

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM

Quorum noted

6:30 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)

5:31 PM Motion by Mr. Dunkelberger, seconded by Mr. Beckert, to approve the minutes of September 27, 2012, as amended.

VOTE
4-0
Chair concurs

Motion by Mr. Hirst, seconded by Mr. Beckert, to approve the minutes of October 4, 2012, as amended.

VOTE
3-0
Chair concurs

Public Comment:

There was no public comment.

5:36 PM

Department Head/Committee Reports

There were no department head reports. Mr. Moynahan asked if Attorney Crawford was present yet.

Mr. Blanchette said no.

Mr. Moynahan suggested taking up the two department heads that were on the agenda - #2 and #3.

The Board agreed.

New Business (Correspondence List):

#2 TO : Board of Selectmen
FROM : No correspondence
REF : Meet with Department Head – Fire Chief, Jay Muzeroll

Mr. Moynahan said that the Board had received an email regarding job descriptions and that sort of thing and asking for some time at an upcoming meeting.

Mr. Muzeroll said that he had sent the Board a draft job description.

Mr. Moynahan said that he thought that they had all gotten that but it also said in the email that he would like to have some time in front of the Selectmen.

Mr. Muzeroll apologized, saying that that was for a legal document that he needed to have refined and get to the Board and asking if he could postpone that for another week. He clarified that they needed to be legally tied with Seacoast Chief's Officers Mutual Aid Association for the 50 area communities; that they had no current contract with them for mutual aid. He said that there were some words he needed changed, then he would get it to the Board and have it put on the agenda for next week for review and signature.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moynahan said to just let him know whenever it was ready.

Mr. Muzeroll gave the Board an almost end-of-the-year update. He said that it looked like about 200 calls this year and right now they were at 180. He added that the payroll year ended last week and that would put them, for fire calls, at about 3,500 man hours, which was about \$35,000. He said that they had about 400 hours of compensated training, which was the mandatory training the people had to have and about another \$4,000. He added that he had another 600 hours of volunteer training that has happened throughout the year – EMT classes, fire fighter classes that he didn't compensate. He said that his payroll for the year should be about \$65,000 - \$66,000, which has been holding pretty true to what they've done in the past, man-hour wise; that he had been budgeting about 4,000 man-hours. He said that he was going to take a look at things during the budget process about whether he was going to keep those hours but that he would still like to because he felt it was a good insurance policy, adding that the man-hours hadn't really changed over the last seven or eight years and were the same amount of money except his salary. He said that they have been busy the last few weeks; that they had a couple of commercial fires, a couple of residential fires, and a couple of interesting fires. He explained that the majority of their calls were split between structural-related calls and medical/automobile accidents so, of the 200 calls, about 80 of them medical-related, whether they were auto accidents or a direct medical call, and 50-60 were structure-related, which could be a chimney fire or an electrical issue, and the rest were just bell-and-whistle type stuff that they ran out for on a daily basis, such as an odor investigation they did today. Mr. Muzeroll said that thankfully, with Hurricane Sandy, they were not really affected. He added that, between Mr. Moulton, Mr. Short, and himself, the Town amassed about \$20,000 in FEMA-calculated expenses. He added that they submitted that through the EMA office and it did not meet the threshold for reimbursement. He said that Sandy was a non-event but they were prepared for it; that they went through the whole emergency operations center setup beforehand; that the four departments got together and came up with a game plan of what they were going to do if it hit the way they said it was going to hit. He added that, regarding Sandy, a lot of the departments through the New Jersey area have been devastated; that they had very little or no equipment; that his department was going through some of their stuff that they would probably not use, some older hose that they have had around – about 500-600 feet – and a couple of jackets. He said that, before he sent that on the transport going down to New Jersey, he would let the Board know but it would be no cost to the Town. Mr. Muzeroll said that, now that he was done with payroll and everything, he would give the Board an end-of-the-year report. He added that he applied for another forestry grant through the Volunteer Firefighter's Administration, which the Maine Forestry Service administered, for more emergency pagers and supplemental forestry equipment; that the Town's portion of that would be around \$1,800 and it was a \$3,600-request. He said it was a 50/50 match just like last year; that they got a bunch of pagers and some software to get them upgraded; that he would put that in the report and he should hear soon if they got the money.

5:44 PM
#3

TO : Board of Selectmen
FROM : Public Works Director, Joel Moulton
REF : Request to meet with Board

Mr. Moulton said that he had provided the Board with three things. He said that the first was for the approval of his part-time winter employees. He added that these are the same individuals he has used for the past two years.

Mr. Beckert moved, second by Mr. Murphy, that the Public Works Director be authorized to list people on his memo dated November 16th as part-time winter employees, Mr. Brian Holt, Mr. Charles Poirier, and Mr. Phil Lytle, Jr. and also that he be allowed to use Mr. Phil Lytle, Sr. and Mr. David Raitt as fill-ins on an on-call basis.

VOTE
4-0
Chair concurs

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moulton said that he had a request to add two additional people for his fill-in personnel at the Transfer Station.

Mr. Beckert moved, second by Mr. Hirst, that the Public Works Director be authorized to add Mr. Karl Webber and Mr. Harvey Lankford to Mr. Moulton's Transfer Station fill-in on-call list.

DISCUSSION:

Mr. Dunklberger clarified that these people would be paid on an as-needed basis and that was the only cost to the Town.

Mr. Moulton said that that was correct.

VOTE

4-0

Chair concurs

5:47 PM

Mr. Moulton discussed the DPW garage roof materials. He was asking if the Board would be interested in awarding the roof replacement contract to Donald R. Hall, Inc.; that it was his understanding that the roofing materials pricing would be going up in January and this was an effort to save the Town some money. He added that the total lump sum was for \$24,782 and would be taken from the Highway Building Reserve Account.

Mr. Murphy said that in looking over the proposals he noticed in the Lowry Grouping they were expecting to install 9 feet of the ice and water shield, whereas, the Donald Hall quotation was going to install 6 feet of the bituthane ice and water shield at the eaves. He added that Mr. Moulton's letter implied that the shield was going to cover the entire half of the roof and Mr. Hall's second letter mentioned 24 rolls of the bituthane ice and water shield, which seemed like a lot of rolls if he was only going to do 6 feet.

Mr. Moulton clarified that the 24 rolls would be if they covered the whole front; that that was what the \$972 was for so, should the solar panels be installed, the bituthane was for the extra sealing of the roof because of the penetrations through the roof.

Mr. Hirst asked if the reference to 6 feet or 9 feet simply represent the number of courses of bituthane.

Mr. Moulton said yes; that it was another half roll. He added that this was just an option for the Board to consider.

Mr. Moynahan asked if this was something the Board wanted to act on this evening or consider the use of the reserve account for pre-purchasing some of this.

Mr. Hirst clarified that the change in price was to go as of January 1st.

Mr. Moulton said that that was what he was told. He added that it was a petroleum product.

5:50

Mr. Murphy said that it seemed reasonable to him, if they were to go ahead with the solar project, then this would be the best way to do it. He added that he thought it was necessary to look at the future, to keep it from deteriorating, make sure the roof was strong enough, and make sure ice didn't collect underneath. He clarified that this was the standard way of altering a roof when one was going to have solar.

Mr. Moynahan said that it was a smart way to prep a roof for that application. He added that his concern was limiting a balance of just under \$3,000 for any additional things that were unforeseen, however, they were planning on that solar project and, so, at some point they had to plan accordingly.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Dunkelberger moved, second by Mr. Murphy, that the Town enter into a contract with Donald R. Hall, Inc. of Berwick, Maine to take care of the Garage roof for the sum of \$24,782.

VOTE

4-0

Chair concurs

Mr. Moynahan reminded Mr. Moulton to have certificates of insurance, contracts, etc.

Mr. Moulton agreed, saying that they had all those on record and they would get updated ones when they did the work.

Mr. Moulton said that he supplied the Board with a quick memo saying that his department was looking to take December 24th off, as previously approved by the Board. He added that everyone intended, weather permitting, to use personal time – vacation – for that Monday, if the Board had no objection.

Mr. Moynahan said that he thought it was a great idea.

Mr. Moulton said that his budget was a work in progress; that there were three of them and he was trying his best.

Mr. Moynahan said that there was a timeline that the Board forwarded on and, hopefully, they were close to that so that they could disseminate that information to all parties involved.

Mr. Moulton said that he thought roughly a week.

5:53 PM
#1

TO : Board of Selectmen
FROM : Attorney Crawford
REF : Town Manager

Mr. Moynahan said that Attorney McGill was here this evening; that the Board had requested she come down to discuss merit pay vs. step increases, town manager, and that sort of thing.

Ms. McGill discussed merit pay vs. step increases. She said that it was a great question, adding that there was great confusion about the terminology. She said that a lot of municipalities have a so-called step system where people moved in grade; that one might be hired at Step A at year one and year two one went to B and year three one went to C, etc. She said that she thought that, if they wanted to set up or have that kind of system, then the question was what did it take to move from step to step. She added that they were usually, typically based on seniority where, if one were present, breathing in and out, and doing their job, then they just advanced; that it wasn't performance-based or merit-based; that it was kind of a satisfactory performance so, if one was not on their way out the door, then one was moving along the step system. Ms. McGill said that other towns have and, she thought frankly, more towns were adopting, and more employers were adopting, what was called a merit system where the advancing on the step was tied to a performance evaluation, satisfactory performance, and that meant something more than someone was just here another year. She clarified that the idea behind that wasn't to deprive people of advancing in pay or through steps but to really make sure that there was an exchange between the department head and whoever was supervising the employee; and the employee himself/herself, that there was feedback, a performance evaluation that was meaningful and that provided a kind of blueprint for the employee on what the expectations were and provided some feedback from the supervisor. She said that, in theory, everyone had performance evaluations and they were done regularly and they meant something but it was really easy for them to either get watered down or lost in the shuffle. She said that was kind of the advantage of the so-called merit steps; that there was a standard and there was a fairly developed and transparently developed set of criteria that an employee had to meet in order to go to the next step. Ms. McGill said that a lot of towns would say that they had a merit system because it

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

said satisfactory performance but, in fact, the performance piece got lost and time in grade was really the operative process. She said that, if they were going to change to a system that was more specifically merit-based and where it was tied to pay, then it required a different set of standards and an actual process in order for the person to move. She added that, for union employees, that was a subject of negotiation with the union. She added that that didn't mean that they couldn't get it done; that if it was anything other than a management rights, a small adjustment in the existing system, then, if they really wanted to go to a performance evaluation system or merit-based system, then that would arguably be a change in working conditions that would have to be negotiated.

Mr. Moynahan asked, in a union setting, would it be fair to say that a merit increase could go up to, say, 5%, and that could be language in the contract.

Ms. McGill said yes.

Mr. Moynahan asked how they would have oversight of department heads to make sure that it wasn't just being pushed through, that all employees all ended up with a 3% increase across the board to eliminate favoritism or what have you.

6:00 PM

Ms. McGill said that one of the things they did was have a rater/reviewer system so, for example, in the Town's current system the Board of Selectmen would be the reviewer, the department head did the rating and developed his/her notion about where the person was on the merit scale, then, the BOS, or under a town manager system – the town manager, would meet with the rater and asked why one person was a four or why was that person a three. She clarified that it was not to redo, not to have two people doing it, but that idea of sign-off of the evaluation really meant something. She said that Mr. Blanchette was at a Maine Municipal Association Employment Law Seminar that they did all day on Tuesday and they devoted about an hour and a half to this idea performance evaluations and this idea of the rater/reviewer because often there was a place for someone to sign off but the sign-off wasn't very meaningful. She said that that was one way to train department heads. She added that the other way was to get department heads training in how to administer and how to do performance evaluations. She said that it didn't sound like much of an art but it actually was and was very important to have it be as consistent as possible, adding that there was no 100% because they were all human beings but invest some time and money in management training in the department heads on how to do these and then review them. She said that if they were going to go to a meaningful performance system there was always a little learning curve and, frankly, for employees any kind of change was nerve-wracking and people were always afraid of favoritism but they had to work out those kinks. She added that she thought it could be a great thing for everybody because, obviously, what they wanted to do was provide an incentive; that they didn't want to be in the Prairie Home Companion land where all the people were above average because not everybody was above average, and some people were way above average. She said that, like any other change or adjustment to a system, it took time and consistent administration.

