

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM**

**Quorum noted**

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

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

**Absent:** Mr. Dunkelberger.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**Approval of Minutes of Previous Meeting(s)**

**5:32 PM** Motion by Mr. Beckert, seconded by Mr. Hirst, to approve the minutes of March 27, 2014, as amended.

**VOTE**  
**3-0**  
**Chair concurs**

**Public Comment:**

**5:34 PM** There was no public comment.

**Public Hearing on Liquor License Renewal – Shipyard Brewpub**

**5:35 PM** The Public Hearing was opened.

There was no one who wished to speak for or against this renewal.

**5:36 PM** The Public Hearing was closed.

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen grant the request for a liquor license renewal of the Shipyard Brewpub I LLC for another year.

**VOTE**  
**3-0**  
**Chair concurs**

**Department Head/Committee Reports**

**G1. Sewer Committee**

**5:36 PM** Grant Hirst, Reg. Member – Janet Hastings, Alt. Member

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

Mr. Lee said that Ms. Hastings has had difficulty attending SC meetings due to her work schedule and the SC is requesting the BOS to make Mr. Hirst a full member and Ms. Hastings be made an alternate member.

Mr. Hirst discussed that he had been a full committee member; that he stepped back to alternate because of criticism regarding the number of Selectmen on the SC; that he would be willing to step down if somebody else would be willing to step up.

The Board discussed the perception issue and the difficulty of getting volunteers from the community to fill these volunteer positions.

**5:38 PM** Mr. Lee suggested using an e-alert system or bulletin board at Town Hall that list current openings on committees and boards on a regular basis to let the community know that the Town was actively seeking volunteers for openings.

Ms. (Nancy) Shapleigh discussed the possibility of having electronic signs in Town to keep residents current.

After further discussion, the Board agreed to have Mr. Lee look more closely at committee membership, both alternate and regular members, before making any changes.

**G2. Administrative Department**

**5:43 PM** Ron Smith, R<sub>H</sub>R Smith & Associates - Audit Review 12/13

Mr. (Ron) Smith and Mr. (Chris) Backman were present to discuss this review.

Mr. Backman discussed page 15 of the audit, which covered the balance sheet of the Town of Eliot as of June 2013 and, in the left-hand column the general operating fund, which lists the Town's assets of \$2.4 million, other liabilities of \$80,000, deferred inflows of \$364,000, which leaves the Town's fund balance at \$1.965 million. He added that the fund balance ended approximately \$50,000 lower at the end of that year. He also added that MMA guidance was that the Town's fund balance should have the equivalent of 30-90 days in their operating budget; that the Town's fund balance equates to approximately 15% of the operating budget (about 55 days).

Mr. Moynahan said that the Town was trying to move to \$2 million from \$1.5 million in the fund balance.

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

Mr. Smith agreed the Town would want to stay at that level; that that level allowed the Town options and, in going below that, it would be hard for the Town to get that money back.

Mr. Moynahan discussed a question from a Board member who was not present, asking if the school debt payment should be included in the unreserved fund balance on the Town level.

Mr. Smith said that, if MSAD #35 were to have a change in ownership in its municipal make-up the Town would be obligated, by State statute, for that debt, so the Town's fund balance should take into consideration the education piece, as well.

Mr. Hirst pointed out that the Town's monthly bill for the school is \$686,000.

Mr. Moynahan asked, regarding deficiencies, if the auditors saw any accomplishments and/or improvements made by the Town this past year, if the Town was going in the right direction.

**5:47 PM** Mr. Backman agreed that they certainly were. He discussed the challenges of the first audit and the differences with the second audit, such as changing the charter accounts, bringing outside department activities into the Town, implementing internal financial controls.

Mr. Lee discussed grumblings he heard when he first arrived about the audit being late. He added that, as he understood it, the first draft came in as it should and asked if they could hear from the auditors about why the process was delayed and how we could do better with that.

Mr. Backman said that he believed the draft was in either November 3<sup>rd</sup> or 4<sup>th</sup>.

Mr. Smith said that they tried to schedule a pre-audit and because of all the Town's turnover, the Town didn't have them in. He added that they were two days late with the draft but they were a month late getting into the Town. He also added that, with the draft submitted, they (auditors) did not have any correspondence from the Town; that they had to initiate correspondence with the Town, waiting two more weeks to hear back from the Town.

