

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM

Quorum noted

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

Roll Call: Mr. Fernald, Mr. Moynahan, Mr. Dunkelberger, Mr. Murphy and Ms. Place.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:32 PM Motion by Mr. Moynahan, seconded by Ms. Place, to approve the minutes of September 8, 2011, as written.

VOTE

4-0

Chair concurs

Public Comment:

There was no one who wished to speak.

6:33 PM

Department Head/Committee Reports

Mr. Blanchette discussed the CEO requesting to do a fly-over for aerial photos at a cost of about \$260, adding that he thought it was well worth the effort, and he described in more detail the purpose in his memo.

Mr. Moynahan asked what the monitoring agencies did, if they provided any pictures and did the Town do anything with GIS with them.

Mr. Marchese said, in relation to the GIS, they had to find out when the photo dates were, and that wasn't always that easy to do. He said that, if one was taking pictures, one could easily identify in court (if it came to that) where the information came from, whereas, pulling the information off the internet, one could not really say how the information was obtained.

Mr. Moynahan asked if the monitoring agencies provided any information to the Town.

Mr. Marchese said that they did not.

Mr. Murphy discussed the updates of well samples St. Germaine had been giving and asked if they were still doing that.

Mr. Marchese said that he had not seen any updates from them. He clarified that the purpose of the aerial photos would be to better identify whether or not these applications are meeting the conditions of approval assigned to them by the Planning Board (PB). He added that they would look at some of the guidelines the State has mandated, as well, such as how much of an open area of unvegetated surface that one could have, and would be some of the things the Town would look at, as well.

Mr. Murphy said that his first personal feeling about this was that it was a modern, up-to-date, rapid, efficient way to find out a lot of information, much of which they have not been able to find out in the past. He said that he would recommend the Board try this out at least once and, maybe, adopt it to keep up on these big things that they couldn't easily see. Mr. Moynahan agreed.

Mr. Murphy moved, second by Mr. Moynahan, to approve this request by the CEO to expend \$260 for aerial photos of the Town of Eliot.

VOTE

4-0

Chair concurs

6:35 PM Mr. Cielezsko (Chair – Board of Appeals) said that he was asked to come to this meeting and this meeting fell between the Appeals Board meetings so he has not had a

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chance to meet with his Board to find any consensus as to what the Board of Appeals should present to this Board, if anything.

Mr. Fernald said that one of the things the Board was doing was to have department heads come before the Board to give them updates as to what was happening with their department or board and to see if there was anything the Selectmen could do for them.

Mr. Cielezsko said that he would have liked to have had the opportunity to quiz his Board about this but he was willing to answer any question he could, as the Chairman.

Mr. Murphy asked if Mr. Cielezsko felt his Board was having any problems, if they felt they were struggling to accomplish their job and needed help.

Mr. Cielezsko said that he did not personally; adding that the Board was functioning well and he didn't have any current concerns. He added that a going concern for down the road would be the live video and that a consensus not reached by vote that they would pursue was to give this Board a heads-up that they didn't want any cameras in their meetings.

Mr. Fernald clarified that this was a test going on to see if this is something they want to continue.

Mr. Cielezsko verified that it would not include the Appeals Board and that it would be off for BOA meetings.

Mr. Murphy invited Mr. Cielezsko back after he'd had a chance to talk with his Board. Mr. Cielezsko said certainly.

Mr. Fernald discussed the Board's correspondence #10 from Barbara Boggiano, saying it was his understanding that she had resigned.

Mr. Cielezsko said that it was his understanding that she was here until December, that she did speak with him about it, and that there was nothing they could do about it.

Mr. Fernald said that it would be difficult but that they should see about trying to get someone else to fill those shoes.

6:40 PM

Mr. Beckert (Chair – Planning Board) said that the PB was very busy and that at their next meeting they had five applications before them and several more applications that they have put off until their November 1st meeting, which is usually their ordinance development meeting. He added that he had not had a chance to read it yet but a big package came in yesterday from the gentleman's club. He said that they had been working on ordinance updates, last year having worked on several sections of the subdivision ordinance that went before the voters and passed. Mr. Beckert said that the next section they tackled was the Road Standards that is a big portion and has been a problematic area, met with SMRPC, who has done a lot of work for them, along with the Public Works Director and that should be ready soon for the Board to review and put on a subsequent Town Meeting Warrant. He added that they would then decide what they would tackle next; trying to follow through with the areas of the Comp Plan they were tasked with. Mr. Beckert said that they were down an alternate member and asked for suggestions for anyone who was interested in volunteering. Discussing the Fireworks Ordinance, he said that they needed to know from the Board of Selectmen if they were going to allow the sale of fireworks in the Town of Eliot.

Mr. Fernald said that the Selectmen were going to have a workshop next Thursday to discuss that matter.

Mr. Beckert said that, before the PB went ahead to try to develop where they think fireworks should be sold, they needed to know if the Board was even going to allow it. He said that they were waiting from guidance from the Board.

Mr. Fernald said that they would have it soon.

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6:45 PM

Mr. Beckert gave an update on the Building Committee. He said that the BC has moved along quite well the last several months and was hoping to come to the Board tonight with a package but they had to go back to Attar Engineering to do some tweaking to the site plan. He added that they had a meeting on Monday, October 17th at 4:30 PM and, hopefully, those things would be ironed out on the site plan. He added that, in the near future, the BC would be coming to the Board to ask them if they wanted to move forward with having actual construction plans done, as well as the actual bidding specifications. He said that they do have actual proposals from Michelle Shields, who the BC hired (BOS approved) to do the architectural design – they have a bid from her to do the actual bidding specifications, which, for example, would be the type of window, roof covering, siding, everything. He added that Attar Engineering has also given them a proposal on what it would cost to have the actual construction drawings done, which would be needed to be able to put out to bid, along with the specifications. He let the Board know that this project would have to go before the PB and he would have to step down as Chair at that point, which was fine as the Vice-Chair would do that and he (Mr. Beckert) would probably be the one presenting the project. He asked if the Board wanted the BC, at this point, to take this to the PB to make sure everything was all set with the design and proposal, clarifying that all the PB would look at was, basically, the structure, the parking, where the building sits on the property, the septic design (already done), that it would probably get on the docket for the second November PB meeting and may take a minimum of two PB meetings

The Board agreed by consensus that the BC should submit this to the PB for review.

