BOARD OF SELECTMEN'S MEETING
October 14, 2010 6:30PM

Quorum noted

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

Roll Call: All present, except Mr. McPherson.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:32 PM Motion by Mr. Moynahan, seconded by Elizabeth O'Donoghue, to approve the minutes of September 23, 2010, as amended.

VOTE
3-0
Chair concurs

Public Comment:

Mr. Norton stated that he was confused because he had just received a piece of paper saying that the Town was suing him from April of 2009 to now and he thought the last time they met…this was entirely different from what they all (BOS and Mr. Norton) discussed.

Mr. Fernald asked Mr. Blanchette to explain this to Mr. Norton.

Mr. Blanchette said that he would as best as he could. He explained that, in reviewing all of the facts and attorney comments, there were several different ways to go and one of the options could have been what might be called a "third party intervener", however, that option got closed and would have been difficult to carry through, so the next best option that the attorneys came up with was to file a suit against an ordinance and then encompass that suit with the McKinney's suit in order to bring all of the facts to the judge. He clarified that that is what is being done…the first part is that the suit went out as they received it, then, the second part of it is that, as of today, there is some correspondence going to the judge requesting the judge to take the two cases and go to mediation with them.

Mr. Norton clarified he was still somewhat confused.

Mr. Fernald said that the two cases were being combined together in front of one judge.

Mr. Norton said that he was told that the Town had already filed a lawsuit and they hadn't, they had filed a Letter of Intention. He added that they had not filed a lawsuit until a few weeks ago so the Board was misinformed at the last meeting he (Mr. Norton) had attended that they (the Town) had already filed a lawsuit and there was no document and nothing in court, but a Letter of Intention to the Board and they didn't have a lawyer and, so, the Board made a decision on ___?___.

Mr. Fernald asked Mr. Blanchette if he knew what the timing was.

Mr. Blanchette commented that he wasn't sure of the timing and explained that the first thing that gets filed (and Mr. McKinney is present and could probably inform the Board better) is that first step and then the second step was that the McKinney's had to file a brief and that has now been filed, he believes. He added that the Town then has to respond to that. He said that that is the way, he believes, that it goes.

Mr. Norton said that they gave the Board a Letter requesting a Consent Agreement and they could have had this all resolved by now. He added that, now, it is all shut down and, all of a sudden, he has a lawsuit against him that will take up his life savings to defend himself. He added that he was facing bankruptcy, here.

Mr. Fernald clarified to Mr. Norton that it is moving forward in a process that's going to take care of whatever, that they do not know what decision will be made but that the two

incidents would be combined together in front of a judge and that is why Mr. Norton received that information.

Ms. Norton said that, in the paperwork, they are suing her and her husband for all the legal fees and for being in business for over a year and a half. She added that it was very unjust.

Mr. Norton commented that that was up to $2,000 a day.

Ms. Norton wanted to know who, in fact, initiated the paperwork because this is nothing like what was discussed in the minutes of the meeting from the BOS when they (Nortons) came in…

Mr. Norton clarified that the BOS had to tell the attorney to initiate that paperwork…

Ms. Norton said that she contacted three people on the Board and nobody knew what happened, so asked who was the person who made that contact.

Mr. Fernald asked Mr. Blanchette to address her question.

Mr. Blanchette clarified that, he believed, that at the last BOS meeting (and might have been part of the executive session), the Board told the attorney to proceed and that is what occurred.

Mr. Norton said that that, then, would be in the minutes…

Ms. Norton said that it was right there stating that what he was going to do is totally a**-backwards from what he did do. She asked where was the honesty and commented that they had followed everything the Board had told them to do – going from meeting to meeting to meeting to meeting and, then, these people slap a lawsuit on the Town and the Board, in fact because of a letter generated to Ms. O'Donoghue, slap a lawsuit on them (the Nortons), which letter was from Carolyn McKinney.

Mr. Fernald said that what they do know is what the process that is going through now.

Ms. Norton said that it is her name that says that, if Mr. Norton dies tomorrow, then she is responsible for all this debt, which would mean she would lose two houses and her mother's house because she could not afford to pay the debt. She said that, without him, she had nothing, without the business, even her children and grandchildren…many people in this Town would suffer.

Mr. Fernald commented that they understood that.

Ms. Norton commented that all the McKinneys have done is to run him down from being the Fabian Drake Award recipient. She said that he has done much for this Town and this is what he gets…a lawsuit.

Mr. Norton clarified that he has one piece of paper from the court and now he is waiting for another piece of paper asking him to join the Town.

Ms. Norton said they were supposed to join the Town, anyway, and the McKinney's joined already and asked for clarification about that.

Mr. Fernald asked Mr. Blanchette if they had notified, yet, of whether they need to come to court.

Mr. Blanchette said that it was his understanding, in talking with Mr. Vaniotis today, was that they were initiating the paperwork today to file with the court to encompass the two cases together so that the whole thing could go before for mediation.

Ms. Norton said that she has paperwork that says it is already encompassed with the McKinneys so, if you have a lawsuit against you…..you people have already joined with the McKinneys.

Mr. Fernald said that that is what the Board knows from Mr. Vaniotis.

Ms. Norton said that that is what she knows from the lawsuit.

Mr. Fernald said that that is what they understand, that it would be combined together and then the Norton's would be notified when they would have to come to court and they are putting the paperwork together now.

