

BOARD OF SELECTMEN'S MEETING
June 9, 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

Approval of Minutes of Previous Meeting(s)

6:32 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of May 5, 2011, as written.

VOTE
4-0
Chair concurs

Public Comment:

There was no one from the public who wished to speak.

6:34 PM

Department Head/Committee Reports

Mr. Moulton said that he was asked to come tonight regarding possible overdrafts and, in speaking with the Town Treasurer today, it seems his department would be okay.

Mr. Blanchette said that one article that would probably go in to overdraft was the employee fringe benefits, which was Article 40. He explained that there was \$16,000 left in this month for that article and he suspected there would not be enough to pay the fringe benefits. He added that he thought they were probably looking at \$30,000 to \$40,000 more in that article. Mr. Blanchette said that Mr. Short could not be here right now but would be coming a little later and the Board might want to defer this until he was present.

Mr. Moynahan asked how they missed that budget line so badly.

Mr. Blanchette said that he didn't know it all – that some of it had to do with probably not budgeting enough for the insurance increase and there was more overtime in the snow and the police department than what had been budgeted. He added that he believes it was a combination of things, not any one thing.

Mr. Fernald asked what was the pleasure of the Board, adding that they had to fund that article. He asked Mr. Blanchette if that would come out of the Contingency Fund.

Mr. Blanchette said yes, that that was the only place that they had.

Ms. Place asked Mr. Blanchette if they knew the exact amount.

Mr. Blanchette said that he did not know but added that he would try to get it for the next meeting, as close as possible, as they wouldn't know the exact amount until the last payroll.

Mr. Fernald clarified that \$40,000 would cover the shortfall.

Mr. Blanchette said that it should.

Ms. Place moved, second by Mr. McPherson, to take the shortfall on Article 40 out of the Contingency Fund in the amount of \$40,000.

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Mr. Fernald asked how much was currently in the Contingency Fund.

Mr. Blanchette said that it was around \$70,000.

Mr. Fernald called for a vote.

VOTE
3-0
Chair concurs

Mr. Fernald said that they would take up the Police Department when Mr. Short was present.

6:37 PM

Mr. Muzeroll said that the new tank truck should be available for him and the committee to view in Massachusetts by the end of next week, adding that they would need a couple of weeks of training to get it in service, and that it would most likely be in service here by the middle of July. He clarified that, based on that middle of July timeframe, he was going to start advertising the sale of the old tank truck for an August 1st date. He added that he was first going to offer it to Maine Fire Chiefs, then New Hampshire Fire Chiefs, and, if they don't get an appropriate response then he would put it out for bid. He added that there did seem to be some general interest, just nothing specific, yet.

Mr. Muzeroll said that he was able to negotiate a donation from Sad #35 for a 4-wheel drive Kubota tractor they were using at the Elementary School that may be in a minor or major stage of disrepair, adding that it was being used to clear the sidewalks there and it just died. He said that he and Mr. Moulton have discussed this and he would drop the paperwork off to the Board as long as they accept the donation. Mr. Muzeroll said that they know that there is a need for something small in this area, particularly in keeping the ice rink clean without using their own equipment and that was the basis behind this in addressing that need. He added that Mr. Moulton was looking at it and they were looking to someone in Town to fix it that has experience working on these tractors for a minimal cost, if that was possible. He added that it would be housed at the Fire Station and would be shared between the Fire Department and the Highway Department. He said that it would be zero cost to the Town and the only thing remaining is if the Town would accept the donation. He said that, if it was accepted, he would transfer the serial numbers to the Town Clerk and get it on the roles for insurance and registration.

Mr. Moynahan said that it sounded good.

Mr. Fernald clarified that it was the consensus of the Board to accept this donation.

The Board agreed.

6:40 PM

Mr. Muzeroll said that he and Mr. Moulton have discussed and agreed that they need to replace their roofs on their buildings over the next couple of years. He discussed that they were aware of the movement toward capital improvements and that they would get separate requests for proposals to do the different roofs. He added that they were going to try to do a package-deal price, try to do an individual price, and then they would present that to the Board. Mr. Muzeroll discussed that he has immediate repair problems and knows that there is relatively zero money in the Facilities Account so, be advised, somewhere along the line before Fall, he would need a few thousand dollars in temporary work done on that structure to get the roof prepared.

Ms. Place asked Mr. Muzeroll how many roofs needed repair.

Mr. Muzeroll said that the whole fire station needs to be done and Mr. Moulton has two buildings that need to be done. He added that they both wanted to do metal roofs because they last a little bit longer.

6:43 PM

Mr. Blanchette said that he had the fuel bids if the Board wanted to take those up now.

The Board agreed to take the fuel bids up tonight.

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Mr. Blanchette said that they opened up the fuel bids this past Monday, June 6, and had two bids: Hometown Fuels (out of Portsmouth) bid for #2 fuel only at a fixed price of \$3.44 or a maximum price with the possibility of a lower price, it would be a maximum of \$3.76; Jenkins came in at \$3.599 or 15 cents above rack, whichever was lowest at the time. He added that Jenkins gave them a price on the blend, as well, and that was \$3.899 or 15 cents above rack, whichever was the best price for Eliot. He commented that he did not know why Hometown Fuel didn't give them a price on the blend.

Mr. Fernald asked if Mr. Blanchette had any idea why Gagnon didn't submit a bid.

