

TOWN OF ELIOT BOARD OF SELECTMEN
SPECIAL OPEN EXECUTIVE SESSION
JULY 15, 2010

Roll Call: Mr. Fernald, Ms. O'Donoghue, Mr. Moynahan, Mr. McPherson and Ms. Place present.

5:30 PM Meeting called to order by Chairman Fernald. He said that he was recessing the meeting because there were more than 50 people attending, which was over the capacity for the Town Hall meeting room, and moved the meeting to the Grange Hall. The meeting was reconvened at 5:36 PM.

Mr. Fernald explained that this meeting was called for the purpose of hearing Mr. White's response to the Board's concerns about the actions on the affect of his ability to carry out his responsibilities as Code Enforcement Officer (CEO), how his personal actions in regard to his property in the Town of Raymond and the publicity about those actions. Mr. White has requested that this session be an open session. The Chair asked Mr. White if he still wanted this to be held in open session.

Mr. (Paul) White said that he had asked for this to be in open session, getting the letter from Mr. Blanchette July 6 and only two days before the meeting, and his response to the Board was that he needed time to prepare. He said that he did not want to disappoint everyone who had come today and he did not mind talking about it in public and believed it should be talked about in public.

Mr. Fernald discussed the publicity Mr. White's actions in Raymond have received. He said that some of the publicity his actions in Raymond have received is as follows: a news article on Channel 13 that he believes was aired several times on that day; two news articles in the Portsmouth Herald on June 10th and June 22nd; an editorial in the July 2nd issue of the same paper. Mr. Fernald explained that this session is being held in open session but it is not open for public participation. He clarified that that means that no one here, other than the Board of Selectmen (BOS), Mr. White and any written witnesses he might have, is allowed to speak. The Chair added that there would be no reactions from the public, whatsoever, or they would be asked to leave. Mr. Fernald said that Mr. White had the floor and asked him if he had any witnesses he wanted to speak in his behalf.

Mr. White said that he was not aware that he could have witnesses. He said that, at this point, he did not believe he was prepared to have anyone speak on his behalf and didn't know anyone besides his wife, sitting beside him, that knew more about this than he did. He added that he believed that anyone speaking on his behalf would be speaking from their personal relationship with him or a relationship with him from his job. He asked the Chair if that was what the Chair meant.

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The Chair said yes.

Mr. White said that the BOS caught him off guard, here, and asked if he could have a minute to think about this.

The Chair said yes. He clarified that this had to do with the actual charges that he is faced with and if Mr. White feels he is still qualified to be the Eliot CEO because of the situations that have arisen in Raymond and the publicity that has caused.

Mr. White clarified that the Chair said that he would face charges.

The Chair clarified that they were not charges.

Mr. White said that he thought he could mention that anyone who would speak on his behalf would be someone that would probably attest to his character and their experience with him. He said that he did hire an attorney and that the attorney was unable to be here tonight.

The Chair said that he thought Mr. White might as well proceed.

Mr. White said that he thinks there are a couple of issues that he may benefit from having people speak in his behalf on and those issues are mostly related to his day-to-day working because part of Mr. Blanchette's letter that he read directly addresses his ability to do his job. He asked if he had to name people right now or...

The Chair said yes. He added that Mr. White could not look around the room and say "you, you, you" but he must identify those people.

Mr. White said that, even though Barbara Thain was not his secretary, especially, as she is the Administrative Secretary, she works with him on a daily basis and, if she was willing, could testify on what she thinks is his ability to do his job in the future.

Ms. Thain agreed to testify.

Mr. White commented that he was trying to think if there was anyone else present who was familiar with code enforcement. Mr. White named Mr. Cielezsko, Chair of the Board of Appeals (BOA), and said that he thought one of the concerns of the Town might be his ability working with the BOA.

Mr. Cielezsko agreed to testify.

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Mr. White, after a private conversation with his wife, explained that his wife was asking if they should ask for another day to get ready and asked for the BOS's thoughts about that.

The Chair said that they have rolled over the dates several times to give him additional time.

Mr. Moynahan (BOS) said that, when this first started, they kept rolling over the time for clarification on the DEP (Department of Environmental Protection) violations, alleged violations, and thought they were trying to get updates on that. He added that this is starting to morph into more than that, that the BOS has rolled over these executive sessions waiting for more clarification of what, if any, violations occurred outside of the publicity and public comments that are being waged. He said that Mr. White was still working with them and was going to let the BOS know where that stood.

Ms. Place (BOS) said to Mr. White that she believed he was supposed to come back before the BOS on July 8 to update them on how he was doing with the DEP and the CEO in Raymond.

Mr. White said right and added that he didn't have a problem giving updates on those but there is more in Mr. Blanchette's letter than those issues. He clarified that, in the letter, they are talking about dismissal and those kinds of things, that they were concerned about the publicity, too.

