

BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM

1 **Quorum noted**

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3 **5:30 PM:** Meeting called to order by Chairman Moynahan.

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

6

7 **Absent:** Mr. Dunkelberger.

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9 **Pledge of Allegiance recited**

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11 **Moment of Silence observed**

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

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15 **5:31 PM** Motion by Mr. Beckert, seconded by Mr. Hirst, to approve the minutes of
16 September 26, 2013, as amended.

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VOTE

18

3-0

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Chair concurs

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21 **Public Comment:**

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23 **5:32 PM** Ms. (Wanda) Brown discussed a previous meeting where she had raised concerns
24 with ambulance response to E911 calls. She said that she talked with the Fire
25 Chief and, with the new company, the dispatcher was able to find her house. She
26 added that she had a tour of dispatch and saw that they had a screen that let them
27 know where the ambulance and police were and could communicate with them.

28

29 **5:35 PM** Ms. (Edith) Breen, representing Sweet Peas, LLC, discussed her frustration about
30 what happened at the previous Selectmen meeting and the need to find some
31 solution to this situation. She added that she reviewed the video of that previous
32 meeting and that what she heard was a lot of strongly held opinions from Mr. (Ed)
33 Cielezsko and, in her opinion, did not present any fact but lectured the Board on
34 how the Board should behave and what he thought the Board ought to do. She
35 said that it was her understanding that he had his say during the Board of Appeals
36 (BOA) process where it was abundantly clear to her that he and a couple of
37 members were not going grant Sweet Peas a variance. She said that that was his
38 'day in court' as she read how the rules were supposed to work and she didn't
39 think he had any kind of authority or legal justification for interfering with the
40 processes of the Board of Selectmen. She said that the Board had had their
41 discussion, they had a motion and it was seconded, they were getting ready to
42 vote, then, there was this interjection all of a sudden out of left field and no one,
43 kind of, knew what to do with it. Ms. Breen said that Sweet Peas was facing a
44 deadline in terms of filings next week; that they had to file with the courts by the
end of next week to get this whole matter of the appeal and what has been going

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45 on before the court; that they had to meet that deadline and it would be really
46 unfortunate if they had to proceed and go down that road. She said that there had
47 been so much time wasted with this simple question of their being allowed to
48 break off a lot; that there was just a huge amount of discussion during the BOA
49 meeting as to which of the various zoning parts that the CEO had put in his letter
50 of rejection applied to this particular lot. She added that the CEO knew perfectly
51 well exactly where the lot was and he should have been able to say 'this' is the
52 part of the zoning that applied but there was lots of discussion and consternation
53 at the BOA meeting; that they turned to her (Ms. Breen) and asked her which one
54 of these things was she appealing. She said that she told the BOA she didn't
55 know; that she was just going along with what the CEO told her to do. She said
56 that that was an honest answer because she didn't know which one they were
57 appealing; that he (CEO) threw in two or three different things, some of which
58 she thought clearly applied only to subdivisions. She said that they wanted to
59 break off one lot, that's all, just one house lot. Ms. Breen said that her suggestion
60 was that the simple and elegant solution to this whole thing that would make it go
61 away would be to go back to where the Board was two weeks ago and reconstitute
62 the Board's discussion and vote.

63
64 Mr. Moynahan said that two weeks ago there was a motion seconded with
65 potentially entering into a Consent Agreement (C.A.). He added that the Board
66 tasked the Planning Assistant, Planning Board Chairman and the BOA Chairman
67 to review the ordinances to make sure the right ones were being applied and ask
68 the attorney questions as it related to those. He asked what the status of that group
69 was.

70
71 **5:38 PM**

72 Mr. Beckert said that Ms. Pelletier was present. He said that what the three of
73 them supposedly agreed to the night that they met has changed, apparently, in Mr.
74 Cielezsko's mind. He added that he has asked Ms. Pelletier to give the Board a
75 synopsis and asked her to put in writing what was discussed that night amongst
76 the three of them what was agreed to by the three of them before they got up from
77 the table but that it changed the following morning. He said that Mr. Cielezsko
78 came into the Town Hall the following morning, spending about two minutes in
79 the CEO's office and then flip-flopped on what had been agreed upon the night
80 before. Mr. Beckert suggested that Ms. Pelletier discuss what she heard discussed
81 with Mr. Cielezsko that evening; that it was quite an interesting conversation, to
82 say the least.

83 Ms. Pelletier said that they had a long meeting – an hour and a half or so. She
84 added that it was a good meeting and she thought, at the end, they were all on the
85 same page. She added that, the next morning, Mr. Cielezsko came in and spoke
86 with the CEO for a few minutes and apparently changed his mind. She said that it
87 was clear to her that they were not going to agree; that she thought that she and

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88 Mr. Beckert agreed that breaking off the lot would be okay but could not get Mr.
89 Cieleuszko to see that.

90
91 Mr. Beckert said that Ms. Pelletier had pulled out of the file an opinion from Mr.
92 Vaniotis (land use attorney) regarding an almost identical situation to what they
93 were looking at with Sweet Peas and showed that to Mr. Cieleuszko. He interjected
94 that that was why they didn't go to the attorney because they already had his take
95 on it. He said that Mr. Cieleuszko didn't agree with the attorney's opinion.

