

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM**

**Quorum noted**

**6:30 PM:** Meeting called to order by Chairman Moynahan.

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

**Absent:** Mr. Dunkelberger

**Pledge of Allegiance recited**

**Moment of Silence observed**

**Approval of Minutes of Previous Meeting(s)**

**6:32 PM** Motion by Mr. Beckert, seconded by Mr. Hirst, to approve the minutes of June 28, 2012, as amended.

**VOTE**

**3-0**

**Chair concurs**

**6:35 PM**

**Public Comment:**

Mr. Pomerlau discussed last week's meeting when the Public Works Director made his plea for clerical assistance and that he was getting bogged down as the paperwork kept increasing. He said he thought on the subject of his budget and his paperwork and everything else that he had a great deal of credibility in this Town. He added that Mr. Moulton's offers of improvements and his budgets were always well-documented and well-explained and he thought that everyone here gave him a great deal of respect when he gave warning that there could be a problem. Mr. Pomerlau said that he thought that there was a solution available. He added that, based on Mr. Moulton's own recommendation in the last budget, he suggested the manager of the Transfer Station should be downgraded four pay grades. He said that Mr. Moulton did that because he felt that position wasn't necessary and wasn't really part of the overall 10% employee reduction because he did that before on his own initiative as a department manager feeling that it was an unnecessary position and didn't need another manager there. He added that within the context of that personnel reduction package that got rolled back by the BOS, which was discussed in a private session, that piece of his recommendation was reversed. He said that he thought it was time to bring it back because it was a solid management decision to eliminate or reduce a position that Mr. Moulton felt he didn't need. He said that that would free up somewhere in the ballpark of \$20,000 and they could buy some clerical assistance. He added that that would take that burden off his back and make better use of his time and they wouldn't be funding a position that wasn't necessary.

Mr. Moynahan said that was under Personnel and the BOS could speak to Mr. Moulton in a proper setting about that; that they could certainly have some conversation with him to see if that would fit.

**Department Head/Committee Reports**

**6:37 PM** Mr. Muzeroll said that, as they knew, on May 23<sup>rd</sup>, 2012 there was a fire on the USS Miami at Portsmouth Naval Shipyard in Kittery and the Eliot Fire Department responded as part of their mutual aid pact. He added that they sent an engine company, fully manned, with Lieutenant Jason Beauregard, driver/operator Robert McPherson, and firefighters Gary Berg, Chris Robinson and Will Reichert. He added that they were assigned to a shipboard firefighting team. Mr. Muzeroll said that the US Senate did something that he thought was a start of the recognition of the area firefighters – Senate Resolution 488 honoring the firefighters. He read it to the public. He said that the resolution listed all the communities and departments that were a part of the support of that event. He said that those firefighters who were directly involved will receive a copy of this for their personnel files, as well as a couple of other letters; one from Kelly Ayotte and one from Chellie Pingree, which pretty much mirrored what the resolution said. He wanted everyone to know that they may not update them on stuff but they were a part of what went on around here. He added that the resolution would be on display at the Fire Station.

Those in attendance at the meeting were very appreciative.

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**New Business (Correspondence List):**

**6:40 PM**

**#1** TO : Board of Selectmen  
FROM : Eric Spenlinhauer  
REF : Update on Video Streaming

Mr. Moynahan said that this was an update on the video-streaming and thought that, once this was complete, they could move forward with the how-to.

Mr. Blanchette said that he thought that they needed a motion to go forward with approval of the expenditures because it was a hair over \$2,000.

Mr. Murphy moved, second by Mr. Hirst, to approve the expenditure of up to, or around, \$2,019 to further implement the information system at Town Hall.

**VOTE**

**3-0**

**Chair concurs**

**#2** TO : Board of Selectmen  
FROM : Shipyard Brew Pub  
REF : Celebrate Maine Festival

Mr. Moynahan said that this was a request for liquor license at the Celebrate Maine Festival from Shipyard Brew Pub, that Derrick Casey was present, and asked if anyone had questions.

Mr. Beckert said that, as President of the Board of Trustees for Raitt Family Farm, he was going to recuse himself from this.

Mr. Moynahan said that he didn't personally think that was necessary in this instance but thanked him.

Mr. Murphy moved, second by Mr. Hirst, to approve this application for a Special Permit for Catering Privileges Off Premises by Shipyard Brew Pub 1, LLC to be at Raitt Farm.

**VOTE**

**2-1 (Mr. Beckert abstained)**

**Chair concurs**

**6:43 PM**

**#3** TO : Board of Selectmen  
FROM : Bernstein Shur  
REF : Consent Order (Mills Issue)

Mr. Moynahan said that, as requested, the Board had the CEO follow up with the attorney as it related to the Old Farm Lane issue that Ms. Mills had brought in. He added that it seemed to indicate that the Town was not involved with the Settlement Agreement between the two parties. He also said that he thought the attorney's opinion was that the Town had no standing as far as enforcing any of that part.

Mr. Murphy agreed that that seemed to be exactly it under the current larger Consent Order, as it predated the Consent Order, and that the Town's legal advisor has said that the Town was not to do anything. He added that the opinion was that this was a civil matter between the two parties if they disagreed or someone had breached the agreement.

Mr. Beckert asked Ms. Mills if she had received a copy of this letter.

Ms. Mills said that she had.

Mr. Moynahan clarified that, at this point, no action was required from the Board.

**#4** TO : Board of Selectmen  
FROM : CEO, Jim Marchese  
REF : Great Hill

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Mr. Moynahan said that this was removed at the request of the CEO as it was not yet complete.

**6:45 PM  
#5**

TO : Board of Selectmen  
FROM : CEO, Jim Marchese  
REF : CEO Office and Organizational Efforts

Mr. Moynahan said that this was a request from the CEO to be removed from his obligations as TIF Administrator and Sewer Committee Liaison and asked if there were any comments or concerns with this request. He added that he believed there were currently two TIF administrators, Mr. Blanchette and Mr. Marchese, so they would need to have another TIF administrator to fill that role. He said that, as far as the SC, he believed they recently increased their numbers.

