

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

Quorum noted

6:30 PM: Meeting called to order by Chairwoman O'Donoghue. She welcomed the newest Board members, Orland McPherson and Roland Fernald, and talked appreciatively of the extensive experience and much needed help they bring to this Board.

Roll Call: All present.

Pledge of Allegiance recited

Moment of Silence observed

Executive Session

6:34 PM Motion by Mr. Fernald, seconded by Mr. Moynahan, to enter into Executive Session as allowed by 1 MRSA Section 405.6.E "Consultations between a body or agency and its attorney..."

VOTE

2-0

Chair concurs

7:15 PM Out of Executive Session

Motion by Mr. Moynahan, seconded by Mr. Fernald, to allow the Town attorney and Code Enforcement Officer to proceed with the CK Landscaping Consent Agreement process and to allow the Town attorney to proceed with legal proceedings with CK Landscaping.

VOTE

2-0

Chair concurs

Approval of Minutes of Previous Meeting(s)

7:17 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of December 10, as written.

VOTE

2-2 abstained

Chair concurs with approval

Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of December 15, as written.

VOTE

2-2 abstained

Chair concurs with approval

Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of December 29, as written.

VOTE

2-2 abstained

Chair concurs with approval

Public Comment:

7:19 PM The Chair recognized Mr. Sinden

Mr. Sinden said that at 7PM next Wednesday at the courthouse the York County Budget Committee will be meeting in a somewhat unusual session. He explained that the committee sent out an invitation to all the towns asking all the town managers, municipal officers, etc. to come and share their recent experiences with County services since the cutbacks. He asked if the Town had received correspondence from Chairman Sylvester.

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Dan Blanchette answered in the affirmative and said that he believed that was Correspondence #12 on tonight's agenda.

Mr. Sinden said that he thinks it is critically important that someone from Eliot attend but, beforehand, please speak with Chief Short, the Assessor, the Tax Collector, all of the people who have to deal with the cuts in services. He explained that what is at issue is the current budget on the table that is lower than last year's following the cuts. He said that it will restore what they feel is a reasonable level of service. He further said that, to do that, it will mean an approximate 10.3% increase for municipalities. He commented that Records and Deeds would be reduced from 13 employees to 6, so the turnaround time on any change has gone from approximately two weeks towards nine and ten weeks. He discussed their concern for that kind of load on so few workers and, as fatigue sets in, they would be losing the employees that they have. He added that the same thing is true in the District Attorney's Office, as there are not enough people to prosecute cases. Mr. Sinden asked that Eliot bring a message of what they can live with in terms of services.

The Chair reiterated that this was on the agenda tonight. She said that the Board does want to discuss this in some detail and hoped Mr. Sinden would stay.

Mr. Sinden, talking to another subject, said that this past weekend he had been going through a lot of the math on the TIF and he noticed that, in the first two years, there is no tax shift benefit and he hadn't realized that. He added that he took that to mean that that money received into the TIF District really will reflect payment to the schools and the county. He said that it wasn't until the third year that the Town received the tax shelter benefit and asked that the Board be aware of how much TIF money is actually available to spend. He added that he wasn't so much concerned with the vote just taken but did not want to overspend that account.

7:25 PM The Chair recognized Mike Pearson.

Mike Pearson said that he knew he was on the agenda but wanted to make sure the Board received the packet that he put together for Paul White.

The Chair agreed that the Board had received the packet.

Mr. Pearson said that he saw a misstatement regarding cleaning on a semi-annual basis, which came from Ted Berry's report. He clarified that he had not talked with Ken Wood about it because he had not gotten that paperwork until December 15th so had no time to do that. He added that, looking at 31 October through November 11, the readings that are there are higher than when he came to the Board two years ago. Mr. Pearson said that there is information in there that shows that once they cleaned that line those numbers decreased dramatically, in fact, almost to the safe range. He added that the last part of the package that he gave the Board tells what those ranges are. Mr. Pearson said that he did not want to belabor the point and did not want to stick around and asked why, with an acting sewer superintendant and a knowledgeable CEO, a citizen of Eliot is bringing this to the Board's attention in January when these numbers have been around since November.

7:27 PM The Chair asked Ken Wood to speak to that.

Ken Wood said that he saw the same readings that Mr. Pearson saw. He added that the Ted Berry report suggested cleaning every six months and that Ted Berry also sent us a proposal that suggested cleaning annually. He added that he had talk with Matt Timberlake yesterday and he suggested that, because we do have quite a bit of grease mitigation, it be cleaned annually. He discussed coordinating the cleaning with Red Berry, Morgridge and the Kittery Sewer Department and that cleaning should take place in the next month or two. He explained that the first time the line was cleaned, it had not been cleaned in 24 years and had quite a slime layer built up, which has anaerobic bacteria that leads to the production of

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hydrogen sulfide gas. He added that it was cleaned about a year ago so let's see what happens when we clean it. He said that he would be glad to tell Mr. Pearson when the line is cleaned, if he wanted to come by. Mr. Wood said that he has never smelled the odor and would like to investigate that himself, so would appreciate a phone call when the odor is noticed so that he might be able to pinpoint it. He added that they are not sure the issue is just a Commons issue but Mr. Forsley is still committed to resolving the issue if it is found that the Commons is generating the problem. He said that, if that is not the case, they are still committed to assisting the Town and especially these homeowners that have the odor issue in trying to pinpoint what it is.

The Chair said that it seemed to her that, once the system was cleaned, the odor did diminish. She asked if it was possible to have it cleaned more frequently.

Mr. Wood suggested finding out how much of a slime layer reestablished itself over the past 12 months before answering that question. He said that the Commons is removing just about 100% of the grease from all the kitchen-generated grease facilities. He added that the only people left on that line that could be generating grease is Baran Place and that they want to talk to Baran Place about the possibility of installing a septic solids handling tank, like the 3,000-gallon tank they installed at the Commons to remove any grease. He added that he would be glad to report back to the Board and, certainly, Mr. Pearson to inform them of what the establishment of that slime layer was.

The Chair asked Mr. Pearson if he had called the CEO when he smelled the odor.

Mr. Pearson said that he had not, as he was trying to give this a chance to work and the odor is sporadic. He clarified that it isn't something that happens every day or all day but one might smell it as the school bus picks up the kids in the morning and in the afternoon with the school bus. He added that he knows that Ralph Robertson has called the CEO in conjunction with the odor. He said that, after what he went through 1½ years ago, he wanted some documentation that there was, in fact, a problem that was being created and not something he imagined. He added that, when he got the readings and saw some of them at 450 levels, which were not even that after the stuff they went through 1½ years ago, that told him that something is still going wrong.

The Chair said that she would really like him to call when this is happening so that they know.

Mr. Pearson commented that the Town has two employees that are already tasked with dealing with this. He said that he was at the meetings where the Board, when Mr. Murphy was the Chair, voted to task those two employees. He added that it was his understanding in discussions even after the TIF approval from every member on the Board that you would follow up and something would be done. He said that when he talked with the CEO nothing had been done and these numbers were in force and that told him that he still needed to be the point guy, which is not the role he wanted to keep playing.

7:31 PM

Mr. Moynahan said that Mr. Pearson made a good point. He added that it may be a year too late but now would be the time to create a protocol that when these readings are taken and there are high levels there needs to be an action plan put in play, whether it is communication with the superintendent or CEO down to the Commons and actually have an action plan as opposed to just taking readings and not doing anything. He said that he thinks that needs to be directed somewhere.

Mr. Wood said that the best thing, in a perfect world, would be if Mr. Pearson was home, smelled the odor and called me and Paul White and the three of them went down and smelled it. He added that, as Mr. Pearson said, those readings could peak at 12AM so it would be best if we could just go down there and smell the odor.

Mr. Fernald asked what he would get by going down there and smelling the odor.

