

BOARD OF SELECTMEN'S MEETING
March 27, 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. Hirst, to approve the minutes of March 5, 2014, as written.

VOTE

4-0

Chair concurs

Motion by Mr. Dunkelberger, seconded by Mr. Hirst, to approve the minutes of March 13, 2014, as amended.

VOTE

4-0

Chair concurs

Public Comment:

There was no public comment.

Department Head/Committee Reports

G1. Committees

5:33 PM Appointment: Jessica O'Donoghue, Comprehensive Plan Implementation Committee

Ms. O'Donoghue was present.

Mr. Moynahan said that it was always nice to see new faces volunteering for boards and committees; that he was glad she volunteered.

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen accept Jessica O'Donoghue on the Comprehensive Plan Implementation Committee

VOTE

4-0

Chair concurs

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5:35 PM Status of Building Committee – No Terms, Ad Hoc?

Mr. Lee discussed the status of the Selectmen's Ad-Hoc Building Committee and asked if the Board wanted to keep this committee in place or have it on a task force basis in that if a building issue came up they could pull them back together for that purpose.

Mr. Hirst said that the original concept of the Building Committee was to look into the space needs of all of the Town 20-30 years out. He added that this committee was asked to focus solely on the new proposed ECSD building, which fell through, then worked on the move to the Eliot Elementary School. He said that he didn't have an opinion on whether to keep the committee as it was or as necessary.

Mr. Murphy said that another issue closely related is that he has heard several people wonder if it isn't time for the Town to have a kind of permanent properties manager so that that person would be familiar with all Town structures and aware of needs for repair or replacement.

Mr. Moynahan said that currently the Building Committee had no particular directive. He added that he didn't know if it would be practical with the strain on the budgets to keep this committee active.

Mr. Beckert said that the committee did do an inventory of the Town's facilities; that they also did a capital plan spreadsheet. He added that he liked Mr. Lee's suggestion of it being an ad-hoc committee that Mr. Lee could call on when he needed the committee to swing into action to do something on his behalf. He said that he thought the committee would be willing to do that.

Mr. Lee said that it was part of his charge to more fully develop that capital improvement plan, look at spreading it out more, what may be missing and, when they focus back in on that he thought a couple earnest meetings with the Building Committee might be very helpful; that then if that work gets done let the committee subside until there is another need. He added that he didn't have a problem with keeping the same members as long as the Board had no concern for too much overlap of Selectmen on other committees.

The Board agreed to allow the Building Committee to become dormant until such time as the Town Manager started working with the CIP again.

5:42 PM Town Reports – Committees

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Mr. Moynahan asked if Town reports had been received from all committees and department heads.

Mr. Lee said no but that quite a few had come in today. He added that the only one he was aware of that asked for an extension was the BudCom and that would be through April 1, when they would meet again. He discussed whether to grant it, recognizing the time limitations they were under, and thought it was the Board's call.

Mr. Moynahan said that they have had the timeline for quite some time; that it was important to have those in a timely fashion from everyone; that they were trying to be structured and consistent to all; that the Board has held everyone else to a standard for providing information and they would be sending the wrong message if the Board did not stand pat with those timelines.

After some discussion, the Board agreed to allow reports to be submitted by Monday morning (March 31) and asked Mr. Lee to follow up with an email to any departments/committees that have not submitted yet on the Monday deadline.

Mr. (Charles) Rankie discussed having to resend the Charter Commission report as a Word document, rather than in pdf form, because of the required formatting to be done for the Town Book.

G2. Administrative Department

5:47 PM Town Manager Report

This was an informational update.

Memo from Town Manager to Finance Director – overview of what Finance Department is working on.

5:50 PM GIS Mapping

Mr. Lee said that the GIS Eliot website has about 635 visitors per month; that it is being widely utilized and staff is seeing fewer realtors, developers, etc. in the Town Hall.

5:52 PM Goal Setting/Evaluation Forms

Town Manager Goals

Mr. Moynahan said that he had forwarded all Selectmen's thoughts to Mr. Lee for the five-month window; that the bolded print were the more common goals and

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then a second tier. He suggested that, when the Board got together to review the 6-month probationary period for the Town Manager, they use this list of criteria to evaluate his performance.

The Board agreed.

5:55 PM Management Evaluation Forms

Mr. Lee discussed the goal-setting he has been doing with the staff and the need for evaluation forms once that is complete. He added that he included two different evaluation types – one for non-Town Manager employees and one strictly for evaluating town managers and asked for Board input.

Mr. Moynahan asked Board members to review and develop input.

The Board agreed to hold a workshop to review this and personnel policies.

6:03 PM Management of Personnel Files

Mr. Lee discussed this particular system for managing personnel files. This was informational to the Board.

6:05 PM Legal Questions/Responses

MMA response to LD1 calculation question.

Mr. Lee said that MMA (Kate Dufour) confirmed what he had done in terms of the three part calculation – what was left on the table was the starting point, figure the growth limit (\$75,000), Town municipal officers decide whether to include lost revenue sharing. He added that today Bernstein Shur verbally confirmed the same thing and a letter will follow tomorrow or Monday. He added that the number is really theoretical as the voters, at Town Meeting, don't have to follow whatever that number is and can do any number they wish to do.

Response from Joan Fortin (Bernstein Shur) regarding the TIF article on the warrant.

This was to confirm that the citizen petition language was legal so the proposed language will stay.

6:10 PM Route 236 TIF District funds for phased sewer/water projects.