Mr. Murphy asked if there was an appeals system attached to this.

Ms. McGill said that that was a great question and the answer was that there could be.

Mr. Moynahan said that there was a benefit to long-standing employees where their steps stopped after a certain longevity; that they may have not stopped their performance so why wouldn't they be compensated after ten years of service or what have you.

Ms. McGill agreed, saying that there were a lot of ways to do it; that they could keep their current step system and just have it be a kind of extra performance incentive so that there was satisfactory performance to move among the steps and then, if someone did a bang-up job one year they would be entitled to up to 2% additional increase; that there were a lot of different ways to build in that merit piece.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Beckert asked if there were municipalities that set up with that type of system where they had the scale system like Eliot currently had and they offered the incentive but the incentive payout was not cumulative from year to year as far as it would not be tacked on to what they would be coming up with for retirement figures. He clarified that it would be a one-time payout.

Ms. McGill clarified that he was talking about it not being on the base.

Mr. Beckert agreed.

Ms. McGill agreed that that was another way to do it. She said that she was certain that municipalities were doing it because there were all kinds of versions but, certainly, that was one way to do it. She said that that was another form of merit increase but it didn't go on the base – performance stipend.

Mr. Beckert added that the steps were on the base and they remained on the base but set up the way he just mentioned it would still be an incentive – 2%, 5% - but it didn't go back on that base.

Mr. Moynahan said that that had long-standing ramifications.

Mr. Beckert agreed that it had long-standing ramifications, financially, for the Town.

Ms. McGill agreed. She said that that was one of the things she was going to bring up – the hidden or compounded costs of these merit increases because, if they were built into the base then, going forward, it could be very expensive. She added that the idea of all these things was to look at people with fresh eyes every year rather than just make assumptions of how it was going.

Mr. Moynahan said that even utilizing the COLAs with a threshold scale of zero to whatever, again, it was important not to tack it onto steps, perhaps, or treat it as a bonus. He said that they have had several conversations about this over the past several years and no one has been able to give them good answers – so, no pressure.

6:07 PM

Ms. McGill said that they could look at the options and then she honestly thought that having someone knowledgeable in compensation hold a workshop so that the Board could look formally at different models because they had all the information – they just needed to look at different models. She added that they could do a quick paper-and-pencil test on what the cost was but, then, look at what this system would achieve in terms of employees and in terms of where they wanted to go. She said that she represented management but she honestly thought that, although merit increases could have kind of a bad rap but, actually the system, once it was in place, was a really good system because it did provide incentives and it provide, by definition, more of an exchange of information so that employees weren't surprised about how it was going for them.

Mr. Moynahan said that, once it was set up, then it could be tweaked, as needed.

Ms. McGill said absolutely. She reiterated her recommendation that they set up a workshop and either somebody from MMA or she had a couple of people that she worked with who did a very good practical presentation of different systems and the different advantages or disadvantages.

Mr. Moynahan said that he thought that was certainly something they would want to follow up with and set up a workshop and continue discussions moving forward, especially moving towards a town manager; that they wanted to set it up so that there was more management throughout the Town, with one point person for all employee handlings and that sort of thing, so, they wanted to make sure it was done properly.

Mr. Moynahan invited her to speak about town manager stuff.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Ms. McGill said that she knew that the Board was thinking about proposing to Town Meeting a town manager plan. She said that, as they knew, the Town Manager Plan – TMP – was a statutory plan, was found in Title 30-A, and pretty rigorously set out the role, powers and obligations of a town manager as compared to, in a relationship to a town manager, the powers and obligations of the BOS or town council. She added that that plan has been around for a long time, now, and it worked very well for most of their towns and cities. She clarified that they didn't have to take it part and parcel; that they could have their own town manager plan, and that was what Home Rule was all about. She said that they could have their own variation on that or they could adopt the TMP as it was set out in State statute and adopt some personnel ordinances or different variations on that to compliment the TMP. She said that that was the blueprint but they could customize the building around it.

Mr. Moynahan clarified that where it was mapped out with what the town manager did – their duties – that could actually be expanded and a job description could be created that defined it even more of what the roles and responsibilities would be.

Ms. McGill said yes and that she thought that was a good way to do it, to have it in the job description. She said that they didn't want to move into putting things in ordinances if they didn't have to, so they could push the envelope a bit, one way or the other, just through job descriptions and that kind of thing. She suggested, as an example, that they wanted to have a plan where the term of a TM in their plan, not just by contract, would be three years; that would be the kind of thing that would, if they wanted that to be statutorily specific to the Town, have to be more formalized in an ordinance. She added that, if they just wanted to enter into a contract with a TM, consecutively, for three years and that was the way they did it, then that was the kind of variation they could make – and it was theirs to make. She said that the TMP, as it was in statute, provided that the TM was like the CEO and the BOS was like the Board of Directors, which was the way she thought of it – the TM ran the operation, reported to the BOS, the BOS supervised the TM but the BOS was out of the business of directly supervising employees. She said that, there again, there were municipalities that had the TMP and then, by ordinance, a key department head, say a police chief, reported directly to the BOS. She said that lots of those things were historical, that they were not necessarily done now with new TMPs but, again, they could have it any way they wanted it and there were a number of municipalities that historically, or however it came about, have department heads supervised by the TM but the police chief and fire chief were directly supervised by the BOS. She clarified that she wasn't suggesting that, necessarily, but giving them some examples of how they could set that up. Ms. McGill said that she assumed that was because, as an example, the police chief was a particularly sensitive position for a number of reasons; that they could customize it. She said that she knew that Mr. Blanchette has carried out a lot of responsibilities but, structurally, the BOS was the boss; that that sounded good in giving up obligations and headaches but it was also giving up some control; that they could certainly control the TM because that was the way they did it, if they were unhappy with the way things were going out there, then it was the TM who was on the carpet and the BOS was directing that individual.

Mr. Moynahan said that he thought it would be more effective to have one point person, especially as complex as departments have become, personnel issues, and all that. He added that there was no consistency with the Board because someone new came every year and start over, again, sometimes.

Ms. McGill agreed.

Mr. Dunkelberger said that it would enable the staff to respond quicker to emerging situations.

6:15 PM

Ms. McGill said that the BOS could have their own working understanding, or a formal understanding in a contract or in a MOA, about the degree of reporting that they expected from a TM. She said that she would think that in the transition from the system they had now to a TM system that they would want some pretty

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

close reporting understandings – that the TM kept the BOS very-well advised – then, as they got to know the individual and the system they could have a more global reporting.

Mr. Moynahan said that in one of the notes, he thought was from Rob Crawford that was part of their correspondence with this that Mr. Crawford had indicated having the Administrative Assistant's role being better defined instead of going to a TM. He asked how effective that would be.

Ms. McGill said that they could set it up the way they wanted to set it up. She added, again, the TMP was kind of a package plan and they would have the advantage of the statute but, if they wanted to create a position or change the Administrative Assistant's position, then they could design a job that was like a TM except they called the person an administrator or administrative assistant. She said that she thought they would have to look at, without any further action, whether they would have the ability to delegate some of their direct authority to someone other than an administrative assistant but, frankly, she didn't see why they couldn't do that. She said that she wasn't sure what advantages it would offer them but they certainly could do it.

Mr. Moynahan said that they could change a job description, asking if that changed the role of this Board from a statutory standpoint, where they still have the personnel Board and all that.

Ms. McGill said that she thought that they could delegate those powers to a certain degree but they still had the obligation, in that case, if they didn't adopt some form of TMP – the buck definitely stopped with the BOS. She added that in the TMP the buck for the personnel issues stopped with the TM - and that was the idea. She said that the TMP actually said that the BOS was not responsible for, and wasn't supposed to be, for giving employees direct orders, direct supervision, and that kind of thing. She said that what that meant was that, if they did it in a job description and their administrative assistant said that they were encroaching on his job, then that was something to be worked out; with a TM they could look it up in the law that the role of the BOS was 'X' and the TM was 'Y', so there was definitely more structure to it. She added that, then, there were also all the removal positions of provisions of the TM; that there was a specific way, if they adopted the TMP; that they could have a contract with their TM but, if they didn't, then there was a whole look-it-up process for how they terminated a TM for cause. She said that the first thing she thought might be helpful would be some plain English descriptions of the role of the TM and the BOS under a TMP, adding that she thought she had that.

6:20 PM

Mr. Moynahan said that he thought that that would be very beneficial. He added that they already had two public hearings pre-scheduled moving towards the June referendum toward that. He said that they were really trying to task themselves to be prepared when residents asked questions; that this was what it would look like and this was how it would be defined.

Ms. McGill agreed, saying that they had great lead time for education. She added that she thought a question the Board would want to answer for themselves was whether they wanted to adopt the TMP and have some tweaks or did they want to do a different structure that looked like the TMP, in some respects, but was more their own customized plan.

Mr. Dunkelberger said that he understood where he was going but there was something to be said for standardization and recognition; that if they started creating their own special entity, then that may lead to a lot of misunderstandings of exactly what this person did, not only internally, but externally in how they advertised and hired to that. He reiterated that there was something to be said for standardization and foundation with just some tweaking versus trying to create a specific Eliot model.

Ms. McGill said that she thought that they would probably avoid pitfalls and they may get, frankly, a better crop of applicants if it was the plan with their on tweaks

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

rather than a customized model because the plan had been test-driven, now, for about 30 years.

Mr. Moynahan said that that seemed like it would be the most the logical approach and they should be tasked to get some plain English from Ms. McGill to start working on an exact job description.

Ms. McGill agreed, saying that MMA had a very good template job description for a TM, which she would probably have in her files so she would just send that on to the Board. She said that Mr. Blanchette passed along a question about, if they had a TMP, any kind, where the TM was the CEO and made the hiring and firing decisions, with reports to the Board (preliminary or after-the-fact), was there an appeal process – could they create an appeal process. She said that, if they looked at the TM statute, there was no appeal process built in but there was room for, and most municipalities under the TMP, creating an appeal process with either a personnel board or with the BOS operating as that kind of due process of appeal. She added that they didn't have to do that; that in this system, if the TM was the final decision-making authority, then the appeal was through Rule 80-B to the Superior Court and review of a final administrative decision; that it was not illegal if they didn't have that, that there was still due process built into this Rule 80-B. She said that, in general, the model that seemed to work and give everybody not just the reality but the perception of fairness was to have the appeal process within the town. She added that there were sometimes questions raised about, if the TMP said that the TM could make the decisions about hiring and firing was it okay for the BOS, on appeal, to reverse a decision by the TM. She said that that seemed a little bit inconsistent with the TMP but the answer to that was pretty much yes; that it had never been successfully challenged in court. She said that, if they set up a TMP and had an appeal process, then that was something they would probably want an ordinance on.

Mr. Moynahan said that that would be a definition of the roles and responsibilities of the BOS; that they were also the personnel board.

Ms. McGill agreed.

Mr. Murphy said that one of the things that bothered him was the degree to which their ordinances would have to be modified since, while things came to the Board for decision, they would have to go through them line-by-line to decide which ones to keep and which ones would have to be transferred to the manager. He added that some things were statutory, such as their responsibility for General Assistance and permits for carrying concealed weapons, so they would have to give that off to the appropriate person; that they would have to go through and change their policies and there were pages and pages of those so when did that get done.