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Mr. Wood said that he would like to know where the odor is coming from, that he is still not convinced that it is from our system or our outfall. He added that Mr. Pearson lives quite a distance from where the outfall is on the top of Bolt Hill Road. He said that they had spoken to most of the residents in the area of the manhole and the residents with the biggest concerns are Mr. Pearson, Mr. Robinson and Brian McClellan and they all quite a distance away from the manhole. He clarified that he would think that, if the problems are coming out of the manhole, then the odor would be strongest at the manhole and then it would dissipate as one gets to where these residents live and he does not believe that is what is happening. Mr. Wood said that they had met with the residents last spring, as well as representatives of the sewer district, and even Steve Tapley (superintendent at the time), could come up with a solution on whether it was the Commons system. Mr. Tapley had a theory that there was a sag in the line as one goes farther down towards Main Street and that might be it, or it might be a storm event that creates a lot inflow and infiltration causing the peak in the readings. He added that he would like the answer, for himself, as well, and would really like to smell the odor, himself, and smell what Mr. Pearson smells where he lives and have him walk with us, if he is willing to do so, up towards where the manhole is. He commented that, hopefully, the more information they have will lead them to a solution.

Mr. Fernald commented that, in all the calls the Town has had from residents, by the time they got down there the smell was gone.

Mr. Wood agreed. He said that the readings are very high but in a concentrated manhole and that is where the Gerome Analyzer is. He suggested that they might want to put the analyzer at Mr. Pearson's house to see what he is getting for readings.

Mr. Pearson said that back two years ago, when we went through all the readings with the analyzer, they were put at different manholes almost down to Ernie Paul's house. He added that it was determined then that the highest reading came from the Bolt Hill manhole, not all the way down the line.

Mr. Wood agreed.

Mr. Pearson said that the odor isn't so much at his house but where the kids get on the school bus, which is up by Hickory Lane. He reiterated his concern that we still have children at 6:45 AM getting on the school bus that are being exposed to these sulfides and this has been going on since 1998.

Mr. Wood suggested they might install an analyzer at that location for a couple of weeks or a month and see what happens.

Nancy Shapleigh suggested that, until they find a solution to the problem, they should, perhaps, work with the school superintendent to get the bus stop put in another area for the safety of the children.

Gary Sinden commented that relying on smell is such an individual scent. He said that we know have empirical means to measure the gas question and believes they should rely on empirical data rather than someone's perception. He said that when one is outside the concentrated source, a car driving by would pick up enough disturbance in the air to dissipate. He said that, regarding the levels, 4 ppm is really the threshold for changes in the metabolism and anything above 30 in a concentrated area is lethal, so 400 ppm is off the scale. He clarified that he isn't suggesting it is 400 ppm outside of the manhole, but is it 30, is it 20, is it below 4. He said that they don't know that and it is a dangerous situation.

Ms. Place clarified that these high readings may not necessarily coincide with the odor being smelled.

Mr. Wood said that he did not know.

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7:40 PM Mr. Pearson said that he did not know. He added that, when he first approached the Board with this almost two years ago, he had read a newspaper article (2007) about sewer going in on Rt. 236 and was concerned that, with the situation we had at that time and what we had endured in the area of Bolt Hill Road and State Road since 1998 – with the complaints that would come and the deaf ears they had fallen on – he was going to take some action. He said that one of the steps taken was to put the Gerome Meter, which reads different gases within the manhole, and it turned out that the manhole was producing very high levels of the gas H₂S or hydrogen sulfide and is like a rotten egg smell. He discussed how very hazardous that gas can be in concentrated areas. As an example, he said that if one ever goes by an area where someone is working on a phone line or anything down in a manhole and one sees that big hose that's pushed in there, that he had always assumed it was for air conditioning in the summer or heat in the winter, but what is actually happening is that they are pumping air in there so the guys working down there are not asphyxiated by the gases. He added that he isn't saying it is the lethal 400 number and, in fact, when he came to the Board two years ago after all the testing, the number was around 250. He said that then the line was cleaned and the numbers dropped to between a low of 2 or 3 and a high of 40. He further said that now the numbers are back up in the 200-400 range. He did clarify it wasn't always at the higher number but every one of those days it was above 50. He said that it has hit high numbers and that's the only way he could ascertain that it is not a nose thing because H₂S actually makes ones sensory capabilities become inactive over a period of time.

The Chair said that Mr. Moynahan had suggested coming up with a protocol that the CEO and sewer department could follow and asked what the Board's feeling was on that idea.

The Board agreed. Mr. Moynahan and Mr. Fernald agreed to develop a protocol plan.

Mary Fournier discussed her concern for this issue and asked if some of the funds just approved for engineering studies might be used for this situation. She said that she thought the protocol plan was a good idea but that this situation sounded very urgent and has been going on for a long time and urged the Board to look at this problem as quickly and as efficiently as possible.

The Chair asked if there were any other public comments.

7:43 PM Mary Fournier said that she knew the Board was going into executive session later on tonight and asked if the Board could give the public a general idea what that was about.

The Chair said that those executive sessions are in strict confidence. She added that when the Board comes out of executive session, if there is a motion or discussion, then that is done in the open meeting.

Mary Fournier raised her concern for what Central Maine Power Company and Public Service of New Hampshire might be building in Town this year and how that might impact the health and safety of Town citizens. She urged the Board to have public hearings to give citizens information to make informed decisions.

The Chair recognized Ms. Fournier's concerns, agreed she had a good idea and that the Board would discuss it.

Department Head/Committees Reports

7:47 PM Jay Muzeroll, Fire Department Chief, said that he still has two fire trucks that need to be disposed of. He added that he has tried local means of advertising with no good results. He would like, with the Board's permission, to advertise nationally to get a bit more money for the trucks.

The Board had no objections.

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Mr. Muzeroll discussed the timeliness issue of the ambulance. He said that, considering what the driver was up against and the actual times, not the information that was given to the people who had concern, it took a little over 16 minutes for the ambulance to arrive at the location and that time was not unreasonable. He discussed that a normal driving time with no traffic and going the speed limit would be 12 minutes and the particular night in question there was a snowstorm and they were driving to an unfamiliar area in terms of address data available. He said that he, the CEO, the Police Chief and a dispatch center representative have worked out one of the reasons why some data was not updated and that updating will now be done on a continual basis. He added that he has also spoken with Russ Sylvester from Cole Brown Estates and will have an informational meeting with the residents down there to address some of the issues he included on the second page of his letter to the Board. He said that community education very often takes care of a lot of questions.

The Board thanked Fire Chief Muzeroll for his report and his community efforts.

7:57 PM

Mr. Blanchette discussed that, a little over a year ago, the Chairman and he were appointed as a committee to work with Maine Power Options (MPO) to see about cheaper energy rates. He said that they had signed a contract for some of the buildings of the Town and that contract is going to be up at the end of this year. He added that Maine Power Options is doing a schedule and the second page on what the Town is currently paying shows .089 and MPO is offering .0678 for an 11-month contract or .0715 for a 23-month contract. He clarified that, in the past, the Board had given the authority to the Chair and him to take care of this and the reason is because we usually only get a one- or two-day notice. He said that this current offer is only good until tomorrow Friday at 3:30 PM and he got it early this morning. He commented that it happens that the Board can view it simply because the Board is meeting. Mr. Blanchette said that, next week, there will be a bid offer to continue contracts ending in December 2010, of which our contract is one of them. He added that, if the figures come in favorably next week the Board would have to make a decision on whether they would, or not, extend that contract for another year or two. He reiterated that the Board authorized him and the Chair as a subcommittee to go ahead and make the decision. He said that he thinks the Board needs to take a stand on whether they want that subcommittee to continue or enlarge it or however the Board wants to do it.

7:55 PM

Mr. Fernald moved, seconded by Mr. McPherson, that the Chair and Dan Blanchette take care of the situation.

The Chair said that it has been moved and seconded that the subcommittee remain the way it is for this issue only and asked if there was any further discussion.

There was none.

VOTE

4-0

Chair concurs

The Chair invited Jim Atwood to give an update and said that, not only are we looking into community access, but also coming up for our regular franchise contract.

