

BOARD OF SELECTMEN'S MEETING
January 10, 2013 5:00PM

Quorum noted

5:00 PM: Meeting called to order by Chairman Moynahan.

Roll Call: Mr. Moynahan, Mr. Dunkelberger, Mr. Murphy, Mr. Beckert and Mr. Hirst.

Pledge of Allegiance recited
Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

5:02 PM Motion by Mr. Dunkelberger, seconded by Mr. Beckert, to approve the minutes of November 29, 2012, as amended.

VOTE

4-0

Chair concurs

Public Comment:

5:05 PM There was no public comment.

Department Head/Committee Reports

5:06 PM Mr. Moulton said that he had a request for a sewer connection application at 117 Bolt Hill Road for a new single-family dwelling and has permission from the Eliot Sewer Committee as long as they abide by and comply with the Town's sewer ordinance for new connections as well as State and local plumbing codes.

Mr. Moynahan asked if the SC was okay with the allocation.

Mr. Moulton said yes.

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen approve the sewer connection by Lauren Dow and Christopher Gowell of 117 Bolt Hill Road, Eliot, Maine, subject to the payment of the betterment fee.

VOTE

4-0

Chair concurs

Mr. Beckert said that he had a request from the Building Committee. He said that the Building Committee's membership has never been at a full complement of the nine that were appointed, originally. He added that, in order to maintain a quorum for their meetings, the Building Committee was requesting to be reduced to seven members, which would not affect anything because they had two vacancies now. Mr. Hirst moved, second by Mr. Murphy, that the Eliot Building Committee membership of nine be reduced to seven.

VOTE

4-0

Chair concurs

New Business (Correspondence List):

5:07 PM

#1

TO : Board of Selectmen

FROM :

REF : Meeting with School Board – no correspondence

Mr. Moynahan said that this was a meeting with MSAD #35 board members and asked them to introduce themselves.

Present were Laura Leber of South Berwick, Ellen Breed of South Berwick, Tom Flanigan of Eliot, Fred Wildnauer of South Berwick, and Mary Nash. Martha Leathe and Jeff Donatello were unable to attend.

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Mr. Moynahan thanked the board members for making time to come in. He said that they had Dr. Nash in several months ago and it was brought up after that meeting that the BOS wanted to bring the entire school board in to have some follow-up discussions; that he thought that it related mostly to financial impacts, especially to the residents of Eliot. He added that Mr. Hirst had some initial questions that they might start with.

5:08 PM

Mr. Hirst said that he would like to ask the school board what their procedure was for approaching the budget and what consultation they had by their Eliot members on how this should all be done. He clarified his question. He asked when they got ready to start the budget for the coming year did they consult any group of Eliot residents prior to setting their agenda.

Ms. Nash said that the board held workshops; that they had held one already and it was open to all members of the public. She added that they discussed the budget priorities that the community, the individual schools, and the school board had for the next fiscal year. She said that she would be delivering her recommended budget to the board in the first meeting in March, the first Wednesday in March and, then, there were subsequent public meetings on the board's calendar where the community could come and hear what the superintendent's recommendations were and to voice their opinion. She said that it was not strictly an Eliot versus South Berwick, it was everyone that was eligible to come and the school board invited people to do so. Ms. Nash said that last year they had many members of the community come and share and voice their opinions on the various budget line items.

Mr. Hirst asked where they met; that it seemed to him that, at one time, it was tradition that the school board met alternately between Eliot and South Berwick.

Ms. Nash said that, as they knew, this was her second year and the school board has been meeting at Marshwood High School in the Learning Center.

Ms. Breed said that, years ago, they determined that it became confusing to the public which meeting was in Eliot and which meeting was in South Berwick, so, they made a decision to hold all the meetings at the high school. She said that they no longer met at the school in Eliot on Route 236 but held all their meetings on the first and third Wednesdays of every month at 7 PM.

Ms. Nash said that anyone could come across the street to speak with her over there at Depot Road at any time or they could email her; that many Eliot constituents have done so and given her very thoughtful ideas in terms of last year's budget preparation. She added that, if there was a hardship of traveling to the high school, she was in Eliot every day. She also added that she would be happy to come down here to meet with folks, if there was a need.

5:25 PM

Mr. Moynahan said that he thought that the biggest concern that had been raised over the last several years was the rising costs of doing business, both at the Town level and with the schools. He added that last year the entire tax impact to residents were from the school department so this Board was trying to be a little more active in being that voice for their residents in Eliot and trying to make sure that the Board was also looking at ways to not increase budgets each year and still try to maintain services; which was what the Board was tasked to do here. He added that the Board was hoping to work together to try to achieve that, collectively, with all the departments in the Town – school, fire, police, etc.; that they were all essential services. He said that they did all come with costs but it was the Board's job to try to manage those as best they could. Mr. Moynahan said that, sometimes, they were not easy conversations because it related to staffing and things of that nature. He added that he didn't know if they could reflect to the Board on what their outlook was this year or what their goals and objectives were, if they had come up with any budget guidelines - flat budgeting or anything of that nature.

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Ms. Nash spoke to the last fiscal year, which she addressed with the Board of Selectmen in August when she met with them. She said that they had a very difficult time developing their FY13 budget because for the previous three years the district had moved a million dollars from their fund balance into operating costs and there was virtually no or flat tax over those three years; that they simply could not sustain that. She said that the money was gone as of July 1st, 2011, that three million dollars was just spent subsidizing the tax base. She said that, as a result, what she had to do was very carefully and strategically what she called 'right-size' the budget and they worked very, very hard to do so. Ms. Nash said that they needed to raise, essentially, 1.8 million to close the gap in their budget last year for this fiscal year and they did that. She explained that they did that by having the school district make \$900,000 in cuts and they asked the taxpayers to pay the other \$900,000 in an effort to do this right-sizing of both the revenue and the expenditures. She said that the tax base in Eliot and South Berwick did overwhelmingly support her request to do so and she was most, most grateful. Ms. Nash said that what they were looking at this year for next year was that they really did do their hard work last year. She said that she was very, very saddened by the Governor's inability to right-size the State budget in a similar way. She explained that they were half way into the fiscal year and he said that the State had a \$35 million dollar gap and they would have to hit the public school districts with over \$12 million dollars for this fiscal year, so that was obstacle number one for the district. She added that for their school district that was \$171,000 that would potentially be taken from their operating budget this year. She said that she did believe, and she reported to the community and the school board last night at the board meeting, that because of the hard work that they had done in developing the FY13 budget; that the tax payers did their part by raising their taxes to 7.86% and helped the school district balance their budget this year. Talking about the students, she said that, as they knew, Marshwood had a fantastic football season; they raised \$25,000 and gave receipts – it was unbelievable – this year, the students did. She added that the play Oliver was produced and the students raised \$12,000 in ticket receipts for those performances; that the students have done that. She said that she has asked the principals to look at their supply money, their operating money, shipping and handling costs, professional development money and save an additional 3% out of their total allocations, so, they were doing their part. She added that, in addition, at the central office they were working very, very hard to carry over funds into next year to try to limit any tax increase, if they possibly could, but also, they believed that they would realize some savings this year. She said that, as a result of all that, they believed that when the final number came from Augusta – what was the curtailment hit on the district – that they would be able to meet their obligations without going to the taxpayers; that they would be able to do that by being efficient and prudent. Ms. Nash said that her concern was for next year because the State was projected to have a \$100 million dollar gap, not the \$35 million dollar gap, so, that was the missing puzzle piece that no one knew right now – what was the actual gap that the State would have next fiscal year and what would the plan of the Governor and legislature be for the portion that would be attributed to the public schools. She added that it was her intention last year when she asked the voters to support a tax increase last year to help them right-size their budget that they would be in a more normalized cycle; that they might be in a 3% or 4% kind of a normal increase cycle; that was her goal and her hope. She said that it was still her goal and hope and passion to do that; that she simply could not say that she could deliver that right now because she had that big unknown piece facing them on the horizon. She added that she had to be very, very careful and she understood that but she had to say to the residents of Eliot that she was a resident of South Berwick and a tax payer in South Berwick and she understood her obligation to keep the taxes down. Ms. Nash said that the other footnote she would like to add was that they were in the final stages of reaching out to the Town of Rollinsford to bring Rollinsford students to the district and they were anticipating, if that happened and that was projected to happen in 2015 if the voters of Rollinsford so voted to do so, that the district would see an increase of approximately one million dollars a year. She

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added that they needed to stabilize their teaching force and their budget and, at the same time, keep the taxes down. Ms. Nash said that she hoped that helped in a big-framing way.

