

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM

Quorum noted

6:00 PM: Meeting called to order by Acting Chairman Beckert.

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

Absent: Mr. Moynahan.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

There were no minutes approved tonight.

Public Comment:

6:01 PM Mr. McMullen made a request to the BOS. He explained that he took the liberty of talking with the Executive Director of the Pease Development Authority, David Mullen, and had quite a lengthy conversation with him. He added that the end result was that he asked Mr. Mullen if he would consider, in some capacity that the Board would approve, coming over to speak to the Town of Eliot, as that was one of the largest economic developments taking place in New England. He said that Mr. Mullen would be very happy to do that, that there were many things the Town should be paying attention to and would be happy to guide and give the Town some direction, as well as how to properly prepare. Mr. McMullen said that, as Pease was filling up and was 90% full now, he asked Mr. Mullen if he felt that other developing areas in the Seacoast could benefit from Pease filling up and he said most definitely. He said that he would really like the Board to find a place for Mr. Mullen; that he thought it would be more beneficial if they could get him into a public venue so that they could take advantage of his background and knowledge but he would obviously leave that up to the Board. He added that he would give Mr. Blanchette contact information.

Mr. Beckert thanked him.

Mr. Brickett, EEC, said that they had proposed a solar project for the Town Garage and he would like to determine, now, what was the next step involved to get this project going.

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Mr. Beckert said that he believed it was up to the Board, now, to move forward with that project if the Board approved the language in the documents. He added that it was up to the Board if they wanted to make a determination this evening. The Board agreed that they wanted to move forward with this.

6:04 PM Mr. Murphy moved, second by Mr. Dunkelberger, that the Board of Selectmen move forward with the Eliot Energy Committee's proposal for solar installation on the Town Garage roof by approving the contract with Revision Energy

VOTE

3-0

Chair concurs

Mr. Beckert said that they would move forward with the project and sign the necessary paperwork.

Mr. Brickett thanked the Board.

6:05 PM Mr. Pomerleau said that this morning there was a meeting scheduled with the BC Chairman and the Town Assessor to answer this question on depreciation; that Mr. Dunkelberger had said that he wanted to be there; that Ms. (Donna) Murphy and he decided to go as long time trying to get answers to this with the Route 236 Committee that they wanted to hear it, as well; that they showed up at Town Hall, as well. He added that, eventually, the Administrative Assistant came out saying that Mr. Dunkelberger couldn't make it then later came out and said that the Assessor would only meet with the BC Chair, that this was not a public meeting and essentially telling them that they were not invited to hear the information. Mr. Pomerleau said that he thought that the BC Chair wisely declined the meeting until such time the public could be part of it. He said that having heard from the Selectmen more than once that outside this room they were just a private citizen he didn't know what the difference was between Mr. Dunkelberger presence or Ms. Murphy's and his presence; that it was all public information; that he didn't know the big mystery over why it just couldn't have happened to finally get some resolution to this.

Mr. Beckert said that he thought the Board needed to take that under advisement, look at the ordinance that governed boards, committees and commissions and members, thereof, and how they sought information, etc.

Mr. Dunkelberger said that he thought it was pretty clear; that he knew he had an issue with it but, the fact of the matter was that they had to run it through both committee chairs; that he believed, at least on the BOS, that he had to get approval from the BOS before he could do that.

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Mr. Beckert agreed, adding that Mr. Dunkelberger did get approval from the BOS to do that last week.

Mr. Dunkelberger said that he didn't know if any of the other members that Mr. Pomerleau was referring to were given such permission.

6:10 PM

Mr. Beckert said that that was why he thought it would be prudent for the Board to review the situation, look at the ordinance, and make a determination based on what the ordinance said. He added that the ordinance was clear, without getting into a big discussion tonight, but he would be clear that the ordinance was written, and specific clauses were put in there, to predicate members of committees to stop them from going out seeking information on behalf of committees when the rest of the committee didn't know that they were out there doing that.

Mr. Pomerleau said that he wanted to make it clear that they were not there as Route 236 Committee members but as private citizens.

Mr. Beckert said that he had been told that it was referred to in some comment, in some way, shape, or form this morning, that they were members of the Route 236 Committee and that they had been seeking that information, so, based on that and he reiterated that he wouldn't get into a big discussion, that he thought that the Board needed to look at the whole thing and go by the ordinance. He added that he agreed that the information was public information but, when a chair requests to meet with a department head, then they were hopefully meeting with the consent of their committee/board to take information back to their entire committee/board. Mr. Beckert said that that was what the ordinance was crafted around because they did have some rogue members of boards/committees in the past; that he wasn't saying anyone was a rogue, now, but it was crafted that way because they had people even going outside of Town and telling the other entities that they were representing other boards and committees in the Town of Eliot and the board chair, let alone the whole board, didn't know they were out there doing that.

Mr. Murphy said that he thought that it concerned more than just Eliot's ordinance on boards and committees; that it also concerned the status of the Tax Assessor as she was really a representative of the State, employed by the Town of Eliot, and he didn't think she had to be required, or could be required, to hold a public hearing or public meeting if she chose not to. He added that she had an office and she could invite whom she wished into that office and entertain the number of people she wished, he believed, and that was his feeling about that. He said that she was not just a committee member or Town employee that could be ordered to do stuff.

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Mr. Beckert said that, if the Board was in agreement, he thought they needed to look at the matter further and clarify how information was obtained, by whom, when, and so forth.

The Board agreed.

6:13 PM Mr. Dupuis, SC Chair, said that his committee just adjourned their meeting and passed out a copy to the Board of an editorial that they would like to have permission to publish in the paper. He added that this was in reference to the unanimous decision of the SC to endorse and ask permission to support the Route 236 Sewer Extension Project. He said that he knew this needed to be reviewed and were not looking for permission tonight.

6:14 PM It was the consensus of the Board to review this and have it on next Thursday's BOS agenda.

