

BOARD OF SELECTMEN'S MEETING
March 11, 2010 6:30PM

Quorum noted

6:30 PM: Meeting called to order by Chairwoman O'Donoghue.

Roll Call: All present.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:31 PM Motion by Mr. Fernald, seconded by Mr. McPherson, to approve the minutes of February 11, 2010, as written.

VOTE
4-0
Chair concurs

Motion by Mr. Fernald, seconded by Mr. McPherson, to approve the minutes of March 4, 2010, as written.

VOTE
4-0
Chair concurs

Public Comment:

6:33 PM Ms. Mills commented that she noticed that her letter was not on the agenda and asked if it was still being considered.

The Chair said that her letter was still under consideration and that it was just not scheduled for tonight.

Department Head/Committee Reports

6:34 PM The Chair invited Grant Hirst to speak.

Mr. Hirst reported that the Safety Committee has had its second meeting and it went very well. He said that they have an ergonomics study to be done for free and is scheduled for April 6. He explained that MMA people are coming down to look at the work stations for the many people who use computers in Town and that will result in recommendations their committee will be guided by. He added that it is working well and he is pleased with the participation.

The Chair thanked Mr. Hirst and said that he should be complimented for getting this off the ground because she knew it took some coordinating.

Old Business (Action List):

6:35 PM

A. Job Review Form

The Chair said that this is ongoing.

B. Road Commissioner Job

The Chair said that they now have a road commissioner job description and, in her opinion, it looked good. She asked for member comments.

Mr. Moynahan said that the BOS would actually be defining the hiring committee and suggested adding John Sylvester to that proposed list.

The Chair asked for input from the Board.

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Mr. Fernald agreed with Mr. Moynahan.

The other Board members agreed, as well, and there was consensus that John Sylvester would be added to the list of names proposed for the Hiring Committee.

Mr. McPherson said that he had heard criticism regarding three of the names being closely related and suggested Grant Hirst be added to the list.

Mr. Hirst said that he would be happy to do that.

The Board agreed.

The Chair asked if anyone else was puzzled by three related, as she only saw two.

Mr. Moynahan clarified that Bill Morgridge is also related to him, that he is a second or third cousin. He added that Mr. Morgridge was not asked if he would be interested in being on the list and that his name was just proposed.

The Chair commented that she thought he would be a perfect addition because the job description includes overseeing the sewer.

The Board agreed and also agreed, by consensus, that they were happy with the description, as written, and that it did not need attorney review.

6:40 PM

Mr. Moynahan commented that the Board had discussed sharing the Department of Public Works Director position with South Berwick. He said that he believes it would still be wise to advertise for this position while they talk with South Berwick and gauge the interest level they have. He added that the Town is proposing a Step 1-4 starting salary, which would be \$58,000 to \$63,000 per year, plus benefits, and it was indicated to the Board that South Berwick would be \$50,000 plus half-time benefits. He said that he thinks it would be worth exploring both at the same time and let the process take its course so that, come June, they have an informed decision financially and in staffing.

Mr. Fernald disagreed and said that advertising a job costs the Town money. He added that he thinks that they need to take a first step and find out if we can share this with South Berwick, which would certainly save the Town some money.

Ms. Place asked what the timeframe was.

The Chair said that the current Road Commissioner's job ends June 30, 2010. She added that they might have to do something fairly quickly if they are going to advertise.

Mr. Moynahan said that the Town needed to look at the financial implications of a part-time director, with a \$50,000/year and part-time benefits that would still result in the need for the highway department to hire additional winter help. He added that it may not prove to be cost-effective and that they should spend the money to advertise to compare apples to apples – services and staff levels Eliot would get with both options.

Mr. Fernald reiterated that the cost of advertising is considerable and that he would like to see the Town pursue the South Berwick option first.

Mr. McPherson said that he somewhat agreed with Mr. Fernald. He discussed winter help and that winter plowing in the smaller subdivisions is being done with smaller pickups now and could, possibly with a new director, be put out to bid to smaller contractors. He added that he thinks that is done in South Berwick.