Mr. Moynahan said that she spoke about one million dollars but did that take into account any additional staffing that would be required.

Ms. Nash said yes, that that was after additional staffing and supplies. She added that they had already jumped over two huge hurdles: the Rollinsford Withdrawal Committee supported their proposal to join MSAD #35 to provide education to their seventh – twelfth-graders and that happened, actually, the day of the earthquake here. She said that the second big hurdle was that the State of New Hampshire Department of Education had to approve the proposal of withdrawal from Somersworth – right now Rollinsford has a partnership with Somersworth – and they unanimously approved that. She said that the final hurdle was that there was going to be an up-or-down question that would be posed on a warrant to the people of Rollinsford sometime in March – yes or no, do they want to partner with MSAD #35. She added that they were helping the community to understand that they had an absolutely top-notch school district and they welcomed the students of Rollinsford to join their district. Ms. Nash said that those were the dynamics she was working with right now and, as she said, she welcomed either face-to-face conversations about the FY14 budget or emails or telephone calls.

5:20 PM Mr. Moynahan said that he knew that one of the biggest hurdles that the Board faced was the rising employee costs, and insurance cost was the biggest one; that they were actually on plan to try to have a 5%, 10%, 15% co-shared because that was what surrounding communities were currently offering. He asked if the school board had looked at what other communities did in education and what other schools offered. He asked if other schools had teachers' pay some of their health insurance.

Ms. Nash said that they have their teachers pay a portion of their health insurance, as well. She added that she had looked into this. She said that the district belonged to an organization called MSMA (Maine School Management Association) and they provided the school district, each year, with confidential salary and benefit information for every district in York County and she also had it for other counties in Maine, as well. She said that they had very up-to-date information. Ms. Nash asked Ms. Leber if she wanted to speak about the insurance work that they were looking into. She added that Ms. Leber was a Certified Public Accountant and has been leading an effort to try to help them look at their insurance.

Ms. Leber said that she certainly wasn't an attorney but she could speak to the fact that, she thought it was a year or two ago, there was a law changed that allowed the school districts to look into self-insurance. She added that they have started looking into that to see if it might be a cost-savings for their district. She said that they had recently met with an insurance broker from Boston; that he was currently gathering some of the district's statistics and he was going to see what they could do as far as self-insurance versus where they were getting their insurance with Anthem.

5:22 PM Mr. Dunkelberger said that he applauded their efforts both in reducing spending and raising revenue. He asked if, with regard to the coming year, they had established any priorities or were they just going to wait until the number came down.

Ms. Nash said that she had already started working on the budget. She added that, as a result of that workshop they had in November on the budget priorities, last year one of the big initiatives she undertook was really working with the principals to initiate what she called school-based resource management and

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thinking of resources not just as dollars but as time, money, and people. She added that up until last year the principals felt that they only controlled their supply money when, in fact, it was positions, as the Board knew, that employees were the really the big ticket item in an organization such as a school. She said that this year was much less complicated than it was last year because they really did very high fundamental work last year in right-sizing the budget. She said that she had worked with the principals, so far, on getting them to understand that their student projections for next year really drove the number of teachers that would be allocated to their budget and, then, they needed to allocate those teachers into the different areas. She said that they were working on that right now and what that looked like. Ms. Nash said that they were seeing an increase in their pre-K and K students but a decrease in their elementary students; that that was interesting as she would have thought they would see a decrease in their pre-K and K students, as well. She said that they had a fairly stable middle and high school population from this year. She added that the bulk of the budget was right there in those cost figures for the teachers and the ed-techs they have throughout the district. She said that was where they were right now and she worked one-on-one with them and, then, she met every Thursday with them, as a group, so that they learned from each other the different strategies in terms of how to save money. As an example, she said that substitutes cost an enormous amount for the district; that the principals, before this year, used to charge their substitutes to the central office and what she did was to give them 5 days per employee equivalent time for substitute time in their budgets and, then, the rest of the money she kept in the central office for catastrophic illness. Ms. Nash said that they had an aged teaching population in some of their schools and they did have a series of catastrophic illnesses over the last few years; which meant that they might have to pay substitute for the whole year, in addition to the teacher who was out on sick leave; that the school couldn't absorb that so she absorbed that in the central office. She said that the principals were managing that account so frugally now because she held them accountable because there would be days when they wouldn't need a substitute; that maybe they might have to have a teacher substitute but they might be able to get away with in the office, here – that maybe, if one of the administrative assistants was off, then they could do with one and they could figure out how to do that; that people with an off period could come down and answer the phones – so they were doing a beautiful job and doing absolutely everything they could. She said that in some of the schools they had to reorder math workbooks; that it was an enormous cost for shipping and handling and the principals were thinking of renting a truck and going to the publisher to pick them up. She said that they were really getting to the micro-level, as they did last year, and said that everyone should be proud of the principals, that they were really good at it now and creative without impacting the kids, which was what they were trying to do – learn how to do the business while still having great customer service.

Mr. Dunkelberger said that he noticed his daughters were getting considerable savings by downloading textbooks onto their Kindles and he knew that they had computers in the schools and asked if they were saving any money that way.

5:26 PM

Ms. Nash said that she thought that was mostly in the high school, right now. She said that the math series they used – K through Grade 8 Everyday Math – they needed to get the second edition for next year and, in costing it out and just getting the teacher editions electronically, they would save thousands and thousands of dollars and was something she thought that they should do. She added that she thought it would be a gradual move for the students in the lower grades but, certainly, for the teacher editions, she thought that they appreciated it. Ms. Nash said that the other thing that kind of shocked her last year was when she asked, and she got a spreadsheet, what the age of the computers were in the district almost every machine was four years old at the end of last year, which meant that it was ready to, like, drop dead. She said that, even though they had a very tight budget year, she knew that they had to have a sustainable technology

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plan because that was a big, big ticket item and, so, what they did was to go with a lease option. She said that they have leased units to replace 1/3rd of all the units in the district for this year; that they were going to lease another third next year; that it was a three-year leasing plan and the Board agreed to allocate \$50,000/year each year. She added that the beauty was that they had no maintenance costs; that if the machine went dead then they sent it back to the leasing company and got another machine; that they didn't have to have people standing by waiting to fix broken machines.

Mr. Dunkelberger asked if they still got federal reimbursement for children of DOD employees.

5:29 PM Ms. Nash said that she met with Marianne Menard, who used to be a teacher in their district and assistant superintendent in York, earlier this fall; that there was a particular formula for the DOD and she thought that there were three students from it; that they had 72 kids and she thought that the district's threshold was 75 or 76.

Mr. Dunkelberger said that he would encourage her to keep following that because there were more active duty people moving into Pease. He added that, if they were that close, then it might behoove then to try again in mid-year.

Ms. Nash said that she hadn't thought of that; that that was a good suggestion.

5:30 PM Mr. Murphy said that when Ms. Nash met with the Board last year she described a situation in which they, as a school, were compelled by State law not to accumulate any more available cash than a certain limit and that limit turned out to be less than one month's costs for the school system; that it was in trying to obey that law that allowed them to spend off their surplus. He asked if they had taken any steps or were they working, now, with their representative to have this law modified in Augusta.

Ms. Nash said that they had done a couple of things. She said that, in the short-term, what the board did last year was to secure a loan for \$600,000 so that they had sufficient cash on hand to pay their monthly bills. She added that they got a good rate through the Androscoggin Bank in Portland - .97%; that they paid that loan off and, to their great surprise, a new product became available to them; that they just entered into an agreement for a line of credit of \$600,000 so, if they only needed it for 10 days, then that would be all the interest that they would pay or, if they needed it for a month, then they would use it for 30 days and they paid it right back so they didn't have to take it out for long blocks of time.

Mr. Murphy said that that would be helpful but it didn't allow them to build up a cushion.

Ms. Nash said that their number one goal was to build up the fund balance again.

Mr. Flanigan said that the primary driver behind the depletion of fund balance, unfortunately, wasn't to comply with the 3% of budget limit but was to balance subsequent budgets previous to the current budget they were in. He added that that would be a great problem to have, to have to worry about having more than 3% in there, but they did want to build it up again.