Mr. Blanchette said no, that he didn't know why anyone else didn't submit bids, but suggested some may not have wanted to give a fixed price.

Mr. Moynahan asked what they budgeted for fuel.

Mr. Blanchette said that he thinks they budgeted around \$3.50.

Mr. Moynahan said that, even though they would like to stay with a local company, it could potentially be a budget overage right off the bat. He added that they budgeted for \$3.50 and the bid was \$3.60, especially with their gallonage.

Mr. Blanchette said that that was their maximum price but they would charge the lowest price between the maximum and the rack price.

Mr. Moynahan said that, if it fit within their budget, then they should stay with a local contractor.

Ms. Place asked if they went with Jenkins last year.

Mr. Blanchette said yes.

Ms. Place asked if this price was much above last year's price.

Mr. Blanchette said that he would have to check, as he honestly didn't remember.

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

Mr. Moynahan moved, second by Ms. Place, to award the fuel bid to Jenkins.

VOTE

3-0

Chair concurs

6:45 PM

Mr. Webber, Building Committee (BC), said that on Monday night the BC voted to recommend to the Selectmen that they appropriate up to \$3,500 to pay for the elevation design and the septic design.

Mr. Moynahan asked if he could see a copy of the proposal.

Mr. Webber gave him a copy.

Mr. Moynahan and the other Board members reviewed the proposal.

Ms. Place clarified that the \$3,500 would come directly out of the Community Services Reserve Account.

Ms. Muzeroll-Roy said that she assumed it would and that there was \$107,000 in there presently.

Ms. Place moved, second by Mr. Moynahan, to take \$3,500 from the Community Services Reserve Account to pay for the Shield Designs and Attar Engineering work.

VOTE

3-0

Chair concurs

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Mr. Moynahan asked if they knew what the timeline was for this and what the next steps would be once this first step is done.

Mr. Webber said that he did not know.

Ms. Muzeroll-Roy said that she has asked at several meetings for this and hopes that, now that this has been approved, a timeline will be put in place.

Mr. Moynahan asked if this group was going to provide specifications.

Mr. Webber said that it was his understanding that they would provide the specs. It was also said that they have contractors all lined up.

In discussing Ms. O'Donoghue's passing, Mr. Fernald said that she was honored at the Statehouse. He added that they received a letter from Ms. Beavers and a plaque for Ms. O'Donoghue and he would like to recommend that the plaque be framed and hung somewhere in the Town Hall.

The Board agreed by consensus.

Old Business (Action List):

6:50 PM

A. Wild Brook Lane

Mr. Moulton discussed doing the profiling of Wildbrook Lane. He said that the average pavement thickness was about 1 ½ inches and everything was underlined by a silty sand or silty silt. He added that all the assumptions he had on what he thought was there, were there.

Mr. Fernald clarified that this will not meet the standards.

Mr. Moulton said that it does not meet the Town's ordinance for the road. He added that he would pass his findings on to the residents through their attorney for their review and come up with a plan to, in his opinion, better utilize their money to come up with a solution to fix this.

B. Sewer Contract Committee – Mr. Moynahan, Mr. Murphy and Mr. Blanchette

Mr. Blanchette explained that the meeting with Kittery was over the existing contract and the sewer cost with the new bill format that they put out, getting an explanation of what the increase was. He said that it was two-fold: they are bringing on the new bond they have that they started paying this last fall and the percentage dealing with Pump #7, explaining that Kittery feels they have been billing Eliot in error all these years because they were billing Eliot on a fixed percentage rather than a percentage of actual use. He added that it changed the bill and that it increased \$1,500 this past quarter. Mr. Blanchette said that they had not reported back to the Sewer Committee (SC) but that they would.

Mr. Fernald asked when the SCC supposed to meet again.

Mr. Blanchette explained that they were waiting to finish up with the possible changes on the attorney's version of the contract.

Mr. Moynahan clarified that they were still reviewing existing sewer rates, especially in light of the increases.

Mr. _____? said that they just went to the meeting today and added that they didn't understand the breakdown that they had been given and so wanted more clarity. He added that was when they discovered the two bond issues.

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Mr. Blanchette explained that they had two things that expire in 2012 on the Kittery bill: the depreciation schedule and the first bond from 1992 or 1993 and Eliot would not be billed after that for those things. He said that the new bond is now on the bill and the SC has asked Kittery to separate that out on the bill.

Mr. _____ described the new bond as the Phase II Bond that was in arbitration in July 1993 that they have started paying on now.

C. Job Reviews – Department Heads

This is ongoing.

D. Comp Plan Action Items

This is ongoing.

E. Monthly Reports from Department Heads

Mr. Fernald said that the Selectmen are receiving those reports.

Mr. Muzeroll said that he had spoken to Mr. Blanchette about those and he was a bit confused as to what the Board was really looking for. He added that he didn't mind giving it to the Board, he just wanted to know what they wanted.

Mr. Fernald suggested how many calls his department has had, etc.

Mr. Muzeroll clarified that it was the same thing he had been doing every other month.

Mr. Fernald said yes, just on a monthly basis.

F. Police Union Contract

Mr. Blanchette said that they just got notified yesterday of the new union and them wanting to meet with the Board so the committee, Mr. Moynahan, Ms. Place, Mr. Short and himself, would be trying to set up a date to meet with the new union. He added that they notified the committee six days late for monetary items, if the Board wants to hold them to that, as the Town already has its' budget in. He explained that the State law says, he believes, that they are supposed to notify the Town at least 30 days prior to the end of the Town's fiscal year and the Town got the notice either Monday or Tuesday.