Mr. Atwood, Community TV Committee Head, agreed and said that his committee has had two meetings since the last time he met with the Board. He added that he is now the official chairman and that they have had more people attend, with one expressing an interest in joining. He said that they need permission to meet with Attorney Sculley at their next meeting, which is February 10, to mail out the bargaining points and draft the letter the Board needs to sign to get the negotiation process in place. He added that they have a list of strategies of what we want and they need to put that together with Mr. Sculley to make sure everything is proper. Mr. Atwood said that they have about \$4,500 left in their budget. He added that they needed to put together a new budget and need to meet with Mr. Sculley before that to calculate what they would be negotiating for for

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revenues to be collected by the Town for the franchise to cover the expenses of a public access channel. He said that they hope to put that together next month, get the letter back to this Board so that the Board can take action, iron out any wrinkles, then get the negotiations really going in April.

The Chair clarified that the committee would be starting negotiations with Comcast in April.

Mr. Atwood agreed.

The Chair asked for any comments from the Board.

Mr. Fernald clarified that the committee does have the money in their budget for the attorney.

Mr. Atwood said that they have \$4,500 that has been carried over from previous years that was appropriated by the Town.

Mr. Fernald suggested being careful, as that amount could be eaten up quite quickly.

Mr. Atwood agreed and said that they need at least one meeting to do this right and may have to have one more to clean up any wrinkles. He added that a lot depends on whether Comcast agrees to talk with them in a compatible manner or not. He said that one thing brought up last night at their meeting was to have the Board check to see if Comcast has been in compliance with their insurance policy with the present contract, whether they have maintained their insurance contract.

8:02 PM

Mr. Fernald moved, seconded by Mr. Moynahan, to allow the Community TV Committee talk with their attorney, staying within their budget.

VOTE

4-0

Chair concurs

The Board thanked Mr. Atwood for his efforts and accomplishments.

Bill Shapleigh, Highway Department, asked if the Board would consider moving #5 up on the agenda for discussion.

The Board agreed.

Mr. Shapleigh said that they would like to discuss the overtime policy. He said that the main concern is that, if they have to work holidays, then they only get straight time. They feel they should get time and a half and he tends to think so, too.

Mr. Moynahan said that he agreed and believes the police department does that, as well. He added that this was an oversight and never really looked at what employees would be doing on those days. He said that employees should be compensated time and a half when they work on holidays. He added that the wording in the policy was strictly to include the holidays in a regular time to eliminate misuse, not actual work done on those days. He said that he believes they need to change the policy to reflect that.

Mr. Fernald said that he agreed with Mr. Moynahan and that the Highway Department is the only one affected, as far as he was aware, as the Police Department is within a union contract and not part of this policy. He clarified that he believes a change in this policy requires three meetings, the first to make the change, the second to review the change and the third to do one more reading and take a vote.

David Oeser commented that he would personally like to see the policy go back to the way it was before the changes.

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Mr. Roy agreed.

David Oeser discussed other issues with the policy. He said that if one takes a sick day or vacation day, then one has to make that time up before starting to get overtime pay. He added that, as hard as the Highway Department employees work to keep the roads clear in the winter, he does not believe that is fair. He said that one can get very tired or even ill after working 20 or 30 hours straight and, if one takes a day off, then one is being punished again by having to make up that time as straight time. He said that he believes they all do a good job and reiterated that the policy should stay as it has been.

Mr. McPherson commented that, having been a supervisor for these fellows, he knows the work they do. He said that he doesn't know the reason why the policy was changed but the old policy worked great. He added that they have never been compensated for being around on a weekend just in case they were needed. He said that, if there is a bad weather report, every one of them is around and, if road conditions warrant it, they have the trucks out within 30 minutes. Mr. McPherson said that he believes it was a good policy, that everyone benefitted and he would like it to go back to the policy it was.

The Chair asked for comments from the Board.

Mr. Moynahan said that the Board had several meetings on the policy changes but that the holidays certainly need to be readdressed.

Wendy Rawski, Town Clerk, said that she felt strongly that the overtime policy changes do have a negative impact, clarifying that the changes did not impact the clerk's office nearly as much as the highway department. Using herself as an example of the impact, if she is on a busy election schedule and has an emergency in that same week that she has to take sick time or vacation time to deal with and is out for 8 or 12 hours in a week, then have a hectic schedule at the end of that work week, such as a scheduled election that is off her normal routine, then to have that overtime be taken away when it is work time not done during her normal schedule, that does have an impact. She added that those benefits, such as sick time, vacation time, comp time, are benefits that were given with employment and the clerks in the Town office feel the same way the Highway Department does.

8:10 PM The Chair clarified that she believes the changes were made because there was some confusion in the actual wording of the old contract and left itself open to abuse.

Mr. McPherson moved, seconded by Mr. Fernald, to have a first hearing at the next Board of Selectmen meeting on proposed language changes to the Town Overtime Policy.

VOTE

3-1

Chair concurs with the majority

Mr. Fernald will write a draft change for the Board's review.

Old Business (Action List):

8:12 PM Carried over from October 8th BOS meeting

A. Job Review Forms

Mr. Moynahan said that Mr. White has a number of things ready for the Board's review and they should schedule a time to meet with him for that review. He suggested they get together prior to their next scheduled meeting.

The Board agreed to meet at 5:30 PM on January 28, 2010.

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B. Road Commissioner Job Description

Mr. Moynahan said that they are still working on this.

B. Business Registration Ordinance

The Chair requested that the Board members review the proposed ordinance and, especially, the Business Development Committee's comments and be prepared to discuss.

Carried over from November 12th and 24th BOS meetings

D. Use of Town Vehicles

The Chair commented that this issue has been coming up and had asked it be tabled until there was a full Board. She said that this is something the Board needs to look at closely again. She added that the Board did allow for some of the use to continue as a direct result of employment hiring and not by this Board.

Mr. Fernald clarified that the Board created a policy indicating that vehicles would remain in Town.

The Chair clarified that vehicles would not go further than abutting towns.

Mr. Fernald commented that many times, particularly in a police situation, when people are hired there are things talked about within the hiring session where those things come up.

The Chair agreed and that is why they continued the present use.

Mr. Fernald clarified that it is not retroactive.

The Chair agreed and said that the Board still needed to make some final decision on the policy.

Mr. Moynahan clarified that the policy change was for the Road Commissioner, the Police Chief, or their designees to be able to take their vehicles to and from work as long as they lived in Eliot or an abutting town. He said that they did not make it retroactive so the people currently using those vehicles they did not take that away, as that opened up more issues with the union. He added that any new hires will follow the new guidelines.

Mr. Sinden clarified that that was the final determination of this Board.

She agreed that it was.

Mr. Sinden commented that he did not remember the Board doing that but that they decided to wait until there was a full Board to decide whether they would allow the status quo to continue. He said that, right now, the policy is that only the Road Commissioner and the Police Chief can take a vehicle home. He added that he believed they had to address the issue of these other two people going to Falmouth and Scarborough with the cars and the Board has to either allow that or say the policy is the policy because, right now, they are out of policy for doing that.

Mr. Fernald clarified that the Board voted on a policy.

Mr. Moynahan agreed and clarified that, when the Board met with the Police Chief, it was asked if the policy was retroactive and he was told that it was not retroactive, at that point, so he is operating under the same manner that he always did with those two people having the use of those two vehicles.

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It was clarified that what was not voted on was whether to make the policy retroactive and that is what needed to be addressed.

Mr. McPherson said that, even though he can't speak for the Police Chief, he has talked with him and he thinks the situation has been resolved or mostly resolved and suggested the Board talk with the Police Chief directly. He added that he agreed the Board needed to relook at the policy because there was no saying where the next road commissioner might live.

Mr. Moynahan clarified that the Board had requested information from their Town attorney on whether the Board was doing something in err if the Board were to force current employees to not use the cars and were told that they would be in err so they decided to let it stay status quo until new employees got in.

E. Cable TV Committee Report

Discussed earlier in tonight's meeting.

F. Police Contract – any update

Mr. Moynahan said that they met December 22nd and they had a good conversation. He added that they will meet again once there is more information on the budget.

G. Fire Chief – ambulance response time

Discussed earlier in tonight's meeting.

