

**BOARD OF SELECTMEN'S MEETING**  
**August 27, 2015 6:00PM**

**Quorum noted**

**A. 6:00 PM:** Meeting called to order by Chairman Beckert.

**B. Roll Call:** Mr. Beckert, Mr. Fernald, Mr. Murphy, Ms. Davis and Mr. Pomerleau.

**C. Pledge of Allegiance recited**

**D. Moment of Silence observed**

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

**6:02 PM** Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of July 9, 2015, as amended.

**VOTE**

**4-0**

**Chair concurs**

**F. Public Comment:**

**6:11 PM** There was no public comment.

**G1. Department Head/Committee Reports**

**6:12 PM 1) Board of Selectmen: School Committee Applications (Appoint on 9/11)**

Mr. Beckert said that we have two that have applied for this position, Ms. Martha Leathe and Dr. (Dannen) Mannschreck; that we will have them come in to interview at the next meeting and then the Board can make a decision.

Ms. Davis asked, because this is such an important position, if was possible to leave this open in the interim.

Mr. Beckert said that anything is possible but we usually have a cut-off so that it gives everyone the same opportunity. He asked for the thoughts of the Board.

Mr. Lee said that the logistical issue, here, for staff was that we wanted to have a date by which we closed it so that the Board had a couple of weeks to think about the applicants. He added that we could extend it, maybe, to September 3<sup>rd</sup> because that's when your next packets will come out. He also added that we are trying to standardize the 12-day posting period.

There was no further discussion regarding the extension.

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**2) Planning Board Membership Application: Christine Bennett**

Mr. Beckert said that Ms. (Christine) Bennett was present and that this would be to fill the vacancy (alternate) left by Mr. Dunkelberger.

Mr. Murphy asked if she had attended any Planning Board (PB) meetings.

Ms. Bennett said that she has.

Mr. Murphy thanked her for applying.

**6:16 PM** Mr. Pomerleau asked what kind of planning courses USM offered.

Ms. Bennett said that they offered a certificate program in Planning; that she took Transportation Planning and History Planning.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen appoint Ms. Christine Bennett to the Planning Board, term to expire in 2017.

**VOTE**

**4-0**

**Chair concurs**

**6:18 PM** **3) Board of Selectmen: Negotiating Team Consideration – No Correspondence**

Mr. Lee said that Mr. Fernald had indicated that he wasn't sure that he wanted to continue being on the negotiating team; that he thought Mr. Pomerleau followed up with Ms. Davis to find out if she could do it if Mr. Fernald decided he did not want to do it. He added that it was his understanding that Ms. Davis got permission, or an exception, from her employer to do so; that if Mr. Fernald is interested in not being on that negotiating team then it does appear we have at least one other person interested in doing that. He said that he didn't know if Mr. Fernald was serious about that, or not.

Mr. Fernald said that because of the vote that was taken to vote down the union contract he felt he should be stepping aside and let someone else on the Board be part of that team. He recommended Ms. Davis be on the team.

**6:19 PM** Mr. Murphy said that he has often thought he might be willing to serve on that but he does a lot of things and a lot of thinking and wasn't sure he could add another thing. He added that you have to be very careful what you say and you have to think big, long thoughts to try to balance very important issues that would last for a long time. He said that he knew that Ms. Davis had a quick mind; that this takes energy and he thinks she might be a good choice.  
Ms. Davis said that she would be interested.

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**6:20 PM** Mr. Pomerleau moved, second by Mr. Fernald, that the Board of Selectmen thank Mr. Fernald for his time on the committee and replace him with Ms. Davis to be the ongoing member of the bargaining committee for the Police contract.

DISCUSSION

Mr. Lee said that the negotiating team may, at some point, also have to deal with other types of things, not just Police contract; that it would be for any negotiating-type conference with himself.

DISCUSSION ENDED

**VOTE**

**4-0**

**Chair concurs**

**6:21 PM** **4) Harbor Commission: Revised By-laws**

Mr. Lee said that they made one simple change to their by-laws; that their by-laws initially said to meet monthly and have realized that there may be times when they cannot meet if there isn't a quorum and summertime can be very busy for them.

Mr. Pomerleau discussed Chairperson duties on page 3 where it says "shall vote on all matters", asking if that wasn't currently prohibited by our ordinances.

Mr. Lee agreed that currently under Town ordinance for Boards, Committees, and Commissions it says quite clearly that the Chairman only votes in the event of a tie.

The Board agreed that this should be made consistent with the ordinance.

Mr. Pomerleau said that in §4 of page 3 it reads: "*An Officer of the Commission may be removed from office for cause by a two-thirds (2/3) majority of the Members voting...*" and that sounds like the Commission, itself, would remove someone and only the Select Board has that authority.

The Board agreed that that needed to be corrected.

Mr. Beckert said that we will consider this a First Reading.

Mr. Lee said that he would advise the Harbor Commission of the changes, asking them to consider them and get back to us with a fully-revised copy.

**6:24 PM** Ms. Davis said that, in §2 on page 2, it says: "Failure of any Member to attend.....may result in dismissal if so determined by the Chairperson."

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The Board agreed that was wrong; that that came to the Board of Selectmen.

Mr. Murphy said that, regarding membership, any citizen of the Town can apply to be on that Commission, just like any other committee, and it is up to the Selectmen to assess whether it is needed, or not, and then appoint.

Ms. Davis asked, if an officer is removed for cause, does it then follow that they remain on the Commission.

Mr. Lee said that that should be clarified. He will bring the by-laws back to the Harbor Commission to have them revised to meet current ordinances.

### **G2. Administrative Department**

#### **6:27 PM 1) Town Manager Activities Report**

Ms. Davis asked if there was a reason we always scheduled Public Works towards the end of the meeting. She asked if it was possible to save him from having to wait through an entire meeting and bump Public Works up near the beginning of the agenda.

Mr. Lee said that we can certainly adjust the agenda and that may be the kindest thing we can do because Mr. Moulton is here at virtually every meeting.

The Board was amenable to that change.

**6:29 PM** Ms. Davis said that she had a question regarding the Harbor Commission by-laws. She said that, on page 4 in §1 they remove the words "held each month and" regarding regular meetings but nowhere in here does it require them to hold any meetings.

Mr. Lee made note of that for the Harbor Commission.

Mr. Murphy said that he would like them to, near the front, reference the Town ordinance just so they are aware of it and agree they must follow it.

#### **6:30 PM 1a) Financial Reports**

This was informational as it is early in the year.

#### **6:32 PM 1b) General Assistance Report**

Mr. Lee, discussing improvements in GA Assistance, said that he thought this was an area that tax payers could take some solace in; that since FY 11/12 expended

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amounts have steadily gone down and that the total budget has been cut \$27,000 over the two years since having the GA Administrator.

**6:34 PM** Mr. Pomerleau asked if Mr. Lee knew whether the results for that are a significant reduction in the applications as opposed to the implication that there was some inadequacy in the determining and processing of eligibility before.

Mr. Lee said that he knew that when the GA Administrator took over the same folks were coming in that had come in before but, if you administer the program according to every regulation that is available to you, there are a number of places that applicants can slip up and not fulfill their responsibility to get help, such as having receipts; that he thinks that's what we've tried to buckle down on. He added that we now have fewer people coming in because they have been told no a couple of times and they are not in need; that he didn't know if they were previously. He said that we have done a lot of training; that he and Ms. Albert have looked at what they can do and he thinks that has brought things into line better with proper application of the program.

