

BOARD OF SELECTMEN'S MEETING
April 24, 2014 5:30PM

Quorum noted

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

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

Absent: Mr. Moynahan.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Hirst, seconded by Mr. Murphy, to approve the minutes of April 10, 2014, as amended.

VOTE

2-1 (Mr. Dunkelberger abstained)

Chair concurs with the affirmative

Public Comment:

5:32 PM Mr. (Ed) Cielezsko said that, regarding individual Selectmen being on boards and commissions discussed at the last Selectmen meeting, discussed his concern that if Selectmen didn't step down then no one else would step up; that he thought people needed to see the loss of Selectmen before they would step up. He added that he didn't agree with the Selectmen's argument for staying on these boards and commissions and believed it was for the best interest of the Town if Selectmen stepped down.

Department Head/Committee Reports

G1. Recycling Committee

5:35 PM 1) WasteZero Contract

Mr. Lee suggested that this be discussed with G3 under Public Works. He added that the Recycling Committee recommended the passage of the WasteZero Contract.

The Board agreed to discuss this under G3.

G2. Administrative Department

5:36 PM 1) Town Manager Activities Report
This was informational to the Board.

Mr. Dunkelberger asked if the Budget Committee (BC) had given any supporting details for their recommended cuts.

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Mr. Lee said no; that he attended their Tuesday meeting and that the discussion has been more focused on how different departments would respond to BC recommended cuts rather than details the BC had in mind to cut.

Mr. Dunkelberger asked if the Board would formally request to the BC to provide the Board some detail on their recommended budget changes.

The Board supported that request.

At this point, Mr. Rankie called a point of order, asking if the Board left the floor open for department heads, as someone had indicated he wanted to be recognized.

Mr. Beckert apologized for not seeing that, adding that if someone needed to be identified under Department Heads, that person needed to indicate that prior to the meeting. He said that he would identify Mr. Cieleuszko at this time.

Mr. Cieleuszko suggested the Chair finish what the Board was discussing.

Mr. Beckert said that the Board would like to request detailed information of the BC on how they came up with their figures for the budget and asked if the BC Chair (present) would like to respond.

Ms. (Rebecca) Davis said that the BC was currently working on additional review of the various budgets and would continue throughout April and May; that they would put together a report for the Townspeople and, once they finalize the information, that would be available to everyone to show the BC's logic. She added that, initially, their recommendation was flat-funding based on this year's numbers after the previous year's vote; that that was their starting point. She added that, as they continued to study each of the budgets, they were reconsidering and looking at options; talking with the Town Manager, and would certainly make available everything as they finalized it.

Mr. Dunkelberger clarified that the BC Chair was saying that the numbers the BC had regarding reductions/additions to the budget proposals were, right now, fairly arbitrary based on flat-funding and not connected to any program or line item.

Ms. Davis said that, based on the Townspeople overwhelmingly voting to hold the LD1 numbers last year, the BC felt, initially, that they should adhere to that call to action and recommend a flat budget through next year.

Mr. Dunkelberger reiterated that the numbers were fairly arbitrary, within the departments, in achieving that goal.

Ms. Davis said that they were the numbers given to live within for this year and the BC felt that, given the Townspeople's feeling towards an increase in taxation, that the Town could live within those numbers the following year.

Mr. Dunkelberger asked Ms. Davis when the Board might expect the BC report.

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Ms. Davis said that they would get the information together as quickly as they could so that they could issue a report to the Townspeople well-ahead of the Town Meeting so that the people could become familiar with the budgets prior to that meeting.

5:43 PM Mr. Dunkelberger said his only concern was getting the BC rationale to the department heads so department heads could give some feedback on the potential impact within their departments.

Mr. Fisher said that the BC has already met with the Town Manager to set up a meeting with the Board, once the BC was finished, to see if they could find a middle-of-the-road situation; that that was what they would do and nothing in their budgets were cut in stone.

At this time Mr. Beckert invited Mr. Cielezsko to speak as a committee head.

5:44 PM Mr. Cielezsko, Board of Appeals Chair, read a letter approved by his board to present to the Selectmen, which discussed the Appeals Board members' disappointment that the Selectmen did not "clearly and fully support the Board of Appeals in this matter." when it was clear there was no bias or conflicts of interest by any of the accused Appeals Board members.

There were no comments made.

5:46 PM 2) Notice of Boards and Committee Openings

Mr. Lee reviewed the current openings, encouraged people to volunteer, and said that these openings would be posted on the Town website.

