

BOARD OF SELECTMEN'S MEETING
November 13, 2014 5:30PM

Quorum noted

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

Roll Call: Mr. Beckert, Mr. Hirst, Mr. Fernald, Mr. Murphy 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 October 9, 2014, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Hirst, to approve the minutes of October 23, 2014, as amended.

VOTE

4-0

Chair concurs

Public Comment:

5:40 PM Mr. (Michael) Thompson, Bolt Hill Road, said that he was a sewer user and was watching his rates go up pretty fast, with possibly more on the way. He added that it seemed like we were pretty high compared to surrounding communities; that he wasn't sure what was going on or all the history; that he has watched and gathered enough, now, that made him wonder if there isn't something really fundamentally wrong with the sewer system in Town, here. He said that he guessed that the switch to sewer may have been mandated years ago, that there was a lot he didn't know, with users paying at least for usage and maintenance but he didn't know how we are now left with a system that is only shared by 640 users out of the Town. He said that, as far as he can gather, it is now in need of major and very expensive fixes that, again, only a few hundred users are expected to pay for; that it seems inefficient if not unfair. He added that he didn't mind paying his way and he does pay taxes and cover things he doesn't necessarily benefit from; that this situation really seems kind of extraordinary. He said that he was thinking, maybe, cost-sharing or grant money might be called for; that it seemed these were special costs that were coming up.

Mr. Beckert said that his concerns were duly noted.

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G1. Department Head/Committee Reports

1) Board of Selectmen – Welcome New Board Member

The Board welcomed Mr. Murphy back to the Board of Selectmen.

5:43 PM 2) Election of Officers for the Selectmen

Mr. Lee said that he was seeking nominations from the BOS, either for yourself or someone else, to serve as BOS Chair for the year.

Mr. Fernald nominated Mr. Beckert as Chair. Second by Mr. Hirst.

Mr. Fernald moved that nominations cease. Second by Mr. Hirst.

VOTE

4-1 (Mr. Beckert abstained)

Chair concurs

Mr. Lee asked for nominations for Vice-Chair.

Mr. Beckert nominated Mr. Murphy as Vice-Chair. Second by Mr. Hirst.

Mr. Fernald moved that nominations cease. Second by Mr. Hirst.

VOTE

5-0

Chair concurs

Mr. Lee asked for nominations for Secretary.

Mr. Fernald nominated Mr. Hirst. Second by Mr. Murphy.

Mr. Fernald moved that nominations cease. Second by Mr. Murphy.

VOTE

4-1 (Mr. Hirst abstained)

Chair concurs

Mr. Lee said that the officer slate was Steve Beckert – Chair, Jack Murphy – Vice Chair, and Grant Hirst – Secretary for the Board of Selectmen for a year. He asked for a vote on this slate.

VOTE

**3-2 (Mr. Beckert and Mr. Hirst
abstained)**

Chair concurs

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Mr. Hirst suggested that Mr. Thompson speak with the Town Manager on his issues regarding the sewer; that he thought Mr. Lee could answer a lot of his questions.

Mr. Lee said that they have spoken a bit but he would be happy to chat for follow-up information any time. He added that what we have learned, and the reason we pulled it (sewer) off the ballot, was that we were uncertain if there might be existing regulations as to what that percentage might be between sewer users and general tax payers of who would pay for these rather expensive upgrades. He said that there is no such guidance; that the guidance is strictly going to have to come from the BOS, as a policy matter, as to what the appropriate percentage is for sewer users to pick up and/or the tax payers to pick up. He added that, at some point, they were going to have to address that and get ready for a June vote on a proposed warrant article that will spell out how it will be funded, if it passes.

6:47 PM 3) Election Results

This was the results of all the results on both the Town and State ballots.

Mr. Beckert noted that there were a total of 3,056 municipal ballots cast, which is a record number (56%).

Mr. (Bob) Fisher asked the Chair to read all of the municipal results.

Mr. Beckert read the municipal results.

Mr. Fisher said it was the last one (non-binding Question #2) that he was interested in. He asked what the Board was planning to do with the results.

Mr. Beckert said that that was a question for the Board and was not on the agenda tonight.

Mr. Fisher said that he had something he wanted to submit on this to the Board tonight (proposed warrant language for voting on the Town budget). He added that we got enough signatures to put this on the ballot; that what we would like to do is give this to the Board so that the Board could do something about it and, as long as the Board would do something about it, then he wouldn't have to submit this for election because the Board would probably fix it up good. He said that budget items don't have to be voted at Town Meeting; that Town Meeting could be held in March or April and then we could vote the budget as a referendum. He added that he didn't want to turn this in but he wanted to see if the Board could do a better job because there was always something that might be better; that he hopes that the Board does that.

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Mr. Beckert thanked Mr. Fisher; that the Board would take his recommendation under advisement and have the Town Manager look at how to fine-tune the process for a referendum budget vote, which the straw poll indicated that the majority of the citizens preferred, and would discuss it at a future meeting.

Mr. Lee said that it was his intention to put this on a future agenda and that he thought that the PB was following up on the no-vote on the Growth Ordinance question; that tonight we would do a little on the TIF hearing follow-up and how the Board wants to follow up with that; that those will stay in the discussion.

Mr. Beckert asked if that was fine with the Board, that we have Mr. Lee come up with a proposed referendum.

Ms. Davis said that she would like to volunteer to assist in those efforts to help write up some guidelines and some options, and to discuss it with residents to find out what ideas they have.

Mr. Lee said that he thought it would be helpful to work with the Board on this; that he would be happy to have Ms. Davis' help and guidance on this to try to co-author this and see what we can come up with.

The Board agreed.

5:25 PM 4) Budget Committee – Revised By-laws

Mr. Beckert read the proposed revisions.

Ms. (Donna) Murphy clarified that the majority of the changes reflected the new Town Manager and change in the ordinance for video-conferencing.

Mr. Fernald asked the BudCom to explain #17, *“The Budget Committee may request attendance of a representative or staff member of the Board of Selectmen, Town Manager or any Department or Agency where the committee deems their presence is necessary.”*

Ms. Murphy said that that has been in the by-laws; that in the past we have been able to request a Head come to answer questions regarding the budgets that have been submitted.

