

BOARD OF SELECTMEN'S MEETING
April 28,2011 6:30PM

Quorum noted

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

Roll Call: Mr. Fernald, Mr. Moynahan, Mr. McPherson and Ms. Place.

Pledge of Allegiance recited

Moment of Silence observed

6:32 PM At this time, the room capacity went gone beyond its' legal limit. The Board informed the public that they were going to move the Public Hearing portion of the meeting to the Grange for the start time of 7:30 PM.

6:35 PM The meeting resumed at this time.

Approval of Minutes of Previous Meeting(s)

Motion by Mr. McPherson, seconded by Ms. Place to approve the minutes of March 24, 2011, as written.

VOTE

3-0

Chair concurs

Public Comment:

There was no public comment.

Department Head/Committee Reports

6:40 PM Mr. Muzeroll let the Board know that the new tank truck was en route from Florida and should be in Maine and ready to be brought in to Town by the end of May.

Mr. Muzeroll said that he sent the Board a memo for the last meeting about trying to get some money put back into his account from the FEMA reimbursement and it got to him that the Board was looking for a breakdown of that money and gave a handout of that to the Board. He explained that these were the actual expenditures that came out of his budget during that timeframe. He requested to be reimbursed from the FEMA money to the Town. He clarified that the total reimbursement for the fire department was \$7,050 and the difference between the two is what he leased the trucks to FEMA and what it actually cost him out of his budget, which was \$4323.

Mr. Moynahan said that this was exactly what they were waiting for.

Mr. Moynahan moved, second by Ms. Place, to reimburse the Fire Department's budget \$4,323 from the FEMA reimbursement.

VOTE

3-0

Chair concurs

6:42 PM Mr. Moulton said that, at the last meeting, they had a RFP Waste Disposal result and he felt it was the consensus of the Board to move forward but there was never an official vote and asked if they were going to do that so that he could move forward with this.

Mr. Fernald clarified that the Board reached consensus on that and Mr. Moulton could move forward.

Mr. Moulton said that he got an update on the 2004 F-250 Pick-up repair and put it in the Board's box this week. He explained that it has an upper motor problem and the estimated cost to repair is \$7,623.85. He said that it has 112,168 miles with a new transmission that is less than 18 months old and the cab and frame are in good condition. Mr. Moulton said that this was an unanticipated expenditure, the 2010/2011 budget would not support the repair and was not included in the 2011/2012 budget. He said that he was looking for some direction from the Board on how they would like him to proceed. He added that it has been taken out of service until further notice.

Mr. Fernald suggested Mr. Moulton get together with Mr. Blanchette to see what might be available in the capital reserve fund.

Mr. Moulton agreed.

6:45 PM Mr. Moulton discussed that he did not get the cost-benefit analysis (CBA) for the Transfer Station to the Board prior to this meeting but did have it with him to give to the Board, which he did. He said that this

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analysis was of the operation of the Transfer Station (TS) as it related to SS recycling and was based on the 2009/2010 operating budget and recycling revenue for 2010. He said that, in his opinion, the biggest benefit of this CBA was the indicated cost savings for the Town as that related to the changes made at the TS in the past several months. He added that he listed those changes and additional changes were in the foreseeable future. Mr. Moulton said that, at this time, it was his opinion that they not move forward with SS Recycling but may want to consider it at a later date.

Mr. Fernald asked if considering it at a later date would put them out of the loop to join the cooperatives.

Mr. Moulton clarified that they would be out of the loop as far as being a part of the RFRAM, which is where the premium rate was but the Town could still join the cooperative.

Mr. Moynahan said that it was nice to see the two alternatives costed out, that it was a good reference to see the comparison and told Mr. Moulton that it was nice work.

Mr. Tessier (Solid Waste) said that, when his committee met with the Board a couple of months ago, they had told the Board that the Town had made a substantial reduction in the amount of MSW (municipal solid waste) over the last ten years but felt a lot more improvement could be made. He added that the committee took a look at a number of options that were out there and, in looking at all the options, their committee decided that the best option going forward was a combination of improved education and improved enforcement. He said that Mr. Moulton and his staff have already done a fantastic job of making some changes and, with improved education and enforcement, his committee believes the MSW would be reduced further which would reduce costs to the Town. He suggested they try that to see if it works and the residents support it. He added that, with a good effort, they would not need to go to a "pay-to-throw- or SS.

6:50 PM

Mr. Fernald said that "pay-to-throw" was not very popular.

Mr. Tessier said that, in all the communities that have implemented this, it has been hugely effective. He added that it has been put in place because of the tremendous tax savings over time and the residents decided it really was a good program. He agreed that the education involved to help residents understand how it worked and why it saved money was a challenge.

Mr. Blanchette said that he got an email from Jenny Isler saying that the Energy Commission would not be making a presentation tonight.

Mr. Blanchette said that he had had a request to accrue additional overtime in the next couple of weeks – comp time – that would be used the day of July 5th and was for Sheila Hatch.

Mr. Fernald asked for what reason she wanted to accumulate comp time.

Mr. Blanchette said to use it the week of July 5th.

Mr. Moynahan asked if this was towards vacation or additional vacation time.

Mr. Blanchette said yes.

Mr. Moynahan asked how much time they were talking about.

Mr. Blanchette said that the Board could limit the amount of time in the motion to no more than 32-36 hours.

Mr. Moynahan clarified that she was eligible for overtime, as overtime was not scheduled as a rule, so that number would be reduced by the department head.

It was the consensus of the Board to allow Ms. Hatch to accrue additional overtime to be applied as comp time for the week of July 5, 2011.

Old Business (Action List):

6:51 PM

At this time, it was decided to revisit this at the end of the meeting.

A. Solid Waste Alternatives – Solid Waste Committee

B. Wild Brook Lane

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C. Sewer Contract Committee – Mr. Moynahan, Ms. O'Donoghue, Mr. Murphy and Mr. Blanchette

D. PACE Program – for Town Meeting vote

E. Job Reviews

- Schedule – Roland to schedule on the following dates:
- May 12 – Mr. Short and Mr. Blanchette
- May 26 – review with individuals
- June 9 – Ms. Roy, Mr. Moulton and Mr. Muzeroll
- June 23 – review with individuals
- Where job reviews are kept
- Comp Time – Salaried vs. hourly; merit vs. step

F. Comp Plan Action Items

G. Monthly Reports from Department Heads

H. Police Contract

I. TIFD Administration

J. Regionalization

K. Reviewing insurance

L. Business Hours – Town Office

New Business (Correspondence List):

6:52 PM

#1

TO : Board of Selectmen
FROM : Building Committee
REF : Proposal from Lassel Architects PA

