

**SPECIAL BOARD OF SELECTMEN'S MEETING  
October 4, 2012 5:30PM**

**Quorum noted**

**5:30 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**

**New Business (Correspondence List):**

**5:31 PM** Mr. Moynahan said that Ms. Beavers was not here so, if it was alright with the Board, could they take #5 out of order, which was the town manager form of government. He added that they have invited the Comprehensive Plan to attend this evening to share with the Board what they have been working on and their thoughts on that process.

**#5** Town manager form of government

Mr. Moynahan invited Mr. Lemire to speak.

Mr. Lemire introduced himself, saying that he was acting as the Chair of the Comprehensive Plan Implementation Committee (CPIC), which was a committee that was created by the Comprehensive Plan (CP), itself, and that they were additionally tasked by the Board with the periodic review of Town government. He added that this particular task of looking at the town manager was what they kind of settled on. He said that they had had several meetings with Mr. Schumacher about this and has talked with them a bit about the breakdown of different types of governments and how some of them work. He added that what they came up with as their recommendation through this whole process was prescribed in State statute; that it was a town manager/board of selectmen form of government that retained Town Meeting. He said that it was almost identical to what the Town had now and that, instead of having the Administrative Assistant position, they would have a true town manager who would still be beholden in every way to the Board of Selectmen. Mr. Lemire said that the Board had a lot of leeway under this statute to set policies and rules and direction for this town Manager; that the Board could set up a contract for the town manager with definitive end dates as well as renewal clauses and arbitration clauses and all those things they would expect to see in any type of a labor contract. He added that this would be available if things were not working out, that they saw something they wanted the town manager to do that that person was not, etc., the

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Board had a lot of recourse there for taking care of that. He said that this would be considered a substantive change to Town government so there were a lot of rules on how it had to be done and Mr. Murphy was probably more familiar with that than he was.

Mr. Murphy explained that any change of government had to become effective at an Annual Town Meeting and this change had to be adopted at least 90 days before that Annual Town Meeting at which it became effective. He added that "before 90 days" could, in fact, be the previous Town Meeting, if that was convenient; that they could adopt it at one Town Meeting to become effective at the next Town Meeting. He said that that kind of schedule was exactly what the Town did when Bill Shapleigh said that they needed to have a non-elected Road Commissioner, to have someone appointed, and so they did that just a couple of years ago. He added that at one Town Meeting they voted that the position of Road Commissioner would be appointed and it became effective one year later, that the same thing would work for a town manager.

Mr. Lemire said that, as Mr. Murphy said, it had to be 90 days prior so, for this to take place and be effective at the 2013 Town Meeting, if that was what the Town wanted to do, then they would have to have a Town Meeting 90 days prior to that and they talked that out a little bit. He said that his feeling was that would not be the best way to proceed with that, but that was something the Board would have to talk about. He added that he would think it would be better for openness, transparency, and getting the most people out and involved to do it the same way they did it for the Road Commissioner – to set it up to vote one June and have it become effective the following June.

Mr. Moynahan said that he showed some options in a schedule for preparation of this Town Meeting, anyways, in that same respect – a year prior to, which still meet that 90-day program and allowed enough time for conversation and that sort of thing.

Mr. Lemire said that that would give them plenty of time over that year to start looking for the town manager and they weren't rushed; that instead of having 90 days to find the candidate they would have a whole year to kind of take it slowly and really sift through the candidates, set up a schedule for turnover, as necessary, and that sort of thing. He added that the CPIC spent a lot of time discussing this and they felt that the Town was continuing to become more complex and it required more and more and more day-to-day kind of oversight and manipulation to be effective and the way it was set up now with the Board meeting just a few nights a month was just not enough, he thought; that he thought it was too much to expect for the Board to be able to micro-manage and minutely take care of all those little details that a town manager could help in day-to-day operations – just general, everyday kind of "buy the paper" and that kind of stuff that needed to be

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taken care of – coordinating with department heads – it would take a load of the Board in a lot of ways.

Mr. Moynahan said that he thought that Mr. Blanchette could speak to that, too, and that he thought he was in agreement that it has become a little bit more than what the authority allowed currently with an administrative assistant role.

Mr. Blanchette said that there was no question in his mind that, to move forward, he thought, if they wanted to keep the administrative form of government, then they would almost need a charter, where the charter would define the authority. He added that the town manager form of government by State law was in lieu of a charter and set up it denoted, he thought pretty well, in detail what the duties of the town manager were.

**5:37 PM**

Mr. Lemire added that he thought that the idea of changing the government in this way as opposed to a charter would be more acceptable to people, adding that people would look at that and see that the Board still had control, that they still had Town Meeting, that they still had things the way that they had been, but they were just trying to make things more efficient and allow Town government to, hopefully, operate at a more efficient cost and the town manager would have a lot more freedom to look at things like cost-sharing programs with other towns, bulk-buying contracts, and that kind of stuff; all those things that needed a lot of shepherding and a lot of attention, more so than they could do in two or three meetings per month.

Mr. Moynahan said that he thought that it shifted the responsibility onto an individual and, then the Board, a group of five, could be more effective with some of those items that Mr. Lemire just spoke of; collective purchasing – they could be looking at one focus as opposed to the 20 things they were currently tasked to do because the authority was not in an administrative assistant's hands with oversight and that sort of thing. He added that he couldn't agree more. He clarified that the copy they had in their folders was the town manager plan that Mr. Lemire was referring to.

Mr. Lemire said yes, that it was Title 30-A § 2631-2639.