Mr. White said that he would like to proceed but, if the BOS agrees, he would like to proceed with the understanding that, if the Board would agree to let him, to continue the hearing to have his attorney for those kind of things that ___? ___ to him that he wasn't aware he could do. He said that he honestly thought he would only be able to speak for himself...but he was willing to continue. He added that he just wanted to make sure that the Board is not...that the Board has all the information and makes the right decision.

The Chair asked Mr. White if he received a letter from Mr. Blanchette.

Mr. White said that he did. He added that nowhere in the letter does it say anything about not having the public speak. He clarified that, when he asked for an open session, he thought what he was getting was an open session.

The Chair clarified that that is the law that requires from the BOS to a personnel matter...it can be an executive session, obviously, with no public but, even though it is public, the public has no authority to speak.

Mr. White said that he was not aware of that.

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A member of the public said that he has the announcement in his car this week, in the Portsmouth Herald, and in that it was publicized that the public would be able to speak at this meeting, which was why he was present.

The Chair said that that was incorrect and added that one could not believe everything they read in the paper as being correct. He said that Mr. White could proceed and reiterated that there could be no public participation. He asked Mr. White if he would like to have his witnesses stand up to speak.

Mr. White said no, not yet, thank you.

The Chair asked Mr. White if he would like the Chair to read the document again.

Mr. White said no.

The Chair said that Mr. White had the floor.

5:54 PM

Mr. White said that the first thing he wanted to say was that he has made some mistakes on his property in Raymond. He said that the project is a big project. He said that he has, with his wife's agreement, decided to tear down the home, which he has done, which is a big undertaking, in the hundreds of thousands of dollars. He added that the workload he has, his willingness to volunteer and other activities, he believes led him to make those mistakes. Mr. White said that, in reading Mr. Blanchette's letter, Mr. Blanchette says that the Board is concerned with his ability to carry out his responsibilities and, also, the publicity, but he would like to address the responsibility issue, first, if he might. He said that at no point has he attempted to cover up any of this. He said that all the Board members know that as soon as he knew he came to the Board, speaking to the Board in executive session, and asked the Board to allow him the time to sort things out, which things have still not been sorted out. Mr. White said that the issues they were talking about today were on his property 80 miles from Eliot, that he has taken full responsibility for those issues and is working with the DEP to correct them. In addressing his responsibilities as CEO of Eliot, he discussed that he actually works for the BOS in the ordinance (he had copies that he passed out to the Board members), which specifically says that. He added that he also works for the BOA under the ordinance. He explained that there are decisions made by him that are both heard by the BOS and the BOA. He clarified that at no time in his job does he work independently...he is not the last word. He said that several of the issues that have been brought forward by him have had final outcomes and those outcomes have not been decided by him. Mr. White said that he issues permits and answers complaints, he answers questions at the office, he takes actions that, hopefully, will lead to resolutions...that's what he does here (in Eliot). He discussed Article III, under Administration, Division II – Enforcement,

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saying that Section 45.101 deals with the investigation of possible violations and the action it takes to abate them so, what it is telling him is that, as appointed by municipal officers, it is his job to out and find those things and report back to the municipal officers. He said that 45.102 deals with remedial proceedings and prosecutions, which says that: "It should be the duty of the Board of Selectmen upon complaint of the Code Enforcement Officer to institute abatement, injunction or other appropriate proceedings at law or in equity to restrain, prevent, enjoin, abate, collect or remove such violations; provided, however, that the remedies provided herein shall be cumulative and not exclusive, and shall be in addition to any other remedies provided by law." Mr. White said that he has always taken that for what it says that, people may have a perception that he has some kind of power in the Town but he really doesn't, and he was here to work with the people in the Town and he believes he does that pretty good as far as identifying the issues and going forward with them. Under Section 45.103 Powers of code enforcement officer says that he can enter the property upon reasonable hours, he has to make arrangements to go inside the home; if he is authorized by the municipal officers, which he is not in this Town, he can represent the Town in court. He added that he can issue building permits, use permits. Mr. White said that he just wanted to address his actions that he had already spoken about. He said that his actions on his property, which are outside the corporate limits of Eliot, will not affect his ability here, in Eliot. He added that he does not want anyone in Town to think that he is getting off or his family is getting off.

At this time, the Chair gavelled the meeting quiet.

Mr. White said that he believes, and would assure everyone, that there will be a price to pay for what he's done, even if the Board decides they can employ him in this Town. He said that, since the first day he talked to the Board about this, he has been working with the DEP to try to resolve it and, during that time, he has continued to do his duties in this Town – he continues to show respect for each person in Town and work with them and he has found in his daily work, whether doing inspections or with people in the office, no negative effects at all. Mr. White said that, at this time, he would like to address three questions to the Board and they don't need to answer if they don't want – just kind of tuck it away or whatever. He asked the BOS if they thought he had practiced fraud or deception in the performance of his duties. He asked the BOS if he had used reasonable care and judgment in his performance of his duties in his office. He asked the BOS if he was incompetent or unable to perform, properly, the duties of the office. He said that these questions he just read them come from the State Planning Office Manual. He explained that this Legal Issues in Enforcement Manual is the training material that the State Planning Office provides for code officers. Mr. White said that, if a CEO was to face the State Planning Office (SPO) and have a hearing, those are the criteria they use to evaluate the officers. He explained that, if they decide to revoke the certification, the only requirement is that they take the

