

**BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM**

Quorum noted

5:30 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)

5:31 PM Motion by Mr. Beckert, seconded by Mr. Dunkelberger, to approve the minutes of February 21, 2013, as amended.

**VOTE
4-0
Chair concurs**

Motion by Mr. Dunkelberger, seconded by Mr. Hirst, to approve the minutes of March 20, 2013, as written.

**VOTE
4-0
Chair concurs**

Mr. Murphy said that it was brought to his attention that the minutes of February 28, 2013 that they approved contained what he believed was a significant error. He said that it occurred on page 29, which was brought to his attention by the Tax Assessor who objected in no uncertain terms to her position, and her, as being a guilty party sort of concerning the collection of personal property taxes. He added that she made it clear to him that she merely assessed the amount of money using the State of Maine rules and, when she had done that, she prepared a list of all those properties that had personal property tax and provided that list to the Tax Collector. He said that the Tax Collector had the responsibility of collecting those taxes, as well as real estate taxes. Mr. Murphy said that, in these minutes, the Tax Assessor was referred to as someone who would go out and collect and had rules, and so forth, when in fact, all the references to the Tax Assessor should be Tax Collector. He added that some of the processes were a little bit confused and he believed that even their auditor, Mr. Donhauser, misused that and made improper references to the Assessor as being somewhat in control of the collecting responsibilities for personal property taxes and that was not the case. He said that there should be a better understanding on the part of all of them and he was as guilty as anyone else, at that time, for not picking up on that misuse of the word and the term.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan suggested not worthy of changing the minutes that were approved but just moving forward to assure that they...

Mr. Murphy said that he thought that they should agree to change these to correct them because they shouldn't be sitting there in their records, and that wasn't changing what people said.

Mr. Moynahan said that he understood but that he thought that they would need a motion to amend, or what have you.

Mr. Murphy agreed, because they had been approved.

Mr. Murphy moved, second by Mr. Beckert, that the mis-references to the Assessor to the proper reference – Tax Collector – in the February 28, 2013 Board of Selectmen minutes.

DISCUSSION:

Mr. Dunkelberger said that he was concerned that they were now changing the minutes that were the official record, whether their references were correct or incorrect, that was what they referred to so that now changed the accuracy of the minutes.

5:40 PM

Mr. Murphy said that there was a misunderstanding in that they did not have to report exactly what was said. He added that the minutes, by Robert's Rules of Order and, by implication, their by-laws, were under the control of the secretary of an assembly who had the responsibility to make sure that correct and proper information was in the minutes concerning the business that was done, or didn't get done, by vote; that anything else was extraneous. He said that, in fact, a lot of the words that were spoken here, by Robert's Rules, need not be in their minutes; that they were going far beyond the needs of the law, or by Robert's Rules, in the minutes that they prepared for the committee; that this set had 53 pages. He said that they did not have to report, verbatim, just what someone said; that that was not true.

Mr. Hirst suggested that they simply annotate tonight's minutes in that the corrections for those former minutes had been recognized and leave the old minutes the way they were because those represented what was actually said.

Mr. Murphy said that he disagreed with Mr. Hirst because the February 28 minutes just sat there and, if one went to that set as a historian, and not go to the next, then that person wouldn't realize they had been corrected.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Dunkelberger said that, in changing the accuracy of the minutes as they currently were reflected their understanding, whether they were correct or not. He added that changing it changed both the accuracy and the understanding.

Mr. Hirst said that Mr. Murphy was right; that they didn't have to record all of this verbatim but, since they did, he thought that he would prefer to handle it with an annotation in tonight's minutes.

Mr. Moynahan said that there was a motion and a second on the floor to amend the minutes of February 28, 2013 and asked for a vote.

VOTE

2-2

**Chair votes with the opposition
and the minutes are not amended.**

Public Comment:

5:42 PM Ms. Fournier said that she received an email that there would be a presentation by the Energy Commission (EC) next Tuesday on the proposed solar panel project. She added that it was really important for people to come; that the EC was calling it Phase I and quite a complicated situation. She said that she and her husband got a letter from two attorneys, one from Pierce Atwood and one from Bernstein and Shur, which was in reference to an appeal they made to a Board of Appeals decision...

Mr. Moynahan interrupted because he wanted to caution her that they were talking about an appeal and that was something this Board shouldn't be talking about now...

Ms. Fournier said no, it was not.

Mr. Moynahan said that that was a legal issue that the Board shouldn't be discussing; that this was something this Board should not be talking about.

Ms. Fournier said it wasn't something...that they were moving on now, as this thing was getting dismissed and she asked for the dismissal because she missed it by a mile and a half; that she had to say something...

Mr. Moynahan said that this was something that, legally, the Board was not supposed to be talking about; that that was something that had already moved on to the right people.

Ms. Fournier disagreed and said that it was not a legal issue; that she could give him a legal issue but she didn't want to do that.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that, if the Board moved an 80B appeal on, then that was something that the Board removed themselves from and that was something that they, as a Board, could not speak to.

Ms. Fournier disagreed; that it was being dismissed, it was done...

Mr. Moynahan said that, if she had something else that was separate from that 80B appeal, then the Board was happy to listen.

Ms. Fournier said that the PB was required to issue a special permit, period; that it was in black and white; that she didn't have this much trouble from the executives at CMP and that case was still ongoing. She said that she had an emission line that was too close to her metal fence and around the patio of her in-ground pool; that her father, who had worked for PSNH, saw the pole and told her that the line was too close to her swimming pool. She added that there was a line that was not even in agreement with the Public Utilities Commission (PUC) orders. Ms. Fournier said that she and her husband have been accused, in writing, of not telling the court the accurate truth; that never would she go there, and now she had to respond to that. She added that, when she came in here, she was given a hard time about getting documents. She said that she had a lot of documentation; that she cared about these people, she cared about herself, and she cared about her children; that this stuff was not safe. She further discussed the serious concerns she had with the transmission project and the way that the project was being handled, adding that they needed to have their ordinances (Town) applied. She added that she wouldn't come here if she didn't have faith in the Board members; that the job of this Town was to look out for the quality of life that they all enjoyed here. Ms. Fournier said that Eliot had one of the best Police Departments in the country and she was sick and tired of people trying to cut their budget; that there was crime happening, and they didn't need to know, but they had the best; that she hoped the people understood that when it came around to the Town Meeting and that she wanted to see at least 500 people there this year.

Mr. Moynahan thanked her for her input. He asked if there was anyone else who wished to speak on anything that was not on the agenda.

5:53 PM

Ms. Nancy Shapleigh suggested it might be a good idea to cross-reference the February 28 minutes so that someone reading that far back would know to look forward for the corrections. She said that, for years, people have been asking how to get more people out to the Town Meeting and one of the things was that the meetings went too long for many, particularly for the elderly in this Town. She added that she thought it was a particular shame that so many things were tabled that could have been addressed at a smaller meeting that didn't go well into the night; that she thought that really did a disservice to this community.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

A member of the public asked if the Board could make a brief statement on where they were as far as consolidating services.

Mr. Moynahan said that he would be speaking to one portion of that this evening; that he has reached out to both South Berwick and Kittery to start meeting, again, with regionalization discussions. He added that, as it was left, it looked like dispatch was moving forward and that took a lot longer, so they were trying to start up the conversations, again.

Department Head/Committee Reports

5:54 PM Mr. Blanchette said that they would see a couple of things in front of them. He said that one of them was a first draft of the warrant; that he hadn't even had a chance to review it for accuracy and asked the Board to give him any corrections. He added that he knew that he was missing an article on moving the ECSD to the school. He said that the second thing was that on a double-sided single sheet, in relationship to the warrant, the Board would find the referendum question for the "Good Neighbor" petition and they had a decision to make; that this was from their attorney, Mr. Crawford, who gave them two alternatives, or options, for this article. He explained that one would create a legal defense fund that would continue in a separate account, such as a reserve account, until the monies were exhausted or the thing was done. He said that the second option was that the monies would stop at the end of the fiscal year, like a lot of regular accounts did. He added that his recommendation was to go with the first one; to do it as a separate account and continue so that, if they went over one year, then the monies wouldn't just lapse. He said that, if the Board would let him know which one they would like to go with, then he would have that put into the warrant.

Mr. Moynahan asked if there was any discussion on this right now.

Mr. Murphy said that he would like to think about it and look at both of them.

Mr. Blanchette said that they would also see a single sheet from Ms. Muzeroll-Roy saying that she could go with a cost reduction in the amount of \$15,000 from KidsPLAY to support salary. He added that he believed that could be done and that he had put that in this round of the draft – Article 25.

Mr. Moynahan said that she was also looking for clarification about the separate warrant article for the Senior's Coordinator's position, as it was her understanding that the BC and BOS were not supporting that warrant article. He said that when the Board talked last time he thought that it was consensus that they would move forward until they had her in to talk about the budget; that it did not come up at that point. He asked if the Board was still with the position that they not do a separate warrant article for Senior staffing position.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Hirst said yes.

Mr. Murphy said that he could go either way.

Mr. Beckert said that it was indicated that she could support it within her...

Mr. Moynahan said that her programs would not skip a beat; that she would still be able to perform those services.

Mr. Beckert said that he was still in support of not having a separate article.

Mr. Moynahan suggested they have a motion to that affect so that they had documentation on that and move forward.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen not put a separate warrant article for the Senior Coordinator's position on the June Warrant.

VOTE

4-0

Chair concurs

Mr. Dunkelberger asked if the Board was intending to have any more discussion with regard to the ECSD budget.

Mr. Moynahan said that he thought that they were at the point of finalizing budgets.

Mr. Dunkelberger said that he just wondered, based on the Board's discussion in this change of position, again, he went back to his proposal of taking 10% of the Director's and Deputy Director's salaries from KidsPLAY.

Mr. Moynahan said that at the last meeting she had indicated that she could take a portion of that and, asking that if there were any further budget discussions, he thought that Mr. Dunkelberger had indicated that she had answered the question and satisfied, for the time being, with that dollar figure. He added that, certainly, they could make recommendations to any budgets but that they had draft warrants in front of them and the clock was ticking; that they needed to get things to the BC and the printers.

6:00 PM Mr. Dunkelberger said that he understood that but this has changed the conditions and he was not exactly sure what the salary was for the Youth Program Coordinator.

Ms. Lemire said that it was \$25,000, total.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Dunkelberger said that this reduced that.

Mr. Moynahan asked him to clarify.

Mr. Dunkelberger said that, initially, the Director's take was that she was going to fund the Youth Program Coordinator out of KidsPLAY, so that was \$25,000.

Mr. Moynahan said that Mr. Dunkelberger had a portion of youth fund; that she had indicated the wrong position and that was what she was trying to clarify; that she had indicated it was the Youth Program Coordinator when, in fact, that was already paid for by York Hospital and user fees and it was the Assistant Director, which the Town supported financially. He said that the Director and Assistant Director were the only two positions that the Town paid for so that was where she said that KidsPLAY would go towards, one of the Town-paid positions.

Mr. Dunkelberger said that he would suggest that there was more that could be funded by KidsPLAY, other than just the \$15,000 for the Assistant Director.

Mr. Moynahan said that he couldn't answer that; that they had her in last week and, maybe, that was the time to ask the questions; that he didn't have the answers.

Mr. Dunkelberger said that they had their answers and this was what he was proposing.

Mr. Moynahan said that, if he had recommendations and wanted to try to do something, then that was what they would do.

Mr. Dunkelberger suggested that they take the same amount from the Director's salary, as well as the Assistant Director.

Mr. Hirst agreed.

Mr. Murphy said that he would not agree with it, as Ms. Muzeroll-Roy was not present to defend her position or know what was going on, then the Board shouldn't be adding; to him it was an attack.

Mr. Beckert said that he could support it if the program could support it and he thought that they needed to know that; that they wouldn't be putting too much of a burden on KidsPLAY.

Mr. Dunkelberger said the balance was somewhere north of \$90,000.

Mr. Beckert asked how much of that went out of that for seasonal start-up costs.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Dunkelberger said that he didn't know but he didn't think it was that much because every time he has asked the balance has been right around \$90,000.

6:04 PM

Mr. Beckert reiterated that he didn't have a problem with using a portion of the KidsPLAY for both the Director's and the Assistant Director's salary as long as the program would support it. He added that he thought that they needed to confirm that.

Mr. Moynahan said that the dollar figure did change from \$13,000, which was a suggested amount last week, to \$15,000 so, maybe, she has reviewed what those balances were and what they could support.

Mr. Beckert suggested checking with her before the Board finalized the article.

Mr. Moynahan asked Mr. Blanchette to follow up with Ms. Muzeroll-Roy to get more information with regard to the KidsPLAY account.

Mr. Blanchette agreed.

Mr. Moynahan said that they would be bringing up the final warrant next week, as there were some things left undone so, hopefully, they would have answers and be able to move forward on that.

Mr. Blanchette said that the Board was going to take up Correspondences #17 and #18.

Mr. Moynahan agreed; that they would do that next after finishing with department head reports.

