

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM

Quorum noted

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

Roll Call: Mr. Fernald, Mr. Moynahan and Ms. Place. Mr. McPherson was not present.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:32 PM Motion by Ms. Place, seconded by Mr. Moynahan, to approve the minutes of March 29, 2011, as amended.

VOTE

2-0

Chair concurs

Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of April 7, 2011, as written.

VOTE

2-0

Chair concurs

Public Comment:

6:34 PM Mr. Murphy discussed his trip to Augusta to testify concerning the TIF law. He said it was very interesting and, to some degree very disappointing. He added that the most important amendment item – the cutting out of the 5-year deadline date required – was debated, hot and heavy, and the final vote was 7 to 4 to recommend not to pass.

Department Head/Committee Reports

6:35 PM Mr. Marchese said that he had an issue that needed to be addressed that was not on tonight's agenda regarding the sewer system installed for Blueberry Hill (off Greenwood Street). He said that the application came before the Planning Board (PB) in 2002 and the sewer system was constructed. He explained that the sewer system was a low pressure force main, going around Blueberry Lane and picking up all houses in the subdivision, extending up Greenwood Street to the manhole on Main Street. Mr. Marchese said that it is a gray area as to who owns the force main. He added that, currently, there are two applications before him for buildings on Tax Map 10, Lot 69 so, his question was, who was responsible for the force main if there was a break. Mr. Marchese said that, in talking with the gentleman who did the subdivision – his interpretation was that the Town took the sewer main when they accepted the road. He added that, in getting clarification from Mr. Blanchette, the Town did not intend to take the utility, the Town only accepted the road and the drainage improvements associated with the maintenance of the road. Mr. Marchese said that, in his opinion, it would be in Eliot's best interest to take control over the force main. He said that, in asking for input from the Sewer Committee (SC), the SC believes it is a gray area, there did not seem to be any oversight in the installation of the sewer main and they advised against it. He added that he spoke with Mr. Moulton and Mr. Moulton agreed with the SC. Mr. Marchese said that he believed this was a unique situation in that it was a low-pressure force main and the Town would be taking responsibility for the force main, only, and not any of the pumps. He explained that it was an E1 pumping system and the pumps were located on private property. He said that, since the time of the subdivision, the Town has allowed three new houses to be built on Greenwood Street and those three new houses were connected to the force main. Mr. Marchese said that, last year, there was a residence connected to Hamilton Lane that had septic problems and were allowed to tie into that private force main. He added that he found out, just before this meeting, that there were three more

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

lots that had already developed service connections to that force main, although they did not have building permits at this time. Mr. Marchese clarified that additional information supplied at tonight's meeting was that the PB's Notice of Decision, dated May 29, 2002, gave approval to the subdivision and, under Item #21 – Sanitary Sewer System was identified as public sewer. He said that he did not know if the PB intended it to be a public sewer or a private sewer but, to him, there was a big difference and the PB identified it as a public sewer. Mr. Marchese said that, in speaking with Bill Cullen, Mr. Cullen could supply the Town with test results from pressure tests that were completed. He said that Mr. Cullen was also trying to obtain information from the engineer that says, he believed, that either 22 or 32 residential houses could be connected as long as they used the same type of pump to that force main. He said that his question was to the Board was what direction should he take with the current application. He asked if the Board would be interested in putting that up for a warrant article for the Town to vote on to accept that utility.

6:40 PM At this time, Orland McPherson was present.

Mr. Fernald discussed his concern that, if the Board did that, then there might be other subdivisions similar to this that would expect the Town to take over.

Mr. Moynahan commented that this situation was unique in that all the homeowners had their own individual pumps, so the Town would not be taking ownership over something that was a failure at that point – that it was a line buried in the ground that the Town would taking ownership of. He asked if the Town had charged betterment fees to all those folks.

Mr. Marchese said yes.

Mr. Moynahan said that they were already in the Town system for repair and maintenance of the sewer system. He added that, moving forward, they needed to identify this a little bit clearer for applicants of what would be taken and not taken by the Town. He said that this was unique – that it was a number of individual pumps collecting from the homes into a collection line.

Mr. Fernald asked if they knew what size pipe.

Mr. Marchese said it was a 2-inch force main.

Ms. Place clarified that each individual homeowner owns their own pump.

Mr. Marchese said that was correct.

Mr. Fernald asked if that was going to be the case with all the rest of the lots going in.

Mr. Marchese said yes, all the lots need to connect to that force main in the same manner. He added that the Town would only have ownership of the force main and the homeowners would own the pumps and pipe going back to their individual homes.

Ms. Place asked how old that force main was.

Mr. Marchese said that he believed it was sold in 2002 or 2003. He said that he thought that the Town just needed to make it clear who was responsible for a break in the force main, adding that a chance of a break in the force main was very slim because a force main uses the entire size of the pipe whereas, with a gravity sewer, all the wear occurs in the channel of the pipe – the bottom of the pipe. He said that he wanted to make sure that, when a break occurs, someone would be responsible to get it fixed.