Mr. Lee discussed the history of voting on the sewer bond; that the issue hanging out there that he didn't think was discussed was "What if we were just to use live

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cash? What if we weren't to bond and put the full faith in wallets of the taxpayers of Eliot on the hook if it depreciated, if it didn't have the economic development?" He added that he just learned that Marshwood Middle School, in 2018-2019, has a \$350,000 CIP budget item to replace their septic system and that would fall directly on taxpayers if we don't get down there and pick that system up. He asked if that was permissible under the TIF and the answer was yes. He added that they would still have to go to the voters to get it appropriated at Town Meeting but it would not have the risks of a bond vote. He added that Ms. Fortin told him that the TIF Statute does allow money to be used for environmental-like things when it is part of the overall economic development of the community. He said that, in a coastal community with tidal waters that are problematic and, as a result, tourism or sales value or whatever is going downhill, businesses are leaving because they can't do their water-based crafts anymore, then this does fall under that. He added that they have a number of sewer hotspots in Town that, ecologically, he was concerned about.

Mr. Moynahan said that he thought it was a pretty logical approach.

6:17 PM Mr. (Bob) Pomerleau commented that anybody that thought the sewer was turned down three times merely on the funding mechanism has totally missed the point. He added that the people he talked with didn't want any sewer expansion there because they were concerned with how it would change the rural character of the Town in addition to the funding.

Mr. Moynahan said that with any TIF project, if the citizen initiative petition goes through, we may limit ourselves with any TIF projects we could do. He added that he saw it as a combination; not entirely sewer but he thought you would always need to have a little bit of sewer with any project with economic development.

Mr. Murphy said that, as Mr. Lee pointed out, Eliot does have impending sewer problems in a number of spots in Town that will have to be dealt with sometime in the future in some way; that if you don't have a TIF to help pay for it then it will come out of Town pockets.

6:19 PM Ms. (Roseann) Adams discussed her strong concern with the 18-month limitation in the warrant petition to come up with something viable; that she thought that was a terrible thing for the Town when we have a total of thirty years to determine what we want to do with that money. She also discussed her concern that people might only see 'sewer' and not the 18-month limitation, vote for the petition and not realize the potential consequences of the time limit.

Mr. Moynahan said that the Board has charged Mr. Lee to develop any potential projects and he is coming up with all kinds of things. He added that the Board did

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have the attorneys review the petition to make sure it was not an invalid petition before adding it to the warrant.

Mr. Pomerleau responded to Ms. Adams comment on the time limit. He said that he found that from the time the original 236 TIF Committee was formed - actually started to hold their meetings and came to the Board for a request for funding for a consultant – from the time that happened to the actual TIF plan was drawn up was less than three months so he thought that a period of eighteen months was substantially longer than the original project took; that their thoughts were with this number is to have some incentive for this to come to fruition one way or another; that if you left that door open without a timeframe we could be voting on a sewer forever over the 30-year period.

Ms. Adams aid that there was a difference between that vote for that sewer project and this particular petition; that they already had in mind what that TIF was going to be and what they were going to do and that was why it could come before the voters and be developed so quickly. She added that this (petition) was starting from square-one and thinking of whole new projects and eighteen months, she didn't think, was enough time; that if things got shot down along the way and we ran out of time then we are out and loose our TIF.

6:22 PM Job Description: Tax Collector, Town Clerk, Finance Director

Mr. Moynahan said that the Board was tasked to review these and make changes, if any, then approve.

After some discussion by the Board, including revising the Finance Director description to include handling grants, donations and bequests, motions were made to approve these job descriptions.

6:25 PM Mr. Dunkelberger moved, second by Mr. Beckert, that the Board of Selectmen implement the job description titled Finance Director, as presented to the Board of Selectmen, with amendments made tonight.

VOTE

4-0

Chair concurs

Mr. Dunkelberger moved, second by Mr. Beckert, that the Board of Selectmen accept the job description for Town Clerk, as presented to the Board tonight.

VOTE

4-0

Chair concurs

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Mr. Dunkelberger moved, second by Mr. Beckert, that the Board of Selectmen accept the job description for Tax Collector/Customer Service Representative, as presented to the Board tonight.

VOTE

4-0

Chair concurs

6:26 PM Update: Personnel Issues Related to Lost OT, Additional Premiums, Unresolved Comp Time

This was postponed pending further information. (Discussed 5% indicated in 2nd paragraph – those employees have only a 5% increase the first year; police have no co-pays, currently, so affected in three different ways. BOS Chair and TM to discuss.)

6:27 PM Meeting with Auditor – Highlights/Management Letter

This will be on the April 10th regular Board meeting.

6:30 PM BOS Warrant Recommendations – Revised

Mr. Moynahan noted that the Warrant had a time change to 9 AM; that the thinking was to try to create more of a community day approach to the Town Meeting and asked for feedback from Board members.

Mr. Dunkelberger said that he was doubtful that 9 AM would work so he did an informal poll, talking to people who usually did come to the meeting as well as people who usually didn't come to the meeting and found that 9 AM seemed to be a good time. He added that the feeling with the people he talked with was to have the meeting earlier in the day, get it over with, and get something done for the day.

Mr. Moynahan said that the other item was the LD1 number and that was going to remain based on information received; that they would go with what the Town Manager submitted for numbers based on what he calculated in the worksheet. Regarding Town committees, he said that somewhere along the line the Conservation Committee (CC), in the Selectmen recommended column - are not funded. He added that in reviewing the notes he did not see anywhere where the Selectmen reduced the \$5,400 request from the CC.

Mr. Dunkelberger said that he didn't think it ever came up in front of them.

Mr. Moynahan said that there is a request and it was in the original budget requests.

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Mr. Dunkelberger clarified that \$4,000 was for the Land Bank, as he had asked that question specifically because he hadn't gotten anything from them, and that included any input with regard to the Land Bank. He added that somebody from the CC said they would bring forth a \$5,400 request and the \$4,000 was included in that but he never actually saw anything.

