

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 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**

**E. PUBLIC HEARING – Appendix B and Appendix C of General Assistance Ordinance**

**5:31 PM** Mr. Lee said that, at least once a year, the DHHS sends out new numbers for General Assistance (GA) Administrators to use and, in this case, it was B (food maximums) and C (housing maximums). He added that these new numbers would be applied from October 1, 2014 to October 1, 2015 and the changes are very small.

**5:34 PM Public Hearing was opened**

Mr. Beckert asked if there was anyone from the public who wished to speak for, against, or just plain to this ordinance change.

No one from the public wished to speak.

**5:35 PM Public Hearing was closed.**

Mr. Fernald moved, seconded by Mr. Hirst, that the Board of Selectmen accept the changes for the 2014/2015 General Assistance Ordinance maximum food and housing.

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

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

**5:37 PM** Motion by Mr. Fernald, seconded by Mr. Hirst, to approve the minutes of September 25, 2014, as amended.

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

Motion by Mr. Hirst, seconded by Mr. Fernald, to approve the minutes of October 9, 2014, as amended.

**VOTE**

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

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

**G. Public Comment:**

**5:43 PM** Ms. (Janet) Saurman, Park Street, had a letter that referenced a memo the BOS received from their lawyer, which she gave to the BOS. She said that she was there as a spokesperson for many of her neighbors; that we are certainly concerned regarding the drainage project and the information the Board gave us two weeks ago about the 'prescriptive use' information that came from the lawyer. She reminded the Board that she was appreciative of the Board's efforts and was fairly satisfied with the report, even though she had wished for different results, and all went fine. She added that, in the course of the last two weeks, this bit of information came to her and apparently came the same day as the 'prescriptive use' memo. She discussed why they were concerned that this was not shared and pursued; that it was the very last sentence, which she highlighted. She said that the Town's own lawyer apparently sent the Board information that offered a solution for the problems with the boundary disputes and the changes in the way we've all known our property to be, as I've said in my case, for nearly 60 years. She added that the last sentence from the Town's lawyer says, "*This format of agreement would, in one step, seemingly allow the landowners to have a recorded document that addressed the possibility of a survey discrepancy, while also allowing the Town to have clear rights in the Park Street and drainage area rights-of-way.*" She said that, usually, boundary lines and easements and rights-of-way end up being the kinds of things that divide neighborhoods and the Town has a lawyer who said to the Town that he thought there was a solution that would work for everybody and that was never presented to us, and that is extraordinarily surprising and, frankly, quite disappointing. She emphasized that the Town's own lawyer sent them this information and he said that there are ways that this can be solved that can keep the property lines the way they are today if we agree to certain stipulations, which are that we wouldn't put up any permanent structures; that we are all in agreement that we could live with this; that we could get together as neighbors and sign a piece of paper that would take care of the problem for both sides. She said that a solution exists that would keep everyone happy is the rarest thing in the world; that we've got it, you folks didn't share it with us, she's glad we have it and hopes we can discuss it to find out where we can go next.

Mr. Beckert said that he had stated that the memo we talked about at the last meeting superseded this one because the lawyers did not have all the correct information when we sent this to the attorney originally. He asked Mr. Lee to speak to this.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

**5:46 PM** Mr. Lee said that he sent this to the attorney that he was very much looking for a solution that would make everyone happy and the attorney asked to think about it to see if there was a way we could do that. He added that eventually the attorney wrote back and he shared that response with Mr. Moulton and Ms. Pelletier to ask them why this solution might not work. He said that while Ms. Pelletier was looking at it she said that Mr. Lee didn't mention anything about the encroachments and, so, Ms. Pelletier sent over additional information to the attorney and the attorney said that that changes things. He said that the attorney wrote back that same day that, with the further information that Ms. Pelletier provided, that may not be a solution. He added that it is the sequence of those letters that makes the difference.

**5:48 PM** Mr. (Greg) Power, Park Street, asked which encroachments Mr. Lee was talking about – the Town's or ours.

Ms. Pelletier said both. She was asked to get copies of the emails covering this question by Mr. Lee.

While they were waiting for copies to be made, Mr. Lee announced that the Town Yard Sale to help the Fuel Assistance Program was rescheduled for October 25<sup>th</sup> at the Fire Station from 8AM to 1PM.

Ms. Saurman said that the construction people have been down; that the street has been painted and lined and all the markers have been put in so one of the things she think happened, also, was that we got to see in 3-D exactly the implications, which looks very different on a piece of paper versus on the ground.

At this time, copies of the pertinent emails were passed out.

Mr. Lee said that he did think that it is important to note, Mr. Chairman, that he went into this with the attorney, with his marching orders from the Board, and asked the attorney if he could find a way that everybody can retain whatever they have; that that was his first request, to find a way to get through this where everyone stays whole and when he wrote back and said he may have found a way, Mr. Lee couldn't have been happier. He added that he sent that out to staff for their review and Ms. Pelletier asked him if she could give the attorney the rest of the story, and that is what you are looking at in the second memo.

**5:55 PM** Mr. (Jeff) Furbish, Park Street, encouraged everyone to take a drive down Park Street; that he was born and raised there since 1960 and if you look at what the plans show now the street is encroaching on everyone as you drive towards the river about 6 feet on the right-hand side of the properties. He added that it brings some of the houses within 4 feet of the road. He said that we, as neighbors, feel the road is fine as it is, the ROW to the water is fine; that as long as we can take

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

the fence down temporarily, get the swale put in to meet the Clean Water Act, then put the fence back up and put everything the way it's been since forever, then we're fine with it. He discussed that his ROW that he uses, which was put in the 1950's, is 10 feet closer to the water now and it is very strange. He added that what he and his neighbors are asking the Town to do is just leave the street the way it is, get everything documented so that, in the future, we don't have these issues with deeds, etc. if someone were to try to sell their property; that their concern was that that might get lawyers involved and it was unclear who would pay for that. He asked, if we have a dispute, who is the final surveyor that we go by because it seemed to him that it would affect the back property lines of everyone on the river; that if you're moving Park Street essentially 6 feet, one way or the other, you are going to move everyone's property lines.

Ms. Saurman said she had no problem with what Ms. Pelletier wrote, that she was absolutely right, but the point was that this is half the story; that the other half of the story is that the Town is wrong with regard to where they think their street is. She added that, if we are going to say that she is wrong based on where she put her fence and Mr. Power is wrong based on where he puts his fence, Ms. Pelletier is absolutely right and what she is addressing but the second half of the story is that the Town is wrong and the Town has been thinking that they owned a part of the street that they didn't. She said that John Marston has an incredible corner of his front yard that we found out when the stakes went up that has been paved over and that Mr. Furbish has been driving over his front yard for years. She added that she gets what the Board is saying that Ms. Pelletier needed to give the attorney more information but, even with that new information, it still seems that his first solution is even better than before because you (Town) are wrong, too. She said that if one side of the street is wrong, and it's her and Mr. Powers and Mr. Marston, who has a mailbox that is also a family memorial garden that is now being encroached on, then you're wrong, too. She asked what we all were going to do – are we going to dig up the whole street and re-pave it or are we going to follow your lawyer's suggestion and find a way to draw the street the way we all know it is today, the historical use of the street; allow you folks any kind of easement you need to get down to your pipes and, also, have us say that these are the property lines that we have known since 1951. She reiterated that she felt that only half the story is being addressed and that half is the landowners who are wrong but the Town has been wrong about what they thought they owned on the street.