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

Mr. Cullen commented that he thought Mr. Marchese had done a great job in researching and presenting this tonight. He discussed the PB Notice of Decision, saying that #8 reads: "Lots within the subdivision will have public water and public sewer disposal systems." Mr. Cullen said that they always thought that it was public sewer, adding that the plans were designed by an engineer and done and located by Attar, tested, checked by the Town and he believes that sort-of says it. He added that, since then, other people have connected and been charged betterment fees and he was sure those connections were checked, also.

Ms. Shapleigh asked if this was a matter of semantics. She said that, if these people weren't on private septic systems, then it would have been called public sewer. She asked if it was just the way it was reported in the notes – nobody really screened it and, maybe because it wasn't individual systems, then it was referred to as that.

Mr. Moulton said that one thing the Board should consider is the sewer ordinance, which requires a minimum of 4-inch, adding that he wasn't sure that the ordinance had been updated prior to this subdivision. He said that the Board would want to, at least, get engineer records. He also suggested that they might, before they were to take it over, want to have it cambered? to have a baseline, as they don't have one at this point and the Board might be accepting something they might or might now know.

Mr. Moynahan said that, when Blueberry Lane was put in the developer paid for the line and it was specific to those houses. He added that individual lots were sold and hooked in to that same line. He asked if the developer was compensated for those hook-ins or was just the Town of Eliot.

Mr. Marchese said that he believed it was just the Town of Eliot.

Mr. Moynahan clarified that the Town of Eliot has been treating that as its' own, anyways. He said that there have been multiple connections since then...

Mr. Marchese said that he thought the idea was that the Town of Eliot has been looking at it as the Town has supplied sewer from Main Street and anyone tying in to the private system on Greenwood Street was utilizing that utility.

Mr. Marchese clarified that the betterment fee was only at the top of the hill and still a grey area.

Mr. Marchese agreed. Addressing part of Mr. Moulton's comment, he said that the 4-inch was for gravity sewers, only. He added that the ordinance does allow for force mains and he believes the minimum size was 2 inches. Mr. Marchese reiterated that this was recent information because the application came in last week and there was more information that needed to be gathered so that they could provide the Town with a reasonable application to move this thing forward.

6:45 PM

Mr. Fernald said he suggestion was to do that because, if the Town were to take this over, then they would need as much information as they could get.

Mr. Marchese asked, based on the information the Board has, would they allow this to move forward – if they had a pressure test, video of the line the Board has copies of the PB notice of Decision – would that be sufficient, along with an actual engineering design from a licensed engineer that said how many houses this system could handle.

Mr. Marchese also discussed Underwood Engineering. He said that he did speak to the engineers at Underwood and their opinion of this was that the Town of Eliot would be generous in accepting the force main, however, they agreed with his five items listed in his letter on the second page that it would be in the best interests of the Town to take over this utility.

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

Mr. Moynahan asked if this was holding up building permits.

Mr. Marchese said they wanted to know whether or not they would be able to tie in to that force main or would have to find another force main up Greenwood Street. He added that they did not want to go to the expense of running another force main on top of another force main.

Mr. Moynahan clarified that, if the force main was sized right, then that should not hold them up from building no matter who owns the force main. He said that, as long as that part was clarified, then they (homeowners) could move forward and the Board could find out the ownership piece from there.

Ms. Place asked if they knew if the number of homes on that force main, currently, was okay.

Mr. Marchese said yes and added that it was reported that up to 22 residential houses could tie in to that 2-inch force main.

Mr. Murphy said that he did not see anything on the agenda regarding the Disciplinary Action Policy.

Mr. Fernald clarified that that had come in after the agenda was finalized. He said that the Board would review it and take it up at the next meeting.

6:48 PM

Mr. Marchese asked to take up the update on Great Hill Gravel, as it was later on in the agenda. He said that he submitted a letter to the Board on his recent correspondence regarding Great Hill Gravel Pit. He asked if the Board had any questions pertaining to that information. He added that it was more of an informational letter.

Mr. Fernald asked when it was going to be completed.

Mr. Marchese said that, according to the information he had recently received, it was scheduled to be completed in October of this year.

Mr. Fernald asked if that still seemed likely.

Mr. Marchese said that he was there earlier this week, took lots of photos, everyone was very accommodating and it appears as though it is exactly what it was supposed to be. He added that they were doing exactly what they were told to do by the State, from what he could tell, and the State was monitoring what was being disposed of there, so it seems like the project is moving forward.

Mr. Moynahan clarified that the timeline is in line with what they agreed to when they dealt with this a few years ago – they had a pit closure deadline and asked if they were still on track for that.

Mr. Moynahan said that they current information he had was October of this year.

6:50 PM

Ms. Muzeroll-Roy said that she was present to discuss or get feedback about the older Boat Basin floats. She said that last year three of the floats down at the launch were in need of repair. She added that they were supposed to receive all brand new floats from the State and, unfortunately, they missed the letter in time so it went to someone else and she wasn't quite sure how that happened. She said that they received one new float from Biddeford last year with the understanding that they would receive newer ones this year. She added that the National Guard has since delivered three newer floats this past Saturday, which leaves three older floats that they put money into last year. Ms. Muzeroll-Roy said that she would like to recoup some of that cost, as she did take that money out of the Boat Basin Launch Fees last year because she thought they were going to be getting money from the State but the State did not have the money. She said that she had

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

extensive work done to those floats but she doesn't need them anymore and she would like to sell them.