Mr. Moynahan said that, looking at the original line that has the \$5,400 in there, the Board was never specific with reducing the line; that the requests have always included that when they were formulating all the dollar figures in the left-hand column. He said that, when they made their reductions as a Board, what it was showing was that the original request was there so all the calculations included that but in the right hand column it was saying that the Board was not recommending that funding.

Mr. Lee said that with the first spreadsheets he was given and began working on it had been zero right along. He added that tonight the issue is whether the Board intended to fund it and does the Board want to fund it; if so what amount, as he would have to correct the warrant. He added that he could get it done tomorrow morning; that the Board could vote the warrant 'as amended' tonight and then come in to sign it at the Board's leisure, if there are amendments the Board wants to make.

Mr. Murphy discussed the various things the CC was responsible for, such as monitoring the Town Forest and collaborating in the Johnson Lane maintenance, which gives access to the Town Forest. He said that, regarding the Land Bank, the Town over many, many years voted to appropriate Land Bank monies in order to acquire desirable property for the Town Forest and other uses, such as along the riverfront. He added that it bothers him when he sees long-standing concepts and hopes of this Town being swept away by temporary jitters. He recommended the Board restore at least some of that money.

6:38 PM

Mr. Murphy moved, second by Mr. Dunkelberger, that the Board of Selectmen restore \$1,400 to the Conservation Commission, which would allow them to work as a committee and do their committed actions.

Discussion

Mr. Beckert said that the balance in the Land Bank reserve account showed \$67,955.67, although that amount may not be current. He explained that the Land Bank reserve was to have an amount that was satisfactory to acquire land so that they could enter into contracts; that any larger amounts required to purchase would go before the voters.

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Discussion ended.

VOTE

4-0

Chair concurs

6:40 PM Budget Committee questions – add descriptor lines for department warrants?, vote LD1 Cap on Tuesday by referendum?

Mr. Murphy said that voting the LD1 Cap as a referendum on Tuesday was not allowed by the LD1 law; that if you adopt the Town's budget at an Open Town Meeting then the LD1 Cap must be handled at that same meeting by ballot.

Mr. Beckert agreed with Mr. Murphy.

Mr. Moynahan added that when it was brought up again last year – the referendum – it was because those items were brought as referendum, also.

Mr. Pomerleau disagreed, saying that he thought Tuesday was the official open of the Town Meeting.

Mr. Murphy said that the question was not the Town Meeting being open but adopting the budget by referendum; that Eliot does not adopt the budget by referendum but by Open Floor and, if the Town does that, then you must have the LD1 Cap at that time.

Mr. (Bob) Fisher said that they did exactly that in the August (referendum) and asked why they couldn't do that in June.

Mr. Moynahan said that the Board was told that the votes (questions) were being done by referendum so the LD1 could also be done by referendum; that that wasn't at an Open Town Meeting. He added that the Board's choice was to either have another Town Meeting for the reductions or have a referendum vote. He said that the question before the Board was whether they wanted the LD1 Cap on Tuesday versus Saturday.

Mr. Murphy moved, second by Mr. Beckert, that the Board of Selectmen do not approve voting the LD1 Cap by referendum on Tuesday.

Discussion

Mr. Dunkelberger said that he thought that it would be good to have something like this at the Town Meeting where there can be some open discussion about potential impacts if we were not allowed to exceed the LD1 Cap.

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A member of the audience discussed his reasons for wanting it on Tuesday – people would know what budget they were limited to; there would be a much broader base of residents voting on it; it would be totally out of the way by the time they got to Town Meeting and would be clearer in a lot of people's minds what the budget actually represents.

6:47 PM Mr. Moynahan said that he thought the Board knew what they would have to do if LD1 is enacted; that they had a whole spreadsheet from the Town Manager. He added that LD1 was put on the warrant first this year and, if LD1 is enacted he believed the Board had thoughts on each warrant article as we go through.

Mr. Lee said that if we did put it on Tuesday and successfully voted through the LD1 Cap would stand. He added that he has already started working on what he would recommend to the voters Saturday warrant article by warrant article. He said that, even if he recommends that, it is a huge logistical issue; that if Tuesday LD1 passes but different people show up at Town Meeting and they vote to approve budgets that are not consistent with Tuesday's vote he'd like somebody to tell him what he was supposed to do with that mess.

A member of the audience suggested having two budgets – one within LD1 and one the Town Manager felt to be the existing budget.

Mr. Lee agreed, saying that what he would be doing Saturday is you must do the following; that he would be telling them at Town Meeting that they don't have choices.

The same audience member said people had a choice to go under the LD1 limit by reducing budgets, even if they fit within the overall LD1 Cap.

Mr. Moynahan said that if we move toward full referendum, which is being discussed with all these warrant articles, then this will be a moot point. He added that we are not there yet; that we are still Open Floor Town Meeting.

Ms. (Donna) Murphy said that, regarding the warrant article, last year's appropriation was in the articles and she thought it would be a wise decision if the Board also put what last year's cap was so that people could see what the difference is between last year's and this year's cap.

Mr. Moynahan clarified that those were the numbers that were effective after the cap last year; that those were the budgets that the Town operated within and that is what was provided on the warrant.

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Mr. Pomerleau said that he didn't see the difference voting on LD1 Tuesday or as the first item Saturday. He added that he thought what was most important was getting as many people to vote on it as possible.

Mr. Moynahan said that, even having it first, that same conversation would happen with LD1; that they were opening up can of worms putting 'here' (1st article). He added that it belongs at the end but the feedback the Board has gotten for the last two years is not to put it on the end.

Mr. Pomerleau discussed arguments made at last year's Town Meeting regarding this vote and said that you would not satisfy anyone who didn't want the cap.