Ms. Place asked Mr. Blanchette how long it would be before the Board receives an answer from South Berwick.

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Mr. Blanchette said that South Berwick is extremely interested. He added that he is meeting with Terry Oliver (Superintendent of Public Works) sometime next week, for the second time. Mr. Blanchette said that Mr. Oliver is extremely interested and believes it can be done. He added that Eliot should have something by the end of March as to whether this is workable.

6:42 PM Ms. Place moved, second by Mr. Fernald, that the Board of Selectmen wait until April 1 to have an answer from South Berwick and, then, proceed from there.

The CEO clarified that this job would include the sewer part of it, too.

Mr. Fernald said that that was part of the job description.

VOTE

4-0

Chair concurs

Ms. Shapleigh asked if this was going before the voters so they have some say in this.

Mr. Fernald said no and clarified that this was not an elected position but an appointed position.

C. Business Registration Ordinance – Copies of two proposals. Invite Business Development Committee to meeting.

The Chair said that this was still being worked on.

E. Police Contract

The Chair said that this was ongoing.

D. Use of Town Vehicles

The Chair asked why this was still on the Action Item List, as she thought that had been settled.

Mr. Blanchette commented that he was not sure but that he would remove it from the list. He asked if the Board had actually voted to approve the road commissioner job description.

The Chair said no and asked for a motion.

6:48 PM Mr. Fernald moved, second by Mr. McPherson, that the Board of Selectmen accept the road commissioner job description, as written.

VOTE

4-0

Chair concurs

Mr. McPherson said that, as the use of Town vehicles is on the agenda, he would like to see more use of that red pickup that the Town bought for the CEO many years ago.

The Chair clarified that Community Services is using that truck.

Mr. McPherson commented that the smaller highway department truck sits idle all summer and could possibly be used by the Community Services Department. He said that he feels that people, such as the CEO, should be driving a vehicle that is marked and that he and other Town employees should not be using private vehicles for Town work.

The Chair agreed that Mr. McPherson made a good point but would like to find out how much the Community Services Department is using that vehicle, as she didn't want to take it away from them if they are using it.

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Mr. McPherson commented that the highway trucks used in the winter to plow smaller subdivisions are not used during the summer months, that they are heavier than the red pickup, and would be better for hauling around the mowers, etc. He added that he was aware that one employee was using his own vehicle once in a while to haul brush and the like and he was concerned about the issue of insurance, as well.

6:48 PM Mr. Fernald agreed that Town employees should not be using their private vehicles when doing Town work. He said that he believes those vehicles should be accessible to those Town employees that need access.

The Chair asked if they needed a revision in their policies to cover this issue.

Mr. Fernald commented that he thinks they are getting policed to death. He said that he thinks this is something the Board should encourage the employees to do.

The Chair asked how the Board would like to accomplish this.

Mr. McPherson said that, through Mr. Blanchette, the various department heads could be notified.

Mr. Blanchette said that he believes he, Ms. Roy and Mr. Shapleigh could get together to see how feasible it would be to do and he could report that back to the Board.

The Chair agreed, thanked Mr. Blanchette and said that that would be very helpful.

New Business (Correspondence List):

6:50 PM

#1 TO : Board of Selectmen
FROM : Doug Krebs
REF : Resignation from Eliot Community Television Committee

The Chair said that it is her understanding that this has been withdrawn and added that the Board would not discuss this at this time.

#4 TO : Board of Selectmen
FROM : Eliot Sewer Committee
REF : Sensor Purchase

The Chair invited Mr. Marchese to speak.

Mr. Marchese discussed two memos sent to the BOS regarding the odor issue in the Bolt Hill Road area. He said that the Sewer Committee had read about the problem in the paper a few months back and decided to create an action plan of their own. Mr. Marchese said that the Sewer Committee wanted to make sure the BOS was aware of what they were doing and were in favor of that action plan or had other suggestions. He explained that the memo discussed placing the Gerome Meter outside in an enclosed, protective box to see if it can detect H₂S in ambient air, which it is not really designed to do. He explained that a sensor capable of doing that is very expensive and probably not feasible, so they wanted to try this first. He said that, if they got results, they would then ask the Board to purchase a second sensor (approximately \$800) so that they could monitor what was going on in the sewer system and in the air, above grade, at the same time. He added that they were hopeful this would give them more information as to the specific location of the odor origin.