96
97 **5:40 PM** Ms. Pelletier said that she didn't think the Town needed to pay for another legal
98 opinion; that she thought they already had one from Mr. Vaniotis that she thought
99 applied perfectly; that the opinion indicated that, in a non-conforming situation
100 like this, that exceeding the 1,000 feet was okay. She added that it was up to the
101 Board if they wanted to seek another one but, personally, she didn't think they
102 needed to pay for a second one.

103
104 Mr. Beckert said that they walked through every step of the ordinance that applied
105 and even changed the scenario, through discussion, to call it a back lot and look at
106 the ordinances that applied to a person wanting to split off one back lot and have
107 access to it; that they walked through that whole ordinance – the sections that
108 applied – and when they got up from the table to leave that night all three of them
109 were in agreement; that Mr. Cieleuszko's words were to the effect that he 'could
110 see that'. He added that he didn't know the basis for Mr. Cieleuszko's change of
111 mind.

112
113 Ms. Pelletier said what she understood was the basis of their meeting was this one
114 provision that said it applied to back lots that one couldn't exceed 1,000 feet, but,
115 there was another section of that back lot ordinance that talked about these non-
116 conforming situations. She added that it said that it could be built on so long as
117 'these' conditions were met; that one could break off one or two and that was the
118 extent of the development there; that it did not say that the road couldn't be more
119 than 1,000 feet there, so, it could be built on in non-conforming situations if X
120 and Y were met, which they could do. She said that she didn't see how one could
121 pull in another standard from a different part of that ordinance and apply it here.
122 She added that she thought the intention of that back lot ordinance was to allow
123 people to break off a lot once every five years without subdivision review. She
124 said that she didn't see the logic behind the CEO's and Mr. Cieleuszko's thinking
125 at the moment.

126
127 Mr. Moynahan said that he would like to have Mr. Vaniotis' information provided
128 to the Board.

129
130 Mr. Beckert said that when one had someone who disagreed with the attorney and
131 then disagreed or didn't like what the law court comes down with, which was the

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132 precedent-setting court in the State, then he didn't know how one could have a
133 conversation that would come to some kind of consensus.

134
135 Ms. Pelletier said that, at the very least, it was an ambiguous standard and in that
136 case favor should be given to the applicant.

137
138 Mr. Beckert agreed that was what they told anyone in the training and planning
139 guides boards were given in that in ambiguous ordinances the benefit should be
140 given to the applicant – if the ordinance was ambiguous then one ruled in favor of
141 the applicant.

142
143 Mr. Moynahan said that he thought that everyone was just trying to get it right.
144 He added that they were back where they were two weeks ago; they had some
145 information and feedback and asked if there were comments or questions on how
146 to proceed.

147
148 Mr. Murphy said that he thought that even the tentative agreement of all three of
149 those was very significant and the fact that there was a legal opinion backing it,
150 that he would request that the Board direct Ms. Pelletier to find that letter, once
151 again, and the basis of that and to write up the precise segments of the ordinance
152 which led the group to agree and use that as a basis for the Board to strongly urge
153 the CEO to issue a permit.

154
155 Mr. Hirst agreed he thought that would be the cleanest approach; that if he (CEO)
156 could be convinced of his own accord, not with any pressure at all, that he made a
157 mistake and simply issue the permit. He reiterated that the Board would not want
158 to put any pressure on the CEO because that wasn't right but, if he could be
159 shown the law and he issued the permit, then this would all go away.

160
161 Mr. Moynahan asked Mr. Blanchette if, with a denial letter and appeal that has
162 already happened, that could be brought up again to the CEO as a simple
163 application or were there other factors involved, other decisions from this Board
164 or what have you.

165
166 **5:45 PM** Mr. Blanchette said that the CEO could reverse his decision but, if he didn't,
167 Sweet Peas was still in a time crunch with next week's deadline. He added that
168 that would be nice if that was the case but Sweet Peas would need to know and,
169 then, there would be no remedy except court; whereby, now, there was the
170 possible remedy of a C.A. with the Board. He said that one option might be that,
171 if the CEO didn't reverse his decision, the Board could enter into a C.A.

172
173 Mr. Hirst asked Ms. Breen that there was a timeline of October 19 where Sweet
174 Peas had to do what – answer the summons.

175

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176 Ms. Breen clarified that Sweet Peas had to file with the court to look at this whole
177 situation; that that would open up this whole can of worms – every bit of it.

178
179 Mr. Moynahan said that would be a lawsuit with the Town.

180
181 Ms. Breen agreed; that it was appealing to the court to take a look at the whole
182 process of what's happened and why Sweet Peas has been denied the ability to
183 break off one house lot. She added that they would really rather not do that; that it
184 would be expensive for them and for the Town, and it would be embarrassing.

185
186 Mr. Moynahan asked her about her use of 'embarrassing'.

187
188 Ms. Breen clarified bringing up all that had happened to them in the denial of
189 their rights all the way along the line.

190
191 Mr. Moynahan said that he thought that people were trying to get this right.

192
193 Ms. Breen agreed that this Board had been super trying to get this right.