Mr. Moynahan said that another issue was a motion to reconsider – how do you guarantee that the same people who voted in the affirmative are voting again; that it was a logistical nightmare; that this is the best product that he was presenting to the Board tonight for conversation.

Mr. Pomerleau requested that the Board, in the LD1 article, add last year's LD1 figure so that voters would have a comparison.

Discussion ended.

VOTE

4-0

Chair concurs

6:53 PM Warrant language clarification

Mr. Lee said that if they were going to insert the clarification of the \$281,000 over last year's actual net tax commitment he thought that it probably ought to go on to explain where that came from; that he thought that whole memo ought to be in there that explained that. He added that they could go on and on with the warrant explanations but that is why you talk about it at Town Meeting.

Mr. Moynahan said that they could provide a handout to clarify.

Mr. (John) Reed asked if the Board's recommended budget came in under the LD1 Cap.

Mr. Moynahan said that it does not; that the budget, as it sits, is \$268,203 over the LD1 Cap. He added that the Board met with all the department heads, looked at the needs of the community, and felt that the responsible budget to put forth is the one that is in front of the Board.

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Mr. Reed said that he felt that the message from voters was very clear that people are interested in the Town budget at least coming in under the LD1 Cap so he wondered why the Board presented this budget.

Mr. Moynahan said that that was last budget season. He added that the Board used LD1 as a guideline throughout the process; that he brought it up as often as possible.

Mr. Dunkelberger said that the voters voted on the LD1 Cap; that those same voters voted for amounts on the budget, including cuts, that actually exceeded the LD1 Cap; that he got a mixed message there.

Mr. Moynahan said that in each budget year, with the LD1 provision, the citizens would be afforded the choice each and every year to stay within or override; that if the municipal officers do not present a budget that is within that then the citizens still have the ability year-in-and-year-out to require that.

After further discussion, Mr. Moynahan asked if the Board wanted to consider adding additional dollar figures into the Sixteenth Article showing what the Cap increase was from last year.

Mr. Beckert suggested that Mr. Lee look at what the exact wording of the article had to be by statute to cover LD1. He added that any auxiliary information to clarify can be handed out prior to Town Meeting at the informational public hearing and at the annual Town Meeting.

6:58 PM Descriptor lines in warrant articles

Mr. Moynahan said that in past years they have had breakdowns; that some were quite lengthy. He added that this year the bottom line of each warrant article is really what is affected. He said that he and Mr. Lee chose, with the first presentation, to just have the overall costs of the departments but the tradeoff was to include what last year's appropriations were, etc.; that there's been a request to add more descriptor lines in the warrant articles.

Mr. Lee said that, if he had to determine some new series of line items to go into each of the departmental budgets and then break those out and calculate them and put them in, then this will not be ready tomorrow. He added that there was no chance he would be able to do that because he didn't even have a starting point. He said that, at the risk of sounding perturbed, to ask the Board at this late date to include those lines when the BC has not been able to even come up with one recommendation for one number in that warrant – where is their work in this and what are the line items they seek. He said that he would leave the warrant the way it is.

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Mr. Murphy asked if the Board and BC didn't have detailed printouts of each of the departments containing the final versions of the final amounts reflected.

Mr. Moynahan said that there was a whole budget spreadsheet provided.

Mr. Murphy asked if copies of that could be provided.

Mr. Lee said that it was very thick.

Mr. Murphy said that it would be good to show that we have all that information.

Mr. Moynahan said that the question was whether the Board wanted to add descriptor lines; that there were challenges with this administratively and to meet the Board's timeline and asked for Board input.

Mr. Murphy said no; that he thought the warrant articles, themselves, should be kept clean and simple and this pile of added information, which exists even now, could be made available to the citizens.

Board members agreed.

Mr. Reed said that if he understood the Board has added information giving context at the end of the warrant. He added that that sounded like a good thing but he thought to load it up with even more detail might cloud things. He said that if the Board has given context that was a significant improvement over last year.

Mr. Moynahan said that it was good to see what it was this year versus last year; that he thought that was some of the feedback the Board had gotten; that the departments had always asked to have their requests put in there and what the BC and Selectmen recommend, as well. Mr. Moynahan summarized that there had been some requests for information, the 9 AM timeline, the \$1,400 change the Board made and he thought everything else was complete. He said that he would entertain a motion from the Board to accept this warrant and we will have it available for signature by end of business tomorrow.

7:00 PM Mr. Dunkelberger moved, second by Mr. Beckert, that the Board of Selectmen accept the warrants, as amended.

VOTE

4-0

Chair concurs

7:01 PM Ordinance Governing Boards...Skype change

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Mr. Moynahan said that the Skype change was in Section 10 and was going before the voters and asked if Board members were all set to include this in the warrant.

The Board said yes.

Mr. Dunkelberger said that there was currently an initiative in front of the legislature to establish a State statute with regard to video-conferencing and the proposal is to allow it except on boards that are elected. He added that if the Board wanted to take a stand on that and convey that to MMA, as the lobbying organization, as well as our State representatives...

Mr. Moynahan asked for Board input.

Mr. Dunkelberger said that he thought it was positive that they are recognizing it but not that they are eliminating elected boards. He added that he would like to see this Board put forth an effort to eliminate that provision within the proposed law.

Mr. Beckert asked if they had any feedback as to the judiciary's reasoning.

Mr. Lee said that they have not looked into it a great deal.

7:10 PM

Ms. (Jean) Hardy said that, as a person who uses this technology, she would be concerned with what would be the technology the Town would be required to buy in order to allow video-conferencing and, then, how would the public have access to this.