Ms. Norton asked why she had to come to court to begin with, as it is his (Mr. Norton's) business as Sole Proprietor, and why she was being dragged into this. She said that there are two lawsuits, one against Mr. Norton and one against Mr. Norton and herself.

Mr. Fernald asked if they owned separate land.

Ms. Norton said no.

Mr. Norton said that she owns her house and he owns his house.

Mr. Fernald clarified that they do have separate mortgages.

Mr. Norton said yes.

Mr. Fernald said that that was why.

Mr. Norton said that he was afraid he still didn't understand. He added that all he understands is that he has had to take all his money out of the bank to get a lawyer to protect himself and, at 58 years old, that is exactly where he wanted to be – half a million dollars in debt, a lawsuit over his head and all his money out of the bank.

Ms. Norton added that this was because of one family's complaints and that is all it has been.

Mr. Norton commented that this could have been resolved a long time ago.

Ms. Norton clarified that the Town could take all this away because of one family's complaints. She asked about what they have done for the whole, entire Town.

Mr. Norton asked if the attorney explained to them why they felt mediation wouldn't work.

Mr. Blanchette clarified that that is exactly what they are aiming to do, is to go to mediation.

Ms. Norton asked about why not the first step that was right here. She said that there was no need of the lawsuit.

Mr. Norton commented that there was no need to spend all that money, as they would meet anywhere. He said that he thinks the Board has explained what they know.

Ms. Norton asked, again, who it was that initiated this, as there is nothing in the minutes from August 12th and that it is totally against what these minutes say because in the minutes Mr. Vaniotis asks her and Mr. Norton, several times, that he was asking them to join and they would not need an attorney, yet, said join with the McKinneys and now they do need the attorney.

Mr. Norton said that Mr. Blanchette said that, at one of the last BOS meetings, that they took a vote to initiate the lawsuit, so……

Mr. Fernald clarified to move on with the case.

Ms. Norton asked where is the copy of that.

Mr. Blanchette clarified that he didn't say that they voted to initiate the lawsuit.

Ms. Norton asked who initiated the lawsuit.

Mr. Blanchette clarified that it was the Town attorney, Mr. Vaniotis.

Ms. Norton said that he could not just initiate a lawsuit or go out and sue somebody without someone making a phone call saying go ahead with it.

Mr. Norton said that someone from the Board has to say go ahead and do that.

Mr. Fernald clarified that that was not the way it works.

Ms. O'Donoghue said that the attorney was defending the Town.

Mr. Moynahan asked if it was stemming from the Notice of Violation, still.

Ms. Norton said that that is what it went back to.

Mr. Fernald said that that was the information they received in the mail, is of that violation.

Mr. Moynahan clarified that there was nothing from the Board and the attorney took it to the next step and meant no direction from here (the BOS). He said that it was the process of a Notice of Violation.

Ms. O'Donoghue said that the attorney was just doing his job.

Ms. Norton said that they were doing what they were told by, not only Ms. O'Donoghue but many members, here, following each step they were told to do, being yanked before all these Board members and being given wrong information by the CEO, being misled and misdirected, but they still followed the directions and then the Town turns around and sues them anyway.

Mr. Fernald asked why wouldn't they like to get this settled.

Ms. Norton said that she did not want her name on the lawsuit that is amounting to thousands of dollars and any piece of paper is legal in a courtroom.

Mr. Fernald said that that is why it is proceeding in this way; it is going to be combined together.

Ms. Norton asked what they (McKinneys) had to lose…the McKinneys are the ones who brought this all on.

Mr. Fernald clarified that the McKinneys' are not suing the Nortons', they are suing the Town.

Ms. Norton added that, then, the Town is suing them (Nortons) and it says right in there not only for the daily, but for the whole expense for the lawyers.

Mr. Fernald reiterated that the lawyers were going to combine these two cases and bring it to one judge, hopefully, to go to mediation and settled, in some way…that is the process.
Ms. Norton asked about having a piece of paper that says that they won't be sued, that there is no money exchanged…something she could hold in her hand when she goes to bed at night. She said that this is no worry on the Board's shoulders, the Board isn't dealing with it.

Mr. Fernald, addressing Mr. Norton, said that the best the Board could do was to explain what was happening.

Ms. Norton asked why the [attorney] lied in the paperwork…why did he go right around and do something totally different than what is written here. She said that the Board didn't have to look to Dana (Mr. Norton) for the answers because she is on a lawsuit – her name is on it.

The Board was not unsympathetic.

Mr. Fernald recognized Ms. Shapleigh.

Ms. Shapleigh clarified that she was curious because she had sat through a lot of this, too, and feels it is criminal that it has gotten this far. She asked if the Town had subrogated their (Nortons) rights to the attorney to move forward and sue. She said that there was a question of a Consent Agreement, at one point. She commented that the Board should be directing the attorney and the attorney should explain this in terms that these people can understand. She clarified that all they could see was a big lawsuit, that it is not fun to have a lawsuit hanging over one's head and it does cost a lot of money to defend against.

Mr. Fernald said that they understood that.

Ms. Shapleigh said that she believed this had gone way too far.

Mr. Fernald, addressing the Nortons, reiterated that they were explaining what the process was, currently, and how it would move forward and that they would probably be notified.

Mr. Norton thanked the Board for their time.