Mr. Moynahan clarified that the State would not have any involvement in the sale of those floats.

Ms. Muzeroll-Roy said no, that it didn't matter what she did with them, as long as they were removed.

There was discussion on how to value the floats and how to advertise.

It was the consensus of the Board to go forward with the sale of the floats.

6:56 PM

Mr. Blanchette said that the Board received one and possibly two potential amendments to the municipal code – one an adult entertainment ordinance and another one was a special amusement ordinance. He said that, in talking with the attorney, the attorney said that these were not land use ordinances and would not need to go through the PB. He added that he forgot what State Law the attorney quoted but that he said they were strictly Selectmen-produced ordinances. Mr. Blanchette said that his recommendation would be to put them on the next agenda for the next meeting, either as a Public Hearing (if the Board wants that) or put on the agenda as a regular item so the public would know. He added that it would need to be voted on by the Town.

Mr. Fernald clarified that they would need a Special Town Meeting.

Mr. Blanchette said yes because the warrant for the June Town Meeting has already been posted. He did add that, technically, they could amend the warrant for June but it would not be in the book.

Mr. Fernald said that this was probably something that needed to be done ASAP.

Mr. Blanchette reiterated his recommendation of either agenda or Public Hearing at the next meeting and then, at that meeting, make a decision regarding whether to have a Special Town Meeting for it or not.

Mr. Moynahan agreed, as long as the language is on the agenda so that people could read that language and be prepared to vote.

Mr. Fernald asked the Board if they wanted to do it as a Public Hearing or an agenda item.

Mr. Moynahan said either one, as long as the language is there.

Ms. Place agreed, as well, and said they should definitely have a Public Hearing.

There was consensus to have this as a Public Hearing at the next regular meeting, which was the 28th.

6:57 PM

Mr. Moulton requested to discuss the RFP for solid waste disposal and was given permission by the Board. He said that they received four quotes: one was an existing regional waste cooperative from Lamprey that the Town currently has a fee of \$74.15/ton and do not anticipate any increase; Casella's quote was \$60.95/ton with a three-year term; Waste Management – somewhat unique in its' own right – currently does the Town's bulky waste gave a quote of \$70/ton with a three-year contract. He said that the Town apparently has a contract with C&D (bulky waste) that was assigned in 2009, but under further investigation in that contract, it states that the Town would have a trucking cost and a fixed rate of \$80/ton and they currently charge the Town \$85/ton. He added that they have been overcharging the Town and, in his opinion, they have breached their contract and should be null and void, pending the Board's input. Mr. Moulton said that,

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

according to his estimates and based on the tonnage and the trucking cost overage, they have overcharged the Town approximately \$12,000 over the last year and a half. He added that, in speaking with Mr. Blanchette and some others, he has different ideas on how to re-coop that cost and is under further inquiry with Waste Management – they were supposed to get back to him two weeks ago and they have not. He said that EcoMaine gave them a price of \$55.85/ton and, with a 7% maximum increase proposal by year three of a three-year term, they would get \$63.94/ton. He added that they would take the Town's bulky waste which would be \$36/ton and cheaper than what the Town currently pays. Mr. Moulton said that his recommendation would be to move forward with EcoMaine as, even including the trucking costs, etc., the Town would still be ahead of the game going to Portland.

7:01 PM Mr. Moynahan commented that he thought that EcoMaine was the no-brainer for this situation. He discussed his concern over how they would recover the \$12,000 in overcharges and what avenues there might be outside of legal in dealing with this is it something like working out four months of disposal for free or some other option. He added that this is an important matter that they make sure they re-coop those costs.

Mr. Moulton agreed and added that another alternative were the dumpsters at the Town parks, as they currently take care of those. He said that he could speak with Mr. Blanchette and it may require legal input but, based on their contract and what is written in their contract, the Town has been well-overcharged. He clarified that there may have been an adjustment for trucking but, based on tonnage alone, the Town has been overcharged \$5/ton for the last eighteen months.

Mr. Moynahan commented that, if they haven't abided by their contract would be no different if the Town had not abided by theirs, and asked if the Board should consult with an attorney on how to re-coop those costs now, sooner rather than later, so that, when the Town signs a contract with someone else, then the Town still has an avenue to pursue those costs.

Mr. Moulton agreed and added that that was something he could discuss with Mr. Blanchette.

The Board agreed that would be the best approach.

Mr. Moynahan suggested they may want to work something out after the legal inquiry was done.

Ms. Place asked if Mr. Moulton if he had spoken with anyone from Waste Management.

Mr. Moulton said that he had and the last that they said to him was that they would get back to him and that was over two weeks ago.

7:04 PM Peter Lachapelle said that he was with Waste Management (WM) and thanked the Board for giving him an opportunity to speak. He said that WM would not sign a contract that was fixed price for three or four years so, if that was written, then he would definitely like to see it. He clarified that he was the Public Sector Representative that handles the State of Maine, that he had never received a copy of the contract or the Town would have heard back from him and asked who Mr. Moulton spoke with.

Mr. Moulton said that he had emails from Mr. Lachapelle regarding the contract.

