

**BOARD OF SELECTMEN'S MEETING
January 9, 2014 5:30PM**

Quorum noted

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

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

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Dunkelberger, seconded by Mr. Beckert, to approve the minutes of December 26, 2013, as amended.

VOTE

4-0

Chair concurs

Public Comment:

5:32 PM There was no public comment.

Department Head/Committee Reports

G1 Community Service Department

Hiring Kids Play Employee – Funds from Kids Play

Mr. Moynahan said that Ms. Muzeroll-Roy was unable to attend. This was to approve the hire of Sharon Arsenault for the Group Leader position. The background check was completed.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen allow the Eliot Community Service Director to engage Sharon Arsenault as an employee of Kids Play for the Group Leader position at \$9.25 per hour, with the wages to come out of the Kids Play account.

Discussion of any potential fringe benefits.

Mr. Beckert modified his motion to add that any fringe benefits required for this employee also be taken out of the Kids Play account. The modification was seconded by Mr. Hirst.

VOTE

4-0

Chair concurs

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5:35 PM Mr. Dunkelberger discussed that a full-time ECSD employee's fringe benefits were coming out of the regular budget and asked if they should come out of the Enterprise Account that ECSD has.

Mr. Moynahan said that would probably be a great idea to look at; that they would have the ECSD Director in for budget discussions and rework however those funds would be appropriated for the upcoming year; that they needed another year to see what those balances could support, he would think. He added that he thought they were waiting until everything was on the TRIO system before making any changes. He said that they would get in touch with, and get feedback from, the ECSD Director on those funds.

5:38 PM **Boat Basin Launch Fees, etc.**

The Board agreed to wait to discuss this until the ECSD Director could be in attendance.

5:39 PM
G2

Police Department

Dispatch Service – Kittery, Notice of Potential Fee Increase

This was a notice that Kittery was reviewing the dispatch service costs to the Town of Eliot, with a potential increase in that cost.

Mr. (Ted) Short said that Kittery had just started looking at this. He added that they were on the same fiscal year as Eliot.

Mr. Moynahan said that he would reach out to the Kittery Town Manager to start a conversation about this.

Creature Comforts Housing Costs

This was regarding concern from Mr. Hirst that the Town was paying to house Eliot strays and that he thought owners should pay those fees for their own stray pets.

Mr. Beckert said that he believed the Town did bill owners for this but that the Town was billed directly by Creature Comforts; that the Town was reimbursed.

It was clarified that the Town was the Control Officer in this, as written in the ordinance, and was responsible for picking up strays they are aware of.

5:43 PM **Overtime Expenditures.**

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Mr. Moynahan said that the Police Department overtime line was currently pretty much expended and invited the Chief to speak to this.

Mr. Short said that his department was currently two positions down; that Mr. Warren Day has filled a third position but will be at the Academy until mid-May and has been working under a training program, not as a full-time certified police officer. He added that they budgeted \$45,000 for this and, as he said at the beginning, he felt the department could live with that as long as they stayed at full strength but they did not; that it was difficult to budget for that. He said that, in effect, they had to cover three shifts and, as a result, they were currently at approximately \$60,000 in overtime. He added that they could pull money out of the regular union salary account; that when Ryan Sanford left early the Town received a \$24,000 buy-back that was not put in the department's overtime account. He said that, if the department stays as it currently is, they would expend an average of \$9,600/month in overtime to fill shifts. He added that that would be approximately \$58,000 for the time from January to June; that they had approximately \$54,000 in unexpended regular salaries due to the vacant positions, which would amount to approximately \$3,700 they would be in the red. He said that they might be able to break even because there were fewer holidays during the next six months. Mr. Short discussed the hiring process his department was currently going through.

5:48 PM Mr. Dunkelberger said that filling the positions would only work, regarding the overtime issue, if they were fully-qualified patrolmen. He said his concern was that they were only hearing about this now and probably should have heard about it a couple of months ago; that he would have liked a better head's up that the department was going to exceed their overtime budget and 'this' was his (Police Chief) plan to deal with it.

Mr. Moynahan said that he thought that was why Mr. Short was here; that the police budget would still be pretty close to zeroed-out. He added that he thought it was the Selectmen's job to make sure the department heads lived within their warrant articles and to exceed them was not the appropriate way. He said that, if there were extreme circumstances, then they were starting the conversation now to start looking at a different avenue for assistance, perhaps utilizing that \$24,000 to help at the end of the year.

Mr. Dunkelberger asked if there were other things they could do, such as utilizing more reserve officers or moving people around on shifts, to not cut the line so fine.