Mr. Fisher said that it was his understanding that some of the school board members that Eliot elected, they asked them to come down and the board made the statement that, if they came down, they all came down. He asked if that was the way the process worked or could the residents meet with the individuals that Eliot elected on an individual basis or with the three of them.

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Ms. Nash said that people kept saying that but the BOS was very clear that they wanted the whole board to come down so maybe one of the Eliot members could address that.

Mr. Flanigan said that he was the only Eliot board member here tonight and he was accessible; that, generally, they spoke as a whole board and made decisions as a whole board. He added that people come up to him at soccer games to talk with him or wherever he might be and that he was in the phone book. He said that he didn't know what value would be gained to have just the three Eliot members.

Mr. Fisher said that his belief was that the Eliot members could talk with residents and relay the message back to them and give Eliot residents some information.

Mr. Flanigan said, sure, that they did that all the time; that they had people contact them all the time.

Mr. Moynahan said that he would stop the diatribe right now; that any of this type of meeting would be scheduled through this Board so the Board made arrangements with the school board this evening. He added that they attempted to get the Eliot members and the communication back was that they would rather come as a full board and the BOS was happy to have them as a full board. He said that that was why the Board scheduled it like this.

Mr. Fisher said that the Town overrode the State mandate for how much money that they were supposed to spend last year at the district meeting and they had over a million dollars that was overridden, that overrode the State mandate, and he wondered if there was anything in that cushion that the people voted to accept that they could delete to save them some money.

Ms. Nash said that, as she had said, they were going to be assessed some money because of the curtailment; that the Governor said that it was only 1% of the budget but it was a lot of money coming into a fiscal year – to give back \$171,000. She added that she wasn't sure that she could answer that in a different way than that.

Mr. Moynahan asked if the school board had questions of the BOS.

Ms. Nash said no; that she just wanted to say that she thought that the workshop they had in August was very helpful; that she did provide the BOS with the FY13 budget book and she would be happy to do so, again, for the FY14. She added that she encouraged them to contact her, personally; either come over to the superintendent's office or she would come over here and give her some good ideas on what their thinking was in specifics because, for instance, Mr. Dunkelberger had a good idea. She said that they were all in this together and that it really was a community effort.

Mr. Moynahan said absolutely and was why, he thought, that they had invited the school board in to just keep that dialogue open because it was a team effort and did impact everyone.

5:37 PM

Ms. Nash said that she tried to increase the board's communication by posting a lot of information on their website so be sure to check it out. She added that, if someone saw something that was not there that they would like there, please, let her know.

Mr. Flanigan said that one thing with their budget process, and as a resident, it was a very open process. He added that he knew people were busy with their own meetings but that it was easy to find out when their school board meetings were. He said that one of the things he has found since being on the board was that almost all the time, if someone asked why a certain line item was what it was or

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being spent, thought has gone into it and, especially, in the last few years. He added that they were an extremely efficient school district, especially for the results that they got and, as a community, he thought that they should be proud of that because they all made sacrifices to have a school district like this. He said that, if people had questions, the best way was to contact Ms. Nash, come to meetings. He said that, obviously, a school was an expensive undertaking but thought was going into everything that was happening in there and, if people reached out to them, they would be happy to include people in the process and, again, with the workshops and so forth.

Mr. Wilder said that all their meetings were live-streamed online, like the Town Hall, and there was also a library of their past meetings. He added that they tried to stream anything that they thought the public needed to see just in case it was inconvenient for people to attend. He encouraged people to view the meetings and to get in touch with the board electronically.

Mr. Pomerleau said that he has been inclined to attend some of the school board meetings but has been somewhat discouraged because, when he looked up the agenda, it appeared that they had a requirement that people had to submit their questions in advance.

Ms. Breed said that that was correct.

Mr. Pomerleau said that he understood the benefit of that sometimes but he also understood that it could be a detriment to citizen participation; that sometimes he would like to respond to what they were saying – what he was hearing from the school board. He asked if it was absolutely necessary, at a school board meeting, to inhibit citizens with previously submitted questions.

Ms. Breed said no. She said that any item that was not on the agenda, aside from personnel matters, the public could respond to; that she opened the floor up to public comment on any of the agenda items. She added that it was if there was something not on the agenda that people wished to speak to the board about that they had to get to the board in advance. She said that any time there was an agenda item, aside from personnel, people could speak to the board about that item that evening.

5:40 PM

Mr. Pomerleau said that he shared the board's frustration with what was happening on the State level, however, he also shared the Governor's frustration that there was no money and there would be less of it coming down to the State and the State would have less; that they hadn't come anywhere near close to 55% for years and years. He added, however, it was what it was and there had to be some shared pain all the way down the line. He said that it couldn't keep ending up in increases in taxes; that the big bucks were in salaries and benefits and there was no getting around that. He added that that was where they stood and where they would end up and they didn't want it to be a battle.

Ms. Nash said that she understood and that she heard him.

Mr. Wilder said that during the budget process they were always open to the public for their comments and suggestions.

Mr. Moynahan said that he appreciated the board for taking the time to come in; that they should keep spending time together to get to know each other and, maybe, work together a little bit more.

5:43 PM

#2

TO : Board of Selectmen
FROM : Stephen Brandon
REF : Letter of Interest

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Mr. Moynahan said that they had a letter from Mr. Brandon requesting to be on the Solid Waste/ Recycling Committee (SWRC) and Mr. Brandon was present this evening. He said that the Board wasn't sure what to do, at first, because they explored what the membership was and couldn't find it. He added that he did finally get a note from Mr. Tessier that, when the committee was established ten or twelve years ago, the BOS appointed five members and that there were currently five members on that committee. He asked if there was anything else Mr. Brandon would like to volunteer for.

Mr. Brandon said that he would go through the list, adding that he appreciated the Board's efforts.

Mr. Murphy said that it was not necessary to be a member of a committee to attend and to be very effective in achieving what the purpose of the committee was.

Mr. Brandon said that he had spoken to Mr. Moulton, already, concerning this but have not been able to make a meeting; that he was encouraged to put the application in.

Mr. Beckert said that the Board may, through the Public Works Director, want to ask the SWRC if they would like to have two alternate members and that would be a way that they could get Mr. Brandon on there. He added that that helped the committee bring people up and informed on the committee's doings and also gave them a full complement if someone was absent.

Mr. Moynahan asked, if that committee were to be interested in expanding, would this gentleman be a viable candidate.
The Board agreed that he would.

Mr. Moynahan said that, by consensus, the Board could have a motion to approve Mr. Brandon if the SWRC membership increased or did they bring this up, again, once they found out if the membership did increase.

Mr. Beckert said to bring it up again once they found out.

Mr. Moulton asked, as the department head, was he considered to be part of that committee; that there were four members and he was the department head.

Mr. Moynahan asked Mr. Blanchette if Mr. Moulton would be a member as a department head.

Mr. Blanchette said that he didn't think that they had department heads as members; that, generally, they work with the committee but not a committee member.

Mr. Beckert asked if Mr. Moulton voted when the committee voted.

Mr. Moulton said that, generally, how this committee worked was that he was the one that did all the brain-storming and scheming and they assisted him; that they really didn't vote but had consensus if they move forward anything to the BOS, as Mr. Tessier has on numerous occasions.

5:45 PM Mr. Beckert, in light of that information moved, second by Mr. Dunkelberger, to appoint Mr. Stephen Brandon as the fifth public voting member, if necessary, of the Solid Waste/Recycling Committee and that the Public Works Director was a member ex officio of that committee.

VOTE

4-0

Chair concurs

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Mr. Moynahan thanked Mr. Brandon for volunteering for that committee.

#3

TO : Board of Selectmen
FROM :
REF : Clean Air Petition – no correspondence

Mr. Moynahan said that he had a note for the clean air petition to be set up for a June vote. He said that at one of their last meetings there were discussions about putting this on the next Town Meeting and that was not voted for; that they have planned a tentative February or March Town Meeting. He added that the question that was being posed this evening was, seeing that there was some support to move this forward to voters, did the Board want to consider moving this to the June Town Meeting for a vote.

Mr. Murphy said that that sounded reasonable.

Mr. Beckert said that he would support a June Town Meeting; that he thought that he had stated that at that last meeting.