Mr. Beckert said that he would take that back to the BC on Monday. He added that the other question was that, when he did report back to the committee with what they have for the proposals they had with the bid drawings and bid specifications, he wasn't sure that was something the Board wanted to do before they went to the Town for approval for the project or not because it was going to be another sum of money that would have to be expended.

6:50 PM

Mr. Dunkelberger said that Mr. Beckert brought up a good point in that the Board may want to decide, before they decide to spend more money on detailed drawings, to put out a total cost estimate of the building to the public to find out if they would support it.

Mr. Beckert said that they got what he would call rough estimates because there were several estimates submitted by different contractors to the BC and did not all contain the same information basis. He added that the BC had a figure they were looking at currently for the overall project and that they had additionally asked Ms. Muzeroll-Roy to give them an estimate of outfitting the new building – what it would take to furnish the structure and that there would need to be a contingency fund for that purpose. He clarified that the contractor bids would include things like the heating system, etc., but the Town would have to look at setting aside additional amounts for furnishings for the employees.

Mr. Fernald discussed that there is office space and an addition included in the specs and asked if it had been discussed to have the office space immediately and create the addition at a later time.

Mr. Beckert said that it has not to this point, as they sort of designed the building as a structure for what ECSD's services foreseen needs were for now and the future. He said that the building was expandable in the lower level for additional office space for future use needs and that was what the septic system was designed around – if it were built out to full capacity. He added that the function room could be something they could decide about when they send it out to the bid process.

Mr. Fernald discussed that he didn't know what the costs were or what the building was, yet, but knew that money was tight out there for everyone. He said that he was just looking at the possibility of creating office space where they do have \$100,000 in the ECSD building reserve, another \$100,000 could possibly be taken from

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undesigned funds (or somewhere), and nothing would have to come from the taxpayer's pocket. He added that maybe they could design it in such a way that, in two or three years, they could build up the reserve account to obtain the other portion of the structure. Mr. Fernald said that that was just a thought he had and that he had not discussed it with the Board yet.

Mr. Beckert said that he thought that was definitely something the Selectmen could look at. He added that his committee has the full package, so-to-speak. He added that some of the things the Board needed to consider in putting things off were whether it would be cheaper in the long run to put in the foundation for the whole building now and the septic system would have to be put in to full capacity at this point, anyway.

Mr. Fernald commented that it may not be cost-effective but he did not know at this point.

Mr. Beckert reiterated that they could do this when they went out for the bid process – they could split it up that way and ask for them to bid both ways.

Mr. Fernald asked Mr. Beckert if there was anything the Board could do for either the PB or BC.

Mr. Beckert reiterated that the PB needed another alternate PB member and the same thing with the BC so, if anyone knew of anyone who would like to get involved, that would be appreciated.

New Business (Correspondence List):

6:58 PM

#1

TO : Board of Selectmen
FROM : Public Works Department
REF : Sewer Maintenance

Mr. Fernald said that Mr. Moulton could not be present tonight. He said that Correspondence #1 was a letter regarding the Sewer Pump Stations #1, #2, and #3 and scheduled sewer maintenance of those pump stations. He said that Mr. Moulton was changing the maintenance schedule and would do more frequent inspections because of some issues they have found within Pump Stations #1 and #2. He added that this was informational.

Next, Mr. Fernald discussed a letter from Mr. Moulton regarding the purchase of roll-off containers in the amount of \$3,600 that was previously discussed during the 2011-2012 budget cycle. He asked Mr. Blanchette if they had discussed where the money would come from.

Mr. Blanchette said that he believed it would come from the Facilities Reserve Account. Mr. Moynahan asked if they only talked about it during the budget or has he requested the funds since then.

Mr. Blanchette said that this was his request to purchase the roll-off containers.

The Board had discussion around where the money would come from and agreed to have Mr. Moulton attend the next workshop meeting to discuss this.

Mr. Fernald said that the next item was a result of a question asked by the Selectmen about comprehensive time for employees and one of the employee's hours. He asked if, now that the Board had more information, were they satisfied with the information provided, or would they like to ask more questions of Mr. Moulton.

Mr. Moynahan said that he would like to ask some more questions to make sure it was managed properly.

7:00 PM

#3

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Public Hearing on Referendum Articles (3)

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At this time, Mr. Fernald opened the Public Hearing on the proposed Firearms Safety Ordinance and asked for public comments.