Mr. Beckert said that the Board should have an April 21, 2011 letter from the Building Committee (BC), as well as a proposal from Lassel Architects PA of South Berwick dated March 15, 2011. He clarified for the public that the BC had been charged by the Board to look at the space needs of the Eliot Community Services Department (ECSD) because of the situation with the house on Dixon Avenue. He added that, additionally, they were tasked to look at the other departments in Town and any space needs that they could immediately resolve along with looking at the ECSD. He explained that, with permission from the Board, the BC solicited proposals from approximately 10 architectural firms back in February and they received three back. Mr. Beckert explained that they did this because they were at the stage where they wanted to go to the voters with a good solid recommendation on how to solve these space needs. He said that, currently, there are space needs with ECSD and space needs with the Town Hall regarding records storage and workspace. He added that, for those that might not know, the majority of the Town's records are stored out of Town, at a cost, for quite a number of years. Mr. Beckert said that they were at the stage where they needed professional guidance as far as looking at the different options, whether it be a separate ECSD building – adding there is a proposal out there for a modular building – or a separate ECSD building and reconfiguring the Town Hall with an addition to meet their space needs or an addition to the Town Hall that would resolve all the issues for both departments. He added that they need to have an architectural firm do the cost analysis so that the BC could tell the voters what would be the best option, not only for right now, but what would be most cost-effective over the long term. He explained that the engineers would talk with all the people in the Town Hall and ECSD, assess the space needs, determine if space needs are adequate for staff in both departments or over the top and would be an unbiased look at what the requirements are. Mr. Beckert said that they needed to do this right for Eliot, not just for now, but for well out into the future. Saying that he didn't want to offend anyone, but the current Town Hall was too small the day its' doors opened – it was not built the way it was taken to the voters the first time around and the BC does not want to make that mistake again. He said that they should easily be able to come up with space and design needs that would meet the requirements of the Town departments well out to 50 – 100 years from now. He added that buildings should be lasting that long and they shouldn't be outgrowing buildings in 30 years. Mr. Beckert said that the BC was asking the Board's permission – that the Board guided them and told them they could go this route and the BC has narrowed it down to Lassel Architectural PA of South Berwick – for the Board to hire this firm so that the BC could move forward with Phase I of their proposal. He clarified that what the board had before them was only an estimate.

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Mr. Moynahan said that his concern was not the initial part but the total dollar figure - \$45,000 of architectural work for what could potentially be a \$300,000 stick-built building for ECSD if it was a separate space need.

Mr. Beckert said that he understood and clarified that they were not asking the Board to go the whole gambit.

Mr. Moynahan said that he understood but that, at some point, they would need that based on recommendations...

Mr. Beckert said maybe.

Mr. Moynahan added as well as how it phases in, so, do they marry themselves into another \$38,000 towards the separate \$300,000 building.

Mr. Beckert said no, not if they just take Phase I. He said that the BC met with Mr. Lassel on April 18th, he answered all the BC's questions and Phase I was his recommendation, as they might decide after Phase I was done that they didn't want to go that route.

Mr. Fernald clarified that that would be \$7,000.

Mr. Beckert said that \$7,000 was the estimate for Phase I. He added that they were not locking themselves into additional money for Phase 2, at this point.

Mr. Dunkelberger (BC) said that the piece they were asking for would settle the question as far as which is more cost-effective for the Town both near term and long term – should they choose to build a modular to the tune of about \$250,000 or should they do something a little larger that may actually save the Town money in the long term. He said they would look at not just the cost but the potential payback, whether it be in energy savings or storing Town records in Town and not pay someone else to do that. He said that, hopefully, all that would be folded in and allow them to make a good call on what made the most sense for the Town of Eliot. He added that that was just Phase I and they may not go beyond Phase I – that they may decide a modular was the way to go and then they would be done.

Mr. Moynahan said that the modular was just an example that was given. He added that he did this about a year ago, he gave three options for the Town on how they might move forward: one was to fix the building to remedy the mold, mildew and structural issues at a cost of \$10,000 - \$150,000; another was to construct a modular building at a cost of about \$250,000; another was to use the existing floor plan addition to the Town Hall was about \$700,000. He reiterated that it was all based on space needs, etc., but the immediate space needs were Ms. Muzeroll-Roy's. He added that this was morphing into something more, which was great, but she needs her situation resolved, too, as she has been displaced for some time. He said that they were going to get someone else to determine what the Town space needs were and asked what the departments thought the space needs were.

Mr. Beckert clarified that in this Phase I, if they read the proposal, the firm meets with all the department heads and take their input, it was not being done in a vacuum but done with input from all the Town departments.

Mr. Dunkelberger said that the firm is used to dealing with and really digging in-depth with the department heads in determining exactly what their needs were.

Mr. Moynahan clarified it would specify between wants and needs.

Mr. Dunkelberger said that was correct.

Mr. Moynahan said that that was an important piece. He added that they have census data that shows how much the Town has grown in a 20-year period and, if they look at that data to see just what space they need – would they be hiring additional staff throughout the Town – that would be an important indicator. Mr. Moynahan said he had no problem with the \$7,000 to get a quick peek at this but it says that there was an article that was for architectural engineering designs in 2000 for the ECSD and said he didn't know much about that article.

Mr. Beckert clarified that that was a reserve account that was set up.

Mr. Moynahan said that \$25,000 was given from undesignated funds for the ECSD Building Account but was it specific for engineering design work.

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Mr. Fernald said yes – that that was a reserve account set up for that purpose and had \$100,000 or more.

Mr. Beckert clarified that there was \$107,000 and change in that account as of today.

7:03 PM

Mr. Beckert said that it had been suggested that, if they went forward with the \$7,000, then it would be taken from that account.

Mr. Moynahan suggested that, if they were looking at Town Hall, then shouldn't money be taken from their account, as well, and not deplete that fund completely, as it would not all be entirely for her.

Mr. Dunkelberger said that the proposal, at least for Phase I, could be all Ms. Muzeroll-Roy's depending on what the architect comes in with and the Town decides to go with a modular facility with no changes to the current Town Hall, so, it could go either way.

Mr. Moynahan said that he was feeling bad for Ms. Muzeroll-Roy as, when she had the mold issue, they promised her it would be resolved and it has evolved into more issues. He added that she has \$100,000 and they could have rectified this situation by now.

Mr. Fernald commented that that may be true, however, when looking at a building prospect, one must decide if it was better to put a modular up or, for the same cost, add to the Town Hall, as one of the options. He added that it was something that needed to be looked at as an alternative.

Mr. Moynahan commented that he never said he had a problem with the \$7,000 but that Ms. Muzeroll-Roy has been displaced for a long period of time and there was money in the account for a Community Service building.