Mr. Lachapelle said that WM would work with the Town and, if WM did overcharge, then they would step up. He discussed, per the contract that is in there and would be more than happy to get their legal involved as well, that it was

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

written in 2008 and, under Terms and Charges, there is a particular section that does allow for price increases.

Mr. Fernald clarified that WM would work with the Town to get this matter resolved.

Mr. Lachapelle said that they would definitely work with the Town to get this resolved.

Mr. Moynahan asked if the contract indicated how the price increases would be communicated to the Town.

Mr. Moulton said that the only thing he got out of reading the contract dealt with fuel charges and surcharges. He added that it clearly states that there was an additional trip charge and a cost per ton – but reiterated that this was open to discussion with WM and they need to get it resolved because, in his opinion, the Town has been overcharged.

7:05 PM

Mr. Moulton said that, in meeting with Kittery, they have a compacting unit and there may be ways for Eliot and Kittery to work together and asked if the Board would allow him to open discussions with Kittery, keeping the Board informed as things move forward, to benefit both towns.

Mr. Fernald agreed that was a good idea.

Mr. Moynahan said that working with other towns was key, that the Town has been looking at ways to do just that, and opening up this dialogue was a great first step.

Mr. Fernald asked about single-stream (SS).

Mr. Moulton said that he had the cost-benefit analysis, had not talked with the Solid Waste Committee (SWC), yet, and he believed they had discussed postponing the meeting until the 28th. He added that the cost-benefit analysis has been done and that needed to be compared to the revenue the Town currently receives and have discussion with the SWC, then have a discussion at the next meeting.

Mr. McPherson asked if, while Mr. Moulton and Ms. Muzeroll-Roy were both present, they could take care of getting the skating rink drained, as it was a breeding ground for mosquitos and could not be mowed because it was too wet.

Ms. Muzeroll-Roy apologized and said that she had a tendency to wait until the two geese that were there, left. She added that they were the same group of geese that came back every year and they should be leaving in a couple of weeks, at which time she would have the skating rink drained. She said that she would very much appreciate it if the Board was willing to wait until her geese left.

Old Business (Action List):

A. Solid Waste Alternatives – Solid Waste Committee

This was ongoing.

B. Sewer Contract Committee – Mr. Moynahan, Ms. O'Donoghue, Mr. Murphy, Mr. Marchese and Mr. Blanchette

Mr. Moynahan said that they would be meeting on Wednesday. He also said that he had other things he would like to add on to the Action Item List but would wait until the end of the meeting.

C. PACE Program – for Town Meeting vote

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

It was agreed that this was all set to go to Town Meeting and could be removed from the A.I. List.

D. Job Reviews

- Schedule – Roland to schedule
- Where Job Reviews are kept
- Comp Time – Salaried vs. Hourly: Merit vs. Steps
- Comp Plan Action Items

Mr. Fernald said that he thought they needed to do the job reviews before the new election.

Mr. Moynahan agreed and added that it was also making sure the department heads were doing their own interviews and keeping track of other things that he would like to include in the A. I. list.

Mr. Fernald commented that, regarding the Comp Plan Action Items, the Board was taking care of as many of those as they could.

7:10 PM

New Business (Correspondence List):

#1 TO : Board of Selectmen
 FROM : Roadhouse Tavern
 REF : Liquor License Renewal

Mr. Fernald said that they had a had a report from their Police Chief, which was not favorable, and the Board had some concerns about situations that had come up in the past year and asked Ms. Kilty to address those concerns.

Ms. Kilty said absolutely and offered that she had never heard anything up until a couple of days ago and she heard that through local Townspeople. She added that she was very active about meeting with the Chief when she first started and met with him 3-4 months into her business, things were going great and there were no issues, until a few days ago when she heard a few things that actually surprised and shocked her. She explained that last Thursday night, she believed, there was a parking issue and that was the first time that a police officer had come in to say that people could not park up and down Route 236, which was understandable. She added that she tried to contain her parking lot and keep control of that but she did post signs as far as that was concerned and cleared out some land as she lost a lot of parking due to the snow. She said that they were doing as much as they could to make as much room as they could so that there would not be any parking on Route 236. Ms. Kilty said that she was not sure what the other concerns were.

Mr. Fernald listed the concerns from the report: arrest of four to five people out of there for OUI, Officer Roderick noticed trash in the parking lot after closing hours, a sailor was argumentative with an officer, a hit-and-run accident that occurred in the parking lot, etc.

Ms. Kilty said that the hit-and-run and the sailor are the same incident and explained that somebody had pulled out into the crowded parking, and hit this gentleman's truck who is on one of the submarines at the shipyard. She added that he called the Eliot Police, who showed up, and they were out there speaking to him, they spent time with him and assured him they would take care of it, he wanted to document the event for insurance purposes. She added that she had gone out there and had been reassured that everything was fine, she said goodnight, he came back and everything was great but, apparently the next morning, the police did go to his commanding officer. Ms. Kilty said that her question was, if there was an issue, then why wasn't he arrested then or why wasn't she told of these issues. She said that she had been doing this a long, long time and, if people were coming in to drink, she was vigilant about over-serving.