Mr. Fernald pointed out that the form of government has changed where we are now a Town Manager form of government; that even the Selectmen have to go through the Town Manager if we want to have discussions with department heads or employees; that he did not believe we should deviate from that.

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Ms. Murphy said that that was discussed within the BudCom; that this is simply requesting their presence to answer questions regarding informational purposes as we are deliberating.

6:03 PM

Mr. Fernald said that he understood that and you need to understand that there is a process we all need to go through now that we have a Town Manager form of government; that that process is to go through the Town Manager.

Ms. Adams said that perhaps a sentence could be added that said, "Such a request shall be made through the Town Manager."

Mr. Beckert responded with, "All such requests shall be made through the Town Manager."

Mr. Fernald also said that he would like to have the Town Manager present with any employee who comes before the BudCom and would like to see language in the by-laws that reflect that.

Ms. Murphy said that she didn't think there was anything in this language that prevented that from the Town Manager being present; that this simply was to give us the ability to request that a department head be present to answer questions with regard to budgets.

6:05 PM

Mr. Lee said that, speaking to this issue, we had a staff meeting today and part of what he said to the staff was that, for the most part and the greatest part, you submit your budgets to me, you and he will work on these budgets, he will show your number, my revised number that will become the proposed Town Manager's budget and, then, he will go before the BudCom 90% of the time; that, as he said to them (staff), if it's a technical issue that is beyond where he can answer it then he would ask the Chief or the DPW Director or someone to come with him and everybody seemed to understand that that would be the time that they might very likely be called in on something of a technical issue beyond what he could reasonably provide for information.

Mr. Fernald said that that was fine with him as long as the Town Manager was present whoever it is.

Mr. Lee said that he would intend to be at every one of those.

Ms. Murphy said that she thought it was looking at 'the BudCom may request' so we would ask, perhaps, that a department head be present; that she wasn't saying that they must be there but a request to get information as we deliberate.

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Mr. Fernald read "a representative or a staff member of the Board of Selectmen" and questioned that language.

Ms. Murphy said that that was language that had been in there; that some of the language we didn't completely change.

Mr. Fernald asked if they had a copy of the previous language; that he didn't understand what that language meant. He discussed #14, "*The Budget Committee shall make recommendations on all financial matters before the Town.*" He said that they were not a finance committee but a budget committee and it should be budgets.

Ms. Murphy said that that referred to financial matters that come up for vote.

6:07 PM

Ms. Davis said that she believed that there was a State statute that says that, if there is a budget committee, that they will make recommendations on budget items for the Town.

Mr. Fernald agreed, for all budget items, not financial.

Ms. Murphy said that she would need to bring these concerns back to the BudCom as she can't change it, tonight, without a BudCom vote.

Mr. (Jack) Murphy said that he thought #'s 3 and 4 should have language that the meetings will be called by the Chair; that in #7, he suggested "...Members may participate by video conference and **those who do so** may vote provided they have reviewed the relevant material." for clarity. He added that, in #8, it says' "...minutes shall be accepted..." and should say, minutes shall be **reviewed and approved or amended**. Mr. Murphy said that #16 just says, "*Requests must include:*" and he believed it should say **budget requests** or **Town budget requests** or **requests concerning the Town budget**. He added that he had concerns with #17 that have already been addressed. Addressing #18, "*The Budget Committee may appoint advisory subcommittees for special studies.*" He asked if these subcommittees are only filled with BudCom members, or are you going to call on citizens, or officials, who are going to be the members of those subcommittees.

6:10 PM

Mr. Hirst said that one of the things he doesn't see in here that he would like to see is some sort of statement of timing for the input of the BudCom to the Selectmen or the Town Manager on how many days prior to Town Meeting, for example, that recommendations are provided.

Ms. Murphy said that it is in there and is dependent on the Town Manager's budget schedule.

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Mr. Hirst asked what number.

Mr. Beckert said it was #21, "*The Budget Committee shall prepare and submit to the Board of Selectmen all Budget recommendations in accordance with the Town Manager's Budget calendar.*"

Ms. Davis said that she would like a copy of the State statute and bounce this off against that. She added that she would look it up and work with Ms. (Donna) Murphy.

Mr. Fisher asked how the Selectmen picked their ad hoc committees.

Mr. Beckert said that the BOS have appointment authority to form committees.

Mr. Fisher said that they did, too.

6:12 PM

Mr. Murphy said that, sometimes, our committees are just Selectmen members but the Selectmen actually have ad hoc committees that we set up; that he believes the Information Technology Committee is still just an ad hoc committee; that the Sewer Committee started out as an ad hoc committee of citizens.

Mr. Fisher said that, if the BudCom did it the way the Selectmen do it, then that should be okay.

Mr. Murphy said that he wasn't sure whether the BudCom actually had that power.

Mr. Beckert said that the BudCom's wording says 'subcommittees' and a 'subcommittee' of a board or committee is a subcommittee of its members, made up within itself; that that is what a normal subcommittee is.

Mr. Pomerleau said that, in looking at the State statute and Town ordinances, he was under the impression that it was a totally independent elected committee and the BudCom is free to write their own by-laws; that he did not see any statutory authority of the Selectmen modifying or ruling over the BudCom's by-laws. He added that if there is, then he would like the Board to tell him where it is; that that was the point of them being independent.

Mr. Beckert said that he thought that, in the spirit of working together, Ms. Murphy has agreed to take it back to the BudCom and its membership to see if they agree with coming up with the revisions, asking if the Chair's assumption was correct.

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Ms. Murphy said that she would bring back the Boards' points discussed tonight. She added that, again, it is an independently elected committee.

6:14 PM

Ms. Saurman asked the BudCom what their intention was for that when they had their discussion about subcommittees. She added that she thought this was a wonderful discussion; that she was sure the BudCom wanted their language to be as absolutely precise as it can be and sure you wanted nobody to come back to be able to say that's not what you meant, or whatever, so, what was the intention of the BudCom when you were talking about how you might set up some subcommittees; was your intention among yourselves or was your intention to reach out into the community.

Ms. Murphy said that we did not get into that discussion so she thinks it is one that needs to be had. She said, as an example, prior to her being on the BudCom she did a lot of research for them; that she wasn't part of a subcommittee but, when they needed information on something in particular, she went to pertinent agencies for information and brought that information back to the BudCom. She added that she could only speak for herself as to what her thought process was.