5:50 PM Mr. Short said that, for ten years, this has been an ongoing issue. He discussed the contractual union limitations and difficulty keeping the positions filled. He said

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that, when it came to moving things around and trying to cut as much as he could to make that line thinner, right now they were doing their best to do that.

Mr. Moynahan asked about the hiring process and if Mr. Short had any viable candidates.

Mr. Short said that they have had some viable candidates the past several months that for one reason or another have not worked out. He added that many communities in Maine were having difficulty with hiring officers. He discussed looking at, and interviewing, military people coming back into civilian life and wanting to be police officers as an option, as well.

Mr. Murphy suggested a rotating of officers to fill the shifts to mitigate the overtime expenditures.

Mr. Short discussed the limitations of the contract but added that the contract does allow for rotating seniority, so it wasn't always the top senior person working but he budgeted for top overtime.

5:59 PM Mr. (Bob) Pomerleau said that, to some degree, there were circumstances beyond Mr. Short's control and, to a large degree, they kind of lose control of their own finances because of union contracts; that they need to negotiate better contracts.

Mr. (Bob) Fisher said that it is in the contract that the Selectmen can set the priorities and how the Selectmen want the department run.

Mr. Moynahan said that, as it sounded right now, the Town would be pretty close to staying within that budget line; that the Board would keep monitoring it throughout the year and make necessary provisions, if needed, with the department head and that made the most sense for the community.

Mr. Short said that, if he got to the point of looking at actually hiring somebody in this next six months, then they would have to have a conversation to figure out where they went from there.

6:01 PM Harbor Master Position

Mr. Short discussed the possibility of regionalizing this position.

Mr. Moynahan said that he and Mr. Short had spoken briefly about this and he had indicated that there may be some potential with Kittery. He asked the Board, if there was potential, would the Board want the two Selectmen to follow up with that potential with the Chief.

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The Board agreed.

A member of the audience asked if it was possible to get partial coverage from the State Police.

Mr. Moynahan said that he believed that, as soon as the Eliot Police staff got to a certain size (3-4), the State would no longer cover any of the State roads.

6:04 PM Mr. Short said that coverage stopped because the State police did not have the staffing to continue covering these areas; that the waiting time for State help to come to an active event would be much longer. He added that the Eliot Police Department staff had grown by only one person since he has been here. He said that working with the Kittery Police Department has given them the ability for Kittery Officers to slide up here and help Eliot out when Eliot was short-handed. He added that if he had had to call out people to do what they did the other night during the burglary it would have cost the Town a huge amount of money.

6:07 PM Ms. (Donna) Murphy asked what ability Eliot had to use the County Sheriff's Department down in this area when Eliot was short.

Mr. Short said that that has already been explored and he was told that that department didn't have the people to do that.

Mr. Pomerleau said that he looked at the County thing last year and knew the cost of hiring a full-time County officer to come to Eliot was probably cheaper than time-and-a-half would be. He suggested the possibility of doing this on an as-needed, contractual basis as an alternative to a steady stream of time-and-a-half, top dollar costs. He added that it may not be an ideal thing and these once-in-three-year situations wouldn't be dealt with as smoothly as they were the other night but this was a perennial, ongoing, critical problem.

Mr. Moynahan said that that was something the Chief could explore, and has; that he could explore it further.

Mr. Short said that they still had contract issues; that they have a collective bargaining agreement that doesn't allow just bringing someone in from the outside and take overtime away from these people. He added that they could do that but they would pay on the other end with grievances.

6:09 PM Mr. (Charlie) Rankie discussed the burglary that took place the other night in his neighborhood and the good police work done. He said that, if they could get a County guy down here – even if they were able to schedule a County guy in lieu of a regular guy – the County guy wouldn't even know where Rollingwood was. He added that Eliot needs these Eliot guys on the job and he was certainly willing

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to pay his tax money for that, with the Board being vigilant to make sure it was used wisely; that they really needed local knowledge and local officers.

G3 Administrative Department

6:12 PM Eliot Charter Commission – Ordinance Governing Boards/Committees – McEachern & Thornhill

This was a response to the question of whether the Charter Commission fell under the Ordinance Governing Boards, Commissions and Committees; that the response was that they did not.

6:13 PM MMA Response regarding Skyping

This response from Attorney Livengood to say that Skyping should not be used by any committee for a quorum; that the Town should have a detailed policy for this and specifically said this should not be used by the Charter Commission.