8:20 PM H. Job Description for Web Master

David Emery said that they have a draft written and submitted.

The Chair said that the Board would review it for the next meeting and thanked David Emery very much for his efforts.

8:22 PM I. Posting Minutes on Website Emergency Management Contact Published

The Chair said that posting minutes on the Town website recently came up and that she has talked with Wendy Rawski about this. She believes that, if the Board agrees, having the Board's minutes posted would be good, as people have been asking for that. She said that posting emergency management contact information and protocol was brought up at the Candidate's Night, She added that several people expressed concern that they don't know what the protocol is in the event of any major emergency in Town, such as where to go or who to call. She also suggested putting a tear-out in the Community Service Department mailing, if that would be possible, as that goes to every household. She said that the Emergency Management Committee has tried very hard to get the word out but, somehow, it is still not getting out.

New Business (Correspondence List):

NOTE: One Board member was out of the room for the next three votes.

8:23 PM

#1 TO : Board of Selectmen
FROM : Robert Pierce
REF : Resignation from Board of Appeals

Mr. Moynahan moved, seconded by Ms. Place, to accept Robert Pierce's resignation, with regret.

Mr. Fernald said that he wished Mr. Pierce was present, as he not only has done a lot for the community, but for the Town government, the school system,

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community service – he has touched everything and Mr. Fernald is sorry to see him leave.

VOTE
3-0
Chair concurs

8:25 PM
#2

TO : Board of Selectmen
FROM : Jeff Cutting
REF : Request to be moved from Alternate to Regular Member on BOA

Mr. Moynahan moved, seconded by Mr. Fernald, to appoint Jeff Cutting as a regular member to the Board of Appeals.

VOTE
3-0
Chair concurs

#3

TO : Board of Selectmen
FROM : John Marshall
REF : Request to be appointed to the BOA

John Marshall was present.

Mr. Fernald moved, seconded by Ms. Place, to appoint John Marshall as an alternate member to the Board of Appeals.

VOTE
3-0
Chair concurs

8:27 PM
#4

TO : Board of Selectmen
FROM : Shannon Darr
REF : Health Officer on Safety Committee

The Chair commented that the Town now has a Safety Committee and it was mentioned that the Health Officer would be a great addition to this committee. The Health Officer was asked and she has submitted a request for appointment to that committee.

Mr. Fernald moved, seconded by Ms. Place, to appoint Sharon Darr as a member to the Safety Committee.

VOTE
4-0
Chair concurs

The Chair welcomed Ms. Darr to the committee and commented that it was a mistake not to ask her earlier, as she will make a valuable addition.

Ms. Darr asked if the Board would like an update as Health Officer, as she wasn't sure she should report as a department head.

The Chair said that they would welcome an update.

Ms. Darr said her focus for February is heart-healthy behaviors and one of the things she will be doing, with Ms. Rawski's help, is posting on the Town website one tip a day from 28 Ways to Stay Heart Healthy. She added that she has talked with Candace Noble at length about the extensive programs Ms. Noble has done for people who work for the Town and, as Ms. Noble will not be able to continue this programming and not wanting to reinvent the wheel, Ms. Darr would like to extend that programming for stress and weight management and other heart-healthy behaviors. She said that she also wants to create a questionnaire to assess knowledge and participation in healthy behaviors, which she would invite everyone to take part in but that her focus is on the Fire Department. Ms. Darr said that an issue came up recently and she isn't sure how she would like to address it but the Town does need to address substance abuse in the high school. She added that it has become quite evident that the substance abuse rate at

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Marshwood High has become quite high, especially in light of the drunk driving accident that happened last year; she feels this really needs to be addressed. Ms. Darr said that substance abuse in this age group is costly to any community.

Mr. Moynahan said that the high school principle has just started a program and asked if Ms. Darr knew of that.

8:34 PM

Ms. Darr said that she just received an email and that she wants to get more details. She added that she wants to piggyback on anything they are doing and make sure we aren't paying lip service to this issue but really addressing it because it is a significant issue.

The Chair commented that this was an extremely appropriate issue for Ms. Darr to be involved in.

Ms. Darr agreed, as it impacts every aspect of health.

The Chair asked if Ms. Darr would be working with the police.

Ms. Darr said yes but felt it was important to not just involve law enforcement, that these issues needed to be discussed in an atmosphere that was outside the fear of retribution.

The Chair agreed.

Mr. Fernald commented that he believed she was doing a good job getting the position going.

The Chair agreed.

#5

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Request from Highway Employees to meet with the Board

Discussed earlier in tonight's meeting.

#6

TO : Board of Selectmen
FROM : Dan Blanchette
REF : York County Advocacy Group

8:36 PM

The Chair said that this group is trying to work with all the towns in York County and our legislators because there is a sense that things don't always get turned toward southern Maine; that things get accomplished further up in the State but don't get down here and the need to have a voice in Augusta. She added that one of the things this group is suggesting is that a professional person be employed to advocate to the State government. She said the cost to Eliot would be \$245 a year.

Mr. Fernald clarified that that was the responsibility of our elected representatives.

The Chair agreed but that some feel the representatives don't pass on what the people want them to pass on to Augusta.

Mr. Fernald suggested that the Board have the representatives in and express the people's concerns around that.

The Chair agreed they could do that and added that one town could do that but many towns together make much more sense and this does include all the towns in York County, not just Eliot.

8:38 PM

Mr. Sinden said that he tended to agree with Mr. Fernald. He commented that a problem with large-group lobbying is that, once the lobbyist is hired, then at what point does the group start to disagree with each other or what may be good for Biddeford may not be good for Eliot. He was also concerned with the group

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voting for the majority vote issue even if it were to harm Eliot. Mr. Sinden said that happened to York County because the Maine County Commissioner's Association hired a lobbyist about two years ago and, based on the desires of the majority of the counties, the lobbyist worked very hard on the jail consolidation bill, which cost York County at least a million dollars and shifting our tax dollars to the State prison system. He added that, not only did it not help York County, it harmed York County directly and, yet, it was done with York County lobbying money. He said that, at that time, it cost \$8,000 per year for all counties equally and now they want to impose higher annual dues on wealthier counties, with York County going to \$24,000 per year and some of the smaller counties dues dropping. He said that he thinks it's always best to start the lobbying with your own representative and, if the cause is just, the message will get out quite effectively, as it did with their efforts around Mr. Nash's bill.

The Chair commented that the Eliot Representative, Sally Lewin, has attended every meeting about this and is in favor of it. She asked if Mr. Blanchette, who has attended these meetings, would like to comment.

Mr. Blanchette said that he believes some good can come out of it when you are one group that comes to the table with a single voice. He added that there is a problem when the group has to vote on things and prioritize and what is a priority may not be a priority for Eliot. He also said that the items voted on at the last meeting after we left were not things that were a priority to Eliot, as Eliot wanted the bridges and that has never made the list.

Mr. Fernald asked who, in this situation, would represent Eliot.

The Chair said that the Board would choose and, right now, it has been her and Mr. Blanchette.

Mr. Fernald commented that it would be better to choose a single entity or than someone on that could be on this Board and how, as a Town, convey to that entity what the Town wants them to lobby for.

The Chair said that would be through the representative.

Mr. Fernald commented that it then should be the representative that actually represents the Town.

Mr. Moynahan suggested the Board take no action on this and move forward with Board business.

It was the consensus of the Board to take no action on this.

#7 TO : Board of Selectmen
FROM: Comcast
REF : Price Adjustments

The Chair said this was strictly informational.

8:41 PM
#8 TO : Board of Selectmen
FROM : Town Clerk, Wendy Rawski
REF : 2010 Town Meeting & Election Schedule

The Chair said that the Town Clerk has some dates for them "setting the following dates as Town Meeting and Election dates for 2010:...", with the Municipal Election/Referendum for Tuesday, June 8th.

Ms. Rawski added that June 8th would also include the Sad #35 District Budget Referendum and State Primary/Referendum Election, as well.