Mr. Murphy said that he thought everyone should recognize that the State recognizes a municipal government consists of selectmen or town council and there should be no question that the budget committee can override or make demands on or change anything that the Selectmen require; that the budget committee is not part of the municipal government but just an advisory committee to the municipal government.

Mr. Fisher said that he has raised that question because, sometimes, we get kind of spread out in the committee and, sometimes, it is easier to pick up two or three citizens, or, maybe one in particular may want to focus on one subject; that that is why we brought it up to just help in case we did need it; that that was all it was for.

Mr. Beckert reiterated that Ms. Murphy would take some of the questions and concerns back and discuss it with her committee and bring it back at a future meeting.

Ms. Murphy said that they would be meeting on the first Tuesday in December; that she asked for the suggestions in writing so she could be sure she was accurate.

Mr. Beckert said that she could get that from the recording secretary.

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6:16 PM 5) Comp Plan Implementation Committee – Noah Lemire – Resignation

Mr. Beckert read Mr. Lemire's letter of resignation and recommended to the Board that they accept Mr. Lemire's resignation and thank him for his service.

Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen accept, with regret, Mr. Lemire's resignation letter and thank him for his services.

VOTE

4-0

Chair concurs

G2. Administrative Department

6:18 PM 1) Town Manager Activities Report

This was informational.

Mr. Hirst said that it was awfully refreshing to see how much stuff that he does that, previously, we would have had to do, if it got done.

2) Request to Close Town Office – Friday, 12/26/14

Mr. Lee said that he has been approached by most of the staff to take a vacation day that day and so, collectively, he thought maybe we would ask Board if we could to close the Town Office; that if we do that to be required to use our vacation time.

Ms. Davis asked how that fell into line with the DPW union contract, will they also be agreeing to use their vacation time if the Town Hall closes.

Mr. Lee said that if the DPW wanted to work that day they still could; that he was talking about this facility, here, being closed. He did add that that was a good question; that he would find out about that and get back to the Board at the next meeting.

6:20 PM 3) Xfinity Update

This was informational.

4) Personal Property Minimum Value

Mr. Lee said he was surprised by this; that the tax collector came in holding an envelope with a tax bill in it with a nickel and penny taped to it; that it was a personal property tax bill for six cents. He added that every town he has been in the assessor has always had a 'floor', that minimum value under which they don't

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bother because we are spending dollars to chase pennies and seemed the kind of thing Eliot would not do; that it was his understanding the assessor was told to pursue collection on all personal property and, so, he wrote this memo suggesting a policy be put in place to have a minimum value for collection of taxes that makes fiscal sense to the Town and business owners.

Mr. Beckert asked Mr. Lee if \$2,000 was his recommendation as the limit.

Mr. Lee said yes.

Mr. Hirst moved, second by Mr. Fernald, that the Board of Selectmen adopt the Town Manager's recommendation of setting a floor of \$2,000 for personal property tax, under which the Town does not bill.

VOTE

4-0

Chair concurs

6:24 PM 5) State – Municipal Boat Basin Lease – FYI

Mr. Lee said that the Harbor Commission is meeting, with some discussions, and that Mr. Lentz has also submitted something about some changes we might do at the Boat Basin; that he and the ECSD Director have discussed how to handle routine repairs. He added that this agreement calls for any fees to be going into a 'sinking fund' for the Boat Basin, and not be coming in as a general revenue, so we're going to have to adjust that right away; that there would have to be a dedicated revenue account for the revenues to come in for the Boat Basin, and they can only be used at the Boat Basin for its maintenance, operation, and capital improvements; that we would have to do that, minimally, but he also thought it would be good for each of the several of you – the Harbor Master, the ECSD Director, and others – to have the full agreement on the Boat Basin. He said that we can adjust fees at the Boat Basin; that it is not just for residential but could be used commercially, as well, and if we want to charge other fees we simply have to have the State approve that. He added that he just wanted to give the Board the background information that sets the stage for proper decisions.

Mr. Murphy said that, so, there is no action and it's up-to-date.

Mr. Lee said yes; that the only thing we have to do, administratively, is set up this revenue fund and make sure those revenues start going in right away. He added that, at some point, there will be a discussion on are we charging enough, is it self-sustaining, are we losing money, etc. and, then, we will have to discuss fees and submitting that to the State to see if we could, at least, try to make it somewhat self-sustaining.

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6:26 PM Mr. Rankie asked the Board to consider approaching the State of Maine in attempting to get the Boat Basin conveyed to the Town of Eliot. He added that, just recently, he believed that the Memorial Park in Kittery has just undergone something of that nature. He added that he also heard that the Town Manager was riding to Augusta with our representative tomorrow, which might be a good time to test the water. He added that he thought this was an opportune time; that he knew, years ago, we tried to get an easement from the gas company, who owns the land abutting the Boat Basin; that we actually tried to purchase it, as well. He said that, the way the Boat Basin is today to go out to get grants, etc., to put in piers or floats for boats to stay – that's leased land – but he thought this was an opportunity for the State to give that to us; that, then, we would never have to worry about when the State might take it back or sell it to someone. He strongly recommended that we look at getting that.

Mr. Beckert said that they would look at it; that the last major upgrades down there for the ramp facility and floats were paid for by the State of Maine. He added that he thought this was worth looking at.

6:28 PM Mr. Saklad said that the Boat Basin is owned by the State and we are supposed to set up a 'sinking fund' for the incoming monies; he asked who controlled the 'sinking fund' – the Town or the State.

The Board said the Town.

Mr. Saklad asked when we got worried about there not being enough money; that the State owned the property.

Mr. Beckert clarified that, as part of the original agreement for the Town's use of that, we do lease it for \$1 a year.

Mr. Hirst said that one thing he might point out is that, because the State owns the pavilion and the restroom structure, we are unable to insure it; therefore, if it were to collapse or burn down, for instance, when we went to the State to ask them to replace it for us and the State would say they are self-insured and we have no money so you are out-of-luck; that if it were conveyed to us and we owned it, then, we could do the proper insurance, which would be, maybe, \$100.

Mr. Rankie said that the person who built the rest facilities was sitting in the room, here, and he thought we built it; that it was his thinking that we owned the building on leased land.

Ms. Murphy said that, if she recollected from previous years, the Town has spent the money to repair the docks and, also, to repair the restrooms; so it is not the State.