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

She added that she had employee policies, ServeSafe programs that her employees are part of, she is, personally, a mother of two children that drives that road every day and she would not want any drunk drivers put on that road. She said that, if it had been brought to her attention or an officer had come in and spoken to her about it, then she would, at least, have been able to do something – put some other policies in action, make some other rules – to change that. Ms. Kilty said that she closed her bar at 10 PM, legal serving being until 12:45 AM, and she believes that, after 10 PM, there was no need to serve more alcohol. She had a restaurant and a tavern. Ms. Kilty was not sure whether the DWI's were actually at her establishment, did they blow a legal limit – those are the things she knows nothing about. She added that, if that was an issue, then she assured the Board that she would do everything she could to make sure that didn't happen, as far as she could do. Ms. Kilty explained that, when people come in visibly intoxicated or they feel these people should not be served, then she and her staff do not even allow them on the premises. She asked what would happen after they walk out without being served and get pulled over – that there was a lot of gray area in that, she believed. Addressing parking lot trash, she said that her neighbor – when she went to purchase this restaurant – the woman who lives behind her business had a real problem with the previous owners, calling it an eyesore and that Ms. Kilty checked in with her, periodically, and she was very happy with the way it looks. She said that she personally drives through the parking lot and picks up things, loading up her trunk and putting it in her dumpster, if there is anything there.

Mr. Fernald asked if there were questions from the Board.

Mr. Moynahan said that, moving forward, he thought it would be wise for the Town and business owner to work together. He added that, if there is a history, now, of some potential OUI's, then how does the Town inform the business owner on certain steps that could be taken to educate the staff more, working together, as opposed to finding out after a year that there were issues and no communication and that was an important piece.

7:15 PM

Ms. Kilty strongly agreed. She said that she has actually talked with some of the officers over the winter, introduced herself, explaining that her policy was an open-door policy, letting them know that, if they had a problem with anything, they should, please, come in to see her. She added that she also told the Chief that and gave him her home phone number and cell phone number because, if she had known this 3-4 months into the business, then she would have nipped it in the bud. She explained that she had very experienced staff who have been there since it opened, which was unheard of in this business, with 20-25 years of experience between the two of them, the manager has 15 years of experience. She said that she has a ServeSafe Program that she instituted – she felt very shocked by this because, if she had know something... Ms. Kilty said that, in New Hampshire, they used to issue a letter, if something came about. She said that there was no phone call, not letter, not anything and, to be totally honest with the Board, she had heard through the locals that somebody had gotten a DWI there, so she was aware of one and, in her opinion, that was one too many.

Ms. Place suggested it might be a good idea to get back in touch with Chief Short and kind of meet up with him periodically.

Ms. Kilty discussed that she tried to do everything she could to prevent these types of incidents from happening. She said that she called Chief Short either last Thursday or Friday, thinking she would just touch base with him, and she hadn't heard back from him, recognizing that he was probably very busy. She said that she liked Mr. Moynahan's ideas about communicating with her, giving her some suggestions of what they would like her to do to prevent that. She said that. Also, the light coming out of her parking lot was very tricky and creates a little bit of confusion for some people – anything she could do, obviously, to improve the situation, she was very happy to do. She added that she thought her restaurant had

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

been very successful and given the Town a great place to go – been very active supporting local clubs, softball teams, baseball teams – things like that. She commented that she was very comfortable at that location and hoped that she could continue on in a manner that would make the Chief and the Town happy.

Mr. McPherson clarified that there was a program that was available through the Department of Public Safety for training her staff.

Ms. Kilty said that she actually had that with her and asked if the Board members would like to see it – the ServeSafe Program. While handing out information (on several issues) to the Board she explained that, unfortunately, a lot of the programs that one has to go through, personally, were in Augusta, which were two+ hours away, and a hardship for some people. She commented that the program was excellent and she was currently enrolled in it, explaining that it was a liquor liability program in which they actually send all the information to the State so the State has them on-file, recognizing that her servers were certified through ServeSafe. Discussing her liability insurance, she said that, currently, she had a contact name, if the Board liked, that they were already enrolled with. At this time, she handed out copies of her employee policies to the Board members, as well as a liquor license affidavit that all employees have to sign.

Mr. Fernald commented that they wanted to make sure she understood why they were concerned, that they wanted to make sure everyone was safe.

Mr. Moynahan said that he thought they should be supporting small businesses and he didn't think they should look backwards, but look at how to move forward with this to make sure this is a viable, safe business for the Town. He added that he believes Ms. Kilty and the Chief would make sure that happened and that things were running properly. He said that he has no concerns at all, that information was key and sharing that information with each other would make that happen.

Mr. Fernald said that he thinks they were all supportive of small businesses in Town but also need to make sure the residents don't get hurt, etc.

7:19 PM Ms. Place said that she thought that working with Chief Short and seeing that everything was done properly then there should be no problems at all.

7:20 PM Mr. Moynahan moved, second by Ms. Place, to grant the Roadhouse Tavern – Jacqueline Kilty – a liquor license permit, as provided.

VOTE

3-0

Chair concurs

Ms. Kilty thanked the Board and to please ask her if there was anything she could do to improve.

Ms. Shapleigh suggested that it might be a good idea if one of the Selectmen was available to meet with Chief Short and the owner of the restaurant, as she did believe there should have been more communication.