7:05 PM

Mr. Fernald agreed with Mr. Moynahan but said that they needed to make sure it was done right for the whole Town, not just ECSD.

Mr. Beckert said that the ECSD Reserve Fund didn't necessarily mean it would be their building – obviously, when they do a fund for buildings one considers engineering money to do the studies to see what is needed and that is why he said it was an appropriate place. He added that, if Selectmen Moynahan was concerned about taking the Phase I money out of the ECSD Reserve Fund, it could also come out of the Contingency Fund, if the Selectmen so desired.

Mr. McPherson agreed with Mr. Moynahan. He said that there were two issues: one was the ECSD facility and the other was storage at the Town Hall. He said that, living where he does he could see what was going on and, being somewhat connected with the fire department, at the time of a fire call and the public, with youngsters just don't mix - it's a poor situation. He discussed that the modular is not like two trailers put together, as in the past, but built in a factory under controlled conditions. He added that they were talking about \$250,000 for the modular and said that a million dollars would not do what the BC was thinking of at the Town Hall. He said that there was already poor parking there and to increase the parking or add onto the building, they would need to go around the back, which was sitting on ledge and expensive to take out. Mr. McPherson said that, if talking about adding on to the Town Hall, they were talking about two years down the road and, if they went to the modular unit, then they could have it by cold weather.

Ms. Place said that she would like to go back to the beginning when they first decided to have the BC, saying that she believed it was put in place to look at space for a ECSD building. She added that she was not quite sure how they got into expanding the Town Hall and all the other things. She said that she thought that should be addressed first – she needs that space. Ms. Place said that she believed they needed to move forward on that one particular thing, to begin with.

7:09 PM

Mr. Beckert said that he would like to remind the Board that the BC has come to the Board every step of the way and informed them of the route they were going and the Board approved the BC going this route. He added that the options were spelled out in February of what the BC was looking at and nobody questioned it in February. He suggested that, if someone has a preconceived notion that a modular or a stick-built building was going to solve the issue then he did not think they needed a BC. He said that the BC has done exactly what the Board has tasked them to do and what the BC had asked the Board permission to do to go forward. Mr. Beckert said that he thought that to do other than go forward with Phase I, investigate, and compare apples to apples – he clarified that there is a quote and sketch out there for a modular building but it does not compare apples to apples as to what would be totally needed for that building. He added that that was the only way they would do it is if they took everything and compared them all on the same basis. He said that, if the Board went forward with Phase I, then that would give the Town, which has a right to vote on the most cost-effective option for now and the future.

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He said he knew that Ms. Muzeroll-Roy has been displaced out of her building but added that he thought to rush out and throw up a building and \$250,000 would not be the final cost because, if they started adding in everything that needed to be done, then they would be well over \$300,000. Mr. Beckert said that they had done some preliminary figures but they wanted an architect to look at that as part of this proposal. He reiterated his request that the Board move forward and allow the BC to move forward with Phase I.

Mr. Moynahan clarified for Mr. McPherson that the ledge concerns he had were part of Lassel's proposed existing conditions, is a standard thing, and would identify any potential costs of that nature, so that would be addressed, early on, before they ran into that expenditure. Addressing Ms. Place's comment, when the BC was first started, it was for ECSD but, at that point, he asked why didn't they look at the needs of all the buildings in Town. He added that this was not a knock on this because he thought the BC has done a great job bringing this stuff up and they have included these other things along the way. He said the question was how they get from where they are to what Ms. Muzeroll-Roy needs immediately. Mr. Moynahan said that the \$7,000 proposal from Lassel is a reasonable cost, industry standard-wise, to prepare that. He said that maybe they didn't need the BC and could have done that on their own a year ago and apologized to Ms. Muzeroll-Roy for not encouraging that earlier on.

7:12 PM

Ms. Muzeroll-Roy discussed her concern about using money out of the ECSD Reserve Account. She said that it was specifically and clearly designed for a community service center. She agreed that some of the \$7,000 should come from ECSD but she did not think that all \$7,000 should come out of that reserve account to look at Phase I. She added that she had already given her needs as part of that Phase, done a preliminary building sketch, and worked and done research on other community centers to come up with that preliminary drawing, so she did not know what part of Phase I was left for her to do besides moving forward with it. She reiterated her concern about \$7,000 this time and how much would it be the next time and, before they knew it, the reserve fund would actually be below what they could do to actually start having a building.

Mr. Fernald asked what was the next step – did the Board want to invest in the \$7,000 and take it out of another account.

Mr. Moynahan asked, based on the conversation tonight, could they direct Lassel to incorporate that single building and the space needs in a single department.

Mr. Beckert said that he fully intended to use those figures and drawings that she has acquired through Mr. Place, who was part of the BC – the BC gave him permission to go forward and do that.

Mr. Moynahan asked if they could direct the architect, specific, to that building, as opposed to the two options – could they direct him to a specific space need that they have. He added that he thought that what Mr. Place had included some meeting room space and storage space, as well, so it has some immediate needs for the Town Hall but that might be a separate venture that they use Lassel, moving forward, with other space needs. He asked if they could direct Lassel into the know – Ms. Muzeroll-Roy's building – do existing conditions and costs and drawings and all that. He said that they were not looking at modulars, per say.

Mr. Beckert said that he thought that, if the Board did it that way, then his honest opinion was that they were not giving the Town a choice. He added that it was up to the voters to decide how they wanted to move forward on the ballot as a warrant article.

7:14 PM

Mr. McPherson commented that he saw under their proposal “the firm shall do a performance analysis and energy audit of the town hall” and said that that had already been done.

Mr. Beckert clarified that the proposal says that he would not do that, again, but would use the existing information, once it comes forward. He added that the BC had not even seen that, yet, from the Energy Committee (EC) and was not sure how close that was to being released. He reiterated that Mr. Lassel does not intend to redo that work but would use the EC's figures.

Mr. Moynahan confirmed that that was stated in the proposal and would only do a blower door test to assure the work had been done properly.

Ms. Shapleigh said that, when they built the existing Town Hall, there was a much larger building proposed and the Town wouldn't pay for it and cut it down. She added that, at that time, the police department was in there and the Town has since gone pout and built them a police department building. She also agreed that she thought the people had a right to vote and suggested they have a non-binding vote by the Townspeople to see if they wanted to add on to that building, who want to pay the costs of

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architects doing that and decide maybe a modular would be good. She discussed that a modular certainly had to be built to building code, saying that she had sold many modulares over the years and some of them were excellent buildings. Ms. Shapleigh said that she thought that in these tough times they should be saving as much money as they could for the taxpayers in this community. She suggested a non-binding vote would give the Board the direction before they paid for an architect to go over a building that had probably already had an architect design it.