Mr. Moynahan said that he thought that they had been discussing about moving forward in this direction and wanted to get input from the CPIC and what their thoughts were, where they were tasked to review it, and what he was hearing was that the CPIC would support this type of avenue.

Mr. Lemire said absolutely. He said that they actually did make a formal recommendation at their meeting today, prior to this meeting, that that was their recommendation, to move forward with that change in form of government.

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Mr. Moynahan asked if that was something the CPIC could provide in writing.

Mr. Lemire said that they could; that he would draft a letter and circulate it to the committee.

Mr. Moynahan said that that would be good; that it just took any questions away – if people asked, thinking it was the five of them that were trying to rush something through, but it was not; that it is something that has been reviewed, explored, and information has been answered and expressed to the Board. He said that this would continue to be on their AIL so it was a topic that would continue with them until they came up with a date definitive of how they were going to move this forward. He added that perhaps Mr. Lemire would be asked to come in again and speak a little bit more as the Board moved forward.

Mr. Lemire agreed, adding that he would like as much notice as possible because he had to take time off from work to attend, which he didn't mind doing.

Mr. Moynahan said that, at this time, he had no more questions. He added that it was nice to know that the Board had the right plan that the CPIC had been focusing on and that they were supportive of that move.

Mr. Lemire reiterated that he would draft a letter to that effect; that that was their recommendation, he would send it to the committee for their approval, and send it in.

Mr. Hirst said that he just went to a seminar on succession and one of the things that they said was, if they were going to do this, then they should start their recruiting now and get some possible candidates in the wings, possibly preliminarily vetted, in anticipation of a change.

Mr. Moynahan said that he thought that the Board would be tasked to define what that date was; that they were working with the Administrative Assistant of when his planned departure date was and that sort of thing so they would have to work on those dates. He said that they didn't want to be too far in advance because, if this was something to happen in 2014, then they might be a little too early.

Mr. Hirst said that his (speaker at seminar) indication was that now was not too soon. He added on a preliminary basis to start looking because there might be people who were interested who might have to give a year's notice and they still wouldn't be ready.

Mr. Moynahan said that that was interesting and maybe that was something they could work on, also, and put feelers out. He thanked Mr. Lemire for coming in and sharing with the Board what they had been working on. He asked Mr. Lemire

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if there were any other comments he wanted to make about the CPIC, anything that they were working on.

Mr. Lemire said that they had been focusing almost exclusively on this government review, believing it was a high precedence to get something going. He added that he knew that the Planning Board was doing very well in progressing with their tasks, as many of the committees were. He added that some of them they could probably stand to prod a little bit; that he needed to look into it a little more, get updated on the status, and start talking about that as a committee now that this has kind of reached its' peak from their involvement. He said that, obviously, the CPIC would continue to help, share information, and do whatever it might be that the Selectmen needed him or the committee to do during the process. He said that he thought they were going to kick back, now, into the original and primary purpose.

**5:43 PM**

**#1**

Meet with Rep. Beavers – SAD #35 options

Mr. Moynahan said that the Board had decided to ask Ms. Beavers to come in to discuss options as it related to the school district – MSAD #35. He added that there were a couple of areas with questions – the funding formulas that they currently had and things like that. He said that he didn't know if she could speak to what the Town could do or what their options were, what she may be working on or things that may be being worked on, currently, that might answer some of those questions.

Ms. Beavers said that, before she started, she would like the Board to know that she has consistently voted to restore the K-12 funding to 55% and to fully restore revenue sharing to the municipalities.

Mr. Moynahan said that the school board had mentioned that the 55% was the State law.

Ms. Beavers said that it was State law.

He said that they received in the high 40's.

Ms. Beavers said it was something on that order, adding that it changed from year-to-year. She added that they did a new equity formula this past year, which was based on property values, and was like taking part of the equation and not the whole equation. She clarified that, if they looked at the cost-of-living in Washington County versus York County, then they would see that the cost of homes up there cost half as much as homes down here, therefore, taxes were higher here. She said that, to her, to look at it equitably they needed to look at

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more than just property valuation. Ms. Beavers said that she did submit at the end of May, just before they left the end of session, a bill for next year that would look at the equity within this school district and any other school district that might be having a similar problem, adding that she was sure that they were not the only ones that had a situation where one district was paying much more per student than another. She said that she didn't think that they took into consideration the number of students at the State level as she believed they were at the local level on the local portion. She reiterated that that bill had been submitted but, in the meantime, she had learned that the Education Committee has just awarded a contract to an independent group to do a total evaluation of the Maine school funding formula. She said that the aim was to improve the fairness, which was what the Town was after, across the whole State. She added that it would take into account the student count, which, in the past, it has not, at least not across the board, and the community's ability to pay. She said that she thought that there would be factors there that would be useful for the Town. She added that their preliminary report was due March 2013 and their final was due at the end of 2013.

Mr. Moynahan emphasized no end in any near future but there were things in the works as far as getting some resolve to have better equitable funding between the two towns.

Ms. Beavers agreed.

Mr. Moynahan said that he knew in that meeting that they had discussed bringing Ms. Beavers in there was some discussion about even dissolving or combining the two towns, actually getting rid of MSAD #35 and becoming one department. He added that that was not something they had talked about at length but she was here and he wanted to share some of the conversation that was touched on briefly in that meeting.

Ms. Beavers said that one of the things was that, by doing that, they would no longer meet the criteria of the school administration consolidation in law and that could seriously affect the Town financially.

Mr. Moynahan clarified that the funding formulas changed.