G. TIFD Reports and Updates

Mr. Fernald clarified that that was all set for Town Meeting.

Mr. Blanchette agreed and said that Underwood Engineers would be present at the Town Meeting to explain anything on the new contract.

H. Health Insurance Costs

Mr. Blanchette said that they were looking into that and would probably be one of the first things that the Contract Committee (CC) would need to look at.

I. Have each Department prepare budgets, payroll, and reporting with the same software and forms.

Mr. Fernald said that he thought that still needed to be reviewed, as they need to decide which forms would be the best.

Mr. Moynahan asked if Ms. Spinney could be involved in this.

Mr. Blanchette said yes, that they would get her involved because it needed to somewhat follow her accounting system.

J. Explore time clocks

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Mr. Fernald asked if that was something that people were interested in having or do they need to take it off the A. I. List.

Mr. Moynahan said that they had discussed this at a prior meeting and everyone spoke their mind on it, so he didn't know if it needed to be kept or not.

K. Review existing sewer user rates and update.

Mr. Fernald asked if the committee was looking at this.

Mr. Murphy said that they have talked about it but have not set up a plan to review. He added that they do foresee increasing the rates in order to build up a bigger maintenance fund for the future.

L. Regionalization of Town Services

Mr. Fernald confirmed that Mr. Blanchette was continuously looking at that.

Mr. Blanchette said yes, when anything comes up, he would take a look to see what they could do on a mutual basis. He added that something Mr. Donhauser will be recommending is something the Town could look at on a regional basis.

M. Comp Time review: # of hours without approval.

Mr. Blanchette said that this was coming up under Correspondence #5.

7:05 PM

Mr. Fernald put Mr. Short next as a Department Head. He said that the Board understood there was a problem spending too much money.

Mr. Short agreed that there was, in the overtime account. He said that, as he has said right along, his department has been shorthanded, the overtime account over the past several years has been \$25,000, which was not anything they could live within. He added that they have spent, by the end of May, \$72, 614 and short by \$47,615.

Mr. Moynahan asked how that fell into the whole payroll account.

Mr. Short said that what was left in the payroll account was \$47,882.

Mr. Moynahan said that overtime should be minimized now, that they have a \$40,000 fringe benefit mess-up. He added that he recognized that overtime is always a tricky issue but, even though it was a \$40,000 figure, it's still \$72,000 in full payroll,. He said that the Board presented to voters, in good faith, a budget and the Board is not allowed to override what the voters approved and this confuses him to no end.

Mr. Short said that the overtime that is being spent is just overtime to fill the shifts. He added that, out of that \$47,000 there's probably \$10,000 worth of grants that is being reimbursed, so they would owe \$37,000. He reiterated that it's the same thing he's said every year, that the overtime account, that \$25,000, is an unrealistic number. He said that they would have a better picture this year provided that they stayed at full strength and they were already seeing, in this past month a dramatic reduction in the overtime.

Mr. Moynahan clarified that they made out okay last year, even though the overtime was over, the whole payroll line worked, even though that overtime line was \$25,000. He added that nobody asked for money last year and he was confused how they got to this overage this year.

Mr. Fernald said that the reality was that Mr. Short had a shortage in his department to the tune of \$47,000, more or less and there's no way that Mr. Short could see to get through the rest of the year.

Mr. Short said that, shy of cancelling people's vacation requests that have been approved, that they only have one month left. He added that he doesn't fill the overtime and what he should be filling it at - that when a person takes a 10-hour shift off, he tries

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to fill half of that shift, which ultimately leaves them short-handed. Mr. Short said that he was trying to work with the numbers he had, that he had an officer out on extended sick leave and that type of thing was unanticipated.

7:10 PM Mr. Fernald asked, with the \$40,000 the Board just approved for fringe benefits, what would be left in the Contingency Fund.

Mr. Blanchette said that he would have to double-check but he thought they might have \$77,000, but would not cover the \$48,000. He added that he could look with Ms. Spinney tomorrow to see if there was anything in the fringe benefits that could wait to be paid in to the new fiscal year but that presented a dilemma, itself.

Mr. Moynahan said that was robbing Peter to pay Paul and not a good way to run a business.

Ms. Place agreed.

Mr. Fernald asked what were the suggestions of the Board.

Ms. Place asked about the \$10,000 in grants.

Mr. Short explained that that was for seatbelts, drunk driving and speed enforcement. He said that he made the assumption that that money went back in to the payrolls.

Mr. Fernald asked if anyone had any suggestions, as they couldn't just pull it out of the air.

7:13 PM Mr. Blanchette said that the report said Police Department Grants \$36,000 and asked if there was something that came in at the early part of this year.

Mr. Short said that there was a joint grant that they did for nine police departments and that money came in and went right back out again, explaining that his department got \$3,000 of that money.

Mr. Blanchette said that he was wondering whether Mr. Short's overtime account could be billed to some of the police grants or if it already has been billed – he couldn't be sure without talking to Ms. Spinney.

Mr. Fernald suggested that Mr. Blanchette and Mr. Short sit down and look at that and come back with a way to correct this and, if the Board had to have a special meeting to deal with this, then they could do that to get it resolved.

