

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

**Quorum noted**

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

**Roll Call:** Mr. Moynahan, Mr. Hirst, Mr. Fernald and Ms. Davis.

**Absent:** Mr. Beckert.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**5:31 PM**

**Executive Session**

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. § 405.F - application of abatement.

**VOTE**

**3-0**

**Chair concurs**

**5:46 PM** **Out of executive session.**

No action was taken.

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

**5:47 PM** Motion by Mr. Fernald, second by Mr. Hirst, to approve the minutes of June 26, 2014, as written.

**VOTE**

**3-0**

**Chair concurs**

Motion by Mr. Fernald, second by Mr. Hirst, to approve the minutes of July 10, 2014, as amended.

**VOTE**

**3-0**

**Chair concurs**

**Public Comment:**

**5:53 PM** Ms. (Cynthia) Lentz discussed her deep concern for what she felt was a message of disrespect that was shown to the Budget Committee at the last regular Board meeting; that even though both the Board of Selectmen and the Budget Committee were elected they did not seem to want to work together.

**G1. Department Head/Committee Reports**

**5:55 PM** **Harbor Commission – Draft By-laws, 2<sup>nd</sup> reading**

Mr. (Jack) Murphy asked if this commission was intended to be a Town Standing Commission and, if it was, then he suggested the by-laws recognize that. He suggested the words "...and the Eliot Ordinance Governing Boards, Commissions and Committees..." be added.

Mr. Lee said that at the last meeting he believed it was discussed that, within the ordinance itself, it does recognize a Harbor Commission; that this particular Harbor Commission right now would be formed to do advisory stuff and redraft that ordinance and incorporate the existence of the Harbor Commission by-laws into the ordinance of how they will function; not just referencing it. He added that he didn't know that it would be a standing committee. He said that it might come to a point where they redefine themselves within the ordinance, the ordinance gets adopted at Town Meeting doing away with this creation and then doing as the

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ordinance had predicted it would happen. He said that, once in the ordinance with full clarification, he believed it would become a standing committee.

Mr. Murphy suggested that under 'Membership' this might be a wonderful commission to consider intern members.

Mr. (Charles) Rankie discussed his disagreement with Mr. Murphy regarding the Ordinance Governing Boards, Commissions and Committees, as he thought it was clear that this ordinance governed all boards, commissions and committees.

Mr. Moynahan asked if Board members saw any changes based on tonight's input.

There were none.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen adopt the Eliot Harbor Commission By-laws as of July 24, 2014.

**VOTE**

**3-0**

**Chair concurs**

Mr. Lee said that they would start advertising for people to serve on this commission immediately.

**G2. Administrative Department**

**5:44 PM 1) Town Manager Activities Report**

There were several items included.

Ms. Davis asked, regarding the meeting on the 16<sup>th</sup> with MSAD officials, if the next time a meeting happened if she could be informed, as she was very interested in participating with anything having to do with the schools.

Mr. Lee said that there was an agenda item regarding assigning liaisons and he included having a representative to go to those meetings with him; that she could opt to be that person when it came up tonight.

**Shorey's Brook Culvert Project**

Printout showed work area and closure dates – August 7 through August 21.

**Description of work – DPW**

This was a requested breakdown of expenditures (\$12,000) from a previous warrant for concrete and electrical work and what funds were utilized.

**Emergency Contact Information**

Mr. Moynahan said that there was an incident at the Transfer Station and it was noted that it was hard to reach non-supervisors at certain times so a chain of command has been clarified for critical emergencies.

**Volunteer Position for Shellfish Warden**

The Board had two applications.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen appoint Tom Phillips as the volunteer Shellfish Warden and appoint Elinor Ameer as Deputy Shellfish Warden.

**VOTE**

**3-0**

**Chair concurs**

**2) Remaining or Reconsidered Appointments**

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At the last meeting, Mr. Murphy was appointed to the Conservation Commission and the Board later discovered there were no vacancies on that commission; that Mr. Murphy has been made aware and would be appointed as soon as a vacancy occurs. This required that a motion be made to correct this appointment.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen reconsider the appointment of Jack Murphy to the Conservation Commission.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moynahan said that there were currently no openings on the Conservation Commission and thanked Mr. Murphy for his application.

Mr. Moynahan said that he received a note from Mr. Pomerleau asking for his application to the Comprehensive Plan Implementation Committee be removed from consideration. He added that the Board still had two applications before them for the opening on the Budget Committee – Robert Pomerleau and Dutch Dunkelberger.

**6:13 PM**

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen not appoint a Budget Committee member at this time and let it go to a referendum vote in November.

**DISCUSSION**

Ms. Davis said that two weeks ago the Budget Committee stated that they unanimously supported Mr. Pomerleau. She added that she spoke because she was initially appointed to the Bud Com so she knew there was precedent for appointing someone to the committee.

Ms. (Rosanne) Adams said that she did not believe the Bud Com acted until they got the budget proposal and there was no rush to appoint someone. She added that she thought they should wait until November and have the people vote for who they wanted to put on that committee.

Mr. (Ed) Strong (Bud Com) discussed his strong support for Mr. Pomerleau as a member of the Bud Com; that he had never seen a citizen in Town take part in their meetings as Mr. Pomerleau does and felt he deserved to be appointed for the outstanding work he has done over the last several years.