6:54 PM Mr. Fernald asked how they were determining where to locate the sensor.

Mr. Marchese clarified that would be something they would ask the manufacturer for the best location(s) and structure to house it in. He added that they are

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focusing on Hickory Lane and Bolt Hill Road. He also added that they would have more than one test site and try to gather hard evidence as to whether, in fact, the odor problem is from the sewer system.

The Chair asked if the enclosure for the sensor would be costly.

Mr. Marchese said that they had not gotten too far into that, yet, but they were thinking that something could be built from PVC pipes, drilling a number of holes in it, mount it to a stake in the ground or a sign once the frost is out of the ground.

The Chair asked if the Board had anything to add or were they ready to give Mr. Marchese the go-ahead for this.

The BOS were supportive of the efforts of the Sewer Committee to aid in this issue.

Mr. Marchese said that one other matter of concern to the Sewer Committee is with the TIF Administrators. He clarified that their concern was with the accountability of the team effort to make sure that things would move forward in an appropriate manner. He added that they are hoping to meet with the two TIF Administrators at their next Sewer Committee Meeting and they were hoping to have more input from the Administrators to make sure they had reviewed the information the Sewer Committee had presented to the BOS, were agreeable to it, indicated they had appropriate time during their day to spend on this. Mr. Marchese clarified that there was a 5-year deadline, known to all, and their concern was to have management in position to get things moving in an appropriate manner, anticipating issues to create a smooth flow.

Mr. Moynahan asked if Mr. White and Mr. Blanchette had gotten together on this yet as they had talked about several meetings ago.

Both Mr. White and Mr. Blanchette agreed that they had.

Mr. Blanchette clarified that they would be meeting with the Sewer Committee next Wednesday, at which time any concerns would be dealt with.

Mr. Moynahan suggested that the Board follow up on the suggestion that the Highway Department collaborate with the committee, as well, on this project and forward the letter from the Sewer Committee discussed tonight.

The Board agreed with this.

6:56 PM At this time, Mr. Atwood was recognized by the Chair.

Mr. Atwood said that he had talked with Doug Krebs and Mr. Krebs indicated he was still interested in being a member of the Eliot Community Television Committee, if they could still use him. Mr. Atwood clarified that Mr. Krebs would be out of the area for a couple of weeks but he would like to keep him on the committee.

The Chair commented that it was the Boards' understanding that the letter had been withdrawn, so keeping Mr. Krebs on the committee was not an issue and the Board did not have to discuss it at all.

6:58 PM Ray Faulkner was recognized by the Chair.

Mr. Faulkner discussed the need for background meteorological data as that would directly impact the accuracy of the collected data.

The Chair said that previous data collection had included that information and assumed it would be collected with this event, as well.

Mr. Faulkner clarified that his concern would be for prevailing wind data.

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The Chair said that that was a good point and would pass that on to the Sewer Committee.

Mr. Blanchette informed the BOS that Mr. Atwood had another issue to discuss under Department Heads.

Mr. Atwood commented that they had gotten a letter back from Attorney Sculley, so they are ready to send a letter to Comcast and would have a full package for the BOS next week for their review, along with an updated list of all the equipment needed to run a public access channel and a boiler-plate contract they are modifying for the Town.

The Chair thanked Mr. Atwood for his and the committee's efforts in this.

7:02 PM
#6

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Copy of Notice of Intentions of the Selectmen to Lay Out a Public Town Way – Blueberry Lane

The Chair said that it was now time to have the advertised hearing on acceptance of a Public Road – “Notice of Intentions of the Selectmen to Lay Out a Public Town Way”. She clarified that this pertained to Blueberry Lane and that the steps that had to be done, were done. She clarified that the Planning Board had reviewed this, classified the road and forwarded copies to the appropriate authorities, that the design had been approved by the Road Commissioner and the next step was to notify the public. She clarified with Mr. Blanchette that the BOS were presenting this at the Town Meeting.

