

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM**

**Quorum noted**

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

**Roll Call:** All present.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**Approval of Minutes of Previous Meeting(s)**

**6:37PM** Motion by Ms. Place, seconded by Mr. Moynahan, to approve the minutes of October 22, as amended.

**VOTE**

**2-0**

**Chair concurs**

**Public Comment**

The Chair recognized Gary Sinden.

Mr. Sinden updated the Board regarding the county budget committee. He said that the Budget Committee would be starting their work next Wednesday on the recommendations from the county manager and the commission. He added that, as that budget now stands, it would result in a 10.3% increase to the municipalities. By statute, they have 60 days to resolve and come up with a final budget and typically takes longer than that. He clarified that this budget does bring back some of the people who were laid off and restores some of the services but it is up to the budget committee to weigh restoring services and people against increasing the taxes.

The Chair recognized Jenny Isler.

Jenny Isler recognized their newest member, Mike Eardley and said that the Energy Commission was very glad to have him as a member of their team. She informed the Board that they had found another grant for energy planning and education that is due November 19 and that she does not believe requires Board signatures.

Ed Henningsen discussed a grant they are working on to do with the KEYS region that requires a letter of intent, which requires the Board's signatures. He added that this grant is due November 19, as well.

The Chair said that the Board has that in their folder, that it has been approved and is ready for the Board's signatures, after which the BOS will have it faxed to Paul Schumacher tomorrow.

Jenny Isler discussed a third grant being applied for by the Southern Maine Regional Planning Commission (SMRPC) and is due December 4. She clarified that this applied to all towns submitting a letter of intent in the KEYS region and would be used to leverage for additional funds from the revolving fund. She gave the template letter of intent that needed to be signed by November 19 to the BOS and clarified that all the information was already included and that it only needed signatures.

The Chair read the letter of intent to the Board. She added that the letter was completely filled out.

After reviewing the letter, the BOS agreed to support this grant proposal and agreed to sign and send it out tomorrow.

Jenny Isler said that the Energy Commission is moving forward on the inventories, police station study and educational initiatives.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

**6:45PM** The Chair recognized Nancy Shapleigh.

Nancy Shapleigh commented that she wondered why, at the last meeting at the end of the executive session and everyone came back into the room, with a motion on the floor that there was no time given for public input of the interim administrative assistant.

Mr. Moynahan said that he did not believe public input was required as that issue was under the purview of the BOS.

Nancy Shapleigh discussed her concern regarding a conflict of interest or the appearance of a conflict. She said that it was her thought that, with Mr. Moynahan a builder, it might put him on shaky ground to nominate the CEO, who issues the building permits and inspects the work done.

Mr. Moynahan said that three people were considered and two were interviewed. He added that, as a Board, the strengths and weaknesses of each applicant and who would be best able were discussed by the whole Board.

The Chair added that because the Town decided to "hire" from within, that question might arise no matter who was chosen.

Department Head/Committees Report

**6:47PM** The Chair recognized Paul White

Mr. White brought the Board up-to-date on two court cases involving the Town. He said that the violation regarding Hanscom Road was continued as the defendant did not show up for court. He added that the case was continued in January. He said that the Spruce Lane violation was heard, the Town did have a trial and the judge ruled in favor of the Town, which was to pay a fine and attorney fees. He added that the order requires them to move the fence, as well.

Mr. White said that he continued to review the energy improvements to the Town Hall. He clarified that everything had been done in the ceilings except for the front Clerk's Office, which would be done within two weeks. He added that they are still within the budget.

Jenny Isler asked how the energy usage was being monitored.

Mr. White said that he had not been monitoring that.

Jenny Isler said that they (the Energy Commission) would look into that.

Shannon Darr (Eliot Health Officer) discussed that they had their seasonal flu clinic and vaccinated 132 Eliot residents and posted an update on the H1N1 discussing the limited availability of the vaccine to each state and goes to high risk groups, which are young children, people caring for young children, pregnant women and those with chronic illnesses over 65. She said that one of her objectives is to promote healthy behavior in Eliot and, as a fall initiative, she has purchased light bands for those walking and she is selling them through the Community Services Center (ECC), with the proceeds to benefit the ECC. She added that she would be meeting with the Fire Chief and Police Chief to promote safety, as well.

Old Business (Action List):

Carried over from October 8th BOS meeting:

**6:53PM** A. Town meeting format – survey – Dec. 10 meeting – informational

B. Host fund-raising at Boat Basin – Heather, Betsy and Jack in two weeks

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Elizabeth O'Donoghue said that she had talked with Heather and that Heather would have those numbers in February.

C. Jenkins – offer for diesel and tanks – Bill is looking into this

The Chair said that the BOS has two letters, one from Jenkins and one from Gagnon.

