

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM

Quorum noted

A. 5:30 PM: Meeting called to order by Chairman Beckert.

B. Roll Call: Mr. Beckert, Mr. Hirst, Mr. Fernald and Mr. Murphy.

Ms. Davis absent (excused).

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Approval of Minutes of Previous Meeting(s)

5:32 PM Motion by Mr. Fernald, second by Mr. Murphy, to approve the minutes of February 26, 2015, as amended.

VOTE
3-0
Chair concurs

Motion by Mr. Fernald, second by Mr. Hirst, to approve the minutes of March 2, 2015, as written.

VOTE
3-0
Chair concurs

F. Public Comment:

5:37 PM Mr. (Michael) Moynahan gave the Board two handouts and read each one. *"In the Board meeting of February 26, both his name and his business were slandered by the Board's Chairman which, as a result, means that this came before the entire Board regarding the Park Street Stormwater Project and a project his company, Littlebrook Builders, completed on 10/17/2013 for Steve and Sue Wittrock. He went on to discuss his disappointment as to how this was discussed and presented and offered some factual information regarding his work for the Wittrocks. He said that, as of this writing, he nor his business have been notified or contacted by the Town of Eliot in any way regarding the electrical conduit installation that was performed during his construction project for the Wittrocks. Comments made by the Board indicate that the conduit was the reason for the Town's being over budget for the stormwater project. I am in possession, now, of correspondence between the Town and the Wittrocks. The response letter sent January 9th, certified mail, has yet to be responded to. In this letter, the accusations by the Town are argued by the Wittrocks in detail. Also in my possession are all pertinent permits for the construction project that I obtained from the Town's*

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

files. The electrical permit indicates that the NEC code shall be used. Please refer to the enclosed table 300.5 form from the National Electric Code that refers to depth requirements. 24-inch depth is allowed in non-metallic conduit applications under streets, driveways, etc. The Schedule 40 conduit that was installed is an approved underground conduit. In a letter dated December 8, 2014 from the Department of Public Works indicates that said conduit was found at a depth of approximately 30 inches. In the Town's file is also a copy of a preliminary cost estimate dated April 29, 2013 that I prepared for my clients, the Wittrocks. This document is not a building or electrical permit application but was a document that was offered to the Wittrocks that offered a general overview and cost for their potential project. Please note that the actual building permit was issued July 11, 2013 and the electrical permit was issued August 7, 2013. As part of the permit process, the contractor (myself) is required to contact DigSafe, which was done, the permit number is shown, to have all utilities marked prior to excavation, prior to installing the electrical conduit. All utilities were consulted, which included the Town's Public Works Department, to establish the least disruptive route in which to run the conduit due to the sewer and water lines located in that area. The route that was chosen was one to keep the conduit outside of the Town's paved right-of-way that was known at the time. We were happy to accommodate that route for all involved. The Kittery Water District created an as-built plan of this electrical conduit upon completion of the installation to show its location for any future needs. In the future, I respectfully request that if my name or company is going to be discussed in any way that the Town informs me so that I am able to speak to the topic at that time. Having all the facts and background prior to making misleading, slanderous remarks would benefit all people involved. The actions by the Public Works Department and the Town, I feel are fueled by my criticism of the handling of the Park Street Stormwater Project. Utilizing the proper chain of command, I voiced concerns to the Town Manager, and the Town Manager only, of improper financial and other information that the Town was providing to the residents on the street. That was documented."

5:40 PM

Mr. Moynahan said that he had a second comment to make. *"It has been brought to my attention that at the Board of Selectmen's meeting on February 26, 2015, your Board, specifically your Chairman, made misleading and accusatory comments towards me. I believe one comment made was 'gonads'. For that, I'm embarrassed for all of you. First, I'm not the author or co-author of the list of questions that Selectman Rebecca Davis presented to you. This document was forwarded on to me and I was asked if I would comment on any of the concerns that were raised. I'm happy to answer anyone's questions and did so with this document. The Town moved to a town manager form of government. With that, the Town Manager, currently Dana Lee, is in charge of personnel. The proper line of communication for these concerns is through him and which I have followed with these most recent concerns that were raised. I've offered to speak in more detail to Mr. Lee during his fact-finding if he thought that it would benefit*