Mr. Hirst said that, relative to Mr. Cielezsko's comments for Selectmen serving on committees, he wasn't in total disagreement; that his concern was that if Selectmen currently on committees step down the committees may have quorum issues and possibly not enough people to do the work. He added that he feared that if Selectmen stepped down no one would step up to fill those spots.

Mr. Rankie suggested the Board reach out to people they knew had capabilities for these committees.

Mr. Hirst said that he had reached out to several people with no success.

5:51 PM 3) Notice of Proposed Operating Permit – Schiller – May 14 Appeal Deadline

Mr. Lee said that the New Hampshire Department of Environmental Services (NHDES) sent a large packet regarding the proposed Schiller Title V Operating Permit and the appeal deadline for any aggrieved person. He added that he would make copies available for someone who was interested in reviewing this document package.

Mr. Murphy said that he would like to review it.

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Mr. Dunkelberger said that part of the reason he was so emphatic about pursuing the EPA request was his lack of faith in the NHDES in taking a fair look at that.

5:53 PM 4) Notice of Rule 80-B Appeal (Brigham, et al. v. Town and Sweet Peas)

Mr. Lee said that this was informational; that the Town had responded and he believed Sweet Peas had responded. He added that he was asked by the Town attorney who was contacted by Sweet Peas' attorney if the Town would have any objection to a stay on the permit issued, as the litigation could go on long enough that the permit would expire without a stay. He said that this was a common practice and recommended to the Board not to oppose the stay of the permit while the litigation is going on; that the Town attorney recommended the same.

It was the consensus of the Board of Selectmen to not oppose the stay on the issued permit.

5:55 PM 5) Asst. ECSD Director – PPC Complaint – Reimbursement per MLRB

Mr. Lee said that the amount the Town has calculated, and the union has agreed to, and he would like the Board to authorize is \$8,572.91 in back pay, ordered by the Maine Labor Relations Board (MLRB).

5:56 PM Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen authorize the payment of \$8,572.91, as required by the Maine Labor Relations Board.

DISCUSSION

Mr. Hirst said that line 2 of the agreement needed the word 'in' inserted just before 'full'.

VOTE

3-0

Chair concurs

5:58 PM 6) Establish Public Hearings

Mr. Lee said that this was to establish public hearings on ordinances, etc. that will be voted on in June.

It was the consensus of the Board to move forward with these dates.

Mr. Lee said that he would work with the staff to get these advertised and scheduled.

6:01 PM 7) Establish Public Hearing Date – Liquor License - Roadhouse

Mr. Beckert said that they would take up #7, as the liquor license application was not submitted.

6:02 PM 8) BOS/Budget Committee Reconciliation Meeting

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Mr. Beckert said that this was previously discussed and that the Board would wait to get information from the BC then sit down to go over everything.

6:03 PM 9) Draft Letter to Past Owners of Foreclosed Properties

Mr. Lee said that this was the draft notice regarding a date certain for property owners to pay Town liens against their properties or their properties would go to public sale. He asked the Board to review this draft letter.

Mr. Murphy had three minor grammatical changes.

It was the consensus of the Board to approve this letter, as corrected.

6:05 PM 10) Finance Director Pay Classification

Mr. Lee read his memo to the Board, which discussed his concern that the Finance Director's salary was out of line with area and State-wide Finance Director salaries; that she has been offered a position paying \$71,000; that her position was critical and she expressed an interest to stay with Eliot. He recommended that the Town increase her salary to \$61,000 from \$51,334, effective immediately. He said that this would be a terrible time to lose her; that he thought that this particular employee was very skilled; that she has been very helpful to both the Selectmen and to him; that this would be an absolute critical time to lose that position and would take 8-12 weeks to advertise, hire, and put somebody in. He added that this could become a real train-wreck and, although this couldn't come at a worse time with budget constraints, he also recommended they not further damage the organization by losing a valuable staff person at this critical time.

Mr. Dunkelberger agreed with Mr. Lee. He added that he has seen a tremendous growth in that office in alignment with modern bookkeeping and technology pieces that is really bringing the Town to where it needs to be. He said that losing Ms. Bergeron would be a significant loss for the Town and he didn't realize the Town was so out of whack with the pay.

Mr. Hirst agreed 100% with both Mr. Dunkelberger and Mr. Lee.

Mr. Murphy said that he agreed and asked Mr. Lee if he saw where this would come from.