Mr. Blanchette commented that, if it was acceptable to the BOS, then it would be presented at the Town Meeting.

7:05 PM The Chair asked for public comment.

There was no public comment.

The Chair asked for Board member input.

Mr. Moynahan commented that, when this was brought to them a while ago he had asked the question if it was ever intended to be a Town road during the planning process, wasn't it approved to be a private road, so how did the BOS get to where they are. He added that, typically, the Board would see a letter of approval from the Road Commissioner, etc., and the Board just has done, done, done on this and looks like it was rubber-stamped, suggesting they might want to look at it more closely. He added that his concern stemmed from too many roads already taken care of by the Town that are not built to standard and not wanting to take on one more.

The Chair asked if Mr. Blanchette had all the material from the Road Commissioner.

Mr. Blanchette said that he would have it all ready for the next meeting.

Mr. Moynahan reiterated that he had asked for clarification of whether this road was to be approved as a potential Town road, which would address the bond issue, etc., or was it to be approved as a private road that would always remain private.

Mr. Blanchette commented that he thought it had been approved to become a Town road.

The Chair agreed.

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One of the residents said that that was their understanding when they bought the property. He added that the particular road is probably built far superior to most of the roads in Town.

Mr. Moynahan clarified that the Town process to meet the Town standard was met.

Mr. Blanchette said yes.

7:08 PM Mr. Fernald commented that he had ridden that road with the Highway Department Supervisor and that the road is very well built, much better than many other roads in Town.

Another member of the public said that she had lived in that area in 1972 and had been told all that land was unbuildable land because it was wetlands. She added that she has seen all of that land underwater before and asked how the road would have enough drainage for the heavy rains that do come through.

One of the residents commented that he was not an engineer...just a resident...but that the drainage system seems to work very well. He added that he lives in the worst spot, as far as wetlands, and his land is dry.

Mr. McPherson asked if, with the extremely heavy (6-7") recent rain, was there a problem.

One of the residents said that he did not sink at all when he walked his property the next day.

Mr. Fernald confirmed that a lot of thought and work was done to build this road properly.

Mr. Murphy asked if the cul-de-sac was open or completely paved.

One of the residents said that it was a grassy cul-de-sac, with trees, and that seven families lived on that road.

The Chair asked if there was any other public input.

There was none.

The Chair closed the Public Hearing at 7:10 PM.

At this time, the BOS signed the "Return of the Proceedings of the Selectmen" document moving the acceptance of Blueberry Lane forward as a Town road and to be placed as a warrant for Town approval at the annual Town Meeting.

At this time, the Chair acknowledged that they had to skip part of the agenda to meet the Public Hearing time and that the Board was going back to the agenda, as it was written.

#2 TO : Board of Selectmen
FROM : John Murphy
REF : Interest on Comprehensive Plan Implementation Committee

The Chair said that they had an application from John Murphy to be on the Comprehensive Plan Implementation Committee.

Mr. Fernald clarified that Mr. Murphy had the time to commit to this committee.

Mr. Murphy agreed that he did. He asked if there were enough members to have a full meeting, etc.

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The Chair said yes, that the committee had enough members to meet and that the mission statement, etc. should come from the committee. She clarified that this committee had seven members and should hold their first meeting.

7:15 PM Mr. Fernald moved, seconded by Mr. McPherson, to appoint Jack Murphy as a member of the Comprehensive Plan Implementation Committee.

VOTE

4-0

Chair concurs

#3 TO : Board of Selectmen
FROM : Skip Clark
REF : Firearm Ordinance

Mr. Fernald commented that, with additional changes in the 90's due to much controversy, this ordinance needs more work before it is brought to a vote at Town Meeting. He added that this was not ready for this year and advised the Board to take their time and do it right.

The Chair agreed and was pleased that it was in Mr. Fernald's capable hands to be the lead on the development of this ordinance.