Mr. Murphy said that he would be willing to agree to be liaison to the SC but he would like an expression of opinion from Mr. Moulton and the Chair of the SC if they felt a need to oppose this or let the CEO go about his business.

Mr. Moulton said that he did not have any issues.

Mr. Dupuis said that he did not have any issues.

Mr. Moynahan said that they should have a second person as TIF administrator, that they didn't have to come up with anyone tonight but should think about who might fill this position.

Mr. Beckert asked if two were required by law.

Mr. Moynahan said no but it seemed that the work load was enough that it could be split between two people so as not to affect their day-to-day.

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen grant Mr. Marchese's request and remove his obligations as co-TIF Administrator and as a Sewer Committee Liaison.

**VOTE  
3-0  
Chair concurs**

**6:49 PM  
#6**

TO : Board of Selectmen  
FROM : Town Clerk, Wendy Rawski  
REF : Sewer Committee Appointments

Mr. Murphy moved, second by Mr. Beckert, to approve the appointment of the following: William Hankin for reappointment as a regular member for a term of three years, term to expire in 2015; Jack McDonough for reappointment as a regular member for a term of three years, term to expire in 2015; Richard Russell for reappointment as a regular member for a term of three years, term to expire in 2015; Charles Bradstreet, as requested, to serve as an alternate member for a term of one year, term to expire in 2013; Richard Donhauser, as requested, to serve as an alternate member for a term of two years, term to expire in 2014; Grant Hirst, as requested, to change his membership from regular membership to alternate membership for a term of two years, term to expire June 2014; Janice Hastings, as requested, to serve as an alternate member for a term of three years, term to expire June 2015.

**VOTE  
3-0  
Chair concurs**

**6:53 PM  
#7**

TO : Board of Selectmen  
FROM : Town Clerk, Wendy Rawski  
REF : Retention of Meeting Videos

Mr. Moynahan said that, as requested, Ms. Rawski investigated the legal requirements for retaining the video-taping of various board and committee meetings found under Rules for Disposition of Local Government Records, Disposition Schedule A. Series

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A.56.a.and A.56.b. He added that the BOS had questions about the video-streaming and he thought this clarified what their responsibilities were and how to move forward with establishing a policy.

**VOTE**

**3-0**

**Chair concurs**

**6:54 PM**  
**#8**

TO : Board of Selectmen  
FROM : Robert Pomerlau  
REF : Police Cruiser

This was regarding a vote taken at Town Meeting to approve \$18,000 to be put into the Police Cruiser Reserve Fund to be held for future purchase, not to buy a police cruiser this fiscal year. Mr. Pomerlau was requesting that the Board rescind their motion to approve purchase of a police cruiser they took on July 7, 2012.

Mr. Moynahan asked Mr. Blanchette if he followed up on the tape of that meeting.

Mr. Blanchette said that he did not because he felt it was not necessary. He added that Mr. Pomerlau pointed out in his Memo that the amendment was made by Mr. Beckert to raise \$18,000 for the Cruiser Reserve Fund. He clarified that, once it was approved for the Cruiser Reserve Fund, the Selectmen had the authority to expend the money. He added that there was no additional amendment to limit when it was to be purchased.

Mr. Moynahan asked Mr. Pomerlau clarified that for him.

Mr. Pomerlau said not really and that it flew in the face of the logic of what went on. He added that the initial request was to buy the cruiser this year and that amendment did not pass. He said that, instead of buying it this year, the voters decided to put the money in the Reserve Fund so that it could be purchased later. Mr. Pomerlau said that to buy it a month after the voters had just said that they did not want to buy it this year flew in the face of what the voters approved.

Mr. Moynahan asked if the warrant article was actually for a purchase or was it for the Reserve Fund.

It was for a purchase.

Mr. Pomerlau said that the Chief said that it wasn't his idea to bring it back, he had taken it out of the budget, he could live without it in the face of budget reductions. He added that it was the BOS's and BC's recommendation to put it back in the budget but the Chief wasn't adamant that he needed it approved but went along with the fact that they could put the money in the reserve for the future. He added that the Chief had no objections to it.

Mr. Fisher said that he was the one who made the motion to indefinitely postpone it and, while he was at the microphone, he suggested it would be good if they could take that money and put it in the reserve account and would solicit a motion for that and, then, Mr. Beckert got up and made the motion that Mr. Fisher presented to the Town. He added that he then withdrew his motion for an indefinite postponement, thinking that it was going to go into the reserve account for next year.

Mr. Moynahan said that, as Mr. Blanchette said, it was a reserve account that was funded and the BOS could, at their discretion, authorize to expend funds. He added that that came on the heels of the Chief requesting to replace that, that it wasn't the BOS asking the Chief if he wanted to replace a car. He said that the department head came forward with legitimate concerns with his vehicle and the cost of repairs that would be required, so, he thought the Board made the decision to allow the Chief to expend the money that was in the Vehicle Reserve Fund for that purchase, based on the Chief's request.

Mr. Murphy said that it has been his understanding and his long experience that this was exactly what the Selectmen were supposed to do and they had the right to do. He added that they know the monies exist and uses that are needed to be expended for and they make the decision to do that once the money has been authorized. He added that the

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Town knew it would be expended eventually and, if it came up sooner, then the Selectmen could do that and they did – it was legal.

**7:00 PM**

Mr. Fisher said that he did not deny the fact that the Board had the power to initiate and buy a vehicle for the police department, that he had no problems with that. He added that they were all at Town Meeting and they knew what went on and, if he thought this was going to happen, then he would not have made the suggestion to do what they did, that he would have moved forward with his motion to indefinitely postpone and felt very confident that his motion would have passed. He said that at any meeting, especially the Town Meeting, the people looked to the BOS to do what the people suggested happen and what they voted for. Mr. Fisher discussed two quarts of oil a week in a vehicle – he had one that he was driving that had 150,000 miles on it and he put two quarts of oil in it every other week – that it was functional and so was the cruiser and he thought it was kind of a shame on the Police Chief for making that motion, that he knew what the intent was all the time.