Mr. Moynahan suggested that it might be a matter of when it came before the Board then they delegated it to the TM at that point, each year, such as concealed weapons or what have you; that when an application came before the Board then the Board delegated that to a TM to follow through on.

Ms. McGill said that they could do that. She added that, right up front, they would want to go through to, if they were going to move to some form of TMP, conform their ordinances so that if they had reference to things that were statutorily the obligations of the TM then they would want to clean up their ordinances on that.

Mr. Murphy said that that would be quite a task for them to look at and take into consideration.

Ms. McGill said that there was probably a core group that wasn't quite as extensive that they would want to modify and then, as Mr. Moynahan suggested, the Board could continue to develop – there were a certain amount of roles and responsibilities that were, by definition, worked out in each town, in each setting, but they would definitely need a review of their ordinances.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Hirst said that, in reading Mr. Crawford's letter, he said that this TMP was very comprehensive, and he mentioned it twice, yet, when he went to § 2631 there was only a page and a half; that it almost suggests or implies that there must be something else that one went to to determine what the plan was and what the TM had to follow.

Mr. Moynahan said that he thought that a lot had been answered tonight, the comprehensive part, reviewing all the ordinances and job descriptions; that that just legally defined the split of responsibilities between the TM and BOS.

Ms. McGill said that she didn't want to say that it was complex and comprehensive or not; that one person's complex was another person's easy. She added that starting with this plain English description, and she would send them the information, she thought was more useful than the statutory information. She said that it was complex in the adjustment of the role of the Board to the TM but she didn't think the statutory system, itself, was all that complex.

Mr. Murphy said that there were nine sections – 2631 through 2639.

Mr. Hirst said that that was true, but it was only two or three pages.

Mr. Murphy said that it built out, more and more, what the TM did.

Ms. McGill said right, but the obligations of the TM were really set out in that page and a half there.

Mr. Hirst said that what she was going to provide the Board he thought would be very helpful.

6:27 PM

Ms. McGill said it would be a good starter and the Board could continue to work on it from there. She added that she thought her municipal department, at the right time, as obviously they didn't want to undertake their ordinance review until they had an idea of what they were going to propose would happen in the Town and then they could identify what needed to be changed.

Mr. Moynahan said that they had a bunch of time to review as it would be a year from June before a person would be in place so, once they defined what form that government was, then they had a year to actually rework the ordinances and meet the standard that they set. He said that they were not under the gun for June.

Ms. McGill said right. She said that in terms of workshops and people understanding the implications she thought that was an important piece of it.

Mr. Moynahan confirmed that Ms. McGill would be willing to forward that information on to Mr. Blanchette.

Ms. McGill said absolutely.

Mr. Moynahan asked her if she could talk about setting up employee unions; that they had two existing in the Town and they just had two new unions form in the Town.

Ms. McGill said that, now, they were going to start bargaining contracts, asking the Board to remind her which departments.

Mr. Moynahan said it was the Town Office and DPW.

Ms. McGill confirmed that they were both represented by the Teamster's.

Mr. Moynahan said yes.

Ms. McGill said that the Teamsters have just had a new slate of representatives elected and apparently they were not coming into office until the first part of January so nothing would happen, actively – that they probably wouldn't get a request to sit down and bargain a contract until a little later in the year.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moynahan said that he thought setting up the first contract was very important.

6:30 PM

Ms. McGill agreed; that that first contract was basically their life with that union and everybody else's life after the Board members left.

Mr. Moynahan agreed; that defining what the taxpayers expectations were – financially and service results.

Ms. McGill said that, as they all knew, it was a new era in every aspect of municipal government and some of the contracts that have been around for 15 to 20 years, they wouldn't be bargaining those contracts today; that they needed to be more nimble and more flexible. She said that these contracts could be different, not just a pattern contract from their other unions.

Mr. Moynahan said that, when they got to a certain point, was that something her office could potentially assist the Board with.

Ms. McGill said sure, that she would be happy to do that and she would suggest, since first contracts were so important, having somebody who did this regularly, at least the chief negotiator, a good management team – Mr. Blanchette, the BOS, the department heads, etc. Ms. McGill said that she would go through her files and send them the best plain English she had.

Mr. Moynahan thanked Ms. McGill for coming down to speak with the Board.

6:34 PM

#4

TO : Board of Selectmen
FROM : CMP
REF : Pole Location
This was informational.

#5

TO : Board of Selectmen
FROM : Committees, boards, etc.
REF : Mission Statements received

Mr. Moynahan said that, in trying to keep up-to-date with the AIL, they now had seven mission statements. He asked if everyone had reviewed them, were there any that needed tweaking or bring someone in to have more discussions.

Mr. Murphy said that he would like to have more time to look through them.

Mr. Moynahan said that he thought that, once they got all of them, then they could keep a binder out there so that anyone could review them at any time.

Mr. Dunkelberger asked what the Board's intention with regard to those that do not have a mission statement, that the one that popped out was the Conservation Commission.

Mr. Moynahan said that it was discussed at a previous meeting that, yearly, they should review to make sure that the mission statements met the Town's expectations and, as they were finding out, some had none, so maybe it was the time that the Board tasked them to define a mission statement and review it and make sure it was in the best interest of the Town.

Mr. Dunkelberger agreed but he was wondering if this was a discussion they might need to have with particular commissions or committees to ensure that they were all on the same page as far as what they thought they should be doing and what the Board thought they should be doing.

Mr. Moynahan agreed, adding that as they had these the Board could bring them in for discussions one-by-one if there was anything different than what they thought was different from what the Board thought; that a 10-minute discussion with a committee or board was pretty simple to help define that. He asked the

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Board, if there were any that they would like to see come in, then just leave a note and he would make sure he got it on the agenda. Mr. Moynahan discussed liaisons. He said that he should probably reach out to ask the boards and committees who would like to have a BOS liaison. He added that he would have Ms. Thain send out an email to see if anyone was seeking guidance from the BOS through a liaison.

The Board agreed.

6:37 PM
#6

TO : Board of Selectmen
FROM : No correspondence
REF : Employees: Charting earned times, job descriptions, pay review, etc.

Mr. Moynahan said that this was on the AIL. He said that pay review was discussed, somewhat, tonight, and he thought it would be ongoing; that they talked about having an outfit review the pay scales and that may go hand-in-hand with the step versus merit increase, as well. He added that he didn't think that was something they were going to be able to get done by budget season this year or not. He said that he would hate to say they would be ready for changing that; that they had a quote at one point for reviewing all the salaries of the employees and he wasn't even sure they had money in the budget this year for that. He asked the Board where they went from here; were they going to try to define if they were going to do merit increases and review it on their own. He added that there was a wage survey but it was four years old, he believed; that it was out in the meeting room and really just the other town's salaries and all their positions. He suggested that MMA could probably provide that to the Board; that it didn't look like it was all that complex but looked pretty simple. He asked if that was something the Board wanted to undertake themselves and reach out to try to get that information instead of hiring a special consultant.

Mr. Hirst said that MMA had a fellow named Dave Barrett who did this sort of thing; that he has already told them that he would do a certain amount of review of this but, if it went beyond what he judged their dues to MMA covered, then he would charge separately something else. He added that something he might do was review personnel policies; that he did not know if Mr. Barrett did wages and benefits or not but he would do some of this stuff for free, so-to-speak. He suggested Mr. Barrett be contacted to see what they could get from him within the confines of their dues.

Mr. Dunkelberger said that with regard to pay and benefits, with the new unions in place, that would put a whole new spin on how they proceeded with that. He added that he suspected that the process would be longer with smaller steps. He added that that shouldn't stop them but he understood that union involvement would put a very different spin on it.

6:40 PM

Mr. Moynahan agreed. He said that they could approach it as status quo and it would define itself during contract negotiations at that point, too, but he thought this was just a discussion of the Board to review that and make sure that they were treating the employees as fairly as possible; that he thought that was what they were trying to accomplish out of this.

Mr. Dunkelberger said that he wholeheartedly agreed.

Mr. Moynahan said that went hand-in-hand with job descriptions; did they task department heads to review employees' job descriptions to make sure they were up-to-date as opposed to the BOS; that he didn't really think that was their purview for employees that were under department heads. He added, as they discussed the TM this evening, he thought the Board would be tasked, once they got the plain English, to define that job description; that that was more going to be the Board's job.

Mr. Hirst said that he thought that when they reviewed job descriptions it was critical that employees reviewed their own job description to be sure that what they say was what they did, so, it should be a dual responsibility.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moynahan said yes it should be and certainly there were expectations for management performing these so there might be additional things in there that weren't being done that would be asked of employees to be done. He asked if they should put that onus on the department heads and ask them to review current job descriptions of their staff.

Mr. Murphy said to maybe start there but he believed that the Board would ultimately review that.

Mr. Moynahan said absolutely, but that they would get feedback from both department heads and employees alike. He discussed charting earned times, saying that he and Mr. Dunkelberger were tasked to review consistent budget formats, time clocks, and that sort of thing and, maybe, they could work on this, collectively Mr. Dunkelberger, and report to the Board of better ways to chart this stuff instead of taking the whole Board's time; did that sound agreeable to the Board.

The Board agreed.

Mr. Moynahan said to Mr. Dunkelberger that they would have to set up a time to get together on that.

Mr. Dunkelberger agreed.

6:42 PM
#7

TO : Board of Selectmen
FROM : Bernstein Shur
REF : Sierra Club Petition

Mr. Moynahan said that they had a note from Attorney Crawford on the Good Neighbor petition; that they had sent the petition out for legal review and Mr. Crawford has addressed several points for the Board to review.

Mr. Dunkelberger said that, given the number of people who were present expressing interest in this, they might be well served by actually reading the questions and replies to everyone here so that everyone was familiar with what the Board was looking at.

Mr. Moynahan agreed and read the first question and answer. He asked if there were any questions or comments on this first response from Mr. Crawford. He commented that it was financial in nature and he thought Mr. Crawford spoke to that; that it made sense and it didn't sound like something that the Board could just do on their own merit; that, if they thought it made sense, then they would put it in front of the voters.

Ms. Corkery, Sierra Club, said that she had Attorney Wendler with her today. She said that she wanted to ask the Board if they had received the correspondence from Attorney Fabish that was dated November 19th, adding that she noticed it was after this letter was written.

Several members of the Board said that they didn't think they had seen it.

Ms. Corkery said that she actually thought it would benefit the Board to review that letter because it went into some more detail and, perhaps, the attorney here could help with that because there was some real confusion, she thought, on this letter and she would be happy to facilitate a discussion about that. She added that that was one of the questions she had and they could provide that.

Mr. Moynahan said that the Board had asked their attorney to review the letter from the Sierra Club (the petition) so what the Board was reviewing was the response from the attorney, which was the more important response in their minds; that the Town's attorney was the one the Board asked to review it so, whoever the Sierra Club's attorneys were, that was separate from what they were discussing here. He added that the Board had specific points and they had specific legal answers from the Town's counsel.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Ms. Corkery said great, adding that she would resend that November 19th letter because she thought it had some pieces in there that would help inform the Board as to what the Good Neighbor petition did. She said that, today, Attorney Wendler was here and could help respond, as well.

Mr. Moynahan said that the Board was aware that there was an attorney from the Sierra Club here to answer any questions they might have in regard to this response.

Mr. Murphy said that he thought that the attorney's response might wait until the Board finished this action and got these questions out to the public since this was something that came to the Board as advice and they were covering that; that it might be confusing to break off and do something else. He added that the letter was rather lengthy and they should calmly consider what the Town's attorney suggested.

Mr. Moynahan asked the Board if they wanted to have more discussion on the first portion or did they want to continue reading the questions and responses.

The Board wanted to continue.

Ms. Wendler said that she had a response to the first, just briefly.

Mr. Moynahan said that the Board was going to take these up right now. He asked Mr. Dunkelberger to read the second one.

Mr. Dunkelberger read the second question and response.