New Business (Correspondence List):

#1 TO : Board of Selectmen
FROM : Fred Howard
REF : Application for appointment to Shellfish Management Committee

Mr. Beckert said that Mr. Howard was present and that this would be to fill the term recently vacated by Steve Sargent, which expires in June 2014.

Mr. Murphy said that he understood that Mr. Howard didn't actually live in Eliot.

Mr. Howard said that he did live in Eliot; that he rented but was not a resident. He added that he was a Maine resident, owned a home 200 miles north, and worked at the shipyard. He said that he has been to a couple of meetings and thought he would like to help out, if he could.

Mr. Murphy said that he thought the Town requirement was to be a resident to be a member of a committee, but, if Mr. Howard lived here and he wanted to work on the committee, then he could certainly go to the committee meetings and work with them; that he didn't have to be a voting member to do that and the Board would welcome his assistance.

Mr. Beckert asked Mr. Blanchette and the Town Clerk a question; that he knew there was at least one instance where one didn't have to be a resident of the Town of Eliot but he was not sure about the Shellfish Committee.

Mr. Blanchette said that he believed it was all committees appointed by the Board.

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Ms. Rawski said that it was all committees and one had to have residency status. She added that it was BC members that could actually run to be elected.

Mr. Beckert thanked Mr. Howard for his interest and hoped he would continue to go to the meetings and participate.

Mr. Howard said that he would and thanked the Board.

6:17 PM
#2

TO : Board of Selectmen
FROM : Bernstein Shur
REF : Complaint by Mr. Paul Murphy on Charles Knowles

Mr. Beckert said that the original complaint letter was dated March 2, 2013; attached to it was a Consent Order dated March 25, 2010, and on top of the whole thing, since they received Mr. Murphy's letter signed by numerous residents out there, they also had an email back from Mr. Saucier of Bernstein Shur with his recommendation on how the Board should handle this complaint.

Mr. Dunkelberger said that before they went too far down this road he thought that coming before the BOS was a little bit premature, particularly as Mr. Saucier pointed out, the CEO made a decision and the residents were not agreeing with that decision. He added that the proper venue for this would be to go to the Board of Appeals (BOA) before coming to the BOS. He said that he would encourage all those involved to take this to the BOA and, then, if they were not happy with that decision, then it would go further beyond that.

Mr. Beckert asked Mr. Blanchette if he got a copy of Mr. Saucier's comments to Mr. Murphy.

Mr. Blanchette said no.

Mr. Beckert said that Mr. Saucier was fairly clear in that that step really needed to be taken because this Board, if it went beyond the BOA, was the deciding Board on how to pursue whether the Town would defend in court, or not. He added that he thought that Mr. Saucier's memo was basically telling the Board to stay out of it and have it go through the BOA to appeal the CEO's decision, first.

Ms. Lemire asked when the CEO's decision was made.

Mr. Marchese said that it was February 13, 2013.

Mr. Beckert said that that was beyond the thirty days.

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Mr. Murphy said that Mr. Paul Murphy's complaint was here; that he came to talk with him a month ago and said that he wanted to talk to the BOS; that he may not have picked up on it fast enough to send him to the BOA but he had tried as long ago as that and earlier than this memo from Mr. Saucier; that, once again, Town Hall had not been helpful to Mr. (Paul) Murphy and he didn't know if the CEO advised him that he could go to the BOA.

Mr. Paul Murphy said that he did not; that he hadn't been much use at all.

6:21 PM Mr. Beckert asked Mr. Blanchette if Mr. Saucier was aware of the date of the CEO's letter when he made this decision.

Mr. Blanchette said that he believed he sent that up to him so that he had that when looking this over.

Mr. Beckert said that it did appear with that information that the CEO's decision was dated back in February, although the end of February, it was still beyond the thirty-day appeal period and that shed a whole different light on how this Board proceeded because it was beyond the BOA at this point.

Mr. Murphy asked if this Board didn't have the power to send it back there in order for this Board to then properly receive it after the BOA made a decision. He added that the condition, as he understood, still existed; that the problem hasn't been solved and Mr. Paul Murphy's problem hasn't been solved.

Mr. Beckert said that he did not think there was any other relief there other than the thirty-day appeal period. He added that he wasn't sure Mr. Saucier was aware of the entire situation.

6:24 PM Mr. Dunkelberger said that it looked like this was in the Board's court and it might behoove the Board to set aside a specific time to meet with all involved parties and get the full story from everybody; but set aside specific time just for this because he suspected this would take a while.

Mr. Beckert asked Mr. Blanchette about scheduling a meeting.

Mr. Blanchette said that next week was not a normal meeting week; that they had the Eaton Peabody Public Hearing at the elementary school, and one of the things he was going to ask the Board was what time they wanted that hearing and suggesting they make it for 7 PM, then they could have time from 5:30 PM, on, if they wanted. He added that the only thing he thought the Board might want to take up was the possibility that they would have the Shipyard Pub liquor license renewal, which needed to be done before the end of April.

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Mr. Dunkelberger said that he was hesitant to do that and suggested they might choose another day.

Mr. Beckert asked Mr. Paul Murphy when he was available.

Mr. Paul Murphy said that he was pretty flexible. He added that he was a little confused; asking what exactly was the CEO's decision.

Mr. Beckert asked the CEO what his take was on this whole situation when he responded to Mr. Paul Murphy.

Mr. Marchese said that he investigated the complaint; he visited the gentleman's home, found he was not non-compliant, and issued him a letter stating that, in his opinion, Mr. Knowles was not non-compliant and did not have a Home Business.

Mr. Paul Murphy said that he protested that vigorously; that he would take this wherever it needed to go; that he had pictures and testimony and the CEO has been no use, at all, for three years.

Mr. Beckert said that they should schedule a separate night next week and suggested Tuesday.