**5:58 PM**

Mr. Lee said that he didn't disagree at all with what Ms. Saurman said. He said that the attorney's advice back to us, whether we like it or not, was that the law doesn't recognize when towns are wrong. He added that what we could do was to go back to that attorney and we still could try that approach to ask if it would be possible to get a singular document like was in the original that Ms. Saurman read it and find out if he believes that is still a doable solution; that if everything else

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

you stated – everyone gets their stuff back, we do the job, every deed gets something that says we recognize, etc.; that that is what he wanted. He reiterated that we could try that if that was the Board's liking. He added that the problem we may have is that we may have to do this ex post facto; that we have a contractor coming in and it may be that we don't get to sign anything until after because he thinks it's November 3<sup>rd</sup> that they are digging in the ground. He reiterated that he would be happy to go back to the attorney; that he kind of felt after a while that the lawyer began to drive the bus and say you can't, you shouldn't, you don't have to; that the law says you don't have to do and you can tell them no; that Mr. Lee said back to him that wasn't working and no one is happy. He said that he could still do that and something might be worked out; that that was up to the Board to decide if you would like to do that; that he didn't think the Board had to per the attorney's prior advice but they make a very good case for trying it. Mr. Lee said another thing the attorney asked him at the time was what the chances were that everybody would be in agreement and sign; that it is hard to get everybody to sign some sort of legal document around this type of issue; that Mr. Lee felt that the chances were probably not great because they will all have to agree to it or it doesn't work.

**6:02 PM** Ms. (Nancy) Shapleigh asked if they had tried a Consent Agreement (C.A.). She said that it was unusual but C.A.'s are for unusual problems.

Mr. Lee said no.

Ms. Shapleigh said that, maybe, you would have to adjust an encroachment and bargain but it seems to her that you could do a C.A. and have it pretty much as it is, and everybody happy, and not spend a lot more money on a Town attorney.

Ms. (Cindy) Saklad asked if this applied to everyone on Park Street or just those down at the lower end.

Ms. Pelletier said that she was pretty sure that everyone is affected.

Mr. Lee said that everyone is affected; that the effect was marginal at the beginning of the road and, as you get towards the water, it gets worse and worse.

Mr. Power said that he saw the Wittrocks being most adversely affected and they aren't here.

Mr. Lee said that we had a phone conference with them this afternoon; that they did have some questions and asked us to do their adjustments; that some stuff in this easement doesn't look quite as necessary; why are you coming all the way over to within 6 inches and that it wasn't necessary to come that far and we said

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

they were right and we will back it up a bit. He added that the Town was very happy to do that sort of thing.

Ms. Saurman said that she had an email from the Wittrocks that said they would be willing to move forward with the neighbors, as well.

One of the residents suggested getting at least a verbal yes from everyone on Park Street before the Town spent any more time on this.

Mr. Lee agreed that would be nice.

Mr. Furbish, recognizing this has been addressed, asked what the big rush in starting this November 3rd is and addressed his concern for the ability of emergency vehicles getting in where the Street is being dug up.

Mr. Lee said that we have been working on this for quite some time and ultimately went through the bid process, having to negotiate; that we've signed the contract thinking we were ready to go.

Mr. Furbish said that if we wait until spring, it will cost us more money.

Mr. Lee said yes, in all likelihood.

**6:05 PM**

Mr. Moulton said that there would be access for all emergency vehicles during construction and, at no time, will there be a time when residents do not have emergency access to their properties or access to their properties. He added that that access is in the contract and residents would be contacted by him during the construction for any reason related to construction.

Ms. Saurman said that even if this happens, after the fact, we will obviously have something in writing from the Town, ahead of time, saying you are willing to pursue this even though the project is going through.

Mr. Lee said yes, in his opinion, but it is up to the Board; that if we give our word, he would want to stand by it.

Mr. Beckert said that he would think so. He reiterated his concern with the Town giving up any of its legal rights to the legal ROW from Maine Street to the river through Park Street. He added that, apparently, there was some misinterpretation or misquotes of when the Powers' deed was recorded in 2014 and that the Wittrocks had a survey done in 2012 that showed the very same thing – the encroachment of your fence on Town property, and so on, so this isn't something that's new; that this is something that has been known by some residents on that street for a while. He said that if we are going to come to some type of an

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

agreement, and he has already heard there has been discussion with the Town Manager, if your fence goes back, it goes back on your boundary line and not back in the Town's ROW. He added that, in his opinion, these were the types of things that need to be worked out if we are going to come to some type of agreement so that everybody's got what may be a compromise of the best of all worlds; that it may not be exactly what is there now. He said that if somebody is really in a hard spot about the Town having hot top on their property we can remove it. He said that he understood what was being said by residents but the attorney is right when he says that the 'prescriptive use' does not apply to municipalities. He added that Park Street is not a unique case; that people don't know where their boundary lines are in a lot of cases; that ROW's that the Town or State owns are a lot wider than the physical, drivable passageway is; that people have a tendency to develop their lawns right out to the shoulder of the road even though they don't own it. He added that that is where the law comes in to clarify that just because someone has done that doesn't mean that person owns that property; that towns can go back in and develop that property, put in ditching, etc.

A resident said that this situation is the opposite on Park Street.

Mr. Beckert agreed because there is encroachment by some of the residents on the Town's property and there is encroachment by the Town on some of the residents' property; that like Ms. Saurman said it is a two-fold situation. He added that if we come to an agreement then we all have to be in agreement.

**6:10 PM**

Mr. (John) Hamblett, Park Street, agreed with what Mr. Beckert was saying, we do all have to come to agreement. He said that he just got a letter from the Town asking for an easement on his property and you are talking about an area of about 1,500 sq. ft. on my property; that that's a big chunk and not just 6 feet or 3 feet up the road but 1,500 sq. ft. in your writing right here.

Mr. Beckert asked if it was his understanding that all these easements had all been agreed to prior to this.

Ms. Pelletier clarified that they hadn't seen the boundaries or anything in the area; that there was just a concept.

Mr. Hamblett said that there has never been a verbal agreement.

Ms. Pelletier agreed not from him; that the Talbots and Wittrocks had indicated that they were in agreement with the idea.

Mr. Lee said that maybe we should just decide what legal avenue we pursue. He added that he thought that everybody's in agreement that the best thing would be

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

to be able to go back that way; that that was what he shot for in the first place and how we ended up here. He asked the Board if they wanted him to go back and see if the attorney could draft that.

Mr. Fernald said that he thought they needed to do that; that we need to do the best we can to find a reasonable solution.

Mr. Beckert agreed.

Mr. Hirst agreed.

