

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM**

**Quorum noted**

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

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

**Pledge of Allegiance recited**

**Moment of Silence observed**

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

**5: PM** Motion by Mr. Hirst, seconded by Mr. Murphy, to approve the minutes of September 13, 2012, as amended.

**VOTE**

**4-0**

**Chair concurs**

**Public Comment:**

**5:40 PM** There was no one from the public who wished to speak.

**Department Head/Committee Reports**

**5:41 PM** Ms. Muzeroll-Roy discussed her concern for the large pine tree that has died in Hammond Park and the need to replace it, especially before the Tree Lighting. She said that she wasn't sure who had planted it, whether it was a donation, that it may have been the Legion.

Mr. Beckert said the Legion did donate and plant that tree, and there used to be a little plaque in front of it, but it was a Spruce Tree he believed. He added that if it was dead then there was no sense keeping it. He said that, as a courtesy, they should let the Legion know that they were taking it down and looking into replacing it.

Ms. Muzeroll-Roy said that she could certainly do that.

Mr. Beckert suggested that they may want to put something in to replace the tree.

Ms. Muzeroll-Roy agreed and said that she had put some feelers out and they would be one of them. She added that she had been in contact with Mr. Moulton; that they were trying to set up a date at some point once she got approval from the Board to move forward with that or not.

Mr. Beckert moved, second by Mr. Hirst, that the Highway Director be empowered to take the dead Spruce Tree in Hammond Park down at the earliest possible convenience.

**DISCUSSION:**

Mr. Moynahan wanted to add that the Board would like her to contact the Legion about this, as well.

Ms. Muzeroll-Roy said that she would.

**VOTE**

**4-0**

**Chair concurs**

**5:43 PM** Ms. Muzeroll-Roy said that she just got word this past Monday that the Boat Basin Grant had been denied. She added that she needed to contact the State to see what they could do about the future for the floats. She said that they were certainly on their last leg and she and Mr. Moulton had talked about bringing those floats to the shop on any non-storm days to work on them. She said that she just wanted the Board to know that she got a deny letter

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

on those for now; that she could re-apply next year, but she was going to have to get through next year with those floats. She added that she would work with Mr. Moulton and keep the Board posted.

Mr. Moynahan said that that would be great; that anything they could do internally with minimum costs was great. He encouraged her to keep plugging away on the grant.

Ms. Muzeroll-Roy said that she would.

**New Business (Correspondence List):**

**5:44 PM**

**#1**

TO : Board of Selectmen  
FROM : WasteZero, Inc.  
REF : Pay Per Bag presentation

Mr. Tessier (Chair, Solid Waste Committee - SWC) introduced himself and said that also present were Mr. Moulton and Mr. Lytle from the committee. He said that it has been the objective of the SWC to try to improve recycling in Town and help to reduce the amount of municipal solid waste – the trash that the Town generated; that any of the recycled materials that they generated usually generated revenue for the Town. He added that, until recently, they have been paying \$100/ton to get rid of the Town trash between the tipping fees and trucking fees. He said that, back in 2000 when this committee started, they generated 1,674 tons of trash in the course of a year and this last year the number had been reduced down to 850 tons, so they have made some substantial progress in the Town over the last 12 years. He added that, by the efforts of the DPW Director and his staff, they now took their trash to a different location so that has helped to reduce tipping fees and they also hauled the trash on their own trucks so that had reduced the trucking fees. He said that, even with all those significant improvements, if they looked at the Town books and the budget for this year, they were paying almost 10% of the Town's budget to operate the Transfer Station; adding that the proposed budget for the Transfer Station was around \$409,000 for the year and, when he added up all the proposed items for the Town, it came out to over four million, reiterating that they were looking at 9-10% of the Town money. He said that, as a committee, they recognized that there was still a significant need to reduce the costs of running the Transfer Station because, if they did that, then it would help reduce the tax burden on the Town. Mr. Tessier said that when they looked at things they realized that there were a lot of communities around the country who have been able to substantially reduce the amount of trash they generated by going to a pay-to-throw system. He added that they thought it would make sense to bring in some experts from WasteZero, a company that had been in the business of helping communities to implement a pay-to-throw system for approximately 20 years, to help explain how Eliot could implement the program and answer questions. He added that they would really like to get some direction from the Board as to whether they would like the SWC to continue pursuing this because the SWC recognized that it was going to take a lot of time and effort to put together a training program and talk to the other committees and help educate the residents. He discussed an article that was in the Portsmouth Sunday paper about concerns by residents about the 'trash police' and going to pay-to-throw so they knew it was going to take effort to help people understand why there was a benefit to it. Mr. Tessier said that he would like to introduce John Craig and Sarah Bernier from WasteZero, who would tell the Board all about the program.

**5:46 PM**

Mr. Craig thanked the Board for inviting them tonight, adding that Ms. Bernier was going to lead off.