Mr. Scott Egers and Mr. Knowles was right next to his house; that they had been here before; that they were here five years ago and Mr. Knowles was shut down; that things got better for five or six months and then back to the same old thing. He added that Mr. Knowles was running a business out of a residential site that he didn't have a license for.

The Board discussed the possibility of executive session and what night to meet.

Mr. Dunkelberger said that he thought if they were presenting just the facts, as they knew them, then he didn't think that needed to be in an executive session. He suggested that the Board let them present what they had and then, if the Chair or Board decided they needed an executive session to discuss personnel issues, then the Board could go that route.

The Board agreed to hold a meeting on Tuesday, April 9, 2013 at 5:30 PM with all parties involved.

6:31 PM
#3

TO : Board of Selectmen
FROM : Underwood Engineers
REF : Potential Rate Impacts

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Mr. Beckert said that this was a draft from Underwood Engineers and that Mr. Pratt was present. He invited Mr. Pratt to speak.

Mr. Pratt said that they gave the Board a draft letter that they wanted to review with the Board to make sure that some of their recommendations and suggestions were consistent with the Board's thinking because, as they went through the next public meetings and final bond issue in June, they wanted to make sure they had the approach right so that they could present some of the rate impacts properly. He added that at the last meeting they did make some presentations on how things might happen with a number of different scenarios and this letter was basically summarizing what they already presented; that it was really the same information just in a different format. He said that what Underwood needed was some indication from the Board and SC that Underwood was on the right track. Mr. Pratt said that they made some recommendations in this draft letter as to how they might see it working and the biggest issue they would need direction on from the Board was capital reserves; that they had made some recommendations on capital reserves both for the existing sewer system and what they would project was appropriate if the sewer expansion project passed. He said that their initial recommendation for that was \$50,000 for the existing system and another \$20,000 if the sewer expansion passed. He added also how they would see the allocation of the pump station improvements for the two existing stations that would be utilized as part of the expansion, how that would be allocated through either the TIF revenues or the users; that they would need some direction on that. He said that, in their letter, they were recommending that be covered by the TIF to the extent that TIF funds were there to support it; that today Underwood did believe that they would. He added that he thought the letter said that, if the TIF funds fell short, then they would go to the users, at that point. He said that they would need direction on that, as well, and then they would take that direction and come back to finalize some of their rate work to get a more firm prediction on rate impacts. Mr. Pratt discussed the table they provided to the Board that ran the different scenarios.

Mr. Dunkelberger said that he understood the percentages and he wanted to talk dollars and cents. He asked how much the current sewer user pay per quarter.

Ms. Rawski said that the flat fee was \$50 per quarter per unit; that that was broken into two pieces - \$42.50 was the base fee and \$7.50 was a reserve charge. She added that, on top of that \$50 flat fee, they paid at a rate of \$2.94 per 100 cubic feet of water metered.

Mr. Pratt said that they took it one step further and, based on those rates and what they saw as a typical, average user (varies with how much water consumed), they

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saw the average user paying about \$360/year. He added that, based on that then, they could say using these percentages what the impact would be.

Mr. Dunkelberger said that that was what he wanted to know- what these percentages were based on – so they were based on \$360/year.

Mr. Pratt said that the percentage was based on what the budget increase would be, explaining that, with the work they had done so far, if they allocated it this way then, in one scenario, it would be a 23% budget impact or raise the budget 23% to support that and that translated into roughly a 23% rate impact. He added that the average user in Eliot would pay \$360 and a 23% increase would be about \$70; that some would be more and some less because of the consumption differences between users.

Mr. Dunkelberger suggested that when they explained this, if they could put it not only in percentages but dollar amounts, then the people would have a better appreciation of the impact to them.

Mr. Pratt said that that was what they proposed to do with the final rate study and he has committed with staff to try to have that done before the May public informational meeting, as long as they had some guidance on how the Board intended to allocate it. He added that if their recommendations were how the Board wanted to proceed then they would be doing that, that they would say how it would actually impact individual users; that they would take a look at different classes of users, as well.

Mr. Dunkelberger said that he understood Underwood was leaning towards using 50% TIF revenues to repair the debt service, from their last presentation.

Mr. Pratt said that he thought, at the last presentation, he recommended using all of the TIF money could be used for the improvements to the existing stations; that he suggested that a compromise might be 50%. He said that what he was recommending in the letter was to use the TIF revenues to the extent they exist and, if they did fall short for any reason – right now the projections were that they wouldn't – then they would go to the users.

Mr. Beckert asked if this was the direction the Board wanted Underwood to go in.

It was consensus by the Board for Underwood to move in this direction.

Mr. Pratt said that he would finalize this letter and do more rate work so that when they presented then they could have a little bit more of a fixed figure and an actual number to give people.

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6:40 PM

Mr. Pomerleau said that between Peabody's report, Mr. Moulton's presentation on the bond figure the other night, and, now, Underwood's numbers on \$5.5 million for twenty years nobody was in sync here with what that actually cost. He added that he would like to see that nailed down between all three sources; that he had the spreadsheet that Mr. Moulton provided for \$5.5 million and the first year total came to \$491,000 and he (Underwood) was showing \$300,000 here; that Peabody's report had yet another.

Mr. Pratt said that he was showing \$400,000 because \$310,000 was the TIF expansion part and \$90,000 was the pump station improvement part and he just broke it up into two pieces.

Mr. Beckert said to just scrub the numbers to make sure they had one set of numbers out there.

Ms. Davis asked if they knew the age of the Kittery Water Treatment Plant, what the lifespan was, and what the long-term projected maintenance or upgrade costs for that would be.

Mr. Pratt said that he did not.

Ms. Davis said that that would be a fairly large potential consideration over the next ten to twenty years.

Mr. Pratt said that, through the IMA work, what the committee has said is that they expected Kittery to share that when the new IMA was approved; that they had some obligation to give Eliot planning numbers so that Eliot could plan accordingly, as well.