6:10 PM Mr. Lee said that they have been looking, since March, for ways to bring the budget in; that they were down to, perhaps, around \$7,000 that is uncommitted in this fiscal year. He added that if this was effective immediately it would add only about \$1,500 of difficulty in making budget. He said that they were working feverishly to do that and believed that they could do that, bring it in under budget. He added that the problem became next year in 2014/2015 when the full \$10,000 would have to be found within the existing administration budget. He said that he really felt that he had to recommend that the Town retain this employee and find

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the money, even if they have to start the year having to have discussions about what they would have to curtail right from the get-go.

Mr. Pomerleau discussed his own research in doing this kind of comparison and that titles didn't do a good job at describing what the duties are; that the difficulty was finding similar communities where the duties are similar, as well. He discussed using a scoring and evaluation system to get a better comparison, which he believed Eliot had. He asked if that system was used in this instance.

Mr. Lee said that that evaluation and pay merit system is very old. He added that when he was hired, if one looked at that chart, he didn't fit on that chart at all. He said that that chart has not been updated in years and does not have current standing. He said that he looked at the actual pay scale piece with the step piece underneath it. He agreed that there was a system like the one Mr. Pomerleau discussed where a personnel technician went through the 'black box' exercise but he didn't have a personnel technician to do that. He discussed the process he went through to come up with the salary figure he arrived at; that the employee wanted to stay with Eliot and that salary would satisfy her.

6:17 PM Mr. Beckert said that, regarding the evaluation system issue raised, prior to 2005 the Town hired Dix Consultants and they were the ones who developed job descriptions, pay scales, the system that is currently in place; that the Board tried to bring them back in every year or two to do a review and update, if needed, and he didn't know if that has been done since then. He agreed that sort of thing needed to be done on a periodic basis to keep the system up-to-date.

Mr. Dunkelberger moved, second by Mr. Hirst, that the Board of Selectmen, based upon the Town Manager's recommendation and that he is able to find the money this year, increase the Finance Director's pay to \$61,000, effective with the next pay period.

DISCUSSION

Mr. Dunkelberger said that this has highlighted the problems with the Town's current pay system, as well as with the job descriptions. He added that, as the dust settles with the new people on board and who is doing what, that those job descriptions again be re-established and seek funding for a pay study, to include the Police Department.

VOTE

3-0

Chair concurs

6:23 PM 11) Tax Payment Reminder – Final Time

Mr. Lee explained that this was a courtesy card reminder and extra step and, to help with reducing budget expenses, this would be the final time this is done.

Mr. Beckert asked if they would still put the notice online that taxes are due on certain dates.

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Mr. Lee said yes.

12) Update on Consolidation of Accounts

Mr. Beckert said that this would be skipped because this was not ready to discuss; that this would be done at the next regular meeting.

6:25 PM 13) Sale of Tax-Acquired Property – 601 River Road, \$22,550.47

This was regarding a sale of the property between the previous owner and new buyers; that the sale would take place on or about May 16, 2014, and any back taxes owed would be paid to the Town of Eliot at the time of the sale.

Mr. Dunkelberger asked if that amount included any administrative costs. Mr. Lee said that he believed there was a \$100 administrative fee included in that; that that was the standard amount.

Mr. Dunkelberger said that because of the amount and how long the Town has been carrying it on the books he recommended the Town add \$1,000 on to that as an administrative fee.

Mr. Beckert asked the Town Manager if the Town was limited as to the amount they could add as administrative fees.

Mr. Lee said that he didn't know if there were statutory limitations to that but suspected there may be. He added that he thought it would be helpful to have a policy based on something so it didn't look like the Town was being opportunistic, adding that the Town didn't have a standard policy for this; that, historically speaking, it's been \$100.

Mr. Hirst discussed working with Mr. Lee to develop a standard policy for this.

After further discussion, Mr. Hirst made a motion.

6:29 PM Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen accept the \$22,550.47, issue a quit claim to Corinne Evans, and dispose of this property.

VOTE

3-0

Chair concurs

Mr. Dunkelberger suggested that, when this policy was being developed, the Town Manager might think of it as a percentage of what is owed in administrative fees and it could be one half of one percent, or something to that effect.

G3. Public Works

6:30 PM 1) WasteZero Contract – PAYT Bags

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Mr. Lee said that the Solid Waste Recycling Committee (SWRC) recommended this and it is a three-year extension. He added that the Town has commitments from several new vendors to sell the bags. He said that the cost for this contract was \$11,000 per year (was \$15,000) and that WasteZero lowered the cost because they didn't follow through on some of the marketing they were going to do.

Mr. Hirst asked if it had been determined that it would not be feasible to sell these bags at the Transfer Station.

