

BOARD OF SELECTMEN'S MEETING
September 11, 2014 5:30PM

Quorum noted

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

Roll Call: Mr. Beckert, Mr. Hirst, Mr. Fernald and Ms. Davis.

Pledge of Allegiance recited

Moment of Silence observed

Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Hirst, seconded by Mr. Fernald, to approve the minutes of August 14, 2014, as amended.

VOTE

3-0

Chair concurs

Public Comment:

There was no public comment.

G1. Department Head/Committee Reports

5:34 PM 1) Appointment: Business Development Committee: Steve Reiner

Mr. Reiner was not present. Mr. Lee said that he would be along presently. Mr. Beckert said that the Board would come back to this.

5:35 PM 2) Planning Board: Growth Management Ordinance

Mr. Lee said that, as he understands it, the PB was recommending adding the words 'or more' to the Growth Ordinance.

Mr. Beckert agreed, saying that the PB felt that that simple addition got us out of the problem we are in right now; that it gives the municipality the flexibility to adjust that formula.

Mr. Lee agreed, asking if the Chair thought that the PB would be looking at the Growth Management Ordinance in its entirety, in a holistic way, going forward over the next several months.

Mr. Beckert said that he would think they would. He added that there were mixed opinions within the PB on what changes would be best regarding the Growth Ordinance beyond this specific amendment.

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There was discussion regarding the 48 permits the Town had had until the State required municipalities with this ordinance to use the State formula; that the PB cannot unilaterally change the ordinance, they can only recommend, but then it has to go back to the Town for voter approval.

Mr. Lee discussed the work that had already been done to know what that percentage would be that was needed to get the permit number back up if we were trying to get back up to 48; that the percentage had to be used to get to the number of permits wanted.

Ms. (Donna) Murphy said that she went on the Town website to review PB minutes and did not find any after 2013 and the meetings are not video-streamed. She asked where they might get copies of minutes and, if they would not be posted, was it possible to look into video-streaming PB meetings.

Mr. Beckert said that, as minutes are approved, they are uploaded to the Town website and, as far as video-streaming, the PB has said no.

Mr. Lee acknowledged that the minutes were behind; that they had to get out in a more timely manner. He added that we have had that discussion, in-house, but we are challenged to find time to do that among all the other things we are doing. He said that he did realize we needed to have those minutes if they were appealed; that it is a two-edged sword and we are very much aware of it and disappointed with where we are right now.

G2. Administrative Department

5:40 PM 1) Town Manager Activities Report

Mr. Lee said that he gave the Board a draft set of Shellfish Committee minutes, as we have not heard from that committee for a while, to give the Board an update. Mr. Lee added that the annual report went out, as well.

Ms. Davis discussed her concern that the Chief's car had not been approved by Kittery and asked for clarification.

Mr. Lee said that Kittery had not approved it prior to Eliot approving it. He clarified that our interlocal agreement doesn't address capital purchases but how we will split operation and maintenance of the vehicle; that the Kittery Town Manager thought we should have language that would spell that out before we go ahead with this capital asset; that we would be jointly purchasing a capital asset and should this relationship dissolve there were legal issues that needed to be clarified. He added that this will take a bit more thought and have put the whole thing on delay until Kittery is comfortable with this.

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5:42 PM Ms. Davis said that Mr. Lee received a letter from the Kittery Wastewater Treatment Facility and asked if the Board could have a copy of that initial letter.

Mr. Lee said yes.

Ms. Davis asked if Mr. Lee could add line numbers to his management report because of the detail in those reports.

Mr. Lee said yes.

5:43 PM **G1. 1) Appointment: Business Development Committee: Steve Reiner**

Mr. Beckert said that Mr. Reiner was present at this time and invited him to speak.

Mr. (Steve) Reiner apologized for being late and thanked the Board for having him. He added that he grew up in Eliot and wanted to get involved in this committee to help the Town in any way he can in growing economically and in a safe fashion. He said that he wanted to help current Eliot businesses flourish and anything new the Eliot community decided on, regarding businesses, would have an easier time in coming here. He added that he grew up around many local business people and has recently been working on helping to get the business-friendly certification with Mr. Lee and the rest of the committee; that they had been able to complete that application well. He said that he had an awesome time growing up in Eliot and wanted to help the community grow.

