

**BOARD OF SELECTMEN'S MEETING**  
**September 9, 2010 6:30PM**

**Quorum noted**

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

**Roll Call:** All 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 Ms. O'Donoghue, to approve the minutes of August 12, 2010, as amended.

**VOTE**

**2-0**

**Chair concurs**

Motion by Mr. Moynahan, seconded by Ms. O'Donoghue, to approve the minutes of August 26, 2010, as written.

**VOTE**

**4-0**

**Chair concurs**

**Public Comment:**

No one from the public wished to speak.

**Department Head/Committee Reports**

**6:34 PM** Mr. Murphy, Sewer Committee, said that the Sewer Committee (SC) feels that the contract committee negotiating with Kittery requests the presence of a consulting attorney. Mr. Murphy read the letter from the SC regarding this request.

Mr. Fernald said that he had reviewed this and couldn't agree more with the SC. He added that he would like to clarify something, though, and that was that some of the monies taken from the TIF have to have Town approval.

Ms. O'Donoghue said that some administrative costs did not need Town approval and she believes this falls under administrative costs.

Mr. Fernald asked if Ms. O'Donoghue knew if there was a limit to that.

Ms. O'Donoghue said that she wasn't sure.

There was some discussion regarding this issue among the board members.

Mr. Moynahan said that there was some language that was approved for consultation and legal expenditures.

The Board agreed that legal consultation should be allowed for this.

Mr. Moynahan moved, second by Ms. O'Donoghue, that the Board of Selectmen seek to hire a legal consultant to help the Sewer Committee review the sewer contract between Eliot and Kittery, pending confirmation of available funds.

**VOTE**

**4-0**

**Chair concurs**

**6:38 PM** The Board officially welcomed Joel Moulton as Public Works Director and invited him to speak.

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Mr. Moulton addressed four items and gave handouts to the Board regarding these four items.

Ms. O'Donoghue commented that SMRPC has a cooperative purchasing agreement for things like tires, which might have a lower price.

Mr. Moulton said that he was not aware of that and would look into it. He said that he requested bids for tires for the CAT 918F Loader and received three written vendor quotes. He added that he could investigate SMRPC and get back to the Board, if that is what they wished.

Mr. Fernald clarified that there was monies in his budget.

Mr. Moulton agreed there was and that he was anticipating taking it out of the snow account, which is the primary use for the Loader.

Ms. O'Donoghue commented that they also had salt included in that same group and said she would get the pertinent information to Mr. Moulton.

Mr. Fernald said that he wasn't sure this qualified for monies to be taken out of the snow account and asked for comments from the Board.

Mr. Moynahan said that he thought this would be more of a vehicle line or equipment purchase and he wasn't sure what the line items looked like for those.

Mr. Moulton said that they hadn't gotten a concrete number on that, as of yet, and have expenditures that they need to verify in relation to the appropriations and they could definitely look at that avenue if the Board wished.

Mr. Moynahan discussed that a portion was allocated to come from the snow account but that they should find out if there was any amount from the equipment lines or from direct vehicle operation and maintenance.

Mr. Fernald clarified that they needed to know where the money would come from.

Mr. Moulton said that he would do some further investigation and get back to the Board.

Mr. Fernald asked him to address the calcium chloride purchase memo.

Mr. Moulton commented that it was his understanding that this was not used much in prior years – or at all this past winter – for consideration this year and he wasn't sure this qualified under the regular road salt but he would look in to that, as well.

Mr. Fernald agreed that, if he would do that, then the Board could make a decision on that at the next meeting, as well.

**6:43 PM** Mr. Moulton discussed the Old Fields Bridge, saying that, originally, they received a citizen complaint regarding loose timbers on that bridge and he did an inspection of that bridge. He read the letter he submitted to the Board. Mr. Moulton discussed how the bridge would be repaired, strongly suggested a lower weight limit until repairs were done and was putting a cost estimate together for those repairs. He also discussed coordinating repairs with South Berwick, who is half owner of that bridge, and is willing to jointly apply for KACTS funding to help defray the costs of repairing that bridge, dividing the costs of repair evenly between the two towns. He stressed the poor condition of that bridge.