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Mr. Beckert agreed; that the State funded the upgrades to the major repairs to the facility and paving, and the Town was responsible for the annual regular maintenance.

Ms. Murphy asked, if the State owns that, then, why is the Town paying to fix this.

Mr. Beckert said that that was part of the original agreement; that we could turn the whole thing back over to the State, if that was what the Town would like, but he did not think that was what the Town's desire was.

Mr. Rankie said that he thought it was self-funding, to his knowledge.

Mr. Lee said that he did not believe that was so anymore.

6:31 PM Mr. Pomerleau suggested asking about the boat-launching facilities grants available at the Department of Agriculture; that he wasn't sure the Town would be eligible but it did sound like, under the lease arrangements, the Town might be eligible for grants the department has for improvements down there.

Mr. Murphy said that he believed the Town has applied for and gotten those grants in the past.

Mr. Hirst said that, from his standpoint, he would like to see this Boat Basin, at the very least, self-sustaining so that all the revenue that comes in covers all our expenses; and, if not, maybe even make a profit.

Ms. Saurman said that, if we redesign the TIF map perhaps the Boat Basin might be a place to look for economic development; that she spent a lot of time down there and said that it was a jewel and she would love to see the Town do more with it. She added that it is filled with New Hampshire people who bring their boats over there for the easy access and lower fees. She said that she would like for the Town to explore whatever it might take to make that something wonderful for our Town.

6:33 PM Mr. Fernald pointed out that, in the past, we have charged our residents a low fee and, unfortunately for us, the amount we can charge out-of-state people is only a percentage above that.

Ms. Murphy said that that was because the State owns it but, if we ended up taking possession of that, do we still have to fall under the percentage or do we have free will.

Mr. Beckert said that, if we owned it outright, then the Town could set its fee.

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Mr. Rankie said that she has made his point; however, we all need to realize that the abutter down there is the gas company. He added that if we were to own it then we could probably get a long-standing easement from them to be able to utilize that abutting land.

Mr. Beckert said that he thought that the Town has looked at possibly getting an easement and/or a grant from Land for Maine's Future to purchase that gas company land; that he thought it was about 15 acres.

Ms. Saklad asked if this could be explored when Mr. Lee goes up to Augusta with our representative.

6:35 PM Mr. Lee said that he didn't know if that would happen tomorrow but he would start the discussion; that he thought that obtaining it was a prudent idea and was a tremendous asset that the Town should have great pride in.

Ms. Lentz said that there was a historical dig done a couple of years ago down there – the Hammond Garrison.

6:38 PM **6) State and Federal Mandates – FYI**

This was informational.

7) Sawgrass Lane Sewer Communication – FYI

This was informational.

Mr. Lee said that the attorney has verified that the Town does own the cul-de-sac on which the air monitoring trailer is located. He added that he thought that residents in that area may be getting an attorney just to double-check what our attorney has written to make sure he is on track that we do not own that sewer; that they do admit they own the pump but think strongly that because the Town accepted the road and all improvements thereupon that meant the sewer system under the road; that repeatedly our attorneys have said that is not the case.

Mr. Beckert said that he was very confident in the attorneys who have reviewed this for the Town, and their findings.

6:41 PM **8) Investment Policy – 3rd Revision**

Mr. Lee said that he had another discussion with Mr. Souci asking him to go through and make the recommendations he recommended so this third investment policy draft is with our investment banker's input with what he would recommend we use that would give us the appropriate level of safety and, yet, some flexibility

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for yielding better returns than we are getting. He added that the returns the Town has been getting in the past are terrible, that he thought we could do better, and Mr. Lee recommended the Board adopt this as it has been amended.

6:43 PM

Mr. Murphy said that he had some suggestions. He said that, on page three at the end of the last paragraph, he would add, **and supply explanations or justifications sufficient to satisfy the Selectmen and/or Town Manager of their continued delegation of responsibility.** He said that we are delegating our responsibilities to this financial advisor and he wanted to be able to say that that person needs to fill us in on what they were doing. He added that **the Board of Selectmen reserve the right to be informed, in executive session, to any level of detail of the Town's investment positions,** or something like that. He said that, on page 5 under Investment Manager Performance Review and Evaluation, it says, "Investment managers will be reviewed regularly..." and he thought it should say, **The Board of Selectmen, on a regular basis, will review the Investment Manager...**; that it doesn't say who is going to do the review. He said that, on the last page under Investment Policy Adoption, "...Treasurer with the Council..." should say, "...**Treasurer with the Board of Selectmen/Town Manager...**"

6:45 PM

Mr. Hirst asked if our auditor was in agreement with this.

Mr. Lee said that this investment policy was a proto-type provided by Mr. (Ron) Smith (auditor) and has been tweaked by himself and our finance director to more cater to the Town and, then, further tweaked by Mr. Souci of Key Bank. He added that Mr. Souci has not seen the final draft.

Mr. Hirst recommended that Mr. Souci see the final draft and sign off on it.

Ms. Davis said that there didn't seem to be any clear delineation of the authority for investing of the money in Town; that we don't have a break-down of exactly how much there is and the safety and security of what they would be investing in. She asked if we could have more detail about...that she thought the Board was elected by the people and, of course, should work in conjunction with advisors but there needs to be a clearer statement of who makes the decision, who's informed before the decision is made, and how much information is received in order to make a good decision. She added that she didn't think they should be handing this over, carte blanche, to one authority; that it should be a combination of the Finance Director, the Town Manager, and the Board.

Mr. Beckert said that he believed that, at the prior meeting discussing this, the Board discussed setting up a workshop with Key Bank to discuss this further but not until we have a policy. He added that Ms. Davis' point was well-taken, that we need to get together with them and that it needed to be a three-way review.

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Mr. Murphy said that, on the last page of the draft policy, there is External Management that has been crossed out and he is not sure why it was crossed out because it provides exactly what we are suggesting.

6:49 PM

Mr. Lee said that his suspicion was that the intent, here, was that Key Bank was not keen on us having a second financial advisor questioning their financial recommendations; that he thought that this spoke to a second financial company who could be retained to look at whether the portfolio was properly diversified, etc., etc.

Mr. Pomerleau said that he agreed with everything he has heard but there was one statement he heard in that he didn't believe any of this was executive session; that this didn't fall under that regulation and should be in open public discussion.