Mr. Beckert said that, if there were no questions from the Board, the Chair would entertain a motion.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen appoint Mr. Steven Reiner to the Eliot Business Development Committee, term to expire June 30, 2016.

VOTE

3-0

Chair concurs

The Board welcomed Mr. Reiner aboard.

5:46 PM Mr. Beckert said that Chad William Gregor was present to discuss his Eagle Project for a Dog Park in Eliot.

Mr. (Chad) Gregor said that he was from Eliot Troop 340 and was here to discuss his proposal for a dog park at Frost Tufts Park. He said that he met with Mr. Lee, Ms. Muzeroll-Roy and Ms. Buckley, who helped him get this project started and

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prepare for this presentation. He reviewed the packet he presented and answered questions. (There is a copy of this project at the Town Hall.)

Ms. Davis asked if the entryway for the dogs was ADA compliant.

Mr. Gregor said that it would be big enough.

Ms. Davis asked if Mr. Gregor had had the opportunity to speak with people who would use this park to find out if they would be in favor of this location and did the people who helped you help you pick the location.

Mr. Gregor agreed that he received help in picking the location; that he hasn't spoken with people, himself, but heard from Ms. Muzeroll-Roy that there were a lot of people who have been wanting a dog park.

Mr. Fernald said that this was an excellent idea; that there were a lot of folks in Town who wanted places to exercise their dogs. He asked if Mr. Gregor had asked the PA about the fence location as he was concerned about how far the fence was from the nearest boundary regarding the neighbors.

Mr. Gregor said that when he contacted Dig Safe, they told us we were good; that that location was fine. He asked if Mr. Fernald was talking about how far away it is from houses.

Mr. Fernald said that he was talking about between the fenced area and the adjacent landowner; that it has to be a certain distance away. He suggested Mr. Gregor talk with the PA to go over what he was proposing.

Mr. Beckert thought that, in the ordinance, it said that the fence had to be two feet away from the boundary line and this project is well away from the boundary line.

Mr. Reiner suggested Mr. Gregor go to the property owners and ask them what their thoughts are and if they have a problem with this.

Mr. Hirst said that he thought the land for Frost Tufts Park was donated to the Town and there may be some sort of a contractual agreement with the Town and asked if that had been explored to make sure that such an occupancy was within the guidelines.

Mr. Lee said that, no, it had not been explored; that he didn't mention it to Mr. Gregor and he wasn't sure he would know where to look for the trust document that would delineate that. He said that we were missing a lot of documentation on these trust funds; that as he was going through some files and he did find one for

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one of them. He added that he wasn't sure he could find it but he would help Mr. Gregor look for it and make sure that it is consistent.

Mr. Hirst said that Mr. Gregor gave a marvelous presentation and the Board agreed.

Ms. (Donna) Murphy said that Mr. Gregor mentioned he would provide little doggie bags and a can for them and asked how that fit with the current policy of carry-in-carry-out in our other parks.

Mr. Beckert said that he would answer this with an open mind that the committee that would review the rules for the dog park is not even met to set up those rules; that this may not be a carry-in-carry-out. He added that he thought that, if we were going to provide barrels and bags, then that was something that would have to be looked at, but let's let the committee do their work.

Ms. (Nancy) Shapleigh said that if there were any restrictions to the property it would probably be recorded as covenants with the deed in the Registry.

Mr. Beckert suggested to Mr. Lee that Frost Tufts Park and the Susan Bloom account may be two different things; that they may be tied together in some fashion but may be two different things regarding use of the land, itself, versus the use of the funds in the Susan Bloom? Account. He added that the other account was the Mary Lizzie Spinney Fund and was the other old trust.

Mr. (Bob) Fisher said that he agreed with the Board; that he has been here a long time and heard many presentations and Mr. Gregor's was the best.

Ms. (Sally) Lewin asked Mr. Gregor if he had an estimated time for completion.