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

the process. I also urged Mr. Lee to discuss privately with staff and department heads as this may prove beneficial to him in doing his job. Currently, these folks are not comfortable with going to Mr. Lee with concerns due to the tight relationship that he has with the Public Works Director. All of this was provided, in writing, to Dana. Last year, similar concerns were brought by me to Mr. Lee's attention. One was misrepresenting financials and the other was warning the Director of perceived hiring of relatives when I was Chairman and I warned the Director if that, in fact, was happening that the practice was to stop. I also reached out to two individual Selectmen, Mr. Hirst and Mr. Murphy; the only two Board members I still have contact information for. I advised them both to review the material provided as there was merit to the concerns that were raised. In Mr. Hirst' case, I actually encourage him not to just throw this under the rug. The role of the Board of Selectmen is policy and financial review. When concerns are raised by one of your members or the general public, they should at least merit some type of review, much like what has happened in the past, with a specific department head and employees. The most recent answers you received to Selectman Davis' questions by the Public Works Director are not all fact. There are other concerns that should be reviewed, as well. Some were brought up in my last email to Mr. Lee. These concerns are brought to me by residents, I would assume, due to my eight years of involvement and knowledge of the Town. I've tried to advise residents and staff the right process and protocol in which to follow seeking answers to their concerns, and will continue to do so. I will also continue to answer anyone's questions, policy or financial. What I will not tolerate, however, is the slanderous and self-serving comments made by this Board." Mr. Moynahan thanked the Board for their time.

5:42 PM

Mr. Beckert said that the Board would take his letters under advisement. He added that the Park Street issue with the Wittrocks has potential to, possibly, go on even further to Superior Court, if need be, so this is not the forum for this Board to continue discussing that. He asked Mr. Lee if he had anything he would like to add at this point.

Mr. Lee said no; for the same reason he would rather refrain from any comments.

Mr. Beckert said that he thought that that was the wise thing to do.

Mr. Moynahan asked, respectfully, that the Board also refrain from bringing my name or my business up in discussions if it is not the right forum; that if this meeting is not the right forum then last meeting was not the right forum, either.

Mr. Beckert reiterated that they would take his letters under advisement, we will review the minutes from the last meeting to see if your name and/or business name was actually mentioned in the minutes, and we will move forward from there.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

G1. Department Head/Committee Reports

There were no reports tonight.

G2. Administrative Department

5:44 PM 1) Town Manager Activities Report

Mr. Lee said that, during this time, all the performance evaluations were done, and all the goal-setting was done with all the senior staff, also; that those have all been recorded, signed, and put in personnel files. He added that we are off and running on actually doing annual evaluations and goal-setting.

a. Hiring of Assistant Clerk

Mr. Lee said that, after Melissa Albert was promoted to Administrative Secretary, replacing Ms. Thain, we had to hire to replace Ms. Albert at the counter. He added that we were very pleased to attract Laura Bragg who is very experienced and a valuable asset to the team.

b. Personnel Records Undertaking

Mr. Lee said that they have been getting all personnel records centrally located and together into two files marked confidential and public; that he was going to do that with the other departments, as well.

Mr. Fernald asked if Mr. Lee had personnel folders on Selectmen, as there are requirements for Selectmen.

Mr. Lee said yes, that you are employees and we do have them; that we have to have a baseline because Selectmen do receive wages; that contact information, certifications received, etc. go into those folders.

5:48 PM c. BETE Audit Results

This is Business Equipment Tax Exemption. Mr. Lee said that the State came in, unannounced, to do a review and we did very, very well.

d. Growth Management Q & A

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

Mr. Lee said that this was a response to Ralph Morang, who had some good questions about the Growth Management Ordinance; that he thought this would be good for the Board to have as a reference, as well.

Mr. Murphy said that, on the second question, the State law was not referenced.

Mr. Lee agreed.