Mr. Fernald recognized Ralph Place.

Mr. Place commented that he had lived in this Town all his life and, saying he wasn't much of a speaker, he said that he was approached by the manager of the dump about four weeks ago – it all started with a snow blower that had come in. He said that he wanted to start it to fix his snow blower, as winter was coming in -he picked the dump. He added that he has looked at the signs at the dump all these years that says no dump picking but the way it was explained to me, years ago, was that those signs were there to protect the Town from a lawsuit. Mr. Place said he was approached by Mr. Lytle, who said he could not take the snow blower. He said that he asked the reason why and Mr. Lytle said that the signs said no dump picking and there is no dump picking here. Mr. Place asked since when and Mr. Lytle responded that it had always been that way. He clarified to Mr. Lytle that he could not dump pick and that means nobody can dump pick, including Mr. Lytle. He said that he is up there all the time and, maybe, he does dump pick too much, but he is in favor of recycling one hundred percent, adding he had been out of work for three years and, if he could save a dime, then he would save a dime to raise his family. Mr. Place said that he had a nine-year-old boy who is named Eliot and proud to live in Eliot and that he takes him every place he goes, trying to explain to him different things the best he can. Mr. Place said he has brought him up totally into recycling and he asks him a lot of questions. He added that now, when his son asks him why he can't have that thing out of the dump that he needs for his bicycle or something similar, he has to tell him that the man at the dump won't let him do it anymore. Mr. Place said that everyone is talking about going green, having read in the paper a couple of weeks ago how Eliot is going green and he thought it was about time. Mr. Place clarified that he was not trying to make himself look like a troublemaker but he is 52, never been to a meeting in his life and thought it was about time he joined in and started participating. Mr. Place said that he did not want to have hard feelings with anybody but, at the same time, he wants to be treated fair. He said that he thinks that some people see him, because he has a lot of knowledge in antiques, as making a lot of money, that isn't true and he wasn't getting rich off what he was picking out of the dump. Mr. Place discussed his feeling of being singled out because, since he was approached, he has seen residents and employees dump picking and he believes that, if there was going to be that rule, then it should be applied to everyone.

Mr. Moynahan said that, before they got too far with employees that are not here, maybe the Chair could direct this to the department head, Mr. Moulton, so that he could be brought up to speed on this and have whatever policies are in place, enforced.

Mr. Fernald said that, if the Board is okay with it, he would like to sit down with Mr. Moulton to talk about this situation.

The Board agreed.

Mr. Place said that he approached Mr. Moulton and said he would do some investigation and he was seeing how long that would take. He also discussed the book recycling at the dump years ago and, time after time, there was paper blowing everywhere, books molding, and the guy was not taking care of it. Mr. Place said something about it and was told the Town was paying a $60 dumpster fee and the guy who was doing it didn't want to do it anymore. He said that he was asked, if he still wanted to do it, he could to take it over. He said he built his own thing and put his own signs on, having done it for over a year and a half and done a good job. He said that he has always done it on a off day to get it done right but the way it has been worded to him is that he could only come in to the dump, drop his garbage off, then leave so, now, he can't maintain the book bin. He said that he is doing it with his son, he's recycling and saving the Town money.

Mr. Fernald said that he would check in to that and see what would come from that.

Mr. Place thanked the Board.

Ms. O'Donoghue just wanted to remind everyone that they used to have a swap shop where things could be left and taken and it has come up in conversation a couple of times and asked if Mr. Fernald wouldn't mind taking that up with Mr. Moulton, as well, as it seemed to make good sense.

Mr. Fernald agreed.

Mr. Murphy said that he submitted a letter to the Board earlier this week, which he was going to take up tonight, but the minutes of September 30 are not available and he would like to wait until they are available.

6:55 PM Mr. McPherson is now present.

Department Head/Committee Reports

Mr. Beckert, Planning Board (PB), said that, going through the BOS minutes of September 9, there were some comments from Ms. O'Donoghue that came from the Business Development Committee (BDC), he thinks, on the PB's procedures and their checklist. He clarified that it appears the comments were made that "some business people have had difficulties getting through the Planning Board (PB) procedures and explained that there seems to be some confusion with the PB checklist sheets that are causing some business people to come back to the PB two and three times, which is two or three months before they can get permits, and that doesn't seem very business-friendly." He said that, in speaking with PB members and the PB Assistant, they were trying to figure out what precipitated these comments because that checklist, within the last two years, has been updated and modified to make it more comprehensive, more user-friendly and to ensure that all the items the applicant had to address were on that checklist. Mr. Beckert said that, as of this date, they have not had any complaints from any businesses. Addressing the comment about an applicant coming back two or three times, he clarified that a standard application before the PB would take a minimum of two meetings, no matter what it is. He added that the only exception is if there is an amendment request to an application already approved by the PB. He added that, depending on the complexity of the application, it could go three or four or more meetings. Mr. Beckert commented that some of the Board members might remember that the PB was called in to a joint meeting with the Conservation Commission (CC) where the PB was accused of fast tracking an application to the PB and that particular application took a year and a half. He said that, now, the PB is being accused of taking too long with two or three meetings. He added that the PB just wanted to clarify that and they aren't sure what businesses have made the comments. Mr. Beckert said that he had the Planning Assistant go back and look at the number of businesses that have come in with applications and they have been very slow recently. He added that the PB was concerned that these comments were being made and wish that the BDC, if they had been hearing that stuff, would have come to the PB. He said that the Town has been accused of having dysfunctional boards in Town and he thinks that they way to resolve that issue is to have the boards talk to each other before things are thrown out there in the public realm, not that the PB meetings aren't public, but the PB tries to work with the applicants

right up front, starting with the Planning Assistant and throughout the process. He reiterated that two meetings are minimum and, depending on the complexity and/or requests from the applicant for postponement, it could take a lot longer. He added that, if Ms. O'Donoghue has any inkling of where these comments came from, the PB would really appreciate it.