Mr. Beckert agreed, saying he was going to ask that once they got all the comments.

Mr. Hirst said that, when he was in Derry, we had what was known as the Trustees of the Trust Fund and it was made up of the Fire Chief, Police Chief and maybe a couple of other citizens who were very familiar with this sort of thing, with an opportunity for the people to just ride herd to make sure they were in agreement, too, with the way things were invested; that we had the bank come in and explain to us what they planned to do in the coming year; that maybe that is a way we should consider getting some citizens involved to kind of oversee what we're doing.

6:51 PM

Mr. Beckert said that he thought that, under our current form of government, the Board of Selectmen are the trustees of all the trust funds and reserves of the Town, by statute.

Mr. Selsberg suggested having more than an annual review, maybe quarterly; that there needed to be some requirement that that bank show up and talk to us.

Mr. Beckert said that this draft was a good foundation and asked Mr. Lee to revise the document based on tonight's discussion.

9) TIF Hearing Follow-up

Mr. Lee said that he sent out a very rough draft of what we discussed at that meeting; that the long-and-short was that he suggested it be a committee of nine – seven with two alternates, all lay people and no one related to another board or committee. He added that he wanted to know how the Board wanted to nail down the charge, the mission, the timeline, the membership; that there was a draft application for membership. He added that he wanted to know if we needed to do

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this as a workshop, or how; that we probably needed to get hustling on this to get everything done by June.

6:55 PM

Mr. Fernald said that he thought they should have a separate workshop; that he had several concerns. He asked how we would select the people for this committee.

Mr. Lee agreed; that you would be a little bit damned-if-you-do and damned-if-you-didn't if there are more than nine who want to serve. He added that we have a select number of people who follow us pretty closely and they participate well, and all that, but we have a lot of people that might be excellent members – do we outreach to people, is that appropriate...probably not. He said that if we put it on the web page we will connect with the same people that we always connect with; that he thought all that needed to be discussed; that he needed more input on what direction to take.

Ms. Selsberg said that she thought twelve people signed the list from the workshop and she would have to believe these are the most interested people to serve because they showed up. She added that, of that twelve, she would guess there were at least five who serve on other boards and committees, so, that would cut it down; that opening it up she wasn't sure how they would do that and...she thought they needed to make a start.

Mr. Lee said that he did, too, and he would be willing to put together, just like this policy we just talked about, to see if we could get some quick agreement; that maybe the simpler he keeps it the better.

Ms. Murphy asked if the Board could give an explanation on why you are exempting people who are on other boards and committees when there are people who are already serving on several boards and committees; that she was wondering why you are limiting this committee only.

Mr. Lee said that that was because we held a hearing on it and it was the overwhelming will of the people that they would prefer to see this be a lay-person panel and not more of the same people being recycled through another committee.

Mr. Beckert said that he saw heads nodding yes.

6:57 PM

Ms. Selsberg said that there was a reason for that because we said, if you need advice from a committee, then they're there but let this be a clean sheet of paper; that no one would get criticised for this; that the other way you get heat and then it becomes the same-old, same-old.

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November 13, 2014 5:30PM (continued)

Mr. Beckert agreed with Mr. Lee that we would be darned if we did and darned if we didn't; that people would be skeptical either way.

Mr. Selsberg said that he thought that the only requirement needed would be that the person be neutral; that people who have an opinion could come before that committee at any time but they shouldn't be on that committee.

6:59 PM Mr. Hirst said that he believed that, at that meeting, we did discuss that the geography of the Town should play a part.

Ms. Davis said that she thought it would be great to have it advertised because there are a lot of interested people in Town and she thought it was great not to have the same committee people on it so that we get a fresh perspective. She added that, if we came up with a lot of names and the people volunteering agree to it, we do it by lottery so that, for once, the thing comes down neutral.

Mr. Lee said that, in two weeks, you will have a fairly simplified charge, composition, etc., including some recommendations on how to get people; that he would incorporate everyone's ideas as best he can.

The Board agreed by **consensus**.

G3. Public Works

7:00 PM 1)"Readiness to Serve" Sewer Charge

This was regarding potential fees and charges relating to allocations that have been reserved for pending projects that are approved but not yet constructed.

Mr. Lee said that the SC has reviewed this and recommends approval. He explained that connected sewer users pay a fixed quarterly fee (\$79) on top of their consumption charge, as well as properties that front the sewer line because the system is built to serve them and infrastructure is being maintained for them until they choose to connect. He added that Underwood recommends properties that are provided a reserved capacity shall be charged consistent with the charges of other users that front the sewer but are not yet connected. As an example, if the equal of 20 residential units is reserved, then the charge to the developer would be $20 \times \$79 = \$1,580/\text{quarter}$. He said that there were several additional recommendations, which he read. He added that we have projects that were approved, they have allocated sewerage, we can't use that allocation elsewhere because they have it held-in-hand like a growth permit and, yet, they are not using it; that this would say that projects have a couple of years in which to use your allocation or it could be forfeited or the project could be charged to continue to hold that reserved capacity.

BOARD OF SELECTMEN'S MEETING
November 13, 2014 5:30PM (continued)

7:04 PM Ms. Davis asked how this will fit in with our limited number of growth permits. She asked if they will be charged for something that they can't do anything about because we don't have an adequate number.

Mr. Lee said that this is unrelated to growth permits.

Ms. Davis said that they would be being penalized for not developing it, in a sense.

Mr. Lee said that, in a sense, it does tie in – someone would love to build their 20-unit subdivision but that person has only four permits; that there are 10 other people knocking at the door. He added that the two policies should work hand-in-hand right now, to some extent; that the people voted that they were leery of the language, anyway, that it was going more and more; that he thought the PB is aware of that and they're going to have to do a better job of trying to get more precise about it so people have a sense that it has some controls on it. He added that he thought they would have to go hand-in-hand, to some extent, if we can provide an adequate number of growth opportunities in Town; that, then, this charge makes sense and, to the extent we let it go down to 4 or 6 permits a year, this is going to be real poor.

7:06 PM Mr. Rankie said that, typically, you will find that that flow is with respect to commercial growth; that he has never known growth permits to stifle that.

