

BOARD OF SELECTMEN'S MEETING
December 22, 2011 6:30PM

Quorum noted

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

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

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

6:32 PM In reviewing the minutes of October 27, 2011, Mr. Murphy questioned the motion at the top of page 18 regarding the plowing of Wildbrook Lane during the 2011-2012 winter season.

Mr. Blanchette said that he knew there had been some consideration to put this on a Special Town Meeting, if one was held, but he did not remember the vote, per say.

Ms. Place said she did remember seeing some correspondence from their lawyer, who was upset that the Board had decided not to do it.

Mr. Moynahan pointed out that, on page 17, it said that, "Mr. Fernald said that that would be a decision of the Townspeople to decide and, for that to happen, there would have to be a Special Town Meeting that they would probably hold, anyway, in December."

Mr. Fernald said that they did hold the Special Town Meeting but chose not, as a Board, to have that as an article and that should be reflected in the minutes of the last meeting.

Mr. Murphy suggested that this recorded motion probably did not quite reflect what was meant to be said at the time and it should reflect Mr. Fernald's statement that it would have to go before the Town Meeting. He added that, since he was not there, a member present at that meeting would probably have to correct this if it improperly represented what was really trying to be done at that time.

Mr. Moynahan said that there was a vote and, even if the wording was to put it in front of the voters, they did not do that, even though they voted to make that happen. He added that this vote already allowed that to occur.

Mr. Dunkelberger said that Ms. Lemire had a good fix for this but he did know that the vote they took with regard to the warrant article was based on the choice presented before this Board. He added that he does not believe the vote on the warrant article was improper and voted, at that point, for the specific warrant that only showed the three articles versus the four.

Mr. Blanchette said that he thought it would be wise to let Ms. Lemire do as she suggested, which was to research that specific issue because, the more he thought about it, he thought it was that the Board was going to consider putting it out for a vote in December if they had a Special Town Meeting.

By consensus, the Board agreed to have the Recording Secretary research this issue. It was also agreed to set aside these minutes for approval until the next meeting.

Regarding the November 10, 2011 minutes, Mr. Murphy said that the even pages had been missing and so the Administrative Secretary prepared additional copies with all the pages for those who might have missing pages.

Ms. Place said that she had missing pages.

The Board agreed to set those minutes aside, as well, and review them at the next meeting.

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6:39 PM Motion by Ms. Place, seconded by Mr. Dunkelberger, to approve the minutes of December 15, 2011, as written.

VOTE

4-0

Chair concurs

6:40 PM

Public Comment:

Ms. Brandon, acknowledging that the building was on the agenda, but that she has been reflecting that a number of people, herself included, were taken by surprise by this. She added that she did not know about it until 8-10 days ago, explaining that she has been an active citizen, maybe somewhat less so lately, though she has been doing a variety of other things – not Town committees. She said that, if she had seen an email about it, then she would have come to a meeting much sooner and made comments much sooner. Ms. Brandon said that she understood (and was pleased) that it was being looked into to have an Eliot Town email list so that, on the website, one could sign up for it and then committees could send out their minutes or just say that they were posted. She said that, once she learned that this was underway, she went to look at the BC minutes and they end in September online so there was nothing since September she could read. She added that she looked at the PB minutes and they end in August so they were quite a ways behind. She said that she didn't know how much more she could say but that she was kind of disappointed because she has been on two Comprehensive Plan Committees and they talked a lot about a community center, that she was really interested in it and would love to see one. She added that she would love to see one that has a lot of public discussion, people walking around looking at drawings or site plans or whatever and able to make comments – a real citizen process. She clarified that that was what she felt badly about – that that hasn't happened. Ms. Brandon said that she could get complaining and negative but that didn't do any good but was really interested in a positive community that everyone was involved in. She acknowledged that not everyone could do everything but they could at least know about it. Ms. Brandon said that she hoped that anything of significance to the citizens will be in this email list and that it will get sent out so that nobody is surprised. She added that she wasn't the only one – that they usually knew things, but didn't know this.

Mr. Fernald said that he understood but, on the other part of that, there were many citizens in Town who do know about this. He added that Ms. O'Donoghue actually helped create that committee that has been working on this for at least a year. He added that the Board put out a call for people to be on that committee and they had at least nine people request to be on that committee for this purpose.

Ms. Brandon said that the committee mandate was to investigate and do a needs assessment to look at lots of possibilities. She reiterated that the committee mandate was posted and it wasn't to focus on that one option until the Board meeting in April at the Grange Hall, which they went to but couldn't get a seat, so left and missed that change. She added that the committee's mandate is still listed as looking at all the possibilities. She said that something changed, that she missed that change and never knew about it after that.

Ms. Shapleigh asked if Ms. Brandon was aware that meetings were being filmed and could be watched on the internet.

Ms. Brandon said that she has watched a few, that they were quite long and the parts she watched weren't about this – just her bad luck, she guessed.

Mr. Fernald told Ms. Brandon that he appreciated her comments.

6:45 PM

Department Head/Committee Reports

Mr. Muzeroll updated the Board on the Tank Truck sale and requested advice on the direction the Board would like him to pursue. He said that he had reported a couple of weeks ago that the tank truck was going to be offered for sale through Maine Chiefs and through a corporate reseller of fire trucks. He added that he initially backed out of the

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reseller because they wanted 15% of the sell price, which he thought was outrageous. He explained that, as he was getting ready to advertise it in Maine Chiefs, he was approached by an area contractor who made him an offer that was well within range of what they thought the vehicle was worth. Mr. Muzeroll said that he would like some advice from the Board as to how to proceed – did they want him to work with this person, continue to advertise...

