should have put out a little bit further in advance. She did agree with Ms. Shapleigh that they did do that quickly so it didn't give a lot of warning.

Mr. Fernald commented that they live and learn and this discussion could be applied to next year.

8:12 PM
#4 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Municipal Property Tax Deferral

Mr. Blanchette said that it basically starts on the second page – Municipal Property Tax Deferral for Senior Citizens. He added that this is a new law that

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takes affect mid-July, defines an eligible person as 70 years old or older and is basically setting up a reverse mortgage, except that the Town is the bank. He explained that eligible people can defer their taxes through the Town but it doesn't tell the Town how to cover its expenses for those deferred taxes. He said that, although not an expert, he thinks that what they would have to do is guesstimate how many people would take advantage of this and, as an example, if the Town had 10 households with an average tax of \$2,500, then the Town would have to raise \$25,000 to cover that deferral. He added that he doesn't know of any other way they could cover the taxes and, if the BOS wanted to proceed with this, then they would need to have an ordinance drafted and adopted at Town Meeting. He added that, if they wanted this adopted, they would have to put it together now to allow meeting the April 1, 2010 deadline for applications.

Ms. O'Donoghue said that it would seem to her that the Town would hold liens on the properties, in perpetuity, and she doesn't think Eliot is in any position to hold that kind of responsibility.

Mr. Moynahan and Ms. Place agreed.

Mr. Blanchette commented that there are perfectly good commercial enterprises (banks) that are doing that (reverse mortgages) these days and he doesn't know if there is another means.

Cindy Saklad asked who would administer that program and, with reverse mortgages, would appraisals be required. She also asked what would happen if the value on the property declined and is the Town prepared to take something like that on administratively. She commented that it was a very creative idea but she wasn't sure there was anyone knowledgeable enough in the Town to manage that.

Mr. Smith asked if this was mandated by the State or is this something they recommend.

8:14 PM Mr. Blanchette clarified that it isn't even a recommendation but a law the State has passed to make it available for the towns to do.

Ms. Saklad asked if the State was going to administer this.

Mr. Blanchette said no and explained that the State did away with their own similar program that they had a few years ago that had the State paying the taxes to the towns and he believes they did away with the program.

It was the consensus of the BOS to move on.

___ PM
#5

TO : Dan Blanchette
FROM : Tom Burns
REF : GIS Mapping & Analysis

Mr. Blanchette said that this was a way to get Town maps up on a website and what Mr. Burns is hoping to do is to gather 3-4 of the smaller towns together that he works with to be able to do this. He added that the start-up fee would be \$5,000 and that would get some of the data layers in with the maps. He said that he thinks it might be a good idea but may need to investigate this a little more and think about where the Town would get the funds.

Mr. Moynahan said that it says on the last page that there is an annual hosting fee of \$2,400.

Ms. O'Donoghue commented that she thought it was a great idea but this amount of money is not something they have at the moment. She said that this would be nice for the future but would not recommend doing it this year.

It was the consensus of the BOS to look at it at budget time next year.

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#6 TO : Board of Selectmen
FROM : FEMA
REF : Map Status Update for York County

This is informational.

#7 TO : Board of Selectmen
FROM : DOT
REF : Bridge work on Sturgeon Creek on Rte. 103

This is informational.

8:17 PM

#8 TO : Board of Selectmen
FROM: Public Utilities Commission
REF : Request for Certificate of Public Convenience and Necessity

This is informational.

#9 TO : Board of Selectmen
FROM: Jack Murphy
REF : Charter Commission

Mr. Murphy discussed his research on the State statute regarding this new law and that the State is plowing forward, saying that tomorrow is the deadline for applications, including anyone who wants to do this in the Town of Eliot. He added that July 8 is when the applications would be decided, in two weeks the State will decide who will be the eight distributors of medical marijuana in the State of Maine. At this time, he passed out copies of a draft ordinance to the BOS, as well as background information. Mr. Murphy commented that the BOS were put kind of on the spot by the moratorium being turned down, with that not giving them much time, he drafted an ordinance for their review. He added that he had a lot of help from office staff and others, as well as being reviewed by Mr. Blanchette and the CEO. He read the draft ordinance (copies available at Town Hall). He discussed, again, the speed at which the State was moving, that an application had already been submitted and said that there was a procedure that the BOS could follow and that was for the BOS to call for a Special Town Meeting on July 7th, with a Public Hearing next Monday (6/28) or Tuesday (6/29), changes could be accepted and inserted quickly so that the ordinance could be posted on June 30. He said that that would satisfy the requirements of the warrant for the Town Meeting on July 7th. Mr. Murphy said that Ms. Rawski reacted to his question and indicated that this seemed to work, legally.