7:16 PM

Mr. Beckert commented that Ms. Shapleigh's comments really did ring in there and, in his opinion, made it all the more necessary to do Phase I because, to ask the voters what way they wanted to go – he, as a voter, would want the most informed information in front of him to see what would be most cost-effective, and not only for now. He discussed the way many municipalities made decisions like this, that they looked at what was immediate and not what was down the road – agreeing that the building was too small when it was opened, adding that part of the reason they didn't want to pay for it was that, when the bids came in after the vote was taken, it was a lot higher than what the voters wanted to pay. He reiterated that, for the voters to make the most informed decision, they needed to move forward with at least Phase I. He added that where the Board took the money from was up to them. He said that it was the recommendation from the BC because that account was set up for design and engineering for a community service building – didn't matter where it was attached to.

Mr. Fernald asked what was the pleasure of the Board.

Mr. Moynahan asked Mr. Beckert what the timeline was if Lassel were to do these cost comparisons, had he mentioned how long it would be for a turn-around.

Mr. Beckert commented that he was ready to get started but the BC told him that they had to come to this forum tonight. He added that he did not think they had a firm number of days but he did not believe it would be a long, drawn-out period of time. He added that they would get that information. He reiterated that Lassel was ready to start because he was aware of the need of the ECSD, as it was explained to him.

Mr. Fernald asked if there was a motion to go forward with Lassel with this Phase I of an estimate of \$7,000.

Mr. Muzeroll understood that everyone supported the space issues and he was more than happy to have ECSD there. He added that many seem to think that he didn't object to having them there, and he admitted it was nice to have people in the building, but it was time for them to move. He said that, so many times, it seems as though they do these things in all the communities, that they were now doing, that was a base study for needs a year after they had had stuff out there on the table. Mr. Muzeroll suggested they get moving – he said that he wanted them to stay in the building as long as they needed but let's stop messing around and get the money from somewhere, make it happen, and get them out in their own building.

Mr. Fernald asked if there was going to be a motion on the floor.

Mr. Moynahan said that, with this much time having gone by, he thought it would benefit them to, at least, pursue Phase I with Lassel Architects to give them the cost-comparisons of the two options.

7:20 PM

Mr. Moynahan moved to expend \$7,000, to be determined from, potentially, two accounts – Community Services Department being one and, potentially, Facility Accounts, as another, to fund the Phase I option. There was no second and the motion failed.

Mr. Beckert asked the Board what the BC's direction was at this point in time.

Mr. Fernald asked for the Board's input.

Ms. Place said that she wasn't sure.

Mr. Moynahan commented that he thought if they were to move forward with this then the BC's task should be working with Ms. Muzeroll-Roy and her space needs, for now, and develop what this is, what the design would be, and create costs from there, whether it was utilizing Lassel for portions of that – if they were not going to move forward with two options, then they at least needed to move forward with hers.

Mr. Fernald asked if that was the consensus of the Board.

The Board agreed that was the consensus.

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Mr. Beckert said that the BC would regroup and report back to the Selectmen.

7:22 PM At this time, the Chair recessed the meeting to the Grange Hall.

#3 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Notice of Public Hearing on two ordinances

7:30 PM At this time, Mr. Fernald opened the Public Hearing at the Grange Hall. He explained that this public hearing was regarding two ordinances: one was an adult entertainment ordinance and the other was to adopt a special amusement ordinance. He added that copies of these proposed ordinances were available and anyone who wanted copies could come down front and pick them up.

Mr. Fernald explained that all questions would come through the Chair, that there would be no public discussion between specific individuals but only through the Chair. He added that they would give everyone a chance to speak and do it in an orderly manner.

Mr. Moynahan asked if the Town attorney was here to answer any questions.

Mr. Fernald said no.

Mr. Moynahan asked if there was anyone from the Planning Board or Code Enforcement that may be able to answer questions.

Mr. Fernald confirmed that Mr. Marchese (CEO) was present. He invited the CEO to come down front in case there were any questions. He said that they would start with the people to his right.

Doug Keith asked if the Board had considered or were aware of a model ordinance put out by the State of Maine regulating adult entertainment businesses – it was a public document published by the State of Maine. He explained that it addressed a lot of the 1st and 14th Amendment issues that will arise in regulating this type of industry. He said that he was present to speak in favor of an ordinance that would regulate this business inside the Town of Eliot but that was also consistent with the 1st and 14th Amendments of the United States Constitution. He added that he would strongly urge that the Board review that model ordinance before the Board proceeded recommending an ordinance to the Town. Mr. Keith also recommended that the Board seek legal counsel from an attorney that is familiar with 1st and 14th Amendment issues so that, if the Town does pass an amendment to regulate this business, that it would stick and not embroil the Town in costly legal battles with people who did know these issues.

Mr. Moynahan asked if he had a copy.

Mr. Keith said that he thought he had a copy of it with him but would be happy to provide a copy later.

Mr. Moynahan asked Mr. Blanchette if they had explored, through the Town attorney, the State's model ordinance.

Mr. Blanchette said that the attorney had reviewed many models and that this is the one he had provided to the Town.

Mr. Moynahan clarified that, in protecting the Town, the 1st and 14th Amendments have been approached or reviewed, so that this would not result in a long, lengthy financial battle if a business like this were prohibited in the Town, based on changing or amending Eliot ordinances.

Mr. Blanchette said that he believes the Town attorney has reviewed this in light of the U.S. Constitution and the Maine State Constitution. He added that, whether there would be a legal court battle, they could not answer that at this time.

Mr. Moynahan commented that the State model should be considered as they draft the ordinances that might reduce the time and funds spent to keep that kind of thing out of the Town.

Mr. Keith said that he didn't think that "might have reviewed it" was sufficient to be confident that it had been. He added that this language is language that has been used in many towns in Maine. Although it has been untested...it has been copied and recopied and he believed that a thorough review would give anyone serious concern about what would happen in a Constitutional challenge with this language. He clarified that, despite Mr. Blanchette's feelings, he would strongly urge people to look at those issues and

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suggest that the ordinances that they had in front of them were missing key pieces of action that needed to be taken by the Town, when they pass this ordinance, for it to be held up. He said that he had hoped to be able to discuss that with the attorney and have him explain why he felt these would stand up to those constitutional challenges.

Rosemary Dougherty asked if a place like this could be located within a mile of a school. She added that she checked coming home tonight and it was only a mile from the Middle School.

Mr. Moynahan said that the Town did have an existing ordinance that covers portions of this, commenting that the CEO might be able to more directly speak to this, but the problem is that that ordinance that the Town has speaks to "materials" that becomes somewhat confusing, which might be a loophole for a business like this to come in and asked the CEO to confirm.