6:05 PM

Ms. Davis said that the BC met last Tuesday and they had some outstanding questions. She passed out a sheet with discussion topics and reviewed it with the Board. She said that they had received the draft warrant articles today; that they would be meeting April 2 and April 9; that she wanted to correct that they had not taken the senior article under consideration, yet, so there was no determination from the BC on that, yet. She added that, based on receiving the warrant articles today, she thought that they would get to BC recommendations on warrant articles on April 9th and asked if that was workable.

Mr. Moynahan said that he thought the drop-dead date for the printers was the 14th.

Ms. Davis said that the BC would plan on April 9th and, if something unusual occurred, then let her know. She said that the BC passed a motion on Tuesday

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

regarding voting via Skype and she noticed that it was on the Board's agenda. She asked if they wanted to discuss that now or wait until it came up on the agenda.

The Board agreed that they could take it up now. The correspondence was #8.

Mr. Dunkelberger said that their current ordinances did not allow voting unless a member is present; specifically did not allow voting via teleconference, phone conference, or email. He added that there were two places in their current ordinance that specified that members may listen in but may not vote unless they were present.

Mr. Blanchette said that there was one that said that they had to be present to be part of the quorum and the other one said that one had to be present in order to vote.

Mr. Dunkelberger said that the BC has proposed that Skyping in, video-teleconference, was present and he would have to disagree with that. He said that he thought that present, in this case, was a physical presence not a virtual presence. He added that because they already took into account and mentioned in their ordinances with regard to telephone and email, then he would suggest that Skype, or video-conferencing, fell into that same realm. He added that they could change or update the ordinance but, right now, as the ordinance is read, it said present and that meant, to him, physically present.

6:09 PM

Mr. Murphy agreed completely with Mr. Dunkelberger; that by their current ordinance they couldn't let the Skype presence be counted legally. He added that it might be changeable; that that would be up to the Town and, maybe, what the rest of the State of Maine was doing but, right now in Eliot, he believed it could not be allowed.

Mr. Moynahan read subsection (10), "A motion that has been seconded will carry on a vote of a simple majority of the eligible members present and voting unless otherwise stated in law or ordinance..." "You must be present to vote." He said that this was forwarded on to the Board from Mr. Blanchette and asked him where he got the information on this.

Mr. Blanchette said that this was Eliot ordinance.

6:10 PM

Mr. Dunkelberger said that it was Town ordinance that was actually the guiding factor, here, and that the State statutes did not address any type of video or virtual presence, at least, not yet.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Fournier said that, in watching the BC meetings, she saw Mr. Strong Skyping into the meetings and actively participating with good communication. She added that she didn't know why he was Skyping or what the Board was trying to do.

Mr. Moynahan said that he was out of Town. He explained that the Board was trying to answer the question of what the Town ordinance allowed; that they were not trying to change it tonight but trying to get some guidance.

Ms. Fournier asked if they had a complaint about him being on Skype.

Mr. Moynahan said that he had no idea; that this was a question that was posed to the Administrative Assistant.

Ms. Fournier said that they were not doing that at the State level; that they did live-streaming but, as far as using Skype, they weren't.

6:13 PM

Mr. Reed said that a thing that has happened, and it has been going on for a while, was that Mr. Strong was in Florida and had been for many weeks; as a good faith effort to fulfill their BC obligations to the voters they have been trying to maintain as much of the committee as they could under difficult circumstances. He added that the BC thought that Skyping was a reasonable technology solution. He said that the Eliot ordinances didn't specifically define present and he thought that the intent of the ordinance was to make sure that people who were members of committees and boards were responsible, reachable; that there was 2-way communication and availability to the public and to be aware of what was going on. He said that they were providing Mr. Strong with all the information that the BC had so that he was an informed member of the committee. He added that the ordinance specifically disallowed voting by telephone, which was not teleconferencing. He said that teleconferencing had worked well for most companies in the country and worked for other government functions; that it was something that allowed them to deal with situations where it was required members be both available to make decisions and approachable, if someone had a question of them. He said that, going forward, the BC urged the BOS to revise the Town ordinance so that there was a definition that allowed this circumstance and, maybe, laying some ground rules so there wasn't the chance for things to be misconstrued or abused. He added that he thought it was important that this be done as soon as possible and, as far as the BC was concerned, they were comfortable with what they put together to allow Mr. Strong to participate and be another voice in the budget review process. He reiterated urging the Board to put something together and put it on the warrants for the next regular Town Meeting.

Mr. Moynahan said that the Board was in the process of reviewing the ordinance governing boards and committees and that was certainly something the Board could take up.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

6:17 PM Mr. Dunkelberger said that he would agree with Mr. Reed that the Board needed to look at the ordinance; that he was certainly open to changing it and he would encourage the BC, as soon as they finished their work on this year's budget, to convene and suggest some wording that went along with that. He added that, right now, he disagreed with allowing it under the current wording because they do say that telephone and email was not acceptable, which drove him to believe that the intent in framing the ordinance was that one had to physically have to be there. He said that he knew that, if they were to allow this, it would certainly change his perspective in attending the meetings; that he now had a phone that he could be walking around and attending this meeting.

Mr. Pomerleau said that he had a direct conversation with a woman in the attorney general's office on this subject specifically with regard to Eliot's ordinance and she said that, by virtue of State statutes, it was not illegal; that it would meet any Freedom of Access or information statute; that there were a number of precedents where legislative committees have been sanctioned to do it but it did boil down to the local ordinance. He added that it didn't really matter what anyone's opinion of it was; that it was the question of whether it met the legal definition of present. He said that he saw an article where the Congress was considering the same thing, as to whether they were going to allow members of Congress to vote via Skype, and the key wording involved in whether or not there were going to be difficulties in allowing it in the Constitution was 'in person'. He added that there was a vast difference between 'present' and 'in person', legally; that he looked up the legal definition of 'present' and Skype met it about any way one wanted to look at it. He suggested that the Board contact the Town attorney with regard to this current interpretation of 'present' and ask if Skype met it. He added that, from a legal standpoint, he didn't believe the Board had an authority to deny them that; that the Board was an elected committee; that it was the ordinance that governed it and if, in fact, Skype met the legal definition of the ordinance he didn't think there was anything the Board could do about it; that it had to be changed in the ordinance where they would have to specifically prohibit Skype as not being 'present'.

Mr. Moynahan said that this raised some good questions; that legally, if it were not permitted, then what happened with all the voting and discussions that have occurred, to date.

Ms. Shapleigh asked if, under the attendance requirements by that ordinance for the committees, that a member be present in person; that one was supposed to attend meetings and not from 2,000 miles away.

Mr. Moynahan said that he thought it would be wise if this Board got an answer from their attorney of what the definition of 'present' was.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

6:20 PM

Mr. Murphy said that he worked on this current ordinance and it was very definitely their intention that a person had to be physically there; that they had to be there in person and that was the intent when it was written. He added that, whether the Town wanted to change that was a different subject entirely but, right now, it was very clear to him that one had to be there for voting or for making a quorum.

Mr. Dunkelberger said that, for the BC's sake, he would encourage Mr. Strong to participate as far as being available to listen to the meetings but in order to remain valid with regard to quorum and voting he would encourage the BC to not allow Mr. Strong's vote until this Board did get clarification because it could invalidate a lot of the work the BC did.

Ms. Fournier said that she did not want them calling the attorney because of the cost to the Town. She said that she recently listened to some BC meetings and Mr. Strong seemed as much in the room as they were; that the Town voted for him and he was an elected official. She discussed the power purchase agreement and that this was about a BC decision.

Mr. Moynahan asked her if this was talking about the question at-hand about whether a member could vote if they were not present but present by Skype, by computer; that that was what they were talking about.

Ms. Fournier said that she didn't think they had Skype when this ordinance was written.

Mr. Moynahan said that there were more questions and he had to move on; that she had made her point and they had to move on...

Ms. Fournier said that, if someone was going to pay attention and get the details...

Mr. Moynahan said that they were going to move on to some other comments...

Ms. Fournier said that she thought he said to make her point.

Mr. Moynahan said that she had made several points so he was going to let some others speak.

Ms. Fournier said that she just wanted to wrap this up...that if someone didn't read a contract that was being proposed...

Mr. Moynahan said that that had nothing to do with the discussion and called on Mr. Reed to speak next.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

6:25 PM Mr. Reed said that the BC had been very cognizant of the issue of votes being valid and quorums being met; that the trouble was that they had a member that was retired from the committee and they had a member that didn't show up, chronically, and this wasn't new, that it happened last year for whatever reason. He added that they were down to a skeleton crew, once again, so they felt that having Mr. Strong present, although not in person, via Skype with two-way audio and visual connection met the criteria of the intent of the law.

Mr. Moynahan said that it might have been better, early on, to have a conversation with the Board (interrupted); that there were some issues that they could have addressed and brought this up before it became a concern.

Mr. Reed said that he brought this up last year; that he approached Mr. Pelkey with a letter to ask for his resignation and he said that he would not do that. He added that he didn't think a re-attempt would have had much chance of success, to get the BC where they needed to be. He said that he found the timing of this particular letter to be very telling; that Mr. Strong has been in Florida for some weeks, now, and attending meetings via Skype for some weeks, now, and he found it very disturbing whoever wrote this letter to wait until now, after the Special Town Meeting where this might have been addressed and now, when they were at crunch-time in the budget; that he found this very suspect.

Mr. Moynahan said that someone had brought a concern to Ms. Rawski, he thought.

6:27 PM Mr. Blanchette said that he wasn't sure who brought it to Ms. Rawski; that all he knew was that he was asked a question last week if he knew of anything that addressed that and he looked at the ordinance; that the ordinance appeared to address it, here it was. He added that he thought that individual Selectmen had questions posed to them prior to that and that was how it came about. He added that Ms. Rawski had a question and he had a question from somebody else about what State law said about this; that he believed Ms. Rawski contacted the Attorney General's office and someone else contacted MMA and they both said that State law didn't address this; that they asked if Eliot had a local ordinance that addressed it and that Eliot had a local ordinance that spoke to it; that that was all he was trying to put forward.

Mr. Murphy said that this last one, as he understood it, the question arose about where the minutes of the BC were so they could find out what had been done at the BC meetings; that there were no minutes in recent weeks and they were finally handed in; that when the Town Clerk looked at those there was evidence of one member Skyping in and that raised the whole question; that that was how it came out and they finally learned that Skyping was going on. He said that he didn't attend the BC meetings; that he would like to but he thought that the presence of

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

this elected Board versus that elected committee was too fraught with emotion; that the BC should be free to have discussions without feeling that they were being overseen by the municipal officers of the Town. He said that it bothered him that the BC did not know the ordinance or took it upon themselves to take such a step. He added that he understood that they may be lacking personnel but there were ways of filling that gap in certain circumstances and, if someone wasn't attending, then that was sort of a violation of even being elected; that if one was elected and did nothing and didn't appear he believed there must be steps for removal and letting someone else take that place; that that bothered him a lot to live and live with someone who didn't come to the meetings.

6:30 PM Mr. Reed reiterated that the BC thought that this was a good solution to a difficult situation. He added that he supposed they would have to write off the source of this letter as anonymous. He said that the BC did try to come up with a suggested amendment to address the ground rules for Skyping; that if a member wanted to be present via Skyping then they would have to be approved by the Chair of the committee so that this person had to have a legitimate reason for not being there. He said that that was as far as they got with coming up with changes to the ordinance. He added that he hoped that they could get this addressed, with advice from the lawyers, relatively soon so that it could be on the regular Town Meeting warrant.

Ms. Davis said that one correction she would like to make was the letter regarding present or not present did come out prior to the minutes being submitted to Ms. Rawski, so that was not an issue or concern. She added that the ordinance did use the term 'present' rather than 'in person' and the definition of 'present' was accessible, close by, convenient, handy, approximate, and within reach. She said that she didn't think that this should be something unmonitored; that this was a special case and she thought that, with their video-streaming, it was clear to see that Mr. Strong was present and has been in contact every minute.

Mr. Moynahan said that they understood what her position was with that and the Board would get an answer and a clarification from the attorney on what the Eliot ordinance allowed; that the Board wasn't that person but the Board would make sure that the BC was doing it the proper way and, if it was proven that that was not the proper way, then they would have to deal with the issues that occurred, at that point.

Ms. Davis asked if they would be able to address this prior to the BC recommendations being made on the 9th.

Mr. Moynahan asked Mr. Blanchette to contact the attorney tomorrow.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Blanchette said that he would certainly contact him and it would not be anonymous; that he did take point being called anonymous; that he wrote this note and he stood by it.

Mr. Moynahan said absolutely. He added that the Board would get clarification on the legality of that type of thing; that they would contact the attorney tomorrow and get resolution back to both groups on how to proceed from there. He asked her to continue with her department head/committee reports, as they were done with that portion for the evening.

Ms. Fournier asked to speak.

Mr. Moynahan said that they were moving on with Ms. Davis' department head/committee reports.

Ms. Fournier said that the Chair wasn't having anymore comments and then he went to Ms. Davis and, then, Mr. Blanchette and so she requested she be given the same.

Mr. Moynahan said that he went to them to finish that part of the department head report.

Ms. Fournier said that she had a comment about this; that she thought this was a serious situation.