Mr. Glassman said that he would like to speak against this ordinance. He said that he was the Chairman of the Firearms Safety Committee. He talked about "rimfire" firearms, which are basically .22 caliber and .17 caliber guns, saying that this ballot measure proposes removing restrictions against rimfire, which has been in effect for 18 years, and exists for public safety reasons in a restricted area, which is west of State Road and east of River Road. He added that much of the restricted area is zoned as Suburban and Village, which currently allows for shotguns and muzzleloaders but not for rimfire. He added that State law allows discharge of a firearm at 100 yards from a residence, which was fine for shotguns but was dangerous for rimfire because a .22 rifle, elevated and fired, can send a stray bullet ½ to 1 mile, which is a documented fact. Mr. Glassman said that he believes this is too great a range for a residential area, which is why they have the current law and why he believes they should keep current law. He added that, if this measure passes, then rimfire hunting would become legal in the restricted area year-round and it is already legal east of State Road, which is about 75% of Eliot and in many other places and he does not believe it needs to be expanded to populated areas in west Eliot. He said that private rimfire shooting ranges would become legal in the neighborhoods with almost no current regulations, as no hunting license or other license is required for private shooting ranges. He discussed the practical limitations of orienting ranges on small property lots, saying that most properties in the Suburban Zone of the restricted area would have neighbors or roads in the line of fire and in the range of rimfire guns. He discussed safer but less convenient options for target practice – gun clubs, legal private ranges in Eliot and a public range in York County. Mr. Glassman said that this measure was on the ballot last year and it was defeated. He discussed that this year's measure is basically the same, repeats existing State law, adds some definition of gun types and he was in favor of that but the additions were not required to be included and they don't change the rule of law or enforcement. He said that they could debate how risky it was to expand rimfire to populated areas but he believes the benefits in this measure were really about convenience for only a few people, with added risk to the general public.

Mr. Pachousky asked why anyone wanted to change the ordinance and asked who wanted to change the law.

Mr. Glassman said, in practical terms, it expands hunting to west Eliot and the possibility of shooting ranges using rimfire.

Ms. Shapleigh asked if someone wanted to protect their crops or their animals or their poultry then they would have to use a shotgun and, if they only had a .22, then they would now have to go out and buy a shotgun to protect.

Mr. Glassman said no, that the law, as it is currently written, allows protection from animal attack and allows using .22's for killing pest animals.

Ms. Shapleigh clarified that the new ordinance wouldn't change that.

Mr. Glassman said that the new ordinance would basically deregulate rimfire use, so there would be no rules to prevent someone from using it – it becomes legal.

Mr. Fernald asked if anyone else wanted to speak on this ordinance proposal. There was no one.

7:12 PM Mr. Fernald closed the Public Hearing.

7:13 PM At this time, Mr. Fernald opened the Public Hearing on the proposed Animal Control Ordinance and asked for public comments.

Ms. (Ellen) Smith said that she was fairly new to Eliot and added that she has been taking her dog to that park for three years, now. She added that she has really enjoyed

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going there and letting her dog run in the wooded area. She said that she picked up after her dog and she believes most of the dog owners that she has met there do the same. She said that she thought it would be a crime not to leave a part of that area open to no-leash and didn't understand why Eliot was so strict in wanting to do this. She added that all the public beaches in Rye, York, and Hampton allow dogs to be off-leash during the winter months from October to, perhaps, May, and that is something that she thinks they should consider – having the summer months different from the summer months because those of them who go there, go there year-round.

Mr. (Tom) Dubois asked if they could clarify what the ordinance is and what is being questioned or that is being proposed.

Mr. Fernald clarified that it was the “Animal Control Ordinance of Eliot” and asked if the speaker had read the ordinance.

Mr. Dubois said no, then clarified that he was wondering what the issue was or what was being proposed here.

Mr. Fernald explained that they had an ordinance that was written for the Town of Eliot and this was a public hearing to ask questions about that proposed ordinance. He said that what the speaker needed to do was to have read that ordinance proposal. He asked if Ms. Buckley would like to speak to this.

Ms. Buckley said that she would be glad to but she wasn't quite clear what the question was.

Mr. (Bernie) Patrowsky asked what was the ordinance and how many pages was it.

Ms. Buckley said that every town had an ordinance, or should have an ordinance, for laws or rules for animals in the town and the existing ordinance is very short with many gray areas that make things very difficult to enforce. She added that the new ordinance is, basically, more specific in a lot of areas.

A member of the audience asked if someone could explain why there has been a change down at the Boat Basin.

Ms. Buckley said that the police department has had numerous calls and complaints about loose dogs jumping on people, attacking dogs on leash, scratching cars, jumping on beach blankets, breaking glasses on those beach blankets. She added that dogs under the old ordinance can be off-leash if they are under control but, basically, dogs are not under control if these things are happening. She also said that this was not the only issue with the current ordinance, that this was just part of it.

Mr. Patrowsky said that he has been a resident of Eliot for about 30 years and owned dogs all that time. He added that, probably for the past 15 years, he has taken his dogs down to the Eliot Boat Basin to the path in the woods. He discussed the history of that path. He said that some dog owners decided that they would make a path through the woods, as there was nothing at the time, so they could walk through there with their dogs, clarifying that it was dog-owners who initiated that path through the woods and they have actually helped maintain that path, with one man putting bark mulch down to help keep it passable. Mr. Patrowsky said that he walked his dog at least five times a week, either he or his wife, and they have never had a problem with wild dogs or scratching dogs or attacking dogs, that all the dogs he has seen have been well-mannered. He commented that the Town has a list of reports but the only time he has seen Ms. Buckley down there was once during the just past July 4th weekend, emphasizing that he had never seen any problems down there. He added that he knows several dog-owners that won't go down there now and that there was one poor person who had a dog who might weigh 5 pounds and because he had to put a leash on this 5-pound dog...it's ludicrous is what it is. He said that that thing about being “under control” means a lot and he doesn't think they need a leash law, per say, if the dog is under control, then he thinks that is adequate.

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Mr. (John) Barton said that he was the guy who put the chips (bark mulch) on the trail, adding that that trail was made years ago by the Baha'i.

Mr. Fernald clarified that the speaker was against the ordinance.

Mr. Barton clarified that he was not against the ordinance, that dogs should be on-leash when in a public area but on the trail they should be loose, if they were within 10-15 feet of voice command.