Ms. Davis said that it was stated two weeks ago that the residents hadn't seen all of the correspondence and that they should be given time to look at this; that it was stated two weeks ago that the easements hadn't been signed yet; that it was also stated by the stormwater person that this didn't need to be handled until a deadline of June of 2015 but we rushed ahead and did this without the neighbors coming to any kind of agreement and it's disappointing that the first note from the attorney said that the people should be given the opportunity to work together and it sounds like they are able to work together but we did not allow this. She added that the second letter from the attorney primarily addresses a fence that the property owner has never disputed that they would be willing to take down the fence while this work is performed. She added that she thought that, if they come into some agreement that they want the road to stay where it is, that the deeds have to be agreed upon and the Town has to make this formalized and, then, you are working with a whole different thing. She said that right now the Town's ROW is encroaching on other people's property; that, as Ms. Saurman says, you have to solve the problems of both sides of the road before you can proceed and, if we went ahead and signed a contract to do this work before these neighbors had an opportunity to speak about this then we have got to backtrack and make this right before we continue. She said that it's not right to do what we are doing and she is not in agreement that we should do it after the fact; that all good contracts occur before the fact, not after.

**6:12 PM**

Mr. Lee said that there were meetings held with Park Street residents on a number of occasions down on the street, at the Town Office; that we really did try to reach out and make sure...we did surveys of what they wished for and what they did not wish for. He added that he didn't know if Ms. Davis knew all that but there is a long background here of lots of reaching out and trying to do this. He added that we did go forward because the attorney had said that none of this means much at all with regard to law; that if you want to bend over backwards and be great about it, you can, the attorney supposed; that that was where the attorney was in the first place; that in the second place the attorney said that, with this in mind, you don't have to do any of this stuff because it doesn't apply to you (municipality). He added that Mr. Beckert explained it well; that just because you've had your grass

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

out to the edge of the road for 35 years doesn't mean we can't scrape it back; that it is still in our ROW. He said that we did proceed under legal basis.

Ms. Davis said that this was more than lawn out to the edge of the road; that there are phone poles in the Town's ROW; that if you are going to correct one side and not the other side then, in essence, what you're saying is that we are going to take both; that we are going to take what we've always used and we're going to take what the new survey says. She added that she thought the neighbors were fantastic in that they are willing to work together to come to a mutually satisfying conclusion to this; that we need to allow them to do that.

Mr. Lee said that he just said that he would like to see that, as well, and he asked if the Board would like him to go pursue it.

Mr. Beckert, addressing the Town Manager and DPW Director, asked if the above-ground conditions that may be agreed upon, after the fact, have any changes to what has to go in for the stormwater and their locations.

Mr. Moulton and Mr. Lee said no.

Mr. Beckert said that, so, the stormwater would go in, regardless.

A resident said, with the exception of Mr. Hamblett's easement; that this is a huge piece of the pie.

After further comments, Mr. Beckert said that he was talking about physically digging the ground and putting in the underground drainage and putting everything back afterwards. He asked if that physically affected the location of the stormwater or changes anything.

Mr. Moulton said no.

Mr. Lee said that it is just how we address their deeds and how they are allowed to put their stuff back afterwards; that that is all it affects.

**6:15 PM**

Ms. Saurman reiterated that this has been an extraordinary experience among neighbors because there were plenty of meetings for us and we did get along and she thought that we were all more than willing to know that this had to happen and knew it had to be done. She added that she wanted to be clear, getting the timing of this, that the surprise came after a group of neighbors were willing to work so hard to make this happen, that there was a solution offered and that's what's troubling to me. She said that she wanted them (Town) to know that we are more than willing to make this work and get that drainage in so that the water in the Piscataqua River stays clean but, darn it all, we are not talking 3 feet on

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

people's property on one side or the other; that we are talking huge chunks; that those of us here tonight grew up on Park Street and there is a history of how we've known this road to be used. She said that more easements are needed; that we want you to have your drainage and we want our properties recognized the way they have been. She said that we would very much like for you to go back to your lawyer; that we want to work with you, we don't want to fight.

Mr. Powers said that he would probably question the definition of encroachment because the Town paved it and that is just the way the street has always been; that CMP put all the poles there; that we didn't encroach on it; that it's not like we put grass where the ditch is, reiterating that that is just the way it's always been. He said that the Board said this happens all over Eliot, which is true, but this is one of the earlier, very tight neighborhoods with houses very close to the road and very small lots; that it was a very, very tight fit for some of these houses so, whatever we can do, we'd appreciate it. Mr. Powers encouraged the BOS to go do a site review.

**6:17 PM**

Mr. Beckert said that what he is hearing is that the drainage project has no effect on the top and the drainage project is going to go where it is proposed to be located. He added that, if between the Town and the residents, come to an agreement on the actual put-back after the construction is done, locations of everything, then that's what we need to pursue; that there is no need to stop the construction at this point. He said that he thought it was the reconstruction, if you will, of Park Street, scenically, for lack of a better term and what we agree to as the municipality and the residents at that juncture. He asked if that sounded reasonable; that that's what we needed to work on.

Mr. Moulton said yes but, when Mr. Beckert said put-back, he might re-word that.

Mr. Beckert said that it had to be give-and-take. He asked if we were going to put Mr. Powers' fence within the Town's ROW or the property line where it belongs or does it come back 2 feet beyond the property line, which is the new Town line. He added that he was throwing all this out because it is stuff the residents have to think about, along with the Town, and come to an agreement on.

Mr. Powers said that his only concern would be the fact that you are going to dig it up and everything is going to be all set and, then, you will say that the put-back will be going back over to the right-hand side of the street, you know, take Ms. Saurman's, when they come down to pave. He added that he would be worried with the term 'put-back'.

Mr. Moulton said that two of the easements take care of the drainage issues on those properties so what we are trying to do is alleviate drainage issues, ponding of water, on properties; that we are looking to get easements so we can put

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

structures in to alleviate the issues that the road created; that we will put in a line that connects to everything down to the outfall. He added that the easements are for installation and maintenance (the Town would come and repair any problem); that when they do maintenance everything would get restored back to what it was. He said that nothing superficial got disturb or taken but just goes back to the way it was. He added that there is a benefit to those two residents to take care of drainage issues; that there are and appear to be easement issues but, bottom line, it is a best for all and something we are mandated by the State to do; that it is in the ROW. He added that he hears everybody and understands their concerns; that the road is paved so we are not going to move the road. He asked why he would come back before the people and say he needed more money to realign this road because it is as it is; that if you come up with a solution, you come up with a solution; that Mr. Lee has stated that the Town doesn't necessarily have to but nobody wants to do that. He added that, officially, nothing will change and, unless something breaks, then we have to come back and fix it.

Mr. Lee said, addressing a particular concern, that everyone would have to sign this for a singular document to be able to be widely applicable to everyone on Park Street.

Mr. Power was just addressing Mr. Hamblett's concern about this 1,500 ft.; that if he doesn't sign this easement for the ditch on his property.

Mr. Moulton said that we were doing the extra work to help the residents so they would have to amend the project if the easement wasn't signed.