Mr. Moynahan said no; that they already clarified that the attorney would get the answers and there was nothing else they could discuss that would change anything.

Ms. Fournier said that she wanted to know how much that was going to cost...

Mr. Moynahan told Ms. Davis to continue with her department head/committee reports.

6:35 PM

Ms. Davis said that, during the meeting, they discussed the BC report and they would like an extension to review the warrants prior to issuing their department report for the Town book. She added that they understood that they were due today but they would like to consider some of the information in their report. She said that she did look back and, typically, the BC reports issued have been based on current information that went out in the Town book.

The Board agreed to give a week's extension.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Davis said that she thought one matter of serious import was separate warrant articles for salaries for each department; that this was a topic that the BC brought up several weeks ago and it had to do with unions and how money was apportioned for salaries and how they could keep the budgets within the hands of the citizens. She added that because the citizens would probably not be allowed to approve the union contract the only say they had was over the budgets; that she thought that the subject was broached a few weeks ago about whether the union had the ability to compel revenue from other line items within the warrant article to satisfy union contracts. She said that she didn't know if they had received an answer on that, yet, or not.

Mr. Moynahan said that the answer was no; that it was what they had in each budget line; that if there was no potential or increase built in to a department's budget then that was all that they were able to negotiate with. He added that it was not easy to have those conversations but, if that was what was put in front of the voters, then that was what they had to work within for any negotiations with anyone, if negotiations occurred.

Ms. Davis said that the Administrative Assistant made it clear to her that the bottom line was the only thing that meant anything; that revenue could be switched between line items.

Mr. Moynahan said yes, but, then it was up to them how they managed their staffing; that one could say that about any budget; that any budget the BC recommended was still within a realm so, if Mr. Moulton didn't spend \$10,000 on tires and he spent it on something else, so long as it was in the same warrant article he was managing that portion; that if he had a labor line, then that was the labor line and, if he had to give percentage increases to his people, then he still only had 'that' much to spend and no more.

Ms. Davis said that the concern was that, if they took a department like the Highway Department, there was a very large budget there for other things, which means that, if money was moved out of those line items into the salary line item, then they were removing services.

Mr. Moynahan said that they were not able to remove any money from other lines to the salary accounts; that salaries were specific or on their own merit in the budgets.

Mr. Blanchette said that the bottom line was the article; that that was what the Selectmen were bound by and what the citizens made the department heads bound by was up to the citizens; but, they were bound by the articles, not by the line items within the articles.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that when the Board got their reports they saw that break-down and that was what the Board was basing everything on; that if there was \$200,000 in salaries, then that was what they were assuming and assuring that department heads were managing accordingly, not on the warrant articles.

Ms. Fournier, discussing a comment made about not being able to approve union contracts, said that the people were the legislative body in this Town and they didn't waive their right to vote on the budget, reiterating that the people were the legislative body of the Town. She added that the people made the budget decisions, that the people were the bottom line, and that was how it was.

Mr. Moynahan said that Ms. Davis had some budget questions.

Ms. Davis asked if the amounts for the requested additional DPW employee included in the figures for that department.

6:40 PM

Mr. Moulton said that there was no additional employee, explaining that there was the possibility of having a new employee at the DPW upon the retirement of the Transfer Station Manager, fulfill what he needed at both departments with another part-time position at the Transfer Station, transferring the benefits to the Highway Department, and still have a cost savings to the Town.

Mr. Moynahan clarified that was pending retirement, approval from this Board, that there were other things; that there was no additional personnel budgeted anywhere in the DPW budget; that there might be changes within the department but that would be the only additional cost, no additional labor.

Ms. Davis asked if the amount for the Map 9, Lot 4 land sale be included as a credit in the FY 2013/2014 budget, to offset expenses for the year.

Mr. Blanchette said that, whenever the Town sold tax-acquired property, they put it under miscellaneous income and it went against the taxes. He added that it hasn't been sold, yet, so they didn't know what the amount would be.

Ms. Davis, discussing the monthly health insurance reports, said that she knew that Mr. Blanchette didn't want to hand out that report with names on it and she was wondering if that report could be given to the BC with the names erased and just the department listed so that they review health insurance costs.

Mr. Blanchette said that he would see what he could do; that he would have to come up with a report because such a report did not exist at the present.

Ms. Davis asked if he couldn't just print it out and cut off the names and, then, write in the department next to it.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Blanchette said no; that they were alphabetical so all she would need was a list of the names; that he would come up with some sort of list but he just didn't know when.

Ms. Davis asked if they could have it by next Tuesday.

Mr. Blanchette said that he didn't know but he would try.

Ms. Davis said that she understood that last year's contributions by employees for health insurance was 5% and the Board may be increasing that to 10% this year. She asked if they could have some dollar figures on that for the average single and the average family; what was it, weekly, that was paid in.

Mr. Moynahan said that they currently had it yearly and they broke it down for the average single and average family; that that was what it was based on in some of their past conversations; that they used some baselines in earlier discussions.

Mr. Blanchette said that he could provide 8 b., no problem, just as an average, if it wasn't each one.

Mr. Moynahan said that he thought that that would be more beneficial for everyone.

Ms. Davis said that she would like the information that was in a file, if there was one, for the gas compressor station and she would like this information prior to scheduling a meeting with the Assessor so that she could review the information.

Mr. Moynahan asked Mr. Blanchette if he had provided the information the Assessor.

Mr. Blanchette said that, as far as he knew, they had provided all the information that they had on file.

Ms. Davis said that they had about seven sheets of paper on file for the gas compressor station, that's it.

Mr. Blanchette said something like that, other than if she wanted a copy of the deed to the property and things like that.

Mr. Moynahan said that, if the Administrative Assistant was saying that they provided something and said it continuously then, at some point, she had to start believing that. He added that he would encourage her to use that material and set up the appointment with Mr. Dunkelberger, Mr. Blanchette, and the Assessor; that he thought it would be more beneficial.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Davis said that it wasn't clear, last time, that that was all he had.

Mr. Moynahan said that he had indicated that he had provided all he had last week and that was why he was saying that; that it just made it look like they were not providing information and he thought that they provided every last bit that was asked in as much detail that they could.

Ms. Davis said that it was just such a large account that she was surprised that there was only a few pages of information.

Mr. Moynahan, referring to the statement of accounts, asked if those had not been received, yet.

Mr. Blanchette said that that was coming and Mr. Moynahan provided the Dix update.

Mr. Moynahan said that he did.

Ms. Davis said that it went missing through the meeting.

Mr. Moynahan said that, if she stopped and saw Ms. Thain, that was where he got that and he thought that the beneficial pages were the first fifteen, which was the overview of everything that they provided; that it was pretty lengthy but the crux of what would be used for a RFP he thought was in the first fifteen pages.

Ms. Davis said, referring to the \$10,000 for the Garage roof repair, that it was stated during the Town Meeting that the engineer said that the beefing up of the roof wasn't required.

Mr. Moynahan said that the engineer wasn't at that meeting to make that statement.

Mr. Moulton said that somebody made that statement and that it was a misinterpretation of the draft letter that he received; that he didn't have that with him but the bottom line sentence was that it was very close so it was his recommendation that they beef up the roof for unanticipated wind and snow loads.

6:47 PM

Ms. Davis said that, at an earlier meeting, it was stated that the Town didn't carry unemployment insurance and, yet, earlier this evening they were talking about consolidating services, which could potentially mean that jobs would shift and she wondered if they were taking into consideration the need for unemployment insurance and how that might fit into the budget.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that he didn't believe the Board had had a discussion on this and asked Mr. Blanchette if that had been a consideration, at all.

Mr. Blanchette said that it has come up every now and then and the Board has stayed with what the Town presently had.

Mr. Hirst said that it was self-funded.

Mr. Blanchette said correct.

Mr. Dunkelberger said that he thought that was an important point the Board needed to cover, if there was to be some consolidation with somebody else but he didn't think they were there, yet.

Ms. Davis said that it was mentioned that the ECSD would provide a projected breakdown of income and expense, by program, including fees, total income, grants, number of employees, etc. She asked if that was in the works and would it be accomplished by the end of budget season.

Mr. Moynahan said that, actually, that was a confused point. He added that Mr. Hirst had sent an email indicating some thoughts that he had but that email was not anything that was forwarded on to the department head director; that it was not asked to be an agenda item, or anything like that, so that letter remained only here; that it was never forwarded on to the department head director. He added that she had indicated that she was doing a rate study but, as far as a breakdown of some more specific information, that was never formally forwarded on from the Board.

6:49 PM Mr. Reed, discussing ECSD, said that they received a letter that was passed along February 20th in which she provided revenue for the last couple of years and noted that they were revenue reports, only, so he was wondering when they were going to get the payroll expenses.

Mr. Moynahan said that the Board would have to follow up; that he didn't know the BC was still waiting for something.

Mr. Reed said that the BC asked for several things and she provided some of it.

Mr. Moynahan said that she provided the Board a pretty detailed package in their budget books a while back and was a pretty thick package but he didn't have it in front of him to reference what Mr. Reed was talking about.

Mr. Reed said that it would be nice if the BC could get that information. He addressed a couple of issues regarding the TIF. He said that he was wondering if

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

the BOS had voted on the change in the path, or route, that the sewer was changing; that he thought that the Board needed to approve that so that the physical form of what they were voting on was defined.

Mr. Moynahan said that the draft report from Underwood was the route that the Board had been working on.

Mr. Reed asked if the Board had voted to officially approve that.

Mr. Moynahan said that they put that draft report and design to the voters the first time and that was what they had been working on; that when the final vote came, it would be in that general direction; that there may be some tweaks because one could not define that to the inch; the leg on Beech Road and up Route 236 was the general outline of it but, if it moved seven feet one way or another...

Mr. Reed said that he understood...

Mr. Moynahan asked the Board to correct him if he was wrong but that was the direction the engineers had suggested to the Board and that the Board had delegated them to move forward with.

Mr. Reed said that, by implication, the Board voted for that.

6:52 PM

Mr. Dunkelberger said that early on in the process there were questions asked on going west on Route 236 versus going east; that there was quite a bit of discussion at the meetings he was at with regard to why they were doing that and he came out of it feeling good about the decision to go east.

Mr. Moynahan said that anytime, if they could provide a cost-effective means that provided more sewer service somewhere, when they got into final design they would come here, first, and ask if the Board wanted them to explore this, that it had the potential to save money or hook up more people; that those conversations would occur by the Board.

Mr. Reed said that he was comfortable with the route, as well; that he just wanted to make sure that the BOS had done what they needed to do in that regard, as far as defining that for the voters so that they knew what they were voting on.

Mr. Moynahan said that the draft would be available for anyone, once again, to see what that basic outline of that was.

Mr. Reed said that, similarly, he thought it was very important that the financial structure regarding rates and betterment fees and who was a new user and who was an old user, who was a user just because the sewer happened to wander by

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

that property and chose not to hook up; did that mean that that person was responsible, for instance, for any additional optional required upgrades to the Kittery sewer facility, those kinds of things. He said that Mr. Pratt presented a number of different options and he thought that it was really important that the BOS vote on choosing one of whatever they were and put those in the warrant and let the people know what they were voting on, as far as the structure of this sewer district.

Mr. Moynahan said that a part of what was voted on last week was to get more TIF funds for Underwood to complete that rate study work; that that was part of that whole portion; that they brought up last week what the shared portion of the existing users and new users would be on the existing pump stations, and all that, but there has not been a defined amount; that he thought they were really banking on recommendations from the engineers as opposed to the five of them (Board) guessing.

Mr. Reed said that he understood. He added that he really urged the Board to go on record and vote for choosing how it was that they wanted the TIF to work so that everyone...

Mr. Moynahan said that they emphasized that last week; that, at some point, that was a pretty critical piece to help move this forward.

Ms. Fournier discussed the existing sewer as it related to the proposed project. She said that she thought that there were 641 sewer accounts, now, and it was an old sewer line; that they have been having problems for years with unsafe sewer gases that nobody has done anything about.

Mr. Moynahan said that they have done something; that they have had people work on that system and she needed to be more informed before she spoke. He added that he was going to move on to other items on the agenda; that it was 7 PM and he had to get on with the business. He asked if there were any other department head/committee reports.

6:55 PM Mr. Moulton discussed a draft document from Underwood that addressed rate impacts and they would like to come in next week to discuss this with the Board. He added that the document he was giving to the Board was the same information as the power point but a better clarification.

The Board discussed next week's meeting and agreed, by consensus, to have a Special BOS meeting on April 3 at 6 PM. They agreed to have Underwood in at that meeting.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moulton gave the Board information pertaining to the Transfer Station alarm system for their review.

Mr. Moynahan said that this was an update and said he was sorry for Mr. Moulton's frustration; that those were certainly not times they would want to see any employees called out.

7:00 PM

Mr. Moulton discussed safety concerns he had with public activities at the Transfer Station and that he didn't want anybody to get hurt. He gave the Board a document with his recommendations for their review.

Mr. Moynahan said that he thought that it was a legitimate concern and that Mr. Moulton should have the management of anyone that was there congregating and give them guidelines on where the safe spots were, how to not impact people and how to act in a safe manner.