**6:45 PM** It was the consensus of the Board to reduce the weight limit on Old Fields Bridge

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On the recommendation of Public Works Director, Mr. Moulton.

Mr. Moulton said that he would keep the Board up-to-date on the discussions with South Berwick.

**6:46 PM** Mr. Fernald commented that he was hoping to hear from the Planning Board (PB) tonight and said that they had a draft ordinance from the PB that could be voted on in November and the Board needed to make a decision on whether to move it along to hold a public hearing. He clarified that this was a change to the height of buildings in the Commercial/Industrial Zone.

Mr. Moynahan moved, second by Ms. O'Donoghue, to move the Planning Board Amendment to Chapter I, General Provisions, Chapter 33, Planning and Development and Chapter 45, Zoning...to increase the maximum height of structures in the Commercial/Industrial Zone from 35' to 55' ... be approved for warrant for November 2, 2010 voting, with a Public Hearing to be held by the Board of Selectmen on October 14, 2010 at 7:30 PM.

**VOTE**

**4-0**

**Chair concurs**

**Old Business (Action List):**

**6:50 PM**

A. Job Review Form for Department Heads – Moynahan

Mr. Moynahan discussed that Board members had working documents that should be reviewed, critiqued and comments given at the next Board meeting.

B. Fire Arms Ordinance – Fernald

This came under New Business tonight and would be something that would come off the Action Item List.

C. Solid Waste Alternatives – Solid Waste Committee

This is ongoing.

D. Wild Brook Lane

The Chair said that there was no information at this time.

E. Representation on Kittery Sewer

The Chair commented that that would probably be part of the contract, when it comes up.

F. Sewer Contract Committee – Moynahan, O'Donoghue, Murphy, Marchese and Blanchette

Ms. O'Donoghue said that they had been trying to get a meeting together the last two or three weeks and, not knowing what the hang-up is, she would continue to pursue getting this committee together to ensure they are all on the same page.

G. Skate Board Park noise – McPherson and Fernald

This was not discussed at this time.

H. Grant Writing

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Mr. Fernald discussed that most of the departments write their own grants, saying that Mr. Muzeroll had comments on the grants his department writes, Mr. Moulton is very experienced with grant-writing, and ECSD does their own grant-writing. He added that he does believe it is important to have someone available if someone needs assistance in grant-writing.

Ms. O'Donoghue suggested SMRPC.

Mr. Fernald asked the Board if this was something the Board needed to pursue.

Mr. McPherson commented that he thought it has been working pretty well with the department heads, that they were well-aware of what was available and agreed with Ms. O'Donoghue that assistance was available, if needed, through SMRPC.

Mr. Moynahan said that he just wanted to make sure that all the departments were chasing the available grants.

**I. PACE Program**

Mr. Fernald said that a regional meeting was being set up, as the State people would like to come down for a multi-town meeting rather than just Eliot. He added that he did not know the date, yet.

Saying this could be an addition to the Action List, Mr. Moynahan asked how they were going to approach the opening for the CEO position. He said that they currently have people temporarily assigned to handle most of those duties but asked if they were going to advertise and post for this position.

Mr. Fernald clarified that the Board (a meeting Mr. Moynahan was not at) decided to look into the possibility of combining with other towns for the necessary functions in that department. He said that Mr. Blanchette is currently talking with Kittery and South Berwick and they would have an update at their next meeting.

**New Business (Correspondence List):**

**6:55 PM**

**#1**

TO : Board of Selectmen  
FROM : Douglas Burnell, Sr.  
REF : (Ditch) Runoff water along Fore Road and Old Road

The Chair invited Mr. Burnell to speak.

Mr. Burnell discussed the torrent of water draining off the hill that drains about 20 acres and the ditch meant to handle that run-off being completely overgrown in the area along Fore Road and Old Road with the serious impact of standing water in that area. He explained that the State, years ago, got an easement and went down along his property instead of going down River Road, that pipe sizes were not adequate and engineered drainage was not in place that was needed. He said that he would like to see the ditch dug out and a "clean-out" put in place or reconfigure the drainage to go across Fore Road and down River Road. He invited Board members to walk the property to get a better understanding of the problem, saying the problem has been going on for a little over 30 years. He added that the standing water coalesces around where the drop-out should be. Mr. Burnell said that something needed to be done.