Mr. Dunkelberger commented that, at the last meeting, the Chief said he wanted to keep this as a fire truck.

Mr. Muzeroll said that his first preference would be for it to go as a fire truck to a fire department, that he always wants anything fire-related to go to a department somewhere that could use it. He said that, over the course of the last ten years, there has been so much grant money for fire apparatus that there were not many out there willing to pay for anything. He said that he didn't mind continuing to investigate that but that he just wanted to do this aboveboard so that someone didn't think there was a sweetheart deal going on. He added that, if the Board wanted him to advertise for a certain period of time through the Maine and New Hampshire Fire Chiefs, he could do that, then he would prefer the Board give him some advice on where they wanted him to go...

Mr. Dunkelberger said that he thought the Fire Chief had a better sense on the market with regard to potential market out there and, if he didn't think that market existed then, instead of wasting his time and money in advertising, sell it.

Mr. Moynahan said that he thought it would make sense to post it for a little while so that he could gage the interest but, in the meantime, a written proposal from that contractor and directed to the Town of Eliot so that, at any point in two to three weeks with no hit online, they would have an offer in hand, adding that this shouldn't be dragged out.

Mr. Muzeroll said that the only reason he asked that was that the word had been spread for quite awhile that he wanted it to go to a fire department so he did not want to cheat someone from offering him more money than the local contractor, if they were going to go that route. He said that he guessed what he was asking them was to let him negotiate the way he felt fit but they had to be able to get the word out to other people if they were going to bid it or something else.

Ms. Place said that she thought Mr. Muzeroll would probably be the best one to decide that, as he knew the market.

Mr. Muzeroll agreed that he did know the market but he did not want it to bite him in the ankle.

Ms. Place said that she did know that, in the beginning, he did say that, if it went to a fire department, then there would be extras that went along with the truck.

Mr. Muzeroll agreed, adding that those extras would not go to a contractor, adding that the extras would be applicable, as he was cautious as to what he gave away.

Mr. Moynahan agreed that Mr. Muzeroll brought up a good point in that it needs to be advertised because if they don't advertise and another contractor comes along...so Mr. Muzeroll was 100% right.

It was the consensus of the Board that he advertise the truck for two weeks and, if he didn't get a response, then the truck would go through a bid process.

6:50 PM

Mr. Blanchette said that the Board had gotten a letter from one of the attorneys on the Denunzio case for a settlement demand and the attorney would like to know if the Board wanted to settle with the offer made, which was to allow him to put up the business as he had originally requested and he would drop all the monetary charges.

The Board said no thank you.

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Discussing the West Publishing Company, Mr. Blanchette said that the Town had subscribed to this for as long as he had been there for updating the State laws. He added that it is a bit costly - \$1,200 and change – and asked if the Board wanted to continue with that. He added that that was probably more of a budgeting cost and that the Board might think about it before making a decision. He said that it is online but he would be the first to tell them that he liked having those books available.

Mr. Murphy said that he was not online and, for all the years he has been down here (Town Hall), he very, very frequently goes to that set of books to look something up.

Mr. Blanchette said that the Town was getting ready to accept a pay-off on a piece of property that the Town foreclosed on and Ms. Spinney prepared a quitclaim deed for the Board for it. He said that he needed a motion from the Board to sell back to the owner for the sum of \$24,024.62, which is four years of back taxes, interest, etc.

6:54 PM

Mr. Murphy moved, second by Ms. Place, to sell back to the owner of a piece of property foreclosed on by the Town of Eliot for the sum of \$24,024.62, which is for four years of back taxes, interests and other such things.

VOTE

4-0

Chair concurs

At this time, the Board signed the quitclaim deed.

While the Board was signing, Mr. Blanchette said that Mr. Marchese recently got a letter from a citizen who would like to volunteer some time to help Mr. Marchese out in his office. He added that, with the Board's permission, he and Mr. Marchese would like to investigate that and look into this person's qualifications.

Mr. Murphy asked if this was an intern or someone training for something.

Mr. Blanchette said no, that this was someone who recognized a need and had some time.

Mr. Moynahan clarified that there would only be limited things this person could do without being certified.

Mr. Marchese agreed.

It was the consensus of the Board to move forward with this and that Mr. Blanchette and Mr. Marchese would interview this person and define the position limits.

6:55 PM

Mr. Blanchette said that, as some are aware, Mr. Marchese is now a Certified Code Enforcement Officer and an LPI (licensed plumbing inspector) and is going forward with some other certifications he could use in his work.

The Board congratulated Mr. Marchese.

Mr. Moulton said that he presented the Board a list of part-time winter employees and it was the same list from last year and, with the Board's approval, he would like to utilize these people.

It was the consensus of the Board for Mr. Moulton to utilize this list of people.

Mr. Moulton said that he had submitted this late but inquired if the Board had had a chance to review the Transfer Station power upgrade.

Mr. Murphy said that there were two proposals and that one of them was for a 200-amp improvement and the other one says 400 amps and wondered if that could be rectified.

Mr. Moulton said yes, that he had not seen that.