There was no more discussion.

**7:02 PM**  
**#9**

TO : Board of Selectmen  
FROM : Robert Pomerlau  
REF : Public Right to Know Law

Mr. Moynahan said that this was a Memo from Mr. Pomerlau with a bunch of information included as it related to freedom of access and that sort of thing. He asked Mr. Pomerlau if he would like to speak to this.

Mr. Pomerlau said that within the subject of having three members of the Selectmen at a SC meeting and the way he read the Freedom of Information Act, that that constituted a quorum. He added that he knew it wasn't illegal for them to participate but if three were going to be in one spot, then that constituted a quorum and a required public notice. He added that the simple solution would be to include a notice with the SC meeting that the Selectmen were meeting, as well, or one of them not participate.

Mr. Moynahan said that he thought that that would be Town business that was being conducted and not specific to the SC.

Mr. Beckert agreed and said that there were three Selectmen at the SC meeting, in name only. He explained that two members of the Selectmen were also members of the SC, that the SC is an advisory committee and only those two gentlemen voted as members of the SC and the third Selectmen was only there as a liaison and not voting on anything that was being discussed. He added that the SC's recommendations were forwarded to the full BOS so there was nothing outside of the Freedom of Information Act. He said that what Mr. Pomerlau wrote has been taken out of context and clarified it was regarding unintentional public proceedings and there was nothing unintentional about SC meetings, that they were posted meetings, there happened to be two members of the SC that happened to be members of the BOS, which was allowed by law, and the third Selectman happened to be there, in name, as the liaison so, they were not conducting Town business but SC business, which was an advisory committee to the BOS. He clarified that all the requirements, in his opinion, were met for the Freedom of Information Act and there was no requirement for them to announce that the Selectmen were holding a meeting because the Selectmen were not holding a meeting.

Mr. Murphy said that he agreed with Mr. Beckert.  
Mr. Hirst agreed with Mr. Beckert.

Mr. Moynahan said that, although the perception may be there, he thought that it did not qualify as a meeting of the BOS based on what he has read and the research he did over the weekend. He reiterated that it certainly could give that perception but he did not believe there were any illegal occurrences happening.

**7:05 PM**

Mr. Murphy commented that they were not spending money there and all of them had been working with the sewer problem for many years. He said that he has been on the SC since 2001, that he had a lot of information and so did Mr. Beckert, and it would be a shame for them not to be there. He added that, if Mr. Pomerlau's complaint was that a

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special public notice would solve this problem, then Mr. Murphy felt that it was sufficient public notice has been made that the SC meets at precise times, regularly, and the fact that members of the BOS are SC members and a liaison were public knowledge – they weren't hiding anything, there was nothing to be hidden, there was no problem and they were all trying to solve a continuing problem.

Mr. Pomerlau said that when they read the supporting materials that somebody dug up that it really wasn't a question of whether or not – it was a formal meeting in the Unintended Meeting paragraph – it wasn't an intentional BOS meeting, that three of the Selectmen were in one place in a public area discussing public business and that constituted a quorum.

Mr. Moynahan said that it was an intentional meeting because it was pre-scheduled and predetermined and would not qualify as "unintended".

Ms. Shapleigh commented that those three didn't sit in a corner and talk amongst themselves but joined them (SC) all at the table, which was open to the public, and she thought this was ridiculous – it was nitpicking.

**7:07 PM**

Mr. Murphy said that, as the Selectman liaison, he tried to give as little direction as possible in order that the SC not feel that the Selectmen were trying to run that committee, which was exactly what the liaison position was not supposed to do. He added that there have been one or two instances where the liaison Selectman really tried to run the committee and they were not there to run it but to know what was going on a bit better and to give the benefit of their experience when that seemed appropriate.

Mr. Moynahan said that they could certainly have discussions in the future, as a Board, to see if there were perceptions out there that they may consider but, for now, he thought it was status quo.

**#10**

TO : Board of Selectmen  
FROM : Joel Moulton  
REF : Items for BOS Meeting Agenda

Mr. Moulton discussed hold-over monies from the Transfer Station. He said that he was requesting to use \$40,000 from the remaining balance of the 2011/2012 Transfer Station budget. He added that the total remaining balance was \$55,335 and the majority of that was the result of decreased tonnage. He explained that he wanted to use the funds for improvements to the Transfer Station such as paving and resurfacing at the Transfer Station Facility. He added that the money budgeted in the 2012/2013 budget earmarked for the Transfer Station would then be utilized for additional paving and repairs on Town roadways.

Mr. Moynahan asked him if he had estimates of what it would cost to pave the areas at the Transfer Station.

Mr. Moulton said yes, that it would cost \$39,000 and change.

Mr. Beckert moved, second by Mr. Hirst, that the Public Works Director be empowered to utilize the \$40,000 from the remaining balance of the 2011/2012 Transfer Station budget for the purpose, as stated.

**VOTE**  
**3-0**  
**Chair concurs**

Mr. Moulton discussed the Drainage Material Request for Cedar Road culvert replacement, that he had received three bids, and recommended hiring Eliminator, Inc. for a bid price of \$8,870.

Mr. Moynahan asked if this was a budgeted item.

Mr. Moulton said that it was.

Mr. Murphy verified that the actual length of the culvert was 60 feet.

Mr. Moulton said that that was correct.