#4 TO : Board of Selectmen
FROM : Paul Schumacher SMRPC
REF : Appointments to Regional Energy Efficiency Steering Committee

The Chair commented that she thought the Energy Commission was going to suggest people to be chosen.

Mr. Murphy commented that he thought Ms. Isler would be in attendance tonight but that, in any event, the BOS were required to make the appointments to the committee.

The Chair agreed and added that the Board did not appoint anyone because they had not received any names from the Energy Commission to appoint.

7:18 PM

#7 TO : Board of Selectmen
FROM : Code Enforcement
REF : Consent Agreement – MB Tractor & Equipment

The Chair recognized the CEO.

The CEO commented that the BOS had a summary in their packet of what has happened and what the Board has asked for. He clarified that the lot does not comply with the setback requirement for Route 236 and that the Appeals Board denied their application. He added that MB Tractor was here, tonight, to find out whether the Board was willing to enter into a Consent Agreement and what the terms of that agreement would be.

Ms. Panciocco discussed the background of this case and what it would take to cure the violation. She explained that, unknown at the time (2001), there was a utility right-of-way (ROW) on that lot and the building was constructed within that ROW. She said that, after her client purchased the property, he discovered certain conditions of approval had not been met by the previous owner and undertook to complete those conditions. She added that one of the conditions was to do a survey and, when he had that done, he discovered the utility ROW and that his building was within that ROW. Ms. Panciocco said that her client went to the Board of Appeals (BOA) and the BOA was unable to grant a variance and that brought them to this Board. She added that they had a report done that evaluates what it would cost to take off the front awning (\$33,000), the cost to take off the

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front of the building (\$175,000) and the cost to move the building further back on the property (\$300,000), if it could even be moved back. She said that they were here before the Board to explore whether the Board would agree to enter into a Consent Agreement (C.A.) with her client. She clarified that her client didn't create this problem and, in fact, it wasn't even his negligence that caused it, that he happened to be the guy caught with the short straw. She said that they believe the improvements they would have to make to even partially comply with the setback outweighs, in large part, the \$200,000 value of the building. She added that the lot, itself, didn't have much value because it was very restricted by overlay district setbacks.

7:25 PM Mr. Fernald asked for clarification on how it was discovered that the setback was not in compliance.

Ms. Panciocco said that they had the survey partial started by the original owner and never completed and Mr. White wanted it completed, so they did. She discussed meeting the other conditions of approval that had not been met by previous owners and asked Mr. White to verify that the other conditions had been met.

Mr. White said that the reason for the plan was because they filled in the back by the river, which he asked them to stop doing. He added that, at the same time, he had talked with Mr. Harmon to discuss that that filling was not allowed. He explained that, as a result, they had the survey done to prove whether they were or not. He added that they did not hide anything when they discovered the setback issue. Mr. White said he believes they should go back to the Planning Board to get changes they made to the lot approved. He said that would make it pretty clean if that was made a part of the C.A. and he was sure they would be willing to do that. He added that they have done everything else they have been asked to do.

7:29 PM Mr. Fernald asked how far off the setback violation was.

Mr. White said the requirement was 30 feet and this is 13 feet. He added that, even if the awning was removed, the building would still not be in compliance.

Ms. Panciocco explained that her client had driven the tractor round the back of the building and the soil was running down the hill and so he built the retaining wall with all good intentions. She added that they do have a State permit for that wall.

Mr. McPherson clarified that the DOT does not have any problem with were this is.

Mr. White said no.

7:34 PM Mr. McPherson moved, second by Mr. Fernald, to enter into a Consent Agreement negotiation with MB Tractor.

Discussion:

Mr. Blanchette suggested the Board consider language for getting legal fees back.

Mr. Moynahan clarified that the Board was not trying to defeat the Planning Board, that this was a unique situation and the cost estimates were high. To start a discussion, he suggested applying a \$20,000 fine as part of the agreement.

Mr. Moynahan moved that all legal fees incurred by MB Tractor for the back portion of the lot and a \$25,000 fine be paid to the Town. There was no second and the motion failed.