Mr. Lee said that we would have to talk about that; that this wasn't even an agenda item.

Ms. Davis asked if this was designed with the new survey in mind and, if the residents wanted to leave the road where it is, could it be redesigned to stay within the confines of the existing road.

Ms. Pelletier said that it is staying within the confines of the existing road.

Ms. Davis asked why the fence had to be moved.

Ms. Pelletier said that it was 9 feet into the Town's ROW; that it is at the end of the road and blocking heavy machinery there.

Ms. Davis asked if we got a clear consensus that what has been said tonight is good with the residents that are here.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Ms. Saklad said that more than half of the residents aren't here and that's important to know, no one at the other end of the street is here so she wouldn't say half.

Mr. Beckert asked how the other end of the street towards Main Street effected.

Mr. Moulton said that this project did not affect them.

It was agreed by the residents that the impact was not from the project but from the survey.

Mr. Beckert said that the basis of the project was that this end of the street, the location of that project, does not change regardless of agreements or disagreements or consent of how we are going to leave the street after the project is done; that the location of the project stays the same.

Ms. Saurman said that your lawyer does say that, when getting agreement from the whole street, he talks about the people affected. She added that she thought they could get the whole street, the drainage people for sure, which is everybody that's here because of the changes in Mr. Hamblett's property and Mr. Furbishes' ROW. She added that Mr. Talbot wasn't here.

Mr. Lee said that, verbally, Mr. Talbot has been very cooperative about everything so he thought Mr. Talbot would be okay with this.

Ms. Saurman asked what the Board's understanding was at this point, where are we.

Ms. Davis asked if Mr. Lee could refresh her memory on what would happen if one or more easements are not signed.

Mr. Lee said that we have not discussed that, really, as an option; that from what he just heard was that we would probably reduce the scope of the project and omit the part that affects Mr. Hamblett and press on. He added that they addressed stormwater but we don't necessarily have to address the stuff on top of the road that is in people's yards; that we are just doing that because it makes sense to do it when you're there. He added that we can limit it to the pipe and the outfall; that we don't have to do anything else if people don't want to.

**6:25 PM**

Mr. Moulton agreed; that we could limit it to the outfall. He said that the outfall is what we are responsible for; that during the project the residents expressed concern about drainage issues so, as part of the project, we brought it forth as a whole to help and assist and alleviate the drainage issues that they have; that we

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

included that in the project; that you are there, you do it once, and everybody gets their issues taken care of.

The Board was in agreement that we move forward with the project; that we work with the residents of Park Street on the earlier legal approach, if it is still available.

Ms. Saklad thanked the Board for their time and said that she felt this had been a very productive discussion.

The Board directed Mr. Lee to go to the attorney and start the process with the residents.

**6:28 PM**

Mr. Moulton said that he had something he wanted to bring to the Board as a resident of Eliot, not as an employee, and, if you would allow him he would like to read his letter, which he gave to the Board and maybe have some discussion.

Mr. Beckert agreed to have him speak.

Mr. Moulton, Stacy Lane, read his letter to the Board. He had questions and concerns about EOL (EliotOnline list serve) emails regarding the Growth Ordinance referendum vote in November and how it impacts Town departments. He discussed his main concern regarding a statement made by Mr. Pomerleau (candidate for the BOS), "When the chairman resigns stating lack of accountability I know he was specifically targeting the Public Works Department."; that he thought this bore watching closely and had attached the email conversation to the BOS for their review. He added that, from his understanding, when Mr. Moynahan resigned, he did cite frustration, one-sided union negotiations, and an us-against-them mentality between residents and employees; that he was concerned with the issue of accountability of the DPW. He said that he didn't even know what that complaint of accountability pertained to and frustrated him and the DPW employees. He added that the statement led him to ask many questions as both a resident and a Town employee – 1) "Do you as current BOS members, who sat with Mr. Moynahan until his resignation, have any concerns or issues with him or his department (DPW) for, as of this date, he has not been informed of any issues by the Town Manager or BOS"; that he had a right to know what the accusations were, and they are just that; are they accusations being used for political grand-standing. 2) "He asked if Mr. Pomerleau was running for BOS with an agenda against a Town department"; are these accusations based on fact or are they just accusations. He asked where Mr. Pomerleau was obtaining his information that he is citing and posting online and how does he know that Mr. Moynahan was specifically targeting the DPW. 3) "*Should Mr. Pomerleau be elected, should he or any member of the DPW be concerned about harassment or undue scrutiny as a result of his statement based*

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

*on this email.*" He asked if, as a resident and a constituent of elected officials, should he be concerned that there are personal vendettas being orchestrated that out the Town in legal standing for allegations of harassment and/or slander from employees by elected officials. He said that he would, as a resident, like to be assured that the Town is moving forward in a positive manner that best protects its' residents and employees; that as an employee he would like to be made aware of any "accountability issues" in the appropriate forum, which exists, so he and his department employees can move forward with our necessary duties. He added that he trusted that, if any issues were brought to the Town Manager or BOS, that these issues would be conveyed to him and it would be addressed; that he has not been made aware of any such issues. He said that he finds this hurtful and questions this and is looking for why it is being stated publicly, online.

**6:31 PM** Mr. Beckert asked Mr. Lee, as Town Manager, if anything had been brought forward from Mr. Moynahan or Mr. Pomerleau or anybody else on any valid complaints.

Mr. Lee said no; that, in fact, when Mr. Moynahan was in the process of resigning, Mr. Lee asked him to be more specific and Mr. Moynahan chose not to; that he could not discuss personnel issues but, if there were any, he'd be dealing with them and it wouldn't be a public discussion.

Ms. Davis said that she saw that Mr. Pomerleau was in the audience; that one side has had an opportunity to speak and asked if we could possibly hear from the other side.

Mr. Beckert said that he could ask the other side if he has a comment on these accusations that he has made; that if he or Mr. Moynahan has a 'smoking gun', then he wished that they would factually bring it forward and, if they don't then they need to be quiet. He asked, with that, what Mr. Pomerleau's explanation was of this comment.

**6:33 PM** Mr. Pomerleau said that it was simple; that he absolutely agreed with Mr. Moulton's concerns; that when he (?) put those comments into writing this Board should have taken up that subject matter because this was not some discontented employee that got fired; that this was someone who was on the BOS for 8 years and served as Chairman; that he would have thought it appropriate for the Board to have taken up that letter and thoroughly discussed the contents because he thought it had very sour implications for the Town. He added that he assured them that anything he has put out he has documented; that he had specific, written information from Mr. Moynahan and he would certainly prefer that Mr. Moynahan speak for himself as to what those accusations are. He added that what he had is in writing from him (Mr. Moynahan) as to what he was concerned about; that he did not put them forward, literally, because as far as he was

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

concerned that's hearsay from him (Mr. Moynahan) but it gave him grave concerns as a citizen as to what he was telling him (Mr. Pomerleau); that he did think that, for all concerned, that the appropriate forum for this is for the BOS to take up the content of his letter so that the public, one way or the other, be satisfied with what he's saying has merit...or it doesn't.