Mr. Fernald's suggestion was agreed to by consensus of the Board.

New Business (Correspondence List):

7:15 PM
#1

TO : Board of Selectmen
FROM : Law Offices of Sanford Roberts
REF : Blueberry Lane/Greenwood Avenue

Mr. Fernald said that this is a letter stating that they believe the Town is responsible for the sewer line that is connected from the Blueberry Lane lots to the Town sewer system. He asked if Mr. Roberts would like to speak.

Mr. Roberts said that he thinks he said everything regarding information the Board needed in his letter. He said that it appears from the records that, when this was approved, it was approved with the Planning Board (PB) indicating there was going to be public sewer – it was installed, tested, inspected and was accepted by whoever did the inspection back then and then all the lots were connected and all the people on Blueberry Lane thought they had a public sewer. He added that, subsequent to that, a number of other non-Blueberry Lane people on Greenwood Avenue have been given permission to tie in by the Town. He reiterated that it appears everyone assumed it was a public sewer.

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Mr. Fernald commented that that was the key word – they assumed.

Mr. Moynahan read from the PB's Findings of Fact (FoF) that include "a sanitary sewer system would be a public sewer" and asked if there was documentation.

Mr. Roberts said that he had a copy of the PB's decision.

Ms. Place said that it was not then an assumption but a fact.

Mr. Roberts agreed, that it was referenced, and said that he had a prior letter from Code Enforcement Officer (CEO) Jim Marchese and thinks he indicated that, as well, in his letter.

Mr. Fernald invited CEO Marchese to speak.

Mr. Marchese said that he hoped the Board reviews the letter he wrote April 12, 2011, when this issue first came to light. He added that there are two building applications pending for the Board's decision on this issue. He said that he heard this week that there is the potential for another building that wants to go in on Greenwood Street and he needed to get a resolution for this issue.

Mr. Roberts said that his client has not told any of these people that have tied in that this is an issue and what their reaction would be he wouldn't know. He added that, had it been understood at the outset that it was going to be private, then they would have formed a homeowner's association and would have started funding maintenance for this line going forward – that never happened and he didn't know what the answer would be for the people who were tied in after the fact, who would then have to be told that they are now on a private line. Mr. Roberts said that. Has it been a private line and understood to be when these people asked to be tied in, they would have been charged a fee to tie in to a private line, which would have gone in to a fund for future maintenance and that sort of thing and that was never done, either. He said that he didn't know who told them they had the right to tie in – it wasn't the developer and it wasn't the Blueberry Lane residents that told them they had the right to tie in.

Mr. Fernald said that tying into a sewer is different than the Town owning that portion of the sewer.

Mr. Roberts agreed.

Mr. Fernald said that the Town needed to know what was being tied into the sewer based on the allocation that Eliot has with Kittery. He explained that, with past places like Sawgrass Lane, people have tapped in to the Town sewer but the Town does not take care of that portion of it, it is the homeowner's association that does that. He said that the Town does not vote to accept sewers from private organizations. Mr. Fernald commented that, as he looks at it, it was no different than anyone else tapping in to the Town sewer, that they have to pay a betterment fee to connect to the Eliot sewer and Blueberry Lane has done that. He clarified that that doesn't mean that the Town of Eliot maintains that sewer line but that it is the responsibility of the homeowner to maintain their line that is connected to the Town sewer.

Mr. Roberts clarified that Mr. Fernald meant the line from the house to the sewer.

Mr. Fernald said yes.

7:20 PM

Mr. Roberts said that he certainly didn't disagree with that.

Mr. Fernald said that that was how he would look at Blueberry Lane, that all those homes there have a sewer connection that then taps in to the Town sewer line.

Mr. Roberts said that he guessed he didn't understand the PB's determination of FoF that it would be a public sewer. He said that a sewer line goes into a street, based upon approval and he assumed that the developer assumed that, once he was done with it and has satisfied the Town that it was done properly, that the Town would take over responsibility for maintenance of that, based on the PB approval. He reiterated that, if

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the PB had said this was going to be a private sewer line, then it would be a private sewer line. He said that it did not seem unreasonable to him that the developers at the time, based on that approval, put the sewer line in, get it up to whatever specs were appropriate at the time – it was tested, it was accepted, people were permitted to tie in to it – all under the assumption that it would be a Town sewer line. Mr. Roberts said that, if there is something in there that the Board feels would give somebody the impression that's not true, then he guessed he would have to rethink this but it certainly appears to him that, from the beginning, it was intended to be approved as a public sewer. He said that, after that, the additionally people who tied in didn't go to the Blueberry Lane owners and ask if they could tie in to their sewer line – they came to the Town and somebody here permitted them to tie in. He discussed the Bolt Hill project as an example. He said that it was tied in to the private sewer line that comes down from Eliot Commons that they paid \$40,000 to tie into but that's what they negotiated. He added that, if this (Blueberry Lane) was a private sewer line, then the other seven people who are in to it would have had to come to the association and ask to tie in to their sewer line – then they would have paid a fee and that would have gone into a fund and, since 2002, this fund would have been built up so that there was money for maintenance.

Mr. Fernald asked if Mr. Blanchette had any comments.

7:23 PM

Mr. Blanchette said that the only commented he had was that, regardless of what the PB says, it would have to go to a Town Meeting for approval. He said that the Board of Selectmen could not just accept a sewer line.