Mr. Moynahan said that he thought that both applicants were very qualified and the Bud Com would be well-served with either individual.

**DISCUSSION ENDED**

**VOTE**

**2-1 (Ms. Davis)**

**Chair concurs in the affirmative**

**3) Revaluation Update**

This was an inventory update from the Town Assessor.

**4) Safety Inspection Report**

This was regarding the ECSD Action Plan for Risk Assessment.

Mr. Lee said that they had MMA Loss Control come down and the primary area needing to be addressed was in personal protective equipment assessments; that they were given recommendations to mitigate issues; that there were structural issues with recommendations, as well. He will update the Board as these recommendations are completed.

**5) Establish Union Contract Negotiation Team**

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It was agreed that Mr. Fernald and Mr. Moynahan would be the negotiating team for the 340 open bargain unit. Mr. Lee will also be a part of the team and will set up a meeting for next week.

**6) Appoint Shellfish Warden**

This was already addressed.

**6:21 PM 7) Appoint Brenda Harvey as Tax Collector**

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen appoint Brenda Harvey as Tax Collector for the Town of Eliot.

**VOTE**

**3-0**

**Chair concurs**

At this time, the Board signed the document.

**8) Re-commit Taxes to New Tax Collector**

Mr. Lee gave the breakdown of real and personal property taxes owed and said that there were three certificates of settlement that would need to be signed by the Board.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen recommit the real and personal property taxes in the amount of \$6,715.05, as described.

**VOTE**

**3-0**

**Chair concurs**

At this time, the Board signed the certificates of settlement for the years 2012, 2013, 2014.

**9) Alternate CEO Plan – Draft**

This was a comparison of CEO staffing, as budgeted, versus partially outsourced.

Mr. Lee said that another alternative he had not had time to flesh out was having someone in the office for just land use, Shoreland, and neighborhood complaints, which is where most of the time is spent and something they could not outsource. He added that the Planning Assistant (PA) has said she would get certified if that was the Board's will but he didn't think there was time enough for the PA to do both. He also added that he did not think this analysis was thorough enough and the part-time alternative should be looked at more carefully, perhaps having someone 30 hours a week to handle neighborhood complaints and land use issues.

Mr. Moynahan agreed that it was critical to have a CEO in the office but what was the trade-off, maybe third-party inspections 10 hours a week with a 30-hour employee; that that office is very busy.

Mr. Fernald agreed, saying it was a lot of work and a lot of knowledge dealing with all the ordinances the Town has; that it is not an easy task and more of a full-time position.

Mr. Hirst agreed that Mr. Lee should look into this in more depth.

Ms. Davis said that, in looking at the permit fees collected, it appears that the Town is collecting more without the CEO than it was with the CEO.

Ms. Pelletier (PA) said that last year there was only \$9,000 collected in permit fees for the whole year; that by the end of June this year she has already taken in about \$40,000. She added that it seemed like a self-supporting office, in that sense; that even with Heather and Brian here three days a week they are probably here a total of 30 hours between the two of them and we are still behind, sometimes, on getting permits to people; it's that busy. She said that she would

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definitely speak in favor of a full-time position. She said that they also had the added responsibility of Stormwater inspections now, as well, which gets pushed back when they have a resident in front of them looking for a permit. She reiterated that there is certainly enough work for a full-time position and it seems that, if there are enough fees collected to pay for it, then why go part-time. Ms. Pelletier said, regarding third-party inspections, that it wouldn't be a lot of savings but would add a lot of extra cost and responsibility on the homeowner; that people could potentially be paying \$2,000 for third-party inspections on top of the Town permit fees that already cover those inspections; that to save 10 hours a week did not seem worth it to put that burden on the property owners.

Mr. Hirst said that, if the Growth Ordinance was put to the people and they voted to get rid of it, then he suspected the Town would see even more business.

Mr. Lee agreed.

Mr. Fernald said that the biggest complaint he has heard is the lack of availability of code enforcement in Town. He added that that has a negative impact on contractors if they can't get timely inspections, as well.

Ms. Pelletier agreed. She said that the inspectors are booked solid doing inspections the three days they are here and there is no one in the office to handle people coming in with complaints and questions.

Mr. Rankie said that Mr. Lee talked about the impact if the Town did not approve a full-time CEO budget and we would have the negative impact we are now seeing. He added that he believed the people voted overwhelmingly to support a full-time position.

**6:40 PM**

Mr. Lee said that they were almost into August and felt he really needed to do something and move this along because they are limping by and it is getting faster and faster by the week.

Ms. Davis discussed her concern that a full-time CEO would not have the time to do everything that needed to be done; that because of the cyclical nature of the work the permit fees might not cover the annual wage and benefits.

Mr. Hirst asked Mr. Lee if Mr. Lee thought that further investigation would disclose anything that would change his opinion.

Mr. Lee said no, that the only thing it would probably do is to clarify if there is some level of cost-savings; that his and the staff's opinion was that the Town needs a full-time CEO. In response to Ms. Davis' concerns, he said that even one full-time CEO is insufficient; that that is exactly the point. He added that, all things being equal, probably we need more than that with the number of people and properties we have in Town but he would be happy just to have the full-time CEO.