Ms. Bernier said that she used to work for the City of Saco on their solid waste and recycling program so she has been working on trash and recycling in Maine for the past 8 years and Mr. Craig also used to work for municipalities down in Massachusetts for the City of Natick on their solid waste programs. She added that both of them were coming from a municipal background, as far as trash and recycling went. She went through an overview presentation with the Board. She said that about 80% of Eliot households used the Transfer Station; that Eliot had made vast improvements in their solid waste disposal

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

already. She said that, in two years, Eliot reduced tonnage shipped out from 996 tons to 850 tons and, with the tipping fee at \$55/ton, trash was expensive; that while it was great when a municipality could renegotiate a contract to get lower tipping fees, that that was not always the case; that a lot of municipalities were seeing their tipping fees skyrocket. She added that the Transfer Station basically accepted everything a resident would need to get rid of. Ms. Bernier said that page 5 was the EPA definition of pay-as-you-throw; that it was also called unit-based or variable rate pricing and it provided an economic incentive for residents to reduce their solid waste. She added that households were charged based on the amount of waste they produced, similar to a gas utility, electric or water bill, where they were charged for what they used and no more and no less. She added that these programs needed to be easy to understand; that any successful program a municipality provided needed to be easy to understand as residents needed to understand what they were being asked to do. She said that it also needed to be convenient and user-friendly because if the Town was asking them to do something where they had to drive out of their way or go to Town Hall only on one certain business day then, obviously, they would not want to participate. She said that programs needed to be fair and that was the main reason this program worked very well because this was an equitable program as far as, again, paying for what they used. She added that it did enforce the right behaviors; that when one had the right to pay for their trash or getting rid of one's recycling for free where the municipality could actually turn around and make money from that recycling there was a great incentive for residents to increase their recycling and make less waste. She said that they were hoping that later on the BOS would tell them to please go ahead and inform the Town that this is what they'd like to do and WasteZero could get the proper information out so that people understood exactly what this program looked like. Ms. Bernier said that, as far as municipalities were concerned, residents had to be happy with the program and they have had strong satisfaction with the municipalities that they worked with. She added that the residents found it very easy, they understood it, and it was very clear what the municipality was looking for. She said that this program could be implemented very quickly and there was very little capital expenditure so it wasn't like the Town had to buy carts at \$45/piece and give them to every resident; it was plastic bags.

**5:50 PM**

Mr. Craig gave an overview of the company. He said that what WasteZero had done in the past was to partner with municipalities to deliver the most effective waste reduction program in the United States. He added that they provided the expertise, supplies, support services and financing to ensure that the programs were successful; that they really tried to customize the program for each town that they dealt with because, even though towns might have similar populations and areas, every town had something a little bit different and that was what they prided themselves on meeting. He said that their approach was to invest their resources, explaining that many of them were from the public sector and had worked in the public sector for many years. He said that they helped the Town implement the program and get all the benefits and savings that they could possibly help the Town to get now and in future years. Mr. Craig said that they have been doing this since 1991 and focus 100% on municipal waste; that that was all their programs dealt with; that they were not a hauler but a manufacturer and they provided services to make the program work. He added that they did embrace the pay-as-you-throw (PAYT) program; that they did not like that name and there were new ones that other states were picking up called SMART (save money and reduce trash); that they liked that one better. He added that this was a program the Town could have their own name for and they could help the Town with that. Mr. Craig said that they partnered with 800 municipalities throughout the United States; that they supported 25 communities in Maine and a total of 145 throughout New England. He added that, of the programs they have designed and implemented, 99% of them were still running successfully. He said that they were very proud of the fact that they manufactured all their supplies that support their programs in a state-of-the-art facility in Hemingway, SC; that all their outsourcing was done through American companies and all the supplies were American-made. He said that they maintained offices in Cambridge, MA, Raleigh, NC, Murrells Inlet, SC, and Chicago, IL.

**5:55 PM**

Ms. Bernier clarified that her business card said Cambridge, MA but she lived in Southern Maine and worked with municipalities in Maine, New Hampshire, and southern Vermont. She said that, for more than twenty years, they have been working with municipalities on

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

their pay-as-you-throw programs and over the past five years they have been developing this trash metering program that they would speak to the BOS about tonight. She added that it was a fully managed program so, instead of just giving the Town their bags and wishing them luck, WasteZero worked with municipalities across the entire process as far as working with the BOS, outreach to the municipality, and helping the Town to develop what they needed to get a successful program in place. Ms. Bernier gave a brief overview of the trash metering program. She said that this would be after if the Town agreed this was what they wanted to do. She said that they worked on web pages and getting information out to the public; they provided customized bags so that they were specific to the Town, explaining that that would prevent people from going online and getting them for pennies per bag versus what the Town was trying to sell so that people were actually paying into the program. She added that they also worked with the stores so that, rather than Mr. Moulton having to store all the bags at the DPW, the DPW staff having to be available to deliver to those stores, and having finance staff to track down all that money, they would work from the stores, collect from the stores and just deposit a check into the Town's account on a monthly basis. She said that it would be that much less work that the municipality would have to do in order for this program to be successful. She added that, when the residents started buying and using the bags, then that was the metered program: the resident purchased the bag (paying into the cost of the program), used the bag to throw their trash away, and, if they didn't make much trash, then they wouldn't buy as many bags. She said that people would make better decisions about what they chose to throw away because they would see the dollars attached to that solid waste. Ms. Bernier discussed program results. She said that within the first 30 – 60 days the Town would see their trash reduced by 20% - 30% and recycling increased, along with increased revenue from that recycling increase. She also said that the program was extremely easy as far as enforcement went for compliance because anyone with the right color bag would be okay and anyone without the right bag would either have to buy one or pay a different amount or however the Town decided to handle that. She said that, over time, municipalities saved from 55% - 60%, depending on what the starting program was, and it saved landfill space and incinerator tipping fees.