Mr. Fernald agreed that, to have it done, it needs to be done correctly. He recommended that Mr. Moulton get together with Mr. Burnell to walk the property and bring recommendations back to the Board. He clarified to Mr.

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Burnell that it may be, if the Board does do something, then they may have to find the monies to do that and the budget process is coming up.

The Board was in consensus to have Mr. Moulton walk the property and bring back recommendations to the Board.

**7:02 PM**  
**#2**

TO : Board of Selectmen  
FROM : Grant Hirst  
REF : Maine Dept. of Maine Letter

The Chair said that this was a memo from Mr. Hirst on the DOL inspections, which states that Eliot is now in compliance with the DOL and clarified that Mr. Hirst was suggesting in his letter that they be re-inspected quickly.

Mr. Hirst agreed that that was his suggestion – to ask for an inspection rather than submit to an arbitrary inspection date when they would have no idea when they would come. He added that it was his hope that he could go around with the inspector with his clipboard to take notes and that way they could get right on any issues that arose.

Mr. Fernald said that the Board had a letter from the Fire Chief on this subject questioning the need for another inspection and the scheduling of any inspection. He asked for input from the Board.

Ms. Place said that it appears that Mr. Muzeroll would want to be involved in any inspection and discussion of his department, which seems reasonable and expected that he should be involved.

Mr. Hirst commented that Mr. Muzeroll may be assuming that the inspection would only apply to the Fire Department but that is not the idea at all. He said that it was to re-inspect the entire Town and did not believe they would pay any special attention to the Fire Department over anyone else. Mr. Hirst said that, if Mr. Muzeroll wanted to be entirely the person to be with the inspector for the Fire Department that is fine with him. He clarified that, if the Board wishes him to accompany the inspector for other departments, then he would be happy to do that.

Ms. O'Donoghue said that she thought it would be better for them to be proactive rather than reactive, which would help them move ahead a bit and anticipate things and be in a better position, both financially and practically.

Ms. Place asked if, when the Town asks for an inspection, is that request for each separate department or for the whole Town.

Mr. Hirst said that it would be for the entire Town.

Ms. Place asked if each department was scheduled separately or all at once.

Mr. Hirst clarified that, in the case of the Fire Department, there is no one there part of the time, so the inspector would have to work it out directly with Mr. Muzeroll. He added that, if the Maine DOL scheduled the re-inspection when they wanted to, then they are forbidden, by law, to give notice, so they all-of-a-sudden show up and that would make it difficult. He said that he thinks it would be better to request the inspection and he thinks they would set a date.

Mr. Fernald asked for the wishes of the Board.

Mr. McPherson commented that it was his understanding that the DOL had only two people to deal with the whole State and he believed that they needed to leave

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this up to the department heads, making them aware and letting them handle this. He added that they are the department heads that the Town puts their trust in and they have very capable people in those departments.

Ms. Place asked who the individual was that would call and say they would like an inspection – would it be the department heads or someone else.

Mr. Fernald commented that he believed it would be the Board who initiated a request for inspection, however, it probably should be...

Mr. McPherson said that it should be the department heads working together, he thought.

Ms. Place agreed.

Ms. O'Donoghue commented that it seemed to take a long time to get some of these items corrected and they got nailed for a \$5,000 fine and almost got nailed for a lot more. She said that if there were any chance of polishing their halo a little bit by being proactive, then that might be something the Board might want to consider.

Mr. Fernald asked what the Board would recommend.

Ms. Place suggested they notify the department heads that they should call a meeting and decide when they want to have this inspection done...the sooner the better.

Mr. McPherson said that he would leave it up to the department heads.

Mr. Moulton said that, with the last inspection done, they had two-weeks notice. He added that a new gentleman showed up to inspect and completely ignoring the other guy's work, found things the other guy just walked by. He commented that the departments are at their mercy and they would find something.