Mr. Moynahan agreed, saying that a full-time CEO and, then, secretarial support would be a huge benefit.

Mr. Lee agreed there was a huge amount of paperwork with this.

Mr. Moynahan said that he didn't think a \$15,000 savings to do a 30-hour position was worth it for the Town for what we are looking at and hearing. He added that he thought it should be a full-time position and that they should advertise for it.

Ms. Davis said that she thought the savings might actually be more; that she didn't think they would be solving any problems long-term; that we are taking one person and adding all of these tasks.

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Mr. Moynahan said that they could still do third-party inspections with a full-time CEO on any structure bigger than 'X', which size the Town could determine; that they could review the rate structure, as well.

Mr. Fisher suggested that Eliot could opt out of electrical inspections and have the State come down and do those.

**6:45 PM**

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen move forward with a full-time Code Enforcement Officer.

**DISCUSSION**

Mr. Hirst said that they should also explore the third-party inspections, as well, to see if they could have some kind of combination of the two.

Mr. Lee agreed that over a certain size or complexity they could outsource it and not charge the fee, or have a bifurcated fee system, but they would have to do a lot more work on that; that possibly electrical going back to the State might be an option, as well, that would provide a full-time CEO with enough time to properly deal with things and not be inundated.

**DISCUSSION ENDED**

**VOTE**

**2-1 (Ms. Davis)**

**Chair concurs in the affirmative**

**10) Cemetery Concerns/Action?**

This was a response from Ms. Adams on work done at the cemetery.

Ms. Adams said that she brought before-and-after pictures and the contract because they did not do some of the work they were contracted to do. She said that the contract she had said that they were supposed to put the iron rods back and they only put back one. She added that, of the eight that were on the ground, only one was straight; that she assumed they could not straighten the bent rods. She added that they were supposed to repair the chips on the monument and did not. She said that they put up a corner post without drilling corner holes.

Mr. Lentz said that, for \$7,000, he didn't think there was a lot of work done. He added that the holes drilled in the corner post were for a straight shot, not 90 degrees; that he and Mr. Zamarchi are working on that. He discussed the work it would take to straighten the iron rods; that it would take a press and some heat to do the job. He said that they got some galvanized pipe that they welded; that they would paint it and that could replace the iron work. He said that one request was regarding the granite posts. He explained that the man did not clean them up or take them out of the cemetery; that he and others rolled them out to the end of the cemetery but they were too heavy to lift into the back of a truck. He added that they would like to keep the granite because of its historic value and they could use it for other cemeteries. He asked if the Town could help in moving them to the back of the #8 Schoolhouse.

Mr. Lee said that that was discussed at the last meeting and he was just waiting for clarification on what to pick up and where to bring it.

Mr. Moulton said that the rods were something the DPW could take a look at regarding repairing them; that they might be as well off trying to find new steel; that the DPW has a steel supplier they use to fabricate a lot of different things at the Garage.

Mr. Lentz said that he would bring one down to the Garage.

Mr. Moynahan said that he thought the Board gave their blessing to have the DPW help and suggested that Mr. Lentz get together with Mr. Moulton and Mr. Lee to work out the details.

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**6:53 PM** Ms. Adams said that the plan was to use the granite to mark the Maple Avenue Cemetery, if they could. She said that another part of her letter regarded how best the Historical Society and DPW could best work together regarding maintaining historical and ancient cemeteries.

Mr. Moynahan suggested inviting Mr. Moulton to the Historical Society's next meeting and have that as the topic of conversation.

After further discussion, it was agreed that Mr. Lee would bring the man back to finish the repairs (drill corner post/fix monument chips) he did not complete per the contract.

**6:57 PM** **11) EPA/Schiller Plant Update/Action?**

This memo update was regarding an EPA phone conference on July 7, 2014. There was also a handout of questions from Ms. Davis.

Mr. Moynahan said that the crux was that the EPA has asked Eliot to withdraw their 126 Petition based on inability to meet timelines.

Mr. Lee said that he has had a follow-up conversation and could also address some of Ms. Davis' questions. He said that the EPA would locate the portable monitoring station in Eliot; that he was given a list of conference participants and contact information; that he wasn't sure why the monitoring station had such a high cost and could possibly be the staffing needed. He clarified that Eliot did not contribute any money as this was fully funded through the federal government and the two states. He explained that the EPA would like Eliot to withdraw their petition because the EPA was in the middle of modelling how they did this and could not respond to the Town in any meaningful way within the timeframe; that they were already very late and that opens the EPA up to great liability as long as the 126 Petition is out there because anyone can demand the answer by the timeframe and/or bring suit against the EPA for not doing so. Mr. Lee said that the Town has a gun to the EPA's head in terms of time that really has already gone off; that that was why they have been so urgent to help the Town get air quality monitoring, which was what the Town requested, having real data instead of modelling of what might be going on in South Eliot; that real-time monitoring could support or refute the air quality modelling. He said that the quid pro quo is that the EPA would actually monitor air quality in South Eliot for a year and Eliot would withdraw the petition; that the Town could always file another one if the outcome of this monitoring was not good enough.