Ms. O'Donoghue said she was reporting, as liaison to the BDC, and, as she understood it, the BDC had requested the presence of the Planning Assistant at several meetings to go over the procedures and to explain where they could be helpful to business people coming in and to work together with the PB.

Mr. Beckert said that, as the PB Chair, he was not aware of that until Ms. O'Donoghue just mentioned it, that they made the request of the Planning Assistant.

Ms. O'Donoghue said that this has been a problem, apparently, for a long time and she had brought it up just recently because it had gotten…she suggested that she ask some of those members to come to the PB meetings to see if they can't get this together.

Mr. Beckert agreed that's what they needed to do. He said that John Shapleigh, who was Chair of the BDC, had been coming to the PB meetings as the liaison on some of the zoning issues and that was going to be his comment. He clarified that the PB does not deal with a vast number of engineering firms that represent the applicants – usually it's the same faces – so the engineering firms are well aware of the checklist, what it contains and what is required.

Ms. O'Donoghue said that, if it had not come up at every single meeting, then she wouldn't have mentioned it.

Mr. Beckert requested that the Board please go back to them, as this is the first he had heard of their request for the Planning Assistant to go to their meetings, because the request has not come through the PB but have probably gone directly to her.

Ms. O'Donoghue confirmed that the request was direct.

The Chair recognized Mr. Muzeroll.

Mr. Muzeroll said that a couple of years ago the Fire Department established a committee to replace their aging tank truck. He added that he has a very dedicated group of people who have been working hard for at least the last 18 months to come up with something that is very cost-effective and smart for the future of this community. He said that they have toured, read, researched about everything the Board could think of to try to get the best deal they could for the Town and keeping in mind future needs of the Town. Setting some parameters (which he discussed) with them, he said the final outcome was that they came across technology being used across the country, except New England, which utilizes vacuum technology like what one finds with septic companies, etc. and takes it one step further to install fire pumps, which would give the Town large tank capacity, as well as fire tank capacity, which should help their insurance rating with the Town, in the long run, as they go through the ISO ratings in the future. Mr. Muzeroll said that he was here tonight to tell the Board that they have settled on a specification package with one company, out of Florida, that the money has been allocated year after year through the budget process, totaling about $257,000 in the truck reserve fund, with the truck coming in at about $247,000. He added that the Board needed to keep in mind that they also need to buy certain things that are required by fire law to put on these trucks. Mr. Muzeroll said that one of the things he has been able to do is that he was able to negotiate with this manufacturer was a 2½ % reduction in cost for every dollar prepaid. He added that, if he could prepay $200,000, then that would save $5,000 on the truck, which would allow him to use for the purchase of equipment and the remaining equipment that they would need would still keep them below the $250,000 threshold that has been established. He said that they are looking at another $45,000 to $48,000 that they would owe them. He added that they would inspect the truck in Brunswick, when the truck is delivered, and they wouldn't let it come in to the Town unless they are completely happy with it. Mr. Muzeroll said that he has had some pretty good luck with this company, that it isn't an extravagant truck by any means. He commented that one of the things they were willing to do was, because they were willing to accept an International Business class chassis,

that he believes almost all the Town trucks have which are already on site as are the tanks, the only thing the company would have to do is set the lights and any extra painting and decals. He added that they were looking at, hopefully, no more than a 90-day turn-around from the day that they sign a contract. He said that what he wanted to do is ask the Board to authorize a check and for Mr. Fernald and himself to sign a contract – the check to be cut to E1 & Water Master Company for $200,000 toward the end of October, which would save the Town about $1,500 in price increases.

Mr. Moynahan clarified that this was in line with the vehicle replacement that the fire department had budgeted.

Mr. Muzeroll said yes. He said that this would actually complete the whole fleet replacement that started with Chief Wood in 1996 and would be the last truck replaced until the 1996 truck reaches the 25 to 30 year mark.

Mr. McPherson asked about the old truck.

Mr. Muzeroll said that he initially spoke to the foreman and the mechanic at the highway garage to see if they had any use for it. He added that the tank has fallen off of the truck but the chassis is still pretty good. He said that it really isn't worth any real value but it is certainly worth more than just giving it away. He added that, if the Town could use it as a flatbed vehicle, then that would be fine, but they would not recoup any money. He said that there are some local contractors interested in it and the Town might be able to get $5,000 - $7,500 for it and, as soon as the contract is signed, it would be for sale, as well as two other vehicles. Mr. Muzeroll said that he thinks the agreement was that any money they recouped from the sale of these things would go back into their reserve fund.

Ms. O'Donoghue said that she was at the EMA exercise the other night and she wanted to make sure he got the new thing the director gave her on the new radio transmissions. She asked if he had gotten one.

Mr. Muzeroll said no.