**6:36 PM** Mr. Murphy said that it was his understanding that Mr. Lee has made a deliberate attempt to identify other places where our local people in need can go to get problems solved and gives them an opportunity to improve their lives.

Mr. Lee agreed. He said that there are a number of resources and we have that resources list, among them being Footprints Food Pantry; 211, which is like a 911 of social agencies; that we have several resources we can send people to if we can't help them, ourselves. He added that we also have that winter heating fund because there are people who are right on the cusp of being income-eligible and the heating takes them over the edge; that it's nice to have that program because, with GA, he'd have to say no to people. He said that he didn't want to be mean to people who genuinely needed help but there are people who don't genuinely need help and he thinks we've tended to weed them out at this point.

**6:37 PM** Mr. Murphy asked if there was any way to detect the need of people who don't come to this Town; are there people in Town who need help and aren't getting it; that that's what worries him.

Mr. Lee said that he didn't think so; that Ms. Albert has a big heart; she wants to help people but she follows the rules; that when she can help people she's very passionate about it; that she goes the extra distance and will call somebody up on the applicant's behalf.

Mr. Murphy asked if there was any chance of people falling through the cracks.

Mr. Lee said that there was always that possibility.

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**6:38 PM** Mr. Pomerleau said that many, many years ago he worked with the food stamp program and there were people who fell through the cracks because they weren't physically capable of coming in to our office, which was back in the day when you had to make a personal appearance, and we had an outreach program; that the resources for that were generally from outside agencies, such as Meals on Wheels or anyone in the community that has knowledge of individuals unable to seek help on their own.

Mr. Lee said that Ms. Albert has actually taken her vehicle and gone to other folks' houses to help them fill out the application when they couldn't get in. He added that as part of our goals for GA this year (most of the people we see are not able to work), with those we see that are just unable to find a job and are able-bodied people, we are going to institute Workfare. He said that he has found most people out looking for work don't want to take any money from the Town; that they want to give something back.

### **6:40 PM 1c) Clerk Fees Update**

Mr. Lee said that what we have tried to do in updating these fees is to keep them reasonable or free to Eliot businesses, residents, and non-resident military personnel; that the bulk of fee increases would fall, to some extent, on non-residents in deference to people already paying taxes here. He added that we were pretty out of alignment with communities around us, dated, and still giving a lot away; that the more we try to keep taxes down the more you have to think about user fees, as we have with household hazardous waste (HHW). He said that these increases would go into effect October 1, 2015. He also said that this is part of the approved revenues plan.

Ms. Davis said that the copying price seems really high in comparison to some place like Ginko's. She asked if we had many people request copies and how are they going to feel about this.

**6:43 PM** Mr. Lee said that we don't have that many but we do have some people that think that this is a copy center; that they come in here and do all their copying and he isn't sure price is a big difference for them; that it's handy; that if you are a local realtor living in Town and want to pop in for a couple of copies, they don't really care or engineers coming in to make copies, it's the same. He added that this is not big money.

### **6:44PM 1d) Material on Gun Control at Town Halls**

Mr. Beckert said that this was an informational article out of the July 2014 Maine Townsman issue concerning gun control at town halls.

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Mr. Lee said that he has been asked in the past by a couple of different folks about the ability of town halls to ban firearms from coming in; that, as you can see from this article and the legal notes, you can't prohibit that because that is a constitutionally-allowed activity. He added that we could put in some security alarms so, if something goes bad, you hit the button under your desk and it rings 911.

Mr. Fernald said that that has been discussed, before, many times.

Mr. Lee said that it never got done but he thought we were going to look at trying to budget for some sort of security because it can be frightening at times.

### **6:47 PM 1e) Communication from Senator Hill**

Mr. Lee said that Senator Hill sent a letter indicating that the second legislative session of the Senate gears up in January and if we have any kind of bill we want sponsored it needs to be in by cloture, which is September 25<sup>th</sup>.

### **6:48 PM 2) Growth Permit Update**

Mr. Lee said that there are currently 45 applications on the waiting list – 39 for subdivision and 6 for non-subdivision; that this year we issued all 18 growth permits for subdivision and non-subdivision. He added that, in 2016/2017, there will be 18 growth permits available to split between the two property classes, plus 2 for affordable housing.

### **3) Insurance Dividend from MMA**

This was to say that the Town of Eliot received a dividend check of \$7,238 from MMA as a result of its good loss experience and loss prevention program.

### **6:50 PM 4) Public Sale of Town Surplus Property**

Mr. Lee said that this is a listing of the surplus equipment the Town is selling; that this will go in the Sentinel and Portsmouth Herald next week; that we will also post it on the MMA site; that these items will be available for the highest bid through September 30<sup>th</sup>. He let the Board know that he would have to have a couple inches removed from the doorframe of the vault to get the safe out.

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**G3. Public Works**

**6:53 PM 1) Updating 5-Year Storm Water Estimates?**

Mr. Lee said that at a prior Selectmen meeting he heard that we should probably get new updates, as we have two years now with stormwater estimates; that this year, in particular, was upsetting because it was so far off. He added that he discussed this with Mr. Moulton and Ms. Pelletier; that updating came with a cost involved with doing that and, so, he wrote this memo regarding whether the BOS wanted him to go forward with trying to get an update to those estimates. He said that he didn't know if we wanted to spend the money to update this, as they are only estimates; that they do change when we get into field engineering, sometimes; that he thought the important lesson to learn was that, if there are changes in the field, we come back to the BOS. He said that we did do that last year a number of times, knowing that that budget was in trouble and we were allowed to use Public Works resources. He added that, in this case, we don't have any money set aside for this purpose and asked for direction from the Board.

**6:55 PM** Ms. Davis said that she thinks if we review a year ahead during budget season, and we have a pretty good idea of what the plan is, with the Planning Assistant (PA) and DPW Director looking ahead and giving us a thorough idea as we're looking at the budget for the year, then that's adequate.

Mr. Lee agreed.

Ms. Davis said that she would take exception with the implication that scrutiny by Board members when the fluctuation of pricing for projects comes to the forefront for funding...there has not been an issue with the fact that the job got priced higher; that the problem has been that the scope of the project was changed without notification.

Mr. Lee said that he was not sure it was without notification; that we are going to try to answer that soon, but he understands her point. He added that he was worried about these estimates because they are only estimates; that he has a hard time spending money on a number that will not turn out to be the final number, anyway, and then we will be answering how come the estimates are no good. He added that it felt like he was going to chase his tail on this one.

**6:56 PM** Ms. Davis said that, if we're looking at numbers more closely during budget season and we're getting maybe closer estimates in the spring for these type of projects, so that it's understandable; that she realized that prices change even from March to June.

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Mr. Lee said that we are certainly going to aim to do that; that he thinks that's the right approach – each year get the numbers very close to correct, do the field stuff, and know what you are doing on the budget – don't guess on the budget or guess low, etc. He added that, in terms of going out multiple years, he thinks we get very sketchy toward year four and five.

**6:57 PM** Ms. Davis said that she knew they have been discussing this as they go along so that, if they do have information and they can say that 'this' is kind of what's on the plate and give us some general view of where it's headed, then that's great.

Mr. Lee agreed –when we get done on Pleasant Street, what's the next plan, where do we have to go, is there anything we have to do, can we stop for a year. He added that putting numbers to those outer years he thinks is, maybe, not a good use of money.