Mr. Pomerleau suggested that that needs to be thought through. He said that his first inclination was some exemption if you have been denied a growth permit but, with more thought, he believed that would always exist, no matter what the level that was set. He added that it was kind of unfair to impose that fee if you aren't going to let someone build but, on the other hand, where is that going to end.

Mr. Hirst said that one of the values to the property owner who has received a sewer allocation is that he can advertise that the property is sewered; that that enhances the value of the property.

A member of the audience asked if the price they would be charged was based on the amount of allocation that has been reserved.

Mr. Lee said that he didn't see it based on the amount of reserved allocation but sees it as the number of units that had to have a reserve for allocation, each (120 gallons per day) being \$79/quarter.

Mr. Beckert said that whatever gallonage they've asked for, per day, equates to so many units.

BOARD OF SELECTMEN'S MEETING
November 13, 2014 5:30PM (continued)

7:10 PM Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen accept Underwood Engineers' recommendations and adopt it as a policy.

DISCUSSION

Mr. Pomerleau asked, working in reverse, if there was a requirement that, before they get the allocation, they have a growth permit in-hand.

Mr. Lee said that they are not tied together but two separate entities.

Mr. Pomerleau asked if it would make sense to tie them.

Mr. Lee said that he thought it would, perhaps.

Ms. Pelletier disagreed, saying that the Town is not forcing anyone to reserve an allocation; that it's optional. She added that, if you want to do that, you can but she is not a fan of tying permits to other permits to other permits to other permits.

Mr. Lee said that he thought it might be worth thinking about, especially when we go back into the Growth Ordinance to see what we are going to do.

Mr. Beckert said to remember that growth permits affect new residential and not commercial and, currently, these allocation requests are predominately commercial.

7:12 PM Mr. Thompson asked how this policy might affect him as an existing sewer user.

Mr. Lee said that it would affect him positively; that it would be another source of revenue other than going to the 640 sewer users.

Mr. Beckert said that, basically, if that developer wants to hold that allocation as his, we are asking him to pay for that reserve and, if not, then it goes back into the pool to be given out to somebody else that comes forward.

Mr. Rankie said that he thought there was a general lack of understanding about what a growth permit is; that the criteria to get a growth permit is very limited. He added that you don't have to have a design for your sewer system, you could be building your own system, you could do almost anything; that you get a growth permit from the PA and you go off and complete your dream and you have 90 days to do that. He said that you have to prove that you own the land and that's basically it.

Mr. Beckert agreed, saying that, in 90 days, you have to convert it to a building permit.

BOARD OF SELECTMEN'S MEETING
November 13, 2014 5:30PM (continued)

Mr. Hirst said that the question is, since the growth permit only seems to be a problem for residential, should we make this applicable to only commercial, for the moment, until we settle the growth permit issue.

7:15 PM

Mr. Beckert said that Ms. Pelletier was saying no; that he thought her comment was not to tie the two together, from a planning aspect.

Ms. Davis said that it sounded like it could have a negative impact if a developer came in and wanted to put in a private sewer system and wanted to, necessarily, allocate a certain number of gallons per day and, then, could only get so many growth permits per year; that that may put them in an unhappy position.

Mr. Beckert said that they would have to request to tie into the Town sewer, at that point.

Ms. Pelletier asked what if they had a growth permit and, when they can't get an allocation, because they've all been used up by people who don't have growth permits; that this guy is ready to go but he can't get an allocation.

Ms. Davis said that, if you're planning it; let's say you wanted to put in 24 units and plan a sewer, would it be, in the process, that you would apply for your gallons per day, at that point, and then build your sewer.

Ms. Pelletier said that you would have to apply for the allocation first, right.

Ms. Davis said that, then, if they wanted to put in their sewer and wanted to get their allocation and, then, start their building, then, at that point they could be denied their growth permits.

Mr. Lee said that, theoretically, with a subdivision that was true.

Ms. Pelletier agreed, saying that subdivisions don't expire; that you could build on your subdivision 40 years later as long as you recorded it properly and it was approved by the Board (PB).

7:17 PM

Ms. Davis agreed, but said that, if they have 24 units they wanted to build and could only do 8 per year, then they are stuck paying for the 16 while they are waiting to get their permits.

Ms. Pelletier said that they don't have to do that; that it was only if they wanted to ensure that allocation would be there but it is not a requirement.

Ms. Davis asked if they wouldn't want to ensure they had the allocation.

Ms. Pelletier agreed that you would think so.

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November 13, 2014 5:30PM (continued)

Mr. Lee said that it depended on how much was left, too; that as we get to a shrinking amount of allocation he thought you would want to ensure you had a piece of that but, to the extent, let's say, we have 100,000 out of 200,000 and there's not a lot of growth going on, then you could risk it and only worry about the first 8 and the rest of the allocation you would ask for as you develop it; that if it's there it's there and, if it isn't, you've got trouble.

7:18 PM Mr. Pomerleau asked if there wasn't something about if the allocation was used up and they continued to want it, that they would just have to pay whatever extra Kittery wishes to charge them to go above the allocation.

Mr. Moulton said no; that it can't be tied to Kittery but strictly go through Eliot.

Mr. Pomerleau clarified that that meant that Eliot would have to go for more; that, as he remembers, they have to pay whatever those costs are so they aren't really shut out, ever, if you want to pay the price. He added that he thought the primary concern that everybody had, even though you indicate it is only commercial development, is the possibility that it could impact an individual, private homeowner who wanted to get an allocation and might be locked out because of the growth permit and it doesn't sound like anyone is comfortable that that can't happen.

Mr. Moulton said that residential is a minimal allocation per day based on commercial use so, what we are concerned with is the vast amount of gallonage that someone has and is sitting on, and with no charge.

7:19 PM Mr. Beckert said that, as an example, the assisted living facility at the corner of Bolt Hill and Route 236 originally, in 2001, came in at a 60,000-gallon request then reduced that in 2004 to 40,000 and, sometime after that, it was reduced to 30,000. He added that they had an allocation, at the end, of 30,000 set aside for them, at no cost to them so that was 30,000 that we could have allocated to somebody else, or, if they wanted to keep it, charge them the fee to have it in their reserve.

Mr. Pomerleau asked, to protect that individual homeowner, could that be written to apply for only gallons over what the average homeowner would use, starting at 120 gallons or above so that, then, you would have that homeowner cushioned from the penalty you are trying to impose on big development.