Ms. O'Donoghue said that she brought one in for him and someone was supposed to get it to him.

Mr. Muzeroll said that he did get the CD.

Ms. Place commented that it seems as though he did a lot of work on this.

Mr. Muzeroll said that he wanted to give full credit to the six guys who were on the committee because these are the future leaders in this department. He added that he backed right out of it and only stepped in to give advice when he had to.

Mr. Fernald asked for the pleasure of the Board.

Mr. Moynahan said to allow Mr. Muzeroll to sign a contract and move forward on the purchase.

Mr. Fernald asked if that was the consensus of the Board.

It was the consensus of the Board to authorize Mr. Fernald and Mr. Muzeroll to sign the contract and prepay $200,000.

Mr. Muzeroll said that he had already spoken with Ms. Spinney, so she knows it's coming and he will talk to her tomorrow. He said he would also get what he needed from the company and then he would get together with Mr. Fernald in a week or so to sign a contract with the rep.

Mr. McPherson discussed that they had been talking about the truck being used for the transfer station to haul the roll-off containers that they were paying someone else to do.

Mr. Muzeroll said that that was one of the reasons he proposed it to the highway garage. He added that it made sense for that type of thing. He said he would speak to Mr. Moulton about it and see if they want to do that.

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

7:15 PM **Public Hearing – General Assistance – Correspondence #4**

Mr. Fernald opened the Public Hearing and asked if Mr. Blanchette wished to speak.

Mr. Blanchette said that the three appendices are calculated by the State and not by the Town and this is what the Town has to use in order to continue with the program. He clarified that Appendix A and Appendix B have no changes from last year and Appendix C has only minor changes.

No one else wished to speak.

7:16 PM Mr. Fernald closed the Public Hearing.

Ms. Place moved, second by Ms. O'Donoghue, to approve the General Assistance Ordinance Appendices A, B and C.

VOTE
4-0
Chair concurs

Mr. Hirst discussed that he was working on an alarm system for several Town buildings, with the other half of the issue being security for people in the building. He said that he spoke with Chief Short and found that Mr. Short used to do school and town hall risk (security) assessments, in which he was tasked to go into a building to see what, if anything, might be done to protect the staff against almost anything that could happen. He added that Mr. Short has offered to do that for Eliot and his purpose here tonight is to ask the Board if they would authorize me to accompany Mr. Short with, or without, any of the Board members present for that purpose.

It was the consensus of the Board to authorize Mr. Hirst to ask Chief Short to do the assessment.

Mr. Hirst thanked the Board and said that he would let the Board know when it would be.

7:19 PM Mr. Blanchette said that he had a couple of things to discuss. He said that the contract with CLD Engineers expires he believes either tomorrow or Monday and the final report is not done, yet, so they are asking for an extension of the contract to November 30. He added that they are sure the report would be done before that but some of the things they are currently waiting for have pieces from the Kittery engineer and not in control of that. Mr. Blanchette said that they did need a formal extension in order to proceed.

Ms. O'Donoghue moved, second by Mr. Moynahan, to extend the contract with CLD Consulting Engineers, Inc. to November 30, 2010.

VOTE
4-0
Chair concurs

Mr. Blanchette said that he had a phone call with Mr. Vaniotis today. He added that Mr. Vaniotis was contacted by the attorney for Eliot Shores, LLC, saying that they would like the Town to be involved with the mediation at no expense to the Town. He clarified that the parties would cover the Town's fees, the mediator's fees, etc. Mr. Blanchette said that Mr. Vaniotis thinks it's a good idea because it is a law case and, ultimately, the Town would have to agree to mediation, in any case.

Mr. Fernald asked how many members would have to be involved.

Mr. Blanchette said that he thinks Mr. Vaniotis feels just the attorney needs to be involved because it is just dealing with the zoning ordinances.

Mr. Fernald asked for the pleasure of the Board.

It was the consensus of the Board to have a Town attorney involved in the Eliot Shores mediation.

Mr. Blanchette reminded the Board that he had reported to the Board several meetings ago as to how the Town was doing as far as the duties of the Code Enforcement Officer (CEO) and, at that time, he had said that Eliot did not have anyone to do the building code inspections. He said that he was hoping that, by now, South Berwick would have agreed to do that for Eliot but they have not at this point in time. He added that he does have a proposal from Attar Engineering, which he had asked for, and they are willing to do it at an hourly rate. He said that, depending on who goes out, the rate would be approximately $90 to $130 per hour. He added that he is hoping that, within a few days, South Berwick will agree to do it.

NOTE: The fire alarm was going off for the following discussion.

Mr. Moynahan asked what the interim did.

Mr. Blanchette said that she issues permits, goes over zoning with people who request that type of information and requests building permits that deal with the zoning.

Ms. O'Donoghue discussed her concern that they needed building inspectors that were certified and she didn't know if Attar engineers were certified with the new building codes coming in December.
Mr. Blanchette said that he didn't think that anyone was certified right now with the new building codes because the State has not put together the course for certifying, as of yet.

Ms. O'Donoghue clarified that they were operating under the existing codes until December.

Mr. Blanchette said yes and he thinks it's the 2003 IRC/IBC codes.

Mr. Moynahan said that the new code is for energy and the basic IRC codes are not changing.

Ms. Place asked if there was an urgent need right now for someone to do this particular work.