Mr. Moynahan said that the Board didn't move forward enough and the Chair would entertain a motion.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen put the question of the Section 126 Good Neighbor Clean Air Petition on the June Town Meeting warrant for the Town's approval to go forward with the petition or not go forward; to put it as a yes or no question.

VOTE

4-0

Chair concurs

Mr. Moynahan said that they would put that on the June warrant article to put before the voters.

Mr. Faulkner said that there would be no discussion from the public on that.

Mr. Moynahan said that they had had plenty of discussions on this; that the Board has moved it forward for a June vote.

Mr. Faulkner said that he wanted to address whether it would go on the June warrant article or not.

Mr. Moynahan said that it just went on the June warrant.

Mr. Faulkner said that he knew but the Board had no public discussion or input prior to that decision.

Mr. Moynahan said that that was correct, adding that they have had plenty of public input on this whole process.

Mr. Faulkner said that they had had plenty of public input on the issue but the public had no input on whether or not it should go onto the June warrant article or if it should go into a Special Town Meeting.

Mr. Moynahan said that there was plenty of discussion by the Board.

Mr. Faulkner said not by the public.

Mr. Moynahan said that it was the Board that made the decisions on that; that there was plenty of input by both sides given to this Board that the Board made

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their decisions on; that they were not taking any more input from the public on that.

5:48 PM
#4

TO : Board of Selectmen
FROM :
REF : February Town Meeting dates – no correspondence

Mr. Moynahan said that this was to discuss possible dates for the February Town Meeting. He said that he had a couple of items started for potential Town Meeting issues and had some dates in February on the 16th and 23rd and wanted to get some input from the Board on whether those seemed a reasonable timeframe to produce the information and schedule the Town Meeting. He asked if they still wanted to consider having a Special Town Meeting; that one big one was the TIF funds; was that something that the Board wanted to try to start scheduling for. The Board said yes.

Mr. Moynahan asked if those dates in February seemed workable.

Mr. Blanchette said that there were a couple of conflicts if they wanted to use the Marshwood Middle School. He added that the closest time they could have the middle school on a Saturday was on March 2nd. He said that just about every Saturday at the elementary school was available but, again, if they wanted to hold their meetings at the middle school, then March 2nd was the first available date.

Mr. Moynahan said that he thought that they had been trying to be consistent with having the middle school as the meeting place for everyone.

Mr. Beckert said that that may work better for what he was thinking. He asked Mr. Blanchette what would be the deadline timeframe that any board or committee would have to have anything to the BOS in order to get it on that warrant if it was March 2nd.

Mr. Blanchette said for March 2nd, assuming it was an Open Floor Town Meeting and not a referendum, then the posting had to be done seven days prior to the meeting; that the Selectmen, themselves, would need the warrant to be done at the Selectmen's meeting prior to the seven days prior to March 2nd, which would probably be the first BOS meeting in February that they would need to wrap up. He said that the 14th and 28th were the Board's regular meetings, so, the meeting of the 14th would be when the Board would have to finalize the warrant and actually sign it, unless they had a meeting on the 21st; that it would need to be posted on the 22nd for a meeting on the 2nd.

Mr. Murphy asked Mr. Blanchette if the Board could do that at special Board meeting; that it didn't have to be done at a regular Board meeting.

Mr. Blanchette said no, that it could definitely be done at a special Board meeting.

Mr. Moynahan said that, if March 2nd seemed more logical, should they put that, tentatively, in the Board schedule calendar and plan the Board agendas accordingly. He added that they may still not produce a Special Town Meeting but they could tentatively secure the space and all that. He said that he thought that the consensus was March 2nd; that they would put that on their calendar and, working it back on their agenda, the Board meeting for that; that in the meantime, they would start preparing some things for the Board to review for potential Town Meeting items.
The Board agreed.

Mr. Hirst asked if that met their 90-day requirement for the town manager question.

BOARD OF SELECTMEN'S MEETING
January 10, 2013 5:00PM (continued)

Mr. Murphy clarified that they didn't need the 90n days; that June was 90 days plus nine months – a year from this June.

Mr. Moynahan said that the Town would vote in June and the position wouldn't start until the following June.

5:53 PM
#5

TO : Board of Selectmen
FROM : Community Service Director
REF : CIP funding for computers

Mr. Moynahan said that they had a few memos from ECSD and the first one was a CIP funding request for computers, which was approved for \$8,000 under the CIP for the 2012/2013 fiscal year, adding that there was an estimate included of computers she was looking to replace.

Mr. Murphy said that it appeared that she provided justification showing that she had plenty of money, from which she needed to spend only \$4,321.11.

Mr. Moynahan agreed; that this was something that was planned for the department, there were funds there, and there was a quote for that from 2-Way Network.

Mr. Hirst asked if they needed to have two more bids because of the amount.

Mr. Moynahan said that they could certainly could; that that was usually over \$2,000.

Mr. Blanchette confirmed that three bids were needed for anything over \$2,000.

Mr. Hirst said that he thought that they should ask for two more bids.

Mr. Dunkelberger said that they could pass on to look at other options than individual computers; that they used to call them dumb terminals and central clients where they had on single computer, basically, so they were only paying for one software license, then running dumb terminals off of that, which he believed would meet their needs.

Mr. Moynahan said that he thought they were coming in for budget next week.

Mr. Blanchette said yes.

Mr. Moynahan said that, perhaps, this could be brought forward and have discussion, there, and add this to next week's agenda, if that was not already distributed.

Mr. Blanchette said that it was already distributed.

Mr. Moynahan said that it could be addressed to the department head next week, where she was not here this evening; did they want to take it up with her, at that point, for additional bids.

Mr. Murphy suggested someone talk with her, beforehand, so that she was not making a decision that night.

Mr. Blanchette said that he would let her know.

Mr. Moynahan agreed that they would let her know that that would be discussed during her time, as well.

BOARD OF SELECTMEN'S MEETING
January 10, 2013 5:00PM (continued)

#6 TO : Board of Selectmen
FROM : Community Service Director
REF : MSAD #35 Security Meeting

Mr. Moynahan said that the ECSD Director had been given an overview, based on what has happened with recent events in Connecticut, of what steps MSAD #35 and the Town were taking to make sure that the community was safe, and she was giving them an update to that kind of information.

Mr. Murphy said that she said there would be more information coming once that MOU was complete.

Mr. Moynahan agreed; that it was pretty specific to each of the users of the facilities.

5:53 PM

#7 TO : Board of Selectmen
FROM : Community Services Director
REF : Employment Approval for Kids Play

Mr. Moynahan said that this was a request to hire a fill-in employee – a Group Leader for KidsPLAY; that this would have the potential for a full-time seasonal opportunity this summer; that the individual, Madelyn Folger, would receive \$9.00/hour. He added that KidsPLAY was not Town funds but self-supported and asked for thoughts from Board members on filling this vacancy.

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen hire Madelyn Folger as a fill-in employee for the Eliot Community Service Department's KidsPLAY Program at an hourly fee not to exceed \$9.00.

VOTE

4-0

Chair concurs

5:58 PM

#8 TO : Board of Selectmen
FROM : Code Enforcement Officer
REF : Report

Mr. Moynahan said that this was a report from the CEO. He added that this was based on some conversations of increased information; that this gave an overview of what was happening in Town, building-specific, from that office. He said that this was information for everyone and, if there were questions, they could certainly reach out to the CEO.

#9

TO : Board of Selectmen
FROM : MPBN (Maine Public Broadcasting Network)
REF : Funding request

Mr. Moynahan said that, even though the date was December 31st, he just received this four or so days ago; that they were looking to have an appropriation, adding that their (BOS) budget timeline had been shut off, based on the letter the Board sent out. He added that they were looking for \$100, with a letter of request, and all the financial information that the Board required, asking if that was something that the Board wanted to include with the budget packages this year. He said that it seemed it was the consensus of the Board not to include this request in the budget package; that he saw three heads nod no.

Mr. Murphy said that this was so new, that he didn't think they had done it in the past. He asked if this was considered a non-profit organization.

Mr. Moynahan said that he believed Maine Public Broadcasting was.

BOARD OF SELECTMEN'S MEETING
January 10, 2013 5:00PM (continued)

Mr. Hirst said that, at the federal level, there was a vast amount of subsidy by the taxpayers to public broadcasting, in general.

It was the consensus of the Board not to include this request in the budget package.