Mr. (Mike) Gildersleeve said that he has read through the ordinance and, while he could certainly concede it has some good points, but felt from his perspective that it was overly restrictive. He added that he was lucky enough that he had a big-enough yard that his dog could run in his yard but he realized that there were plenty of people in Town who did not have that luxury of enough space. He said that, as he was reading through the ordinance, he thought there was the opportunity, at least, to open up a door in the ordinance with a simple couple of additions – specifically, the parts where it lists the “dog (that’s) at large” definition to be amended with another bullet point that would simply allow there to be designated public spaces for dogs for the establishment of a dog park, as other towns have, suggesting that any park could be fenced in by public donations, rather than the Town. He added that, as this proposed ordinance stands right now it doesn’t allow any dog on any Town property to be off-leash. He also added that there is another place where it talks about a dog having to be on-leash “except under the following conditions”, suggesting that they could add the bullet point there, as well, then that would allow for the possibility of a dog park, then the Town would not have to go to a Town vote to amend the ordinance if the Town decides a dog park might be in order at some time in the future.

7:22 PM

Ms. (Vicky) Uzzle said that she not only walks her dog twice a day down at the dog park but she also has worked down at the Boat Basin and agreed there were some problems. She added that she thought that the dogs did need to be leashed until they got to the woods, as people and dogs are in real public areas until they get to the woods and the dog should be under control. She also added that she has had dogs jump on her car, she knows that some of the workers at the Boat Basin have had dogs tinkle on their clothes, that dogs have run over blankets on the beach. While acknowledging these issue, she suggested they consider that dogs needed relief, as well, and asked them to consider utilizing one side for people and the other for dogs (down by the boat ramp) so that both could access water, especially on the really hot days of summertime. Ms. Uzzle said that there was definitely a problem in the wintertime with a lot of dog poop left around, suggesting having a barrel available and have a worker go by even once a week to empty that barrel, motivating dog-owners to pick up after their dogs more. She added that, because they don’t have anywhere to put, they leave it in the snow. She discussed the enjoyment the dogs had when they romped around in the woods and said that they did need some run room. Because there have been complaints about dogs going up to the children in the children’s area, she suggested fencing a children’s area off around the jungle gym. Ms. Uzzle said that a lot of those children were not being supervised as she has watched them go across the parking lot, unattended, get into the cars and turn on the lights and honk horns. She said that, if the area was fenced, then the children would be contained and they would be safer. Ms. Uzzle said that that may sound crazy to some people but, if the dogs are under control, then they should be allowed to go into the woods and be off-leash. She added that, in the public areas, they should be on-leash.

Ms. Muzeroll-Roy discussed her own dog ownership and fostering and that this has been somewhat of a sore spot for her but added that going down there on a regular basis and receiving phone calls on a daily basis during the summer (and sometimes fall) with complaints over the past two years has created a situation where something has to be done. She said that everyone was talking about voice control and dogs under control but there was a fine line because they don’t know what that is right now and that letting them run in the woods was fine but pulling into the parking lot and letting the dogs go from the parking lot to the woods was not. She said that she has scratches on her car from two dogs that came up and jumped on her a week ago and her

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maintenance guy got peed on about a month ago. She reiterated that there was a fine line with voice control and the Town was going to be looking at a lawsuit from dogs biting other dogs or people.

Ms. Buckley said that she has been a resident of Eliot for 30 years and she owns six dogs. She added that she does not take her dogs down to the Boat Basin because she was very concerned about them getting jumped on. She said that she has a stack of papers from the York ACO regarding incidents that have happened on their beaches since they adopted their off-leash hours. She described one incident that happened this summer during off-leash hours, saying that a family was on the beach, their 5-year-old was playing in a tide pool, he stood up with a starfish in his hand and a small dog came a started barking at him, then a larger dog came and ripped his arm off and he had to have surgery. She added that the father is now looking at suing the dog-owner and very possibly the town. Ms. Buckley said that this was for the safety of the people and the dogs. She added that there is a woman that walks her dog at the Boat Basin with a muzzle on because she is so afraid her dog is going to get jumped and start a fight. She said that she does not believe it is the responsibility of the Town of Eliot to provide an exercise area for dogs, adding that she realized they need to run and swim, but she does not think that is the place.

Mr. Cielezko commented that he did not own a dog but it seemed very funny that, if they couldn't maintain the current ordinance, then to make it more strict was ridiculous. He added that the current ordinance says that one has to be able to control their dog either by voice or by leash, that the dog owners he knows are responsible but that, if one calls their dog and it doesn't come, then it should be written up, suggesting the Town had the power to do what they needed to do right now. He said that it was a disservice to everybody to so over control everything – let people get along, let people argue, let people have their fears a little bit, let people live. Mr. Cielezko said that he did not like parts of the proposed ordinance, such as the part where it says that a dog can't go on someone's property, if that dog has been on there once and told not to get on there again, and thought that rule was not good.

7:28 PM

Ms. (Mary) Smith said that she has three dogs, that she's always had dogs but she believes dogs should be on-lead because they are animals and they do have strong instincts. She added that she has seen very obedient, trained dogs that, when their instincts take over, those years of training go poof when they see that squirrel or a child startles them. She added that they aren't necessarily attacking but acting defensive. She said that her dogs were trained but she would not take them anywhere where other dogs were not on-lead because, when someone has a dog on-lead and another dog comes up that is not (whether friendly or not), then that dog on-lead becomes defensive and that causes very large problems. Ms. Smith said that, in many places, people do not pick up after themselves and, if someone can take their dog, it's like any place where one carries in their trash, they should carry it out – that there was no excuse for leaving droppings anywhere.