5:52 PM 2) Revised Personnel Policies – Remaining Issues

Mr. Lee discussed developing specifics of what benefits go with each job classification. He discussed the lack of a policy under the Family Medical Leave Act as it relates to non-work related injury medical insurance payment recovery; that the Town could get reimbursed for medical insurance contribution payments made while the employee is out if we have a policy, which we don't have. He also discussed the probationary period (6 months); that, during this period, employees cannot accrue vacation days, sick days, and they are skipped over on pay for holidays. He added that staff asked if 3 months could be considered and, maybe, or offer ½ paid time off benefits during that first six months. He said that, in discussions we've now had with the Police Union, we've also talked about those first six months, potentially putting them on an accrual basis. He discussed the Maine State Retirement System; that if a person is eligible but does not participate the Town has been paying this as direct pay; that he believes we should be doing this but it is not in any of our policies. He discussed employee health and dental insurance, saying that employees who demonstrate coverage by other comparable health and dental plans may request a payment in lieu of those benefits equal to 50% of the employer portion of the cost of single member insurance. He said that he felt that was a kind of rich benefit to do the employer portion and that they should take a look at that. He added that these are probably a workshop item and asked the Board to consider these and be ready to resolve them in a single workshop sometime soon.

Mr. Murphy suggested that Mr. Lee include, under Personnel Policies, that employees can have their pay directly deposited in any bank they wish.

5:58 PM Mr. Fernald said that he and Mr. Murphy have been careful about these policies because we are working with the Charter Commission and trying, hopefully, to keep those all in line and in concert with each other.

Ms. (Donna) Murphy had a question regarding having one paid holiday and eliminating another one in exchange.

Mr. Lee said that he polled the staff and they said that they didn't want to change it so there is no recommendation to do so.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Ms. Murphy had a question regarding bereavement leave, which is in addition to sick leave and annual leave; that she doesn't frequently see that anymore.

Mr. Beckert said that they were looking at changing that to just personal days.

Mr. Lee said that that might take some time. He added that he agreed with Ms. Murphy; that, in police negotiations right now, bereavement is one of the things being discussed because he feels that is too expansive.

6:00 PM

Ms. Murphy asked if he was looking to continue to give that time but change that over to annual, or to take that away. She clarified that what she typically sees in contracts and policies is that you get vacation and sick days and there is no bereavement so are you looking to take that bereavement and just keep this same amount of days and just turning that into annual on top of this, or, removing those hours.

Mr. Lee said that, if we were to convert it, he would not recommend including bereavement at all. He added that we are looking at shaving it back some as we go into these next rounds of cuts; that he thought that was a good point that, maybe, we should look at bereavement as well.

Ms. Murphy said that the other thing she saw that was typical was that people accrue the time each pay period rather than waiting until the probationary period is finished.

Mr. Lee said that he wasn't crazy about the current system of waiting to earn these benefits; that he would prefer to see it from day one and earn and spend as you go. He added that that has not been done here, traditionally, and there has been no discussion with staff over converting it over to that method; that big changes like this have to be paced out. He asked the Board members to make notes on their positions on these things to be ready for the workshop.

Mr. Pomerleau said that, when the Board considers the probationary length, the whole purpose behind probation is to evaluate the employee's ability to do the job. He added that it may be that in some low-skill jobs three months was adequate and with some higher skill jobs you may find that six months is not adequate, depending on the learning curve and experience of the employee; that he would be loath to shorten a probationary period because you may find yourself, in the period you are deciding to make that employee permanent, not knowing if they can do the job. He said that, with the State, you could accrue your time through probation and you weren't able to take any of it until you became a permanent employee.

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

6:05 PM Selectmen's Policies – Remaining Issues

Mr. Lee said that he thought we were getting close on this, as well. He described the process they have gone through to organize and update the various policies and the layout of the policies book. He added that, at some point, we will have to adopt at least the Selectmen's Policies while we wait to finish Financial Policies, Safety Policies, and the other ones; that he thought they would want to lock down what they could. He said that if the Board had any remaining issues with what is here now - not the appendices, just the Selectmen's Policies – if you have any remaining feedback certainly try to get it to him because, if we do have that workshop, he would like to be able to clean up both of these documents in one sitting, if possible, and put them before the Board for adoption. He added that he could then press on with Financial Policies and, once we've moved through budget time he is going to start focusing on Safety Policies.

Mr. Murphy clarified that Mr. Lee would like their ideas before the workshop.

Mr. Lee said that he thought that would be helpful; that he would like to accumulate all their ideas and, if we have common themes, he can say that at the workshop and make the process more productive.