Mr. Blanchette clarified that the Town doesn't have a lot going on right now but that doesn't mean something can't get by.

Ms. Place asked if the Board needed to make a decision about this now.

Mr. Blanchette said, yes, if they wanted to hire Attar Engineering with their proposal.

Ms. Place said that was kind of steep.

Mr. Fernald commented that maybe they would be better to wait for South Berwick.

Mr. Blanchette asked Mr. Moynahan if he knew, generally, how many inspections would be done during the construction process.

Mr. Moynahan said that there would be two, without the plumbing and electrical, which would be a structural inspection and a final life safety inspection and both would be about an hour per inspection.

Mr. Moynahan said that would depend on the complexity of the structure.

Ms. O'Donoghue asked about other towns such as Berwick or York.

Mr. Blanchette said that York is already short a building inspector. He added that to go too far out to have another town come in might be problematic but he could certainly give them a call.

Ms. O'Donoghue said that she thought they needed to explore this a little more. She added that she was sure that Attar Engineering would do a great job but it is just a bit pricey.

Mr. Moynahan asked if South Berwick had the same IRC Code.

Mr. Blanchette said yes and they have the same addition so he is familiar with it.

It was the consensus of the Board to see what South Berwick might be able to offer the Town.

Old Business (Action List):

7:26 PM

A. Solid Waste Alternatives – Solid Waste Committee

No action taken.

B. Wild Brook Lane

No action taken.
C. Representation on Kittery Sewer

Ms. O'Donoghue commented that she thought that was pretty much a moot point, as it doesn't seem anyone wanted it.

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

This is ongoing.

E. Skate Board Park Noise – Mr. McPherson & Mr. Fernald

No action taken.

F. PACE Program update

No action taken.

At this time, Mr. Fernald said that he needed to have Public Hearings for the November Ballot. He explained that they would take each one separately.

#5 TO : Board of Selectmen
FROM: Dan Blanchette
REF : Public Hearing on Articles to be voted on by ballot on November 2, 2010

7:30 PM Mr. Fernald opened the Public Hearing for the Firearms Safety Ordinance.

Mr. Murphy asked how someone would find out how what he or she has is regulated.

Mr. Fernald said that the definition is Title 12 of the Maine State Statutes.

No one else wished to speak.

7:32 PM Mr. Fernald closed the Public Hearing.

7:33 PM Mr. Fernald opened the Public Hearing for increasing the maximum height of structures in the Commercial/Industrial Zone from 35' to 55'.

Mr. Murphy said that he read it through and was fine with the words but had an issue with the diagram. He said that he thought it could be improved, in particular with defining the grade plane and how it's determined. He added that the diagram was confusing, recognized that the problem was defining a building that was built on a slope.

Mr. Beckert clarified that the diagram was actually taken out of the international code and they are recognized by the engineers in the field and used by several municipalities in the area. He said that, during the PB's public hearing, there was an engineer in the audience that commented that it is a lot clearer than it ever has been with the diagrams and the ordinance, along with the definitions.

7:35 PM Mr. Fernald closed the Public Hearing.

7:35 PM Mr. Fernald opened the Public Hearing to accept Sawgrass Lane as a Public Way and to pay $1.00 for said Public Way.

No one wished to speak.

7:36 PM Mr. Fernald closed the Public Hearing.

New Business (Correspondence List):

7:37 PM
#1
TO : Board of Selectmen
FROM : Phil Lytle
REF : Reorganization Labor at Transfer Station

Mr. Fernald said that Mr. Lytle was not present. He explained that this was a Memo from Mr. Lytle that shows the number of employees and their hours.

Mr. Blanchette said that this was a result of another employee's full-time position being eliminated. He added that he thinks there may be one or two additional regular employees there part-time to supplement that particular position.

Ms. O'Donoghue asked of Mr. Moulton had reviewed this.

Mr. Blanchette said that he had.

Ms. Place moved, second by Mr. McPherson, to accept the number of employees, their positions and hours, as presented by Mr. Lytle's Memo.

VOTE
4-0
Chair concurs

#2
TO : Board of Selectmen
FROM : Dan Blanchette
REF : Consent Agreement Guidelines

Ms. O'Donoghue suggested making a change to F) to put a period after "*it is in the best interest of the Town to do so*" and eliminate the rest of the sentence.

Mr. Fernald said that they could do that and asked Mr. Blanchette to discuss that with Mr. Vaniotis to see what effect that would make.

Mr. Blanchette agreed.

Mr. Fernald said that they would do that and then they move it to the second reading.

VOTE
4-0
Chair concurs

#3
TO : Board of Selectmen
FROM : Dan Blanchette
REF : PACE Ordinance

Mr. Fernald asked Mr. Blanchette to speak to this.

Mr. Blanchette said that the proposed PACE Ordinance would need to be passed at Town Meeting and it would allow the citizens of the Town to go after low interest loans that the State is setting up. He explained that the reason the Town has to pass an ordinance allowing the citizens to do this is because that is the way the State law was written. He added that, without an ordinance, the citizens cannot apply for those types of low interest loans. Mr. Blanchette said that he believes South Berwick just adopted theirs in the last couple of days through the Council. He said that there were a few minor changes from the proposed model that had been mentioned before because one of the sections talked about the Town being one of the parties that might release the mortgage and, since Eliot doesn't deal with the mortgage, they can't do it so that has been removed in the current proposal. He added that Mr. Murphy is also having a copy of the South Berwick ordinance sent to him as they had a few changes and Eliot doesn't know what they are. Mr. Blanchette said that, as soon as they got that, Mr. Murphy was going to review it to see how it conforms to this model ordinance. He said that the ordinance has to go up to the State prior to adoption and added that South Berwick's ordinance had been.