**6:00 PM**

Mr. Craig said that they had found in a lot of the communities that there was some confusion and even rejection among the residents because of the change from one program to another. He added that, within a month or so, they have found that all the residents in all the communities that they have set up have adapted to and embraced the program, and they really liked it; that they see they are recycling more, throwing out less trash, and seeing the big picture of the environment. He discussed a graph that showed doing nothing (1100 lbs.) versus 30 years of education, regulation, advertising, and media campaigns (900 lbs./18% reduction) versus the significant reduction in solid waste over time with programs such as what they were discussing tonight (500 lbs./44%) on a per capita annual basis. He said that they started working with South Berwick in 2009 and, in their first year, they had a 44% reduction and saved over \$40,000 in tipping fees; in Bath, their first year saw a 50% reduction and their recycling doubled. He added that he would be putting together a chart of similar towns to Eliot and getting it to the Town within a week.

Ms. Bernier said that the Town of Wells also did a pay-as-you-throw program, that they had a PAYT drop-off at their transfer station, and that they dropped from just under 2,000 tons to 1,100 tons of trash in fiscal 2011/2012, so they just finished their first year of solid waste reduction, and their recycling has gone up 130 tons.

Mr. Craig discussed the financial, environmental, and community benefits. Addressing financial savings, he said that municipalities experienced reduced tipping fees, transfer fees, and out-of-region shipping fees; increased their revenue from the value of recycled materials; strengthened the overall financial health of the municipality. Environmentally, he said that there was a reduced natural resource depletion, energy use, and carbon emissions/toxins in the air and water; that it extended the landfill lifespan; it produced a cleaner, more organized garbage collection day and that applied to curbside pickup as well as at transfer stations. He added that, for the communities, there was a direct financial impact to households for reducing trash and increasing recycling as well as additional regional employment due to the recycling and reuse sector.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

**6:05 PM**

Mr. Craig discussed the last power point page, which discussed five implementing steps for the program. He said that the first step would be to do a benefits analysis for Eliot, at no charge, and he was hoping they would have permission from the BOS tonight to get this going. He said that the second step would be where they helped the Town review their program options, customizing the program for the Town of Eliot, and an initial transition plan for the Town wanted to start, etc. He said that, once they got approval, it took between 90 days to 6 months. He added that the next step was to issue a RFP and this was the step where, if the BOS wanted WasteZero to do the outreach, then they could link the Town website right to the WasteZero website so that all the residents could go right there and find a lot of information on what and how to recycle and anything someone could think of. He added that they would customize it, as well, with anything the BOS wanted there. He said that step four included dedicated WasteZero resources, finalization of program options and contract, communicating benefits to residents, and BOS vote to partner with WasteZero. He reiterated that they didn't just sell the Town bags and leave them alone; that they had been doing this for 20 years and they wanted to make sure the program was the most successful program for Eliot that any company could help them with; that they were here from day one and any improvements they saw down the road in future years they would share with the Town and offer them to the Town, if the Town chose. He said that there was a big thing, now, in New England with clothing and material thrown away in the trash; that there were a lot of businesses and companies that want that to be used in the US, as well as big markets in China, Asia, and Europe, and that was another diversion from the trash, adding that they were working on programs like that, as well as composting, etc., for all of their towns. Mr. Craig said that the final step would be the launch and management. Discussing the roll-out to residents, he said that they had already talked with Mr. Moulton and Mr. Tessier and his committee about local stores that residents shopped at; that they didn't always have to be in the Town of Eliot as they dealt with all the major supermarkets in New England so they knew WasteZero, knew their procedures, and knew how to participate in the program. He added that they would personally visit the stores; that customer service would send them a letter that was approved by the Town indicating how to order, the price of the bags, etc., and then they would follow up by setting up meetings and going to the stores to meet with managers or owners. He added that they did this so the stores knew they had a face that, if they had any difficulties or questions, then they knew they could contact WasteZero. He said that the retail setup and delivery was easy; that it took all the distribution off the Town. Regarding manufacturing, he said that whatever the Town wanted for a bag, they would manufacture it for the Town; that they had all kinds of sizes and recommended the drawstring bag, saying that about 95% of their customers used that bag right now. He added that they had from 8-gallon bags to 38-gallon bags and didn't recommend anything over 33 gallons because the Town would want to reduce trash and not encourage people to throw away more. He said that they did all the accounting and reporting. He explained that once the store received the bag order, customer service would receive that information and send a bill to the store; that the store would have 30 days to pay the invoice; that the payment is sent to WasteZero but payable to the Town of Eliot; that that would be deposited into Eliot's account they would set up with the financial person here in Town. He said that at the end of the month they would send the Town a report that included all the invoices, all the customer orders, the bank statement that was reconciled. He clarified that the only thing they could do with the Town's bank account was make deposits and send a wire transfer to the designated account in the Town at the end of the month. He added that they had a report for accounts receivable and they were responsible for collecting it; that if anyone was over 60 days they shut them off and contacted the Town, asking the BOS for their opinion because the BOS knew these businesses better than they did.