Mr. Murphy asked if he wanted 400 amps.

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Mr. Moulton said no, that he wanted 200 amps. He said that he would bring the bids back to the Board corrected.

Mr. Moulton said that, as a quick note, after that last letter to the DOT, he had three representatives meet him last Friday and got a phone call from Mr. Cannell. He added that they had a site walk along Goodwin Road, looking at all the trees he had been complaining about, that a bunch of them were marked. He said that they received a lot of phone calls in regards to that and that they were just waiting for the funding to trim or remove marked trees. Mr. Moulton said it brought things to light and Mr. Cannell (MDOT Div 1) was a little upset that he received another one that was CC'ed to the Commissioner and he asked how many more he was going to send and Mr. Moulton told him until he rectified the situation because he promised he would do this and have not after two months. He added that that was the end of the discussion and the man apologized for not getting back to Mr. Moulton sooner. Mr. Moulton said that, hopefully, they will move forward.

Mr. Moynahan, regarding the ice storm the other day, asked Mr. Moulton if he ended up salting Route 236.

Mr. Moulton said yes and that the State was made aware, adding that no one could move, there were accidents, and they were the only ones out.

Mr. Dupuis Sewer Committee, said that they had asked to be on the Board's agenda their first meeting in February as they wanted to bring forth some revenue agendas that may bring in extra revenue for the Town and, at the same time, they hoped to have the finalization on their sewer standards acceptance by the PB and CEO. He added that he wanted to publicly thank all his committee members for all the work they have done and Mr. Hirst's work with the newsletters and the rate increase that was needed.

New Business (Correspondence List):

7:02 PM

#1

TO : Board of Selectmen
FROM : ITC
REF : Video streaming of Eliot Town Meetings

Mr. Emery, IT Committee, said that the beta testing was now complete for the Town meetings streaming video. He reviewed the issues at the Town Hall that prolonged the beta testing. He pointed out that they had not had to purchase the camera and microphone, which was part of the original proposal. He added that Mr. Blanchette had indicated to him that the Town needed copies of the video so Eric set up access to his server allowing FTP to enable downloads. He discussed the two options the committee looked at: one (A) was the present installation that does not allow uploading any taped events such as a Town Meeting or a Town parade for a total of \$735, with a \$250 monthly charge (\$3,000/year) and the other option (B) would allow uploading Town events, as well as some other nice-to-have items, that would allow more flexibility and would cost \$2,004, with a \$250 monthly charge. Mr. Emery said that, not knowing what the wishes of the Board were, they supported Option B because of the flexibility of uploading Town events, such as the presentation the nurse just gave on cold weather for the elderly, and made available to the entire community.

Mr. Fernald said that one concern was that, as they went forward, the cost might increase. He clarified that the Town had to pay for the camera and everything, itself.

Mr. Emery said yes, that the set-up fee was a separate issue. He added that, in the future, the set-up in this room could be moved out to the other meeting room and the analog set-up (with more flexibility) could be installed in this meeting room, adding that that would allow them to tape in both meeting rooms.

Mr. Fernald asked if there was any way to know how many people were actually using or accessing the video online.

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Mr. Emery said that he thought it was quite a few, but there was a count and he did not get that number for tonight's meeting. He added that he did know that individuals have watched it from upstate New York, down in Virginia, and he has personally watched it live down in Florida. He added that one could watch it live or at the person's convenience, as it is archived. Discussing the audio issues, he said that Kittery has individual microphones and Eliot has one centralized microphone and, depending on the acoustics of the room, the audio changes. He added that the audio was a lot better than when they had the mic back in the corner and that can be improved downstream. He did say that the transparency in getting information to the public he thought was tremendous.

Mr. Fernald agreed that transparency was important and he thought it was a good idea to have the video streaming. He added that there was another side to this, that they went to the Town about the Comcast issue and that incurred a lot more money and access issues, however, even with this not everyone had a computer or hi-speed internet and, yes, people could go to the library to see it but it still falls into that category of people without access to view the video.

Mr. Emery commented that this would not get into that at all, as it would not matter who the carrier was, one only needed access to a computer and the internet.

Mr. Fernald said that, if one had dial-up, the only thing they saw was the Chairman sitting there.

Mr. Moynahan said that the one option had the freestanding camera and the second one he said one could video Town meetings.

Mr. Emery said no, that the second one was the same as what was present except that it was an analog camera, which meant a different protocol on how it received and sent information.

Mr. Moynahan asked how he would videotape a parade or Town meeting.

7:14 PM

Mr. Emery said that there were a couple of ways: one would be if the Town or an individual had a camera and video-taped the event, then that could be uploaded after review, and the other option was that Eric had indicated to him that he had portable equipment that he would lend out, without charge, to video-tape events and he would show them how to do that.

Mr. Moynahan discussed the increase that Comcast subscribers would have seen, that only a certain number of people in Town would have born the cost and that this was a good, viable option for the transparency of the Town that he was speaking of. He added that he had been on there a couple of times, now, and the only thing he had issues with was the audio, commented to the website about that, and it was better the second time. He said that he thought this was certainly a step in the right direction, as they were offering this information immediately that got to the citizens immediately, and this was a great way to do that.