194
195 Mr. Beckert said that he assumed Sweet Peas was under the gun with the timeline
196 per Town ordinance for denial, and State ordinance, to be able to file an appeal
197 against the decision that the Town made.

198
199 Ms. Breen said that that was exactly right; that they had so many working days
200 from the denial by the BOA to file; that that was what was breathing down their
201 neck.

202
203 **5:49 PM** Mr. Hirst moved, second by Mr. Beckert, that the Board of Selectmen grant a
204 Consent Agreement for the breaking off of one lot for Sweet Peas, LLC and the
205 Code Enforcement Officer be directed to issue a building permit.

206
207 DISCUSSION

208
209 Mr. Murphy said that he wondered if the Board should do the other one first to
210 see if the CEO could be persuaded to agree with breaking off a lot; that that was
211 easier than going to a C.A.

212
213 Mr. Hirst agreed that was easier but they were up against a timeframe.

214
215 Mr. Murphy said that he understood, adding that it could be conditional. He asked
216 Mr. Blanchette if he knew if the CEO was going to be in tomorrow.

217
218 Mr. Blanchette said that he did not know, adding that he (Mr. Blanchette) would
219 not be in tomorrow, or next week.

**Draft BOARD OF SELECTMEN'S MEETING
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Mr. Murphy suggested that perhaps two Board members and Ms. Pelletier meet with the CEO tomorrow and bring him up-to-date and try to have him persuaded to reverse his opinion and issue the permit.

Mr. Moynahan said that, as was stated earlier, in the event the ordinance was still questionable in his (CEO) mind and there wasn't an issuance of a permit, at that point, the Board would still need the authority to enter into a C.A. separately with Sweet Peas; that with the time crunch and the Board not having another regular meeting...

Mr. Murphy said that they could have a complicated motion in that, if the CEO did not and refused, then the Board could go to the C.A. He added that he would like to avoid a C.A. because it was a very odd way of doing it, even though it may be justified by having the legal opinion that it would be a reasonable thing to do. He added that it seemed to him that the logical step that persuaded the Assistant Planner and Mr. Cielezko, even, was that, yes, there was a way to do it, which was not stymied by the 1,000-foot limit; that the Board should find that and let that be the basis and try to persuade the CEO that he hadn't been reading it right and that there was a segment that allowed non-conforming approval in a case like this - that one didn't always have to be stymied by the 1,000 feet - and see if he would agree to that. He said that that could be done tomorrow.

Mr. Moynahan said that, in hindsight, they should have included the CEO in this discussion tonight so that he could have interjected his concerns. He added that there was a motion and second on the floor and asked if there was more discussion.

Mr. Hirst said that he wondered if he should modify his motion to make it contingent on the CEO's unwillingness to issue the building permit; in other words, the C.A. would be granted if he (CEO) was not willing to issue the permit.

Mr. Beckert said that he would second a modification to the motion.

5:54 PM

Mr. Hirst amended his motion to move that the Board of Selectmen grant a Consent Agreement to Sweet Pea, LLC to break off one lot at the property in question subject to the Code Enforcement Officer's refusal to issue a permit. If the Code Enforcement Officer did not issue a permit then the Consent Agreement is developed and granted. Amended motion seconded by Mr. Beckert.

**VOTE
3-0
Chair concurs**

**Draft BOARD OF SELECTMEN'S MEETING
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263 Mr. Moynahan said that the C.A. language was approved so they would work
264 with the CEO tomorrow and, if a building permit was not issued then a C.A.
265 would be entered into.
266

267 **Department Head/Committee Reports**

268

269 **5:55 PM**

270 **G1.**

Public Works

271

Tree Maintenance

272

273

274 Mr. Moynahan said that this was a budgeted line item.

275

276 Mr. Moulton agreed it was.

277

278 Mr. Moynahan asked what the budgeted line item was for that and what was
279 planned to be done.
280

281

282 Mr. Moulton said it would be street maintenance; that there were various trees
283 throughout Town that have been designated because they were dead and would be
284 a hazard to the Town and the residents. He added that his budget line item was
285 \$9,500 and they were looking at 10 days.

286

287 Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen authorize
288 the Public Works Director to hire Tom Chase of York, Maine to perform the
289 annual tree maintenance at the sum of \$950 per day.

290

VOTE

291

3-0

292

Chair concurs

5:57 PM

Pavement Management RFP

293

294 Mr. Moulton said that a few weeks back he brought an RFP before the Board, had
295 made some minor edits, and this was the final copy. He explained in his memo
296 that this RFP has been disbursed to select consulting engineering firms based on
297 their experience and knowledge of developing and providing municipalities with
298 this type of document. He also said in his memo that firms would be selected
299 based on the scope of work and qualifications and no costs would be reviewed
300 until a consulting firm was chosen. Additionally, he wanted to know if Board
301 members wanted to assist with that review process.
302

303

304 Mr. Moynahan asked, regarding no cost being reviewed until a firm was chosen,
305 why they wouldn't treat this like any other sealed bid and have all the firms, if
306 they were all similarly qualified, provide those and then they would have another
piece to pick from if they were to move forward with this type of thing.