Mr. Moynahan will schedule a meeting with the owner and Chief Short and let her know the date.

Ms. Kilty said that would be great, that she had called him but that she knew he was busy.

7:21 PM
#2

TO : Board of Selectmen

FROM : Public Works Dept.

REF : Additional budget request items

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

Mr. Fernald said that this was regarding a budget request he had made for an additional employee and the possibility of entering in to a lease purchase for a new backhoe.

Mr. Moynahan said that, Mr. Moulton's budgets – the ones that he has seen, have the backhoe dollar figure in them, so he believed Mr. Moulton was already budgeted for that unless he had taken that out somewhere along the line.

Mr. Moulton clarified that, in his first draft budget, he had in there repairs for the backhoe. He added that, after discussion with the Board and committee, he took the budget out for the repairs for the backhoe under the Maintenance Line.

Mr. Moynahan said that, under #25 – Repairs and Maintenance, "(2510), assuming lease purchase for new backhoe" and he had \$32, 000 in his budget.

Mr. Moulton clarified that that was the maintenance line for the vehicle. He added that it was initially \$47,000 and \$15,000 was removed from draft #1 and reduced to \$32,000. He said that the intent, after the discussions, that it assumed that it was the better way to go instead of entering into a lease purchase. He said that that assumption has been made and, speaking with Mr. Blanchette, he was putting an allotment in there for the capital reserve fund which, as he discussed with the Board, would they would purchase the backhoe with this year and that would be the expenditure for the backhoe? for the first year of the lease.

Mr. Moynahan said that should have already been included.

Mr. Moulton agreed.

Mr. Moynahan said that they have already finalized the budget for this budget season and, if there is money appropriated, then this is covered, and the same with staff but, outside of that, the budget is final.

Mr. Moulton said that everything should be all set, with the Board's approval, that that was how it was budgeted.

Mr. Moynahan said the new employee budget line for staffing hadn't increased from last year – that was flatlined. He discussed that adding a full-time employee would especially increase the benefits line and would go over the warrant article.

Mr. Moulton said that he thought that, from discussion with Mr. Blanchette, they were all set.

7:25 PM

Mr. Blanchette said that he thinks they were going to have to review that. He added that he knows Mr. Moulton had some monies in the Transfer Station for the part-time people that were no longer there but then they would have to look under fringe benefits. He said that the key thing would be the insurance portion they would need to look at to see if that could be covered.

Mr. Fernald asked for clarification regarding the backhoe.

Mr. Moulton discussed the bids and that they decided to look into a lease purchase. He said he got estimates based on the capital reserve that was put aside, which should cover it.

Mr. Fernald asked Mr. Blanchette asked if they had done a lease purchase for this before.

Mr. Blanchette said that they had not for that large a piece of equipment but that they have lease-purchased other equipment.

Mr. Fernald asked what would happen if the Town does not vote for it.

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

Mr. Blanchette said that there would have to be a clause in the contract that, if the Town voted no for the money in any one year, then they were out of the contract.

Mr. Moulton said that that clause was in the contract.

Mr. Blanchette said that most companies, today when dealing with a municipality, do put that clause into the contract.

Mr. Moulton said that there were no penalties with that, either. He added that, if they choose not to go that way, then they need to look at the existing equipment and the needed repairs, as that has been removed from the budget.

Mr. Moynahan said that this was a big purchase but they first needed to know if it would work within his budget. He added that they had a current-year budget now and asked how they would find this kind of money now. He added that, once a line item has been removed, it was hard to bring it back in once they have finalized the budget.

Mr. Moulton said that, when he had come back the second time, his feeling was that he had support that he would removed the \$15,000 to cut the budget cost and put the money into capital reserve.

Mr. Moynahan clarified with Mr. Blanchette that the capital equipment was funded for next year.

Mr. Blanchette agreed.

Mr. Moynahan said that, as long as that was funded and Mr. Blanchette confirmed that it was, then they have the funds for that for next year, as long as the budget was approved at Town Meeting.

7:30 PM

Mr. Fernald said that they needed to work out the employee issue.

Mr. Moulton said that he would speak with Mr. Blanchette.

Mr. Moynahan suggested that, if they were not able to fund a full-time employee, could they look at two part-time seasonal employees.

Mr. Moulton said that might be possible.

Mr. Fernald said that they had not had a new employee in the Highway Department for many, many years and, obviously, they need the help but, at the moment, this would be the only way to work it out.

Mr. Moulton said that this employee position would be shared with the ECSD.

7:33 PM

#3

TO : Board of Selectmen
FROM : Animal Control Officer
REF : Dog Ordinance

Ms. Buckley discussed her concern with Eliot's Dog Ordinance approved in 2002. She said that a lot of things she comes across are very hard to enforce because they are not covered, specifically, in that ordinance. She added that she has been reviewing ordinances from other towns and that York has a policy that, when they pick up a stray dog and it goes to Creature Comforts the owner cannot claim that dog until they pay the town \$50 and get a special receipt from the town – Creature Comforts will not release that dog until the owner produces that receipt. She said that, at this point, the Town gets nothing from the owner when she takes their dog in and the Town pays Creature Comforts \$65 for each dog she leaves there, as

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

well as \$60 for every cat she leaves there. She said that approximately 50% of the dogs she picks up were repeat offenders.