#10 TO : Board of Selectmen
FROM : Bernstein Shur
REF : Town Manager form of government

Mr. Moynahan said that the Board had Ms. McGill in a few meetings back and she has given them an overview of that meeting with regard to a town manager form of government. He added that she created some specific questions with some answers for the Board's review and information. He said that they had it in writing, now, and he did have a file for the town manager that he would put this information into for them to refer to as they braced for June. He added that he didn't think there was a whole lot that they had to do with this until they got a little bit more active with that.

#11 TO : Board of Selectmen
FROM : Randall Stewart
REF : School Budget timetable

Mr. Moynahan said that this was from Mr. Stewart, MSAD #35, and was their budget timeline that mapped out from December 13, 2012 to June 11, 2013. He added that this was very similar to what was just discussed this evening with their budget process. He said that this was informational to the Board and that they should try to make this known to as many of the residents as they could. He added that he didn't know if MSAD #35 was on the Town website.

Ms. Lemire said that there was a link.

Mr. Moynahan said that the budget information should be available there, too.

Mr. Hirst asked if this should be read for the purpose of the public.

Mr. Moynahan said that they could. He read the memo for the benefit of the public and copies will be made.

#12 TO : Board of Selectmen
FROM : York County Budget Committee
REF : York County Budget Proposal, change in fiscal year
Mr. Moynahan said that the York County Budget Committee included two items for the Board's review: an 18-month budget beginning January 1, 2013 and concluding June 30, 2014 for York County and the second was a letter detailing the change of York County's budget year from January 1st to December 31st to July 1st to June 30th.

Mr. Hirst said that, somewhere in his device, he had a date by which the Board had to notify the County how Eliot was going to pay their share.

Mr. Blanchette said that it was February 15th.

Mr. Hirst asked if the Board had made a decision on how they were going to handle that.

Mr. Blanchette said that he was not aware of a decision.
Mr. Hirst said that they needed to talk about it, then.

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January 10, 2013 5:00PM (continued)

Mr. Blanchette agreed, saying that it would have to be on the next meeting's agenda, he presumed.

Mr. Moynahan said that that was written in the notes, to bring that up, and, where it was budget season now, they did have to make a choice on that. He asked Mr. Blanchette to make sure that was scheduled for the next regular meeting.

6:05 PM Mr. Dunkelberger asked if numbers could be included as far as what the two different options would mean to them.

Mr. Blanchette said yes.

#13 TO : Board of Selectmen
FROM : Portsmouth Naval Shipyard
REF : Update on environmental restoration

This was informational.

#14 TO : Board of Selectmen
FROM : Eric
REF : Video-streaming Report

Mr. Moynahan said that he was still including the video-streaming summaries for everyone's review to see how effective this was. He added that they had 26 unique clients that watched live and 66 unique clients that watched it at their leisure.

6:08 PM Mr. Moynahan said that #15 through #22 were all questions that dealt with the same thing; that they were appealing the BOS's decision or urging the Selectmen to reconsider regarding the union negotiating team. He added that they were questioning the negotiating team that was assembled. He said that the Board did reach out to an attorney as part of this and they hired a professional negotiator, as well. He asked if the Board members had read these letters, did the Board have concerns about how this committee was formed or who was on this committee.

Mr. Murphy said that he was satisfied that what the Board did was the proper thing to do and had no wish to change it, adding that he believed that the comments of their lawyer could be read to the public.

Mr. Moynahan said that there were two responses and, for some reason, he had only one.

Mr. Murphy said that he had the response from Ms. McGill.

Mr. Moynahan said that the question to Ms. McGill (attorney) and Mr. Barrett (MMA) asked was: "*Linda and Davis, any thoughts about having a member of the Budget Committee on a negotiating team?*" He read the answer from Mr. Barrett: "*Dan – I'm not sure what that adds. Obviously there is an agenda there somewhere, and a specific audience that it hoping to be represented at the table. If this representative is thinking that they will be reporting back on the negotiations to the budget committee mid negotiations, that will be a big problem. Negotiations are done confidentially, and any information leaking out will be a big problem. As you point out, this is a board responsibility, what is going to happen if the budget committee member disagrees with something the Board decides to do in negotiations? I have never had this issue arise in all my negotiations.*"

Mr. Murphy read the response from Ms. McGill, "*Dan, the Town is free under municipal labor law to compose its own bargaining team. The chief negotiator and the team must, though, be clothed with sufficient authority to bargain within the parameters established given by the employer - principle (the Board); to*

BOARD OF SELECTMEN'S MEETING
January 10, 2013 5:00PM (continued)

otherwise negotiate in good faith on the Board's behalf; and to enter into tentative agreements with the union. It is arguably a requirement of good faith bargaining that a tentative agreement that has been entered into at negotiations will be presented to the principle with a positive recommendation (or at least no negative recommendation) from the team. (The Board is free to reject any T.A. in good faith, of course.) In short, the legal role of team members is to represent and act on behalf of the Board in negotiations. While there is no legal bar to including a member of the budget committee on the employer negotiating team, it does not seem consistent with the role of the Budget Committee or the Board to do so.

Please note that this is a short and informal answer to your question. If you or the Board want a more well-developed analysis please let me know."

Mr. Moynahan said that, in the letter from Rebecca Davis, she said, "Speaking only for myself, Mr. Robert Fisher was nominated for this task because he is a resident of the town and has the qualifications to do the job – not because he is a member of the Budget Committee." He said that that was something he had circled on some of the letters.

Mr. Murphy said that the laws governing the negotiations for municipal employee labor bargaining take up about 20 – 30 pages in the State law and it was a practice for both sides to decide about not publishing anything while negotiations were going on, no public, no word could come back. He added, in fact, that the last segment of the State law has the publication of initial proposals, "No proposal may be published until 10 days after both parties have made their initial proposals. After that time the parties may publish if they wish." He said that that meant that if the employees, say, submitted their initial proposal and the Board accepted it, then there was no timetable for the Board to take action on it; that they had to consider it and consider it and, maybe who knew, it might be weeks or even months before they took any action and developed their initial proposal back. He said that 10 days after that time, then these initial proposals could be made public, unless as Mr. Blanchette has said, both sides have said beforehand that there would be no public input. He added that the State said that they may be published but they also said that they may not be published until 10 days after both sides have received initial proposals. Mr. Murphy said that, during that time, the public would not know anything.

6:13 PM

Mr. Moynahan said that there were concerns from members of the public and they supplied those. He added that, in doing that, they had some feedback from the attorney to make sure that the Board was, in fact, doing the job properly and all that was brought up for discussion this evening – how the process worked. He said that he thought that the question was whether the Board wanted to revisit the negotiating team set-up that they currently had for the pending unions in the Town, based on the information that had been provided to them this evening; which was concerned citizens and legal rationale.

Mr. Hirst said that it would seem that the two people they had consulted had ratified the Board's position so he would not want to take it up again.

Mr. Dunkelberger said that he saw no reason to.

Mr. Beckert said that he didn't, either, and he would like to make one statement to that effect. He said that he did read every letter that they sent in; that he appreciated the letters being sent and their concerns but it was a management function; that every member sitting up on this Board was elected at one point or another by the majority of the voters that came out and elected this Board to do their (Townspople) bidding for them, in the best interests of the entire Town. He added that that was all 6,300 residents and, with that being said, if some did not have the confidence in the Board to do what was right, then they had an issue, not the Board, because the Board was elected by the majority to do that. He said that

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he has sat on a negotiating team, before, for this Town and he has represented this Town to the best of his ability and the best interest of the entire Town. Mr. Beckert said that he had no intention of changing his decision; that it was a management function and he thought that it needed to stay that way.

6:15 PM

Mr. Murphy said that he had very little experience negotiating, and he was not part of the negotiating team, but he was aware that there were significant differences between negotiating as municipal employer with municipal employees and it was not a 'we' versus 'them'. He said that, they, as municipal employers, had to take the employees who worked for them – many of them were citizens of the Town; that it was not the same as a corporation, which even the Supreme Court said that its chief concern was to provide the maximum profit to the stockholders. He said that that was not the case here; that they didn't have stockholders and, anyone who has been a manager for a corporation and has done negotiation sort of in opposition to the employees or someone who has been an employee and done opposition to the managers above, then that would be a different picture than the one the Board had to deal with.