Mr. Moynahan said that that petition was done by the voters so, if that were to be done, then it would have to go in front of voters again. He added that all these were brought up when we dealt with Public Service and the Sierra Club; that the timeline was made known by the people involved; that they have already had an extension months ago and Eliot allowed that to let them catch up. He added that none of these are surprises; that he has heard this throughout the whole process; that Public Service actually offered to do monitoring in Eliot and work with us way back when; that Eliot pushed the petition forward and here we are. He said that he thought they should just do their jobs.

Mr. Fernald said that they did some testing years ago in Eliot and that this has been an ongoing thing that we've heard over and over; that the people in South Eliot have been affected at least 50 years by the smoke, etc. coming over the river. He added that action is not happening on testing results that have already taken place.

Mr. (Raymond) Faulkner asked if there would be several monitoring stations set up in concentric circles in the predominant downwind direction from the plant or are they talking only one monitoring station.

Mr. Moynahan said only one monitoring station in Eliot.

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Mr. Faulkner discussed a situation back in 1972 when several stations were set up because there is an issue with stack downwash, not just a plume going out, and they were able to pick up problems at different distances from the plant. He added that those studies also showed that Eliot was in a predominant downwind direction from the Schiller Station. He said that he thought they should have more than one monitoring station and he didn't think the petition should be withdrawn; that he thought that if they had that for ammunition they should hold onto it. He offered to fill Mr. Lee in, at Mr. Lee's convenience, on some of the background regarding the history of this and studies conducted over the years.

Mr. Lee said that that would be very helpful.

Mr. Faulkner said that the monitoring station on Pierce Island was installed incorrectly; that it has trees on three sides of it that are taller than the monitoring station.

**7:08 PM**

Mr. Fisher discussed the problems back in the 1990's with the station buying dirty coal instead of clean coal and that it was happening again.

Mr. Moynahan asked the Board if they wanted to consider putting the withdrawal of the 126 Petition in front of the voters in the November referendum.

Mr. Lee said not at this point as, from what he has heard, people tonight have made very good arguments.

The Board further discussed withdrawing the petition against the merits of leaving it in place and what has been recently taking place at Schiller Station regarding scrubbers to be put in place, etc.

The Board agreed to give it more time to let the petition do its work; to let the petition be the teeth for the time-being.

**7:12 PM**

**12) Establish Two-part Workshop Date: Growth Issues (Permits/Impact Fees) and TIF Plan (Next Steps/Sewer Pump Stations)**

This was a memo that presented a timeline to put any issues on the November ballot and a list of issues to discuss. The Board agreed that the replacement member for the Budget Committee and a sewer pump station bond would be placed on the November ballot.

Mr. Lee said that regarding the 1,000' maximum dead end issue there was a critical piece missing and he did not know if that was as critical as the growth permit issue. He said that the Growth Ordinance and the direction that is heading, statistically speaking, is of some concern; that he thought it should go before the voters for their reconsideration because he has heard a lot of squawking about it recently.

Mr. Moynahan said that the Growth Ordinance is supposed to be reviewed and updated every three years; that the Board's position could be that they have reviewed the ordinance and don't feel it works anymore, potentially.

Ms. Davis said that the language actually says, "*...and how the rate of growth ordinance may be adjusted to meet current conditions.*"

Mr. Murphy discussed the impact of the change made by the State in 2007 to the allowable permits formula; that they were now down to 20 from the original 48 this year and it would take 50 years to get up to 30 permits a year. He added that the State's formula wasn't working and he didn't know how to reinterpret the law to adjust it.

Mr. Lee added that Mr. Murphy said the statute wording was "105% or more".

Mr. Murphy agreed, saying that that "more" was never explained.

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Mr. Lee said that it almost seems to indicate that 5% is the floor but not necessarily the ceiling so it may be that the percentage is adjustable and we have been led to believe it was not because Eliot's ordinance is not as flexible as the law is. He added that the ordinance could be changed to reflect the option in the law.

Mr. Rankie asked if there had been any response from their State representatives regarding this.

**7:21 PM** Mr. Lee discussed the response he had received so far that really didn't address the Town's concerns.

Mr. Rankie gave a history of the development of the Growth Ordinance and that it was put in place to keep Eliot the rural place that it is; that it has worked very well for Eliot. He added that it was the State that messed it up and he was really frightened by the fact that we might go and break the growth ordinance that has gone through the Supreme Court and has proven to take care of keeping Eliot a rural town and keeping our taxes where they should be.

Mr. Moynahan said that he thought that that was where the language is pretty specific; that the municipalities can review it every three years and update it so, if the ordinance changed from 1.05 to 1.15, you manage your growth for three years; that it's still a growth management plan. He added that the PA is monitoring this – are we getting too much growth, enough growth, do we adjust that level; that it depended on what State law allows. He clarified that no one is trying to get rid of the Growth Ordinance; that the Board just feels that it is flawed and how can we, internally, fix that.

Ms. Adams said that she didn't want to mess with it until they have all the facts and she strongly urged the Board not to put it on the November referendum. She added that she thought that this was something that really needed to be talked about by the Eliot residents and that the Town Manager has come up with some very good questions that needed to be asked. She said that land was a finite resource and, once it was developed, we can't get it back.

Mr. Fernald agreed with Ms. Adams. He asked Mr. Lee what the State would do if Eliot didn't go by the State law.