Mr. Dunkelberger said that, although it sounded like a very interesting program, he had to ask what WasteZero would get out of this.

Mr. Craig, referring to the trash metering program, wanted to partner with towns and cities. He said that they would negotiate with the Town with the RFP and the contract agreement; that they could either take a percentage of the savings the Town has or a percentage of the revenue the Town earned. He reiterated that the percentage was totally negotiable.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

Mr. Hirst asked what their timeframe was for the completion of the cost/benefit analysis.

Mr. Craig said that he could have it within 3-4 weeks, once they had all the information they needed, and it could be sooner.

**6:13 PM**

Mr. Murphy asked for clarification on how a user paid.

Mr. Tessier said that this was still in process. He added that, typically, in a lot of communities they sell the bags in a store. He added that they might sell them just at the Transfer Station or have them at Town Hall or maybe a couple of stores out in Town but those were some of the moving pieces they still needed to sort out. He added that many communities typically sold them out of the local grocery store. He added that a decision needed to be made as to what price Eliot would charge per bag.

**6:15 PM**

Mr. Craig clarified that when they set up the retail they often set up the town hall or the transfer station as a 'store' and WasteZero would make deliveries to those locations; that they didn't charge those locations because they had already paid for those bags. He explained that, for the smaller stores, they had a great plan with FedEx; that smaller stores did not have to order a pallet and could make smaller orders and call them on Tuesday for a Friday delivery so they didn't have to worry about their inventory or a place to stock them. He added that 99% of the community stores that participated did it as a community service.

Mr. Beckert asked Mr. Blanchette, with Eliot's form of government, if this went to the Town for approval or could the Selectmen roll this out without the Town's vote or permission for this type of program.

**6:17 PM**

Mr. Blanchette said that he had to research it a little bit but he suspected that the Selectmen could probably authorize this program.

Mr. Beckert said that he thought it was a good program but he wanted to make sure they were going in the right direction.

Mr. Tessier said that tonight the committee was just asking for the Board's decision as to whether they would like the committee to pursue this. He added that it was their assumption was that it would go to Town Meeting and they were looking at having 6 – 9 months to get all their ducks in a row to go to Town Meeting. He added that, if the Board could approve it, then obviously that made the program a lot more flexible. He explained that they were kind of using an end point of next year's Town Meeting, if the Board agreed to pursue this, to start the education programs in process to go out and educate the committees and Townspeople as to how the system worked.

Mr. Moynahan asked Mr. Moulton if they currently charged resident for the bags they used at the Transfer Station.

Mr. Moulton said yes.

Mr. Moynahan said that it would be no different in that aspect to some extent. He asked about the recycling handling, if that would change the operation of the Transfer Station itself.

Mr. Moulton said no.

Mr. Moynahan clarified that the only change was going to be the cost of the bags, in essence.

Mr. Moulton said that that was correct.

Mr. Beckert said that they didn't require the residents to use Town bags.

Mr. Moulton agreed, saying that they did need to use clear bags but could buy them anywhere.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

Mr. Tessier clarified that, currently, residents paid just for the bag but with the new program they would pay for the contents that would go into the bag. He added that he thought that they had a huge number of bags being sold out of the Transfer Station every year.

Mr. Moynahan asked if there was any type of single-stream recycling with this program.

Mr. Moulton said that that was being looked at, adding that they had discussed it before but, as a package, they would look at the entire thing.

Mr. Tessier said that he was on the board of directors for the Northeast Resource Recovery Association and it helped communities in New England improve their recycling and get better prices for their recycled materials. He added that there were a lot of communities in New England that were using single-stream and they were doing it because it was easy. He said that one could take a town that was doing no recycling at all, that they could start single-stream overnight and have a 30% recycling rate because all they had to do was to put a container out and tell residents to put all their recyclables in that container. He explained that the issue was that they were getting very small revenues from their single-stream material, adding that right now many communities were being paid \$5/ton to \$10/ton. He added that, in some cases, they were paying \$5 to \$10 a ton to get rid of their single-stream because it was harder to handle that material and get a good price for it. He said that, in Eliot, they were already sorting their plastics so they were getting attractive prices, depending on what the material was. He said that they could go in that direction if they wanted to make the process easier but he thought that they would see significantly lower revenue if they went to single-stream than they were seeing now. He added that the whole idea of going to the PAYT system was to increase those revenues because they would get more and more recycling materials at those better prices. He explained that, if they drove down the trash, then they were reducing the cost of getting rid of the trash and, if they were driving up the recyclables, then they were generating additional revenues so, hopefully, that would drive down the overall cost to run the Transfer Station.