The Chair agreed and said that she noticed Ms. Rawski set the date for the Town Meeting for Saturday, June 12th. She said that she was wondering if the Board was interested in moving that to the evening of June 9th, for the open floor

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meeting. She added that there was lengthy discussion and the survey that was split about half-and-half to keep it on the Saturday or move it to the weeknight because of the conflict with graduation, etc.

Mr. Moynahan commented that the Board has been talking about this for two years so, either they try something or they do not. He said that it makes no difference to him and does not believe they will see any increased turnout whether it's Saturday, Wednesday or a made-up day, that people will show up as they see fit.

Ms. Place said that she believes Saturday is a good idea and added that she thinks they could do a better job advertising, though.

Mr. Fernald said that he was not in favor of changing the date. He added that he doesn't believe it is the day Saturday that is the problem and that they need to look at other ways to get the people to come to Town Meeting.

Mr. McPherson agreed with Mr. Fernald.

8:45 PM

Ms. Rawski commented that a Wednesday evening at that time of year with all the activities and school winding before the Board made a motion to set that officially she would request from the Board the ability to request with the school department to find out if the building would be available that evening. She added that it's getting harder and harder for her to schedule the gym for anything and she actually had quite a time getting everything underway this past Saturday for the Special Election with set-up and breakdown. She explained that she literally had to have Highway in at 6 AM on Saturday to set up and call Highway in at 7 AM on Sunday to break down because the gym is so highly used. She reiterated to keep in mind that the business at the end of the school year might make it difficult to have the gym on a Wednesday night. She also discussed that she would like the Board to entertain the thought of having the elections and Town Meeting at Marshwood Middle School. She said that, from 2005, they have had the elections at Marshwood Middle School and the open town meeting at the Eliot Elementary School. She commented that she is a creature of habit and consistency and believes it should be one or the other. She said that Marshwood Middle School offers more parking and the gym is an open concept, which would be more comfortable in June. She added that she thinks it's confusing for people and recognized it was hard to make everyone happy no matter what location is chosen. She reiterated that she believes consistency is key and that they are trying to streamline the election process and get everybody used to the fact that it is at Marshwood Middle School now.

Mr. Moynahan moved, seconded by Mr. Fernald, to approve the dates as indicated by the Town Clerk for Town Meeting and elections:

Tuesday June 8th: Municipal Election/Referendum, S.A.D #35 District
Budget Referendum and State Primary/Referendum Election;

Marshwood Middle School 8:00 AM to 8:00 PM

Saturday June 12th: Town Meeting

Eliot Elementary School (consider relocating to MMS for consistency)

Opening Ceremonies 6:30 PM/Business Meeting 7:00 PM

Tuesday November 2nd: State of Maine Gubernatorial/ Referendum
Election

Marshwood Middle School 8:00 AM to 8:00 PM

The Board agreed to vote on the election dates and consider relocating the Town Meeting to Marshwood Middle School in a second motion.

VOTE

4-0

Chair concurs

Mr. Moynahan moved, seconded by Ms. Place, to hold the June 12, 2010 Town Meeting at the Marshwood Middle School.

Discussion:

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Mr. Fernald agreed with Ms. Rawski that having the Meeting at the Marshwood Middle School is a good idea, as there is better parking and facility room. He added that over 600 people came out for the Special Election. He commented that, if that many people came out for the Town Meeting, then he would be happy.

Mr. McPherson agreed it was a good idea.

Ms. Place said that she thought it was an excellent idea.

The Chair asked for a show of hands.

VOTE

4-0

Chair concurs

8:49 PM

Ms. Rawski suggested everyone do everything possible to advertise this and, since Dave Ramsey is here from the Portsmouth Herald, that we get those dates and times in those papers as accurately as possible. She clarified that she wasn't picking on Mr. Ramsey but that they rely on the news media heavily for that. Ms. Rawski acknowledged the budget issues but said that the Town Hall really needs a sign showing where they are and that they could put meeting dates on that people would see passing by every day – food for thought.

Ms. Darr commented that June 11 is the graduation date and it would behoove us to remind these graduates that, as they are 18, they can participate. She said that all one would have to do is tell one of them and all of them would know.

Ms. Rawski commented that one of the things she has been very involved in in the past is voter registration drives prior to a primary election. She said that 17-year-olds can vote in a primary as long as they are 18 by the time the November election is held.

#9

TO : Board of Selectmen
FROM : Town Clerk, Wendy Rawski
REF : Fire Dept. Appointments

The Chair said that Ms. Rawski has a request to appoint Jay Muzeroll as Fire Chief and Gerald Moynahan as Assistant Fire Chief.

Mr. McPherson moved, seconded by Mr. Fernald, to appoint Jay Muzeroll as Eliot Fire Chief and Gerald Moynahan as Eliot Assistant Fire Chief.

VOTE

4-0

Chair concurs

#10

TO : Board of Selectmen
FROM : Town Clerk, Wendy Rawski
REF : Approval of Deputy Forest Fire Wardens

Mr. Fernald moved, seconded by Mr. McPherson, to appoint the following firefighters as Deputy Forest Fire Wardens for 2010: Gerald Moynahan, Donald Webber, Jr., Denis Whyte, Kevin Spinney, Jason Cullen.

VOTE

4-0

Chair concurs

8:51 PM

#11

TO : Board of Selectmen
FROM : MSAD #35
REF : Surplus Equipment

The Chair said that the Board has a letter from the school district about surplus equipment that they are willing to donate to the Town.

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Mr. Blanchette said that they wanted to sell the equipment.

The Chair, reading from the letter, "Our available inventory includes 76 item "sets"." and commented that she did not know what half the items were that were listed.

Mr. Fernald suggested that the Board pass this along to the computer committee to review these items and make suggestions to this Board.

The Board agreed.

#12 TO : Board of Selectmen
FROM : County of York
REF : County Charter and Budget

The Chair said that the Board has a letter regarding the possibility of a county charter. She added that she was asked to draft a letter at a prior meeting to tell the county commission how Eliot felt about this and she waited until there was a full Board. She asked for the Board's input.

8:54 PM Mr. Fernald commented that he had mixed feelings and that it seems the commissioners are entertaining something else that would not actually benefit York County. He also commented that it confuses him that the county commissioners, themselves, don't know what their responsibilities are. He added that that is what a county charter does, it points out their responsibilities.

The Chair invited Mr. Sinden to respond.

Mr. Sinden clarified that this issue did not come from the county commissioners but initially started with the Town of Kennebunk. He said that Kennebunk sent their town manager to one of the commissioner's meetings in early November with the suggestion that, as a county, they look at the construction of a charter. He added that the initial concern was the fiscal year they were on, which was a calendar year, and that led to a lot of the problems with the budget and the jail consolidation bill. He said that their budget was already developed for this past year or nearing completion when the jail consolidation rules were being finalized. He said that every other entity was able to adjust but it was too late for them. Mr. Sinden said that, from there, a lot of the towns said it would be good to establish a charter commission for clarity. He said that the commissioners are fine without a charter if that is what the towns want and their first action was to poll the towns by way of the letter to see what the feelings were within the towns. He added that the commissioners have no agenda and have enough on their plate to address already, particularly working with Augusta to get this onerous jail consolidation situation straightened out. He said that the commissioners just want the feedback and, so far, there have been no negative responses. He added that they want the true sense of the Board.

The Chair confirmed that they are still on the calendar year and that everyone else is on a fiscal year. She asked if they needed a charter to change that.

Mr. Sinden said not necessarily. He added that a charter would make things like this easier to address. He said that it also provides answers to questions that come up and gave an example. He explained that the budget committee is 15 members if it is full, which hasn't been full in memory, as it is such a routine thing and very few people volunteer. He added that it is made up, generally, of three people from each of the five districts, two elected members and one citizen-at-large. He commented that, with all the fiscal problems this year, many people came out and it was filled up immediately. He added that, however, shortly after it was finalized it was found that one of the elected members did not run earlier that year for reelection and, therefore, was filling an elected member's seat when that member was no longer an elected member and there was no answer to what to do with that situation. He added that they had to consume a **turkey?** time to see if it was possible to see if they could hold a second caucus or some other resolution. Mr. Sinden said that the attorneys went through case law and found that nothing could

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be done, that they had to move forward with a short board because that's what the law required. He added that, if they had a charter, then that could be written into the charter to simplify the matter with clear guidelines, such as holding a caucus, electing alternates at the first caucus, etc.. He said that these are the kinds of flexibility a charter would give them.