Mr. Marchese confirmed.

Mr. Moynahan said that the footage from schools and that sort of thing was covered but there was a gray area there and that is how this type of process was started and why they were looking at firming up the existing ordinance so that it prohibited certain things in the Town.

Mr. Fernald said that the existing ordinance really deals with things that are sold within a business.

7:37 PM

Nancy Murphy said that she was totally against them coming into the Town. She commented that her husband was an attorney and that he had been forwarding her the Maine case law, which she had been reading, and it specifically said that one of the ways that Maine towns had fought this was by adjusting the buffers. She added that she was going to ask about the lawyer, too, as she thought that they might need to get some special legal help in this area because, having read these ordinances and having read what the thing said, they said that one of the primary things was that one had to be very specific about the secondary effects that one was trying to fight against because they could not say, "We don't want these people to say this.", that they had to say that they were worried about prostitution, drugs, STD's, etc., and one had to be very, very specific and go into great detail. She said that the model he was talking about had paragraphs about STD's and what the Town was worried about and they said, "Don't be squeamish now, put it all in there." Because that was the one way the Town could get it to say they were not just trying to squelch free speech, that the Town was trying to stop drugs and prostitution and other things and they could site other people's studies that talk about the secondary effects that come about by allowing these types of things into the Town. She added that what they were really trying to do was fight that and stopping it by saying that that is what they were trying to stop. Ms. Murphy asked, having read this, have they considered spending a more money and getting some legal help that would be specifically able to fight these kinds of issues and make it stick. She said it would be better to pay know than to pay in the long run.

Mr. Moynahan said that that was the direction the Board was looking for, for the Town. He added that they were presenting some things and for the secondary effects she spoke of, which they would hear about tonight and was why they had these public hearings before they went in front of the voters. He said that, if the language had to be cleaned up and that sort of thing – that's why they have these.

Ms. Murphy said language added in – put it right into the ordinance because that was what made it stand up against legal challenges.

Eric Christian asked where did the language come from.

Mr. Blanchette said that he believed they were primarily modeled after the Scarborough ordinances.

Mr. Christian asked if those had been challenged.

Mr. Blanchette said that he did not know the answer to that.

Audra Kearney said that she really liked what Ms. Murphy said and she felt the same way. She said that they need to make sure, from the very beginning, that they know they are doing this 100% from the aspect of following the spirit of the law – letter of the law – before they vote on anything; that they are prepared to say, as a Town, that they would fight it and do everything they possibly could because they could not have this option for their children. She said that there was no market for it and, from what she has read, the attorney for Denunzio – as she understands there is a similar situation going on in Westbrook. Ms. Kearney said that she assumed he didn't do any marketing studies that would allow this type of business so having it in Eliot doesn't make any sense. She said that the feeling she had was that it was just, basically, an extortion attempt to hold the Town hostage – it's a scam. She asked what kind of money could this guy make out of putting a strip club in Town and then challenge their ordinances later, she

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guaranteed that was what was happening. She reiterated that they make sure they have the very best legal counsel. She said that she was willing to pay – and everyone else, right?

Mr. Moynahan clarified that they were not going to get personal with any applicant that came to the Town. He added that this would provide protection for the Town moving forward, no matter who came in, so they should not be personal with any applicant that came in.

Ms. Kearney agreed that they shouldn't be personal but she took it personally, as a mother.

Mr. Moynahan said that he understood but that they needed to look at the entire ordinance for anyone coming in for years to come.

Ms. Kearney agreed and said that she didn't think that, once this was over, they would not have this kind of challenge here again. She added that people who were looking to make money that offer these types of things or have real estate here know the Town doesn't have the ordinance – they knew that Westbrook didn't have the ordinance – it's pretty simple, it's pretty logical.

Carol Reed said that because this was an ordinance that they were working to improve and upgrade that they should seek an expert in the field – this could benefit the Town in this event. She asked if the Town would be following the Westbrook case because they were being sued and there were several parallels between what was going on in Westbrook and what may be affecting the Town of Eliot.

Mike Thibeau asked, if this was a copy or duplicate of an ordinance that was in place and everyone had an opportunity to review it, why weren't some of the restrictions, such as location, number of people or what could go on in that particular building and the activities included in this as they were seeing it.

7:43 PM

Jack Murphy said that he was taken aback a bit because the amendment to the Special Amusement Ordinance didn't refer to Eliot's existing Special Amusement Ordinance, which was adopted January 20, 1984. He added that it was apparently an attempt to replace it but it didn't say so inside it. He said that he went through it to compare it against State law – Title 20A § 1054 to make sure that all the requirements of the State statute governing this kind of an ordinance were included and he found, as far as he could see, every State statute requirement was included somewhere, although they were not in the same order nor quite the same wording. He added that there was a paragraph of other requirements that a municipality may adopt that the gentleman now just referred to – things like lighting, location, number of people – and this does not include those. Mr. Murphy said that he again went through these more recently and he found many places where there ought to be change. He clarified that the order in which things were done was confusing and, to him, it was not written by someone used to applying ordinances. He said that it may have been written by a lawyer trying to protect the Town and making sure there was nothing in there that he could not defend the Town on but, for someone like the Board of Selectmen – just as an example, under Permit and Appeal Procedures, it says “Any licensee requesting a special amusement permit from the Board of Selectmen shall be notified in writing of their decision no later than 15 days from the date his request was received.” He added that that action was closely associated with the words under Permit Required, “The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the public and the applicant, hold a public hearing within 15 days of the date that the request was received...” – same date, explaining that they could have a public hearing on that 15th day but, on that 15th day, the Board would have to notify the applicant, in writing, of their decision. Mr. Murphy discussed that, at a public hearing, State law requires the Board to take testimony from the public, not merely to inform them. He added that, if they were going to take testimony from the public that meant that the Board might learn information about which they might need to delve into further before making their decision. He said that, if the Board would set up a hearing on the 15th day and expect that they would award it means they would ignore the testimony, therefore, the wording for the public hearing – with the notice of decision – 15 days, that was a statutory requirement. Mr. Murphy said that the notice of the hearing or time of the hearing was softer than that – it was that reasonable time when the notice would be given to the public for a public hearing prior to making a decision. He suggested that the public hearing be scheduled, like, 10 days before, as things like that they needed to look at very carefully, otherwise, they would suddenly they would try to do it and realize it could not be done. Mr. Murphy said that there were any number of corrections he would like to make to make it easier to read and cut out any ambiguities, such as grammatical clarity and, when replacing previous ordinances that are similar, a sentence should be added that says, “This ordinance, upon adoption, has the effect of repealing and superceding the ordinance entitled Special Amusement Ordinance of the Town of Eliot, which was adopted at Town Meeting on January 20, 1984 under Article 3.” He said that he asked Mr. Blanchette about this and that Mr. Blanchette thought that, because this would be adopted and go into the municipal code that, somehow, this other special ordinance, which has been sitting off to one side, was perfectly legal, but it was not part of the municipal code where the land use ordinances were all piled in.