Mr. Moynahan agreed there were challenges last year but they weren't going to dwell on that; that he thought the auditors would have a good working relationship with Mr. Lee to assure the timelines will work for both parties.

**5:51 PM** Mr. Hirst discussed page 5 of the audit regarding business-type activities that include Sewer and Community Service funds. He said that it was indicated that

## BOARD OF SELECTMEN'S MEETING

April 10, 2014 5:30PM (continued)

these should be all or mostly self-supported; that Community Service had a net loss of \$28,455 and asked if the auditors could tell the Board what that was for – did that represent money due for services promised.

Mr. Backman said that the Community Service fund has always been classified as an enterprise fund, which classification is defined as self-supporting.

Mr. Smith added that self-supporting included no property tax dollars. He said that he thought the \$28,000 being discussed was current-year activity; that there were surpluses carried into the Community Development Fund from previous years so, in total, it is still self-sufficient but prior-year income was used to make it self-sufficient for the current fiscal year.

Mr. Moynahan said that there was always a void then replenished by the fee structure that is set up in that department.

**5:53 PM** Mr. Hirst discussed the accounts receivable for the sewer fund, asking if the \$80,823 was money in the current aging or was that money that may be uncollectible.

Mr. Backman said that he thought that was probably the bills that went out on July 1<sup>st</sup> and the service was for April through June; that the current \$80,823 was not necessarily greatly aged.

Mr. Smith said that, even if it was, the Town had a perfected interest under State law; that the Town could put a lien on property for that; that delayed payment rather than uncollectible was the better term for this. He said that they would give Mr. Lee a breakdown of what is current and what is aged.

Mr. Lee said that he has worked with Mr. Smith in two other towns; that he has talked with him about financial policies and internal controls and that the auditors would help put in place a fund balance policy, investment policy, money-handling policy, internal controls, etc.; that one of the things they would be working on in the next several months are a set of financial policies by which the Town did all of their things. Mr. Lee commented that, regarding the pre-audit, the auditors spoke to that rather gently; that to the extent that a town is not ready with pre-audit materials it really throws the auditor's schedule off and he thought that because of the Town's transition, and other issues, he didn't think the Town was very well prepared to have the auditors here when the Town should have been.

**5:55 PM** Mr. (Bob) Fisher discussed his understanding of the use of unreserved fund balance for emergencies, such as when the Millinocket mill burned down, and asked for an example of what, in Town, would be a problem we wouldn't be able to pay for.

## BOARD OF SELECTMEN'S MEETING

April 10, 2014 5:30PM (continued)

Mr. Smith discussed the Town fund balance, what he would call stabilization money, which is the money the Town is able to use to stabilize the mill rate by using money to reduce property taxes in the following years; that it is at about 60 days. He commented that a lot of things down here in Eliot are beyond Eliot's control; that one is revenue-sharing, another is school systems with shrinking revenue from municipalities leaving school systems; that there is a lot of shrinking of funding dollars around the State that is indirectly impacting the Town of Eliot and other municipalities; that Eliot needed to put itself in the best position possible. He added that he wanted to see Eliot stay in the 60-day position because of all the uncertainty in the State.

**6:00 PM** Mr. Lee agreed regarding a commercial tax base being lost and the serious impact that would have on a town. He said that that was not really the case in Eliot because Eliot has a fairly diverse tax base, which is good. He added that if they had a natural disaster (train derailment in Canada) it would be a while before any money came in to help and the fund balance would be called on for that, as well.

Mr. Backman said that there were some who thought a town should not include the school portion of the budget in the 30-day to 90-day fund; that it was their opinion that Eliot should.

Ms. Hardy asked if the auditors could suggest how to reduce the school budget.

Mr. Smith urged everyone to go the public hearing for the school budget and voice their concerns.

**6:04 PM** Town Manager Activities Report

This is informational.

**6:05 PM** LD1 Calculation – Legal opinion, Bernstein, Shur & Nelson

Mr. Lee said that he thought this and the next item (Budget Update – LD1 Overage) went together to some extent. He said that the legal opinion basically said that the way the Town calculated LD1...and the question really was who could decide whether the loss of municipal revenue sharing could be added in to the LD1 and that is what the legal opinion addressed. He added that it boiled down to the municipal officials have to make that decision. With regard to Item #4, he said that he had some interactions with Mr. Pomerleau and Mr. Pomerleau pointed out a couple of things; that as a result Mr. Lee provided the BOS an amended warrant, which changed by about \$3,500 from what was in the Town Report Book last year, and that rippled through the LD1 calculation the amount that would need to be cut if one was trying to get to the LD1 Cap (\$214,221) and so that number has gone up a little bit. He reiterated that the way they did the

**BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

calculation, the loss of revenue sharing, is a municipal officer's decision to include and that is what Bernstein Shur was advising the Town.