Ms. Beavers said that she thought that they would then be asked to look at joining other schools and, to her knowledge, there was not another school district nearby that financially they would have an advantage of joining – she was thinking of Kittery, as an example. She added that that would be a decision that would be up to both towns; that that was not a State decision as far as considering that; that it would have to be a town decision.

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Mr. Moynahan said that he was just updating her with some of the conversation from that evening.

Ms. Beavers said that the third option was a possible withdrawal from RSU 35 and they would have to do a very detailed financial analysis, in either of those cases, to see what the long-term impact would be on the students and the quality of education. She added that, if the Town were to be a tuition to RSU 35, then the Town would no longer have a position on the school board, so that would be something to take into consideration. She discussed an article she saw in today's paper regarding Arundel, saying that they have had a preliminary study to look into withdrawing from the school unit they were in currently and there was no conclusion at this point, adding that their so-called expert was not willing to tell them to do it or not do it, only what some of the issues were, so, that was another possibility – to hire someone from the outside to do the analysis to let them know if it would be economically advantageous for the Town to do that combined with maintaining quality of education.

Mr. Moynahan said that he thought that the biggest piece of this whole conversation was the funding formula and getting something that as more fair and equitable, especially with their Town; that currently the set-up they had was not equitable for Eliot, but that was his opinion.

**5:40 PM** Ms. Beavers said that, as far as she knew, that had been true for the last ten years.

Mr. Moynahan clarified that Ms. Beavers had introduced some items to be discussed, at least, at the State level for reviewing that.

Ms. Beavers said yes, that she would have to work with the Department of Education on it and she had the contact to whom to do that with but, again, that would have to be done after the election.

Mr. Murphy asked if she said that there were other towns or legislators from other districts that had the same action, trying to do the same thing.

Ms. Beavers said that she had not heard that anybody had submitted any legislation, yet.

Mr. Murphy inquired if anyone has cosigned her bill yet.

Ms. Beavers said that she was sure people would cosign with her because of the fact...

Mr. Murphy clarified that she did not know yet.

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Ms. Beavers said no, adding that one didn't get cosigners until after one knew who was in there so she would have to find out if there were others. She said that, if they were doing a State-wide study, then they might actually put a hold on her bill until the following year.

Mr. Moynahan said that that might be the best approach, to have a comprehensive study of the entire formula State-wide, although it affected Eliot immediately.

Ms. Beavers said that they would certainly want to testify on anything that came forward out of it on behalf of their district.

Mr. Moynahan asked if the Board had any other questions.

There were none.

Mr. Moynahan commented that she was going to get off easy tonight. He said that questions were limited but with a purpose, for sure. He said that he appreciated her making the time to come in and answer some of these questions this evening.

Ms. Beavers said that she was glad the Board of Selectmen were looking at this and wanted to do something.

**5:53 PM**  
**#2**

Meet with Department Heads – Budget Format

Mr. Moynahan said that he had invited department heads to come in if they had any questions on the revised budget format. He added that some of the communication he has had back was that they were comfortable with the format provided and they didn't have questions.

Mr. Hirst said that, before they got to department heads, he would like to make a recommendation to invite the Eliot elected school board members.

Mr. Moynahan said that that was in here, as well, and was coming to one of their workshop meetings.

Mr. Blanchette said that Mr. Short said that he had no questions.

Mr. Moynahan said that he had forgotten when they had had Ms. Davis in last time, the copy of the annotations that they provided that the Board was going to pass on to the department heads, if those could be passed on to the Board, then they would make sure the department heads got them, too.

Ms. Davis said that she would do that.

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**5:55 PM**  
**#3**

Answers by Engineer

Mr. Moynahan said that he thought that these were questions that the BC had requested and the engineers had answered. He asked if these were BC questions that they had answered, did anyone know.

Mr. Murphy said that he thought it was the BC.

Mr. Moynahan said that he thought that the BC had a list of questions as it related to the proposed sewer improvements.

Ms. Davis said that she didn't know what questions they were looking at.

Mr. Moynahan said that there were a bunch and apologized that he couldn't get a copy. He did say that the Board did forward to the engineers some questions that the group had had; that the engineers had gone through and offered some suggested responses that answered all of the questions that were provided. He read, for example: "Will all businesses along Route 236 be required to connect to the Route 236 TIF Sewer (R2TS) line?", questions of that nature. He said that he would get her a copy, if it was theirs; that he thought it was the BC that had done these. He said that they had asked the engineers to spend some time and answer these and they did get some answers back.

Mr. Blanchette said that he thought that they were from the BC. He added that the engineers wanted the Selectmen and the SC to review them and, then, one or the other should put them out as the answers.

Mr. Hirst clarified that this was a draft.

Mr. Moynahan said exactly, that it was a suggested response in draft form and it was asked that the Board and the SC review it. He added that, if the Board had any questions or concerns as to their responses or remarks and answers on these, then the Board should state those now. He added that, if they looked acceptable, then the Board should forward them on to the SC for their review.

Mr. Murphy said that the SC reviewed these yesterday.

Mr. Beckert agreed but added that there was no formal response, yet; that there was discussion that a couple of them could, maybe, include more information or explanation of the initial answer as to why it was answered that way.

A member of the public clarified that this wasn't a public document, yet.

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Mr. Moynahan clarified that it was a public document but it was not a completed document.

Mr. Beckert added that it was not etched in stone as the final answer.

**5:57 PM**

Mr. Moynahan asked if it would be smart to wait for the SC to complete their review and, then, the Board could take it up based on their review and response and disseminate the information accordingly from there or should they touch upon this now.