**6:20 PM**

Mr. Moulton said that one thing they have discussed, and would have to look at again, would be the 3 – 7 plastics because they took up mass; that they would have to see how they could manage that because it was bulk, adding that that could bring big revenue but would take up space in the bag.

**6:21 PM**

Mr. Brandon agreed that the plastic was a real concern. He said that he used the kitchen-sized bag and the large bag. He asked if they knew, roughly, what those sized bags would go for in area towns and neighboring states.

Ms. Bernier said that Wells charged \$1.50 for their 15-gallon bag, which was roughly the size of a kitchen bag, and they charged \$2.00 for a 33-gallon bag, which was about the size of an ACE Hardware container that people put out at the curb.

Mr. Craig said that they could do an analysis of the area communities to see whose prices were what for the different size bags and that helped everyone to determine the price.

Mr. Tessier said that the Town could set that price; that the committee would make a recommendation for the Board to decide and, if they found they were generating more revenue than they needed, then they could reduce that price. He added that they could set it based on what seemed fair and equitable for the Town and set different prices depending on the size of the bag.

Ms. Bernier said that they could offer information on that but it did not affect WasteZero what the Town charged for the bags.

Mr. Craig said that they would make their recommendations based on what they thought would be the best pricing for the Town once they got everything done with the analysis.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

**6:23 PM**

Mr. Moynahan said that certainly this has been the direction they have had discussions with Mr. Moulton and the committee on. He added that he thought that it warranted the next step, the benefits analysis piece, and a little more information for the Board to make a more informed decision on how to move forward. He added that, if it was the consensus of the Board, they would give their blessing for WasteZero to produce the benefits analysis for the Board.

It was the consensus of the Board to go forward with the benefits analysis.

Mr. Craig said to feel free to contact them with any questions or concerns and that they would work on getting the pricing for the different towns and success stories, as well.

Mr. Moynahan agreed that as much information as possible would help assist the Board in making any decisions.

Mr. Moynahan said that, at this point, they did have an executive session scheduled and he would entertain a motion to enter in to executive session.

**#2**

TO : Board of Selectmen  
FROM : No Correspondence  
REF : Executive Session

**6:24 PM**

Mr. Beckert moved, second by Mr. Murphy, to go in to executive session as allowed by 1 M.R.S.A § 405.6.A "Discussion or consideration of the employment, appointment, assignment, duties,..." Personnel issue.

**VOTE**

**4-0**

**Chair concurs**

**7:22 PM**

Out of executive session.  
There was no action taken by the Board.

**7:25 PM**

**#3**

TO : Board of Selectmen  
FROM : Linda Downing, Risk Management Services  
REF : Minimum General Requirements

Ms. (Linda) Downing introduced herself and said that she was here representing the Eliot Festival Day Committee (EFDC) and there were some members of the committee here with her tonight. She said that, for years, they have had insurance for the event that covered the event and that seemed to be sufficient for the events – the parade and Saturday's events. She added that there was separate insurance for the fireworks so they were not really here to talk about that. She said that what they found about a week and a half prior to the Friday event was that there was a requirement for the vendors who participated to have insurance. She added that this was the first they had heard of that and, quite frankly, they were not sure what that meant or what type of insurance that the vendors needed. She asked if it was all vendors, did it include non-profits. She added that, on Friday night, they had a band perform and asked of the band needed insurance, as well as the Chili Fest with people bringing in chili – did they need to show the EFDC insurance. She said that their biggest concern was that they had vendors who really were just people who had a hobby making something come and get a booth for \$35 on Saturday to sell their wares. She added that they didn't know what an increase in insurance cost would be to those vendors and what affect that may have on the number of vendors that participated on Saturday. She added that another big concern for her was that, if they were going to be required to have insurance, or the vendors have insurance, who would need to review that and, if she were the person to review it, she had no insurance background and would not know what she was looking at. She said that they would need some guidance if, in fact, the vendors did need insurance. She added that she would not want to put herself in a position where she inadvertently accepted a policy in error only to find that something should happen and, then, she personally got sued. She reiterated that they had some big concerns and really needed some direction from the BOS.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

Mr. Moynahan asked what was the insurance they were told the vendors needed.

Ms. Downing said that they were told that vendors needed insurance so that, if something should happen to their wares during that time, that they have insurance to cover their wares or their products. She added that that was all she knew and was not first-hand information.

Mr. Dunkelberger asked if this was something the Board could ask the Risk Management Service about.

Mr. Moynahan said that they could certainly ask about the separate vendors. He added that the Board did meet with the MMA insurance people; that he didn't know if she had received a copy.