Mr. Lee said that was correct. He said that they looked at the logistics, the man-power issues, the congestion issue, storage, security and, for a number of reasons, it really would not work well. He added that a lot of time was spent on this and was pretty thoroughly vetted.

Mr. Dunkelberger moved, second by Mr. Hirst, that the Board of Selectmen enter into an agreement with WasteZero for a three-year term effective as of the date of the presented agreement.

DISCUSSION

There was some discussion to clarify contract pricing.

Ms. (Donna) Murphy asked if three years was the minimum WasteZero would take for a contract and, if so, if somebody came forward with a citizen's petition and this was reversed, what was the Town's obligation to this company.

6:38 PM

Mr. Lee said that he thought that three years was what both parties had been discussing; that he thought that the Town would be contractually obligated to this firm if the Town entered into this; that if it was overturned by a citizen's petition the Town would still be on the hook for \$11,000 a year to administer the account; that the Town would just not have to buy bags. Additionally, he discussed what the \$11,000 included and that the Town did not have the man-power to administer one more thing; that they thought this was the least expensive way to administer a pretty complex program. He also discussed the good financial success to the Town this program has had.

DISCUSSION ENDED

VOTE

3-0

Chair concurs

G4.

Public Safety

6:42 PM

American Ambulance Contract – 2 years

Mr. Lee explained that this was a 2-year contract; that the Town paid zero dollars and American Ambulance receives Eliot's book of business for all ambulance calls. He added that this has been recommended by Kittery and Eliot Public Safety officials that Eliot enter into this agreement.

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Mr. Hirst wanted to remind everyone that, in years past with AMR, Eliot was paying \$50,000 a year for that service.

Mr. Dunkelberger added that the Town was also getting training classes and equipment support.

6:44 PM Mr. Dunkelberger moved, second by Mr. Hirst, that the Board of Selectmen enter into an agreement with the Town of Kittery and American Ambulance, Inc. on a two-year contract, to commence July 1, 2014 and terminating on June 30, 2016

VOTE

3-0

Chair concurs

New Business (Correspondence List):

There was no new business.

Old Business:

6:45 PM 1) TIF Alternatives; Carol Selsberg

Mr. Lee said that her proposal was very thoughtful and quite lengthy; that if the Town did have a hearing on TIF alternatives that might be the time and place to discuss its merits. He added that Mr. Pomerleau submitted a TIF alternative plan about developing the village area, mentions the Comprehensive plan and lays out several points why it makes some sense; that both of these will go in the folder regarding TIF alternatives for discussion at a hearing.

Mr. Beckert said that everyone was encouraged, town-wide, to submit TIF alternatives.

6:46 PM Mr. Chagnon, Business Development Committee (BDC), said that the BDC was concerned with the wording in the upcoming referendum vote as it related to the TIF, which was approved by the voters some time ago. He added that the BDC felt that the opportunity provided by the TIF Funding to provide infrastructure improvements, especially expanded sewer, was a once-in-a-lifetime opportunity for commercial development in Eliot. Their concern was that, if the petition passed, then permanent restrictions in future sewer development would occur and asked that a mailing to Eliot residents be done to discuss this.

Mr. (Russ) McMullen said that he has been displeased with the actual linear layout of the TIF sewer project. He added that one idea that came out of discussions the other night was to redo the linear thought process and method of running the sewer project, suggesting that many Townspeople would reconsider their position on it. He said that a lot of Townspeople feel that running a sewer line almost two miles with no benefit to the taxpayer or resident or commercial industry is an absolute waste of money. He said that his suggestion would be to ask the Townspeople to either vote the petition down or postpone it...

Mr. Beckert said that he would stop the discussion at this point because they weren't here to debate the warrant articles as they will appear. He added that, as

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the Board just received this letter from the BDC and had not had time to digest it, he thanked the committee for their input and asked the Town Manager to review it and come back with his thoughts to the Board. He said that any further discussion on this was not appropriate at this time but at the hearing already scheduled.

6:51 PM Mr. Lee offered an initial thought regarding the difficulty of authoring a piece that would be viewed as unbiased. He added that they went through this two weeks ago; that he would love to write such a piece; that he had some feelings he would like to share not dissimilar from the BDC and what Mr. McMullen was saying but this would basically be an advocacy letter and he didn't know that they could do that through the Town office. He said that he thought a private group could issue something like that.

Mr. Beckert agreed and said that discussion and debate would be done at a public hearing.

6:53 PM 2) Signatures needed on Drug Free Ordinance

Mr. Lee said that these three could be grouped together; that the Board has already acted on them but he did need signatures on them for posting purposes.