Mr. Moynahan said that that was the advice they were looking for, to make sure they were doing things right.

Mr. Lee added that he thought they were in agreement, now, that what we've done is proper and the numbers that are out there are proper and we know what the goal is if one is trying to achieve LD1.

**6:08 PM** Sign Warrant – All recommendations included

Mr. Moynahan said that the warrant now included the Budget Committee (BC) recommendations and some numbers are changed so it is a complete package and it was thought it would be wise to re-sign the warrant. He asked if the Board would sign this warrant and not utilize the last one that was signed because of these last minute changes.

Mr. Lee clarified that there were two – one for Ms. Thain, which is a 6x9 version to go into the Town Book, and the other was for the Town Clerk to use for posting purposes. Mr. Lee discussed the challenges moving to gross budgeting this year and thanked the BC for their patience; that he thought this was a big step towards clarity in the budgeting process.

Mr. Moynahan agreed that he thought they were in a great position moving forward.

The Board signed the amended warrant at this time.

Ms. Davis asked if the commentary had been removed from the citizen petition.

Mr. Moynahan said yes.

**6:11 PM** Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen move forward the warrant, as amended.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moynahan said that he didn't think the Board needed the motion, as they had already done that, and that was why he had not asked for one.

Mr. Lee said that he was just trying to be careful.

## BOARD OF SELECTMEN'S MEETING

April 10, 2014 5:30PM (continued)

**6:12 PM** TIF – Town Manager Report – Legal opinion Bernstein Shur, Alternative Projects

Mr. Lee said that Bernstein Shur sent the Town a substantial list of projects that have been done both for existing TIFs in Maine and in towns that had wind projects that he didn't believe helped Eliot a lot. He had a list of 16 alternative projects and read the list for those present (list available at Town Hall), saying that the ideas came from members of the public, members of the SC, the EBDC, PB and others. He added that the list were alternatives submitted to him along with many suggestions from Bernstein Shur, such as micro-loans or harbor walks. He said that, if the citizen petition passed on the Tuesday, they would probably want to schedule a public hearing or two to discuss these alternatives.

Mr. Moynahan said that Mr. Lee had been tasked to head this TIF and asked if Mr. Lee had specific thoughts on what may be a good project or what the Board could potentially offer to him for information.

Mr. Lee said that he had been here eight weeks; that he didn't know the community and didn't know what they were after; that he had discussions with some folks about the opposition to the Route 236 sewer line. He added that, although it isn't in the TIF area, there is the idea of an Eliot village development; an idea of making improvements down by the harbor side to make that a desirable place to visit. He said that he thought they would have to change where the TIF money would be allocated, change the map. He added that it didn't have to be contiguous.

There was discussion around a citizen committee to work on ideas.

Mr. Lee said that his thought would be to have a good public forum where we all talk about what could be done and which way everyone wanted to pursue, which one or two float to the top and, then, maybe have one or more committees looking at one alternative, which might be harbor side improvement or an Eliot village-type scenario. He added that, at this point, he was just reporting out and thought for a future agenda they should talk about establishing public hearings sometime after June to begin to look at these alternatives.

Ms. (Carol) Selsberg said that she had proposed at the public hearing a vocational school and that wasn't mentioned; that she thought there would be committees after that public hearing to do the research and come out with a report; that she didn't see more public hearings doing much more than what has already been done until a smaller committee is formed to really do the research.

Mr. Moynahan discussed concerns about forming another committee around this because the last one was not successful.

**BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

**6:18 PM** Ms. (Rebecca) Davis suggested they not wait until June and start working to develop feasible alternatives; that they get together for at least one informal meeting to discuss additional ideas.

Mr. Moynahan said that they had a specific sewer TIF and, until the petition passed, it was kind of premature. He added that if the petition passed to eliminate the sewer project then they had eighteen months to come up with alternative projects. He asked the Board members if they wanted to consider other avenues at this point in time.

**6:22 PM** Mr. Murphy said that they appointed the Town Manager to be the focal point for any ideas and suggested that anyone who had a new idea or wanted to talk about it then present it to the Town Manager in the way that people have been doing in the past few weeks.