Mr. McPherson asked Mr. Sinden if he knew how many other counties have a charter.

8:58 PM

Mr. Sinden said he could not answer that and had the sense it was probably split. He reiterated that this came to them out of the blue and not any initiative the commissioners are pushing. He clarified that he did not want to come here with a bunch of data saying this or that is the right way to go. He said the commissioners really want the sense of the towns and know what the towns think the commissioners ought to do and they would go from there.

Nancy Shapleigh said that, if they want the sense of the Town, then they should not ask a five-member Board, but believes it should be an article in the warrant at Town Meeting. She added that, even though there isn't the best representation at Town Meeting, it would still be better than this Board being asked cold to decide what the rest of the people in Town might like. She said that she is personally opposed to the charter and maybe the majority would be in favor but the Board would certainly have a better representation of what the Town thinks by asking at Town Meeting.

The Chair thanked Ms. Shapleigh for her comments and said that she didn't know if they needed to be that formal, that she doesn't think it's that formal a request but just give the commissioners an idea of what Eliot thinks. She added that they are not voting on whether the Board thinks they need a charter but just suggesting what they think of the idea.

Nancy Shapleigh discussed her concern that this would become more than intended.

Mr. Rousseau asked if a cost-analysis on it through the attorneys, etc.

Mr. Sinden said no and described the charter commission. He said that there were five districts, that there would be three members appointed by the commissioners and, out of those three members, one would have to be a state legislator, one would be a member of the county commissioners and the third person would be an at-large member. He added that rest would be decided by, most likely, a caucus situation, very much like the budget committee is decided, but would be decided by the districts.

Mr. Rousseau said that he was thinking more about the legal aspects and how much that would cost.

9:04 PM

Mr. Sinden said that their urging to the towns is that when the towns submit people that they would like people with government and/or legal backgrounds to get cost-effectiveness that way. In other words, he said that would give them added value if someone is an attorney with experience in town or county government. He added that he could not say what the cost might be as it is all too soon. Mr. Sinden said that it was the sense of the county commission that they would like an expanded commission to get a better sampling of the county, itself, with more representation. He added that they are going to look into that to see if they have that option.

Ms. Place asked if the adoption of a charter hamper the process or enhance the process.

Mr. Sinden said that the charter, itself, is process neutral. He added that the charter provides a means of accomplishing something and it is what is written into it, then and from that point forward, that determines the makeup of the government. He clarified that you could adopt a charter that leaves everything the

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same but answers all these "what if" questions such as what to do if someone resigns half way through the term and how to replace that person. He said that the charter is voted on by a direct vote of the people in each town.

The Chair asked the Board how they wanted to proceed.

Mr. McPherson commented that, back when he was in the legislature, the legislative delegation of the county adopted the budget and believed it was during that time that they came up with having a budget committee. He added that, at one point, enabling legislation was passed to let the counties go to charters and he thinks that some of the bigger ones did. He said that it was his feeling that, if it's working, then leave it alone. He added that the legislative delegation of the county should be overseeing the operation of the county and looking out for all of the county. He commented that, if they see a problem, then maybe it is in the legislative body where they should start.

The Chair said that she is struck more and more by the knowledge that nothing needs to be changed, as in "if it ain't broke, don't fix it", but merely gives an underpinning to what is working.

9:07 PM Mr. Fernald commented that he was not in favor of creating another commission to look into another commission. He said that it seems like repetition and he isn't in favor of it.

Ms. Place agreed.

The Chair commented that she sensed that was the feeling of the Board.

John Marshall commented that he suspects there are already historical documents that charge the county with their responsibilities and, maybe, if it was done, now, the way it is, it would have been called a charter. He said that he thought it should be worded to change the charter of the county rather than adopt one. He added that he suspects there are historical documents as to what the county is responsible for and how it is to enact its business. He also said that he would agree with "if it ain't broke, don't fix it."

9:10 PM The Chair asked if there wasn't some additional change in personnel or commissioners, or other changes that Mr. Marshall would want to see changed.

Mr. Marshall said that he would not want to see how it is presently set up change. He said that they would have differences of opinions with different boards but they still have the same representative process in dealing with issues where they have rules and regulations and a state constitution that they have to live by. He added that he is always concerned when people start messing with that constitution and changing those guidelines and it sounds like one of those instances. Mr. Marshall said that he does remember some of the towns in the area having quite a battle in trying to develop a town charter and believes there were fistfights in some of them. He added that, in reading the state constitution, he believes it is quite a good document and thinks they should leave it alone.

The Chair said that she would draft a letter for the commissioners expressing the sense of the Board. She added that the Board does have a proposed town/county tax spreadsheet in front of them. She asked the Board if they wanted to do something with that now or take some time to think about what it says.

9:11 PM Mr. Blanchette clarified that the budget committee meeting is next week and that the budget committee wants to hear from the towns as to what towns feel they can burden whatever increase it is. He said that, as Mr. Sinden pointed out, the commissioner's increase would be a 10.33% tax increase, which is county-wide, not Eliot, per se. He clarified that the Board should go down to find Eliot and go across that line to find the % increase specific to Eliot. He added that it doesn't come out to 10% for Eliot but somewhat less. He said that the chairman of the budget committee has come up with other scenarios with various percentage increases less than 10.33. Mr. Blanchette said that the York County Budget

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Committee would really like to hear by next week. He added that they have John Reed in town, a member on that committee. He reiterated that if the Board wants to have input, then it is important to do before next week.

The Chair clarified that the Board needed to discuss this now.

Mr. Blanchette agreed.

The Chair asked what the ramifications were to the county if the towns can't do the full 10.33% increase.

Mr. Sinden said that it would mean fewer services. He added that this is the clearest case, since cuts have already occurred, that the county has been cut back to barely limping along. He commented that they are one step away from boarding up the windows. He said that the District Attorney's office has already limited their office hours to the public and barely hanging on in prosecuting cases because of the staff cutbacks and have to prioritize, as certain cases cannot be prosecuted because of the requirements for a speedy trial and time limits would be missed and the impact just goes on and on. Mr. Sinden said that the most impact to the towns will be Records and Deeds because, if those changes are not made in a timely fashion, then people won't be to fill home loans? And by the time that is straightened out deadlines on deeds will have passed, not to mention all the time it will take to contact all these people who own these properties because, when people have to wait weeks and months before a transaction is processed, then the system breaks down. He said that that's the situation now. He added that he used this example because it would be the most costly to the towns in terms of tax revenues. He commented that, when you go from 13 employees to 6, you just can't do the work and the employees who are doing the work are running out of energy. Mr. Sinden said that 10% restores most of those services, 7% a little less, 5% even less, so that's the situation and towns have to decide the services they can live with or without.

9:15 PM Mr. Fernald said that he understood Mr. Sinden's point but, as Mr. Sinden well knows, those monies trickle down to the town in that the town has to cut services, too, so it is important how that money is spent.

Mr. Sinden agreed and said that this was a no-win situation for anyone. He added that he understands that Alfred will be hurt even worse when the news comes down from Augusta both in terms of revenue loss and in revenue sharing. He said that he thinks the worst thing will be the loss of the monies that seniors can get through the property tax relief program and, on top of tax increases, that will be the double whammy that will hurt the worst. Mr. Sinden said that the budget they submitted is almost one million dollars less than last year.

The Chair commented that she read in the paper today that the school bond is apparently not going to get its low percentage rate. She asked if Mr. Blanchette had anything else to add.

Mr. Blanchette said that he believes the number of layoffs was 26 and there 10% would only restore 16 of those positions, so it isn't even full restoration.

9:18 PM The Chair asked for input from the Board. She commented on the difficulty for the Board to come up with something when they haven't sat down with their own Town budget, yet.