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Jack Dougherty said that he believed it was imperative that the Town have the best legal people to prepare these ordinances, to look at all the potential challenges, have their I's dotted and their T's crossed. He said that they all knew this thing was headed into the courts, as their lawyer has already stated they would. He added that, to him, it would be a lot cheaper to spend the money up front, get the top people, than get into a long, protracted law case.

John Miller said that anyone who has been in sports knows the biggest mistake one could make was underestimating the opposition and he would like to know what kind of competition they were up against: who was their opponent, have they been involved in public lawsuits, are they well-versed in this, do they really know what they were doing or was this an isolated attorney with a small business man. He said that he would encourage the Board to find out their opponent is. Mr. Miller said that he was willing, as a taxpayer, to lay down anything it took to kill this.

Mr. Fernald said that the Board understood but reminded people that this was for all businesses of this sort that might come in to Eliot.

A member of the public said that it was already in the press this past week that the attorney representing this gentleman was already planning to take Eliot to court, he's well-known, if anyone has been following the situation in Westbrook with their strip club – he wasn't a guy coming out from underneath a rock. He added that he was already a well-established personality.

Mr. Fernald assured the people that the law firm the Town dealt with in Portland, Bernstein & Shur, they have dealt with for many, many years and they were very versed on all types of situations, particularly this, and that was why they looked at these particular ordinances for them.

Eric Bouchard said that he thought they all recognized that this was veiled extortion....he suggested the Town impose a special tax for this special business. He added that a special tax would hit them in their wallet and they're not going to want to open their doors.

Ed Strong said that he was the police chief in Kittery and that they had been down this road several times in Kittery. He added that they have an ordinance that was similar to this ordinance and that almost all the fine points of what they wanted to prevent are in Kittery's ordinance. He explained that Kittery's ordinance was challenged in the Maine Supreme Court and was upheld. He suggested the Board have Eliot lawyers meet with Duncan McAkarin, that he was the one who handled it, Kittery drafted it, it has been tested, saying he had been to Superior Court three times on it and it was upheld. Mr. Strong said that he thought it was time to move this thing forward on the recommendations of the lawyer and get it passed as soon as possible. He asked if there was anything in the ordinances about it being retroactive, as he did not see that.

7:54 PM

Mr. Blanchette referred everyone to 5-12 Applicability in the draft Special Amusement Ordinance and said that, basically, what it said was that the ordinance "applies to any application pending or approved on the date of its passage,...".

Mr. Fernald said that it would be approved at a Town Meeting vote – that would be when the ordinance would take effect. He added, however, that it also states in that same section that it would apply to any permit that was pending.

Dutch Dunkelberger said that one of the things that kind of jumped out at him was on page 3 regarding appeals. He clarified that, once it was denied by the Board of Selectmen, it would go to the Board of Appeals and asked them if that was what they really wanted to do. He said that he thought the Board of Selectmen was the final authority.

Mr. Moynahan said that that was a very good point.

Janice Bakula said that the Board mentioned having great faith in the Town's attorneys and asked what background they had and personal experience in dealing with situations like this. She added that she could endorse what Mr. Strong mentioned about possibly getting in touch with their attorney since they have clearly had experience with this. She said that she would not want the Town to put so much on the line without having somebody that has been done this road before.

Mr. Fernald said that Mr. McEachern has done work for the Town of Eliot so for his review also would be something that would seem to be the right thing to do.

Tom Hallett said that he represented the owner of the gentlemen's club. He said that this was the Town's meeting, the people showing extraordinary interest and he applauded them on that. He said that he didn't

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have much to say but did want to say was that this was not an extortion attempt, there was no extortion involved. He added that his client owned the building and has very limited opportunities for that building, people could understand that.

Someone from the audience suggested it be used for the rec department.

Mr. Hallett said they were open to proposals.

After bringing the meeting back to order, Mr. Fernald asked if he had anything to say about the ordinances in Maine, that that is what this meeting was for.

Mr. Hallett commented that he just wanted to address that issue as it was brought up and thought it was an unfair accusation. He added that that was not what this was about. Mr. Hallett said that his client intended to open up a facility and the information has been provided, the application was submitted in March of this year and he intends to go forward with that. He did say and he would reiterate that, this ordinance as he saw it, he did not think it was a constitutional ordinance. He added that, yes, it would receive a challenge from them. He said that they would welcome a constitutional ordinance and would welcome and would welcome working with the Town on this issue, if that was at all possible.

Cabot Trott, neighbor to this building, said that, morals aside, his concern was with the secondary impact. He said that he was looking at it as, not this business in particular - the ordinance and the restrictions it puts on protecting the investment. He said that he may not continue to build boats, that he may decide to rent his property out. He commented that he wasn't saying anything about what people decide to run for a business but he was looking at this aspect of is this going to make his property viable for renting, is this going to make his livelihood viable. He asked what kind of effect was he going to have with runovers? that are no control of the owners of this business because, when they leave the property, it wasn't his problem. He added that the owner couldn't control them and he didn't expect them to. He said that most of us had been there with family and friends – once they were gone from underneath our foot – one can't control everything they did. Discussing his concerns, he said that, sometimes, he has \$80,000 boats sitting in his yard and he has had some transients living in them. Mr. Trott said that, two weeks ago, he drove in to his shop in the morning and found his door wide open. He added that, fortunately, it was his own stupidity, as he didn't pull it tight and they had a bit of wind that night. He said that those things happen. He added that he has all the faith that the Board was keeping all the legal aspects that, when they were writing this, they were not just concerned with what the Town was looking at today but other businesses coming down the line – and it could be an adult bookstore or a hazardous material-processing center. He said that, as long as the Town was looking and not picking each business out just because Eliot doesn't want it. He said that, if they wanted to protect the Town, do it the right way, then go for it, but now was the time to look at the overall picture and not just what was here. Mr. Trott said that he wanted to say to the gentleman representing...this was a pride situation standing here and having the ability to sit and discuss this, going through the process and not being mocked at and the pointing fingers. Mr. Trott said that, as long as the Board could say they were going to protect his future, his family's future...that's the thing...and he would applaud that.

8:01 PM

Ed Cielezsko asked, if these changes were not acted upon, was this the first of two public hearings on the changes and, then, the Town vote.