Mr. Murphy said that it would do them no harm to look at this and come up with their own answers because, if they waited and only do it step by step by step, then they could say to pass it to every committee and it would be in 2000-who-knows-when before everyone had it in sequence. He added that doing it simultaneously he thought was justified and, then, someone could put them together at the end.

Mr. Moynahan said that he thought it would be important, too, once these were answered, to pass them on to the Route 236 Expansion Committee because these may parallel some of the questions that they were trying to answer.

Mr. Murphy said that he thought that they should have this draft now to begin thinking and, then, they would know where to focus their continued interest if they found these unsatisfactory.

Mr. Moynahan said that that sounded reasonable to him and asked if the Board agreed.

The Board agreed.

Mr. Moynahan said that he would make sure that that committee had copies of these and review, as well. He asked the Board to take some time and make some mark-ups and bring it up at the next workshop meeting to give the Board time to review.

The Board agreed.

**6:02 PM**  
**#4**

Committee Mission Statements

Mr. Moynahan said that the Board started compiling these and he thought that they were still missing a few. He added that he just wanted to provide what they had so far. He said that, once they had them all, he thought it would be wise for the Board to review the mission statements to make sure they were still in line with what the Town's goals were or, at least, the Board's thoughts of what the

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Town's goals should be with each department. He asked if the Board wanted to wait until they had all of them or review the ones they currently had.

Mr. Murphy said that he thought it would be reasonable to, if they had one that was suggested from a committee, begin acting on it. He suggested that, if they tried to do them all at once, then it would become impossible.

Mr. Moynahan said that they had the Eliot Energy Commission's (EEC) mission statement, which was developed during 2006 with the original EEC membership. He read the mission statement: "The Mission of the Eliot Energy Commission (EEC) shall be to promote increased energy conservation, efficiency and local energy production throughout the Town of Eliot." He added that they had additional comments describing tasks they would be engaged in. He said that the EEC had done a comprehensive study of the Town; that they had all been provided a copy of that report and certainly had completed a good chunk of that.

Mr. Murphy said that they hadn't completed it; that it was an ongoing study, which would be updated every year; that that was the intention; that it was not something they were doing and then walking away.

Mr. Moynahan said that they now had information that they could compare year-in and year-out. He reread the mission statement and asked the Board if that sounded like the goals of the Town for the EEC.

Mr. Hirst said that it sounded good to him.

Mr. Murphy said that he thought adding the additional comments made it much more explanatory because it brought it back to the Town rather than just being a committee of the Town.

Mr. Moynahan said that the first was the statement and the second was just additional comments about the mission statement, but they were both recognized, for sure.

Mr. Hirst said that he thought that the mission statement should be the two lines and anything extra should be explanatory.

The Board agreed that there would be no change to the EEC mission statement.

**6:05 PM**

Mr. Moynahan said that the Conservation Commission (CC) did not have a mission statement and that information came from Mr. Crilley of the CC. He asked if that was something that the Board should request that they provide.

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Mr. Murphy said that he thought it would be a good idea to ask them to see if they could work on that.

Mr. Beckert asked if there was anything they might find on file with the Town Clerk.

Mr. Blanchette said that he would check.

Mr. Beckert commented that he could remember years ago being told there wasn't a mission statement or by-laws for something by numerous people and, then, he walked into the Town Office and asked the Town Clerk at the time and she said that it was right over there in the file cabinet.

Mr. Murphy said that, also, State statute may ordain what the CC was allowed to do or intended to do.

Mr. Beckert said that he and Mr. Blanchette had been talking earlier, adding that they probably wouldn't see a mission statement from the Planning Board or Board of Appeals because they were governed by State statute. He added that he knew that there was one on file for the Building Committee but, if the Clerk didn't have it, then he would make a copy.

Mr. Moynahan asked Mr. Blanchette to check with the Clerk to see if she could find the mission statements and provide them; that that would be much easier than email tag with several committees.

**6:08 PM** Mr. Moynahan said that, next, was the Information Technology Committee (ITC), adding that this was established in 2007. He read the statement: "The Information Technology Committee is an advisory committee appointed by the board of selectmen to provide technical expertise to the departments and board regarding the town's Information Technology Systems."

The Board agreed that it sounded good.

Mr. Moynahan said that Mr. Blanchette would follow up to provide others and the Board could take a quick peek to make sure they were all doing what they should be doing.

**6:09 PM** Mr. Moynahan said that he did want to, and he should have brought this up when they talked about the town manager, bring up that he had provided at their last meeting potential calendars preparing for a June Meeting, with any referendums that they would have. He asked if everyone could review, saying that he just put generic dates, as he didn't have next year's calendar to match the dates accurately. He added that they talked about having enough advance notice for any of these