Ms. Place said that it says, "The Board's findings of fact included that the sanitary sewer system would be a public sewer." and asked if that didn't mean that the Town owned it automatically – that's the Town's public sewer – why would they have to accept it. She added that she could see accepting the road but the sewer was the Town's, anyway. She said that the connections from their homes to the line were their responsibility but that sewer line...it says it's a public sewer and belongs to the Town.

Mr. Moulton said that, since he's in charge of the sewer, he likes to be kept up-to-date and involved in some of these ongoing correspondences so that he knows what's going on. He discussed that the definition of 'public' could have several meanings: a public road is used by all people and public could mean that everyone has a right to use x, y, or z, saying that the definition of 'public' didn't necessarily mean Town-owned but is public – a line that is used by all. Discussing a portion of Greenwood Street, Mr. Moulton said that they had discussed this in SC meetings that there were no "as-builts", no documentation of how it was constructed and Blueberry Lane ties in to that line. He said that there are a lot of details that were not being clearly discussed and suggested that the Board really look at the definition for 'public' in relation to the use of that line.

Mr. Lytle said that he thought the Board was using the word 'public' in the wrong sense and agreed with Mr. Moulton. He added that they have two or three other systems and he was involved in a couple of them, clarifying that most of those right-ups like that were saying that they had the right to hook in to the public system but it didn't mean that the public was going to take it over.

Mr. Murphy said that that was somewhat how he felt. He added that he believed the PB erred in their description of what it was they were approving and believe that what they meant to say was that the private line could tie in to the public line on Main Street and, in that sense, it uses the public system. He added that he doesn't think that the PB has the authority, at all, to make such a decision about the Town taking it over – that's a clear violation of their responsibility.

Mr. Moulton said that, as they've discussed a few times that, when the Town accepts a road, it accepts the road and what corresponds to the road – drainage – the Town is voting on the stability of the road surface, which is the drainage, and the construction and feasibility of the road. He added that it doesn't include utilities.

Mr. McPherson asked who owned the sewer on Sawgrass Lane.

Mr. Fernald said that the homeowner's association owns that sewer.

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Mr. McPherson clarified that it was the Town's responsibility once it got to State Road.

Mr. Fernald confirmed.

Mr. Moynahan said that, using that example, Blueberry Lane could be maintained privately. He asked if that was a public road, currently.

Mr. Moulton said that it was.

Mr. Moynahan said he was still baffled – the Town charged betterment fees and they could get into semantics about private and public but what does the Town's definition currently say, whether they're right or wrong. He said that he thinks public is public – inspecting these things, having the “as-builts” says shame on the Town, whoever was in charge of that. He added that they couldn't go back seven years and say, “You didn't do a good job putting this in.” - where is the Town responsible for overseeing this stuff.

Mr. Moulton said that there were ways to collect that data or get somewhat up-to-speed, now, that the Board could have an association do, that there were various things that could be done that would give the Board a better background and sense of what exists before you even looked to accept it, such as cameraing it.

Mr. Moynahan said that should have been done four connections ago before anyone else was allowed to tie in because that was for a seven-lot subdivision on Blueberry Lane. He added that someone at the Town said to go ahead, it's a public sewer, go ahead and tie in to it and that's where he gets confused with that. He added that he wasn't saying right or wrong – Sawgrass was the same thing - that he didn't think the Town should take that sewer over but, once it got to the connection point, it was the Town's.

Ms. Place said, also, it says “sewer line and all appropriate inspections and tests were completed prior to the seven lot owners tying into the line...”. She asked who installed the sewer line.

Mr. Roberts said that he believed it was KBM Builders, Inc. and it was Mr. Cullen, owner of Seacoast Builders, who applied for the two recent permits. He added that Mr. Cullen was also the owner of KBM Builders and Mr. Roberts believes KBM Builders was the developer on Blueberry Lane. He said that he has trouble believing that the PB said public when they really meant private, adding that he didn't think any of the Board believe the PB did not know the difference between public and private. He reiterated that, if it were to be a private sewer line, then they would have said this would be a private sewer line. Mr. Roberts said that, if the developer had said it was going to be a private line and the PB had said that the Town was not going to accept this, it was their subdivision and it's their line, it's a private line, then that's what it would have said. He added that in one of the Eliot ordinances, it specifies that the PB is obligated to detail, in their approval, whatever Town responsibilities are part of that approval and it seemed to him that that's what they did. He said that the word ‘public’ to everyone in this room, everyone in Eliot, knows what that word means – if someone says it's a public road, then everyone in Eliot assumes it is a Town road or State road, adding that, if someone says public sewer, then everyone in Town is going to conclude that that means it belongs to the Town.

Mr. Lytle discussed that the subdivision down on Meadow Lane has their own organization to take care of their system. He said that, if one looks at the report, it would show that they have their own organization and it would say that they were going to hook into the public sewer and that doesn't mean that the sewer would be taken over.

Mr. Moynahan asked again why there were four more connections – why did the Town allow four additional connections to this.

Mr. Roberts clarified that there were six connections – there were four existing homes and they gave someone the right to tie three lots in when he built.

Mr. Fernald said that, as part of that, they still need to know, as a Town, the allocation so, is that the reason the Town has allowed those connections.

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Ms. Shapleigh clarified that there was a law that, if someone is within a certain distance from a public sewer, then one had to tie in but she wasn't sure what that distance was.