Mr. Fernald clarified one public hearing, then a Town vote.

Mr. Cielezsko clarified that they would not be doing any major modifications – then said they didn't even have to answer that, as the chances were slim – his point was that, no matter how good the ordinance was – perfect, etched in stone unbeatable – they could still be in court for years and spend the same amount of money and spend more because they would pay top-notch, over-and-over, redundant attorneys to come up with the perfect score and they would still fight for their turn. Mr. Cielezsko said that the true wall to stop these businesses was the unified public outcry during their application and the meticulous monitoring of their actions, if they prevailed. He added that, if they wanted to stop this, it's tonight, it's the public meeting, it's every aspect, every night – having mothers out front with cameras and the police – for everyone who leaves there if they didn't flash their directionals properly getting pulled over – that's how they would keep them from coming to this Town.

8:03 PM

Sharon Atkinson (Addison?) commented that she thought it was very clear residents don't want this in our Town. She said that there were very few towns left like Eliot and she still considers this Town a small town, good place to raise a family and she was sure the majority of those here tonight felt that way or they wouldn't be here. She added that she agreed with Ms. Murphy that the ordinance(s) needed to be explicit, everything she mentioned needed to be in there. She said that, as a taxpayer, she didn't care how much it cost us in the courts – we know it's going to be challenged – but this Town is worth fighting for. She

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reiterated that they didn't want it here and she thinks that message was loud and clear. She added that she knows the law office the Town has, if the Town didn't have confidence in them, then they wouldn't have hired them – but she also agreed with those that have spoken that Eliot really needs someone who has dealt with this to make sure that the language is tight and, no matter how many times it was challenged, it would stand up. She said that she had not had the opportunity to read all of the proposed ordinances and didn't know how encompassing it was, but would hope that it would not only cover something like this establishment that wanted to come in but that it would also cover any type of a thing like the store in Kittery that is down on Route 236. She added that she didn't want that type of thing in Eliot, either, and she believed they needed to send that message out loud and clear. She said that they were in it for the long-haul and, when this ordinance was done, it needed to be ironclad and, no matter how much money it cost us, we need to be willing to do it to keep it out of our Town.

Vera LaPointe said that she has known people over the years who have had to piece their lives back together because they have been involved in stripping, they've been involved in prostitution, they've been involved in pornography or their spouses have, and it has brought physical and emotional havoc. She added that, not only that, but people engaging in these types of behaviors look for greater and greater highs and act out with higher intensity, which led to bizarre behaviors that included making children their prey.

A member of the audience wanted to ask if there was an appropriate process for organizing for those of us who would like to gather together and speak out against this in appropriate ways – is there a way we could create a sign-up sheet tonight where we could actually get names and numbers...

Mr. Fernald said that they were doing the right process, as she knew, they were going through this public hearing and, if everyone came to Town Meeting to vote on these amendments – these ordinances – then that was the best process and how the Town got things done.

Ms. Kearney commented that she was ready to picket.

Mr. Moynahan clarified that that was something that the public could do on their own. He added that the Board would not support or endorse something like that because they were not able to. He wanted to reiterate that they have an ordinance in place that encompasses a lot of the things they were talking about. He added that there were some things that needed to be cleaned up to make it ironclad and that's what they were doing – so don't think that they were not protective with a lot of the things – somebody mentioned a bookstore – the Town is protective and has done due diligence in a lot of this and it was just cleaning it up because there was some other activity in the Town

Chuck Bradbury asked how do they obtain a liquor license for this establishment seeing it was a daycare and it's turning in to a bar/nightclub. He said that he was trying to start a business in Town and going through all the red tape to do that and...

Mr. Moynahan said that a change of use is a change of use.

Mr. Bradbury asked how many liquor licenses were allowed in the Town – were there 100, could they all have a liquor license.

Mr. Strong clarified that it was covered by State law, that the State was the issuing authority.

Sherry Anderson said that she had a statement and a question. She asked if there was some time pressure that they would need to give some feedback so that they could decide, tonight, about one or the other of these two proposed ordinances – were we under the gun here to adopt one tonight.

Mr. Fernald clarified that it was, obviously, something that they would want done as soon as possible, just in case there were businesses waiting to come in like this one. He added that he was going to suggest to the Board that they have another public hearing after all the comments that people have made tonight, possibly making changes, contacting Eliot lawyers, Kittery lawyers and so forth and so on, tighten everything up, expecting the residents to be at that public hearing and, then, the Board would schedule a Town Meeting for a Town Meeting vote.

Mr. Moynahan clarified that the Board would, in essence, be creating one document for people to peruse based on some of the information and insight they have gotten tonight.

Mr. Fernald agreed.

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Ms. Kearney said that she like what the Board said and she believed it was important to make sure that the correct verbage is used so that they don't just single this particular applicant out – hazardous material – anything hazardous to our health – physical, mental, emotional – should be cited, that hazardous material got her thinking and she thinks that's important. She added that, in that way, they can't say we were just focusing on them.

Mr. Fernald said that they understood – that the people had given them their words and that was what was needed to be done.

Kelly Holloway said that she would like to ask the lawyers to look at the alcohol issue – that they could also decide to not serve alcohol and then the whole ordinance would be thrown out and they could do whatever they wanted. She added that she was from Florida and there were a lot of these types of business places there and they get around that by just not serving alcohol.

Jared Simms asked, in terms of timing, doesn't the Planning Board have a deadline for either approving or rejecting the application.

Mr. Fernald agreed that was a Planning Board rule and that pertained to land use ordinances and this is not the same thing.

Mr. Simms asked, in terms of the application for the business, isn't there a clock ticking for when they have to act on that application.

8:13 PM

Mr. Fernald said that, as it says in the draft ordinance, it is retroactive for any permit.

Mr. Simms asked if there wasn't a deadline to act on the application and, if approved, wasn't it grandfathered in.

Mr. Fernald said no.

Mr. Simms clarified that, even if they were in business, this ordinance could shut them down once they were open.

Mr. Fernald referred to and read Section 5-12: "Notwithstanding anything to the contrary in 1 M.R.S.A. § 302, or in Section 1-20 of the Town of Eliot Municipal Code of Ordinances, this ordinance applies to any applications pending or approved on the date of its passage, whether or not such applications would constitute a "pending proceeding" under 1 M.R.S.A. § 302."

Linda Lockhart asked if these were going to be posted at the Town Hall so that they so that they could see what they were going to be looking at at Town Meeting.

Mr. Fernald said that, hopefully, it would be posted on the Town website.

Mr. Moynahan said that they would be having another Public Hearing before the Town Meeting.