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training again and they can get recertified. He asked the BOS if they would like him to read those questions again. He said that he thought he would like to. He read the questions a second time: He asked the BOS if they thought he had practiced fraud or deception in the performance of his duties. He asked the BOS if he had used reasonable care and judgment in his performance of his duties in his office. He asked the BOS if he was incompetent or unable to perform, properly, the duties of the office. He said that, again from his reading of Mr. Blanchette's letter, about the publicity issue his experience with this issue, from a publicity point-of-view, has not been a good one and has been very hard to deal with. Mr. White said that, for any of the folks have gone through it, then they know what he is talking about – it is not an easy thing. He said that he didn't blame the press at all, as he knew they had a job to do but they all know that the press gets things wrong or don't tell the whole story, sometimes.

6:05 PM

Mr. White said that, on several occasions, he was contacted by the press and was actually contacted by Channel 13, contacting him at his office at Cheabegue Island and told him that they were going to be running a story on that Friday night and was there anything that he wanted them to do. He added that his answer to them was not run the story. He added that, not only did that woman tell me on the phone but also told by the person who wrote articles in the Portsmouth Herald, that the only reason the story is a story is because he is a CEO. He reiterated that, regardless of the fact that it was true or not, the only reason it's a story...he had here in this binder, here, Notices of Violation that happened in this Town (Eliot) that have been more egregious than what he did that never made the paper. He said that he has dealt personally with other violations, not violations that he has actually cited anybody for, but that the DEP has cited (in towns he has worked for) where those have been much more egregious than even these here and it has never made it into the paper. Mr. White reiterated that the publicity issue, for him, has been a very difficult one. He added that he tried to talk with people on the phone about letting it take its' course, trying to find out, just as he has with the BOS, what exactly he was responsible for and it just hasn't worked out in his favor, at all. He said that he understood fully that men and women, as a BOS, are responsible for what the public thinks. He added that his relationship with the public has not changed and that, in the past eight weeks, he would have to say that he thinks more of the people in Eliot than he had before – that there had been a lot of people who had shown support to him and not so much that they didn't think he had done anything wrong because he had not hidden it at all. He added that personal conversations he has had with people he has said exactly what he has said to the BOS tonight. He further added that they have not been judgmental and, in fact, a lot of people have found themselves in this position before and have been through it and understand. Mr. White said that he doesn't think that people in Eliot are all that in a hurry to hang him out to dry, whatever that means. He said that, on June 10th, he went to the legal issues class and, that day, the article was written in the Portsmouth Herald, which is the one he thought the BOS referred to, and he thought about whether he should go to this class that was full of CEO's.

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He said that he talked to some people in the office, people in Town encouraged him to go and he went. He explained that the legal issues training class talked specifically about the legal issues surrounding the code officer. He said that one of the questions that the presenter/instructor talked about was whether a code officer really wanted to work in the town (he was hired in) because code officers have a tough job – they are challenged on almost a daily basis and it can be rough. He added that, hopefully, they get through it, and they don't do stuff like what he has done that complicate it. He added that one of the questions the instructor asked, which hit him as he was slumping in his seat hiding anyways, was whether a code officer really wants to work for the specific town anyways. He said that he has asked himself that question and he thinks the answer is obvious in that he is here tonight that he does want to work for this Town. He added that he travels 50 miles, one way, just to get here and has done that for almost three years. Mr. White said that, if the Selectmen of this Board agrees to have him continue, here, there would be bumps along the way, absolutely. He added that every time someone comes in the office and says they don't like his answer, then they would run to the BOS, and he understands that. He added that he doesn't believe it would affect the way he does his job. He said that he talks with people more, that there are people who come in to the office and ask him questions and he spends lots and lots of time with them and he always has – and a lot of people describe him as having a lot of patience. He said that he values people's rights to have their property and, a lot of times the problem is that, when a town itself adopts provisions or ordinances, provisions in those ordinances prohibit, in some way, those people's rights on their property. Mr. White said that, when he came to this Town, he didn't really know any of the folks and he has gotten to know quite a few, but there were lots of issues left over from the last code officer. He said that he did his best to work through those issues, work with the Selectmen, at the time, and the Board that is here now, to resolve those issues and do it in a way that did not belittle, always making sure that people knew they had rights, whether it was the BOA or the court system or a Consent Agreement (C.A.) they developed with a Town attorney and the Town – it has never been about how he could make it hard on somebody. Mr. White said that he wanted to close, and then ask those witnesses – thank you – with a comment about his value to the Town of Eliot. Mr. White said that it has been nearly three years and, as difficult as the job is at times, he has tried to do the job as best he can. He added that his approach here each day he believes has been a positive one – he doesn't hide from anybody. He said that, if someone calls him on his cell phone, he answers the cell phone and he deals with the issues. He added that he has great respect for municipal government – he really does. He said that his wife could attest that he has been involved with municipal government, one way or another, for most of his adult life. Mr. White said that he has a lot of respect for the positions of municipal officers and he truly understood that their decision was not easy. He added that, since he has been here, he has volunteered for other tasks that are not in his job description, some of which have been with the Highway Department, some with