6:50 PM Mr. Beckert read the third question and response.

Mr. Hirst read the fourth question and response.

Mr. Moynahan asked if that seemed to sum up the questions they had tasked the attorney to answer for them.

Mr. Dunkelberger said that those who knew him knew that he did not suffer being bullied and he thought that the tone of the letter from PSNH was bullying, which made him mad. He added, however, that this wasn't a personal fight but a fight for the Town and the Town needed to stand behind it. He said that they had the potential, here, that they could spend a lot of money in litigating if PSNH did that. He added that he would propose that, if they were to proceed forward with this – and personally he would like to – that 1) they get the support of the Town in spending the money, if necessary, and 2) that they look into minimizing the question with regard to litigation and that would be by potentially minimizing the questionable facts within the request itself. He said that he knew that PSNH had questioned the type of algorithms used by the Sierra Club in making their case. He added that the other piece to this was that, if they proceeded forward, then he would propose they engage both their State and federal legislators in aiding their efforts. He commented that he suspected their senators would be very interested in this, as would their congressional representative.

6:55 PM Mr. Beckert said that he tended to agree with Mr. Dunkelberger. He said that the main thing he took out of Mr. Crawford's letter was the fact that they, as a Board, could not move forward on their own with this. He added that he thought Mr. Crawford was pretty clear that the Board would have to take it to the Town for the Town's support so that the Town was fully aware that, if they entered into this, that they were also responsible for any financial ramifications that this might or might not bring.

Mr. Moynahan said that the Sierra Club said that there would be no cost to the Town.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Beckert said that Mr. Crawford mentioned that he had some questions or concerns entering into that type of agreement with an advocacy group so he thought that they needed to protect the Town. He added that he did think the right thing to do was to heed their counsel's advice and, in order to move forward, they needed to take it to the Town and make them understand that, if they supported this petition going forward, then they also needed to support the financial ramifications that may come with it.

Mr. Hirst said that, if they were to undertake this, then it could cost a whole lot of money and the Town legal line certainly didn't support that at this point. He added that he questioned whether or not a 'hold harmless indemnification' agreement from the Sierra Club would be something they could hang their hat on entirely.

Mr. Murphy said that he agreed with a lot that had been said. He added that they didn't know how much PSNH was willing to do or how much money they were willing to spend to protect their current way of operating. He said that he thought they ought to proceed; that they couldn't just stop, now, at this point; that they needed to follow their attorney's advice to go to the Town and explain the situation calmly; that the health problem needed to be addressed by EPA and ultimately, they hoped, by Schiller but, to get there, it may cost the Town and they didn't know how much.

6:59 PM

Mr. Moynahan said that this could potentially rule out a source because there was no proof that that was truly the source; that no one has provided factual evidence; that they were trying to get factual evidence from the EPA that the emissions the factory was putting out were truly causing harm to citizens – it could be something different entirely; that they didn't know because they weren't experts and were banking on the Sierra Club's presentation that Schiller was the one, in fact, emitting the dangerous material to the Town of Eliot; that it could be something completely different.

Mr. Murphy said that he thought that they were right asking the EPA to solve this; that they were the ones who were experienced in this and should know what they were supposed to do in order to kind of give out the scientific tests without fault.

Mr. Moynahan agreed, saying that the Board members were not air experts.

Mr. Hirst said that he would also like to hear, formally, from Schiller their point of view to see what they had to say on this. He added that he thought that they should be given that opportunity.

Mr. Murphy said that he thought that Schiller has had an opportunity; that they have been to at least two of their (BOS) meetings and all that they have said, that he has heard, is that they were in compliance with the permits that the State of New Hampshire and the feds required; that they all knew, or the assertion could be made, that those permits were based on an ancient grandfathering of a 20- or 30-year-old status; that science had moved on, technology of electricity production had moved on, knowledge of health requirements had moved on, and they needn't be held to those 30-year-old standards under which they (Schiller) said they were completely in line with. He said that, once again, this was the basis for him to say to go to the EPA.

Mr. Moynahan said that he did promise both parties that, once they had the attorney's letter, that he would let them both know and they would be able to come in and speak with the Board in regards to the response the Board got from the attorney.

7:02 PM

Ms. Wendler, Sierra Club attorney, said that she wanted to address a few points. She said that she really did want to point the Board to Attorney Fabish's letter of November 19th, apologizing that it didn't make it to their desks, adding that it was sent to Mr. Blanchette and Mr. Crawford. She added that it addressed a lot of what was being discussed in greater detail than she was going to lay out tonight. She said that there had been a big confusion over the Sierra Club's role here; that

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

they were not really offering legal services or resources or anything of that regard but were here on behalf of their members in Maine, and other citizens in Maine, who were concerned about this problem. She said that they did this study, they had these results, they went to their members with their results, they were concerned about it, they were coming to the Board, and she was just present to explain the report and the law behind it as they understood it – not to be the Town's attorney or anything in that regard, so that needed to be very clear.

Mr. Moynahan said that, initially, when this came to the Town, it was stated that this would cost the Town nothing.

Ms. Wendler said that that was still very, very...that was the position – if the Town filed a petition the Town honestly only had to pay for the stamp. She said that there were two different things that would happen; that there was the petition that would go to the EPA, EPA would review everything and there would be a public hearing where the public would talk, which would be held nearby where local residents would be able to attend; that the EPA would have 60 days to rule on the petition on whether to grant or deny it; that if they granted it then they would come up with a plan for the Schiller Plant to deal with the issues that the EPA found; that Schiller and PSNH then decided whether they would appeal that and that would be separate. She added that, if they appealed it, then it would be PSNH versus EPA – versus the EPA's decision to grant the petition and set them on this clean-up path – and that would be separate and would go to the federal courts and however that worked. Ms. Wendler said that the Town of Eliot did not have to be involved in that; that they could...if they felt they wanted to defend the EPA's decision, then they could petition to intervene, but, they would not be a party, they would be an intervener and that would be the Town's decision. Ms. Wendler said that the State of New Jersey intervened, and that was their decision, based on their resources and their funds; that they were not a party to the litigation that was still ongoing and complicated and was discussed. She added that those expenditures and all that would be if the EPA granted it, if PSNH appealed that – that they could very well decide to go along with what the EPA said – and, then, if the Town of Eliot felt that they wanted to defend the EPA's decision and intervene, so, there were two very distinct things that would happen. She said that those were the main points she wanted to make and the fact that they were not here to offer their legal services, that they were here on behalf of their members; that they were very open to further discussion and answering questions.

7:05 PM

Mr. Despina, Schiller Station Manager, said that he wanted to point out that at the first meeting, as it's been brought up, when the Sierra Club first presented their information to the Board there was a lot of discussion about whether there would be any legal ramifications of this or any cost to the Town, which they made clear that it was no. He added that he found it quite curious that, now, they were talking about letters from the Town's attorney; that they have had an attorney at each and every meeting; that he told them last time that he was not an attorney and didn't have an attorney present so this has clearly become much more of a legal-type of discussion than he thought was ever intended. He said that he wanted to mention a couple of things. He said that they were not grandfathered; that, in fact, their Title 5 Permit was under renewal and that was addressed in their letter to the Board. He added that that Title 5 Permit was issued every five years so that permit that was currently going through renewal was only five years old. He said that that was the process that they encourage the Town to participate in. He said that the state DES, on behalf of the EPA, would be issuing PSNH's draft permit sometime, they expected, in the spring of 2013; that that process also involved a public hearing to which they would encourage the Town to participate in; that the Town would have direct input into PSNH's permit at that time and they would, ultimately, have direct input into what PSNH would have to comply with going forward. Mr. Despina said that the particular standard that has been in question here was the SO₂ NAACS standard and that was the one-hour standard that went into effect sometime in 2010. He added that, as he mentioned at the last meeting he attended, there was an EPA air-monitoring station at Pierce Island that was reading air quality as they were speaking. He said that, over the course of two years, that there were 8,600+ hours in a year and, to the extent that that monitor has been operating during that time, there were thousands and thousands and thousands of

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

data points that have been reading this particular standard and, to the best of his knowledge, it has not read one violation of this SO₂ NAACS standard. He added that, since just before Thanksgiving, their two coal units at Schiller Station have been operating around the clock; that he asked before he came to this meeting today to have it checked to see if there had been any readings of the SO₂ limit above the limit and that there had not been any exceedances of the exact limit that they had all been talking about. He said that Schiller never asked to be here; that they have told the Board that they wanted to participate in any solution path that the ultimate modeling or EPA decision demonstrated air quality issues. He added that, in addition to saying that they have been operating in compliance, he has also been saying that the EPA has not issued its instructions on how each state was to determine what the air quality was against this new NAACS standard and, until they did that, all he was saying was to wait; why guess on what modeling method should be used; that they had real-time air quality data that has suggested that there was no air quality issue so why not wait until the EPA issued its instructions, then, the states could go ahead and determine what their air quality situations were. He said that, as he had said repeatedly, in addition to the fact that they were operating within their permits and within all applicable law, he has also said that to the extent that there were any air quality issues, whether in the State of Maine or New Hampshire, that was determined at that time PSNH would participate in the solution process. Mr. Despina said that he had said that repeatedly, on record, so they were not hiding behind anything. He said that he was sorry Mr. Dunkelberger took their letter offensively; that it was not intended to do that but intended to do what it was doing right now, to make the Board of Selectmen aware of the potential consequences that could be faced in proceeding with the petition and that was it. He added that he thought that the Town's lawyer had just demonstrated what they (PSNH) were just pointing out; that this was a legal process and that the Town needed to recognize the role it was going to play.

7:11 PM Mr. Dunkelberger asked what PSNH's objection to the EPA looking into Schiller Station operations as a by-product of the request to their petition.

Mr. Despina said that they were currently regulated by federal permits under the EPA; that he looked at it akin to anyone being asked to be looked into by their enforcement agency for no reason. He added that they were already permitted; they were already abiding by their permits and, like any citizen, or entity in this case, asking their enforcement agency to just go in and check on them, even though they were in full compliance with the law, they had all their reports, they did all their reporting, was unnecessary.

Mr. Dunkelberger said that, then, they had nothing to be concerned about.
Mr. Despina said absolutely not.

Mr. Dunkelberger said that the states were determining their own air quality standards and New Hampshire has yet to recognize the issues within Maine. He asked what would change New Hampshire's mind based upon this new standard.

Mr. Despina said that he was not sure he followed Mr. Dunkelberger's question.

Mr. Dunkelberger clarified that each state was going to determine their air quality standards within the state based upon the new NAACS studies.

Mr. Despina said that the new air quality standard has been set by the EPA and it was up to each individual state to now determine what their air quality was against the standard.

Mr. Dunkelberger said correct, adding that they were in New Hampshire and asked since when has New Hampshire ever cared about the air quality in Maine.

Mr. Despina said that in the early 1990's he believed that NH DES set up and worked with the State of Maine and put some testing receptors here on this side of the river at the Alden property related to Schiller Station and had a lot of data; that, in fact, there was a report out there on the SO₂ and he thought that, at that time, it was determined that there were no significant impacts associated with that

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

at that time. He added that, granted, that was dated and it was a different set of circumstances, but it has been done.

Mr. Dunkelberger asked how far the Pierce Island testing station was from Schiller Station.

Mr. Despins said that he wasn't sure but he guessed it was a couple of miles.

Mr. Dunkelberger asked if he knew what the prevailing winds were.

Mr. Despins said that he was not a weather person but, if he might, if the Board looked at the illustration that the Sierra Club showed them at the previous meetings – that he didn't look at it closely to know what the scale was – he believed it was the red blotches circling around Schiller Station; that his suggestion would be just based on that illustration their modeling suggested that there was virtually no chance in this surrounding area that there would be any positive air quality in that zone. He said that what he was saying that, at least within the distance between Schiller and Pierce Island, there hasn't been one impact on the standard; in fact, he would say that the one-hour limit, which didn't leave a lot of room for fluctuation – the prior limit was an eight-hour standard that allowed greater fluctuation as long as the average of that eight hours came to the standard – and was virtually instantaneous. He said that the limit was 75 parts per billion and his understanding was that most of the readings were coming in at less than half so they weren't even close – the air quality was not even close.