Mr. Murphy agreed Mr. Moynahan, saying that it was Mr. Moulton's department and he was well-aware of the problems and the dangers to both the men working there and to the people who came; that it was controlled very well but he agreed that it was very busy and hectic there, sometimes. He added that he wasn't sure there was room toward the road for what might go on but maybe a couple of lanes in that area with someone standing in between those lanes going out of the Transfer Station.

Mr. Hirst said that the Board charged Mr. Moulton with the safety of the employees and the public at his facility so he thought that Mr. Moulton had a right and an obligation to post reasonable rules while, at the same time, allowing people who wanted to distribute materials to do so.

Mr. Moynahan said to keep in mind that any Town-sponsored group, before they presented materials, needed approval from this Board; that that may assist, too, if there were question marks, or what have you.

Mr. Pomerleau said that he had no problem with a sincere effort to control safety, no question whatsoever; that to suggest that citizens had to get permission from the BOS or the DPW Director in the exercise of their constitutional rights of free speech on public grounds was absolutely absurd.

Mr. Moynahan said that this was to congregate on Town-owned property; that this had nothing to do with free speech but was a safety concern.

Mr. Beckert said, not to argue, that they had, back years ago, a question about the BOS's authority to regulate what went on on Town-owned property; that they had the Town attorney come up and actually tell them that, yes, the BOS did have the

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

authority to regulate what went on on Town property, regardless of whether one was a citizen who paid taxes, or not. He added that he thought that Mr. Moulton was looking out for safety. He said that he received two phone calls this past weekend from people complaining about being held up at the Transfer Station in traffic and he told them to speak to the DPW Director so there were people who were concerned.

Mr. Pomerleau said that the flip-side of that were the dozens and dozens of people who expressed their appreciation and gratitude for the people providing them the information that they wanted to have for a vote. He added that they were doing a valuable public service; that he didn't have a problem with the safety aspect and ask to stand over 'there' but to get permission to do it was going beyond what their attorney may have suggested on free speech.

Mr. Beckert said that the attorney was very clear that the BOS were the municipal officers and they controlled the activities that could take place on Town property.

Mr. Moynahan said that he thought that what Mr. Moulton was indicating was a request 48 hours in advance and pinpoint where people would be and what to wear; that it was that cut-and-dry; that Mr. Moulton would not be reviewing any materials; that this had no bearing on Mr. Moulton's department; that it really was just a safety issue. He added that the policy said that, if one wanted to do anything, to just contact him 24 hours in advance so that he could, whether it was putting cones out or whatever he would do to separate, seemed pretty logical to him.

Mr. Moulton said that, as of late, they have been asking permission, but, they have been asking permission the day of; that he wasn't there and didn't know what was going on and, if there ever was an incident that happened and he didn't know about it...it reflected back on him. He added that he was concerned about everything, his employees, the residents, everything; that it was a safety concern and he could care less what anyone distributed but he wanted people controlled so nobody got hurt.

Mr. Reed said that he thought it was really important for people to give Mr. Moulton legitimate notice and he thought permission was a reasonable thing to ask for and be granted; that he thought it would be good to go through the ground rules with whoever might be there and the earlier the better because, maybe, the permission might be given to one person and that person needed to disseminate that information; that what Mr. Moulton might say, at the time, whatever would work as far as traffic patterns, what people needed to wear, etc. got everything set up and arranged so that everybody knew what was going on and everybody could be safe. He added that he thought that it was a great idea.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Fournier said that she had her hand up before he said one more question and he was limiting the contribution, here.

Mr. Moynahan said that he was because she didn't stay on point.

Ms. Fournier commented that he knew she knew what she was talking about. She said that, typically, a town required a permit to be on public property like that and, sometimes, a fee. She said that she wanted to make sure they got the information that was being distributed at the Transfer Station but she hadn't thought about Mr. Moulton's responsibility as the department head, which was a very important thing; that what she was thinking about was that she knew they (BC) was going to be presenting another handout on recommendations...that the BC was an advisory committee and didn't do the...she said she was finishing up...her husband brought home the new handout...

Mr. Moynahan asked if this had anything to do with the Transfer Station concern...

Ms. Fournier said that she did read it (handout)...

The Chair tried to get the speaker back on point and chose to move on with the agenda.

Mr. Moynahan asked if Mr. Moulton had anything else to bring up

Mr. Moulton did not.

Mr. Moynahan asked if there were any other department/head committee reports.

7:13 PM

Mr. Muzeroll discussed CodeRed and the concerns around it. He said that there was an article about it in the Portsmouth Herald today. He asked people who had questions about it to read the article or go to the York County Emergency Management website and register for CodeRed, if people would like to be part of that; that it was a great notification system.

Mr. Beckert said that the Town Clerk put it on the Town website, as well.

Mr. Muzeroll said yes and said that this was not a scam. He added that, if people had a cell phone as the primary phone, they wouldn't get notified unless they registered their phone.

#18

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Town manager

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

7:15 PM Mr. Moynahan said that they had a committee report in regard to town manager job description; that Ms. (Vicki) Mills, Mr. Blanchette, and himself were tasked to provide something for the Board. He invited Ms. Mills to speak to this, as she took the lead with this whole project.

Ms. Mills said that they came up with a job description that they thought would answer a lot of the citizen's questions regarding who answered to whom, who was responsible for what, and, so, they tried to cover all of that within the job description. She added that it was there for the BOS to review, add or subtract, etc.

Mr. Moynahan said that they got to the point where they felt there was enough information here that would cover what this position would do; that it seemed organizational; that he made earlier comments on town manager/administrative assistant and utilizing this as two-in-one; that it would cover both so that, if the town manager didn't pass, that they would still have a manager that was tasked with the personnel issues they struggled with. He said that Ms. Mill took all the compiled information and really ran with it, went through several models, and made sure all of that was included in here and he thought that she did a fantastic job.

Mr. Dunkelberger agreed that it was very well done; that he had absolutely no comments, which was very rare for him.

Mr. Hirst said that he had a few suggestions to make and asked to whom he should address them.

Mr. Moynahan said that he could send them to Mr. Blanchette and Mr. Blanchette would forward them to the committee for discussion. He said to Ms. Mills to please not get upset if changes were made because everyone had their own thoughts on organization and wording and all that stuff. He said that they had public hearings scheduled for this so the sooner the better if they had any changes they would like to make, as he would like to start distributing this, in advance, so people would be aware of what they were going to be talking about prior to Town Meeting and the public hearings.

Ms. Fournier said that she had a question.

Mr. Moynahan said that he was not taking any more questions.

#17 TO : Board of Selectmen
FROM : Steven Sargent
REF : Letter of Resignation from Shellfish Management Committee

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

7:18 PM Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen accept the resignation of Steven Sargent of the Shellfish Commission with regrets and thanks for his service on that commission.

VOTE

4-0

Chair concurs

New Business (Correspondence List):

7:19 PM

#1

TO : Board of Selectmen

FROM : John Chagnon

REF : BDC Selectmen's meeting agenda request

Mr. Moynahan said that this was a proposed letter to the residents from the Eliot Business Development Committee (BDC).

Mr. Chagnon said that he had an updated letter and proposed mailer. He added that the BDC would like to request the BOS approve their proposed mailing to Eliot residents regarding the BDC's position positively recommending the TIF sewer funding vote this June. He discussed the mailing costs, total \$2,055, and that it would go to all Eliot residents and commercial property owners in the district. He added that the BDC had a budget of \$1,000 that they would put towards this mailing and ask for a possible grant from undesignated funds or, in the absence of that being available, they would seek donations from the business community.

Mr. Moynahan said that they would discuss the letter, first, to see if the Board wanted to move that forward, and the financial piece later but, if Mr. Chagnon wanted to give an overview of their proposal. He asked if this was different from what he provided the first time.

Mr. Chagnon said that it was condensed so that it was one page; that it contained many of the same points, just condensed to one page, with the back having the dates of the upcoming informational meetings and could be folded to mail. He said that he would be glad to talk about the content.

Mr. Moynahan said that that was the main thing. He asked if all this content was in the original document; if there were any major changes or was it just rewording.

Mr. Chagnon said that there was minor rewording but most of the content was from the original document.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Blanchette said just a few corrections, and just so they kept correcting this in the future, in the first paragraph it was not the TIF Sewer Expansion Project but the Route 236 Sewer Expansion Project, and, that project has not been approved by the voters so he wasn't sure what the BDC was trying to say there.

Mr. Chagnon said that the TIF was approved by the voters.

Mr. Blanchette said right; then two different points, as the Town was voting on the project and the TIF was approved by the voters back in 2009.

Mr. Chagnon said that they would clarify that.

Mr. Moynahan asked for thoughts from the Board on the content or even doing a mass mailing from a committee, separate from the financial piece right now. He added that there was a Town policy for distributed material; that it had to be factual, etc.; that it was pretty specific with what was allowed to be mailed out.

Mr. Murphy asked if any other mailing was being planned that this would conflict with.

Mr. Moynahan said that the Board had talked about doing mailings.

Mr. Murphy asked if there was any other report that might become available that would serve as something to be mailed.

Mr. Moynahan said that they have talked about all kinds of things; that there was nothing that has been presented or requested to him that he has shared with the Board.

Mr. Murphy said that they were not going to have a production that was authorized by this Board showing the pros and cons of this, other than the letter that the Board generated already.

Mr. Moynahan said that that was the only thing provided; that this was the second thing provided, to date.

Mr. Murphy said that he would think that they would want to support the distribution of this, if they could. He asked if the Board had to approve this tonight or could they review it.

Mr. Moynahan said that the Administrative Assistant was the one who reviewed and approved the material for bulk mailings; that part of the discussion tonight that Mr. Chagnon was here for was financing such a mailing.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

The Board agreed.

Mr. Pomerleau said that he wanted to know the legal standing of the BDC to be submitting anything to the Board right now. He added that the last he understood they didn't have enough members for a quorum; that he didn't know if they had had a legal meeting with regard to this to be able to make any recommendations and would like clarification on that.

Mr. Moynahan asked Mr. Chagnon to speak to that.

Mr. Chagnon said that they had three regular members, met regularly, and were behind on the minutes; that one of their members became ill, recently, so it was down to two.

Mr. Moynahan asked if his committee was five or seven.

Mr. Chagnon said that it was seven.

Mr. Moynahan said that they didn't have a quorum with their meetings, currently.

Mr. Chagnon said that was correct; that they would need four for a quorum. He commented that, with constitutional law, if Mr. Pomerleau wanted to say that the BDC couldn't do this, then that was entirely his purview, but, they were a committee trying to get the word out; that they were for this sewer expansion; that their job was to promote business development in Eliot and this was a major benefit to the Town.

Mr. Moynahan said to the Board that they had information from the BDC but that committee did not have a quorum.

Mr. Beckert said, not to throw the baby out with the bathwater, if they were going to make one committee abide by the rules, then they need to make the others; that he didn't want to be the one who brought it up just to bring it up but they had a seven-member committee and need four members present to hold a quorum to conduct legal business; that those were the facts by Eliot ordinance and policy. He added that they could meet but they didn't have any authority to do business or expend funds.

Mr. Dunkelberger said that, in order to not throw out the baby with the bathwater, could the Board send this out on behalf of the current members of the BDC.

Mr. Beckert said only if the Board got permission from the Administrative Assistant, who reviewed it, to see if it was factual and non-biased; that in his opinion that was how the policy stated it.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that the easiest thing out of this may be that this was another committee's look at this project; that the Board has a letter that they have started looking at and the Board could use this as guidance from another committee as suggested material.

Mr. Beckert suggested that if the business community, on their own, wanted to pay for it and mail it, then they could certainly do that. He added that the Town did not have the authority, in his opinion, to expend funds to put it out.

Mr. Moynahan agreed.

Mr. Chagnon asked, if they were able to have a meeting with a quorum, would that make a difference.

The Board agreed that it would.

Mr. Beckert, discussing the financial piece, said that the BDC request for the Board to take the balance from the undesignated funds was not allowed, as the Board had no authority to request monies from that fund; that the Board could only recommend to voters to take amounts out of undesignated funds for purposes specific.

7:30 PM

Mr. (Stephen) Brandon said that his quick reading of this was that it was primarily pro the sewer project; additional, he did not think that some of the information was factual but projected. He added that he had no objection with this going out to Eliot residents but he would suggest, given the complications with the committee and the finances, that the business community present this as their position, separate from the Town; that he would have problems with the Town subscribing to this without a con balance.

Mr. Moynahan said that, at some of the public hearings, etc., the committee members could speak in favor, or support, individually; that that was just a thought to the committee for the committee to be able to speak to this.

Mr. Chagnon said that, as a Board, the Selectmen created an ad-hoc committee that was supposed to come up with pros and cons to present to the voters; that the only thing that has been presented was the pros; that the con-side of the committee has not presented any cons to the committee for any sort of moving up the ladder vote, or anything; that they had just chosen not to meet anymore. He added that he didn't know how one counter-balanced that if one was for the sewer expansion; that the Board created a committee to give them the pros and cons and should ask that committee where the document was.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that the Board would follow up to see where the committee was with that. He reiterated that the Board would not expend funds for a committee that did not have a quorum so the Board could review this information, on their own; that Mr. Brandon had a good idea that the business community might endorse this, and he could certainly speak at the public hearings coming up.