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the Sewer Committee and he even did a short little stint with the Town Administration, where he tried to do the best he could to value the employees where he thought they needed that value. Mr. White thanked the BOS very much for their time. He said that he thought it would be appropriate, addressed to the Chair, to ask Ms. Thain to stand and maybe comment on her interaction with him and how much she has worked with him, which has been invaluable and he really wanted to thank her, but mostly to the point where people have called and what she thinks his ability to do his job is

6:13 PM

Ms. Thain said that he was excellent and that it has been a pleasure to work with him for these three years. She added that he has always done his job and she has never had anyone give her complaints about him, at all, until the past week or so and, it just seems, floods of them have been coming in. She said that she could make one appointment a day, or fifteen, and he keeps them and, if he can't, he calls them to reschedule. She added that she could always reach him – if she couldn't reach him in his office, then she could reach him on his cell phone, as could anyone in this Town. She emphasized that he had his cell phone number on his business card. Ms. Thain said that he has come down on the weekends to help people out. She said that this Town was so lucky to have this guy. She reiterated that it was a pleasure working with him. She said that he does his job and he doesn't expect anyone else in the Town to do it for him – and he takes a lot of grief – and he has a lot of patience with a lot of people in this Town. Ms. Thain said that there have been a lot of times when she has had to go in and tell people to leave his office because they have been in there for an hour and other people are waiting. Ms. Thain said that he has the patience of Job and it has been a pleasure working with him.

The Chair thanked Ms. Thain for her input.

Mr. White said that he has also had the pleasure of working with the Appeals Board. He added that he had to admit that, when he first came to the Appeals Board, that his first inclination was to contact the Chairman of the Board to ask the Board to schedule a meeting so that he could be introduced to the members. He clarified that, in his experience in the past, the BOA is a vital part of the Town and of his job. Mr. White said that Bruce Trott agreed and they all sat down at the long round table in the back meeting room (Town Hall). He said that he came across a little strong, saying, from looking in the records left by Don LaGrange, that it looked as though the BOA was granting about 50% of their variances. He said that they came down pretty hard and, for the next few meetings, he sat pretty quiet at those meetings and, until they got to know him a little bit and started trusting him, that's the way it was. Mr. White said that he has had the pleasure of working with the BOA and he thinks it is probably the best one he has ever worked with in the State. He added that he would like Mr. Cielezko to speak and said that he had not spoken with Mr. Cielezko about this issue at all but he would

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like Mr. Cielezsko speak to his past experience with him and maybe going into the future.

Mr. Cielezsko, 12 Spinney Creek, said that he could not speak for the BOA but he could speak as a citizen in dealings with Mr. White in two aspects. He said that the one time he dealt with him as a homeowner, recently, was with a sewer inspection and he said he thought, "Well, I'm good. Let's get this thing over with." Mr. Cielezsko said that he was nervous by the time it was over and Mr. White was very professional and told him things he had not even thought of and added that he got no benefit from being on the BOA. He added that, from everyone he has talked to about this issue and in dealing with witnesses and applicants in front of the Board (BOA) Mr. White has always given them, even when they didn't know it was good advice, he gave them good advice. He added that, in following the code, Mr. White was always explicit and made sure that his bottom line of reasoning was within the code of this Town. He added that he and Mr. White haven't agreed all the time and he hoped the BOS understood that there are no two code officers that will see the code the same. He said that Mr. White has always had logical, good-for-the-town interpretations of the code. Mr. Cielezsko said that he was speaking on behalf of a lot of people for Mr. White and he would not be able to do Mr. White justice, but he would try. Mr. Cielezsko commented that publicity is here, now, and gone...it is fleeting and he hoped the Town was not making decisions on publicity – a year from now no one will know that this occurred and, it might be rough right now as Ms. Thain said with complaints but his (Mr. White) fairness in dealing with everybody will win through no matter what...he could guarantee that. Mr. Cielezsko said that his interpretation of Mr. White's work, within the BOA, has been exemplary. He added that Mr. White is so thorough in presenting a case, in trying to come up with a reasonable solution for the homeowner, business owner, etc. and always uses the code as the bottom line...never bending it. He added that Mr. White's interpretation is sound. He reiterated that he has not agreed with Mr. White all the time and that Mr. White graciously accepts defeat, when that happens, but it is very far and few between. He further said that, even then he (Mr. White) was a gentleman and it worked out well and a very tribute to the Town. He said, "Fairness...yes"...everybody makes mistakes and he (Mr. Cielezsko) has no idea what is going on up in Raymond. He explained that, when he lived up in Casco, that was the "wild west" up there. He explained that he moved a house without a permit and put it on a foundation without a permit in 1978...1980...and they had a code in Eliot in 1968, but there was no code for him...it is a recent phenomenon and whatever the background for Mr. White's issue, people make mistakes, and he isn't trying to hide it but is being punished for it. Mr. Cielezsko said that it sounds like more punishment for what he thinks might happen.