Ms. Downing said no.

Mr. Moynahan said that he would forward her a copy. He explained that this offered some guidance of how boards and committees were insured through the Town and what requirements they would need to meet in order to be under the Town's insurance. He added that the EFDC had their own insurance so that would not apply; clarifying that the EFDC had their own insurance because they were a non-profit and not a Town committee. He said that as far as vendors he had no idea and asked if Mr. Hirst had any information.

**7:30 PM**

Mr. Hirst said that Ms. Downing made a statement that their wares should be covered – that was not what was being requested; that what was being requested was that they carry liability insurance to protect them from injuries to people and damage to property, including Town property and members of the public.

Ms. Downing asked what type of policy was required and how did they get that.

Mr. Hirst said that it was called commercial general liability insurance and each vendor, in theory, should have it and present it to her as the organization.

Ms. Downing asked how they would know if it was a viable policy.

Mr. Hirst said that the EFDC got a certificate of insurance from all the vendors when they signed up for their booth. He added that the certificate should show that it was current and should show minimum limits of \$500,000 or \$1,000,000. He said that the date of the policy should cover the date of the event, adding that sometimes she could get a vendor that had insurance already and she just got a certificate of insurance from them; other times a vendor, if they wanted to do the event bad enough, would get a one-day liability insurance policy for \$50.

Mr. Beckert clarified that the vendor that knit mittens and scarves, just as an example, and wanted to go to Eliot Festival Day to sell their wares needed a certificate of insurance for liability.

Mr. Hirst said that for any entity that came into the Town; yes, that was the correct answer. He asked, was it practical in every case, possibly not.

Mr. Beckert asked how they took those that weren't practical and deal with them.

Mr. Hirst said that they shouldn't be making exceptions but they had to be realistic.

Mr. Moynahan asked if that was a Town-owned copy or MSAD #35-owned copy.

Mr. Hirst said that he didn't know. He asked where it would be held.

Mr. Moynahan said that the EFD event was set up at the school.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

Ms. Downing said that some of it was set up on school property and some on Town property.

Mr. Moynahan asked if there was a separation of what vendors would have to provide or was the school requiring that, also.

Mr. Hirst said that the theory was that, if someone came on the premises of either the Town or school and someone was injured in the conduct of their operations, then they would be sued. He added that, if the vendor did not have any insurance, then the person injured would come after the school or the Town so that was why, in proper risk management, they made sure that everyone was covered.

Ms. Downing said that they just wanted to know if that was going to be required. She added that she wouldn't want any exceptions; that she wouldn't want anybody on that committee to have to say that these people needed insurance but those people didn't. She added that this was going to be a problem for the EFDC.

Mr. Lippincott said that it would shut them down; that they wouldn't have Eliot Festival Day next year. He added that Kittery had between 60 and 100 vendors and each did not have certificates of insurance; that they went down to check with them.

Ms. (Kim) Martin said that the people she has talked to did 50 fairs and festivals a year and maybe 2 out of the 50 asked for insurance. She said that if they were only charging \$35 for a booth and someone couldn't even pay \$50, like the person making mittens; that that was what the festival was supposed to be about a small town community letting these people do that; that it was not about having Ben & Gerry's, etc. in Town; that she was concerned that they wouldn't have a festival either. She said that the committee's insurance covered someone if someone was walking down the street and got hurt, and all that stuff. She added that, if she was making mittens and someone spilled a soda on it, she wouldn't sue that person and she didn't think people who tended to have booths in this festival were that type.

Mr. Pomerlau said that his wife has been a professional crafter for 20 years and they have a commercial business policy that provided them with protection against a suit or if something should occur. He added that any show or festival they have ever gone to that was professionally sponsored they had to provide them with a certificate of insurance of up to a million dollars, in most cases. He said that it also named the sponsor or promoter or facility as a co-beneficiary in the policy to protect them from suit for anything that would occur in their booth. He said that what they did because they had a commercial business policy was go to their insurance broker and say that they wanted a certificate of insurance for the Fryeburg Fair, for instance, for these dates, that he thought that it cost them \$10 to get this rider and then they presented that to the organization. He added that it wasn't just to protect the vendor but also the sponsor of the event.

**7:35 PM**

Ms. Lentz said that she thought that Mr. Pomerlau was talking about big-time things and the EFDC was talking about a small country town. She asked if they couldn't sign a waiver that they would not sue the Town.

Mr. Hirst said that it would not hold up in court.

Mr. Moynahan said that certainly the Board needed to find out what they would require; that there were some questions out there, such as what the existing policy covered and did it cover any of these things, were they going to require vendors or the group (EFDC) to require vendors to have insurance.