Mr. Reed said that he would also like to speak to the 'baby'. He said that he thought it was really important that, if it was factual, and if it was put out as the position of the Eliot business community that would be even better but he really like all the views put out to the citizens as factually and honestly as possible. He added that he would like everybody to sign their work but, if the BDC couldn't and the business community, itself, could sign the work and put it out, then he thought that would be a good thing for the Town. He asked if, since the BDC didn't currently have a quorum, was it proper that the money they did have in their budget be used towards publishing this.

Mr. Moynahan said that they didn't have a quorum to make those types of decisions; that they would need to vote on the expenditures of funds.

A member of the audience said that, as he understood it, a committee was formed at the behest of the BOS and was to report back to the BOS. He added that his only point was that they didn't have a quorum so, therefore, there was no action of the committee. He said that he thought that it was inappropriate for this committee to go to the business community. He added that, if the business community wanted to do that, then fine, but he didn't think that a committee that was only formed to report to the BOS should go to the business community to send material out to Eliot citizens; that that was not their job or responsibility and thought it would be terribly inappropriate.

Mr. Murphy said that he got the impression from Mr. Chagnon that he could get the fourth member back.

Mr. Chagnon said that he didn't know if the Selectmen's liaison was an ad-hoc member of the committee; that they had three members and a Selectmen's liaison but, if not, then they could see if there was someone wanting to join the committee.

Mr. Dunkelberger said that he thought the audience member was confusing two different committees; that one committee was formed to look at the pros and cons and come back to the Board with a report; that Mr. Chagnon represented the BDC, which was a standing committee in the Town.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Pomerleau said that, if he read the policy the Board discussed tonight correctly, the BDC couldn't even meet without a quorum; that they couldn't meet, as a committee, in this Town.

Mr. Beckert agreed that they couldn't meet to conduct official business.

Mr. Murphy clarified that they could come together and discuss but they couldn't hold a meeting in the sense of the ordinance; that they could come together and talk about the Town and even do things, but it wouldn't be official.

Mr. Moynahan said to Mr. Chagnon that it looked like he had a committed group he was working with in his committee; that it was unfortunate they didn't have a quorum, currently, so that some of this work could be produced; that he thought a lot of people were supportive of some of the material. He added that it was a great effort and they would certainly have to beef up the committee number in order to do something like this.

Mr. Chagnon said that they could be asked to be reduced in size as they were for a long time.

The Board agreed that his committee could do that.

#2 TO : Board of Selectmen
FROM : Attorney General
REF : Schiller Station

7:41 PM Mr. Moynahan said that this concerned the potential liability and expense associated with filing a petition under Section 126 of the Clean Air Act. He said that certainly it was vague at best. He read, "*The Town may choose to participate in EPA's administrative review process, and doing so may enhance the prospect of obtaining a favorable result from the agency...*" and "*...the filing of a Section 126 petition can be either an extremely resource-intensive and costly effort...*" but the beginning of everything said that they couldn't guarantee it, couldn't promise anything. He added that it added some clarification but offered more confusion to him.

Mr. Hirst read on page two under item #3, "*Under the law, EPA must base its action on a Section 126 petition on the technical and legal merits. Therefore, a petition should be accompanied by emissions information from the upwind source(s), actual air quality monitoring data from the petitioning jurisdiction and air quality modeling that demonstrates a causal connection between the upwind emissions and the downwind ambient air quality standard attainment problem.*" He said that, as far as he knew, they had no such data.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that there was data; that there were air-monitoring stations.

Mr. Murphy added that they had a report and did modeling.

Mr. Moynahan said that if there was additional modeling needed, or what have you, this spoke to that; that it "...*will depend upon many factors, including strategic choices of the petitioner as it assembles supporting technical information.*" and that sort of thing.

Mr. Hirst said that he was not aware that they had actual measuring data from the Town of Eliot from devices actually within the Town.

Mr. Moynahan said no, not at all, that they didn't necessarily have to be but offer an overview. He added that he could see Mr. Hirst's concern.

Mr. Hirst said his second concern was the potential down the road of spending a lot of money and the first thing he heard tonight was the attorney's notion of possibly \$40,000; that that scared him because he thought that could be just the beginning.

Mr. Moynahan agreed, saying that he had brought that up from the beginning and the unknowns were, again, reminded to the Board in this document. He added that they had committed to put the 126 Clean Air petition to the voters in June and this information should be brought forward then.

Mr. Beckert said that they needed to make very clear to the residents on this, when they voted, that there was an unknown potential to spend money and he thought that was why their attorney had suggested a \$40,000 fund to start with.

Mr. Dunkelberger said that the Attorney General also implied that there may not be any money involvement.

Mr. Moynahan said that they were right back to where they were but the concerns remained.

7:45 PM

Mr. Brandon said that he thought that this needed to be framed and presented in a balanced way between the financial costs and the health of Eliot citizens, especially within the plume area of that generating plant. He added that he thought the BOS had a responsibility to present it that way and not concentrate or put too much weight on the money costs and those legal questions, to also think deeply and considerably about the citizens.

Mr. Moynahan said that the warrant language said that there was a chance they could spend money but there was no supporting documentation that said Eliot was being harmed, or not, by that so, to make a statement that it was...they were

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

allowing that group to do that petition to look into it further for the residents. He added that Mr. Brandon's concerns, and those of the residents would certainly be talked about at Town Meeting; that he certainly understood where Mr. Brandon was coming from and was a good point.

7:47 PM
#3

TO : Board of Selectmen
FROM : Sanborn's Auto Sales and Salvage, LLC
REF : Application for Automobile Graveyard and/or Junkyard Permit

Mr. Moynahan asked if there was anyone here from that business tonight.

Ms. (Linda) Corbin said that she was present representing both Sanborn's Auto Sales & Salvage, that Mr. Sanborn was currently out-of-state, and Eliot Recycling Services; that she was now the sole owner of the LLC that owned property. She said that this was the second time for this; that this was a five-year application. She said that this was not an automobile graveyard; that it was an automobile recycling business license, as that was all that was allowed on Route 236 in Eliot.

Mr. Moynahan said that the Board's job in doing a renewal was to make sure that the paperwork was filed properly and if there were any concerns or issues with the Code Office, life safety, Fire, Police, and that sort of thing.

Mr. Dunkelberger said that he had often observed older trucks or cars sitting out front with for sale signs or appeared to be abandoned for a great length of time; that, to him, that did not present a good appearance from whatever the business was doing.

Mr. Hirst said that he would like to hear from both Chiefs.

7:49 PM

Mr. Short said that they had received a request from Mr. Blanchette regarding any issues the Police Department might have had with that business. He said that, over the last five years, they had responded to 30+ complaints from keeping the peace to burglaries to thefts, and those types of things. He added that the majority of these calls were to the company of Ms. Corbin, herself, being a victim of these issues.

Mr. Dunkelberger asked Mr. Short if there were any problems with the traffic going in and out, as far as trucks.

Mr. Short said they had no problems with traffic; that there were ancillary complaints about license plates that appeared to be left on vehicles at that establishment, that people got notified that they had parking tickets.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Murphy said that 30+ calls in five years was one every two months and asked if they were seasonal, at all; did they happen in the summer or were they really serious.

Mr. Short said that he thought it was just repetitive; that with the seriousness he has responded to some assaults; burglaries, which were felonies, and that would be the extent of it so, yes, some of them were serious. He reiterated that what he was reporting to the Board was that the Police Department has had over 30 calls for service in one location in a five-year period that they had to respond to.

Mr. Murphy asked if that was more than any other business.

7:53 PM Mr. Short said that, off the top of his head, he would say that was a fairly high response.

Mr. Muzeroll said that he was involved, as the Fire Chief, with the initial application, which was back in 2005/2006; that there was a lengthy PB list of conditions and ended up being a conditional permit; that those conditions were driven by his and the CEO's concerns, at the time, and those conditions were met. He added that the owners were asked to produce an operations manual for what they were doing at the time. He said that the Fire Department had been out there for a few small fires, mostly outside trash fires. Mr. Muzeroll said that his concern, now, was that having been through the property several times on emergency calls, as well as State of Maine's Environmental Division and being aware of Notice of Violations (NOV) for environmental issues at the site, and he wasn't saying that they hadn't been taken care of, he thought it was time for a complete review by the Fire Department and CEO, formally, to make sure that conditions set with the original application were continuing to be met and, as Town officials, suggest improvements or repairs to the facility prior to the condition of the use of their permit. He said that they handled this in the past with a conditional use; did not deny or was not recommended that they weren't given a permit but 'these' would be the parameters under which the permit would be issued and was pending resolution to a safety inspection, a code inspection, and verification that any NOV were completed through the DEP as well as one that may still be pending for the EPA. He said that it was a busy piece of property; that it was a dynamic piece of property changing on a weekly basis. He added that he would like to reassess the property and would like to do it with the CEO and address things from both offices.

Mr. Moynahan said that there was a PB approval place but this was separate.

7:55 PM Mr. Beckert agreed. He said that the PB approved the specific use or uses of the property; that this was a permit that was required by the State, he believed.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Corbin said that this was a municipal permit.

Mr. Beckert said that this municipal permit was totally separate from what the PB had already approved; that the PB approved the land use; that the criteria the PB set forth was what the Chief was talking about, the conditions of that use. He added that the Board was certainly within its rights to tie the renewal of the permit to a review of the PB's original conditions.

Mr. Muzeroll said that, initially, a very nice operations manual was produced by the owners of the property at that time in 2006 but people have changed, conditions have changed, and that operations manual was something he would like to see reviewed and updated to make sure it still applied to the current property use.

Mr. Murphy asked if it was known whether there have been statutory changes at the State level in what could be done; has the DEP changed their rules in any way that would affect this application renewal.

Mr. Muzeroll said that he was unsure; that he had spoken to the Maine DEP representative who forwarded some documentation to him as to what was going on with the operation or their concerns or any violations they have issued. He added that the CEO has a copy of the same documentation. He said that the person who could really answer Mr. Murphy's question was the person who issued the paperwork and better understood the laws, rules, and regulations, and how they applied.

Mr. Reed asked if there had been any Town ordinances that had changed.

Mr. Moynahan said that it wouldn't matter because this was already in place.

8:00 PM

Ms. Corbin said that they had had one violation from the DEP in six years and it was resolved before the letter was even issued to them. Addressing the Police Department discussion, she said that metal was a very high-theft item – catalytic converters, brass, copper – all the precious metals; that they have actually had people take siding off the building to get into the building to retrieve precious metals. She added that some of the thefts were \$50,000 thefts and most have not been solved. She said that she would say that probably 90% of the calls have been because of theft of either precious metals inside the building or people they had hired locally that stole from inside. Ms. Corbin said that to try to prevent some of that they have put in two camera security systems and has greatly improved the problem; that she thought it had been quite some time since she has had a call, adding that many of those 30 calls were probably within the first few years of not having the security systems in place. Reiterating that that one issue with the DEP was resolved before the letter was even sent so there were no outstanding issues;

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

that Eric Hamlin was the person who dealt with solid waste and he came and did an inspection just two weeks ago with the CEO and they saw absolutely no problems. She said that she had an email from them but didn't have it with her.

Mr. Moynahan said that the Board would need a report from them.

Ms. Corbin agreed, saying that she would expect that and was fine with that. She added that the CEO said that there were no issues and the DEP had also responded that there were no issues. She said that, business-wise, when they started out in 2006 they had 16 trucks on the road, that they were down to one; that their business has gone from a \$7,000,000 to \$8,000,000 business down to a \$1.3 million business so, as far as what was going on at that property, it was almost nil compared to what they were doing back in 2006 and 2007. She added that they had 27 employees and they were down to 6; that she has sold off 17 acres of the property to just pay the mortgage to be able to keep going. She said that she had aerial photos of 800 cars on the property but, right now, there might be five cars on the property so there was almost no activity going on. She added that, to try to keep going and generate revenue, they were now doing wood sales instead of the metal, which was just recently approved by the PB, and has helped them through the winter. She said that, last month, they actually had the worst month for revenue that they have had in 12 years of doing this business; that they were a mobile car-crushing company before they purchased the property they were now in. Ms. Corbin said that she didn't have an issue with the Town wanting more information and doing inspections; that the property was cleaner now that it has ever been and there were no outstanding issues. She added that there was an issue about a month ago where they got a permit to burn some wood; that they had dismantled some trailers and she guessed there was some insulation and a couple of things that was stuck to the wood; that she didn't know because she hadn't seen the pictures or the documentation because she wasn't there but they did get a summons for a burn permit; that they had had no fire issues there. She said that this property had some significant problems before they purchased it, which gave it a really bad name; that there were lots and lots of fires when it was a tire-shredding plant. She said that they did have a tire pile but it had to be under 1,000 tires; that their inspection two weeks ago verified that their tire pile looked fine; that they gave up the tire-shredding permit, as he could verify, as well. Ms. Corbin reiterated that they were welcome to check into it but this property was in far better shape than it was six or seven years ago with way less going on there.