The Board agreed that Mr. Lee should remain the focal point and that people should submit any ideas to him; that they encouraged people to do that.

**6:25 PM** Appointment of Election Clerks

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen appoint the Election Clerks, both Democrat and Republican, as requested by the Town Clerk in the listings she has provided the Board of Selectmen, to serve from 2014 to 2016.

**VOTE**

**3-0**

**Chair concurs**

The Board signed the appointment papers.

**6:26 PM** Consolidation of Accounts, with signature authority

Mr. Moynahan said that this had to do with streamlining Town accounts.

Mr. Lee said that one issue is that, at present, the Finance Director reconciles 36 different investment accounts, ranging in amounts of a few dollars to thousands; that their intent would be to consolidate these funds with a number of them going into one fund called 'Reserve Funds'. He explained that the money went in in proportionate amounts, with the 'Reserve Fund' including such sub-funds as Town Facilities, Fire Truck, Legal, Sewer Capital, etc.; that the opening balances would get sub-accounted by the bank, which means all interest accrued would be proportionately distributed according to the starting balances. He discussed the other accounts and the sub-accounts within each one. He added that he drew up a motion because when one does this kind of thing it requires a fair amount of care.

**BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

Mr. Hirst asked if this meant that all Town accounts would finally be under the TRIO system.

Mr. Lee said yes, every one.

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen adopt the following protocol to authorize consolidation of accounts: to authorize Eliot's Town Manager and Finance Director to collectively close the accounts, as detailed in the 'table' with all interest earned and to receive and sign such checks or authorize such online transactions as may be necessary to transfer said funds; and to open five accounts named "Eliot General Fund", Eliot Capital Projects Accounts", "Eliot Trust Funds", "Eliot Reserve Accounts" and "Eliot Payroll Account; and to deposit all said proceeds from said closed accounts into the five above-described accounts in such manner as detailed in the 'table', with the following caveats: Dana K. Lee, Town Manager/Treasurer, Rebecca Bergeron, Finance Director, and Wendy Rawski, Town Clerk only are permitted to be signatories to all Town of Eliot accounts; the Treasurer, with advice from the Finance Director, will seek written proposals to obtain the most secure, most liquid and highest yield opportunities for the management of Eliot's cash, reserve, and funds as may be deemed practicably appropriate in his opinion; and any and all new accounts thus opened with existing or new financial institutions shall be required to provide such monthly information as to be able to distribute proportionate interest earned to each initial capital reserve, reserve, or trust fund account such that equity and fairness in the initial investment is ensured; that all said funds are to be FDIC insured and/or collateralized with quality instruments beyond applicable FDIC insurance amounts; and the Board of Selectmen shall have final authority over any such consolidation of accounts, and may cancel, amend, negotiate, or otherwise change any such consolidation and investments as may have been arranged by the Treasurer.

**VOTE**

**3-0**

**Chair concurs**

**6:33 PM** Jean Hardy/Edith Breen – Complaints against Board of Appeals Members

Mr. Moynahan said that this was a public hearing. He added that there was a police officer in the room tonight for this; that everyone would be civil with any discussions; that any questions would stay strictly to the complaints that are on record; that nothing outside of those complaints would be discussed. He said that they would listen to Dr. Breen and Dr. Hardy first then the Board of Appeals members.

Mr. (Charles) Rankie raised a point of order regarding his request the Ms. Hardy and Ms. Breen submit notarized documents that authorized them.

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

Mr. Moynahan said that the Board did get them.

Mr. Nadeau asked if members of the public would be able to address interested parties.

Mr. Moynahan said potentially.

Ms. Hardy stated her objection to this, saying that this was never meant to be a public hearing; that she had rights just as the Board of Appeals members have rights; that this is not a public hearing, this is her complaint and hers only. She added that if others in the community wished to make complaints or write letters of support then let them do so. She reiterated that she also had rights and objected to this being a public hearing.

Mr. Moynahan clarified that, when there is a complaint against a Town employee or a member of a board or committee those members have the ability to have those complaints heard in executive session or in a public setting, and all members have asked to have the meeting held in public setting. He added that that was the process he had to follow and that was how they would handle the meeting this evening. Mr. Moynahan invited Ms. Hardy to speak to the concerns she raised in her correspondence.