Ms. Davis said that she was reading articles about nitrogen and plant upgrades and asked if that was something they needed to be concerned about for the Kittery plant and have they investigated what the potential cost of that might be.

Mr. Pratt said that, if one asked Kittery, then one would get one answer and, if one asked others, one would get other answers; that Underwood has not been charged with assessing whether or not the Kittery Water Treatment Plant would need expansions or would not.

Ms. Davis said that that could have a potentially major impact on the overall capital expenditure and, if they doubled that with the sewer, then that would also be a very large consideration. She asked if that was something they could look into.

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Mr. Pratt said that they did; that at the last public meeting they talked about what that impact would be based on a number that was given to them.

Ms. Davis asked if he was going to include that in the rate impact as a consideration.

Mr. Pratt said that he would if the Board would like him to.

6:42 PM Mr. Murphy said that he thought there were many, many issues in that whole big field that have not been settled yet that went all the way to national DEP requirements; that it would be almost impossible for them to come up with a sensible figure that would make sense now and cause them, right now, to adjust their budgets for the near future. He added that he thought that they needed to wait for the feds and the State to make up their minds and better tests made in Great Bay and the whole region; that no one knew what the costs were going to be, now, or what might have to be done.

Mr. Dunkelberger said that he agreed with Mr. Murphy that pursuing that avenue would be premature based on the level of uncertainty.

6:43 PM At this time, the Board agreed to take item #11 out of order while Mr. Pratt was present.

#11 TO : Board of Selectmen
FROM : Selectman Dunkelberger
REF : Fact Sheet with revisions

Mr. Beckert said that this was a fact sheet the Board had been putting together to put out.

Mr. Dunkelberger discussed a small edit he made and said he would get this copy it to Mr. Blanchette.

Mr. Beckert said that he thought the question that came up at the previous meeting, and discussed earlier tonight, was the direction on the pump improvement cost-sharing and he believed that they just decided that; that Underwood's recommendation was to use the TIF funds to the extent they were available and all projections, at this point, showed that TIF funds would more than cover. He asked if there were any other questions or concerns while Mr. Pratt was here.

Mr. Pratt said that his thought, when he looked at this, was to take the last paragraph on the bottom of page 2 and make it the first paragraph; that, if people didn't want to read through the whole thing, then the first thing they would see.

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The Board agreed that was a good idea and that Mr. Dunkelberger would make the change.

Mr. Pratt suggested putting in dates for meetings, if this was going out sooner rather than later.

6:47 PM
#4

TO : Board of Selectmen
FROM : Selectman Murphy
REF : Funding of Labor Classification and Compensation Study

Mr. Murphy said that, in considering action and inaction on getting their study on compensation and so forth, he believed that was unnecessary and dangerous for this Board to put this off; that they did need this for the union negotiations, that there was no question about that. He added that not to do that they would be derelict in their duty; that it was their sole responsibility to make such a decision; that they had the money in the Contingency Fund and they could vote it tonight or wait for the next meeting if all five would be better. Mr. Murphy said that he believed the Board must go ahead with this even though the Town did not choose to support this from Unreserved Fund Balance at the Town Meeting.

Mr. Beckert said that his opinion was that they should wait until all five members of this Board were present; that he thought any vote had to be unanimous and had to be all five members.

Mr. Murphy said that he had looked for the words where that was actually stated and had found words that suggested it might be down that way, as a possibility; that it may exist. He suggested that, if it were to be worded, it should be worded that not all five but the unanimous consent of all Selectmen present and voting, as there were occasions, like several years ago, when they had only three Selectmen and to say they couldn't respond to an emergency during something like that; that the Contingency Fund should be allowed to be spent by the unanimous vote of all Selectmen present and voting.

Mr. Beckert said that they could schedule this for the agenda on April 18th.

There was discussion on this because there was a public information meeting that night and the Board agreed to wait until the Chair got back to finalize a date for this agenda item.

6:50 PM
#5

TO : Board of Selectmen
FROM : York County
REF : York County Tax Bill

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Mr. Blanchette said that last year's tax bill from York County was \$448,000 and it has gone up about \$8,000 to \$456,000 for this year.

6:51 PM
#6

TO : Board of Selectmen
FROM : Wendy Rawski, Town Clerk
REF : Appointment

Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen appoint Wendy Rawski, Eliot Town Clerk, as Registrar of Voters for the Town of Eliot for the term of two years, term to expire December 31, 2014.

VOTE

3-0

Chair concurs

6:53 PM
#7

TO : Board of Selectmen
FROM : Assistant Attorney General
REF :

Mr. Beckert said that this was a memo from Ms. (Brenda) Kielty, Assistant Attorney General, and was in reference to questions from Mr. Pomerleau regarding the Freedom of Access Act. He added that he would not read through this; that were copies available for anyone who wanted one; that, basically, the Town was operating the way that it needed to and had not erred in their procedures when dealing with Freedom of Access information.

Mr. Pomerleau said that he read it a little differently. He added that she did pretty much acknowledge that two of the complaints were outside the realm of the statutes; that in the context of the Town's total process she was satisfied with what the Town did. He said to note that a huge part of that had to do with electronic means that were used – the web, the community bulletin board, and e-alerts, which he didn't think, as a formality, was part of the Town's formal notification process. He suggested they consider expanding into that as far as notification requirements; that she made some implication there that, if the Board reviewed that, then it would be a good idea to get some public input

#8

TO : Board of Selectmen
FROM : Eaton Peabody
REF : Summary Report

Mr. Dunkelberger asked if they were going to record this meeting.

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Mr. Blanchette said that he presumed they would.

Ms. Rawski said that it would be taped, if that was requested that she be there taping it; that it wouldn't stream live, but would be uploaded, because she didn't think she would be able to do that. She added that she had yet to find the time to upload the first informational meeting.

The Board agreed that they wanted the informational meeting taped.