Mr. Gregor said that if it takes more than one weekend, he thought they might need one extra day, like start on Friday and end on Sunday.

6:05 PM G2.2) MMA Voting Credentials

Mr. Lee said that he would ask the Board if they would vote him in as a voting delegate for their business meeting. He added that he always goes to that; that he has been a past president of MMA and the activities of that vote are very important to him.

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Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen have Mr. Dana Lee attend the Annual Maine Municipal Association Business Meeting as a voting member and that the Chair sign the document authorizing that.

VOTE

3-0

Chair concurs

6:06 PM 3) Insurance Dividend Status

Mr. Lee said that the Town received a dividend check of \$7,760 recognizing a good track record with Worker's Comp and Property and Casualty. He added that the Insurance Reserve has been used up over the years and is currently down to \$15.00; that this fund is often used to cover deductibles. He said that we do have a current claim with MMA and that requires that a \$500 deductible be paid by the Town to receive the balance of the damage claim. He added that he recommends that the Board capitalize the Insurance Reserve with this dividend check.

Ms. Davis said that the last paperwork she could find on this was that there was over \$8,000 in this account and asked what happened to that balance.

Mr. Lee said that he did not know what she was referring to; that all he could tell her was that the current balance in there right now is \$15.00. He added that he didn't know where that was but would be happy to go over that with her to find out; that that was a big spread and he didn't understand where that number would come from.

Ms. Davis said that she was looking at the end of the year article and expense to try to rectify the over-expenditure in the Administrative Department, which amounted to almost \$114,000, and seeing authorization here to transfer \$8,300 from the Insurance Reserve to cover unemployment insurance for a separated employee.

Mr. Lee said yes, we pay our own unemployment; that that was one of the overages and could have come from the Insurance Reserve; that that was another purpose for that. He added that he thought they ought to look at whether we should be self-insuring unemployment, to be candid; that he thought we might be wiser to go through a pool. He said that that was an authorized thing because we didn't have the resources in the budget to cover anything like that.

Ms. Davis asked what separated employee was that.

Mr. Lee said that he thought it would have been, in part, what we did at the ECSD with one of those employees; that that might have been one of them but he wasn't sure.

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Ms. Davis said that she thought we need to investigate this funding because this account was funded prior to that and, if it was an ECSD employee that was...she thought we had a problem when we let that person go; that she thinks that funding should have come out of department funds and not out of this account. She added that she didn't know why an ECSD employee was being paid out of Admin.

6:08 PM

Mr. Lee said that all of ECSD was within Admin last time and all the benefits were within Admin last time.

Ms. Davis said that she would like to look at this a little further before we just take the money and put it into that account, if possible, and get a better idea of what came from where.

Mr. Beckert said that he thought we needed to make a decision on where we are going to put that money regardless of what the \$8,300 was taken out for, at this point; that he thought that that was probably a moot point.

Ms. Davis said that she thought that money we are getting for good behavior should probably be returned to the taxpayers in the General Fund.

Mr. Beckert said that it was returned to taxpayers by putting it in a reserve account, either way, as it still belongs to the taxpayer.

The Board discussed holding off on a decision for two weeks to allow Ms. Davis to get more information around the discussed issues.

Mr. Pomerleau said, regarding the unemployment insurance fund for unemployment benefits, that it was his understanding that these were employees that were eventually awarded National Labor Relations (NLR) back pay. He added that, if that was true, then unemployment insurance law would require them to reimburse the General Fund, unemployment trust fund, at which time, then, the trust fund would reimburse the Town, essentially saying that because of the back pay that person was not unemployed and that person owes the money back.

Mr. Lee said that he was unaware of that and that it would be helpful if Mr. Pomerleau could stop in a guide him a little bit on this.

Mr. Hirst discussed that, if you change horses mid-stream on this unemployment, then it has to be done January 1st.

Mr. Lee said that that may well be and he thought that was a discussion for the Board to have whether we would like to go that way because, if we do, he would need to budget that.

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The Board agreed to hold off on where the check would go for two weeks.

Ms. Davis will get together with Mr. Lee to review this.