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Mr. Beckert moved, second by Mr. Murphy, that the Public Works Director be empowered to expend \$8,870 for the culvert for the Cedar Road repair from Eliminator, Inc. of Durham, NH.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moulton discussed the Sump Pump Inspection Notices, saying that a notice was sent certified mail to the four remaining sewer users who were in non-compliance with the Town Sewer Ordinance and that they had signed for the mail but not contacted him to set up an inspection date. He said that the certified mail pick-up dates were June 29, 2012 and July 13, 2012. He added that, under Section 10 of the Sewer Ordinance, the Town could impose legal action for non-compliance and was asking for the Board's direction on this matter.

Mr. Moynahan clarified that they didn't know that these people were in violation of the Sewer Ordinance because there has been no official inspection.

Mr. Moulton agreed that they didn't know.

Mr. Moynahan said that this has been an on-going battle to get compliance or visits into the houses to see whether there was full compliance, that there were four remaining and Mr. Moulton was looking for some direction.

Mr. Murphy asked Mr. Blanchette if they should go to the law, now, or knock on the doors.

Mr. Blanchette suggested the Board go to the attorney.

Mr. Murphy clarified that they should ask an attorney what steps they should take next.

Mr. Blanchette concurred.

The Board agreed that was reasonable.

Mr. Murphy moved, second by Mr. Beckert, to have Mr. Blanchette ask the attorney what the next steps would be for this Board relating to sewer inspections.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moulton discussed SMRPC/GPCOG planning initiative for York and Cumberland County (i.e. Sewer). *"One of the tasks of the sustainability project is analyzing where growth can occur in the study area and one of the factors being used to make assessment is the existence of sanitary sewer because its existence allows for more growth than where it does not exist. As part of the study Integrated Planning Solutions is looking to receive electronic shape files of the Town's existing sewer system which would allow for a picture of the affected geography in Eliot. Also, I would like the Board to consider allowing the impending sewer expansion project to be included in the study. I see it a **FREE** opportunity to have an independent look at the development possibilities within the Town and the TIF District. Once the data is compiled Integrated Planning Solutions in conjunction with SMRPC and GPCOG will communicate with the Town. The estimated time frame for discussion is anticipated around mid-August."* He added that this was more informational and, if the Board was willing to, he would like to forward this onto Underwood.

Mr. Moynahan said that he thought that was a pretty logical step.

It was the consensus of the Board to have Mr. Moulton forward this information to Underwood.

Mr. Moynahan said that he had one other correspondence and asked the Board if they wanted to discuss it this evening or did they want to review it first.

Mr. Murphy said that he would like to review it.

Mr. Moynahan suggested they have it put on their next agenda for discussion.

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Mr. Beckert asked where the list of questions came from.

Mr. Moulton said that he wasn't 100% sure but, based on the language, he thought it may have come from the BC.

Mr. Dupuis said that that letter was actually given to him at the end of last week's BOS meeting prior to the executive session from Mr. Fernald and that he was asked him to attend a Friday or Monday meeting. He added that when he contacted Mr. Moulton, Mr. Moulton instructed him not to do anything with it, at all, until it was discussed.

At this time Mr. Moulton gave the Board pictures of the rehabilitation of the manholes for their information.

**7:16 PM**  
**#11**

TO : Board of Selectmen  
FROM : Grant Hirst  
REF : Non-profit entities associated with the Town – insurance issue

Mr. Hirst said that the MMA wrote to him in an email dated June 17, 2010, "The Pool is set up by the legislation to provide coverage for municipalities and qualifying quasi-municipal entities. This separate non-profit corporation (He said that she was referring to Eliot Festival Days, which appeared on Eliot's application for insurance early July of 2010.) and its activities and accounts would not fall under the town's coverage." He added that she further pointed out, "They have their own web site and appear to be collecting their own funds and scheduling/organizing the Eliot Festival and 5K activities." He said that this was an entity that looked like it was part of the Town but wasn't and, as a consequence, it was not insured under the Town's policy. Therefore, he added that, when they conducted activities, then they were doing so, unless they had their own separate insurance, bare and they hadn't provide the Town with evidence of insurance to his knowledge. He added that he thought what they ought to do was to notify them that they were in that condition and see if they wanted to do something about it. He said that they probably did not expect that they were uninsured.

Mr. Murphy asked Mr. Blanchette if he knew whether he was aware of any insurance from them.

Mr. Blanchette said that he did not know but they had someone in attendance that might have an answer to that.

Ms. Adams said that she wasn't sure she could answer that because she had not been on the committee for quite a while. She added that she thought they needed a clarification. She said that she did not believe that the 5K road race was a part of the Eliot Festival Day Committee – that that was a separate entity and the Festival Day Committee was a quasi-Town entity that managed Eliot Festival Day with monies appropriated by the citizens of Eliot. She explained that even though they might be on that website together, the 5K road race started as a total separate entity and did collect its own funds. She said that Eliot Festival Committee used funds to generate activity and collected funds to pay for those activities.

Mr. Murphy said that he would recommend Mr. Hirst to talk with Mr. Lippincott and others of the Festival Day committee to settle this or maybe the BOS Chairman.

Mr. Moynahan suggested they could send a note requesting proof of insurance and if they did not provide proof then the Board could take action from there to find out what it cost the Town currently and what their reserves were.

Mr. Hirst said that that letter from their insurance company caused him to wonder if they had any other entities in the Town in the same situation. He added that the first one he thought of was the Fire Department's separate corporation for fundraising and asked if that was an issue that should concern Mr. Muzeroll; did Mr. Muzeroll have separate insurance.

Mr. Muzeroll said not to his knowledge. He added that they were pretty sure they felt as though they were under the Town's umbrella. He added that he didn't know that they were not.

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Mr. Hirst said that he didn't know that either. He added that his recommendation would be that they find out exactly what it was the entity did, find out about its corporate structure, and submit it to MMA for a determination because he didn't think they wanted to be operating uninsured. He said that, if he was covered under the umbrella of the Town, then he should know that.

Mr. Muzeroll asked if they were looking at the Fire Department, specifically, or Police Benevolent or any quasi entity because, right now, the Fire Department was the only one mentioned and he didn't know if there was something that came up that he didn't know.