Mr. Murphy said that 1,500 feet came to mind, adding that it didn't say that that tie-in became part of a public system.

Ms. Shapleigh agreed but, in asking why this has happened, that may be one more reason.

Mr. Moynahan said that, if it is a private system, then the Town should be the one to allow that hook-up and that's where he got confused, clarifying that, if that is a private line, then who is the Town to say for anyone else to tie in without that development or those people all being compensated to create their own ways and means for repair, etc.

Ms. Shapleigh asked if the Town got a betterment fee for those four.

Mr. Blanchette said that he would hope so. He clarified that whether or not that aspect of whether it was private or public, the Town would collect a betterment fee.

Ms. Shapleigh asked by what right.

Mr. Blanchette said that it was because it ends up in the public sewer.

Mr. Dupres (SC) said that the SC has requested documentation a number of times. He added that it was said this evening that it had been tested and accepted and the SC has no record of that – they have asked and asked. He added that he called Mr. Cullen this morning and about a half hour after he talked with him, Mr. Cullen showed up in his office and he showed Mr. Cullen the letters they had sent him through emails and he said not to send anything to his email because it didn't work, but send it to his www address and Mr. Dupres' office manager tried to explain to him that that was a web address, not an email address and Mr. Cullen repeated that they shouldn't send anything to his email address because it didn't work. Mr. Dupres said that, as a sewer committee, they have no record of the "as-builts" or the testing or the inspection nor do they know where in the street it is located. He added that, as a sewer committee, how can one even think of taking on something that hasn't even been approved.

Mr. Fernald asked Mr. Blanchette when a homeowner taps in to the Town sewer does the Town need that information of what is being connected – how, when, where, who.

Mr. Blanchette said yes.

Mr. Dupres said that, with a common GPS, they could do a GPS tie-in and put that on their maps. He added that it needed a proper tap and needs to be inspected and have proper fittings to enter into the sewer – he asked who did those inspections.

Mr. Moynahan said that someone failed, someone did not do their job. He said, again, no oversight and got the Town in a spot like this where people are displaced and angry and there are confusions and arguments – they were going backwards.

Mr. Marchese said that they do have records for the tie-in for 20 Greenwood Street, which was a failed septic system that was tied in a year ago. He added that they have very accurate "as-built" records of the service that wraps around the house and ties in to the force main on Main Street.

Ms. Place clarified that there were none for the others.

Mr. Marchese agreed.

Mr. Dupres discussed that Mr. Roberts said tonight that the system has been tested and engineered and asked where the documents were and why can't they produce those documents.

Mr. Roberts said that he did not have an answer to that and would certainly ask him if he has them – he should turn them over to the Town.

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

Mr. Dupres said that he believes it was N. K. Murphy who installed the sewer system. He said that the SC made a request to them and the SC can't get anything at all.

7:37 PM

Mr. Fernald told Mr. Roberts that the Board needed to look further into this and, obviously, it would not be on this next Town Meeting, anyway, to be approved by the Town.

Mr. Roberts said to assume that, for the sake of argument, one of two things were to happen: either he has the records that have been asked for or...does he understand that there is a way to establish that, as well.

Mr. Moulton said that there was.

Mr. Roberts said...or they do that. He added that, let's say that that results in the SC being satisfied that the line is acceptable if the Town were to take it as an acceptable line. He added that, until someone knows whether it is a private line or a Town line, all the people who are on it would have to be told that they would have to become an association and start funding maintenance of the line, which has been there since 2002, adding that the original people would have to decide how much the people who are already tied in would be charged by this association and he had a feeling they would not be happy about paying the fee. He also added that not only are they going to have to start paying a fee, they would also have to pay for maintenance, as well, and become members of the association. Mr. Roberts said that it was going to be a mess and he has no idea how much of a mess until they tell these people because he has a feeling that some of them would say, "Forget it, I'm not paying you anything. I'm not joining this association. The Town told me I could tie in." He said that that was one issue and that the other issue was that no one else could tie in until this was resolved, which meant that none of the lots could be sold, no one could build a house, for however long this took. He said that, as the Board said, it's a mess and, unfortunately, it's going to get a lot messier. He said that the question he had was, if the SC was satisfied as to where it is and what it is, then what was the next step. He added that they still hadn't answered the question as to whether the Town would accept it as a public sewer.

Mr. Webber said that Mr. Cullen told him this morning that he would not spend one penny to do the work (video) to find and locate it but would establish an association before he would spend the money to diagram that.

Mr. Roberts said that he may have said but it's not going to be that easy. He clarified that, even if tonight everyone said this was good and they should accept it as a public sewer, it would not get accepted at this next Town Meeting – it was too late for that.

Mr. Fernald agreed.

Mr. Roberts clarified that it would have to a Special Town Meeting or the next regular Town Meeting, if it were to happen.

Mr. Fernald said yes.

Mr. Moynahan clarified that the Town approved building permits for some of those lots out there.

Mr. Marchese said yes.

Mr. Moynahan asked if those were Mr. Cullen's lots or the other three lots that were already tied in.

Mr. Marchese said that the person who submitted for the permits said that he would not move forward until the issue was ironed out one way or the other.

Mr. Roberts said that Mr. Cullen had a purchaser for the lots who backed out because the question came up, which is part of the problem. He clarified that what Mr. Marchese was saying was that he could not tell anyone that they could tie in now because he didn't know if it was public or private.