Mr. Moynahan said that it seem like a good approach being proactive. He added that, if departments get two-weeks notice, then shame on them if they are found non-compliant. He also added that, in the future, they could not have the administrative assistant hide fines in the legal account and make it look like nothing happened...the Town spent money on deficiencies and it was not put out there for the public to see. Mr. Moynahan said that he thought the department heads should be left to their own mercies with these and that he appreciated Mr. Hirst's work because he will save the Town a boat-load just by educating the Board on this and educating the departments.

It was the consensus of the Board that department heads would make these decisions.

**7:45 PM**

Mr. Hirst pointed out that there were two different inspections they might undergo...one is by the DOL and not allowed by law to say when they would be coming and the other one is from MMA, the Town's insurance company, and they make an appointment to come inspect.

**#3**

TO : Board of Selectmen  
FROM : Grant Hirst  
REF : NIMS Compliance

Mr. Hirst said that this all came about as a result of the Federal Emergency Management (FEMA) situation and the ability of the Town to get grants – one is for emergency assistance and one for acquisition of “stuff”, for lack of a better word, and if the Town is not compliant it can apply for and possibly secure

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emergency funding. He added that, if the Town is not compliant, then they cannot apply for and get equipment under grants that may be available. Mr. Hirst said that, according to York County EMA, it is quite likely that a town that is not compliant cannot even apply for emergency funding in the future. He added that it appears that the Town is compliant for 2010.

Mr. Fernald commented that that was what Mr. Muzeroll's memo indicated.

Ms. O'Donoghue commented that one of the things Mr. Hirst was referring to was the mitigation grants and she was wondering if the bridge might not fall under that category and maybe they could get a grant to repair that bridge.

Mr. Moulton said that he would look into that.

**7:17 PM**  
**#4**

TO : Board of Selectmen  
FROM : Dan Blanchette  
REF : Firearms Ordinance

The Chair read the amendment cover page and said that the reason they looked into this was that the Town's ordinance was written in 1993 and, over the years, under the definitions that this ordinance is based on, calibers have changed and are not included in the ordinance. He clarified that those calibers not included would not be under the definition, itself, and including the language "as defined and regulated by the Federal Government and the State of Maine" would cover those calibers in the Town definition and would make it so that the Town would not have to redo the ordinance every time the State of Maine made a change.

Ms. O'Donoghue asked if the definition from the State of Maine included terms such as pistol, revolver, rifle, machine gun and said that those are things she would hate to have taken out of the ordinance.

Mr. Fernald said that, under Title 12 of the M.R.S.A., there is a list of all those definitions.

A member of the audience asked about the impact to hunting with black powder rifle in Eliot with this change – would it be less than 50 caliber.

Mr. Fernald clarified that the state actually defines each one of those and the Town ordinance can't keep up with that so that is why this amendment is being proposed. He asked if the Board would like to move this ordinance for a public hearing October 14, 2010.

Ms. Place moved, second by Mr. McPherson, to hold a Public Hearing on an amendment to The Firearm's Safety Ordinance for the Town of Eliot.

**VOTE**

**4-0**

**Chair concurs**

At this time, the Board signed the amendment to move it forward.

**7:22 PM**  
**#5**

TO : Board of Selectmen  
FROM: Dan Blanchette  
REF : 1<sup>st</sup> Reading of Consent Agreement

Mr. Fernald said that this was the first reading for this article.

Ms. O'Donoghue commented that she didn't see where the person asking for a C.A. has gone before the BOA.

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Mr. Murphy clarified that that is in the very first part under "A) The owner having been denied by the Board of Appeals...".

Mr. McPherson asked if this has been reviewed by an attorney.

Mr. Fernald said that it has not.

The Board discussed that policies were not reviewed by an attorney but were for the Board's knowledge and use.

Mr. Fernald reiterated that this was the first reading and asked if the Board wanted to move this on to the next BOS meeting for a second reading and approval.

It was the consensus of the Board to move this forward for a second reading.