Mr. Hirst said that any such entity that fell within the purview of what she said as respected Eliot Festival Committee, that he wasn't picking on the Fire Department at all.

Mr. Muzeroll clarified that he didn't think he was picking on the Fire Department; that it was just they were the only ones mentioned. He said that, in reading this and he wanted to be honest that, since this was not sent to him, this was the first time he had seen it and so hard to answer any of these questions off-the-cuff. He said that he didn't know that they weren't a qualifying quasi-municipal entity but he would certainly call MMA and ask them what their guidelines were for that identification, adding that he would contact Susan Caston, since she wrote the email and he would forward her answer to the BOS Chairman.

The Board agreed.

Mr. Fisher said that when they had their insurance policy with Peter Dennett all emergency services departments were covered.

Mr. Muzeroll said that he agreed with Mr. Hirst that the Town should look at this, clarifying that this wasn't an emergency situation they were talking about. He said that they were talking about extra-curricular activities that could be considered non-emergency activity but he would caution that that umbrella could be expensive to the Town for a number of departments. He added that he wasn't saying that they didn't need it but it would certainly require deep investigation. He said that he would email Ms. Caston, find out what their definition was, and they could go from there.

Mr. Hirst asked if anyone could think of any other entity in Town that might be like the Eliot Festival Committee, saying he could not.

Mr. Beckert said that, somehow, MMA has determined that, in their mind, Eliot Festival Committee was a separate non-profit corporation and asked Mr. Blanchette if they knew, in fact, if they were a separate non-profit corporation under the 501C rules for the State of Maine and the federal government.

Mr. Blanchette said that he didn't know if they qualified for the federal but he thought they were under the State.

Mr. Beckert said that his question was what did MMA base their perception of the Eliot Festival Committee being a separate non-profit corporation on.

Mr. Moynahan agreed and said that they would follow up on the Eliot Festival Committee and Mr. Muzeroll would do the same with MMA so, between the two, he thought they would get those questions answered.

Mr. Hirst said that the answer to the question was that they picked it up on the renewal application that the Town submitted for the July 2010 renewal – that was where the information was.

Mr. Beckert suggested they look at the application, as well.

**7:25 PM**  
**#12**

TO : Board of Selectmen  
FROM : Fire Chief, Jay Muzeroll  
REF : Community Services move

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Mr. Moynahan said that they had a committee of three that were looking at several areas, set-up costs, etc., for that department so he thought it would be wise to pass this letter on to them so that they could get some answers to it unless Mr. Muzeroll wanted to speak specifically to anything in particular.

Mr. Muzeroll said that he didn't need to speak to anything specifically. He added that he stood by what he put in the letter and that wasn't to say he was right on everything but he wanted to make sure it was part of the record that things were being circumvented and had one circumvented, previously, or it had that appearance that it may have.

Mr. Moynahan said that he thought there were some valid points to look at and make sure things were done proper and require anything elsewhere, they should hear. He asked Mr. Hirst to get copies to everyone in his group for review.

Mr. Fisher said that he offered his volunteer time and money to help them establish what might need to be done and he (Mr. Muzeroll) called it a conflict of interest. He added that he didn't think it was a conflict of interest. He also added that, if anyone had a conflict of interest it was the Fire Chief because they were talking about a building his daughter was moving into and he was kind of concerned about that. He said that he has done a lot of work in Town for no money, provided labor and materials, helped build a couple of ballparks, and helped at Dead Duck Inn and the Transfer Station and no one ever complained about him having a conflict of interest.

Mr. Moynahan clarified that there was a policy that, whenever there were going to be expenditures, then there had to be three estimates received for that work and that sort of thing. He added that the committee of three that were reviewing this will come back to report to the Board if there was a volunteer that has offered his services for free, then, maybe they would look at that in going forward with the policy and take advantage of that free offer.

Mr. Muzeroll said that he wasn't arguing that Mr. Fisher has not been helpful over the years as he has certainly offered and done some stuff for the Fire Department over the years but, as previously talked, Mr. Moynahan has been prevented, as a Board member, and there were other people who were elected, which Mr. Fisher now was as a member of the BC, that may have some bearing on how funds were spent in the future for any department and, if he was volunteering his time, Mr. Muzeroll was raising that as a question – was it a true conflict of interest or not. He said that, if it was not, then fine, but if it was, then don't let that bite them done the road by somebody else.

Mr. Moynahan said that the Board would look at the policies later and have some discussions about what was a true conflict of interest.

**7:30 PM**

Mr. Beckert asked if it would be appropriate at this time, for the record, to read Mr. Fisher's written confirmation as to what he offered the Town.

Mr. Moynahan said that would be fine.

Mr. Beckert said that the letter was dated July 23, 2012 and addressed to the Board of Selectmen. He read, "*This is to confirm my statement to you at your July 12, 2012 meeting. I am offering as an electrician and general contractor to review, plan out, and do the electrical work that is needed for the contemplated move for the Eliot Community Services Department offices to the Eliot Elementary School. My services are offered at no charge to the Town. I will also donate up to \$100 worth of material that might be needed for the electrical work. Please let me know when the assigned task goes forward to look at the site. I will go with them to see what their desires are and what needs to be done and then submit a cost estimate, if appropriate, for any additional materials needed. Sincerely, Robert W. Fisher, Master Electrician.*" He said that Mr. Fisher even provided them with his license number and the expiration date of the license, which was well into 2015.

Mr. Beckert suggested copies of this be given to the subcommittee, as well.