Mr. Blanchette asked the Board what time they wanted to schedule the meeting; that they had tentatively scheduled for 6:30 PM but they needed to be definite. He also asked them if they wanted a regular BOS meeting prior to that. He added that the only thing that might come in was the liquor license renewal for the Shipyard Brew Pub.

Mr. Moulton said that he had three items that he would like to have on the agenda, as well.

Mr. Beckert suggested they have a regular meeting at 5:30 PM, not load the agenda up, and move to the school for the public meeting at 6:30 PM.

The Board agreed.

#9

TO : Board of Selectmen
FROM : Southern Maine Regional Planning Commission
REF :

Mr. Beckert said that this was in reference to appoint General Assembly Members to represent the Town. He asked who the Eliot members were currently.

Mr. Blanchette said that they were Mr. Bicknell and Mr. Moynahan.

Mr. Beckert asked if, between now and next week's meeting, they could check with both Mr. Bicknell and Mr. Moynahan to see if they wished to continue to serve.

The Board agreed that that should be done.

7:02 PM
#10

TO : Board of Selectmen
FROM : No correspondence
REF : Town Manager

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Mr. Beckert said that this was the town manager job description the Board was reviewing and asked if members had had a chance to go through that.

Mr. Murphy said that he has reviewed this and had many changes.

Mr. Hirst said that he had about 15 suggestions.

Mr. Dunkelberger said that he just had two questions.

Mr. Beckert suggested hearing the questions then discussing how they would make changes so that they could see it all in one document.

Mr. Dunkelberger asked what ordinance prohibited the Fire Chief from falling under the town manager.

Mr. Blanchette said that they had an ordinance of the Fire Department and it laid out, specifically, that the members of the Fire Department elected the Chief and the BOS shall appoint that nominated Chief.

Mr. Dunkelberger said that he understood but, as far as appoint versus falling under the supervision for day-to-day activity, was there anything that specifically prohibited that.

Mr. Blanchette said he didn't know how someone could supervise someone they didn't have the ability to hire, fire...

Mr. Dunkelberger said that the Board didn't have the ability to hire or fire, either.

Mr. Blanchette said that that was what he was saying; that the Board shall appoint.

Mr. Murphy said that this was his major point about this whole suggestion and that, with this Fire Department, that needed clarification with regard to the Fire Chief, officers, employees, and volunteers separate from the Town; who owned the building, who owned the vehicles, who owned the equipment, the budget, how the utilities were paid, all that line that the manager would have to control and that would have to be drawn, very clearly, for the manager so he would know what he could do and not just be stopped at the door by the Fire Chief; that he thought that it needed a whole paragraph to explain and draw a precise line between the Fire Chief and the manager as to who had control over what. He said that, maybe, that ordinance said a bit more than just the election of the Fire Chief or was that entirely what it was.

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Mr. Blanchette said that it wasn't that entirely but he didn't believe it got into who owned the building, and so forth, because the Town owned the building and so, therefore, the Town buildings came under the supervision of the BOS.

Mr. Murphy said that this needed to be made clear so that the manager would know what he could do.

Mr. Blanchette said that this was whether the manager had supervision of the Fire Chief, not the buildings or anything else, the Fire Chief.

Mr. Murphy said that he didn't want to argue but thought that there would need to be a clearer line than that for the manager to do things.

Mr. Beckert said that he thought that everyone's concerns were valid points that the Fire Chief, regardless of who it was, had to answer to somebody because that person was using a Town building, Town equipment, and Town budget; that they had to come under somebody. He added that, if the Town ordinance didn't cover it, did the State statute cover it; that there had to be something.

Mr. Dunkelberger suggested asking legal.

Mr. Beckert said that he would hate to spend legal funds if they could research it and find it on their own.

Mr. Murphy said that he would like to see that ordinance.

Ms. Rawski said that that ordinance should be looked at for revision; that it was pretty old and things change; was he a volunteer or an employee of the Town; that that ordinance could have been based on volunteer status.

Mr. Dunkelberger said that the Fire Chief was being paid by the Town, adding that that was why he saw the Fire Chief as an employee of the Town.

Mr. Blanchette said that he didn't care if he was an employee of the Town, he was elected by the Fire Department and appointed by the Selectmen; that that didn't mean he wasn't an employee of the Town; that yes, he was an employee of the Town but he was not under the direct supervision of the Board or a town manager, he was under the direct supervision of the Fire Department. He added that there were other issues that the BOS controlled; that the Board signed the weekly warrant for the moneys to be expended, they controlled the building and the fire equipment, but, they didn't have the overall authority over the Fire Chief and neither would the town manager, with the ordinance in place. He said that he would get copies of the ordinance to the Board.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Dunkelberger said that he saw nothing in here that mentioned union negotiations and the town manager being a part of that; that that should probably be included.

Mr. Murphy asked if the subcommittee they appointed to produce this was disbanded or were they continuing to function.

Mr. Blanchette said that he thought the subcommittee had turned over the product to the Selectmen and so, now, the Selectmen needed to take ownership of it; that his recommendation was that Mr. Murphy and Mr. Hirst get together to review it, make any changes, then bring it back to the Board.

Mr. Beckert said that that would be his suggestion; that Mr. Murphy and Mr. Hirst review and make changes and, if they wanted Ms. Mills' input, then that was fine. He added that they could take these changes that everybody has recommended, combine them and put them in a format so that they could see the original compared to the additions and redactions.

Mr. Hirst said that he had his on a word processor so he could send it to whomever.

Mr. Beckert suggested that members give their recommendations to Mr. Hirst; that Mr. Hirst and Mr. Murphy could work on it and Mr. Hirst could do the input.

The Board agreed that the subcommittee would handle compiling the changes.

7:10 PM
#12

TO : Board of Selectmen
FROM : Selectman Murphy
REF : Rt. 236 Sewer Expansion Committee – next steps

Mr. Beckert asked where they were with that committee. He added that the Chair was here, asking Ms. Davis where they stood with her committee.