Mr. Fernald discussed his concern that the fine for this business was too high.

Ms. Place agreed that the amount was excessive.

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There was discussion regarding the fact that MB Tractor filed an appeal of the BOA decision with Superior court to prevent that decision from becoming final but would like to negotiate a C.A. with the Board directly to prevent incurring additional legal fees by both parties. It was also discussed that MB Tractor volunteered the information that led to him being here tonight and he did not have to. Board members agreed that a \$20,000 fine was excessive and Mr. Moynahan clarified that he had suggested such an amount to get a discussion started.

7:43 PM ___ ___ moved, second by Mr. McPherson, that MB Tractor pay all legal fees and pursue Planning Board approval for the back retaining wall.

Mr. Moynahan said that he believed that some type of fine should be included.

VOTE
4-0
Chair concurs

Mr. Fernald moved, second by Ms. Place, to enter into a Consent Agreement with MB Tractor.

VOTE
4-0
Chair concurs

Mr. White said that he would come back to the Board for their signatures once the language details were decided.

7:45 PM
#8

TO : Board of Selectmen
FROM : Terril Fernald
REF : Consent Agreement, Action taken on Complaint, Judgement - 2009

The Chair invited Terril Fernald to speak.

Ms. Fernald discussed the C.A. from 2008 and the impact that has had on her. She said that she was here tonight asking the Board for relief from..... She discussed her frustration in trying to work with her neighbors and not getting cooperation.

Mr. White said that the judge issued the C.A, which all parties had to agree to and sign. He added that he believed the issues Ms. Fernald discussed in her letter were civil matters between the people living on that road. He said that Ms. Fernald's fence was the only issue the Town was able to deal with and urged the Town not to get involved in the civil issues. He also added that the Town had tried to help settle the dispute.

?????

Mr. Fernald asked Mr. White to look into the dispute to see what might be done.

Mr. White commented that there were seven or eight houses on that private road. He clarified that there was no agreement in writing that all the owners must contribute to the maintenance of that road and there was no real cooperation.

7:55 PM Mr. White discussed the complaint Ms. Fernald filed against her neighbor's fence being out of compliance in 2009. He explained that the fence needed to be 4 feet from the travelway to be in compliance and that, over time, that type of road erodes and footage is lost. He said that the fence was now in compliance.

Ms. Fernald, discussing the Judgment handed down in 2009, explained that she had removed approximately 50 feet of fencing, which is what she believed was non-compliant. She added that she did not believe the rest of the fence was in violation. She said that she had a survey done, at her own expense, to try to get setbacks and boundaries clarified. She added that, along with other documents, the attorney had her survey subpoenaed. She said that she was asking to be

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reimbursed by the Town the \$2,500 she spent to do the survey. She added that she had paid the \$12,500 fine imposed by the C.A.

Mr. White said that he had asked the Board to do a survey and they had said no, as it was not part of the agreement.

Ms. Fernald said that she was assessed \$4,500 in legal fees as a result of the 2009 Judgment, that she could not afford to pay this amount due to her circumstances and was asking the Board for relief from this fee.

Mr. White clarified that the judge ordered her to pay \$4,500 in legal fees and two fines, \$450 and \$750, to the Town. He explained that this was a judgment that was reduced because of her circumstances.

Mr. Blanchette clarified that the Board could not accept less than the judgment without going back to court to get the judge's approval.

Mr. White commented that he thought they were here to work out a payment plan.

Mr. Fernald commented that paying some amount shows the Board her earnestness.

Mr. Moynahan said that these issues are very long term and agreed with Mr. Fernald to set a payment plan.

The Board agreed by consensus and asked the CEO to develop a payment plan with Ms. Fernald.

8:10 PM

The Board agreed to a five-minute break at this time, per the recording secretary's request.

8:16 PM

#9

TO : Board of Selectmen
FROM : Dana Norton
REF : Home Business; Tax Map 4, Lot 21

The Chair recognized Mr. White.