Ms. Buckley explained that dogs off lead were not the only issue around this proposed ordinance. She said that, for every dog she takes to the shelter, it costs the Town \$65 and, when the owner claims the dog, they pay Creature Comforts a certain fee, so Creature Comforts gets paid by the owner and the Town, but the Town gets nothing. She added that several surrounding towns have a system where the owner has to come in and pay the town first and cannot get their dog out of the shelter until they have a receipt from the town. She explained that that was at the ACO's discretion such as if it was truly an accidental escape, but often she has taken dogs to the shelter because there was no identification on them. She said that when she finds a dog with a license tag or some other form of identification she can track down the owner and get the dog back to that owner so it doesn't have to go to the shelter. Ms. Buckley said that she always makes an effort to find the owner but the Town is losing money because the Town has to pay so much for every dog she brings to the shelter. Discussing animal trespass, she said that the ordinance was not just talking about dogs, explaining that they had an issue with a man where the cows across the street were ripping up his yard and they had spoken with the owner numerous times and she didn't have any

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enforcement power because the current ordinance is a dog ordinance. She said that this was an animal control ordinance and so this wasn't just a leash law but had a lot of changes.

Ms. (Nancy) Shapleigh asked, if that was the big issue, why didn't she address that issue and, perhaps, fine the people, if that was what it would take. She suggested this proposed ordinance might be overkill. Regarding the cows tearing up the neighbor's lawn, she said that that was the responsibility of the owner of the cows to repair and those people should work together – that's why there were civil courts. She said that the Town couldn't protect everyone from everything, that there are some risks in life, and it was time to let people live out their lives.

Mr. Barton asked how many dog and cat complaints the Town had. He also asked who picked up the dead animals on the side of the road.

Ms. Buckley said that the Highway Department picked up the dead animals. She added that the number of complaints is on record at the police department but she does not know an exact number.

Ms. (Laura) St. James said that she has heard talk about letting the neighbors deal together and work things out and she does believe in that but explained that they were in a situation right now where her neighbor breeds cats and the ones she doesn't sell are taking over the neighborhood. She said that the cats were going to the bathroom in her kid's sandbox, all over their yard, her dog was eating it, they were stepping in it and there are about 15 cats roaming freely and she doesn't know if they are fixed. Ms. St. James said she and all the neighbors have talked with this neighbor and believes the ACO has talked with her and nothing was being done. She added that it was horrible and she came tonight in support of the animal trespass part of the ordinance.

7:37 PM

Ms. Smith commented that, if an attack happened on her property, then she would be responsible – if something happened on public property, the Town would get sued and, ultimately, it would be the taxpayers who would have to pay. She commented that one person's pleasure was another person's misery and she thinks children come before the dogs.

7:38 PM

The Public Hearing was closed.

7:39 PM

At this time, Mr. Fernald opened the Public Hearing on the proposed Amendments to Chapter 45, Zoning of the Municipal Code of Ordinances of the Town of Eliot, Maine to allow the Code Enforcement Officer to review and approve permits for signs located within the Commercial/Industrial Zone and eliminate the need for Site Plan Review by the Planning Board for such signs and asked for public comments.

Mr. Cielezsko said that he thought this proposal was a great idea. There was no one else from the public who wished to speak.

7:40 PM

The Public Hearing was closed.

7:41 PM

#2

TO : Board of Selectmen

FROM : Dan Blanchette

REF : Holiday Schedule

The Board agreed by consensus to not hold a regular meeting on November 24, as that is Thanksgiving.

Mr. Fernald said that they usually give the Friday after Thanksgiving off to the Town employees and asked the Board if they wanted to do that this year.

Ms. Place moved, second by Mr. Murphy, to allow the Town employees to have November 25, the day after Thanksgiving, as a holiday.

VOTE

4-0

Chair concurs

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Informational – the Mondays following Christmas and New Year's Day are State holidays and will be followed by the Town.

#4

TO : Board of Selectmen
FROM : Heather Muzeroll-Roy, ECSD Director
REF : Request for maintenance at Boat Basin

Mr. Fernald said that this was a request from Ms. Muzeroll-Roy to be allowed to spend \$2620 to replace both the men's and ladies bathroom doors at the Boat Basin. He said that the BOS set that amount of money aside hoping Ms. Muzeroll-Roy would come through with some other bids.

Ms. Muzeroll-Roy said that she did not come back with any other bids, mainly because this was an Eliot bid and any others would have been out of Town. She added that she has not worked with him, yet, but he gave her some great ideas as to what to do with those bathrooms. She also added that she wanted to get this done before winter or they would be spending more money next year on the toilets because they seem to be broken into every winter. She reiterated that she did not get two other bids and that she was hoping that this cost would be reimbursed, as she has two businesses that want to donate to the Boat Basin for all the use they do so, hopefully, it will all wash itself out. She added that she could get more bids but it would be pushed back time-wise.

Mr. Moynahan commented that he had seen the doors that she talked about and that they do need to be repaired. He added that she had come in with a certain dollar figure and the Board approved it with two more bids to be solicited to see if she could get better pricing. He said that something will need to be done and probably should have been done this summer.

Mr. Dunkelberger said that he supports Eliot first and always buy Eliot first if it makes sense but, when this was first brought up, the comment was made that the price seemed kind of high, which was why the Board was looking for additional bids.

Ms. Muzeroll-Roy said that what she thought what brought up the cost was the fiberglass doors, as they are very heavy-duty and more secure, and they were getting two of them. She added that, hopefully, this would be a one-time cost within a 10-year period, so, it may seem high to have just doors, casings, trims and new locks put on but the two doors is almost \$1,000.

Mr. Murphy asked if they had any idea who was breaking these doors down every year and could they put up a camera.

Ms. Muzeroll-Roy said that it has been talked about with the Eliot P.D. and, unfortunately, the system cannot reach the Boat Basin at this time.

There was some discussion about the specific costs associated with the door replacements.

Mr. Dunkelberger said that his concern is that, when it was first brought before the Board, the Board wanted to get three estimates – Mr. Moulton does that quite regularly – and he thought that was fiscally responsible but, more importantly, that was what the Board requested.

Mr. Fernald asked for the pleasure of the Board.