**6:35 PM**

Mr. Lee said that, to his knowledge, Mr. Moynahan...on a couple of different occasions he asked him if he could be more specific and he said that his words stood as they were and that he would not discuss it any further. He added that it would be hard to do some sort of an internal investigation on an accusation that has no detail and nobody coming forth to give detail; that you can't really do that. He said that, further, if anybody serving were to write a letter saying that he/she suspected bad things are happening would we start an internal investigation, each time a letter came out that had one person's opinion (could be troubling); that he would further point out that he (Mr. Moynahan) was on the Board for 8 years and these were, in essence, his employees for quite some time and, if there were accountability issues, then he thought they would have been addressed prior to him getting here; that he hoped Mr. Moynahan was not insinuating that they began when Mr. Lee got here but that almost seems like the insinuation so, if there are accountability issues, one might look in the mirror.

Mr. Beckert said that he would be concerned, being a member of this Board, not having had the opportunity because Mr. Moynahan has not been around to discuss any of these allegations – are they factual. He added that you don't give someone a stellar performance appraisal and, then, walk off the job or resign and start bashing. He said that this is a little disheartening as far as he is concerned. He added that as far as the BOS dealing with Mr. Moynahan's letter when he resigned there were comments in the paper; that without the person making the accusations here to discuss it with, he would think that was a futile effort. He reiterated that he thought it was very disheartening to have something like this come out and target a particular department for no reason at all...or...if there are reasons then state them.

Mr. Pomerleau said that if you want to start somewhere then, under the Freedom of Access, he got the string of email communications between the Town Manager and Mr. Moynahan narrowing in on some of the areas that Mr. Moynahan was concerned with.

Mr. Beckert reiterated that, if Mr. Moynahan was so concerned, being 8 years on the Board, why didn't Mr. Moynahan deal with the issues while he was here rather than throw them out there as accusations after he walked off.

Mr. Pomerleau said that he thought that was a good question.  
Mr. Beckert said that he was not here to answer that question.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Mr. Pomerleau said that this was not some attack by him (Mr. Pomerleau) for political reasons; that that's absurd; that this is going into the depth of what happened.

Mr. Beckert said that, again, this was his opinion as an individual member of this Board and as an individual in this community; that to go and spread stuff like this is disheartening, very disheartening. He said he didn't care where it came from, who it came from, or what it was about, it's very disheartening. He added that it starts just what's happened tonight – questioning – and as long as it goes unchecked people start to believe it as gospel and he doesn't particularly care for that; that he liked to deal with facts and figures, not someone behind the scenes making unfound comments.

Mr. Pomerleau said that he understood Mr. Beckert's concern and he didn't necessarily disagree with it but he thought he ought to be equally as concerned with what the chairman had to say when he resigned.

Mr. Beckert said that if the chairman had come forward and stated what he wanted to say and given the Board even an inkling about it the Board might have dealt with it.

**6:40 PM**

Mr. Fernald said to Mr. Moulton that, as a Selectman, if he had any issues at all with employees of the DPW, then he would go through the channels and get them resolved. He added that he thought the Mr. Moulton's department was one of the best in the State and all the employees do a terrific job; that he thanked Mr. Moulton very much, as a Selectman.

Mr. Beckert said that he would champion that same comment because he was not afraid to deal with issues; that if he had any complaints about any department he would bring them forward to the proper channels.

Mr. Hirst said that he had heard nothing negative about the DPW; quite the contrary, he finds that they do a very good job and he has absolutely nothing bad to say about them at all. He added that if anyone had come to him with any kind of a specific complaint he would have gone directly to the Town Manager, as is the appropriate thing to do.

Mr. Lee agreed, adding that he had not received anything from any one of the Board members.

Ms. Davis said that she had some questions but she would like to do some research and ask some additional questions, then come back with that.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Mr. Moulton said that he was open to any question or anything that anyone has to say; that he would have an answer for you, just give him the opportunity because he was sure he had an answer for you that was acceptable.

**G1. Department Head/Committee Reports**

**6:43 PM 1) IT Committee Report/Members Needed**

Mr. Lee said that the IT Committee met for the first time in a couple of years and discussed credit/debit cards and phone systems, being compliant when handling important personal data and the need for back-up. He added that it is a nice little group, there are only three of them and there are openings if anyone is well-versed in information technology. He added that that was not a strength area so having an advisory committee was most helpful to him. He said that the committee pretty strongly recommended we do an open RFP for the phone system, even though we do have one proposal in front of us; that the system they quoted us is considered a top performer by all reviews. He said that the IT Committee is going to help him work on a full RFP – open bid – on any type of phone, not just restricted to one or two types. Mr. Lee said, most importantly, they also supported the 2-Way Communication Datto Proposal but just for the Town Office, not for Fire or Police or ECSD; that they felt those departments should have to justify why they would need such an advanced work-in-the-cloud server system and data back-up. He said that they also discussed disaster recovery and they felt this back-up system was a critical component; that they recommended the Board authorize the Town enter into a proposal in the amount of \$2,347 for the 2-Way Network Division Proposal.

Mr. Beckert said that that item was under G2. (2).

Mr. Lee said yes; that that was the report and we could act on it under G2 or the Board could take it out of order.

Mr. Beckert said that they would take it out of order and asked for the pleasure of the Board.

**G2. 2) Data Back Up: 2-Way Proposal for Town Office**

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen have the Town Manager enter into a proposal #21048 in the amount of \$2,347 with 2-Way Communication for the back-up in that proposal.

DISCUSSION

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Ms. Davis said that it seemed we had a pretty thorough protocol right now and asked under what circumstances you would foresee this need.

**6:45 PM**

Mr. Lee said that, if something were to happen to the Town Office....when they talk about a disaster recovery plan what they would like to do is help develop, if something catastrophic happens here, where would the Town Office operate until the building was repaired; that the best part of this data back-up is that we have a server system in the cloud that we can function from completely as though it were still intact 100%; that not only is it backed up on each coast if there are national problems but also is a clone server in the cloud so that we can continue to function locally.

Ms. Davis said that it seemed like a lot of money, annually, when we have a good back-up system in the USB and TRIO is backed up by TRIO; that she wanted to question whether you really feel this is necessary.

Mr. Lee said that he really does; that they have tested the TRIO back-up system and it doesn't work. He added that he has called these folks twice asking how much we are paying for this because he would like that reduced as part of how we pay for this because he doesn't want TRIO to back up the Town's data; that it's not good and it doesn't work.

Mr. Beckert said that this is the recommendation of the IT Committee so, again, other questions or concerns but we have a motion and a second.

Mr. Hirst said that it was also the recommendation of 2-Way, apart from being a bidder; that they know very well what we have for equipment and everything's behind the 'moose' and it's highly vulnerable to overheating and electrical problems; that this only makes sense to him.

DISCUSSION ENDED

**VOTE**

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

**Chair concurs in the affirmative**

**G2. Administrative Department**

**6:48 PM 1) Town Manager Activities Report**

Ms. Davis said that there have been a couple of references to solar panels on the landfill and asked Mr. Lee to give an update.