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public hearings and what things would be at a June Meeting. He said that, if they knew that the June Town Meeting date was going to be June 11<sup>th</sup>, tentatively, and have warrants for the Town financials, in addition, were they going to put the sewer expansion to a referendum vote. He added that the Fireworks Ordinance, if they had a referendum, would automatically be on that; and he put town manager and question mark because, if that was at this Town Meeting, then it gave a year for it to kick in an, based on Mr. Blanchette's timeline, that gave a buffer of six months-ish that maybe the Administrative Assistant could stay during the transition period and that sort of thing. He said that, if they were prepared for that for this June Meeting to adopt it, then it could become effective in 2014. He said that those were the four things, currently, and then, if they could get these things on the website – key dates: December 8<sup>th</sup> – they could direct Eaton Peabody that the Board wanted them to present their financial information to the Selectmen; December 15<sup>th</sup> – Underwood Engineers to present their final work, separate from the public hearings; January 4<sup>th</sup> – the Route 236 Sewer Improvement Committee again presenting to the Board. He said that they then started the public informational meetings and he had indicated the Eliot Elementary School (EES) for these – one would be for technical, which would be Underwood Engineers; one would be financial, which was Eaton Peabody; the final one would, he thought, that would be a combination to get both of them in for that final one. He added that this would be enough time, ahead of time, that all the public could be made aware of this, whether it was on the web site or normal posting sites and all that sort of thing. Mr. Moynahan said that his thoughts were to create a calendar early enough in advance that they could give all the people who have been working on this their timelines. He added that it would give the Board a timeline, too; that the town manager decision needed to be made in enough time before the warrants went out and that sort of thing. He said that that was where he was coming from last week when they had their meeting so he tried to put it on paper for any comments and see if that seemed like a practical approach to pre-schedule some things.

Mr. Hirst said that it was certainly practical to do that; that the only question was where there any conflicts on dates, anything that came before anything else that was maybe out of sequence.

Mr. Moynahan said that there could be, adding that, again, this was just a draft. He added that he wanted to touch on the three groups they had tasked to do some work as far as it related to the sewer improvements; that there may be additional ones when it came to town manager, if they chose to have something with fireworks for referendum that might not be included on this. He said that the big one was the sewer improvements and the public has said that they had not been made aware, but, they have had as many, if not more, of these public hearings in the past but, perhaps, they didn't advertise it well enough. He added that, maybe,

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if they put it out there ahead of time enough, then maybe the awareness would be more obvious.

Mr. Lemire said that he wanted to say, as far as the town manager thing, he thought that the key with that was going to be early and often; getting as much information out about it as they possible could, as soon as they possible could so the people had time to digest it to not run into the same problems that they have run into about the sewer.

Mr. Moynahan agreed, adding that, if they could put that on the calendar, which would be their Board of Selectmen meetings, perhaps, for public input; that it might be a small enough venue but they may find they needed a bigger venue. He emphasized that they have enough advanced notice to get as much public participation as possible.

Mr. Murphy said that they would want to look at those dates.

Mr. Moynahan said absolutely; that those dates were all, he was sure, wrong; that it was just a draft and the dates would change. He added that, if it was a decent-enough working document, then he would try to clean it up a little bit for review and additions.

Mr. Beckert suggested having staff clean up the dates and then Mr. Moynahan could put it on a subsequent meeting agenda for the Board to decide the schedule and the items that would go on that Town Meeting Warrant.

Mr. Moynahan agreed.

Mr. Blanchette suggested putting this on the Town web site, the town manager form of government.

The Board agreed.

Mr. Moynahan said that that was all that they had on the agenda unless anyone wanted to touch on something from the AIL. He added that there was one thing he failed to put on that did not get to Ms. Thain in time, which was the insurance review with MMA

**6:14 PM** Mr. Blanchette said that he believed they were scheduled to come for October 18<sup>th</sup>, adding that he would double check, but he believed he had them down for that date and that it had been confirmed by them.

Mr. Moynahan asked if anyone from the public wished to speak on anything this evening.

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**6:15 PM** Ms. Hardy said, with all due respect, that she would like to address the Selectmen.

Mr. Moynahan agreed.

Ms. Hardy introduced herself and said that she was representing Sweet Peas LLC, which was owned by her daughter, and she was here for the matter that has been ongoing with this property. She said that her husband, Jack Hardy, used to own Littlebrook Airpark.

Mr. Moynahan said that, if there was going to be any discussion, then he wanted the Board to know that he was a direct neighbor so, if the Board didn't want him to be involved in the conversation...that he was just making them aware.

The Board agreed that they didn't see any conflict at this point.

Ms. Hardy said that she was the nut that used to fly over Eliot.

Ms. Lemire said that she missed it.

Ms. Hardy said that she missed flying the way she used to; that she still flew, but not as much as she used to.

Mr. Beckert added that they missed the pictures up at the Raitt Farm that she used to do over the Tractor Show every year.

Ms. Hardy agreed, adding that she now worked in Washington, unfortunately; that it was a hoot and a job and she has had wonderful opportunities but that her heart was here in Eliot; that she refused to move to Washington and made every effort she could to come back to Eliot. Ms. Hardy said that her daughter owned the property and she (Ms. Hardy) still owned the house – the airport property. She added that she has had her fill of owning an airport, her life has moved on and she was doing some really cool things right now; that she liked to come home and fly her plane and be like everybody else, enjoy herself when she came back to Eliot. Getting back to the issue, she reiterated that her daughter owned the property and said that it was a matter of breaking off a house lot. She said that the last time a house lot was broken off from the property was in 2003. She added that, as many of them may be aware, she sold the property to a local developer and he defaulted. She said that, in the process before he defaulted, he had sold a house lot but it was not part of the airport property, it was owned by an abutter and he made a house lot out of it, that it abutted the airport property. She said that in the beginning of 2006, which was when the zoning changed, she met with Donald LaGrange and he assured her that a house lot could be broken off after five years had gone by, thinking that it was in 2008 that a house lot could be broken off. Ms. Hardy said that financial considerations were made based on that. She said that when 2008