Mr. Lee said that he didn't think the State would do anything. He explained that he thought what might happen is we would put ourselves in a position for a resident of the Town to challenge our ordinance as not being consistent with State law; that he suspected it would go before a judge and the judge would go through the statutes and say the Town had no authority to do anything except what this was so you are to put it back the way it was and reinstitute it and not go about doing your own thing. He said that he thought the Town would end up defending it in court against somebody who would say the Town couldn't just do that unilaterally.

Mr. Moynahan said that our ordinance says 1.05, much like the State, and the only difference is that ours does not say that it should be reviewed and adjusted annually. He added that the State Planning Office would say we were interpreting it right because your ordinance says 1.05 and, if it said 'or more' would we be applying it correctly with decreasing numbers or...

Mr. Lee said that that was what they needed to find out as that might be the simplest solution; not throwing the baby out with the bathwater but developing a local 1.whatever % that would not take us 50 years to get back up to 30 permits.

The Board agreed to have Mr. Lee ask the question around the 'or more' language and bring that answer back in two weeks.

**7:30 PM** Mr. Lee said that there were a lot of related issues to this. He said that the Comp Plan called for changes in lot sizes, for example, and has not been addressed five years later; that they have never discussed impact fees, which is also a way to

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limit growth. He added that when you talk about how to limit growth – formulaically, 105 or more, and simply make that change; how did what the Comp Plan call for impact growth; how does putting in impact fees impact growth. He added that, if they are going to do this, he suggested to the Board that they do this holistically and have some sort of a task force to study this for a period of time and come back with what was the holistic answer with regard to sizes of parcels, impact fees, etc., and the impact to the Town, as a whole.

Mr. Hirst said that he thought they needed to know, roughly, what the breakpoint would be in the growth number that would require additional services such as fire and police.

Mr. Lee said that he did something around that for Ms. Mills of the Comprehensive Plan Implementation Committee (CPIC) of what services would be impacted, long term, as we had a lot of growth; that that would have to be part of the discussion because growth cost money, staff and time. He added that for most of the services he didn't think they would need much; that it would have to be a significant amount of growth before fire, police, etc. would need to adjust.

Mr. Fernald disagreed to some degree; that he thought the Highway Department met that threshold years ago; that it seemed no matter how much growth we have in Town it doesn't seem we add any more employees to a department to take care of everything; that it was always cut.

Mr. Lee agreed.

There was further discussion on the difficulty of anticipating future changes and their impacts and that the Comp Plan and the CPIC were key to this Town as a roadmap for guidance and direction.

**7:39 PM** The Board agreed to hold a workshop on August 14 at 5:30 PM on the TIF and upcoming referendum items.

**13) Establish Selectmen Liaisons to Boards and Committees**

It was agreed that Ms. Davis and Mr. Hirst would be involved in the Collaboration Group.

It was agreed that Ms. Davis would be liaison to the Comprehensive Plan Implementation Committee.

It was agreed that Mr. Hirst would be liaison to the Energy Commission, Harbor Committee, and Sewer Committee.

**7:45 PM** **14) Disputed Bill: Civil Consultants**

Mr. Moynahan said that this has been in front of them for quite some time; that Civil Consultants was never given the okay by the Town; however, they assumed that the work for the ECSD was something they were asked to do. He added that the school refused to pay anything at one point in time but has recently offered to pay 50% of this bill.

Mr. Lee said that he also refused to pay it because there was no contract for the work and no authorization to engage them so they kept sending the bill to the school.

Mr. Moynahan agreed, adding that it was back before the Board because one of the options they had before was that the Town and the school would split the bill 50/50 and the school said that they would not do that at that time; that in the spirit of looking at a contractor who has not been paid, he asked Mr. Lee to add it to the agenda and bring it before the Board, as the school has recently said that they would pay half the bill.

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Mr. Lee explained that Civil Consultants does a lot of work for the school; that they were over at the school doing some work and an informal discussion started about renovating that space over there (EES) and, "We'll help you with that. We can do a little something on that. Get some diagrams to you", and next thing you know \$800 worth of work had been done and there was never any discussion about rates, a contract, etc.; that we were of the opinion that this was a nice deed trying to earn our business because the Town doesn't do a lot of business with them, whereas the school does. He added that the Town never asked them to help; that they offered and we said sure but there was never a discussion of money. He clarified that, if the Board was so inclined, the Town could split it with the school and Civil Consultants will waive the interest charges.

Ms. Davis asked if the Town received value for this service.

Mr. Lee said yes.

Ms. Davis said that they had money they appropriated for the move for the ECSD over to the school; that they had money that they could take from that account.

Mr. Lee said no; that the money was already expended, plus a little bit more on the move because they had a change order come in. He said that there was no source in his budget where he knew this could be paid from. He added that it would have to come from the ECSD budget, somehow.

Mr. Fisher said that they had an account (building) for that kind of work for that department and was wondering if it would be an ideal time coming in November to take that money out of that fund and put it into another fund to pay for things like that.

Mr. Lee said that he didn't think they could do that in November; that they could do that through the budget process and to the voters – dissolve that reserve account and use it for other purposes.

Mr. Hirst moved, second by Ms. Davis, that the Board of Selectmen pay half the Civil Consultant bill in the amount of \$446.45 out of the Eliot Community Services Department budget.