Mr. Lee said that the Energy Committee (EC) has, for quite some time, been working on a plan to see if we could generate enough power for all of the municipal buildings and 85% of the Marshwood School System by putting solar

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

panels over that 2-acre closed landfill. He added that the solar array on the Town Garage is generating, except on really cloudy days, all their electrical needs and part of the Police Station. He explained the PPA (Purchase Power Agreement) regarding the installation and pricing and options to buy the solar panels. He said that they have a 40-year life span so, over all that time, there is about an \$11 million savings to the Town. He said that the EC has put out RFP's to six well-known solar panel companies and waiting on bids to come back in at the end of this month, then they would interview the bidders; that they would want to know how much it would cost to get into it up front, how much to buy it out at the end (planning for that), talk with South Berwick and schools because we would be helping augment electrical costs for two sets of tax payers.

There was discussion regarding how electrical credits from solar generation were applied.

Ms. Davis said that because electricity would be going towards the school that the school would contribute towards this capital investment.

Mr. Lee agreed that would have to be negotiated; that there would have to be some sort of recognition of the cost of this landfill, maybe, that is born between the two communities.

Ms. Davis said that there was a reference to the audit and she thought that was already done.

**6:57 PM**

Mr. Lee said that the auditors were in last week for 3 days, in for 1 day to do pre-audit, then 3 days, and he believes they have about 2 days of work they will do at their office.

Ms. (Donna) Murphy said, regarding line 159, that she had sent Mr. Lee an email asking for the Town's policy on people bringing guns into meetings and asked if that had been followed up on.

Mr. Lee said that he asked and nobody seems to have any knowledge of any policy that exists regarding bringing hand guns into the Town Office, or any municipal building for that matter.

Ms. Murphy said that she would put her concerns and suggestions into a formal letter to the Board.

**3) Financial Report(s)**

Mr. Lee said that he would provide these quarterly for the Boards' review.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Ms. Davis asked if the Board could have it monthly.

Mr. Lee said that if the Board would like them monthly, that could be done.

Mr. Beckert said fine.

**7:00 PM      4) Cost Allocation for Sewer Improvements – Information**

Mr. Lee addressed new information received October 21<sup>st</sup> from the Kittery Town Manager that discussed their understanding regarding possible future sewer allocation and that the estimate to upgrade Pump Station #7 was solely to accommodate Eliot, thus, the \$1,951,500 is a 100% charge to Eliot.

There was discussion regarding the need for additional allocation from Kittery.

Ms. Davis said that Mr. Pratt had said that we were being charged for Pump Stations #6 and #8 and asked if that had been resolved.

Mr. Lee said that it has, that those numbers were in the number but, when you add them up, that number was not included in the total.

Ms. Davis said that we were being charged for contingency and construction and it looks like we're being charged for the whole enchilada rather than a proportionate percentage of Eliot's share. She asked if that was just how it is.

Mr. Lee said that that was how he was reading it, or was she referring to something else.

She said that, in the letter we got in May, they did break out construction, contingency, and engineering for the whole \$7 million project.

Mr. Lee said no, that he didn't believe that's true; that we will only pay a share of that contingency, that 10% share. He added that the only thing we have a 90% share in is Pump #7.

Ms. Davis said okay and that she would take another look at those numbers.

Mr. Lee said that if she had specific questions regarding percentages, etc. just run them by him and he will try to get someone to respond specifically to it, as it is a bit tricky to figure the numbers out; that if one number is wrong that could mean a lot of money.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Ms. Davis said that she was surprised that, on the paper ballot, they are listing Pump Station #7 in their town ballot as being \$1.2 million and, yet, now it's down to \$200,000 or less.

Mr. Lee thought that was the proposed annual debt Kittery sent over she was referring to.

Ms. Davis said that she would like an opportunity to talk with Mr. Moulton to get clarification.

Mr. Lee agreed.

**7:05 PM      5) Foreclosed Properties/Sell Back Update**

Mr. Lee said that all but 2 properties have been redeemed and the 2 left belong to a married couple; that they are in the process of selling one of their properties. He added that he gave them a month extension because they believe they are very close to the sale of the one they don't live in so they can get caught up and redeem the one they do live in. He said that things have gone well and people have been very cooperative.

**6) Additional Valuable Papers Coverage**

Mr. Lee said that Mr. Hirst had asked that he check to see what the coverage amount was and he found it was not a great amount, per se, when you get into all the documents that we have. He added that, if you want \$100,000 additional coverage, it would cost \$200 a year.

Mr. Hirst said that the policy already covers \$100,000 and is designed to cover the cost of reconstructing records from original documentation; that that can be incredibly expensive as it is very labor-intensive. He added that he did not have a clue how much the Town ought to have and his only suggestion was to come up with the number of man hours it would take to reconstruct all this stuff from original documentation, which would itself be a big job.

Mr. (John) Reed asked what the Town employees had for back-up of original documents, off-site, so that they can be reconstructed.

Mr. Lee said that that was a good question and may want to look at that.

Mr. Beckert said that they had been backing documents up on microfiche but he doesn't know if that item has been maintained in the budget or not.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Mr. Lee said that it has been several years because it was one of the things that got cut from the budget.

After further discussion, Mr. Beckert said that we need to ascertain how far back we are and what it would cost us to get up-to-date.

**7:13 PM      7) Capital Assets Update**

Mr. Lee said that the last time we had an update appears to have been done in 2009 so he has been working with all the staff to list everything that is valued at \$5,000 or greater; that not everything is filled in yet but it is certainly a good start toward having a full listing of all of our most valuable assets.

**7:15 PM      8) Abatement: Redemption of Property – Miscalculated Interest**

Mr. Lee said that the interest was miscalculated over the long time we had it for \$35.11 so he would ask that the Board abate this interest amount.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen abate \$35.11 on account number 1651.

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

**G3.    Public Works**

**7:17 PM      1) Kittery Pump #7 Update**

This has already been discussed.

**2) Sewer Allocation Request**

Mr. Lee said that this was for a single-family home at 195 Main Street requesting a 240 gallons/day sewer allocation and is recommended by the Sewer Committee.

Mr. Hirst pointed out that there are two structures involved, each one at 120.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen authorize the allowance of 240 gallons per day for Nancy Graham of 195 Main Street.

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

**3) I/I Update**

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Mr. Lee said that this was strictly informational for the things that are forthcoming; that we will be moving forward with the recommendations and next steps that are on the bottom of page 2. He added that he wanted to keep the Board up-to-date that we are already looking forward to other I&I projects to get more stormwater out of the system.

It was the **consensus of the Board** to continue in this direction to correct the I&I.

Mr. Lee said that they have removed about 70,000 gallons/day that they have removed so far.

Ms. Davis asked for clarification of monitoring areas that have already been worked on.