Mr. Emery said that he did not think they could get a better cost to accomplish what they were accomplishing. He said that the current camera overhead sold for over \$1,000 but Eric was willing to sell it for cost. He added that, no matter what option the Board went with because they could always move to the other option late on and, recognizing the current economy, that number was not that significant a price for the flexibility it offered to those who could not attend meetings but were trying to stay abreast of the Town happenings.

Mr. Murphy queried if this was not something they should consider this and pass along to the citizens after appropriate preparation and public information and have this part of a warrant article or part of the budget process to consider – spending this amount of money for this – or is this something they must decide quickly because it would go away if they didn't do something.

Mr. Emery said that they might end up having to eat the microphone but the camera Eric could remove and he believed it would be \$185 for the microphone. He added that Eric did

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not charge labor for installing the microphone and that was the only thing he could see for cost to the Town, if the Board decided against going forward with this.

Mr. Murphy suggested the IT Committee prepare this in the form of a cost that would be considered by the Budget Committee (BC) or, once again, is that going to be too late – does the IT Committee want the Board to decide now or can it wait for the June Town Meeting.

There was some confusion as to what the Board was looking for.

Mr. Murphy clarified that he was asking if this could wait for a decision by the voters at the June Town Meeting or did it need a quicker response.

Mr. Emery said that, personally, he thought they were asking too much of this individual...that this was only supposed to be a one-month beta test in August and here it is December and, to get this to June, he did not feel comfortable with that.

Mr. Murphy asked Mr. Blanchette were they might get the money to pay for this.

Mr. Blanchette said that this could be paid for either out of the Facilities Reserve Account or out of the Purchase Account under Admin.

Mr. Murphy clarified that they did not have an IT account.

Mr. Blanchette said no, they did not. He added that the monthly costs would have to be under the contractual account, which was where they had other contractual costs.

Mr. Murphy asked Mr. Blanchette to comment on the health of those accounts.

Mr. Blanchette said that one of those accounts, the monthly fee account, had extra monies in there to go for a lease purchase of one of the copiers and the other one was going to be replaced and the one to be replaced they were already paying on. He added that, as it turned out, they were able to get the two for roughly the cost of one that they already had, so, they had approximately \$1,500 to \$2,000 budgeted for that in that account. He said that, if the Board wanted to do this, then they could find the money but he could not guarantee that, at the end of the year, they might not be running short for some other reason, if something happened between now and then.

7:20 PM

Mr. Fernald said that the problem with this is that it has not been budgeted for in the 2011-2012 budget.

Mr. Dunkelberger said that he thought it was an excellent initiative and, like Mr. Moynahan, he has used it a couple of times to review, particularly when he has not been at a meeting. He added that he found it ideal because it gave him a better sense of the discussion rather than just reading the minutes if he has missed a meeting. He said that what he thought was missing was some of the things that were included in Option B, such as the ability to turn the system off when they enter into executive session and an awareness that the system is, in fact, there. Mr. Dunkelberger said that his suggestion would be to do as the IT Committee suggested, which was to go with the higher-priced option and then just pay the sustainment fee for it until they could actually get it into the budget and approve it.

Mr. Murphy asked Mr. Emery if that would work.

Mr. Emery said that he didn't think he required a contract and believed that, once the Town purchased the equipment, then it would be on a monthly basis. He added that, if the Town were to stop the service, then there would be no impact.

Mr. Dunkelberger said that, based on his experience and Mr. Emery was right, the price was extremely reasonable.

Ms. Place said that the cost, \$750, for the equipment that was already in place and the \$250 monthly cost was a small amount to pay for the transparency the public was looking for.

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Mr. Emery discussed pricing of other companies out there that offer this service, saying that many charge \$3 - \$5 per video for storage, which could add up fast, and Eric was offering unlimited data storage in this set monthly fee and keeping it for a year.

Mr. Fernald said he did not think it was a question that it was a valuable asset to the Town, as it certainly was, but it was the money issue. He added, however, if they do have the money to go to at least the June Town vote, then they could do that and have it be part of the budget process, with a separate warrant article and let the people decide if they want to do it or not.

Mr. Emery said that, if they were to do that for the existing set-up, then they weren't wasting that money because you could continue with it or have the option of putting it out into the other room and putting the other one in this room.

Mr. Moynahan said that he thought they would be smart to sign up for the balance of this year. He added that Mr. Blanchette indicated that they had \$1,500 in the contractual account, which is what it would cost for the balance of the six months. He added that \$750 out of the Facilities Account was a small amount and it would give another six months for the public to be aware of what they have, they wouldn't lose sight of any of the meetings and, when it comes to June, they might have two options. He added that he would tend to go with the larger and more flexible option but he did not think they would be doing a good service if they did not take this for the balance of the year.

Mr. Fernald suggested it then be put in the budget process and put in an article for the people to decide.

Mr. Moynahan said absolutely. The other members agreed.

7:28 PM

It was the consensus of the Board to continue with the video streaming for six months, until June, then make it part of the budget process and put it in an article for Town vote.

Mr. Emery handed out and discussed a list of thoughts he had moving forward for the Board's consideration, much of which was previously discussed.

Mr. Moynahan discussed that they should pinpoint who was going to be responsible for the video's use for each meeting, such as turning it on and off, etc, as Mr. Blanchette was the only one, currently, who knew how it operated.

7:32 PM

Mr. Emery said that all boards and committees were important, however, the PB, BOS and Appeals Board he believed had state statutes on how they would be conducted and his committee recommended, at a minimum, that those boards be considered to make the public really aware and educate them on what was happening.