Mr. Sinden urged the Board to check with Chief Short and see the problems that are developing for his department, both from the shortages in the District Attorney's office and in the non-jail sheriff's department. He clarified that he said non-jail because the jail is fat and happy and they will be doing something about that. He said that non-jail services, such as lab services and investigation assistance, are at a bare minimum right now so one has to value the loss of these services for the people who have to live with it on a daily basis.

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Ms. Place asked Mr. Blanchette how much actual time they had to make a decision on this.

Mr. Blanchette clarified that they didn't have to make a decision on it, however, the budget committee is meeting next week on Wednesday at 7PM and they would like to hear by that meeting. He added that, if the Board cannot come to a consensus, then individually they could contact John Reed and let him know. He added that everyone was invited to that meeting on Wednesday evening.

9:21 PM The Chair said it was the consensus of the Board to take some time to consider the ramifications before making any conclusions.

#13 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Credit Enhancement Agreement for Eliot Commons TIFD

The Chair said that the Board has a subcommittee working very hard on this agreement. She added that she would like this Board to read it carefully and added that she would have to, as well, as it has been a while since she's looked at it. She encouraged them to look at both whatever their attorneys recommended and what the original credit enhancement agreement reads and come up with your own opinions, as she is sure Ms. Place would appreciate any comments members had to make.

Mr. Moynahan said that he had two questions about this. He said that Paul White was on this committee and asked why he longer was.

Ms. Place said that, when Mr. Blanchette came back, that place went back to Mr. Blanchette, as he and Ms. Place were the original people meeting with Mr. Forsley. She added that, while Mr. Blanchette was out, Paul White joined the meetings until Mr. Blanchette came back and picked it up again.

Mr. Moynahan clarified that they worked that out that Mr. Blanchette? wasn't on the committee anymore and he just took over or was it something that just happened. He discussed that the discussion was very pointed that everyone work together to communicate in the office about what roles and who was doing what and that Ms. Rawski and Mr. White were going to assume the same roles they were doing and it doesn't look like that's the case with this. He added that that is a separate issue to this but it concerns him because they are starting over again. He said that this was presented to the state a year ago and these things should have been taken care of before now and they are looking at putting a new group of people in position to look at this again, the developer, himself, is having to deal with this a year later. Mr. Moynahan said that he keeps getting copies of these, changes, people changing with it and it needs to move on. He added that he believes Mr. White should have stayed on and doesn't believe that is the way it should have been approached. He added that he thinks this should have been done a year ago when the voters approved the TIF and, again, it shows a lack of follow up and follow through from this office.

Mr. Wood commented that he had Brendan Dennard with him tonight and that Mr. Dennard would be getting involved in the financial and business end of both Sea Dog Realty and Shipyard Brewery and they may be seeing him. He apologized to the Board for Mr. Forsley as Mr. Forsley did want to be here tonight and said that, from their point of view, they were under the impression that the two items of disagreement – the valuation benchmarks and the assignability language – had been resolved and they would like the credit enhancement agreement to go for signature. He added that, as Mr. Moynahan said, it has been a year and they would like to progress with their development. He clarified that he has not been involved with all of this and maybe those two items are still being discussed but he would just like to hear from the Board where they goes from this meeting, please.

9:24 PM Ms. Place said that they did meet with Mr. Forsley and his attorney and there were the two points that she and Mr. Blanchette explained to him then that those

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points would have to be brought up to the Board and that she and Mr. Blanchette were not in the position to make that decision themselves.

Mr. Wood clarified that the Board would be discussing those two items.

Ms. Place agreed and said they would discuss the benchmarks and the assignment. She added that those were the only two things that were apparently on the table.

Mr. Wood clarified that those two things are still on the table for Board discussion.

Ms. Place agreed and clarified that the Board needed to look at those two things and make a decision.

Mr. Wood clarified that that would be discussed at the next meeting.

Ms. Place said that she thinks everyone needs to read this over. She added that those are the only two issues.

Mr. Wood agreed.

9:25 PM

#14

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Grants for Home Weatherization

The Chair said this was informational and added that this would be announced on Friday by the State.

#15

TO : Board of Selectmen
FROM : Betsy O'Donoghue
REF : Consent Agenda

The Chair discussed that there were at least 10 items on tonight's agenda that could have been on a consent agenda. She explained that the items would be things like the minutes, appointments, election dates and like items and they could all be on a list that Board members would look over, removing any item a member wanted to discuss, with the rest of the list being moved with one motion, saving time.

9:28 PM

Ms. Fournier said that, as a member of the public, she would like to object to that because she believes the public has a right to know about those items.

The Chair clarified that the documents/list would still be public. She said that this was something for the Board to think about, as it could save time.

9:29 PM

#16

TO : Board of Selectmen
FROM : Roland Fernald
REF : Resignation from Budget Committee following being elected Selectman

Mr. Moynahan moved, seconded by Mr. McPherson, to accept the resignation of Roland Fernald.

VOTE

4-0

Chair concurs

The Chair thanked Mr. Fernald for his service on the Budget Committee.

At this time, the Chair informed the Board that she had talked with John Reed and that they should be prepared to start meeting with the Budget Committee weekly the first week of February. She clarified that they would be meeting with the Budget Committee on alternate Thursdays. She added that she would keep the Board informed of any changes.

BOARD OF SELECTMEN'S MEETING
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#17 TO : Board of Selectmen
FROM : Maine Dept. of Labor
REF : Safety and Health Regulations

The Chair said that she didn't know who might be interested in attending this informational discussion and asked if any staff was interested. She added that there would be a meeting in Portland on February 15.

Mr. Blanchette clarified that that date was change to the following week, as the 15th was a holiday.

9:31 PM Mr. Hirst said that he was planning to attend this discussion meeting.

Mr. Hirst reported on the Maine DOL. He said that last year the MDOL came through and came up with a bunch of recommendations. He added that they did some and others languished for a period of time and, then starting July 31st, 2009, MDOL started to assess Eliot \$7,000 per day in fines for failure to do the things the Town should have done. He added that the clock continues to tick and those fines are being assessed at \$5,000 per day from approximately three weeks ago. He said that because \$2,000 of those fines represents work that has already been completed. He explained that \$5,000 a day represents five recommendations for the Fire Department which they believe have been done and there is a package of material that is headed to MDOL, as a couple of days ago, that contains the answers that they hope will stop the clock on the assessment of fines. He added that, if they were to fine Eliot for all the time they have not done what they were supposed to do, then it would be in excess of a million dollars. Mr. Hirst said that his guess was that they will settle with Eliot for something much less.

9:34 PM The Chair thanked Mr. Hirst for his update and that he has done much good work with this, helping the Town to sort all this out and saving the Town money in the future.

#18 TO : Board of Selectmen
FROM : David Emery, Chairman Information Technology Committee
REF : Town of Eliot Computer Vendor Support

The Chair invited David Emery to speak to this.

Mr. Emery said that they are recommending Two-Way Communication for the Eliot Community Service Department, Police Department and Town Hall based on feedback from these departments and information received. He added that the price is approximately the same and has more compatibility with the proprietary software used. He clarified that interviews conducted two years ago had Two-Way Communication as #2 on the list. He added that they have no contract, at this point, for vendor support.

Mr. Moynahan moved, seconded by Mr. Fernald, to hire Two-Way Communication for computer needs for the Town of Eliot, based on the IT Committee's recommendation.

VOTE

4-0

Chair concurs

9:37 PM
#19

TO : Board of Selectmen
FROM : David Emery, Chairman Information Technology Committee
REF : Town Hall Data Concerns

Mr. Emery clarified that the committee added the anti-virus software configuration for licensing and also checked on the Two-Way Communication, also directing the Board to how the computers were connected and which ones were purchased when. He added that, as they did the on-site documentation, a lot of things came to their attention. He said that, in looking at all the computers, they discovered that not all the data is on the server and it should be on the server and

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backed up. He also said that that was when they found out the anti-virus software licensing was running out, it isn't configured properly and they don't want to happen what happened two years ago. He explained that Daystar gave an estimate of 8 hours at a total of \$720 to correct these issues. He added that there were additional things that should be done and they would have additional recommendations but currently they are looking for the Board to approve the work statement submitted. He said that this situation was very serious when, as an example, the Board considered the idea of losing everything on the Town Clerk's computer.