**7:25 PM**  
**#6**

TO : Board of Selectmen  
FROM : Dan Blanchette  
REF : 2<sup>nd</sup> Reading of Personnel Policy amendment

The Chair said that this was in regard to driver license checks and that Mr. Muzeroll had submitted a memo, which he read and discusses new proposed rules for fire department personnel. He said that Mr. Moulton submitted a memo, as well, that discussed concerns he had.

Mr. Moulton said that, in discussion with the crew, the concern for the increased danger involved in winter plowing and maintenance with weather conditions changing rapidly and that increased consideration be taken for the potential for winter-type accidents. He reiterated that a formal investigation would be performed by him and the police department, if necessary, to see if there is any active neglect.

Mr. Fernald asked what the committee would like to do in regard to the fire department input.

Ms. Place said that the Maine Firefighter's Association (MFA) guidelines are pretty stringent and believes that would be the best way to go – to have them take care of that part of their operation – under those guidelines.

Ms. O'Donoghue commented that she thought that some of the criteria they listed in the draft policy are pretty loose. She added that the Board would certainly take anything under consideration, with the recommendation of the supervisor.

Mr. Fernald asked if the Board wanted to exclude the fire department from this at this time.

Mr. Moynahan suggested they put EVOC Certification required for all personnel with yearly check-ups by the fire department, as he did not think they needed to add all the language in Mr. Muzeroll's memo.

Mr. Fernald said that including that wording would revert this back to the first reading for this draft policy and asked if it was the consensus of the Board to add the MFA guideline language and revert to a first reading.

It was the consensus of the Board to insert the MFA guideline language and informed departments that they could bring more input for consideration.

**7:30 PM**

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**#7** TO : Board of Selectmen  
FROM : Dan Blanchette  
REF : Hearing on Sawgrass Lane

The Chair opened the Public Hearing on Sawgrass Lane and asked if anyone wished to speak about Sawgrass Lane.

Mr. Laskowski asked if the Town road foreman had looked this over and was willing to accept this road.

Mr. Fernald said yes. He added that everyone who was supposed to look at it, Fire Chief, Road Commissioner & Police Chief, has looked at and approved the road.

Mr. Lakowski asked who would be responsible for taking care of the weeds growing up in the swale that drains on the west side of the road. He explained that there is a big puddle that sits right there in the weeds in front of the underground utilities and wanted to know who would take care of that.

Mr. Fernald said that it would not be the Town and that all this was was a public hearing for the road, itself.

Mr. Lakowski asked if that area wasn't part of the acceptability of the road.

The Board discussed what the Town was responsible for and that whatever was in the ROW for the road would be the Town's responsibility.

Mr. Fernald asked if anyone else wished to speak.

There was no one else who wished to speak.

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

At this time, the Board signed the warrant to have this article to accept Sawgrass Lane as a Town road be put on the November 2010 Town of Eliot ballot.

**VOTE**

**4-0**

**Chair concurs**

**7:38 PM**  
**#8**

TO : Board of Selectmen  
FROM : EnviroVantage  
REF : Proposal

Mr. Fernald said that this was about mold at the Town Hall and added that Mr. Blanchette was only able to get two estimates.

Mr. Moynahan said that Mr. Blanchette had asked him to look at these estimates and explained that neither one showed the cause of the mold. He discussed his concern with fixing something that they don't know the cause of. He added that the only difference he sees in the dollar figures is that one company states it uses EPA-registered products, while the other does not indicate they use them but, apples for apples, they are pretty much doing the same work. He added that it is only removing the affected items and cleaning but not putting anything back together, so there would be additional costs associated with restoring what is removed.

Mr. Fernald asked Mr. Moynahan if he felt the Board should look into this further or go with one of these companies now.

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Mr. Moynahan said that they have been dealing with this since April and that something should be done to abate the mold and for the well-being of the employees.

Mr. Moynahan moved, second by Ms. O'Donoghue, to hire Servpro for \$3,166.97 to eradicate the mold, as indicated in their proposal.