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came up, she had foreclosed on the local developer and owned the property, she went to break off the house lot and code enforcement officers had changed. She said that she met with Paul White, who was the current CEO, and, at first, he said that she could break off a house lot and then he said she couldn't. She said that this has been a nightmare like folks would not believe. She added that she didn't have the complete file and she apologized meeting with the Selectmen off-the-cuff like this. She added that her daughter had the complete file but, unfortunately, she lived in Florida and was making every effort to try to come back to Maine. She said that this has been going on and on and on; that she had a letter sent to the Selectmen October 21<sup>st</sup>, 2009; there were return receipts on everything that she would leave copies of it; it outlined the frustrations back then. She said that her daughter was told to go to the Board of Appeals (BOA); her daughter went through an appeal; sent the appeal in and, again, return receipt – they have the return receipts on it and they submitted the checks and everything; she had the foundation of the appeal, why they had to go to the BOA she didn't know but it was never found and nothing ever happened, adding that she would leave that for them to look at. She said that Mr. White left and they had a new CEO. She said that her daughter's manager, Edith Breen, spoke with Mr. Marchese and he said that she had to go to the Planning Board (PB) with a plan and it had to have a survey and she was questioning that because it was just breaking off a house lot, which one could do every five years, reiterating that this has been going on and on and on. She said that Mr. Marchese promised Edith Breen that he would send her a letter outlining everything that was needed and she did not receive it so she was asked to come here to speak before the Board to ask what it took to break off one house lot. In the meantime, she said that abutters were allowed to build a house with this house lot after the zoning had changed in 2005 where, if the road was more than 1,000 feet, then it couldn't be done or something like that. She added that she has been told that this was an illegal house lot; that she brought this up to both Mr. White and Mr. Marchese and they both said that they couldn't do anything, that they acknowledged it was an illegal house lot and she said that statutes of limitations on an illegal house or anything with zoning didn't expire and there were enough court decisions to back her statement. Ms. Hardy said that she was asking the Selectmen what Sweet Peas, her daughter, had to do to break off a house lot – did she have to sue the Town, did she have to sue the Town for discrimination, adding that if this was her husband she would guarantee them they would not be having this conversation right now. She said that she was just at a loss; that she was at the point in her life of everyone getting along and she didn't want any fights and she didn't want any fights but she was here very sincerely asking the Selectmen what was the path for Sweet Peas to break off one house lot.

Mr. Moynahan asked if the BOA heard it.

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Ms. Hardy said no, that they never received it and they never got back anything from the BOA, they never got anything back from this letter to the Selectmen. She said that, before Betsy O'Donoghue died, they had a discussion and she said that she would bring it up to the Selectmen but that never happened. She said that she was frustrated and asked why, in this Town, there were documents submitted to the Town...that it seemed like there was no document control in this Town – two documents, a BOA, and a letter to the Selectmen and nothing was acted on. She asked what had to happen from here.

Mr. Hirst clarified that she had return receipts for these mailings.

Ms. Hardy said yes.

Mr. Hirst asked if she had receipts for all of them.

Ms. Hardy said yes. She said that this was not a complete file; that this was a meeting that they were not aware of and she again apologized, saying that she was not able to come to these meetings on a regular basis. She added that she had noted here and the rest of the file was in Maryland. She reiterated her question about what would have to happen, adding that Sweet Peas would be more than happy to send the documentation to the Board of Selectmen, if they would like.

Addressing Mr. Beckert, Mr. Moynahan said that he didn't know much about back lots and asked him if he knew what the criteria was.

Mr. Beckert said that he didn't like quoting the ordinances without looking at them. He said that he was sorry, that this was the first he had seen of this. He suggested that either her daughter's manager, or Ms. Hardy if she was in Town, come in and go over it with the Planning Assistant as she could tell Ms. Hardy, by looking at it, if it was something that had to come to the PB. He added that he did know for a fact that the splitting off of lots was allowed by State law every five years; that that law has not changed and was still on the books. He said that the only thing that would come into question was the question of a back lot but Littlebrook Lane was a private road, correct.

Ms. Hardy said that that was correct and it was a PB-accepted road. She said that Littlebrook Lane started in 1971.

Mr. Beckert said that zoning didn't go in until 1973 so, therefore, it was grandfathered.

Ms. Hardy agreed, adding that, then, her husband did one subdivision and the road was approved for the first subdivision and she thought that that was around 1974. She added that, in 1983, he did another subdivision and that road was also

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accepted by the PB. She said that she broke off their house in 1987 and, again, the PB accepted Littlebrook Lane all the way up to her house at the top of the hill. She added that she didn't know what the issue was as far as the road; that she wasn't very educated on road ordinance but this was an accepted road from the PB; Everett Lane was and Littlebrook Lane was all the way to the top to her house.

Mr. Beckert said that his recommendation would be that Ms. Hardy or her daughter's representative come in with the whole file, sit down with the Planning Assistant, and she could go right through the file, per the ordinance, and go boom, boom, boom, this was what was required and this was what was not required, etc., and come out at the end of that with whether it actually had to go before the PB, at all, or whether it was a case of just a permit being allowed to split off the lot. Addressing Mr. Blanchette, he said that he didn't know if he recalled from State law, but he didn't think that the State of Maine required that a piece of land had to be formally surveyed.

Mr. Blanchette said that he didn't recall, adding that he thought that the only survey might be if someone was going before the PB.

Mr. Beckert agreed, adding that the PB could require a survey but they could also waive a survey.

Mr. Blanchette said that he didn't believe someone needed a survey to split off a lot.

Mr. Beckert said that these were questions, when she talked with the Planning Assistant, Ms. Hardy could ask her, per Eliot ordinance – were these required per Eliot ordinance and/or State law.