Mr. Murphy agreed that it seemed silly to spend money to try to improve estimates when that money will be desperately needed later on to pay actual costs; that we will do the best we can and try to learn from the past in each area that we are going.

Mr. Lee agreed.

**6:58 PM** Mr. Pomerleau said that he thought there was a misunderstanding of what the objective was; that we all understand the meaning of the word 'estimate'; that this was about the change in scope and that is a whole different matter. He added that it went from a plan in 2013, which was a 5-year plan, to some whole other plan; that that is not the same as updating the estimate.

### **2) Waste Water O&M Activities – FYI**

This was informational.

Mr. Lee said that he wanted to point out with this is just that amount that goes into wastewater operations and maintenance, the activities that go into it that are ongoing, annual, every 3-5 years, etc.. He added that this is all part-and-parcel to what goes on as Sewer Superintendent, one of Mr. Moulton's other roles; that having been out to the pump stations, the Board now knows there are weekly checks and we have to log, etc.. He said that this is simply an awareness thing that, when you think stormwater, it isn't a project and you're done; that it's a complete, thorough, soup-to-nuts thing you have to do; that he is grateful that we have Mr. Moulton to watch after this stuff very closely. He added that the records you have to keep on this are pretty intensive, public education comes out of the planning and code enforcement office; that there is just a lot that goes with this

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whole stormwater mandate and he thought it was, maybe, way beyond what most people think.

**7:00 PM** Mr. Murphy asked, regarding line 2, if Complaint Management Updates actually meant compliant; is there a compliance management that you have to go through or are you truly acting on complaints.

Mr. Lee explained that you are required to log complaints and have a log, and also what you did about them.

Mr. Murphy said that that helps you to be compliant with the law.

Mr. Lee said that that was correct; that they want to see complaints and what you did about them.

**7:02 PM** **3) 2014/2015 Stormwater Expenditure Questions/Return of PW Contingency for Boiler (Auditor Response on 9/10)**

Mr. Lee said that one of the questions has been forwarded to the auditor; that the answer from the auditor will influence the outcome of what we can do with contingency; that he thought that some expenses that came out of PW were very valid because we came in and said to you that we have to take money out of PW and the Board said okay, and minutes reveal that. He added that the bottom line may remain, though, that if you have an overage in a budget then you have to get authorization to get an overage, as was pointed out in State statute. He further discussed the movement of money, overages, and surpluses and said that he didn't know what the auditor's opinion was going to be; that that will take place in a couple of weeks and we will try to resolve this issue.

**7:04 PM** Ms. Davis asked if, when Mr. Lee contacted the auditor with these questions, he forwarded the sheets that she handed Mr. Lee.

Mr. Lee said yes; that he forwarded everything Ms. Davis had; that Ms. Bergeron spent time on the phone with the auditor explaining the questions better and spent time with Mr. Moulton getting information so that we could share that with the auditor.

Mr. Pomerleau said that he would be particularly interested to know and confident that the auditor is looking at the MMA guidelines on it, particularly that portion of it that potentially could hold the Selectmen responsible, personally, for overages.

Mr. Lee said that the auditor is aware of that and he got everything that was sent to us, including that very point.

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**7:05 PM      4) Ms. Lastoff: Drainage Request, Old Road**

Mr. Moulton explained that we redid Old Road this year, and the drainage; that as part of the drainage we cleaned the ditch lines as part of the MS4 Permit; that everything we do we stay within the width of the ROW. He said that one of the first issues we had with Ms. Lastoff is that she said we damaged her lilac bushes. He added that the roots of the lilac bushes aren't exposed and they weren't damaged but they are in the ROW; that we try to avoid any damage to private property. He said that we basically cleaned up the bottom of the ditch line to improve the drainage, changed the culvert in her driveway, and did some work to her driveway because that wasn't performing as it was supposed to. He discussed erosion control measures taken. He said that Ms. Lastoff's bigger concern was that she wanted a pipe put in the ditch and create a closed drainage system, as we are doing in various parts of the Town. He explained that there is a large volume of water that sheds off that corner of Old Road and Fore Road, even with a moderate storm, and discharges across Fore Road and down into a drainage easement that was developed by the State some years ago; that it then discharges through the field down into the woods. He said to close that drainage system would create many issues; that she may lose her bushes because we would have to put in an oversized basin to collect the amount of flow that comes off that area; that in doing that you would have to drop the structure to a certain depth and then we would have to take the discharge and go across Fore Road down through the ROW easement and probably all the way to the river, with pitch, in order to get the water to run that this is virtually impossible and not cost-effective. He said that it works very well as it is. He added that we are cognizant of the issue; that once grass grows back in the ditch there would be no erosion; that it will ripple until the vegetation grows and stabilizes the soil. He said that he has had these conversations with her but she seemed to want to express her concerns further because she didn't like what I explained to her. He added that she was concerned that snow would freeze and thaw and clog the ditch; that ditches are a place for snow to go and so, when it melts, the runoff goes through the ditch. He added that the ditches are to maintain the stability of the road; that you are controlling your drainage, the stability of the road, and that is where all the snow is plowed in the wintertime; that as the snow melts it does its thing and it does freeze/thaw through the spring, and we manage things around Town as best we can; that there's never been a major issue in this area since he has been here. He said that he and Mr. Lee went out to observe the area last Friday when it was raining looking at the drainage and the runoff into the ditch. He added that we could engineer it but he thinks the dollar figure would scare the Board.

**7:12 PM**      Mr. Beckert asked Mr. Moulton if it was his intention to finish lining the major part of that ditch that comes down over by the old Kennard or Libbey property with riprap.

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Mr. Moulton said that his intent is not to because of the expense; that his hope and intent is that it will stabilize with vegetation and, once the seeds grow, the roots actually work better. He added that he is going to seed twice and, in his opinion, doesn't see a need to do anything further.

**7:13 PM** Mr. Fernald said that the runoff has obviously been an issue for many years that goes across the road through the ditch and onto the property across the road. He asked if the ditch in the ROW easement on that property was maintained.

Mr. Moulton said that that pipe has been extended 105 Fore Road and 6 Leighton Lane; that it splits two properties as it goes through. He added that this year we have cleaned up the vegetation through the easement; that he's recreated the swale so that the water stays contained within that swale and sheds at the very end of the limit of the easement, as best that we know that it is now. He added that we put in check dams to slow the water down and will deal with some minor issues that were created from last Friday's rain. He said that he has pictures that show that the water is doing what we need it to do; that we need to touch up the check dams a little bit. He added that he thought we have controlled as much of the water in that area as we can; that he had the smallest truck and smallest piece of equipment he could get to do that swale between the two properties and he still made a mess of people's yards that we had to clean up.

**7:15 PM** Mr. Murphy asked if Mr. Moulton had an estimate on the number of man days and equipment you've spent on this particular problem.

Mr. Moulton said that it was probably a solid week or week and a half.

Mr. Lee said that the other issue for the folks across the street is the grade; that in order to run this where you'd need to run it to have that pipe daylight, the expense would be amazing and you would be so deep by the time you got out to the back of that field, it would be crazy deep. He added that, if you want to make it a closed system, you'd really have to go through all those things – the structures, the pipes, get way down, daylight it at some point past the leech field; that it's not a simple fix and Ms. Lastoff's suggestion is one that would not work well.