6:10 PM 4) Draft Town Meeting Warrant (For Your Review)

Mr. Lee said that the Planner was working on the proper ordinance titles; that he had Bernstein Shur draft the borrowing language needed and that will be Article 38, which authorizes the borrowing of the money and, then, following that is the debt service article. He explained that if 37 passes then we have debt service right behind it; that that includes both the one-year remaining we have in other areas and this new debt. He added that this gets revised almost daily so these are not the most recent. He asked the Board to please review for errors.

Mr. Hirst said that, on the first page, the year was missing for the date of the meeting in two places.

Mr. Lee said that he would make a note of that just in case that has not been changed yet.

Mr. (Jim) Tessier said that they gave the proposed Waste Recycling Disposal Ordinance revisions to Ms. Pelletier; that she recommended substantial formatting changes to make it more consistent with the other ordinances so they have been meeting to revise it. He added that he didn't anticipate any significant changes in the requirements but it will look a lot different.

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

6:12 PM 5) Revised "Declaration of Covenants and Restrictions for Accessory Dwelling Units".

Mr. Lee said that the CEO worked on this to update this form; that she has been wonderful about bringing these things up-to-date. He added that he just wanted to let the Board know they were working on these to have very current documents that actually follow our ordinances.

6) Revised Budget Committee By-Laws

Mr. Lee said that these were provided by Chairwoman Donna Murphy and he included them for their review. He added that the Budget Committee is of the opinion that they don't need to be approved; that he didn't know what the position of the Board is and he would leave that to the two bodies. He said that the last time these by-laws were reviewed and revised it did go to the Board of Selectmen but it wasn't clear, even then, it had to and it is still not clear, necessarily, that it has to or the Budget Committee, being elected, can make their own by-laws and not subject to approval by the Selectmen. He added that he did believe that, unless they contain something that is blatantly illegal, that the Selectmen probably would not need to get involved with it. He said that he doesn't have any issues with them. He did say that the way they are doing it right now is working quite well; that the Town Manager has been coming in in place of department heads and, to the extent that he doesn't know the answers, get back to them right away with some answers. He said that this still says they can call them in; that he doesn't have a problem with that; that there might be times when that is appropriate but he thought that most of the time that would not be necessary.

G3. Public Works

6:17 PM Wing Purchase (2004 International Plow Truck)

Mr. Lee said that there are only two companies in the area that do this work – H.P. Fairfield and Viking-Cives – and Tenco isn't working in this area anymore. He added that by adding a wing assembly it would increase the efficiency and utilization of the truck and reduce part-time personnel. He said that H.P. Fairfield was being recommended because this truck is currently equipped with their equipment and their hydraulics and, when you try to integrate equipment from another vendor, it may not be a compatible or good fit. He added that the funds for this would come from the Highway Equipment/Vehicle Reserve (current balance of \$79,180.02) and it would be to upgrade this truck to make it a full plow truck.

Mr. Fernald asked if they made an attempt to get three bids.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Lee said that they did; that they tried to find Tenco and they don't work in this area. He added that when you call other towns everybody is going to give you these same two names; that they are the same two names he has been using for 22 years.

Mr. Hirst asked what the nature of the potential incompatibility was of the second, lower quote.

Mr. Moulton said that they would be integrating different hydraulic fittings; that everyone uses different parts and pieces. He added that Fairfield has a certain brand they use for hydraulics and it fits their pumps, etc.; that if they get into Viking then their valves and fittings might not correspond to the current pump system, which could potentially lead to a pump upgrade. He said that because we currently have Fairfield equipment on the truck he felt that was a better solution.

Mr. Hirst said that if you take the lesser of the two quotes you might have to make up the difference in making everything work.

Mr. Moulton said yes.

Mr. Murphy asked if they had dipped into the reserve account.

Mr. Lee said that they did when they bought the truck from the school last spring; that the balance in that account was gotten from the Finance Director just the other day.

Mr. (Denny) Lentz asked about the lead time on this.

Mr. Moulton said that he would wait until the end of this season; that Fairfield is back up almost a year doing complete trucks but they can slide it in because it is a modification. He added that we would probably have it back within two to three weeks, once this was approved and the truck brought over; that we would have it in plenty of time for next winter and nothing would be tied up.

Mr. Lentz said that his point was that, maybe, we ought to wait and spend the money a little bit later when we really need it for the winter.