Mr. Murphy said that he has heard some objections to allowing Skyping for any board that is quasi-judicial, which would involve the BOA, the PB, and sometimes the BOS; that if anything you do may end up in court as standard practice for some reason or another they don't want those boards allowed to do that. He added that the other side of this is that, now, some people want those boards to become elected in Town and they would not be allowed to Skype; that they currently are Skyping.

After further discussion, it was agreed that Mr. Dunkelberger would work with Mr. Lee to draw up a draft position for the Board to review.

7:18 PM

Several ordinances for the warrant

Mr. Moynahan said that the revisions to the proposed Drug-Free Zone ordinance reflect the concerns the Board had.

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Mr. Moynahan said that, with the citizen's initiative, the Board has an opinion from legal on this.

Mr. Moynahan said that the Board had language from the Planning Department on the Shoreland Zone but do not have what that change is.

Mr. Lee clarified that this would allow some expansion in the Limited Residential Zone. He added that the language, etc., was ready for Town warrant.

The Board agreed to move forward with these.

7:20 PM Policy for Home Heating Assistance

Mr. Lee said that he recommended approval; that he has worked with the G.A. Administrator on this. He added that he thought it was well-done and it was needed.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen approve the Home Heating Assistance Policy, as presented.

Mr. Beckert moved, second by Mr. Hirst, to amend his motion to include "with minor changes to follow".

VOTE

4-0

Chair concurs

7:21 PM ADA Improvement Grant – Front Door

This was for a power-assist front door for the Town Hall.

Mr. Lee said that the State would provide the Town with 80% reimbursement of the cost of making our facilities ADA compliant for the purposes of primary and secondary polling locations. He added that that would be up to a maximum of \$3,500. He said they had received a quote from Maine Accessibility Corporation; that the total cost for the power-assist door and power connection would be \$2,653.57 and an 80% reimbursement would cover all but about \$500. He said that the Town has funds available in a CIP; that this is a great opportunity to make a good improvement and he recommended it.

Mr. Beckert moved, second by Mr. Dunkelberger, that the Board of Selectmen authorize the Town Manager to move forward with these ADA upgrades.

VOTE

4-0

Chair concurs

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Mr. Moynahan said that the Board recognized that CIP funds would be used in this.

Mr. Lee recognized the Town Clerk for going after these funds and being proactive.

7:21 PM Town-owned Properties Policy proposed

Mr. Lee said that he had discussions with Bernstein Shur about this and found out that the Town was covered by the Maine Tort Claims Act for the first 60 days but after that the Town should put insurance on the properties. He also discovered that the attorney had just completed a policy on this for another town and the attorney sent it to him, adding that he has looked it over in depth and believes it is a very good policy. He suggested that, before the Town moves on the 11 properties the Town currently has, they put a policy in place that they follow. He recommended that the Board either begin to consider this as a first draft or adopt something like this in the very near future so that they could proceed with the actual disposition of these properties.

Mr. Moynahan said that maybe it wouldn't be for these properties but, moving forward for anything new that comes in. He added that the concerns the Board had at the last meeting was the taking possession, which they have answers to, but he thought they had given people some bad guidance based on misinformation the Board received. He said that he would look at this policy as moving the Town forward, not looking at the damage that was already done.

Mr. Lee discussed the need to view any property before the Town foreclosed on it to see what the property was because, even though the Town could waive foreclosure, they would have to do that before foreclosure took place and they didn't want to get burdened with property that would harm the Town.

Mr. Dunkelberger said that as soon as the Town forecloses on a property and whether the Town has possession of it or not, the Town still needs to insure it after the 60 days.

Mr. Lee agreed. He added that the Town should have these 11 properties insured now and would be one of his acts to do very soon – to tell MMA that these are the properties the Town has and add it right now until such time as the Town disposes of them.

Mr. Moynahan said that the other problem they would find when they went to insure is that the properties are occupied and that is a whole other issue.

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Mr. Lee said that his experience with MMA was that they were happy to add this during a calendar year and if the Town can dispose of these properties, then there is no charge to the Town for this calendar year; that if the Town continued to hang on to these properties coming up in the renewal, then they would have to charge the Town for these additional properties. He added that he thought that it behooved the Town to insure them right away and get rid of them right away.

Mr. Moynahan said that it may be wise to adopt the policy and, if they needed specific tweaks, it is a policy and policy change is pretty easy.

7:30 PM Mr. Dunkelberger moved, second by Mr. Beckert, that the Board of Selectmen accept the Town of Eliot Tax-Acquired Property Procedures and Policies, as written.

VOTE

4-0

Chair concurs

7:31 PM Establish timeline for executive Session – Dr. Breen, Jean Hardy, BOA

Mr. Rankie said that he would like to make a point of order. He acknowledged that there was a quorum of the BOA present but that he was approaching the Board as a private citizen. He said that, if there is an executive session, then he was requesting his right to have any allegations or charges made against him to be conducted in open session in accord with 1 M.R.S.A. §405 (he gave the Board a written request for this). Additionally, he said that it was not clear to him from what little he knew about the Sweet Peas thing but it appears Ms. Hardy and Ms. Breen are not owners of Sweet Peas, LLC. He also said that if they do intend to bring charges or allegations against him, personally, that the Board insist that they present a notarized document that authorizes them as agents for this property because they are not owners.

Mr. Moynahan said that the Board would take that under advisement; that a request for open deliberation is allowed. He added that the Board was looking to decide a timeline for such a meeting to discuss some of the concerns that have been raised and allegations that have been expressed. He said that there was quite a bit of information.

The Board discussed available dates and decided on April 10.

7:35 PM Mr. (Ed) Cieleuszko, BOA Chair, said that he asked the Selectmen to not go into executive session, not have open session – just tell them no; that these are foolish charges that are a waste of your time, mine, the Board's, the Town, everything. He said just to tell them it's over.