At this time, the Board signed all three documents.

3) Signatures needed on Amendments to Chapter 44 Ordinance

4) Signatures needed on Amendments to Ordinance Governing Boards, Commissions and Committees.

6:55 PM Fire Station Roof Proposal

Mr. Lee said that four companies submitted bids and discussed the bids. He said that Williams Roofing for \$37,629 was the one they were recommending.

6:58 PM Mr. Hirst said that, typically, when one has a commercial roof done, one gets a 20-year bond and suggested they inquire whether they could get a 20-year bonded roof. He added that they said they would provide a written manufacturer's guarantee upon the completion of the job but why would the Town now want to get a guarantee before the job started so the Town knows what it says. He said that the Certificate of Insurance they provide may well expire before they finish the job so the Town would need to be sure they had a renewal of it; that they should get the Town of Eliot as an additional insured.

Mr. Dunkelberger said that, pending the answers to Mr. Hirst's questions, the Board might want to withhold making a motion on this because he could see where a bonded roof would change the price on the roof.

7:00 PM Mr. Lee said that his concern was that the bid came before the Selectmen at one point and the bond was not included in the bid spec and to go back after-the-fact he was concerned that some of the vendors might cry foul and/or be unable to

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provide a bond. He added that he thought it was an excellent idea but he wished they had put it in the bid spec.

After further discussion, the Board decided to forego any action tonight on this item, have Mr. Lee inquire with Williams Roofing about a bond and what the price differentiation might be, and take action on this item at the next regular Board meeting.

7:03 PM

Selectmen's Report:

Mr. Beckert discussed a concern he had. He said that it appears, from what he had in front of him, that accusations have been made against this Board, as a sitting Board. He quoted that this Board "had illegally altered a document" (a citizen petition). He added that those allegations have been made against this Board and he didn't particularly care for such slanderous and libelous comments. He said that he would like the Town Manager to respond to that comment because they have looked into it and looked at it and he thought that unwarranted comments need to be countered because misinformation going out there to the public that is not responded to by this Board to correct it so that misconceptions don't continue should be addressed.

Mr. Lee said that he had been here about three weeks and were putting together the proposed budget spreadsheets, starting to get the warrant together, etc. He added that he believed he and Mr. Dunkelberger and Mr. Moynahan and the Finance Director were in the office one day; that they looked at this particular item and discussion was had, with a comment typed in there kind of as a reminder or a footnote. He said that, in the hub-bub of everything that was going on, this was human error – it was not malicious. He added that, in fact when it was brought to their attention, the Town Clerk was appalled to think she might have done something wrong, as was the Administrative Secretary, when in fact, we had put that in, innocuously, not knowing that it was part of the statement of fact of the actual citizen's petition. He said that he knew in his heart-of-hearts that there was no malice intended; that they could not correct this fast enough when they realized they had done a faux pas...no malice.

7:05 PM

Mr. Dunkelberger said that there was a break-down in this whole process. He agreed with Mr. Lee, adding that in editing and looking for corrections that needed to be made in warrant articles he actual did put in, in parentheses, a couple of comments on there. He said that part of it was that he never looked at the initial citizen's petition and he was looking at it on a computer and he saw 'statement of fact' on his computer so, again, he put in based upon their discussions some of the comments they had talked about – he and Mr. Lee one-on-one – with the expectation that it went back to Mr. Lee, as this went out to everyone for editing and double-checking, then was sent back out to the Selectmen for validation. He said that due to everything that was going on they missed a couple of vital steps there, which caused those remarks to remain within the framework of the warrant that should not have been there. He said that he was the one who initiated it and, due to a breakdown in the process, it was left in there and should not have.

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Mr. Beckert said that to this end this Board, as a sitting Board, did not make any vote to include any additional comments into the citizen's petition; that the citizen's petition has gone into the signed and approved warrant as it was worded; that as this sitting Chair has stated before at an open meeting that any citizen's petition cannot be changed by this Board or any other board; that even the citizenry that brought it forward can't change it once it is accepted because, if they were to, then all the signatures on it become null and void. Mr. Beckert said that for comments to be made by citizens or citizenry of this Town that this Board illegally altered a document is uncalled for; that it was on the verge of slander and libelous and he, for one, doesn't like those comments when he knew for a fact that it wasn't done. He said that that was the explanation; that the document went forward with no changes on it and that's where it stands. He added that that was the end of discussion and was for clarification only

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 7:10 PM.

VOTE

3-0

Chair concurs

DATE

Mr. John J. Murphy, Secretary