**6:35 PM**

Ms. Hardy discussed her complaints. She read an email from a friend expressing concern over Ms. Hardy's treatment at the February 10<sup>th</sup> BOA meeting; an outsider's view that was not asked for. She also said that proceedings must be conducted consistent with due process – fair and not pre-ordained. She discussed ex parte communication she felt had happened as it related to Sweet Peas. She discussed specific complaints: Mr. (Bill) Hamilton discussed Consent Agreements and Sweet Peas near the end of the BOA meeting, sounding to her disgusted with Sweet Peas, and she felt there was bias on his part; Mr. (Jeff) Cutting – made a statement at the January BOA meeting that he created Everett Lane, clarifying that her late husband did that and, as a BOA member, Mr. Cutting had a fiduciary responsibility to make statements that are correct; Mr. (Ed) Cielezko – Sweet Peas filed a motion to reconsider from the September 2013 BOA decision; that they were told they would have to use a specific form and pay a \$150 fee and they could not find that in the zoning. She discussed a phone call she had with the BOA Chair and said that he yelled at her during that conversation regarding the zoning requirements then, a couple of days later, they were told there was no fee. She said that the motion to reconsider was never heard. Ms. Hardy said that her complaint in all of this was that the processes were not being followed. She discussed a statute (Title 30-A§2607) that imposes a fine against any municipal official for neglecting or refusing to perform a duty of office. She discussed her complaint against Mr. (Peter) Billip. She said that he was the broker on the

## BOARD OF SELECTMEN'S MEETING

April 10, 2014 5:30PM (continued)

property between her late husband and ARC and failed to disclose that until the February meeting.

**6:45 PM** Dr. Breen discussed her complaint, saying that she was very concerned that there were two sets of rules in this Town – one that applied to the ‘good old boys’ and one that applied to herself, Ms. Todak and Ms. Hardy. She said that Mr. Cielezsko twice called her a liar and that was very distressing coming from a Town official. She added that the whole atmosphere here is very intimidating and designed to be so; that she did not believe they could get a fair hearing. Regarding Mr. Cutting, she said that his comments at BOA meeting regarding Everett Lane reduced her confidence they would get a fair hearing at following BOA hearings. She discussed her dismay with the BOS when they had made a motion and second at their meeting (regarding Sweet Peas LLC) and then allowed Mr. Cielezsko to speak to that motion and, as a result, the BOA backed down from the vote. Ms. Breen said that she would like to see the BOA become a fair and objective board that everyone could count on getting the same fair treatment.

**6:50 PM** Mr. (Bill) Hamilton, BOA member, discussed his years of experience on various boards and committees and felt very strongly that the Eliot BOA is probably the fairest and most objective board he has served on; that their deliberations were without prejudice. He added that there were certainly no ex parte communications; that the BOA Chair made that very explicit regarding member conversations outside of meetings, through emails, or through telephone calls. He said that the reference to his ex parte communication at the January BOA meeting was totally inaccurate; that the BOA has been discussing Consent Agreements (C.A.); that near the end of a BOA meeting they discussed C.A. and one example used was of an attempted C.A. with Sweet Peas; that he was not disgusted with Sweet Peas and had no knowledge of Sweet Peas other than through the BOA proceedings. He added that he felt insulted by this entire accusation and has never had his credibility examined in this ridiculous way before; that this deliberation was frivolous and unnecessary. He said that he felt the BOA had handled the situation completely above-board, with no ex parte communication and very civil; no sense of intimidation from the BOA; that the Chairman has made every effort to involve everyone in the audience; that he could not speak highly enough of the Chairman and all the BOA members.

**6:54 PM** Mr. (Jeff) Cutting, BOA member, said that he agreed with Mr. Hamilton regarding any BOA conversations with Sweet Peas; that they were an impartial board and did not discuss anything prior to a meeting. He added that they walk into every meeting with an open mind and make their decisions based on the Town ordinances and the hardship criteria. He clarified that any time he spoke about Sweet Peas it was as a resident, recusing himself from the BOA. He discussed Everett Lane; that when he bought that property Everett Lane was a mud path; that the only time he ever talked to Mr. (Jack) Hardy was in 1982 when

## BOARD OF SELECTMEN'S MEETING

April 10, 2014 5:30PM (continued)

he rented a plane for his boss to go to Bangor. He added that he did develop that road at a cost of \$15,000 and discussed the work he did and how Everett Lane was named. He discussed his confusion over why he was even a part of this; that, as a taxpayer of this Town he felt he had a right to speak at any meeting in this Town.