The Chair invited Board members to ask questions.

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Mr. Moynahan asked Mr. White how he was making out with the DEP.

Mr. White said it was interesting because they had a meeting scheduled for this morning but they (DEP) cancelled. He added that his attorney is trying to reschedule within a couple of days. He said that he thinks the people at DEP have a lot going on right now and he has told them that, at this point, he and his wife are available whenever they are. He clarified that they (DEP) have narrowed it down to the two issues he has discussed with the BOS before and those issues will be restored to their original condition. Mr. White said that he is still waiting to get that in writing because, until one has it in writing, one can't really say. He explained that the Town of Raymond has always told him that the DEP is the one they want to see follow through with this. Mr. White said that he did not expect anything from the Town of Raymond other than a permit to do future work.

Ms. Place said that it is nice to hear people saying nice things about Mr. White, but there are also people saying not so nice things and she voiced this concern to Mr. White before that one can't sit in the position of Code Enforcement Officer and say, "Do as I say and not as I do", and, as far as the publicity is concerned, she saw the pictures on the T.V. and she saw the news report and, as far as she was concerned, that was hearsay and anything that came out in the paper was hearsay. She said that she spoke with both Chris Hanson and Jeff Kalinich, which was about 4 PM, and they both said to her that you (Mr. White) have done nothing to further this along.

Mr. White's response was, "Really?"

Ms. Place said yes and...

Mr. White clarified that they said he had done nothing.

Ms. Place said that they said that nothing had been done.

Mr. White said that that was not true at all and that he had a whole backpack full of the stuff that he had presented to them...plans and that he had hired a surveyor, who visited the office of Chris Hanson on Tuesday. He said that he doesn't know what else he could do to further this along by doing exactly what they asked him to do.

Ms. Place reiterated that she was not getting this from someone else, she was getting this from Jeff Kalinich and Chris Hanson, which she believes is the only way to do it. She added that it goes back to that, Mr. White, of all people, should have asked the questions, he knew, and the codes have not changed in Raymond since Mr. White was CEO (of Raymond), according to Chris Hanson. She reiterated that Mr. White should have known and, according to both of them, if

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Mr. White had sat down with them, right in the beginning, then this wouldn't even be happening and that whole thing would have gone away, immediately. She clarified that they said that, if Mr. White had submitted a restoration plan, immediately...

Mr. White emphasized that he did and that they both (he and his wife) went right there that following Wednesday, they were in their office talking about these issues. He added that he has done nothing but what they wanted him to do. He emphasized that he was very shocked that either one of them said that because they never said that to him, honest to God. He reiterated that they never once said that, if he got in there tomorrow, that this issue would be resolved...why wouldn't he.

Ms. Place agreed that that was the question...why wouldn't he...because they said that, if that had happened right away, then the whole thing would have gone away, that we wouldn't even be having this conversation today.

Mr. White said that he was going to have to speak to them about that because that is not the indication they gave him. He clarified that what they told him was that he needed to submit certain plans to them, and he did that, but they kept adding more plans and he finally had to hire a surveyor because they weren't getting what they wanted. He added that he has been very cooperative, to the point of a fault. He clarified that he doesn't understand that, really, he would have to take that up with them because he doesn't understand that. Mr. White said that he would have taken as much time as possible if they had said that to him one time.

Ms. Place commented that, even with all the violations or whatever they said Mr. White did wrong or didn't correct, it still comes down to the question of, "You knew better."

Mr. White said that he had a permit from the DEP to do the project and what he did was get ahead of himself without talking to them about that. He added that Ms. Place was absolutely right but his schedule at the time was such that it just got away from him, it really did. He said that part of the work that was done was done by his son because he was back from college and wanted to help. He clarified that it was really just a couple hours of work...he said that he understood what she was saying but he wanted her to understand that, or he wanted to be able to say to them and maybe they wouldn't understand, but it really was a matter of it just getting away from him. Mr. White said that he was volunteering for the board association and doing way too much, lots more than he should have.

6:29 PM Mr. McPherson asked Mr. White what his reaction would have been if he had driven down one of these many side roads in Eliot and came across that.