**DISCUSSION**

Mr. Lee said that he believed there was \$160 in interest that has accrued and Mr. Hirst was going with the base amount.

Mr. Hirst said yes.

Mr. Fernald said that this wasn't budgeted for the ECSD.

Mr. Lee said no but added that, during any given year, in any given budget, in any given town, there are probably 50 things that come up that had no spot in the budget that could not be anticipated and you had to make it work; that something else would get pushed aside.

The question was asked as to why, if the Town did not contract or authorize this work, then why was the Town willing to pay for it.

Mr. Moynahan clarified that it was not authorized by the Town or the school department; however, the material was used and it did benefit both parties in coming up to a conclusion with the space at the EES.

Mr. Murphy asked if there was any money in the Selectmen's Contingency Fund; that this was typical of the kind of expense that fund has been used for.

Mr. Lee said that there was a new allocation effective July 1.

There was disagreement over where to take the money from among Board members.

**DISCUSSION ENDED**

**BOARD OF SELECTMEN'S MEETING**  
**July 24, 2014 5:30PM (continued)**

**VOTE**

**1-1-1 (Ms. Davis abstained)**

**Chair concurred in the opposition**

Mr. Fernald moved that the Board of Selectmen pay the \$446.45 out of the Contingency Fund. There was no second and the motion fails.

Mr. Moynahan suggested an apology to the school and Civil Consultants but we did bring it back up before this Board, which is all we can do.

**15) Date of Workshop: Selectmen's Policies – 7/31 at 5:30 PM**

This is a reminder to the Board.

**G3. Public Works**

**7:52 PM 1) Use of URIP Funds/'Capital Improvements'**

Mr. Lee said that this was requested by one of the Selectmen so he included it in the packet for the Board's information.

**2) Chip Seal Bid (Heron Cove, Douglas Way, Greenwood St., Spinney Creek Rd.)**

Mr. Hirst said that Lane Construction was called about this but they didn't give us a response; that SMRPC didn't respond, either, so he felt a little uncomfortable that we have met the intent of the bid process.

Mr. Moulton said that this was a specialty construction and All States Asphalt essentially owns the area in Maine, New Hampshire and Massachusetts. He added that Lane Construction was the other closest one and they are out of Bangor and it would probably be a reach for them to come down here for this. He explained that the Town was moving in a different direction from other towns in that they were focusing more on maintenance rather than just paving and few contractors did this work.

Ms. Davis asked where the money was coming from.

Mr. Moulton said that it was coming from the paving line for \$500,000.

**7:57 PM**

Ms. Davis discussed her concern that the roads discussed in this project were not on the list approved at Town Meeting; that the Board was being asked to approve these plans and they had a presentation on the Chip Seal but no real discussion regarding plans for the scope of work. Ms. Davis also asked about the Garrison Drive request for \$29,900. She asked if that was part of his line item for Garrison Drive for \$69,800.

Mr. Moulton said yes. He clarified that they did a Road Management Funding Plan and, as part of that plan, the alternative is to take care of the good roads to extend their life, which saves the Town money in the long run because they are spending less money per square foot. He explained that, with this request, he was saving money here which would allow him to do more of other things, so he was stretching that \$500,000 instead of utilizing more.

Mr. Lee concurred with Mr. Moulton that that was why we were doing this; that with this inexpensive application we can extend the road life dramatically and get on to other roads with the balance of the money.

Ms. Davis said that we had a list of tasks that we slated for this year that was approved at Town Meeting.

Mr. Lee said that they didn't have the study back at that point that was helping to guide us so we had to be a little bit flexible about our thinking about how we are going to use the chip sealing in the manner as suggested by both consultants we have been using with this Road Management Plan. He added that we do intend to have a multi-year plan in place based on this study that was done. He added that this was a cheap way to get out of these little roads for a good long time.

**BOARD OF SELECTMEN'S MEETING**  
**July 24, 2014 5:30PM (continued)**

Ms. Davis discussed her concern regarding any delay of the reclaims and rebuilds that are on this year's list; that we are pushing backwards and she was concerned about the tax payer. She added that, next year, we would come back with some repeat requests that were on this year's list and it just keeps building.

Mr. Lee said that people would have to realize that things do change to some extent; that it wasn't the intent of tricking people; it is that, since the study came out, they have changed the way they thought about how they would approach these projects, so he wasn't sure that really was the case.

Mr. Moynahan asked, of the roads listed in the budget presentation, how many would be affected by what they changed.

Mr. Moulton said two, partially, and gave an example: Depot Road that is split by Route 236 – one section will get reclaimed this year and get overlaid next year; that it was going to get both (roads) this year. He added that, with chip sealing, he would prolong the life of the pertinent roads ten years or more so, instead of spending that money on that overlay now, it would be shifted, and next year there would be a plan.

Ms. Davis asked if Mr. Lee knew, preliminarily, what taxes would really be this year.

Mr. Lee said that he did; that it was on his desk. He added that he wasn't prepared to speak to it this evening but would if it was the Board's will.

Mr. Moynahan said he thought they should stay with the paving maintenance, first; that they could bring it up on the agenda but was hard to go back.

Mr. Lee said it wasn't finalized; that it was close but he wanted to do one more review of it before he presented it to the Board.

Ms. Davis said that she would feel a lot better if she knew whether it was going to go up a lot higher than what we originally anticipated because that makes a difference on where we go with this spending.