**7:18 PM** Mr. Pomerleau said that, when he got her letter he went out to look at the site and had a chance to talk to her; that she has been there for 20 – 30 years and her primary point to him was, for all previous years, they have dug it out vertically as opposed to this year when it was down horizontally and scooped the bank out; that he got right down in the ditch and there were most definitely lilac roots exposed and it did appear that something was happening to the lilacs; that the lilacs are 100 years old and it may be a natural death, it may be due to dehydration from lack of rain; that he doesn't have answers and the Town may well be right; that they are in the ROW but that doesn't necessarily mean it's right to do that. He

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said that, from his layman's viewpoint, it doesn't seem to him that going back that deep accomplished anything; that the pipe sets off to the left and you widened the ditch another foot.

Mr. Moulton clarified that it was not widened a foot; that it was dug out and cleaned out more than it was widened.

**7:19 PM** Mr. Pomerleau said that his big concern was her last paragraph in which she thought was the very unprofessional way in which this was handled; that when she approached some people she got a very derogatory, condescending manner and this goes back to the whole customer service thing as a Town policy; that, sometimes, citizens have to be delivered bad news but it does matter how the message is delivered; that he sees no reason in the world that everybody just simply can be treated respectfully. He added that the first mention she made of it, it became a very defensive reaction by the employee, criticizing her overhanging lilacs hitting their mirrors; that rather than just voicing "who do I talk to about this", it became an attack on her, from her perspective; that he was not pleased with that type of response from an employee; that the employees may have another side of it, he's sure.

**7:20 PM** Mr. Beckert said that he thinks we've done what we can do with the ditch at this point. He added that he has walked by that for years; that that ditch and those bushes have been a problem and there is a stand of sumac just beyond the lilacs that hang out into the road that needs to be trimmed back every so often.

Mr. Lee said that he didn't know what more we could do; that it would take an engineered solution, out there, and it would probably rival Pleasant Street.

Mr. Beckert said that he wasn't an engineer but he thought that once the soil is stabilized and wait for the grasses to grow in, which will be very quickly, because the rest of the ditches are filling right in.

Mr. Lee said that it was a matter of having a little patience to let it grow in.

**7:21 PM** Mr. Beckert added that if a little riprap needed to be added, then that was something we could look at.

Mr. Lee said that, in other towns where he functioned much more directly as Road Commissioner, he never went out to do ditching unless he went horizontally and deep; that the reason was that when you have 'this' many miles of roads and 'this' many miles of ditching on both sides, you can't go back out there once every two or three years and do a mini-cut; that when you go out there you do it big enough so that it will last for several years because only doing a little will get filled back in quickly. He added that he felt bad for her lilacs; that he thought that the guys

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did try to stay away from them but he thinks this was an emotional issue for both people and he was sorry if she felt that way, certainly; that he thought she was pretty upset by it and he does hope she's okay about it; that he thinks we have to let some grass grow and see if it functions better, now.

**7:22** Mr. Beckert said that he thought, all-in-all, the Old Road project came out very well.

Mr. Murphy said that lilacs are vigorous and will grow out into a dead leaf pile, or whatever it is, and that they will try to grow out and take over the ditch.

Mr. Lee said that we will go back out to make sure the seed takes and roots begin to grow.

Mr. Beckert asked if we had gotten complaints from the folks where the swale is.

**7:24 PM** Mr. Lee said that we did have that fairly heavy rain and the check dams did overflow in a couple of places; that Mr. Moulton and Mr. Scott have agreed on what work needs to be done; that we may not have made that deep and wide enough for that kind of flow.

Mr. Moulton said that we widened the flow path from 18" to about 3½ feet so we actually increased the volume; that he thinks the bigger issue is that we put the check dams in at a height that was too high; that he thinks we just need to drop them down a little and fix it up. He added that he thought it was a minor thing and that it would be fine in the very near future.

### **G4. Public Safety**

#### **7:25 PM 1) Eliot Police Auxiliary Update**

Mr. Lee explained that after going back and forth, going through old documents, and talking with our insurance company he thinks we have arrived at how we can actually provide some coverage for liability, in any event, for folks that are part of our volunteers in Police service. He added that, for whatever reason, MMA will not insure the people who help the Police, in terms of safety details, traffic details, special events, etc. He added that they are a very valuable group of folks but they are putting themselves in a liableness situation when they are out there; that he thinks all it takes is this series of resolutions; that he confirmed this with Ms. Susan Caston at MMA. He said that if these actions are taken, first by the Police Auxiliary in renouncing that form and taking this VIPS form, operating under those rules as laid out in these resolutions, we can submit all of this to MMA and they will be covered; that he did not believe this would have much cost, if any. He

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said that he did think it would be easier to recruit and retain people in this program if they knew they wouldn't get sued while volunteering.

**7:27 PM** Ms. Davis asked how the group felt about all this; that it seems like it's becoming so formal and was it really their intent to have it go in this direction.

Mr. Lee said that he believed so; that they have been nervous about this for quite some time, now, according to the folks he talked with; that they wanted to see it resolved and have tried for quite some time to resolve it. He added that he knew that part of what Mr. Hirst was hoping to do when he came on was to help resolve this issue and it just seemed we could never quite capture the cat. He said that he finally got MMA to say yes and, now, he would like to see us execute it and put this thing to sleep. He said that, by the next meeting, this group will have taken their actions and, at the next meeting, he will ask the Board to take their actions to re-form this group and appoint them as volunteer auxiliary employees of the Police Department; that that would allow them to go under the insurance coverage.

**7:29 PM** Ms. Davis asked about this being on a warrant article; don't they raise money for their own use.

Mr. Lee said that they would not anymore; that, generally, police officers are not allowed to fund-raise and he wasn't sure he would encourage them to go out and do any more than, maybe, the CLINK funds or whatever they are currently doing. He added that whatever is raised has to go through Town books; that it will be part of our treasury and will be a sub-account of the Police Department; that it will only be used for their training, clothing, safety vests, etc.; that it cannot be a stand-alone organization as we have to be financially responsible for their behavior. He said that Lt. Moya said that they took it very well and are very excited we're moving forward with it.

**7:30 PM** **2) Over-the-Road Banner Policy – 2<sup>nd</sup> Reading (Selectmen's By-laws)**

Mr. Lee said that the Fire Chief didn't do anything with the 501c, as he felt that was important to have; that the Fire Chief said, after due consideration, that he really needs something he can look at and know that they are truly a charitable or non-profit, educational that falls under the 501c. He added that he knew he had heard some stories from two weeks ago but, in his personal experience, he has found it very easy to get a 501c. Mr. Lee said that the Fire Chief made a couple of changes – "The use of ladders is prohibited by the Fire Department or anyone for this purpose." and "Non-Municipal use is limited to once a year."

**7:32 PM** Mr. Fernald said that he still has some issues with this. He did say that, if you go through some of the companies online, you can get a 501c in between 7 and 10

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days, now, and you may be charged a considerable amount of money. He said that his concern was that, with a 501c, that really keeps the smaller groups out of the picture; that if you are going to estimate a range that you will raise under \$10,000, then it's going to cost you \$400 for it; that that's the problem. He added that, before you do that, you would have to be incorporated. He described an example. Using Mr. Tessier in the example, he asked, what if Mr. Tessier knows of a family in Town where the kids have some very bad medical issues and he wants to raise money for that family so he organizes a historical bike tour of Eliot; that he would have to get a 501c, pay \$400, and be incorporated if he wants a banner across the road to advertise this; that this is a banner; that we aren't talking about a big sign with illuminated lights, we're talking about a banner. He reiterated that he still has some bad feelings about requiring people to have this 501c because you are taking out a certain group of people to raise funds in this Town by not having that banner. He asked why this fell under the Fire Department.