Mr. White clarified that what is on the action list is the diesel for the highway department and that Jenkins' letter included other price quotes. He added that he discussed with Bill Shapleigh what it would entail if the Town went with a different supplier. He said that they currently have a concrete dike that holds the tank (owned by Gagnon) inside of it with a roof over that for safety. He added that, if they change suppliers, they would have to remove the roof, pull out the tank and the new provider would put the new tank in place. He said that what he and Bill Shapleigh would like to see is that whoever gets the contract would be responsible for taking the roof off, Gagnon would take the tank out and the new provider would put in their own tank and put the roof back on. Mr. White discussed the two letters. He said that one says it is .20 over the billing price and the other .15 over the billing price, but the billing prices are different. He added that he checked the current prices and found that Gagnon's price is 2.256 and Jenkins' price is 2.329 as of today. He commented that Bill Shapleigh is happy with Gagnon and they have been supplying the Town for 14 years. He added that the Board requested competitive bids.

Mr. Moynahan asked if the Town was setting themselves up with the company owning the tank and if it would be more effective to have the Town own its own tank to give the Town a competitive edge on fuel pricing.

Mr. Paul said that he would look into that, that he would get a couple of bids and see if Gagnon would sell the Town the tank already in place.

Ms. Place agreed they should look into purchasing their own tank.

Mr. White said that, at this point, it seems Gagnon is still less money.

The Chair added that staying with Gagnon seems as though it would be less problematic.

Mr. White said that, if it's the BOS' goal to make this a competitive process like all the other fuels bought by the Town, then purchasing the tank would be a good way to go. He added that he wasn't sure the price was higher because they supply the tank.

Ann Jenkins said that the price of the oil is no different no matter who owns the tank.

Ed Strong commented that, in Kittery, that Town owns all their own tanks, they shop for fuel in surrounding communities and, as a result, they are locked in for the full year of \$2.07 a gallon for gasoline. He added that they do the same thing for fuel oil.

The Chair said that the Town would look into it and asked if there were any time constraints.

Mr. Paul said that Gagnon has been supplying the Town for 14 years and would be happy to continue.

D. Road Commissioner – job description & pay scale

Mr. Moynahan said that the process has started on this.

E. Grants – How do we do? More proactive. 9/24 Place

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Ms. Place discussed looking into a professional grant writer she knows and she will update the Board as she learns more.

F. Dept. Heads – schedule all reviews

Mr. White said that at their staff meeting on Tuesday morning they talked about the part of the policy that requires job reviews and their discussion clarified that they thought the form being used to review people was not a good form. He added that his task was to come up with a form and, until that form was approved by the BOS, reviews should not be scheduled. He added that he would have a form at the next BOS meeting.

The Board agreed.

G. New Ordinance on Business Registration – Business Development has it for input.

The Chair said that the BOS has submitted their input on this ordinance and that is included in the BOS packet. She added that she would like the Board to review for the next meeting.

The Chair recognized Gary Sinden.

Gary Sinden asked if the BOS decided they liked the language at the next meeting would there be time to get that ordinance on the ballot in January.

The Chair said that she did not believe they had enough time. She added that the cut-off was November 25.

Mr. White asked what were some of the comments by Business Development.

The Chair listed the comments:

Make all fees level

Computer database storage of information

Explore online options for registration/payment

Consult police/fire depts. to determine how data used

Carried over from October 22nd BOS meeting

**7:08PM**

H. Request by Eliot Shores, LLC (Walter Woods) to consider a Consent Agreement to correct a land use violation. Note Mr. Woods has filed an 80B appeal of the BOA decision. The Chair said that the BOS heard many, many lengthy depositions last time.

Mr. White said that he just wanted to remind the BOS what the process is for the Consent Agreement (CA) policy. He added that they all discussed this at great length but the essence was whether the Board wants to enter into a CA or do not want to enter into a CA or do not want to enter into a CA at this time. He discussed conversations he has had with the Town attorney regarding changes in the case since the last BOS meeting. He clarified that Walter Woods and Romona Richardson & Luiz Valdez have filed an 80B appeal with the court. He added that the Town attorney is available if the BOS should decide to go into executive session to discuss the merits of this with him at this time. Mr. White clarified that the attorney is not recommending either way but available to answer any questions the Board might have. He added that there are some legal issues involved that the Town attorney believes might be of benefit to the Board to discuss with him.

The Chair clarified that Mr. White was suggesting the BOS do a conference call with Mr. Vaniotis now.

Mr. White agreed.

The Chair asked for the Boards' input.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Mr. Moynahan said that he does not believe this merits much attention from this Board regarding a CA because it is outside of the Boards' purview. He added that they have already been through some steps and believes this is bigger than what the definition is for and there is still a step not done yet. He asked if there was information that would seriously alter the information this Board has reviewed.

Mr. Moynahan moved that the Board of Selectmen not enter into a Consent Agreement at this point based on all the information that has been provided. Second by Ms. Place for discussion purposes.