Mr. Hirst said that Mr. Dunkelberger asked his question about prevailing winds.

Mr. Dunkelberger said that prevailing winds tended to be out of the northwest/southeast.

7:17 PM

Ms. (Kimberly) Richards said that she was going to ask PSNH and Schiller if they were within the limits and meeting everything as they should and, if they were, then what were they afraid of having the EPA come and give their stamp of approval. She added that she has become aware of this issue of concern for costs and it seemed to her that the Town's attorney said that there could be costs if there was litigation and if it went to court; that from all that she had been hearing the only reason it would go to court was if PSNH objected with EPA's decision. She added that, from what they were already saying, they were already objecting, that there would be court costs and, so, it was kind of like an admission of guilt, it seemed like to her.

Mr. (Dana) Norton said that yesterday, or the day before, it snowed in South Eliot but it didn't snow on Pierce Island – nobody lived on Pierce Island. He added that he lived in South Eliot and, if Schiller Station was willing to go to an extent to prove their quality of air, he didn't know what the cost would be to put a monitoring station in South Eliot to see just what the standard was. He said that, if there was no problem, then it looked like they were done here. He said that, if there was a problem - he didn't know what the weekly or monthly standard was for monitoring the air – if they were to get a monitoring station in South Eliot funded through Schiller or the EPA or if there was an expense to the Town, then, if there was no problem they were done. He said that he was at one meeting up here where they spent 30-45 minutes discussing where he could park two cars; one head of a committee or department raised his hand and said that they were \$45,000 over budget and everyone said to take it from 'this' fund and give it to that department, not asking why was he over budget or did he expect to be over budget next year, no discussion at all – just here, here's \$45,000 – no responsibility to the Town, nobody had to ask the public why this \$45,000 from here to there. He reiterated that he didn't know what the cost would be to put a monitoring station in South Eliot and run it for the acceptable amount of time the EPA for whatever standard it was – a week or month – that if it showed clean air they were done and, if it showed a problem, then now they had a problem.

7:19 PM

Ms. Wendler said that she just wanted to address one factual inaccuracy that would be found in Mr. Fabish's letter when it was read about Pierce Island. She

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

said that there have actually been numerous exceedances and near-exceedances of the sulfur dioxide concentration that the EPA deemed safe in February 2011, multiple times in January, April, and July of 2008, in March of 2007, and multiple times in 2006 and 2005, and that data was attached to the letter.

Mr. Moynahan asked if that was the new standard.

Ms. Wendler said yes that was the new standard.

Mr. Moynahan said that the new standards weren't until 2010.

Ms. Wendler said that they were not in place but they were still monitoring for them.

Mr. Moynahan asked if there had been any overages since 2010.

Ms. Wendler said yes, in February of 2011, either an overage or near-overage.

Mr. Moynahan said that there had been one overage in February 2011 since the new standard.

Ms. Wendler agreed, adding that she wasn't sure that was an actual exceedance or near-exceedance but that was the data and the Board could review that.

Mr. (Dan) Bogannam said that he lived in Eliot directly across from the Schiller Plant. He said that when he looked at the smoke coming out of the stack it went down-river towards Pierce Island, predominately. He added that occasionally it came across but most of the time it went right down the river so, perhaps, those readings were fairly accurate at Pierce Island. He added that he wanted to point out that, a few years ago, people along the river had quite a problem with noise coming from PSNH when they built the new plant, adding that it was absolutely horrendous to live with. He said that he and people along the river had meetings with PSNH, there wasn't any lawyer involved, and they (PSNH) went through a great deal of expense and effort to correct that problem. He said that they were the best neighbor he could think of. He suggested that, without getting into any legal expense, the Board of Selectmen, Sierra Club, and PSNH sit down in a room together to discuss the issues; that he felt there would be a positive response. He said to please not get involved in any legal expenses because he didn't want to take any money out of his own pocket, as a citizen, to take care of any expenses that would occur. He said that they were a good neighbor – talk to them.

Mr. (Bob) Pomerlau said that, obviously, the Board was going to follow their counsel's advice and they would put this before the Town, adding that he hoped sooner than later because, to answer the question why not wait until the EPA issued new standards, it could mean some child's lungs; that it could be someone's serious health issue in any amount of time that was taken to delay to see if they were safe here in Eliot. He added that he thought that was critically important, to even raise the possibility that there was a danger to Eliot citizens; that it was no less important than was the strip club downtown on a moral standard; that this was a physical health standard that was facing Eliot citizens, here. He said that for someone who used to have so much confidence in the quality of their measurements, there seemed to him to be an awful lot of resistance – and he agreed with Mr. Dunkelberger that there seemed some degree of intimidation. He added to bear in mind that this was a petition; that there was no punishment for a citizen filing a petition - ...citizens in Eliot fearing punishment for bringing a petition to the Board of Selectmen because they wanted something done was absurd on its face. He added that the bottom line from the Town's attorney was that "...I do not presently foresee potential liability, damages or cross claims that might be brought against the Town..." He said that, as conservative as he was in his answers to the Board, that was a pretty clear statement, here, that it was really, really unlikely that they would face damages for this. He said that he would urge the Board to get this to the Town for a vote as soon as they could.

Mr. Moynahan said that the Board would take one more question.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

7:25 PM

Mr. (Raymond) Faulkner, Maple Avenue, said that each time he has appeared here he hoped it would be the last time he addressed the Board on this issue. He said that, first off, in the first two paragraphs of Mr. Crawford's letter had two egregious errors; that he placed the power plant two towns over in Dover, NH. He added that Mr. Moynahan mentioned earlier wondering if the problem was coming from Schiller and said that, perhaps, he was aware of yesterday's Portsmouth Herald – front page story Schiller Station named top toxic polluter in New Hampshire – and since prevailing winds came from New Hampshire and Southern Maine perhaps it could be subtitled top toxic polluter for southwestern Maine. He said that the Toxic Action Network released a list of the top twelve polluters in New England and the Schiller Station made the list. He said that Mr. Dunkelberger talked about prevailing winds, and he knew that he had addressed this at the last meeting when Mr. Dunkelberger wasn't present. He said that he had addressed the monitoring station on Pierce Island as two miles south of the Schiller Plant; that the wind roses plotted in-house by PSNH, which was a circular bar graph, were done by collecting meteorological data that was plotted out on compass positions, so it kind of looked like a flower when it was done. He added that the directions that had the prevailing winds would have the longer bars going out in this circular bar graph that kind of looked like a flower and, since it was based on a compass, that was why it was referred to as a wind rose. Mr. Faulkner said that the Pierce Island Station was two miles due south and the wind roses that were plotted in-house by PSNH in the 1970's using a full year's worth of meteorological data from Pease Air Force Base – 24-hour-a-day hourly observations - indicated the prevailing wind directions were northwest in the winter and southwest in the summer. He said that that put Eliot and southwestern Maine in the predominant downwind direction of the plume from the station. Mr. Faulkner said that what he thought this gentleman tonight talked about in seeing the plume going down was that one could get an error of parallax looking at a plume; what to the gentleman might look like it was going down, it was actually heading from the northwest and heading in a direction toward southwestern Maine, not going directly downriver. He said that the closest residence in Eliot was less than ¼ mile across the river from the plant; that he, himself, was about 900 yards due east from the plant. He added that Mr. Norton suggested, perhaps, a monitoring station be put up, saying that it would take more than one because, in a stack downwash, the plume from the stack would cross the river and drop down, sometimes dispersing further out. He added that they would need a series of several monitoring stations set up with the expanding radius of the wind.

7:28 PM

Mr. Beckert asked, for whoever could answer this for clarification for the record, if the monitoring station on Pierce Island was put there by the EPA.

Mr. Despina said yes.

Mr. Beckert asked if there was a way that the Board could contact the EPA and ask them what the decision was based on to put that monitoring station on Pierce Island. He added that they put it there for a reason; if the EPA was the one to place the monitors and the Town was concerned about having a monitor or two on the Eliot side then, he thought, that they needed to ask that question of the EPA. He reiterated that they made those decisions based on a reason and he would like to know what they based it on and whether they took the wind rose into consideration, or not. He suggested they go to the agency that did the monitoring and placed their monitor on Pierce Island, for an obvious reason or not, and see what their answer was.

Mr. Moynahan said that they could certainly attempt to follow up with the EPA on that question and get it answered. He asked the Board how they wanted to proceed with the information they had received this evening.

Mr. Dunkelberger said that evidently there may be an important piece of this that may be missing that may answer some of the questions on that; that it might be that letter from the Sierra Club.

Mr. Moynahan asked the Board if they wanted to table this until another meeting once they had had a chance to review that.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Dunkelberger suggested they might want to follow up with Mr. Crawford to see if that discussion changed his perspective.

Mr. Moynahan said that he had made a note about the November 19th letter and, once they had that, he would distribute it and they could have another conversation as to how they wanted to move this forward.

Mr. Hirst asked if Mr. Blanchette had received that letter.

Mr. Blanchette said that he believed so; that he didn't remember when he received it but he thought it was in his mail box on Wednesday.

Mr. Moynahan said that it would be helpful if he distributed that to Board members.

Mr. Blanchette said that, if Ms. Wendler wouldn't mind emailing that to him, just to make sure.

Ms. Wendler said absolutely.

Mr. Beckert said that it was his understanding that that was also forwarded to Mr. Crawford.

Ms. Wendler said that it was.

Mr. Beckert suggested they do a follow-up with Mr. Crawford to see if he has had time to review that.

Mr. Moynahan agreed and said that that was all the Board would do on that this evening.

#8

TO : Board of Selectmen
FROM : Grant Hirst
REF : Staff concerns

Mr. Moynahan asked if Mr. Hirst would like to speak to this.

Mr. Hirst said that in the next couple of years that they were facing at least four retirements of key people and, of course, any time there was a change people got nervous and there was just general apprehension. He added that he thought it would be useful if they had a staff meeting, perhaps with a couple of Selectmen present, to address any concerns that current staff had, as with respect to future changes – Town government, union, retirements, replacement, etc. He said that, if they didn't have good communication, then people got nervous.

Mr. Moynahan said that there were certainly staff members for the Town Hall employees, anyway; that Mr. Blanchette held staff meetings, he thought, weekly.

Mr. Blanchette said every other week.

Mr. Moynahan said that he sat in on one about a month ago with the staff and tried to answer as many questions that they had at that point in time; that, certainly, any of the Board members could do that at any time; that Mr. Blanchette knew when those staff meetings were and the employees could ask the Board any questions that they had. He added that Mr. Hirst said one Selectman or two – they couldn't have a meeting, or, maybe they had a meeting and had a free-for-all.

Mr. Hirst said however the Chair would like to handle it.

Mr. Moynahan said that he would gladly sit in on another staff meeting and try to field any comments or concerns that staff had and disseminate it back to the Board.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Dunkelberger said that he might just offer it to the department heads; that, if they would like to have a meeting and have a Board member there, to just let the Board know.

Mr. Moynahan said that if the department heads had any concerns, if they were fielding any concerns from their staff, that the monthly report should be filling the Board in on, anyway; that that was the vehicle for any concerns from staff and all that so, maybe, they would just remind all department heads to encourage them to seek the Board with any input from employees on some of these topics.

The Board agreed.

7:35 PM
#9

TO : Board of Selectmen
FROM : Grant Hirst
REF : Special Town Meeting

Mr. Hirst said that he sent this in because he wasn't familiar with the protocol. He said that what they were probably going to need to do when they had a Special Town Meeting in the spring was that they would have to consider appropriating some additional money for consultants and, possibly, legal and he just wanted to point out that that was one of the things that he wanted on such a list. He added that Mr. Blanchette told him that such a list had already started after the last Town Meeting.