Mr. Moynahan said that he had asked about the mass emailing and asked if Mr. Emery could expand on what that would take.

Mr. Emery said that there were quite a few towns that were now doing this. He added that Ms. Rawski had already started working on that and it appears that Bucksport has an office that has the Town's current hosting site. He added that it could be that the mass emailing format may already be available to the Town but that they would just have to put it on the website (link in). He also added that there would not be any cost associated with that.

Mr. Fernald suggested putting this on the Action Item List.

Mr. Emery said that he would contact Eric to let him know the Town would continue with the current set-up until June and then have it as a Town Meeting issue.

7:36 PM

#2

TO : Board of Selectmen
FROM : Michelle Morin
REF : Sewer Committee

Mr. Dupuis said that, on behalf of the SC, they have met with legal counsel and Attar Engineering (Eliot Commons), that they have come to three consecutive meetings – 10/29, 11/2, and 11/16 – and they have conformed to everything they (SC) have asked them to do.

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He added that it was the committee's recommendation that the Board of Selectmen go forth and allow the 6,000 gpd additional use for the Eliot Commons so that they could step forth with the addition of the hotel.

Mr. Moynahan said that that was where the Board had directed it, to the SC to make sure the Town had the gallonage and everything was in order, and he thought they were there.

Mr. Murphy asked if they had gotten into any discussion with them to warn them that the Board was considering, perhaps, having a surcharge for reserved allocations.

Mr. Dupuis said yes and that some of the procedures and standards they wanted to bring before the Board later was that, even though users may not use total allocation, that they would be charged for allocations so, in essence, if they don't want to be charged for it, then they would surrender it back to the SC that would allow potential growth in other areas. He added that they (Commons) have stepped forth with the five suggestions from the SC, one being the maintenance and upgrade in an annual contract, which is in place, adding that last Thursday that entire main was cleaned, again, under the contract agreement. Mr. Dupuis said that he and Mr. Moulton did tests for a week prior to that cleaning trying to establish a baseline.

Mr. Murphy said that there was some discussion within the committees that were working with Kittery, and in Kittery, and that Kittery might be considering a different way of structuring their costing and so forth but that was all conjecture at the current time.

7:40 PM

Mr. Moynahan moved, second by Ms. Place, to allocate 6,000 gallons per day in additional capacity to Eliot Commons.

DISCUSSION:

Mr. Murphy reminded everyone that that was reaching a total of 16,000 gallons per day for Eliot Commons.

There was no more discussion.

VOTE

4-0

Chair concurs

#3

TO : Board of Selectmen
FROM : MMA
REF : Sewer Line Maintenance

Mr. Blanchette said that, basically, this was a letter telling the Town that they needed to have a sewer line maintenance program, that Mr. Moulton was already aware of this and would be doing that.

Mr. Fernald said that the letter indicates that, when they do have back-ups within the system with residents, that it not become a Town responsibility to have it corrected.

Mr. Moynahan had a question about private lines into now municipal lines, asking if they were going to require the associations that put those lines in, consistent with this legal statement, to maintain those lines.

Mr. Moulton said that was what they would have to do. He added that the whole consensus on discussions with the SC was coming up with a plan, as Mr. Moynahan suggested, and coming to the Board in February with a plan to wrap their arms around this thing and pull it together.

Mr. Moynahan agreed and said that it needs to be in the full control of the Town but, in the meantime, they should have some mechanism in place to make sure those lines and systems were being maintained and operated properly.

7:43 PM

#4

TO : Board of Selectmen
FROM : McEachern & Thornhill
REF : Sea Dog Realty, LLC

Mr. Blanchette said that this was something the SC sent to the attorney, that he had not had a chance to check with Mr. Dupuis but had sent him an electronic version, so he presumed that the SC had this at their last meeting.

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Mr. Dupuis said yes and that they considered that part of their file.

Mr. Moynahan asked if, along with Eliot Commons and Baran Place, didn't that serve Dunkin' Donuts and the second Commons development association and Kennebunk Savings, also.

Mr. Dupuis said no, that Dunkin' Donuts and the several other private owners were tapped into that private force main, which was owned by Eliot Commons (Sea Dog Realty).

#5

TO : Board of Selectmen
FROM : Report from IMA
REF : No correspondence

Mr. Blanchette said that he, Mr. Murphy and Mr. Moynahan were at the meeting and that he, personally, considered it a very profitable meeting with Kittery.

Mr. Murphy said that they got Kittery to amend their two most recent quarterly bills and reduce them to the proper amount.

Mr. Moynahan said that what Kittery did on their own accord was to take the formulas that they (Eliot) had for the proposed IMA and simulate a bill, which was over twice the cost of what Eliot would normally see. He added that they were back to square one creating a formula that gets an equitable rate structure for everyone that utilizes the system.

Mr. Blanchette agreed, that he finally saw the light that there was no way that Eliot could pay roughly double. He said that Kittery was going back to the drawing board and the Town was now at the point where they were waiting for Kittery.

Mr. Fernald said that he understood that they were not considering arbitration now.

Mr. Blanchette said that that was still a possibility but they don't want to push for arbitration at this point, as they want to negotiate the contract without going to arbitration, if at all possible.