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Mr. Moynahan said that he thought any conversations like that will happen at a meeting with all parties that are mentioned are involved. He added that he thought, in fairness, that was the way to do that so that everyone was on the same page.

Mr. Rankie agreed with Mr. Cielezsko; that if you simply read the charges brought against me, personally, and go to page 10 of the minutes of our meeting of February 20th, you can very clearly read every single word that he (Mr. Rankie) spoke and then you can read the allegations that were presented to you of what he (Mr. Rankie) did; that you can see exactly what our Chairman just said to you that this is just foolishness that doesn't resemble the truth. He added that he thought it was possible for the Board to ascertain whether this is foolishness or if there are some grounds for taking all of our time before you look at it. He also added that he didn't know if he would be available on that date (April 10).

Mr. (Jeffrey) Cutting agreed, saying we're volunteers here and our time is being taken up. He asked why we didn't just discuss this tonight right here in open session and then tell them to stop – it's enough.

7:37 PM

Ms. Hardy said that she made the complaints; that she made a complaint separate from Dr. Breen. She added that she thought she had very valid complaints; that she thought she had the right to question some of the actions that have transpired. She said that she didn't think it was a matter of taking time but a matter of her rights as an individual, as a taxpayer in this Town, to question some of the actions of the Board (of Appeals); that she didn't think that was unreasonable. She said that if the board members did not like this questioning they can always quit – that's the bottom line.

Mr. Cutting said they had due process through attorneys; that that was the way they should be handled.

Ms. Hardy said that this is not an appeal.

Mr. Moynahan said that this was specifically sent to the Town with some concerns; that he and Mr. Lee looked at this that they would bring something up; that they attempted to one other time and they will continue on the process that was started. He added that right now tonight he thought that the Board was trying to get dates for that, clarifying with Mr. Lee that that was where they were the last time.

Mr. Lee said that he thought the issue last time was that Ms. Hardy showed up representing Dr. Breen and so we did not proceed at that point. He added that, now, this one is from Ms. Hardy and it is combining both complaints. He said that the decision tonight is will the Board hear this at all, and when. He said that, for

BOARD OF SELECTMEN'S MEETING

March 27, 2014 5:30PM (continued)

his part, he felt badly and could sympathize with the BOA that they have to take time and defend themselves on charges. He added that, on the other hand, he did understand Ms. Hardy's rights to bring charges or complaints against individuals. He said that he believed it was up to the Board whether or not they will proceed with this complaint. He said that the thing that concerned him the most is that we don't seem to have any other evidence or any other complaints against any of the members, thus far, over quite some period of time; that this seemed to be a singular incident. He added that if this is being handled in executive session as a personnel issue, which in essence it is, as the outcome of that hearing would be to remove people from the BOA if you found Ms. Hardy's and Dr. Breen's complaints valid; that that would lead to their removal from the BOA. He added that a singular incident, even if there was something askew, generally wouldn't lead to removal of a person and so, to some extent, he tended to agree that this really is asking a lot of our BOA, who are volunteers. He added that he agreed that they can step down if they don't like this kind of heat. He added that, on the other hand, he didn't know that we're going to replace them any time easily because it is not a fun board to serve on, in any event. He said that he tended toward encouraging the Board to call an end to it now or have that hearing right here and now because he was fearful that we won't have, structurally, a BOA after this is done.

7:40 PM

Mr. Dunkelberger said that he absolutely agreed that the Board should listen to the complaints and whether the Board takes any action is up to the Board; that he thought Mr. Lee was going far to the extreme as far as removal of board (BOA) members, particularly based upon a singular incident. He added that he didn't exactly know what the complaints...he's read some of the material but it didn't provide him enough background or enough material to kind of give him any idea about whether any action should be taken. He added that, having said that, he didn't think there was enough in front of the Board, in written material, for them to continue this discussion tonight.

Mr. Moynahan said that that was not the intent or they would have had files with all the back-up documentation.

Mr. Lee said that he was not prepared to do anything tonight; that it was actually to decide if the Board would hear it and when would the Board hear it.

Mr. Dunkelberger said that he would certainly be willing to come in next week just to take care of this, and anything else, before he went on his trip.

Ms. Hardy said that she could not do that; that she would be in Oklahoma City.

Mr. Dunkelberger reiterated that he thought that Mr. Lee was kind of speaking in extremes; that he certainly didn't feel the same way that Mr. Lee did.

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Mr. Moynahan said that he thought that was the level of detail **in the letters** and that was where he was going with an action from a board.

Mr. Dunkelberger said that that was the potential extreme action of this Board but, based upon everything he has seen and read he was certainly not prepared to go to any of those extremes.

The Board agreed to schedule this to be heard.

Mr. Moynahan suggested April 10th and reminded the Board that they had a written request from one member to be in open session. He added that any of the parties involved with it has the option to have it in open session or executive session; that the Board may have more than one if some want executive session and some want open session.

Ms. Hardy said that she, personally, would like to have an executive session. She said that her intent in making her complaint was not to trash anybody's reputation, not to harm anyone, but to look at some of the issues. She added that she thought sitting there with the Selectmen in a calm manner and talk about some of the issues that have been raised might be more productive than an open meeting. She reiterated that that was just her personal thought; that she didn't want to go to the extreme of having people removed. She said that that was not the intent but thought some of the actions do need to be looked at, and some of the reasons; that there is this hostility that she was sensing.

Mr. Moynahan said that they wouldn't get into too much detail.

Ms. Hardy said no but was just telling the Board where she was coming from. She added that she would personally prefer an executive session.

Mr. Moynahan said that there was one right now that was not going to be in executive session, for sure.