Mr. Moynahan said that the other piece with any negotiations, too, was that the final say was the voters during voting, if the budget seemed out of line, then they could vote down lines; that what that would mean with the unions was that that would result in layoffs because it was out of the hands of the Board at that point. He added that they could not change salaries or benefit packages; that the only recourse, at that point, would be layoffs, and that was up to the department heads and the BOS to determine.

Ms. Davis said that it was unfair for the Board to assume that the BC wanted to control this process. She added that the concern of the BC was that the residents be represented fairly. She said that one matter of concern was that many - and Mr. Fisher just happened to be coincidentally on the BC, volunteered to do this, and had the qualifications to do it. She added that one of her concerns, as a citizen, was that last year there were some cost-cutting measures that were recommended and very, very few of them were followed through on when it actually came to the warrant articles. She said that what they were looking for, here, was for someone from the resident's perspective to be included in this negotiation and she did believe that she could speak for the BC when she said that there was no expectation, zero expectation, for Mr. Fisher to reveal anything that went on during the negotiations. She added that they strictly felt that he was a qualified citizen that should represent the citizens of Eliot and they just looked to the Board to reconsider their decision in that light.

6:19 PM

Mr. Moynahan said that he thought that the biggest concern that they got back from the attorney was that it was a private – that negotiations were not something that needed to be shared, so, the concern was that anyone outside of management could share some of that information out, which was improper; that it was critical not to share that kind of information during negotiations; that it could hamper that whole process tremendously.

Ms. Davis said that Mr. Fisher was an honorable man.

Mr. Moynahan said that he was not management; that that was the big piece of that whole response that the Board got back.

Ms. Davis asked if they, then, could inform both the BC and the citizens of the exact mechanism or how they could maintain some control over this budget.

Mr. Moynahan said that, if they didn't think that the budget that the Board provided to the Town was appropriate, then the budget should be voted down at Town Meeting, adding that that was the best vehicle for that. He asked if she was

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January 10, 2013 5:00PM (continued)

asking to be able to dictate to the negotiation committee what the parameters were to negotiate with the employees.

Ms. Davis said that her concern, also, was that they would have to wait for some kind of a voting situation; that it seems as if there was no system for input, here, and it didn't seem like a good way to go about it say wait for a June vote and then slap it all down; that it made it adversarial. She said that they needed someone in here that she felt would also look out more for the residents and the taxpayer's interests.

Mr. Moynahan said that she was saying that the Board wasn't doing that, adding that what Ms. Davis said was that the Board was not looking out for the residents and the taxpayer's interests.

Ms. Davis said to some degree; that it was just that there were a lot of cuts recommended last year that...

Mr. Moynahan said that that was great; that the Board got her point; that there was another question he would take, as well, but he was not going to sit there and be attacked.

Mr. Lentz said that he wrote that note in support of the Board; that it was to be constructive, not destructive. He added that he had no issue with the level of integrity and he supported what the Board was trying to do. He said that his point was, after thirty years, he had never sat at a bargaining table that there wasn't a financial person sitting there with a budget open; that as Mr. Murphy said, there were going to be some intense hours and they would be thinking about what was being said and, at the same time, trying to comprehend how that impacted the current environment and workplace – policy, procedure, who did what. He added that it would behoove the Board to have a financial guy with a budget open, not to speak, but to take notes on how those conversations impacted the budget. He said that, as Mr. Murphy said, it was not something they could come out of deliberation and start discussing with the BC; that that was taboo – he knew the rules.

Mr. Moynahan said that the Board hired MMA – Maine Municipal Association – to be a negotiator for the Town, so, they have a professional person who was involved with the entire negotiation.

Mr. Lentz said certainly, if they sit there with a budget and understand the budget and the impacts as they were doing their discussion, no problem, and that was his only point.

6:22 PM

Mr. (Roland) Fernald said that there seemed to be some concern with an initial person, like a person on the BC, that had the experience. He added that he knew that there were people on this Board that have been on budget committees in this Town so they had a good representation on both sides of the financial and other things that would be talked about, as far as the negotiations for the union contract. He said that it was not always budget, it was not always money, but they did already have that experience on the Board. Mr. Fernald said that there were several members on this Board that, for many years, been a part of the negotiating team for the union for the Police Department and they were experienced. He added that when they talked about having someone at-large, for instance, represent the citizens of the Town to be on the negotiating team; that they have already done that. He said that there were hundreds of people who had voted, already, for the five people currently on the Board to represent the citizens in the Town and he was sure that that was what would happen.

Mr. Moynahan said that he would take one more comment.

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6:24 PM Mr. Pomerleau said that it was unfortunate that this has degraded to a turf issue between the BOS and the BC; that it has never been about that. He added that to say it was not in the purview of the BC was totally wrong. He said that it was not within the purview of someone from MMA to represent them, either; that they had no purview in the Town – nobody elected them. Mr. Pomerleau said that they all supported him because he was a professional person with the skill and knowledge to be on the bargaining committee and that was the only point, here, by all the citizens present, was to get some skilled people on that that would represent the Town, the Townspeople. He added that he did not have a lot of confidence in the Board putting department heads in a Town this small on the bargaining committee; that he thought the Board was putting them in a horrible position. He said that the department heads were out there in the trenches with them day-to-day and face-to-face and how they sat there on the opposite side of these people on the bargaining committee and resist some of their demands and wants was almost an impossible task, as far as he was concerned. He said that he would much rather see someone impartial from the BC who had some knowledge on financial matters and particularly qualified to do it to sit on that committee. He added that, having said that and having no doubt that the Board would not change its mind, he asked if there was some provision in the bargaining process that allowed the Board to bring this forward only upon the approval of the voters; that they have negotiated this and they were all buying into it, however, it was subject to final approval by the voters; was there a tool in there that, in the negotiating process, the Board didn't allow this to become the budget until the voters said yes on it without it being a part of the whole department budget – the negotiated contract, itself.

Mr. Moynahan said that he didn't think that, in the past, that was the way that the police union has worked.

Mr. Blanchette said that he would have to seek legal advice but he didn't believe that...the authority was with the Board of Selectmen, and that he had no doubt of, but if they wanted legal advice on that then they could certainly get it. He reiterated that the authority was with the Board of Selectmen.

Mr. Moynahan said that this was not a turf war between the BC and the Board, at least from this Board's standpoint. He said that a person from the BC was the first one recommended and, if it was a member of the general public, they would be having the same conversation, that that was not within their roles and responsibilities. He added that it was not a direct reflection of Mr. Fisher nor was it a turf war to try to put someone in their place or anything of that nature; that it was defining roles and responsibilities.

6:25 PM Mr. Fisher said that he was aware of negotiations; that he had had many, many negotiations, and he knew it was secret until the day the ratification took place. He added that he went along with Mr. Pomerleau in putting the head of the departments on the negotiating team for other reasons; that they were putting them in an awful position. He added that they might think that it was great; that they would perform perfectly but they had to deal with these people and they had to deal with him after the negotiations took place. He said that, if there was something contrary, and they had already run into the problem, here, last fall before the election last spring with a conflict because he made a decision, a rightful decision, and that was probably why they were in the position they were in today. He said that he had asked them numerous times what was going on with the negotiating...have the cards been signed, have they agreed to an election and all they got, from the Board, was that they couldn't talk about it. He added that that was not true; that they could talk to the employees up to ten days before the election, so, they ought to be talking to these people and find out what the problem was and, maybe, they could even resolve it before they got to an election.

BOARD OF SELECTMEN'S MEETING
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Mr. Moynahan said that once the union was...they were the ones who set up the union and asked if that was what Mr. Fisher was talking about.

Mr. Fisher said that they signed the cards, evidently, saying that they had a majority of the bargaining unit, whatever that was; that the public didn't know what the bargaining unit was – was it a combined Town Hall office workers and Highway Department or did they do it separately.

Mr. Moynahan said that Town Hall staff was one and Department of Public Works was another and they validated the unions two or three weeks ago, maybe longer.

Mr. Blanchette said he thought maybe a little longer. He said that the vote took place and it was validated and they were now an established union.

Mr. Fisher asked who agreed to it.

Mr. Blanchette asked who agreed to what.

Mr. Fisher said to an established union.

Mr. Moynahan said the employees.

Mr. Blanchette said that they didn't agree; that the employees voted it – they voted, management didn't agree to it.