Mr. Fernald said that it was two-fold – it made the owner more responsible and brought some revenue in to compensate.

Ms. Buckley said that the way that York does it, if the ACO picks up the dog and brings it home, then the owner pays \$25 to the Town and, if it goes to Creature Comforts (CC), then it's \$50. She said that, if it was a truly accidental the dog got out kind of thing, then he could use his discretion and not charge them anything.

Ms. Place asked if the Town paid CC and the owner paid CC.

Ms. Buckley said yes, CC gets paid by the Town and by the owner, plus a boarding fee.

Mr. Fernald commented that that was only one of the issues.

Ms. Buckley said yes and that Ms. Muzeroll-Roy could tell you that there is a serious problem at the Boat Basin. She added that people seem to think that it is a dog park and let them run loose, not picking up after them, that they need more strict rules down there or any public area in Town.

Mr. Fernald asked what she was proposing.

Ms. Buckley said that she would like to get a committee together to either revise the ordinance or draft a new ordinance. She added that the York ACO said that there were a lot of towns that have used York's ordinance, which they were fine with, and it was an excellent ordinance. She said that it covered everything, that Eliot's ordinance says dogs but she has dealt with cows, they don't have a section for animal trespass and that has left her with a quandary as to what to do about that.

Mr. Fernald asked if she would like to have herself and two other members for her committee.

Ms. Buckley said that Ms. Rawski said that she would like to be part of the committee.

Mr. Fernald asked if Ms. Muzeroll-Roy would like to be a part of the committee, too.

Ms. Muzeroll-Roy said yes.

Mr. Fernald asked if that was the consensus of the Board to have these three people look at the ordinance and come up with some suggestions.

7:28 PM It was agreed by consensus of the Board.

#4 TO : Board of Selectmen
FROM : SMRPC
REF : 2000 Census results

Mr. Fernald said that this was the 2010 Census Report and was informational.

#5 TO : Board of Selectmen
FROM : Maine Municipal Association
REF : Property & Casualty Pool Membership Report

Mr. Fernald said that this talked about risk management services and was informational.

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

7:37 PM

#6 TO : Board of Selectmen
FROM : Jim Marchese
REF : Great Hill Gravel Pit Reclamation
This was discussed earlier in the meeting.

#7 TO : Board of Selectmen
FROM : Sexual Assault Support Services
REF : Clarification of funding request for 2011
This was informational.

#8 TO : Board of Selectmen
FROM : Assessor
REF : County Taxes
This was informational.

Mr. Moynahan clarified that the Town budget would reflect the increased mil rate, that this was one of the numbers that the Town was waiting for.

7:42 PM

#9 TO : Board of Selectmen
FROM : Eastern Trail
REF : Newsletter
This was informational.

Selectmen's Report:

Mr. Moynahan discussed his concerns regarding a couple of articles in the newspaper recently regarding Kittery and the sewer and they had an email sent to them. He said that he thought it was important and he would volunteer to work with Jim to draft something a little more articulate, as there were several things that needed to be known. He said that one is that there are two separate issues – the Town was looking at their current sewer contract, that they keep referencing, and moving forward with allocating more gallonage. He added that they were rolling them all into one and it isn't quite that easy. Mr. Moynahan said that, certainly, communication has broken down but they need to know that the work they were doing on the IMA benefits both towns. He added that they have funded attorneys and IMA professionals to review this draft document – not just looking out for Eliot's interests, although that was first and foremost, but that it is a good contract between the two towns, if the voters approve it. He said that the other piece is that Eliot was not looking to allocate 200,000 gallons unless the Town moves forward with the sewer system. Mr. Moynahan said those two go hand-in-hand and he thinks they sometimes forget that that was how the Town was approaching this. He said that they want to look at a separate contract for Eliot's current users, which the Town has talked about in the past, then they should talk about that separate from what they had here or create a document in such a way that they could have an addendum in there that allows the Town X amount of gallons each time the Town requests it for a certain buy-in cost. Mr. Moynahan said that one article says "it has been 15 months now since this body increased rates on Kittery users", so this was a double whamy – the users in Eliot are not paying what the users in Kittery are. He said that he had asked the question before but that was inaccurate because Kittery has increased rates to Eliot, incrementally, and it was important that they worked together, trying to move forward – it was not a "you against me" issue here. He added that they needed to get some proper information out, shared collectively, and said that they were losing site of the whole process. Mr. Moynahan said that Eliot has a current system and, if Eliot wants to tweak that contract, then let's do that separate from the one they were working on that would gain Eliot more allocation. He added that he thought it would be wise if he and Jim sat down and went point-by-point through where they were, chronologically, how they go hand-in-hand, what Eliot's positions are and

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

maybe get together as a subcommittee, separate from the contract and the design. He commented that the whole design piece drove him crazy because not at any point did Eliot ever say they would not explore another option. He said that Eliot was doing a feasibility study and had CLD look at two options and they made the choice to explore Option 1 based on the anticipated costs, only, but that did not necessarily mean Eliot was going to take that route. He added that Eliot paid for Kittery to engineer their future from Martin Road down into Kittery and, whether Eliot is involved or not, they had a free _____?, and, if Eliot is involved, then Kittery has pipes sized to accommodate Eliot's flows. Mr. Moynahan said that, if Eliot chooses a different route, then Eliot chooses a different route and, if the current routes are sized enough that the Town could go that way, then that's the way the Town would go. He added that it was hard to _____ to pay \$4 million in Kittery for infrastructure in Kittery when they were paying \$1 million to house? Eliot and the Board would not be doing the Town citizens justice if the Board did not explore the most cost-effective routes. Mr. Moynahan said that he thought this needed to be discussed a little bit here tonight and reiterated that both towns needed to work together to get where they both want to go.