Mr. Moulton said that we might be pushing it later in the year as they are busier.

Mr. Lee said that because the operations budget has taken such a beating he was recommending going into the reserves; that he would rather have done this through any savings if we had had a kind winter but we clearly did not.

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

6:25 PM

Mr. Pomerleau said as a reminder that the Board had instructed the Town Manager the last time this happened that if they were coming to the Board with less than three bids to stop providing you with the bid amounts so that you could have the opportunity to make a decision whether or not their reasoning for not getting three bids was adequate; that if you felt it wasn't then you still had the opportunity to tell them to go back for the third bid.

Mr. Lee agreed with Mr. Pomerleau; that he should have just let the Board read the Memo and not verbalized it.

Mr. Beckert said okay; that Mr. Lee did tell us that there were only two companies.

Mr. Lee agreed; that they could find others in other parts of the country.

Mr. Hirst said that he remembered that discussion around two bids and wondered if we shouldn't modify our policy so that it states it very carefully what we're supposed to do.

Mr. Lee agreed that when we do get into financial policies we really do need to state that; that it is very black and white and he has shown them purchasing policy samples that cover all kinds of situations. He added that ours is very simplistic and keeps coming back to bite us.

Mr. Beckert agreed that the policy needed to be more extensive to cover other circumstances within the bid process.

6:27 PM

Mr. Lee apologized to the Board, reiterating that he should have just let them read it; that they would have had a choice to send him back to the drawing board.

Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen approve our Public Works Director's request for this added snow plow wing from the H.P Fairfield company in the amount shown on the Memo.

VOTE

3-0

Chair concurs

Mr. Fernald said that he would like to see three bids from now on; that he didn't care if they are from Hawaii; that he wanted to see at least three and then we could make a determination that it is too far away but it meets our policy.

Mr. Lee said that they could go into southern New England, such as Massachusetts or Connecticut, to look for other bids.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Hirst pointed out that, if we were to go to Massachusetts or Schenectady or something like that, somebody from the Town Garage is going to have to drive the truck out there and there would need to be a way for the person to get back. He added that what we might save in a third bid we might spend in personnel time and, maybe, even over that.

Mr. Lee agreed; that he thought that was Mr. Fernald's point; that even if it's in Hawaii, at least have the three bids ad, then, if one of them seems silly because of those types of logistical problems, we can say that does not make logistical sense regardless of the price.

Mr. Beckert said that the other caveat is that we need to look at the policy, itself.

Ms. (Donna) Murphy suggested that another option, if there truly are only two companies that provide this service in a reasonable area, that documentation could be provided with that.

6:30 PM 2) Repairs to Backhoe

Mr. Lee said that the Board had a Memo; that it is not a bid; that it is from Nortrax and the backhoe comes from Nortrax and should be done at Nortrax. He added that this would be for work that would cost an estimated \$12,400. He said that Mr. Moulton was looking to use the Equipment/Repair/Maintenance Account (balance as of March 2 \$17,834.88). He said that the vendor would charge \$800 to transport the truck; that they reached out to a local vendor and they would do it for \$500 so they were looking to use Shapleigh Construction for the transportation, which would be covered under the equipment rental budget line. He added that the Highway budget is fall-intensive and spring-light so having that amount left, in terms of that point in the year, is not that scary being early March, and spring work is more routine and not cost-intensive. He described the repairs that needed to be done. He said that we would like authority to go ahead and do that repair from that line item; that it is a significant repair; that it is a John Deere tractor, this is a lease from John Deere, and it would only make sense to take it to John Deere.

Mr. Hirst asked if we should get back into the bid situation, again; that there are other places that fix John Deeres and he named several and he wondered if we should be guided by our policy on bids.

Mr. Moulton said that this is where we lease the equipment, from this dealer. He added that you could take it elsewhere but this is where we leased it. He said that, yes, there are others but, Manchester, you would be looking at more travel costs. He added that we didn't go to bid because this is where we got it and we want to use John Deere parts.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Hirst asked the Town Manager how he feels about that.