6:13 PM **4) Special Warrant Mtg. /Kittery Collaboration Mtg. – Sept. 18 5:30PM/6:30PM**

The Board agreed to hold a special Board meeting to finalize the warrant at 5:30 PM on September 18th followed by a collaboration meeting with Kittery Town Council at 6:30 PM.

6:16 PM **5) November Warrant Articles - Draft**

Mr. Lee discussed a conversation he had with someone very knowledgeable with our sewer system who told him that any improvements or expansion to this system came with some stipulations; that the person would give him a letter and documentation regarding this and Mr. Lee would run that by the attorney; that the implication may be that there were existing restrictions on how much can go on the sewer users.

Mr. Pomerleau said that, regarding the non-binding advisory article, he found the language quite disturbing because that was not what was asking to be done; that we were not proposing to eliminate the Open Floor Town Meeting form of government. He added that the language should state budget items; that they could discuss the items but just put the vote off to a referendum.

Ms. Davis said that, with the sewer article, there is a statement of fact that includes language around the TIF revenue and suggested putting that at the end to eliminate confusion between the two sewers. She suggested saying, 'These sewer repairs are unrelated to the Route 236 TIF District and none of that revenue will be used for these repairs.'

Ms. Davis suggested, in Article 5, to change the words 'General Fund' to 'taxation' to clarify that taxes would be raised to pay for this.

Mr. Lee agreed and suggested 'property taxation'.

The Board agreed.

Mr. Lee suggested 'budgetary' instead of the current language in the non-binding article to clarify.

The Board agreed.

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There was discussion around the differences, statutorily, in Open Floor Town Meeting versus public hearings as it pertained to the non-binding advisory article. There was also discussion around not eliminating the discussion but just the voting on budgetary articles only.

Mr. Lee suggested rewrite options for this article: "The Board of Selectmen anticipates public hearings would precede the referendum vote."

Mr. Beckert suggested adding 'discussion' after 'public hearings' so that people would know they still would have the opportunity to discuss the articles before voting on them.

Clarification was requested on whether the Town could have the same Town Meeting but just not have a vote at the end of the discussion for budgetary articles.

Mr. Lee suggested the wording, 'Do you favor having all budgetary articles at the Annual Town Meeting in 2015 to be decided by referendum, thereby eliminating the Open Floor portion of the Town Meeting.'

There was concern that the same small number of people would come to public hearings as come to Town Meeting and that would not solve the problem trying to be addressed.

Mr. Lee also suggested the wording: 'Anticipate that one or more public hearings would be held in advance of the referendum voting on budgetary articles.'

Mr. Beckert agreed, saying that that had to be done, legally, anyway.

The board agreed.

6:35 PM

Ms. Davis discussed Article 6 regarding her concern with the Green Acre sewer line article being a warrant at all and what back-up documentation there might be.

Mr. Lee discussed the document that came in between now and the last meeting; that the sewer went through a pressure test and came back successful.

Mr. Moulton added that we were doing a review of the pump station records.

Mr. Lee said that, while there are still some things to do, we need to have a placeholder question if we want it on the November warrant; that if some of this does not pass then we really need to make the point of advocating that nobody vote for it.

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Ms. Davis reiterated her concern and asked what was included in this acquisition.

Mr. Moulton said that it was 650' of 4' diameter SDR21 pressure sewer force main and four manholes.

Ms. Davis asked for the potential benefit to the Town and said that it seemed to her like a potential liability for maintenance, repairs, or replacement.

Mr. Lee said that it is the acquisition of another asset for which we have to care; that he did not say that he was necessarily advocating it but that we made a promise to them that we would ask the question. He added that he thought Ms. Davis' point was well-made; that if another road came before the Town he would advocate not accepting any more private roads, ever, because you don't want any more assets to take care of. He said that, personally, the only reason this is being suggested as an article is a deal that we will act in good faith if you act in good faith and we will see if the taxpayers think this is the right thing to do.

6:40 PM

Mr. Pomerleau asked how this additional acquisition might impact the rate to all the other users regarding the 30% increase; what kind of costs might be incurred in preparing this system for 20-year upgrades, which we would have to budget for even though it is in good condition now.