Ms. Place said that she keeps going back to Mr. Trott's comments when the Board was developing this CA policy, which was that he thought the Board was selling the ordinances. She added that the Board has to protect the ordinances but the Town also needs to protect the Town of Eliot and its citizens. She said that she thinks the CA is there as a vehicle for the Board to do that and she thinks this is a case where she believes it is appropriate to enter into. She added that she does not believe the people involved should be put in limbo for past mistakes of code enforcement officers, etc. as well as the expense to the Town and the people involved.

The Chair asked Ms. Place her feeling about not going into a CA at this time. She suggested that would give the Board time to talk to the Town Attorney about any aspects of this case they don't know about at the moment.

Ms. Place thought that Mr. White said that wasn't the case.

Mr. White said that he believes that if the Board is undecided, at all, then it was his opinion that it would be a good idea that the Board talk with the Town attorney. He reiterated the three options to the Board.

The Chair asked if Mr. Moynahan wanted to amend his motion at this time.

Mr. Moynahan said that he clearly feels that the change in the deeds altered the intent for a subdivision and does not believe this is within the Boards' purview to enter into a CA and bigger than the intent of the CA policy. He added that he does not believe there is any benefit to talking with the Town attorney. He did not wish to change his motion.

The Chair said that they had a motion, a second for discussion and discussion and asked for a vote.

**VOTE**  
**1 for – 1 against**  
**Chair votes in support of no**  
**consent agreement at this time**

Mr. Dale asked if they could be heard on this matter.

The Chair said that the matter was decided.

One of the involved parties asked what the point in denying, in the interest of those aggrieved parties who have not been at fault in this, those parties to address the Board.

The Chair clarified that this was addressed at great length at the last meeting. She said that there would be no more discussion.

**7:18PM** I. Board appointment – Voter Registration Appeals Board (Sandra Smith)

The Board signed the certificate of appointment to appoint Sandra Smith to the Voter Registration Appeals Board.

J. Proposals (2) for off road diesel for Highway Department use.

This was previously discussed.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

K. 2009 Comprehensive Plan – makeup of implementation committee

The Chair said that they still do not have any applications submitted for this. She added that she has contacted members of the Comprehensive Planning Committee to see if there is any interest.

Noah Lemire asked what the responsibilities were for that committee.

The Chair said that it was to oversee the timely development of the policies and implementation strategies within the Comprehensive Plan as well as how the Comprehensive Plan and current Town ordinances do or do not agree. She added that a big part of the Comprehensive Plan is to inform the Town ordinances and, if changes should be made, to decide who would be responsible and a timeframe for those changes. She clarified that this could be an on-going committee but the committee would decide for themselves whether members would be annual or have terms, as well as setting up the mission statement, etc. The Chair said that the Board just wants to make sure that the ideas suggested in the Comprehensive Plan do not get dropped.

**7:25PM**

L. Eliot Conservation Commission – Request to carry over funds from 08/09 budget (amount \$6793.51). Glenn Cilley, Vice Chair

The Chair asked Mr. Cilley to speak.

Mr. Cilley clarified that total funds left were \$6,793.51 and that that was money from a couple of projects the CC had not done. He said they were looking for \$1,500 to be rolled over to purchase a laptop that would be used for GIS mapping software. He added that they already have the software. He clarified that this laptop was supposed to be purchased last year and that this project was spearheaded by the previous Chairman who has moved to Kittery and no longer the CC Chair. Mr. Cilley said that the CC was under the impression that this letter had gotten in to the Board last June when requests would have typically been sent in and when they found out that was not the case the CC scrambled and, in the process, missed clarifying information in the request submitted at the last meeting. He discussed that he assumed the CC would have to put the purchase out to bid and was not sure how much the cost would end up being. He added that the laptop would not be hooked up to a network but would be freestanding and would be housed at the Town Hall. He did add that there would be times when the CC took it out of the building for field work.

Mr. White said that he had discussed this with Norma and, even though it is not typical to wait this long in the year, the funds are still able to be rolled over.

Mr. Moynahan moved, seconded by Ms. Place, to roll over \$1,500 from the Eliot Conservation Commission's last years' budget for this year.

**VOTE**

**2-0**

**Chair concurs**

M. Senior Transportation appropriation – carry over balance from 08-09 budget year (amount \$40,000).

Mr. White clarified that \$40,000 was allocated in the 2008/2009 budget year and is a one-time expense. He said that this was for senior transportation in Eliot and \$24,000 of the amount has been expended. He added that all the money will be reimbursed to the Town through a grant. He clarified that the allocated money needs to be paid to someone and it has not as there is no one to write the check to on the request. It was believed that the money might need to go to SMRPC.

The Chair said that the organization request was for the YCCAC.

The Chair recognized Noah Lemire.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Noah Lemire clarified that requests to carry funds over from the previous budget cycle are supposed to be in 30 days prior to the end of the fiscal year.

The Chair agreed.