**7:34 PM** Mr. Lee said that there was no particular reason except that, historically, they have been the ones to use the ladder truck to put these up.

Mr. Fernald said that it is actually the Highway Department that puts up the banners.

Mr. Lee agreed.

**7:35 PM** Mr. Fernald said that it was also required that you get liability coverage in the amount of \$500,000. He added that this banner is being put up by Town employees and he has been trying to figure out what might happen if that banner were to come down on a car, or something like that; asking if it was put up by Town employees wouldn't it fall under the Town's liability insurance; that the Town actually puts the sign up, although it belongs to someone else and is required that they do that.

Mr. Lee said that he thinks we handle it because of the banner specifications. He added that he was sure the Board has seen banners hanging in towns that are torn and dangling and weren't done very well; that we put in the banner specs that it should never tear, never pull off the grommets, never drop down in the road, etc. but, if it did and if that thing came down and caused an accident, he is sure as can be that the Town of Eliot would be named in a suit; that he wasn't sure the Town would be found negligent or have to pay money; that he thought Maine's Tort Claims Act would protect us but, long story short, this is a proposed policy and the Board members are the policymakers. He added that this is something that he and the Chief have put forth; that if there are concerns and you are in agreement that all you need are general papers of incorporation or papers that indicate 'this' is a charitable cause and that should be enough; that if you didn't want any display of insurance he supposed the Board could do that; that he wouldn't be that

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sure as it is a very litigious society and any legitimate corporation or non-profit does have a board of directors and, therefore they do have board of directors liability insurance for anything they do. He said that when you get down to these small groups they don't generally have any insurance if they do something wrong; that the Town would be the only pockets you could go after; that they are not a 501c and are in no way protected.

**7:37 PM** Mr. Fernald said that that is what he was saying, asking why we are not allowing small groups; that this is a category of people that we are allowing to put these banners across the road, others not.

Mr. Lee said that he was open to any changes you would like to make and he understands Mr. Fernald's point, as well.

Ms. Davis said that she tended to agree with Mr. Fernald; that it seems like it is excluding a lot of people and the whole purpose behind it really is community advertising.

**7:38 PM** Mr. Pomerleau said that he has to side with Mr. Lee's thinking in terms of the potential for liability; that he hardly thinks that anybody is inhibited from fund-raising just because they can't put a banner across the road; that there are alternatives. He added that he would be concerned with people that don't have any sort of liability coverage; that there is no doubt in his mind that, if something happened and there was a suit filed, they would sue both them and the Town. He said that he thought that this was one of those cases where we should err on the side of caution. He also said that he didn't see a long line of people demanding to put up banners so why open the door.

Mr. Beckert said that he has tried to figure these other small organizations that have asked to put banners up and he hasn't seen any. He added that the example Mr. Fernald used around Mr. Tessier brought to his mind that Mr. Tessier should go to the Eliot Historical Society and partner with them; that they are a verified 501c and insured; that there are ways to get the end result.

**7:41 PM** Ms. Davis asked if the Town Manager could just run this past our insurance company and say that, if we do our due diligence and the quality of the banner is good.....we are taking risks every day; that we could have campaign signs beside the road and, if they were to be blown off onto someone's windshield, are we worried about absolutely everything. She asked if there have been a lot of banner incidents in the country.

Mr. Lee said that he has not run it by the insurance company but he could; that he was pretty sure that they would recommend having insurance as they tend to be the most conservative when it comes to risk.

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**7:42 PM** Mr. Murphy suggested we might be looking at this through tunnel vision; that, perhaps we shouldn't have a banner there at all. He added that he has wondered, sometimes, as he is driving along and looking at a banner right by a school with children coming and going; that that's not a safe place to take your eyes off the road. He said that maybe the Town should think of another place to put something like a banner; perhaps the grounds of the Town library.

Ms. (Cindy) Lentz said that, speaking for the Eliot Historical Society (EHS), those banners are extremely expensive and, unless you can get it donated by a business, there is no small group that can afford it. She added that the EHS runs a lot of fund-raisers and we are lucky if we make \$300 or \$400; that to pay the \$400 there would be no point for the fund-raiser; we would lose money and it wouldn't be worth it.

**7:44 PM** Mr. (Denny) Lentz said that he thought the Board had a tough decision; that, from his perspective, every time you have another requirement it makes a small town feel more commercial and less friendly; that, on the other hand, you've got all the liability issues, also. He added that he liked Mr. Murphy's suggestion; that he would rather not see banners across the road at all, other than tacking on more requirements for people who would like to do that.

Mr. Lee said that his understanding, as to why the poles are where they are, is that these are old CMP poles that we own so we can attach banners; that generally CMP does not want you putting any of that stuff on their poles because of liability reasons.

**7:45 PM** Mr. Beckert said that those poles were put in for the purpose of putting banners over that road.

Mr. Lee reiterated that he would be happy to run this by the insurance company or you can make amendments to it as you see fit or however you would like to deal with it.

Mr. Murphy said that he would follow Mr. Lee's suggestion to pass this before a sensible insurance company.

Mr. Lee suggested he could run this by MMA legal and MMA insurance to see what feedback they have.

Mr. Fernald said that he would like to know if the insurance is required by the person who owns the banner or the people who actually install it.

**7:46 PM** Mr. Beckert asked Mr. Lee to find out how surrounding towns deal with this issue, such as Kittery, York, and South Berwick.

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**7:47 PM      3) Extension of American Ambulance Contract**

Mr. Lee said that this contract is in its second year of a 2-year extension and we have a letter from Kittery Fire Chief O'Brien to the two managers; that they have been discussing a 2-year extension of this contract with some new modifications to the contract. He added that, basically, they want to find out from both towns if there is something that would likely not want us to extend; that speaking with our Fire Chief and Police Chief, they are very pleased with our service, we would like to see them extend; that we pay zero and they just want our book of business of calls from Eliot and Kittery. He said that he heard recently that a NH town approached them for the same deal that Eliot and Kittery have and the ambulance service (AANE) won't do the same deal; that the deal we have was to help them break into this region. He added that he thinks we have a very good deal with AANE and would be a big mistake not to renew the contract, personally, but that is a call for the Board. He said that he was looking for feedback from the Board.

**H.      New Business:**

There was no new business

**I.      Old Business**

**7:51 PM      1) Personnel Policy Amendment – Benefit in Lieu Of**

Mr. Lee said that the most recent proposal that we took back to the affected staffers of whatever is out-of-pocket less the 15% employee contribution up to a max of \$250/month was not well-received. He recapped the numbers for the Board – DPW is \$250/month if you don't take medical insurance, that's \$3,000/year without proving or showing anything; that, originally, the value of this benefit when they were approaching union status was \$4,500; that he thought the idea was that they would settle for the same the union settled in the \$250 amount but they are really not keen on turning in papers and showing what they pay; that they think that, if it's not enough and they are on the short end of it, that's fine, and, if it's more than enough and they benefit from it in some way, then that should be fine with you folks. He added that, if we can't figure this out, each of these family plans is approximately \$22,000 minus whatever the employee is kicking in; that we are talking about a \$60,000 to \$65,000 exposure on three staff members versus \$9,000 if we were to do the same thing we did with the DPW union, which is a maximum of \$3,000 out-of-pocket. He said that they would probably be satisfied with that; that they would not take the very expensive benefit and he would recommend we make one more go at it. He added that they might want to do this in executive session as a negotiation but he thought we would leave it out in the public right now, as there is no union forming that he is

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aware of; that he thought that, if we want to put this to rest, we would go a flat \$250/month and everyone would move on with their lives, as we did with DPW.