8:05 PM

Mr. Moynahan said that the business before the Board was that there was an application for renewal for the Automobile Graveyard and/or Junkyard Permit; that that was what it said.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Ms. Corbin said that she knew but, in the ordinance, a junkyard permit was not allowed on Route 236 so that was why it was approved by the PB as an automobile recycling business.

Mr. Muzeroll said that he didn't want to give people the wrong impression that he was looking for problems on this property; that he didn't know about this until the beginning of this week and hadn't seen the application. He clarified that what he was saying was that, as part of his report and in fairness to the business, the CEO didn't invite him to go on any inspection and, somewhere along the line, he should probably do an official inspection that may have some bearing on the outcome of the permit.

Mr. Short said that what Ms. Corbin said was correct; that June of 2012 was the last documented response they had out there from the Police Department.

Mr. Murphy asked if Mr. Muzeroll could accomplish his inspection soon; maybe by the Board's next meeting.

Mr. Muzeroll said probably not by the next meeting. He added that he could at least have a draft available for the business owner and the Board for the meeting after that; that he was thinking along the lines of 30 days in case of code issues. He said that he didn't expect to find anything, but, in fairness to everyone, he thought he should do a walk-through with the owner and the management team.

Ms. Corbin asked if the Fire Chief didn't have the authority to call her and say that he would like to do an inspection and whether it was every six months or once a year; that she didn't object to that because she really didn't think he was going to find anything and she was certainly not afraid of that. She added that she wouldn't even be afraid if he had that as a condition of her renewal to be approved; that Mr. Muzeroll had a right to call her up and say that he wanted to do an inspection next Tuesday she would not object to.

Mr. Muzeroll said that he did have that right but that he has always done it in an official manner; that he has done walk-throughs on several businesses, and that was one of them, and voiced his concerns about things but it was usually in an official capacity; that he was out there for another reason.

Mr. Moynahan said that the Board had a permit application before them and input from the applicant, as well as Chiefs of two departments and asked for the Board's wishes on this.

Mr. Hirst said that, according to the application, the last permit issued was in 2007. He asked if that meant that the permit had already expired.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

8:09 PM Ms. Corbin said yes; that the Town has not been able to, and she thought Mr. Blanchette could verify it, locate the permit that was approved but she wasn't sure exactly what had happened. She added that they had a hard time getting the information from the CEO, trying to find out where the application was that she needed to reapply for. She said that this was something she realized that it might have expired so she put 2007 but they were not absolutely certain because they had not been able to locate the one that was approved. She said that she believed it had expired within the last six months, or so, so that was why she was trying to get this taken care of.

Mr. Muzeroll said that the document he had from St. Germaine it said that some conditions were set at a PB meeting on June 20, 2006 so he would say that the permit was issued shortly after that. He added that he and Donald LeGrange were at the business doing an inspection in November and March of the following year; that that was when all those issues had been resolved. He added that some of the things he and Mr. LeGrange found were items that became part of the conditional use.

Ms. Corbin said that it was actually much later because, when she left the PB the night of the approval they thought that approval meant they were all set to go. She added that she thought it was about nine months later when she received a call from Mr. Blanchette telling her she still needed to go before the BOS and get another approval. She said that it was probably close to a year later that they realized and they kind of pushed it through quickly because they had been without that, not knowing the Town required it. She said that it was in Title 30-A so it was actually a State statute that authorized the Town to give this five-year permit.

8:12 PM Mr. Muzeroll said that the BOS made their final decision on the previous PB fire and code inspections and conditions on March 22, 2007.

Mr. Moynahan said that the Board had been provided a bunch of information; that there was a request for renewal by Sanborn's Auto Sales and Salvage, LLC and asked for the pleasure of the Board.

Mr. Hirst recommended that the Board delay approval of the permit pending the inspection that had been discussed tonight.

Mr. Moynahan asked if that was a motion; that they needed to do something.

Mr. Hirst moved to postpone the approval of this permit until further inspections were completed.

There was no second and the motion failed.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

8:13 PM Mr. Dunkelberger moved, second by Mr. Murphy, that the Board of Selectmen issue a conditional permit for 30 days pending the outcome of the inspection.

DISCUSSION

Mr. Murphy said that he seconded the motion because of the inspection done two weeks ago by the Eliot CEO and, though that was not as strong as a fire, it was still a strong representation of safety.

VOTE

4-0

Chair concurs

Mr. Moynahan said that Ms. Corbin had a 30-day conditional use permit and inspections would be scheduled; that if each department could schedule individual inspections and get a report to this Board that would be helpful.

The Board agreed that it would come back for final approval after that for a full five-year permit and would not schedule that until they had all reports back from department heads. They also agreed that, if the department heads could get reports back before the 30 days, they would address it then.

Ms. Corbin asked if the Board would like her to forward a copy of the CEO's email to them.

Mr. Moynahan said that Mr. Blanchette would follow up and get that from the CEO.

Ms. Corbin asked if there would be one or two inspections.

Mr. Moynahan asked Mr. Muzeroll to take the lead on organizing that with the CEO and, then, they could get everything back at one time. He told Ms. Corbin that they would contact her to set up a time for the inspection.

8:16 PM
#4

TO : Board of Selectmen
FROM : Joan M. Fortin, Esq.
REF : Use of TIF funds from Route 236 TIF District

Mr. Moynahan said that this was from Ms. Fortin of Bernstein Shur and posed a question on the use of TIF funds in the Route 236 TIF District. He read, in part, *"Once the voters approve the water and sewer project, however, it will be permissible to use TIF revenues to pay for improvements to the existing sewer system, provided that the specific improvements are required as part of the upgrade needed to accommodate the Route 236 water and sewer extension*

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

project contemplated by the Development Program.” He said that this was for any upgrades to the pumping station, which he thought was a question posed by Mr. Pomerleau.

Mr. Pomerleau said yes, adding that further in the agenda the Board had a note from him that asked for further clarification from her since she did offer to do so from citizens, as well as anybody in the Town. He added that the specific language put before the attorney was very important.

Mr. Moynahan asked if the Board would like to take up item #14, as they went hand-in-hand.

The Board agreed.

Mr. Pomerleau said that the very specifics of what was necessary to happen, without the TIF, were not clearly presented to her, in his opinion. He added that \$1.6 million had to be spent whether that project went through, or not, and he thought that it was really important that she have the specific point in front of her as opposed to as part of the necessary...he understood that it was part of it but what was not there was that it was also part of it without the TIF, and to make that clear distinction. He added that they were making good progress; that it was going in the direction they wanted it to go and he could see that but, for that specific point and if it wasn't a burden, he put the language he would like to put before her in the email on item #14.

Mr. Moynahan asked if the Board had any concerns with the language posed. He added that the warrant article was passed so they did have funds available to use; that this was a TIF-related question.

The Board agreed, by consensus, to forward Mr. Pomerleau's email to the attorney to get better clarification.

8:20 PM
#5

TO : Board of Selectmen
FROM : Building Committee
REF : Building Committee budget request for June Referendum

Mr. Moynahan said that he did have concerns, at this point of the budget season, to have a budget request come forward, especially a \$20,000 one, adding that he wasn't doubting the importance of work done by the Building Committee (BldgC).

Mr. Beckert said that the BldgC asked permission from the Board to get back on track looking at the space needs assessment for all Town departments, which was

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

after the proposed building failed last June. He said that they had been dealing with Lassel Architects, South Berwick, because, of the three received proposals, they were the least expensive and most comprehensive in scope. He added that they met, again, with Lassel and came up with the outline scope and process the Board had in their packet. He added that Lassel told the BldgC that, with the information the Town could provide to them, then that would cut down on the cost; that this was probably a worst-case scenario. He said that this was originally the direction the BldgC wanted to go in and felt that this was a good planning tool for the future because their mission statement tasked them to look at the needs of all Town departments 20 to 30 years into the future; that that was part of Lassel's analysis. He said that the BldgC was recommending that the Board put this on as a referendum question to be voted by ballot and recommending that the funds be taken out of the Unreserved Fund Balance.

Mr. Murphy said that, as a referendum, it would have to be discussed at a Public Hearing and would be added to one or more of the informational meetings they had planned.

8:24 PM Mr. Moynahan said that the question was that they had draft warrants and did they want to add this to the warrant articles; that they were not the ones to decide this expenditure but would manage a project like this, if it were to happen. He added that there was a proposed referendum budgetary item; did they, as a Board, choose to put this in front of voters.

8:25 PM Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen add this referendum article to the June Warrant.

VOTE
3-1 abstained (Mr. Beckert)
Chair concurs

Mr. Moynahan asked Mr. Blanchette to add that to the Warrant and forward a copy to the Budget Committee.

#6 TO : Board of Selectmen
FROM : Comcast
REF : Price Adjustment Information

Mr. Moynahan said that he was putting #6 and #7 together as they were both informational from Comcast.

#7 TO : Board of Selectmen
FROM : Comcast
REF : Grandfathered cable packages

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

#8 TO : Board of Selectmen
 FROM : Dan Blanchette
 REF : Committee Votes

Mr. Moynahan said that they had already taken this out.

8:27 PM
#9

 TO : Board of Selectmen
 FROM : Dawn Hill, Senator
 REF : Budget proposal

Mr. Moynahan said that this was a response from Senator Hill on the letter he sent regarding the State budget. He read the letter for the benefit of the attending audience. He asked the Board if they wanted to further this dialogue, was there a benefit, did they get their point across with the first letter.

Mr. Dunkelberger said that, between their letter and letters from other towns, she knew where everyone sat.

The Board, with audience input, discussed having Senator Hill down to meet with them and the residents. They asked Mr. Blanchette to find out about her schedule and get potential dates.

Ms. (Carol) Selsberg said that many municipalities have expressed themselves against this Governor's budget; that Eliot was absent in that group; that the Board was empowered to speak and had already expressed their dismay about the budget. She asked if that could act as a public statement, in concert with the other municipalities, that Eliot was also a town in Southern Maine that was...

Mr. Moynahan said that they thought that it did but, if that were not truly a resolution, he asked Mr. Blanchette if they had to call it a resolution.

Mr. Blanchette said that he thought that what the Board said was appropriate.

Mr. Moynahan said that he thought that the Board had expressed that before towns started calling it a resolution; that this Board expressed their concerns quite a bit ago.

Ms. Selsberg said that Eliot was not included in the group of towns that had done it and it couldn't hurt to do whatever it took to be that so that became more of a majority.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan commented that, if the paper was still here, then that would be a good thing for them to write.

Mr. Murphy said that they could consider writing another letter from this Board referring to their earlier expression of dismay and consolidating that into the form of a resolution of the Town.

Ms. Selsberg said that she knew that Ms. Beavers and Ms. Hill were looking for the majority.

Mr. Moynahan said that the language was still saved with Ms. Thain; that he would try to get together with her tomorrow or Monday and change that language to a resolution and he could leave a draft for everyone before it was sent.

The Board agreed.

Items #10, #11, and #12 have been withdrawn and would not be taken up at tonight's meeting.

#10 TO : Board of Selectmen
 FROM : Grant Hirst
 REF : Jean Hardy

#11 TO : Board of Selectmen
 FROM : Mr. Murphy
 REF : Knowles property

#12 TO : Board of Selectmen
 FROM : Code Enforcement Officer
 REF : Knowles property

8:31 PM

#13 TO : Board of Selectmen
 FROM : Grant Hirst
 REF : Sewer and water extension project

Mr. Hirst said that, in the TIF document, there were at least 28 times when the phrase 'water and sewer' project were named and he was a little concerned that they had not addressed the issue of water, also, and he wondered what the Board would like to think about that. He suggested Ms. Fortin could clarify that for them.

Mr. Moynahan said that water was extended to Beech Road on Route 236; that he thought, initially, that was thought to be enough to get started and, if there was need, then water extensions would be discussed with Kittery.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Murphy said that Kittery was conservative, at the current time, in expending any of their money to put water into Eliot. He added that water from Kittery District was something that Eliot could sort of get anytime if Eliot paid for it.

Mr. Moynahan explained that, in the TIF documents, it was sewer and water improvements and, as a Board, they chose a sewer project. He said that, after the TIF process was approved, they solicited a project and it ended up being the Route 236 Sewer Extension Project, knowing that water wasn't a dire need; that they were still able to pump water with that project if it turned out that way, so it was all-encompassing.

Mr. Hirst said that, if the Board members were comfortable with that, then he was fine with it.

Mr. Murphy said that Eliot was sort of a wet Town and it was thought that getting rid of sewage was a much bigger problem than finding enough water; that, mostly, people in Eliot had reliable wells and they were in many places.

#14 TO : Board of Selectmen
FROM : Robert Pomerleau
REF : Use of Route 236 TIF funds

This was previously discussed.

8:35 PM
#15 TO : Board of Selectmen
FROM : Dutch Dunkelberger
REF : Informational fact sheet – Route 236 Sewer Improvement Project

Mr. Moynahan said that this was the BOS' fact sheet and there were some changes made. He asked for thoughts and comments from Board members on this.

Mr. Hirst suggested they add Mr. Donhauser to the list of people they consulted.