Mr. Lee said that any of these things are possible; that it was just a matter of if the Board wants to adopt it this evening or do you want to send us back to the drawing board to try to take into account some of the things discussed tonight.

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November 13, 2014 5:30PM (continued)

7:21 PM Mr. Beckert said that he had a motion and a second to adopt Underwood Engineering's proposal that we have before us tonight. He asked if there was further discussion from the Board.

Ms. Davis said that she was concerned about unintended consequences, here, and she thinks they need to talk about it some more.

Mr. Hirst said that he thought it might come back and bite us, quite frankly. He added that he kind of liked Mr. Pomerleau's idea about setting a floor below which there is no charge made; that he thinks they need to talk about it some more.

Mr. Murphy said that those were good arguments; that we have waited a while and we could wait awhile longer.

DISCUSSION ENDED.

Mr. Murphy withdrew his motion. Mr. Fernald withdrew his second.

Mr. Beckert asked if we could get some of these questions and concerns answered, possibly, in the next two weeks.

Mr. Lee said that he would be happy to come back in two weeks with some language we might add to it that would give us some protection against unintended consequences.

7:23 PM **2) Equipment Sale: Bid Results**

Mr. Lee said that we only had two bids received on seven items from Mr. Andrew Webber and that he did meet the minimum bids on the utility trailer and the V-Plow and we recommend awarding those to Mr. Webber. He added that it would be our intention, otherwise, to scrap the remaining items unless directed otherwise.

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen accept Mr. Webber's bids for the Utility Trailer and the V-Plow.

VOTE

4-0

Chair concurs

Mr. Beckert asked what the Board wanted to do with the rest of the items.

Mr. Hirst said that, if they have no value and we did due diligence in seeking out bids, then scrap them.

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There was discussion around putting these items out for a 'best offer' sale versus selling them for scrap at a metal yard and which would bring the Town the most money.

7:26 PM Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen direct the Public Works Director to sell the rest of the property for scrap at the best possible price.

VOTE
4-0
Chair concurs

3) Pole Location Permit – Recommend Approval

Mr. Murphy moved, second by Mr. Hirst, that the Board of Selectmen approve the request for this pole permit.

VOTE
4-0
Chair concurs

Mr. Hirst asked if it would be wise for the Board to consider granting the authority for pole permits to the Town Manager.

The Board discussed this and decided to leave it as it is.

7:30 PM **4) Household Hazardous Waste Survey Results**

Mr. Lee said that on the day of collection, Mr. Moulton had a very short survey and, overwhelmingly, the people who participated (81.8%) said they wanted it to continue to be in the Town of Eliot once a year with the cost being borne through taxation.

Ms. Murphy said that this was an extremely skewed population to poll; that of course people who are bringing their hazardous waste over there would like the Town to continue to pay for it.

Mr. Selsberg said that, at one meeting, it was discussed that an individual brought in extremely hazardous waste that cost the Town a fortune and it seemed to him that that should be considered, and not allowed, or they have to pay over a certain base.

Mr. Beckert said that that was in one of the earlier years when this first started; that that was a bag of fertilizer that was ancient.

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7:31 PM Mr. Lee agreed with Ms. Murphy that these people are actually the ones who bring the hazardous waste and prefer to get rid of it for free. He added that, on the other hand, in order to do a statistically relevant survey, he would need a lot of money to do that.

Mr. Rankie discussed the origin of Household Hazardous Waste Day (HHWS), which was to make sure that residents didn't pour that waste into the ground water (wells); that it was money he believed was well-spent and he believed that, if someone went into the Transfer Station with something out-of-order, then he believed that our DPW Director is there monitoring the operation and he would take some action if something crazy like that occurred. He added that for our land and our water was what this was all about.

Mr. Moulton said that the survey was passed out at the Transfer Station, as well, not just to people bringing hazardous waste so it was done during the whole day. He added that he is there every year; that he could tell everyone it was not the same people every year; that he did not feel it was skewed but a consensus of a larger majority of people saying they wanted things to stay in Eliot. He said that he brought this to the Board to see if you want him to continue investigating Kittery or continue to budget it next year.

7:34 PM Mr. Lentz said that, regarding Mr. Rankie's example, he would prefer to see people go on a regular basis rather than store it for once a year; that the possibility of damaging the environment was a lot worse storing it over the course of a year. He added that he would prefer to see them pay for all the waste they collected.

Mr. Selsberg said that he didn't think Mr. Moulton had any authority to refuse someone who brought in ultra-hazardous waste and that there needed to be some protection so that we don't pay an extraordinary amount.

Mr. Pomerleau said that he can't think of a single thing he can bring to the Transfer Station that's free anymore and, if we pay for everything else, then why is this an exception, why isn't this a user fee-based cost, why does the Town pick up just this one and nothing else.

Ms. Murphy said that she went to the Transfer Station that day and was never handed a survey; that she went to where the hazardous waste was and it was all blocked off and she couldn't get in. She added that she wasn't sure who the surveys were handed to but would like Mr. Moulton to let her know where that was.

7:35 PM Ms. Lentz said that there was a discussion early on about trying to get together with Kittery to take this waste any day of the week at your expense. She added

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that she agreed that storing hazardous waste for a whole year is more dangerous than paying for and getting rid of it on a daily basis.

Mr. Moulton said that on HHHWD he is there to monitor and maintain and we use professionals that are licensed in environmental disposal. He added that Kittery is run by employees with unknown training. He said that this is part of Eliot's ground water, part of our MS4, and people don't really know what they have; that he has many questions from residents regarding this and many things they bring in can be recycled.

Ms. (Roberta) Place asked what the cost was for HHHWD.

Mr. Beckert said that it was not to exceed \$12,000.

Mr. Moulton said that we actually spent \$6,800. He added that the Town has removed a lot of items, such as TV's, and participation varies from year to year.

7:39 PM

Ms. Saurman said that this question could be quite simple regarding what kind of services does this Town want to offer its tax payers with the money we pay. She added that, it seemed to her, toxic waste and disposing of it in a safe way ought to be one of the services we offer. She asked if we need a 'Love Canal' story to remind us of how horrible these things can go. She said she agreed about paying to dispose of a TV but you don't see a lot of people throwing a TV in their back yard, but you see a lot of people taking a liquid, or fertilizer, and dumping it in a field. She asked them to keep it in mind that people wouldn't dump a TV on their lawns and look at it for years but would easily dump something liquid.