Mr. Fernald said that, for people who do not know, PACE is the Property Assessed Clean Energy Act. He asked Mr. Blanchette if there was anything the Board needed to do with this now.

Mr. Blanchette said no and that it was just informational, at this point. He added that, at some point when the Board decides to have a Special Town Meeting, the Board should put this on the Warrant so that it could be passed by the Town.

Ms. O'Donoghue said that she thought the appropriate thing to do was to let the people decide if they want to enter in to it or not. She added that she had just received a copy of the Property Assessed Clean Energy Administration Contract and there are some items in there that concern her a little under "Municipality's Responsibilities" and she believes it would behoove the Board to get copies of this and review it. She said that page 3, in particular, says "municipality agrees to adopt and implement an education and outreach program so that owners of property are made aware.", but would the Town have to spend money on an education and outreach program. She also read "The municipality agrees to conform its' PACE Program to the requirements contained in the Home Energy Savings Program" and "The municipality agrees to accept PACE funds from the trust and disburse PACE funds." She added that she wanted the Board to be very careful with this.

Mr. Blanchette said that there were two ways to set up the program - one of them would be for the Town to oversee the actual funds and the Town would receive them from the State and the Town would then be the lending authority; the other way would be by ordinance and the State would be directly involved with that by hiring a third party to administer the loan program. He commented that, to the best of his knowledge, the State has not done that.

Ms. O'Donoghue said that this contract does say that the trust does the administration but it also says that the Town has responsibilities that don't blend in with this.

Mr. Murphy said that the guy promoting it on the Energy Committee is very much involved in this and the Chairmen is an expert on this. He added that he was not aware of the contract forms and he would very much like to see that, also. He commented that the Energy Committee is very much in favor of this program and would like to learn that this be made available and voted for by the citizens at the next available Town Meeting.

Ms. O'Donoghue said that she agreed completely but added that the devil is in the details.

#6 TO : Board of Selectmen
FROM : Dan Blanchette
REF : 2nd Reading "Amendment to Personnel Policy"

The Board did not make any changes to the Personnel Policy. Mr. Fernald asked for a motion.

Ms. O'Donoghue moved, second by Mr. Moynahan, to adopt the Amendment to the Personnel Policy regarding the use of equipment and vehicles, as written.

VOTE
3-1
Chair concurs with majority

7:47 PM
#7

TO : Board of Selectmen
FROM : LeRoy Dunkelberger ("Dutch")
REF : Interest to be member of Board, Committee

Mr. Beckert said that, while he wasn't present, he would highly recommend him for the Building Committee, as he was a great asset when he was on the PB. He added that Mr. Dunkelberger has expressed an interest in the Building Committee and they could use him to complete the needed nine members.

Mr. McPherson moved, second by Ms. O'Donoghue, to appoint Mr. Dunkelberger to the Building Committee.

VOTE
4-0
Chair concurs

Mr. Fernald said that he had a letter from Mr. Christopher Place offering his services on the committee for the selection of a new CEO. He clarified that Mr. Moynahan and Ms. Place were part of that committee and asked if there was someone else who had shown interest.

Mr. Moynahan said that he believed that Ms. Janet Sourman has contacted someone at the Town Hall to get a description of the committee.

Mr. Blanchette said that the committee was comprised of him, Mr. Moynahan and Ms. Place and no one else, as of yet, but there was talk at the last meeting of Mr. Place and Ms. Sourman being added.

Ms. O'Donoghue moved, second by Mr. McPherson, to appoint Mr. Place to the CEO Hiring Committee.

Mr. Moynahan said that he just wanted to point out that Mr. Place is Ms. Place's son. He explained that, with one of the last committees the Board had there was a lot of grief given to the relatives. He added that he supported Mr. Place one hundred percent but he just doesn't want people to go after either one of them down the road – it's not warranted.

VOTE
4-0
Chair concurs

Mr. Moynahan moved, second by Ms. O'Donoghue, to appoint Ms. Sourman to the CEO Hiring Committee.

VOTE
4-0
Chair concurs

#8

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

Mr. Blanchette clarified that the question marks beside certain dates had to be either approved or disapproved.

Ms. O'Donoghue moved, second by Ms. Place, to accept the Holiday Schedule, as written.

VOTE
4-0
Chair concurs

7:53 PM

#9 TO : Board of Selectmen
FROM : Jim Marchese
REF : Resignation from Sewer Contract Negotiation Committee

Ms. O'Donoghue moved, second by Ms. Place, to accept, with great regret, the resignation by Jim Marchese from the Sewer Contract Committee.

VOTE
4-0
Chair concurs

#10 TO : Board of Selectmen
FROM: John P. Dougherty
REF : Silva Dock Modification Proposal

Mr. Fernald said that this was a letter in support of Mr. Norton's Garage, saying he supports it as a home business, that no more than four vehicles be allowed on the street in front of the garage and that the four-vehicle limit should, in no way, apply to any vehicles screened from the street.