**7:54 PM** Ms. Davis said that she studied the paperwork that we received last meeting and what it comes down to is that the spouses are paying approximately what Eliot employees pay for their family insurance. She added that she did some research and discovered that, in general, per law employers are not required to contribute to the payment of employee health insurance; that it's a benefit, not an entitlement. She said that what this would do, in effect, is eliminate the employee contribution for the employees that have it with their spouse because what we would be doing, in essence, is if they are paying the same amount our employees are paying and, then, we give \$3,000/year we are, in a sense, wiping out their employee contribution; that what will happen is that other employees in our Town will say, "Gee whiz, we have to make an employee contribution."; that it opens the door to dissatisfaction by the other employees because now they are paying \$3,000 to \$4,000/year employee contribution, whereas, these employees are not. She said that she thought we might be opening a door, here, that might turn out to be expensive in that respect; that she also thought it was difficult to explain to the taxpayer why we would pay an employee not to take a benefit when some of our residents are struggling to even have a low-quality health insurance policy and they are struggling, on top of that, to pay their taxes. She said that she understands but it doesn't seem equitable to the other employees.

**7:56 PM** Mr. Lee said that he has not heard any rumbling from the other employees that this would seem like you got something I did not get; that he doesn't think there's any sentiment in that regard, at all, to be candid with you, because we have, basically, three different classifications of employees – Police union, non-union, and DPW union; that he doesn't think there's a lot of comparing anymore because it's all over the place now. He added that he did just want to reiterate the point that, if this is where we want to stay, then he is looking at a \$60,000 insurance hit.

**7:57 PM** Mr. Pomerleau said that, with the health care prices in the country today, he thinks the objective, universally, is to make sure everyone has health care; that what we attempted to do here is to insure these employees the best health care coverage available to them based on their opinion and we're obviously looking at a scenario where they think that it's better coverage outside; that we were stepping forward willing to say okay, as long as you've got good coverage, we'll pay the difference between what it cost you to be added on to that policy, which provides them with adequate health coverage at no cost to them. He said that he thought that was a pretty fair approach. He added that he really didn't like hearing is this reference to the DPW contract because he certainly wouldn't be holding that up as the standard we want to look to the future. He said that he is not inclined to stop negotiating with them because he thinks there should be some place, here, where we can have a meeting of the minds. He said that he has heard

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from some citizens that don't even like the idea of paying them anything; that there's more than one perspective to this; that he doesn't know that anybody's right or anybody's wrong; that what we are trying to do is come up with something, as far as he is concerned, is satisfy our employees' insurance needs and he kind of stops short of wanting to somehow let that end up a windfall revenue source.

**7:59 PM** Mr. Lee said that he understood but that he wasn't debating with Mr. Pomerleau.

Mr. Pomerleau agreed; that Mr. Lee was the conduit back to the employee.

Mr. Fernald said that he thinks that if we are unhappy with the way the recommendation is from the Town Manager that we probably need to sit down and talk to the employees again.

Mr. Murphy said that he found himself sort of confused by the possibilities; that whatever we do it is not necessarily straightforward in the future; that he didn't know how to advise Mr. Lee.

**8:00 PM** Mr. Lee said that he believes he's done about the best he can in negotiating this to an amount that will resolve it. He added that, if the Board would like, he could ask them if they would like to meet with the Board; that he doesn't see any reason for him to be there; that he's done the best he can and he really thinks the Board is talking the difference \$9,000 worth of benefits going out the door and \$60,000+ going out the door; that he leaves it in the Board's hands.

Ms. Davis said that, in Mr. Lee's report and as you just stated, you said on Line 126, "Met with staff re: benefits; all 3 ready to take town insurance." She asked why they would do that; that they are getting adequate insurance, it sounds like, elsewhere; that the purpose of changing to Eliot's insurance...

Mr. Lee said that he could answer that. He said that some of our benefits are better than some of their benefits; that we may have lower co-pays than they have and we may have a better prescription plan than they have; that they may be under Northern New England Benefit, for example, or under Department of Defense and we have a very different type of plan; that if they take both plans, then they have double option coverage here – why not take the best of two worlds; that if each employer is willing to give a \$20,000 benefit then he would take them both and pick and choose the best of both.

**8:02 PM** Ms. Davis said that, if you have to pay \$4,000 to each employer, that's a consideration.

Mr. Lee said that he understood.

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Mr. Pomerleau said that that would have been a logic when you were getting health insurance free but, when you have to pay for it...that is one of the reasons people opt out because they simply can't afford two insurance policy payments.

Mr. Lee said that he was just reporting their sentiment.

Ms. Davis said that we are not attacking you (Mr. Lee).

Mr. Lee said that he didn't feel as though they were; that he thinks it's up to the Board, now, where you want to go with this; that he doesn't think there is a lot more explaining he can do.

Mr. Pomerleau discussed the timing of this. He asked where they were in open enrollment timing.

**8:03 PM** Mr. Lee said that he thinks January 1<sup>st</sup> is open renewal for this policy; that the only other time you can join is when there has been some sort of life event. He added if the question is whether we have time to continue discussion, then, yes, we do, unless they file paperwork tomorrow morning to sign up.

Mr. Pomerleau discussed life events and voluntary versus involuntary as it relates to signing up or dropping coverage. He added that we have some time, here, for reasonable minds to come together with something that might satisfy everybody; that we have a wide range of views, even up here.

Mr. Beckert asked what the Board wanted to do.

**8:04 PM** Ms. Davis said that she supposed it would be good to hear their arguments; that she still thought that, if it were widely known amongst the other employees that what, in essence, we are doing is eliminating insurance contribution from three of the employees and the rest don't get this as well, then they would perceive that as an inequity.

Mr. Lee said that he could assure Ms. Davis that, after one of these meetings, the following morning everyone knows everything in this Town.

Ms. Davis said that she thought the next step is that, maybe, we need to talk.

**8:05 PM** Mr. Pomerleau said that we have an inequity built in already; that the DPW is getting a flat \$250 and they don't have to show anything.

Mr. Lee agreed, adding that one union that gets \$824 and one that gets \$3,000; that there are inequities everywhere; that he doesn't think they worry about this anymore except that, he thinks they're seeing that going the route of union is a lot

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better than not going the route of union; that that's what he's beginning to see. He added that he fears that because he had to try to get this one decertified, and they did decertify, only by a fluke really. He said that this is the type of issue that he thinks will have us going through some further efforts that might be avoided.

Mr. Beckert asked, bottom line on this particular issue right now, if it was the Board's pleasure to meet with these three employees, if they choose to meet with the Board.

**8:06 PM** Mr. Lee agreed if they choose to, or, he could ask them to draft a very comprehensive letter as to why they feel the way they do and explain their position more clearly to the Board because, in some ways, they are just not fully understanding what you (employees) are saying. He added that he would guess that they do not want to meet in person.