Mr. Moulton discussed the operations and maintenance manual they were developing for procedures to maintain the system; that one of the things they continuously monitor is I&I because if we do a repair on these sections we want to be able to follow up to check these same sections. He added that a lot of this has to do with manholes, for instance, because the system is aging and things fail and shift and move so you want to, every three to five years, do an I&I in areas of suspected interest; that you can also monitor that based on your pump stations so you know where your heavy flows are, which has run a lot of this forward. He said that we know that we have a lot of heavy flows, we knew we were exceeding the capacity of the system on any given day, so we chased after this; that the biggest culprit are tie-ins from residents into the main; that they aren't suitable and those are the things we need to continue to monitor and inspect and stay up on because I&I is a constant flow; for instance, after heavy rains they inspect for any water infiltration into manholes, for example, because we have some that have been repaired and, upon re-inspection, they needed additional repair.

**7:19 PM**

Mr. Lee said that he believed this was also required under our MS4 Permit, the maintenance plan on those things.

Mr. Moulton agreed that the maintenance plan was required. He discussed the need for a drainage plan when pulling water out, as well, as it then went onto the roads. He also discussed turning the old sewer system in South Eliot into a closed drainage system after inspecting it to confirm that was possible, which could help eliminate these MS4 issues. He added that he would love to use something that exists and save a lot of money for the Town.

Ms. Davis asked about the areas that were located between the marked areas.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

Mr. Moulton said that nothing stood out as an issue in those areas. He added that they would be monitored but most likely on a five-year cycle as part of developing the maintenance plan.

Ms. Davis asked why the big difference between their allocation of 200,000 gallons/day and the 2014 report that said they were using 80,000 gallons/day; if stormwater could be making up that difference.

Mr. Moulton said that it could; that we've taken a lot of clean water out of the system. He added that it is a weighted average of the flow to Kittery so a massive storm event could pump a million gallons and more than offset the lower amount. He said that he would have to look at the document she was referring to in order to speak to that specifically.

**G4. Public Safety**

**7:25 PM 1) Sidebar Agreement – Sergeant's Position**

Mr. Lee said that this is a proposed sidebar agreement to the Maine Association Police Union for our police officers, which is silent on the position of a sergeant. He added that the Chief had provided the BOS a memo on how he would like to re-structure his department, especially the lieutenant's and sergeant's position. He added that the Chief did an analysis of cost, as well, going into detail about the 4-hour gap that requires overtime and what it costs the Town annually; that the end result is an \$1,100 overall salary savings. He said that they were looking for a vote on the sidebar agreement or at least some direction on where the Board would like us to go with this.

Chief Short said that the sidebar agreement was at the direction of the BOS that we move forward with exploring this possibility and the sidebar came about as a result of those discussions with the union so they were looking for an actual vote by the Board on whether or not the sidebar would become part of the contract.

Mr. Fernald asked if this was a new position.

Chief Short said that the side position was a new position but it was not adding people to the department but is for pre-existing personnel.

Mr. Beckert said that we had a sergeant's position at one point in time but it was swapped out for the lieutenant's position.

Chief Short agreed, saying that he has been asking to create a sergeant's position since 2009 for not only supervisory reasons but, likewise, to help with recruiting

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

and retaining our personnel; certainly retaining people who know that they have an opportunity to get promoted.

**7:27 PM**

Ms. Davis said that from her calculations, if we are replacing an overtime guy with a straight time guy, the savings only amounts to about \$2,288 and we would be adding quite an expense to the department; that she realized that cost wasn't everything but it was a consideration in light of the concern about tax bills; that she wondered if we really need to go there right now.

Chief Short said that the point he feels most strongly about is that, over the years, we have tried to hold on to the good officers we have had, and have now, in our department; that she was right, cost is a component of it but, last year alone, because of people leaving because they could make more money elsewhere we spent close to \$100,000 in overtime; that the money he is asking for to pay for the sergeant's position is already allocated in the budget within overtime; that we are not adding an additional position just changing the schedule coverage. He said that the \$1,100 in savings was a rough projection and he thought there would be additional savings and additional reduction in the overtime line. He agreed with Ms. Davis about the need to keep the costs down and this is a part of that for him, too, but so is the morale of the department, additional supervision, and opportunities for people to get promoted.

Ms. (Cynthia) Lentz, Creek Crossing, asked if putting a patrolman in as a sergeant meant that Chief Short would come back in six months saying we need to hire a patrolman.

Chief Short said no because one of the things he wanted to make sure of in the sidebar agreement was that the sergeant would not only do supervision but he would be on the road, as well, and would be patrolling, too. He added that he was not looking for more manpower for at least a year or two, and maybe further out.

Mr. Lee said that, just to be clear, there is the Chief plus eight other officers and does not add a person; that this is a working sergeant; that these were good questions that he had, as well; that this really is a 10% over-the-top patrol pay. He added that there is no real net cost increase and might be a slight decrease. Regarding morale, he said that they had several young (new) officers that need guidance; that these officers have many, many questions, and there is only the Chief and the Lieutenant, and they need someone who is well-trained and can help guide them.

Ms. Murphy said that Chief Short kept talking about this extra supervisory that he needs and, if you recall, the talk was when discussing splitting your position with Kittery, you were very clear that that was not a factor and would not need any additional supervisory coverage and asked Chief Short to speak to that.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

**7:32 PM**

Chief Short said that he thought, perhaps, that the question was whether we were going to add more people and we are not and, again as he just said, he has been asking for a sergeant position in the budget since 2009 so this is not new.

Ms. Murphy said that her question wasn't answered; that you were very clear that, should your position get split with Kittery, that there would be enough supervisory coverage and you wouldn't need additional but now she is hearing that one of the justifications for this position is because you need additional supervisory coverage.

Mr. Lee said that, as you may be aware, back toward the end of June/start of July, the Kittery Town Manager and he, by contract (under Chief Short's employment contract), had to get together and do an assessment of what was working and what was not and the one thing that came up lacking was that they felt they needed more access to people that could help young officers get help with their questions; that anything that might have been stated early on that it would not affect the need for additional supervision, indeed, after the first year the result was that we need to have more experienced people to go to get hard answers and he is not going to sugar-coat that that was the finding. He said that we are trying to do this within the existing budget; that we are not looking for new money and address a real issue so he doesn't know what might have been stated but the reality is somewhat different, in his opinion, that they wanted more access to more supervision and this is a way to handle it without having to ask for a new person, using the existing people, shuffling them around in different ways; that he thinks it fixes a lot of problems and doesn't cost a lot of money. He added that he reported that out to the Board, at the time, that the only shortcoming in the arrangement was we need to have more frequent interaction with supervisors and, maybe, that was predicted that that would be the case and, if so, we did a good job predicting.

Mr. Pomerleau said that, when we lost the Chief part time, he had no doubt that that would create a supervisory gap; that he was glad to see that a supervisory gap was filled because survey after survey, no matter what industry, under the top five reasons people leave jobs is not money but is lack of supervision or poor management. He added that he doesn't know if this Town does formal exit interviews but suggested that, if you can squeeze it into a process, that that's a very healthy thing to do, and not done by that person's supervisor, so that people can reveal some of the truth of why they leave.

Mr. Lee said that that very thing has been brought up to him and he does fully intend to implement that.