6:35 PM

Mr. Lee said that when he had leased equipment he always took it back to the company from whom he was leasing it; that they have every interest in making sure that it's done correctly because they are going to get it back. He added that, as a practical matter, if he buys a car at Lee Toyota, he goes back to Lee Toyota; that he could go to other Toyota dealers that could do the service; that he likes having a relationship with the company. He added that some of these relationships formed over several years actually saves you money because you are a repeat customer and they appreciate your business more.

Ms. (Donna) Murphy asked if there were any stipulations in the lease agreement that require you to bring it up to that dealer.

Mr. Moulton said that he did not believe that is in the contract.

Mr. Lee said that he thought they would assume we would bring it back to have the maintenance done.

Mr. Moulton agreed that they would give better service. He added that it was however they wanted to look at it; that it was the Board's choice and that is why we are here.

Mr. Fernald said that this was basically labor cost.

Mr. Moulton agreed the biggest expense was labor; that this is stuff we can't do.

6:37 PM

Mr. Fernald said that he didn't think it would be significant enough on labor rates.

Mr. Lee said that he would think labor rates are very close to one another, whether you're talking about this place or that place.

Mr. Moulton added that John Deere parts are parts; that we could do it in-house but we don't have the specialized equipment to take this thing apart and fix it.

Ms. (Donna) Murphy said that something else to consider is, if you are not bringing it back to the person from whom you are leasing it and something is damaged on the vehicle by an outside, where does that leave the liability.

Mr. Lee said that that was a very good point.

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the request for repairing the John Deere 310SJ Backhoe in an estimated amount of \$12,400 for repairs and \$500 for transportation.

VOTE

3-0

Chair concurs

6:40 PM 3) Request for Reconsideration of Sewer Abatement Appeal – Sylvester – 3/26?

Mr. Lee said that he thought that Mr. Sylvester would be here; that he thought he had been notified and he says he was not notified; that Mr. Sylvester said that he would really like to be here, in person, when that is heard and that, if he did it in person, it might make a difference. He added that Mr. Sylvester has asked if he could be on the March 26th agenda to present his case in person.

Mr. Beckert said that he thought that reconsiderations usually have to be taken up at the very next meeting.

Mr. Fernald agreed but asked if they couldn't take it up if there is additional information.

Mr. Lee said that he believed they could waive it and that, as long as you are a member voting in the majority and you have changed your mind and would like to hear it, then you have a right to bring it up and you want to do a motion to reconsider an appeal, get a second, then say we'll put it on for March 26th, if you want to go that route, or not. He said that Mr. Sylvester contacted him right afterwards that he was out of town; that he would say it was a timely appeal and not way down the road.

6:42 PM Ms. (Donna) Murphy said that there was an issue that came up on this Board and was voted on regarding the heating fund that the clerks created; that when she had brought up some comments later, too, for reconsideration, this Board was very clear because it wasn't at the following meeting that it could not be considered. She asked if that was the same situation we are looking at here; that it sounded like he did notify the gentleman and he was just not at home to get the letter.

Mr. Lee said that he didn't know if he did or did not get notified; that he had to take him at his word. He added that what Ms. Thain did was call anyone who was on the agenda to let them know, leaving a message and hoping they'd get it; that maybe he was out of town and didn't get the message. He said that, in any event, he did not get notified; that he didn't know what this refers to in terms of your past practice but he did think Mr. Sylvester made a timely appeal, in his estimation; that Mr. Sylvester did get the letter and he guessed that the letter must have been forwarded to wherever he was going.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen reconsider the abatement appeal of B & RA Associates, Inc. and that appeal will be reconsidered on March 26, 2015.

VOTE

3-0

Chair concurs

G4. Public Safety

6:44 PM 1) Maine Forestry Grant – reimbursement Request – Fire Department

Mr. Lee said that this was more of the same that we've been through and it is what hurts when it comes to gross budgeting. He explained that Chief Muzeroll applied for a 50/50 cost-sharing grant and received the grant for a total of \$2,200; that you pay for it out of your budget, first, then you get reimbursed when you submit the receipts; that Chief Muzeroll is asking that any reimbursement be re-allocated to the budget line item where the purchases were made; that they would probably reimburse prior to July 1, 2015 so it would be within this fiscal year. He added that, as we know, any reimbursement like that should probably drop down into fund balance but he can tell them that it is certainly a large disincentive to chase grants because it becomes a general revenue and it actually hurts the Fire Department.