Mr. Moynahan said that he thought the Board's position should remain the same; that Skyping would not be allowed until that policy was brought before the voters.

The Board clarified that a committee could Skype but not use it to meet a quorum or to vote until the policy was voted on by the Town.

Mr. Rankie commented that there were six attorneys on staff at MMA and that there were two attorneys at MMA that were very much in favor of Skyping.

Mr. Beckert said that the Board may have to discuss the point that Attorney Livengood raised that Skyping should not be used by quasi-judicial committees – BOA, BOS, etc.

Mr. Dunkelberger suggested waiting until the ordinance passed, if it did, and then see based on the passing of the ordinance, if this opinion still existed.

There was discussion on the newness of this technology and the need for clarity as there was no State statute in place to govern or give direction.

6:21 PM Tony Manero – Attendance at Board of Selectmen Meetings

Mr. Moynahan said that this was a memo from Mr. Hirst regarding Tony Manero "never again" being allowed to speak at a Board meeting. He said that no resident has ever been told "never again" to be able to speak at a Board of Selectmen meeting; that with specific issues the Board might not hear any more from someone. He invited Mr. Manero to speak to his concerns.

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Mr. Manero discussed attending a Selectmen meeting a couple years ago and raising his hand at the Public Input portion of the meeting and that the Chair said to him, "Mr. Manero, we don't need to hear any more from you.", which left him in a difficult position; that with the silence from the other two sitting Board members he concluded they concurred with the Board's position and he respectfully left the meeting. He added that, if that was the position of the Board, until the Board changed that position, then it stood just like any other decision made by the Board and he would continue to be denied the ability to speak before the Board unless the current Board changed that position. Mr. Manero discussed that it was suggested to him that he had been denied because the subject he would bring up the Board wasn't interested in hearing him talk about but, because he was not allowed to speak at all, there was no way for the Board to know what he wanted to speak about. Mr. Manero discussed that in the form the denial was made to him, his lawful right to speak was denied but left with no legal redress for him to pursue the issue he wanted to pursue. He added that, tonight, he wasn't asking the Board to take any action but to consider whether that was a proper action for that Board to have taken and, if they felt that was not appropriate, then the Board should do whatever they felt was appropriate to change what happened that night.

6:33 PM He discussed the perception this might leave with the public and suggested a modification to the Board's policy regarding public input: "Any individual may be accorded the opportunity to speak to the Board and that no member of any board in the Town has the authority to deny a person to at least speak." He agreed that, if a speaker was in any way out-of-order or disruptive, the Board had a perfect right to stop that person from speaking; that the difficulty was doing that before the Board heard what the person had to say. Mr. Manero said that he offered his points not to point fingers but to address concerns for the ability of people to have the opportunity to publicly speak at meetings and have redress if denied.

6:40 PM Mr. Dunkelberger agreed with Mr. Manero that the current Board was responsible for decisions made by previous boards but did not feel the Board was responsible for personal actions for Board members. He added that how Mr. Manero perceived he was dealt with that evening, he thought was wrong; that he didn't know that that was what actually happened but that was not important because it was what Mr. Manero perceived and, for that, he did feel bad on how the Board, at that time, behaved.

6:41 PM Ms. (Nancy) Shapleigh said that she was in attendance that night and that Mr. Manero was 100% correct that he was cut off by Ms. O'Donoghue, who was the Chair of the Board; that she was appalled at the behavior.

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Mr. Pomerleau said that last year they went over Selectmen's Policies on public speaking and that brought great clarification to the process and, in his opinion, it was 100% better than it has been for years.

6:42 PM Mr. Beckert agreed with Mr. Dunkelberger regarding personal actions taken by past Board members; that this Board could apologize for it but that was that particular person that particular night. He added that he agreed with Mr. Manero's concern that no citizen should be denied the right of due process and making a minor change, at least, to make the public aware that they have due process might be a good thing.

Mr. Manero suggested that, if the Board chose not to listen to a person, then the Board could move and take a vote so that that person would have the standing to go before the BOA or go to court for redress; that without the vote that person has no standing.

Mr. Hirst said that he hoped Mr. Manero came away from this with the understanding that Mr. Manero should be heard, when recognized, just like anybody else; that he thought that was the sense of this Board.

Mr. Dunkelberger moved, second by Mr. Hirst, that the Board of Selectmen (current) offer a public apology to Mr. Manero based on the actions of a preceding board.

VOTE

4-0

Chair concurs

Mr. Manero thanked the Board for their time and kindness to him.

6:47 PM **Worker's Comp – Budget Suggestion**

Mr. Moynahan said that this was included in the Administrative Budget.