Ms. Davis said that they were waiting for all the data to be in; that she thought that the Eaton Peabody presentation was going to occur next week, after which they would be able to compile all of the relevant data; that each group, she guessed, would work on pros and cons; that they were unable to reach consensus as of the last meeting but she was assuming that everyone would be able to form a group, take the data, and compile it into a couple of different reports.

Mr. Beckert said that it was her intention that, after the Peabody presentation, she would get her entire committee back together, again, and some direction would be determined out of that meeting.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Ms. Davis said that she was in hopes, yes.

Mr. Murphy said that he believed the Selectmen's requirement was to have one report with pros and cons so, if there were two sides, then make a joint report so that there weren't two different things going out at different times and different directions, as if they were separate; that they must bring it back to the Selectmen and the Selectmen would send it out. He clarified that the Rt. 236 committee didn't send it out; that the subcommittee prepared the report and should have pros and cons in one; that it could be two halves joined together but that was what the Board asked for and that was what the Board should be sending out, not two different things.

Ms. Davis said that it was not her intention to imply that they would be sending it out; that they would be forwarding it to the Board, of course. She added that they would see how the next meeting went.

Mr. Beckert asked that they re-attempt to come up with a combined report.

Ms. Davis said yes, that they would.

Mr. Dunkelberger asked if her committee knew about the next meeting.

Ms. Davis said that it hadn't been scheduled, yet; that they were waiting until, as of the last meeting that they had, that it was her understanding that they had agreed to gather all of the information, and then schedule the meeting. She added that she had not heard from anybody requesting a meeting; that she had not heard from anybody so her assumption was that they would be waiting until all of the presentations were done and, then, they would get together and try to put something together at that time.

Mr. Dunkelberger said that he got the impression that they were waiting to hear from Ms. Davis.

7:12 PM

Mr. Pomerleau clarified that the last meeting was a little overheated and, at the end of it, members walked out saying that they weren't going to submit their reports to the committee; that they were going to do it independently to the Board and that was how it ended. He said that, from the con side, their position right along has been that they wanted to see Peabody's report; that they wanted to see a definitive answer on the depreciation question; that that was a critical piece of information for revenue. He added that the legality question on the sewer Mr. Blanchette has sent up to the attorney, as he requested. He said that when those three major pieces were in their hands from the con standpoint, then they would be prepared to put out the cons. He added that whether the two sides got together

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

and combined their reports that remained a question because the other side flat-out said they weren't going to do that.

Mr. Beckert said that the Eaton Peabody presentation was on April 11th; an answer from the attorney could possibly come within a week or so, and asked what they were waiting for on the depreciation information.

Mr. Pomerleau said this morning's meeting that didn't happen.

Ms. Davis said that, possibly, since two members of the committee were interested in hearing from the Assessor, perhaps they could make an arrangement for her to meet with them or for them to schedule their meeting at a time when she would be available to answer questions.

Mr. Beckert asked if Mr. Blanchette would work with them on that.

Mr. Blanchette said that he would see about whether or not that would be viable for her to attend a public meeting; that he was leery for personal reasons and he would have to go into executive session to discuss that with the Board.

7:16 PM

Ms. Davis said that she thought there must have been a lot of communication, initially, when the TIF document was first set up and the BC, in particular, would like to see all relevant documentation relating to gas compressor station. She added that she had received some copies that seemed downloaded from Vision on the assessment of the compressor station and answered partial questions but did not really give them a full picture of what has been discussed and how these decisions were arrived at; that she would like to see all relevant documentation on the gas compressor station prior to a meeting; that this was something she asked for previously and she would like to re-emphasize that that was what they were looking for. She said that she would like to review the information, compile a list of questions, and ask that they be answered. She added that if it took a one-on-one to get that accomplished then that may be the way they needed to go but, prior to that, she would like the documentation and she felt that there was more there than she has been given.

Mr. Dunkelberger said that, as he understood it, she had received all the documentation that they had.

Ms. Davis said that, then, the depreciation in the TIF document was born full grown, as it appeared there; there was no exchange of ideas with Spectra on how those numbers were arrived at; the Town had no communication with them or any paperwork in a file somewhere; the Town has had no communication with them for three years was what the Board was telling her.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Dunkelberger said that he did not know that; that he has not seen the information that Ms. Davis had. He said to Mr. Blanchette that he told the Board the BC had received the information.

Mr. Blanchette said that they received the information that Ms. Painchaud had on the valuation of the compressor station.

Mr. Dunkelberger asked if the depreciation table that Ms. Davis referred to was actually part of the TIF document, right.

Ms. Davis said yes.

Mr. Dunkelberger said that that was supplied by the lawyer, not by the Assessor, correct.

Mr. Murphy agreed.

Ms. Davis said that the information came from somewhere and, if it didn't come from the Tax Assessor, then she would like to know where it came from and maybe they could go in that direction.

Mr. Dunkelberger said that he believed it came from the attorney in building the TIF structure.

Mr. Beckert asked Mr. Blanchette if they could pose that question to Ms. Fortin or whoever was the author of the TIF document where did that person obtain the information that that person based the compressor depreciation chart on that was in the original TIF document.

Mr. Blanchette said yes.

7:18 PM

Mr. Pomerleau said that the narrative in the document after the depreciation schedule specifically stated that those numbers were worked out in cooperation and combination of the Assessor, a representative from Maritimes Northeast, and the attorney; that there had to be a file. He asked where was the documentation and the actual reference number to the depreciation that was worked out.

Mr. Dunkelberger queried that he was making the assumption that there was depreciation that was taken into account by the Assessor, right.

Ms. Davis clarified that they were saying that the original numbers were arrived at by a cooperation between the Tax Assessor, Maritimes Northeast Pipeline, and the attorney; that that was clearly stated.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Dunkelberger said, again, she would have to ask specifically, and he would suspect, and didn't believe, that the Assessor did anything with depreciation tables.