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Mr. Moulton said that one reason was that firms might come up with a different alternative, as opposed to the RFP; that this was a RFP with recommendations and, basically, some kind of a specification but firms may come forward with a different approach or different recommendations to the Town. He added that doing it this way saved a step and was a legal way of doing it, adding that this way gave a broader view, a broader base, of alternatives. He said that he would like members of the Board to review them, as well, so that he wasn't seen as biased and they could have a review committee like they had on other things. He reiterated that there were many ways to do it, that these firms have done it in many different ways but the general format was still the same.

Mr. Hirst said that he took it that this involved long-term planning for road maintenance and that was one of the things the Town had been missing over the years.

Mr. Moulton agreed.

Mr. Hirst said that he thought it was a good idea and would be happy to volunteer to look over the RFP; that he recommended going forward with submitting the RFP.

Mr. Beckert agreed.

Mr. Murphy said that the idea was good; that it would be good to have some idea of how the different companies would cost things out. He added that it would be a desirable thing to do, even if they wanted to somewhat modify this or suggest other ways, allow some thinking to be applied to that. He said that he noticed one error under Task 1 – that #1 and #4 were identical.

Mr. Moulton said that that was just a double and would be crossed off. He said that the firms would give the basics and any alternatives would be listed separately so they would get the whole vision of how the firms would choose to move forward with the tasks designated in the RFP – that one would have the standard but, if a firm proposed an alternate, then that alternate would be noted separately, which would allow for cost-saving options.

Mr. Moynahan reiterated his question that, if they were going to send out an RFP to nine firms, then why were they getting one price. He added that if they were going to be apples to apples and all would have the ability to offer modifications that could do this differently – he wasn't comfortable hiring one firm without seeing pricing from the whole RFP.

**Draft BOARD OF SELECTMEN'S MEETING
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350 **6:08 PM** Mr. Moulton said that he could modify the RFP to say that all pricing would be
351 reviewed. He added that, as it was written, they would only be reviewing
352 qualifications and scope of work and the only price bid that would be opened
353 would be the firm selected.
354

355 Mr. Moynahan said that that eliminated the ability to review the financial piece of
356 this whole thing.
357

358 Mr. Moulton agreed, reiterating that they could change the wording of the RFP.
359

360 Several Board members discussed their desire to have the pricing included in the
361 review.
362

363 Mr. Beckert said that the way this RFP was written was no different than the
364 search for Town Manager; that they wouldn't finalize a Town Manager salary
365 until they picked their last candidate; that that was the one they would discuss
366 salary with; that they had a salary range out there they were advertising to all but,
367 once they picked the last candidate, then they would discuss what they would
368 specifically pay that candidate. He added that this was kind of on the same
369 principle but just a different way of putting out a RFP.
370

371 Mr. Moynahan said that, with the first RFP, everyone would price the same thing
372 with a dollar figure and then, in reviewing those, others may have alternatives or
373 additional scopes of work that would be reviewed, which may be cost savings or
374 better approaches that a group of five people that would say that 'that' was a
375 better alternative to the Town; that if this was exactly how people would want to
376 do it then, in his opinion, they should have all three aspects to review – cost,
377 qualifications and performance.
378

379 There was discussion around having a bit more time to look at this proposal and
380 pricing inclusion.
381

382 **6:14 PM** Mr. Moulton said that they would get the RFP results; that they didn't have to
383 award this; that it was a review. He explained that this could be part of the
384 budgetary process as many people asked him what roads he was doing and why
385 he chose those roads; that he didn't want to be accused of having grandiose ideas;
386 that he felt very capable of doing this but this was a RFP for review and did not
387 have to be awarded. He added that the deadline, if awarded, would be 15 days
388 after submittal.
389

390 Mr. Moynahan commented that Mr. Moulton mentioned a couple of times that he
391 didn't want to be accused of grandiose ideas and asked if they were attempting to
392 do this just to try to minimize some of those comments.
393

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

394 Mr. Moulton said no; that they would do this because it would give the Town a
395 basis...

396
397 Mr. Moynahan said that Mr. Moulton was capable of doing this.

398
399 Mr. Moulton agreed.

400
401 Mr. Moynahan said that the Board didn't think that what Mr. Moulton was doing
402 was grandiose; that they separated paving, etc. from that budget to put it in front
403 of voters based on Mr. Moulton's recommendations and review of the roads. He
404 asked if this RFP would be redundancy.

405
406 Mr. Moulton said that this would give the Town a 20-year plan and that was the
407 intent. He added that this may come back that the Town needed, say, \$1.6 million
408 a year and everyone knew that would not happen. He added that it would give the
409 Town a 20-year plan with forethought and vision for each year ahead, saying that
410 he went out to check the roads every year but this would give them a long-term
411 plan with costing included for the Town to plan ahead for; that this would give
412 them a better outlook of where the Town really needed to go and how they needed
413 to be thinking, as a Town, for the infrastructure.

414
415 Mr. Hirst said that long-term planning was not grandiose, it was sensible.

416
417 Mr. Murphy asked if this was in Mr. Moulton's budget now.

418
419 Mr. Moulton said that he was going to use DOT funds he receives - \$37,000 – and
420 that should be more than adequate.

421
422 Mr. Moynahan said that the RFP didn't obligate them to hire or anything; that this
423 could be a review process and the costs were too exorbitant and would not be
424 something that would be moved forward.