Mr. White said that this had been going on for some time and he was recommending that the Board go forward with legal action against Mr. Norton.

The Chair acknowledged Mr. White's recommendation and said that the Board wanted to see if they could find a resolution before taking any legal action, as Mr. Norton was highly thought of and had given much to the community. She invited Mr. Norton to speak.

Mr. Norton discussed the issues he has had with abutters and that he has spent \$40,000 to satisfy their complaints. He said that cars are his product and that he has complied with operating hours. He added that he has offered to rent parking spaces from the American Legion, next door to his property, that he has not been able to and doesn't understand why. He explained that people leave their cars to be repaired and he tries to move them in and out within the requirements set by the Planning Board but that doesn't always happen as some don't come to get their vehicle as quickly as they should for a variety of reasons beyond his control.

8:20 PM

The Chair commented that similar issues had happened behind the library when he was there and, as she remembers the Planning Board discussion for his current business, Mr. Norton said that he was basically retired and looking to have a part-time business. She added that it seemed he had expanded on that.

Mr. Norton commented that he had needed to increase his work to pay for all the expenses incurred and would enjoy not having to work as much as he did.

The Chair asked how this situation could be fixed.

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Mr. Fernald asked where the employees parked.

Mr. Norton said that they parked in his personal driveway.

The Chair recognized Mr. Faulkner.

Mr. Faulkner commented on the history of the building as having been a business for many, many years. He said that Mr. Norton needed more than the allowed four cars to keep three people employed and that the Board should consider supporting small business. He added that Mr. Norton was trying the best he could and that the harassment was from a single person.

Ms. Norton discussed the differences between a Home Occupancy, which allows 10 cars and a Home Business, which only allows 4 cars and her frustration and confusion with that as the Home Occupancy appeared to require less impact on the neighborhood than a Home Business. She talked about the positive impact her husband has had over the past 37 years helping people to keep their cars running, even when they couldn't afford to pay or could only pay a portion of the fee. She added that they were denied the use of parking spaces at the American Legion, of which he is a member, and they were told they could not have anyone come tonight to talk in support of them. She discussed the impact of one family's harassment forcing her to move out of her home.

Mr. Norton discussed that he had a verbal agreement with Don LaGrange that he could keep as many cars as would fit behind the fence but acknowledged that Mr. LaGrange was gone and there was nothing in writing. He said that he tries to keep the cars moving through so that they aren't sitting any length of time. He added that right now he has seven cars and four of them belong to him and nothing says where he can park his personal cars.

8:30 PM

The Chair said that the Board had received a letter in support of Mr. Norton. She added that the issue is whether Mr. Norton is in violation and, if so, what that violation is. She discussed that the Planning Board approval was clear and that the BOA had turned him down.

Mr. Norton discussed that he was cited for being open after approved hours and said that he was not, that he was working on his own cars after his business closed for the day. He added that he felt as though he couldn't even work on his own vehicles.

Mr. White discussed how hard the line was to draw between business and home. He explained that a home business was not supposed to be intrusive to the neighbors and said that the intent of this ordinance was that the business should be in keeping with the "scale and character with neighborhoods and areas that are primarily residential". He commented that the BOA agreed with him that this business did not meet that intent.

Mr. Norton commented that this building had been a business since 1940.

Ms. Place asked why the number of cars could not be revisited.

Mr. White clarified that that was a provision of the ordinance to keep businesses small. He added that the particular approval requires a maximum of four cars inside the fenced area.

The Chair read the ordinance for the benefit of the attending public.

8:40 PM

Mr. White clarified that Mr. Norton does have a wrecker and that it is not counted, that it is exempt, per the ordinance.

Kimberly Richards discussed her confusion that they can't seem to get any support, that their hands are tied from all the Boards.

BOARD OF SELECTMEN'S MEETING
March 11, 2010 6:30PM (continued)

Ms. Shapleigh commented that the Town needed to find some way to support these small businesses and that it was a shame that one family was causing these issues. She said that Mr. Norton has had a very positive impact within the community over a long period of time. She added that she believes that too many controls are harming businesses and preventing them from thriving.