Mr. Fernald agreed that no one gains anything by those negative remarks and they all need to sit down, as towns, and work together as adults never mind the finger-pointing, as that was for grade school students.

7:48 PM

Mr. Murphy commented that newspapers report what they hear at meetings and the council meeting was even deeper and harder than what was reported in the paper. He discussed conflict from one of the councilmen that seems to want to put Eliot in a bad spot. He added that Eliot has done nothing wrong and Mr. Carter could simply, at any time he chose, step up to them and say that, that Eliot was negotiating, and he tried to say that at that meeting. Mr. Murphy suggested not to do anything, as Selectmen, but leave it up to the IMA Committee as they were working on that and they were also waiting for information from Underwood Engineers for the way that Eliot was going to go.

Mr. Moynahan said that he agreed with Mr. Murphy but added that one big piece that was missing was the constant lines of communication. He said that there was no pint person from either town that communicate weekly to say where they are. He said that the communication breakdown was what was causing this ill-will and that was just unacceptable, period, from both towns. Mr. Moynahan said that both towns were at fault here and it was not for the subcommittees to communicate back and forth to subcommittees – the point persons should be communicating in a weekly or bi-weekly meeting, even if there was nothing to be said. He said that they were paying big legal fees and big engineering fees, actually moving forward and this is the time that the conversations need to be happening on a regular basis. He added that he did not want to continue wasting his time revisiting things and going back and forth if communication was not there so that people know where they are.

Mr. Murphy suggested that Kittery did know where Eliot was.

Mr. Moynahan disagreed and said that communication was key. He asked Mr. Blanchette how many times he spoke with Mr. Carter in a week, as it was indicated that Eliot doesn't communicate with them at all. He reiterated his point that regular communication needed to happen even if there was nothing to discuss to avoid speculation. Mr. Moynahan said that he wanted to keep the olive branch out there so that they could have a good, working relationship.

Mr. Fernald suggested that they wanted to stay calm, here.

Mr. Moynahan said that he and Mr. Murphy have been working on this for four years, now, and he was feeling strongly about it.

Ms. Place said that she thought they were two separate things, anyway. She added that she thought there was a specific committee working on the existing sewer

BOARD OF SELECTMEN'S MEETING
April 14, 2011 6:30PM (continued)

contract and, then, there was the TIF.

Mr. Moynahan said that there was one sewer contract and included the additional gallonage that the Town was looking at on Route 236 but they have existing system users and the current contract Eliot has with Kittery is not a good contract for Kittery – it's a great contract for Eliot so, moving forward, and he and Mr. Murphy have discussed separating the two so that there are two factions paying – existing and new - and how do they get there. He added that it was still a work in progress. He commented that, if they want to talk about fixing the problem they have right now, with how the world looks today with the sewer system, then let's talk about that.

7:50 PM Mr. Fernald said that they should talk about the details later but they certainly are interested in working with Kittery to make sure the contract is accomplished. He said that Mr. Moynahan had brought up wanting to get together with Mr. Marchese to write the letter.

Mr. Moynahan said, maybe not even a letter, but at least giving them some more information based on his timeline so that, when they have conversations, then it is accurate information they could share back and forth between the towns.

It was the consensus of the Board for Mr. Moynahan and Mr. Marchese to develop a timeline of accurate factual information that covers everything from the beginning to the current time for use in conversations moving forward for whoever takes over this process as they move forward.

Mr. Moynahan discussed additions to the Action Item List:

- He said that they should put the job reviews to the department heads, as well, as they should be performing their own employee reviews. He added that, in their Selectmen Policies, department heads reporting to them in writing on a monthly basis and reviews are part of that. He suggested making a copy of that and forwarding it to the department heads so that they know what to include and the Board gets those monthly reports.
- Police union contract
- TIF Administration
- After this budget season, accounting will be a big thing that needs to be worked on throughout the year. He added that he believed each department should be using the same format for their line items – Highway and Police are using the same format that makes it quite easy to line item and, if they could incorporate ESCD and Administration to follow those same things, then it would be easier record-keeping for Ms. Spinney and for any five people sitting up here to review the budget.
- Explore regional sharing of some services
- Records management (time clocks) – not a financial thing but more to put complaints to rest.
- Community Service Department space
- Review insurance costs

Mr. Fernald asked Mr. Moynahan to give that list to Mr. Blanchette.

Other Business as Needed

There was no other business tonight

Executive Session

There was no executive session.

Adjourn

There was a motion and second to adjourn the meeting at 7:57 PM.

VOTE

3-0

Chair concurs

DATE

Roberta Place, Secretary