425
426 The Board agreed by consensus to move forward with this RFP and to include the
427 language change to include pricing bids.

428
429 **6:17 PM Discussion on alternate days for Transfer Station Closure**

430
431 This was discussion on the days of operation and a suggestion to change the
432 Thursday open day to Tuesday, or even Wednesday.

433
434 After discussion, the Board agreed to rearrange the day after taking a poll for two
435 weeks to see what the residents would like, bring it back up again, and advertise
436 with ample time to notify of the change.

437

**Draft BOARD OF SELECTMEN'S MEETING
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438 **6:20 PM Update on Pay-as-you-Throw**

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441

Mr. Moulton said that they have had a decrease in trash; that some of it was probably due to some people going to curb-side. He added that they had decreased trash in weight by better than 1/3rd and the two composting containers were emptied twice a week. He added that, in the month of September, they hauled just under 20 tons of trash and they were hauling 15 tons prior to. He added that, in checking with people picking up curb-side, the general consensus was that the Transfer Station probably lost 40-50 people; that recycling was staying level. He said that he would get the financial part of it to them as soon as he had it.

448

449

450

451

G2. Administration

452

453

6:24 PM Code Enforcement – 15 Park Street ADU

454

Mr. Moynahan said that there were some conditions of the permit and asked if that all had been done.

456

457

Mr. Blanchette said that that had been done, signed, and notarized, and the individual had to record it at the Registry of Deeds.

459

460

Mr. Moynahan said that everyone was happy with the second person, the process, etc., and everything was good.

462

463

Mr. Blanchette said that it was, as far as he knew.

464

465

6:25 PM Mr. Blanchette said that he had the Sewer ordinance that was going to be voted on in November; that he had the original that the Board needed to sign.

467

468

At this time the Board signed the ordinance document.

469

470

New Business (Correspondence List):

471

472

6:26 PM

473

#H1 TO : Board of Selectmen
FROM : Town of Eliot, Maine
REF : Fireworks Permit

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476

477

Mr. Moynahan said that the Board had the Administrative Assistant make some changes and asked for Board input.

478

479

480

**Draft BOARD OF SELECTMEN'S MEETING
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481 Mr. Blanchette said that the only thing he would comment on was the hours; that
482 he was asked to follow the ordinance specifying when the allowable decibels
483 changed but that the time would be 8 PM and that seemed too early, especially in
484 the summertime, and suggest 10 PM or 11PM.

485
486 It was the consensus of the Board to change the end time of 8PM to 11PM.

487
488 **6:30 PM**
489 **#H2**

TO : Board of Selectmen
FROM : Assessor
REF : Proposed 2014 State Valuation

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491
492
493 Mr. Blanchette said that this was for the Board's information that the Town was
494 going from 55.988% to 56.118%, which was the ratio between Eliot and South
495 Berwick, and that ration, in part, got into the formulation of the school formula
496 for Eliot's portion to South Berwick's portion

497
498 **#H3**

TO : Board of Selectmen
FROM : erics@shareinmyday.com
REF : Town Hall Streams Eliot, ME Report

499
500
501 This was an update on the use of the Town video-streaming.

502
503
504 Mr. Hirst said that the value on this, in his opinion, was not necessarily
505 represented by the number of individual viewers but by the people who
506 constituted the number of viewers; that they didn't know that and would hesitate
507 to value this just on numbers of viewers.

508
509 **6:31 PM**
510 **#H4**

TO : Board of Selectmen
FROM : Kimberley A. Richards
REF : Application for Membership to Conservation Commission (two alternate
513 vacancies, Terms to expire in 2015 and 2016.)

514
515 Mr. Blanchette said that he wished to extend an apology; that unfortunately the
516 Town didn't notify Ms. Richards to try to be here so she was not here not due to
517 her own fault.

518
519 Mr. Murphy said that he thought that the Board had gotten to know Ms. Richards
520 quite well in her testimony in regard to the Schiller Station and didn't think they
521 required her presence in order to approve her application.

522

**Draft BOARD OF SELECTMEN'S MEETING
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523 Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen appoint
524 Kimberly A. Richards as an alternate member to the Conservation Commission,
525 term to expire in 2016.

VOTE

3-0

Chair concurs

526

527

528

529

530

6:34 PM

531

#H5

TO : Board of Selectmen

FROM : Xfinity

REF : Updates

532

533

534

This was informational.

535

536

537

#H6

TO : Board of Selectmen

FROM : Unitil

REF : Annual Gas Emergency Preparedness Meeting, November 12, 2013

538

539

540

This was an invitation to this annual meeting.

541

542

543

6:35 PM

544

#H7

TO : Board of Selectmen

FROM : Grant Hirst

REF : Assessor

545

546

547

Mr. Moynahan said that this request from Mr. Hirst was discussed two weeks ago
548 and, at that time, they had a note from the attorney not to discuss it. He asked if
549 there was an update.

550

551

Mr. Beckert moved to table this discussion, as it was his understanding that the
552 attorney planned to be here on October 24th to discuss this, among other matters,
553 until after the discussion with the attorney. Seconded by Mr. Murphy.