Mr. Moynahan said that, if he was not acting in a professional aspect, then that would be kind of hard; that they would have to indicate the entire TIF group and he thought the TIF Implementation Committee was already on there and to single out a single person involved in a committee he thought would not be the right approach.

The Board agreed.

Mr. Moynahan said that he had two comments. Referring to the DPW salary, he said that he thought that they should still put it that it was a portion of the DPW

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

salary because this was misleading that it would pay for everything. He added that his other comment was that he was not a big fan of bold print; that it almost seemed threatening as opposed to just providing their input.

It was the consensus of the Board to make those two changes.

Mr. Dunkelberger agreed he would make those changes in the document.

Mr. Pomerleau said, referring to the bold line, that he thought it was terribly misleading the voters, as far as substance, that they had to stand behind the bond. He added that he thought the Board had to make it clear that what that meant was that 641 sewer users would have to default on their sewer payments in order for the Town to be liable for making up the payments, or some portion of it. He said that that wasn't to say that the Town hadn't already had to kick in money to pay the sewer users portion of the bond; that the Town had kicked in \$50,000 or \$60,000 so far.

Mr. Murphy said that in 13 of the last 17 years the Town, as a whole, has made payments totaling \$265,000 in support of the bond issue.

Mr. Pomerleau said that that was a product of the Town literally failing to set in adequate sewer rates and collect the monies necessary.

Mr. Murphy said that, no, it was not and invited Mr. Blanchette to explain.

8:40 PM

Mr. Blanchette said that this had nothing to do with the sewer rates; that this was a construction and a construction bond. He added that, under State law, the Town could only charge the people who benefitted from the construction 50% of the Town expenses; that he thought the Town expenses were around \$480,000. He added that they bonded that amount and, through the advice of outside financial people and so forth, they were led to believe at the time that because of the interest rate they had bonded out to and on what the Town could collect on the monies they were collecting, that that would pay 100% of the bond and not just 50% of the bond, reiterating that that was all they could charge the people who benefitted from it. He said that, in the long run when the interest rates started dropping, they were no longer collecting what they had been collecting but the Town was still paying either 11% or 12% in interest, he thought; that since then the Town had refinanced the bond in the very late '80's – early '90's and get a lower interest rate but, by that time, the damage had been done and the Town no longer had enough money to pay 100% of the bond out of 50% of the cost.

Mr. Moynahan said that they would make the changes to this, adding that they needed to consider next steps. He asked if they were going to bring this to public hearings; that he thought that they were trying to make a statement. He added that

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

one comment that should be thought about in here, and Underwood had a recommendation of what their expectation was of existing users paying for the pump upgrades; that maybe this was a good place to pin that down and, on the advice of the engineers, they would pay 50% and the users would pay 50% but that would have to be a discussion.

8:43 PM Mr. Pomerleau said that they said the TIF plan would cost the tax payers no additional tax dollars. He added that 25% of all those deferred monies, the monies that would otherwise be sitting in the Town's general revenue fund that were not available to be spent on municipal services; that they couldn't say it was not costing the tax payers additional money because that was \$140,000 every year that would be sitting in the tax fund if the TIF didn't exist.

Mr. Moynahan suggested that they were not raising any taxes for this; that the TIF already existed and they were using those funds.

Mr. Dunkelberger said that that was the point and that was what invalidated Mr. Pomerleau's argument – the TIF already existed and it was voted to happen.

Mr. Pomerleau said that they were raising taxes.

Mr. Moynahan said that they weren't; that the Town already chose to do that TIF so Mr. Pomerleau already chose to do that, so, he chose to raise his taxes.

Mr. Pomerleau said that he didn't.

Mr. Moynahan said that, if that was how Mr. Pomerleau was going to say that taxes were raised; when he voted for the TIF he chose to raise his taxes. He said that the Board was going to hold off until Underwood Engineers was here and, maybe, they could take a look at it and see if they Board wanted to do anything with this letter.

8:45 PM
#16

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Parking ordinance

Mr. Short said that Mr. Moulton came to him, and obviously, they have had a heavy snow winter, and asked if they could review the parking ordinance; that it was last written in 1977. He said that they went through some of the things that Mr. Moulton had suggested and there were other updates that needed to be done. He said that they wanted to get it in front of the Board, and they didn't know what the timeline was, as they would like to have this enacted before next winter. He said that statutory references needed to be updated; that Section 2 g. and h. did not

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

seem relevant anymore; that on page two they added Section 4. Winter Parking Ban wording, explaining that he and Mr. Moulton had talked about creating a winter ban that was basically going to say, 24/7 from November to April, one couldn't park on the street, regardless, but he was not personally in favor of that but, in the event there was a major snowstorm that happened during the day and they could anticipate that, then they could do as other towns did and enact an emergency parking ban to deal with those issues. He discussed changes they made in the Penalties section and added for the public's information that the fine for a first offense was \$5.

Mr. Dunkelberger said that wouldn't even cover the cost of writing the ticket.

Mr. Short said that, ideally, what he thought it would do was just make people realize that they needed to get cars off the street; that they weren't looking to make money on it. He added that Mr. Muzeroll had offered some input, that he had to leave and was not aware this was on the agenda tonight, that, if they were going to review this and this was going to be, in fact, a first reading of this that he would like to have some input on fire parking lanes, etc., that they may want to address now while they were looking at this ordinance; that he would email a copy of this to Mr. Muzeroll for his input.

Mr. Moynahan asked the Board if the proposed changes in front of them seemed acceptable; that he thought they wanted to get a better working draft to get going with it; that it needed editing for typos and numbering, etc.; that once Mr. Short had that copy, if he could forward that to Ms. Thain, then the Board could try to get a better clean copy and, then, disseminate and bring to a First Reading.

Mr. Murphy asked if they minded him giving Ms. Thain his corrections.

Mr. Short said no, that he could get them to him or Ms. Thain, whichever he wanted to do.

Mr. Moynahan suggested that Mr. Murphy could forward any grammatical changes on directly to the Police Chief.

The Board agreed.

Mr. Blanchette clarified that, in order to have a First Reading, they must be presented with the final draft.

Mr. Moynahan said that, if they could clean up a copy of what they had and forward it on to the Fire Chief, who could then make recommendations to the Board, then the Board would take it from there.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moulton said that this was not so much to be a pain to residents but to protect their liability; that if they were plowing and hit a vehicle, they were liable to pay for it and it would cost more than the price of a ticket.

Mr. Moynahan said rightfully so; that it was a safety issue.

Mr. Pomerleau commented that, when they wrote the language on the second and third offenses, was that a lifetime, a season, a year, or what.

Mr. Short asked how many times he was planning on violating it; that, seriously, that might be something the Board wanted to address by putting a timeline in there; that it wasn't addressed in the original and he could look at some wording.

The Board agreed they would like to see a timeline in this.

After some discussion, Mr. Blanchette said that he thought this was an ordinance that could be adopted by the Board but he would have check to be sure.

8:55 PM
#19

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Budget and Warrant

Mr. Moynahan said that they had had some additions to the warrants; that they had just had these drafts given to them tonight and asked if there were any major changes they needed right now; that they could bring this up, again, next week; that he hated to keep putting this off another week and another week and seeming like they were never ready. He asked the Board to take a minute to look at this for revisions so that they could be better prepared for next week. He said that, as Mr. Blanchette already said, ECSD was missing; that they were adding the Building Committee's referendum.

Mr. Dunkelberger said that, on the Good Neighbor petition legal, there was \$50,000 listed.

Mr. Blanchette said that the attorney recommended \$40,000.

Mr. Murphy said that he had looked all through this and he had a number of questions.

Mr. Moynahan asked if there were any substantive changes; were they missing any articles or were any of the dollar figures incorrect.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Murphy said that all the dollar figures were correct in that all the columns, they added up right. He discussed revisions he would include.

Mr. Moynahan suggested he and Mr. Murphy could get together with Mr. Blanchette on specific re-working of the language; that he was wanting to make sure that what they had for next week was accurate from a financial standpoint and the inclusion of all warrant articles that this Board has tried to prepare for.

Mr. Murphy said that he needed to correct the 20th article; that it was split between two pages, and the Selectmen recommend column that started on the first page did not add up, on the second page, to \$335,800 but actually added up to \$616,059; that there were several like that, up or down.

Mr. Dunkelberger discussed Article #9. He said that, based on the discussion at the last Town Meeting, and he assumed that Mr. Sinden was speaking for the entire York County, the Commissioners and Town Manager, because he was looking at the paper the Board had that said that "each municipality must notify the County of their choice of payment plan by February 15, 2013 but Mr. Sinden said that Town didn't need to do that. He said to assume that Mr. Sinden was correct and he was speaking for the County Manager and there was a 1% interest, as Mr. Sinden suggested, on the five-payment plan; did they need to, in fact, bring that up and reconsider that based on the now 1% interest.

Mr. Blanchette said that the percentage rate was 7%; that they just got the paperwork in today; that it said it was 7% for any amount not paid by December 31st.

Mr. Dunkelberger said that Mr. Sinden said, very clearly, 1% and that was what changed his mind.

Mr. Blanchette got the document from his office.

Ms. (Donna) Murphy said that she had an email from the County Manager; that the rate was 1.73%, the option to pay anywhere from one to five years was still open, and there was no penalty for early payment.

Mr. Moynahan said that the Board did not have an email. He added that they were given a deadline of February 15th to make a decision, with limited information. He added that he didn't need to see her email; that he would like to see it in front of the Board, now, for discussion; that it would be nice to have that from the County as he was as surprised as anyone to hear that 1%.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Reed suggested that, maybe, the 7% was something they would pay for not having arranged payment ahead of time. He said that he would like to point out that the Board's intent was that the first nine articles would be referendums.

Mr. Dunkelberger said that they were still talking about Article 9.

Mr. Blanchette read from the document that this was the six-month transitional budget; that it was due December 31, 2013...Delinquent after December 31, 2013 at 7% interest.

Mr. Moynahan said that Ms. Murphy had something from the County Manager that indicated 1.73% fixed rate.

Mr. Dunkelberger said that she had an email from the County Manager that said 1.73% and that the Town could change their mind now.

Mr. Blanchette said that he did not receive that.

Mr. Moynahan said that the Board did not, either.

The Board discussed whether they could change their minds, now, as they had put a commitment in to the County, already, acting on correspondence they had from the County Commission and no new official information.

Mr. Moynahan said that without something from the County in front of this Board that spelled out the 1.73% interest rate for five years and to disregard the last deadline the Board couldn't act on anything; that they needed information from the County.

9:05 PM

Mr. Beckert said that he thought that the prudent thing was to do the one-time payment and get it over with.

Mr. Moynahan said that the Board initially voted to do one lump sum and new information has come out that there may be a potential better rate and could refinance it over five years. He asked if the Board wanted to rethink their original game plan with this.

Mr. Hirst suggested that they request a letter of clarification from the County; that they could do that electronically.

Mr. Moynahan said that they definitely could but that they had to start putting things together; it was April and they were supposed to have this done last week.

Mr. Dunkelberger agreed, saying that he would leave Article 9, as written.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

It was the consensus of the Board to leave Article 9, as written.

Mr. Moynahan said that, if they got new information the BC could recommend they shelter it over five years; that if the BC had that information in front of them then that could be a great recommendation and another choice that people could have, too.

Ms. Davis said that she would like to take the whole budget taken into consideration before the Town made this decision because they may see that, between roads and increased budgets, the Town might want to finance this.

Mr. Moynahan asked her if she got the 14 pages to the BC with the overall picture.

Ms. Davis said yes.

Mr. Moynahan said that their (BC) work could start.

Ms. Davis asked if he was saying that the BC could make an alternate recommendation.

The Board agreed that she could as long as it was not a substantive change.

There was discussion on what substantive change would be in this case.

Mr. Blanchette said that he wasn't sure what the change would be and where it would be. He asked if this was going to be a referendum question because, if it was a referendum question, it was yes or no; that there were no other options.

Mr. Moynahan said that the Board had said twice, now, that they would provide \$229,000 to the voters from Undesignated Fund Balance as a referendum vote; that they were staying consistent with what they had started, initially, with the \$229,000 lump-sum payment as a referendum.

9:08 PM Mr. Reed said, for what it was worth, in the discussion by the BC they basically had no problem with the idea of paying at as one lump sum out of Undesignated Fund Balance as long as they consider it in context with the whole budget and that the Board felt there was sufficient money in that Fund to do this.

9:10 PM Mr. Moynahan said that they would have a full, revised warrant for next week. He added to please be prepared with anything and plan to sign this. He added that the BC has gotten the information that this Board has, to date, so everyone should be pretty good with what they needed.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Reed asked for clarification of which articles were referendum articles.

Mr. Blanchette said that, generally speaking, the 10th Article was the first one to open the Town Meeting.