Mr. Beckert suggested the Board let the Town Manager go back to the employees, explain the conundrum the Board is at in this point in time, and see what the employees would like to do, or forward to us or meet with us on the issue.

The Board agreed.

### J. Selectmen's Report:

#### **8:07 PM Committee Vacancy Report**

Mr. Murphy said that it seems to have increased to 20 open positions on Town boards, commissions, and committees. He reviewed the committees looking for volunteer members and said a copy of all available open positions is available at Town Hall.

**8:08 PM** Ms. Davis said, regarding the insurance issue, that on a lot of these issues we are, of necessity she supposes right now, acting in a vacuum; that it would be really **helpful for those of you in the viewing audience**, to let us know how you feel about this; that, if as a Town, you want to support any of these stances would you please contact us and let us know how you feel about it; that it may be that we are taking a stand based on our experience on the people that we speak to and, if we had a lot of input where people were rather uniformly in favor of one thing or another, it would help to make a decision based on how the residents feel. She added that we rarely hear from anybody; that if you think that we're not doing things right maybe you need to tell us what you think right is. She said that, regarding **stormwater**, she had a few outstanding questions on this year's project; that she thought it would be easier if she put them in writing for Mr. Lee but, tonight, she would like to know if the ramp is actually a mandated portion of the stormwater.

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**8:10 PM** Mr. Lee said that, if you would put them in writing, that would be very helpful because then, at least, he will have them in front of him.

Ms. Davis agreed it was too complex of an issue but she would like to at least let the Board know that it's coming; that she would like to summarize it and she would get it out within a few days.

**8:11 PM** Mr. Pomerleau said that he thinks all the Board members had copies of what he asked Mr. Lee to produce, here - Option A and Option B on **the budget referendum**; that those were the versions, with the attorney here, we all put together, upon the recommendation of the attorney that, if we were inclined to put forth the citizen's option portion that would merge the budget referendum ordinance that was passed along with the citizen's ordinance that was passed; that we simply seem to be treading water. He added that we have an election coming up in June; that we need a working ordinance that we are either going to put forth the people's passed recommendations, or not; that we can't rely, at this point, on what the Charter Commission is going to do; that we don't even know if it's going to pass and, with their current language, it doesn't take effect until July 1<sup>st</sup>, anyway. He added that that could change but that's the way it is now; that we are sitting here coming perilously close to deadline dates to get this on a November referendum for an amended ordinance; that in particular if we are going to adopt the citizen's petition piece of it and the scheduling built in to accommodate that in the budget process. He said that we don't have any time to wait; that we have before us two recommendations that, he reiterated, we put together with the attorney and he thinks it's time we made a decision and put forth one of them on a ballot in November.

**8:13 PM** Mr. Lee agreed that we are out of time on this, saying that there were a couple of things that came to mind; that, first, a citizen's petition cannot create a lasting form of government; that it can't dictate the form of government, per the attorney, only a charter could dictate that and have it stand year after year. He added that he has explained a number of times, logistically speaking, he doesn't see how the citizen's petition will work. He said that he has also said a couple times that he thinks even the petitioner has admitted that there was not a lot of thinking about the logistics of how this would work. He added that he thought that we should go with the ordinance that passed; that we did put forth an ordinance, it did pass, it is quite clear and, at least for now, while we deal with this question, even more so in the charter, because the charter is still working on this, he thinks we would be prudent to do the people's will; that they voted for both of these things – the ordinance and the citizen's petition – the net effect of which is that the people don't want to come to Town Meeting anymore, they want to vote on a ballot and the ordinance allows them to do that; that he thinks that that is done, it has been passed, he thinks it is defensible. He added that he knows this isn't a populist position but he thinks the ordinance also passed and that is the one we ought to

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follow because that was drafted by us with an eye toward how to get it done; details, not theoretical.

**8:15 PM**

Mr. Fernald said that, when the attorney was here, the Board and the attorney recommended that there was some wording that had to go into the charter for this to happen; that we asked that attorney to come up with some wordage for that to happen and present it to the Charter Commission. He asked if he was on the right track.

Mr. Lee said yes. He added that there were two things going on; one was that the Charter Commission did have to get some language in in order to make sure that, if the will of the people is going to be in the charter, we will need something to put in here that says we will do referendum-style and what, minimally, do we have to put in the charter to make sure we lock that in; that that was one question. He added that another question was when both passed and he (attorney) immediately went out and said you have to try to read them together. He said that the only other thing he could suggest is, if we took the existing ordinance that passed, and put it on November, with at least one amendment to it, which would be in deference to the citizen's petition, to embellish the public hearing portion prior to the...that he has been working on the budget schedule and he has been having trouble with it because he doesn't have answers for what to do or when these things have to come out or if the charter is going to pass or anything; that he is really up in the air about this thing; that what he did was to put in his draft budget schedule a public hearing prior to the finalization of the recommendations of the Budget Committee and/or the Board of Selectmen so that we aren't having an informational budget about these are the two budgets people will get to choose from; that it's these are the two budgets that are under consideration and do the people have any feedback for the groups; that then the people are there at a time when they can still influence the budget numbers – that the groups are both off-base or not enough is going into it or there is a need for this or not for that – and he thinks that was the intent - how do the people weigh in when you folks are about to create your budgets or, if the people can't weigh in well enough, the people want to create their own budget and put that out there as an option. He added that he thought that if we were to amend out ordinance that allowed for a public hearing at a point, early enough, that if people came they could have an impact on what final numbers Budget Committee and Selectmen selected, ultimately, he thinks would meet the intent of both; that he thought you could read both together in that manner and we could get that done in short order and before the voters; that he thought that would be the other thing that we might be able to do, other than just going with our ordinance that passed.

**8:18 PM**

Mr. Fernald said that there was also the format of the ballot, itself; that we would still need to come up with that.

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Mr. Lee said that it was his understanding that the Charter Commission has gone the route of you get to vote either the Selectmen's number or the Budget Committee's number or none of the above; that whatever plurality wins becomes the number; that, if it's none of the above, it reverts to last year. He added that his sense would be that, if we're not going to drive people crazy, we use that same format in our ordinance. He said that he is not advocating it; that it's a bad policy, universally but that's just his take on it; that if that's what the people want to do, then we'll do it. He said that he thought that whatever we do, now, we ought to make it consistent with the charter.

Mr. Fernald asked why and if it had to do with the third option.

**8:19 PM**

Mr. Lee said that the only reason we are talking about plurality is because we've changed the normal balloting procedure. He added that normal ballots in Town Meetings you have a number that is presented by the Board of Selectmen, there is a recommendation put forward by the Budget Committee that may differ from that to give people pause on whether they want to vote the Selectmen's number; that then there are only two choices – Selectmen's number or no – and then you don't deal with plurality questions; that you deal with majority but, when you try to have three choices, you have to deal in pluralities.

Mr. Fernald said, just for clarity in his own mind, we had talked to the attorney about having an ordinance for the Charter Commission to reference so that that ordinance could be changed, periodically, if need be, without going back to the charter to do that.

Mr. Lee said that that was correct.

**8:20 PM**

Mr. Fernald said he understood that the attorney indicated that we could not do that and that the wording has to be in the charter, itself. He added that the problem is we have two recommendations from two attorneys, which are different.