Mr. Lee said that he thought it would be about a half a mil; that it was what was predicted.

**8:05 PM**

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen utilize All States Asphalt, Inc. for \$50,506.67.

**DISCUSSION**

Ms. Adams said that one of her concerns was that more money would be spent for reclaiming roads rather than helping to preserve good roads so that they didn't get to the point of having to be reclaimed. She added that this project was what she would want to see; that we would reclaim one road but preventing others from having to be reclaimed and only reclaim a road when it really, really needs it.

**DISCUSSION ENDED**

**VOTE**

**2-1 (Ms. Davis)**

**Chair concurs in the affirmative**

**3) Soil Stabilization Bid (Garrison Dr.)**

This was part of the DPW budget for this year.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen utilize All States Asphalt, Inc. for soil stabilization for the sum of \$29,900.

**VOTE**

**3-0**

**Chair concurs**

Mr. Moynahan asked, for expenditures of this level, that when it is an item that goes out to bid that the Board have the RFP language in their packets and anyone contacted verbally. He added that he thought the department head or Town

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Manager should indicate what budget line it is from and what the balance is after that expenditure.

Mr. Lee agreed that was a good idea.

**G4. Public Safety**

**8:09 PM 1) South Berwick – Eliot Rotary: AED Grant Awarded**

Mr. Lee said that the Rotary approved Eliot's grant request to purchase six AED's; that there would also be a concert by the Saxyderms to raise a similar amount. He added that it was very nice that the Rotary was doing this.

The Board expressed their appreciation for this grant, as well.

**2) Command Staff Proposal**

This had to do with the Police Department and was regarding potential sharing between Kittery and Eliot versus having a change of position in his (Chief Short) workforce.

Mr. Lee said that, although the sharing arrangement of the Police Chief is working quite well and is a money-saver, it has somewhat weakened the command structure, especially in light of the new trainees we have over there; that they need a lot more day-to-day, always available, kind of attention. He added that when he interviewed the veteran officers to see how the Chief-sharing was working this was a theme that came up over and over again; that the Chief was well-aware of it but we have been trying to do without getting through this last year's budget cycle and not blow the budget out of the water but, at this point, we really need to address that. He added that we don't have enough people over there to advise that number of police officers.

Mr. Moynahan said that this does create a new position and asked if they, as a Board, were able to create a new position (sergeant). He added that it also requires bargaining with the union, which has not been done, at least not with a bargaining team, but the promotion was granted on July 21<sup>st</sup> before this even came to the Board; that there is a guarantee that we would have a savings in overtime on paper but he would like to have that a little more firm because overtime has still been quite large to the beginning of this year.

Mr. Lee said that there was a miscommunication between he and the Chief on when this would go; that he had asked for this type of a chain of command proposal before we did anything with finalizing any hiring and, unfortunately, that message got mixed up a bit. He added that that was undone by the Chief.

**8:12 PM** Chief Short agreed. He said that he thought there were two components – one is addressing the Lieutenant-sharing position and where we are with that; that the Sergeant piece is separate. He said that the union is agreeable in doing a sidebar to create the sergeant's position. He added that the position has not been created and this is in front of the Board because he needs some feedback. He discussed what they were currently doing to close the overtime and schedule gaps (midnight shift). Chief Short discussed the proposed sergeant position. He said that they made some giant strides in resolving the contract, as of late, in bringing the department more in line with what the area's police officers were making and he thought that would go a long way in creating stability within the organization and the Town and holding on to their employees. He discussed the few opportunities for upward mobility (promotions) within the department; that other departments of their size have more opportunities and he would like the ability to retain and recruit personnel. He added that, roughly, it would be around an \$1,100 savings just for the overtime spent on that four-hour open shift. He discussed that the sergeant's position would not only be supervisory but would take calls (patrol), as well. He added that one of the things he thinks allows his being shared between the towns to work is having a lieutenant in each department to handle administrative needs when he is not there and the sergeant would allow us to have

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some of that weekend coverage. He said that, although they have a vacancy that will have to be filled, he thought this was a good opportunity for them to make another good step on the direction the department is going.

**8:18 PM**

Mr. Lee said that this began, in part, with the lieutenant discussion; that before doing anything with the lieutenant position he asked the Chief to give him a whole picture regarding what else might take place and how might this look when everything shakes out. He added that anything to do with the sergeant's position still has a few steps to go before we are able to do anything. He said that, if the plan looks good to the Board, the lieutenant's position would be the first one they would look to fill because that is already an established position; that they would then have to do something with the union before we have any ability to come back to the Board with a sidebar agreement (an existing officer as a sergeant). He reiterated that they were looking to fill that lieutenant's position; that they have waited for several months and it was time to get that filled right away; that if they couldn't negotiate this deal then this would fall apart, anyway, but if we can, and come to an agreement, then we would like to see we have the Board's support in going forward. He added that it was our hope that the Board would support this; that this department has been in trouble in terms of staffing for a long time, the overtime has been a beef. He said that he and the Chief were trying to correct that and asked the Board to allow them to work within that budget and do what we feel needs to be done to stabilize that department.

Ms. Davis asked how the elimination of overtime would go over.