Mr. Moynahan said that, meanwhile, the Board/Town was tasked to look at rates, formulas, etc., as well. He added that (Jim?) was the one who asked Kittery to show a dollar figure on this bill based on what they had and, had that not been asked and Eliot had signed a contract way back when, then the rate structure would certainly not have benefited Eliot in the least bit, adding that the Town was just as responsible with the formulas, etc., so it was a good catch by (Jim?). He reiterated that they would move forward. Now, and make sure it was an equitable payment plan with Kittery.

7:47 PM

#6

TO : Board of Selectmen
FROM : Moynahan request on DEP
REF : No correspondence

Mr. Fernald said that it was time for the Board to make a decision on Mr. Moynahan's request to have the Town pay for engineering fees that he had to incur the costs of because of oversight of the Town. He added that the amount Mr. Moynahan was requesting was \$5,265.76.

Mr. Moynahan asked if he should step down from the bench.

Mr. Fernald said that he thought it would be okay if he stayed where he was and did not participate.

Mr. Dunkelberger said that, going through this whole issue and talking to Chris from the Maine DEP and the Portsmouth side, from his perspective a reasonable person living along a waterway or a pond or wetland area may not know about the regulations that govern those lands. He added that they rely on their Town employees to, as a minimum, point them in the right direction on what they need to consider and what they need to look for. He added that he thought that their previous CEO failed in those responsibilities and, so, he thinks Mr. Moynahan was led astray based upon the CEO's input and that the Town was at

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least partially responsible for this violation. He added that the key piece to this was that, if he wanted to develop his land and he had a wetland, he would have to somehow think that he would have to go outside the Town ordinances and look at Maine DEP. He added that, to be perfectly honest, that would never enter his mind. He said that he would rely on a Town official, in this case, a CEO and not necessarily to know the ordinances off the top of his head but, at least, to provide him guidance to say that he needed to go check this before he could give him a permit – and the Town didn't do that.

7:50 PM

Mr. Murphy said that he tended to agree quite a lot with what Mr. Dunkelberger has just said. He added that he thought that the circumstances that were operating in the Town office at the time when this all took place were complicated and they don't know what happened or who did what. He said that that was disturbing to him and there was no way to find that out, adding that he could envision a number of situations that could have explained why things happened they way they did. Mr. Murphy said that, one way or the other, the Town was to a significant degree responsible for this excessive cost.

Ms. Place said that, after talking with Mr. Coppi today, it was evident that overlapping regulations between the Town and the State had a lot to do with [this and] the communication – did the Town notify the State or did the State notify the Town and was the Town to assume that the mere mailing of those maps in 2007 of the changes they were to accept and, then, the Inland Wildlife & Wetlands law passed in 2006 that they really didn't know about at all. Ms. Place said that she thought that the CEO should have been the front man on something like this and should have taken responsibility for letting the public, Mr. Moynahan or anyone in his position, know that he should have gone to the State. She added that she thought the current CEO was taking steps to make sure this does not happen in the future but this has happened and she believes the Town was partially responsible for Mr. Moynahan's situation.

Mr. Fernald said that his perspective was that he didn't disagree with anyone, however, he wanted them to know that, by law, it was not the Town's responsibility. He clarified that it may be the Town's responsibility but, legally, it was not the Town's responsibility to give money in this case. He added that, to do that, it would set a tremendous precedent amongst any other people out there within the same situation. He added that, with that, he would entertain a motion one way or the other.

7:55 PM

Mr. Dunkelberger moved, second by Ms. Place, that the Town of Eliot reimburse Mr. Moynahan \$5,265.76 relating to engineering costs incurred in meeting the Maine Department of Environmental Protection requirements to alleviate the Notice of Violation.

VOTE

3-0

Chair does not concur

Mr. Fernald said that they needed to decide where that money would come from.

Mr. Blanchette said that it could come from a couple of different places. He said that one was the Legal Fund, which was not just for attorneys but are for other legal aspects. He reminded the Board that he had asked for more additional legal funds than were raised so he could not tell them that, by the end of the year, they would not have any legal funds. He said that another option would be the Contingency Fund but he thought it might be better to take it out of the Legal Fund and, if they saw that they would run out of funds in that article, then Contingency Funds could be used to cover the article at that point.

Mr. Fernald asked for the pleasure of the Board.

Mr. Murphy said that he agreed with Mr. Blanchette that the Legal Fund would be the one to use.

Mr. Dunkelberger and Ms. Place also agreed.

It was the consensus of the Board to take this money out of the Legal Fund.

Mr. Moynahan commented that the Code Enforcement Office applied the permitting to Stream & Wetland, which was what the Town had it zoned as. He added that the Town tried to create a resource protection and there were no notations that occurred, so it couldn't just bash Code Enforcement. He added that no one was pointing fingers at one

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particular person – this was a State and Town issue, for sure, with regulatory authorities, enforcements and rule changes. He said that the State was not done, yet, hearing from him, either, adding that his property would revert back to wetlands and the State would be held accountable, also.

Mr. Murphy said that he would like to applaud Mr. Moynahan's statement and that that was how his mind went, also. He added that he agreed that they should not be pointing fingers at any one particular person at Eliot Town Hall who was no longer here to defend him or herself.

Old Business (Action List):

7:56 PM

1. Sewer Contract Committee – Mr. Moynahan, Mr. Murphy, Mr. Marchese, Mr. Moulton and Mr. Blanchette – IMA Update

This was already discussed.