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 –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 – job description, sample contracts
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

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

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
19. York County Transitional Budget – Funding source
20. June Town Meeting preparation – Municipal Fee Schedule

9:12 PM

Selectmen's Report:

Mr. Moynahan said that he met with Marianne Place (Kittery) and Mr. Short and talked about sharing the Police Chief; that they talked about a three-year contract and cost-sharing considerations between Kittery and Eliot. He said that, with salaries and benefits, both towns were at the same figures; that Kittery's past chief and the Eliot Chief were at \$86,000 and the total cost to the Town with Maine State retirement, FICA and medical was \$123,596. He added that Kittery had \$1,246 in dental and Eliot did not. He said that the combined costs with a three-year contract with Chief Short in both towns would be a \$110,000 base salary and, with Maine State retirement, FICA, and medical, the total burden to both communities would be \$141,495. He said that that would be a total cost of \$70,748 to each town on a 50/50 split, which would be a savings of \$52,848 per town; total contributions, salary, and benefits. Mr. Moynahan said that they would propose a three-year contract, with the current Chief, between Eliot and Kittery; that the salary total would remain the same all three years of the proposed contract. He added that Eliot would be the administrator of all financial matters, invoicing Kittery for their 50% share on all salaries, benefits, vehicle operations and maintenance costs; that this would be done either monthly or quarterly, depending on the complexity of such billing. He said that, currently, Eliot paid the Chief's spouse's insurance through a separate insurer and this would remain and be split equally between the two towns; direct deposit was required (requested, as the Town was still working on that); that the contract would have five week vacation time offered with the ability to be compensated for any weeks not used at the end of each fiscal year, with a maximum of two weeks; that current and accumulated balances would be applied, so whatever the Chief had, currently, would be moved forward or applied forward. He said that there would be 12 days of sick leave; that sick leave would be capped at 150 days and, again, current

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

accumulated balance would be applied; that 12 legal holidays would be offered. Mr. Moynahan said that he was reporting back to the Board; that there was a real promise to this in their discussions, that there was a willingness by the Chief, and a big cost-savings to both towns. He said that he thought that it made sense, not only from a cost-savings standpoint, but a managerial standpoint, for both towns. He added that there was potential for flexibility down the road based on the administrative that would be put in charge of both communities. He said that Ms. Place was going to her Council on Monday or Tuesday to discuss this and he was bringing it up to this Board; that she had the ability to just make something happen but they, as a Board, would need to allow something like this to happen.

Mr. Murphy said that this had to do only with the Chief and his costs and so forth; that it had nothing to do with the structure of the department and how personnel would be assigned, etc.

Mr. Moynahan said that this was strictly having the Eliot Chief of Police overseeing two communities.

Mr. Dunkelberger said that he had an issue with 50/50.

Mr. Moynahan said that that was discussed; that he knew that was going to be asked; that the cost Eliot was currently paying for dispatch came into play and that was a big one. He added that they wrangled with this back and forth; that his first thoughts were 60/40 and discussed his thinking. He added that they started talked about other things that were provided from Kittery to Eliot, and all that, and he invited the Chief to speak further on this.

9:15 PM

Mr. Short said that he initially agreed with the 60/40 split, as it seemed the way it should be based on population. He added that, in discussion with Mr. Blanchette, Mr. Blanchette brought up the cost of the dispatch services that Eliot currently paid for, which he has maintained right along was a really good deal. He said that doing a 50/50 split allows both towns to save a fair amount of money. He added that how this was split really didn't affect him as much as it did the towns. He said that he thought that it was a great opportunity; that he had been doing it a little over four months and there haven't been any hitches and he hadn't anticipated any. He added that he did think, financially, based on a lot of the burdens that may be placed on them that this was an excellent opportunity. He reiterated that he did not have a feeling one way or the other, except when they took into consideration where Eliot has been with the cost of the dispatch, whether or not this was an opportunity for Eliot to absorb a little bit more of the costs on this split. He said that that was the general discussion and he really didn't have an opinion, one way or the other, on the 60/40 or 50/50.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Dunkelberger said that Eliot's dispatch contract was good until 2014, at the current price, so that was another year and, so, what was the payback on the dispatch that justified the 50/50 split; he asked what he was missing.

9:18 PM

Mr. Short said that it was just a point that, realistically, that he had said right along, they had been up against this issue a few different times that they should be paying more for dispatch than they were paying at 60.

Mr. Dunkelberger said that they had a contract; that, if they wanted to extend the contract for two years...

Mr. Short said right; that that was just something that was brought up in the way of looking at what were the financial benefits that were there. He added that how much that wanted to come into play, like he said, was just one of the factors; that it didn't really matter, to him, which way it went – 60/40 or 50/50; that it was just an argument that he hadn't thought of that Mr. Blanchette had brought up that Eliot had been getting an unbelievable deal for dispatch services and would through 2014. He said that he thought that they needed to be very careful about getting into whether or not...those decisions about dispatch and whether that price was going to go up was going to have to be based on something more than just what his contract was but he didn't think that couldn't mean that wasn't a factor in this.

Mr. Moynahan said that they could do anything but, based on conversations between the three, it was his feeling based on those conversations that this was what he would present to the Board so that was what he was presenting, for discussions and not anything else; that these were all the key points that they had discussion on that would be potentially offered in contract language in salary requirements and all that.

Mr. Dunkelberger said that, even at 50/50, he thought it was a good deal; however, he thought that the Chief would probably be spending just a little more time in Kittery; not because it was a bigger population but because of the current nature of the business.

9:20 PM

Mr. Short said that they talked about this issue of time and he was not in favor of talking about where the time went; that he said that because his responsibility, no matter where it was, was to oversee the operations of two departments 24/7; that it was not based on percentages; that the split for percentages was not based on the time for percentages.

Mr. Dunkelberger said that they talked about population, too, on basing that.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Moynahan said that what it really came down to for him was when Kittery said that their former chief made \$86,000; that their chief and Eliot's was making the same amount no matter what the population was; that they went back and forth on population and how much one was working in Eliot versus there, then, he looked at the pay scales; that they were paying their chief the same amount of money Eliot was paying their Chief and that was where his thinking clicked.

Mr. Dunkelberger said that the difference was the pay scale Chief Short was getting here, as a veteran, versus the rookie chief that they had.

Mr. Moynahan said absolutely; that he just looked at the bare numbers that were current.

Mr. Dunkelberger said that, if he had been in the position for as long as Chief Short has been in Eliot, then what would have been the salary.

Mr. Moynahan said that that was a good point.

Mr. Short said that he thought that Mr. Strong was in the low \$90,000's and he had been there for thirty years.

Mr. Murphy said that 50/50 of the costs may seem that Eliot was paying too much but wanted to look at the other side of it to ask the question. He discussed 50/50 of the benefits and asked if there were the kinds of benefits that maybe this would force Augusta or the State Police, if there were benefits, to recognize the two towns as sort of being equal from up above and, therefore, Eliot would be getting just as much as Kittery would be getting of some other benefit; were there any benefits Eliot would be getting, more than they deserved, on the same split.

9:23 PM

Mr. Moynahan said that Ms. Place was contacting MMA to see if there were any insurance questions, liabilities, and that type of thing they should be aware of; that she was also going to follow up with Duncan McEachern about a draft contract they could work with, if this were to happen. He said that they were in a budget season and if the Board could commit to at least doing this type of arrangement, even if it ended up being a better split than 50/50, they could still budget for \$50,000 less than they currently were.

Mr. Dunkelberger said that he could certainly support that.

Mr. Moynahan said that he was afraid, if the Board did that, then Kittery balked and did not even want to do a 50/50, adding that they were just tight for time, again, for budgets.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Dunkelberger said that, if they were to tie it to dispatch services and Eliot was to extend that contract for two more years (2016) to coincide with Mr. Short's contract, then he could live with the 50/50 split.

Mr. Reed said that he would urge the Board to keep in mind the conundrum that Eliot has been in for several years regarding MSAD #35 where Eliot ultimately had no control over what was going on with a shared resource.

A member of the audience asked if the Board could tell him what the 10% between 60/40 and 50/50 would cost Eliot in terms of dollars. He clarified that the Board was suggesting 50/50 but they went into the meeting with 60/40, which he agreed with; so what was the difference to Eliot or how much more was it costing Eliot to go 50/50 as opposed to 60/40.

Mr. Dunkelberger said probably about \$12,000.

The same member said that would be \$36,000 for three years.

The Board agreed it would be somewhere around there.

The same member said that he heard something about dispatch and asked how much more the Town should be paying, approximately, because it sounded like that was the lever.

9:25 PM

Mr. Short said that this issue about how Eliot paid has been an issue for him; that when they had shopped around before for dispatch services he had been quoted from other departments anywhere from \$100,000 to \$180,000, depending on what they were willing to provide for services. He added that he thought it would be easily arguable that they could pay \$100,000. He said that it has always been his stance, and Eliot went through this when they tried to come after Eliot about the contract being expired and wanting to renew it; that he thought that the schedule Kittery proposed to Eliot at that point was to go from \$60,000 to \$80,000, then to \$100,000, then \$120,000 over the next three-year period. He said that all the things they had been discussing about benefit increases and all that was obviously affecting the Town of Kittery, as well. He added that he thought that they should move toward that \$80,000 range but absolutely not \$120,000.

Mr. Pomerleau said that he has looked at a comparison of crime rates in Eliot and Kittery, recently, and he thought that they had triple the crime rates that Eliot had; that they had a much higher crime rate so it wasn't just population. He added that he would like to know what their difference was in the actual size of the force was between Eliot and Kittery; that these were factors that should weigh in.

Mr. Short said that Eliot had nine officers and Kittery had eighteen.

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Mr. Pomerleau asked if Mr. Short agreed that Kittery's crime rate was triple.

Mr. Short said that he guessed it would depend on what Mr. Pomerleau looked at; that Eliot's clearance rate harbored in the 60% range and Kittery's clearance rate was in the 30% range, which was still higher than the State average. He added that if one were looking at calls for crime, then they were more; that as he was learning more about that community he found there were three million people who visited the Route One malls on an annual basis and that, in and of itself, because of shoplifting and those types of things that that was clearly a community of more than 10,000 people.

Mr. Pomerleau said that they three and four times higher in terms of larcenies and burglaries.

9:28 PM

Mr. Moynahan said that the question to the Board was how they wanted to proceed with this, or if.

Mr. Dunklberger said yes, that he thought that they absolutely wanted to proceed; that the final figures could be a point of discussion but he thought that they were close and he thought they should take up his suggestion with regard to the budget numbers.

Mr. Moynahan said that, if the Board took the savings in budgets and Kittery decided that anything less than 50/50 didn't work...was Eliot going to be obligated with not having enough to fund the Eliot Chief; that he would hate to be in that position.

Mr. Blanchette asked what was the bottom line for the total for the Chief, as that was what the Town had to budget because the Town was going to be paying the Chief; that they could budget for the total of the income coming in but they had to budget for the total expenses.

Mr. Moynahan said \$141,495, which was a \$110,000 base salary, \$14,080 for Maine State Retirement...

Mr. Blanchette said that he didn't need that because his computer would do that; that he needed the base salary.

Mr. Moynahan asked if the Board wanted to budget in this regard.

Mr. Dunkelberger said that he thought they needed to budget at the higher number so that would take care of it, whether they got the revenue for it, or not; that, if

BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)

Kittery didn't, the Town was not going to spend that entire amount, anyway. He added that it was a good plan to budget for the bigger number.

The Board agreed to budget as Mr. Dunkelberger suggested.

Mr. Moynahan said that he would follow up with Ms. Place that Eliot would like to engage in more conversation with her.

9:30 PM

Mr. Dunkelberger said that the RFP for ambulance services was ready to go out; that it has gone to the attorney and came back with very minor corrections; that with this Board's consensus, both towns (Eliot & Kittery) were ready to advertise.

The Board was in agreement for this to go forward.

Mr. Pomerleau said that he had a question on the Police Chief issue. He asked if the Board was certain that the second-in-command was not going to take on any additional duties due to the sharing of the Police Chief and that it would not have increased costs at the second-in-command level.

Mr. Moynahan said that they budgeted no increases for any additional responsibilities; that Chief Short was taking the additional responsibility and the staff would stay the same.

Mr. Hirst asked if they had any idea when they would get the final audit with management letter.

Mr. Blanchette said that he hoped by next week to have it.

Mr. Hirst asked who was shepherding the completion of the MMA recommendations and the Maine DOL mandatory work that needed to be done.

Mr. Blanchette said that each department was doing their things; that he would send a reminder to each department that they were due and the Board would like to see them done well before that August date.

Mr. Hirst asked about the MMA recommendations that came through; that he thought there were only 4 or 5 and they wanted a response within 30 days. He asked who was in charge of making sure that this got reported in.

Mr. Moynahan said that the department heads were in charge of their laundry lists after they went through that process with the exit interview; that he didn't remember what the MMA was.

**BOARD OF SELECTMEN'S MEETING
March 28, 2013 5:30PM (continued)**

Mr. Hirst asked if they were going to report directly to MDOL or to Mr. Blanchette.

Mr. Moulton said to MDOL; that he didn't know what the MMA one was and asked if Mr. Hirst could give him that information.

Mr. Hirst said that he would.

Other Business as Needed

There was no other business tonight.

Executive Session

There were no executive sessions tonight.

Adjourn

There was a motion and second to adjourn the meeting at 9:35 PM.

VOTE

4-0

Chair concurs

DATE

Mr. John J. Murphy, Secretary