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Mr. White said that his reaction would be to go to the owner and talk to him about it. He added that, what happened in his case, though, wasn't that at all. He explained that they sent a NOV letter to him in the mail, which took quite a bit of time, but on the same day they gave that NOV letter to a property owner and he put it on an email list of 65 property owners and, instantly, it got out and, then, there is no retreat. He added that what he would have done in Eliot was to talk to the property owner and would have discovered what was wrong, first, which anyone in this room tonight he has had dealings with would know that, and then, once they knew what was going on, they size it up and he doesn't email or give it to anybody. Mr. White said that he knows that everything is public information but it isn't public until he puts it in writing. He said that he thinks what happened, here, is that both these officials put it in writing, gave it to these people and was actually in the newspaper before he could respond to it. Mr. White said that it was a very, very troubling experience. He clarified that, to answer the question, he would go to the people, sit down and talk with them about what they did wrong, and try to resolve it. Addressing Mr. McPherson directly, he said that, at his property in Raymond, there are no environmental impacts at all, nothing that cannot be corrected within a day's time.

Mr. McPherson clarified that he had seen Mr. White's property that day (today), as he was up that way and he drove in. He said that the first thing that popped out to him was that there was no silt fence.

Mr. White clarified that there doesn't need to be a silt fence.

Mr. McPherson questioned that as it was very close to the lake.

Mr. White explained that he has erosion control, which is a berm of mulch, and asked if Mr. McPherson had noticed that.

Mr. McPherson said that he did not.

Mr. White explained that there are different ways to provide erosion control and it is not always a silt fence. He added that, in fact in that case, a silt fence would not have worked because he would have had to dig up the natural forest peat to go around trees and rocks.

Mr. McPherson said that he just could not understand how anybody who is in the enforcement field could start a project like that without a permit from the town.

Mr. White emphasized that he did have a permit.

Mr. McPherson clarified that he had a permit from the town.

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Mr. White said yes, that he had a permit from the town and a permit from the DEP. He added that the only thing he didn't do was amend the permit to the DEP to include those items they are talking about, which one is the path and one is the patio - the removal of the rock wall. He reiterated that he made the decision to go ahead and do those things, fully expecting to deal with the DEP on that. Discussing the events that transpired, he said that the fact that his neighbor had an interest in getting him in trouble, as the very next week there was an election in the association, which he had been president of for a long time and his neighbor wanted him out and this got him out. He added that, the very next week, he held an association meeting at his house, people were there that wanted him out and they got him out. Mr. White reiterated that there were all those things that were out of his control and it was really a matter of bad luck on his part where everything happened so quickly. Mr. White said that he has admitted here, today, that he made a mistake, a mistake that did not lead to any environmental impacts. He said that, quite often when he drives down the street in Eliot, that is the criteria he uses. He added that, if there is an environmental...well, first of all, that he has to say that he doesn't enforce these issues but he calls the DEP and they would deal with it.

Mr. McPherson said that some of the complaints that he thinks he and some of the others on the Board have gotten he would think that Mr. White has made people jump through (hoops) to get permits...some of them just don't make sense.

Mr. White said that they should talk about those things and that he has said to them before that he really needs to be able to talk about them because he agrees that there are people in Town, and they were going to listen to another one of these cases right after, are they not, a complaint against himself in writing. Mr. White said that he needs to know when people make those complaints against him. He added that he thinks it's unfair for a person to take their concerns to a selectman and for the selectman to say...

Mr. McPherson commented that they were just so frustrated that there was no place to go.

Mr. White said that there was always a place to go...the Appeals Board is a place to go. He added that the Town adopted a building code and, up until 2005 when the Town adopted the building code, the Town didn't have a building code. He clarified that the Town had the 1967 code, which was about that thick (very thin) and about 10 pages. He added that there are people in this room that have dealt with that code. Mr. White said that, when the Town adopted the 2005 code and the Town asked him when he got the job in Eliot to enforce it, it came with a lot of those things that people are frustrated about. He clarified that some of those people don't want to put in foundations that are proper, they don't want to submit the plans that would show what the structural details would be on the project, etc.

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He said that it has been a frustration on his part, also, and he knows it has been a frustration on their part. He explained that when he asks them to give him more information he can tell in their eyes, he can tell in their mood, in their posture, everything, that they aren't liking it and he doesn't like asking. He said that if this Town wants him to do something different then they need to change it and members, as a Board, need to come to him or the next code officer and ask what's going on and are these things more restrictive than they need to be. Mr. White said that he has said this to the Board and others. He added that the problem is that, as of December 1st, the State is adopting a statewide building code and that effort is to have all the towns on the same page and have codes interpreted and enforced in the same way. He commented that Kittery doesn't have a code, South Berwick has the same code as Eliot and may get interpreted in a different way or it may not, he doesn't know what they do in their towns. Mr. White said that there are things in the building code and the ordinance code that he thinks should be changed and he hasn't found much cooperation in this Town to change that. He added that all he can say is that when someone goes to the Board and complains about him, then he needs to know about it, he needs to know how to deal with it, he needs to have direction from the Board, he needs to have a discussion about that because it could lead to making some changes in the ordinances. He said that he knows there have been businesses frustrated with parking issues...it is not up to him to change the ordinances, it is up to him to read the book and say this is what it says. He said that one of the Appeals Board members testified here tonight that he (Mr. White) reads the ordinance and read it in a way that's fair and explained that he always thinks of it as what will the Appeals Board members think and does he really need to ask people to do this. He said that he always thinks there is that fine line of being able to make sure that the property owner has the benefit of the doubt when it comes to a gray area. He added that he is a firm believer that they should have that but he will not allow somebody to build a huge structure that he knows the building code is telling them not to build in that way. He added that the building code is a minimum guideline and doesn't go overboard, he doesn't believe, it is a minimum guideline for building structures.