**6:58 PM**

Mr. (Ed) Cielezsko, BOA Chair, said that this action should have been dismissed before this started; that no evidence had been presented against the BOA tonight. He explained that the BOA had these charges levelled at them at the February 20 meeting and every member was cleared to sit for that meeting. Discussing the September meeting where a variance was denied to Sweet Peas, he clarified that it was regarding a building permit and that he did not believe growth permit was even mentioned in that meeting; that the variance request failed because the applicant did not meet the criteria. He said that the BOA tries to help applicants get what they can out of their land, looking at CEO interpretations for error and, when they find it, they dismiss the request because the applicant doesn't need it and would do the same for anyone if the BOA found an error in the CEO's logic. He added that the BOA discussed the CEO's logic at that September meeting and that found that Sweet Peas needed a variance; that she did not meet the criteria and did not appeal that decision but came to the Selectmen to ask for a C.A. to do something wrong. Discussing the reconsideration issue, he went to the fallback position that abutters would have to be notified, newspaper ads would have to be posted and the applicant would have any fees that were part of a new hearing, as that is what had happened with a prior reconsideration; that he reconsidered that position and had the CEO contact the Town attorney for clarification, finding the Town should not charge a fee for reconsideration. He said that he talked with the applicant, letting her know that she did not have to pay any fees and that they could hear the reconsideration; that that was the last he heard of it and that was why the BOA did not hear the reconsideration. Regarding the statute Ms. Hardy discussed, he said that that discussed the penalty for an official who has done malfeasance to a member of the public or to the issue at his disposal; that there has been none of that and was ridiculous on its face; that the BOA has not held up any part of the proceedings for her or Sweet Peas. Mr. Cielezsko said that, twice, Ms. Breen said he told her she was a liar and he didn't know what she was talking about; that she has had many negative comments about many officials and yet everyone doggedly keeps helping her or at least doing their duty. He discussed his frustration that the BOA was being misaligned as part of an 'old boy network'; that the BOA worked hard to be fair to every applicant, as did other Town offices. Addressing Mr. Hamilton's comments regarding C.A.'s, he agreed that Mr. Hamilton was not concerned with Sweet Peas but disturbed with the use of the C.A. by the Selectmen, as he (Mr. Cielezsko) was; that C.A.'s were not to let someone do something wrong; that it is supposed to be something to address something that has been done wrong. Regarding ex parte communications, he said that the BOA does not talk about any case, or go outside this room; that he didn't

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

see members outside the meeting night and the only deliberations had take place behind the podium once the meeting starts.

**7:12 PM** Mr. (Peter) Billip, BOA Vice Chair, said that he is a commercial real estate broker and has worked on many parcels over the years up and down Route 236. Regarding the complaint from Ms. Hardy about not disclosing his interaction with ARC and Mr. Hardy, he said that that was 17 years ago and involved a portion of the property far away from the current portion; that this was 17 years before Sweet Peas was even created; that there was no connection with what happened 17 years ago and what was happening today. He added that he was flabbergasted by the charges and thought they were unbelievable; that he has recused himself on other cases before the BOA where he had or could have had a financial interest through a brokerage commission. He added that the BOA member's reputations have never been castigated in any way, shape, or form as they are tonight; that he saw no conflicts by any members; that there is never any ex parte communications. He added that the BOA treats every person who comes before them in a fair and reasonable fashion; that even with differing opinions between BOA members, they always come to a decision, doing their best to follow the ordinance.

**7:15 PM** Mr. (Charlie) Rankie, Alternate BOA member, discussed the original complaint and said that everything the Board has heard against his colleagues has, essentially, been hearsay-type stuff; that the BOA minutes show this is foolishness. He added that Mr. Hamilton put things very well. He said that not only did the BOA work hard to assist the citizen requesting something but also for the citizens at home because the BOA was upholding the ordinances of the Town; that the BOA doesn't make the rules but it is their job to make sure they are followed.

**7:17 PM** Ms. Hardy said that she did not address her concern with Mr. Rankie and asked permission to do that.

Permission was granted.

Ms. Hardy agreed Mr. Rankie disclosed serving her late husband a notice as an employee of Verizon; that he stated that he was an employee of the attorney that was before the BOA; that the BOA decided there was no conflict of interest. She added that Mr. Rankie was an alternate and participated as if he were a full member of the BOA, adding that just before the time to vote Mr. Rankie said that if he was a voting member he would vote against this.