Ms. Rawski verified that the BOS would have to take action tonight and choose to move forward with this and, with that, the setting of a Special Town Meeting. She added that it is not a requirement of a Town ordinance of this type to have a public hearing but is strongly suggested that a public hearing be allowed for citizens to discuss and ask questions. She said that the potential to hold a public hearing along with a special BOS meeting, in combination on Monday June 28, would do both and would allow the BOS to sign a warrant and give her the time to post it (7 days prior to the actual date of the Town Meeting). She confirmed that she would have to post by June 30 in order to hold a Special Town Meeting July 7, which, as she understands, falls within the timing that DHHS would be making the selections on the eight dispensaries.

Mr. Murphy said that there is a representative of the company who is planning to make an application, Mr. Hugh Pope, present tonight to explain the application. He clarified that Mr. Pope's company did not have any input into the drafting of the ordinance but would like his input tonight to make see if it would meet their needs and requirements.

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8:27 PM Mr. Fernald clarified that the BOS was not against the dispensary, itself, but were hit by the request and had not much time to digest it and that is why they asked for the moratorium.

Mr. Moynahan said that he thinks this is exactly what the Town is missing because, without this (ordinance), any company could come in a start this without any local control. He added that he thinks it is important to move forward with this because then it would give the Town some local control, which is what was missing before. He also added that he thinks it is important to do, recognizing it wasn't a perfect document, but was something to work with and gives Eliot some local control.

Ms. Place confirmed that applications would be decided by the State July 8 and application deadlines were tomorrow, June 25. She also clarified that the State would not look kindly on someone applying for a medical marijuana license without an ordinance being in place.

Mr. Murphy said that he could not verify that but suspected that, if the Town has an ordinance in place, then that would be looked on favorably.

Ms. Place commented that it would really behoove the Town to have something in place, even if it is something they might change later on.

Mr. Murphy agreed, as this is a new law and they know there will be changes.

8:30 PM Hughes Pope, resident of Kittery and master grower for company applying for a dispensary in Eliot, said that it is his hope, if accepted, that he would be growing in a controlled facility in conjunction with the Chief of Police, the BOS and anyone else who would like to be involved. He added that they are one of the only groups operating as an official non-profit and want to be as transparent as possible, with no intention of doing anything against the law but really want to be the "poster child" for the United States. He said that they want to operate this in a respectful, consistent, clean manner that the Town of Eliot or any other town would be happy to have. He also said that they hope to generate a lot of revenue for the Town. Speaking for himself, Mr. Hughes said that his son is 17 months old, so would be a good opportunity for Mr. Hughes, as well.

Mr. Fernald clarified that he was not trying to be negative but there would be start-up fees coming along, as this is a non-profit company, and asked where that money would come from.

Mr. Pope said that it is all private and that they are back by friends, more or less. He clarified that one supporter was a guy named Dave McDonald from Cape Elizabeth who he owns a construction company and would help construct the greenhouses, etc. He added that everyone has chipped in the \$13,000 for the application and, if they don't get it, then they get \$1,000 back.

Dave Ramsey asked what was the relationship between the dispensary and the growing facility and does the growing facility also come under this new act – what is the relationship between these two applications and these two types of facilities.

8:35 PM Mr. Murphy clarified that the dispensary is where qualified, registered, card-holding patients or their card-holding caregivers to pick up usable marijuana, which could be the prepared product (powder, smoke, topical salve, spray, etc.).

Ms. O'Donoghue said that, as she understands the law, the application has to be for both growing and dispensing. She added that there are eight dispensaries, total, in the State, although there could be several growing facilities but they are all covered under that one State law.