Mr. Dunkelberger said that, since the committee had their own insurance, he would suggest they talk to whoever their insurance company was about this subject. He also suggested that the Board talk with MMA and maybe get some answers, too.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

**7:36 PM**

Mr. (Jim) Tzar, EFDC Treasurer, said that they needed a definition from the Town and from their own source just what they were liable for, what policies, and could they get by with a form that went out to the vendors saying that the EFDC was covered for so much and the vendors would then sign it saying that they would not sue the Town or anything like that. As an example, he say that someone from Town or out of Town, like one of the runners, was walking across McPherson's lot to go in to visit one of the vendors and twisted an ankle, who was liable; was it McPherson or the Town or the EFDC; that they needed, for them to be able to operate, some type of definition that would allow them to be able to operate. He added that being a small Town and a small operation, they just didn't have the money.

Mr. Moynahan said that it involved several different pieces of property, too. He added that they had a good suggestion that, if the Board would contact MMA and if the EFDC could contact their insurance, then they would see moving forward what would be required for protection for both entities.

Ms. Martin asked if he knew when they would have that by because, honestly, there probably would not be a festival next year if they didn't get this taken care of; and they started in March.

**7:39 PM**

Mr. Moynahan said that he and Mr. Blanchette would meet at the beginning of the week and put the phone call out to the insurance company; that he thought that they would have an answer back fairly quickly.

Mr. Blanchette agreed they could have an answer back within a few weeks, depending on people's vacations up there and so forth.

**7:40 PM**

**#4**

TO : Board of Selectmen  
FROM : Route 236 Sewer Committee  
REF : questions

Mr. Moynahan said that the ad-hoc committee has generated a list of questions with suggested avenues for whom to send them out to. He added that, as an ad-hoc committee, they were to forward these to the Board for the Board's review and see if the Board supported these questions going out to the individuals or if there were any modifications or things the Board did not want to go out. He added that he hoped everyone had had a chance to review and asked if anyone had any questions or comments about anything. He commented that several items were revenue costs for Mr. Blanchette or Ms. Painchaud; Underwood Engineers, the Board of Selectmen, John Chagnon, and MMA were all groups that were listed.

Mr. Dunkelberger said that he looked at some of these questions, such as development, and asked who that went to.

Mr. Moynahan said that the first three pages are the ones to go out, clarifying that it was the just the revenue cost pages that the ad-hoc committee was soliciting the first list of questions for.

Ms. Murphy agreed. She added that Section A, of Revenue/Costs, they completed.

Mr. Moynahan said that the Board was looking at their entire list of questions that they were trying to compile; that they were trying to break them off into subcategories and request answers to questions, segmented from Revenue/Costs was Technical, Development, etc., and the one they had in front of them was Revenue/Costs.

Mr. Beckert clarified that the other seven pages were more to follow.

Mr. Moynahan said that that was the ad-hoc committee's working document.

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

Mr. Dunkelberger said that he didn't really have a problem with those questions on the first three pages.

Mr. Moynahan said that, with entities like Underwood Engineering, there was a package that they have been paid for and provided already and the Board should make sure that questions like the ones listed would not incur additional costs before the Board just approved to send out things. He said that that was the only concern that he would have; other than that he thought they were segmented properly to who would answer the questions correctly. He added that he thought he liked the way that they were doing this: "the answer is" and "the source is", so that each person this was sent out to could provide it, in writing, so that they would have back-up documentation for the questions that were being asked.

Mr. Murphy clarified that the Chair was saying to ignore the things that began with "B. The Sewer Line" and all the rest.

Mr. Moynahan said that that was correct; that they were dealing with just the first three pages.

Mr. Murphy asked why the other pages were there, then.

Mr. Moynahan said that that was the committee's working document and, once they had compiled and segmented, the Board would see another package for Section B and the Board would approve those questions to be solicited or disseminated to whatever groups they were requesting and get the answers.

Mr. Murphy said okay.

Mr. Dunkelberger said that, to address Mr. Moynahan's concern, then, should the questions for Underwood Engineering first be submitted to the SC to see if they had the answers already.

Mr. Moynahan said that they did talk to the committee last week and he thought that one of the members was going to review the Underwood Engineering draft form to see if they were answered already. He added that, if there were still some questions that were not able to be found throughout their work, then they may have to engage with Underwood Engineering to provide those answers.

**7:45 PM**

Mr. Dunkelberger suggested getting answers to these questions before submitting others because the answers to these questions may, in fact, answer some of the others.

Mr. Moynahan said that he thought that the questions in front of the Board were just section A, the first three pages.

Mr. Dunkelberger said that he understood but that he was looking at all the other questions that would be coming in front of the Board, at some point.

Mr. Moynahan said that he thought that the committee's request was to disseminate the first three pages of this and get answers, Section A. He added that the other portion was sent to him and he just made copies for everyone and, perhaps, he shouldn't have where it was still a working document. He said that he thought that they would be taking the different sections up individually.

Mr. Dunkelberger reiterated that his suggestion was to get answers back on Section A before they went to Section B.

Mr. Moynahan said that what they were looking for was for this Board to send these questions out and request the answers; that it was the ad-hoc committee to this Board, so the Board was the one tasked to send these questions out. He added that, if the members

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

approved the questions and the sources for which they were being directed to, then they were just looking for consensus to forward that to those individuals.