Mr. Cielezsko said two not in executive session; that he wanted his in open session.

Mr. Moynahan said that it would have to be submitted in writing if they were going to do any of that stuff. He said that they were scheduling it for April 10th and asked Board members what time they wanted to hold it.

Mr. Cielezsko asked why the Board was hearing these complaints if removal was off the table. He asked what they were going to do – tell us not to do it again. He

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March 27, 2014 5:30PM (continued)

asked what result was this meeting going to accomplish – a better understanding for them.

Mr. Moynahan said that that could be.

Mr. Cielezsko said that he could talk to them all day...if you guys need an understanding about what we do on the BOA. He asked why they needed this. He said that the Chairman didn't need to answer him but asked that they decide why they had to have these complaints and this meeting when there is no ramification of it. He asked if everyone was going to feel good after this; that his reputation is already hurt by this; that he didn't like this at all. He added that it is very serious to him and he didn't like all the members of his board being put through this. He said that this is a waste of time and it is sullyng all of us...just this nice, private little get-together so they can be happy.

Mr. Moynahan stopped the conversation and said that it is part of the process that the Board is tasked to do; that with a request we got Board consensus to move forward with something; that that was how it works.

7:46 PM

Mr. Rankie reiterated that all the Board had to do was look at page 10 of the BOA minutes to see how factually unsound this paper the Board has been sent is. He added that, not only that, but take a look and see that two of the BOA members' names are not even spelled correctly in a couple of different places and it would start to give them an idea of what kind of a thing that's been thrown at the Board.

Mr. Moynahan said that the Board would take all that into consideration when they have the conversations and will try to have as much information for the Board prior to for review so that everyone had the information they needed for the Board to decide.

Mr. Cutting said that all the members have served tirelessly on this board (BOA); that he had been on the BOA for five years and Mr. Cielezsko has been on the BOA much longer than that; this gentleman right here the same. He added that they have done very well for this Town; that there has been no litigation and the fact of the matter is that there have been no complaints. He added that there have been a lot of people who have been told no and that's their board; that that's what they do – tell no to people because the BOA has to uphold the ordinances of this Town voted on by the people of this Town, and we do that every single day. He said that that's what we do; that we're the 'no' board; that sometimes we like to say yes but that's very hard to do based on the ordinances the way they are. He added that, unfortunately, some people don't like that. He said that, unfortunately, they don't like that but is that a reason to drag us all through the mud – because we told them no. He said that that's wrong and he would hope the Board would

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March 27, 2014 5:30PM (continued)

take that into consideration; that there's a brand new member who just started on this board and he's being dragged through the mud, too, and it's not right.

Mr. Moynahan said that the Board would listen to everything and, hopefully, it can be a calm and responsible and respectful meeting when we all get together; that they would just try to control the discussions and move on from there. Mr. Moynahan said that the meeting would be on April 10th at 6:30 PM; that it appears as though it will be all open meeting but everything would have to be in writing with requests made by members. He apologized to all parties involved for this whole thing; that we would do our jobs now, move forward, and get beyond it.

7:48 PM Establish Liquor License Renewal Public Hearing, April 10 at 5:30 PM

This was regarding a renewal for the Shipyard BrewPub I LLC. The Public Hearing was scheduled for April 10 at 5:30 PM.

G3. Public Works

7:49 PM MDOT Project; Dover Road; Overweight Vehicles; Bond?

Mr. Dunkelberger said that his only question was how much they would ask for a bond on this.

Mr. Lee said that he had hoped to have more conversation with the DPW Director on this about what amount might be in order and he has not had that opportunity; that he wasn't sure they should act on this right now or not.

Mr. Dunkelberger said that, personally, he was fine acting on it if we can get an appropriate number to fill in with regard to the bond.

Mr. Lee said that this action is to say that, yes, the Board does require a bond and, then, he thought subsequent discussion might be the amount of that bond.

Mr. Dunkelberger moved, second by Mr. Hirst, that the Board of Selectmen that the Town of Eliot require a bond for potential damages to the road by the heavy equipment movement, with the amount to be determined by the Department of Public Works in conjunction with the Town Manager.

VOTE

4-0

Chair concurs

At this time, the Board signed the document.

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G4. Public Safety

7:52 PM Update: Fire Station Roof – RFP

Mr. Lee said that that bid was out; that he thought they had a pre-bid meeting on April 10th and be back before the Board, he thought, on April 24th for awarding.

7:53 PM Update: Hiring of Harbor Master

Mr. Lee said that the Town was taking applications through April 15th. He added that on April 10th he would like to discuss with the Board if they would like to approve some sort of a hiring committee. He said that he wouldn't often do this but, even if it's informal, he would like to get 2-3 other people sit in on any interviews because he was not very familiar with Harbor Master. He suggested the Police Chief, possibly Harold Place, possibly Mike Blake or something like that might be helpful because he would like to make sure they do it right and represent the interests of the Town; that he didn't feel singularly skilled enough in this area to know what would be the best applicant.

7:55 PM Fire Dept. Request re: Grant Reimbursement

Mr. Lee said that, normally under gross budgeting, when you receive reimbursement it goes into the General Fund and it disappears, and that is kind of the downside of when you get reimbursements. He added that, in this case, the Fire Department has to buy this out of its budget and then some money comes back but it does not go back into their budget, which they thought it would. He added that under the old system it would have gone back into their budget and been available for other planned expenses. He added that he didn't think it was that big a problem to do on individual cases as long as they primarily shoot for gross budgeting. He would like to have the Board authorize that, when the \$1,450 was returned, it be credited back to this year's operating account so that they (F.D.) can use it in the planned manner that they had in mind.

Mr. Moynahan said that with grants it was hard to estimate that revenue; that this would be an example of how gross budgeting really is not an ideal situation.