Mr. Fisher agreed but added that, if management disagreed with it then they would have to see the cards or the arbitrator would have to see the cards to see who signed and make sure that management gave them a combination of signatures so that they could actually verify the fact that cards were signed.

Mr. Blanchette said that the Department of Labor has already done that, the DOL has already verified.

Mr. Fisher said that they had to vote for it.

Mr. Blanchette reiterated that they did vote for it.

Mr. Fisher asked for the count.

Mr. Blanchette said that he did not know, right off hand, but that he had it in his office what the count was; that one of the counts was five.

6:29 PM

Mr. Moynahan said that he would not bring any more discussion about this right now. He said that the question he was posing to the Board was that they had some concerns about the makeup of the negotiation team; that they had heard some more public comments; that they had gotten information from attorneys. He added that he thought he had asked earlier – did the Board want to consider changing the makeup of the negotiation team that they established last week.

It was the consensus of the Board not to change the makeup of the negotiation team that they established last week.

#15 TO : Board of Selectmen
 FROM : Rebecca
 REF : Negotiating Team

#16 TO : Board of Selectmen
 FROM : Bill Selsberg
 REF : Negotiating Team

#17 TO : Board of Selectmen
 FROM : Lori Howell
 REF : Negotiating Team

BOARD OF SELECTMEN'S MEETING
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#18 TO : Board of Selectmen
FROM : Michele Duval
REF : Negotiating Team

#19 TO : Board of Selectmen
FROM : Denny Lentz
REF : Negotiating Team

#20 TO : Board of Selectmen
FROM : Robert Pomerleau
REF : Negotiating Team

#21 TO : Board of Selectmen
FROM : Stephen Brandon
REF : Negotiating Team

#22 TO : Board of Selectmen
FROM : Donna Murphy
REF : Negotiating Team

6:30 PM

#23 TO : Board of Selectmen
FROM : Selectman Hirst
REF : King Foundation

Mr. Moynahan said that Mr. Hirst was asking to add this to the Board's AIL and asked Mr. Hirst to speak to this.

Mr. Hirst said that there was a source for Automatic External Defibrillators (AED) through the STK Foundation. He added that he would like to enquire if the Board would like to have him or someone else they designated apply for a grant for these AED's. He suggested it not be him because he didn't know about writing grants.

Mr. Moynahan said that he knew nothing of writing grants, either, but thought that grant money was always beneficial to the community and would certainly endorse sending in a grant application for that. He asked how they would get to that point.

Mr. Dunkelberger said that he thought that Mr. Muzeroll was familiar with writing grants so they might want to talk with him.

Mr. Moynahan asked the Board if it would be acceptable for Mr. Hirst and Mr. Muzeroll to work together on a grant for AED's.

The Board said that that would be acceptable.

#24 TO : Board of Selectmen
FROM : Selectman Hirst
REF : Contract for Festival Day

Mr. Hirst said that he and Mr. Blanchette composed a letter to go to Mr. John Lippincott of the Eliot Festival Day Committee to set forth to him what the Town's insurance company said that the Town should do in this regard and he was asking if this letter had gone out.

Mr. Blanchette said that he believed that it had but he had not received a response.

Mr. Moynahan said that any response he had in his box he put on the agenda items.

BOARD OF SELECTMEN'S MEETING
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Mr. Hirst asked Mr. Blanchette if he could just copy him on the letter Mr. Blanchette sent to Mr. Lippincott and maybe they could follow up with him.

Mr. Blanchette said yes.

Mr. Hirst said that there was another issue, too. He said that the ECSD had one or more contracts that they used when they rented out the Boat Basin and he would like to get a copy of that if he could; that individual one or any that she used for that purpose.

Mr. Moynahan suggested that Mr. Blanchette, when he sent the note about computers, also include a note about that so that she could have that prepared for next week.

Mr. Blanchette agreed.

6:34 PM
#25

TO : Board of Selectmen

FROM :

REF : Selectmen involvement with other boards – no correspondence

Mr. Moynahan said that this has been brought up in a couple of their meetings in the past and that he put this on their agenda to keep it in front of them. He added that he thought there were concerns about appearances, and not conflicts, of interest with regard to having three Selectmen members being at different meetings, even if they were not members of that group, or what have you. He added that he didn't think that they had a policy that spoke to that. He said that he wasn't saying that there was any wrong-doing but there were concerns raised so he wanted to bring that up for conversation, here, if there were concerns of this Board or what have you.

Mr. Murphy said that several people had spoken with him that they kind of wondered that Selectmen could be members of full-standing separate committees and be Selectmen when, sometimes, the Board had to respond to the business of that committee, the problems of that committee, and it seemed sort of a potential conflict. He added that they either stepped down, which would only leave a board of four to make a decision when they should have a full board of five to do solve any decision. He said that he was wondering if they should have a policy in order to clarify this situation. He added that he didn't think this had anything to do with the liaison position, where they simply attended meetings and offered non-voting support to the operation of a committee that might feel left out or just ignored by the Selectmen or the Town. He added that he thought that the issue at hand was being an active member and even being an officer of a committee, which might be considered a conflict. Mr. Murphy said that Mr. Blanchette looked into the law and that the law was that there was no forbidding it in certain circumstances but maybe there should be.

Mr. Blanchette said that he thought that the law only specified one instance, as he recalled, where a member of the BOS could not be on the Board of Appeals (BOA). He added that, other than that, there was nothing specified about a Selectman member being on any other committee or board as an active voting member. He wanted the Board to remember that, in order for this to apply, that this could not be a Selectmen policy but would have to be an ordinance of the Town.

6:36 PM

Mr. Moynahan said that some of the things he has received, and this was just for conversation's sake, were that people attending certain meetings there were three Selectmen members there, whether they were acting as liaisons, members of the community, or members of that committee; that they were involved with the work being done by that group before it came before this Board to have final decisions made on it and that was why he was bringing this up. He added that this was

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January 10, 2013 5:00PM (continued)

something he had indicated he would bring up conversations about so that was where they were.

Mr. Hirst said that the Board has been criticized in the past for having three members of the BOS at a SC meeting. He added that he was on it, Mr. Beckert was on it, and either Mr. Murphy or Mr. Dunkelberger, at different times, attended.

Mr. Murphy said that he was liaison to the SC.

Mr. Hirst said that they did have a technical 'three members' of the Board present and the question was – was that legitimate if they did not conduct any business for the Town other than the committee. He added that he thought that it was a fair criticism that they had received and he asked what they should do about that.

Mr. Moynahan said that that was the question in front of the Board tonight.

6:38 PM

Mr. Beckert said that some of the things that they had looked at were that the State law covered conflict of interest, that that was confidential in nature and a different category, but this category was about incompatible positions. He added that there was a list of them published by MMA and he believed the BOA was the only one.

Mr. Blanchette agreed.

Mr. Beckert said that that was considered an incompatible position and it was not the same thing as conflict of interest even though there may be a perception by some people of conflict of interest. He added that the listing he had seen actually went down through and listed positions that were not considered incompatible and the BOS was one of them.

Mr. Moynahan reiterated that his main concern was the perception of multiple members of this Board being on another board that has been tasked to make decisions for the Town and how the Board handled that; how did they assure people that they were not pre-feeding the committee information – he was saying it wrong but hoped everyone knew what he meant.

Mr. Dunkelberger said that what Mr. Moynahan was concerned with was, in particular, the SC and potentially the BC, where they had three Selectmen that regularly attended those meetings and that now created a majority block with regard to any decisions or any business that came from those committees, in front of this Board.

Mr. Moynahan said a perception that that would occur. He added that he was not saying that anyone was doing that by any stretch of the imagination.

Mr. Dunkelberger agreed, saying that, if something like that was occurring, then he would be the first one to call them on it. He added that he could also understand where that perception could come from. He suggested that they might need to have a workshop and talk about how to manage it because the reality was, at least in some of the committees the Board was working with, that there wasn't anybody standing in line to fill some of those holes. He said that it would be easy to just drop the liaison role, and for him that was the BC, so that made two people; that in the interim they could do that but, when they did that, they lost a wealth of knowledge, such as with Mr. Murphy.

Mr. Moynahan said absolutely, he agreed.

Mr. Murphy said that the liaison position was the position that was sort of not in question because liaisons did not vote, did not make motions, they could at most

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January 10, 2013 5:00PM (continued)

give advice or ask questions but they couldn't take action and they couldn't bring about anything by vote.