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

Mr. Murphy said that, as a result of Mr. Dupres' statement about his conversation with Mr. Cullen, he thought it was very clear that Mr. Cullen recognized that it was a private system and he did not have the information that the Town would need in order to take it over as a public system, therefore, he could set up his association in the normal way and, maybe, a note to the PB to not do this again. He added that he didn't know if they could look in the records to see who, if anyone, at Town Hall approved adding something to a private system, etc., etc.

Mr. Fernald asked Mr. Marchese if there was a way to find out more information about this issue, any more documentation about this.

Mr. Marchese said yes, that he could ask Mr. Cullen if he would be willing to submit a letter to the Board indicating his position, he could document the times the other building permits were issued and what evidence they have of the location of the services on this.

Mr. Fernald said that the Board really needs more information on this before they could make a decision in order to move this to a Town Meeting.

Mr. Moulton wanted to note to the Board that he and Mr. Marchese have discussed this and agreed at this point that, from here on, things were going to be a lot different – that he and Mr. Marchese would get copies to review and discuss with the SC.

Mr. Fernald apologized to Mr. Roberts that the Board could not give him a decision tonight, adding that this would be scheduled for the next Selectmen's meeting.

Mr. Roberts said that they could only do what they could do and thanked them for their time.

Mr. Marchese said that he had a question for the Board, adding that he didn't mean to be a wise-guy and respected the Board, but he was curious as to how the Board could accept the gift of the tractor from SAD #35 that was known to be broken but the accepting of a public utility had to go to a Town Meeting.

Mr. Fernald said that he didn't think that was a really good comparison.

Mr. Marchese said okay, that he was just asking.

Mr. Moynahan said that sewer comes out of Blueberry Lane – does it go up Bolt Hill Road.

Mr. Moulton said that it went to Greenwood Street and Greenwood went to Main Street.

Mr. Moynahan said, so, the Town allowed a private system to go into a public road that was existing, not a newly-built road – they gave a road-opening permit and allowed someone to compromise the Town road and install this sump pump without any thoughts of it being a public system...

Mr. Fernald asked how long ago it was.

Ms. Place said seven years.

Mr. Marchese said that the plan was issued to the PB in 2002, adding that he had the plan if the Board wished to look at it.

Mr. Moynahan commented that that was already an approved Town road, not as a pre-existing, and they didn't get approval when they did it and now they were going to go back to these people and say, "Oh, by the way, nine years ago the Town altered something they technically shouldn't..." and that was the confusing piece of this – it should have been done right then and there.

Mr. Fernald told Mr. Roberts that the Board would look into this and would bring it back for the next meeting.

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

#2 TO : Board of Selectmen
FROM : B and RH Associates, Inc.
REF : Copy of letter sent to CEO

7:46 PM

Mr. Marchese said that he had indicated to the owners of the park that the lighting was an issue that had been ongoing for a long period of time and that it was something that needed to be corrected. He added that, in his opinion, it was a non-conforming use and he gave them 30 days to have it corrected.

Mr. Fernald said that they are, as they indicated, working on the situation.

Mr. Marchese said that he had since received a letter from the owners of the park, indicating that they had already made the repairs, spending \$600. He said that he was unaware of that, he had investigated and did not see any difference.

Mr. Moynahan clarified that they were going to file with the Board of Appeals (BOA).

Mr. Marchese said yes, that that was indicated in the letter and that he had not seen any more correspondence on this.

Mr. Fernald said that that was where it should go.

#3 TO : Board of Selectmen
FROM : Comcast
REF : Scheduled changes

This was informational.

7:47 PM
#4

TO : Board of Selectmen
FROM : National Alliance on Mental Illness (NAMI)
REF : Request to fly banner

Mr. Fernald said that they were requesting to put a banner over the road (in Town) to honor Mental Illness Awareness Week, which is October 3-9, 2011.

Mr. Muzeroll said that he wanted to make the Board aware that there are a couple of Town functions that go on that are advertised in that banner location during that period of time – Festival Day and Fire Prevention Week. He also discussed his concern about functionality about functions throughout the Town meeting certain specifications, such as who would put it up, who would be responsible for taking it down, etc. He clarified that it was his understanding that the Fire Department was the coordinating effort to get the banners up, that the basis behind that was for Town functions and that the Fire Department would control what would be there with the help of the Selectmen.

Mr. Short said that the other thing the Board might consider is that, when one starts to put bulletins or banners like that up from special interest groups, then where does one draw the line.

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

Mr. Moynahan said that it has not been allowed before and it would not seem smart to start it now based on the concerns of the Town departments.

Mr. McPherson said that the Town would be using that space at that time and so it would not be possible, anyway.

Ms. Place agreed with both Board members.

It was the consensus of the Board to deny this request.

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

Mr. Fernald asked Mr. Blanchette to send then a letter that Eliot would be using the banner location at that time.

Mr. Blanchette said that he would.

#5 TO : Board of Selectmen
FROM : Ted Short, Joel Moulton
REF : Comp Time

Mr. Fernald voiced a concern that this might just be another vehicle for vacation time.

Mr. Moulton said that he would have to agree...asking to be corrected if he was wrong, but he saw this as a budgetary control of overtime.

Mr. Moynahan asked to rebut what Mr. Moulton said. He said that when that person utilizes that comp time and the department is shorthanded with someone who has already worked 40 hours then that Department Head may incur overtime...