Ms. Hardy clarified that, if she owned a piece of land, then she couldn't break off a house lot.

Mr. Blanchette said that he didn't know, that it wasn't just breaking off a lot; that there were things needed to break off in order to be a house lot other than subdivision; that there are things in the Eliot ordinance with criteria to meet.

Mr. Beckert agreed and that the Planning Assistant could walk her through those steps to see what this met or might not meet.

Ms. Hardy said that the secondary issue was that Sweet Peas has been trying now for over four years to get this resolved so that they could break off a house lot. She added that, first, they were told to go to the BOA and they tried going to the BOA – never happened, went to the Selectmen to make a complaint and this

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Board had the letter – never happened, she guessed that the Selectmen didn't see it. She said that this was the frustration and, now, she would go to Ms. Pelletier – nice lady and she liked her a lot – but what happened from there, adding that she felt like there has been nothing but a runaround, here, and as she said, if her husband was here, then should could guarantee they would not be having this conversation right now.

**6:27 PM**

Mr. Beckert said that he understood her frustration but from his perspective, having been on the PB and still on the PB, the first step he would do and was what he was recommending to Ms. Hardy, was to bring the whole packet in, make an appointment with Ms. Pelletier and sit down with her to go through that whole packet per the ordinance, then see what came out of that. He added that he was sure that Ms. Pelletier would confer with him, as well as the entire PB, if it became an issue.

Mr. Moynahan asked Mr. Blanchette how appeals requests to the BOA was handled. He added that Ms. Hardy had indicated she had...

Ms. Hardy said that there was an application made to the BOA in 2009.

Mr. Beckert said that he couldn't speak to that.

Mr. Moynahan clarified that she submitted an application to the BOA but was never scheduled to be in front of the BOA.

Ms. Hardy said that they kept asking what was happening with it, what was happening with it and then it just disappeared.

Mr. Moynahan asked who received the appeals.

Mr. Blanchette said that an appeal was handled by the CEO; that if it was received in the mail the Town Clerk received it and stamped it, but it went directly to the CEO and the CEO, in conjunction with the BOA Chairman, would review and schedule and so forth.

Mr. Beckert reiterated that his recommendation was to make an appointment, at her earliest convenience, with Ms. Pelletier, to go through that whole file with her.

Ms. Hardy said okay. She said that she just wanted the Board to know that this has created a severe financial hardship and it became a problem, especially with her travel schedule – she was gone for three weeks in August and September, her daughter lived in Florida, her daughter's manager lived in Maryland – so time and distance did become an issue. She added that she hoped the Board could do

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something about document control because this was unacceptable. She said that, as a tax payer here in Eliot, it was unacceptable to be treated like this. Ms. Hardy said that she very much thanked the Board for allowing her to address them.

The Board thanked her for bringing this in.

Mr. Moynahan asked if anyone else from the public wished to speak.

**6:30 PM** Ms. Fournier discussed her work with the PUC (Public Utilities Commission) and that recently, regarding the construction of the transmission lines, they inadvertently learned that CMP was in to get an administratively-reviewed update to their Shoreland Zoning Permit that involved their particular lot. She said that she didn't know what would have happened had she not learned this but they were already in the process of needing to go back to the PUC with the processes that were not working well for people. She added that she did not know that there was a revised permit issued by the PB; that nobody was notified; there was no public notice of the meeting and no public meeting.

Mr. Moynahan asked if this was for the PB.

Ms. Fournier said that this went in front of the PB, to her knowledge, August 21.

Mr. Moynahan said that all PB meetings had public notices.

Mr. Beckert concurred that they were all publicly announced.

Ms. Fournier asked how they were publicly announced.

Mr. Beckert said that they were all out, as they were usually announced and, unless she was a direct abutter, she would be responsible to...

Ms. Fournier said that they were direct abutters and there were changes that they still didn't know what they were.

Mr. Moynahan said that the PB is required by State law to notify any abutter of any public hearings.

Ms. Fournier said that they didn't hold a public hearing.

Mr. Murphy, addressing the Chair, said that he didn't know what part of this project was being talked about now and asked Ms. Fournier if she was referring to the switching station down there.

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Ms. Fournier said no, that that was a whole different ball game. She clarified that she was talking about the 115kv line and the 345kv line and, as a matter of fact, 197 never got permitted. She discussed her attendance at the PB public hearings for the Shoreland Zoning Permit and ongoing issues she and her husband were working on with the PUC

Mr. Moynahan asked her to clarify what the Town had done because the PUC didn't have any bearing on the conversation right now. He asked what her concern was with the Town's permit; that they needed to get to the questions.

Ms. Fournier said that the Town never notified her, which they were required to do, as they were the landowners.

**6:35 PM** Mr. Moynahan asked Mr. Blanchette if they could follow up to find out if the sure the proper notifications were made to any abutters as it related to the PB and that would make sure...

Ms. Fournier said that she was told by both Ms. Pelletier and Mr. Marchese; that she spoke with both of them.

Mr. Moynahan said that the Board was going to follow up to make sure that the proper notifications were made to all abutters. He added that he thought that the Board agreed with him to do that.

The Board agreed.

Mr. Moynahan asked what her second question was.

Ms. Fournier said that what she wanted to tell them was that it was decided...that they had come in tonight hoping that Ms. Pelletier would be here; that she hadn't been able to come in because she wanted to get documents of what did happen and the audio recordings, also, of the August 21<sup>st</sup> PB Meeting and she believed it was the September 14<sup>th</sup> PB Meeting.

Mr. Moynahan said that she could get all those copies from Ms. Pelletier so if she just...