Mr. Fernald agreed, if that was what the will of the Board of Selectmen was and that would be put to a vote. He added that they would have another Public Hearing and, before that Public Hearing, everyone would be able to see the revisions.

Mr. Murphy said that current municipal ordinance has an entry for adult entertainment and it requires site review so there are already entries in the municipal ordinance for this adult entertainment. He discussed the lady who talked about the loophole and said that this ordinance on special amusement is slanted entirely to people who are licensees for a liquor license. He added that, if they wanted to have a club and "bring your own", this won't stop that.

Mr. Fernald agreed but added that the second one did.

Ms. Murphy said that, in Dedham, Mass., they passed an ordinance prohibiting the hours of operation so, like the fellow who suggested the tax, another way to go at it is to say that because of parking, traffic and other issues like that that the Town would want to restrict things like that from, say 10 PM to 8 AM, which would severely restrict the potential profitability.

Mr. Keith said that he wanted to reiterate the point that they needed to do a proper job in structuring these ordinances. He said that, in First Amendment law, each of these cases is taken one at a time and it is very specific to the town and the work that has been done at the town specifically to address these issues. He

BOARD OF SELECTMEN'S MEETING
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added that he would urge everyone to take that approach and not look for the easy way to do this. Mr. Keith said that, if they thought like an attorney defending these businesses – First Amendment attorneys – what they would see, he believed, an ordinance that seeks to regulate – and he made the distinction that what Eliot has on the books is a zoning ordinance and what they had before them were two generally applicable ordinances and not zoning ordinances. He clarified that they were different and evaluated by the courts differently. He continued that what he thought a defense attorney was going to see was one ordinance that was a generally applicable public nudity ordinance designed to target a specific type of business and they would find some success with going after that approach. Mr. Keith said that, secondly, they have a special licensing ordinance that was aimed at any liquor license business that intends to have any form of music, dancing, or entertainment and what that would be viewed as in the context of First Amendment law would be a special licensing scheme and these have documented failures in the Supreme Court. He added that it would be seen as a shotgun approach, that we were casting a wide net so that we didn't appear to be selecting out a particular group but when it comes back to the idea that the Selectmen have a subjective authority to deny that license, based on their opinion, then we would have problems with that. He reiterated that, until he saw a more confident approach, he wanted to challenge the notion that these are really as strong as they could be.

Deb Hurtz clarified that she would not try to rile people up and would follow proper procedures when she suggested people coming together who wanted to work on this through means of education in the Town. She asked if it was legal if citizens wanted to get together and fundraise to support legal costs.

Mr. Moynahan said that he believed this Board would support any legal fees required to make the Town solid.

Mr. Fernald said this was a Town issue, understanding that the people were the Town, however this was an issue that the Town has the funds to do that.

Mark Spezia commented that the purpose in having a zoning ordinance, in large part, was to protect the interest of property owners. He added that all these kinds of businesses are a blight on the community – it would diminish the reputation of the town and, as a result, it would diminish the property values of every homeowner in this Town and that could be quantified. He added that it would be in the hundreds of millions of dollars and he wanted to know how this business was going to compensate the property owners of Eliot.

Mr. Fernald asked if anyone else had anything else to say about the ordinances.

There was chuckling from the audience.

Mr. Fernald said that the Board understood that the residents are passionate about this and they would certainly do the best they could and keep everyone informed.

A member of the audience asked, if someone was unable to attend the Town Meeting, could they vote by absentee ballot.

Mr. Blanchette said no, not if they were going to have an open-floor Town Meeting.

A member of the audience asked if they were going to have another meeting before the Town vote because she knew there were a lot of people who didn't know about this – she found out about it a half-hour before the meeting.

Mr. Fernald said yes, they would have another public hearing on this matter before it goes to Town vote. He added that the next public hearing would be held next Thursday.

Several people asked where it would be held.

Mr. Fernald said that it would be advertised because they had to make sure that it would be either the Middle School or the Elementary School and would be well-publicized.

A member of the audience asked if they knew when the Town vote was scheduled.

Mr. Fernald said that the Selectmen would decide when the Town Meeting would be.

A member of the audience asked if they could get that information out to the schools so that they could send it home in an email notice to parents.

Mr. Fernald said that they were asking the Selectmen to do a lot of work, here, in a short period of time. He clarified that they would post just like they always post it and they would post it on the website, also.

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A member of the audience asked what the building capacity was for this particular hall.

Chief Muzeroll said that, with this size building, it would be approximately 100 people and that they were at overcapacity right now.

A member of the audience clarified that, at the next meeting, they would have more information from when they talk to the lawyer.

Mr. Fernald said yes, that this would be revised.

The same member asked, until that vote, would the business be allowed to be up and running because, clearly, there was a lot of stuff going on over there.

The Board said that there has been no approval on that business, yet.

That same member said that they were working on it right now.

Mr. Moynahan said that they were working on it, as are the Board members, but there are no approvals in place for that business right now.

That same member clarified that that, then, is a no.

The Board said yes.

8:24 PM Mr. Fernald declared this Public Hearing closed.

#2 TO : Board of Selectmen
FROM : Energy Commission
REF : 2010 Greenhouse Gas Inventory

Not discussed.

#4 TO : Set up date for Town Meeting (no correspondence)
FROM :
REF :

Not discussed.

#5 TO : Board of Selectmen
FROM : Public Notice – Public Service of New Hampshire
REF : Informational

Not discussed.

#6 TO : Board of Selectmen
FROM : Shorey's Brook Dam
REF : Design and permitting process

This was a notification to the Passamaquoddy Tribe of a design and permitting process underway to remove a small head of tide dam on Shorey's Brook located within the Simone Savage Wildlife Preserve in Eliot and South Berwick.

8:35 PM

#7 TO : Board of Selectmen
FROM : Jack Murphy
REF : Disciplinary Action – First Reading

Mr. Fernald asked if there were any changes to this First Reading.

Mr. Moynahan said that he thought it encompassed all the things they discussed at their last meeting.

Mr. Blanchette said that, before moving it to the Second Reading, he would suggest they send it to their labor attorney for review.

**BOARD OF SELECTMEN'S MEETING
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It was the consensus of the Board to have the Town labor attorney review this at this time.

Selectmen's Report:

There were no Selectmen's reports tonight.

It was decided by the Board to review the Action Item List at the next regularly scheduled meeting.

Mr. Blanchette said that the only thing he wanted to point out, so that the Board would be thinking about it, was that he and Mr. Fernald laid out a possible schedule for job reviews but, when they looked at it, it goes beyond Town Meeting. He added that they would have to double up or do something.

The Board discussed their concern for continuity of the Board with turnover.

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 8:37PM.

VOTE

4-0

Chair concurs

DATE

Roberta Place, Secretary