Noah Lemire asked if there is someplace written in Town ordinance or state law that allows the Town to do that.

The Chair said that she does not believe it is a state law but that it is a policy that has been a practice of the Town.

Mr. White confirmed that this is not typical and Mr. Lemire was right about the roll over request timeline and in this case it was not done because there was some confusion as to who to pay the check to and the agency not giving the Town the bill. He added that, through the grant, all this money will come back to the Town.

The Chair asked if Jack Murphy knew more about this issue.

Jack Murphy said that the original warrant article was to accept funds from the state, emphasizing they were not Town funds but state funds. He added that, because of the delay in getting the project going to find a suitable bus and bus driver, the timeline shifted, as often happens in these kinds of things. He added that proper requests for delays have been made with the state, of course, but the state won't pay it until they've finished the amount of work involved (Kittery & Eliot working with the YCCAC) and, as they spend the money driving the bus and making the project work, they get reimbursed from the state. He added that this project was supposed to be finished by the end of last June and the deadline has been extended to the end of December.

**7:35PM**

Motion by Ms. Place, second by Mr. Moynahan, to rollover the requested \$40,000.

**VOTE**

**2-0**

**Chair concurs**

N. Use of Town Vehicles – reconsider action on October 22 (BOS voted to approve the use of (2) two vehicles, used by officers pursuant to hire agreement).

The Chair discussed the confusion around the previous motion of October 22 to allow an exception for the two current positions. It was believed the motion was seconded and it was not so the motion failed.

Mr. Moynahan clarified that this did not need a motion.

The Chair agreed and asked the Board if they wanted to reconsider this issue.

Mr. Moynahan agreed this could be discussed again. He said that the Police Chief gave the Board his input at the previous meeting and believed it would be more beneficial if he were present tonight. He added that this was a touchy subject all around and understood the ramifications of changing department policy in such an abrupt way. He also added that he listened to the department head and what his needs were and that's the only reason he made the motion he did for those two specific people.

Ms. Place commented that, as a result of the discussions in developing the policy, she thought that the policy was to eliminate the use of the two pertinent vehicles and she believed that is what should be done, that those two Town vehicles should not be going to Falmouth and Scarborough at night.

Mr. Moynahan asked if there had been any consultation with the Town attorney on this subject.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Mr. White said yes. He said that right after the last meeting he did contact the Town attorney to talk about the labor part of it that, when a job involves employment like that, the Board wanted to get some legal advice if the Town did take the use of those vehicles away. He added that the Town attorney has not gotten back to him about that yet. He also added that he gave her all the information she requested and she did understand the question clearly but he did not hear back from her.

The Chair clarified that the Board should wait for her response.

The CEO agreed if the Board felt they needed that information.

Mr. Moynahan said that he thought they would benefit to make sure they had not erred whether they make the policy retroactive or not and felt they should have had that information before having the discussion.

There was discussion that the use of the vehicles by the two pertinent employees was a condition of employment but that was not clear.

Mr. Moynahan clarified that there was no policy from this Board regarding packages, that they have a salary and benefits, only, and that vehicles are something that is never offered from this Board. He added that, if they have had chiefs in the past that have offered vehicles, the board was not privy and apparently that has been going on for some time, that is not something that is written anywhere as far as a perk or benefit. He said that that was why the policy was being cleaned up, to clarify that type of issue. He added that he believes the attorney's advice will help guide this Board.

The Chair agreed that this subject was still a little bit confusing.

Ms. Place reiterated her belief that the policy would resolve the pertinent issue the Board was currently discussing.

The Chair confirmed that the Board would wait to make any decision until they had heard from the Town attorney.

The Chair recognized Gary Sinden.

Gary Sinden said that he wanted to throw out a suggestion. He said that the Board, at the time, never considered the many compromises floated around by many that had some good ideas in terms of dealing with making changes that did not have a sudden impact on current employees but find some compromise settlement that would bring this particular issue to an end and then go forward with the policy as written. He suggested the Board might want to consider bringing some people together to look at some of these ideas, with a good place to start being the Budget Committee because they talked about the pertinent subject in great detail. He added that the Town needed to be mindful of the liability, as well, regarding the tax implication of the benefits. He clarified that it was his belief that there were multiple liabilities to the Town that needed to be corrected and placed under control.

**7:45PM**

O. Old police cruiser to be used by CEO

The Chair said that it was suggested to strip the old police cruiser of its insignia and use it for the CEO's use. She asked if the Board members had any thoughts on that matter.

Mr. Moynahan said that the Board should consider the cost to the Town in maintenance and repairs and suggested they have a cost analysis done, as well as have a mechanic inspect the car, versus paying mileage, etc. as they do now and decide what is more cost-effective.

Ms. Place clarified her concern for the Town setting themselves up for liability issues and a conflict with the use of vehicle issue.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

The Chair agreed that was possible.

The Chair recognized Noah Lemire.