**7:32 PM**

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

**#13**

TO : Board of Selectmen  
FROM : MSAD #35  
REF : New School Bill

Mr. Moynahan said that Mr. Blanchette, when they were putting the agenda together, wanted to show what the Town's current monthly outlay was and he asked to go back as many years as they could to show what they had expended for both the Town and the school and where they were today, especially with the school expenses. He added that, in a 10-year period, that cost has increased 40% with declining enrollments. He said that, where this made up the biggest tax burden to their community, he knew they didn't have a whole lot to do with the school, but should they – should they start having more conversations about the financial obligations that the Town had when it came to the cost of education and, perhaps, working with the school a little more. He said that, with a modest budget increase this year, they could see what their monthly outlay was and it wasn't a modest increase. Mr. Moynahan said that, as much as the Board was criticized for not flat-lining budgets and not making enough cuts, this certainly identifies a glaring area that needed to be reviewed, so, he was bringing it up for conversation tonight to see if anyone had thoughts on what, if anything, they should do with this.

Mr. Hirst said that he would like to suggest that they consider asking their elected school board representatives to come and meet with the Board of Selectmen and get a sense of where they were, particularly in the light of decreasing enrollment and the use of undesignated fund balance.

Mr. Beckert said that he thought that was a good idea; get a dialogue with them on where they saw the district going over the next 5 - 10 years.

Mr. Moynahan said that maybe they could share the Town's financial frustrations that the school may not see.

Mr. Beckert said that, just for the public's benefit as he knew they didn't all have a copy of this, Eliot's monthly school district payment last year was \$610, 141.45 and this year that payment was \$656,465.34, for a total of \$7,877,584.00 that Eliot paid to MSAD #35 for fiscal year 2012/2013. He said that he thought one of the things this Board could do was to encourage the public to attend the school board meetings and the school budget meetings.

Mr. Murphy said that he said what he had to say at a previous meeting but, with many more of the public here tonight, adding that some may not have picked up on the figures that Mr. Beckert gave but the total amount of reduction that was made in the cost items at Town Meeting amounted to almost \$60,000, which was about 1 1/3<sup>rd</sup> of the increase in one month of this school budget.

Mr. Moynahan suggested Mr. Blanchette to follow up and schedule a meeting, maybe with Mary Nash, and see if they could start some conversation at one of their meetings and schedule that.

The Board agreed.

**7:36 PM**  
**#14**

TO : Board of Selectmen  
FROM : Public Works Director  
REF : Sewer Expansion Engineering Services

Mr. Moynahan said that they were waiting for some financial information from Mr. Blanchette. He added that the voters had voted to expend a certain dollar figure and the Board wanted to see what they had left for a balance in there. He asked if Mr. Blanchette would like to speak to the balance.

Mr. Blanchette said that there was \$38,000 left of that article.

Mr. Moynahan said that they had \$38,000 that was approved by the voters for the TIF project left and had a contract in front of them from Underwood and that they had someone from Underwood to speak to this, asking if anyone had questions as to the

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

scope of work. He asked for the pleasure of the Board, that they had enough money to move forward with this.

Mr. Murphy said that, since it appeared they had \$38,749.76 available of the still-approved funds, he thought they should use as much of that as they needed to continue these tasks that had been broken out involving the IMA, such as funding assistance and user rate impacts, public information and outreach, and continuing to nail down the negotiations between the Town and landowners.

Mr. Hirst suggested that some of these tasks be read to the public because they didn't have this document so they would know what it was they were trying to provide to them.

Mr. Moynahan said that they had the Intermunicipal Agreement (IMA) Review; Funding Assistance & User Rate Impacts; Public Information & Outreach; Cadastral. He said that those were the line items he saw, adding that they have had very similar contracts before the Board and this was an extension of what they have worked within for the last year or so. He added that there was someone from Underwood Engineers if there were questions the public would like to ask.

Mr. Fisher asked if Underwood charged the Town for their publicity to get the job they want to accomplish.

Mr. Moynahan asked for clarification.

Mr. Fisher said that, for example, they had a meeting down at The Commons and they did something like rent the room or give them goodies and asked if that came out of their bill and then they charged the Town for that amount of money or did they take it out of their profits.

Mr. Moynahan said that Underwood had line items for meetings in their contract so he was sure that was how they were managing it. He added that it was part of their public outreach and what they planned for. He said that the Board didn't micromanage but looked for a number of public information sessions from them so they budgeted for six and that was what the Town was paying for and wherever they planned to do them was entirely up to them.

Mr. Murphy added with the Board's oversight.

Mr. Moynahan agreed they had oversight on the content.

Mr. Fisher said that he didn't think he made himself clear.

Mr. Moynahan said that, to say that someone was advertising would mean that this Board did not have the oversight over a contract of this size and he didn't think that was the case.

Mr. Beckert said that he thought he heard what Mr. Fisher asked and clarified. He said that the meetings that they had at the Congregational Church Parish Hall and at the Regatta Room, those informational meetings they pay Underwood for their services to be there and do the presentation. He added that the Town rented the space and provided the refreshments – Underwood didn't do that and bill the Town. He asked if that clarified for Mr. Fisher.

Mr. Fisher said yes and thanked him. He asked if Underwood should be paying for that.

Mr. Beckert said that it was all donated. He added that the point was that, what the Town contracted Underwood to do was to provide their service to do the presentation, the power point, answer the questions from an engineering standpoint and the room and refreshments or anything like that were arranged by the Town, itself, whether the Town was charged by the Regatta or not. He said that was totally separate from what they were being billed for by Underwood.

Mr. Dupuis said that the very first meeting was sponsored by the Eliot Business Development Committee (EBDC) and the funding of the refreshments was done by a very gracious donation from the Eliot Commons Shipyard for the use of the banquet

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

facility along with the food. He added that the second meeting at the church was totally volunteer, adding that many of the people present tonight cooked and brought things for that, and there was no money spent for that at all.

Mr. Fisher said that he owned a business and, with that business with the public utilities of Maine, they allowed him so much money on the rate that he charged other people for publicity or advertisement or brochures he put out. He added that he was wondering if Underwood did the same thing, if they had the same right that he had.