8:43 PM Mr. Murphy discussed comparing Mr. Norton's business with Joe's Garage and if they both had the same rules and what was the history of complaints.

Michael McKinney discussed that several people had commented that only one family was complaining and he clarified that several neighbors had complained over time but had given up and stopped.

Shirley Jacques commented that she had never heard more than one complaint from a single family.

The Chair commented that most complaints were not discussed during the Planning Board process.

8:47 PM Mr. Fernald commented that Joe's Garage was non-conforming and asked why that did not apply to Mr. Norton's business.

Mr. White clarified that the site for Mr. Norton was vacant for more than one year and that was the cut-off. He reminded the Board that they were only discussing the parking issue tonight.

Mr. Norton discussed his dilemma when people do not pick up their vehicles in a timely fashion and he has more customers scheduled to bring in their cars. He added that this could be resolved with off-site parking.

Mr. White commented that this would need Planning Board approval, that people were already using some of those spaces and asked if this equated to double-dip parking.

Mr. Moynahan commented that off-site parking would only rectify the perception of the parking issue.

Mr. Norton said that there was an agreement between Ethel's Tree of Life and the American Legion and asked how he could get that kind of approval.

8:50 PM Mr. Fernald asked what the problem was to rent space somewhere else in Town.

Mr. White said that renting space was not the problem but that the ordinance required parking to be within 100 feet of the business.

Mr. Fernald asked why Mr. Norton was unable to rent space from the American Legion.

Mr. White clarified that the business was not supposed to be visible to the neighborhood.

Mr. Moynahan said that this was not something that could be granted through the CEO but that Mr. Norton would need to get his conditional use amended through the Planning Board.

The Chair agreed and said that she wanted to help Mr. Norton keep his business. She asked him if he would be willing to go back before the Planning Board.

Mr. Norton said that he would be glad to do so.

Mr. White asked what would happen if the Planning Board disagreed.

The Chair said that the Board would then have to do something different, possibly to take legal action.

BOARD OF SELECTMEN'S MEETING
March 11, 2010 6:30PM (continued)

The Board agreed by consensus.

#10 TO : Board of Selectmen
FROM: Dept. of Conservation
REF : Silva Dock Modification Proposal

The Chair said that this was informational and asked that a copy of this be forwarded to the Harbor Master.

#11 TO : Board of Selectmen
FROM: County of York
REF : Charter Commission

The Chair said that the Board should notify the public of this information and said that it would be posted at the Town Hall and on the Town website.

#12 TO : Board of Selectmen
FROM: Grant Hirst
REF : Driving Records

Mr. Hirst discussed the importance of having employees with clean driving records and the negative impact to the Town if they do not. He said that there was no protocol in place to check driving records for new hires. He added that they run periodic checks for current employees and suggested adopting policy protocol to deal with this issue for new hires. He said that, if an employee is driving a Town-owned car or their private vehicle on Town business, then the Town needs to make sure they are properly licensed and in good standing.

Mr. Blanchette recommended that this check be done once a year. He added that the system in place could not do that and suggested that they would have to hire someone to do this.

Mr. Hirst discussed that this could be done through the Department of Safety (Registry of Motor Vehicles) in Augusta and that it would cost between \$20 and \$25 per person.

9:05 pm The Board discussed their concern with the large sizes of Town vehicles and someone not having a good record and the potential Town liability impact.

The Chair clarified that this would cost about \$400 per year.

Mr. Hirst said that he would talk with MMA for guidelines and then, if the Board agreed, he would add those guidelines to the BOS manual. He discussed the negative impact if employees were found incompetent.

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

The Chair informed the Board members of two upcoming joint budget meetings on Tuesday, March 16, and Thursday, March 18, at 6:30 PM.

Adjourn

There was a motion and second to adjourn the meeting at 9:10 PM.

VOTE

4-0

Chair concurs

BOARD OF SELECTMEN'S MEETING
March 11, 2010 6:30PM (continued)

DATE

Roberta Place, Secretary

DRAFT