Mr. Murphy said that he thought that each of the recipients of these questions may very well say that this question can't be answered or could be answered only generally. He added that they may be impossible to answer by anyone and he thought that they had a right to say that. He said that he didn't mind them being sent out but he thought they should encourage the recipients of these questions, including even #13 to the BOS; that he has considered that question and it looks like a very complicated question and they might have to hire Eaton Peabody to answer it for them. He said that, at any rate, he didn't want to be flippant about it; that he didn't mind it being sent out but that they should encourage the recipients to be honest and do the best they could, but they may have to expect, and the committee may have to expect, that some of these simply couldn't be answered.

Mr. Moynahan agreed that everyone would supply answers, to the best of their ability, to the questions being asked. He asked if it was the consensus of the Board to distribute these questions.

**7:48 PM**

It was the consensus of the Board to send out the first three pages – Section A – of questions.

Mr. Brandon said, not to nitpick, that a proper answer could be "I am unable" or "We are unable to answer this question.", which was very different than "It is not possible to answer this question." He said that he thought that they wanted to be clear about the realm of possibility or impossibility as distinguished between the realm of "I am" or "we are unable, that we don't have any information to give any answer to this question.", which was different, because that colored things in very important ways from his point of view.

Mr. Moynahan said to Mr. Blanchette that they would disseminate these to yourself, Ms. Painchaud, and MMA; Mr. Chagnon has already received them; and if they could put the questions to the Board for next Thursday's agenda, then they would answer anything directed to them next Thursday.

Mr. Blanchette said that the Board should also look at #11; that that was his but it was really a Board question.

Mr. Moynahan said that they would review Mr. Blanchette's answers and take anything that was not answered in his on Thursday, as well, as a Board.

**7:52 PM**  
**#5**

TO : Board of Selectmen  
FROM : County of York  
REF : Fiscal Year Budget

Mr. Moynahan said that he had spoken briefly with Mr. Blanchette about this and, if he would like to speak more to this, then that would be great.

Mr. Blanchette said that, basically before February 15<sup>th</sup>, the Board needed to make a decision as to how to pay for the 6-month shift for the York County fiscal year. He added that the Board had a couple of ways of doing it; that York County would be borrowing money in order to facilitate the shift in the tax year. He said that he believed they had five years to pay it but they would have to pay the interest, so, that was one possibility. He said that the other possibility was to put it onto the taxes, which would create an increase for one year and then back down. Mr. Blanchette said that another possibility, if the Board wanted to look into it, and he wasn't sure this would be legal because they had the problem of it going to a commitment. He said that, if the Board wanted to ascertain from the Town if they were having a Special Town Meeting in January or February, where the Board could possibly pay it from undesignated fund balance. He added that he didn't know what the current undesignated fund balance was but that figure was something they should be receiving, within two to three weeks, as to what it was at the end of the year. He reiterated

**BOARD OF SELECTMEN'S MEETING**  
**November 8, 2012 5:30PM (continued)**

that he thought they had a couple of options to think about; whether they wanted to pay it lump sum and, if so, where did they get the monies from; if they didn't want to pay it lump sum then it would be a five-year commitment, with interest.

**7:54 PM**

Mr. Dunkelberger said that, if the Board could get those sets of numbers from Mr. Blanchette, then he thought that would help the Board to make a decision. He said that one would be what was the bill to be paid as well as the current status of the undesignated fund balance and, two, if they were to tack that bill onto next year's taxes, what would that do for an increase.

Mr. Blanchette said that the amount was roughly half of this year; that this year was about \$445,000 so it would be about \$220,000.

Mr. Dunkelberger said to nail those numbers down.

Mr. Blanchette agreed.

Mr. Moynahan said that that would be provided and the Board would still have the three options of how they would want to deal with that, but they would have some real numbers. He clarified that this was just informational and that he was keeping it on their radar because they would have to get something done. Mr. Moynahan said that they actually had another executive session that fell into the same category as before and would entertain a motion.

**Old Business (Action List):**

This was not reviewed tonight.

**Selectmen's Report:**

There were no Selectmen's reports tonight.

**Other Business as Needed**

**8:06 PM**

Discussion after last executive session.

There was discussion around updating the meeting calendar as the school was not available for one of the dates. It was agreed that Mr. Blanchette would update the calendar.

There was discussion of starting all Board of Selectmen meetings at 5:30 PM.

It was the consensus of the Board to start all meetings at 5:30 PM.

**7:55 PM**

**Executive Session**

Mr. Beckert moved, second by Mr. Dunkelberger, to enter into executive session as allowed by 1 M.R.S.A. § 405.6.A "Discussion or consideration of the employment, appointment, assignment, duties,..." Personnel issue.

**VOTE**

**4-0**

**Chair concurs**

**8:05 PM**

Out of executive session.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:09 PM.

**VOTE**

**4-0**

**Chair concurs**

---

**DATE**

---

**John J. Murphy, Secretary**