6:48 PM **Melissa Albert – General Assistance Administrator**

This was regarding the additional work load that Ms. Albert had as the interim General Assistance Administrator.

Mr. Dunkelberger suggested that when Ms. Albert was working as the G.A. Administrator that she be compensated with an increase in her salary by \$5.00 per hour for that time she worked G.A. He added that it would require her to track the time she specifically spends on G.A.

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Mr. Moynahan said that his thought was, similar to what they did with the Web Administrator, to give a stipend for the term that G.A. was being administered. He added that they did throw this on her; that she said she could handle it; that she has experience and was doing phenomenally well, and quite busy, in that function, currently. He added that he meant to bring this up when the Board appointed her Administrator and just did not remember to do it at that meeting.

6:50 PM There was discussion around compensation, how to apply it if agreed to and impact to the Clerk's Office.

Mr. Moynahan suggested they look at the step scale for compensation for the time she was doing the G.A. and get information on the impact to the Clerk's Office.

The Board agreed.

6:55 PM Mr. Fisher suggested that this was a cross-training type of thing.

Mr. Moynahan said that the G.A. was a little more unique because a clerk isn't typically going to come in with experience to handle G.A.; that that would take a lot of training and reiterated that this was a unique situation.

6:59 PM **Charter Commission request**

Mr. Rankie requested, on behalf of the Charter Commission, that the Board authorize the purchase of a four-drawer locking file cabinet and space in the Town Hall for that cabinet to house Charter Commission documents.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen authorize the Charter Commission to purchase a four-drawer locking file cabinet and that the funds come out of the Office Equipment Account.

VOTE

4-0

Chair concurs

New Business (Correspondence List):

7:00 PM

#1

TO : Board of Selectmen

FROM : Mike Moynahan

REF : Action Item List #20 – Code Office Vacancy – Advertisement? Third Party Inspections? Received two applications.

Mr. Moynahan said that he did not know where the Board wanted to go with this; that they have received two applications for this job; that the Board has not done anything more regarding third-party inspections.

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Mr. Beckert suggested waiting until they had looked further into third-party inspections because he thought that could be a potentially significant savings for the Town, not only in salary and benefits but possibly in liability. He felt that this should be done by the new Town Manager, working in concert with the current staff, to get the research done and report back to the Board on the pros and cons of third-party inspections versus having a Code Enforcement Officer; that right now they had an adequate interim process in place with three inspectors doing inspections, as needed.

7:02 PM
#2

TO : Board of Selectmen
FROM : Mike Moynahan
REF : Action Item List #11 – Regionalization Update

This was an email update from Mr. Hirst on regionalization efforts and suggestions.

Mr. Hirst said that he and Mr. Dunkelberger, with the consent of the Board, are meeting regularly with Kittery, South Berwick and MSAD #35 on collaboration – joint purchases, sharing staff, sharing programs – to continue to try to find ways to save money and improve services. He added that MSAD #35 and MSAD #60 are sharing IT people and building maintenance people.

7:05 PM
#3

TO : Board of Selectmen
FROM : Mike Moynahan
REF : Action Item List #1 – Tax Increment Finance Program, Sub-committee – 7 members

Mr. Moynahan asked about, after the meeting with the attorneys, what the next steps would be – modifying this or not, consider having a subcommittee review other possibilities within this program.

Mr. Beckert suggested contacting Shana Mueller to find out when she would have the information back to the Board.

Mr. Moynahan asked the Board if they wanted to consider forming a subcommittee.

There was discussion on whether to wait to form the subcommittee until the information came back from the attorney or to advertise for interested people while waiting for the information to come.

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It was the consensus of the Board to advertise for subcommittee members while waiting for the information to come back from the attorney.

7:08 PM Update to ECSD Move

Mr. Beckert said that the application to the Fire Marshall is now in the Fire Marshall's office; that he knew this seemed like a long drawn-out process but the Town had to coordinate it with the school department and they had to review it. He added that as soon as the Fire Marshall's Office completed their work the Building Committee would move quickly to get the move done.

Old Business (Action List):

This was previously discussed.