Chief Short said that anytime you took money away from somebody he was sure it wouldn't go over very well but, regardless, that vacancy is going to have to be filled and the end result was, whether it was a sergeant or patrolman, the overtime would start to go away. He added that when they were at full strength they had a big reduction in overtime and the key was that when they got to full strength to be able to hold onto their people. He said that, regarding overtime, everybody understands that when we get to our full head count, regardless of what the rank structure is, overtime would draw back. He said that every member of the department that was queried about this proposal was in favor of it.

Mr. Hirst asked if there was any plan to have a Town vehicle furnished to the lieutenant.

Chief Short said that they were not doing that with this one.

Ms. Davis asked if they were still going to budget for overtime.

Chief Short said yes because the realistic number in overtime, as much as they tried to get a handle on it, was probably really within that \$45,000 to \$55,000 range with vacations and sick time and training and investigations. He added that they were not big enough, as an organization right now, to make overtime go away; that when they lost one person it had a major impact on their organization and a major impact on the Town and, along with that, was why it was important to pay the officers what they should be paid to hold them here. He clarified that overtime would never go away because there were too many factors built in to it but he and his department would continue to do everything they could to reduce it.

Mr. Moynahan reiterated that the proposal was to fill the lieutenant's position and to create a sergeant's position, which takes some work as outlined tonight, and asked Board members if they supported the plan.

**8:29 PM**

It was the consensus of the Board to support the Chief's proposed plan, as presented.

Mr. Lee thanked the Board for their support; that he thought this was the first real important step to really stabilizing that department and he did appreciate it.

Mr. Fernald said that he thought it was interesting that over the years that Eliot has always been the training ground for officers in Kittery only because, once

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Eliot has them trained, they go to Kittery for \$10,000 more than Eliot pays them...and that's why we have a union. He added that if we paid our officers what they deserved we wouldn't be in the position we were.

Chief Short agreed, adding that he thought the contract had made huge strides in that and it has made a huge difference in the attitudes of the officers; that he tried to explain to them that they did have a lot of community support; that they have had the whole time he has been here; that he thought that the monetary support through the contract has gone a long way to make the officers feel their jobs are valued.

**Selectmen's Report:**

**8:34 PM** Ms. Davis said that, regarding the **Eliot Commons TIF**, the senior housing project coming up does not seem to fall within the rules of that TIF language; that that TIF was to generate jobs in that area. She added that she knew the Board was promoting it but she wasn't sure that they should be under those conditions and thought it needed more discussion.

Mr. Lee said that she made a good point.

Mr. Moynahan said that that was looked at the last time they requested to do that senior housing. He added that Mr. Lee should look again because this was a new project and even though it qualified the last time that didn't mean it would qualify this time.

Ms. Davis said that she just read in the paper that Kittery has **\$800,000** for **downtown renovations** and just got \$2.8 million for the bridge work they are doing. She added that she was wondering how they came up with those funds and if that was something that Eliot could look into for the future.

Mr. Lee said absolutely. He added that he would like to be able to focus on getting grants like that for the future but it may not be right off. He also added that Kittery may have a grant specialist.

Mr. Moynahan said that Councilor Beers had informed him that, with some of these projects, the interest rates and grants were because they were shovel-ready projects.

Mr. Lee said, likewise our energy projects, because they were shovel-ready, we got grant money for it. He added that if you plan ahead for those things and have a match fund even better. He said there was a lot of planning involved in this; that it was a couple-year process until you got in that mode where you began churning out some grants.

**8:38 PM** Ms. (Donna) Murphy discussed her concern regarding the Eliot Commons TIF in that that was supposed to bring in 300 jobs and has, in fact, not brought in many at all.

Mr. Moynahan said that, if living within the confines of that TIF and if there was any potential commercial growth in that area, he would support it.

Mr. Moynahan said that, regarding the **ECSD fit-up**, Mr. Lee had indicated that they were over budget; that that was a warrant article and asked where they would get the funds for the overage.

Mr. Lee said it would be from the ECSD operating budget; that he had talked with the ECSD Director and the hope was that her operating budget would absorb this cost and reduce other expenses elsewhere.

**Other Business as needed**

**8:32 PM** Mr. Moynahan said that the Board had correspondence from the Town Manager related to **interest rates on abated taxes**; that the Town Meeting allows the BOS

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to establish the interest rate that will be paid on abated taxes. He added that the BOS minutes showing that 3.0% was adopted for that year; that it also appeared that, in 2013/2014, no vote was taken and no interest paid on abated properties.

Mr. Lee said that he recommended 3%; that that was a standard number across many towns.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt a rate of 3% on abated taxes, as requested by the Town Manager.

**DISCUSSION**

Mr. Lee said that it might be advisable, for future Town Meeting warrants, to put that number right in there (the warrant) so that we didn't forget.

**DISCUSSION ENDED**

**VOTE**

**3-0**

**Chair concurs**

Ms. Adams asked what the 3% for abatement taxes was.

Mr. Lee said that, for example, the Town assessed a house too high for whatever reason at, say, \$530,000 instead of \$350,000 and taxes were paid by the homeowner on the higher amount; that the Town would owe back money to the homeowner, as well as interest for making the mistake.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:42 PM.

**VOTE**

**4-0**

**Chair concurs**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**Mr. Grant Hirst, Secretary**