Mr. (Jim) Tessier said that the cost to the Town should come down because a lot of the material turned in was paint and the State is implementing a paint program.

7:43 PM

Mr. Lee agreed. He said that not only are the old products eventually getting out of the system but the new products that you can acquire are more environmentally-friendly, anyway, so he thought we would see the presence of HHHW diminish and the bill diminish, as well.

Mr. Beckert said that this discussion was about a survey; that it is good information but it may not be enough information. He asked if it was still the consensus of the Board to explore further what Kittery has to offer so that we can inform the public that, if you go with Kittery, then this is what it will cost you as a use-based fee, or do we want to look at our own user fee, which he wasn't convinced of.

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Ms. Davis suggested either look at doing Kittery so that people could go any day they are open or set up a situation here so that we could store it safely and then transport it over there in a timely fashion.

Mr. Lee said that he believed that DOT regulations are such that you need special licensing to transport this type of waste and we don't have that, presently.

Mr. Moulton said that he could look into our licensing with DOT to see if we could do collection here, like Kittery does, with one of our buildings, then have someone come pick it up.

Mr. Hirst said that he would like a fee schedule from Kittery.

It was the consensus of the Board to continue to look into all this further.

G4. Public Safety

There was nothing for this.

New Business:

There was no new business.

Old Business

7:44 PM 1) Park Street Non-Action Letters

Mr. Lee said that this is what our attorney has drafted; that we would register these at the Registry of Deeds and would offer these to everyone on the right-hand side of the road. He added that this registered letter would say that there may be an encroachment but we have opted not to take any action at this time. He added that it does retain the right somewhere down the road, if necessary, to go and do something about it; that even the attorney said that this was the kind of letter that was helpful if you try to sell your property to confirm that the Town is not interested in your little 6-inch or 1-foot encroachment; that the road is in the wrong place on the other side, we're in the wrong place on this side.

Mr. Murphy asked if the possibility of a C.A. was still there.

Mr. Lee said that we did discuss it but that was usually to remedy a violation and the attorney said that that was not really the right instrument. He added that this was really the best they could do.

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Ms. Pelletier said that they are commonly accepted by title companies as being adequate when issues do arise. She added that the CEO has reviewed it and would be the one to sign it.

Ms. Davis said that she would be interested in what the residents think of this letter and it didn't seem to address the real issue of defining things because, right now, the Town's road is on other peoples' property and she doesn't see how this resolves that problem. She asked what would happen, from the other perspective, and people wanted the Town off their land.

7:49 PM Mr. Lee said that she might recall that the same attorney's advice was that these things don't work both ways; that towns have far more latitude to step outside their paper road limits than a regular citizen might. He added that, in a word, the attorney said that the Town could say 'tough'; that we really don't have to do much of anything. He said that there are special rules for towns and town roads and it does not address that because we don't really need to address that part of it.

Mr. Hirst moved, second by Mr. Murphy, that the Board of Selectmen, on the advice of counsel, direct the Town Manager to have the Code Enforcement Officer send this letter to all residents that are impacted on Park Street.

VOTE

3-1 (Ms. Davis opposed)

Chair concurs in the affirmative

7:51 PM **2) Response: Sewer Gallons per Day**

Mr. Lee said that this was to answer Ms. Davis' question regarding how many gallons we actually put through the system.

Mr. Moulton said that Ms. Davis' question had to do with the expansion and was, "If we are only using 109,000 gallons per day why would we be asking for more gallonage from Kittery." He said that this was only an estimate; that it's an annual average. He explained that our daily gallonage from 2008 to 2011 was 144,000 average per day and, from 2012 to 2014, it was 109,000 average, so we have removed that much I&I from the system. He added that if you refer to the chart it shows the peaks; that there is an average but you still have peak flows with high waters that exceed our maximum allowable; that that is one of the reasons we look at allocations, we do the I&I, and asked commercial businesses to pay for their gallonage; that at one point we had nothing to give and there was a moratorium 1½ years ago for everyone.

7:54 PM Mr. Lee, discussing tonight's executive sessions, said that the person requesting an abatement hearing is not present. He added that, on advice of counsel, they have advised us not to act on the General Government contract until certain

BOARD OF SELECTMEN'S MEETING
November 13, 2014 5:30PM (continued)

events take place within the union. He said that there was no need for executive sessions this evening.

J. Selectmen's Report:

7:55 PM Ms. Davis said she has a really serious question on the union contract and she was asking, now, if that was something that could be addressed before this thing goes a whole lot further.

Mr. Lee said that he hesitated to discuss a great deal, here; that the short answer is yes, he continues to try to address it with you and we will continue that.

K. Executive Session

This was previously addressed.

L. Other Business as needed

7:57 PM Mr. Fisher said that the Town lost \$300,000 in abatements and he wanted to know if they could tell him who they were.

Mr. Lee said that one was Comcast; that an additional zero was added to the assessed value, which made it a much more valuable property than it was supposed to be and the amount abated for 2013/2014 was \$216,579.33. He added that the other one was a deck that was added but was counted as a full livable space and that resulted in a \$53,000 abatement (2012/2013).

Mr. Fisher asked how we were paying that.

Mr. Lee said that we allocate what we call an overlay every year, which is intended to do two things – one to build your unappropriated fund balance, or, if you have abatements, it is to pay abatements. He added that, most of the time, that overlay is fairly small because you don't have a lot of significant abatements; that if you go over your overlay amount, it comes directly out of your savings account, or, your unappropriated fund balance. He said that we expected the fund balance to go down by approximately \$270,000 but, fortunately, when the auditor started doing his work, other adjustments were made that saved us quite a bit of that so we only got hit for about \$100,000. He added that we are at \$1.7 million for a fund balance and that takes us down to, roughly, \$1.6 million; that we should have around \$1.9 million or \$2 million; that he had told the BudCom that the availability of any extra fund balance to help lower taxes is not real for us right now; that this pinned our ears back even further.

BOARD OF SELECTMEN'S MEETING
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Adjourn

There was a motion and second to adjourn the meeting at 8:00 PM.

VOTE
4-0
Chair concurs

DATE

Mr. Grant Hirst, Secretary