Noah Lemire clarified that the use of that vehicle would be for official Town use, only.

The Chair agreed.

The Chair recognized Jack Murphy.

Jack Murphy clarified that the vehicle would not be used for personal use, as was clarified through Mr. Lemire's comments.

The Chair agreed that this vehicle would not be used for personal use.

Ed Strong commented that, in Kittery (for about 20 years), they used to turn all their old police vehicles over to the CEO and Tax Assessor and they would use it in Town for their duties. He said that, over the years, that became too expensive as, by the time the Town turned those vehicles over, they were worn out.

P. Job Review – Dept. Heads

The Chair reiterated that until the BOS have a new employee evaluation form, the Board would not address this issue.

**New Business (Correspondence List):**

**7:47PM**

**#1**            TO     : Board of Selectmen  
                 FROM : Paul White  
                 REF    : Warrant article

The Chair asked if the board members cared to comment on this item.

Mr. Moynahan asked if they could insert the words “to be administered by the Board of Selectmen for the use of programs such as an engineering study” into the warrant language so that it isn't construed as one lump sum dollar figure that would be paid to one place or another, that this would be multi-faceted.

Ms. Place clarified that the amount of \$488,314 was available now.

The Chair said yes and that there was probably more since the writing of this article. She said that the Board needed to decide if they wanted this on the warrant, keeping in mind that the wording needed to be submitted by November 25.

Mr. Moynahan said that he believed they needed to or they would have to wait again. He added that the money is there and the next step is getting the feasibility study done. He also added that the only way to see if this thing is going to move forward will cost the Town a little money upfront. He clarified that this needs to get out before the people for a vote to see if the people want the BOS to manage the money in the TIF account for a feasibility and engineering studies so that the BOS can come back to the people with a true, honest bottom line.

The Chair said that the BOS would be having a public hearing on this before the election and comments could be made at that time, as well. She reminded everyone that this whole thing started because Eliot asked to increase their capacity from 200,000 gallons per day to 400,000 gallons per day and the TIF came in later. She added that the Town really needs to have the studies done before the Town can get the bond, in her opinion.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Mr. Moynahan moved, seconded by Ms. Place, to appropriate \$488, 314 of the TIF District be expended and administered by the Board of Selectmen, as needed, for programs such as engineering studies and designs and legal fees on the warrant.

The Chair recognized Gary Sinden.

Gary Sinden commented that he believes this is a mistake for a couple of reasons, one being legal and the other strategic. He said that, in his opinion, the Board was creating a fund that the Board would now budget and the Board would determine the expenditures, which are not itemized in this article. He said that, on August 18, the attorney gave the Board some advice on the question of whether TIF-related expenditures (plural) need to go to Town Meeting and that advice was: "I recall that this question came up several times at the two public meetings and I repeatedly assured the voters in those meetings that the Town voters would get the opportunity to approve, or not, the TIF-related expenditures. Also, see Footnote 10 at the bottom of the attached page of the Development Program. As is the case in the normal course, the Eliot Town Meeting will approve any budgetary decisions about the sewer and water project as well as any possible bondage indebtedness to be used to finance the project." Gary Sinden said that, out of this fund, the BOS intend to spend \$60,000 for an engineering study in Eliot and he believes that is a perfectly legitimate expenditure that has been explained to the people as part of the project approved by the state and it should go forward. He added that the second thing he felt needed to go forward was money for legal fees and administration, \$60,000 if that is what the Board feels is needed and create an administrative/legal reserve fund, which is exactly what the Town does every year, and let the voters approve that. He said the third thing, which to him was the elephant in the room, which has never been brought to voters, and that is this question of building a sewer in Kittery. He said that the only thing that was mentioned was \$300,000 for water and sewage treatment in the Town of Kittery. He added that that number has already jumped to \$890,000. He reiterated that there was nothing said or implied about construction of a sewer that would belong to Kittery and paid for by Eliot, in Kittery. He commented that it was his belief that that was what needed to be brought to the voters. Gary Sinden suggested that there should be three separate warrant articles: administrative/legal reserve; \$60,000 Eliot engineering study; whatever amount is necessary to do the engineering study in Kittery. He said that the reason he thinks it's a strategic mistake to create this fund is that people know that some undesignated amount of it would go out of Town and that could cause the whole thing to fail, which sets back a perfectly legitimate engineering study in Eliot another six months. He added that, in his opinion, if the Board separates them, and even if the Kittery portion fails, then Eliot still has options and could go ahead with their engineering study. He urged the Board not to create this "slush fund", if you will, because legal advice and what is traditional with these TIFFs is that the expenditures go to the voters.

Mr. White commented that, from participating in Kittery over the last couple of meetings, he does not think that Mr. Sinden's proposal is that out of line with what they talked about at those meetings with respect to coming up with the amount of money it is going to cost to do for the feasibility part of it. He said that the Board already has the \$60,000 figure for Eliot and the amount for the legal/administrative fees they could come up with, but the amount in Kittery is what they are working on right now and should have a proposal to Eliot by the 24th or 23rd and he does not see any reason why they can't have those three items in the warrant article, unless the Board sees that differently.