BOARD OF SELECTMEN'S MEETING
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Dave Ramsey said that there was an initial application to the Town that alerted the Town to the importance of doing something about this. He asked if this application included a separate part for this gentleman here or – he was really confused about what was going on about whether it is several applications and would they come in jointly for a growing facility and dispensary or what.

Mr. Blanchette clarified that there was actually no application with the Town.

Mr. Pope agreed.

Mr. Blanchette clarified that they came in and talked with the Assistant Planner and the CEO about where they would fit in the zoning ordinance, but there is no application before the Town.

Ms. Shapleigh commented that the Town Reports couldn't be mailed but they were going to do a Special Town Meeting. She asked what the cost would be for a Special Town Meeting. She added that she thought that an ordinance should be done in a thoughtful way and not pushed through and rushed.

8:39 PM Mr. Moynahan commented that, currently, a group like this could come in under Eliot zoning and they would be allowed, under Agriculture, to just open up shop with no local control and he believes that is what the BOS's concern was all along. He did agree with Ms. Shapleigh that this shouldn't be rushed but asked what happens if this just happens.

Ms. Shapleigh commented that, if this is a clean, wonderful operation then it shouldn't make any difference.

Mr. Moynahan clarified that he did not say that but said that they needed local control, which they currently do not have.

8:40 PM Mr. Murphy clarified that the sites have to be protected and cannot be grown in open fields but grown inside a highly secure building.

Mr. Pope said that, in regards to who it is dispensed to and the tiers Mr. Murphy was speaking of, one of those tiers are the patients who cannot pay for their medicines and his company would be giving that medication to them and the rest is destroyed.

Mr. Murphy discussed that patients, under this law, could also grow their own plants and those plants (up to six) would be supplied by the dispensary, as they cannot start them from seeds.

8:43 PM Mr. Pope said that there was some controversy between dispensaries and caregivers. He clarified that caregivers are afraid that the dispensaries will turn into a "Walmart", of sorts, and that they will be out of business. He added that, from a lawful standpoint, having a dispensary is much more consistent and transparent due to the fact that nobody really knows who is a patient or who is a caregiver growing for them. He said that, if it is all under one roof, then it is easier for the State to regulate.

Ms. Place said that she has read the State rules and regulations and they are pretty stringent but she believes they need an ordinance for the Town.

The Chair said that they would need a motion to proceed with this.

Ms. O'Donoghue moved, second by Mr. Moynahan, that the Board of Selectmen move forward with the medical marijuana ordinance and hold, on June 28, 2010, a special Board of Selectmen meeting and Public Hearing, with a Special Town Meeting to be held July 7, 2010.

BOARD OF SELECTMEN'S MEETING
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Mr. McPherson commented that he was always taught that if he didn't understand then vote no.

VOTE
3 for – 1 opposed
Chair concurs with the majority

8:45 PM The Board agreed to 7 PM for the time of the Public Hearing on June 28.

The Board agreed to 6:30 PM as the time for the Special Town Meeting on July 7.

Ms. Rawski said that she would check to verify that the middle school would be available.

#10 TO : Dan Blanchette
FROM: DEP
REF : Closed Landfill Inspection

Mr. Blanchette said that Mr. Lytle already had a copy of this report and has started working on this.

8:48 PM
#13 TO : Board of Selectmen
FROM: Jason Canty, Shipyard Brew Pub
REF : Application for Special Permit for Catering Privileges

Ms. O'Donoghue moved, second by Mr. Moynahan, to approve the Special Permit Application for Catering Services by the Shipyard Brew Pub.

VOTE
4-0
Chair concurs

8:53 PM
#14 TO : Board of Selectmen
FROM: Barbara Thain/Wendy Rawski, Town Clerk
REF : Appointments, Committees and Staff

Ms. O'Donoghue commented that the Business Development Committee was approved to go to seven members so there are two openings, not one.

Ms. O'Donoghue moved, second by Mr. Moynahan, to appoint Municipal Office Staff, Emergency Management Staff, Harbormaster, Police Department Staff annual appointments and Board and Committee Terms expiring in 2010.

VOTE
4-0
Chair concurs

#15 TO : Assessor
FROM: Court of County Commissioners
REF : County Assessment

This is informational.