7:48 PM

Mr. Moynahan moved, second by Ms. Place, to allow the department to expend up to \$2600 and with that to supply three cost estimates for the work to be done.

Mr. Dunkelberger clarified that the motion authorized the expenditure of up to \$2600 based upon the most adequate of the three estimates. Mr. Fernald said yes.

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Moynahan wanted to just make sure the monies were funded for her and he thought that, if that was the starting point, then she would probably do better.

Mr. Dunkelberger said that he agreed with the motion but was just a bit perturbed that the direction the Board gave that was not necessarily followed.

Mr. Murphy asked if there had been any discussion about these funds, whether they were coming out of the ECSD budget or just coming out of building repairs or the Facilities Budget.

Ms. Muzeroll-Roy said that this came directly out of the Boat Basin Fund from the rental fees and would most likely be reimbursed.
There was no more discussion.

VOTE
4-0
Chair concurs

#5 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Warrant for November 8th Town Meeting

Mr. Murphy moved, second by Ms. Place, to approve the warrant for the November 8, 2011 vote.

VOTE
4-0
Chair concurs

At this time, the Board signed the warrant for the November 8, 2011 Town vote.

#6 TO : Board of Selectmen
FROM : Wendy Rawski, Town Clerk
REF : Appointment of Warden for November 8, 2011

Mr. Murphy moved, second by Ms. Place, to approve the appointment of J. Peter Dennett as Warden for the upcoming State referendum election.

VOTE
**3-0 (Mr. Dunkelberger was unavailable
for this vote.)**
Chair concurs

Mr. Fernald said that the Board would move to Correspondence #8 as they waited for 8 PM for the Public hearing on # 7.

7:54 PM
#8

TO : Board of Selectmen
FROM : Attar Engineering, Inc.
REF : Sewer Allotment

Mr. Fernald read the request from Attar Engineering. He read, "I am writing to request a letter of sewer availability for a planning board submittal for the proposed development of a 68-room hotel at Eliot Commons on U.S. Route 236 in Eliot, Maine (Tax Map 29, Lot 27)." Mr. Fernald clarified that the amount requested was 6,000 gallons per day.

Mr. Wood said that was correct and that it was also in the Planning Board (PB) submittal. Mr. Murphy clarified that it was going to go before the PB.

Mr. Wood confirmed that it was scheduled for review next Tuesday and also goes before DEP because it is an amendment to their existing site location development.

Mr. Murphy asked if this was going to be done as an expansion of the Commons arrangement with Kittery for 10,000 gallons per day that would be added to their current pumping system. Mr. Wood said that that was correct and that they were asking for 6,000 over the 10,000, so 16,000 in total.

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Murphy asked the Chair if the Board wanted to refer this to the Sewer Committee (SC).

Mr. Fernald said that he would make a recommendation that this go for review by the SC before this Board made a decision on 16,000 gallons per day.

Mr. Moynahan asked if they knew if that was available from Eliot's current daily allotments.

Mr. Blanchette said that he believes the Town has approximately 40,000 gallons. He added, however, that they have an allotment out there for 40,000 for the Assisted Living project and are close to their maximum, he believes. He also said that they were also doing a lot of I&I so he didn't know what the final figures would all come in at.

Mr. Moynahan said that he was concerned – if they approved the TIF project at that facility with the same timeline as the Town's, then shouldn't they have looked at the sewer allotments before the Town allowed them to have a TIF project. He clarified that, when the Town allowed them to have this TIF, then they were allowing, in essence, an expansion to that property and that they had always intended to have a hotel or something like that.

7:55 PM

Mr. Murphy said that it was his feeling that the Board should approve the concept of this proposal and request and they would like the input from the SC as to whether this should be done at the present time. He added that they have the IMA in progress, also, but then that would have to go to a Special Town Meeting to be approved, possibly sometime in January. He clarified that that wasn't scheduled, as there were a few steps that had to be taken before they could rely on that for allocation capacity.

Mr. Fernald asked if they would be able to go forward with the PB without the allotment.

Mr. Murphy said that he didn't think that was a safe thing to do. He said, in a way, it goes back to the Board's stand on the assisted living application and they could recognize openly that that's a use which is not going to be fulfilled in the near future. He added that that project, as he understood it, is still on hold and the property still up for sale as an approved assisted living place with that allotment and they said that that was the biggest bit of business coming to fruition and they shouldn't stymie that by saying they couldn't have that. However, he said that the timing was so long out in the future before that project would ever be able to make use of that allocation. He asked Mr. Wood what the timing was on this hoped-for application.

Mr. Wood said that this project was also going to the DEP and they would probably take about the same review time as the PB (about 3 months). He added that what the Board might like to consider is what Mr. Murphy put on the table, which was to approve the concept of this project with review by the SC and PB and let them come back when they have SC and DEP comments and then, maybe, the Board would feel more comfortable approving it. He said that he would like to go forward with the PB while the SC was reviewing it, also.

Mr. Dunkelberger agreed that going forward with the PB while this Board figured out the sewer issue made

a lot of sense because the PB process could be turned off at any time with little to no cost if it came in as bad news. He added that the Assisted Living project has already requested one extension on its' site approval plans and depending on how things roll out, maybe the next extension or maybe they won't request another extension would leave one bird on hand versus two in the bush.

Ms. Shapleigh asked if this wouldn't all be moot with the new contract with Kittery for 400,000 a day instead of 200,000 and shouldn't that be happening somewhere in the near future.

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Murphy said that they would hope so but even that amount is not yet settled. He added that they might go for 50,000 or 100,000 rather than continue to pay for something that the Town wouldn't be using for another ten years. He added that, by not having that approved in 2006 when the Town first requested it, Eliot has saved five years of payment, but her question was yes, if they got the IMA, then it would be moot, but they don't have it yet. He further said that he thought they would be safe in approving this because the actual use of these gallons is going to be more immediate for the hotel than, he thought, for the assisted living, even though the assisted living plans in the full build-out require 40,000 gallons it would most likely take several years to reach that gallonage.