The Chair's concern was for having a special Town meeting for every expenditure.

Mr. White said that he does not believe that is what Mr. Sinden was suggesting. He clarified that what he thinks is being suggested is that the three sections of the project, going forward, need to be identified so that people know what they are voting on. He added that he does not think that would disrupt the agreement that they decided with Kittery that came out of the last two meetings and that the spirit

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

of it would still be there. He added for the people who were in the room tonight, the negotiations should be ongoing with Kittery as Kittery is in a position that they are negotiating with other towns and other entities, like the shipyard, etc., so Eliot needs to be diligent about doing this with Kittery, serious about doing it. He added that the Town should do that or decide not to do it all. He also added that he believed the voters need to look at that and some people might not like the TIF and not want to go forward but, still, he voters need an opportunity to decide whether they should go forward or not and itemizing would give them the opportunity to do that.

The Board agreed.

Mr. White said that they would get the numbers before the deadline for the article and Kittery was told that Eliot had a deadline at the meeting and he believes Kittery said they could make the deadline without a problem.

Action Item: will rewrite the warrant article to include the three itemized expenditures by the deadline for submission.

Mr. Moynahan commented that if the Eliot engineering study passes and the Kittery one does not, then the Eliot engineering study accomplishes nothing so he believed the Board should present it as one warrant article that itemizes all three items, before going forward, the Town would spend \$300,000+ to A) administrative/legal, B) Eliot's portion and C) is for Kittery. He added that one without the other does absolutely no good.

Mr. Moynahan amended his motion to put in the warrant article before the voters to show the three line item expenditures with specific dollar amounts. Second by Ms. Place.

**VOTE**

**2-0**

**Chair concurs**

**#2** TO : Board of Selectmen  
FROM : Paul White  
REF : Cable TV Report

**8:00 PM** The Chair asked Jim Atwood to bring the Board up-to-date. She clarified that the only information she had included missing page two, a proposed draft, which was done November 2007.

Jim Atwood said that it took until November 2008 for their attorney to get back to them to say they needed more information. He added that they have had four meetings, two of which failed because of lack of quorum. He said that he is having a hard time getting people together. Jim Atwood said that Dan Blanchette and Jack Murphy helped him put the statement together for the attorney. He added that he did not know if the \$4,500 for legal fees was carried over. He said that he would like to call another meeting for Wednesday night, November 18, and have Barbara inform the members, rather than just have himself call the members and have her post the meeting, as well, if that is okay with the Board.

There was discussion around whether the November 18 date would be too soon to notify everyone.

The Chair suggested they try it and the Board agreed.

Jim Atwood said that he has gotten all the paperwork needed and now it is just putting it all together to come up with a one-page addendum.

The Chair said that the contract she has was executed in 1990 and that the Town needs to be more up-to-date on that.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Jim Atwood discussed how the technology has changed even just in the past year. He also discussed that the Board will need to decide where to put the physical station, the equipment needed, if they do get public access T.V.

Note: Action item to find a proper location and storage for future public access.

**#3**

TO : Board of Selectmen  
FROM : State Of Maine Department of Labor  
REF : Personal Protection Equipment (PPE)

The Chair said that the Town needs to move forward on the Safety Committee and asked if there was anyone present who wanted to do that.

Grant Hirst said that he would be willing to get that started.

The Chair asked what he would need from the Board.

Grant Hirst said that he needed the Board to speak to the department heads and have those heads appoint a representative from each department to the Safety Committee and then a directive that the Safety Committee would meet periodically, every quarter, every month, whatever the Board decided. He added that, with the Board's permission, he would be willing to be the liaison to the committee, attending the meetings, help with MMA getting videos and training equipment, etc. and then they could notify MMA that they are complying with their request.

Mr. Moynahan clarified that the Board already sent a letter to the Department Heads regarding this issue.

The Chair agreed and said that there has been no response and she wasn't sure why.

Mr. Moynahan suggested drafting a letter to Department Heads asking them to appoint a representative from their departments to the Safety Committee.

The Board agreed.

Mr. White said that he would check on the status of the letter that was supposed to have gone out already.

**8:13PM**

Grant Hirst said that the Town has several buildings with alarm systems and, in most cases, they are not tied to anything. He added that, if there was a fire at night, the alarm would go off in the building, but no one would know. He suggested having the alarm systems in Town tied to a central station so that someone would be notified in the event of an alarm. He commented that the fire station alarm is tied to a siren so, if there is a fire in the fire station, then that activates the siren and would confuse Kittery dispatch because they won't know that, specifically. He added that the police station is not tied to anything, either. He did add that the Town Garage and the several pumping stations are tied to a central station alarm and he said there was no reason why they couldn't tie the police station, fire station, town hall and, possibly, the community service building into a central alarm. Grant Hirst said that, in order to do that, the Town would need to have folks come in, upgrade where necessary, and give the Town prices for extending alarm systems to the central station.