Mr. Lee agreed that there were times when it worked against you and there were times when it certainly provides a disincentive to go out and seek grants because, if you get the grant, you paid for it out of your operating budget, and then the General Fund gets it back.

Mr. Moynahan asked if that wouldn't be an easy policy from the Finance Department to have – any grant reimbursements would be handled in 'this' manner to have departments reimbursed.

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Mr. Lee said that that would be nice to do.

Mr. Dunkelberger asked what this grant provided.

Mr. (Jay) Muzeroll said that this was awarded through the Maine Forest Service and this year it was for the replacement of four pagers, replacement of 5 Gallon pails of Class A Foam, and a Self-Supporting Frameless Water Tank to work in conjunction with their forestry equipment. He explained that the basis for all of this was that it had to be in some way related to being able to be utilized for the urban interface, or grass fires, or woods fires.

Mr. Dunkelberger asked Mr. Muzeroll if he already budgeted for the \$2,900 or did he budget for the Town's portion of that.

Mr. Muzeroll said that he had planned on utilizing some money, whether it was EMA money or budget money or a combination of things for pagers. He added that, with the 5 gallon pails of foam, any chance he got an opportunity to buy foam at a reduced price he tried to get it from the State. He said that the self-supporting tank was something he's been after for a couple of years but haven't been able to get them to fund that and \$1,000 out of his budget for something that may be utilized once a year, or occasionally, was not a priority. He asked if that answered Mr. Dunkelberger's question.

Mr. Dunkelberger said no.

Mr. Muzeroll – did he want this stuff out of his budget, to begin with, and this grant came along and then diverted funds – negative...well, he shouldn't say that; pagers, yes, and...

Mr. Dunkelberger said if this was just an opportunity and Mr. Muzeroll was taking an opportunity to add some more to it...he was just wondering. He asked if, for this coming year, did he plan a similar expenditure.

Mr. Muzeroll said that he had planned to buy pagers, one way or the other; he planned to buy foam one way or the other and, if he had money at the end of the year to buy a portable tank from the accumulation of accounts, he would do that. He said that this gives him an opportunity to expend that money and retrieve half of his cost to be used for other items, such as hose replacement, etc.

Mr. Dunkelberger said that he thought that was a good initiative but he didn't like to set an automatic reimbursement when they get something like that, particularly if it happens at the end of a fiscal year; that you didn't want to be spending money just because you've got it and you have to spend it.

BOARD OF SELECTMEN'S MEETING
March 27, 2014 5:30PM (continued)

Mr. Lee didn't disagree.

Mr. Moynahan said that a policy would detail that but that was a work in progress. He added that they were dealing with one example, on hand, and as they come through the Board can clean up any of those question marks.

Mr. Muzeroll clarified that none of these purchases have happened yet; that they have to happen by June 30 of this year for reimbursement. He added that in years past where he was pretty sure that he was going to have enough money to cover a pager purchase, for instance, then he pre-ordered but now with gross budgeting he wanted to make sure they were doing things in accordance with the new gross budgeting process.

Mr. Dunkelberger asked, if they get reimbursed at the end of June, would Mr. Muzeroll then have additional money for his 2014/2015 budget.

Mr. Muzeroll said that he planned to expend it well prior to the end of June so that he could use it within this year's budget.

Mr. Lee said that it was for use in the 2013/2014 budget, not into a future budget; that that would really mess them up. He added that that reimbursement may not come in until August, which would be into the new year, but it would be credited back to the final tally of the 2013/2014 year.

8:05 PM

There was discussion regarding a missing page within the grant agreement that had to do with guidelines. Mr. Muzeroll will supply the missing page to Mr. Lee for dissemination to the Board.

Mr. Hirst moved, second by Mr. Beckert, that the Board of Selectmen reimburse the grant money back to the Fire Department 2013/2014 budget, once the grant funds come back in.

VOTE

4-0

Chair concurs

New Business (Correspondence List):

8:07 PM

#1

TO : Board of Selectmen
FROM : Town Manager (no correspondence)
REF : Retirement of Tax Collector

Mr. Lee said that the current Tax Collector, Pat Levesque, is getting done on April 4th and asked the Board, on an interim basis, to make an appointment pursuant to Title 30 M.R.S.A. §2602 to appoint Dana K. Lee as Tax Collector for

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a term of April 4th, 2014 through June 30th, 2014, just for the balance of this year. He added that on April 4th the forms that follow this will be the Settlement Form and the Recommitment Form. He discussed the forms for the benefit of the attending public audience. He said that they had a plan in place with having a person on an interim basis for three months to try to learn the job and see if that person is ready to be promoted; if so, they would go through this again on or about June 30th to recommit those funds to the new Tax Collector permanently, remove himself as Tax Collector, and replace that position. He said that at this point in fairness to Ms. Harvey, who is in play here, and the Town Clerk, who has enough on her plate, he should probably take this on temporarily until they make a permanent move.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen appoint Mr. Dana K. Lee, pursuant to Title 30 M.R.S.A. §2602, as Interim Tax Collector for the Town of Eliot for the term of April 4, 2014 through June 30, 2014.

VOTE

4-0

Chair concurs

Old Business (Action List):

This was not 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

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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
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

Selectmen's Report:

8:10 PM Mr. Moynahan said that he had a Report of the Board of Selectmen for the Town Book in front of the Board.

The Board agreed this report should be submitted as written.

Other Business as Needed

There was no other business.

Executive Session

BOARD OF SELECTMEN'S MEETING
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There were no executive sessions.

Adjourn

There was a motion and second to adjourn the meeting at 8:11 PM.

VOTE

4-0

Chair concurs

DATE

Mr. John J. Murphy, Secretary