Ms. Breen added that Mr. Rankie went on at great length to explain his position even though he stated many reasons showing a strong conflict of interest; that he

## **BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

was allowed by the Chair to continue to discuss his position; that she was concerned with his influence over the deliberation.

Ms. Hardy said that she was not aware that an alternate member could fully participate in meetings nor make such a statement as "If I was a voting member, this is how I would vote." She added that that was her concern.

Ms. Breen had a copy of the Reconsideration request they made dated within the 10 days allowed and stamped by the Town Clerk, saying that Mr. Cielezsko's statement that Sweet Peas didn't follow through and didn't request a hearing was absolutely incorrect.

Mr. Rankie said that he has never worked for Attorney Nadeau; that he had said that he was once at Attorney Nadeau's house to look at something an abutter had asked him to look at during his professional career.

**7:19 PM** Mr. Moynahan addressed the Board, saying that they had heard from Ms. Hardy, Ms. Breen, and BOA members and had documentation in front of them, video-streaming they had watched, and asking if Board members had questions or comments...

At this time, several members of the audience disturbed the meeting, then left.

Mr. Moynahan said that he has read all the information and watched the video-streaming; that he didn't see the tones that were being indicated; that in the material he did not see conflicts in any manner; that he did not see where the issues were with the members of the BOA. He asked if there was any action by the Board, comments or discussion.

**7:22 PM** Mr. Murphy discussed his distress around this issue, adding that he didn't think the BOA had any intention to mislead or do a wrong thing against Dr. Hardy or Dr. Breen. He added that he thought there was a great deal of misunderstanding, probably in both directions, with what was said and intended, and hoped that all parties would take that into consideration. He said that Sweet Peas had gotten the Growth Permit they were seeking and the BOA may have learned that they might have to be even more careful in dealing with personalities. He said that he hoped that nothing would be done tonight; that he did not want to chastise any member of the BOA nor did he want to blame Dr. Breen or Dr. Hardy; that discharging the BOA isn't going to accomplish anything.

**7:28 PM** Mr. Hirst said that he did not believe this rose to the level where any BOA member should be either chastised or dismissed; that he urged all parties to please keep it civil to the extent it has not been civil in the first place.

**BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

**7:29 PM** Mr. Beckert agreed with Mr. Hirst that he was not ready to dismiss any members of the BOA; that there may have been some misconceptions, things said that were not remembered as they were said on both sides, and the need to be civil. He discussed the difference between conflicts of interest and bias and that perception of either one was a concern for boards that they had to deal with. He said that Town ordinance allowed boards to decide if a member had a conflict or bias and vote to keep a member sitting or not. He added that his greatest concern was if boards are treating people who come before them with disrespect and, if so, then the boards need to step back and look at how they are dealing with the public, in general. He said that, coming out of this, he thought everyone needed to move forward and step back and look at how they deal with situations and how they deal with the public; that he encouraged board members to attend offered MMA courses. He said that he was not ready to remove anybody.

**7:32 PM** Mr. Moynahan summarized that the Board was in agreement that there would be no removal or censure of any of the BOA members based on the information provided.

The Board agreed.

Mr. Moynahan said that, hopefully, everyone has had a good chance to dialogue and understand where each of the parties are coming from so that all could move on in a productive manner.

At this time, the Board called a five-minute recess.

**7:37 PM** Tax Abatements – Personal Property

This was informational.

York County Board of Commissions – Informational

This was informational.

**7:38 PM** Notice of Maine Labor Relations Board Hearing – Prohibited Practice

Mr. Lee said that the other prohibited practice complaint was filed by the union on behalf of the ECSD Assistant Director; that the Town lost that and it appears the Town will owe back pay to that individual for having reduced hours, etc. during negotiations. He added that he does not have an associated dollar figure but does have a call in to the attorney asking specifically what takes place next.

Mr. Moynahan said that that would go against what was funded by the Town, which raised the question of how to find the money.

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

Mr. Lee said that they were in the process of calculating what the amount might be and develop ideas to recommend to the Board on how to cover it.

**7:40 PM** Town-owned Property – one sale – updates on balance

Mr. Lee said he talked with the park owner (Mark Phillips) on one of the mobile homes, who is interested in buying it back for the full amount of back due and current due taxes. He added that he did not have the exact amount but believed it was \$3,000 and change; that Mr. Phillips agreed he would pay that if the Town would issue him a quit claim deed; that Mr. Phillips is contemplating whether he will do the same for the other three mobile homes. He recommended that the Town sell this property to Mr. Phillips.