2. Monthly Reports from Department Heads

Mr. Murphy commented that he was not entirely enthusiastic about the Police Reports – he would like more information and have it more condensed. He added that he thought he could be telling them a lot more than he was telling them.

Mr. Fernald suggested to Mr. Murphy that the information the Police Report was not providing for, that Mr. Murphy make a list of that information that was not being provided and give it to the Police Chief, asking him to please provide this information.

Mr. Murphy agreed that was a good idea.

Ms. Muzeroll-Roy said that she had done the monthly report but not brought it with her tonight.

Mr. Muzeroll said that he had not done one since October and acknowledged that he owed a report to the Board.

Mr. Dunkelberger said that he would like to see how many calls they were responding to and what those calls were.

Mr. Muzeroll said that that information was on their website.

3. TIFD reports and updates

This was ongoing.

4. Health Insurance Costs

Mr. Blanchette said that they would know the health insurance costs for next year in January.

8:00 PM

Mr. Marchese discussed, with the Board's permission, that he did submit a letter to the BOS concerning the Code Enforcement Office – an update on December 15th – and that he would be glad to go over any of the aspects of the memo with them. He added that, however, in fairness and respect to the privacy of the people of Eliot, he didn't really think that this was a public place for discussion – an example would be a failed septic system. He added that, if they were concerned about it, they were more than welcome to come to his office and he would provide them with the particulars, but, to see it on the front page of the papers would not help to resolve the failed septic system.

Mr. Dunkelberger said that he did have one issue that was brought up – he got a call from one of Eliot's citizens with regard to one of those issues, so, did the CEO want him to talk about it now or did he want to talk after the meeting.

Mr. Marchese said that it was whatever the Board decided.

Mr. Fernald asked if it was a complaint.

Mr. Dunkelberger said that it was an ongoing complaint.

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Mr. Fernald clarified that a complaint needed to be written up and issued to the BOS in the proper way. He added that, if one was not sitting on this Board, one was a citizen and, if a complaint needed to be made, it needed to go through the proper channels. He asked if Mr. Marchese had any other issues to discuss.

Mr. Marchese said that, no, he only presented that to the BOS to keep them aware of what was going on in the Town.

Mr. Fernald said that he understood and thanked the CEO for his update.

5. Review existing Sewer User Rates and update – Sewer Committee

This was ongoing.

6. Regionalization of Town Services

Mr. Fernald said that he knew that Mr. Dunkelberger had been looking at the Community Service and asked if he wanted to make any comments about that.

Mr. Dunkelberger said that they (Town & MSAD #35) had a very good meeting and that he may be speaking a little out of turn here but based upon that meeting he would like to make a motion to reconsider a previous vote with regard to spending the \$8,000 to develop formal plans for a community service department.

Mr. Fernald said that they needed to do that at the next regularly scheduled meeting from the previous vote.

Mr. Dunkelberger said that he believed this was it. He asked if, at the last regular meeting didn't they make that vote – not the Special Meeting – but the last regular meeting.

Mr. Moynahan said that the last meeting they had was the workshop meeting.

Mr. Fernald said that that did not count as a regular meeting.

Mr. Moynahan said that, in today's warrant, Michelle Shields had an invoice for \$750, already, for a down payment for that and both of those agencies had been given the go-ahead and had started to work. He discussed his concern with this situation because he knew that, being in that meeting with the Chair of the BC who indicated to the engineer that he would go ahead and do the work, so he wasn't sure where that process was, currently.

Mr. Fernald said that he needed to note which way Mr. Dunkelberger voted at the time.

Mr. Dunkelberger said that he voted in the affirmative so he was one of those who voted on the prevailing side. Additionally, he said that, even if they did get a bill for actions that have been completed, it would be considerably less than \$8,000. He clarified that for any bills that they might have received for any actions that might have been completed, it would be considered less than \$8,000.

Mr. Murphy said that he would like to know a great deal more about what Mr. Dunkelberger has learned talking with MSAD #35, which would justify their taking this reconsideration.

Mr. Dunkelberger said that MSAD #35 seemed to be very receptive to finding ways in which this could be a win-win situation for both the district as well as the Town of Eliot. He added that, without going into too much detail, he would request the superintendant in this forum seemed to have a very positive outlook.

Mr. Fernald said that they had been down this road several times before, that this was not the first time they had contacted MSAD #35 and they had always indicated that they did not have room for them.

Mr. Dunkelberger said that he could not speak to previous meetings with MSAD #35 but, on the contrary, they indicated to them that there was room.

8:08 PM

Ms. Muzeroll-Roy said that, as much as the meeting was fairly positive in the beginning, there were several concerns and she was not sure they were at a point to discuss all these concerns. She added that just because the meeting was positive between the four of them that didn't mean that they go ahead and stop an \$8,000 thing that was finally progressing. She commented that they were

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kind of taking 18 steps back for every 2 steps forward. She said that \$8,000 to finally have a plan in place and everyone wanted to see a plan in place as to what these things look like and now, because it seemed to be positive...adding she had many concerns that have not even been addressed with the superintendant yet. She said that that was an initial meeting.

Mr. Dunkelberger said that the tone of the meeting that he got was that this would move along fairly quickly and, if this was going to work, then it could work sooner rather than later and would alleviate their biggest concern, which was finding an adequate and secure space for the ECSD. He added that this would do that in a much more rapid fashion and a more cost-effective fashion than building a new facility.