The Chair asked where there was money to deal with this.

Mr. Blanchette said that he would have to get together with Mr. Emery and clarified that they do have money in computer maintenance, certainly enough for the \$720. He added that they would have to see what else they could do.

Mr. Fernald clarified that, if they are going to go with Two-Way Communication, then it might be best to find out what they would charge the Town.

Mr. Emery agreed.

Mr. Fernald moved, seconded by Orland McPherson, to accept and authorize the recommendation by the Eliot IT Committee.

VOTE

4-0

Chair concurs

Mr. Emery discussed the development of the Web Master job description and suggested it was at a point that the Board could adopt it.

The Chair asked for comments from Ms. Rawski.

Ms. Rawski said that she was comfortable with the job description. She added that she and Paul White had met with the IT Committee around this and that it was up to the Board at this point as to whether they wanted to accept this as the job description for web administration, what the Board's expectations would be for this position and who the Board wants to put into that position. She discussed her willingness to make herself available to do these duties they had assumed the list of duties would be something she would do as Town Clerk but the more she thought about that the more she felt it was very important to set those duties separate because the job could grow, as the web site is going to be a major tool for the Town of Eliot to communicate with the people in Town. She said that there may come a time when she cannot do it anymore and the Board will have to find someone else to fill that position.

The Chair agreed and commented that she thought this was a good start. She suggested that two or three Board members to review and wordsmith, if necessary.

Mr. Fernald commented that he had reviewed this prior to the meeting and believes the Board could adopt this, revising it down the road as the job grows, if necessary.

Mr. Fernald moved, seconded by Mr. Moynahan, to adopt the Web Administrator job description, as written.

VOTE

4-0

Chair concurs

9:46 PM

Mr. White clarified that Ms. Rawski had just discussed adopting a job description and then actually telling someone to do that job. He asked if they had gotten to that point yet.

The Chair said no.

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Mr. White asked what it would take to get to that point.

The Chair said that she thought that would be an appropriate thing for the Board to do now and asked for the Board's feeling.

Mr. Fernald moved, seconded by Mr. McPherson, to appoint Wendy Rawski as Eliot Web Administrator.

VOTE

4-0

Chair concurs

Mr. White discussed that, in setting all this up, they had talked a little about compensation for her and he was sure she was going to be wanting to look to the Board for that.

The Chair agreed.

Ms. Rawski commented that she was looking forward to a job review where they could discuss a number of things.

The Chair agreed that would be very appropriate.

#20 TO : Board of Selectmen
 FROM : Mike Pearson
 REF : Notice of Violation to Sea Dog Realty

Discussed earlier in tonight's meeting.

9:47 PM At this time, the Board heard a request from the Energy Commission.

Mr. Murphy discussed that they had been holding their own meeting in the other room and had Robert Sinkmeyer, President of Free Flow Energy, as their guest. He explained that, for several years, they have been looking at the culvert on River Road as a possible source of tidal energy. He commented that, in conjunction with Ben Brickette's development of his wind vane, using a new method to smooth out the vibration by using gusting power, Mr. Brickette said that that method would work equally well with flowing water, tidal or streams. He said that this sparked and brought forward the possibility of using this culvert on River Road. He added that, Mr. Sinkmeyer, who is an engineer with many years of experience dealing with solar, tidal and wind turbines of all kinds, was delighted to come over, has examined the culvert and thinks it is an ideal site for a test for an experimental program. He said, to follow up on that, there are some intern students from the University of New Hampshire, one of which came to our meeting tonight to talk about a grant program from Nortek to do some preliminary work with students in teaching them how to measure the energy in water using a Doppler technique, with the River Road culvert an ideal site. Mr. Murphy said that they want to get as precise measurements as possible of the energy flow and the form it takes as the water flows through the constraint. He explained that this would take a precision instrument that the student would help install and monitor over a month or two to collect data so that they would have a picture of how this water actually flows through this culvert so that, in the future, when they place their test turbines, they will know what the energy is being involved and how efficient these machines are. Mr. Murphy said that the application for this has to be submitted by February 1st. He added that the Energy Committee is seeking the Board's approval to make a letter of intent to work with this project and use this site with the Town's permission. He added that they would be dealing with DEP in Portland, as the engineer up there is interested in this, as well. He explained that all the Energy Commission had to do was get their preliminary plans to her and she would guide them through their application and deal with the protection of the environment.

9:50 PM

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Mr. Fernald moved, seconded by Ms. Place, that the Energy Commission go forward with their project, as discussed tonight.

Discussion:

Ms. Isler clarified that what the Energy Commission is looking for is a letter of support on Eliot Town letterhead to be filed on behalf of the student who is going to get a grant from Nortek Corporation and the loan of a Doppler acoustic machine for three months. She explained that the letter will accompany the student's application for this grant and she may not win the grant. She added that the man who invented the Doppler machine is helping the student write the application, so her chances are very good. She reiterated that they need a letter of support to accompany the grant application by February 1st. On behalf of the Energy Commission, Ms. Isler apologized for busting into the meeting so late but explained that they found out about this potential this evening.

Mr. Fernald amended his motion to ask Mr. Blanchette to write a letter of support to accompany this grant application.

9:53 PM

Ms. Shapleigh commented that this abuts her property on one side of that culvert and it took her about a year to get permission to riprap my waterfront when she was losing about 10 feet a year. She said that she was wondering what kind of effect this project would have on her property, particularly her shorefront and would there be people all over that riprap she spent money on. She added that this is the first she has heard of this and she would think that, if the Board was going to do this then they might check with the abutting property owners.

Mr. Murphy said that, if Ms. Shapleigh doesn't want them on her property, they could stay off it. He added that it was his understanding that they would be working on the Piscataqua River side.

Ms. Shapleigh said that she owns on that side and discussed changes that have happened since the state put in the culvert, including not seating it properly and water flow changes.

Mr. Murphy said that they would take that into consideration and notify the DEP of her concerns and see what they have to say to see if there is some recommendation for repair. He clarified that the instrument they would be using would be suspended from the road down into the water flow.

Ms. Shapleigh clarified that she owns on both sides of the road and down to mean low. She commented that she thought it would be nice if, in the future, they would look into these things ahead of time and notify people.

Mr. Murphy clarified that she is learning it as soon as they are learning of it.

Mr. Moynahan commented that, perhaps, the Energy Commission could find out through the CEO any and all abutters and notify them of what their plans are and what, to the best of their knowledge, this project entails.

The Chair reminded the Board that they did have a motion on the floor. She said that all those in favor of allowing the letter to go out on Town letterhead to the Nortek Corporation to say the Energy Commission has a letter of support for this application for the student to get the grant to borrow the Doppler acoustic profiler for three months.

VOTE

3-1

Chair concurs with the majority

Selectmen's Report:

There was no report tonight.

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Executive Session

9:58 PM Motion by Mr. Moynahan, seconded by Ms. Place, to enter into Executive Session as allowed by 1 MRSA Section 405.6.F "Discussion or consideration of information contained in records made, ...when access by the general public to those records is prohibited by statute."

VOTE
2-0
Chair concurs

10:12 PM Out of Executive Session

10:13 PM Mr. Moynahan moved, seconded by Mr. Fernald, to abate the 2008 real estate taxes, interest and charges on the property known as Map 74, Lot 23. Reason is the inability to pay.

VOTE
4-0
Chair concurs

10:14 PM Mr. Moynahan moved, seconded by Mr. Fernald, to abate the 2008 real estate taxes, interest and charges on the property known as Map 82, Lot 4. Reason is the inability to pay.

VOTE
4-0
Chair concurs

Other Business as Needed

There was no other business.

Adjourn

Motion by Mr. Moynahan, seconded by Ms. Place, to adjourn the meeting at 10:15 PM.

VOTE
4-0
Chair concurs

DATE

Roberta Place, Secretary