**7:43 PM** Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen sign a quit claim deed upon payment by Mr. Mark Phillips for the property located on Map 79, Lot 26-90.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moynahan discussed the other properties regarding insurance and a policy for selling properties and asked if the Board members had looked at that for more discussion. He said that his biggest concern was that they have told several of these folks wrong information around 'taking possession'; was June too soon to let some of these folks know that they are not going to have their property at that point in time; what direction did they give the Town Manager about what to chase, what bad information was given; that the policy really kicked in with the next abatement period and will be consistent for all. He reiterated that he thought they had given some people some poor advice and some poor information, which was his big concern.

Mr. Lee said that whatever timeframe the Board decided he was completely comfortable with; that he suggested they write to the owners that these properties must be put back on the tax rolls, give them a date by which full payment needs to be made and, thereafter, put them out to public bid per the policy that was adopted. He added that he was just looking for a timeframe to give them to make whole to buy their property back.

The Board agreed a six-month window would be reasonable.

Mr. Lee will write the letters and send them out with an October 15<sup>th</sup> date for property owners to make whole or it would go out to public sale.

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

**7:47 PM** Certificate of Recommitment and Settlement

Mr. Hirst moved, second by Mr. Beckert, that the Board of Selectmen sign the two certificates of settlement, as presented, and transfer the obligations of the former Town of Eliot Tax Collector to Dana K. Lee, Town of Eliot Tax Collector.

**VOTE**

**3-0**

**Chair concurs**

At this time, the Board signed the documents.

**7:48 PM** Legal clarification – Town Meeting/Referendum

The legal opinion clarified that if the citizen's petition passed on Tuesday then the Selectmen would advise voters to not vote on TIF spending article on Saturday, utilizing a motion to pass.

**G3. Public Works**

MDOT Project – Bond Update.

Mr. Lee said that the DPW was of the opinion that no Town roads would be involved and no bond should be required.

**7:52 PM** Sewer Users Rate Increase Letter

Mr. Lee discussed revisions and requested Board review.

**7:55 PM** Mr. (Bob) Pomerleau discussed his concern for bias regarding the TIF being used as a reason for the rate increase; that he felt that was an attempt to sway the users of the sewer district to defeat the citizen petition and that has a direct interest to every taxpayer in Town.

Several members of the audience and Budget Committee members also voiced their objection to including the TIF bullets in this letter while others voiced support.

After some discussion, the Board agreed to revise the letter to drop any reference to the TIF while letting sewer users know that their rates will go up an additional 47% to upgrade the pump stations.

**BOARD OF SELECTMEN'S MEETING**

**April 10, 2014 5:30PM (continued)**

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen send the letter to sewer users with the eight bullets, as just modified by the Town Manager.

**VOTE**

**3-0**

**Chair concurs**

**G4. Public Safety**

**8:18 PM FEMA Resolution**

This was regarding changing the policy regarding standards for ice storms versus snow storms in northern tier states so as not to penalize said states.

Mr. Beckert moved, second by Mr. Murphy, that the Board of Selectmen approve the resolution, as written.

**VOTE**

**3-0**

**Chair concurs**

At this time, the Board signed the resolution.

**8:20 PM Harbor master – Interview Assistance – (Ben Brickett, Tom Allen, Doug Anderson, Butch Madden, Rich Russell)**

This was to assist the Town Manager in the interview process.

Mr. Beckert moved, second by Mr. Hirst, that the Board of Selectmen appoint Mr. Ben Brickett, Mr. Lee Emery and Mr. William Buckley to assist the Town Manager in the interview process for the new Harbor Master.

Discussion

A member of the audience said that Doug Anderson would represent the commercial interests of the harbor and is a resident of Eliot.

Mr. Beckert amended his motion to include the appointment of Mr. Doug Anderson, as well. Mr. Hirst seconded the amendment.

**VOTE**

**3-0**

**Chair concurs**

**Old Business**

There was no old business.

**BOARD OF SELECTMEN'S MEETING**  
**April 10, 2014 5:30PM (continued)**

**Selectmen's Report:**

There were no Selectmen's reports tonight.

**Executive Session**

There were no executive sessions.

**Other Business as needed**

There was no other business.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:25 PM.

**VOTE**

**3-0**

**Chair concurs**

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**DATE**

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**Mr. John J. Murphy, Secretary**