**VOTE**

**4-0**

**Chair concurs**

**7:43 PM**

**#9**

TO : Board of Selectmen  
FROM : Federal Emergency Management Agency  
REF : Floodplain Maps

Mr. Fernald said that the FEMA floodplain maps had arrived and are in the map room. He added that FEMA would be putting the maps on a disc for the Town, which would be coming later.

Ms. O'Donoghue said that she has a copy and commented that the disc format is not easy to use, as it jumps around a lot and only allows small sections to be copied. She added that she was going to take it to Kinko's to see if they could make it more user-friendly.

**#10**

TO : Board of Selectmen  
FROM : CMP  
REF : Pole Permit Application for #10-1001-31090-074

This was informational.

**7:45 PM**

**Selectmen's Report:**

Ms. O'Donoghue reported on the Eliot Business Development Committee (EBDC). She said that the new officers are: Chair – Kristin Orr, Vice-Chair – John Chagnon, Secretary – Craig Goss. She said that the next Business After Hours at the Regatta is September 15 from 5 PM to 7 PM and everyone is welcome. She discussed that some business people have had difficulties getting through the Planning Board (PB) procedures and explained that there seems to be some confusion with the PB checklist sheets that are causing some business people to come back to the PB two and three times, which is two or three months before they can get permits, and that doesn't seem very business-friendly. Ms. O'Donoghue discussed that one of their ideas was, if the Board approved, that the EBDC would designate an ombudsman from their committee that would be available to help a business that wants to move to Eliot.

Ms. O'Donoghue discussed the ongoing problems with the Verizon addresses. She said that Mr. Strong has looked into that and has found that the only thing people can do is to call Verizon (Fairpoint) and ask when they would get their update. She discussed that many addresses were incorrectly listed.

The Board discussed that people needed to call the phone company individually to get their particular address listing corrected, as the phone company will not do it for the whole Town.

Ms. O'Donoghue reported on the Energy Commission (EC). She said that they did receive their \$10,000 grant.

Mr. Murphy clarified that they received \$8000.

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Ms. O'Donoghue agreed and said that they get 80% in the beginning and then 20% when the project is complete, but the total amount is for \$10,000. She added that they do need a representative from Town government, they have to have a resident and some school participation, which they are working on. She said that it isn't clear whether it needs to be a student or a teacher but they are following up on that and the education department will be involved in that project. She also added that they are working on applying a Climate Action Plan and will bring that to the Board in another month or so.

Mr. Fernald asked if that grant money had been put into a special account for energy purposes.

Ms. O'Donoghue said yes.

Ms. O'Donoghue reported that there would be an EMA exercise program presented at the Marshwood High School on October 2 from 8:30 AM to 3 PM and is on hurricanes and floods and is what they call a table exercise. She explained that these are exercises that are required yearly for the towns and emergency personnel. She said that she was planning on going as an observer and anyone is welcome as an observer.

Mr. McPherson commented that the Skate Park, from what he has observed, gets very little use and the one issue that he has seen is that they are not always out of there at 7 PM. He added that a couple of times he had walked over and one time a police officer was there and he told him that they were supposed to be out of there at 7 PM and he went down and told them that they needed to leave.

**Other Business as Needed**

**7:50 PM** Mr. Grant reminded the Board that when they let contracts for services, they need to be asking for certificates of insurance from the vendors with the additional stipulation that they name the Town of Eliot as an additional insured. He added that this is something that the Board has talked about before and agreed to do but he doesn't know if the Town is doing it or not.

Mr. Fernald said that Mr. Hirst's comment was so noted.

**Executive Session**

**7:53 PM** Mr. Moynahan moved, second by Ms. O'Donoghue, to go into executive session as allowed by 1 M.R.S.A. 405.6.A "Discussion or consideration of the employment, ..., or dismissal of an individual..."

**VOTE**

**4-0**

**Chair concurs**

**8:04 PM** Out of Executive Session

**Adjourn**

There was a motion and second to adjourn the meeting at 8:05 PM.

**VOTE**

**4-0**

**Chair concurs**

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**DATE**

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**Roberta Place, Secretary**