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

This is informational.

#17 TO : Board of Selectmen
FROM: Maine Municipal Association
REF : Voting for Legislative Policy Committee

BOARD OF SELECTMEN'S MEETING
June 24, 2010 6:30PM (continued)

Ms. O'Donoghue moved, second by Ms. Place, to vote for David Burke, Councilor, Town of South Berwick, to the Maine Municipal Association Legislative Policy Committee.

VOTE

4-0

Chair concurs

Selectmen's Report:

Mr. Moynahan discussed a handout he had placed in the BOS folders of a structural engineering work proposal by Attar Engineering for the first floor and he has some basic cost estimates for ___?___. He said that, based on brief discussions he has had with the engineer, remediation would cost, at a minimum, \$50,000 in the ECSD building. He clarified that that does not include the second floor or the roof rafters. Mr. Moynahan said that a new building similar to what Kittery has put in, which is 28X60, would be approximately \$250,000. He added that a Town Hall addition, 65X85 building, would be roughly \$680,000. He said that those are three dollar figures to provide to voters.

Mr. Fernald discussed that they have some time, now that the ECSD will be housed temporarily in the Police Department, to review this information. He added that he would like to take this up at the next meeting. He thanked Mr. Moynahan for his work.

Mr. Moynahan said that he had only provided rough analyses and cost estimates and thought it might be good to get actual proposals to get true costs.

Other Business as Needed

9:00 PM Carol McKinney, 442 Main Street, asked why, when they talked with Mr. Norton, it was not asked if anyone else had anything to say.

Mr. Fernald apologized for not asking for that input.

Ms. McKinney clarified that she did have something to say.

Mr. Fernald invited Ms. McKinney to speak.

Ms. McKinney commented that everyone knew who she was, the one lone complainer. She said that she would like to invite any one of the Board members to her home to sit in her living room or sunroom or to go in her back yard and listen to the sounds that she hears from across the street. She added that she could hear his phone from her home. Ms. McKinney said that everybody keeps talking about four cars – let's get real here, four cars are the limit to a Home Business – and discussed what she had to deal with on a daily basis. She added that she would like the Board to start looking at the bigger picture – the noise, the traffic, the u-turns. She said that Mr. Norton has between 10-15, on average, service providers every day. She emphasized her invitation to come to her home and listen to what she listens to on a regular basis and tell her that that is fair. Ms. McKinney said that what is going on here in Town is out of control and she has been on this merry-go-round since January 28, 2010 and all the Board is doing is making him chase his tail and no one is giving anyone any answers. She said that she had a roofing contractor putting on a new roof for two days and he asked her what went on over there. She added that she told him that was a Home Business and he replied to her, "Lady, that's no home business." Ms. McKinney again invited the Board to come to her home or anywhere on her property and then tell her why she has to listen to his phone ringing. She added that she could hear his wrecker when she is in the shower with the water running. She added that she lives with this and everyone keeps talking about four cars, reiterating that there is a much bigger picture here – more mechanics, more noise, more cars. Ms. McKinney said that she had received a letter anonymously and the person told her that the person could not be seen talking to her for fear of retaliation and commented that it is a shame what they have done to their neighborhood. Ms.

**BOARD OF SELECTMEN'S MEETING
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McKinney asked for someone to please step up to the plate and give them some resolution – there have to be some answers here. She added that she and her husband have tried to be fair and they tried to take her and her husband to court. She said that they did not win as there was no foundation to the case. She said that they have been harassed in ways they can't even discuss – she did say she has been verbally harassed in and outside of this building. Ms. McKinney said that everyone keeps talking about this one, lone couple – it's me, Carol and Michael McKinney – they've lived there and dealt with it – don't make her & her husband look like the bad people because they are not. She added that she has never gone on their property or beat on their door, while they have done that to her and everything is documented. Ms. McKinney reiterated that it is time to step up to the plate – she is fed up with this. She said that she could take this a step further but she has been trying to work with the BOS and, again, invited the Board members to come to her house, please, she would welcome them anytime.

Adjourn

There was a motion and second to adjourn the meeting at 9:05 PM.

VOTE

4-0

Chair concurs

DATE

Roberta Place, Secretary