This letter was informational.

#11 TO : Board of Selectmen
FROM: Dan Blanchette
REF : Interest Rate for overpayment of taxes (abated taxes)

Mr. Blanchette explained that this was for overpayment of taxes that the Board had to set an interest rate for. He said that Town Meeting gives the Board that authority under Article 26 to vote to authorize the Board of Selectmen to set an interest rate to be paid on abated taxes. He clarified that they could not be any higher than what was being charged for unpaid taxes and they could not go any lower than 4% of that. He added that they could go between 3% and 7% and reminded them that they were paying it out.

Mr. Moynahan moved, second by Ms. O'Donoghue, to charge a 3% interest rate on abated taxes.

VOTE
4-0
Chair concurs

Ms. O'Donoghue said that she noticed that the developers on Old Farm Lane received a lot of abatements in the past when the case was under court contest and she wanted to know if that has since been changed because they now have 13 building lots and they are building like crazy. She clarified that she wanted to make sure they were not still receiving the tax abatement.

Mr. Blanchette said that they were not.

#12 TO : Board of Selectmen
FROM: Dan Blanchette
REF : Statewide Building Code goes into effect December 1

This was informational.

7:57 PM Mr. Hirst commented that it occurred to him that, if the Board sent $200,000 to Florida for the fire truck, then the Board only has the protection of the contract that says they will deliver it. He said that, normally, they don't have such a large Town payment and asked if the Board felt the contract was sufficient protection or ask E-One? for a material bond to assure they would actually deliver the truck.

Mr. Fernald asked Mr. Blanchette if they had ever done that before.

Mr. Blanchette said he didn't think so but they have never put out that large a payment.

Mr. Fernald said that that should be something the Board should address.

BOARD OF SELECTMEN'S MEETING
October 14, 2010 6:30PM (continued)

Selectmen's Report:

Mr. Moynahan said that he would like to ask the Board if they would be willing to participate with the Boy Scouts having a group come in to attend the first portion of a meeting and have a tour of the Town Hall, which is all part of them earning badges, as well as having a couple of Board members guide them.

The Board was very much in favor of this and Mr. Fernald and Ms. Place volunteered to help with this.

Ms. O'Donoghue said that she went to the regional EMA Hurricane Training Exercise, saying that it was very interesting, and that some of the things she learned were eye-opening as far as what could happen and what could have happened if Earl had moved closer. She said that, apparently, the Town is supposed to have an ordinance on emergency management and they don't. She added that she has a copy of Wells' ordinance, which is called Civil Emergency Preparedness. She added that she was asked if the Town has a current contract for emergency management with the County, the State, the Red Cross, etc. Ms. O'Donoghue said that she had no idea that there was supposed to be an ordinance but she was bringing it up.

Mr. Fernald suggested the Board sit down with Mr. Muzeroll about this.

Ms. O'Donoghue said that, Bob Bohman (County Director) has said that he would be more than happy to come down to talk with them.

Mr. Fernald suggested that Mr. Bohman first talk with Mr. Muzeroll to find out if the Town does have some of these things.

Mr. Murphy said that he thinks they do have such an ordinance – kind of like a disaster response ordinance and he has seen copies of it out there, which were dated in the early 80's or late 70's.

Mr. Blanchette agreed that there was something out there but he wasn't sure it was an ordinance – it was a disaster plan, he thought, that was adopted by the BOS.

Ms. O'Donoghue said that she would recommend, if the Board agreed, to ask Mr. Bohman to come down, at some point to talk to the Board, to fill them in one what is required for the Town to be in full compliance with everything.

Mr. Fernald reiterated that he would like to talk with Mr. Muzeroll, first, to find out what is and is not in place then have Mr. Bohman come down.

Mr. Moynahan said that he thought it made sense to have the Director talk with Mr. Muzeroll first.

Ms. O'Donoghue said that Mr. Muzeroll has kept her up-to-date on what the Town has and she believes they are in good shape. She added that her concern was the requirement for an ordinance and she thinks they need to know if that is so and why.

The Board agreed to have a workshop with Mr. Bohman and Mr. Muzeroll.

Ms. Place said that Mt. Atwood would be coming in to talk with Mr. Blanchette about the Comcast negotiations and would most likely be on the next Board meeting agenda.

8:10 PM
Executive Session

Mr. Moynahan moved, second by Ms. Place, to enter into executive session as allowed by 1 M.R.S.A. Section 405 (6)(A) "Discussion…or complaints against a person or persons subject to…"

VOTE
4-0
Chair concurs

8:32 PM Out of executive session.

8:33 PM Mr. Moynahan moved, second by Ms. Place, that there be a six-month period where Mr. Bennett is not allowed to attend any Town-sponsored functions, trips, or events, as of October 14, 2010.

VOTE
4-0
Chair concurs

Mr. Fernald explained to Mr. Bennett that he was banned from any Town functions for six months and, at the end of that time, the Town would review again the situation.

Ms. O'Donoghue said that, perhaps, they could get a report from the therapist, as well. She commented to Mr. Bennett that he should be encouraged that the therapy seems to be working, so keep at it and it will work.

Other Business as Needed

There was no other business.

Adjourn

There was a motion and a second to adjourn the meeting at 8:35 PM.

VOTE
4-0
Chair concurs

_____ _____

DATE **Roberta Place, Secretary**