Mr. Lee said that we have a little over 5 ½ miles of sewer line and this is 650' so it would add only a small amount and he didn't think it would impact the 30% because we have enough cushion to add another, say, 2%.

Mr. Murphy asked if there were additional people who could come on to this newly available force main and be additional rate payers.

Mr. Lee said that there are and a letter has already gone out to those people, spelling out the pros and cons to those people in the neighborhood and what this might mean to them; that there were potentially 14 to 15 additional users and that was significant. He added that that would potentially offset the costs Mr. Pomerleau had concerns around.

6:43 PM

Ms. Shapleigh said that she was wondering that people that don't have sewer in that neighborhood could ask for a tax reduction because it probably isn't worth quite so much because it isn't on the municipal sewer. She added that we were talking about fairness, here, and taxes and all and if they are going to have less benefit than their neighbors, then maybe you need to look at that.

Mr. Lee said that that was a good point but there is a whole series of things that go into that type of thinking and gave some examples. He added that his point was that he would probably be willing to pay less for a house on a private road than he

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would be willing to pay for that same exact house on a public road, and the same with sewer; that he would pay more to be near sewer than septic.

Mr. Beckert said that this article would ask the residents if they wanted to accept 650' of sewer; that it has been recommended by the SC; that letters have gone out to neighbors impacted.

Mr. Fernald said that it was the Townspeople's decision to make and that's what we ought to do.

Ms. Murphy asked for clarification of the inspection process.

Mr. Lee agreed that some inspections still needed to be done and that one way we could ask this is 'Should the Town of Eliot accept approximately 650' of private sewer force main from Green Acre Baha'i, along with four structures, subject to the Town receiving ...proof of compliance with the ordinances, or something like that.

Mr. Moulton added that, even though time was pressing, this addition would already have been reviewed by November and found to meet qualifications, or not. He added that what was still needed was to finish the review of records to see if there were any issues on-site at Green Acre that could transpose into the system, itself; that the pump station would still belong to Green Acre, along with the line from the pump station to the interceptor manhole on Main Street.

Mr. Lee said that he was going to add, 'subject to final submission of documentation required by the Sewer Ordinance.'

It was the consensus of the Board to bring this to the Town for a vote as long as the Sewer Ordinance was met and all the questions were answered.

6:47 PM 6) Correspondence: David Leavitt: York River Study Concerns

This was informational to make the Board aware of potential issues regarding the study results; that the Board will pay attention to this and asked that Mr. Leavitt be thanked for keeping an eye on this.

6:50 PM 7) Revised Inability to Pay Application

This was a revised property tax abatement form to be adopted, if the Board desired.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the Town of Eliot Application for Property Tax Abatement Due to Inability to Pay

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form, and marked on the records as G2-7 9/11/2014, as the form we use from this point forward for determining abatements.

VOTE

3-0

Chair concurs

G3. Public Works

6:52 PM 1) Winter Salt Bid

Mr. Lee said that they recommended that Granite State Minerals be awarded the salt bid.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen award the bid to Granite State Minerals for winter salt for the 2014/2015 season in the amount of \$48.43 per ton.

VOTE

3-0

Chair concurs

6:54 PM 2) Household Hazardous Waste Day Contract

Mr. Lee said that they received two bids and they recommended Environmental Projects, Inc. with a not to exceed amount of \$12,000.

Mr. Hirst asked if he was correct that Kittery Solid Waste provides this service on a regular basis rather than just once a year.

Mr. Moulton said that he was correct, saying that that service was available every day the facility was operational.

Mr. Hirst asked if we should look at that approach rather than a one-day deal for \$12,000.

Mr. Moulton said that that was one of the collaboration items being discussed but it has not moved forward so far. He explained that Kittery has a cost sheet per resident depending on what they bring in, much like the fee structure for our TV's and electronics, etc.

Mr. Beckert asked if it was as comprehensive as what comes in on our one day.

Mr. Moulton said that that was one of the underlying questions still to be answered.