6:46 PM Mr. Murphy said that he thought that, in this case where money has gone out, paid from a budget in order to get more money, it clearly should come back in that account; that it clearly made sense.

Mr. Lee agreed, especially in the form of a grant – if he pays up-front and they reimburse him part of it; that there has to be a certain amount of reason, here, doesn't there. He added that, when you do gross budgeting, a revenue's a revenue's a revenue and when it comes back it drops into general fund; that to ask people to take time and write grants and fund it completely out of their pocket and thanks for the general revenue that we'll use next year to fund the full Town's operations is...people aren't going to write grants anymore.

Mr. Hirst said that our policy is quite clear on this; that as much as he would like to see it happen he thinks we will be subject to some criticism if we keep violating our own policy. He added that he would like to suggest that we not grant this request and that we modify our policy so that we have a little bit of wiggle room.

Mr. Beckert said that the Chair would need a motion to let it drop through per the current policy.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Lee asked if the Board would simply table this, for now, and maybe we will be able to do something from a policy standpoint before the end of the fiscal year.

Mr. Hirst said that was fine with him; that he just hated violating their own policy.

Mr. Lee agreed and that was why he was before them on this; that the simpler thing is not to be transparent and just do it but he is trying to be transparent about everything.

Mr. Beckert said that he thought they needed to have discussion with the auditor, as well, regarding this.

6:48 PM Mr. Lee agreed that that was where the chastisement would come from; that, if they could check with the auditor and get a sense of when it is appropriate and when are we not violating gross budgeting, he thought that would make us all feel better. He added that sometimes things like this defied common sense; that he would check with the auditor for his view on this.

It was the **consensus of the Board** to table this item.

H. New Business:

6:49PM Request for Wittrock Documents

Mr. Lee asked that that be tabled in the absence of Selectmen Davis. He added that there is a definite tension, here, between two philosophical things – one is FOAA and all citizens having a right to ask for and get documents of a public nature and he doesn't think you lose that capacity when you join the Board of Selectmen; that that being said, when you join the BOS you do limit yourself to the form of government and, in that particular case, the Board has to decide, as a whole, if the documents warrant anything; that he thought they were two separate questions. He added that he had the full file about the Wittrocks and the underground cable that Mr. Moynahan was talking about; that he thought, if the Board wants to look into both sides of the story, he would be happy to do so but, unless the Board opts to do so, it was his intent to just fill the FOAA request that was made and hope that Ms. Davis will abide by the format of government that you have adopted and that is to approach the Board to see if you want to do a further investigation on this; that that is how he kind of liked to view it. He said that he would like to call the Assistant AG's office and have this discussion, as well, because he has never really run into it before. He added that he is used to a lot of FOAA's from the outside but, very often, when a person becomes a member of the town council or a board of selectmen, they do limit themselves to a certain extent of their ability, to a certain extent, of their ability to participate as they used to as a private citizen, which was a little bit different than having to be a member

BOARD OF SELECTMEN'S MEETING

March 12, 2015 5:30PM (continued)

of a body that has to try to speak as one and democracy rules on whether you get your way.

6:51 PM

Mr. Murphy said that Mr. Lee said that he had a file of this information and that it is available; that he feels at a loss by not knowing all the issues and what's been done and feel that they've been hurt, or not, and for what reasons; that that leaves him not knowing what stand to take in either direction. He asked if it was possible for us to learn more.

Mr. Lee said that he would be absolutely happy to turn over the documents to the whole Board; that he thought that, if anyone is going to get it, you all should get it because he didn't think that any one individual Selectman was ever in a place that they could do something on their own like that.

Mr. Murphy asked if this should be done in executive session.

Mr. Lee said no; that they are all public documents and, frankly, he is at a loss for half of the stuff that's been surrounding this; that he can't even fathom where this is hailing from. He added that he has no qualms about putting it out on the table and the Board could decide if there is a need to go any further than what we have, thus far; that we feel we are in the right, 100%.

Mr. Fernald said that he thought that was the process we should go through; that if we don't do that and the Wittrocks, for some reason, wants to sue the Town then it certainly becomes an issue when one Selectman was working outside of the Board. He added that we need to be together on all issues that come before the Town.