Ms. Fournier said that she was trying to but Ms. Pelletier hasn't had time to get to it and, in the meantime, they were sort of squeezed in because they had deadlines.

Mr. Moynahan said that he was just making sure. He clarified that she was looking for copies from the Town for the recordings and she would have to schedule something with Ms. Pelletier for her to provide those to Ms. Fournier;

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Mr. Blanchette was going to follow up on the abutter notifications; and asked what the next question was.

Ms. Fournier said that they wanted the two audio recordings from the two meetings and they also wanted a real good explanation as to why, as she was told by both Mr. Marchese and Ms. Pelletier, that it was an administrative decision by the PB. She added that Ms. Pelletier said that the PB voted on it and she wasn't sure which meeting. She added that she worked on this every day but she couldn't be looking at the Town meeting web site every day, either.

Mr. Beckert suggested, so that they all didn't belabor this, that there was a process if Ms. Fournier believed she had been aggrieved, that there was an appeal process that could be followed.

Mr. Moynahan said that it was 30 days upon or after the PB decision...

Mr. Beckert said that he wasn't sure which meeting she was talking about.

Ms. Fournier said that she was told that it was the August 21<sup>st</sup> and September 14<sup>th</sup> Planning Board meetings.

Mr. Beckert said to the Chair that he would recommend...

Ms. Fournier said that she has communicated by email and this was what was told to her and she had no reason to doubt it.

Mr. Moynahan said that, if a board has not ruled appropriately, then there was an appeal process. He added that he thought that would be the proper avenue and he would certainly follow up to make sure proper notifications were done, as required by State law...

Ms. Fournier said that they had an illegal transmission line in their back yard and they never paid attention to whether it was safe or not...

Mr. Moynahan said that this was not the right forum for that; that there were plans engineered, done and approved by PB's and PUC's and all that; this group was not under their purview, so, if the PUC was not doing their job, then that was where she needed to focus her time; if the PB did not rule appropriately, then there was an appeal process for that...

Ms. Fournier said that she understood.

Mr. Moynahan said that that was where she had to spend her time.

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Ms. Fournier said that they didn't know these things because there was no public notice and there was no notification to the abutters.

Mr. Moynahan told Ms. Fournier that he just requested that information, that he had already answered that and would not dwell on it.

Ms. Fournier said that she appreciated that. She added that there were a lot of complications that were going on and they, unfortunately, were stuck with this to deal with, which would probably lead them in the direction of suing, and they had to make the decision not to before because nothing was ever completely settled because of the way that the lines were done...

Mr. Moynahan said that that was a question and a concern for the PUC, their engineers, and the PB reviewed those documents, as well, to make sure that the Town was...

Ms. Fournier said that the Town didn't hear it...

Mr. Moynahan said that this Board did not do anything with this...

Ms. Fournier said that Mr. White decided that they didn't need to do anything about getting a permit but they did need a permit...

Mr. Beckert said that he suggested the proper process be followed and, if Ms. Fournier and her husband felt that they had been aggrieved, then they could file an appeal; if it was adequate, if it was within the timeframe, if they were aggrieved they needed to show how the PB erred contrary to the ordinance; that it was as simple as that.

Ms. Fournier said that she understood the separation between the PUC, the Town, and other permitting authorities but she had lung damage because some bozo went out there on the 4<sup>th</sup> of July and sprayed extra special herbicides because...

Mr. Moynahan said that, if they sprayed illegal chemicals, then that was the outfit she had to go after; that they were the ones that were building this and there was oversight...

Ms. Fournier commented that no one wanted to deal with a permit when Mr. White was here and they didn't and they...the State law required, for instance, that the Town had to issue a permit in order for them to tear down the old line – that was a safe line. She added that there were a lot of issues involved here like: You aren't responsible at this point for the CMP measly land, interest, and title rights, which they didn't have enough of and PUC didn't deal with that, either, so that was a separate issue. She said that, as far as her and her husband even being

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notified, she had tried to go back to one of the people who came in here from Burns and McDonnell, Drew McMullin, and get some information from him and Drew said that she was well aware of the Town process and they had to give her that. She added that she still had to renew her driver's license, which would be happening tomorrow, so she had not been able to drive down here in the daytime to get the information.

**6:43 PM**

Mr. Moynahan said that he was going to have to stop her right there; that they were off-topic again. He added that they would follow up to make sure that proper notifications were done and that was something in the Board's purview. He added that, if she had a concern about the ruling of the PB, then the Town had an appeal process that had to be done. He said that prior to any discussion of this Board those steps had to be followed. He said that he sympathized that she was having struggles with that whole project and he applauded her efforts with it but they would not talk about it anymore this evening.

Ms. Fournier said that she thought that one of the issues was going to be...

Mr. Moynahan reiterated that they would not talk about this anymore this evening. He asked if there was any other business in front of the Board this evening.

Ms. Fournier asked if they knew how long it might take to get all that information.

Mr. Moynahan said that Mr. Blanchette would have all that by Monday or Tuesday.

Mr. Blanchette said that he would have it by Tuesday, that Monday was a holiday. He added that he would certainly find out and he would respond in writing about the notification to abutters.

Mr. Moynahan asked if they could follow up with any information on how to appeal any ruling of the Town so that the Fournier's had that information at their fingertips; that that would be very helpful. He asked, again, if there was any other business before this Board.

There was none.

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**Adjourn**

There was a motion and second to adjourn the meeting at 6:44 PM.

**VOTE**

**4-0**

**Chair concurs**

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**DATE**

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