The Chair asked if Grant Hirst could get the Board some figures for the budgetary process.

Grant Hirst said that he would do that. He added that since the police and fire stations both have sprinkler systems it would be nice to consider one for the town hall, as well. He also added that it could be done from the existing water supply now in the building.

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

The Chair agreed and said that the Town should find out what it would take and how much it would cost.

Grant Hirst said that he would get those figures, as well.

#4

TO : Board of Selectmen  
FROM : Betsy O'Donoghue – Chair  
REF : Portsmouth Wastewater Treatment Plant

The Chair discussed that Portsmouth was proposing to develop a secondary treatment plant and move it upriver to Pease. She also said that she had just received a State of the Estuaries update for the Piscataqua region but has not had time to review it, yet. She asked Lori Howell if she would give the Board some input on the proposal.

Lori Howell discussed that she had gotten a phone call from DES notifying her of a dye study that would be done for the Piscataqua River as her shellfish business would be impacted. She added that she was advised that there were plans for the City of Portsmouth to upgrade their wastewater treatment plant, which is currently located at the very end of Pierce Island. She explained that they are being required to upgrade from primary treatment to secondary treatment. Lori Howell said that an important part of the Consent Decree they have entered into is the planning, in which certain things would happen and the primary item is that Portsmouth would decide by next May or June to enter into timetable for implementation of constructing a new plant or upgrade, at their current location, to a higher level of treatment. She added that she has been told that their hands-down first choice is to build a new plant on Pease and then to share the Pease out plant. She added that, if that were to happen, there would be a significant output into the river, which would degrade the water quality, impact the beach, estuaries and have the potential to close down businesses along the river, including her own. She added that there is time to have a say in what happens and she believes the Town needs to weigh in on this issue. She said there are a lot of issues with this and she believes the Town should take an actual official position and let the people know who are actually issuing the permit that Eliot is watching what is happening. She added that involvement in the public hearing phase would not be enough as it only has a 30-day comment period and that would be late next spring. She said that letters from the Board of Selectmen and Conservation Commission are important to the primary organizations involved. She said that it was important to get their comments in and continue to do that as the process moves along.

The Board agreed that they needed to be proactive.

Mr. White said that he has talked with Peter Rice (city engineer) in Portsmouth to get more information and that Mr. Rice gave him the number of the manager. He added that he () has called the manager three times this week and has not had a return call. He also added that Mr. Rice indicated to him that there would be ample time for the Town to weigh in on this. He agreed that these kinds of things creep up on people pretty quickly and, if people don't know about it or participate in it, then people could lose the chance to weigh in on it. said that he would continue contact with Portsmouth and ask the manager for a copy the consent decree and a letter explaining what their options are. He added that, in talking with Mr. Rice, Mr. Rice believes the plant will most likely stay where it is currently located, but added that that is not for sure.

Lori Howell said that that is what we would encourage them to do and there are many organizations in the area that support that option.

The Chair said that as soon as they have all the information they would draft a letter with their concerns.

#5

TO : Board of Selectmen  
FROM : Paul White  
REF : Property Tax Lien – Payment Plan (Eliot Recycling Services)

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Mr. White said that he was approached by the owner of Eliot Recycling and he explained to her that the Town can enter into a payment plan with people when this happens but it is usually as a result of people coming to the Town several months before foreclosure, not two months before foreclosure and that the Town had no legal right to change the foreclosure dates. As a result, she decided not to come to the Board for a payment plan but to try to go out and raise the money and that is what she is doing.

**#6** TO : Board of Selectmen  
FROM : Paul White  
REF : Sewer Allocation approval – Charles Pratt, 826 Main Street

Mr. White said that Mr. Pratt was not here tonight. He did say that there were others here, Paul Houde and Jacqueline Anderson, who live on Clark Road. He clarified that they were not on the agenda tonight but this was for the same thing, sewer allocations. He said that there were two requests, one for Charles Pratt, who lives on Maine Street, and the one on Clark Road. He explained that there was an approval for a 5-unit apartment building last year and the folks on Clark Road want to go into that sewer line, who has a single-family home with an ADU and Charles Pratt has a single-family home. He added that neither would exceed flow requirement.

The Chair asked if the Town was close to capacity.

Mr. White said that he does not believe they are.

Jack Murphy agreed.

Mr. White said that, in both cases, the septic has failed and this is a good choice for both of them.

Mr. Moynahan moved, seconded by Ms. Place, to approve the allocation of sewerage amount for both 6 and 6A Clark Road and 826 Main Street.