Mr. McPherson asked if they were going to hear from other folks tonight.

Ms. O'Donoghue said yes.

Mr. McPherson discussed that there were two letters of complaint and whether they're going to...

Mr. Fernald said no, that there was one.

Mr. McPherson commented that he thought the cart was put before the horses on this part anyway.

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Ms. O'Donoghue said that she was shocked by Ms. Place's comments because she called a Mike Mullen who is head of Maine's DEP Environmental & Field Services Bureau for his opinion of the severity of the suspected violations, as Mr. Mullen is in charge of general enforcement issues, in other words he is Mr. Kalinich's boss. She said that she called on July 8th in the morning. She said that he told her that he believes that all the situation there will be satisfactorily resolved and there a few minor details still to be completed. She added that he said his primary concern was the lake and that there was no damage to the lake. She added that he said that the patio might end up being bigger but he was very satisfied with the progress so far.

Mr. White said that he and his attorney were on a conference call with Mr. Mullen back when they made that appointment for this morning. He added that he was very excited that he was going to be able to sit down with the DEP prior to coming here today. He added that, when his attorney called him after being called from Mr. Mullen, and told him that they were not going to hold that meeting on that day, he was very disappointed and he told his wife because she was excited, also. Mr. White said that he has been more than willing to sit down with any of these people at any time. He added that he met with them at his site, with his wife, he has written them letters, he's done everything he possible can. He said that Mr. Mullen told him exactly the same thing and he told his attorney exactly the same thing on that morning where they scheduled what was supposed to be this morning's meeting. Mr. White said that Mr. Mullen said that there were a couple of minor issues that needed to be resolved and Mr. White said to him that he had his surveyor out in the field and he guaranteed Mr. White that he (surveyor) would have a plan in his hand before that meeting on Thursday. Mr. White said that one of the persons who wrote the article in the Portsmouth Herald commented to him about Chris Hanson in Raymond and said that, to her, all the people in Raymond where up-in-arms about what he had done and he asked her how all the people in Raymond could be up in arms about what he has done. He added that she was going to print that and he told her that was an exaggeration, that he thought there may be some people in the office that are upset about it. He added that he doesn't know how to answer your (Ms. Place) conversation with them today, at all, and he was absolutely going to take that up with the both of them and with Mr. Mullen, who is Mr. Kulinich's boss.

Ms. O'Donoghue said that she has been getting lots of calls, both pro and con, and she was interested to note two very interesting cases, mirror images of each other, both off the same road here in Eliot and both involving length of road issues. She said that both had been denied building permits by Mr. White. She said that one person said that they didn't like it but that's the ordinance and he is doing his job and the other person said that he was going to go to the selectmen and he was going to make a fuss – exactly the same situation. Ms. O'Donoghue said that she thinks that's what a code enforcement officer has to constantly battle on. She

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added that she agrees with Mr. White that, to her way of thinking, the ordinances are a little bit vague sometimes and a little loose and maybe they should be tighter or maybe they should be looser, but they are open to interpretation. She added that she believes that Mr. White has the interpretation, to the best of his knowledge, to the best of his ability and, to answer one of his questions, she believes he has taken reasonable care and judgment in these issues.

6:42 PM

Ms. O'Donoghue said that she would say this, and this has bearing on the whole publicity situation, and that is they all like to think of their little office as a family but frankly, in her opinion, it is a dysfunctional family. She commented that there is so much tension in that office, there is so much unhappiness in that office, that one could cut the tension with a knife, sometimes, and she has a feeling that Mr. White has been the brunt, for some reason that she doesn't know why and she doesn't know how, but from the day he started here he has had a hard time with certain members of the staff and it has just gotten increasingly worse and, of course, the publicity has not helped in the slightest. She said that she frankly feels that, if it was a dysfunctional family, then she would call in a professional counselor and she thinks they might need a professional counselor for their Town at the moment. Ms. O'Donoghue said that that is aside from Mr. White's case and she is sorry to digress but she had to get that off her chest. Ms. O'Donoghue said to Mr. White that it is true that she believes he made a mistake, yes, and Mr. White has admitted that he made a mistake from the word 'go'. She added that she has made mistakes and has made some really wonderful mistakes – some real bloopers – and it's not good and she regrets it and she is sure that Mr. White regrets his mistake but he can fix his mistake, which she can't expect to apologize a lot, but that he can fix his mistake she thinks is very much a plus.