Mr. Dunkelberger said that Mr. Murphy could vote on this Board.

Mr. Murphy said yes.

Mr. Dunkelberger said that that was the problem.

Mr. Murphy said that one could vote on both of them, the non-liaison members, were actually voting; that they were causing things to happen by voting, or not happening, and that was a direct cause of action; that it could involve money and approval of that, in some cases, came back to this Board and, so, one had sort of a double chance – two bites at a money apple was possible. He said that, to him, that was the crux of it, whereas, liaisons were just information and presence and reassurance but they sat back and didn't make motions; that they watched them make mistakes and brought that gently to their attention sometimes but, mostly one just let them do.

Mr. Clifford Egan asked, as far as liaisons, wouldn't that be of a benefit; that like Mr. Murphy said, he couldn't vote in there so it would be a benefit because he was informed; that that would be something like a community-type thing, anyway, and would have an informed knowledge of what was going on.

Mr. Moynahan agreed, saying that they all acted as liaisons to different groups to help them in the process of running the committee in a group and all that kind of stuff.

6:43 PM

Mr. Fernald said that he has had some concerns about three Selectmen being at a committee meeting at one time; that he always understood that three Board members at a committee meeting was actually a Selectmen's meeting because that was a majority of Selectmen. He added that he thought that it was a problem when they had three Selectmen that belonged to a committee and he thought that he would question that approach. He said that they were talking about Town issues; that if they were on the SC, then that was a Town issue.

Mr. Pomerleau said that he has researched this in great depth and, to start off, no one was saying it was illegal, however, if they did have three Selectmen in a place conducting Town business, then that requires that they announce it as a meeting; that they could then still do it at a SC meeting but they would announce it as a BOS/SC meeting. He added that he thought that this was one question that they should send to MMA and get an opinion because he thought that the Board was dead-wrong on three people being in one committee meeting; that he didn't think they were doing it legally. Mr. Pomerleau said that on the general issue of any member sitting there, if they did the research, they would find that there were many, many, many communities in the State of Maine that prohibited it; that they didn't allow their selectmen to sit on another committee and others discouraged it. He added that the point behind that was, when they got to the point where it came before the Board and the Board had to make a vote, then there was an element of bias in them; that they were voting on an action that they had been a part of and some people would find it very difficult to believe that they were neutral when it came up for a vote. He said that the question was why they would even want to put themselves in that position, provided there were ample numbers of people to sit on these committees other than the Selectmen. He added that he agreed with Mr. Dunkelberger in terms of some very small communities; that there was a select, small group of people that did the lion's share of all the work and they sat on a lot of boards/committees because there was no one else. He said that, barring that being a question of a lack of a sufficient number of people to have a quorum, he thought that it was bad judgment for any one of the Selectmen to sit on another committee.

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Mr. Moynahan said that the Board needed to give this some thought; that they would add it to the AIL and bring it up for a workshop when they had some more time to spend, specific to this, and possibly come up with some type of rationale that worked.

Mr. Beckert said that, maybe, they needed to go back and look at how they did the Comp Plan in 2009 because a member of the BOS chaired that committee. He added that the can of worms one opened may not be the one a person wanted to have happen.

Mr. Moynahan said that this was certainly something they could have in a workshop so they could spend some more time specific to themselves and talking about this.

Mr. Dunkelberger asked if, before that workshop, they could ask that legal question from MMA.

Mr. Blanchette asked what legal question.

Mr. Dunkelberger said one question was, "Does having three Selectmen in a SC meeting constitute a meeting of the Board of Selectmen?" He added that he couldn't remember the other question.

Mr. Hirst said that it was not a chance meeting.

Mr. Blanchette said that it was alright; that when he remembered he could give it to him.

Mr. Moynahan said that they would certainly get whatever information they needed to make informed decisions.

Mr. Murphy said that it appeared to him that, if enough interested citizens were clamoring to be official members of committees, then the Selectmen wouldn't have the opportunity to be active members of committees. He added that he was just pointing that out to the public.

Mr. Dunkelberger said that the other question had already been asked and answered, and that was with regard to Selectmen being on other committees; that the only prohibited one was the BOA.

#26

TO : Board of Selectmen

FROM :

REF : Detailed questions from S/M for Public Works Director – no correspondence

Mr. Moynahan said that he was trying to put these in their weekly meetings, the sooner the better to try to get some questions. He added that Mr. Dunkelberger had forwarded some questions to him, which he did not print out, and he apologized; that Mr. Dunkelberger had provided 6 or 7 questions specific to the DPW, which he would share with all the Board members to make sure they were appropriate to send or compile, collectively. He asked if anyone had given additional thought to this budget, as of yet, and were there any questions that the Board needed answered from Mr. Moulton.

There were none at this time.

Mr. Moynahan reiterated the sooner the better that they really wanted, while it was fresh in their minds, try to pinpoint the questions that they may have as it related to the financial impact to the Town from each department. He added that, each week, they would have this during the budget process; that he wanted to

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prevent the ten separate requests for information to each department, that it was not very effective and rushed a lot of the time.

Old Business (Action List):

This was not discussed tonight.

1. Route 236 Sewer Expansion Project reports, updates, and schedules – Questions from Route 236 Ad-Hoc Committee - Mr. Blanchette
2. Sewer Contract/IMA – Schedule IMA/Kittery Meeting for presentation - Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette
3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
4. Community Service Space: Relocation to Elementary School – explore school space – fit up costs, service impacts, insurance, MSAD #35 contract, CSD Director – Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette
5. Town Manager – schedule workshop; include Comp Plan Implementation Committee
6. Dispatch Service/Ambulance Contract – Contract with Kittery, request from same, costs – BOS, Mr. Muzeroll, Mr. Short
7. Policy creation/review – debit card, video-streaming, website management
8. Employees – cross-training, charting earned times, job descriptions - BOS
9. Liaisons to boards, committees, and commissions – review existing members, try to fill open spots; Committee/Board – Mission Statement Review - BOS
10. Budget Preparation - BOS
11. Auditor – financial statement, management letter, finance director, personal property tax, fixed asset management - BOS
12. Regionalization – explore areas of potential collaboration, cost reductions & enhancements to services – Mr. Moynahan, Mr. Hirst
13. Legal issues – pending and Consent Agreements – Eliot Shores, PSNH/Sierra Club, Mr. Bogannam - BOS
14. Sewer - User Rates, reserved allotments, odor, maintenance– Sewer Committee, Underwood Engineers, Mr. Moulton
15. Department Heads – monthly reports, employee reviews, financial oversight, policy reviews, and department reviews - BOS
16. Research grant opportunities – AED's for Town buildings
17. Comp Plan follow-up
18. Pending new unions

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19. Special Town Meeting: February – IMA, TIF Funds (ERS #7)
20. York County Transitional Budget – Funding source
21. June Town Meeting preparation – Municipal Fee Schedule

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

There was no other business tonight.

6:47 PM

Executive Session

Mr. Hirst moved, second by Mr. Dunkelberger, that the Board of Selectmen enter into executive sessions as allowed by 1 M.R.S.A. § 405.6.F "Discussion of information contained in records made, maintained, or received by a body or agency when access by the general public to those records was prohibited by a statute..." such as poverty abatements.

VOTE

4-0

Chair concurs

7:36 PM Out of executive session.

7:37 PM Moved by Mr. Beckert, second by Mr. Dunkelberger, that the Board of Selectmen abate the 2011 real estate taxes, interest, and fees on the property known as 074-023-000 in the amount of approximately \$3,257.70.

VOTE

4-0

Chair concurs

7:38 PM Moved by Mr. Beckert, second by Mr. Dunkelberger, that the Board of Selectmen abate the 2011 real estate taxes, interest, and fees on the property known as 047-023-000 in the amount of approximately \$1,049.16.

VOTE

4-0

Chair concurs

7:39 PM Moved by Mr. Beckert, second by Mr. Dunkelberger, that the Board of Selectmen abate the 2011 real estate taxes, interest, and fees on the property known as 079-026-075 in the amount of approximately 397.34.

VOTE

4-0

Chair concurs

Adjourn

There was a motion and second to adjourn the meeting at 7:40 PM.

VOTE

4-0

Chair concurs

DATE

Mr. John J. Murphy, Secretary