Mr. Moynahan asked Mr. Hirst if he meant a list for Special Town Meeting items.

Mr. Hirst said yes, anything that needed to be addressed, particularly anything that required appropriation, supplemental appropriation.

Mr. Moynahan said that they could certainly keep their fingers on the pulse of that to see what was truly a need for the Town but he thought that they would be hard-pressed to put additional appropriations in front of the voters; that he didn't think that would be very well received, seeking additional money.

Mr. Hirst said that he thought that Mr. Blanchette could speak to that.

Mr. Blanchette said that, if they had a Special Town Meeting at some point this spring, then there probably would be a few items that the Board would need to discuss whether they would want to seek appropriation for. He said, as an example, whether or not the Board would want to consider hiring a CFO, adding that they didn't have the monies to do that, but all the work that Mr. Donhauser has put in to setting things up, the ideal thing would be probably no later than late February/early March they hire a CFO, at least on a part-time basis, to continue the work. He said that it was things like that and, yes, he started a folder right after Town Meeting for the next Town Meeting, for example, they had the petition from Mr. Fisher; that he forgot what else was in the folder but, whenever he got something, he put it in the folder. He reiterated that he did have a folder he had already begun that was 'yea' thick of things they would need to do. Mr. Blanchette said that they did need to request some funds for some more things. He added that, obviously, if they did it at a Special Town Meeting and not in June, it couldn't be monies to be raised but would have to come from undesignated fund balance, adding that he didn't know if the Board had seen the email that the undesignated fund balance as of June 30th/July 1st was approximately \$2,161,000, so they had a comfortable fund balance that if there were some things that needed to come from it. He added that the other thing that they'd probably, if they were going to have a Special Town Meeting and looked to appropriate funds, want to look to appropriate more TIF funds for use because they've done extra things within the TIF with the engineers and so forth. He added that he was getting rather uncomfortable; not with the amount of money that they had in the TIF because they had over a million dollars, but with the appropriated monies because they were coming down to an uncomfortable level; that they could appropriate an additional \$20,000 to \$30,000 for the extra work they have had done; that they hired Eaton Peabody, for example, that they've had the engineers do some extra

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

work and so forth. He added that it would be nice to have that comfort if they wanted Eaton Peabody and Underwood Engineers at a couple of hearings next spring; that it would be nice to make sure that they had a comfort level for expenditure of those funds.

7:37 PM Mr. Dunkelberger said that he saw Mr. Hirst's point with regard to thinking about some...that they were going to bring in some consultants to do a couple of different things and probably needed to identify some funding or how much that would cost and then find a way to get that money through a warrant article; that they needed to find some way to get that money if they were going to go forward with that and if the Town was going to let them go forward with that. He added that it might serve them well to have a workshop just to take a look at some of the things that Mr. Blanchette brought up with regard to stuff they might have to do sooner rather than later and actually compile that list of what they needed to do and they couldn't necessarily wait until June. He said that it might include the discussion they just had around whether the Town would support going forward with the petition and they faced litigation. He said that it looked like they had several questions that were hanging out there and he thought that they needed to fine-tune those questions and, maybe, just take a look at the timeline.

Mr. Moynahan said that he would get together with Mr. Blanchette on what he had and get something in front of the whole Board.

#10 TO : Board of Selectmen
FROM : Heather Muzeroll-Roy, Community Services Director
REF : Check request receipts

Mr. Moynahan said that this was just a cover page; a check request receipts from the ECSD Director. He added that he left all the receipts in Ms. Spinney's office in the green binder for review. He said that this afternoon he had been forwarded some more information, via email, with some answers that he would pass on to everyone as far as follow-up from the meeting the Board had with the ECSD Director a few weeks ago.

#11 TO : Board of Selectmen
FROM : Maine Department of Labor
REF : Workplace Safety and Health Consultation

Mr. Moynahan said that he thought that this was going to be a short meeting so he tried to stack it with some stuff, putting this Safety Workplace thing in to take up space; that it was more informational. He said that that didn't work out so well.

Mr. Hirst said that in private industry what happens, sometimes, is that companies would ask OSHA to come in and they did a voluntary safety inspection. He added that when that happened the results were not mandatory; that they just gave them a reasonable amount of time to complete them. He said that, in the case of Maine; that they had sort of a mini OSHA called Safety Works administered by the Department of Labor. He added that they could do the same thing with them; that they could ask them to come in and their inspections and recommendations become advisory, at that point, and they give them a fair amount of time to fix it. He said that, if they waited for them to come in on their own schedule, then the recommendations were mandatory and they had to be done very promptly. Mr. Hirst said that may be something that the Board wished to consider; whether they would want voluntarily to have someone come in from the DOL and do the inspection or whether they would like to wait. He added that he asked the guy at the DOL if they would give them a heads-up when they were coming and he said he would spend six months in jail, so, while the MMA people did make an appointment to come in, the DOL did not; that they came in unannounced and they needed to be ready.

Mr. Murphy asked if there was any reason that they should fear such a visit. Mr. Hirst said no.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Murphy asked if they had asked the department heads if they knew of any situations that required repair.

Mr. Blanchette said that he didn't think it was a matter of if they knew that anything needed repair because, if it did, then they would do it. He added that the problem was that they didn't know all the rules and regulations that needed to be abided by, in all honestly. He said that he didn't know that any one inspector did and they all had their lists of what they have prioritized for the safety of the employee. He said that he thought that it was an extremely good program and that they've utilized it in the past. He added that the other thing was that, and he was sure it was probably still the same way, if they called up and made such an appointment, then they would not come and do a formal inspection, in the meantime, before they could get to them in the friendly term, they might say. He said that the other aspect of it that the Board might remember was when they had a formal one three years ago, he thought; that not only was there a requirement for correcting the situation but there were also fines that could be expensive. He added that a lot of times the DOL, bless their heart, would waive the fines but sometimes they did not for whatever reason. He said that they have utilized their process to voluntarily ask for an inspection and he thought that it was very useful to do that, adding that he thought that they did one five years ago – a few years before they did the formal one.

Mr. Hirst said that that just pointed out that, in three years, things went downhill because they found a whole bunch of problems when they came here.

Mr. Blanchette said that it was a different inspector who came down for the voluntary one than came down for the formal one. He added that, while he was sure that they all carried the same list, that their emphasis may be different.

Mr. Hirst said that he would be sooner pro-active on something like that.

Mr. Moulton said that they could utilize them as training because he did this year. He added that they would come down and go through things with them; that they wouldn't ask any questions but it just let people know they were in compliance with what the DOL was requiring. He added that he was in compliance but that was an alternative and they actually recommended it so, instead of doing that, just use them as a resource.

Mr. Murphy asked, if this was so good, then why weren't they doing it every year.

7:45 PM Mr. Blanchette said that they wouldn't do it every year; that they didn't have the manpower to do it for everyone every year.

Mr. Murphy suggested that they might be on their list every year and they could avoid formal inspections.

Mr. Blanchette said that he wasn't sure they could be on the list every year and it would not void formal inspections. He added that he didn't know if it was every five or every seven years that they could ask for one of these voluntary inspections; that once they asked for the voluntary inspection his understanding was that they would not come down and do a formal inspection on them before they had set up the voluntary inspection.

Mr. Dunkelberger said that there seemed considerable upside to requesting one of these inspections with little to no downside. He suggested that the Board move in that direction.

Mr. Blanchette said that he would get together with Mr. Hirst on that.

7:46 PM
#12

TO : Board of Selectmen
FROM : Noah Lemire, Comprehensive Plan Review Committee
REF : Town government

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moynahan said that the CPRC was to get to the Board a draft of what they had suggested that the Town needed in regard to Town government; that the Board had asked them to provide this, in writing, as they moved forward with town manager and it certainly mimicked what the Board was presenting to the Town, adding that this was very parallel to the direction the Board was moving in and it was good to have that back-up.

7:47 PM
#13

TO : Board of Selectmen
FROM : Ed Cieleuszko, Board of Appeals Chairman
REF : Board of Appeals Meeting of November 15, 2012

Mr. Beckert said that, before they got into discussion, he would like to temporarily step down and sit in the audience as the PB Chairman, as that was the position he was in when he attended the meeting in question.

Mr. Moynahan said okay. He said that Mr. Cieleuszko had some questions or comments in regard to the recent Board of Appeals (BOA) meeting and asked if Mr. Cieleuszko would like to speak to his letter.

Mr. Cieleuszko said that this letter was issued as a unilateral action by himself; that his board was not aware of this and he planned on giving them a copy of the letter tomorrow. He said that one of the questions in the letter that Mr. Beckert just answered, he guessed, or if it was up to the Board to decide, was whether he was a Selectman or Chairman of the PB when he spoke at the BOA meeting. He added that he would like to know if the Board had a problem with him, adding that he didn't care about the aspects of the meeting but, if the Board was happy with him or they had any reservations with him, then he would like them addressed; that that was his only concern for the BOA.

Mr. Moynahan said that he had no concerns or issues.

Mr. Dunkelberger said that he had absolutely no concerns. He added that, having been on the PB and then having been in front of the BOA questioning some of their decisions, that there was a certain amount of...conflict, particularly when one was being second-guessed, which was the job of the BOA; that he knew that when he was on the PB it did put him on the defensive with regard to what the PB was doing because the BOA was taking a look at it from a different perspective, which was their job and he understood that. He said that he was not aware of having any problems with the BOA or the PB; that they were doing exactly what they needed to do, much like the BC liked to ride herd on the Board of Selectmen. He added that there was a certain amount of animosity, which was the word he had been looking for, between the boards, as there should be.

Ms. Lemire said tension.

Mr. Dunkelberger agreed, adding that wasn't a bad thing.

Mr. Cieleuszko said okay, adding that he wouldn't be here if it was the Chairman of the PB having a go-at-it at one of his meetings; that they had been in much worse situations with other Chairs over the years.

Mr. Moynahan said that Mr. Cieleuszko's real question was the separation or distinguishing what role a person who had two hats had when he was in his (BOA) meeting.

Mr. Cieleuszko clarified that, when a Selectman told him that he was running a meeting wrong, then he wanted that addressed; that if a PB Chair told him something, then he would take it for what it was worth.

Mr. Beckert said that he went to the BOA meeting on November 15th; that he was obviously late because they had a BOS meeting that night; that he had made arrangements for the Planning Assistant to be there and there were two other members of the PB also there. He added that he got there, not being sure of the timeframe but believed the meeting had been in process for over an hour. He said

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

that he went as PB Chairman; that Mr. Cieleuszko's own members addressed him as PB Chairman when they addressed questions to him, so, he didn't think, in his mind or at least in the members of his (Mr. Cieleuszko) own committee, that he was there in any other position other than PB Chair. He added that, as a Selectman, he had no reason to go to the BOA meeting; that there was a definite duty of separation there; that he was there because they had an administrative appeal before the BOA that was against the PB and the Planning Assistant. Mr. Beckert said that he raised a point of order because he was very concerned, having sat on a few boards and committees over the years and chaired a few, of what he was witnessing, right, wrong or indifferent. He said that he called a point of order because, in his mind, under Robert's Rules of Order and, also, under the Maine Moderator's manual – that he wasn't sure which one the BOA followed – the BOA Chairman was very loud, points seemed rattled, that he had members of his own board – he had a motion and second before him – that were trying to discuss issues and he was suppressing them, his opinion, from asking the questions and he could see several of the members getting frustrated with that. He said that he didn't have to name any names; that the Board could go ask them. He added that he didn't want to be the only one to be the one saying that he was upset with what he saw going on. He said that he knew the separation of positions; that he had been there before; that he had been on numerous committees and boards over the years – many at the same time – and he knew that when one went to a board or committee meeting one went in the position one was in for that particular board or committee. He reiterated that two members of the PB were there and the Planning Assistant and that he believed Mr. Hirst was there, he was sure as a private citizen, to observe so, if there was any question of what he was saying that he was concerned about, then he would offer to the Board to ask the other people that were there what their take on it was on what he stated were his concerns. He reiterated that he was there as nothing more than the PB Chairman and, once some of his members were allowed by the Chair to ask him questions, then he clarified things for them that he hoped helped in their decision and that was what any of them from the PB were there to do – nothing more.