Mr. MacDonald (Underwood Project Manager) said that they billed for their expenses and man hours, mileage and normal business items like that. He added that they were not in the business of advertising but were in the business of providing public information for dissemination to the public and cost information and engineering services and costs relating to engineering services. He added that the marketing of businesses and things like that for business in Eliot – that would be a business marketing company or real estate agency or something like that – that Underwood didn't promote that but provided information based on their assessment of the conditions.

Mr. Pomerlau said that in Task 6 it read, "*Provide assistance regarding economic forecasting. This will not include opinions of economic growth due to the sewer extension, but will be based on "what-if" scenarios.*" He said that he thought the thing they needed most desperately, as opposed to any more engineering studies, were financial reviews in terms of feasibility of this working. He asked what kind of qualifications he and his staff had to be doing the "what-if" scenarios.

**7:44 PM**

Mr. MacDonald said that certain development trends, if they were to continue as they had been, or to continue at a higher or lesser rate, then they could determine the impact to the general fund or TIF or things like that but those were all the "what-if" scenarios. He added that they could not say that a specific thing would happen; they could say what the user rate impacts would be if certain people connected or did not connect to the sewer or what the revenues would be that would come in to the sewer or the TIF fund if the Town built the sewer and development was to occur. He clarified that they could make projections based on that information but no matter what the qualifications were of the economic forecasters- that is what it was, an economic forecast.

Mr. Moynahan said that Underwood provided the numbers they provided based on hook-up fees and that sort of thing, which was important information to process and tabulate. He added that the financial piece they would be exploring moving forward with the TIF, that Mr. Moulton had presented something they were going to follow up with tonight, as far as forecasting financials out in that zone. He asked what was the pleasure of the Board regarding this contract.

Mr. Beckert moved, second by Mr. Hirst, that the Town enter into a contract with Underwood Engineering for ESR #6 for the sum of \$27,000.

**VOTE**

**3-0**

**Chair concurs**

**7:47 PM**  
**#15**

TO : Board of Selectmen

FROM : Several items

REF : Grant Hirst request to accompany inspectors, Selectmen's Policies and Ordinances Governing Boards, Committees and Commissions

Mr. Moynahan read the first sentence of Mr. Hirst's Memo, "As is traditionally done in private industry, management provides someone to accompany insurance company inspectors on the tour." and said that he thought the answer was in that sentence. He said that they had a department head that accompanied the inspectors on those tours. He added that, when Mr. Hirst's committee was set up, they had all kinds of missing safety issues within the Town and they needed someone else to help the department heads to take corrective action. Mr. Moynahan said that as far as accompanying inspectors on a routine basis he thought that started with department heads – they were tasked to follow up on any recommendations for deficiencies and, if they didn't do their job, then the Board could again appoint people to make sure they were doing their job. He added that

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

those were his thoughts on where they were with this and would like input from other Board members.

Mr. Murphy said that he thought this was a reasonable request. He added that he thought that they, as Selectmen, liked to be aware of things that were found out from the inspectors and tasks that they might give departments they inspect. He said that, once again, it was not micromanaging knowing what was going on in Town but was ultimately the responsibility of the BOS. He added that they hired department heads to run their departments and, if they had a chance to learn more about what was going on or what the problem might be, then he thought the Board would be derelict in their duty not to take that opportunity. He reiterated that he thought it was a reasonable request and he thought it should be approved.

Mr. Beckert said that he honestly didn't see any issue with Mr. Hirst or any other member of the Selectmen accompanying the insurance inspectors on these inspections. He added that he thought it was another set of eyes, whether it came under the guise of this risk management form of insurance or Risk Management Committee that the previous Board set up - he didn't know if that was necessary - but the Board's liaison could do inspections.

Mr. Moynahan asked if that would be scheduled through the department heads.

Mr. Beckert said that he would think it would be scheduled through department heads and department heads could tell Mr. Hirst, as a courtesy, if this Board chose him as the insurance liaison, to notify him and let him know when inspections were going to occur.

Mr. Hirst said that, with respect to the MMA inspections that come periodically every two years, they do let them know in advance. He added that he thought their contact was Mr. Blanchette. He said that, as far as the Maine Department of Labor (MDOL), they were forbidden by law to give any advanced notice - they simply show up - so, if it was the Board's wish, when they became aware a MDOL inspector was here and he could be reached, then he would be perfectly happy to accompany that person.

Mr. Moynahan said that the department head should be contacted first, though, and he would stand by his guns on that. He added that, with the chain of command, if Mr. Blanchette got a phone call on that he would disseminate it to department heads and department heads could reach out for assistance for risk management. He said that that was his thought on how it should go.

Mr. Moulton said that the MDOL offered safety training and they could go through the web site to schedule training. He added that he did some training with MDOL this year - they came to the Fire Station for a meeting, that they had some local contractors join them. He added that being proactive with them was a plus and helped keep communication open between the MDOL and the Town.

Mr. Moynahan clarified that they would keep risk management going using the proper chain of command with notification to Mr. Blanchette to department heads to risk management. He asked if that was the consensus of the Board.

Mr. Muzeroll said that he read that differently, saying that, to him, that was two requests. He added that one was to accompany any inspector and, if the Board wanted him to do that then they needed to authorize it, and the other was "*Insofar as the Insurance/Risk Management Committee formerly approved by the BOS, together with its mission statement, I would assume that there is no longer a need for that committee of one (me).*", clarifying with Mr. Hirst that these were two different requests.

Mr. Hirst agreed.

Mr. Muzeroll clarified that Mr. Hirst was recommending the Risk Management Committee be abolished and that he would notify Mr. Hirst of any inspections he was aware of.

Mr. Hirst said that he didn't know that the Board recommended it be abolished but he would be perfectly happy that it was, if that was what they wanted.

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

Mr. Beckert moved, second by Mr. Murphy, that Mr. Hirst be the Board of Selectmen's Insurance/Risk Management liaison to all department heads, through the Board of Selectmen, and that he be notified by either Mr. Blanchette or department heads of any inspections and given the opportunity to accompany department heads and inspectors on their inspections.