Mr. Moynahan questioned the words "cost-effective", as they were already paying for the schools and did not think there should be any costs associated at all.

Mr. Dunkelberger agreed but added that there was a large element of cost avoidance.

Mr. Moynahan said that, when Mr. Dunkelberger said cost, his concern was that they were going to treat the ECSD like an office space or something.

Ms. Muzeroll-Roy said that that was her concern because the beginning of the meeting was absolutely positive but at the ends of that meeting he brought up using the Enterprise Account to actually help fund the school while ECSD was being housed in there.

Mr. Dunkelberger disagreed and said they brought the Enterprise Account up as a matter of revenue but not for anything else.

Ms. Muzeroll-Roy said revenue for the school.

Mr. Dunkelberger said potentially.

8:10 PM

Mr. Murphy said that he thought it did no harm, psychologically or politically, for Eliot to continue the path they were going, namely, they've approved the \$8,000 to find out legitimate costs in a solid way and, for them to proceed that way might encourage MSAD #35 to nail things down in a way that would benefit Eliot even more if they knew they would not instantly back off and suddenly say, "Oh gosh, yes. Please help us. Please help us." He added that, if the Town was willing to go ahead on their own, then what MSAD #35 had to offer had better be good.

Mr. Fernald asked the Board to step back for a moment, reminding the Board that Mr. Dunkelberger had made a motion and, with that motion, there needed to be a second.

Mr. Moynahan asked for the wording of the motion.

Mr. Dunkelberger said the motion was to reconsider the previous vote to spend \$8,000 on formal plans for the Community Service Department. He added that his interest was to save \$8,000.

There was no second and the motion failed.

Mr. Moulton discussed that he was working with MSAD #35 to expand recycling for the Transfer Station to cut costs for the Town and work with them, which would come down to zero waste and more recycling. He added that he was putting together a plan and would bring that to the Board.

7. Sewer Allotments – fee for reserving such

This is ongoing.

8. Auditor – Management Letter

Mr. Fernald said that the Board would be meeting with Mr. Stewart at their next workshop meeting.

Mr. Dunkelberger said that there were some other recommendations other than a comptroller that went along with that and asked if they should have a workshop to discuss possibly implementing some of those other recommendations.

The Board agreed.

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9. Consistent Format – Budget, Time Sheets, etc. – Mr. Moynahan and Mr. Dunkelberger

This is ongoing.

10. Monthly Workshops – 3rd Thursday of the month

This is ongoing.

11. Employee Reviews in monthly Department Head Reports

This is ongoing.

12. Carry in – Carry out Policy for Town parks - Ms. Muzeroll-Roy

Ms. Muzeroll-Roy said that she would have more concrete things to report probably at the end of January but that is moving forward.

13. Legal issues – pending and Consent Agreements

Mr. Fernald said that they had heard about one and that they do have another one – Eliot Shores.

Mr. Blanchette said that that was still going on.

14. Community Services Building

Mr. Fernald said that they were still waiting on details for that.

15. Police Union Contract

Mr. Blanchette said that they were waiting for the union to give an offer.

Mr. Murphy asked if they knew they were on the hook.

Mr. Blanchette said he wasn't sure but would send them a reminder.

16. Finance Director/Comptroller

Mr. Fernald said that this was one of the things they needed to talk about at the workshop.

17. Personal property tax

Mr. Blanchette said that this was also one of the recommendations from the auditor letter.

18. Town forest – Johnson's Lane

Mr. Fernald said that they had had a presentation and a map indicating there were problem areas. He added that this was something they should move forward on but he wasn't sure what the next step would be.

8:15 PM

Mr. Blanchette said that he has contacted several people to find out about the Chester Frost question and, thus far, he has not found anything concrete.

Selectmen's Report:

Mr. Moynahan discussed a report he had regarding budget reports being due in January and asked if the Board was giving direction for what they wanted to achieve for the Town budget-wise or was it going to be a wait-and-see.

Mr. Fernald said that they usually wait to see what the situation is and go through the budget with each department to see what the overall budget was going to be. He asked if Mr. Moynahan wanted to suggest something.

Mr. Moynahan said that he has seen a lot of news articles about directions for zero budgets from communities and that was why he asked that question.

Ms. Place said she thought that was a good idea.

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Mr. Moynahan said that he was not suggesting one type or another but was just asking if the Board was considering offering some type of direction.

Mr. Fernald said that they try to do that every budget cycle, to go as close to zero budgeting/level funding as possible.

Mr. Murphy said that he had been concerned about the Energy Committee. He added that he had talked with them about what they have been doing and he would like to be appointed as liaison to that committee to help them progress in the future. He said that the committee would come to speak for themselves, but he wanted to let the Board know they would like the Board to reconsider the make-up. He said that, by State statute, the make-up of an energy commission must have at least 3 members and may not have more than 7 members, adding that the EC has lost some membership and are finding it difficult to get a quorum to do business, so they will be asking for the number to be reduced.

8:19 PM It was the consensus of the Board to appoint Mr. Murphy as liaison to the EC.

Other Business as Needed

There was no other business.

Executive Session

There were no executive sessions tonight.

Adjourn

There was a motion and second to adjourn the meeting at 8:20 PM.

VOTE

4-0

Chair concurs

DATE

Roberta Place, Secretary