7:54 PM Mr. Dunkelberger said that it did point out one thing and he often saw this at meetings, too; that often there were assumptions made that they were there in a particular capacity. He added that he thought that, when they were wearing multiple hats, then they needed to be better at clarifying exactly what capacity they were there in because they were always a Selectman; that unless they clarify that they were not there as a Selectman, then that changed the whole perspective of what they said, which has arisen here.

Mr. Moynahan agreed that Mr. Dunkelberger brought up a good point; that they were Selectmen first; that volunteers were great and he (Steve?) wore a ton of hats, which should be applauded, but it still did lend itself to the question of at what point did they separate from other roles and responsibilities, too, adding that it was hard to get away from that perception because a Selectman was always a Selectman, no matter if one was wearing another hat.

7:56 PM Mr. Murphy said that it was his feeling that, if they were visiting a committee and that committee was functioning and had a Chair, then they left it up to that committee to run its own meeting; that they didn't try to insert...that they had citizens who tried to affect the way this Board operated and they shouldn't be doing that; that they could ask questions and they were recognized by raising their hand. He added that they (BOS) had a citizen or two who called a point of order; well, citizens out there attending their meetings, legally, couldn't ask a point of order; that a point of order was a special motion that could be made by only by the members who were meeting; that at this Board, it was these five members; that at the BOA, it was the members of the BOA who could make a point of order and the most that a visitor, even the Chairman of the PB, could do was to raise their hand and wait to be recognized or stand in the way that that meeting ran its meetings. He said that this rule of point-of-order was misused frequently; that people thought that they could say 'point of order' and they had to be heard – no; that the point of order was to, really, point out a wrong direction that the whole board was going but it was up to the board to find that out. He said that the members of the BOA were the ones that could have made a point of order, saying,

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

“Mr. Chairman, you have digressed.”; that it was their responsibility to do that, not a visitor.

Mr. Cielezsko said that he was told by knowledgeable members of his Board that points of order could come from the audience; that he didn't read it, himself, and learned it that night so he didn't know if Mr. Murphy was right or wrong in regards to that. He added that he was assuming that a point of order, at this moment in front of his board, could come from the audience.

Mr. Murphy said that he would show him his Robert's Rules of Order.

Mr. Cielezsko said that he wished he would have known that before that meeting because he wouldn't have let Mr. Beckert speak. He added that he had a big issue; that he was very uncomfortable – that he was uncomfortable now because he didn't want it to be a show – but he thought that there was a problem with a member – a Selectman – could not wear separate hats, especially in a contentious...in a board where there's actions. He said that the BOA served at the BOS's discretion; that they couldn't serve at their own discretion and he didn't see how anybody – and he wasn't picking on Mr. Beckert, that Mr. Beckert was a great citizen of this Town and he had no reservations about him – that he thought that there should be a general policy that at least Planning, that he knew by law that Appeals was off the table for Selectmen, and anything where the ramifications came back to the Selectmen. He said that the BOS had liaisons where they could oversee a committee if they wanted to check on something; that if he wanted to be a liaison to the PB, if they needed help, that that would be so much easier. Mr. Cielezsko said that for him, as a citizen, because he was mostly speaking as a citizen, here; that he had no consensus from his Board to be here tonight and he had grave problems with...he couldn't address Mr. Beckert as PB Chair without knowing that he was a Selectman, too – he was his boss...and he had to reprimand him; that that didn't fit.

8:02 PM

Mr. Lytle, BOA member, said that there were a couple of things that would probably help. He said that that particular night they had to establish standing and that took a long time, and there were reasons for that, too. He said that he didn't get the PB's response, so he was given roughly ten pages of their response, which in no way could he read it and make it a formal discussion; that he was in favor of that other party when he went to that meeting, but, after reading what he could of the PB's response, it changed his mind; that he was glad Mr. Beckert was there and was able to answer some of the questions they asked because it did clarify a few things. He said that he was here tonight because he had been hearing it around Town that the BOA had not been doing a good job and he didn't think that was right. Mr. Lytle said that he has heard more response from the people that have come before the BOA that have said that they never realized how thorough the BOA were – and they were. He added that they did bicker back and forth but they were very thorough in what they did because they tried to make it right.

Mr. Moynahan said that it was unsettling to know that they were hearing negative things about a board around Town; that there were no negative conversations here. He added that he certainly endorsed their board completely; that he thought all of the members did a great job; that he had not heard any negative feedback so he couldn't say anything else. He said that, in regard to separate hats, that was something he would certainly bring up in a future meeting with Board members to see how they wanted to look at that to make sure they had true separation of duties and that sort of thing; adding that he thought it was a pretty good point that there could be some confusion.

Mr. Beckert said that, just for the record, that night when he was in there he had no inkling from anyone on that board that he was being looked at as a Selectman. He said that when they walked out of the Selectmen's meeting tonight, that they were individuals; that they had no authority as Selectmen, even though the perception may be there that they did; that his own board members, he believed and he would not speak for all of them, knew he was there as the PB Chair. He said that they had no doubt in their mind what he was there to represent and, as he

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

had said, he would have no reason to go to a BOA meeting as a Selectman – none whatsoever.

Mr. Moynahan said that this was not saying it was the PB; that it just raised a concern, from hearing it out loud, that it did create a perception, whether right or wrong; but he had not thought much about it until just now, when he had read it.

Mr. Beckert said that, again, the point of order was called because he was concerned with what he was seeing in the actions that were happening, the demeanor, the not allowing – appearance of suppression of comments from board members, his own board members, during discussion. He added that he could care less if he (BOA Chair) didn't want him to talk on anything but they asked him questions and he said that he would answer if allowed by their Chair and that was right in the minutes. He said that he read Mr. Cielezsko's letter several times and it appeared that...even he (Mr. Cielezsko), in his letter, prefaced that if he was there as PB Chair then he didn't have a problem with it, so, it was that separation of Chairman of the PB versus Board of Selectmen member that he guessed Mr. Cielezsko had to wrestle with. He said that he knew he was clearly there as the PB Chair and he felt that the majority of the BOA members understood that.

Mr. Murphy said that he wasn't quite sure what happened at that meeting but he assumed that Mr. Beckert sort of reprimanded the BOA Chair for not taking control or sitting on his members, or something like that; that Mr. Beckert tried to direct him on how to run his meeting.

Mr. Beckert said that he didn't try to direct him at all; that he just made a statement that he was not following the rules of running a meeting by not allowing his people to speak when they were requesting to speak.

Mr. Murphy said that, to him, Mr. Beckert was telling him what to do.

Mr. Beckert said that he could look at Robert's Rules or the Maine Moderator's Manual or what have you, and, once there was a motion and a second from the board, that was the official and legal period where discussion from the board members was supposed to take place. He reiterated that it was his perception that he was trying to suppress his own members from asking questions.

Mr. Murphy said that he thought he needed to leave it up to that board.

Mr. Moynahan said that, if the board had concerns with the way the meeting was run, then there was a mechanism, and that was reporting to the BOS, so, if the board had concerns with the way Mr. Cielezsko ran his meeting, then the BOS would likely hear something.

Ms. Lemire said that she would like to say something as a member of the BOA. She said that she understood what Mr. Beckert was trying to do but, like he said, he came into the meeting late and he had never watched their board work before. She added that what he was witnessing that night was pretty normal; that they had their own way of doing things and knew each other as individuals and how they processed through these legal questions that they had. She said that that was all she really wanted to say; they were doing normal business and none of them felt...yes, frustrated, but not for the reasons people might suspect, and not at Mr. Cielezsko.

Mr. (Larry) Bouchard said that he was a member of the PB and was at that meeting and he was there to represent the PB. He added that he just wanted to say that what Mr. Beckert did at that meeting was totally by the rules (Robert's Rules); that anyone in a meeting was allowed to call a point of order, adding that one couldn't call a point of order if one didn't agree with what was being said but called a point of order if one thought things were being done incorrectly. He added that, after Mr. Beckert called a point of order, he was told no; he called it again and asked for a point of order, through the Chair, and Mr. Beckert just questioned what he thought wasn't right; that board members were trying to speak and the Chair was suppressing. He said that that was as far as it went and Mr.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Beckert did it as a PB member, as far as he could see. He said that he had no quarrel with the way Mr. Cielezsko ran his meetings and with what Ms. Lemire just said; that it was what it was, but he would stand there as a PB member, as a citizen, and say – and they could look at Robert's Rules – what was done in that meeting was done, he believed, totally by the rules. He reiterated that, for people to say one couldn't call a point of order in a meeting was incorrect, one could. He suggested that they look into that to get clarification on that.

Mr. Murphy said that he thought that the difference here was the definition of member; that it was the members who were meeting who could call a point of order.

Mr. Moynahan said that that was not a big part of this whole thing; that they would forward the information on to all the boards so that people were more aware. He added that he was forwarded something separate from Robert's Rules that were their guidelines for running meetings not too long ago and he would try to get that to all the Chairs of the boards.

Mr. Pomerlau said that there were a lot of issues going on here but the #1 important one, and they hit right on it and Mr. Cielezsko has very well, was the inherent conflict they were going to run into when a member of the BOS wore another hat as a Chairman of another committee. He added that it was just bound to happen and there wouldn't be any issue here, whatsoever, if Mr. Beckert wasn't a Selectman. He said that Mr. Cielezsko wasn't here because of the PB Chairman; that he was here because, no matter which hat one thought that they were at a meeting with, anybody would look to the power with the one with the big stick as the one that person was wearing; that they were going to be intimidated by the fact that that person was a Selectman. He said that they couldn't change that spot and in many, many towns in this State, they were actually prohibited from serving as Chairman on other boards, or even members on another board, and in other counties and other towns they were discouraged from doing so. He added that he thought that it was an important issue for the Board to look at. He said that, if something was done by the SC and Mr. Beckert was the Chairman and the BOS had to approve it, he had to do what he was doing now, sit down here. He added that he didn't want the BOS sitting down here, that he wanted them sitting up there; that that was why they elected them.

Mr. Moynahan said that they would bring that up for discussion amongst the Board on that perception, and all that, but, unless there were other questions...

Mr. Cielezsko said that, if the Board was happy with the way he was going, then he was going to continue doing that; that he hoped the Board came to a good conclusion to the multiple Chair/Selectman issue.

Mr. Moynahan said that they would certainly have a conversation.

Mr. Lytle asked if they could get a copy of the point of order. He said that he agreed with what Mr. Beckert did and with what he said. He added that, if a point of order was called, then that point was supposed to be directed at that time; that that was the way he had always done all of his meetings but maybe he has done it wrong for a number of years. He added that, now that it has been brought up, it should be clarified however they were going to do it.

Mr. Moynahan said that someone had given him a copy of an Eliot-specific branch of Robert's Rules, or something, and he would try to get them to all the Chairs of the boards and committees.

Mr. Hirst asked Mr. Cielezsko what rules he used, was it Robert's Rules.

8:13 PM

Mr. Cielezsko said that he was going to assume they used Robert's Rules; that it was from training they had received from the MMA and the clinics they went to; that they have always referenced Robert's Rules of Order. He added that he had a copy of Robert's Rules of Order – he hadn't read it yet; that he was still working through the ordinances. He said that, in regard to that one aspect of the meeting,

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

he told Mr. Beckert no to begin with because it was a board discussion. He added that when Mr. Lytle and Mr. Marshall, who had been a State rep and was very knowledgeable a lot of political issues and meeting issues, told him that he had to take a point of order and, when Mr. Beckert reapplied, he got it. He added that he had no reservations about that; that he has told the Board his reservations.