Mr. Fernald said that his hang-up, one might say, of the whole thing is the one issue that, because Mr. White is a code enforcement officer he should have known better and gone to the DEP, if that's what it took, or the town's CEO and sat down with them to make sure that all permits, etc., were in effect, and to him, it is difficult to determine how someone who doesn't know that, as a CEO, how he can be an effective CEO here in Eliot. He asked if Mr. White would respond to that query.

Mr. White said that he tried to respond to that in his remarks earlier. He clarified that he doesn't want the people in Eliot to view him as being a perfect person; he never built himself to be that and never will. He added that he worked with each individual on the basis of what they were dealing with. He said that he thought he had told them before that he did not view himself, when he left the Town office to go to his property in Raymond, as a CEO at the time but viewed himself as a resident and owner of that property in that town. He added that his mistake was getting ahead of himself and he still thinks today that, if he had been given a chance and it not turned in like it was, then he would have been in front of the

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CEO and the DEP amending those permits. He reiterated that he did have permits and he does have them, still. He also reiterated that he got ahead of himself and that he has talked with lots of people in this Town on this issue and he has found no one who has said that that ever needs to... (couldn't hear)...he is sure that there are people, for whatever reason, that would like to see him leave, but the ones that he has talked to, and that has been a lot, don't look at this as being a problem. Mr. White said that he thinks he does his job effectively only because, if he was the final decision here in Town he would disagree with that, but there is nothing he can do that doesn't have to be approved by someone else...absolutely nothing. He added that, being effective in his job is a result of knowing what the ordinances are in this Town and knowing what the building code is...

The recording became inaudible at this time.

Mr. Fernald asked if anyone else had any comments that they would like to make.

Mr. Moynahan said that it started with alleged violations and, as that is turning out, this was not as big of a deal in that town as first thought – from ten items to two is what the gist of it is. He added that everyone gets put up into arms because of what is read in the paper...shame on us. He said that Mr. White had been nothing but forthright and up front with them so, if they are going to believe what the press has to say, then they are going to hang him and they would hang him for the next five articles. Mr. Moynahan said that Mr. White works hard and he is consistent. He added that he thinks Mr. White's job performance review is his, as his supervisor could speak to that, would tell the tale. He commented that one of Mr. White's questions was whether he did his job...does he work hard...and asked what the outcome of his last job performance review.

Mr. White said that Mr. Blanchette gave him the highest rating he could give him.

Mr. Moynahan commented that he just doesn't understand how he can sit there and base his thinking on alleged violations, which he has yet to see anything from DEP and two members of this Board have contacted them directly. He said that there should be a formal letter from DEP if this Board was going to base this on facts of DEP rule infractions. He said that other members are sitting up here basing their decisions on press and other people's comments out in the public, but no direct involvement with them or how he? handled them. He said that he for one will not sit up here and vilify Mr. White at this point and time. He said that the basis, here, was for DEP violations and those are proven to be less than what they have been made out to be so, he still goes by how Mr. White works and how he performs his job and, from his personal and professional dealings with Mr. White, they have been nothing but stellar.

Mr. Fernald asked if there were any more comments.

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There were none.

Mr. Fernald, addressing Mr. White, said that Mr. White had received violations in the mail and asked if he understood that correctly.

Mr. White questioned that he had said that and clarified that he received a letter for alleged violations from the DEP and he immediately went to them and made an appointment to meet with them in their office on Wednesday ... Tuesday they told him they got the letters in the mail but he was notified by email on Friday... audio garbled ... but because he was notified by email, (they/I?) didn't call... audio garbled... addressing the alleged violations.

Mr. Fernald asked for the pleasure of the Board and asked if there were any motions to be cast.

6:48 PM

Mr. McPherson moved, second by Ms. Place, that Mr. Paul White be terminated from employment as Eliot Code Enforcement Officer, Local Plumbing Inspector and Building Inspector. As will be further set out...?, the Board has concluded that the citation of Mr. White for illegal actions on his property in Raymond and the attendant publicity and public comment surrounding the citation and his actions have impaired Mr. White's credibility and effectiveness in Eliot and has substantially affected his abilities to carry out the duties of his position as Code Enforcement Officer.

Mr. Fernald said that he had a motion and a second on the floor and asked for any more comments.

There were none.

Mr. Fernald called for a vote on the motion.

VOTE
2 in the affirmative-2 opposed
Chair votes in the affirmative

Mr. Fernald said, "I'm sorry, Paul."

Someone from the audience asked if she could make a public comment now.

Mr. Fernald said no. He asked if Ms. Thistle was present.

Ms. Thistle said that she was present.

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Mr. Fernald asked if she would retract her request.

Ms. Thistle said that, yes, she would.

Mr. Fernald asked if there was a motion to adjourn.

6:55 PM Ms. Place moved, second by Mr. Moynahan, to adjourn tonight's meeting.

VOTE

4-0

Chair concurs

DATE

Roberta Place, Secretary