**VOTE**

**2-0**

**Chair concurs**

**#7** TO : Board of Selectmen  
FROM : Paul White  
REF : Police Contract Negotiations

**8:38PM** The Chair asked if they had a meeting scheduled on the police contract.

Mr. White said that they do not. He asked if the Board was asking to go forward and have him contact this agent to schedule a meeting.

Mr. Moynahan said that this process had started a while back and now it was time to move forward and set something up, maybe next week.

Mr. White asked who would be meeting with them.

Mr. Moynahan said that he was one of them and Mr. Sinden had been another.

The Chair asked if Mr. Sinden wanted to continue with that.

Mr. Sinden agreed that he would and added that he would check with the Commissioner's office to make sure there would be no conflict.

**#8** TO : Board of Selectmen  
FROM : Eliot Sewer Committee  
REF : Vision Statement & Current Standing

**BOARD OF SELECTMEN'S MEETING**  
**November 12, 2009 6:30PM (continued)**

Nancy Shapleigh said that they did have a meeting yesterday, that they did discuss some things and the Board would have the results at the next meeting.

**#9** TO : Board of Selectmen  
FROM : Paul White  
REF : Engineering Study related to Kittery Sewer contract (funded by TIF)

The Chair said that this was discussed clarifying that the Kittery and Eliot engineering consultants are meeting together to discuss the cost to complete a feasibility study and they would get that information to the Board by November 24th.

Mr. Moynahan commented that, even if they were to eliminate Kittery altogether, they would still have to upgrade portions of the line and pumping station to house the additional sewerage. He added that, in the sewer contract, one of the portions says that in lieu of Eliot paying for upgrades to the sewerage treatment plant, the negotiating team had put in that Eliot would pay for engineering feasibility to clear up that it wasn't just a blank dollar figure.

**#10** TO : Board of Selectmen  
FROM : Board of Selectmen  
REF : Seacoast Energy Initiative (sign letter)

The Board signed this letter.

**#11** TO : Board of Selectmen  
FROM : Paul White  
REF : Nov. & Dec. BOS meetings conflict with holidays

The Board agreed to meet on Tuesday November 24 at 6:30PM. They decided to wait to see what their workload was before deciding anything for December.

**#12** TO : Board of Selectmen  
FROM : Wendy Rawski  
REF : Clerk's Office closed on Christmas Eve

Wendy Rawski said that she issued the holiday schedule memo sent out by the Board to her office. She added that a few people in her office asked her if it would be possible to close the office completely Christmas Eve Day if they were willing to use their own personal time. She added that this would apply to the Clerk's Office, only.

The Board agreed by consensus to allow the Town Clerk's Office to be closed Christmas Eve Day.

**#13** TO : Board of Selectmen  
FROM : Paul White  
REF : General Assistance Report

**8:50PM** Mr. White said that Kathy Pridham has taken over for Dan while he is gone and has run into several areas where, in the past, people have been approved and she denied them. He added that he wanted to clarify that she has some concerns and the current budget is  $\frac{3}{4}$ 's used up for the budget year. He added that he did not know if the Board wanted any more information about this.

Mr. Moynahan clarified that the Town has specific criteria to follow in this and either they follow them or do not, is it black and white or not. He asked if the Town should we following the state requirements to the "T".

Mr. White agreed that was the question. He does not believe the Town has been doing that.

There was some discussion around how big a problem this was.

**BOARD OF SELECTMEN'S MEETING  
November 12, 2009 6:30PM (continued)**

Mr. Moynahan moved, seconded by Ms. Place, to bring this discussion up at a later date in Executive Session.

**VOTE  
2-0  
Chair concurs**

Note: This will be added to the next meeting.

**Selectmen's Report**

Mr. Moynahan discussed that he had been working on letters to Department Heads, which includes the need to make sure financials are done consistent within each department. He said that it would be good to start scheduling department head meetings to go over Board policies for clarity among the departments.

The Board agreed and requested that Mr. White start calling Department Heads to schedule meetings.

**Executive Session**

**8:55PM** Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 MRSA Section 405.A. "Discussion or consideration of the...compensation..."

**VOTE  
2-0  
Chair concurs**

**9:11PM** Out of Executive Session

**9:13PM** The Chair recognized Bill Dale.

Bill Dale, discussing the Eliot Shores LLC matter, said that, on behalf of Romona Robinson and Luiz Valdez, he had heard Mr. Moynahan say tonight that the Board was concerned that, in the midst of this project, that one of the real estate titles had been changed and the description had been changed. He added that he did not know that and that he and his clients had talked and that would be fixed and put back.

**9:17PM** Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 MRSA Section 405.A. "Discussion or consideration of the compensation..."

**VOTE  
2-0  
Chair concurs**

**9:54PM** Out of Executive Session

**Other Business as Needed**

There was no other business.

**Adjourn**

Motion by Ms. Place, seconded by Mr. Moynahan, to adjourn the meeting at 9:58PM.

**VOTE  
2-0  
Chair concurs**

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**DATE**

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**Roberta Place, Secretary**