1. Tax Increment Finance Program – Potential projects, next steps, schedule workshop
2. Good Neighbor Petition
3. Police Union Contract – Mr. Moynahan, Mr. Dunkelberger, Mr. Blanchette, & Chief Short
4. Community Service Space: Relocation to Elementary School – fit up costs, service impacts, insurance, MSAD #35 contract - CSD Director, Mr. Dunkelberger, Mr. Hirst, & Mr. Blanchette
5. Town Manager - Job description, sample contracts, hiring committee
6. Policy creation/review – Selectmen's Policies; Consent Agreements
7. Employees – cross-training, charting earned times, job descriptions - BOS
8. Liaisons to boards, committees, and commissions – review existing members, try to fill open spots; Committee/Board – Mission Statement Review - BOS
9. Budget Preparation – Fiscal year 2015, goals, formats, etc. Department Head Workshop - BOS
10. Pay-per-Bag Recycling – 6-month trial, public information sessions
11. Regionalization – explore areas of potential collaboration, cost reductions & enhancements to services – Mr. Moynahan, Mr. Hirst
12. Legal issues – Unfair Labor Practice Complaints – BOS

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13. Sewer - User Rates, reserved allotments, odor, maintenance– Sewer Committee, Underwood Engineers, Mr. Moulton
14. Department Heads – monthly reports, employee reviews, financial oversight, policy reviews, and department reviews – BOS
15. Research grant opportunities – AED's for Town buildings
16. Comp Plan follow-up
17. Public Works Union Negotiations (in mediation) – Mr. Moynahan, Mr. Dunkelberger, Mr. Moulton and Mr. Dave Barrett

Town Hall/Recreation Union Negotiations (in mediation) - Mr. Moynahan, Mr. Dunkelberger, Mr. Moulton and Mr. Dave Barrett
18. Public Hearings Scheduled –
19. FEMA – Updated Preliminary Flood Insurance – review findings; notify affected residents
20. Code Enforcement Officer Vacancy
21. Planning Board – Review 1,000' language in ordinance; Review reducing 250' IWWF setbacks per DEP

8:27 PM

Selectmen's Report:

Mr. Moynahan gave an update on where they were in the back offices – Mr. Dunkelberger will be the administrator for updating the budgets and is the go-to person for all departments; Ms. Albert is doing all the G.A.; Ms. Thain is handling the former Administrative Assistant's phone calls, directing them where they needed to go and asking for guidance from him and that she has cleaned and organized the office; Ms. Bergeron is assisting with budget and helping with the process; Ms. Rawski is assisting with emails, changing passwords and security items and the like, Ms. Harvey is helping Ms. Thain organize the offices; all Planning and Code Enforcement issues with any legal ramifications will be forwarded to the manager email now that that is up and running; Mr. Hirst is organizing a retirement dinner and offered to assist with any Worker's Comp issues that may arise as well as the point of contact for fire and intrusion alarms for the Town Hall; correspondence will be handled much the same, with less emails and more at the meetings; coordination and scheduling, legal and mediation things, most all of the contact information has been given; Mr. Beckert will jump in as back-up to the Chair, as well as Mr. Murphy; Ms. Lemire will take minutes at the joint budget meetings to set the tone of what discussions were and

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what follow-up may be needed. He added that, other than that, if Board members saw a glaring weakness or something needed for this period of time, then communicate it and they would discuss.

Mr. Dunkelberger commented on how well the Town Hall staff was coming together as a team and work these issues out. He added that, on the budget side looking at what Mr. Blanchette has been doing, he has done a very credible job in trying to keep all the budgets together.

Other Business as Needed

There was no other business needed.

Executive Session

7:10 PM Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. § 405.A. "discussion of or consideration of the employment, compensation,..."

VOTE

4-0

Chair concurs

7:45 PM Out of executive session.

Mr. Beckert moved, second by Mr. Dunkelberger, that the Board of Selectmen formally offer the position of Town Manager for the Town of Eliot to Dana K. Lee for the annual salary of \$97,000.

VOTE

4-0

Chair concurs

7:46 PM Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A 405.6.F "discussion of information contained in records, such as abatements or inability to pay..."

VOTE

4-0

Chair concurs

8:25 PM Out of executive session.

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen abate the 2011 taxes on Map 1, Lot 81 in the amount of \$1,259.72, which includes the back taxes and any associated fees.

VOTE

4-0

Chair concurs

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Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen abate the 2011 taxes on Map 47, Lot 23 in the amount of \$4,190.55, which includes the back taxes and any associated fees.

**VOTE
4-0
Chair concurs**

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen abate the 2011 taxes on Map 1, Lot 93 in the amount of \$1,661.67, which includes the back taxes and any associated fees.

**VOTE
4-0
Chair concurs**

Adjourn

There was a motion and second to adjourn the meeting at 8:30 PM.

**VOTE
4-0
Chair concurs**

DATE

Mr. John J. Murphy, Secretary