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Mr. Beckert said that another question would be what kind of liability we would have until we get rid of it.

Mr. Hirst asked if it would be possible to piggyback with Kittery for this year coming and then look into a more permanent arrangement.

Mr. Lee discussed needing to firm up the date with the company and that this was a process that took a lot of approval; that he didn't see any way that we could get out of it this year.

After further discussion, the Board agreed by consensus to wait one week while Mr. Lee follows up with Kittery about piggybacking this year.

7:05 PM 3) Pump Stations Draft Debt Schedule(s); 20 years

This was informational.

4) Park Street Storm Water Update

This was informational.

There was discussion regarding one property owner who was not in agreement with the certified survey and caution needed with legal implications of this situation.

G4. Public Safety

7:15 PM 1) Acceptance of Forfeiture

Mr. Lee said that this was to have the Board agree to accept drug forfeiture, other forfeiture funds and/or items that may come from arrests; that each time that happens we have to do one of these and we have some pending. He added that we also created a special revenue account for this; that some money was sitting in Evidence but is now in the revenue account.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen authorize the Chair to sign as municipal officer on behalf of the Town of Eliot to accept the \$2,147.00 pursuant to the Superior Court document (CR-13-469).

VOTE

3-0

Chair concurs

H) New Business:

There was no new business.

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I) Old Business

7:19 PM a) IT Security Plan

Mr. Lee discussed the Memo he gave the Board that showed the system other towns use, while it may be less expensive, is not HIPAA or PCI compliant. He explained that we didn't have to worry about HIPAA compliance but, if we are ever to take debit/credit cards, then we need to be PCI compliant. He added that the Memo also gave good background information on what we are doing now, what we are doing wrong, remedies and discussed the Datto back-up system recommended by 2-Way Communications.

There was discussion around problems with TRIO and the lack of options.

Mr. Lee will pursue resolving TRIO problems; that he really didn't want TRIO backing up their data anymore and there may be a discount that he will ask them about. He added that this information he submitted to the Board was informational at this time.

Mr. Hirst said that he thought at one of their last meetings they decided not to renew a subscription, wherein, saving about \$2,300; that if that is the case and we have the funding should we consider upgrading our back-up system now.

Mr. Lee said that that was possible; that he was concerned that we could face something any day and if we have another issue with TRIO then we would have to have 2-Way, at extra expense, do what we pay TRIO to do. He added that he thought we should move on this and he thought we could utilize the savings from one to pay for the other and go from relatively low usage of our money to relatively good feeling about the way we are using our money and back up everyone's data

Mr. Fernald said that part of the question with TRIO is about contract obligations and, before paying TRIO for that contract, they need to come forward and tell us and show us how back-ups were performed, and the result of that.

Mr. Lee agreed he was going to have to have a good discussion with TRIO regarding what exactly they are doing with our data, where is it, why couldn't they find it, if we don't want it do we get some kind of rebate, do they lower our software fees per year. He will keep the Board up-to-date on this.

b) FEMA/Insurance Reimbursement – Draft Policy II

There were no changes made from the last reading.

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Ms. Davis asked for an extension to continue reviewing this as she did have some comments but he hasn't had time to submit them.

The Board agreed to hold this until the next regular meeting.

c) Finish Personnel Policy Workshop

The Board agreed to set a date to finish this.

Ms. Davis discussed her concern with the definition of full-time from 40 hours down to 32, as it would seem to increase the Town's expenses, and she wanted to get feedback from the Board members.

Mr. Beckert said that they would talk about that at the workshop for this; that that meeting will be public, as well.

Mr. Lee said that he needed to do some research on why and how we got to that number, as well.

Selectmen's Report:

There were no Selectmen's reports tonight.

Executive Session

7:32 PM Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. § 405.D Labor Negotiations.

VOTE

3-0

Chair concurs

7:45 PM **Out of executive session**

There was no action taken.

Other Business as needed

There was no other business.

Adjourn

There was a motion and second to adjourn the meeting at 7:46 PM.

VOTE

3-0

Chair concurs

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DATE

Mr. Grant Hirst, Secretary