Mr. Lee said that, today, the Chair of the Charter Commission came in to see him, per the instructions of the Charter Commission; that we sent an email to both attorneys – Phil Saucier (BOS) and Stephen Langsdorf (Charter) – and he authorized them in this email to speak to one another so that Attorney Langsdorf has a full background of what Attorney Saucier has already told us; that today there was a phone call, they discussed, and he got a note back from the Charter attorney saying that he now fully understand all the issues and would work more on this; that we should be getting something back in very short order. He added that he wasn't sure whether we wanted to deal with this tonight or after we get back some more solid advice about how to deal with the charter issue.

## BOARD OF SELECTMEN'S MEETING

August 27, 2015 6:00PM (continued)

- 8:22 PM** Mr. Pomerleau said that, if we had the timeframe, the attorney writing the charter struck the plurality thing and made a reference paragraph to the budget referendum ordinance; that it will be in the format upon the instructions as written in the Town referendum ordinance; that he (attorney) was saying don't put it in specifically, refer to the ordinance. He added that that is preferable because no matter what anybody's view is, here, and how all this works, if it all ends up one way or another that we want to change it, it is a whole lot simpler to change it in an ordinance than to have to go through a charter revision.
- 8:23 PM** Mr. Lee said that the underlying issue is that, if the form of the ballot is three choices, and he knows there has been a lot of discussion on Mr. Pomerleau's part that you have to have a majority, and you have to get a majority with three different choices, then it becomes much more probable that budgets will not ever pass and will revert back to the prior year. He added that he thinks referring to an outside ordinance is the prudent thing to do but, if the form of the ballot is going to remain three choices, then he thinks the plurality thing better be in the charter because, otherwise, that could be set in the ordinance that we could have four choices and we need 50%; that now we're just trying to thwart any progress on getting a budget passed; that it worries him.
- 8:24 PM** Mr. Pomerleau said that he rejects the position that you won't get a majority; that he thinks the people, here, have historically pretty much gone along with the Board of Selectmen's recommendations; that it's been a rare time and, maybe, on some issues, that they've gone with the Budget Committee. He added that people are making it sound like that's some sort of chaos; that the way the ordinance was written, that if no majority was obtained, the Selectmen could have one more referendum vote. He said that you have to expect that, at that point, the Selectmen aren't going to want to see this bouncing around and a meeting of the minds is going to come together with something that's likely to satisfy the citizens; that even if it doesn't, that's the end of it because it defers to last year. He added that there are so many potential ways that this could be controversial; that he simply, fundamentally doesn't believe that any budget of this Town that passes should be done with anything less than a majority of the voters; that that just opens the door for never-ending dissatisfaction with what has happened; that he finds it astounding that he has to sit here and defend majority vote, in a democracy, for our budget. He said that it's not like comparing it to an election of three equal people; that we are talking about a budget that's put forth by the Selectmen, with an alternative budget put forth by the Budget Committee; that that's two choices. He said that you have to record the people's votes that don't want either of them because both of them could be unsatisfactory; that one could be extremely high and the other could be way too low; that they may be the same amount, but it's not a third option, it's a rejection of the other two; that they are telling people to go back to the drawing board and give us something better.

**BOARD OF SELECTMEN'S MEETING**  
**August 27, 2015 6:00PM (continued)**

**8:26 PM** Mr. Fernald said that one of the problems, obviously, is that, when you go back to last year's budget, you need to have a budget for last year; that if something in a budget that comes up that is new and not from anything from last year, then you have to address that, if it fails.

Ms. Davis said that, if it's something new and people reject it, then that would seem to be some kind of an indicator; that she has a couple of different thoughts on that. She said that we would have another swing at the ball with another referendum to vote on the articles that failed; that she thought we need to try harder to convince people of our position so that, maybe, if we publicize enough information in an understandable format, that we won't have that issue because they will feel strongly one way or the other. She added that she was kind of disagreeing with Mr. Pomerleau about the majority thing and was leaning towards plurality on this but, when you think about three options, and it really is three unless you're telling people they either vote Selectmen or Budget Committee or their vote doesn't count, there are always going to be two that are similar and one that would be different so that you always have that option of splitting that vote; that if we did our work, hopefully, we would avoid that. She suggested we try this for one year; that it's not going to kill us, right.

**8:28 PM** Mr. Lee said no; that his initial statement was to go with the ordinance and put in the three things – Selectmen, Budget Committee, none of the above; that we would have to make a determination if we want to do plurality or majority; that he thinks the word 'plurality' means three choices and 'majority' means two choices. He added that that would be the only decision and, then, we could go forward in June; that we would know where we are headed and he could put together the schedule. He added that he did think, in deference to the citizen's petition, that the right thing to do here is to have a public hearing while there's still time to really impact what numbers you all vote on, as well as the Budget Committee.

**8:30 PM** Mr. Fernald said that he really doesn't think that the people will understand; that when you talk about majority, obviously, people are going to say that the majority of the Town wants it this way; that the fact of the matter is that the Budget Committee can get 49% of the vote, the Selectmen get 25%, the NA's get 26%, and the Budget Committee will fail because they didn't get a majority.

**8:31 PM** Mr. Pomerleau said that Mr. Lee is the Town Manager and we are Selectmen and our first duty, as the executive branch, is to carry out what the legislative branch told us to do; that the legislative branch told us that they wanted an ordinance and a citizen's option and the attorney gave us the language on how to merge them. He asked if we were going to follow what the legislative branch told us to do, or not. He said he was very hard pressed to sit here, whether he thinks it's smooth or a bit difficult or whatever, and say we are going to reject what the legislative branch told our Selectmen to do because we think it's hard.

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

**August 27, 2015 6:00PM (continued)**

**8:32 PM** Mr. Fernald said that the fact of the matter is that we instructed the voters on the articles to pick one or the other and they did not do that; that many of them picked both, so, the argument where they are always going to do the right thing holds water.

Ms. Davis asked what are deadline is for getting something on the ballot in November.

Mr. Lee said September 17<sup>th</sup>.

**8:36 PM** After further discussion, a workshop was set up to resolve this issue on September 3<sup>rd</sup> at 5:30 PM.

**8:37 PM** Mr. Beckert said that we have gone through several changes with the Board of Selectmen and we have gone through a change in the form of government we have; that the Chair hopes the Board will indulge him because the Chair thinks we need another workshop; that we need to do it as a Board, with one of our attorneys, to go over Selectmen duties, responsibilities, areas of authority under a town manager form of government. He added that he thought this would be beneficial for the whole Board and for the public to sit and hear it, as well.

The Board **agreed by consensus** to hold a workshop on this topic on the first Thursday in October.

**8:41 PM** Ms. (Donna) Murphy said that we, also, if the Board of Selectmen would care to consider, our first meeting in October, which is the second Tuesday of the month, of using that for our joint meeting.

Mr. Lee said that that might work better.

Mr. Beckert said that we would look at the calendar to see if that worked.

### **K. Other Business as needed**

There was no other business.

### **L. Executive Session**

There were no executive sessions.

**BOARD OF SELECTMEN'S MEETING**  
**August 27, 2015 6:00PM (continued)**

**M. Adjourn**

There was a motion and second to adjourn the meeting at 8:45 PM.

**VOTE**  
**4-0**  
**Chair concurs**

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

\_\_\_\_\_  
**Mr. John Murphy, Secretary**