Ms. Davis said that she was looking at the original TIF documents; where did that information come from; that it didn't sprout like it was in the document; that there had to be some discussion and some learning going on there. She added that the second thing was that the assessment has changed three times since the thing was built and asked where those numbers came from.

Mr. Murphy said that it was his understanding that the depreciation schedule was provided, really, by Ms. Müller as a typical depreciation for a similar building with a similar valuation; that he didn't believe the depreciation schedule came from the compressor station, itself. He added that, with regard to the re-valuation, the initial valuation was partly an estimate of what it was going to be and partly corrections; that a part of the building was built in the first year and it was either improperly excluded or improperly included in the value, depending on the precise beginning date; that part of the building had been built before that and so it had to be first subtracted from it and there was some adjustment of the valuation, to start; that it then began to increase because the building was being completed and they were making additions to it so, yes, there were some changes in valuation of the building.

7:22 PM

Ms. Shapleigh said that she thought they were whipping a dead horse, here; that at every meeting she attended it was the 'what-if' questions. She added that the lawyer was not an assessor that drew up the TIF documents; that one had to have some kind of estimate and there were estimates; that now it has proven that it was actually earning more than the estimate. She asked why that was a bad thing; why couldn't they take that and go on. She said that they voted not to spend money for lawyers and, yet, they have legal questions over and over again; that they were spending money that they didn't need to spend; that they had studies that the people recommended and then they didn't like the study; that if it was what they wanted to hear, then they would just keep on asking questions. She said that they had a grant that was sizable money and they may or may not be able to get that next time around; that these delays are costing the Town.

Mr. Pomerleau said that they had a formal, official Town document that was voted on that showed depreciation somewhere in the vicinity of \$16 million over thirty years; that in the current Peabody presentation to come forward Thursday night there was no depreciation whatsoever over thirty years, so, how did they go from \$16 million in depreciation to zero with machinery and equipment; that it defied common sense that it wouldn't depreciate; that there had to be some kind of explanation.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Dunkelberger said that it was an assessment; that that was the key – the assessment on a depreciation.

Ms. Davis asked, if that was the case, then why did it depreciate in the TIF documents; that there was some depreciation coming into this and it affected the revenue.

Mr. Dunkelberger said that he brought up the point of the document as provided by the lawyer versus what was provided by the assessor and what was the Assessor's job; that it wasn't to depreciate, it was to assess, and that was the key difference.

7:25 PM Mr. Beckert asked if it was the consensus of the Board to ask the attorney who she received the information from to base her depreciation chart that was included in the original TIF document and why was it included.

It was the consensus of the Board to ask those questions of the attorney.

7:26 PM
#13

TO : Board of Selectmen
FROM :
REF : Selectmen Report for the Town Book

Mr. Murphy said that he has been working on this and it was complete, except it needed a last paragraph. He asked Mr. Blanchette if he would make copies for the Board members.

While copies were being made, the Board took up a zoning ordinance amendment from the PB to revise the municipal fee schedule that needed to be signed by the Selectmen to go on the warrant.

7:27 PM Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen approve this Amendment to Chapter 1, Chapter 37, Chapter 44, and Chapter 45 of the Municipal Code of Ordinances of the Town of Eliot to revise the municipal fee schedule as the final document to go on the June Warrant.

VOTE
3-0
Chair concurs

At this time, the Board signed the document.

7:30 PM Mr. Beckert said that they had a draft copy of the warrant. He added that, in particular this evening, the Board needed to address Articles 1 through 11, he thought.

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April 3, 2013 6:00PM (continued)

Mr. Blanchette agreed; that Article 12 was usually the first article to be voted on at the Open Floor Town Meeting; that the first 11 would be voted on by referendum and he wanted to make sure the Board wanted it that way. He added that there was only one that he was aware of that would need to be voted that way and that was Article 6 – Shall a Fireworks Ordinance be enacted? because that was by petition so that had to be voted by referendum.

Mr. Beckert said that he thought that they needed to have Board consensus that the first 11 articles would be, or not, on the warrant as referendums.

The Board reviewed the articles.

7:35 PM

Mr. (Stephen) Brandon said that, regarding the Article Four 'Good Neighbor' petition and the money set-aside included, he would prefer that be in Open Meeting so that that could really be discussed. He added that, with Article 6 to move the ECSD and the \$60,000 price tag, from the discussion he has heard that was a very inflated number and he thought that would cause problems on both sides of the question; that he would like to see this in Open Floor discussion.

Mr. Beckert asked for the Board's pleasure.

Mr. Murphy said that he was satisfied with all 11 by referendum.

Mr. Hirst said that he didn't have a problem with all 11 by referendum.

Mr. Dunkelberger said that he could live with them being referendum but he would prefer to have them in Open Floor for discussion. He added that there would be public hearings on them, if they were referendums, so that was a second-best option.

Mr. Murphy reminded everyone that they couldn't be sure it would be fully discussed at an Open Floor meeting, as demonstrated in their most recent meeting; that discussion was terribly limited so he would prefer letting these be adjudicated or voted on by the greatest number of voters.

Mr. Beckert asked Mr. Blanchette if he needed a motion from the Board.

Mr. Blanchette said no, that he didn't even need consensus, as long as he knew that was the way the Board wanted to go because the Board would have to sign off on the final copy, anyway. He asked the Board to go to Article 26. He said that, in the past, this has been a separate article but they had this under the CIP and the Board needed to make a decision. He added that Mr. Moulton was present and might want some input on this, as well.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Moulton said that he thought it should be separate because then it was the actual figure for equipment versus the total budget number of \$100,000+; that he thought people would freak, for lack of a better term. He added that he thought that if it was spelled out a little better...he would prefer it had its own article and its own figure.