**VOTE**  
**3-0**  
**Chair concurs**

Mr. Moynahan said that they also had correspondence from Mr. Hirst regarding inter and intra board communications. He added that they had discussed this at their last meeting as far as roles and responsibilities of Selectmen with department heads. He said that he thought the members should take some time on their own to review as that they might see some things that might be missing. He said that he tried to find some guidelines that Mr. Beckert had mentioned but could not.

Mr. Beckert said that these policies have been rewritten and the actual ordinance governing boards, committees and commissions, they wrote that. He suggested reviewing because there may be some overlap between the policies and ordinance and there may be a couple of things that may be in one but not the other.

Mr. Moynahan said that he also thought it was important to touch on the roles and responsibilities as it related to communication with different department heads.

Mr. Murphy said that since the ordinance governing boards, committees and commissions was adopted, he had become aware of some deficiencies and omissions that probably ought to be included.

Mr. Moynahan suggested that they could put this on the Action List to review and rewrite the ordinance governing boards, committees and commissions.

The Board agreed by consensus.

**7:55 PM**  
**#16**

TO : Board of Selectmen  
FROM : Dan Blanchette  
REF : Evaluation Forms

Mr. Moynahan said that they had, for their review, some evaluation forms that Mr. Blanchette provided for them. He added that one was for employee evaluations and one was for performance appraisal for department heads.

Mr. Blanchette said that the Board was wondering what were the existing forms and these are the two approved by the Board.

Mr. Beckert asked how far back these went, did these go back to the time they were consulting with Dix Consultants.

Mr. Blanchette said that Appendix C did – the employee evaluation – and the other one was either last year or the year before.

Mr. Beckert clarified that the performance appraisal was new.

Mr. Moynahan said that the performance appraisal was new and thought it was closer to three years ago, when they were trying to move forward with department head reviews, they realized the appraisal forms were not sufficient, so they tried to tweak it in a manner that it would meet the criteria for all department heads because each job was so drastically different. He suggested the Board review these forms and make suggestions for changes or additions before they start the process for department heads.

Mr. Beckert asked Mr. Blanchette, for his information, if they still had a copy of what might have been on file prior to these newer performance appraisal forms so he could see where they differed.

Mr. Blanchette said that he would look to see if they were still available.

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

**Old Business (Action List):**

**8:00 PM** Mr. Moynahan suggested, because they were working on a couple of these each week that they not spend a lot of time on this at this meeting. He added that he has tried to redo this list a little bit to help identify responsibility and the actions of these things. He asked if they could potentially pick a couple of these to work on in their off meetings. He suggested the TIF and how to move forward, Mr. Moulton has invited some things they could have discussions on next Thursday and, perhaps, budget preparation and Mr. Hirst had provided everyone a copy of timelines in their box.

Mr. Hirst said that another he would like to see get worked on as soon as possible was #6 Auditor, Financial Statement, Management Letter, Finance Director, Personal Property Tax.

Mr. Moynahan suggested they put that on as well. He added that he would pass out to everyone something they received this afternoon from Mr. Donhauser, adding that they could bring this up for review, also.

The Board agreed to the agenda for next Thursday.

1. Sewer Contract Committee – Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette – IMA Update
2. Monthly Reports from Department Heads
3. Sewer User Rates, reserved allotments, odor, maintenance– Sewer Committee
4. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
5. Community Service Space – Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette
6. Auditor – Management Letter
7. Budget Preparation for next year – time line, etc.
8. Regionalization of Town Services – Mr. Moynahan, Mr. Hirst
9. Legal issues – pending and Consent Agreements
10. Information Technology – IT Committee
11. Amend Ordinance Governing Boards, Committees, & Commissions, Time lines for posting Agendas and Minutes
12. Liaisons to committees – review existing members & try to fill open spots
13. Employees – Cross-training, Charting earned times, job descriptions
14. Dispatch Service – Contract with Kittery, request from same, costs
15. TIFD reports and updates – Mr. Blanchette
16. Review sewer rates – Sewer Committee
17. Monthly Special Meetings for Action List
18. Taping of meetings – policy

**8:02 PM**

**Selectmen's Report:**

There were no Selectmen's reports tonight.

**Other Business as Needed**

There was no other business tonight.

**8:03 PM**

**BOARD OF SELECTMEN'S MEETING**  
**July 26, 2012 6:30PM (continued)**

**Executive Session**

Mr. Beckert moved, second by Mr. Hirst, to go into executive session as allowed by 1 M.R.S.A. § 405.6.A "Discussion or consideration of the employment, appointment, assignment, etc." - Personnel

**VOTE**  
**3-0**  
**Chair concurs**

The Chairman recognized Mr. Fisher.

Mr. Fisher had a point of order. He asked if the point of order for this executive session was for more than one person.

Mr. Moynahan clarified it was one department with an employee issue that they would be discussing.

Mr. Fisher asked if that was the whole department or one particular person.

Mr. Moynahan said that he wasn't quite sure until they got in there. He added that an employee issue came up before the Board and they needed to take that into the proper venue, which was executive session. He added that, at this point, they were in executive session.

**8:25 PM** Out of executive session.

Mr. Beckert moved, second by Mr. Murphy, that Transfer Station employee, Charles Bradstreet, be moved to pay scale Step 2, which is \$12.58 an hour, effective July 1, 2012.

**VOTE**  
**3-0**  
**Chair concurs**

**8:26 PM** Mr. Beckert moved, second by Mr. Murphy, to move into executive session as allowed by 1 M.R.S.A. § 405.6.D "Discussion of Labor Contracts and proposals and meetings..."

**8:38 PM** Out of executive session.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:40 PM.

**VOTE**  
**3-0**  
**Chair concurs**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**Mr. John J. Murphy, Secretary**