Mr. Moynahan said that he thought that they had had enough conversation about that and that they would move forward and try to finish their agenda.

#14

TO : Board of Selectmen
FROM : Route 236 Sewer Expansion Committee
REF : Question #1 – Existing sewer in South Eliot

Mr. Moynahan said that this was a question on existing sewer in South Eliot and it raised some questions in regard to what could be done to the existing system with the TIF. He read the four questions listed in the memo to the public. He added that he knew that certainly c. and d. had been done but, if they wanted to have a fresh answer to this, they could pass it on to Mueller Cook or Joan Fortin of Bernstein Shur. He added that, if they thought this needed better explanation or clarification for the committee, then he just needed consensus to forward this page to the attorneys that drafted the TIF for them.

The Board gave their consensus.

Mr. Blanchette said that he just wanted to clarify one thing, however; b. was not accurate. He said that not the entire existing sewer repair was being under the TIF project, adding that they just paid, and he didn't remember exactly how much, this past fall under the existing Sewer Capital Reserve for repairing the manholes down there that were not TIF-eligible.

Mr. Moynahan said that a lot of the repairs they had done over the last couple of years was done with fees from the sewer users.

Mr. Beckert said that it was his understanding that the only upgrades to the existing sewer system that would be done through the TIF would be those necessary to add the additional expansion once the Route 236 project was tied into the existing system.

Mr. Moulton said that that was correct.

Mr. Moynahan said that it was most notably pumps at the pumping stations.

Mr. Beckert agreed, saying that they would have to be resized to take the additional flow.

Mr. Moynahan said that he thought that some of the conversation in the Route 236 committee was what part got funded by the Town; did the sewer users pay the difference so, if it was 2.7 for the upgrade of the pumps and the replacement for just the sewer users was 1.2, then they should be on the hook for that, or what have you.

Mr. Moulton said that he had a meeting with Underwood yesterday in regards to various budgeting things and things they needed to look at should the TIF not be approved, along with other maintenance things to help get costs to go with his third budget to the Board. He added that one of the things that they were going to clearly identify was the differential – what could be covered by the TIF and what could not be covered and what they needed to do for maintenance, as far as the Town, which would be burdened by the tax – the users – and that would be discussed on the 13th with the Board.

Mr. Moynahan said that it would be good to have some separation of what he was budgeting, short-term and long-term, for the existing system because that was not going to go away.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

Mr. Moulton said that they were looking five years out; that he was working with Underwood and he would probably be coming to the Board for a request for expenditures out of the reserve account to look five years out for other things that were necessary.

Mr. Moynahan said, yes, repairs and maintenance, saying that, in line with that, the SC was going to be tasked to review the rates, again, to make sure the ends meet the means.

Mr. Moulton said that they would incorporate all that, as well.

Mr. Moynahan asked if Mr. Blanchette had a copy of this memo electronically so that they could email it.

Mr. Blanchette said that he could certainly send it to Joan Fortin.

Mr. Moynahan said that an updated clarification would probably be helpful.

8:18 PM

Mr. Pomerlau said that he didn't know how it got dropped but there was one other reference, here, to an Underwood question and answer in reference to what they estimated the costs to the upgrades to the sewer to be, if it were not included in the TIF, of 1.2 million dollars and, then it showed another \$800,000 and so on for I&I. He added that, in essence, that was the amount in question – 1.2 million dollars - whether or not that got paid for by the TIF, depending on its passage or not, and to-date, excluding what had to be done because it had to be done; that in the vote this past June and nothing, so far, has ever separated a cost that was going to be borne by the users as opposed to being paid for by the sewer bond project, if it got passed.

Mr. Moynahan said that he thought that there would be some clarification that came out of that, especially based on the future meeting Mr. Moulton was having with Underwood.

Mr. Moulton said that that was correct and they should hear more of that on the 13th.

8:20 PM
#15

TO : Board of Selectmen
FROM : Grant Hirst
REF : AED's

Mr. Hirst said that this had to do with the acquisition by the Town automatic external defibrillators (AED's). He added that he did a little research and found some sources for these and was suggesting that the Board authorize someone, perhaps just one person, to seek out bids for these. He added that it shouldn't be him because he knew nothing about grant-writing but they had people in Town who did and might be able to help them.

Mr. Moynahan said that he was certainly not a grant-writer. He added that he thought that it was a good idea to have a centralized person, at least someone for the Town Hall piece of it; that he thought that the DPW...

Mr. Hirst said the Town Hall and other public buildings, yes.

Mr. Moynahan said that the DPW Director wrote his own grants and the Police Chief did, also, and he didn't know that they would want the help with writing grants. He added that the Board could certainly reach out and ask what their struggles were.

Mr. Hirst said that, if they were not going to have one person do it, then he would like to suggest that those who did submit grant requests let the Board know that they were doing it so that they didn't duplicate efforts.

Mr. Moynahan said that he knew that, typically, there was matching that they heard about, but he wasn't sure of others; that he knew that Mr. Muzeroll talked about one tonight and that was a matching grant so they would have to sign off on

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

the financial piece of that. He added that the ones that had no cost to the Town he wasn't sure they received those or not.

Mr. Beckert said that he thought that, when they first talked about the AED's, he had mentioned that someone should contact the Eliot/South Berwick Rotary.

Mr. Hirst said that he did; that he got ahold of Ms. Goransson and she gave him a reference and one of them was listed in this memo.

Mr. Beckert said that his point was that the Rotary was paying for and donating some of these to area organizations.

Mr. Hirst said that he could have gone ahead and asked but that wasn't within the scope of what he was authorized to do.

Mr. Beckert said that may be something that somebody, whoever picked this up and ran with it, could do, contact the Rotary, again, and ask that question because they did have funds last year and they did donate to several area organizations.

8:24 PM

Ms. Lentz said that they ran a big fundraiser for that and provided the schools; that she thought that they had enough money to buy six or seven; adding that she was the one they wanted to contact and work with, saying that she knew about them, where to go for them, and she was a great fundraiser.

Mr. Dunkelberger said that he was going to throw a caution out there. He said that, before they went out for equipment, and AED's were a good piece of equipment, that there was a sustainment piece that went with that that they needed to be conscious of; that they had to maintain tests and training on that equipment as well as mount and maintain it. He added that that was the piece, when they got free stuff, that they always forgot and it came and bit them in the rear end because they then had to figure out who was going to pay for that; whose budget or what line item were they going to add to somebody's budget to pay for that. He said that he just wanted to put that caution out there that they just didn't go out and get these AED's with no coherent plan for maintenance and training.

Mr. Hirst agreed. He said that in their negotiations for an ambulance contract he has noticed that some ambulance services provided this as part of the contract – regular maintenance, replacement of pads, and replacement of batteries – and that was something that, when they discussed ambulance contracts, they might want to include that as an option. He added that they would also do the training if it was agreed to it by contract.

Ms. Lentz said that that was one of the reasons they gave them to the schools was because they gave them to the nurses; that it was extra training for the nurses but the nurses were already there and had the ability and training. She added that Mr. Dunkelberger was right; that one couldn't just walk in and hand it to someone to do it.

Mr. Moynahan said that he thought it would be smart to wait until they were deeper into the negotiations with the ambulance and see what panned out from that.

Mr. Hirst said that that was fine with him but they still needed to acquire them; that maybe the ambulance people could get them for the Town, too.

Mr. Moynahan added that grant-writing would have a lesser cost.
Mr. Hirst said very possibly.

Old Business (Action List):

Mr. Moynahan said that he updated this and he thought that they had covered a bunch of the items and would continue to do that; that he didn't think that they had to go line-by-line unless someone wanted to add something.

The Board agreed.

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

1. Route 236 Sewer Expansion Project reports, updates, and schedules – Questions from Route 236 Ad-Hoc Committee - Mr. Blanchette
2. Sewer Contract/IMA – Schedule IMA/Kittery Meeting for presentation - Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette
3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
4. Community Service Space: Relocation to Elementary School – explore school space – fit up costs, service impacts, insurance, MSAD #35 contract, CSD Director – Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette
5. Town Manager – schedule workshop; include Comp Plan Implementation Committee
6. Dispatch Service/Ambulance Contract – Contract with Kittery, request from same, costs – BOS, Mr. Muzeroll, Mr. Short
7. Policy creation/review – debit card, video-streaming, website management
8. Employees – cross-training, charting earned times, job descriptions - BOS
9. Liaisons to boards, committees, and commissions – review existing members, try to fill open spots; Committee/Board – Mission Statement Review - BOS
10. Budget Preparation - BOS
11. Auditor – financial statement, management letter, finance director, personal property tax, fixed asset management - BOS
12. Regionalization – explore areas of potential collaboration, cost reductions & enhancements to services – Mr. Moynahan, Mr. Hirst
13. Legal issues – pending and Consent Agreements – Eliot Shores, PSNH/Sierra Club, Mr. Bogannam - BOS
14. Sewer User Rates, reserved allotments, odor, maintenance– Sewer Committee, Underwood Engineers, Mr. Moulton
15. Department Heads – monthly reports, employee reviews, financial oversight, policy reviews, and department reviews - BOS
16. Research grant opportunities – AED's for Town buildings
17. Comp Plan follow-up

Selectmen's Report:

There were no Selectmen's reports tonight.

Other Business as Needed

There was no other business tonight.

8:28 PM

Executive Session

Mr. Moynahan said that there were two executive sessions on here and asked if they were still scheduled.

Mr. Blanchette clarified that there was one scheduled and that it was the first one.

Mr. Pomerlau asked if he could ask a question before they entered into executive session.

Mr. Moynahan said yes.

Mr. Pomerlau said that, earlier this evening, he made reference to the fact that the Town now formally had two new unions, asking if they had specifics on that as to when that took effect, were they represented now, when would the first contract

BOARD OF SELECTMEN'S MEETING
November 29, 2012 5:30PM (continued)

take effect; that all of this would have a huge impact on the budget process, he assumed.

Mr. Moynahan said that it would not be right away but unions were in place and that they had to start a contract process, which probably wouldn't happen until after the first of the year.

Mr. Pomerlau asked if that was likely to impact a June budget.

Mr. Moynahan said potentially; that it depended on how quickly any type of contract was agreed to by both parties.

Mr. Pomerlau said that, in that context on those issues they discussed earlier on merit versus step increases and job descriptions, he would wholeheartedly urge the Board to get some professional help because, if the union was going to do anything, it would force them to have professional management. He added that that was going to be the problem area, when they got into bargaining and negotiation; that the union was going to allow protection of people against bad management, which meant lack of job descriptions, lack of performance appraisals, lack of standards and they needed to develop some really firm professional standards before they got into these merit and step increases that would be based on some sort of professional standard.

Mr. Moynahan said that that was why the Board had the attorney down tonight, trying to be proactive in regard to all this stuff.

Mr. Pomerlau said that he thought it was a good idea to do it, anyway.

Mr. Moynahan said it was going to regardless, that union talk was just talk until it just happened.

Mr. Beckert added that they just found that they had formed yesterday.

Mr. Moynahan said that, at this point, there was an executive session scheduled.

8:30 PM Mr. Beckert moved, second by Mr. Dunkelberger, that they enter into executive session as allowed by 1 M.R.S.A. § 405.6.C "Discussion or consideration of the condition, acquisition, or use of real or personal property..." such as tax-acquired property.

VOTE

4-0

Chair concurs

8:49 PM Out of executive session.
There was no action as a result of the executive action.

Adjourn

There was a motion and second to adjourn the meeting at 8:50 PM.

VOTE

4-0

Chair concurs

DATE

Mr. John J. Murphy, Secretary