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

**7:37 PM** Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the sidebar agreement dated September 8, 2014 that is before the Board of Selectmen under Item G4.1

**DISCUSSION**

Ms. Murphy said that, under 5. Article 3 "*Management reserves the right to have the sergeant cover patrol vacancies that may occur during his or her regularly-scheduled hours.*" She said that that seemed pretty limiting; that if we are taking a patrolman and making him a sergeant, is that going to create some more overtime somewhere if a patrolperson is out and the sergeant can only cover shifts on his or her regular hours. She asked for clarification.

Chief Short said that he thought she read a little more into it; that it is actually to simplify. He added that in general terms, in other places, when you have supervisors, they are not allowed to work the shifts of the officers because that is taking work away from them. He added that what we wanted to ensure was that there would be nothing to prevent the sergeant from working a shift if nobody else wanted it on a day they are going to be making overtime. He said that the bigger issue for him is that when vacancies occur, when the sergeant is working, he does not want to be forced into a situation where he had to bring a patrolman in at time and a half; that that's where he wants to see additional savings, so, that's why that wording is in that contract specifically to allow for us to be able to have a sergeant, when they're working, fill shifts that would normally be filled by a patrolman and not be roped into bringing in a patrolman at time and a half.

**DISCUSSION ENDED**

**VOTE**

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

**Chair concurs in the affirmative**

**7:39 PM** **2) Hiring: Officer Josh Morneau**

Mr. Lee said that this was informational; that Officer Morneau is in the middle of cuffing someone, as he understands it so he is busy. He added that Officer Morneau had been with us for almost two years; that he has recently decided to come back and we are awfully pleased to have him; that by all accounts he was a good officer and well-liked in the community.

Mr. Fernald related a positive story; that a couple was jogging on Fore Road and a police officer came by, went up the road, and stopped; that he got out of the car and waited for the people to come by; that he introduced himself to this couple and just wanted them to know that he was new in Town and was there to help them anytime, if possible, and loved the Town, etc.; that he got in his car and left. He added that that one incident just went through that neighborhood and it was all

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

positive; that he heard about it through a person on Beech Road that happened to be friends with people in that area. He added that those are positive things and, while they may be small but they really do make a difference in a positive way.

**H. New Business:**

**7:43 PM** Mr. Lee said that we have hired a **new CEO** – Ms. Heather Ross – and we need to formally appoint her and have appointment papers filled out for the Town Clerk. He added that he had brought those papers if the Board is so inclined.

Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen appoint Ms. Heather Ross as the Code Enforcement Officer, Building Official, and Plumbing Inspector for the Municipality of Eliot for an indefinite term.

**VOTE**

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

**Chair concurs in the affirmative**

Mr. Lee said that the ordinance that is going before the voters on November 4<sup>th</sup> also needs some signatures because we acted on this back on September 18<sup>th</sup> and did not have the signature page; that he brought that forward this evening and the Town Clerk needs a signed copy.

At this time, the Board signed the document.

**I. Old Business**

**7:44 PM** Mr. Hirst asked Mr. Lee for an **update on the AED's**.

Mr. Lee said that all he knew was that the Fire Chief came into the office last week looking for where he would place them; that he thinks the Fire Chief is at the point where he expects them to show up; that the Fire Chief also talked to him about when might be the best time to do training for the staff on how to use them; that he suspected it was coming right up but did not have a firm date.

**1) Amended Town Manager Goals**

This was informational to recognize his goals were not amended.

**2) TIF Alternative Materials**

Mr. Lee said that he provided material to the Board and, on the web page, the Town Clerk uploaded all kinds of things there so people have access to that, as people requested. He added that we have the items that were given to us on other projects across the State, his list of items that were proposed, and put in the TIF

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

criteria, which he reviewed. He said that there was a workshop November 6<sup>th</sup> for this.

Mr. Lentz said that one of those TIF alternatives from a year-and-a-half ago that he saw written was to put a solar array on the Town dump and generate electricity for the municipality.

Mr. Pomerleau said that he had an updated narrative to the Village plan that he submitted that he would send and some suggestions on the committee make-up.

Ms. Lentz asked if the Town had a policy for sending a **thank-you** when an organization does something to benefit the Town. She said that Ms. Helen Goransson worked very hard and her son and his band donated all their time; that she thought it would be a nice gesture if the Town sent a formal letter of thank you.

The Board agreed.

Mr. Hirst added the Eliot-South Berwick Rotary.

**Selectmen's Report:**

**7:50 PM** Ms. Davis said that under G2. 4 we had something from John True that she didn't think was covered.

Mr. Lee said that we did meet briefly with John True and he spent 30 years in sewer regulations, etc., and he basically said that there is nothing that he knows of State or federal that would provide guidance to the Board as to how you break out these costs; that it is all over the board on how it is done. He added that Mr. True said he wasn't an attorney but believed that nothing from 1983 is still relevant in any way, shape, or form as to how we are going to issue that debt; that he cited the only thing we do know and that is that the operation and maintenance (O & M) of the sewer system has to be paid for by the sewer users and consumption has to be paid by them; that as for the rest – upgrading, expanding, etc. – that is going to have to be a strictly local policy decision by this Board as to how the cost allocation percentage is broken out.

Ms. Davis said, to clarify and make it relevant to our situation, the \$1.6 million is assessed to the sewer users and the \$.34 million upgrades would be up for a discussion.

Mr. Lee said that he thought that was a fair way to look at it; that he thought that, as we looked at before, he believed that \$1.6 million was to just bring the pumps up to a usable capacity, then we brought in stuff from Phase II, which is the first

**BOARD OF SELECTMEN'S MEETING**  
**October 23, 2014 5:30PM (continued)**

thought toward expansion, if you will, so that was another \$325,000. He added that that might be the practical way to go about doing it but he did say you weren't necessarily even hand-cuffed by that. He said that the O & M costs should be borne by the sewer users and that he cites the regulations; that Ms. Davis is right and he isn't disputing that.

Ms. Davis asked if there was any concise information about scope of work for the repairs versus the upgrades and a breakdown, almost like a RFP, so that we know exactly what the breakdown cost is for the \$1.16 million.

Mr. Lee said that we have not done that but that he could get that from Underwood Engineering; that they should look at the whole because some of that may be expansion; that he wasn't sure. He said that he would try to get the breakdown of both figures for the next regular meeting.

Ms. Davis said she would like to have the reasoning behind why we would want to do it now, perhaps, or combine, say, Pump Station #7 later with an expansion that we either have to have or choose to have under a new TIF project.

**Executive Session**

**7:55 PM** Mr. Fernald moved, second by Mr. Hirst, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. § 405.D, Labor negotiations.

**VOTE**

**3-0**

**Chair concurs**

**8:10 PM** Out of executive session. No action taken.

**Other Business as needed**

Mr. Pomerleau discussed a medical crisis he had recently with a family member and how pleased he was with the Eliot Fire and Police response time and actions once they arrived. He added that he would send a letter of appreciation to them because of their timeliness and professionalism.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:13 PM.

**VOTE**

**3-0**

**Chair concurs**

---

**DATE**

---

**Mr. Grant Hirst, Secretary**