6:53 PM

Mr. Lee said that he will make copies of the entire correspondence, the letters to and fro, starting from the beginning; that he encouraged the Board to read every single word of it; that he thought they would find there are two very distinct sides to this story.

Mr. Beckert said that Mr. Lee had mentioned contacting the AG's office and asked if we need Board consensus to do that. He added that, to him, this was an administrative issue that the Board shouldn't be in the middle of at this point, yet.

Mr. Lee said that he thought that if it does continue to be an issue he thought we need to have advice from the AG whether we are on the right or wrong side of the law; that he doesn't want to be on the wrong side; that he doesn't want to deny Selectman Davis anything she's entitled to but he also doesn't want this form of government go up in smoke because we are not abiding by that statute; that there are two different statutes and they don't necessarily work great together if you play both banjos at the same time.

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

Mr. Beckert said that right now this is an administrative issue, which falls under the Town Manager's purview by the statute.

Mr. Lee said that if you were all to review the documents he thought you could then respond to Ms. Davis that you have reviewed it and you do, or do not, see what she is talking about; that you could at least make a fair assessment whether she is on the right track, or not.

6:54 PM Ms. (Janet) Saurman asked why they wanted to table this until Ms. Davis could be here.

Mr. Lee explained that the request for information came from Ms. Davis and the Board, at that time, said they didn't want to pursue an internal investigation but she repeated her request for the documents; that he was compelled to provide the documents but the question still remained, "Does the Board want to do anything with these documents?"; that those were the two philosophical things at play – my individual rights to see them and the Board not interested. He added said that it was courtesy to Ms. Davis.

Mr. Fernald said that the problem he had was that Ms. Davis was requesting it as "Rebecca Selectman", which means to him that the Board is requesting it.

Mr. Lee said that that was exactly right; that if she had said Rebecca Davis, then that is citizen Rebecca Davis; that if she puts Selectman it's really like the Board wants the information but she is not speaking for all of you; that you all may not want that information or be in administrative affairs.

6:56 PM Mr. Hirst was wondering if this should end up in court, by disposing this, effectively, to the public and they are public documents can that hurt us.

Mr. Lee said that he didn't think so because all these documents would be evidence in a court hearing anyway.

Mr. Beckert said that he thought, with this particular type of administrative issue, the Board has no jurisdiction over any appeal; that it goes straight to the County Commissioners and, if not resolved there, it goes to Superior Court in Alfred.

Mr. Lee agreed and said that the only thing we would be doing, from an internal affairs perspective, is seeing if staff acted in malicious ways; he again encouraged the Board to read both sides of the story.

I. Old Business

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

1) Investments Information

This will be put off until the next meeting when Ms. Davis will be present.

2) Town Manager Goals – Second Reading

This will be put back on the agenda for the next meeting.

3) Household Haz. Waste Fee Schedule

Mr. Lee said that Mr. Moulton has had discussions with the HHW vendor and what he has done is to break everything down into units to develop fees. He explained how that might work; that the Town would pay the set-up fee of \$375 per event (four a year) for a total of \$1,500; that they are only requesting \$8,000 for this budget item and, so, would limit each event to \$2,000, minus the set-up fee, for each of the four sessions. He discussed the possible impact, negative and positive, and said that that was a policy question for the Board on whether you want to do this, or not.

The Board said that they would consider this.

This will be put back on the next agenda.

J. Selectmen's Report:

There were no Selectmen's reports tonight.

K. Other Business as needed

7:03 PM Mr. Lee said that we recently went through the foreclosure process and we ended up with four properties. He added that he would provide the Board that information for the next meeting. He said that the CEO inspected each of them and he is sending letters out tomorrow that gives people a 60-day redemption period in which to pay all taxes owed; that if they do not redeem within 60 days the property will go out to public sale. He added that he has insured the properties through MMA.

Mr. Tessier asked if the Conservation Commission didn't make a recommendation to the Selectmen before putting it out for sale.

Mr. Lee agreed that they would look at before we sell it.

L. Executive Session

BOARD OF SELECTMEN'S MEETING
March 12, 2015 5:30PM (continued)

There were no executive sessions.

M. Adjourn

There was a motion and second to adjourn the meeting at 7:05 PM.

VOTE

3-0

Chair concurs

DATE

Mr. Grant Hirst, Secretary