Mr. Murphy asked what was the figure that would go in this article.
Mr. Moulton said that he didn't know off the top of his head; that he submitted his CIP form and he didn't know if the Board had incorporated that in theirs.

Mr. Blanchette said that the \$119,000 should have everything in it. He added that one of the cautions was that part of that, he thought \$18,000, was for a piece of equipment they were leasing to purchase and that, minimally, that should be taken up separately but, again, that was up to the Board.

Mr. Beckert said that the fire truck was a separate article for the Fire Truck Reserve.

Mr. Dunkelberger said that he had \$22,000 for the I43 Dump Truck, \$5,000 for the pick-up truck, and \$18,000 for the backhoe, as a lease, and asked if Mr. Moulton was going to include all three of those items in that one number.

Mr. Moulton said that he had almost nothing in his reserve account; that it was never built up before.

Mr. Dunkelberger said that that total was \$45,000.

Mr. Beckert asked the Board what they wanted to do; did they want a separate article or did they want to lump it into the CIP and, if they were going to lump that into the CIP, why did they have the fire truck reserve as a separate article.

Mr. Dunkelberger said that that was his argument; that they had both the police cruiser and the fire truck broken out into separate line items so he was fine with breaking out the DPW equipment.

Mr. Hirst said that he thought it would be awful if the lease amount was not approved and the article failed; that would be problematic, at best.

Mr. Beckert asked if it was consensus to break the articles out.

7:42 PM Mr. Murphy said that he had hoped that, with the amount of work they had put in to developing the CIP, that they would adopt it; that he didn't realize they were going to be doing it.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Beckert said that that was what they needed to decide.

Mr. Dunkelberger said to Mr. Murphy that it might be that they took the small steps; that they use the CIP, here, as a planning tool now and, then work it in as far as managing the warrants and how they went from there.

Mr. Murphy said that this would be on Town Floor, so they could talk quite a bit about it, then, to explain why these weren't in the CIP, since the CIP is there somewhere.

Mr. Dunkelberger agreed that the CIP was in Article 47; that they would reduce the Public Works line by \$45,000.

Mr. Blanchette said that if the Board found any errors, corrections, or omissions they could forward those to either him or Ms. Thain.

Mr. Dunkelberger said that he believed the Police Department line would be reduced to zero, based on some funding the Chief got.

The Board agreed by consensus to keep separate lines.

Mr. Blanchette recommended the Board follow the summary sheet that he emailed to them so that they knew what the outcome was for tax purposes and so forth, if all this was adopted.

7:45 PM At this time, the Board took up the BOS Report for the Town Book, again.

Mr. Murphy said that he would like the Board to review this because he would like to add a final paragraph.

Mr. Beckert said that the Board would review this and have a final draft for the next meeting.

7:47 PM Ms. Rawski said that she had something for the Board to just think about. She said to entertain the thought, before they signed the Town Warrant, of starting the Town Meeting earlier than 6:30 PM. She added that they did take out 11 articles that would go to secret vote but it was a big warrant and, with the discussions that they have had in recent Town Meetings, they were going to lose some people because of the time and the exhaustion factor of being there at that time of night. She reiterated that the Board just consider it; that towns all over the State did many different things – they started in the morning, broke and went back; they might start earlier and go straight through and eat dinner when they got out. She said that she thought they might want to entertain that thought because they could potentially be there until the wee hours of the morning.

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

Mr. Beckert said not beyond midnight,

Ms. Rawski said that they could go beyond that.

Mr. Beckert agreed but said that it wasn't advisable.

Ms. Rawski agreed and that was why she was saying that the Board may want to entertain the thought of looking at a different schedule for Town Meeting.

Mr. Beckert said that the Board would take it under advisement.

There was discussion around what would be a good earlier time; that 4PM was going to be considered.

Old Business (Action List):

This was not discussed tonight.

1. Route 236 Sewer Expansion Project reports, updates, and schedules – Questions from Route 236 Ad-Hoc Committee - Mr. Blanchette
2. Sewer Contract/IMA – Schedule IMA/Kittery Meeting for presentation - Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette
3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
4. Community Service Space: Relocation to Elementary School – explore school space – fit up costs, service impacts, insurance, MSAD #35 contract, CSD Director – Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette
5. Town Manager – schedule workshop; include Comp Plan Implementation Committee
6. Dispatch Service/Ambulance Contract – Contract with Kittery, request from same, costs – BOS, Mr. Muzeroll, Mr. Short
7. Policy creation/review – debit card, video-streaming, website management
8. Employees – cross-training, charting earned times, job descriptions - BOS
9. Liaisons to boards, committees, and commissions – review existing members, try to fill open spots; Committee/Board – Mission Statement Review - BOS
10. Budget Preparation - BOS

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

11. Auditor – financial statement, management letter, finance director, personal property tax, fixed asset management - BOS
12. Regionalization – explore areas of potential collaboration, cost reductions & enhancements to services – Mr. Moynahan, Mr. Hirst
13. Legal issues – pending and Consent Agreements – Eliot Shores, PSNH/Sierra Club, Mr. Bogannam - BOS
14. Sewer User Rates, reserved allotments, odor, maintenance– Sewer Committee, Underwood Engineers, Mr. Moulton
15. Department Heads – monthly reports, employee reviews, financial oversight, policy reviews, and department reviews - BOS
16. Research grant opportunities – AED's for Town buildings
17. Comp Plan follow-up
18. Pending new unions
19. Special Town Meeting: February – IMA, TIF Funds (ERS #7)
20. York County Transitional Budget – Funding source
21. June Town Meeting preparation – Municipal Fee Schedule

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

There was no other business tonight.

Executive Session

There were no executive sessions tonight.

Adjourn

There was a motion and second to adjourn the meeting at 7:50 PM.

VOTE

4-0

Chair concurs

SPECIAL BOARD OF SELECTMEN'S MEETING
April 3, 2013 6:00PM (continued)

DATE

Mr. John J. Murphy, Secretary