554

555

VOTE

3-0

Chair did not concur

556

557

6:36 PM

558

#H8

TO : Board of Selectmen

FROM : Dutch Dunkelberger

REF : Ordinance Governing Municipal Boards, Commissions, and Committees

559

560

561

After a brief discussion, it was the consensus of the Board to accept the language
562 regarding VT participants in meetings.

563

564

565

566

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

567 **6:38 PM**

568 **#H9**

TO : Board of Selectmen

569 FROM : Mike Moynahan

570 REF : Copy of Memo sent to the Planning Board re: 1,000-foot roadway maximum

571

572 This was a letter sent to the PB asking them to review the 1,000- foot road limits,
573 as discussed at their (BOS) last meeting.

574

575 **6:40 PM**

576 **#H10**

TO : Board of Selectmen

577 FROM : No Correspondence

578 REF :

579

580 Mr. Moynahan had asked for a follow-up report from the SC on the sewer user
581 rates, if subcommittee work had been completed.

582

583 Mr. (Mike) Dupuis said that at their last meeting they were waiting for quarterly
584 bills to come in through the subcommittee so that the SC could meet with them
585 one more time; that they had nothing available tonight on the rate increases
586 because they were waiting for those quarterly bills.

587

588 Mr. Moulton said that they received the July bill just two weeks ago because they
589 were formatting to the new IMA to come up with the new billing reflecting the
590 new IMA; that July's bill reflected the old agreement and October's bill should
591 reflect the new.

592

593 Mr. Hirst asked if they should expect the October bill from Kittery mid-October.

594

595 Mr. Moulton said yes.

596

597 Mr. Hirst said that as soon as he got that from Mr. Moulton he would call a
598 meeting of the Rate Review Committee.

599

600 Mr. Dupuis said that, based on that, the SC should have a full report for the Board
601 in two weeks

602

603 **6:42 PM**

604 **#H11**

TO : Board of Selectmen

605 FROM : No Correspondence

606 REF :

607

608 This was regarding Regionalization, #11 under the Action Item List (AIL).

609

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

610 Mr. Hirst said that he and Mr. Dunkelberger have been meeting with the Kittery
611 negotiating team on collaboration, which was made up of Marianne Place, Acting
612 Town Manager (Kittery), Ted Short (Police Chief for both towns) and Dave
613 O'Brien (Kittery Fire Chief). He said that they were addressing the issue of
614 transfer station sharing and just last week they started in on the issue of
615 recreation. He added that Mr. Moulton and Mr. Norman Albert were working on a
616 proposal to the towns for some sort of sharing arrangement with transfer station.
617 He added that they were making good progress and that the level of cooperation
618 with Kittery was outstanding.

619
620 A member of the audience asked if Fire was something the Town should be
621 thinking about.

622
623 Mr. Moynahan said that there was a list that the Eliot subcommittee was given
624 that covered every aspect of the entire Town but whether they fit or not was to be
625 determined.

626
627 **6:44 PM**
628 **#H12**

TO : Board of Selectmen
FROM : No Correspondence
REF :

630
631
632 This was regarding Employees – Cross training, #7 under the Action Item List
633 (AIL).

634
635 Mr. Moynahan said that the Board had put this off while hiring a new Treasurer to
636 see what was feasible to shift over into the Town Clerk's office. He asked if there
637 had been any movement with this.

638
639 Mr. Hirst said that he thought that Mr. Dunkelberger had looked into the issue of
640 payroll and whether they should consider farming that out, or not.

641
642 Mr. Moynahan said that this was specific to what could be handled in the Clerk's
643 office with some of those financial functions; that that was given to the hiring
644 committee to review and see what could be done, especially with Ms. Albert's
645 presence in the Clerk's office; the new Wednesday closing times; where there
646 areas that could pick up some of the functions of the Treasurer's office. He asked,
647 if nothing had been done, could they set up a meeting to get this going and review
648 a little more in detail to see what, if anything, was feasible with some of those
649 items that were highlighted.

650
651 Mr. Murphy and Mr. Hirst agreed to set up a meeting with the appropriate people.

652
653

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

654 **6:45 PM**
655 **#H13**

TO : Board of Selectmen
FROM :
REF : "An Ordinance Regulating the Operation of All Vehicles in the Public Ways..."

658
659 This was a final reading and acceptance.
660

661 Mr. Moynahan said that there were changes from the Police Chief in either blue
662 or red; that the Police Chief had entered some State language.
663

664 Mr. Murphy discussed making a correction to the top of the second page mark up
665 as it was not a complete sentence and suggested adding "every vehicle in a motor
666 vehicle shall stop" after stop sign.
667

668 There was discussion around the State language and to make sure any additions
669 were, in fact, in the State language.
670

671 The Board agreed to have Mr. Murphy follow up with the Police Chief on this
672 correction.
673

674 **6:48 PM**
675 **#H14**

TO : Board of Selectmen
FROM :
REF : Policy Review – Selectmen's Policies – New

678
679 Mr. Moynahan said that there was nothing in their packets. He added that they
680 had the new format that everyone had received and asked Board members to
681 make any potential changes or corrections they felt were needed; that they would
682 set up a workshop specific to that and asked them if they could do some of that in
683 their off-time in the next couple of weeks to be prepared when that was
684 scheduled.
685

686 **Old Business (Action List):**
687

688 **6:49 PM**
689

- 690 1. Tax Increment Finance Program – Potential projects, next steps, schedule
691 workshop
692

693 Mr. Moynahan said that he still had to schedule a workshop as at one of their last
694 meetings it was suggested to wait until after the November vote
695

- 696 2. Good Neighbor Petition
697

Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)

698 Mr. Moynahan said that they had received notification of a Title V Permit
699 Review Public Hearing and comment period, which was due by November 6th.