Mr. Murphy moved, second by Mr. Dunkelberger, that the Board approve the concept of this request for gallonage and are in favor that it is a reasonable amount and that the Board would like the Sewer Committee to be fully aware of this request and do their own calculations as to the actual approval for this amount of 6,000 gallons per day, which this Board would do at a later date.

VOTE
4-0
Chair concurs

#7 TO : Board of Selectmen
FROM : Dan Blanchette
REF : Public Hearing on Appendices for General Assistance Ordinance

8:04 PM At this time, Mr. Fernald opened the Public Hearing on the proposed Appendices to the General Assistance Ordinance and asked for public comments.

Mr. Blanchette said that, by way of explanation, they get sent every year by the State what the new limits are for Appendix A, which is the G.A. maximum, and that has changed from \$1,000 to \$1,013. He added that Appendix B is the food maximum, is directly from the federal government, and that has not changed at all. He also said that Appendix C, the housing allotment, has also not changed for Kittery, York and South Berwick part of the State.

Mr. Dunkelberger clarified that, as he understood, the amounts of Appendix B & C cannot exceed the maximum outlined by Appendix A.

Mr. Blanchette said that, actually, there was also Appendix D, which isn't changed on a yearly basis and is the utilities, and there is an Appendix E, which is heating fuel. He explained that the ordinance was meant to help a household up to the overall maximum, however, each case is looked at individually and each case may have circumstances that allow it to go over the overall maximum.

Mr. Dunkelberger asked who made that determination.

Mr. Blanchette said that he did.

Mr. Dunkelberger clarified that the State reimbursed that entire amount.

Mr. Blanchette said that the State reimbursed 50%.

8:06 PM There was no one else who wished to speak.
The Public Hearing was closed.

Mr. Murphy moved, second by Mr. Dunkelberger, to adopt Appendices A, B, and C of the proposed General Assistance Ordinance.

VOTE
4-0
Chair concurs

At this time, the Board signed the document.

8:07PM
#9 TO : Board of Selectmen
FROM : Maine Municipal Association
REF : Dividend Payments

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Fernald said that this was a letter from MMA and read the press release, which awarded the Town of Eliot a \$6,001 dividend check "as a result of its' good loss experience and loss prevention programs." He gave congratulations to the Town of Eliot, that they could certainly use the money, and a good job to all the employees.

Mr. Hirst said that he would like to go on record that the Selectmen should also take a bow for their continuing support of safety activities in the Town of Eliot, as a representative of the Safety Committee.

Mr. Fernald thanked Mr. Hirst and said that it was good to be recognized in a positive way.

Mr. Hirst said that, at the very least, it has made people more aware of safety, in general, and that is reflected in the check and the absence of losses. He added that this was in addition to the credits the Town received on the Worker's Comp renewal on January 1st for those very same safety activities and for completion of recommendations, so it is worthwhile doing.

Mr. Fernald agreed.

8:11 PM
#10

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Letter of Resignation as Recording Secretary to Board of Appeals

Mr. Fernald read the letter of resignation from Ms. Boggiano, which will be effective December 15th.

Mr. Murphy moved, second by Ms. Place, to accept with regret and appreciation for her services, the resignation of Ms. Boggiano.

VOTE

4-0

Chair concurs

Mr. Murphy commented that he assumed the Town sent a letter for this type of thing.

Mr. Blanchette confirmed that they did.

#11

TO : Board of Selectmen
FROM : Maine State Planning Office
REF : Right-of-Way Discovery Grants

Mr. Blanchette said that, to the best of his knowledge, there isn't anywhere where the Town has doubt as to whether or not they have rights-of-way (ROW) to the river, clarifying that most of their ROW's are well-known and this would be what it would be for.

Mr. Murphy wondered if the Board might want to consider that they have an ongoing program to legally exercise these ROW's on a periodic basis similar to the way the Selectmen used to, every ten years, walk the boundaries of the Town. He asked, if they did not actually use these ROW's, was there any chance that they could disappear. He also added that there is a danger that they would be intruded upon and, in fact, one already has – on Grover Avenue. He said that Grover Avenue has been built on closest to the river on the left by about six feet with a built-up lawn right next to the river and that has been extended onto the Town ROW by about six feet. Mr. Murphy said that knowing what was going on in these places is a good thing to do.

Ms. Shapleigh said that she has heard since she's been in Eliot that the Town has a ROW, which has never been exercised, up at the Sturgeon Creek Bridge on the north side. She asked if that has ever been documented and if this grant would help in that way.

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Murphy said that that piece of land is, in fact, known to be Town property. He added that he has walked it, himself, and Ms. Painchaud is aware of it.

8:16 PM
#12

TO : Board of Selectmen
FROM : Maine State Planning Office
REF : Shore & Harbor Technical Assistance Grants

Mr. Blanchette said that, unless they have some sort of project that they were going to plan for harbor studies to establish public and working access to tidal waters and that sort of thing, then this wasn't something they could use and he doesn't believe they have anything identified at this point.

8:18 PM
#13

TO : Board of Selectmen
FROM : Dan Blanchette
REF : Second Reading for Comp Time Change and Hours of Town Staff

Mr. Fernald said that this was the second reading of the Comp Time change and the hours of Town staff.

Mr. Murphy said that, under hours for the Town staff, it says that the Town office will be open M-T 9:00 AM – 5:00 PM and Friday 6:30 AM – 2 PM and asked if that was correct.

Mr. Blanchette said that that was not correct.

Mr. Murphy said that that part of it needed correction.

Mr. Fernald asked Mr. Blanchette if, with that correction, would this need to go back to a first reading.