Mr. Moulton said that there was where he was going to go...it was up to the Department Heads to control that...it was up to them, as managers for the Board, to control their departments so that that doesn't happen. He added that that is a trust the Board has to have in them that they would manage their departments correctly.

Mr. Fernald asked for the pleasure of the Board.

Mr. Moynahan discussed having whatever information they needed to work on this policy.

Mr. Fernald asked Mr. Blanchette to bring that for the policy to the next meeting.

Mr. Blanchette said that he would. He added that that brought up the next item, which was Comp Time – year end. He added that, usually, he recommended the purchase of Comp Time that people have on the books but this year he would not recommend this for a couple of reasons. He clarified that, number 1, the Town was hurting for money and, number 2, they were not incurring any additional cost because there was no COLA this coming year and was sometimes the reason to pay it off at the lesser rate.

Mr. Fernald asked for the pleasure of the Board.

Mr. Moynahan asked if that would incur, potentially, twice the expenses next year, if they chose to pay it off.

7:55 PM Mr. Blanchette said that it should not because it could only care X number of hours of Comp Time.

It was the consensus of the Board to not buy back Comp Time

#6 TO : Board of Selectmen
FROM : Labor Relations Board
REF : Union – Decertification/Bargaining Agent Election

This has already been discussed.

#7 TO : Board of Selectmen
FROM : Dan Blanchette
REF : End of Year Reports

Mr. Fernald said that the Town Hall was requesting to shut down at 11 AM on June 30, 2011 to close the books, adding that this was something they did every year.

It was the consensus of the Board to approve closing the Town Hall at 11 AM on June 30 for this event.

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

#8 TO : Board of Selectmen
FROM : Richard Donhauser, Auditor
REF : Management Letter (am waiting for this piece of corres. Will put in your file in Norma's office when I receive it.)

Mr. Fernald said that this was not yet ready.

#9 TO : Board of Selectmen
FROM : No Correspondence
REF : Legal Fees – Increase at Town Meeting?

Mr. Blanchette said that he thought that, since they had been served with that case, he thought they needed to consider right off that, for next year, they would probably not have enough monies in the Legal Fee Account. He added that they could bring it up at the annual Town Meeting or wait awhile and see how it went, possibly appropriating additional funds at a future Town Meeting, if needed. He said that they would have a better idea three or four months from now how much that court Case would cost the Town.

It was the consensus of the Board to wait to see how this court case went to see if they would need additional legal funds.

#10 TO : Board of Selectmen
FROM : No Correspondence
REF : Special Town Meeting for Ordinances

Mr. Blanchette said that the ordinances were ready, that they got them today. He added that there has not been substantive changes from the drafts but one of the changes clarified who was acting under what authority to inspect the premises.

Mr. Fernald said that they needed to vote to put forth these ordinances for a vote at a Special Town Meeting on the 18th and they needed to decide at what time that Special Town Meeting would be. He added that he recommended that the Special Town Meeting be at 6:30 on the 18th of June.

Mr. Moynahan moved, second by Ms. Place, that the Board hold a Special Town Meeting June 18 at 6:30 PM to address the three specific ordinances regarding adult entertainment.

Mr. Blanchette said that the Board needed to remember this was the same day that they would have the Annual Town Meeting.

Mr. Fernald agreed and said that the reason behind this is that everyone knew that this Town Meeting started at 6:30 and, if they had it prior, say at 6 PM, then they would not get the additional people. He added that it would obviously create a longer Town Meeting and that the regular Town Meeting would be directly after the Special Town Meeting.

Mr. Blanchette said that it was for five articles, the first article to elect the moderator and the last article to repeal the existing moratorium, with three ordinances to be voted on.

VOTE
3-0
Chair concurs

8:02 PM At this time, the Board signed the warrant for the Special Town Meeting.

Mr. Fernald said that Attorney Bergthold would attend the Special Town Meeting, speak on the articles and answer any questions.

#11 TO : Board of Selectmen
FROM : Performance Appraisal Form
REF :

BOARD OF SELECTMEN'S MEETING
June 9, 2011 6:30PM (continued)

Mr. Blanchette said that, in his opinion and after reviewing it, the crux of the form are the goals and objectives and that is where the emphasis should be. He added that they should be able to sit down and be able to discuss what next year's goals and objectives should be.

Mr. Moynahan said that he would bring a sample he had to the Board for their review.

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

Mr. Fernald commented that this would be Mr. McPherson's last meeting, besides the Special Meeting and personally thanked Mr. McPherson for serving on this Board.

Mr. McPherson said that, when this meeting adjourns, he will have completed 36 years of elected service. He talked about the Town Hall starting out at the Grange Hall with the Selectmen and Town Clerk. He added that, when they moved down to the old school house, they thought they were just it. Mr. McPherson said that, as he looks back on the years, he always likes to think that he left things in better shape than when he started. He talked about serving as a trustee for the Library for 30 years and in the legislature for 14 years. He said that it has been fun and a great bunch of people. He said that he could remember Harold Howe saying to him, recognizing many people didn't like him but he was the one who taught him the ropes right off the bat, that he needed to remember that he was a servant of the people and not their master and when one forgets that things go wrong.

Executive Session

There was no executive session tonight.

Adjourn

There was a motion and second to adjourn the meeting at 8:10 PM.

VOTE
3-0
Chair concurs

DATE

Roberta Place, Secretary