700
701 After some discussion, Mr. Hirst said that he thought that NHDES would hold a
702 public meeting if somebody asked them to do so. He added that, at the moment,
703 he didn't quite know what he would ask at such a meeting.

704
705 Mr. Murphy said that he thought that Eliot should request a meeting as it would
706 indicate, very clearly, Eliot's continuing interest in the problem and willingness
707 to go listen to New Hampshire at their public hearing about what they were
708 planning to do, if anything. He added that, if the Board remembered, they had a
709 preliminary version of Schiller's proposed plan that was included as part of the
710 Sierra Club's submission to the DEP and that a point was made by Sierra Club's
711 attorney that that plan didn't have any change from the past to improve output
712 pollutants – no change in what Schiller was planning to do in their new plan –
713 and it might be interesting to go to the meeting to find out if that continued to be
714 the case or whether they (Schiller) may have modified their preliminary version
715 to their plan to find out if they have improved it.

716
717 Mr. Beckert said that requests for a public hearing needed to be forwarded
718 through the NHDES and suggested it might be prudent to contact the NHDES to
719 find out if the City of Portsmouth or the Town of Newington have already
720 requested a public hearing, which Eliot could go to, if that were the case.

721
722 Mr. Hirst said that he would call Mr. (Todd) Moore at NHDES to find out any
723 potential schedules. He asked, if the NHDES said that no entity had not requested
724 a public hearing, did the Board have any instructions for him on whether Eliot
725 should be the one that asked for one.

726
727 Mr. Moynahan said to perhaps ask how one would set up a public hearing and
728 then get back to the Board on what he found.

729
730 3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, &
731 Chief Short

732
733 This will be discussed in executive session.

734
735 4. Community Service Space: Relocation to Elementary School – explore school
736 space – fit up costs, service impacts, insurance, MSAD #35 contract - CSD
737 Director, Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette

738
739 **6:55 PM** Mr. Beckert gave an update. He said that they had Mr. Emery look at any
740 possible issues with ECSD using the school's wireless internet; that they met
741 with the school's IT people and 2-Way communications; that Mr. Emery would
742 write up a brief on his observations but told him (Mr. Beckert) that there were no
743 major issues and should be able to use the wireless of the school department; that
744 2-Way Communications agreed that it was definitely workable; that the only
745 expenses should be minor – maybe a couple dollars a month for each email

Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)

746 account, etc. He added that it was Mr. Emery's recommendation that the ECSD
747 Director should have paperwork before the Board to move forward with 2-Way
748 Communications on some issues that she had; that Mr. Emery recommended that
749 the Board allow her to move forward with that because anything that was done
750 now would still be compatible with the move to the school. He said that,
751 hopefully within a week, he would have something back from Michelle Shields
752 on the actual sketches and list of materials on what it would take to modify that
753 space.

- 754
755 5. Town Manager - Job description, sample contracts, hiring committee
756

757 Mr. Moynahan said that there were comments from the Town attorney for the
758 Board's review, adding that he believed it was not to be disseminated as of yet
759 and asked the Board to review so that they could speak to that when the attorney
760 was here.

- 761
762 6. Policy creation/review – Ordinance Governing Boards and Committees, Park
763 Ban Ordinance
764

765 It was agreed to add Selectmen's Policy and remove the two listed items.
766

- 767 7. Employees – cross-training, charting earned times, job descriptions - BOS
768

769 This was previously discussed.
770

- 771 8. Liaisons to boards, committees, and commissions – review existing members, try
772 to fill open spots; Committee/Board – Mission Statement Review - BOS
773

774 It was agreed that the Board needed a list of current committees/commissions and
775 liaisons, if any, to those groups.
776

- 777 9. Budget Preparation – Fiscal year 2015, goals, formats, etc. Department Head
778 Workshop - BOS
779

780 A workshop is scheduled for next Thursday at 5:30 PM.
781

- 782 10. Pay-per-Bag Recycling – 6-month trial, public information sessions
783

784 This was just updated tonight and is ongoing.
785

- 786 11. Regionalization – explore areas of potential collaboration, cost reductions &
787 enhancements to services – Mr. Moynahan, Mr. Hirst
788

789 This was discussed earlier tonight.
790

- 791 12. Legal issues – BOS
792

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

793 Nothing at this time.

794

795 13. Sewer - User Rates, reserved allotments, odor, maintenance– Sewer Committee,
796 Underwood Engineers, Mr. Moulton

797

798 User rates were updated earlier tonight and allotments were updated within the
799 past couple of weeks. He asked Mr. Moulton about odor issues.