Mr. Blanchette said yes.

Mr. Moynahan said that it says Road Commissioner instead of Public Works Director in several areas and that should be updated. Discussing #2, he said that he thought the Administrative Assistant had responsibility over all staff persons and asked why they had Administrative Assistant and Town Clerk written in. Additionally, #5 said the Road Commissioner and Transfer Station Manager had responsibility and it was the Public Works Director who was responsible.

Mr. Fernald said that this would go back to a first reading.

#14

TO : Board of Selectmen
FROM : Department of Environmental Protection
REF : William Bronson proposal to fill wetland to construct driveway

This was informational.

8:20 PM
#15

TO : Board of Selectmen
FROM : Department of Environmental Protection
REF : Minor Revision from ARC

This was informational.

#16

TO : Board of Selectmen
FROM : Eliot Energy Commission
REF : EECBG Final Report (document in reading file)

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Mr. Fernald said that no one from the Energy Commission was here to ask questions of but the final report is in the Board's reading file for the members to read.

#17 TO : Board of Selectmen
FROM : York County Budget Committee
REF: Caucuses to elect Town-elected Officials & Members to York County Budget Committee

Mr. Fernald said that the caucus meeting was on October 5 so this was too late.

8:23 PM
#18 TO : Board of Selectmen
FROM : Public Service of New Hampshire
REF : Two informational meetings

Mr. Fernald said that there were two informational meetings held on October 5th about repairs to two steel towers.

Mr. Murphy said that he attended that session, as well as Police Chief Short, and that it was an excellent and very professional presentation. He described what the work entailed and how the work would be done.

#19 TO : Board of Selectmen
FROM : Chief Short
REF : Request for Executive Session
This was done in executive session.

Old Business (Action List):

8:25 PM

Mr. Fernald said that they were addressing a majority of the Action Items.

1. Sewer Contract Committee – Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette – IMA Update
This is ongoing.
2. Monthly Reports from Department Heads
This is ongoing.
3. TIFD reports and updates
There was nothing new to report at this time.
4. Health Insurance Costs
This is ongoing.
5. Review existing Sewer User Rates and update – Sewer Committee
This is ongoing.
6. Regionalization of Town Services
ECSD is looking into how they could consolidate some programs at this time.
7. Sawgrass Lane Association
There was nothing new to report at this time.
8. Auditor – Management Letter
Mr. Blanchette said that they had not received this yet.

Mr. Murphy suggested they contact Mr. Donhauser and request he come to the next Board meeting to give the Board that information and talk about the budget process.
9. Waste management – charges
There was no report tonight.
10. Consistent Format – Budget, Time Sheets, etc. – Mr. Moynahan and Mr. Dunkelberger

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

This is ongoing.

11. Monthly Workshops – 3rd Thursday of the month
This is ongoing.
12. Employee Reviews in monthly Department Head Reports
This is ongoing.
13. Carry in – Carry out Policy for Town parks - Ms. Muzeroll-Roy
This is ongoing.
14. Legal issues – pending and Consent Agreements
There were no new updates at this time.
15. Community Services Building
This was already discussed tonight.
16. Fireworks Ordinance for October 20th workshop
This ordinance will be discussed at the next workshop.
17. Police Union Contract
This is ongoing.

Mr. Murphy said that there was a #18 that doesn't appear on the list, the Comcast contract, and he would like to report on that. He said that they have reached sort-of a final agreement on all the words, taken it to Comcast, and they were now ready to sign this if the Board is ready to sign.

Mr. Fernald said yes and that there needed to be a formal motion.

8:30 PM Mr. Murphy moved, second by Mr. Moynahan, that the Board of Selectmen approve the franchise contract developed with Comcast.

VOTE

4-0

Chair concurs

8:31 PM
Selectmen's Report:

Mr. Murphy said that, today, he attended an event going on at the gas compressor station. He said that it appears that the New England Cottontail Society had developed a program and gotten permission from the gas station to use their 100-acre surround of that building as a cottontail rejuvenation site. He added that there are a few around but it is believed that the total count of cottontails to be down around three hundred, which is almost extinct. He said that they had a crew from Sprague Energy, Unitil, Maritime Northeast, Inland Fish & Wildlife and the Cottontail Association and they planted 573 shrubs of five varieties that are appreciated by cottontail rabbits, then had a great lunch and tour of the plant, which he found very neat and ordered.

Mr. Dunkelberger said that he did have something but wasn't sure this was the proper forum. He noticed that one the Police Chief's patrolmen logged 26 hours of overtime this past week, which he found extraordinary, particularly as there was very little overtime with the other patrolmen.

Mr. Short said that there are slips attached to each time sheet and there should be explanations on each one of those slips. He added that he would guess that that officer took overtime and everybody else did not, that it is not an equal balance.

Mr. Dunkelberger said that the time card was annotated as shift coverage and he just found that 66 hours in a week, particularly in that type of occupation, he was very surprised.

Mr. Short said that he would review that and get back to the Board.

BOARD OF SELECTMEN'S MEETING
October 13, 2011 6:30PM (continued)

Other Business as Needed

There was no other business tonight.

8:37 PM At this time, Mr. Moynahan excused himself as he needed to leave.

8:38 PM

Executive Session

Mr. Dunkelberger moved, second by Mr. Murphy, to move into executive session as allowed by 1 M.R.S.A. § 405.6.A "Discussion or consideration of the employment..."

VOTE

3-0

Chair concurs

9:08 PM Out of executive session

9:09 PM Mr. Dunkelberger moved, second by Ms. Place, to hire David Arsenault as a Police Officer with a pay rate of \$20.00 per hour.

VOTE

3-0

Chair concurs

Adjourn

There was a motion and second to adjourn the meeting at 9:10 PM.

VOTE

3-0

Chair concurs

DATE

Roberta Place, Secretary