800

801 Mr. Moulton said that he has had a couple people call and, generally, issues arose
802 when they were doing work in the area and/or atmospheric pressure, which had a
803 lot to do with it; that it comes and goes and was on the hit-list of work to be done
804 on the sewer but they have not pursued it thus far.

805

806 14. Department Heads – monthly reports, employee reviews, financial oversight,
807 policy reviews, and department reviews – BOS

808

809 Mr. Moynahan said that department heads would speak to the Board about their
810 monthly reporting at next week's meeting.

811

812 15. Research grant opportunities – AED's for Town buildings

813

814 Mr. Hirst said that he spoke with Mr. Muzeroll and he has looked all over and not
815 found any grant opportunities for AED's, which Mr. Hirst has asked for for each
816 Town building, so Mr. Muzeroll was going to look into reduced pricing. He
817 added that, at the same time, grant opportunities were presented to the Town
818 Clerk from MMA and believed those grant requests were due in May/November;
819 that MMA could give Eliot certain things, although not sure AED's were one of
820 them, but MMA could give the Town equipment pertaining to safety.
821 Additionally, Mr. Hirst said that the Safety Committee has not been meeting
822 regularly; that the Chair, Candice Simeoni, is now gone and that they did not
823 have a person from each Town department; that the Board needed to make it
824 clear to department heads that the Safety Committee needed to meet regularly
825 and needed someone from each department.

826

827 Mr. Blanchette said that he has sent a memo to all department heads saying he
828 wanted a Safety Committee meeting here on a certain date in October.

829

830 Mr. Hirst was appreciative. He said that there was a lot of opportunity from
831 MMA for grants so they shouldn't go a May or November without asking for
832 something.

833

834 **7:05 PM** Mr. Beckert said that he had suggested looking at the Eliot/South Berwick
835 Rotary; that he knew that they had supplied one to the Library and offered
836 defibrillators to public buildings. He suggested that somebody from the Safety
837 Committee contact the Rotary to see if that was a project the Rotary was still
838 willing to look at.

839

840 Mr. Hirst said that he would follow up on this with the Fire Chief.

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

841
842 A member of the audience commented that Eliot did not have emergency
843 procedures available to the public that she had found; that maybe that was the
844 responsibility of the Safety Committee.
845

846 **7:08 PM** Mr. Blanchette clarified that the Safety Committee was not for the Town, as a
847 whole, but for the employee/employer relationship. He said that the Town did
848 have an emergency management response plan; that the Fire Chief was the
849 director and he would be in charge of disseminating information, etc. and
850 suggested she contact him.
851

852 Mr. Hirst said that they had an entire manual at the Town Hall devoted to that,
853 which was available to the public.
854

855 The same audience member said that she was thinking of a one-pager one might
856 keep on the refrigerator in the event of an emergency – what to keep on hand,
857 where to go, who to call – and suggested something be prepared as a handout for
858 the voting in November or at the Transfer Station, etc.
859

860 Mr. Moynahan said that he would follow up with the Emergency Management
861 Director.
862

863 16. Comp Plan follow-up
864

865 Mr. Moynahan said that the last time the Board had this in front of them they
866 were pretty up-to-date with Board responsibilities but would review it and, if
867 there was something lacking, he would put it on a future agenda.
868

869 17. Public Works Union Negotiations – Mr. Moynahan, Mr. Dunkelberger, Mr.
870 Moulton and Mr. Dave Barrett
871

872 This is ongoing.
873

874 Town Hall/Recreation Union Negotiations - Mr. Moynahan, Mr. Dunkelberger,
875 Mr. Moulton and Mr. Dave Barrett
876

877 This is ongoing.
878

879 18. Public Hearings Scheduled – November Referendum for Municipal Charter,
880 Sewer Improvements and Sewer Ordinance
881

882 **Selectmen's Report:**
883

884 Mr. Murphy said that they should let Ms. Richards (she was present at this time)
885 know that the Board approved her application to be on the Conservation
886 Commission and her term was until 2016.
887

**Draft BOARD OF SELECTMEN'S MEETING
October 10, 2013 5:30PM (continued)**

888 Mr. Beckert let her know to see the Town Clerk to get sworn in.

889

890 **7:11 PM** Mr. Moynahan said that he had the Treasurer prepare a financial statement as it
891 related to the financial income for the TIF; that he would put copies in members'
892 boxes to review; that it was something the Board may want to offer to the public
893 to see what that was generating.

894

895 Mr. Moynahan said that additional information for the AP warrant was requested
896 from the BC. He added that the AP warrant was limited to the number of
897 characters in terms of what could be offered in detail so there was no way to add
898 more detail to the warrant they currently had, as stated in a memo from the
899 Treasurer.

900

901 **Other Business as Needed**

902

903 There was no other business tonight.

904

905 **7:13 PM**

906 **Executive Session**

907

908 Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen enter into
909 executive session as allowed by 1 M.R.S.A § 405.6.D "Labor Contracts"

910

VOTE

911

3-0

912

Chair concurs

913

914 **7:42 PM** Out of executive session. There was no action taken.

915

916 **Adjourn**

917

918 There was a motion and second to adjourn the meeting at 7:43 PM.

919

VOTE

920

3-0

921

Chair concurs

922

923

924

925

926

927

928 **DATE** _____

929

930

Mr. John J. Murphy, Secretary